

MEMORANDUM

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FILE.

To: Chief Dave Cutaia

From: Lieutenant Mark Smith 

Date: October 2, 2001

Subject: Review of Officer Involved Shooting 01-1507

I have reviewed all of the documentation on this case including the attached report from the shooting review board.

I concur with the board that Detective Ray acted within department policy in that he feared for his life when he discharged his department issued firearm at the suspect.

I reviewed Sergeant Peterson's internal investigation of the shooting. I also concur that both Detectives Ray and Madsen violated Department policy I-7 subsection XII 2, in not wearing their body armor when knowing that they may be taking a felony suspect into custody. I recommend both receive verbal reprimands.

At this time I recommend the investigation be closed. No further information.

CONFIDENTIAL

MEMORANDUM

TO: Chief David Cutaia
FROM: Lt. Tom Simonetti *T.S.*
DATE: September 28, 2001

SUBJECT: SHOOTING REVIEW BOARD-CASE NO. 01-1507

On September 27, 2001, pursuant to MPD firearms policy III-44, a board of review met to review and discuss case no. 01-1507 as directed in Section 2, paragraphs 7-8. The board of review was comprised of Sgt. Brown, Sgt. Prins, Corporal Caldera, Officer Chase and myself. The board of review considered over 220 pages of reports from Martinez Police Department, California Highway Patrol and the Contra Costa County District Attorney's Office as well as the MPD firearms policy.

The first area of the policy that we considered was Section 1 where we determined that the following sub-sections applied to this shooting:

1. "When the officer has reasonable belief that the use of deadly force is necessary for defending ones self from death or serious bodily injury."
4. "Whenever possible or practical, the officer should issue a verbal warning prior to using deadly force."

During our discussions, we felt that we needed to attempt to understand Detective Ray's state-of-mind as he began the surveillance of a suspected child molester and the ensuing pursuit (both by vehicle and foot) which ultimately lead up to the shooting. The following factors were considered:

- a. When suspect Hutton entered his vehicle on Yale Street, Detective Ray felt that he located the child molest suspect from MPD case 01-1455.
- b. Detective Ray had prior knowledge of a pre-text telephone call to the molest suspect wherein the suspect, upon learning that he was be investigated for child molestation stated: "Oh my God, my life's over...they're going to put me in jail"; as indicated on the telephone tape.
- c. As Detective Ray and Detective Madsen began following Hutton's vehicle, Ray made a cellular phone call to the child molest victim's mother (wife of the suspect) in an attempt to get a physical description of the molest suspect. The description was similar to that of suspect Hutton.

- d. Once Detective Madsen activated the emergency lights and siren, Hutton accelerated his vehicle in a reckless manner in an obvious attempt to evade. Detective Ray described in his statement that Hutton's vehicle was "fish tailing back and forth" and "nearly struck numerous vehicles" throughout the pursuit which was conducted both on city streets, as well as a state freeway, in the rain.
- e. Once Hutton's vehicle crashed through a fence on Arthur Road, Detective Ray began a foot pursuit of Hutton who exited his wrecked vehicle and began running up a wet, grassy embankment. During this time, Detective Ray gave numerous verbal commands as to his (Detective Ray's) identity as well as warning Hutton of impending potential lethal force.
- f. As Hutton became "cornered" near the top of the embankment, he kept his back to Detective Ray refusing to cooperate by not showing both of his hands as ordered. In fact, Hutton made numerous furtive movements by "digging in his waistband" while looking over his should from a "crouched" position at Detective Ray.
- g. Suspect Hutton finally, with his right hand still concealed in his waistband area, began to quickly turn towards Detective Ray at which time Detective Ray discharged his firearm, apparently believing he needed to defend himself from death or serious injury.

The second area of the policy we considered was Section II procedure; including the following sub-sections:

1. Qualifications for use of firearms by sworn personnel.
2. Authorized weapons.
3. Authorized ammunition.

Corporal Caldera who is the department range master confirmed that Detective Ray had consistently demonstrated proficiency in achieving passing shooting scores and was authorized to carry a firearm both on and off duty. Additionally, at the time of this shooting Detective Ray per his statement utilized his department issued Beretta 40 cal. pistol loaded with department ammunition.

Finding

After reviewing and discussing all the above relevant information, the board of review made a finding that Detective Ray's discharge of his firearm was within MPD policy. As such, there in no recommendation of any discipline as to this review and finding.

DJC:dev

MEMORANDUM

TO: James Fitzgerald, Esq.

FROM: Lieutenant Tom Simonetti, Martinez Police Department *TS*

DATE: September 18, 2001

SUBJECT: INTERNAL AFFAIRS INVESTIGATION (IA#1-01)

Not IA

Attached is a copy of the Internal Affairs Investigation conducted by Sgt. Gary Peterson, in relation to Detective Roger Ray's officer-involved shooting of April 6, 2001.

No action has been taken internally, due to Roger's medical condition. Please review and give me a call at (925) 372-3446, if there are any questions or concerns regarding the investigation.

MARTINEZ POLICE CA0071400 01-1501 1/1

TE/TYPE REPORTED 4-12-01 2030

CRIME/INCIDENT WARRANT ARREST

LOCATION OF OCCURRENCE 2500 ANILAMBRA AV

RELATIONSHIP OF PARTIES

WEAPON INVOLVED: FIREARM KNIFE VVC

INVOLVMT 1 INVOLVMT NAME (LAST, FIRST MIDDLE) HULTON, DAVID EDWIN DOB 8-8-69 RACE/SEX W/M HAIR/EYES BLK/BRN HEIGHT/WEIGHT 5-9, 120

RESIDENCE ADDRESS [REDACTED] RES. PHONE [REDACTED] DRIVERS LICENSE # [REDACTED] STATE CA

BUS. NAME/ADDRESS/PHONE [REDACTED] OCCUPATION [REDACTED] SOCIAL SECURITY # [REDACTED] ARREST Y

INVOLVMT 2 INVOLVMT NAME (LAST, FIRST MIDDLE) [REDACTED] DOB [REDACTED] RACE/SEX [REDACTED] HAIR/EYES [REDACTED] HEIGHT/WEIGHT [REDACTED]

RESIDENCE ADDRESS [REDACTED] RES. PHONE [REDACTED] DRIVERS LICENSE # [REDACTED] STATE [REDACTED]

BUS. NAME/ADDRESS/PHONE [REDACTED] OCCUPATION [REDACTED] SOCIAL SECURITY # [REDACTED] ARREST [REDACTED]

INVOLVMT 3 INVOLVMT NAME (LAST, FIRST MIDDLE) [REDACTED] DOB [REDACTED] RACE/SEX [REDACTED] HAIR/EYES [REDACTED] HEIGHT/WEIGHT [REDACTED]

RESIDENCE ADDRESS [REDACTED] RES. PHONE [REDACTED] DRIVERS LICENSE # [REDACTED] STATE [REDACTED]

BUS. NAME/ADDRESS/PHONE [REDACTED] OCCUPATION [REDACTED] SOCIAL SECURITY # [REDACTED] ARREST [REDACTED]

INVOLVMT 4 INVOLVMT NAME (LAST, FIRST MIDDLE) [REDACTED] DOB [REDACTED] RACE/SEX [REDACTED] HAIR/EYES [REDACTED] HEIGHT/WEIGHT [REDACTED]

RESIDENCE ADDRESS [REDACTED] RES. PHONE [REDACTED] DRIVERS LICENSE # [REDACTED] STATE [REDACTED]

BUS. NAME/ADDRESS/PHONE [REDACTED] OCCUPATION [REDACTED] SOCIAL SECURITY # [REDACTED] ARREST [REDACTED]

I HEREBY ARREST THE ABOVE NAMED SUSPECT(S) ON THE CHARGES INDICATED ABOVE. SIGNED

PROPERTY NUMBER ARTICLE QTY SERIAL NUMBER BRAND/MAKE MODEL NO. VALUE CODE

EVIDENCE COLLECTED # FINGERPRINTS # ROLLS FILM TOTAL

WRATI (1) # 03-199230-4-001, 148 PC, \$10,000.00 JUDGE: COLEMAN
(2) # 625914A, 113710 H&S, 653K PC, \$50,000.00 JUDGE: ROEDER

(S) WAS ARRESTED PURSUANT TO ABOVE WRANTS. (S) WAS STILL CONFINED TO CCC RMC FOR MEDICAL RECOVERY. AN OPEN BOOKING WAS MADE W/ CCLS.O. (MDF) FOR A GUARD.
PLACER COUNTY WILL PICK UP(S) FOR WENT # 2

REPORTING OFFICER / SERIAL DATE AND TIME REVIEWED FOLLOW-UP NEEDED
E. PRINS 4-12-01 030 [REDACTED] [REDACTED]

INV CPS JUV/PROB DDA VIC/LTR VVC OTHER SIGNATURE OF SUSPECT

MPD DAILY REPORT FORM (REV 9-95) MPD #30 DESIGNED BY M. THOMPSON #60 RIGHT THUMB PRINT

DR 01-1501

**OFFICE OF THE DISTRICT ATTORNEY
CONTRA COSTA COUNTY
INVESTIGATION REPORT**

Investigation: Officer Involved Shooting

File/Report No. MPD #01-1507

Subject/Defendant: Hutton, David Edwin

Date: 4/09/01

Copies Of Report To:

Deputy District Attorney: DDA Robert Hole

Other: Lt. Tom Simonetti - Martinez P.D.

Investigator Assigned: Sgt. John Dodd CCCSO

Date: 4-09-01

INVESTIGATIVE SUMMARY:

Suspect: Hutton, David Edwin W.M.A. D.O.B. 08-08-69

[REDACTED]
[REDACTED]
[REDACTED]

Victim: #1 Officer Roger Ray
Martinez Police Department

Victim: #2 Officer Doug Madsen
Martinez Police Department

On Friday, 4/06/01, I assisted in the Officer Involved Shooting Investigation involving Suspect David Hutton and Martinez Officer Roger Ray. Contra Costa District Attorney Inspectors and Martinez Police Officers were assigned to investigative teams to conduct the investigation. Martinez Police Officer Frank Ferrari and I were assigned to interview Martinez Police Officers Roger Ray and Doug Madsen at the Martinez Police Department.

INVESTIGATION NARRATIVE:

On 4/06/01, at approximately 1244 hours, I was advised by Contra Costa District Attorney's Office Chief of Inspectors Gene Greenwald to assist in the investigation of an Officer Involved

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.: M.P.D.# 01-1507

Shooting involving two Martinez Police Detectives in the Martinez area. I responded to the south bound Hwy 680 Pacheco off ramp at Arthur Rd. in Martinez. I arrived at approximately 1255 hours and I observed the following personnel already on scene: Martinez Police Sergeant Dick Dowling; Martinez Police Corporal John Silvia; Contra Costa Deputy D.A. Bob Hole; and Contra Costa District Attorney Senior Inspectors Patricia Ford and Mel Thompson.

I was advised by Sergeant Dowling that the suspect was at John Muir Hospital with one gunshot wound to his lower left side. I was advised that the Martinez Officers that were involved in the incident were Detective Doug Madsen and Officer Roger Ray. I was advised that Officers Madsen and Ray had pursued the suspect vehicle to the Pacheco Blvd. / Arthur Rd. off ramp. I was advised that the suspect had crashed his vehicle and had fled into the field area. I was advised that Officer Ray had shot the suspect once.

I observed the Martinez Police Detective's vehicle, a Ford Thunderbird LX, 2 door, dark blue in color, Ca. Lic. # 4BBS944 parked unoccupied on the east side of Arthur Rd. facing a field area. This vehicle was later identified as Detective Doug Madsen's vehicle. I observed a Nissan pickup truck, white in color, Ca. Lic. #5K58525 approximately 75 feet inside the field area. This vehicle was later identified as the vehicle driven by David Hutton. It appeared that the Nissan pickup truck had struck a cyclone fence gate and knocked down this gate. A large metal fence post of the gate which had been secured in the ground by a concrete base had been uprooted. This gate post and a portion of the cyclone fence appeared to have been knocked into the field area by the Nissan pickup truck.

I noticed that the field area that the suspect had fled into was just north of [REDACTED] Arthur Rd. Martinez. Deputy D.A. Bob Hole mentioned that [REDACTED] may have witnessed part of the incident.

I went next door to a residential house just south of [REDACTED] and contacted [REDACTED] W.F.A. 55 years and her mother, [REDACTED] W.F.A. 82 years at [REDACTED] Martinez [REDACTED] advised that she lived at this house with her mother, who was in poor health. [REDACTED] said that she was sitting on the couch in her livingroom watching the news on the t.v. set when she heard a crash. [REDACTED] also heard a siren. [REDACTED] said that she did not witness the shooting. [REDACTED] advised that she and her mother would remain at their residence this afternoon. I told [REDACTED] that an investigative team would contact her later this afternoon to conduct a detailed interview.

[REDACTED] mentioned that she had talked on the phone to a female named [REDACTED] unknown last name, who worked for [REDACTED] [REDACTED] had returned from the Post Office and may have witnessed part of the incident. [REDACTED] told [REDACTED] that she heard an

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.: M.P.D.# 01-1507

officer yell, "Stop or I'll shoot." I thanked [REDACTED] for this information and told her that a team of investigators would contact [REDACTED]

I drove to Martinez P.D. where a briefing was conducted by Martinez P.D. Police Chief Dave Cutaia, Lt. Simonetti, and Deputy D.A. Bob Hole. I learned in the briefing that the suspect that had fled Officers Ray and Madsen was Suspect David Edwin Hutton, D.O.B. 8-08-69. I learned that Officers Madsen and Ray had conducted surveillance at [REDACTED] Martinez on a child molest suspect, Robert Lee Martin. I was provided a copy of Martinez Police Report #01-1455 written by Detective Madsen. In Martinez Police Report #01-1455, I read that Robert Martin had allegedly sexually abused his five year-old -son, [REDACTED]

I learned in the briefing that Officers Madsen and Ray had seen a subject that they believed was Robert Martin leave the area near [REDACTED] Martinez. Officers Madsen and Ray attempted to conduct a traffic stop on the subject that they believed was Robert Martin. The subject fled the officers driving the white colored Nissan pickup. The suspect took the south bound Highway 680 Pacheco / Arthur St. off ramp and crashed into the gate and field just north of [REDACTED]. The suspect drove the Nissan pickup approximately 75 feet into the field. The suspect fled on foot into the field area with the two officers in foot pursuit. One of the officers yelled at the suspect to stop. The suspect reached down to his side and made a furtive movement and turned and Officer Ray fired one shot.

I learned in the briefing that Lt. Mark Smith would be the Incident Commander and the Press Information Officer. Martinez Officer Kruta was at John Muir Hospital with Suspect Hutton. Martinez Police Officer Everett Prins was assigned as the lead investigator for Martinez P.D. Martinez Police Officer Frank Ferrari and I were assigned to interview Officers Ray and Madsen. Martinez Police Officer Gary Peterson was assigned to conduct Martinez Police Department's Administrative Investigation.

Officer Ferrari and I drove back to the crime scene off Arthur Rd. since Officer Ferrari had not yet viewed this scene. Officer Ferrari and I viewed Detective Madsen's Ford Thunderbird, the Nissan pickup truck, and the overall crime scene. Officer Ferrari and I also viewed the field area from the [REDACTED] equipment yard, which is just south of the field area.

I confirmed with Martinez Police Sergeant Dowling that he had obtained Officer Ray's Beretta Model 96 .40 caliber handgun. Sgt. Dowling turned Officer Ray's handgun over to Sheriff's Criminalist Ken Fujii.

Martinez Corporal John Silvia told Officer Ferrari and I that after the suspect had been removed from the area by the paramedics, Corporal Silvia had located a clear plastic bag that contained a

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.:M.P.D.# 01-1507

trace amount of suspected drugs in the grass area underneath where the suspect had been lying.

Officer Ferrari and I first interviewed Officer Roger Ray at Martinez P.D. on 4/06/01 at approximately 1513 hours. Normally, Officer Ray would have been the last person interviewed since he was the primary officer involved in the shooting. An exception was made in this case since Officer Ray had a prior back injury and in great pain. Officer Ray had been previously scheduled for back surgery on 4/09/01. Officer Ray also complained of a headache. Officer Ray had L.D.F. Attorney Rocky Lucia of Rains, Lucia, and Wilkinson represent him. Officer Peterson was also present during the interview. The interview with Officer Ray was tape recorded by Attorney Lucia, Officer Ferrari, and I.

Officer Ray's interview will be transcribed by Martinez P.D. The following is a synopsis of the interview: Officer Ray agreed that he was giving a free and voluntary statement to us. Officer Ray started his police career with the Alameda County Sheriff's Department in September 1983 and attended their police academy. Officer Ray started working at the Martinez Police Department on June 1, 1985. Officer Ray has been a Field Training Officer; a S.W.A.T. member for approximately 12 years; and a Detective assigned to investigate Juvenile and sex related crimes for approximately 3 years.

Officer Ray said that normally he works Monday through Thursday from 6:00 a.m. to 4:00 p.m. Officer Ray said that today, Friday, 4/06/01, would normally be his day off. Officer Ray came into work today at 9:30 a.m. Officer Ray mentioned that he is scheduled to have back surgery on Monday, 4/09/01.

For the last couple of days, Detective Doug Madsen and Officer Ray had been working on a child molestation case. Detective Madsen, who is new to investigations, requested that Officer Ray assist him. Detective Madsen wanted to go to the suspect's address to contact the suspect. Officer Ray was familiar with Det. Madsen's investigation although he had not read Det. Madsen's report. Officer Ray knew the name of the suspect in the child molest but believed that he had never met the suspect before. Officer Ray said that the suspect in the child molest was Robert Martin.

Det. Madsen and Officer Ray drove to the suspect's address in Martinez. Officer Ray believed that the suspect's address was [REDACTED] Martinez. Officer Ray stated that he read the suspect's address while en-route to that address. Officer Ray did not have a photograph of Robert Martin. Officer Ray estimated that Detective Madsen and he went to Robert Martin's address at approximately 11:00 a.m. Officer Ray estimated this time since he had gone to Martinez P.D. and completed some work. Det. Madsen and Officer Ray went and had breakfast and stopped by the District Attorney's Office before going to Robert Martin's address.

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.:M.P.D.# 01-1507

Officer Ray said that Detective Madsen phoned Martinez P.D. Dispatch on his cellular phone to advise Dispatch that they were en-route to Robert Martin's address. Officer Ray said that they did not have a patrol unit accompany them. Det. Madsen notified Martinez P.D. Dispatch that they would be conducting a "code 5", which Officer Ray explained was a surveillance of Robert Martin's residence.

Officer Ray said that Detective Madsen drove his detective vehicle, which he described as a Ford Thunderbird, dark green or dark blue in color. Officer Ray said that their purpose of setting up surveillance at Robert Martin's residence was to make contact with Martin and arrest him. Officer Ray said that he phoned Martin's residence on a "ruse" as they were driving up ██████████ Street. Officer Ray left the message on Robert Martin's answering machine indicating that he "wanted to come by in about 5 or 10 minutes to talk to him." Officer Ray explained that he was hoping that Robert Martin would exit his residence so they could arrest him.

Officer Ray explained that he had spoken to Robert Martin on the phone the day before and believed that he would recognize Martin's voice. Officer Ray said that there was a male and female's name on the answering machine but it was a different voice than Martin's. Officer Ray assumed that Robert Martin might live with a male and female at the address.

Officer Ray said that they drove by and confirmed Martin's residence. Det. Madsen and Officer Ray parked approximately 50 to 60 yards past and on the same side of the street as Martin's residence facing the house. Officer Ray estimated that they parked and waited a couple of minutes. He explained that Martin's residence had a vehicle in the driveway and they could see the front end of that vehicle. He said that a male walked from the "same area" by the vehicle that was parked in the driveway. He could not state whether the male exited Martin's house or the house next door.

Officer Ray said that the subject matched the general description of Robert Martin. Officer Ray said that he looked at the crime report to get the description of Robert Martin. He recalled that he read in the report that the suspect was a white male adult, approximately 220 lbs. He could not now recall the description of Martin that was written in the crime report. Det. Madsen and he discussed whether the subject could be Robert Martin. He said that they felt that the subject could be Robert Martin. He said that they intended to conduct a traffic stop on the vehicle to identify the subject.

Det. Madsen followed the white pickup truck that the subject drove. Officer Ray said that the suspect's vehicle had a trailer ball partially obstructing one of the rear license plate numbers. He said that they couldn't get an angle to get the rear license plate number of the suspect vehicle. Officer Ray used the cellular phone to phone the victim's mother. Officer Ray told the victim's mother, who is Robert Martin's ex-wife, that a subject had just come out of Martin's house.

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.:M.P.D.# 01-1507

Officer Ray asked the victim's mother if she could once again provide a description of Robert Martin. Officer Ray asked the victim's mother for vehicles that Robert Martin might drive. The victim's mother provided him with the height and the weight of Robert Martin. Officer Ray specifically asked the victim's mother for the description of Robert Martin's hair. She said that Robert Martin's hair is really short. Officer Ray told the victim's mother that the subject had a "crew cut" hairstyle and his hair was dark. Officer Ray believed that the subject had a mustache. Officer Ray said that he observed glimpses of the subject as they followed him. Officer Ray did not recall whether the subject was looking in his rear view mirror or side mirror as though he might suspect that they were following him. The victim's mother confirmed that Robert Martin had just obtained a haircut and had a mustache. Officer Ray told Det. Madsen that it appeared that the subject could be Robert Martin.

Officer Ray said that the subject drove the white pickup truck north bound on Shell Ave. towards Marina Vista. The subject drove up behind another vehicle. Officer Ray believed that Det. Madsen was able to provide dispatch with the license plate number that they couldn't previously read on the rear license plate. Det. Madsen activated the red light and siren to conduct a traffic stop. Officer Ray said that they had slowed for the red light at Shell Ave. and Marina Vista. Officer Ray believed that they were only traveling a couple of miles an hour. Officer Ray said that they were "right behind" the subject when Det. Madsen activated the lights and siren.

Officer Ray said that neither the vehicle ahead of the subject nor the subject's vehicle pulled over. Officer Ray believed that the subject had plenty of room to pull over. Officer Ray said that the traffic signal turned green and the subject vehicle made a right turn onto Marina Vista traveling east bound. Officer Ray said that Madsen's vehicle's red light and siren were always on. Officer Ray described how Det. Madsen's vehicle had a portable red light which was on the dashboard. Officer Ray said that Det. Madsen's vehicle's headlights blink and "strobes head out the sides." Officer Ray said that the vehicle ahead of the suspect vehicle yielded and pulled over to the side. Officer Ray said that the suspect vehicle went around the vehicle slowly that was yielding to the right. He said that the suspect "punched it and then takes off."

Officer Madsen advised Dispatch that they were in pursuit of the suspect vehicle on Marina Vista. Officer Madsen at the beginning of the pursuit was operating the vehicle's radio. Officer Ray described how Officer Madsen's vehicle had a floor button to transmit on the radio. Officer Ray said that the microphone to speak into the radio was separate from the floor button. Det. Madsen had difficulty during the pursuit operating the radio. Officer Ray said that he told Det. Madsen to turn off his vehicle's radio and Officer Ray used the portable radio to talk to Dispatch.

Officer Ray told Dispatch that they were in pursuit of a possible suspect in a child molest. Officer Ray was not certain of the exact words that he provided to Dispatch. Officer Ray said that the radio communications were not good. Officer Ray estimated that the suspect vehicle sped up to

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.: M.P.D.# 01-1507

approximately 50 m.p.h. on Marina Vista. Officer Ray said that the suspect vehicle slowed some to make the right turn onto the south bound Hwy 680 on ramp at Marina Vista. Officer Ray described how the on ramp at Marina Vista was slightly elevated with a "bump." Officer Ray said that when the suspect vehicle struck the bump, the suspect vehicle "lost control" and went over the meridian into on coming traffic exiting the south bound Marina Vista off ramp.

Officer Ray described how the suspect vehicle was "spinning a little bit" and was sideways in the wrong lane of traffic. Officer Ray said that the suspect managed to get back on the right side of the road. Officer Ray believed that the Marina Vista on ramp to south bound 680 was marked with a yellow sign indicating 20 m.p.h. Officer Ray was not certain of the speed limit on Marina Vista between Shell Ave. and Hwy 680 but believed that it was either 35 or 45 m.p.h.

Officer Ray said that when the suspect first drove north bound on Shell Ave., the suspect vehicle sped up to approximately 70 m.p.h. Officer Ray didn't know whether the suspect had spotted them behind him or he was just driving fast. Officer Ray said that the suspect was speeding in excess of the posted 45 m.p.h. speed limit on Shell Ave. Officer Ray said that the suspect drove recklessly in the rain. Officer Ray said that the suspect was speeding, evading them, and drove recklessly.

Officer Ray said that when the suspect drove south bound on Hwy 680, the suspect drove his vehicle out of control. Officer Ray said that the suspect nearly struck numerous vehicles south bound on Hwy 680 since the suspect drove straight over to the fast lane. Officer Ray said that the suspect vehicle was "fish tailing back and forth." Officer Ray described how as soon as they were able to drive in the fast lane, the suspect exited at the Pacheco Blvd./Arthur Rd. exit. Officer Ray described how the suspect vehicle cut recklessly across all of the lanes on south bound Hwy 680 in moderate traffic to exit the Pacheco Blvd. Exit. Officer Ray estimated that the suspect vehicle took the Pacheco off ramp at approximately 60 to 70 m.p.h. in the rain.

Officer Ray estimated that they were approximately 50 yards behind the suspect vehicle. Officer Ray said that the suspect vehicle skidded right through the stop sign; through a chain link gate; into a culvert. Officer Ray said they stopped at the bottom of the Pacheco Blvd. off ramp. Officer Ray told Det. Madsen to "call it in" and he jumped out of their vehicle. Officer Ray ran across the street and drew his weapon. Officer Ray saw the suspect exit the driver's door of the vehicle.

Officer Ray saw the suspect running east bound through some grass. Officer Ray estimated that he was 30 or 40 yards running behind the suspect. Officer Ray yelled at the top of his lungs, "Police Officer stop, halt." Officer Ray estimated that he yelled 10 times. Officer Ray said that as he was "closing in" on the suspect that he yelled, "This is the police, you need to stop, or you could be shot." Officer Ray said that he closed in on the suspect within approximately 15 to 20

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.:M.P.D.# 01-1507

yards. Officer Ray said that the suspect made a right turn up and embankment. Officer Ray closed in on the suspect to within approximately 10 yards. The suspect had stopped his momentum since the hill that the suspect was running up was "really steep."

Officer Ray "aimed on him"and told the suspect, "you need to stop it's the police. Show me your hands." Officer Ray said that the suspect didn't show him his hands at that point. The suspect "reached down towards, I believe the right side of his body towards the front like his right waist or pocket area. I yelled again, show me your hands, show me your hands." Officer Ray was indicating with his hands that the suspect was reaching with both of his hands to his right front side. I asked Officer Ray if the suspect was reaching to his right front with both hands. Officer Ray paused and said that he wanted to think about it for a minute. Officer Ray said that he believed that the very first time, the suspect first reached down towards his waist band area with both hands. Officer Ray said that the suspect's "right hand, I believe dominantly went towards his waist band on the right hand side. I yelled very sternly, 'show me your hands, you're going to be shot.' I yelled it 3 or 4 more times. He kinda hesitated for a minute and he stuck his left hand in the air. And he was still, I could see and up and down movement with his right hand."

I asked Officer Ray whether the suspect was facing him. Officer Ray said that the suspect's back was towards him. Officer Ray said that the suspect "kinda put his hand up. He's still reaching into his right front area." Officer Ray said that he yelled several more times, "Show me both of your hands. Show me both of your hands." Officer Ray said that the suspect looked back over his left shoulder at him. Officer Ray said, "I'm in close contact with him. I said, 'Dude, show me your hands, you're going to be shot. And at that point, he started to turn, and his hand (left) was still in the air. This hand (right) is still digging. And as he turned, I said 'Dude, you got to show me your hands, I'm going to shoot you.' He didn't and he kinda, boom and I capped him one round. And I think the round hit him, kinda in the lower back area on the right hand side."

Officer Ray said, "At that point, I don't remember if he fell immediately. (Pause) He turned around and I told him, 'just put your hands up, just put your hands up.' And he put his hands up facing me at this point. He fell to the ground. And then kinda, I don't know if he fell down into the ravine, or walked or crawled, I don't remember. I just remember we now had him on, down at the bottom of the hill in front of us." Officer Ray said that Madsen was 10 feet behind him while this was occurring. Officer Ray said that he covered the suspect while Madsen handcuffed him.

Officer Ray said that the suspect looked up and he told the suspect, "What are you doing man?" Ray said that the suspect said something similar to, "I'm sorry I ran, I got a warrant." Officer Ray said that was the only conversation that he had with the suspect. Officer Ray told Dispatch, "Shots fired and suspect down."

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.: M.P.D.# 01-1507

I confirmed with Officer Ray that he only fired one shot. I asked Ray what he was thinking when he fired the shot. Officer Ray said that he thought that the suspect had a gun and was going to shoot him. Officer Ray said that he gave the suspect ample time to show him his hands. Officer Ray said, "It wasn't that he was just hiding his hands, he was digging for something. I don't know what it was but he wasn't bringing it back. And when he started to turn on me, I, I let him do it cause he had his back to me several times as I was commanding him. But I had already told him numerous times at the last part when he finally started to spin on me and he wouldn't bring his hand up. So at that point, I figured he was coming out with a gun, so I shot him."

I asked Officer Ray what distance was he when he shot the suspect. Officer Ray estimated that he was approximately 15 to 20 feet from the suspect when he shot him. Officer Ray explained that he was "terrible with distances and time perception" but that was his estimate.

Officer Ray Believed that just prior to him shooting the suspect, the suspect had his right hand down near his right waist and the suspect's left hand was partially raised. Officer Ray believed that the suspect was turning in the direction that the suspect had his hand raised. Officer Ray admitted that he was not positive but the suspect did start the turn. Officer Ray said, "There was no doubt in my mind that I was going to have a confrontation at that point."

Officer Ray asked to stand up during the interview because his legs were growing numb. Officer Ray explained that he had pain in his lower back since he had a broken vertebrae in his back. Officer Ray said that he was scheduled for surgery on 4/09/01. Officer Ray said that he had "a blown disc in the neck. I'm falling apart." I asked Officer Ray if he injured his back at all during the chase. Officer Ray said that during the vehicle chase that he was "really bouncing" and that his neck and discs were hurting. Officer Ray said that he also had a headache.

I asked Officer Ray if his injury to his back affected his decision making when he thought that the suspect was going for a gun. Officer Ray said no, that his adrenaline took over and his injuries had nothing to do with it. Officer Ray said that he thought that the suspect was turning on him with a gun after he had given the suspect fifteen warnings. I asked Officer Ray if he ever saw the suspect with anything in his hands. Officer Ray said that he never had the opportunity because the suspect's back was to him and the suspect was reaching towards his right side. Officer Ray explained that he was behind and a little to the right of the suspect.

Officer Ray said that he used the portable radio to request fire and an ambulance for the suspect after he shot the suspect. Officer Ray told Det. Madsen to cover the suspect while he requested on the radio that Dispatch send fire and an ambulance. Officer Ray handed his handcuffs to Det. Madsen who handcuffed the suspect.

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.:M.P.D.# 01-1507

I asked Officer Ray if the suspect said anything else to him. Officer Ray again said that the suspect told him that he had a warrant. Officer Ray said that he believed that the suspect said his name. Officer Ray couldn't remember what name the suspect stated but thought that it might have been "Patton."

Officer Ray said that the next person to arrive on the scene was an S.O. deputy possibly with the last name of Barden. Officer Ray said that Barden used to work for Martinez P.D. Officer Ray said that he secured the suspect until Sgt. Dowling arrived on scene. Officer Ray said that Sgt. Dowling was the first officer from Martinez P.D. to arrive on the scene. Officer Ray then left while Det. Madsen and Deputy Barden secured the suspect.

I asked Officer Ray if he pat searched the suspect for weapons. Officer Ray said that he didn't but he assumed that Det. Madsen pat searched the suspect for weapons when Madsen handcuffed the suspect.

Officer Ray said that he told Sgt. Dowling that the suspect crashed through the fence. Officer Ray told Dowling that he got into a foot pursuit with the suspect who wouldn't show him his hands. Officer Ray told Dowling that the suspect spun on him and he shot the suspect one time. Officer Ray said that he gave his firearm to Sgt. Dowling. Officer Ray said that he did not carry any extra magazines for his handgun. Officer Ray said that he carried a department issued Beretta .40 caliber semi-automatic pistol. Officer Ray normally carried 10 rounds in the magazine and one round chambered in his firearm. Officer Ray believed that his handgun was fully loaded.

Officer Ray said that he believed that Det. Madsen did not fire his handgun. Officer Ray said that he saw Det. Madsen with his handgun out after he had fired one shot and Madsen came up on Ray's left side.

Officer Ferrari asked Officer Ray if they believed that they still had the child molest suspect at that time. Officer Ray said that he believed that they had the child molest suspect until the suspect said his name. Officer Ray said that earlier when they were conducting the child molest investigation that they had the victim phone the suspect. The suspect had made a statement to the victim that his "life was over" and that he knew that the police were going to put him in jail.

Officer Ray said that when he phoned the house where he believed that the child molest suspect was his intention was to talk to the suspect and ask him to come outside and talk to them. When Officer Ray got the answering machine, he left a message for the suspect believing that the suspect would listen to the message and come outside.

I asked Officer Ray if he recalled what clothing the suspect was wearing and Ray said no.

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.: M.P.D.# 01-1507

Officer Ray believed that he had not met the suspect before. I told Officer Ray that the suspect that he shot was David Hutton. Officer Ray said that the name sounded familiar to a subject that lived off Berrellesa in Martinez. Officer Ray said that the Hutton that he was thinking about did not look like this suspect.

I asked Officer Ray if he ever saw any witnesses that might have witnessed the shooting either before or after the shooting. Officer Ray said that after the shooting, he walked back up the culvert where there was a tree growing. Officer Ray said that on the south side of the field area there was some type of equipment yard. Officer Ray said that he saw a person in this yard but he did not know this person. Officer Ray said that this person just smiled at him and stated, "good job." Officer Ray said that later, he saw another male walk up to the chain link fence that the suspect had driven through.

I asked Officer Ray if he was present when the paramedics removed the suspect. Officer Ray said that he was not present when the suspect was removed by the paramedics. Officer Ray said that he saw members of the fire department arrive and he directed them to the area where the suspect was located. Officer Ray said that Sgt. Dowling had him go back to Martinez P.D. with Officer Snagle.

Officer Ray said that he did not discuss the incident with anyone else. Officer Ray said that he quickly phoned his wife since it was his day off and he had previously told her that he would be home in a couple of hours. Officer Ray told his wife that he had been involved in a shooting and that he was okay and he would be home in a couple of hours.

Officer Ray's interview was concluded at 1552 hours. This report is a synopsis of Officer Ray's statement. For complete details, please review the audio cassette tape or Martinez P.D.'s transcription of the interview

After Officer Ray's interview, Officer Ferrari and I listened to the Martinez P.D. Dispatch tape which recorded Officers Ray and Madsen notifying Martinez P.D. Dispatching of arriving at [REDACTED] Martinez to conduct surveillance for a suspect in the child molest case that they were investigating. The Dispatch tape also recorded the attempted traffic stop; the vehicle pursuit, the suspect vehicle involved in the traffic collision; an officer advising that the suspect was shot; and the officer requesting code 3 fire and medical. It should be noted that in some portions of the dispatch tape it is difficult to clearly understand what is being stated by the involved officers.

Officer Ferrari and I updated Deputy D.A. Bob Hole and Lt. Simonetti with the information that we obtained in the interview with Officer Ray.

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.: M.P.D.# 01-1507

I obtained a copy of the Martinez P.D. Dispatch tape from Lt. Mark Smith and I made a copy of this tape. I later returned the Dispatch tape to Officer Prins on 4/09/01.

Officer Ferrari and I interviewed Martinez Police Detective Doug Madsen on 4/06/01 at approximately 1713 hours at the Martinez Police Department. Rocky Lucia of Rains, Lucia, and Wilkinson represented Detective Madsen. Officer Peterson was also present during this interview. Detective Madsen's interview was tape recorded by Attorney Lucia, Officer Ferrari, and I. Detective Madsen's interview will be transcribed by Secretary Irene with the Martinez Police Department.

I asked Det. Madsen if he was aware that his he was here freely and voluntarily to provide us with a statement and he indicated that he would willingly provide us with a statement. Det. Madsen said that he attended the Alameda County Sheriff's Department's Academy approximately 18 years ago. He was employed by the Alameda County Sheriff's Department for approximately two years. He has been employed with the Martinez Police Department for approximately 16 years.

Det. Madsen said that he has worked in the patrol division and has worked as a traffic officer with Martinez P.D. for approximately 8 years. Det. Madsen is currently assigned to the investigations division.

Det. Madsen said that he was investigating a child molest case and had written Martinez Police Crime Report #01-1455. Det. Madsen said that today, 4/06/01, he wanted to get a statement from the child molest suspect, Robert Martin, and take him into custody. Det. Madsen said that he did not know Robert Martin nor did he have a photograph of Robert Martin.

Det. Madsen said that Officer Roger Ray was familiar with the investigation of Robert Martin in the child molest case. Det. Madsen had a copy of his crime report with him in his vehicle. Det. Madsen drove his detective's vehicle to Robert Martin's address of [REDACTED] Martinez. Det. Madsen described his detective's vehicle as an unmarked Ford Thunderbird, unknown year, teal in color. Det. Madsen said that his detective vehicle has a red light, siren, and strobes in the headlights. Det. Madsen said that he phoned Martinez P.D. Dispatch on the detectives cellular phone and advised dispatch that he was en-route to [REDACTED]. Det. Madsen did not know the phone number of the cellular phone. Det. Madsen said that he had been assigned to the investigations unit for approximately 3 weeks.

Det. Madsen said that Officer Ray and he went to breakfast prior to going to going to [REDACTED]. Det. Madsen estimated that they left to go to [REDACTED] at approximately 11:30 a.m. Det. Madsen said that when he drove on [REDACTED], he advised dispatch via cellular phone that they

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.:M.P.D.# 01-1507

were going to conduct surveillance of the suspect's residence. Det. Madsen said that Officer Ray had already placed a phone call to the child molest suspect's residence and had left a message on the answering machine. Det. Madsen said that he was hoping that the suspect would exit his residence.

Det. Madsen said that he drove by the suspect's house and was west and approximately 150 yards from the residence. Det. Madsen commented that they didn't want to "heat up" the suspect. Det. Madsen said that they were parked far enough away from the suspect's residence that they couldn't directly see the suspect's house. Det. Madsen said that the subject came from the general area of the house. Det. Madsen said that they couldn't tell whether the suspect had exited his house or not.

I asked Det. Madsen if he observed the vehicles that were parked in the suspect's driveway or in front of the suspect's house. Det. Madsen said that they had just gotten to the location and had not obtained a description of the vehicles that were at the suspect's house. Det. Madsen said that he first saw the suspect walking when Officer Ray commented that someone was walking from the area of the house. Det. Madsen said that he couldn't tell whether the suspect was walking on the driveway or across the front yard of the suspect's house. Det. Madsen said that there was a hedge that blocked his view. Det. Madsen said that he couldn't state which property the suspect had walked across towards his vehicle. Det. Madsen saw the suspect get into a white pickup truck that was parked across the street from the suspect's house.

Det. Madsen said that the suspect drove east bound down Yale St. and they followed the suspect vehicle. Det. Madsen said that he was suspicious that this might be the subject that they were looking for. (End of side one of my audio cassette tape - side 2 started at 1723 hours) Det. Madsen said that they were parked a good distance away from the suspect's house but they believed that the subject could be their child molest suspect. Det. Madsen said that the suspect looked like he could be 35 years old, which was the age of the child molest suspect.

Det. Madsen said that the suspect turned off Yale St. north bound on Palm. Det. Madsen said that the suspect was going "a good clip" and the suspect turned onto Martinez Ave. to Shell Ave. The suspect turned right onto Shell Ave. and approached the traffic signal which had a red light on Shell Ave. at Pacheco Blvd. Det. Madsen said that he was able to catch up and get close enough to the suspect vehicle in order to obtain a partial rear license plate number. Det. Madsen said that the suspect vehicle drove north bound on Shell Ave. towards Marina Vista. Det. Madsen said that the suspect vehicle accelerated rapidly and was driving 60 to 70 m.p.h. in a 35 m.p.h. zone.

Det. Madsen said that the suspect was driving excessively fast in the rain. Det. Madsen said that Officer Ray had phoned the victim's mother, who was the wife of the suspect, and was

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.: M.P.D.# 01-1507

attempting to get a further description of the suspect. The wife of the suspect told Officer Ray that the suspect had short brown hair. Det. Madsen said that based on the wife's description plus the suspect matching the general description of the child molest suspect, he felt that it could be the same subject. Det. Madsen said that the suspect accelerated away from them at a high rate of speed.

Det. Madsen said that the suspect vehicle approached the traffic signal on Shell Ave. at Marina Vista. Det. Madsen notified Dispatch that he was conducting a traffic stop on Shell Ave. prior to Marina Vista. There was a truck in front of the suspect vehicle. The suspect vehicle had slowed down but wasn't stopping. The suspect vehicle couldn't get around the truck. Det. Madsen said that they had slowed down to approximately 5 to 15 m.p.h. Det. Madsen said that it was getting "pretty dicey." There was a red light at the traffic signal on Shell Ave. at Marina Vista. Det. Madsen said that Officer Ray was pointing for the suspect to pull over. Det. Madsen had activated his red light and was intermittently activating the siren. Det. Madsen was not certain at this point that the suspect was going to attempt to flee since the suspect was driving approximately 10 to 15 m.p.h. Det. Madsen said that the suspect pulled out around the truck onto Marina Vista. Det. Madsen said that the suspect vehicle accelerated and he knew that they were now in a pursuit.

Det. Madsen notified Dispatch that he was in a pursuit. The suspect vehicle was accelerating fast away from them. When the suspect vehicle got to the south bound Hwy 680 on ramp at Marina Vista, it was going so fast that the suspect vehicle "fish tailed" into the opposing lanes of traffic. Det. Madsen said that the suspect vehicle narrowly missed vehicles that were on the off ramp at Marina Vista. Det. Madsen said that when the suspect got on south bound Hwy 680 that the suspect vehicle was able to pull into traffic. Det. Madsen said that the suspect vehicle rapidly pulled away from him. Det. Madsen estimated that the suspect was traveling 90 plus m.p.h. south bound on Hwy 680. Det. Madsen said that he was not able to keep up with the suspect vehicle since it wouldn't be safe to do so. Det. Madsen said that the suspect vehicle was weaving while changing lanes in and out of traffic. Det. Madsen said that the suspect was making unsafe lane changes and driving recklessly.

Det. Madsen said that the suspect vehicle had pulled away from them. Det. Madsen said that the traffic was moderately heavy. The suspect vehicle took the Pacheco Exit and Det. Madsen said that he momentarily lost sight of the suspect vehicle. When Det. Madsen got to the Pacheco Exit, he could see that the suspect vehicle had gone too fast to negotiate the turn onto Arthur Rd. The suspect vehicle had skidded across Arthur Rd. and crashed into the guard rail (gate of the fence).

Det. Madsen said that as he drove to the bottom of the Pacheco Blvd. Exit, Officer Ray told him to stop the car and let him out. Officer Ray jumped out the passenger side of Madsen's vehicle and Madsen secured his vehicle. When Madsen got out of his vehicle, Officer Ray was chasing

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.: M.P.D.# 01-1507

the suspect into the field area. Det. Madsen described how there was a small creek at the bottom of a gully. Det. Madsen estimated that Officer Ray was approximately 30 feet behind the suspect running after him. Det. Madsen said that Officer Ray was gaining on the suspect. Det. Madsen heard Officer Ray yelling, "Police, Stop, Police Stop." The suspect was not stopping but continued to run away from Officer Ray.

Det. Madsen said that he saw that Officer Ray had his weapon drawn. Det. Madsen said that the suspect had run around to the other side of a tree. Officer Ray had caught up close enough to the suspect that Ray had stopped running. Det. Madsen said that he could see the outline of the suspect. Officer Ray was yelling at the suspect to get his hands up. The suspect refused to put his hands up and obey Officer Ray's commands. Det. Madsen said that he knew that they had an officer safety issue since the suspect was still not complying with Officer Ray's commands.

Det. Madsen said that Officer Ray had pointed his gun at the suspect. Det. Madsen said that he also had his gun drawn. Det. Madsen heard Officer Ray yell that he would shoot him if the suspect didn't raise his hands. Det. Madsen said that he continued to run towards Officer Ray and as he got to the edge of the tree, he could see that the suspect had his hands down near his waist. I inquired if the suspect had both hands down near his waist. Det. Madsen wasn't sure that the suspect had both hands down near his waist but knew that the suspect had one hand near his waist. Det. Madsen wasn't sure which hand the suspect had down near his waist.

Det. Madsen said that Officer Ray had ordered the suspect several times to get his hands away from his waist area. Det. Madsen said that the suspect turned away from Officer Ray as though the suspect "was going for something." Det. Madsen said that when Officer Ray shot the suspect.

I told Det. Madsen that while he was sitting in his chair explaining to us what happened, that he indicated that the suspect had turned to his left. Det. Madsen said that he couldn't say for certain which direction the suspect turned. Det. Madsen demonstrated to us that the suspect turned to his right with the suspect's back towards Officer Ray. Det. Madsen said that he saw the suspect facing Officer Ray prior to the suspect turning away from Officer Ray. Det. Madsen said that the suspect was reaching in the area of his waistband.

I asked Det. Madsen if he knew what the suspect was doing. Det. Madsen said that his police training and experience told him that the location that the suspect was reaching was a high level of danger. Det. Madsen said that he felt that the suspect "was going for a weapon." Det. Madsen said that in his twenty years of law enforcement experience most weapons are carried around the belt area. Det. Madsen said that the suspect was "not acquiescent to their orders." Det. Madsen felt that they were in a very dangerous area of officer safety.

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.:M.P.D.# 01-1507

I asked Det. Madsen if he saw a weapon on the suspect and Det. Madsen said that he did not see a weapon. I asked Det. Madsen what clothing the suspect was wearing. Det. Madsen said that the suspect was wearing a blue colored short sleeve shirt and blue jeans.

I asked Det. Madsen how far he thought that he was from Officer Ray when Ray shot the suspect. Officer Madsen estimated that he was approximately twenty feet behind Ray when Ray shot the suspect. I asked Det. Madsen if he could tell us where the suspect was standing when Ray shot him. Det. Madsen said that the suspect was standing on the side of a hill. Det. Madsen said that there was a little creek in the gully and the suspect was on the opposite side of the hill. Det. Madsen estimated that the suspect was approximately 10 feet from the bottom of the creek up the hill.

Det. Madsen said that he heard Officer Ray fire one shot. Det. Madsen said that he did not fire any shots but did have his firearm out. I asked Det. Madsen what he thought when he heard the shot. Det. Madsen replied, "I thought that he was acting appropriately. If I had a clean shot at him at that time, I would have shot too. But I didn't because Roger was in front of me and I wasn't going to fire over his, his shoulder and his head. Roger was in front of me and I would have done the same thing." Det. Madsen said, "I felt that our lives were in danger."

I asked Det. Madsen if he knew where the suspect was shot. Det. Madsen said that the suspect was shot in the lower back area on his left side. Det. Madsen said that Officer Ray handed him his handcuffs and he handcuffed the suspect. Det. Madsen said that they requested code 3 fire and ambulance. Det. Madsen said that Officer Ray then left the area.

I asked Det. Madsen if he heard the suspect say anything to Officer Ray. Det. Madsen replied, "no" other than after Ray had shot the suspect, the suspect still refused to obey their commands. The suspect still refused to show his hands. Det. Madsen didn't know if the suspect was still reaching for something. Det. Madsen told the suspect that if he didn't keep his hands out that he would shoot the suspect. Det. Madsen said, "This guy had been shot and he still was not obeying commands." Det. Madsen said that he was "dead serious" when he told the suspect to remove his hands from his waist area. Det. Madsen said if the suspect would have made a furtive movement to that area he would have shot the suspect.

Det. Madsen said that he conducted a quick cursory search of the suspect. Det. Madsen explained that he didn't go into the suspect's pockets but he conducted a quick pat search of the suspect's front area. Det. Madsen said that he checked the suspect's waist band area and the area that he felt that the suspect might have a weapon. Det. Madsen said that he then handcuffed the suspect.

I asked Det. Madsen if he felt that the suspect was still the child molest suspect. Det. Madsen

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.: M.P.D.# 01-1507

said that he felt that the suspect was still the child molest suspect until the fire department arrived and asked the suspect his name. The suspect said his name was David Hutton. Det. Madsen said that prior to the fire department's arrival, he talked to the suspect calmly attempting to get the suspect to calm down. Det. Madsen said that he wanted the suspect to calm down. Det. Madsen said that he didn't want the suspect "to bleed out" or go into shock.

Det. Madsen said that the paramedics arrived after the fire department. The paramedics took the suspect out on a board to the ambulance. Det. Madsen said that when the suspect was placed in the ambulance, the suspect was unhandcuffed.

I asked Det. Madsen if he checked the area around where the suspect had been to see if the suspect had dropped a weapon. Det. Madsen said that he didn't do an extensive search. Det. Madsen said that he was more concerned about the suspect's safety and his wound. Det. Madsen said that he didn't see anything that the suspect might have left in the area.

I asked Det. Madsen if he saw any witnesses in the area. Det. Madsen said that he saw no one. Det. Madsen said that he talked to Sgt. Dave Brown, who gave him a ride back to the P.D. Det. Madsen said that Sgt. Dave Brown was the only person that he talked to other than the paramedics.

I asked Det. Madsen if he attached Robert Martin's criminal history his crime report in the child molest case. Det. Madsen said that he attached Robert Martin's criminal history sheet to his crime report. Det. Madsen did not know if Officer Ray had read the entire crime report. I asked Det. Madsen if Officer Ray had any knowledge as to Suspect Martin's criminal history and Madsen said that he didn't know. Madsen said that they didn't talk about it. I asked Det. Madsen if he recalled what the suspect's criminal history was and he said that he read it but couldn't recall the specifics. I asked Det. Madsen if he recalled whether Suspect Martin had ever been arrested for any weapons violations. Det. Madsen said that he recalled Martin having a 12025 P.C. and 12031 P.C. on his criminal record. Det. Madsen did not recall whether Officer Ray had this information.

I asked Det. Madsen if he had ever met this subject before and he said that he believed that he hadn't. Det. Madsen was asked if he knew of any other officers that were at the crime scene and Det. Madsen said no. I asked Det. Madsen if he knew Deputy Barden. Det. Madsen said that he didn't know Deputy Barden but a deputy did show up at the scene. Det. Madsen said that the deputy showed up at the scene and the deputy said that he was going to get the subject's name. Det. Madsen said that the deputy asked what the suspect's name was and wrote it down on a piece of paper for him.

I told Det. Madsen that in his Child Molest Crime report that he wrote in his report an '82 Dodge

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.: M.P.D.# 01-1507

Ram pickup truck, silver in color, Ca. Lic. #1FCY181. I asked Det. Madsen if he saw this vehicle at the suspect's house. Det. Madsen said that they hadn't had an opportunity to conduct surveillance of the area yet. Det. Madsen said that when he talked to the victim's mother, she told him that this was a vehicle that the suspect sometimes drove. Det. Madsen said that the suspect's wife told him that the suspect lived with a female and a male. Det. Madsen said that the suspect's wife told him that the suspect had access to other vehicles. Det. Madsen believed that he had written down in his notes the first names of the people who lived with the child molest suspect.

Officer Peterson asked Det. Madsen how fast was the suspect driving on the freeway. Det. Madsen said that the suspect was driving 90 plus m.p.h. Det. Madsen said that he based this estimate of the suspect vehicle's speed on his training and experience in traffic for over 8 years. Det. Madsen said that he has been certified to estimate speed within two m.p.h. I asked Det. Madsen if he ever looked at his vehicle's speedometer and he replied no.

Officer Peterson asked Det. Madsen about the time that Officer Ray made the ruse phone call to the suspect's address. Officer Peterson asked if the phone call was contemporaneous to the suspect leaving the area and Det. Madsen said that it was. Det. Madsen said that Officer Ray had no sooner made the phone call to the suspect's residence when this subject walked from the general area of the suspect's house.

Officer Peterson asked Det. Madsen if he wore glasses and Det. Madsen replied yes. Det. Madsen said that he had his glasses on at the time of the surveillance. Det. Madsen said that he is near sighted and that by wearing glasses it helps him to see license plates and subjects some distance away.

Officer Peterson said that Det. Madsen had previously told us that he saw the suspect turn away from Officer Ray. Officer Peterson asked Det. Madsen if he saw the suspect do anything after the suspect had turned away but before he heard Officer Ray fire the shot. Det. Madsen said that it happened, "bang , bang." Det. Madsen again demonstrated that the suspect turned to his left. Officer Peterson questioned Det. Madsen about this. Det. Madsen said that he couldn't say for sure which way the suspect turned but recalled that the suspect turned to his right. Det. Madsen said that he could be wrong but the suspect turned quickly with his hands down by his waist. Det. Madsen said that he heard the shot just after the suspect quickly turned. Det. Madsen again said that when he was approaching the scene, he knew that the suspect was non compliant. Det. Madsen said that the suspect was not complying with Officer Ray's orders. Det. Madsen said that he was prepared to shoot the suspect because of the way the suspect moved. Det. Madsen said that he did not have a "clean shot of the suspect."

The interview with Det. Madsen was concluded at approximately 1750 hours. For complete

Report By: Sgt. J. Dodd CCCSO #31076

Date: 4-09-01

Subject/Defendant: Hutton, David

Report/Case No.:MPD #01-01507

details of the interview, please review the audio cassette tape or Martinez P.D.'s transcription.

On 4/09/01, I made a copy of my audio cassette tape of my interviews with Officer Ray and Det. Madsen for Secretary Irene at the Martinez P.D. Irene advised that the micro-cassette tape of Officer Ray's interview by Officer Ferrari that a portion of the tape had come loose.

Evidence:

- (1) Audio tape of interviews with Martinez Police Officers Ray and Madsen. (retained by Sgt. John Dodd - labeled -01-31076.)
- (2) One copy of Martinez P.D. Dispatch Tape (retained by Sgt. John Dodd - labeled 02-31076)

Report By: Sgt. John Dodd CCCSO #31076

Date: 4-09-01

MARTINEZ POLICE DEPARTMENT
525 Henrietta Street Martinez, CA., 94553, (925) 372-3440

(CA00714) Narrative-Supplement Report
CASE NO. 01-1507

SUPPLEMENTAL: ON 04-06-01, A FRIDAY, AT APPROXIMATELY 1230 HOURS I WAS CONTACTED BY THE MARTINEZ POLICE DEPARTMENT (MPD) DISPATCH AND INFORMED THAT AN OFFICER INVOLVED SHOOTING HAD JUST TAKEN PLACE. MY ASSISTANCE WAS REQUESTED TO PARTICIPATE IN THE SHOOTING INVESTIGATION TEAM AND I WENT TO THE MPD TO ATTEND THE PROTOCOL BRIEFING.

AT THE POLICE DEPARTMENT I MET WITH OTHER MPD INVESTIGATORS, AS WELL AS MEMBERS OF THE DISTRICT ATTORNEY'S OFFICE. TOGETHER WE WERE ALL BRIEFED ON THE EVENTS, AS THEY WERE KNOWN TO THAT POINT, WHICH LED UP TO THE SHOOTING. EACH INVESTIGATOR WAS GIVEN THE RESPONSIBILITY OF OVERSEEING, INTERVIEWING OR DOCUMENTING A PARTICULAR EVENT TO DETERMINE WHAT ACTUALLY OCCURRED.

MY ASSIGNMENT ON THIS DATE WAS TO RESPOND TO THE CRIME SCENE AND TAKE OVER THE SCENE MANAGEMENT. I ASSISTED THE CRIME LABORATORY PERSONNEL AND FACILITATED THE PROCESSING OF THE INVOLVED VEHICLES. I MAINTAINED THE INTEGRITY OF THE SCENE UNTIL AERIAL PHOTOGRAPHS WERE TAKEN AND I COORDINATED THE REMOVAL/STORAGE OF BOTH VEHICLES (4BBS944 – FORD/5K58525 – NISSAN).

THE FOLLOWING IS AN APPROXIMATE TIME LINE OF THE EVENTS THAT OCCURRED AFTER I ARRIVED AT THE SCENE OF THE SHOOTING ON 04-06-01:

- AT 1507 HOURS I CONTACTED THE CALIFORNIA HIGHWAY PATROL AND REQUESTED THEY RESPOND TO TAKE ADDITIONAL SCENE PHOTOGRAPHS, PER THE REQUEST OF DEPUTY DISTRICT ATTORNEY BOB HOLE.
- AT 1518 HOURS I SPOKE WITH CARL FLOWERS, CITY OF MARTINEZ CORPORATION YARD SUPERVISOR, AND OBTAINED TWO SECURE STORAGE AREAS FOR THE POST-INCIDENT WAREHOUSING OF THE FORD/NISSAN.
- AT 1630 HOURS CHP SERGEANT A. BERG RESPONDED AND CAPTURED +/- 48 PHOTOGRAPHS OF THE SCENE/VEHICLES. SGT. BERG INFORMED ME THAT THE PERSON TO WHOM I SHOULD SPEAK WAS OFFICER K. GRIMES REGARDING HAVING BOTH VEHICLES MECHANICALLY INSPECTED. HE ALSO TOLD ME THAT CHP OFFICER R. MECHAM WAS THE PERSON THAT WOULD BE WRITING THE PRIMARY COLLISION REPORT NARRATIVE.
- AT 1650 HOURS THE CCCSO HELICOPTER (STAR-ONE) ARRIVED AND CAPTURED THE NECESSARY SCENE AERIAL PHOTOGRAPHS.
- AT 1800 HOURS THE REMOVAL OF BOTH VEHICLES FROM THE SCENE BEGINS AND BY 1855 HOURS THEY WERE LOCKED IN SEPARATE BAYS AT THE MARTINEZ CORPORATION YARD.

P. STARZYK #98 04-13-01

MARTINEZ POLICE DEPARTMENT
525 Henrietta Street Martinez, CA., 94553, (925) 372-3440

(CA00714) Narrative-Supplement Report
CASE NO. 01-1507

SUPPLEMENTAL (CON'T): ON 04-09-01, A MONDAY, AT APPROXIMATELY 1000 HOURS I WAS CONTACTED BY SGT. E. PRINS, THE LEAD INVESTIGATOR FOR THE SHOOTING, AND ASKED TO TAKE THE STEPS NECESSARY TO RECOVER THE "FIRST DRAW" BLOOD SAMPLE TAKEN BY THE EMERGENCY ROOM STAFF AT THE JOHN MUIR MEDICAL CENTER ON 04-06-01. SGT. PRINS ALSO REQUESTED THAT I FOLLOW-UP ON THE MECHANICAL INSPECTION OF THE FORD/NISSAN.

AT APPROXIMATELY 1030 HOURS I CONTACTED CHP OFFICER K. GRIMES AT THE BLUM ROAD SUBSTATION AND REQUESTED HIS ASSISTANCE WITH THE MECHANICAL INSPECTIONS. HE INFORMED ME THAT HE WAS CURRENTLY INVOLVED WITH THE INSPECTION OF A VEHICLE THAT HAD BEEN INVOLVED IN A FATAL COLLISION AND WOULDN'T BE ABLE TO HELP ME UNTIL 04-10-01.

ON 04-10-01 I MET WITH OFFICER GRIMES AT THE MARTINEZ CORPORATION YARD. I SEARCHED EACH VEHICLE FOR ITEMS OF EVIDENCE/CONTRABAND PRIOR TO THEIR INSPECTION. I SEARCHED THE FORD AT 0850 HOURS AND NOTED THE FOLLOWING:

- NO LOOSE AMMUNITION IN THE INTERIOR OR THE TRUNK WAS LOCATED.
- NO EMPTY SHELL CASINGS FOUND IN THE VEHICLE.
- THE TRUNK CONTAINED ONE (1) REMINGTON 870 SHOTGUN (SER. #V246287V).
- FOUR (4) 00-BUCKSHOT SHELLS WERE LOCATED IN THE MAGAZINE TUBE OF THE SHOTGUN AND THE CHAMBER WAS EMPTY. NO SMELL OF BURNT GUNPOWDER WAS DETECTED ON THE WEAPON.
- TWO (2) POLICE RAID VESTS AND AN EVIDENCE COLLECTION KIT WAS IN THE VEHICLE'S TRUNK.
- NO ITEMS OF CONTRABAND WERE FOUND IN OR ABOUT THE FORD.

NEXT I SEARCHED THE NISSAN AT 0915 HOURS AND NOTED THE FOLLOWING:

- MISCELLANEOUS CLOTHING INSIDE THE PICKUP CAB AND INSIDE OF THE TOOLBOX IN THE PICKUP BED.
- NO ITEMS OF CONTRABAND FOUND IN/ABOUT THE VEHICLE.
- INSURANCE RECEIPTS IDENTIFYING DAVID E. HUTTON AS THE INSURED PARTY. IT LISTED THE COAST NATIONAL INSURANCE COMPANY (████████████████████) AS THE UNDERWRITER AND HAD A CONTACT NUMBER OF ████████████████████
- NO WEAPONS FOUND INSIDE OF THE PICKUP.

P. STARZYK #98 04-13-01

MARTINEZ POLICE DEPARTMENT
525 Henrietta Street Martinez, CA., 94553, (925) 372-3440

(CA00714) Narrative-Supplement Report
CASE NO. 01-1507

SUPPLEMENTAL (CON'T): ON 04-11-01, A WEDNESDAY, AT APPROXIMATELY 1130 HOURS CONTACTED THE HONORABLE JUDGE LAUREL LINDENBAUM. SHE REVIEWED/SIGNED THE SEARCH WARRANT COMMANDING ME TO SEIZE THE "FIRST DRAW" BLOOD SAMPLE.

AT APPROXIMATELY 1215 HOURS I WENT TO THE BLOOD BANK LABORATORY AT THE JOHN MUIR MEDICAL CENTER IN WALNUT CREEK. I CONTACTED SUPERVISOR BETH TAYLOR, SERVED THE SEARCH WARRANT AND COLLECTED HUTTON'S SAMPLE (ONE VIAL OF BLOOD). THE HOSPITAL WAS PROVIDED WITH A COPY OF THE WARRANT AND THE ASSOCIATED SEARCH WARRANT RETURN.

I NOTED THAT HUTTON'S SAMPLE WAS LABELED "JOHN DOE" AND CONTAINED SEVERAL LABELS WITH NUMBERS. TAYLOR INFORMED ME THAT HIS IDENTITY WAS UNKNOWN WHEN HE FIRST WAS ADMITTED INTO THE HOSPITAL, BUT WAS GIVEN A PATIENT IDENTIFICATION NUMBER OF [REDACTED] A COMPUTER NUMBER OF [REDACTED] AND HIS BLOOD WAS DRAWN BY TECHNICIAN [REDACTED]

I TOOK CUSTODY OF THE SAMPLE, LABELED IT AND SEALED IT INTO CCCSO BLOOD KIT [REDACTED] I PERSONALLY DELIVERED IT TO THE SHERIFF'S OFFICE CRIME LABORATORY SHORTLY AFTER IT WAS SEIZED, SO IT COULD BE CHEMICALLY ANALYZED.

FINALLY, I FILED THE WARRANT/RETURN WITH THE COUNTY CLERKS OFFICE AFTER HAVING THE RETURN SIGNED BY JUDGE LINDENBAUM.

P. STARZYK #98 04-13-01

**ABSOLUTELY NO
INFORMATION IS
TO BE RELEASED
FROM THIS FILE
UNLESS
PERSONALLY
CLEARED BY CHIEF
CUTAIA, LT.
SIMONETTI OR LT.
SMITH**

NAME	ARREST	DC'S VIC	INFORM	OTHER	MARTINEZ POLICE					CASE NO	PAGE
X	X									01-1507	
DATE/TIME REPORTED					CA0071400					REFER CASE #(S)	OF
04-06-01 1145 Hrs					CRIME/INCIDENT					CLASSIFICATION	
1203.2 PC					Violation of Probation						
LOCATION OF OCCURRENCE											
200 Block of Arthur Rd											
OCURRED BETWEEN/DATE	TIME	DAY	VIC	LICENSE NO	STATE	YEAR	MAKE/MODEL	STYLE	COLOR		
04-06-01	1145	Fri	VEH								
AND	TIME	DAY	SUS	LICENSE NO	STATE	YEAR	MAKE/MODEL	STYLE	COLOR		
			VEH	5K58525	CA	96	NISSAN	P/U	Whi		
DVR INFO			RELATIONSHIP OF PARTIES		<input type="checkbox"/> FEARS INJURY		<input type="checkbox"/> VISIBLE		WEAPON INVOLVED:		
					<input type="checkbox"/> PAIN COMPLAINT		<input type="checkbox"/> OTHER		<input type="checkbox"/> FIREARM		
							<input type="checkbox"/> BODILY FORCE		<input type="checkbox"/> KNIFE		
									<input type="checkbox"/> WVC PROVIDED		
I N V O L V E D P E R S O N S	1	INV/LVMT	NAME (LAST, FIRST MIDDLE)			DOB	RACE/SEX	HAIR/EYES	HEIGHT/WEIGHT		
		V	STATE of CALIFORNIA								
	RESIDENCE ADDRESS					RES PHONE		DRIVERS LICENSE #		STATE	
	BUS NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST	
P E R S O N S	2	INV/LVMT	NAME (LAST, FIRST MIDDLE)			DOB	RACE/SEX	HAIR/EYES	HEIGHT/WEIGHT		
		S	HUTTON, David Edwin			08-08-1969	WM	BRO/BLU	5-9/150		
	RESIDENCE ADDRESS					RES PHONE		DRIVERS LICENSE #		STATE	
	BUS NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST	
Unk.									CA Y		
P E R S O N S	3	INV/LVMT	NAME (LAST, FIRST MIDDLE)			DOB	RACE/SEX	HAIR/EYES	HEIGHT/WEIGHT		
		W-1	Det. R. RAY #71								
	RESIDENCE ADDRESS					RES PHONE		DRIVERS LICENSE #		STATE	
	BUS NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST	
Martinez Police Dept. 372-3440					Police Officer						
P E R S O N S	4	INV/LVMT	NAME (LAST, FIRST MIDDLE)			DOB	RACE/SEX	HAIR/EYES	HEIGHT/WEIGHT		
		W-2	Det. D. MADSEN #72								
	RESIDENCE ADDRESS					RES PHONE		DRIVERS LICENSE #		STATE	
	BUS NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST	
Martinez Police Dept. 372-3440					Police Officer						
I HEREBY ARREST THE ABOVE NAMED SUSPECT(S) ON THE CHARGES INDICATED ABOVE.											
P R O P E R T Y	NUMBER	ARTICLE	QTY	SERIAL NUMBER	BRAND/MAKE	MODEL NO	VALUE	CODE			
YES	NO	EVIDENCE COLLECTED			# FINGERPRINTS		# ROLLS FILM		TOTAL		
XX											
N A R R A T I V E	Additional Charges: 1. Resisting, Delaying, Interfering with a police officer in the performance										
	148 PC										
	2. Reckless Driving 23109 CVC										
Evidence: Refer to evidence reports submitted by respective investigators											
Synopsis: (S) who was believed to be responsible in a child molestation case											
(01-1455) was involved in a pursuit with the police. At the conclusion, (SV) collided											
through a fence, (S) att. To flee, made furtive movements and subsequently shot by officer.											
REPORTING OFFICER / SERIAL			DATE AND TIME			REVIEWER BY		FOLLOW-UP NEEDED			
E. Prins #67			04-06-01 2230			[Signature]					
CPS	JUV/PROB	DDA	VIC/LTR	WVC	OTHER						
[Signature]											

DR
01-1507

CASE SUMMARY, AS OBTAINED FROM REPORTS:

On Friday, 04-06-01, Det. Madsen and Ray were in the [REDACTED] staking out an address [REDACTED] for a suspect in a child molesting case that Det. Madsen was investigating (01-1455).

During the stakeout, a WMA, possibly the child molest suspect, exited [REDACTED] and got into a white compact pickup truck [REDACTED] and left the area. The Detectives were in Det. Madsen's unmarked Detective unit ([REDACTED]) and was led on a drive through Martinez.

At approximately 1145 hrs, Det's informed MPD dispatch that they were in a pursuit with the white Nissan pickup truck in the area of Shell Av and Marina Vista. The Det's radio transmissions were very weak and difficult to understand. Marked police units started towards that location for assistance. While the marked units were en-route, the Det. unit advised that the exact location was Highway 680 near Arthur Rd., near the old dump, end of the off-ramp.

At approximately 1147 hrs, dispatch was informed by the Det. unit that the suspect vehicle collided into a fence at the bottom of the off-ramp. The next transmission from the Det. unit was at approximately 1148 hrs when they advised that shots were fired. The next transmission was that they had one at gun point. At approximately 1149 hrs, they advised that they were "code-4", in custody.

For specific details of the pursuit and officer involved shooting, refer to transcribed interview of Detectives Ray and Madsen.

Submitted by: E. Prins 
04-09-01

CASE INTERVIEW 01-1507

Witness: [REDACTED]
[REDACTED]
[REDACTED]

Summary: On Friday, 04-06-01, at approximately 1610 hrs, I interviewed above subject at John Muir Hospital. [REDACTED] is the father of (S) David Hutton.

I explained the reason we (K. Moore, Senior DA Inspector) were there and he replied spontaneously that the police thought David was reaching for a gun and they shot him. At this time I asked him what he knew about the circumstances surrounding David's activities. He said he heard from his son [REDACTED], who lives in the [REDACTED] located on Arthur Road, that David was involved in a pursuit with the police, crashed his truck, and was shot by the police.


In essence; [REDACTED] stated that last Monday (4-2-01) his son David began staying with him and his step-mother at the Antioch address. He said that David and [REDACTED] were living in Auburn, CA. until the time he moved in with him in Antioch. [REDACTED] moved in with her mother on [REDACTED] in Martinez. He stated that David and [REDACTED] were having unknown martial problems.

He said that David called his probation officer on Monday, 04-02-01, to try to make arrangements to see her in Auburn. He was told that by the Probation Department that his probation officer was on vacation that week (04-02-01) and to call back when she returned in about one week. He further told his dad that he was in violation of probation and didn't want to go to jail because he was facing jail time. [REDACTED] said that David told him that he was going to "turn himself in" on Monday, 04-09-01. [REDACTED] said that David was on probation for various drug violations. I asked him if he thought David was still using drugs, he replied, "I wouldn't be surprised if he was".

He believed he last saw David on Thursday morning (04-05-01) when [REDACTED], [REDACTED], and David spent the night together at his house. At that time he was behaving normal with no outward signs of any problems.

[REDACTED] was very cooperative and understood the need for this interview.

The interview was concluded at approximately 1622 hrs. when [REDACTED] David's wife arrived at the hospital. She was later interviewed by us. (Refer to summary by Senior DA Inspector K. Moore)

Submitted by: E. Prins 
04-09-01

**MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT**

01-1507JS1 PAGE 1

1. This supplemental report documents my involvement in this investigation. I arrived on scene at approximately 1151 hours and parked my patrol vehicle in the driveway of 251 Arthur Road. I arrived after medical personnel had arrived on scene, who were providing first aid to the suspect. It was raining lightly at this time and the area was wet. I noticed medical personnel were removing the suspect's clothing. Due to the existing weather conditions, I decided to collect some evidence to prevent contamination and destruction. I wore latex gloves to collect the below listed items. I placed them into individual clean evidence sacks.
2. I first received one (1) dark green shirt which was removed from the suspect. I brought it to my patrol vehicle and placed it into an evidence sack. I then returned to the scene with additional evidence bags. When I returned, there were dark colored jeans laying on the ground. I placed these jeans into an evidence sack. I did not search the pockets of the jeans.
3. When the suspect was taken from the area, I conducted a brief canvas of the immediate area for obvious items of evidence. There was a concrete drainage ditch that ran through this area. In the same area where the suspect was laying, I saw a 2" x 2" plastic zip lock bag. The zip lock bag had a white residue substance lining the interior. Based on my training and experience, I know that illegal drugs are packaged in this manner. I briefly picked up the item and noticed that the top surface was dry. I then placed the item back on the ground where I located it.
4. During this time, I requested that Officer KRUTA take photographs of the scene. I also had Officer KRUTA photograph the location of the described plastic baggie. After the baggie was photographed, I collected it and placed it into a paper evidence sack. I secured the three (3) items of evidence in the trunk of my patrol vehicle. I advised Sergeant DOWLING of these activities.
5. Officer KRUTA gave me one completed roll of 35 mm film and a partially used roll of 35 mm film. I subsequently placed the film into the MPD film depository.
6. Additionally, while I was at the scene, I noticed that Detective RAY's vehicle was still running and the emergency equipment was on. For officer safety reasons, I turned off his vehicle's engine as well as the emergency lighting equipment.

MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT

01-1507JS1 PAGE 2

7. I was assigned as scene security during this incident. While I was at the scene, I was approached by a subject who identified himself as Witness [REDACTED]. He was looking at the two involved vehicles and stated that he knows the driver of the white pickup truck. I asked him if I could talk with him and he stated that I could. [REDACTED] told me that he knows this truck belongs to a person by the name of DAVID HUTTON. He stated that DAVID HUTTON was married to a friend of his named [REDACTED]. He stated that [REDACTED] and DAVID HUTTON have been married for a short time, but have been experiencing marital difficulties. [REDACTED] stated that he thinks that HUTTON believed [REDACTED] was filing charges against him for some type of domestic crime. [REDACTED] stated that he had no other knowledge about this event. [REDACTED] had arrived at this location at approximately 1345 hours.
8. At 1350 hours, Witness [REDACTED] arrived on scene. [REDACTED] owns [REDACTED] located at [REDACTED]. I conducted a brief interview with [REDACTED] and he told me that he was in his compound yard which overlooks the open space. He heard the sounds of sirens coming from Highway 680 and noticed that the two vehicles had exited the freeway. He saw the traffic collision involving the white pickup truck. He saw the pickup truck go off the roadway into the open space. He then saw the driver of the pickup truck begin running from the scene. He heard Detective RAY make numerous advisements for the suspect to stop. [REDACTED] stated that he heard someone make the statement similar to "I'll shoot you if you don't stop." He then saw the suspect attempt to go up the side of the retaining wall, but fell off onto his back. The suspect flipped over onto his stomach. At this point, both the officer and the suspect were on the east side of some trees. [REDACTED] then stated that he believed the suspect was running towards the officer. He said the suspect took one - two strides "right towards the officer". He stated that the suspect and the officer were approximately 15' apart. [REDACTED] described the suspect's arm motion as a "pumping motion". He showed me this motion. [REDACTED]'s right hand went from his right hip and moved in an upward/forward motion. [REDACTED] then made the statement, "I thought the kid pulled a gun on

**MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT**

01-1507JS1 PAGE 3

him, just by his mannerisms.” He also stated that the suspect was looking right at the officer. [REDACTED] then heard Officer RAY fire.

9. The Contra Costa County Crime Lab had arrived on scene and I relinquished all items of evidence to Criminalist WICKS. This occurred at 1555 hours.
10. Refer this report to the original report.

J. SYLVIA, #97

iam 4/08/01

CRIME	TEST	DOM VIO	RE/CSM	OTHER	MARTINEZ POLICE			CASE NO.	PAGE	
DATE/TIME REPORTED 4-6-01								1145		
CODE SECTION(S)					CRIME/INCIDENT CA0071400			CLASSIFICATION		
INVOLVED PERSONS	5	INVLVMT W	NAME (LAST, FIRST MIDDLE)		DOB	RACE/SEX WM	HAI/EYES	HEIGHT/WEIGHT		
	RESIDENCE ADDRESS					RES.PHONE		DRIVERS LICENSE #		STATE
	BUS. NAME/ADDRESS/PHONE					OCCUPATION OWNER		SOCIAL SECURITY #		ARREST
	6	INVLVMT W	NAME (LAST, FIRST MIDDLE)		DOB	RACE/SEX WM	HAI/EYES	HEIGHT/WEIGHT		
	RESIDENCE ADDRESS					RES.PHONE		DRIVERS LICENSE #		STATE
	BUS. NAME/ADDRESS/PHONE					OCCUPATION WORKER		SOCIAL SECURITY #		ARREST
	7	INVLVMT	NAME (LAST, FIRST MIDDLE)		DOB	RACE/SEX	HAI/EYES	HEIGHT/WEIGHT		
	RESIDENCE ADDRESS					RES.PHONE		DRIVERS LICENSE #		STATE
	BUS. NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST
	8	INVLVMT	NAME (LAST, FIRST MIDDLE)		DOB	RACE/SEX	HAI/EYES	HEIGHT/WEIGHT		
	RESIDENCE ADDRESS					RES.PHONE		DRIVERS LICENSE #		STATE
	BUS. NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST
	9	INVLVMT	NAME (LAST, FIRST MIDDLE)		DOB	RACE/SEX	HAI/EYES	HEIGHT/WEIGHT		
	RESIDENCE ADDRESS					RES.PHONE		DRIVERS LICENSE #		STATE
	BUS. NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST
	10	INVLVMT	NAME (LAST, FIRST MIDDLE)		DOB	RACE/SEX	HAI/EYES	HEIGHT/WEIGHT		
RESIDENCE ADDRESS					RES.PHONE		DRIVERS LICENSE #		STATE	
BUS. NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST	
11	INVLVMT	NAME (LAST, FIRST MIDDLE)		DOB	RACE/SEX	HAI/EYES	HEIGHT/WEIGHT			
RESIDENCE ADDRESS					RES.PHONE		DRIVERS LICENSE #		STATE	
BUS. NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST	
12	INVLVMT	NAME (LAST, FIRST MIDDLE)		DOB	RACE/SEX	HAI/EYES	HEIGHT/WEIGHT			
RESIDENCE ADDRESS					RES.PHONE		DRIVERS LICENSE #		STATE	
BUS. NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST	
13	INVLVMT	NAME (LAST, FIRST MIDDLE)		DOB	RACE/SEX	HAI/EYES	HEIGHT/WEIGHT			
RESIDENCE ADDRESS					RES.PHONE		DRIVERS LICENSE #		STATE	
BUS. NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST	
14	INVLVMT	NAME (LAST, FIRST MIDDLE)		DOB	RACE/SEX	HAI/EYES	HEIGHT/WEIGHT			
RESIDENCE ADDRESS					RES.PHONE		DRIVERS LICENSE #		STATE	
BUS. NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST	
15	INVLVMT	NAME (LAST, FIRST MIDDLE)		DOB	RACE/SEX	HAI/EYES	HEIGHT/WEIGHT			
RESIDENCE ADDRESS					RES.PHONE		DRIVERS LICENSE #		STATE	
BUS. NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST	
16	INVLVMT	NAME (LAST, FIRST MIDDLE)		DOB	RACE/SEX	HAI/EYES	HEIGHT/WEIGHT			
RESIDENCE ADDRESS					RES.PHONE		DRIVERS LICENSE #		STATE	
BUS. NAME/ADDRESS/PHONE					OCCUPATION		SOCIAL SECURITY #		ARREST	
REPORTING OFFICER / SERIAL NO. SYLVIA 97		DATE AND TIME 4-6-01		REVIEWED BY	FOLLOW-UP NEEDED					
INV	CPS	JUV/PROB	ODA	VIC/TR	VVC	OTHER				

Supplement Date: 04-06-01

01-1507DL2

Upon my return to MPD from my investigation assignments, I was requested to conduct a non-Miranda interview with subject [REDACTED] and clarify his knowledge about subject Hutton, and the message left on the answering machine by Det. Ray.

This interview was conducted in the MPD briefing room, besides subject [REDACTED] and myself, Officer Schnabel was present.

The taped interview began at approx. 17:50 Hrs and ended at approx. 18:00Hrs. Attached is a transcription of the interview.

That tape of the interview was saved and logged as evidence item #8.

NFI.

Det. D. Lynch #65 04-09-01

Approved Date

Supplement Date: 04-06-01

01-1507DL3

At the conclusion of the interview with subject [REDACTED] I felt that I needed to re-interview [REDACTED] and to clarify her knowledge of the message left by Det. Ray.

Det. Sgt. Brown and myself went to [REDACTED] and made contact with [REDACTED] and she consented to provide me with a taped statement.

** It should be noted, that due to an operator error the first portion of this taped interview pertaining to [REDACTED] statements regarding the phone message left by Det. Ray were accidentally erased. It should be noted that [REDACTED] is willing to testify to the fact that she heard and saved a message from a Martinez Police Detective for her brother, [REDACTED] ***

The first portion of the interview was began at approx. 18:55 Hrs and the entire interview was ended at 19:28 Hrs.

Attached is the transcription of the addendum to the interview. The tape used for the interview was saved as evidence item # 8.

NFI.

Det. D. Lynch #65 04-09-01

MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT

01-1507DL2 PAGE 1

TRANSCRIPTION OF INTERVIEW

PARTICIPANTS:

Detective Dan Lynch
Officer Craig Schnabel

Martinez Police Department
Martinez Police Department
(DOB: [REDACTED])

Suspect: [REDACTED]

LYNCH: Okay, it is 5:50 on 4/06/01. I'm Detective Dan Lynch and I am with [REDACTED]...

LYNCH: [REDACTED] and Officer Craig Schnabel. It's last of [REDACTED]? [REDACTED]?
Yes.

LYNCH: First of [REDACTED]? Middle of [REDACTED]? And your date of birth is [REDACTED]?
Yes, it is.

LYNCH: Do you live at [REDACTED]?
Yes. I just now moved in.

LYNCH: Okay, where did you move from?
[REDACTED]

LYNCH: Okay. And the phone number there is ? Is that [REDACTED]?
Yes.

LYNCH: And ... sounds good to me. Two things I want to talk to you about today is ... one .. when I contacted you earlier today and I walked up to you. What was it that you said to me? Do you remember?

[REDACTED]
Really?

LYNCH: Yeah. What was it that you said to me?

[REDACTED]
I said, "I guess you guys are looking for me."

LYNCH: Okay. And why did you say that to me?

[REDACTED]
Cause I thought you was the detective that ... left a message on the machine.

LYNCH: Okay. A detective left a message on your machine?

[REDACTED]
Yes.

LYNCH: Do you know who that detective was?

[REDACTED]
No. I forget his name. Detective David ... orI don't know.

LYNCH: Could it have been Detective Ray?

[REDACTED]
Ray? Um ...

LYNCH: You're not sure? What ... what did the message say?

[REDACTED]
Just said ... he left his number and wanted me to get a hold of him.

LYNCH: Oh, okay. Is that message still on an answering machine?
[REDACTED]: I don't know if it was erased or still on the phone.
LYNCH: Okay. Do you know when that phone call came in?
[REDACTED]: No.
LYNCH: Okay. Had you been gone from the house today?
[REDACTED]: Earlier, yes.
LYNCH: Was the message there before you left?
[REDACTED]: I don't think so.
LYNCH: Okay. So, it was there after you came back.
[REDACTED]: Yeah.
LYNCH: What time did you come back? Do you know?
[REDACTED]: It was about ... 9 or 10, I think.
LYNCH: What time did you leave?
[REDACTED]: Uh ... [REDACTED] came and picked us up about ... 5:30, 6:00... probably 6:00.
LYNCH: This morning?
[REDACTED]: Yes.
LYNCH: A. M.?
[REDACTED]: Yes.
LYNCH: And ... who did .. who did you go with?
[REDACTED]: [REDACTED]
LYNCH: Who's [REDACTED]?
[REDACTED]: [REDACTED] this guy that was in the truck with me...
LYNCH: The other gentleman?
[REDACTED]: Yeah. We were doing a roof.
LYNCH: I ... I didn't know his first name. And .. it was just you two that went?
[REDACTED]: Me and [REDACTED] .. the guy next door.
LYNCH: Would that be [REDACTED]?
[REDACTED]: Yeah.
LYNCH: Okay. And you guys must have been doing the roofing job that everybody's talking about.
[REDACTED]: Yeah.
LYNCH: Okay.
[REDACTED]: Everybody's talking about?
LYNCH: Well, yeah. I was talking to them and they were talking about some roof and .. they gotta get a roof back on cause it's raining.
[REDACTED]: Yeah, it was a mess.
LYNCH: Wrong time to be a roofer, I guess.

[REDACTED]:

Yeah.

LYNCH:

Okay. And ... do you know ... remember me showing you a picture back there?

[REDACTED]:

Yeah.

LYNCH:

And, what was the guy's name? Do you remember?

[REDACTED]:

David.

LYNCH:

David Hutton. Do you know him?

[REDACTED]:

Hey, I've ran into him. I ... I just know him from seeing him around.

LYNCH:

Seeing him around?

[REDACTED]:

Yeah. I don't hang around with him. I don't know his likes or dislikes. I just ...

LYNCH:

How long do you think you've known him?

[REDACTED]:

I don't know. I've known him around for a couple years.

LYNCH:

Okay, but you're not close personal friends?

[REDACTED]:

No.

LYNCH:

Does he come does he come to your house?

[REDACTED]:

No.

LYNCH:

You guys don't hang out together?

[REDACTED]:

Nope.

LYNCH:

Did you know he was in the neighborhood today?

[REDACTED]:

This morning, yeah.

LYNCH:

What time did you see him there?

[REDACTED]:

Um ... I don't know.... probably about (unintelligible)

LYNCH:

Where did you see him? In front of the house? Or where? How did you know he was there?

[REDACTED]:

Well, see he was in a little white pickup truck.

LYNCH:

Was he there by himself?

[REDACTED]:

Yeah.

LYNCH:

What kind of pickup truck?

[REDACTED]:

I think it was a little Toyota or light colored truck.

LYNCH:

You don't know his license plate number or anything?

[REDACTED]:

No.

LYNCH:

Did it have like ... anything ... I mean, you know there's four million Toyota trucks running up and down the road. If I saw that truck, would there be anything different about it that

[REDACTED]:

Just the little white and a copy dings in the front ...

LYNCH:

Okay.... just a regular little Toyota truck.

[REDACTED]:

Yeah.

LYNCH: Okay. And how did ... just for my clarification ... how did you know that was him? In the truck? If it's 6:00 in the morning? I mean, did you recognize the truck? Did you recognize him? Or what?

[REDACTED]: Well, yeah, cause he ... he came over a couple of times ... next door.

LYNCH: Oh, Okay. I'm with you now. Did you talk to him this morning? Anybody you were with talk to him?

[REDACTED]: Not that I know of.

LYNCH: Okay... so when you walked out ... you say about a quarter to six?

[REDACTED]: About a quarter to six.... a quarter to six.

LYNCH: And he was sitting there. Was he sleeping in the vehicle or ?

[REDACTED]: I didn't pay attention. It was, you know, I was just in a hurry to go get some Visqueen and wrap that roof.

LYNCH: What time did you come back, did you say?

[REDACTED]: I don't know. It only took us a couple hours, so ... We got something to eat, so ... about 10.

LYNCH: About 10?

[REDACTED]: Yeah.

LYNCH: And when you came back, did you see him there?

[REDACTED]: Yeah.

LYNCH: So, you don't know how long he was there?

[REDACTED]: No.

LYNCH: You don't know where he was hanging out or anything?

[REDACTED]: No.

LYNCH: Where does he usually go when he hangs out in the neighborhood?

[REDACTED]: He either goes up the street or he ... sometimes he'll stop and bullshit with [REDACTED] or [REDACTED]

LYNCH: That's [REDACTED]?

[REDACTED]: Yeah.

LYNCH: Huh... okay. I'm sorry ... it just reminded me ... what is ... what did the message on the answering machine say?

[REDACTED]: Detective ...

LYNCH: And ... the detective phoned?

[REDACTED]: Yes.

LYNCH: From what agency?

[REDACTED]: Martinez.

LYNCH: From Martinez?

[REDACTED]: Yes.

LYNCH: And ..and what did it .. what did it say?

[REDACTED]: I don't know. Detective so-and-so. I been really ... I didn't get the message. My little sister did.

LYNCH: Your sister did?

[REDACTED]: Yeah.

LYNCH: What's your sister's name?

[REDACTED]: [REDACTED]

LYNCH: [REDACTED]? And she heard the message?

[REDACTED]: Yes, I think so.

LYNCH: Did you play it?

[REDACTED]: No I didn't.

LYNCH: So, you never actually heard the message?

[REDACTED]: No.

LYNCH: But she did?

[REDACTED]: Yeah, she wrote the number down for me. And she didn't write his last name.

LYNCH: Okay. So, she took your message for you.

[REDACTED]: Yes.

LYNCH: Okay. I think that's it. That's pretty much all I have. There will probably be somebody in, in just a little bit to talk to you about the other thing.

[REDACTED]: Well, I mean ... when? Cause I ... I

LYNCH: I don't know. Okay? I'm sorry for the inconvenience. Thank you for your help and your cooperation. I appreciate it.

[REDACTED]: Uh, huh.

LYNCH: Okay ... well, you know Officer Schnabel.

[REDACTED]: Yeah.

LYNCH: So .. is there anything I can get you?

[REDACTED]: I'm just thirsty. I'm gonna need some water.

LYNCH: Water? Want some water or something? Okay, I'll make sure Officer Schnabel gets you some. Okay? Thank you.

[REDACTED]: Thank you.

LYNCH: Take care. I'm going to clear this at 6:00 o'clock ... 1800 hours on 4/06/01.

End of tape

Supplement Date: 04-06-01

01-1507DL3

At the conclusion of the interview with subject [REDACTED], I felt that I needed to re-interview [REDACTED] and to clarify her knowledge of the message left by Det. Ray.

Det. Sgt. Brown and myself went to [REDACTED] and made contact with [REDACTED] and she consented to provide me with a taped statement.

** It should be noted, that due to an operator error the first portion of this taped interview pertaining to [REDACTED] statements regarding the phone message left by Det. Ray were accidentally erased. It should be noted that [REDACTED] is willing to testify to the fact that she heard and saved a message from a Martinez Police Detective for her brother, [REDACTED] ***

The first portion of the interview was began at approx. 18:55 Hrs and the entire interview was ended at 19:28 Hrs.

Attached is the transcription of the addendum to the interview. The tape used for the interview was saved as evidence item # 8.

NFI.

Det. D. Lynch #65 04-09-01

MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT

01-1507DL3 PAGE 1

TRANSCRIPTION OF INTERVIEW

PARTICIPANTS:

Detective Dan Lynch
Sergeant David Brown

Martinez Police Department
Martinez Police Department

[REDACTED] (DOB:)

LYNCH: This is Detective LYNCH again. Addendum to my interview with [REDACTED] and we started back up at ... 1905 hours on 4/06. Um ... I'm sorry, actually ... I totally, I totally forgot .. thank you for reminding me. We started after completing the interview, we starting talking about. ... I asked you if you knew DAVID HUTTON and... and your answer was ...

[REDACTED]: Yes, I know of him. I know who he is.

LYNCH: And ... does he ... has he ever stayed here at your house?

[REDACTED]: No .. he's never stayed here. He's ... stopped by a bunch of times. Just to say 'hi' and see how I was doing after the loss of .. of [REDACTED] My husband had cancer and that was about it. And I believe I dislike him and his wife ...me and [REDACTED] got problems since we were young kids.

LYNCH: Can you tell me what problems?

[REDACTED]: We all disliked each other... personalities, we don't click. I don't mesh with. I don't have ... just from childhood, you know, she picked on me when we was younger, I mean .. we fought. She's older than I am and we constantly fought. I basically had no use for them and they're not welcome in my home.

LYNCH: Tell me about Mr. Hutton.

[REDACTED]: Mr. Hutton .. um.... He seems a little flighty. Someone I don't really trust. I've seen people who say they're your friend and turn around and ... they're not your friends at all. I just ... I don't know ... there's just something about him I don't trust .. I don't like.

LYNCH: Is he a violent person?

[REDACTED]: Not that I've ever seen. I ...from first sight, just ...

BROWN: (Unintelligible)

[REDACTED]: that he did ... I don't trust him, you know...

LYNCH: Is he a person you would ... would run from a police officer?

[REDACTED]: Um ... probably would .. in my (unintelligible) but then, I don't ... I don't

I've never been down with him.

LYNCH: So, he's never been to your house?

[REDACTED] He has been to my house... not there to visit with me. (Unintelligible).

LYNCH: Was he here today?

[REDACTED] No.

LYNCH: Okay. Was it ... What's his current address?

[REDACTED] he may have been on the street. But ...

LYNCH: Excuse ... excuse me for a minute ... Hey, Dave. We'll wait until you finish your phone call.

BROWN: All right.

LYNCH: All right. Let's ... let's continue. Was he here today at all?

[REDACTED] Not in my home. I ... I don't know. He may have been on the street. Like I told you earlier today ... I'd been asleep. I got up .. I think about 3:30 and I talked to my mom and she told me that there had been an accident down the street from her house and through the grapevine, we heard that it had been Dave.

LYNCH: Okay. Thank you very much.

[REDACTED] You're welcome.

LYNCH: Thank you very much, [REDACTED] And I'm gonna really, really end this interview at 1928 hours on 4/06/01. Thank you. Thank you for your time.

[REDACTED]: You're welcome.

End of tape

MARTINEZ POLICE DEPARTMENT
SUPPLEMENT REPORT 01-1507

Summary:

On Friday, 04-06-01, at approximately 1225 hrs, I received a call at my residence requesting that I respond to the police department to assist in an officer involved shooting case.

At approximately 1330 hrs, I arrived and was instructed to report to the City Council Chamber for a briefing. The briefing was in progress. Upon entering, I was informed by Chief Cutaia that I would be the lead investigator since the Det. Sergeant was unavailable. The case assignments were being disseminated by DDA Robert Hole. For case assignments, refer to attached "involved personnel" supplemental report by Sgt. E. Prins.

Sr. Inspector K. Moore and myself were assigned to interview the suspect at John Muir Hospital
Refer to supp. Report by Sgt. E. Prins

While at the hospital we also interviewed suspects father, [REDACTED] and his wife [REDACTED]
[REDACTED]

Refer to supp. report by Sgt. E. Prins regarding [REDACTED]

Refer to supp. report to be submitted by Sr. Insp. K. Moore

Attachments submitted by Sgt. E. Prins


1. MPD Event Log 01-006550
2. Copy of Placer County Probation Order #62-5974
3. Suspects criminal history
4. Court case records for Contra Costa County Courts

submitted by: Sgt. E. Prins *[Signature]*
04-09-01

CASE INTERVIEW 01-1507

SUSPECT: [REDACTED] WMA, [REDACTED]
[REDACTED] Ph# [REDACTED]
[REDACTED]

On Friday 04-06-01, at approximately 1714 hrs, Senior DA Investigator K. Moore and myself went to the suspects room (rm #415) to interview him regarding this incident. As we approached the bed, suspect looked at us and asked who we were. We identified ourselves as police officers at which time he stated, "go talk to my attorney, I don't have any thing to say". I asked who his attorney was. He told me it was [REDACTED] out of Nevada City. While there, I activated my tape recorder and explained that I wanted to read him his Miranda Rights. I then read him the admonishment and weaver which he understand. He elected again to invoke his rights and not talk to us. The interview attempt was complete at approximately at 1716 hrs. (Refer to tape, Evid. # 5)

Submitted by: E. Prins 
04-09-01

INVESTIGATIVE REPORT 01-1507

On Friday, 04-06-01, at approximately 1531 hrs, Senior DA Inspector K. Moore and myself spoke with MPD Officer B. Kruta #69 at John Muir Hospital regarding an updated status on suspect Hutton. Officer Kruta related that the bullet did not strike any vital organs, but may have slightly nicked the spinal cord. The suspect will be admitted to the hospital for the night and that tomorrow (04-07-01) he will be seen by a specialist regarding the nicked spinal cord. At this time they are not going to retrieve the bullet from the suspect.

He said that the suspect was heavily medicated with morphine for the pain. Suspect Hutton did ask Officer Kruta, "why did they shoot me, I didn't have a gun". He replied that he didn't know.

Officer Kruta also informed us that suspects father was outside in the "ER" waiting room.

I asked him about the first blood draw from the suspect. He said that he was informed by one of the nurses that the sample may already have been destroyed by the blood lab. I then asked if he was aware if a "BAD" blood tech was en route to take a sample of his blood. He said that he didn't know. At 1535 hrs. we arranged for a "BAD" blood tech to respond to the hospital to take a blood sample from the suspect.


While were in "ER" we were contacted by Nursing Supervisor, [REDACTED], regarding this case. She said that the suspect will be moving to one of the upstairs wards. When speaking with her we reminded her not to release any information regarding this case. She confirmed that it was hospital policy not to release any such information.

I asked her about the status if the first blood draw. She said she will speak with the lab personnel to en sure that the sample will be saved for us.

I reminded Officer Kruta to retrieve all of suspects clothing and complete a supplemental report regarding his involvement.

Officer Kruta was informed that we will open up a booking at MDF and get him relieved as soon as possible.

Prior to leaving "ER", we were informed that the suspect will be moving to the fourth floor.

Submitted by: E. Prins 
04-09-01

CRIME/INCIDENT 12032 PC	<input type="checkbox"/> CONTINUATION <input checked="" type="checkbox"/> SUPPLEMENT VICTIM	CASE NO. 01-1507	PAGE 1 OF 1
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ON 4-6-01 AT ABOUT 1225 HRS I WAS SCENE SUPERVISOR AT PACHECO BLVD 680 SB EXIT AND AUTHOR RD. I HAD OFFICER RAY PLACE HIS DUTY WEAPON IN THE TRUNK OF MY POLICE VEHICLE. I SECURED THE TRUNK OF MY VEHICLE. AT ABOUT 1454 HRS ON 4-6-01 I GAVE THE SAME WEAPON TO SONG WICKS, CONTRA COSTA COUNTY CRIME LAB. THE WEAPON WAS IN THE SAME CONDITION AS I RECEIVED IT.

REPORTING OFFICER / SERIAL NUMBER Dowling 33	DATE / TIME 4-9-01 145	INV	CPS	JUV/PROB	DDA	VCLTR	VVC	OTHER
REVIEWED BY	DATE / TIME							

MARTINEZ POLICE DEPARTMENT CA0071400

CRIME/INCIDENT 1203.2PC	<input type="checkbox"/> CONTINUATION <input checked="" type="checkbox"/> SUPPLEMENT	CASE NO. 01-1507	PAGE
	VICTIM		OF

ON 4-9-01 AT 1030 hrs. THE BELOW LISTED PEOPLE
 HELD LOOK FOR THE SPENT CARTRIDGE AT ANTHONY
 RD + HIGHWAY 680. THEY USED 3 METAL DETECTORS
 AND SEARCHED IN GRASS UNTIL ABOUT 1300 hrs. THEY
 DID NOT LOCATE THE ITEM.

POLICE ASSISTANT: TERRY JOHNSON
 " " : MIKE MONTANA
 " " : ROBIN GONZALES

COMPANION YARD WORKER: HARVEY NIETO
 JAMES THOMPSON
 MIKE SMITH

SUPERVISED BY SGT. JOHN DODD, OF THE DIST. ATT. OFF.
 AND SGT. DAVID BROWN, MARTINEZ P.D.

REPORTING OFFICER / SERIAL NUMBER D BROWN	DATE / TIME 4-9-01	<input checked="" type="checkbox"/> INV	CPS	JUV/PROB	DDA	VICLTR	VVC	OTHER
REVIEWED BY	DATE / TIME							

CRIME/INCIDENT

1203.2pc

CONTINUATION SUPPLEMENT

VICTIM

CASE NO.

01-1507

PAGE

OF

ON 4-6-01 at 1130 hrs I responded to
 Arthur Rd + Highway 680. The report was
 an officer involved shooting. AT ABOUT 1145 hrs.
 I Drove Det. Doug MANKEN BACK TO MARTINEZ
 P.D. AT THE Police Dept. I TOOK CONTROL OF
 his weapon. His weapon is a 40 cal. Beretta,
 Ser# BER 004156 M. THE weapon WAS EXAMINED BY
 me. THE SAFETY WAS OFF. I COULD NOT SMELL any
 Powder, However, I could smell cleaning oil.
 THE BARREL WAS Clean of any Fragments.
 There WAS 11 rounds in THE mag. and one in
 THE CHAMBER. IT APPEARS THE WEAPON WAS
 NOT FIRED DURING THIS INCIDENT.
 ALSO LT. M. SMITH gave me a copy of the
 RADIO TAPE FROM DISPATCH. HE ASKED THAT I
 BOOK IT INTO EVIDENCE. I THEN BOOKED IT
 INTO THE EVIDENCE LOCKER.

REPORTING OFFICER / SERIAL NUMBER

D BROWN

DATE / TIME

4-6-01

INV

CPS

JUV/PROB

DDA

VICLTR

WC

OTHER

REVIEWED BY

DATE / TIME

MARTINEZ POLICE DEPARTMENT CA0071400

CRIME/INCIDENT 1203.2 PC	EVIDENCE REPORT	CASE NO / INCIDENT NO 01-1507	PAGE OF
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A. EVIDENCE B. FOUND PROPERTY C. SAFE KEEPING D. SEARCH WARRANT E. FOR DESTRUCTION F. PROCESS FOR PRINTS	1. VICTIM: 2. VICTIM: 3. SUSPECT: <u>David Hutton</u> 4. SUSPECT: <u>OWNERSHIP / DISPOSITION ENTER PROPER CODES</u>
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ITEM #	ARTICLE / DESCRIPTION	QTY	SERIAL NUMBER	BRAND/MAKE	MODEL / COLOR	CODE	BIN #
1	DUB TAP DISPATCH	1	LOCATION RECOVERED <u>680 + ANTONIO RD. INDIO</u>			A	
	DESCRIPTION		LOCATION RECOVERED				
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FINDER (FILL OUT ONLY IF FINDER WANTS TO CLAIM FOUND PROPERTY) NAME / ADDRESS / PHONE NUMBER	CLEAR APS <input type="checkbox"/>	CARD SENT <input type="checkbox"/>
REPORTING OFFICER / SERIAL NUMBER <u>D. Brown</u>	DATE/TIME <u>4-6-01</u>	RECEIVED STAMP
REVIEWED BY	DATE/TIME	OTHER JUV/PROB ODA

MARTINEZ POLICE DEPARTMENT CA0071400

CRIME/INCIDENT

1203.2 PC

EVIDENCE REPORT

CASE NO / INCIDENT NO

01-1507

PAGE
OF

1

- A. EVIDENCE
- B. FOUND PROPERTY
- C. SAFE KEEPING
- D. SEARCH WARRANT
- E. FOR DESTRUCTION
- F. PROCESS FOR PRINTS

- 1. VICTIM: STATE
- 2. VICTIM:
- 3. SUSPECT: HUTTON, DAVID
- 4. SUSPECT:

OWNERSHIP / DISPOSITION ENTER PROPER CODES

ITEM #	ARTICLE / DESCRIPTION	QTY	SERIAL NUMBER	BRAND/MAKE	MODEL / COLOR	CODE	BIN #
5	<p>CASS. TAPE Recording</p> <p>DESCRIPTION</p>	1	—	—	—	—	—
			<p>LOCATION RECOVERED</p> <p><u>JAMA Muir Hosp</u></p>				
	DESCRIPTION		LOCATION RECOVERED				
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	DESCRIPTION		LOCATION RECOVERED				

FINDER (FILL OUT ONLY IF FINDER WANTS TO CLAIM FOUND PROPERTY)
 NAME / ADDRESS / PHONE NUMBER

CLEAR APS

CARD SENT

REPORTING OFFICER (SERIAL NUMBER)

[Signature] 67

DATE/TIME
9-9-01

INV OTHER JUV/PROB DDA RECEIVED STAMP

Supplement Date: 04-09-01

01-1507DL4

Evidence Tech. Gonzales had received information from the subject's wife [REDACTED] that Hutton was to undergo surgery on today's date.

I contacted the on-duty Deputy at John Muir Hospital, Deputy Murphy [REDACTED]. I confirmed that Hutton is still in room [REDACTED] at John Muir Hospital, and according to Deputy Murphy he will not have surgery as the bullet is located too close to his spine.

Deputy Murphy further advised that the subject is being fitted with a back brace today, and then once stabilized he will be transferred to the Martinez Regional Medical Center. He also indicated to me that he had a note placed into the patient's chart that the bullet was evidence and upon removal please contact MPD.

NFI.

Det. D. Lynch #65 04-09-01

Approved

Date

Supplement Date: 04-06-01

01-1507DL1

On 04-06-01 at approx. 12:30 PM, I was paged by MPD and requested to respond to MPD as part of an investigations team regarding an officer involved incident.

Upon my arrival at MPD I contacted Det. Sgt. Brown, who advised me to standby as a briefing would be conducted by MPD and the Contra Costa District Attorney's Office.

At 13:35 Hrs briefing was conducted and assignments made by DDA Hole and Lt. Simonetti. We were advised that two MPD Detectives had been involved in a surveillance in regards to a PC 288 (a) case MPD Case # 01-1455. They attempted to contact/stop a subject who fled the area in a vehicle. The subject failed to yield to the detectives, and that the subject had been involved in a solo accident when he crashed his vehicle into a fence. The subject bailed out of the vehicle and attempted to run from the detectives when the officer involved incident occurred.

I was assigned as part of an investigative team along with Sr. Inspectors Victor Wise and Trisha Ford of the Contra Costa District Attorney's Office. Our assignment was to obtain the location of the residence that the subject has left from and where the incident had started, as well as obtain statements from witnesses in the area. Further we were charged with obtaining as much background information on the subject as possible with the limited information that we had at the present time.

A criminal history was obtained from MPD Dispatch, which showed the subject on active probation out of Placer County with a search and seizure clause for H&S 11377(a).

Placer County Probation Department was contacted via phone, and I spoke with [REDACTED], Senior Admin. Clerk. She confirmed that the subject was sentenced on 03/22/99 and that his probation ends on 03/22/2004. She further added that the subject is also required to register per section H&S 11590. She states that their information shows the subject resides at [REDACTED]. A copy of the subject's probation documents were faxed to MPD (copy attached).

Also attached is judicial history for the subject per the Contra Costa County Superior Court DATA Base.

Further contact reports were run for the subject. MPD contacts were run by myself (attached), and contacts for C.C.C.S.O. were obtained by Sr. Insp. Ford, please refer to her supplement.

I also had MPD Dispatch run CDL information the subject, and they located a CDL match for DAVID E. HUTTON DO [REDACTED] CDL# [REDACTED] out of [REDACTED]. The DMV record for the subject was not available as it had been pulled for maintenance. Corporal Dodd who was assisting me, contacted DMV via phone and

obtained the following information: The most current address that DMV shows for the subject is [REDACTED] this is as of October 2000. They did show a prior address of [REDACTED] DMV did fax the most current license and photo that they had for the subject (attached).

After gathering the most background information available, our team then responded to [REDACTED] which was an old address that the subject had listed on his emergency booking information. Sr. Insp. Ford made contact at the residence and determined that the subject was not known there. The party indicated that they had lived at the residence for approx. Two years and does not know the subject.

Our team then responded to the [REDACTED] to begin our investigation. We started with [REDACTED], which was the initial address the MPD Detectives had under surveillance. As we parked across the street from the address, an older Chevy truck pulled up in front of the residence with a white male driver (later identified by Sr. Insp. Wise). I further noted a WMA exit the residence, walk around the rear of the truck and approach the passenger side.

Both Insp. Wise and myself approached the truck, I identified myself and asked if I could speak with them. I advised that we were conducting an investigation and I asked if I could have identification from both subjects.

The subject who had exited the house and approached the truck made the statement, "I think I'm the guy that you are looking for", this was also overheard by Insp. Wise. I asked him why he thought that and he said "because of the message left by the detective". At that time he presented me with his CDL, which identified him as [REDACTED]. He indicated that he lives at [REDACTED] and has done so for the past two months.

Subject [REDACTED] was asked if he knows subject HUTTON. He stated that he does know him, but not well. He did see him earlier today's date in a small white truck at about 05:40-05:45 AM parked near the [REDACTED] residence. He did not talk to him, but knows the subject and vehicle well enough to identify them. He did not see anyone with the subject.

A warrant check was made for both subjects. The other subject was clear, however I was advised by MPD Dispatch that [REDACTED] was in fact the subject wanted in conjunction with the original surveillance case (01-1455) and that there was probable cause to arrest for PC 288(a).

While waiting for the confirmation from MPD Dispatch, subject [REDACTED] made the statement to me that he had lived on [REDACTED], but had moved out of that residence approx two months ago, as he was going through a divorce and believed that his former wife was "using his kids against him". It should be noted that no questions were asked in regards to the PC 288 (a) case.

Once confirmation had been received from MPD Dispatch, subject [REDACTED] was placed under arrest with no further questioning. He was cooperative and complied with all requests.

He was placed in the rear of my unmarked unit awaiting the arrival of a patrol unit. Officer Gaul arrived at the scene and took custody of the subject.

During the time the above arrest was being made, Insp. Ford made contact with the only other occupant at [REDACTED] who she identified as [REDACTED], sister of [REDACTED]. She also was aware of the phone message from Det. Ray as she had listened to the message earlier today's date and had saved it for her brother. Please refer to Insp. Ford's supplement regarding this contact.

Insp. Ford had made contact at [REDACTED] belonging to the [REDACTED] Family. She was able to determine that subject HUTTON had in fact been at this residence earlier today's date, as identified by [REDACTED] believes he had left about the time the incident started. Please refer to Insp. Ford's supplement.

Insp. Ford had determined that subject HUTTON had visited two WMA who live on the lower level of the residence and enter and exit via the rear. They were identified by their Father as [REDACTED] and [REDACTED]. We attempted contact at their portion of the residence, but found it secured by hasp and padlock.

As we returned to our car and were about to leave, a red car pulled up in front of the residence and a WMA later identified as [REDACTED] was contacted, please refer to Insp. Ford and Insp. Wise supplements.

During the time we were speaking with [REDACTED], white van also pulled up in front of the residence and a WMA exited the van. I made contact with him and identified him as [REDACTED] DOB: [REDACTED]

[REDACTED] indicated to me that he knows of subject HUTTON, but does not like him very much. He states that he left his residence at approx. 05:40 AM on today's date and had assisted on a roofing job all day. He states the only knowledge of the incident that had occurred on today's date was when subject Hutton's wife called him and told him that HUTTON was in the hospital due to an automobile accident.

He said he was slightly perturbed by this as he does not care for HUTTON or his wife and he was unsure what she wanted him to do or what he was supposed to do about it.

I asked [REDACTED] if he knew why the subject had left the house and where he was going, and he indicated that he thought that both HUTTON and his wife had left the house at about the same time, and felt that they were probably on their way to the wife's parents house at an unknown location in the [REDACTED] off of [REDACTED]

After we had cleared the area, I was contacted via cell phone by Lt. Simonetti and requested to respond back to [REDACTED] to retrieve the message tape and the message left by Det. Ray. Upon arriving back at the residence, Insp. Ford made contact with [REDACTED]. The message from Det. Ray had been left on a digital answering service provided by Pacific Bell and is subscribed to by [REDACTED]. Upon their checking the message center that message had been erased. [REDACTED] states she did not erase the message and assumes that her brother, [REDACTED] must have erased the tape.

After that our team responded back to MPD. Upon my arrival there, I was requested to do a taped non-Miranda interview with subject [REDACTED] pertaining to only his knowledge of Hutton's actions on today's date, and to confirm his statements and knowledge regarding the message left on the answering service left by Det. Ray, this interview was taped and witnessed by Officer Schnable. No questions regarding the pending PC 288(a) case were asked of the subject. Please refer to supplement 01-1507DL2 for detail of the interview.

At the conclusion of the interview, I felt that I needed to re-interview [REDACTED] as to her knowledge of the message left by Det. Ray. Det. Sgt. Brown and myself responded back to [REDACTED] and made contact with [REDACTED]. She consented to an interview which was taped. For details of that interview, please refer to 01-1507DL3.

My investigation activities concluded at approx. 2030 Hrs on 04-06-01.

NFI.

Det. D. Lynch #65 04-09-01

Approved Date



Placer County Probation Department

11564 C Avenue, Auburn, CA 95603
Phone (530) 889-7900/FAX (530) 889-7950

FAX - Cover Sheet

TO: Detective Lynch

FAX #: (925) 372-3462 PHONE #: _____

FROM: Louise Placer County

SUBJECT: _____

DATE: 4/6/01 NUMBER OF PAGES : 3
(including cover sheet)

Message: Per your request

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Arresting Agency PLACER COUNTY SO

X

SUPERIOR COURT OF CALIFORNIA, COUNTY OF PLACER
ORDER GRANTING PROBATION AND JUDGEMENT FOR MONETARY PENALTIES

PEOPLE VS. DAVID HUTTON

CASE NO. 62-5974

The Defendant having been convicted of the crime(s) hereinafter set forth, the matter having been referred to the Placer County Probation Department and the Court having read and considered the report and recommendation of the Probation Department,

IT IS HEREBY ORDERED that the imposition execution of state prison sentence of _____ be suspended and Defendant be admitted to probation on the following terms and conditions:

CRIME(S)

CASE NO.	SECTION		CASE NO.	SECTION
<u>62-5974</u>	<u>11377(A)H&S</u>	<input checked="" type="checkbox"/> (SPM)		
	<u>653K PC</u>	<input checked="" type="checkbox"/> (F) (SPM)		
				<input type="checkbox"/> (F) (SPM)
				<input type="checkbox"/> (F) (SPM)

II. COURT ACTION:

Formal Informal probation is granted for period of 5 years _____ months _____ days.

III. TERMS OF PROBATION:

A. JAIL: Defendant shall serve a disciplinary sentence in the Placer County Jail as follows:

Case No. 62-5974, 180 days with credit of 2 days (2 actual; 0 conduct);
 Case No. _____, _____ days with credit of _____ days (_____ actual; _____ conduct);
 Case No. _____, _____ days with credit of _____ days (_____ actual; _____ conduct);

The sentence(s) shall run consecutive to concurrent with each other and consecutive to concurrent with any other sentence now being served.

Said sentence is to commence:

Forthwith, and the Defendant is remanded to the custody of the Sheriff.

On _____, at _____, m., when the Defendant shall report to the Placer County Jail.

Other: BALANCE OF ABOVE STAYED PENDING COMPLETION OF PROBATION

IF U.O.P. ALL CRIMES WAIVED

Defendant is ineligible for alternative sentencing or release programs.

Defendant may be responsible for payment of all fees and costs of alternative sentencing or release programs.

Defendant shall complete _____ hours in a community service project to begin _____ and to be completed by _____. Such service shall consist of _____.

B. OTHER TERMS AND CONDITIONS: IT IS ORDERED THAT THE DEFENDANT:

- 1. Obey all State and Federal laws, City and County ordinances and all rules, orders and regulations of the Court and Probation Officer.
- 2. Report to the Probation Officer at such times and places as directed.
- 3. Not change residence address or leave the State of California without advance approval.
- 4. Enter into and continue such education, psychological, psychiatric, drug, alcohol, or other rehabilitation program as prescribed by the Probation Officer, and shall not leave or terminate such programs without the permission of the Probation Officer. Such program shall consist of: 1 YEAR RESIDENTIAL TREATMENT PROGRAM
- 5. Seek and maintain gainful employment.
- 6. Submit to drug, narcotic or alcohol testing as directed by the probation Officer or any Peace Officer
- 7. Totally abstain from the use or possession of intoxicants and not frequent places where alcohol is the chief item of sale.
- 8. Not possess or use any narcotic or controlled substance without a valid medical prescription.
- 9. Not operate a motor vehicle unless properly licensed and insured.
- 10. Submit person, place of residence, vehicle or area over which he/she has control to search and seizure at any time, day or night, with or without a search warrant, and with or without probable cause, by the Probation Officer or any Peace Officer for the purpose of determining compliance with conditions of release or probation
- 11. Not own or have in possession or control any deadly weapon or firearm.
- 12. Not associate with persons deemed undesirable by the Probation Officer upon written notice, including listed _____
- 13. Not associate with minors unless in the presence of the minors parent or guardian.
- 14. Defendant shall not annoy, harass or contact in any way: PEACEFUL CONTACT W/ CATHERINE HUTTON
- 15. Register pursuant to 290PC; 11590 H&S Code; 457.1 PC.
- 16. Not own or have control of any checks or checking account.

- 17. Enroll and successfully complete the First Offender DUI Program SB38 and pay associated fees at the time of enrollment.
- 18. Install at his/her expense the ignition interlock device and show proof of installation within 30 days to Probation Officer pursuant to Vehicle Code Section 23246 23235.
- 19. Defendants driving privilege shall be suspended revoked for a period of 6 MONTHS pursuant to Vehicle Code Section 13202.7
- 20. OTHER _____

IV. RESTITUTION AND FEES

- 1. Restitution to the victim(s) is reserved. Restitution hearing to be held on _____ at _____
- 2. The Defendant shall pay restitution to the Victim(s) in the amount of: _____
- 3. The following fines are to be paid as follows:

Fine:	
Penalty Assessment:	\$ 100.00
Emergency Medical:	\$ 100.00
Special Penalty:	\$ 20.00
Courthouse Surcharge:	\$ 5.00
Criminal Justice:	\$ 22.50
Other:	\$ 22.50
	\$ _____

TOTAL FINES: \$ 270.00

- \$50.00 of the above fine to be paid to the Criminalistic Laboratories Fund.
- \$50.00 to the Drunk Driving Education/Prevention Program.
- \$100.00 to the Drug Conviction Education/Prevention Program.
- \$10.00 to the Crime Prevention Fine.

IT IS FURTHER ORDERED THE FOLLOWING COSTS BE PAID SEPARATE AND APART FROM THE ABOVE FINES.

Restitution Fund:	
Restitution Fine:	\$ _____
Presentence Report:	\$ 200.00
Administrative Screening Fee:	\$ 350.00
Court Appointed Attorney Fees:	\$ 25.00
OTHER: <u>PROB SUPERVISION</u>	\$ _____
<u>SUB ABUSE FEE</u>	\$ 20.00
	25.00 PER TEST

ALL MONETARY AND RESTITUTION/ASSESSMENTS ARE TO BE PAID THROUGH THE PLACER COUNTY REVENUE DEPARTMENT AT A MONTHLY RATE TO BE SET UP BY SAID DEPARTMENT, SUCH FINES AND ASSESSMENTS TO BE PAID IN FULL BY THE END OF THE PROBATION TERM.

YOU ARE ORDERED to report in person with your copy of this order to the Placer County Department of Revenue Services, 11491 B Avenue, DeWitt Center, Auburn, California, within 48 hours of release from custody, to set up an interview with that department for financial evaluation and to establish a payment schedule for your fines; attorney fees, if applicable; commitment costs; presentence report and/or any other monetary assessment ordered.

If a fine was ordered by the Court as a condition of your probation, and you fail to report to the Department of Revenue Services, a warrant will be issued for your arrest.

V. NOTICE:

Upon satisfactory completion of your probation and upon application to the Court, you may have your plea of guilty or conviction set aside and the charges dismissed; and, you may petition for a certificate of rehabilitation and pardon (PC 1203.4)

Dismissal pursuant to this section does not permit a person to own, possess, or have in his custody or control any firearm capable of being concealed upon the person or prevent this conviction under Penal Code Section 12021.

The Federal Gun Law of 1968 prohibits the use or possession of a handgun, rifle, or shotgun by an individual convicted of a felony.

VI. ACKNOWLEDGEMENT:

I have read and received a copy of the foregoing TERMS OF PROBATION and agree to be bound by their terms and acknowledge the warning for failure to report to the Department of Revenue Services at (530) 889-7706, 11491 B Avenue, Auburn, CA 95803.

ADDRESS: 43100 REITER ROAD (PO BOX 550) GOLD BAR, WA 98251

TELEPHONE NO.: (360)793-2611 DRIVERS LICENSE NO.: C6698566 SOCIAL SECURITY NO.: 559-17-7660

DATE _____ DEFENDANT SIGNATURE: [Signature]

VII. COURT ORDER: SO ORDERED

DATED 03.22.99

[Signature]
JUDGE OF THE SUPERIOR COURT

Event Report

Time: 04/06/2001 12:55:55

Event: 01-006550

INCIDENT INFORMATION			
Receive Time 04/06/2001 11:45:37	Clear Time	Call Taker JACOBS, RENEE	Position CAD1
Classification PURS	Priority 0	How Receive	Services Police
Address SHELL AV / MARINA VISTA, MARTINEZ			
Police Agency MP	Sector 1	Beat 1	RD 139

SYNOPSIS
I1 AND I2 IN PURSUIT RADIO 10-1 EXACT LOCATION: S/B 680 NEAR ARTHUR RD NEAR OLD DUMP RD. END OF OFF RAMP

DISPOSITIONS			
Closing Classification PURS	Event Disposition C	Case Number MP 01-001507	Primary Staff

UNIT HISTORIES / SUPPLEMENT

Time	Unit	Status	Operator	Position
04/06/2001 11:45:54	I2	DISP	JACOBS, RENEE	CAD1
04/06/2001 11:45:54	S20	DISP	JACOBS, RENEE	CAD1
04/06/2001 11:45:54	X2	DISP	JACOBS, RENEE	CAD1
04/06/2001 11:46:19			JACOBS, RENEE	CAD1
Supplement WHI NISS PICK UP				
04/06/2001 11:46:46			JACOBS, RENEE	CAD1
Supplement RADIO 10-1				
04/06/2001 11:47:22			JACOBS, RENEE	CAD1
Supplement SB 680 APP PACHECO				
04/06/2001 11:47:43			JACOBS, RENEE	CAD1
Supplement TC BOTTOM OF PACHECO OFF RAMP				
04/06/2001 11:48:19			JACOBS, RENEE	CAD1
Supplement I1 SHOTS FIRD SHOTS DOWN				
04/06/2001 11:48:39			JACOBS, RENEE	CAD1
Supplement CON FIRE 49				
04/06/2001 11:48:55			JACOBS, RENEE	CAD1
Supplement 1 AT GUN POINT]				
04/06/2001 11:49:01			JACOBS, RENEE	CAD1
Supplement 3 RESPONDING				
04/06/2001 11:49:13			JACOBS, RENEE	CAD1
Supplement I1 CODE 4IN CUSTODY				
04/06/2001 11:49:46			JACOBS, RENEE	CAD1
Supplement WHI NISS WENT OFF RAMP STRAIGHT AHEAD IN FIELD				

ATTACHMENT #1

Event Report

Time: 04/06/2001 12:55:55

Event: 01-006550

Time	Unit	Status	Operator	Position
04/06/2001 11:49:56	X4	DISP	JACOBS, RENEE	CAD1
Time	Unit	Status	Operator	Position
04/06/2001 11:49:56	X1	DISP	JACOBS, RENEE	CAD1
Time	Unit	Status	Operator	Position
04/06/2001 11:49:56	X3	DISP	JACOBS, RENEE	CAD1
Time	Unit	Status	Operator	Position
04/06/2001 11:50:05	I2	97E	JACOBS, RENEE	CAD1
Time			Operator	Position
04/06/2001 11:50:44			JACOBS, RENEE	CAD1
Supplement				
X3 S20 CCCSO 97				
Time			Operator	Position
04/06/2001 11:50:59			JACOBS, RENEE	CAD1
Supplement				
WHI NISSIAN IS THE ONLY INFO				
Time			Operator	Position
04/06/2001 11:51:05			JACOBS, RENEE	CAD1
Supplement				
A3 49				
Time			Operator	Position
04/06/2001 11:51:22			JACOBS, RENEE	CAD1
Supplement				
BOTTOM PACHECO OFF FROM SB 680				
Time			Operator	Position
04/06/2001 11:51:26			JACOBS, RENEE	CAD1
Supplement				
A1 97				
Time	Unit	Status	Operator	Position
04/06/2001 11:51:51	S20	97E	JACOBS, RENEE	CAD1
Time	Unit	Status	Operator	Position
04/06/2001 11:51:51	X3	97E	JACOBS, RENEE	CAD1
Time	Unit	Status	Operator	Position
04/06/2001 11:52:05	X2	97E	JACOBS, RENEE	CAD1
Time	Unit	Status	Operator	Position
04/06/2001 11:52:09	X4	97E	JACOBS, RENEE	CAD1
Time	Unit	Status	Operator	Position
04/06/2001 11:52:09	X1	97E	JACOBS, RENEE	CAD1
Time			Operator	Position
04/06/2001 11:52:39			JACOBS, RENEE	CAD1
Supplement				
BOTTOM OF RAMP OF 26 POSS BY MONUMENT CAR PARTS				
Time			Operator	Position
04/06/2001 11:53:01			JACOBS, RENEE	CAD1
Supplement				
X1 11-99				
Time			Operator	Position
04/06/2001 11:53:12			JACOBS, RENEE	CAD1
Supplement				
CODE 4 STATES HE DIDNT PUSHED				
Time			Operator	Position
04/06/2001 11:53:44			JACOBS, RENEE	CAD1
Supplement				
OFFICERS ACTUALLY ON ARTHUR RD				
Time			Operator	Position
04/06/2001 11:53:51			JACOBS, RENEE	CAD1
Supplement				
CON FIRE 97				
Time			Operator	Position
04/06/2001 11:54:14			JACOBS, RENEE	CAD1
Supplement				
NOT MONUMENT CAR PARTS				
Time			Operator	Position
04/06/2001 11:54:49			JACOBS, RENEE	CAD1
Supplement				
,PHPD NOTIFIED				

Event Report

Time: 04/06/2001 12:55:55

Event: 01-006550

Time 04/06/2001 11:56:16			Operator JACOBS, RENEE		Position CAD1
Supplement I UNITS WERE CODE 5 PRIOR TO 2416 YALE ST					
Time 04/06/2001 11:56:17	Unit X2	Status 97E	Operator SCHNABEL, CRAIG		Position 1223
Time 04/06/2001 11:57:47	Unit X2	Status CD4E	Operator SCHNABEL, CRAIG		Position 1223
Time 04/06/2001 11:58:02			Operator GONZALES, ROBIN		Position CAD2
Supplement					
Time 04/06/2001 11:58:07			Operator GONZALES, ROBIN		Position CAD2
Supplement SGT. BROWN NOTIFIED					
Time 04/06/2001 11:59:25			Operator JACOBS, RENEE		Position CAD1
Supplement X2 19 WITH I1					
Time 04/06/2001 12:01:13	Unit I2	Status 97E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:02:24	Unit X1	Status 97E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:02:24	Unit X4	Status 97E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:02:24	Unit X3	Status 97E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:02:24	Unit S20	Status 97E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:02:24	Unit I2	Status 97E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:04:41			Operator JACOBS, RENEE		Position CAD1
Supplement SIMONETTI NOTIFIED					
Time 04/06/2001 12:04:49			Operator JACOBS, RENEE		Position CAD1
Supplement CRIME LAB NOTIFIED					
Time 04/06/2001 12:06:55			Operator JACOBS, RENEE		Position CAD1
Supplement X3 STATES H&S ITEMS DROPPED X4 49 TO PHOTO					
Time 04/06/2001 12:07:49			Operator JACOBS, RENEE		Position CAD1
Supplement X2 AT THE STATION WITH I1					
Time 04/06/2001 12:08:49	Unit X1	Dissociate Status 8			
Time 04/06/2001 12:09:38			Operator JACOBS, RENEE		Position CAD1
Supplement PER A3'S REQUEST SIMONETTI WAS NOTIFIED, CRIME LAB NOTIFIED, COUNTY PROTOCOL WILL BE STARTED					
Time 04/06/2001 12:13:09	Unit I2	Status 97E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:13:09	Unit X4	Status 97E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:13:09	Unit X3	Status 97E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:13:09	Unit S20	Status 97E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:14:03			Operator JACOBS, RENEE		Position CAD1
Supplement X4 FOLLOWING AMR TO JOHN MUIR HOSPITAL					

Event Report

Time: 04/06/2001 12:55:55

Event: 01-006550

Time 04/06/2001 12:17:15			Operator JACOBS, RENEE		Position CAD1
Supplement S21 IS 49 PD I2					
Time 04/06/2001 12:17:51	Unit A1	Status 97E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:20:45			Operator GONZALES, ROBIN		Position CAD2
Supplement DISTRICT ATTORNEY NOTIFIED 646-2625					
Time 04/06/2001 12:22:57			Operator JACOBS, RENEE		Position CAD1
Supplement A2 WILL 21 A3 ON HIS CELL					
Time 04/06/2001 12:24:25	Unit I2	Status CD4E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:24:25	Unit X4	Status CD4E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:24:25	Unit X3	Status CD4E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:24:25	Unit S20	Status CD4E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:24:25	Unit A1	Status CD4E	Operator JACOBS, RENEE		Position CAD1
Time 04/06/2001 12:24:52	Unit I2	Status CD4E	Operator JACOBS, RENEE		Position CAD1
Location 49 PD WITH S21 A FEW AGO					
Time 04/06/2001 12:25:17	Unit X2	Status CD4E	Operator JACOBS, RENEE		Position CAD1
Location HAS BEEN 97 PD W/11					
Time 04/06/2001 12:27:12			Operator GONZALES, ROBIN		Position CAD2
Supplement A3 REQ. OFCR BUTLER AND OFCR STARZYK-STARZYK 49,BOB HOLE 10-49					
Time 04/06/2001 12:27:27			Operator JACOBS, RENEE		Position CAD1
Supplement X4 97 JOHN MUIR HOSP					
Time 04/06/2001 12:32:24			Operator GONZALES, ROBIN		Position CAD2
Supplement VOYVODICH AND LYNCH 10-49					
Time 04/06/2001 12:33:27			Operator JACOBS, RENEE		Position CAD1
Supplement DE BRIEFING WILL BE AT THE PD					
Time 04/06/2001 12:34:36			Operator JACOBS, RENEE		Position CAD1
Supplement S20 WAS 97 AT 1210HRS HE ARRIVED AT THE PD AT 1220HRS					
Time 04/06/2001 12:37:31			Operator JACOBS, RENEE		Position CAD1
Supplement FERRARI 49 PD					
Time 04/06/2001 12:38:11			Operator GONZALES, ROBIN		Position CAD2
Supplement S/B 680 ARTHUR RD. NEAR OLD DUMP END OF OFF ROAD					
Time 04/06/2001 12:38:20			Operator GONZALES, ROBIN		Position CAD2
Supplement SGT. PETERSON 10-49					
Time 04/06/2001 12:38:28			Operator JACOBS, RENEE		Position CAD1

Event Report

Time: 04/06/2001 12:55:55

Event: 01-006550

Supplement PRINS 49 PER A3		
Time 04/06/2001 12:43:14	Operator JACOBS, RENEE	Position CAD1
Supplement VOYVODICH WAS 49 APROX 15 AGO		
Time 04/06/2001 12:45:51	Operator GONZALES, ROBIN	Position CAD2
Supplement DODD'S ETA IS 2 HOURS, COME IN PER S20		
Time 04/06/2001 12:47:28	Operator GONZALES, ROBIN	Position CAD2
Supplement J2 NOTIFIED 1/2 HOUR AGO		
Time 04/06/2001 12:53:43	Operator GONZALES, ROBIN	Position CAD2
Supplement GAUL CALLED 10-49		
Time 04/06/2001 12:54:14	Operator GONZALES, ROBIN	Position CAD2
Supplement MALONEY 10-49		
Time 04/06/2001 12:54:51	Operator GONZALES, ROBIN	Position CAD2
Supplement REFER PRESS TO A2		
Time 04/06/2001 12:55:17	Operator GONZALES, ROBIN	Position CAD2
Supplement PRESS CALLS TO A3'S VOICE MAIL		

STAFF

Unit A1	Staff CUTAIA, DAVID
Unit I2	Staff MADSEN, DOUG
	Staff RAY, ROGER
Police Unit S20	Staff DOWLING, RICHARD
Police Unit X1	Staff ROTH, AARON
Police Unit X2	Staff SCHNABEL, CRAIG
Police Unit X3	Staff SYLVIA, JON
Police Unit X4	Staff KRUTA, BILL

RESPONSE TIMES

	Event	Police
Receive	04/06/2001 11:45:37	
Save	04/06/2001 11:45:47	
Dispatch	04/06/2001 11:45:54	04/06/2001 11:45:54
Enroute	04/06/2001 11:50:05	04/06/2001 11:51:51
Arrive	04/06/2001 11:50:05	04/06/2001 11:51:51
Last Clear	04/06/2001 12:25:17	04/06/2001 12:25:17
Number of Units	7	5

01-1506

On 4-25-01 I retrieved Hutton wallet and pants contents from the crime laboratory. Sgt. Brown and Dep. DA Mark Eichman authorized the release of these items to Hutton.

R. Gonzales-910

4-25-01

Supplement Date:

01-1507DL5

Information had been receive on 04-06-01, that subject Hutton was on active probation with a search clause in Placer County. This information was confirmed via Placer County and I was advised that his P.O. was on vacation and not available until Monday 04-09-01. His P.O. was identified as Becky Fitelman.

On Monday 04-09-01, I re-contacted Placer County Probation, and was advised that subject Hutton's P.O. Fitelman was on vacation and not expected to return until Monday 04-16-01. I was put into contact with Ken Englund, Adult Probation Manager [REDACTED] and he was advised of the on-going investigation.

He advised that he had little information at this time regarding subject Hutton, but he advised that he would obtain the file and discuss the subject's probation history with me on 04-10-01.

On 04-11-01, I was again in contact with [REDACTED] and he advised me that he had reviewed subject Hutton's probation file. He was advised on the charges file in Contra Costa County. He asked that a copy of the report be forwarded to his office.

This was done by MPD Records Division. Later in the day [REDACTED] and I spoke again, regarding the violation of probation. Upon reviewing Hutton's file, the MPD report, as well as a missed appointment with his P.O., Mr. Englund feels there is enough information to request a Felony Violation of Probation Petition to the superior Court of Placer County and request that a warrant of arrest be issued.

On 04-12-01, I was contacted by the Clerk of the Superior Court (Lynn Toms), and she advised that a Warrant of Arrest for Violation of Probation had been issued by Judge James L. Roeder of the Placer County Superior Court. A faxed copy of the warrant and declaration are attached.

The warrant was given to the Placer County Sheriff's Department and was entered into the system.

MPD dispatch confirmed that the warrant was in the system. The warrant was then given to Sgt. E. Prins for service on Subject Hutton at the Martinez Regional Medical Center. Attached is a copy of the warrant and the due diligence.

NFI.

Det. D. Lynch #65 04-12-01

DB 4-19-01
Approved Date

CASE INTERVIEW 01-1507

SUSPECT: HUTTON, David Edwin, WMA,08-08-69

[REDACTED] Ph# [REDACTED]
[REDACTED]

On Friday 04-06-01, at approximately 1714 hrs, Senior DA Investigator K. Moore and myself went to the suspects room (rm #415) to interview him regarding this incident. As we approached the bed, suspect looked at us and asked who we were. We identified ourselves as police officers at which time he stated, "go talk to my attorney, I don't have any thing to say". I asked who his attorney was. He told me it was [REDACTED] out of [REDACTED]. While there, I activated my tape recorder and explained that I wanted to read him his Miranda Rights. I then read him the admonishment and weaver which he understand. He elected again to invoke his rights and not talk to us. The interview attempt was complete at approximately at 1716 hrs. (Refer to tape, Evid. # 5)

Submitted by: E. Prins 

04-09-01

INVESTIGATIVE REPORT 01-1507

PROBATION SEARCH

LOCATION: Suspects Residence



INVOLVED INVESTIGATORS:


1. E. Prins #67 MPD Sgt.
2. K. Moore Sr. Inspector CCCDA
3. V. Wise " " "
4. T. Ford " " "

Summary: On Friday, 04-06-01, at approximately 1930 hrs, aforementioned investigators went to suspect's residence to conduct a probation search as authorized by Superior Court of California, Placer County, case #62-5974 Probation is effective 03-22-99 through 03-22-04. Under terms and conditions he is to submit person, place of residence, vehicle or area over which he has control to search and seizure at any time, day or night, with or without a search warrant, and with or without probable cause, by the Probation Officer or any Peace Officer for the purpose of determining compliance with conditions of release or probation. (Refer to attached copy of the "terms and conditions")

Sr. Inspector Wise made arrangements to have a uniform officer from Antioch P.D. meet at corner of Pistachio and Filbert to assist us. Upon the arrival of the Antioch P.D. officer we walked to the residence. Inspector Wise made contact with suspects step-mother and requested to speak with Mr. Edwin Hutton. Upon his arrival at the front door, Inspector Wise identified himself and requested to enter the residence. We were informed by Mr. Edwin Hutton that he was informed by their attorney not to co-operate with the police any further. I then handed Mr. Hutton a copy of the probation order and explained that our intent was to search only that area where his son stayed. Mr. Hutton then allowed us entry.

We searched the office area which had a sofa-bed in it used by the suspect to sleep on. The search yielded nothing of evidentiary value. The search was terminated at approximately 1955 hrs.

Mr. Hutton retained the copy of the probation order.

Submitted by: E. Prins 

04-09-01

MARTINEZ POLICE DEPARTMENT
SUPPLEMENT REPORT 01-1507

Summary:

On Friday, 04-06-01, at approximately 1225 hrs, I received a call at my residence requesting that I respond to the police department to assist in an officer involved shooting case.

At approximately 1330 hrs, I arrived and was instructed to report to the City Council Chamber for a briefing. The briefing was in progress. Upon entering, I was informed by Chief Cutaia that I would be the lead investigator since the Det. Sergeant was unavailable. The case assignments were being disseminated by DDA Robert Hole. For case assignments, refer to attached "involved personnel" supplemental report by Sgt. E. Prins.

Sr. Inspector K. Moore and myself were assigned to interview the suspect at John Muir Hospital Refer to supp. Report by Sgt. E. Prins

While at the hospital we also interviewed suspects father, Edwin Hutton and his wife [REDACTED]

Refer to supp. report by Sgt. E. Prins regarding Mr. Edwin Hutton's.

Refer to supp. report to be submitted by Sr. Insp. K. Moore

Attachments submitted by Sgt. E. Prins

1. MPD Event Log 01-006550
2. Copy of Placer County Probation Order #62-5974
3. Suspects criminal history
4. Court case records for Contra Costa County Courts

submitted by: Sgt. E. Prins 
04-09-01

MARTINEZ POLICE DEPARTMENT CA0071400

CRIME/INCIDENT 1203.2 PC	EVIDENCE REPORT	CASE NO / INCIDENT NO 01-1507	PAGE 1 OF 1
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- A. EVIDENCE**
- B. FOUND PROPERTY**
- C. SAFE KEEPING**
- D. SEARCH WARRANT**
- E. FOR DESTRUCTION**
- F. PROCESS FOR PRINTS**

1. VICTIM: **State**
 2. VICTIM:
 3. SUSPECT: **HUTTON, David**
 4. SUSPECT:
OWNERSHIP / DISPOSITION ENTER PROPER CODES

ITEM #	ARTICLE / DESCRIPTION	QTY	SERIAL NUMBER	BRAND/MAKE	MODEL / COLOR	CODE	BIN #
5	CASS. TAPE Recording	1	—	—	—	—	—
	DESCRIPTION		LOCATION RECOVERED JMA Muir Hall				
	DESCRIPTION		LOCATION RECOVERED				
	DESCRIPTION		LOCATION RECOVERED				
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FINDER (FILL OUT ONLY IF FINDER WANTS TO CLAIM FOUND PROPERTY)		CLEAR APS <input type="checkbox"/>		CARD SENT <input type="checkbox"/>	
NAME / ADDRESS / PHONE NUMBER					
REPORTING OFFICER (SERIAL NUMBER)	67	DATE/TIME	INV	OTHER	JUV/PROB
REVIEWED BY		DATE/TIME			DOA
				RECEIVED STAMP	

MARTINEZ POLICE DEPARTMENT CA0071400

CRIME/INCIDENT 1203.5	EVIDENCE REPORT	CASE NO / INCIDENT NO 01-1507	PAGE OF
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A. EVIDENCE B. FOUND PROPERTY From Lab C. SAFE KEEPING D. SEARCH WARRANT E. FOR DESTRUCTION F. PROCESS FOR PRINTS	1. VICTIM: 2. VICTIM: 3. SUSPECT: Hutton, David 4. SUSPECT: <u>OWNERSHIP / DISPOSITION ENTER PROPER CODES</u>
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ITEM #	ARTICLE / DESCRIPTION	QTY	SERIAL NUMBER	BRAND/MAKE	MODEL / COLOR	CODE	BIN #
1L	Contents of Huttons Pockets <small>DESCRIPTION: wallet, 2-DL's, Hutton + Webster, 10 cash, photos, bic lighter + Micro chip</small>						
2L	Photos taken by Lab	set					
3L	GSR Kit <small>DESCRIPTION: Det. Ray</small>	1					
4L	Det Rays handgun <small>DESCRIPTION: Beretta - 96 mod - 40 cal</small>	1	BR004138M				
5L	Det Rays clothes	1	bag				
6L	Huttons clothes	1	bag				
	<small>DESCRIPTION</small>		<small>LOCATION RECOVERED</small>				
	<small>DESCRIPTION</small>		<small>LOCATION RECOVERED</small>				
	<small>DESCRIPTION</small>		<small>LOCATION RECOVERED</small>				
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FINDER (FILL OUT ONLY IF FINDER WANTS TO CLAIM FOUND PROPERTY) NAME / ADDRESS / PHONE NUMBER	CLEAR APS <input type="checkbox"/>	CARD SENT <input type="checkbox"/>
REPORTING OFFICER / SERIAL NUMBER R. Gonzales-910	DATE/TIME 9/25/01	INV OTHER JUV/PROB DDA RECEIVED STAMP
REVIEWED BY	DATE/TIME	

SUPPLEMENTAL REPORT 01-1507

INVOLVED PERSONNEL

MARTINEZ P.D.

INVESTIGATIVE RESPONSIBILITY

1. Chief D. Cutaia	Case Review
2. Lt. T. Simonetti	Incident Cmdr/PIO
3. Lt. M. Smith	On-scene Cmdr
4. Sgt. R. Dowling	Investigator
5. Sgt. D. Brown	Case Manager/Investigator
6. Sgt. E. Prins	Administrative Investigator (I/A)
7. Sgt. G. Peterson	Scene Security
8. Cpl. J. Sylvia	Investigator
9. Cpl. B. Dodd	Investigator
10. Det. M. Thompson	Investigator
11. Det. D. Lynch	Investigator
12. Det. P. Starzyk	Investigator
13. Ofc. F. Ferrari	Investigator
14. Ofc. B. Kruta	Susp. Security
15. Ofc. C. Schnabel	Secured Wit. Ray
16. Ofc. A. Roth	Patrol
17. Disp. R. Jacobs	None
18. Evid. Tech./Disp. R. Gonzales	Evid. Liaison with Crime Lab

CONTRA COSTA COUNTY DISTRICT ATTORNEY'S OFFICE

1. DDA Robert Hole	Case co-ordinator
2. Senior Inspector K. Moore	Investigator
3. Senior Inspector V. Wise	Investigator
3. Senior Inspector T. Ford	Investigator
4. Senior Inspector J. Dodd	Investigator
5. Senior Inspector M. Thompson	Investigator

CONTRA COSTA COUNTY CRIME LAB

1. Song Wicks	Scene Processing
2. Ken Fuggi	Scene Processing
3. Alex Taflya	Air photo's

CALIFORNIA HIGHWAY PATROL

1. Collision Investigation case number pending

MISCELLANEOUS SUPPORT

AERIAL PHOTO'S STAR 1 (CCCSO Helicopter)

1. Alex Taflya

CONSOLIDATED FIRE ENGINE CO. 5 Run # 15724

- 1. Captain Darrell Baker
- 2. Fire Fighter James Howard
- 3. Fire Fighter Haidee Jezek

ENGINE CO. 12 Run #15724

- 1. Captain Lou Paulson
- 2. Fire Fighter Bruce MacLennan
- 3. Fire Fighter Todd Butler

AMERICAN MEDICAL RESPONSE (AMR) Incident # 1087770

- 1. Jen0 Inzerillo
- 2. Dale Hemstock

CASE ASSIGNMENTS

Lead Coordinator DDA Robert Hole
Lead Investigator Sgt. E. Prins

INTERVIEWEES

Officer R. Ray
Officer D. Madsen

Suspect D. Hutton

Wit. J. Champion
Wit. Marilyn Hald
Wit. Bonnie Rich
Wit. Dora Hudson

INTERVIEWERS

Sr. Insp. J. Dodd and Ofc. Ferrari
" " " " " " "

Sgt. E. Prins/Sr. Insp. K. Moore

Sr. Insp. M. Thompson
" " " "
Sr. Insp. J. Dodd
" " " "

SUSPECT'S BACKGROUND

Criminal History
Family
Probation Status

Det. D. Lynch/Sr. Inspectors Ford & Wise
" " " " " " "
" " " " " " "

PRESERVE DISPATCH TAPES

Lt. M. Smith

PRESS INFORMATION OFFICER

Lt. M. Smith

MISCELLANEOUS

Suspect Veh. Impoundment

Det. Starzyk

Submitted by: E. Prins 
04-09-01

**MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT**

01-1507FF1 PAGE 1

TRANSCRIPTION OF INTERVIEW

PARTICIPANTS:

**Detective Doug Madsen
Rockne Lucia
Officer Frank Ferrari
Investigator John Dodd
Sergeant Gary Peterson**

**Martinez Police Department
Attorney at Law
Martinez Police Department
Contra Costa County District Attorney
Martinez Police Department**

**Date of Interview: Friday, April 6, 2001
Time of Interview: 1713 hours**

DODD : Okay, I've started the tape. Today's date is Friday, 4/06/2001. The time I have is about 1713 hours. I'm Sergeant John Dodd with the Contra Costa District Attorney's office. We're here with Doug Madsen. Doug is being represented by Rockne Lucia of Raines, Lucia and Wilkinson.

LUCIA: Wilkerson.

DODD : Wilkerson.

LUCIA: Yeah.

DODD : Excuse me.

LUCIA: That's all right.

DODD : Also present is Frank Ferrari and also present is Gary Peterson. And Gary is conducting the administrative investigation in this case. Uh, Doug, you're aware that ... you're here freely and voluntarily?

MADSEN: Uh, huh.

DODD : Okay. We'd like to get a statement from you in regards to this officer involved shooting. And you have your attorney here. I'd like to first get into your training and background. Can you tell us what academy you went through, your experience and how long you've been with Martinez.

MADSEN: I went to Alameda County 32nd academy. Uh, fifteen years ago. Been with ... I was with Alameda County for almost two years.

DODD : Okay.

MADSEN: And I've worked for the city of Martinez as a police officer for sixteen years.

DODD : all right. And your experience with Martinez PD?

MADSEN: I've been working patrol. I've worked traffic and the motors for ... eight years ... eight plus years. And I'm currently assigned to the Detective Bureau.

DODD : Okay. Is this your second stint in the investigations?

MADSEN: No, it's my first stint. I've been eight years on motors.

DODD : All right.

MADSEN: A good portion of my career.

DODD : And ... it was my understanding that you were conducting an investigation of a sexual abuse/child molest case?

MADSEN: That's correct.

DODD : Okay. And ... you typed up a report in regards to that investigation?

MADSEN: Yeah. And the narrative, yeah.

DODD : Okay. Is that ... this report? Martinez 01-1455?

MADSEN: That's it.

DODD : All right. Now today when you came to work, were you doing something in regards to this investigation.

MADSEN: Yes. Um ... came in to work today and we wanted to wrap up the investigation. We wanted to go out and get a suspect statement from the suspect and place him into custody.

DODD : Okay, and who is the suspect in this child molest case?

MADSEN: Uh .. [REDACTED]

DODD : [REDACTED]? Okay, do you know [REDACTED]?

MADSEN: Nope.

DODD : You've never met him before?

MADSEN: Never met him. I haven't seen a picture of him .. nothing.

DODD : Did you ... so you did not have a photograph of [REDACTED]?

MADSEN: No.

DODD : Okay... and you had .. did you feel like you had probable cause to arrest [REDACTED] for child molest?

MADSEN: Yeah.

LUCIA: Can I interrupt just for a second?

DODD : Sure.

LUCIA: Coach, here's the deal. Somebody's listening to this tape or transcribing it and if you talk and you talk at the same time, they won't be able to figure it out. So, let him finish the question or just talk louder so they can't hear him. Or something. I'm just joking. Let him finish the question.

MADSEN: If I make a mistake, it will cover up for me, though.

DODD : So, was Roger Ray ... was he familiar with this investigation?

MADSEN: Yeah, he was. We were working it together.

DODD : Okay. Was he familiar with the investigation enough to know that there was probable cause to arrest [REDACTED]?

MADSEN: Yes, he was.

DODD : Okay. Did he have a copy of the report with him when you and he went to a location today?

MADSEN: We had one copy of the report in my ... my detective clipboard.

DODD : Okay. And so ... what location did you go to?

MADSEN: We went to, I believe it was [REDACTED]. It's the house where Mr. [REDACTED] lives.

DODD : Okay, and that's in Martinez?

MADSEN: Yes, it is.

DODD : All right. And how did you get there?

MADSEN: We took my assigned detective unit and I was driving.

DODD : Which is what?

MADSEN: The Ford Thunderbird.

DODD : Okay, what color?

MADSEN: Uh ... teal color.

DODD : Okay, and do you know what year?

MADSEN: Nah, I really don't.

DODD : Okay, it's an unmarked car?

MADSEN: It's unmarked, yeah.

DODD : Does it have a red light and siren in it?

MADSEN: It has red light, sirens and strobes in the headlights.

DODD : Yeah, all right. And did you advise anybody that you were going to this location at [REDACTED]?

MADSEN: I called up Dispatch when we got on the air and told them what was going on, yeah. Via cell phone.

DODD : Okay. Is that your cell phone?

MADSEN: It's the department's on call cell phone for the detective bureau.

DODD : Okay. You know what's that number to that cell phone?

MADSEN: No, I.... no. I've just been in the detective bureau for three weeks.

DODD : All right, and do you know about what time you left the station?

MADSEN: Well ... we went to breakfast before. And that's ... I think we left breakfast

in the neighborhood of around 1130. I didn't look at my watch. In the neighborhood.

DODD : All right. 11:30 a.m. and after leaving breakfast, did you phone Martinez Dispatch and advise them that you were in route or that you were at the location?

MADSEN: When we got ... onto [REDACTED] is when I called her and told her that we were setting up on the house.

DODD : Okay.

MADSEN: Roger is just by the call in to the guy on his cell phone.... to see if he was there at the residence and got his answering machine and he told him that we were going to be coming up in a few minutes and we were hoping to get him out of the house.

DODD : Okay. So, Roger made a call on the cell phone to the suspect's phone number?

MADSEN: Yes.

DODD : Okay, and that was off the police report?

MADSEN: Yes.

DODD : Okay, and he got an answering machine?

MADSEN: That is correct.

DODD : Okay, and then you were conducting surveillance ... where did you pull up at?

MADSEN: We pulled up ... at the west of the house.... 115 ... 150 yards ... it was a pretty good distance.

DODD : Away from the ...

MADSEN: Yeah, cause we weren't trying to, you know, we weren't trying to heat him up. We were trying to see if he would come out of his house.

DODD : All right. And how long, when you parked?

MADSEN: Less than five minutes.

DODD : Less than five minutes? Okay and at some point ... who first saw a subject come out of the house? Or did you see the subject come out of the house?

MADSEN: Yeah, well, we didn't see the house because we were backed up far enough out of the view of the house. We had a view of his front yard and ... (unintelligible) and he came out from the area of the house. But we couldn't tell what house he came out of but it was from right in that area. And ... that's when Roger sat and brought my attention to the guy coming out from there.

DODD : Okay, now when you drove ... you drove by the house first?

MADSEN: Yes.

DODD : to conduct your surveillance, did you see any vehicles at the house? Either in the driveway or in front .. parked in front of the house?

MADSEN: We .. hadn't ... set up to get the vehicles as yet. I said we just got there and turned around when the subject came out. We didn't really have a chance to get a look at the vehicles from all around, yet.

DODD : Okay, so you're not ... sure whether there were any vehicles in the driveway at the house?

MADSEN: I'm not sure.

DODD : Okay. All right and who first noticed this subject walking towards the street. Where did you first see the subject?

MADSEN: I saw him when Roger said, "Hey, there's someone coming out of the area of the house." And I looked and ... there was a subject coming out from the general area of that house. I said I couldn't see the house.

DODD : Okay, and was he ... walking? Could you tell if he was walking across the lawn or ... on the driveway or ...could you tell?

MADSEN: He came out in the area of ... of the street and ... there's no I couldn't tell because of the hedge there and I couldn't tell who's exact property he was on. I noticed just the general area of the house we were looking at.

DODD : Okay, and what did he do then?

MADSEN: He got into a white pickup. Across the street.

DODD : That was parked across the street from the house. Okay. And what happened at that point?

MADSEN: Um ... we headed down eastbound on [REDACTED] and ... we started the car and went after him "Code"... we were suspicious that this might be the subject that we had seen ... not had seen, were looking for.

DODD : What ... what ... why did you think he might be the suspect?

MADSEN: Because he came out of the general area of the house we were looking at. And ...

DODD : Excuse me one second. I have to turn my tape over. All right. We started the tape on the other side. All the same people are present. The time I have is about 1723 hours. I'm sorry...

MADSEN: We were quite a distance away to get a good physical description of him, but he was coming out of the area and ... of the house we were looking at and ... believed it was possibly the child molester we were looking for.

DODD : Okay, could you tell about how old he was?

MADSEN: From that distance, he looked about the age bracket that we were looking for.

DODD : And that was, what?

MADSEN: Um ... 35ish. It's how old the suspect was, yeah.

DODD : Okay, and ... did anybody ... as your following the suspect as he's driving away from the location, what happened next?

MADSEN: Okay, he .. he turned at the bottom of [REDACTED], the suspect turned northbound onto Palm.

DODD : Okay.

MADSEN: By the time I got to the bottom of Palm, I was ... looked northbound and he was almost up at Monterey. So ... um, and he was going pretty quick. So we pulled in behind .. not pulled in behind him, headed in that direction ... caught him on Palm and then we turned back on, I think Martinez Avenue that goes up to Shell. And ... he turned right onto Shell and went up ... he .. the red light was ... the light was red at Shell and Pacheco. By that time, we got close enough I was able to get a partial plate.

DODD : Okay.

MADSEN: And then ... he took off ... onto Shell Avenue and was heading northbound towards Marina Vista through there. And I don't know if he had made us by that time but he started accelerating rapidly. And he was going around 60 - 70 miles an hour in a 35 mile an hour zone.

DODD : Okay. So, what were you intending to do at that point?

MADSEN: Well, at that point, you know ... I ... still believing that's our child molest suspect, at any rate ... this person is going 70 miles an hour in a 35 zone and I'm running too fast.

DODD : Let me just ask you a question here, I'm sorry. Um.... at some point, as you're driving, is Roger talking on the phone to anybody?

MADSEN: Roger was talking on the phone, yeah, to ... to the mother of the child which is the wife of the suspect. And we were trying to get a description from her and the description he was getting, from what I could tell, sounded like it matched what we had going. Cause he was asking .. we could tell if he had short hair and she was saying, "yeah, he cut his hair short" and brown hair and brown hair matched. I really couldn't see his size from that but with that description and the fact that he was now traveling away from us at a high rate of speed, you know, my training and experience, ... I believed that he was trying to get ready to flee from us and he might possibly have made us.

DODD : Okay. All right. So, what happens next? You're traveling behind him and

MADSEN: ..
We got up to Shell at Marina Vista and I put out the traffic stop. Right before Marina Vista, and there was a car in front of us ... a truck in front of him ... he was in the area behind ... him . We were slowing down but he wasn't stopping. He wasn't pulling over, but he couldn't get around the truck. So it appeared things were getting pretty dicey cause you could tell somebody was probably going to pull over and comply to the right.

DODD : About what speed was he going at that point?

MADSEN: At that point, we were near ... we were going 5, 10, 15 ... at that kind of speeds cause he had caught up to the cars that were in front of him and he couldn't get around it.

DODD : Okay, at there's a red light.

MADSEN: There's a red light and people are turning right and doing that type of thing and he can't ... he's not pulling over. Roger was in there pointing at the guy to pull over .. to pull over you know, from our seat. You know, I had the light on and I was hitting the siren intermittently at that point, cause I had a funny feeling he wasn't for sure running because he was still going 10, 15 miles an hour. Then he pulled out around the truck onto Marina Vista and he was gone. He was taking off. Then I knew we were in pursuit. I put it out on the radio that we were in pursuit. I activated the siren and left it on at that point. I had full lights and siren on. We were behind him and he was accelerating faster and faster and faster ... we got to the southbound onramp to 680 from Marina Vista and he hit on it and was going so fast that he fishtailed and went into the opposing lane of traffic, narrowly missed cars that were taking the offramp and he was able to negotiate back onto the onramp. This whole time, we stayed on the onramp. There was only one car in front of us now. When we got on the freeway, there was an opening in the traffic that allowed me to get over into the fast lane and he was putting some significant distance in front of us. It was .. it was light rain and I would estimate he was going 90 plus in the fast lane and he was pulling us ... I wasn't able to go that fast because of traffic in front of me and ... and it would have been .. wouldn't have been safe to go that fast. We pulled off. I saw him pull off onto Pacheco and I lost sight of him.

DODD : Okay... as he's ... as he's driving southbound on 680, did he stay in the #1 lane?

MADSEN: No. No, he was going ... weaving back and forth as he would come up to a car, he would .. he was making dangerous movements in and out of traffic. I mean, he was obviously trying to get away from us, you know ... we had our lights and sirens on and ... I was still convinced that we were after ... that he was the child molester at this point.

DODD : Okay, so ... what are you trying to say? Was he making unsafe lane changes?

MADSEN: Absolutely.

DODD : Was he driving in a reckless manner?

MADSEN: Absolutely.

DODD : Okay, what was the traffic like?

MADSEN: It was medium to heavy and he was weaving in and out and ... he was going as fast as that car would take him. I said he was pulling us and he was being ...

DODD : He was pulling?

MADSEN: He was pulling away from us.

DODD : Okay.

MADSEN: And .. I .. cause I was having to negotiate through traffic.

DODD : All right.

MADSEN: And he kept fishtailing all over the freeway.

DODD : All right.

MADSEN: And he was making lane changes.

DODD : And at some point, he took which exit?

MADSEN: He took the Pacheco exit from southbound 680.

DODD : All right and ... I'm sorry?

MADSEN: At that time, he took the Pacheco exit. As soon as he took the exit, I lost sight of him, temporarily ... until I got to the Pacheco exit. By the time I got to the top of the Pacheco exit, I could see him at the bottom of the Pacheco exit. He was going too fast to make the turn and he skidded straight across and .. crashed into the guardrail or whatever that was up on the other side. I continued on down the ... to the bottom of the offramp. When we got to the bottom of the offramp, Roger said, "Stop the car. Let me out." And so he jumped out of the passenger side and I ... I stayed there to secure the car long enough to get it into "park" and make sure that the back ... cause I had a car sitting there. So then, I got out of the car and by the time I got out of the car, Roger and the suspect were running southbound in this gully.

There's a little creek in the bottom. And he was running behind him by 30 feet, maybe .. and it looked like he was staying with ... pulling up to him. I could hear Roger, who was yelling, "Police. Stop. Police. Stop." He kept yelling at him. The guy did not stop. He did not obey any of the commands that he was being issued by Roger. Um ... right about that time, I noticed Roger had his weapons on. The suspect ran under the tree. That comes down and kind of blocks my view. He ran around the back side of the tree and Roger caught up close enough to him that Roger stopped running and I could see the outline of the suspect at the tree. He stopped at that point. And Roger was yelling to him to get his hands up, get his hands up, you know, he couldn't ... he was refusing to obey Roger's command. So, I knew at that time that we had an officer safety issue going. You know, and my gun was drawn at that time because I ... when someone is not doing what you want them to, we just came through a chase through this guy and he's still not doing what Roger's ordered him to. He's at gunpoint. I heard Roger yell at him, "I'm going to shoot you if you don't get your hands up where I can see them." And, I continued to run towards Roger. As I rounded the edge of the tree, I could see the guy's hands was down around his waist.

DODD :

Both hands?

MADSEN:

Both ... both ... I'm not really sure about this. His hands were, like, you know, I can't tell for sure if both hands were down there. I know definitely one hand was down there. At least one hand.

DODD :

You know which hand?

MADSEN:

I could ... I couldn't tell you definitely. I know there was at least one hand down his waistband. It might have been both. But I couldn't tell you for sure.

DODD :

Okay.

MADSEN:

Cause this .. this is right around it. And then he was .. he was down around his waistband and Roger had ordered him several times to get his hands up where he could see them away from there and then he turned away from Roger. He just moved quickly, like this. Like he was going for something. And then that's when Roger shot him.

DODD :

Okay. As you're motioning while sitting in the chair, you were turning to your left. Is that what you recall the suspect doing? Turning?

MADSEN:

Was I turning to my left?

DODD :

No .. as you were sitting in your chair just now, when you're explaining this

to us, you were motioning with your body as you're sitting in your chair that the suspect was turning to his left. Is that what the suspect was doing?
MADSEN: That's my recollection. I couldn't say for sure.
DODD : Okay.
MADSEN: Okay? That's my recollection. The suspect, I think turned like this.
DODD : Okay, so you're indicating like he's turning to his right with his back completely away....
MADSEN: Cause Roger's like this... he's facing him like this. I ran to the corner. Let's say you're Roger.
DODD : Okay.
MADSEN: And he's the suspect and I'm behind. And he's like this. Roger's ... Roger's ordering him up like this and he turned like this.
DODD : Okay, that direction. So, you actually see him facing Roger head on?
MADSEN: For a brief second.
DODD : For a brief second and then he turns away from Roger. Okay. And as he's facing Roger, his hands were ...
MADSEN: In his waistband. In the area of his waist area, somewhere down here.
DODD : Do you know what he was doing?
MADSEN: Well, my training and experience tells me that's a very high identity of danger. And .. I felt at that time that he was going for Roger. That theory was .. you know, in my 20 years of law enforcement, that most weapons are kept in the belt area and if you don't have somebody that is acquiescing to your orders to do what you tell them to, why aren't they doing it? You know and I .. I ... we were in a very dangerous, officer safety wise, situation at that point. You know, because if he's turning around and getting a weapon, you know, something had to be done.
DODD : Okay. Did you see a weapon on the suspect?
MADSEN: I did not see a weapon, no.
DODD : Do you recall what the suspect was wearing?
MADSEN: He was wearing a blue shirt and blue pants.
DODD : Okay, the blue shirt ... was it a long sleeved, short sleeved....
MADSEN: Short sleeved.
DODD : Short sleeve shirt. Okay. And the blue pants. Do you recall what kind of pants.
MADSEN: Like jeans.
DODD : Like blue jeans?

MADSEN: Yeah.

DODD : Could you say they were blue jeans?

MADSEN: To the best of my recollection, I believed they were blue jeans, yeah.

DODD : Okay. All right. How far away were you from Roger when Roger shot the suspect?

MADSEN: I was probably 20 feet behind him. 20ish.

DODD : About 20 feet behind him?

MADSEN: Yeah.

DODD : Okay. And ... where ... could you say where the suspect was? Was he up on the side of the hill or was he down in the gully or

MADSEN: He was up on the side of the hill.

DODD : Okay.

MADSEN: Roger's on one side and the little gully ... there's a little creek that runs right through that and he was up on the other side of the hill.

DODD : Okay. This is kind of like the incline of the gully?

MADSEN: Uh, huh.

DODD : Okay, how far up was he up the little incline?

MADSEN: Not far. Not far.. From the bottom of the creek, 10 feet maybe? From the bottom of the creek.

DODD : Okay, all right. How many shots did Roger fire?

MADSEN: I heard one shot.

DODD : Okay, did you fire any shots?

MADSEN: No.

DODD : Okay... you had your gun out though.

MADSEN: I had my gun out.

DODD : What did you think when you heard Roger's shot fires?

MADSEN: I thought that he was acting appropriately ..If I had a clean shot at him at that time. I would have shot too, but I didn't because Roger was in front of me. I wasn't going to fire over his .. over his shoulder or head. You know, Roger was in front of me and .. and I would have done the same thing.

DODD : So you thought that the suspect was pulling a gun.

MADSEN: I felt our lives were in danger. Yeah.

DODD : Okay. What happened after the suspect was shot? Do you know where he was shot?

MADSEN: He was shot in the back area. I think it was over on the left side.

DODD : Okay. You think it was the left side of the back....lower back area?

MADSEN: Lower back area, yeah.

DODD : Okay. What happened after the suspect was shot?

MADSEN: Roger handed me the cuffs. I cuffed him up and we called for ... advised dispatch that there were shots fired and we needed "Code 3" fire and ambulance and ... then Roger immediately left and that was the last I saw or heard of Roger. He left and went up there and I stayed with the suspect until medical and fire came and performed first aid on him.

DODD : Okay. Did you hear the suspect say anything to Roger?

MADSEN: No, other than the fact he still wasn't ... he still wasn't ... when I got ... when I got down there and the shot was fired and he went down ... he still would not obey our commands as far as getting his hands. He kept going down and down towards his ... his stomach. Like this so I didn't know whether he was still reaching for him and I told him that if he didn't move his hands out that I would shoot him cause he kept putting his hands down again.

DODD : Okay.

MADSEN: You know, and I told him that. You know because he was still ... I mean, this guy's been shot and he still would not obey our commands.

DODD : Okay.

MADSEN: And ... and ... so I ... I was dead serious when I told him that too. If he had not removed his hands from this area

DODD : Uh, huh ...

MADSEN: and kept going after it ... you know, if he would have made a furtive movement to that area, I would have shot him.

DODD : Okay. After you cuffed him, did you search him for weapons?

MADSEN: I did a cursory search and I did not locate any weapons.

DODD : Okay, by cursory search, what do you mean?

MADSEN: A quick pat search of the front. I didn't ... do a complete search of him ..

DODD : Okay, you didn't go inside his pockets.

MADSEN: I didn't go in his pockets. I just looked in the waistband area and the area he was reaching for. Where I felt the threat was at.

DODD : Okay.

MADSEN: And then I got him cuffed and ... and I was there and just staying with him until the first aid got ...

DODD : Okay. Now at that point, did you still believe he was the suspect that was wanted in the 288?

MADSEN: Yeah. I didn't realize he wasn't the suspect until fire got there and asked

him his name. And he said, "David Hutton" and I then I realized at that time he might not be the original guy that we were looking for.

DODD : So you never asked him his name until the fire department ... the fire department asked him his name.

MADSEN: No, I didn't. I was just talking to him trying to calm him down .. getting him to breathe slowly cause I didn't want him to ... I was thinking more of first aid at this time.

DODD : Uh, huh.

MADSEN: I didn't want him to bleed out and he wanted to get so excited so I was just trying to calm him down at that point. I didn't ask him his name. You know, it just wasn't ... it wasn't pertinent for what I needed to do at that time.

DODD : Okay. So, you were trying to calm him down? So ...

MADSEN: Right.

DODD : So he wouldn't go into shock ...

MADSEN: Because I didn't want him to go into shock. I didn't want him to bleed out, you know ... I wanted him to be able to .. you know ... survive until the first aid got here.

DODD : Okay. Now, the fire department .. did they take him or did the paramedics take him or ...

MADSEN: the paramedics took him. Fire was the first on the scene and they were working on him and then ... paramedics got there. Put him on a board ... took him up to their ambulance at that time, he was uncuffed.

DODD : Okay. Okay.

MADSEN: And then put him in the ambulance and that was the last I saw him.

DODD : All right. Did you look around the area where he was at to see if he had dropped a weapon?

MADSEN: I did ... not an extensive search, no. I was ... like I said .. I was with him and I wasn't .. well, I was more concerned about at that time ... I was more concerned about .. his ... his safety, you know, the wound he had. I wanted .. I wanted him .. you know, I didn't want him to bleed out or .. you know, so I was with him and I did not search the area, no. I didn't leave him.

DODD : Okay. Did you see anything that he might have left in the area?

MADSEN: I did not see anything, no.

DODD : Okay. Did you see any witnesses in the general area that may have witnessed what occurred.

MADSEN: I saw no one. But my attention was conducted towards him. I mean, if

there was some other guys .. there may have been. I didn't see them.

DODD : Okay. All right. Then after the paramedics come and they take him away, who did you talk to?

MADSEN: Um.... Dave Brown. He told me that he was going to give me a ride back to the ... back to the PD. Matter of fact .. I was just standing talking to him. It was kind of funny cause when something like this happens, all of a sudden you got the plague and no one wants to talk to you. You know, and so ... no one .. no one came up to me and talked to me, so it was ... Brown told me he would give me a ride back to the PD and that's the first person I talked to other than the paramedics.

DODD : Okay. All right. Now, this suspect .. in this report you wrote.... you attached a criminal history sheet on [REDACTED], is that correct?

MADSEN: That's correct.

DODD : Okay. That criminal history sheet .. did ... Roger even have a chance to review this report.

MADSEN: Um...

LUCIA: I'm sorry, did Roger what?

DODD : Have a chance to review this report?

MADSEN: I know he had the report in his possession. I don't know what he looked in there or not. I .. I assumed he read the report. I don't know.

DODD : Okay. Did he have any knowledge as to the suspect's criminal history.

MADSEN: I don't know.

PETERSON: You guys talk about it?

MADSEN: We didn't talk about it necessarily, no. We were ... about his past in particular about his criminal history?

DODD : Yes.

MADSEN: No. We didn't really talk about it, no.

DODD : Okay. Do you recall what the suspect's criminal history was?

MADSEN: I ... no I don't recall offhand. I know I read it. I just don't recall what his criminal history was.

DODD : Okay. Do you know whether the suspect had any ... was ever .. arrested for weapon violations at all?

MADSEN: Yeah. He did have a 12025/12031 on his record.

DODD : Okay.

MADSEN: A concealed weapon on there.

DODD : Okay. You recall having that information.

MADSEN: Yeah.

DODD : Do you know whether Roger knew that information.

MADSEN: I don't know. I don't know.

LUCIA: Can we pause this for one second? I want to turn the tape over.

DODD : Sure. Had you ever met the subject before?

MADSEN: Never.

FERRARI : Ever see a photograph of him?

MADSEN: Nope.

PETERSON: Did you know what kind of vehicle he had?

MADSEN: I wasn't sure, no.

FERRARI : Was there anybody else other than fire, paramedics and officers at the actual crime scene? Do you recall?

MADSEN: No, those are the only guys I recall.

DODD : Okay. Do you know a Deputy Barton?

MADSEN: Do I know him personally? No.

DODD : Okay. Did you see a deputy show up at the scene?

MADSEN: Yep.

DODD : Did you talk to the deputy?

MADSEN: Just briefly. He said he was going to get the subject's name. And ... something like that. He wrote it down and handed it to me.

DODD : Okay. So he asked the suspect what his name was?

MADSEN: Right.

DODD : Okay, and he wrote it down on the back ...

MADSEN: Yeah.

DODD : of his card?

MADSEN: Yeah. He gave me a piece of paper. It's in my desk.

DODD : Okay. All right. In your police report here on the sexual abuse, the child molest there's a vehicle description of an 82 Dodge Ram that's silver in color with the license plate [REDACTED]. Did you see that vehicle at the location on [REDACTED]?

MADSEN: We hadn't really scouted the vehicles yet. Actually we just had gotten there. We hadn't really had a chance to surveil the area yet.

DODD : Uh, huh.

MADSEN: That vehicle .. she told me .. I asked her if he had a car and normally drives and she gave me a vehicle that he does drive.

DODD : Okay.

MADSEN: That .. that's just from her statement. And he hadn't had ... had not had a chance to really surveil which cars were where .. and his wife also told me that he was living with a girl and another guy that had ... at that residence.
DODD : Okay.
MADSEN: I assumed he had other vehicles available to him.
DODD : Okay. Did she tell you what those other vehicles were?
MADSEN: She did not.
DODD : Okay. Did you know the names of the people that lived at the residence with him?
MADSEN: Um ... I have it written down on .. on my note papers. I don't recall offhand.
DODD : Okay. But you think you do have it written down .. their names?
MADSEN: Um... the first names, I believe. Yeah.
DODD : Okay. All right.
PETERSON: I actually do have a couple questions, sorry. Um .. um ... you said that he was going how fast on the freeway? Up to 90?
MADSEN: 90 plus at times, yeah.
PETERSON: And you based that on ...
MADSEN: My training and experience. I worked traffic for eight plus years.
PETERSON: You've been to school... radar ... individual radar...
MADSEN: Yeah, I got my ... I been certified for visual to estimate speeds within 2 miles per hour.
PETERSON: Okay.
DODD : Did you ever look ... I'm sorry... Did you ever look at your speedometer at what speed you were going?
MADSEN: No.
DODD : Okay. And ...
PETERSON: Can we talk about the phone call ... the ruse phone call that Roger made? To ... to the house?
MADSEN: Yeah, yeah....
PETERSON: When that guy came out .. and it ... it was contemporaneous to that phone call.
MADSEN: It was .. it was ...
PETERSON: During ... that was him?
MADSEN: Yeah .. yeah ... absolutely because Roger made the call as we turned up onto [REDACTED] and we no longer .. we no sooner made the U turn up at the top than this guy came out and it looked like the plan was working perfectly.

PETERSON: And ... the .. description .. you didn't get really a very good description of the guy. You wear glasses?

MADSEN: Yeah.

PETERSON: Did you have them on?

MADSEN: Yeah I did.

PETERSON: You had them on?

MADSEN: Yeah.

PETERSON: All right. And ...

DODD : Why do you wear glasses?

MADSEN: Why do I wear glasses?

DODD : Yeah.

MADSEN: Cause I'm over 40.

DODD : I mean are you near sighted or far sighted?

MADSEN: Yes, I got an astigmatism.

DODD : Okay. So, you need glasses to see distance?

MADSEN: It helps, yeah. I'm not to the point where I'm required to wear corrective lenses when I drive, no.

DODD : Right.

MADSEN: But ... it helps me clear things up and I wear them because it helps me see licenses that are at a distance.

FERRARI : Better than asking "who are you".

PETERSON: And one other important .. I don't know if it was really clear ... was when you saw the suspect turning away from Roger .. did you, did you do anything after that? Before Roger ... before you heard the shots?

MADSEN: No, it was ... bang, bang. I mean he .. he was going to his .. like this and turned and Roger could be...

PETERSON: then he turned to the left and .. He turned to the left and if the guy's up against the fence .. let's say this is the fence...

MADSEN: Yeah, I mean ...I can't say for sure. Okay? He was standing on the fence and I thought ...

PETERSON: Where's the fence at? Where's the fence at?

MADSEN: The fence.

PETERSON: You got the hillside, right?

MADSEN: The hillside.

DODD : Do you recall a fence?

MADSEN: I don't recall a fence. That had to be farther up the hillside if ... the hillside

comes down like this. He's facing Roger like this on the other side of the hillside

DODD : Right.

MADSEN: I recall him turning this way.

DODD : Okay.

MADSEN: Okay?

DODD : To his right?

MADSEN: To his right. I could be wrong.

PETERSON: Okay.

DODD : Okay.

MADSEN: He may have turned the other way but he definitely turned quickly, furtively .. his hands were down there.

PETERSON: And the shots happened just after that?

MADSEN: Just after that.

DODD : And by down there, you're referring to his hands are down by his waistband.

MADSEN: Waist, right.

DODD : As he's turning.

MADSEN: As he's turning.

FERRARI : He had ample warning to give up.

MADSEN: He told .. I heard Roger yelling at him. And I .. when I was approaching the scene, I was .. I knew I was in a situation where this guy was non-compliant. And the type of commands that Roger was giving him .. "keep your hands up where I can see them" and he was yelling and you could tell he was .. he was ... agitated because he was not obeying his commands, you know and I knew ... my training told me that we were in a grave danger situation. And I was prepared ... I was prepared to shoot the guy if I had had a clean shot because of the way he moved. But I did not do it. I did not have a clean shot.

DODD : That's all I have. Do you have any questions?

PETERSON: No.

DODD : All right. I'm going to go ahead and stop the tape. The time I have is 1750 hours.

End of tape

**MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT**

01-1507FF2 PAGE 1

TRANSCRIPTION OF INTERVIEW

PARTICIPANTS:

Detective Roger Ray	Martinez Police Department
Rockne Lucia	Attorney at Law
Officer Frank Ferrari	Martinez Police Department
Investigator John Dodd	Contra Costa County District Attorney
Sergeant Gary Peterson	Martinez Police Department

Date of Interview: Friday, April 6, 2001

Time of Interview: 1513 hours

DODD : I've started the tape recorder. Today's date is Friday, 4/06/2001. The time I have is approximately 1513 hours. I'm Sergeant John Dodd. I'm currently assigned to the Contra Costa District Attorney's office. Also we have Officer Frank Ferraro ...

FERRARI : Ferrari.

DODD : Ferrari. Excuse me .. with the Martinez Police department. We have Roger Ray who is sitting here with the Martinez Police department. He's represented by Rockne Lucia of Raines, Lucia and Wilkerson. We also have Martinez Police Officer Gary Peterson who is conducting the administrative investigation in this officer involved shooting. Okay, Roger, you're aware that you're giving freely and voluntary statement to us at this time?

RAY: Yes.

DODD : Okay. You understand you're not being detained at all.

RAY: Right.

DODD : And you're represented by your attorney.

RAY: Yes.

DODD : Okay. And you have no problems with the current people that are sitting here.

RAY: No problem.

DODD : Okay. Can you first give us some background as far as how long you've

RAY: been assigned to Martinez PD and your training and experience.
DODD : Um... I started here June 1st of 1985.
RAY: Uh, huh.
DODD : Throughout that time I've been Field Training Officer, SWAT member for probably twelve (12) of those years or more ...
RAY: Uh, huh.
DODD : I've been assigned to the Investigations Division, investigating sex and juvenile crimes for a prior term of three (3) years and then I just recently got back in the bureau doing the same thing back in September.
RAY: All right.
DODD : I don't know what other training you want me to tell you about.
RAY: Okay, you went to the academy in ... you're with a prior police agency, correct?
DODD : Yes. I used to be a deputy with the Alameda County Sheriff's department.
RAY: Okay.
DODD : I started with them in September of 83.
RAY: All right. And you went through their academy.
DODD : I went to their academy in Pleasanton, yes.
RAY: Okay. And what time did you start your shift today?
DODD : Today is actually my day off. I came in to get some last minute paperwork together because I'm having surgery first thing Monday. So I rolled in about 9:30 in the morning.
RAY: Okay. What are your normal days that you work.
DODD : I normally work Monday through Thursday, 6 a.m. to 4 p.m.
RAY: All right. And so you normally have Friday, Saturday, Sunday off.
DODD : Yes.
RAY: Okay, so you came in today at 9:30 ...
DODD : Yes.
RAY: And ... how did we get to the events that led to the shooting situation?
DODD : Um ... Detective Madsen and myself, for the last couple of days have been working on a child molestation case and it kind of came to a head yesterday and we wanted to ... Detective Madsen wanted to make contact with the suspect today and I agreed to help him out with that cause he's brand new to the bureau.
RAY: Okay. All right. And .. were you aware of a report that the Detective Madsen had written?

RAY: Yes.

DODD : Okay, had you reviewed that report?

RAY: I have not reviewed it but I was present during all parts of it.

DODD : Oh, okay.

RAY: So, yes.

DODD : So you knew who the suspect was.

RAY: Yeah, I knew the name. I had never seen him.

DODD : Okay. And the name of that suspect was ... do you recall as you're sitting here?

RAY: Yeah. Last name of [REDACTED] first of [REDACTED]

DODD : Okay. All right. So, sometime today you were going to go conduct surveillance at a particular location?

RAY: Yeah.

DODD : Okay. Where was that?

RAY: It was on [REDACTED].

DODD : On [REDACTED]? Do you know the address?

RAY: I don't know the exact address. Possibly [REDACTED].

DODD : Okay.

RAY: The only reason I ... I read it .. I was reading it on the report in the car while we were going there, so that's how I knew where we were going.

DODD : Okay and that's where the suspect allegedly lived?

RAY: Yes.

DODD : Okay. And did you have any prior contact with [REDACTED] ...

RAY: Yes.

DODD : prior to this case?

RAY: Prior to this case?

DODD : Yeah.

RAY: No. Not that I know of.

DODD : Okay. All right. Did you have a photograph of [REDACTED]?

RAY: No.

DODD : All right. About what time did you and Detective Madsen go to [REDACTED]?

RAY: I would be guessing. I can give you a time, sort of a time frame, possibly around maybe 11? I'm just trying to .. I'm gauging that on the fact that I came in a 9:30, did some work around here...

DODD : Okay.

RAY: And then went and had breakfast... out by the DA's office and went out there.

So... I'm just guessing .. somewhere around 11.

DODD : All right.

FERRARI : Is it [REDACTED] or [REDACTED]?

RAY: [REDACTED], I believe.

DODD : Okay. Okay. Now when you went to the location, was it just yourself and Detective Madsen?

RAY: Yes.

DODD : Did you have any other patrol units?

RAY: No.

DODD : Okay. Did you advise anyone that you were going to that location to conduct surveillance?

RAY: Yes. We called ... or, Detective Madsen called Dispatch on his cell phone and told them we would be out at that location doing a "Code 5" which is surveillance.

DODD : Okay. Okay. All right. And ... you were in, what type of vehicle?

RAY: We were in an unmarked Ford Tbird.

DODD : All right. And what color was that?

RAY: I think it's like a dark greenish color.

DODD : All right. Could it possibly be dark blue?

RAY: It's one of them that changes in the light and ...

DODD : Okay.

RAY: And color probably has a weird name to it. It's not your basic ... color.

DODD : Okay.

RAY: It's a darker bluish, green type of color.

DODD : And is that Detective Madsen's car?

RAY: That's his assigned car, yes.

DODD : Okay. I don't want to assume ... was he driving the car?

RAY: Yes.

DODD : And you were the passenger in the car?

RAY: Yes, right front seat.

DODD : Okay .. and when you set up surveillance on the house, what was the purpose of setting up surveillance?

RAY: Our purposes was to try and make contact at some point with him and arrest him.

DODD : Okay.

RAY: Um ... we had placed a phone call to him. Got his answering machine and

on a ruse, I left a message as we were driving up the street that I wanted to come by in about 5 or 10 minutes and talk to him. Knowing that he didn't answer, he wasn't going to talk to me, hoping that he would head out of the house and take off and we'd be there to get him.

DODD :

Oh, okay.

RAY:

So, I mean, that was .. the reason for the call.

FERRARI :

Maybe I missed it. When did you make the call? While you were there?

RAY:

As we were pulling onto [REDACTED] we made ... the call rang through.

DODD :

And did you ask ... did he answer the phone?

RAY:

No, I got an answering machine. That was why I left that message.

DODD :

Okay.

RAY:

I had just done that because I had spoke to him the day before and I recognized his voice from a recording we had of him and he denied it was him when I was talking to him .. so, he didn't return messages and I assumed that he was screening his calls, or possibly wasn't there.

DODD :

Okay, so you recognized his voice on the answering machine.

RAY:

The answering machine is somebody else's.

DODD :

Oh ..

RAY:

Apparently he lives .. I'm guessing .. I'm assuming he lives with a couple other people cause the answering machine has a different ...

DODD :

A male or a female? Voice?

RAY:

I don't remember. It .. it mentioned, I think .. a male and female name.

DODD :

On the answering ..

RAY:

As who lived there, yes.

DODD :

Okay. Okay. Now, when you're watching the house, what occurred next?

RAY:

Getting to where we sat, we drove by the house, confirmed the address, went past the house about ... maybe 50, 60 yards and parked facing the house on the same street the house was.

DODD :

Okay.

RAY:

We sat there for just a couple of minutes . . what we could see is, the house in question had a vehicle parked in the driveway where we could see the front end of that vehicle. And while we sat there, a male.. White male ... walked from right in that same area. We couldn't see the front door... but I don't know if he came right out of that house or ... the house next door, but he came from the .. right at the area of the parked vehicle that belonged to the suspect house. As we sat there, we saw him walk out. From the distance

we were out, he generally matched the description that we had on the face sheet of the report of a white male and so forth.

DODD : Do you recall what that description was as you're sitting here? You know about approximate age, and height and weight?

RAY: I'm not ... I remember I think the weight was around 220, it's hard ... I can't really tell you. I mean, I was looking at the report ...that's ... I mean, I was looking at the report....

DODD : Oh, you were looking at the report.

RAY: Yeah, yeah .. as ... as we were sitting there and the guy walked out .. I looked at the report, kind of looked at what the description was. Talked to Detective Madsen about it and we both agreed that, yeah, it looks kind of ... could be the subject. So he got into a car and started to drive off.

DODD : Okay.

RAY: So we left our position to just .. to make an ... traffic stop. The similarities were enough and the ... where he came from, we believed was from that house.

DODD : Okay.

RAY: Similarities were enough. We wanted to make a traffic stop to ID the guy.

DODD : All right.

RAY: Followed him and while we followed, we got a plate .. to Dispatch. Didn't get a return on that plate from them. get the pursuit started too quickly. Before you activated any equipment, the pursuit started?

DODD : No. No.

FERRARI : Before we ... you're moving a little fast. I want to get back to the ID of the suspect.

RAY: Okay.

FERRARI : You guys were pretty sure it was him?

RAY: He .. he matched the description of what we were looking at ... I mean, fairly close. And .. to answer that ... as we were following the vehicle, it had a trailer ball in front of the license ... one of the digits. So we couldn't get an angle to get that one digit. So, we continued to follow. I got on the cell phone, called our molest Victim's mother who is the ... ex-wife of this guy ...

DODD : Uh, huh.

RAY: And said, "Can you give me a description of [REDACTED] again" and told her we had just... you know, a guy had just come outside of his house, got into a car

and I questioned her about vehicles that he owned and asked if he would ever use someone else's vehicle. She gave me a description of ... I don't remember the height but around 220 pounds, I specifically asked her about the hair and said, "the guy we're looking at..." or asked her, "what kind of hair does he have?" and she said, "well, it's really short and .." and I said, "Well, the guy we're looking at has like a crew cut type haircut"

DODD : Uh, huh.

RAY: "And it's darker" and I think ... I think I told her I think he has some type of mustache.

DODD : Okay.

RAY: Cause we were still behind him and I only caught quick glimpses of him.

DODD : Right.

RAY: And ...

DODD : Was he looking back in the rear view mirror or side mirror or something? Did he look like he was checking you guys out following him?

RAY: I don't know.

DODD : Okay.

RAY: I mean, I just know that during ... cause we were right behind him at point and during the driving .. I mean, he made a turn, so... it could have been at the time he made the turn that I saw him , you know, or however he might turn his head at the stoplight.

DODD : Okay.

RAY: But ... I ... I had her on the phone at the time saying, "this is what I'm looking at" and she said, "Yeah, he's got darker hair, if he just got a haircut, he normally gets, like, a flattop type crew cut haircut"

DODD : Uh, huh.

RAY: ... he has like a mustache, but I forget the description she gave me of the mustache.

DODD : Okay.

RAY: And I told Madsen, I said, "sounds like its probably the same guy."

DODD : Okay. This is the victim's mom you're talking to?

RAY: Yes. Yes.

DODD : That's his ...

RAY: That's his ex-wife.

DODD : Okay.

RAY: Um ... I told her because it looked like ... I mean at this point, he's moving

pretty good. I don't know if he's on to us or not, yet, but he's moving pretty good. So I told her, you know, "hey, I gotta go. I'll call you back" cause I knew we were gonna throw the lights and stuff on him and initiate a stop.

DODD : Okay. Now ... the .. the ...

RAY: Go ahead.

DODD : the direction of travel he's going .. driving he's driving the .. his white pickup truck?

RAY: It's some type of pickup truck. White .. a smaller white pickup truck.

DODD : Okay.

RAY: He's traveling .. I'm trying to figure it out.

DODD : That's all right ...

RAY: Because we use north and south at like Pacheco Boulevard because it's heading towards the water, we use north, but he was heading on Shell Avenue towards Marina Vista from Pacheco.

DODD : Okay.

RAY: Which would probably be true north.

DODD : All right. So he's driving north on Shell towards Marina Vista.

RAY: Yes.

DODD : As you're following him talking on the cell phone.

RAY: Yes.

DODD : Okay.

RAY: We come up.... he comes up behind another vehicle..

DODD : Uh, huh.

RAY: We're on him. Madsen, I believe at that point, was able to give Dispatch that number we couldn't read on the plate. By then we threw the lights on him and the siren...

DODD : Okay.

RAY: Nothing was really happening. Everyone just kind of stayed at the light. He kind of nudged forward a little bit.

DODD : What speed are you going when Madsen turns on .. activates the lights and siren?

RAY: A couple miles and hour. I mean, we were slowing for the red light.

DODD : Oh, okay.

RAY: As we were slowing for the red light, he lit them up...

DODD : The red light at where, exactly?

RAY: At Marina Vista and Shell.

DODD : Okay.
RAY: I mean, he had come down Shell. We were approaching Marina Vista. There was a vehicle in front of him. He was slowing down the vehicle. The light turned red and we got right behind him. Hit the lights on.
DODD : Okay.
RAY: Siren and ... he kinda moved forward a little bit. Neither of the people ... neither him or the car in front of him were pulling over and stopping. I mean, pulling to the side.
DODD : Did he have plenty of opportunity right there because he was moving slowly to pull over to the ...
RAY: I believe so, yeah.
DODD : Okay.
RAY: I mean, I would believe so.
DODD : All right.
RAY: Light turns green. He makes a right onto Marina Vista, now heading east on Marina Vista. Still hitting the siren. Lights are always on. The light is a portable light that sits up in the dashboard. Steady red. The car is set up to where all the headlights blink and strobes hit out the sides. Sirens on. Car in front of him yields.
DODD : The car in front of him does yield.
RAY: Yields to the right. He goes around, kind of slow still. I'm thinking he might still pull over and all of a sudden, he punched it and he takes off. At that point, Officer Madsen advised Dispatch we're in pursuit and we headed on pursuit eastbound on Marina Vista.
DODD : All right.
RAY: Told them the reason for the pursuit. Believed we were following a suspect in a ...
DODD : Who's operating the radio?
RAY: He was at the beginning.
DODD : Madsen was?
RAY: Cause the way the car's set up, you have a floor button and the microphone's up here. So you kind of got to push it and talk up here. Not the perfect set up for a pursuit.
DODD : Uh, huh.
RAY: It wasn't working very well, so I told him to shut off the radio and I grabbed the portable radio and then I started to talk.

DODD : Okay.

RAY: I told them we're in pursuit of a possible suspect in a molest .. I don't remember the exact words that I used, but it was possible suspect in a child abuse type case. Molest case.

DODD : All right.

RAY: Tried to give a descrip. Radio traffic was not working but during this short period of time, cause we're only looking at .. 100 - 150 yards to the first onramp to get onto southbound 680.

DODD : Okay.

RAY: The guy's going full bore. He loses control....

DODD : Could you estimate what speed he's traveling as he's heading eastbound on Marina Vista?

RAY: He probably excelled to maybe ... an estimate of 50, 60 but in a short period of time. Don't think he hit the turn at that speed, because he probably would have flipped. The turn is a sharp right that also elevates up and at a bump. Right.

DODD : And when he hit that, he lost control, slid over the center meridian into oncoming traffic that was exiting southbound 680.

RAY: Okay.

DODD : Throws it sideways, spinning a little bit, drives on the wrong side and then gets back over onto the correct side of the road.

DODD : Did he almost ... did he ...

RAY: Yeah, he almost hit several people.

DODD : Okay.

RAY: Several cars.

DODD : Okay.

RAY: Um ...

DODD : Do you know what the speed limit is on Marina Vista?

RAY: I think the exit is marked with a yellow 20 mile per hour ... it's right where that bus crash .. on the sharp "S" turn, or not "S" turn, sharp right hand bank. It's very low.

DODD : And the speed limit between Shell Avenue and prior to the onramp. Do you know what that speed limit is?

RAY: Either 35 or 45. Might be ... well, it changes. I believe that it's 35 near the entrances of Pacheco and Shell and Marina Vista and Shell and I believe it changes to 45 in the middle.

DODD : Okay.

RAY: I don't know for sure though.

DODD : So, besides believing that he's possibly the suspect in the child molest. What other crime are we looking at?

RAY: Um ... well, when we first got behind him onto Shell, he had accelerated to ... an estimate would be 70? But like I said, I don't ... I don't know that he was trying to get away from us at that time .. or he was just heading in hurry wherever he was going. I don't know.

DODD : Okay.

RAY: So he was speeding way in excess of even the 45 posted limit.

DODD : All right.

RAY: And we lit him up with the lights and siren after that.

DODD : Right.

RAY: Then he took off ... made some ... you know, made some reckless passes out of control.

DODD : Okay, so you had ...

RAY: Oh, I mean, he was completely reckless in driving. It was raining.

DODD : All right. And you had .. what other charge?

RAY: Reckless. Excessive speed for conditions. Evading.

DODD : Okay.

RAY: He gets onto 680 south from the, you know, east side of the bridge.

DODD : Uh, huh.

RAY: ... is where he gets on. Immediately, he's losing control. I mean, the gas is on, tires are spinning, his truck is out of control, right into freeway traffic, nearly hit numerous cars in freeway traffic cause he went straight over to the fast lane, but ... while he's doing that, he's sideways, you know .. fishtailing back and forth.

DODD : Huh.

RAY: Gets onto the fast lane. We kind of worked our way through traffic. As soon as we got into the fast lane, he was already at the Pacheco Boulevard exit and had cut right across all lanes to exit Pacheco.

DODD : So, he went from the #1 lane ...

RAY: #1 lane all ... all the way across. I think there's three (3) and maybe an exit, so three to four lanes.

DODD : All right.

RAY: Moderate traffic, I mean, not light. Not commute traffic, but ... fairly

moderate. I mean numerous cars.

DODD : Okay.

RAY: Hit the exit doing ... probably 60, 70 miles an hour in the rain heading down the hill. We're behind him maybe 50 yards. And ... skids right through the stop sign, through a big chain link gate and down into .. what appears to be like a culvert or ravine of some sort. We stopped at the bottom of the off ramp. I told Madsen to call it in. I jumped out. Got in foot pursuit. I ran across the street. Drew my weapon. Checked the vehicle. He had just exited the driver's door of the vehicle and he started running eastbound through some grass.

DODD : Okay.

RAY: At this point, I'm 30, maybe 40 yards behind him ... yelling at the top of my lungs, "Police Officer. Stop. Halt." Yelled it maybe 10 times. Even added as I was closing in on him, "This is the police. You need to stop or you could be shot" the whole way. I closed in on him, probably within 15, 20 yards. He tried to hang a right turn up a grass embankment. I really closed in up to like, 10 yards. He had stopped his momentum because the hill was really steep. I aimed on him and said, "You need to stop. It's the police. Show me your hands." He didn't show me his hands at that point, he reached down towards, I believe, the right side of his body towards the front, like his right waist or pocket area.

DODD : Okay.

RAY: And I yelled again, "show me your hands. Show me your hands."

DODD : And you were indicating with your hands, he reached with both hands?

RAY: No, no, I'm sorry.

DODD : Oh, okay.

RAY: I believe it ... let me just picture it for a minute.

DODD : All right.

RAY: I believe at the very first time, when he reached ... I believe he reached down kind of with both hands. His right hand, I believe dominantly went towards his waistband on the right hand side. I yelled, very sternly, you know, "Show me your hands. You're going to be shot." Yelled it three or four more times. He kind of hesitated for a minute and he stuck his left hand in the air and he was still ... I could see and upward up and down movement with his right hand.

DODD : Now where is he? Is he facing you at this point?

RAY: No. His back is to me at this point.

DODD : His back is to you. Is he turning back towards over his shoulder towards you?

RAY: Not at that point. He's still ... he kind of put his hand up. He's still reaching into his right, right front area. I yelled several more times, "Show me both of your hands. Show me both of your hands." And at that point, he looked back, I believe over his left shoulder at me and I mean, I'm close contact with him and I said, "Dude, show me your hands. You're going to be shot." And ... at that point, he started to turn ... and ... his hand was still in the air. This hand is still digging and as he turned, I said, "Dude. You gotta show me your hands. I'm gonna shoot you." He didn't and he kind of ... boom ... and I capped him one round and I think the round hit him.... kind of in the lower back area on the right hand side. At that point, he ... I don't remember if he fell immediately.....turned around and I told him, "Just put your hands up. Put your hands up". He put his hands up, facing me at this point. Fell to the ground and kind of ... I don't' know if he fell down into the ravine or walked or crawled. I don't remember. I just remember we now had him ... on .. down at the bottom of the hill in front of us. Madsen was probably 10 feet behind me while this was occurring and I covered him while Madsen handcuffed him. At that, he just looked up and I said, "What are you doing, man?" And he said something to the effect of, "I'm sorry I ran. I got a warrant." And that was the only conversation I had with him. I radioed Dispatch and told them we had shots fired and .. suspect down.

DODD : Okay. You fired one shot?

RAY: One shot.

DODD : Okay. What were you thinking at the time you fired the shot.

RAY: Guy had a gun. He was gonna shoot me. And I gave him ample time to show me his hands and he wasn't ... it wasn't that he was just hiding his hands, he was digging for something. I don't know what it was, but he wasn't wasn't bringing it back and when he started to turn on me, I ... I mean, I ... I let him do it when he had his back to me several times as I was commanding him, but ... I had already told him numerous times that the last part when he finally started to spin on me ... and he wouldn't bring his hands up and at that point, I figured he was coming out with a gun.

DODD : And ... do you know about what distance you were from him when you fired?

RAY: Um ... an estimate would be 15 to 20 feet. And that's an estimate. I'm

terrible with distances and .. and time perception but ... that's an estimate.

DODD : Okay. Okay. And, so ... make sure I clearly understand it. Just prior to you shooting, he's got his right hand down like he's trying to grab something on his right side?

RAY: I believe it was his right hand, yes.

DODD : Okay.

RAY: I mean it was a hand. I'm pretty sure it was his right hand.

DODD : And his left hand? Is raised?

RAY: At the time of the shooting, yeah. It wasn't prior to that.

DODD : And he's starting to turn on you?

RAY: Yes.

DODD : Okay.

RAY: I think he was turning ... I think he was turning to the hand that was up ... I think he was turning that way. I'm not positive. I mean, he ... but he did start the turn. And at that point, like I said, he wouldn't obey the commands and started to turn on me. No doubt in my mind, I was going to have a confrontation at that point.

DODD : But the way that he's turning towards you.... whether he is turning to the left or turning to the right, his hand, which is down by his side, is farthest from you.

RAY: Well, if he ... if he turned this way, then it .. I don't think it would be. I'm pretty sure it was his right hand. I'm pretty sure it was his right hand that was doing the digging.

DODD : Uh, huh.

RAY: I'm pretty sure that he turned towards the hand.... towards his left hand.

DODD : Okay.

RAY: I'm pretty sure. I mean, it happened, like, that quick ...so....

DODD : All right.

RAY: You mind if I stand up just for...

DODD : No. No. Go ahead.

RAY: My legs are going numb.

DODD : Right.

RAY: I mean, I'll talk ...

DODD : Yeah, sure ... cause you have lower back pain?

RAY: I have a broken ... vertebrae in my back that I'm supposed to have surgery on on Monday.

DODD : Aw, geez.

RAY: And then I got blown disks in the neck that ... I'm falling apart.

DODD : Okay. And did you also injure your back during this?

RAY: Just ... in the chase. Bouncing ... my neck is really bothering me. I have a headache and ... the disks are really hurting bad.

DODD : Okay. Your injury to your back and to your neck ... did that at all affect your decision making .. when you're thinking that he's going for a gun, as far as you shooting him?

RAY: No. No. I mean, adrenaline takes over and I just do what I need to do. I mean, that had nothing in this decision. My decision was .. this guy's turning on me with a gun. After fifteen warnings, he's gonna shoot me. That was my decision.

DODD : Okay. Did you ever see anything in his hands?

RAY: Never had the opportunity because ... his back is to me and he's reaching here.

DODD : Uh, huh.

RAY: So I can't ... I'm .. I'm over here.

DODD : Okay.

RAY: And I can't see.

DODD : So, you're behind him and to his right side?

RAY: A little. I'm just a little to .. his ... he's like up here. So I'm not really to his side. I'm still behind him.

DODD : Okay.

RAY: He's turning. I'm turning .. kind of thing.

DODD : Right.

FERRARI : It is pretty clear that its appearing he's going to shoot you with a gun.

RAY: Oh, no doubt. Yes. Yes.

DODD : After the shot is fired. ... And Doug comes up, is he handcuffed? The suspect?

RAY: Yes, I covered him while Doug handcuffed him.

DODD : Okay.

RAY: I gave Doug my cuffs to handcuff him.

DODD : Oh, all right. And then .. was it you that advised on the portable radio that ...

RAY: Yes.

DODD : Okay. Shots were fired?

RAY: Yes.

DODD : And the suspect was down?

RAY: Yes.

DODD : Okay.

RAY: Doug ran up behind me and I said, "Cover him" and while Doug covered him, I got on the radio, advised it, put the radio back, gave Doug my handcuffs and said, "I'll cover him. You cuff him".

DODD : Okay.

RAY: And I knew he was shot so I wanted to get fire and ambulance coming as soon as possible.

DODD : All right. And you requested fire and ambulance?

RAY: Yeah. Yeah.. I said, "shots fired. Suspect's down. Start code 3 fire and ambulance."

DODD : All right. And so ... after that, the suspect ... he only said that he thought he had a warrant?

RAY: Yes. No, he said, "I got a warrant."

DODD : I got a warrant.

RAY: Yes.

DODD : All right. Did he say anything else?

RAY: His name came out. I don't know if I asked him what his name was ... but he said a name.

DODD : Okay.

RAY: I don't really remember. Patton, maybe?

DODD : Okay.

RAY: That name is sticking in my head. I don't know if that's a real name. I don't know if that is what he said. But he ... I believe he said a name. And that might have been when I said, "What are you doing?" you know, and he said, "I'm sorry. I ran cause I got a warrant."

DODD : Okay... well, all right.... and then ... who arrives next at the scene?

RAY: An SO deputy.

DODD : An SO deputy.

RAY: Yes.

DODD : Okay. Do you know who that SO deputy was?

RAY: It's kind of embarrassing. I think it ... I saw his name badge. I think it's Barton. And it's embarrassing because he used to work for us for a long time as a Reserve and I'm embarrassed because I should know who he is by

face .. but .. I didn't really recognize him.

FERRARI : Okay. Did you guys ID him on scene? Did he have an ID in his pocket?

RAY: I didn't. We just secured him until ... I just secured him until Sergeant Dowling got on scene, at which point he pulled me back and then the SO deputy and Detective Madsen stayed with the bad ... with the suspect.

DODD : Did you pat search him for weapons?

RAY: I didn't.

DODD : Did Doug.

RAY: When he cuffed him.... I can only say I .. I'm assuming he did.

DODD : Okay.

RAY: I don't remember because it was kinda like he sat on him .. cuffed... I don't remember seeing him doing anything ... I mean, I would assume he did, but I don't remember. He could have.

DODD : Okay. All right. After Deputy Barton arrived, did anyone else.... who was the first officer from your department?

RAY: Sergeant Dowling.

DODD : Sergeant Dowling. Okay. Did you talk to Sergeant Dowling?

RAY: Yes.

DODD : Okay. What did you tell Sergeant Dowling?

RAY: Briefly, I told him

DODD : Can we hold for just a second? My tape ran out. The time I have is 1545 hours.

RAY: Um ... he showed up and I briefly told him, I believe, something similar to .. "the guy crashed through the fence. I got in a foot pursuit with him. He wouldn't put his hands up. He reached for ... he reached and spun on me and I shot him one time." At that point, I didn't tell him any more. I surrendered my gun to him.

DODD : All right. Do you carry extra magazines?

RAY: No. I didn't have any extra magazines on me that ... today.

DODD : Okay. And weapons you carry ... is that your personal weapon or a department weapon?

RAY: My ... carry ... I turned over to him the department issued ...

DODD : Okay, its' a 40 caliber?

RAY: I believe. He could tell you the model. Cause we all had ...

DODD : Model 96?

FERRARI : 96F ... 40 caliber.

DODD : Okay and the 96F, it has .. how many rounds in the magazine?

RAY: 10 in the mag and one in the chamber.

DODD : Did you have the mag fully loaded?

RAY: I believe so. I ...

DODD : You think so?

RAY: I think so.

DODD : Okay.

RAY: I mean .. when I ... when I carry it, I believe that it's fully loaded, so .. I mean, I didn't pull them out and count them that day.

DODD : All right.

RAY: And I don't mean that funny wise. I just ...

DODD : Right. Sure. Normally you carry

RAY: We all think that we put them all in there, but you hear of things where they're not, so ...

DODD : Sure. Okay. All right. But Officer Madsen never fired a weapon?

RAY: Not to my knowledge.

DODD : Did he have his weapon out?

RAY: I sure hope so. I don't know. He was behind me.

DODD : Okay and did you ever see him with his weapon out.

RAY: Yes. Yes. After I had shot the subject and he had fell down, Madsen did come up to my left side and he did have his weapon out. Yes.

DODD : Okay. All right. Fine. Frank? Anything?

FERRARI : Did you guys still believe you had the suspect at that point?

RAY: Yeah. He ... I mean, at that point ... when we were there, believed it was him. No reason not to believe until he spit out a different name and then I was like, "Oh, man." I mean its' ... we believed we had him because he matched the description, came from that house, flee from us, he knows that, I mean, there was more to it. We did a pretext phone call with his kid and the father admitted on the tape that "oh, my God... my life's over. You know they're going to put me in jail" bah, bah, bah, bah... and he did not return two or three calls that I had left him for an interview. So, I mean .. he knew he was hot. He knew we were going to come talk to him at some point. Mom told us that he is the type that will flee. So, yeah.

DODD : Its my understanding the person you did the ruse phone call to was, in fact, [REDACTED] correct?

RAY: His machine.
DODD : Right. Right ...
RAY: It was the machine at his house.
DODD : You were trying to call him, though.
RAY: Yes. Yes and like I said .. when, as soon as I got his machine ... our intention was that if he answered, I knew his voice. We would tell him that we wanted to talk to him. He didn't answer, so our backup plan was .. I'll leave a message saying, "Hey, I'm in the area. I want to stop by in five or ten minutes to talk to you" knowing that if he is there, he will probably bolt from the house to not talk to us and I would be able to get him on the street. So that was the reason that we did that.
DODD : Do you recall what the suspect was wearing? As far as his clothing?
RAY: No. I couldn't tell you . I mean ... I never lost sight of him, but ... I couldn't tell you.
DODD : And, had you ever seen the suspect before?
RAY: He didn't look familiar to me. The name he threw out, I think it was Patton or something... sounds vaguely familiar ... but .. I deal with thousands of names a day. I don't ... I have a terrible memory as far as names go and ... stuff like that, so...
DODD : But you don't believe that you ever saw ...
RAY: No. No.
DODD : And .. I'll tell you, his name is David Hutton. Does that ring any bells?
RAY: David Edwin Hutton.
RAY: It sounds kind of familiar of a guy that used to live off of Berrellesa, maybe in the Arreba area....
DODD : Uh, huh.
RAY: But that guy did not look like ... if .. if ... the David Hutton I'm thinking of, which I could be wrong on who it is, this guy did not look like the David Hutton I'm thinking of.
DODD : Uh, huh...
RAY: I ... I ... I don't know.
DODD : When, either prior to the shot being fired, or after, shortly after the shot was fired, did you ever see any witnesses.... anybody out and about that might have seen anything?
RAY: Afterwards.
DODD : Okay.

RAY: As I turned to walk back up the gully. Did you go look at the area?

DODD : Yes.

RAY: Okay. There is a tree growing up in the middle of the grassy area. Right in front of truck. Between the truck and that tree, on the south side, there is a ... some kind of maybe equipment yard or some .. some type of .. there was a guy standing right there and as I walked by, he just smiled and said, "good job." I don't know who he was. That was ... and then as time went on ... I saw somebody walk up to the .. chain link fence that he went through on Arthur. A male...

DODD : Okay.

RAY: But other than that ... I mean, that was ... I didn't see ... I didn't see him when I went through there. Either I wasn't paying attention or .. strictly, waiting to see the guy in the truck after it crashed.

DODD : Were you ... were you present when the ... paramedics removed the subject?

RAY: No.

DODD : Okay. You had already gone back

RAY: To the station.

DODD : To the station.

RAY: Yes. The fire department got on scene and I directed him where it was and they got there immediately. Sergeant Dowling had me go with Officer Schnabel directly to the PD.

DODD : Okay. Other than your attorney, did you talk to anybody else about what happened?

RAY: About the incident itself?

DODD : Other than Sergeant Dowling. Yes.

RAY: I made one quick call to my wife. I didn't disclose anything to her, just that it's my day off. I told her I'd only be in here for a couple hours. I said, "Honey, I've been involved in a shooting. I'm okay. Talk to you later." End of call and that was it.

DODD : Okay. Frank?

FERRARI : I have nothing, thanks John.

DODD : Gary? You have any other questions?

PETERSON: No, that's it.

DODD : All right. Then I'm going to terminate the interview. The time I have is 1552 hours.

End of tape

CASE SUMMARY, AS OBTAINED FROM REPORTS:

On Friday, 04-06-01, Det. Madsen and Ray were in the 2400 blk of Yale St. staking out an address (██████████) for a suspect in a child molesting case that Det. Madsen was investigating (01-1455).

During the stakeout, a WMA, possibly the child molest suspect, exited ██████████ and got into a white compact pickup truck (CA lic ██████████) and left the area. The Detectives were in Det. Madsen's unmarked Detective unit (#1148, CA lic. 4BBS944) and was led on a drive through Martinez.

At approximately 1145 hrs, Det's informed MPD dispatch that they were in a pursuit with the white Nissan pickup truck in the area of Shell Av and Marina Vista. The Det's radio transmissions were very weak and difficult to understand. Marked police units started towards that location for assistance. While the marked units were en-route, the Det. unit advised that the exact location was Highway 680 near Arthur Rd., near the old dump, end of the off-ramp.

At approximately 1147 hrs, dispatch was informed by the Det. unit that the suspect vehicle collided into a fence at the bottom of the off-ramp. The next transmission from the Det. unit was at approximately 1148 hrs when they advised that shots were fired. The next transmission was that they had one at gun point. At approximately 1149 hrs, they advised that they were "code-4", in custody.

For specific details of the pursuit and officer involved shooting, refer to transcribed interview of Detectives Ray and Madsen.

Submitted by: E. Prins 
04-09-01

CRIME/INCIDENT <i>1203.2</i>	<input type="checkbox"/> CONTINUATION <input type="checkbox"/> SUPPLEMENT	CASE NO.	PAGE
	VICTIM	<i>01-1507</i>	OF

ON 4-11-01, Recon's client Trame Meaker gave some evidence to me to take control of. She gave me three tapes from interviews she had just typed. I took these tapes and booked them into evidence.

REPORTING OFFICER / SERIAL NUMBER <i>D BROWN</i>	DATE / TIME <i>4-11-01</i>	<input checked="" type="checkbox"/> MV	CPS	JUV/PROB	DDA	VIC/TR	WC	OTHER
REVIEWED BY	DATE / TIME							

MARTINEZ POLICE DEPARTMENT CA0071400

CRIME/INCIDENT

EVIDENCE REPORT

CASE NO / INCIDENT NO

PAGE

OF

1203.2 PL

01-1507

- A. EVIDENCE
- B. FOUND PROPERTY
- C. SAFE KEEPING
- D. SEARCH WARRANT
- E. FOR DESTRUCTION
- F. PROCESS FOR PRINTS

- 1. VICTIM:
- 2. VICTIM:
- 3. SUSPECT:
- 4. SUSPECT:

OWNERSHIP / DISPOSITION ENTER PROPER CODES

ITEM #	ARTICLE / DESCRIPTION	QTY	SERIAL NUMBER	BRAND/MAKE	MODEL / COLOR	CODE	BIN #
6	Tapes	3				A	
	DESCRIPTION LOCATION RECOVERED 6 CASSETT TAPES x 2-MIN. TAPES ON INTERVIEW						
	DESCRIPTION		LOCATION RECOVERED				
	DESCRIPTION		LOCATION RECOVERED				
	DESCRIPTION		LOCATION RECOVERED				
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	DESCRIPTION		LOCATION RECOVERED				
	DESCRIPTION		LOCATION RECOVERED				
	DESCRIPTION		LOCATION RECOVERED				

FINDER (FILL OUT ONLY IF FINDER WANTS TO CLAIM FOUND PROPERTY)
 NAME / ADDRESS / PHONE NUMBER

CLEAR APS CARD SENT

REPORTING OFFICER / SERIAL NUMBER D BROWN	DATE/TIME 4-11-01	OTHER (RV)	JUV/PROB	DDA	RECEIVED STAMP
REVIEWED BY	DATE/TIME				

CRIME/INCIDENT

245 PL

CONTINUATION SUPPLEMENT

CASE NO.

01-1508

PAGE

OF

ON 4-10-01 I WAS CONTACTED BY RP- [REDACTED]
 SHE TOLD ME HER SON WANTED TO MAKE A COMPLAINT
 AGAINST SUSPECT JAGGER. I THEN CONTACTED HER
 SON, [REDACTED]. HE TOLD ME HE COULD NOT COME TO
 SEE ME, BECAUSE HE WAS WORKING. WE MADE AN
 APPOINTMENT FOR 1:30 PM ON TUES. 4-10-01 FOR
 PHOTOS AND STATEMENT. HE NEVER SHOWED UP.

REPORTING OFFICER / SERIAL NUMBER

D BROWN

DATE / TIME

4-11-01

INV

CPS

JUV/PROB

DOA

VICLTR

WVC

OTHER

REVIEWED BY

DATE / TIME

MARTINEZ POLICE DEPARTMENT CA0071400

CRIME/INCIDENT 1203.2 pc	EVIDENCE REPORT	CASE NO / INCIDENT NO 01-1507	PAGE OF
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A. EVIDENCE B. FOUND PROPERTY C. SAFE KEEPING D. SEARCH WARRANT E. FOR DESTRUCTION F. PROCESS FOR PRINTS	1. VICTIM: 2. VICTIM: 3. SUSPECT: 4. SUSPECT: <u>OWNERSHIP / DISPOSITION ENTER PROPER CODES</u>
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ITEM #	ARTICLE / DESCRIPTION	QTY	SERIAL NUMBER	BRAND/MAKE	MODEL / COLOR	CODE	BIN #	
9	Film UNdeveloped Film	1	TAKEN BY Helicopter unit (C.H.P.) (Plus Envelope)					A
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FINDER (FILL OUT ONLY IF FINDER WANTS TO CLAIM FOUND PROPERTY) NAME / ADDRESS / PHONE NUMBER	CLEAR APS <input type="checkbox"/>	CARD SENT <input type="checkbox"/>
REPORTING OFFICER / SERIAL NUMBER D. Brown	DATE/TIME 4-17-01	OTHER JUV/PROB DDA RECEIVED STAMP
REVIEWED BY	DATE/TIME	

CRIME/INCIDENT 1203.2 PC	<input type="checkbox"/> CONTINUATION <input type="checkbox"/> SUPPLEMENT	CASE NO.	PAGE
	VICTIM	01-1507	OF

On 4-17-01 I received a envelope from CALIF. High. Patrol - OFFICER RONALD LUNA #11327. Inside the envelope was undeveloped film. The film was taken by there Helicopter unit over the crime scene. I booked the film into the evidence locker.

REPORTING OFFICER / SERIAL NUMBER D BROWN	DATE / TIME 4-17-01	<input checked="" type="checkbox"/> INV	CPS	JUV/PROB	DDA	VICLTR	VVC	OTHER
REVIEWED BY	DATE / TIME							

**MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT**

01-1507CS1 PAGE 1

1. On 4/06/01 at approximately 1145 hours, I was dispatched to cover Detectives RAY and MADSEN during a pursuit in which they were involved. I was dispatched to the area of southbound 680 and the Pacheco Boulevard offramp.
2. Upon my arrival, I observed several CHP vehicles in the roadway and also the on-duty watch commander for the Martinez Police Department. I asked Watch Commander DOWLING what my assignment would be in this incident. Sergeant DOWLING told me that he wished for me to transport Detective RAY to the Martinez Police Department and sit with him.
3. I met with Detective RAY and brought him to my marked Martinez Police patrol vehicle (unit #1223). I advised Detective RAY that Sergeant DOWLING had asked me to transport him to the police department and sit with him while the investigation was taking place. We left the scene at approximately 1159 hours.
4. While in route to the police department, Detective RAY inquired if I had a cell phone and I advised him that I placed my cell phone in my equipment bag which was in the back seat of the patrol vehicle. I pulled into the Shell gas station at Arthur Road and Pacheco Boulevard where Detective RAY retrieved the cell phone from my equipment bag. While continuing to the police department, Detective RAY utilized my cell phone to contact his wife. He told her that he would be home late because of a situation in which he had been involved.
5. At approximately 1209 hours, Detective RAY and I arrived at the Martinez Police Department. Detective RAY went immediately to the MPOA bulletin board and copied the phone number of his legal defense fund attorney. Detective RAY entered the briefing room and closed the door. A few minutes later, Detective RAY exited the briefing room and I inquired what he was doing. He advised me that he was contacting his LDF attorney. Detective RAY and I then sat in the watch commander's office waiting for the investigative staff and Detective RAY's attorney to arrive at the police department.
6. A short time later, Detective RAY's attorney arrived at the police department and escorted him into the detective sergeant's office for an interview. While Detective RAY was with his attorney, I was advised to sit with Detective MADSEN who had

**MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT**

01-1507CS1 PAGE 2

returned to the police department. After the attorney had completed his interview with Detective RAY, he escorted Detective MADSEN into the detective sergeant's officer where he was also interviewed. I was then released from this assignment and advised to continue with my regular duties.

7. It should be noted that at no time during the time spent with Detectives MADSEN and RAY, did they discuss any part of this incident.

C. SCHNABEL, #108

iam 4/11/01

SUPPLEMENTAL REPORT 01-1507

INVOLVED PERSONNEL

MARTINEZ P.D.

1. Chief D. Cutaia
2. Lt. T. Simonetti
3. Lt. M. Smith
4. Sgt. R. Dowling
5. Sgt. D. Brown
6. Sgt. E. Prins
7. Sgt. G. Peterson
8. Cpl. J. Sylvia
9. Cpl. B. Dodd
10. Det. M. Thompson
11. Det. D. Lynch
12. Det. P. Starzyk
13. Ofc. F. Ferrari
14. Ofc. B. Kruta
15. Ofc. C. Schnabel
16. Ofc. A. Roth
17. Disp. R. Jacobs
18. Evid. Tech./Disp. R. Gonzales

INVESTIGATIVE RESPONSIBILITY

- Case Review
- Incident Cmdr/PIO
- On-scene Cmdr
- Investigator
- Case Manager/Investigator
- Administrative Investigator (I/A)
- Scene Security
- Investigator
- Investigator
- Investigator
- Investigator
- Investigator
- Susp. Security
- Secured Wit. Ray
- Patrol
- None
- Evid. Liaison with Crime Lab

CONTRA COSTA COUNTY DISTRICT ATTORNEY'S OFFICE

- | | |
|---------------------------------|-------------------|
| 1. DDA Robert Hole | Case co-ordinator |
| 2. Senior Inspector K. Moore | Investigator |
| 3. Senior Inspector V. Wise | Investigator |
| 3. Senior Inspector T. Ford | Investigator |
| 4. Senior Inspector J. Dodd | Investigator |
| 5. Senior Inspector M. Thompson | Investigator |

CONTRA COSTA COUNTY CRIME LAB

- | | |
|----------------|------------------|
| 1. Song Wicks | Scene Processing |
| 2. Ken Fuggi | Scene Processing |
| 3. Alex Taflya | Air photo's |

CALIFORNIA HIGHWAY PATROL

1. Collision Investigation case number pending

MISCELLANEOUS SUPPORT

AERIAL PHOTO'S STAR 1 (CCCSO Helicopter)

1. Alex Taflya

CONSOLIDATED FIRE ENGINE CO. 5 Run # 15724

1. Captain Darrell Baker
2. Fire Fighter James Howard
3. Fire Fighter Haidee Jezek

ENGINE CO. 12 Run #15724

1. Captain Lou Paulson
2. Fire Fighter Bruce MacLennan
3. Fire Fighter Todd Butler

AMERICAN MEDICAL RESPONSE (AMR) Incident # 1087770

1. Jen0 Inzerillo
2. Dale Hemstock

CASE ASSIGNMENTS

Lead Coordinator DDA Robert Hole
Lead Investigator Sgt. E. Prins

INTERVIEWEES

Officer R. Ray
Officer D. Madsen

Suspect D. Hutton

Wit. J. Champion
Wit. Marilyn Hald
Wit. Bonnie Rich
Wit. Dora Hudson

INTERVIEWERS

Sr. Insp. J. Dodd and Ofc. Ferrari
" " " " " " "

Sgt. E. Prins/Sr. Insp. K. Moore

Sr. Insp. M. Thompson
" " " "

Sr. Insp. J. Dodd
" " " "

SUSPECT'S BACKGROUND

Criminal History	Det. D. Lynch/Sr. Inspectors Ford & Wise
Family	“ ” “ ” “ ” “ ”
Probation Status	“ ” “ ” “ ” “ ”

PRESERVE DISPATCH TAPES Lt. M. Smith

PRESS INFORMATION OFFICER Lt. M. Smith

MISCELLANEOUS

Suspect Veh. Impoundment Det. Starzyk

Submitted by: E. Prins 
04-09-01

**MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT**

01-1507FF3 PAGE 1

1. On 4/06/01 at approximately 1230 hours, I was telephoned at my home by Martinez Police Dispatch and requested to respond to the Martinez Police Department for assistance in an officer involved shooting that had occurred in Martinez. Martinez Dispatch advised that Detectives ROGER RAY and DOUG MADSEN were involved.
2. I arrived at the police department at approximately 1300 hours. I was assigned to team up with Sergeant JOHN DODD of the Contra Costa County District Attorney's office. Our assignment was to interview Detectives RAY and MADSEN regarding their involvement in the incident.
3. Prior to conducting the interviews, Sergeant DODD and I responded to the location of the incident. This was determined to be on Arthur Road near the Pacheco Boulevard offramp from Highway 680 south. After viewing the scene, we responded back to the Martinez Police Department to conduct the interviews of Detectives RAY and MADSEN.
4. Both Detectives RAY and MADSEN were represented by ROCKNE LUCIA from the law firm of Raines, Lucia and Wilkerson, LLP.
5. The first interview was conducted with Detective RAY at approximately 1513 hours. At the conclusion of Detective RAY's interview, Detective MADSEN was interviewed at 1713 hours. See attached transcripts for details of the interviews.
6. After both interviews were completed, Sergeant DODD and I responded back to the scene of the incident and assisted in attempting to locate the spent bullet casing from Detective RAY's handgun, however, we were unable to locate it.
7. On 4/09/01 at approximately 1830 hours, I returned to the Martinez Police Department to assume my regular patrol shift. At that time, I was contacted by Records Clerk MERKEL who advised that the micro cassette used to record Detective RAY's interview was broken and could not be repaired. She further advised that she had contacted Sergeant DODD, who provided a copy of the tape he used to record the interviews.

**MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT**

01-1507FF3 PAGE 2

8. Both interviews were subsequently transcribed (see attached for details) and the two micro cassettes and one large cassette containing the interviews of both detectives were given to Lt. TOM SIMONETTI on 4/10/01.

F. FERRARI, #87

iam 4/11/01

OFFICE OF THE DISTRICT ATTORNEY
CONTRA COSTA COUNTY
INVESTIGATION REPORT

Investigation: Officer Involved Incident File/Report No. Martinez P.D. C01-1507

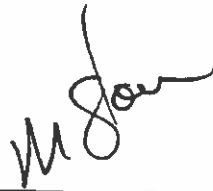
Subject/Defendant: David E. Hutton

Date: April 6th, 2001

Copies Of Report To:

Deputy District Attorney: Bob Hole

Other: Chief G. Greenwald



Investigator Assigned: Senior Inspector K. Moore ^{KSM} Date: April 6th, 2001

INVESTIGATIVE SUMMARY

Suspects:

Hutton, David Edwin

[REDACTED]

[REDACTED]

DOB: 08-08-1969

Witnesses:

[REDACTED]

Subject/Defendant: Hutton, David Report/Case No.: MTZ. P.D. C01-1507

[REDACTED]

Evidence:

Item KM-1: One Audio Tape Recording of the interview with [REDACTED]

Note: The above evidence was turned in with this report

INVESTIGATION NARRATIVE:

On 4-6-01 at approximately 1230 hours, I received a phone call from Chief Gene Greenwald regarding an officer involved shooting. Chief Greenwald asked me to respond to the Martinez Police Department where I would receive further information.

At approximately 1315 hours, I arrived at the Martinez Police Department where I attended a briefing. At the conclusion of the briefing, detectives from the Martinez Police Department and the Senior Inspectors from the District Attorney's office were paired together as teams and given their assignments. I was paired with Evert Prins and we were assigned to interview David Hutton at John Muir Hospital.

Sergeant Prins and I drove to Arthur Rd. and I 680 in Martinez to view the scene. We then drove to John Muir Hospital where we spoke with RN [REDACTED] Crain checked with the hospital's laboratory and arranged to have Hutton's initial blood sample saved for five days until Martinez P.D. could obtain a court order.

Senior Inspector Karen Moore *KSM*

Date: April 13, 2001

Subject/Defendant: David E. Hutton Report/Case No.: MPD C01-1507

While at the hospital, Sergeant Prins and I discovered [REDACTED], David Hutton's father, was in the waiting room. [REDACTED] agreed to speak with us about his son. Sergeant Prins wrote the interview with [REDACTED]. This interview was not audio taped.

During this interview, [REDACTED] told us since March 26th, 2001 his son had been living with him at his residence in [REDACTED]. At the conclusion of [REDACTED]'s interview, a female walked up to [REDACTED] and sat down. The female verbally identified herself as [REDACTED], David Hutton's wife. At approximately 1622 hours, I interviewed [REDACTED]. This interview was audio taped. [REDACTED] told us the following in summary:

[REDACTED] and David were married and had been living in Auburn, CA. for the last six months. David had been living in Auburn for the past year. [REDACTED] and David had an argument so she moved back down to Martinez to live with her mother on [REDACTED]

David then moved to Contra Costa County approximately two weeks ago to live with his father. [REDACTED] knew that David was supposed to call his probation officer on Monday, April 2nd, but she did not know if David felt he was in violation of his probation. [REDACTED] did not know why David would run from the police and she felt it was out of his character to do such a thing.

On 4-5-01 David spent the night with [REDACTED] at her mother's house. [REDACTED] dropped her daughter off at school around 8:30 am. the next morning. David had told [REDACTED] that he was going to do some work, but he did not provide her with details.

[REDACTED] last saw David around noon at a friend's house on [REDACTED]. (unknown exact address) in Martinez. [REDACTED] was driving by the house on [REDACTED] when she saw David's truck at the residence. [REDACTED] stopped at the house and spoke with David and his friend, [REDACTED] (unknown spelling on the last name). The two were playing video games. [REDACTED] was only at the residence for approximately ten minutes.

Senior Inspector Karen Moore *KSM*

Date: April 13, 2001

Subject/Defendant: David E. Hutton Report/Case No.: MPD C01-1507

While [REDACTED] was at the residence on [REDACTED], she did not see David drink any alcohol and he appeared sober. [REDACTED] felt he was in a good mood. Recently, [REDACTED] has never seen David use drugs and she believes he is "on the straight and narrow". [REDACTED] and [REDACTED] believe that David gets tested monthly for speed and crank as a condition of his probation.

[REDACTED] has never seen David with a weapon and she does not believe he owns a weapon. [REDACTED] described David as a non-violent person. For more detail on [REDACTED]'s interview refer to the audio taped interview.

At approximately 1714 hours, Sergeant Prins and I met with David Hutton in room 415 at John Muir hospital. Sergeant Prins read David his Miranda rights and David wanted an attorney. See Sergeant Prins's report for more detail on David Hutton's statement.

Sergeant Prins and I then drove back to Martinez Police Dept. where we were asked to conduct a probation search at David's residence in [REDACTED]. Refer to Senior Inspector Vic Wise's report for details.

No further investigation pending by this investigator.

Senior Inspector Karen Moore *KSM*

Date: April 13, 2001

**OFFICE OF THE DISTRICT ATTORNEY
CONTRA COSTA COUNTY
INVESTIGATION REPORT**

Investigation: Officer Involved Shooting

File/Report No.: MPD #01-1507

Subject/Defendant: Hutton, David Edwin

Date: April 9, 2001

Copies Of Report To:

Deputy District Attorney: Bob Hale

Other: Lt. Mike Sloan



Investigator Assigned: Senior Inspector Trish Ford **Date: April 9, 2001**



INVESTIGATIVE SUMMARY:

Involved Persons:

Team assigned to complete the background on David Hutton: (teams were not assigned numbers)

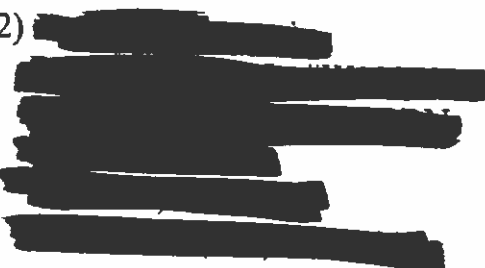
Vic Wise – Senior Inspector - District Attorney’s Office

Dan Lynch – Detective - Martinez Police Department

Trish Ford – Senior Inspector - District Attorney’s Office

Witnesses:

1) 

2) 

Subject/Defendant:

Report/Case No.:

3) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

4) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

5) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6) Dep. Tim Barden, #51229
CCCSO, Patrol Division
Muir Station
1980 Muir Rd.
Martinez, CA 94553
Phone: (925) 313-2500
Shift: Days with T/W off

Attachments:

- 1) Printouts of CCCSO records on David Edwin Hutton

INVESTIGATION NARRATIVE:

On April 6, 2001 at approximately 1230 hours, Chief Gene Greenwald contacted me at my desk and requested that I respond to Monument Auto Parts regarding a callout involving Martinez Police Department (M.P.D.) investigators.

I arrived at Monument Auto Parts on Pacheco Boulevard in Martinez at approximately 1249 hours. Senior Inspector Mel Thompson and Deputy District Attorney Bob Hole were already present at that location. Before I could park my vehicle, Senior Inspector Thompson waived for me to follow them to a different location.

At approximately 1252 hours, Senior Inspector Thompson, Deputy D.A. Bob Hole, and I arrived at the scene on Arthur Road, located at the bottom of the 680 southbound Pacheco Boulevard off-ramp. Already present at the scene were Martinez Police Department-Sgt. Bob Dowling, and Officer Jon Sylvia. CCCSO Sgt. John Dodd, assigned to the D.A.'s office, arrived on scene a short time later.

Sgt. Dowling provided a brief description of the facts that led to the incident.

At my request, Officer Sylvia obtained the vehicle license plate number of the white

Subject/Defendant:**Report/Case No.:**

Nissan pickup, and had the registration information sent to the MDT inside Sgt. Dowling's vehicle, where I retrieved it. The plate, [REDACTED] came back as a 1996 Nissan, registered to David E. Hutton or [REDACTED]

After some preliminary investigation, Dep. D. A. Hole, Sr. Inspector Thompson, Sgt. Dodd, and I responded to the Martinez Police Department for briefing and task assignments. Sr. Inspector Vic Wise, M.P.D. Detective Dan Lynch, and I were assigned the task of obtaining background information on David Hutton. Additionally, we were assigned the task of locating the exact residence from which David Hutton had originally fled.

While still at Martinez Police Department, Det. Lynch made some investigative inquiries to gather information regarding David Hutton's police contact history. My team members and I then responded in Det. Lynch's vehicle to the [REDACTED]. In obtaining prior contact information for Hutton, we learned of an address of [REDACTED] which intersects [REDACTED] Street. Prior to arriving at the [REDACTED] Street location, we responded to [REDACTED]. At the front door, I contacted a WFA who advised that she had resided at the location since 1998, and she does not know anyone named David Hutton. She also advised that she does not know anyone named [REDACTED], which is the name that had been attached to the [REDACTED] address. Det. Lynch ran, via his dispatch, two vehicles that were parked in front of the location, and neither vehicle was registered to [REDACTED]. However, both vehicles were registered to [REDACTED].

While en route to the [REDACTED] Street location, at about 1600 hours, I phoned CCCSO records bureau, and spoke with Melanie in an effort to obtain prior contact information they might have on Hutton. I asked Melanie to obtain any addresses listed as emergency contacts on Hutton's prior booking sheets. One of the addresses Melanie provided was also [REDACTED], which had been listed as belonging to a [REDACTED], but Melanie advised that the last contact for Hutton in which he listed this address was 1998.

We then responded to [REDACTED]. Upon our arrival, I was still on the phone with CCCSO records bureau. Det. Lynch and Sr. Inspector Wise got out of the vehicle and made contact with two male individuals who were in front of the residence (see Det. Lynch's supplement regarding those contacts). I continued to obtain information from CCCSO records bureau regarding David Hutton, and requested that all such information be faxed to my office (copies of which are attached).

I then got out of the vehicle, and asked one of the male subjects, [REDACTED] if there was anyone else inside the residence at [REDACTED]. [REDACTED] advised me that one other person was inside the location, his sister, [REDACTED]. At 1615 hours, I contacted a female subject who identified herself as [REDACTED] via a California Identification Card. I asked [REDACTED] if she knew or knows David Hutton, and asked her if he resided at the location. [REDACTED] said she knew Hutton, but had not seen him for about four days. She further advised that he does not live at the location, and she has resided there for about one year.

Subject/Defendant:

Report/Case No.:

█ saw Hutton four days earlier (Monday, April 2, 2001) at the Beacon station on the corner of Pacheco Boulevard and Shell Avenue, where she works. She said Hutton came into the station to get cigarettes. █ had not seen Hutton at all on April 6th, but she had been asleep most of the day. She said that on April 5th, she had gone to bed around 9:30 p.m., and did not awake until 3:30 p.m. on April 6th. She then corrected herself, saying that she had gotten up early that morning for a brief period of time to get her husband, █, off to work, but she then went directly back to bed. █ said she had been ill recently. She experienced some rapid weight gain, and at first, thought she was pregnant, but later learned that she has a thyroid problem, which has left her feeling tired all the time.

█ said that she doesn't care for Hutton, and she doesn't get along with and doesn't like Hutton's new wife. Further, Hutton's new wife is not welcome in █'s home. As a result, Hutton doesn't come around █'s residence anymore, especially since her friend █, who was a former resident, passed away. (Apparently, █ and Hutton were friends.) █ said that Hutton had been to her residence only twice since █ died. █ did not elaborate on why she doesn't care for Hutton and his new wife other than to say she just doesn't like them. When I asked for more specifics, █ reiterated that she just doesn't care for the type of people they are.

While Det. Lynch and Sr. Inspector Wise were standing by with █, I decided to attempt contact at the house next door to █, which is █, in an effort to determine the location from which Hutton had originally fled. A WFA answered the front door, and identified herself as █. Just inside the door, sitting in a chair, was a male subject who identified himself as █. I asked Mr. and Mrs. █ if they knew anyone named David Hutton. █ stated that he knew someone named █ but said he couldn't recall his last name. █ said that the Dave he knows is a friend of █' sons, █ and █. █ said that the Dave he knows drives a white Nissan pickup. I told █ that I believed that he and I might be talking about the same "David," and asked to speak with █ and █. Mr. █ said that █ was not at home, but advised that █ should be downstairs and around back.

I asked █ if he had seen the David he knows at any time that day (April 6th). █ said that Dave was at the residence early that morning visiting with █ and maybe █. (Later, when we spoke with █ at the rear of his residence, he confirmed with Det. Lynch that Dave was at █ residence prior to 8:30 a.m., because that is the time that █ and his wife left and went to breakfast. Upon their return home at about 9:00 a.m., Dave was already gone.)

Prior to attempting contact of █, a uniformed Martinez K-9 officer arrived and stood by with █ while Det. Lynch, Sr. Inspector Wise and I attempted to make contact at the rear of the location. As we approached the rear of the residence, I observed a pad-locked single door, which gave the appearance of being an entry to a separate living area of the main house. While we were standing in front of this door, █ came out of an upstairs back door to the main residence. He advised that if the door was pad-locked, then █ wasn't home. Det. Lynch spoke briefly with █ and then we investigators returned to the front of the residence.

Senior Inspector Trish Ford

4

Date: April 10, 2001

Subject/Defendant:

Report/Case No.:

As we were preparing to leave the location, a red compact vehicle pulled up in front of [REDACTED] and stopped. A WMA got out of the vehicle on the passenger side, and when asked, identified himself as [REDACTED]. The driver, a WFA, identified herself as [REDACTED]. [REDACTED] confirmed that he resides in a downstairs rear area of the residence, and his brother [REDACTED] lives upstairs with their parents.

Sr. Inspector Wise and I asked [REDACTED] if he knows David Hutton, and he responded, "Yeah. He's a dickhead." [REDACTED] said he has known Hutton for a few years. We asked [REDACTED] to explain his comment, and he said that Hutton is a "spoiled little brat." He continued by saying that [REDACTED]'s mother has money, and she pays for everything, so Hutton doesn't have to work. I asked [REDACTED] if it would be fair to say that his reason for not liking Hutton is because his mother is well off and gives Hutton money so that he doesn't have to work. [REDACTED] said no, that isn't why he doesn't like Hutton. [REDACTED] said he has nothing against someone who has money. His complaint with Hutton is his attitude about not having to work, and the way he treats people. As [REDACTED] searched for a word to describe Hutton's attitude, I asked him if "arrogant" would describe it, and [REDACTED] said yes.

I asked [REDACTED] what time Hutton had arrived at the residence. At first he said 3:30 p.m., and then he said it was before 2:30 p.m., and then asked us the current time. I told him it was about 4:35 p.m. He said he just knows it was earlier. [REDACTED] said the rain had precluded him from working, so he had slept in awhile, and Hutton had arrived after that. [REDACTED] brother [REDACTED] was not present when Hutton visited.

[REDACTED] advised that Hutton's wife, [REDACTED] had also been at the residence while Hutton was there. Hutton had arrived first, and then [REDACTED] arrived. [REDACTED] had called [REDACTED] residence prior to Hutton's arrival and advised she would be coming over to throw a game of darts. Hutton and [REDACTED] stayed for a while. Later, [REDACTED] decided to leave, and Hutton walked out with her. [REDACTED] thought that Hutton was coming back inside, but he never did. [REDACTED] did not actually see Hutton or [REDACTED] drive away. I asked [REDACTED] whether he knew what Hutton or [REDACTED] was driving. [REDACTED] said that Hutton was in his pickup and [REDACTED] was in a rental car, like a Geo, that she had rented from a shop on Diamond Boulevard in Concord, where her car was in for some type of service.

I asked [REDACTED] if Hutton was under the influence of anything. [REDACTED] said that if I was asking him whether Hutton was totally wired, then the answer was no. However, [REDACTED] added that if Hutton had used only a little bit (of crank) then [REDACTED] wouldn't be able to tell if Hutton was under the influence of a small amount. I asked [REDACTED] if Hutton was under the influence of any alcohol, to which both [REDACTED] and [REDACTED] responded that they do not believe Hutton drinks alcohol.

We asked [REDACTED] and [REDACTED] if Hutton would have any reason to run from the police. [REDACTED] responded that Hutton was a "wimpy little guy," and he would always run. [REDACTED] and [REDACTED], both, said they believed that Hutton thought he had a warrant out for his arrest. According to [REDACTED] Hutton was supposed to appear in court last Monday in Auburn, but had failed to

Senior Inspector Trish Ford

5

Date: April 10, 2001

Subject/Defendant:

Report/Case No.:

appear. Per [REDACTED], Hutton had apparently been arrested two weeks ago, and his appearance date was last Monday, 4-2-01. Per [REDACTED], the arrest of Hutton in Auburn involved some type of domestic violence incident.

While Sr. Inspector Wise and I were interviewing [REDACTED] and [REDACTED], a white van had pulled up and stopped, and a white male adult got out. Det. Lynch made contact with this subject (see Det. Lynch's supplement).

We concluded our interviews, and while en route back to the Martinez Police Department, were instructed to return to [REDACTED] to retrieve the phone answering machine tape containing the message to [REDACTED] from Det. Ray. At approximately 1725 hours, we arrived back at [REDACTED]. I ran inside, while Det. Lynch and Sr. Inspector Wise waited in the car. I contacted [REDACTED] and asked her for the phone answering machine tape. [REDACTED] said that she did not have an answering machine tape because she uses a message center service. [REDACTED] then dialed the service to retrieve the message. There were only two messages remaining on the service. Both messages were for [REDACTED]'s husband, [REDACTED]. One was from a guy named [REDACTED], and the other was from [REDACTED]'s sister, [REDACTED]. [REDACTED] said that the message had been there earlier from "some detective" because she had retrieved it and given it to [REDACTED]. [REDACTED] denied erasing the message, and said that [REDACTED] must have erased it.

My team members and I then returned to Martinez Police Department. Det. Lynch was preparing to interview [REDACTED] regarding the phone call from Det. Ray, and Sr. Inspector Wise and I were preparing to go to [REDACTED] to interview Hutton's mother, [REDACTED]. Since the time was approaching early evening on a Friday night, I decided to call [REDACTED]'s residence prior to responding there to insure that she was, in fact, home.

At approximately 1900 hours, I phoned the residence, and a female, identifying herself as [REDACTED], answered the phone. I identified myself to [REDACTED] and advised her that my partner and I wished to respond to her residence for the purpose of interviewing her regarding her son and a police incident he had been involved in. I then heard [REDACTED] say to a male subject at her location that we wanted to talk to her about the police shooting David in the back. This male subject responded no, repeatedly. I asked [REDACTED] if she was telling me that she was aware of the incident involving David, and she responded yes. I asked [REDACTED] who had told her that David was shot by police, and she responded that David's father had called her about 15 minutes prior to my call, and she was very upset about it.

I again asked [REDACTED] if we could respond to her residence to interview her regarding David and the incident, at which time, she put the male subject on the phone with me. I asked the male to identify himself, and he said his name is [REDACTED]. [REDACTED] began questioning me regarding the purpose of our interview, how the information obtained would be used, whether it would be used to benefit David, who would have access to the information, and whether it would become public record. I attempted to explain to [REDACTED] that it was standard procedure for the District Attorney's Office to obtain background on subjects involved in officer-involved

Senior Inspector Trish Ford

6

Date: April 10, 2001

Subject/Defendant:

Report/Case No.:

shootings, and that the information obtained was not necessarily intended to benefit or harm the subject, only to gain information about the person involved. [REDACTED] advised me that [REDACTED] would be willing to cooperate, but may or may not because she wanted to speak with an attorney first. [REDACTED] then requested that I fax him a written request, stating what the interview would consist of, who would have access to the information, and how the information would be used in the investigation. I obtained [REDACTED]'s fax number, and advised him that I would pass the information along to the attorney handling the case on behalf of the District Attorney's Office. I then contacted Bob Hole, who declined [REDACTED]'s request.

I had learned from Bob Hole that the first responding officer to the incident scene was a Sheriff's Office deputy, Tim Barden. D.A. Hole requested that we (my team members and I) contact and interview Tim Barden regarding his involvement. I attempted to contact Dep. Barden by phone at his residence, but received only an answering machine. I left a message on Dep. Barden's machine, asking him to page me as soon as he received the message.

At approximately 2024 hours, Dep. Barden paged me and I returned his call immediately. In summary, Dep. Barden advised the following:

He was working day shift out of Muir Station, listening to his scanner, when he heard "6I2" begin following a vehicle and attempt to make a car stop on it. Reception for the police radio was "lousy." Dep. Barden heard "6I2" then try and provide an updated location of Shell Avenue and Marina Vista, but after that, the transmission was "all garbled." He next heard "6I2" say something about southbound on 680, and something about a white pickup truck. The next communication Dep. Barden heard was "6I2" advising of a T/C at southbound 680 and Pacheco off ramp. Dep. Barden knows this area to be Arthur Road. Within 15-20 seconds of this transmission, he heard the Martinez unit advise that they had a subject down, and were requesting fire and ambulance. He was traveling in that direction, and it was about 1148 hours. He advised Sheriff's dispatch that he was en route to assist Martinez Police Department with a shots fired call, and provided his location. The S.O. sergeant advised that he copied, and asked if M.P.D. had requested the S.O.'s assistance. Dep. Barden responded no, and the sergeant told him he could continue, but not at code 2 or 3.

The request for fire and ambulance by the M.P.D. investigative unit, and Dep. Barden's exchange with his dispatch and sergeant occurred simultaneously.

When Dep. Barden arrived on scene, the only other police unit present was the unmarked M.P.D. unit and two officers in plain clothes. Dep. Barden recognized one officer as Officer Ray, and the other he believes was Officer Madsen. (Prior to becoming a deputy sheriff, Dep. Barden was a reserve with Martinez Police Department, and this is how he became acquainted with Officer Ray. Dep. Barden said he had previously met the other officer, but was not certain of his name. He said he believes, however, the second officer was Officer Madsen. Throughout the interview, Dep. Barden referred to the detectives as officers.)

He described the unmarked unit as a green Ford, Thunderbird, and said it was located at

Senior Inspector Trish Ford

7

Date: April 10, 2001

Subject/Defendant:**Report/Case No.:**

the base of the off ramp of southbound 680, actually on Arthur Road with its emergency equipment activated. The suspect vehicle was in the ravine. Dep. Barden parked his patrol unit facing eastbound on Arthur Road, a short distance from the chain link gate through which the suspect vehicle had driven. As Dep. Barden got out of his patrol unit, he saw Officer Ray walking back toward his police vehicle from the field area near the rear driver's quarter panel of the suspect truck. Dep. Barden could not yet see the downed subject.

Dep. Barden asked Officer Ray what he needed (in the way of assistance), and Officer Ray asked Dep. Barden if he could go to his partner (Det. Madsen). Officer Ray then pointed in the direction where he wanted Dep. Barden to respond. Dep. Barden said he could somewhat see Officer Madsen behind the tree (which was beyond the front of the suspect vehicle). Dep. Barden described the officer behind the tree as wearing tan pants and a dark jacket, standing within one or two feet of the downed subject, who was face down in the creek, and handcuffed behind his back.

The suspect was saying, "Hurry up. Hurry up. Where are they? Hurry up," or words to that effect (referring to fire and ambulance). Dep. Barden obtained a name from the downed subject, wrote it on a 3X5 card, and gave it to the officer (Det. Madsen). I asked Dep. Barden if he recalls the name he wrote down, and he said he believes it was David Hutton.

Dep. Barden said he made sure that fire and ambulance were en route via S.O. dispatch. When fire and ambulance arrived, Dep. Barden was told to clear the location by his sergeant, which he did. As fire personnel were approaching the downed subject, and Dep. Barden was leaving the area, he told them they would need to grab a backboard.

Dep. Barden estimates that from the time 6I2 advised shots fired until Dep. Barden's arrival, no more than a minute of time had lapsed. I then repeated back to Dep. Barden what I had written in my notes, and with minor clarification, confirmed that I had accurately recorded his statement. I concluded this interview at 2050 hours.

**OFFICE OF THE DISTRICT ATTORNEY
CONTRA COSTA COUNTY
INVESTIGATION REPORT**

Investigation: Officer Involved Protocol Incident
Suspect: David E. Hutton

Case No. Martinez P.D. #01-1507
Date: April 16, 2001

Copies of Report To:

Deputy District Attorney: Bob Hole
Chief of Inspectors: Gene Greenwald
Martinez Police Department: Det. Mike Thompson

M. J. [Signature]

Investigator Assigned: Senior Inspector M. Thompson

M.T.

Date: April 6, 2001

INVESTIGATIVE SUMMARY

Suspect:

David Edwin Hutton
d.o.b. 08-08-1969

Involved Persons:

Office of the District Attorney
Dep. D.A. Bob Hole

Martinez Police Department
Detective Mike Thompson

Office of the Sheriff

Criminalistics Section:
Ken Fuji
Song Wicks

Witnesses:

[REDACTED]

Witnesses (continued)

[REDACTED]

Evidence:

Item MT-01, audio cassette tape of interview with [REDACTED] and [REDACTED]
Item MT-02, audio cassette tape of interview with [REDACTED]

INVESTIGATION NARRATIVE:

On April 6, 2001 at approx. 11:45 hrs. , I received a telephone call from Gene Greenwald, Chief of Inspectors. Greenwald informed me of an Officer Involved Protocol Incident that had occurred earlier, involving a Martinez Police officer that had shot a suspect following a vehicle pursuit. Greenwald asked that I respond to the Monument Auto Parts store in Pacheco, near Highway 4, the scene of the incident. I was advised to contact Dep. D.A. Bob Hole, upon my arrival at the scene for further instructions. Greenwald advised that Sr. Inspector Vic Wise and other Sr. Inspectors of the Contra Costa County District Attorney's Office would also be responding to the call out as part of the response team.

I arrived at the Monuments Car Parts store at approx. 11:55 hrs. I was unable to locate an incident scene. I contacted Dep. D.A. Bob Hole near the store. Sr. Inspector Trish Ford also arrived at the parts store. Hole advised me that he telephoned Martinez Police dispatch, was given an updated location for the incident scene, and it was located near the Arthur Road exit of Highway 680 southbound. Hole, Ford and myself proceeded to the incident scene. The scene was located north of 281 Arthur Rd. , just south of the Pacheco Ave. exit from Highway 680.

At approx. 12:05 hrs. , I arrived at the scene. Martinez Police had secured the scene with yellow barrier tape. Martinez Police officers at the scene, gave Hole updated information

Senior Inspector Melvin R. Thompson

Date: April 16, 2001

about the incident. While at the scene, I observed an unmarked blue Ford Thunderbird parked in the driveway across the sidewalk. The gate which had previously secured an area, which bordered Highway 680, was broken down. The right side of the gate was broken from the post. The post and concrete footing were knocked several feet down the embankment. A small two door pickup truck was at rest, about 90 feet down the embankment area. The left front driver's door was ajar and the truck was unoccupied.

It appeared that the truck crashed through a closed and locked two sided chain link gate, continuing down a hilly and grassy terrain, then coming to its point of rest. The front of the truck had sustained major front end damage. I did not see any apparent damage on the Ford Thunderbird.

Hole provided a brief accounting of the incident as follows: Two Martinez Police officers were conducting a surveillance of a suspect's residence. The officers spotted a subject leaving the general location of their surveillance, followed him and attempted to conduct a traffic stop on his vehicle. The driver sped off, leading the officers on a pursuit. The vehicle entered the Highway 680 freeway at Marina Vista, driving southbound. The driver took the Pacheco Ave. Exit. The driver sped through the Arthur Road intersection, crashing through the gate on the other side of the roadway, finally coming to rest down the embankment. The driver then fled on foot. Officers took chase following the suspect. One of the officers caught the suspect and ordered him to stop. There was an altercation between the suspect and the officer. The suspect was shot once and arrested without further incident. The suspect had been transported to John Muir Hospital prior to our arrival at the scene.

I began a preliminary canvas of the immediate neighborhood for potential witnesses. I walked onto the property of [REDACTED], in an attempt to locate anyone who might have witnessed the incident. I contacted [REDACTED] in the parking lot. [REDACTED] said that his brother had witnessed most of the incident. The brother, [REDACTED] had told [REDACTED] what he saw in disbelief. [REDACTED] left to make a delivery and advised [REDACTED] that he would be back in about an hour. I got a business card from [REDACTED] for follow up. I spoke with [REDACTED], the secretary at the business. [REDACTED] advised that she had seen part of the incident but did not remember hearing anything. I took some contact information and promised to return to complete a formal interview, later that day. I left my business card at the business and asked [REDACTED] to ask [REDACTED] to telephone me upon his arrival at the business.

At approx. 12:20 hrs. we were directed to meet at the Martinez Police department for a formal briefing. I drove to Martinez P. D. and was directed to the briefing area, held in the City Council Chambers of Martinez City Hall. Members of the Officer Involved Protocol investigative unit assembled for the briefing. Several Martinez Police Department

Senior Inspector Melvin R. Thompson

Date: April 16, 2001

Administrative and Investigative personnel were present. John Fuji and Song Wicks of the Contra Costa County Sheriffs' Criminalistic Section were present. Members of the Contra Costa District Attorney's investigative unit present included: Dep. D.A. Bob Hole, Chief of Inspectors Gene Greenwald, Lieutenant of Inspectors Jerry Sanchez, Sr. Inspectors Vic Wise, Trish Ford, Karen Moore, Contra Costa County Sheriffs' Sgt. John Dodd, and myself.

The briefing began at approx. 12:45 hours. The shooting incident was discussed and the investigative unit was given an update on the status of the investigation, involved officers, witnesses, and suspect. Lt. Tom Simonetti and Bob Hole assigned members of the investigative unit into teams. The teams consisted of a minimum of one representative from the Martinez Police Department and one representative from the Office of the District Attorney. Following the briefing, the investigative teams began their investigations.

I was assigned to team with Detective Mike Thompson of Martinez P. D. Our primary assignment was to contact and interview several civilian witnesses at the incident scene. The witnesses included [REDACTED] an eye witness to the shooting, [REDACTED]'s employee/co-worker, and [REDACTED] a neighbor of the incident scene. We drove to the incident scene and met with [REDACTED] and [REDACTED] in the offices of [REDACTED]

I introduced myself and Det. Mike Thompson to [REDACTED] and [REDACTED]. I explained that we wanted to interview them regarding the incident that had occurred nearby their office, earlier that day. I requested that we be allowed to conduct the interviews individually, in a separate area. Both agreed to be interviewed at that time. The following is an account of the interviews of [REDACTED] and [REDACTED]. The interviews were conducted independently at the office of [REDACTED]. The interviews were jointly conducted by myself and Det. Mike Thompson. I recorded the interviews on standard audio cassette tape. Refer to Item MT-01, taped interview with [REDACTED] and [REDACTED] for details.

The interview with [REDACTED] began at approx. 15:10 hrs. I asked [REDACTED] to tell us in his own words, what he saw, heard, and remembered about the event that had occurred earlier that day. [REDACTED] told us the following in summary: It was approx. between 11:30 and 12:30 hours. [REDACTED] was getting into his truck to go to Richmond. The truck was parked in the parking lot, facing the freeway. He opened the door and was about to sit down when he heard a siren. He thought to himself, that sound was very close, and very loud. He looked to his left and saw white pickup truck coming to a rest in the field, located to the east and just adjacent to his business property. The field is an area secured by fencing and is generally inaccessible to the public. It runs along the west side of the freeway. The truck had just come through the gate. [REDACTED] got up out of the truck to see if the driver was all right. By the time he got out of the truck, a suspect jumped out of

Senior Inspector Melvin R. Thompson

Date: April 16, 2001

the drivers' side and took off running down the property toward the drainage ditch. The suspect was running in the direction away from the gate, down the drainage ditch, from [REDACTED]'s left to his right. He kept watching the suspect because he was curious as to what was going on. Then he heard a voice yelling stop. [REDACTED] turned back to his left to look. He saw a subject running through an area where the gate used to be. The subject was yelling stop, stop. He yelled it two or three times. He heard the subject say, Stop, or I will shoot to stop you if you don't stop. [REDACTED] watched them both as they kept running. [REDACTED] thought in his mind, the suspect was not going to stop because he was running full speed as fast as he could run. The suspect ran past the tree that is located near the blue containers and a retaining wall on [REDACTED]' property. As he ran past the tree, the suspect tried to climb the retaining wall. It appeared he was trying to climb into UCI, the business located next to [REDACTED] property. The suspect got near the top of the wall, then fell to the ground flat onto his back.

As soon as he fell onto his back, he flipped over, got up onto his feet, and began running right at the subject. It appeared the suspect took two or three strides, [REDACTED] heard a gunshot, saw that the suspect stopped in place for about two or three seconds, then the suspect fell over. At that point, another subject was running toward their location. [REDACTED] guessed that they were police officers and this subject was the first subjects partner. The second officer arrived at the scene. Both officers had their guns drawn. The officer that shot the suspect was telling the suspect to get up. [REDACTED] saw the suspect was still moving, did not get up and just lay there. The second officer went over to the suspect to handcuff him. As the first officer walked back toward the street, [REDACTED] asked him was everything all right? [REDACTED] told the officer that he did a great job.

Following [REDACTED]'s narrative, myself and Det. Thompson asked [REDACTED] questions for clarification purposes. A summary of [REDACTED] responses is as follows: [REDACTED] confirmed that he heard the officer yell out while pursuing the suspect, clearly identifying himself as a police officer. He heard, the officer yell, "stop, it's the police." [REDACTED] saw most of the incident as it was before him. At times, a tree and some brush obstructed [REDACTED] clear view of the scene. When the suspect fell off the wall and got to his feet, it looked like he was gonna run the officer over. The suspect's arms were flailing everywhere. From [REDACTED] view, it looked like the suspect was running at the officer. He did not see anything in the suspects hands. [REDACTED] remembers what the suspect was wearing. He thinks he saw a pager on the suspects waist.

[REDACTED] saw the officers dressed in plain clothes, with jeans, a shirt and jacket. The first officer wore a gun and holster. He believes the officer had a badge hanging onto his belt or his pocket. He saw a car parked near the end of the off ramp, with the flashing lights. It had

Senior Inspector Melvin R. Thompson

Date: April 16, 2001

a red light on the dash. That is why he assumed they were undercover police officers. [REDACTED] remembered hearing sirens while the suspect was running away. The sirens were very loud. He knew there was a pursuit going on and the suspect was being chased. There have been several pursuits coming off the same off ramp. Initially, [REDACTED] did not see the pursuing officer. As he saw the suspect running away from the truck, he heard a voice. He turned back to look. The officer was running through the gate. As he glanced at the officer he lost site of the suspect for a few seconds. When he returned his focus onto the suspect, he saw him climbing the wall.

[REDACTED] described the suspect's position during and following the fall. The suspect was climbing the wall, with his back to the officer, then fell. He landed on his back with his head facing up, his feet away from the officer, and his head nearest to the officer. He immediately flipped over and got up to his feet. The suspect was facing the officer. The suspect started to run toward the officer. The suspects left hand was up and the right hand was down in back, concealed by the suspects body. [REDACTED] had seen the pager on the right side of the suspect's body earlier.

The suspect fell approx. 10 feet. Once on his feet, the suspect's hands were in a position which resembled a sprinter's start. He said the suspect's left hand was up, while the right hand was back. He indicated the left hand slightly in front of the body about shoulder high, while the right hand was behind the body in a motion from the buttocks up toward the shoulder. [REDACTED] talked to his brother about what he had seen and recalls speculating that, had the suspect had a gun, this sprinter's movement could have very easily looked like he was reaching for the gun.

[REDACTED] did not hear the suspect say anything. He heard one shot. It was a pop sound. He didn't think it was loud or anything like you see on T.V. He did not see the officer point the gun, nor see the actual shooting. Following the shooting, assisting police officers responded to the scene in approx. two to three minutes. Highway patrol, and fire trucks were at the scene in minutes. [REDACTED] said he talked to his brother for a few minutes then left for Richmond. He saw several other police cars and fire trucks responding as he drove off. He was nearly in Richmond when it dawned on him what he had seen, and that he should have stayed at the scene to report his observations.

Following our interview, [REDACTED] walked outside in the parking lot of [REDACTED] and pointed out where he stood atop a mound of asphalt, when he first saw the suspect. [REDACTED] said the suspect ran from the crashed vehicle, continued to run down the embankment and attempt to flee a pursuing police officer. [REDACTED] described his field of vision as he had watched the suspect, and pursuing officers, from when and where the suspect

Senior Inspector Melvin R. Thompson

Date: April 16, 2001

first ran, until the when and where the suspect was shot.

We thanked [REDACTED] for cooperating with this interview. The interview was completed at approx. 15:30 hrs. We left our business cards with [REDACTED], and requested he telephone us should he have any further information.

Refer to Item MT-01, taped interview with [REDACTED] for details.

The interview with [REDACTED] began at approx. 15:30 hrs. I explained the format of the interview. I asked [REDACTED] to tell us what she remembered about the incident which had occurred near her office earlier that day. [REDACTED] told us the following in summary:

[REDACTED] was on her way out of the office, on her way to the post office. [REDACTED] walked out with her. Each got into their cars. [REDACTED] started her car and backed out of her space. She pulled out of the parking lot toward Arthur Road, preparing to make a left turn onto Arthur Rd. She paused and looked both ways. [REDACTED] said as she looked to her left she noticed that the gate to the freeway embankment area was open. She also noticed a car stopped across the street, at the base of the freeway exit ramp by the stop sign. [REDACTED] waited to see what the car was going to do. The car was stopped and did not move.

[REDACTED] saw the black car with a light in its windshield. The light was located in the front window on the dash toward the middle of the car. [REDACTED] thought the car might have been a police car because the light was either red or blue. The car did not look like a regular C.H.P. car, because it was a solid, dark color. The light was on when she saw it. She was unsure whether the light was flashing or solid. [REDACTED] thought it was the kind of light like you see on the C.H.P., when they are pulling somebody over. Someone, from the area of the car, ran across the street toward the gate to the freeway embankment. She could not tell from which area of the car the person came, whether from the front, the drivers side, or the passenger side of the car. She saw the person coming across the street from a place where pedestrians don't usually cross. [REDACTED] did not see the person carrying anything in his hand. The only impression [REDACTED] had regarding the person's clothing is that it was dark clothing with no bright colors.

[REDACTED] turned left and drove away. From the time [REDACTED] drove up to the frontage at Arthur Rd., until the time she turned left and drove off, took approx. 45 seconds to a minute. The windows of her car were rolled up because it was raining slightly. [REDACTED] did not hear anything as she drove out. [REDACTED] heard lots of sirens as she reached the intersection of Arthur Rd. and Pacheco Ave. [REDACTED] returned from the post office in approx. 10 - 15 minutes. When she returned, there were a lot emergency vehicles, including police cars, fire trucks and ambulances. She saw the wrecked truck parked in the field, and medical personnel carrying the suspect away on a stretcher. The interview was completed at approx. 15:40 hrs.

We thanked [REDACTED] for cooperating with the interview. We left our business cards with

Senior Inspector M. Thompson

Date: April 16, 2001

██████████ and requested she telephone us should she have any further information.

Refer to Item MT-01, taped interview with ██████████ for details.

At approx. 1600 hrs., myself and Det. Mike Thompson, interviewed ██████████ at her residence. ██████████ lives with her mother, ██████████ in the house located at ██████████ on the property of ██████████ ██████████ was seated in the living room of the residence during our interview with ██████████ and did not participate in the interview.

██████████ agreed to tell us in her own words what she remembered about the incident which had occurred earlier that day. I tape recorded the interview on standard audio cassette tape. ██████████ told me the following in summary:

She was sitting on the couch inside the residence when she heard a loud noise which sounded like an accident. She was facing inside so she did not see anything. She heard a car crash and heard a siren. The siren had a distinctive sound, like whop whop. She recalled hearing it twice. It sounded like the sirens used when police officer is not chasing you far. ██████████ has heard the sirens on police cars and other emergency vehicles and thought what she heard was from a police car. ██████████ said she can distinguish the sounds of the sirens on fire trucks, ambulances and police cars. ██████████ did not hear a gunshot. She was surprised to hear later, that there was a gunshot. She said it gets very noisy near her residence with traffic. There is heavy traffic during the middle of the day. ██████████ and ██████████ were the only ones at the residence at the time of the incident. The interview ended at approx. 16:05 hrs. We thanked ██████████ for cooperating and allowing the interview. We gave ██████████ our business cards and asked that she telephone us should she have any further information.

Refer to Item MT-02, taped interview with ██████████ for details.

At approx 17:30 hrs, Dep. D.A. Hole requested that I accompany Criminalist Ken Fuji and Song Wicks to the incident scene. The criminalist were assigned to document the incident scene in photographs as taken from ██████████'s and a second witnesses perspective. I was assigned to direct the criminalist to the location where ██████████ stood when he saw the incident take place. I was also assigned to direct the criminalist to a location on the neighboring UCI business property, where a second witness saw the later part of the incident. This would allow the criminalist to see the witnesses field of vision and view the incident scene for their perspective. I drove Fuji and Wicks to the scene.

While at the scene, Criminalist Wicks took several pictures from atop the asphalt mound where ██████████ stood earlier that day. Wicks also took several photos from the second location on the neighboring UCI , property where a second witness had stood earlier that day. *Refer to Report by Criminalist Ken Fuji and Songs Wicks for details.*

At approx. 19:30 hrs. I drove Fuji and Wicks to Martinez P.D. I advised Hole that we had completed the assignment. The investigation was suspended at this time.

**OFFICE OF THE DISTRICT ATTORNEY
CONTRA COSTA COUNTY
INVESTIGATION REPORT**

Investigation: Protocol Incident Martinez P.D. **Martinez P.D. Report No.** 01-1507
Subject: David E. Hutton
Date: 4-6-2001

Copies Of Report To:

Deputy District Attorney: Bob Hole Phone: 646-2141

Other: Martinez P.D. 525 Henrietta St. Martinez, Ca. 94553 Phone: 372-3455

Investigator Assigned: Senior Inspector V. Wise **Date:** 4-6-2001

INVESTIGATIVE SUMMARY

Suspect:

[REDACTED] (Suspect in Mtz. P.D. Pc 288.5)
[REDACTED]
[REDACTED]

Subject:

David Edwin Hutton (shot by MPD)
WMA D.O.B.- 8-8-69

[REDACTED] also believed to live in [REDACTED]
[REDACTED]

Involved D.A.:

DDA Bob Hole Contra Costa D.A. 646-2141
Sgt. John Dodd Contra Costa D.A. 646-4548
Sr. Inspector Melvin Thompson Contra Costa D.A. 646-2979
Sr. Inspector Trish Ford Contra Costa D.A. 646-4675
Sr. Inspector Karen Moore Contra Costa D.A. 646-2266
Sr. Inspector Victor Wise Contra Costa D.A. 646-2973

Crime Lab:

Ken Fuji Contra Costa Sheriff Crime Lab 335-1600
Song Wicks Contra Costa Sheriff Crime Lab 335-1600

Martinez Police:

Lt. Mark Smith- Incident Commander/ Press Ofc. 372-3447
Lt. Tom Simonetti- Scribe/ Briefing Ofc. 372-3446
Sgt. Evert Prins- Lead Investigator M.P.D. 372-3444
Det. Frank Ferrari 372-3440
Det. Dan Lynch 372-3455
Det. Paul Starzyk MPD/CNET 602-6534
Det. Mike Thompson 372-3440

Also present:

Dave Cutaia Chief of Police M.P.D.
Gene Greenwald Chief of Inspectors Contra Costa D.A.
Lt. Jerry Sanchez Contra Costa D.A.

Witnesses:

[REDACTED]

Vehicle:

1996 Nissan Pick up truck- white in color license no. [REDACTED]

Attachments:

Copy of Martinez P.D. Pc 288.5 report No. 01-1455
Calif. DMV photo printout of David Edwin Hutton
DMV registration printout of truck driven by David Hutton
Copy of 5 page event history report on the shooting incident
Copy of Placer County Order Granting Probation on Hutton

INVESTIGATION NARRATIVE:

On Friday 4-6-2001 at 1230 hrs. I was contacted by COI Greenwald via Nextel regarding Protocol being invoked on an Officer Involved Shooting Investigation at Martinez P.D. He requested that I respond to assist in the investigation. All investigators were told at first to respond to the scene at Pacheco Blvd. and Hwy. 4. I was in Pinole at the time so my response time was delayed. While I was in route, the scene location that I was supposed to respond to changed a couple of times and it appeared that information was still developing about what happened and where. I finally was advised to report to Martinez P.D. to meet up with the other involved investigators for a briefing. I arrived at Martinez P.D. at approximately 1255 hrs.

All investigators were directed to Martinez City Council Chambers adjacent to the Police Department where we were briefed on details of the incident as known at that time by Martinez P.D. Chief of Police Dave Cutaia and Lt. Tom Simonetti. We learned that two Martinez P.D. Detectives Dave Madsen and Roger Ray had set up surveillance of a house in the area of [REDACTED] in Martinez looking for a Child Molest suspect that they had Probable Cause to arrest. This was in regards to Martinez P.D. case #01-1455 that Det. Madsen had investigated. (Report copy attached). During the course of this stakeout the detectives had seen someone come out of a house in the area and get into a small white truck. It appeared that it was the suspect so they approached the truck and tried to make contact. The subject at that point took off in his vehicle attempting to elude the police and a pursuit ensued. The pursuit ended with the suspect crashing his truck through a fence and attempting to flee on foot. The detectives made an attempt to stop him and a shooting ensued involving the subject being shot in the lower torso by the police. The subject that had been shot was discovered not to be the responsible for the child molest. He was identified as David Edwin Hutton.

DDA Bob Hole and Lt. Simonetti then assigned the investigative tasks and teams. I was assigned to work with Sr. Inspector Trish Ford of the D.A.'s Office and Detective Dan Lynch of Martinez P.D. Our team was to locate where the suspect had fled from and to make a check and neighborhood canvass for witnesses. We also were to investigate the suspect's background and develop any pertinent criminal history and character information about him that would be of help in determining why he ran and what actually had happened.

A criminal history check and records check was done by Martinez P.D., Det. Lynch, and Insp. Ford. We learned that the subject was currently on formal felony probation with a search clause out of Placer County this was confirmed by Det. Lynch. His exact address was not known at the time but his DMV records indicated that he lived at [REDACTED]. This was not believed to be his home address as it appeared that his vehicle was registered to a relative possibly his mother at that address. We could not get any information from Hillsborough P.D. as the entire records section was closed until the following Monday. We proceeded to check out a list of

Subject: David Hutton

Martinez P.D. File No.: 01-1507

addresses that we had for the subject in an attempt to confirm his address and locate family or friends to interview. We also went to the area of [REDACTED] to begin a check for witnesses and to locate the place where the suspect had fled. We located witnesses in the area and interviewed them. (See Lynch and Ford's reports for details)

Upon arriving in the area we saw a pickup truck with two white male subjects pull up and stop in front of [REDACTED]. We approached the truck and the passenger got out and almost immediately said words to the effect that "he was the one that we were probably looking for". I heard this as well as Detective Lynch. This subject was identified by his California Drivers license as Robert Lee Martin the responsible in the initial Pc 288.5 Child Molest case investigated by Det. Madsen, which had caused the need for the surveillance of the house that had led up to this incident. The driver of the truck was also identified by his California Drivers license as [REDACTED]. Both subjects were checked for warrants and Martin was confirmed to have the PC to arrest on the Martinez P.D. case. [REDACTED] was clear of warrants but [REDACTED] was arrested on the outstanding charge. Lynch had briefly questioned [REDACTED] about subject Hutton only. (See Lynch's report for details) I interviewed August. [REDACTED] related the following:

He is a roofer and was currently doing a roof job in the area. [REDACTED] was helping him. The roof job was at [REDACTED]. They had just left the jobsite to drive to [REDACTED] where [REDACTED] had been staying. [REDACTED] had loaned [REDACTED] his power saw the day before and Martin had left it at the [REDACTED] address. [REDACTED] needed the saw to complete the roofing job so they had just driven there to pick it up when they met up with us. [REDACTED] was not aware of what had happened with [REDACTED] and the child molest case, nor was he aware of the incident involving subject Hutton. He did say that he knew Hutton and called him a "dickhead". He explained that Hutton was somebody that he didn't care for and not too many people did. Hutton was an "asshole" according to him. He said Hutton was not the type to fight with cops or anybody. He said that Hutton would run rather than fight because Hutton is a coward. [REDACTED] was in a hurry to leave because he had to get back to his job site as they had left the roof "opened up" and it was sprinkling rain. [REDACTED] left the area as soon as he was released.

Inspector Ford began a neighborhood check for witnesses in the area and had located the house that subject Hutton had left from prior to fleeing from the police. This is [REDACTED] and is owned by the [REDACTED] family. We went to that location and spoke to the father and later to the son's [REDACTED] and [REDACTED] as they arrived in separate vehicles. (See Lynch and Ford's report for details) Lynch received a phone call from Lt. Tom Simonetti of Martinez P.D. who requested that we return to [REDACTED] to retrieve a telephone message machine tape. This was found not to exist so we returned to Martinez P.D. Detective Lynch was then assigned to interview arrestee Martin on tape regarding only his knowledge of Hutton's actions on that date and about a message left on the answering machine. Ford and myself were assigned to contact Hutton's mother in [REDACTED] and interview her regarding Hutton. We telephoned Hutton's mom prior to driving to [REDACTED] to make sure she was available to be interviewed. She was extremely un co-operative so the interview

Senior Inspector V. Wise

4

Date: 4-16-2001

Subject: David Hutton

Martinez P.D. File No.: 01-1507

was not done. (Refer to Ford's and Lynch's report for details)

DDA Bob Hole advised that he had learned from Sr. Inspector Moore and Sgt. Prins that they had spoken to Hutton's father [REDACTED] at John Muir Hospital and learned that subject Hutton had been staying at his home for the past couple of weeks. The father lived at [REDACTED]

[REDACTED] Hole requested a Probation Search there of only the areas that subject Hutton had been storing his belongings in and living in. Sr. Inspector Ford, Sr. Inspector Moore, Sgt. Prins of Martinez P.D., and myself were assigned to do that.

I called Antioch P.D. and spoke with shift Sgt. Gilbert Conklin and briefed him on the search and location. I requested one uniformed officer from Antioch P.D. for assistance at the residence during the search. Ofc. Kevin Kollo met us there and I explained to him what we were doing. He accompanied us to the door. I knocked on the door and the wife of [REDACTED] (name not obtained) answered the door. I identified myself and the others and explained that we were there to conduct a Probation Search of the areas occupied by subject David Hutton. She yelled for her husband to come to the door saying something like, "Hey the D.A.'s Office and the cops are here! They want to search the house after they shot David!" [REDACTED] came to the door and refused us admittance "on the advice of his attorney." When presented with the Probation Search authorization he then agreed to let us in and to search. I explained that we were not there to search the entire house but only the areas occupied by subject David Hutton and requested that he direct us to the room where subject Hutton slept and kept all of his things. He directed us to a den in the S/W area of the house that had a daybed/couch, desk and computer set up, and a closet. He said that subject Hutton had been sleeping on the couch and all of the things that he had brought with him were there in that room. He pointed to some plastic baskets in a corner and said that David's clothes were in those baskets and most were dirty. He thought that was all David had brought with him. We searched everything in the room and found no contraband, evidence, or anything out of the ordinary. We thanked [REDACTED] and his wife and left the home. Our involvement in the investigation was terminated at this point.

Nothing further.