

C O N F I D E N T I A L
M E M O R A N D U M

TO: Officer Frank Ferrari

FROM: Commander Dave Cutaia



DATE: July 10, 1997

SUBJECT: OFFICER INVOLVED SHOOTING AND PURSUIT/LAWFUL INTERVENTION

A Shooting and Accident Review Board has been convened to review the officer involved shooting and pursuit, and lawful intervention that you were all involved in very recently. The members of this committee are Sergeant Dick Dowling, Chairman, Officer Gary Peterson, and Officer Dan Lynch. Officer Peterson has been selected by the Martinez Police Officers Association, and Officer Dan Lynch has been selected to assume the position of Rangemaster.

This committee will review the facts of the incidents, make a recommendation to me, and I in turn will make a recommendation to Chief Agresta.

Please understand this is within department policy that we need to review each and every shooting and lawful intervention that we are involved in. Do not hesitate to contact Sergeant Dowling or myself if you have any questions.

C O N F I D E N T I A L

M E M O R A N D U M

TO: Officer Steven Caldera
FROM: Commander Dave Cutaja

DATE: July 10, 1997

SUBJECT: SHOOTING/ACCIDENT REVIEW BOARD

As you may or may not be aware, we have convened a board consisting of Sergeant Dick Dowling, Officer Gary Peterson and Officer Dan Lynch to review the recent officer involved shooting and lawful intervention.

Normally, you or Frank Ferrari would be selected to serve on this committee as the departments Rangemaster. However, there are extenuating circumstances in this incident. Officer Ferrari cannot be used, as he is involved. It is my belief that you would be put in a very tenuous position, and it would be unfair to both you and Officer Ferrari to place you in such a position, as you are the joint Rangemaster with Frank, and I believe you have a close personal relationship.

This was the basic reason for this decision. Please do not hesitate to contact me if you have any questions regarding this.

MEMORANDUM

TO: Officer Dan Lynch

FROM: Commander Dave Cutaja 

DATE: July 10, 1997

SUBJECT: SHOOTING/ACCIDENT REVIEW COMMITTEE

Pursuant to our conversation you are hereby appointed to serve on a committee that will be chaired by Sergeant Dick Dowling. The purpose of this committee is to review the recent officer involved shooting and lawful intervention that occurred on Ulfinian Way, and Beechwood and Elderwood Drives, and to review an accident involving Officer Michael Marchiano.

Please contact Sergeant Dowling or myself if you have any questions.

C O N F I D E N T I A L

M E M O R A N D U M

TO: Sergeant Dave Brown

FROM: Commander Dave Cutaja 

DATE: July 10, 1997

SUBJECT: OFFICER INVOLVED SHOOTING AND PURSUIT/LAWFUL INTERVENTION

A Shooting and Accident Review Board has been convened to review the officer involved shooting and pursuit, and lawful intervention that you were all involved in very recently. The members of this committee are Sergeant Dick Dowling, Chairman, Officer Gary Peterson, and Officer Dan Lynch. Officer Peterson has been selected by the Martinez Police Officers Association, and Officer Dan Lynch has been selected to assume the position of Rangemaster. This is due to the fact that Officer Ferrari is involved in this case.

This committee will review the facts of the incidents, make a recommendation to me, and I in turn will make a recommendation to Chief Agresta.

Please understand this is within department policy that we need to review each and every shooting and lawful intervention that we are involved in. Do not hesitate to contact Sergeant Dowling or myself if you have any questions.

C O N F I D E N T I A L

M E M O R A N D U M

TO: Officer Roger Ray

FROM: Commander Dave Cutaia

DATE: July 10, 1997

SUBJECT: OFFICER INVOLVED SHOOTING AND PURSUIT/LAWFUL INTERVENTION

A Shooting and Accident Review Board has been convened to review the officer involved shooting and pursuit, and lawful intervention that you were all involved in very recently. The members of this committee are Sergeant Dick Dowling, Chairman, Officer Gary Peterson, and Officer Dan Lynch. Officer Peterson has been selected by the Martinez Police Officers Association, and Officer Dan Lynch has been selected to assume the position of Rangemaster. This is due to the fact that Officer Ferrari is involved in this case.

This committee will review the facts of the incidents, make a recommendation to me, and I in turn will make a recommendation to Chief Agresta.

Please understand this is within department policy that we need to review each and every shooting and lawful intervention that we are involved in. Do not hesitate to contact Sergeant Dowling or myself if you have any questions.

C O N F I D E N T I A L
M E M O R A N D U M

TO: Officer Steve Gaul

FROM: Commander Dave Cutaia 

DATE: July 10, 1997

SUBJECT: OFFICER INVOLVED SHOOTING AND PURSUIT/LAWFUL INTERVENTION

A Shooting and Accident Review Board has been convened to review the officer involved shooting and pursuit, and lawful intervention that you were all involved in very recently. The members of this committee are Sergeant Dick Dowling, Chairman, Officer Gary Peterson, and Officer Dan Lynch. Officer Peterson has been selected by the Martinez Police Officers Association, and Officer Dan Lynch has been selected to assume the position of Rangemaster. This is due to the fact that Officer Ferrari is involved in this case.

This committee will review the facts of the incidents, make a recommendation to me, and I in turn will make a recommendation to Chief Agresta.

Please understand this is within department policy that we need to review each and every shooting and lawful intervention that we are involved in. Do not hesitate to contact Sergeant Dowling or myself if you have any questions.

MEMORANDUM

TO: Sergeant Richard Dowling
FROM: Commander Dave Cutaia 

DATE: July 10, 1997

SUBJECT: SHOOTING/ACCIDENT REVIEW BOARD

Pursuant to our recent conversation you are hereby appointed as Chairman of the Shooting and Accident Review Board regarding the recent pursuit and discharge of firearms involving Officers Roger Ray, Frank Ferrari, Steve Gaul and Sergeant Dave Brown.

Regarding this incident, I believe the purpose of your committee is twofold. Firstly, to determine if the use of firearms was 1) accidental 2) within department policy or 3) not within department policy. The second purpose is to review the use of lawful intervention, and whether this was appropriate in this case.

I have attached several policies that apply to this incident. Please have your committee review these policies, and make the appropriate recommendations.

The following officers are members of your committee:

Officer Gary Peterson - selected by the Martinez Police Officers Association.
Officer Dan Lynch - selected by me to serve in the capacity of Rangemaster.

The reasons behind this are as follows: Officer Frank Ferrari, who is one of the current department Rangemasters, is automatically excluded since he is involved in this incident. I have also decided after discussions with Sergeant Duffield not to utilize Officer Caldera as it would put Officer Caldera and Officer Ferrari in an unfair position since it is my understanding they are very close friends.

Please attempt to convene your committee, and make a recommendation regarding this case as soon as possible. Also included with this is the investigative memorandum by Sergeant Duffield who has handled the officer involved shooting. Please feel free to contact Sergeant Duffield, or include him in your committee meetings if you feel relevant, as he can be included in an advisory capacity.

I have had an opportunity to review the documentation, and I believe there are several questions I would like you committee to address, as well as any other areas that your committee feels appropriate.


- 1) Was the initial use of firearms on Ulfonian Way within department policy?
- 2) Was the use of the shotgun against the suspect on State Route 4 within department policy?
- 3) Was the use of lawful intervention at the termination of this pursuit at Beechwood and Elderwood Drives appropriate?

As a secondary issue, also attached to this memorandum is a copy of an accident report and memorandum regarding an accident involving Officer Michael Marchiano. I would like your committee to review this case to determine whether this accident was avoidable or unavoidable, and as to whether Officer Marchiano operated his patrol vehicle within department policy.

Thank you very much for handling this difficult task, and again feel free to contact me if you have any questions or concerns.

MEMORANDUM

TO: Officer Gary Peterson

FROM: Commander Dave Curia 

DATE: July 19, 1997

SUBJECT: SHOOTING/ACCIDENT REVIEW COMMITTEE

Pursuant to our conversation you are hereby appointed to serve with Sergeant Dick Dowling and Officer Dan Lynch on a shooting/accident review board involving the recent officer involved shooting.

Please contact Sergeant Dick Dowling, who will chair the committee, for any further information.

Thank you very much for helping with this difficult task.

MEMORANDUM

TO: Commander David Cutaia

FROM: Sergeant R. Dowling
Officer D. Lynch
Officer G. Peterson

DATE: September 3, 1997

SUBJECT: SHOOTING ACCIDENT REVIEW BOARD

On 08/04/97 Sergeant Richard Dowling and Officers Dan Lynch and Gary Peterson met in a shooting review board of case 97-2328.

The review board was asked to respond to three questions that were concerns of Commander Cutaia. Those questions were 1.) Was the internal use of firearms on Ulfonian Wy. within department policy. 2.) Was the use of a shotgun against a suspect State Route 4 within department policy. 3.) Was the use of lawful intervention at the termination of the pursuit at Beechwood and Elderwood Drives appropriate.

Case 97-2328 involves originally Officer Ray and a stolen vehicle that were driven by a Jerry White. Officer Ray got into a pursuit of the vehicle and chased it into a dead end street at the end of Andrews Drive. Officer Ray then exited his vehicle and used it to partially block the exit of the dead end street. Subject White then drove at Officer Ray's vehicle, striking it and then proceeding to strike Officer Ray, knocking him up and over the vehicle in his attempt to flee.

The vehicle was then spotted by Officers Ferrari and Gaul. It proceeded on Ulfonian Wy. where it collided with a parked vehicle just west of Pine St. Officer Gaul attempted to block the suspect vehicle with his patrol vehicle while Officer Ferrari confronted the driver with his duty weapon drawn, verbally commanding him to shut his vehicle down. The driver again attempted to flee but was stuck from the accident and hooked onto the parked vehicle. The vehicle, still being driven by White, broke loose and started toward Officer Ferrari, who had to take evasive action. Officer Ferrari then fired a single shot from his duty weapon into the passenger window of the vehicle, and Officer Gaul fired one round into the rear vehicle.

It was the feeling of the Shooting Review Board that both shots taken by Officers Ferrari and Gaul fell within the firearms policy II. Paragraph 3 which states "to apprehend a suspect when there exists reasonable belief that such a person has committed a violent felony; i.e., a felony which threatens death or serious bodily injury and where it reasonably appears harm will come to other persons if the subject is not apprehended." This was agreed upon due to the fact that the subject had just run over an officer and attempted to hit another officer while attempting to flee. It was quite clear the subject was not going to surrender voluntarily, and that force was going to

be needed to capture the subject.

The pursuit then continued from Ulfian Wy. Out to Highway 4 at which time White, while eastbound on Highway 4 crossed into the westbound lanes. White would not yield to vehicles and turned across traffic. At that time White was again confronted by Officer Ray, who had taken a shotgun out of his unit. White continued across Highway 4, an east/west highway, in a southerly direction through a chain link fence and then westbound on the frontage road, Muir Rd. Officer Ray proceeded after the subject on foot and fired his shotgun at the vehicle.

It was the finding of the Shooting Review Board that this shooting was again within firearm policy II. Paragraph 3. The suspect had assaulted two officers with his vehicle prior to this incident and was continuing to evade police at any and all costs.

The pursuit of White proceeded down Muir Rd. and was picked up again at Ashwood Dr. He was then going in an eastbound direction at a high rate of speed. Again Officer Ray fell in behind in the pursuit. The subject traveled east on Ashwood and then east on Beechwood, ending in a traffic collision with a curb at Beechwood and Elderwood Drives. At that point, the subject's vehicle had hit the curb and stalled. White was attempting to start the vehicle and again flee. Officer Ray was still pursuing White and took legal intervention and rammed White's vehicle.

It was felt by the board that this action of Officer Ray came within the pursuit policy, and use of force policy. Although there was not enough time to request authorization from a supervisor to use legal intervention, it was felt by the board the action was proper. It should also be mentioned that Officer Ray is an acting watch commander and would at times be the person making this decision for other officers.

MEMORANDUM

TO: Chief Greg Agresta

FROM: Commander David Cutaia

DATE: September 12, 1997

SUBJECT: OFFICER INVOLVED SHOOTING, JUNE 23, 1997

Included with this report are several memoranda from the Shooting Review Board, which consisted of Sergeant Richard Dowling (Chairman), Officer Dan Lynch and Officer Gary Peterson. The Board was directed by me to look at three separate incidents regarding this officer involved shooting, they are as follows:

1. The use of a firearm on Ulfonian Way
2. The use of a shotgun against the suspect on State Route 4
3. The use of lawful intervention at the termination of the pursuit at Beechwood and Elderwood Drives

1. USE OF A FIREARM ON ULFINIAN WAY

FINDINGS REGARDING ITEM #1: The Shooting Review Board felt the shooting which occurred on Ulfonian Way by Officer Ferrari was justified and within Penal Code requirements and department policy. After review of the reports and the incident, I am in agreement that Officer Ferrari was within Penal Code requirements and department policy in the utilization of his firearm.

In addition, the use of Officer Ferrari's firearm was very controlled, in that only one shot was fired. Officer Ferrari could have discharged additional shots, however, the suspect, according to Officer Ferrari, was no longer a threat to him, since he was leaving the area and any further shots might create a greater safety hazard.

OPINIONS, CONCLUSIONS, RECOMMENDATIONS: The use of a firearm in this incident is justified and within Penal Code requirements and department policy.

2. USE OF A SHOTGUN ON STATE ROUTE 4

The second incident that involved the utilization of a firearm, a shotgun, occurred on westbound Highway 4, near Morello Avenue. In this instance, Officer Roger Ray fired at

the suspect vehicle with his shotgun.

FINDINGS REGARDING ITEM #2: The Board found this shooting also fell within department policy and Penal Code statutes. In reading our department policy and the Penal Code statutes, I am in agreement with the Board's finding that this did, in fact, fall within department policy and State law. Therefore, there is no violation of policy. However, it was discovered that there are some tactical issues in the utilization of a shotgun in this manner that need to be dealt with as far as training is concerned.

OPINIONS, CONCLUSIONS, RECOMMENDATIONS: The use of a firearm in this case also falls within department policy and Penal Code statutes. Training and tactical issues need to be addressed and proper training provided to better handle these types of situations.

3. USE OF LAWFUL INTERVENTION AT TERMINATION OF PURSUIT

FINDINGS REGARDING ITEM #3: The Board felt Officer Ray's use of his patrol vehicle in lawful intervention against the suspect vehicle was justified and within department policy. The suspect had already committed three separate felony assaults against peace officers using his vehicle. The first occurred against Officer Ferrari, the second against Officer Gaul and the third against Sergeant David Brown.

Sergeant Brown's incident is not mentioned in this report, since no action was taken by Sergeant Brown. Basically, the suspect vehicle intentionally struck Sergeant Brown's patrol vehicle in an effort to disable it and Sergeant Brown.

At the conclusion of the pursuit, Officer Ray observed the suspect again to be trying to flee the scene and, since the suspect had previously committed three separate assaults using his vehicle, it would be reasonable to assume that Officer Ray believed the suspect was about to commit a fourth assault against peace officers at the location of Beechwood and Elderwood Drives. Therefore, Officer Ray did use his patrol vehicle and rammed the suspect vehicle, thereby disabling it.

OPINIONS, CONCLUSIONS, RECOMMENDATIONS: The Board mentioned that Officer Ray did not request permission from the on-duty watch commander to use lawful intervention, as directed by department policy.

Department policies are guidelines and, under limited circumstances, may be diverted from. The Board felt this was one of the limited circumstances; the reason being that Officer Ray did not have time to ask permission from the watch commander to use lawful intervention. In addition, the sergeant was a victim and, in fact, involved in this pursuit. In an agency the size of Martinez, this, more than likely, will occur; where in a large agency it is less likely to occur.

Based on these factors, I believe Officer Ray not asking for permission to use lawful intervention is understandable in this instance and is not a serious issue.

I believe Officer Ray's use of lawful intervention in this case did fall within department policy and Penal Code statutes governing the utilization of lethal force.

SUMMARY

The incidents occurring in the above scenarios were justified and within department policy. However, there are some training and tactical issues that are addressed in a memorandum completed by Sergeant Dowling. These include items required by policy which were not done, i.e., the requirement that each officer write a report (this was not done in this case), and the concern of some of the tactical decisions made by officers involved.

After review of this incident, I share the concerns of the Review Board. The tactical issues I intend to discuss with all of the watch commanders and a sergeant's meeting that is coming up shortly. In addition, I intend to set up a training/debriefing session of all officers involved. While I realize that debriefings should occur much sooner than this, there were delays that, in my opinion, were unavoidable. These delays include officers' shifts, vacations, difficulties in organizing the Shooting Review Board, and monumental computer problems that delayed the response from Sergeant Dowling, who was the chairman of the Board.

Nevertheless, tactical debriefing and training of these individual officers, as well as the entire department, must be completed regarding this incident. Some of my tactical concerns are as follows:

- 1) The officers exiting their vehicles and not using the vehicles as shields. In addition, not using approved tactical positioning involving felony car stops.
- 2) The utilization of the shotgun on Highway 4. Although it clearly falls within department policy and Penal Code statutes, and danger to surrounding citizens was probably minimal as there was no traffic at the time the shot was fired, and residences were a good distance away, I am not certain that tactically other decisions could have been made.

NOTE: Once again, the shooting was within department policy and Penal Code statutes. The items of concern are related strictly to training and individual officer safety; not to the specific conduct of the officers in this incident.

cc: Sgt. Dowling

MEMORANDUM

TO: Officer Frank Ferrari
Officer Steve Gaul
Officer Roger Ray

FROM: Commander David  Cutaia

DATE: September 12, 1997

SUBJECT: OFFICER INVOLVED SHOOTING, 6/23/97

This is to inform you that a Shooting Review Board consisting of Sergeant Richard Dowling, Officer Dan Lynch and Officer Gary Peterson, have reviewed the shooting you were involved in on the above date. The Board has recommended to me that the three incidents of use of lethal force, i.e., shots fired on Ulfian, use of the shotgun on Highway 4, and the lawful intervention at the end of the pursuit, were justified and within department policy and Penal Code statutes.

I am in agreement with the Board's findings. However, there are some training issues, including debriefing, etc., that need to be addressed, and will be very shortly.

You can consider this matter closed, as the use of lethal force falls within department policy and Penal Code statutes.

cc: Sgt. Dowling
Chief Agresta
Sgt. Brown

1 DAVID COLEMAN, State Bar #55545
 2 Acting Public Defender, Contra Costa County
 3 By: D.L. Clark, Deputy Public Defender
 4 800 Ferry Street
 5 Martinez, California 94553
 6 Telephone: (925) 335-8000
 7 State Bar #138879

FILED

MAR 25 1999

COURT OF THE DELTA JUDICIAL DISTRICT

Attorneys for Defendant

7 IN THE SUPERIOR COURT OF THE DELTA JUDICIAL DISTRICT
 8 IN AND FOR THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

Calendared

Response due 3/31/99

9 THE PEOPLE OF THE STATE OF CALIFORNIA) No. 981964-0
 10)
 11 v.) NOTICE OF MOTION AND
 12) MOTION TO COMPEL
 13) DISCOVERY; MEMORANDUM
 14) OF POINTS AND
 15) AUTHORITIES IN SUPPORT
 16) THEREOF (PITCHES)
 17) Date: April 7, 1999
 18) Time: 1:30 pm
 19) Dept: 12

Defendant.

Calendared

15 TO: GARY T. YANCEY, DISTRICT ATTORNEY, CONTRA COSTA COUNTY,
 16 MARTINEZ, CALIFORNIA; AND TO THE CLERK OF THE ABOVE-ENTITLED
 17 COURT; G. AGNESTA, CHIEF OF POLICE, CITY OF MARTINEZ; AND
 18 JEFF WALTER, CITY ATTORNEY, CITY OF MARTINEZ:

19 PLEASE TAKE NOTICE that on ~~April~~ ^{April 17}, 1999 at 1:30 p.m. or as
 20 soon thereafter as counsel can be heard in Department 12 of the
 21 above-entitled court, defendant, through counsel, will move that
 22 the court order the Martinez Police Department to make available
 23 for examination, copying, and for the hearing on this motion the
 24 materials described below regarding Roger Ray, Frank Ferrari and
 25 Steven Gaul.

MAR 25 1999

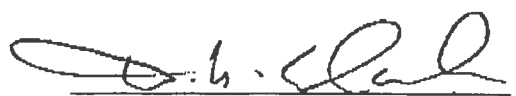
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

The purpose of this motion is to enable defendant's attorney to properly prepare a defense and to properly cross-examine prosecution witnesses.

This motion will be based upon the records, papers, files in this case, the attached declaration of D.L. Clark, counsel for defendant, the accompanying memorandum of points and authorities and any oral and/or documentary evidence that may be introduced at the hearing of said motion.

Dated: March 19, 1999

Respectfully submitted,



D.L. Clark
Attorney for Defendant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF FACTS

Defendant Jerry White is charged by information #981964-0 with violation of three counts of Penal Code section 245(c), Penal Code sections 459/460b, 496(a), 12316(b)(1), and California Vehicle Code sections 10851(a) and 2800.2(a). All of the above charges were alleged to have occurred in Martinez, California on June 23, 1997. The facts contained in this statement are derived from Martinez Police Report Number 97-2328.

On June 23, 1997, the defendant, Jerry White was seen driving a 1986 Camaro automobile allegedly stolen earlier the same date. At approximately 7:00 p.m. Martinez Officer Roger Ray passed the vehicle, driven by a white male. Officer Ray made a u-turn to pursue the vehicle, received radio confirmation that the vehicle was stolen, and activated his emergency lights and siren. After a short chase the suspect vehicle stopped in a dead end court and Officer Ray pulled his patrol car into a position attempting to block the Camaro into the court. Once the officer alighted from his vehicle he alleges that the suspect vehicle suddenly sped forward, striking both the police car and Officer Ray, sending him up and over the hood of the Camaro. The officer, fortunately, not seriously injured, advised other police units via his radio of what had occurred and the escaping vehicle's direction of travel.

Martinez Police Officers Steven Gaul and Frank Ferrari (victims #two [2] and three [3]) were approaching the area in

1 response to the earlier call regarding the pursuit and Officer
2 Ray's subsequent call that he had been assaulted. They saw the
3 suspect vehicle turn from Andrews Drive onto eastbound Ulfonian
4 and gave chase. After briefly losing visual contact with the
5 Camaro they found that it had struck a parked vehicle and became
6 entangled with that vehicle. Officer Gaul, the driver, pulled
7 their patrol vehicle up next to the Camaro as it violently rocked
8 back and forth from the driver's apparent attempt to free his
9 vehicle from the parked car. Officer Ferrari exited through the
10 passenger's door of the patrol vehicle and ran to a location
11 toward the front of the suspect vehicle yelling at the suspect to
12 stop the engine and surrender. The Camaro suddenly broke free and
13 lurched toward Officer Ferrari causing him to back away and to
14 fire his weapon at the vehicle. Officer Gaul exited the patrol
15 vehicle and subsequently reported firing one shot himself at the
16 fleeing vehicle before once again continuing the pursuit.

17 Meanwhile, Officer Ray (victim #one [1]), realizing he was
18 not seriously injured, got back into his vehicle and rejoined the
19 pursuit of the fleeing Camaro. The chase continued through
20 Martinez to a confrontation on Highway 4 where Officer Ray waited
21 on the median strip near Morrello Blvd. for the suspect vehicle
22 which was approaching in a westbound direction. Officer Ray
23 pulled out his department issued shotgun as the vehicle approached
24 with the intent to "disable" the vehicle. The Camaro suddenly
25 swerved across three eastbound lanes and through the cyclone fence
26 along the south edge of Highway 4. Officer Ray then ran across
27

1 the eastbound traffic lanes and fired three rounds at the fleeing
2 vehicle.

3 Officer Ray then turned his patrol car around, exited Highway
4 4 at Morello Avenue, and continued the search for the suspect
5 vehicle along with other police units.

6 Ultimately, Officer Ray rammed the vehicle in a Martinez
7 neighborhood, ending the chase. The defendant was arrested at the
8 time at gunpoint.

9 At approximately 12:10 a.m. on June 24, 1997, the defendant
10 was interviewed by Detectives Walkup and Vandermeular at the
11 Martinez Police Department. This interview lasted until 2:45 a.m.

12 Detective Walkup initially noticed certain symptoms which led
13 him to believe the defendant was under the influence of a central
14 nervous stimulant. Mr. White repeatedly told the officers
15 throughout his two and one-half hour interview that he initially
16 fled the court area where he had been confronted by Officer Ray
17 because he had heard a gunshot and was convinced "someone",
18 perhaps the police, had fired at him. He was adamant throughout
19 that he heard a shot, put his head down and accelerated out of the
20 area. He recalled striking the police car but denied emphatically
21 seeing or striking Officer Ray.

22 Mr. White further insisted that during his subsequent
23 confrontation with Officers Gaul and Ferrari that he was shot at
24 more than the two times reported by the officers and estimated the
25 total gunshots at this locale to have been four to six. He was
26
27

1 insistent that he continued the chase due to his belief, based
2 upon the gunfire, that he would be killed if he stopped.

3 The defendant now submits this motion to discover information
4 held by the Martinez Police Department concerning Officer Roger
5 Ray, Officer Steven Gaul, and Officer Frank Ferrari, which is
6 relevant to preparing a full and fair defense to the alleged
7 violations of Penal Code section 245(c).

8 **I. CRIMINAL DEFENDANT ARE ENTITLED TO DISCOVER ALL**
9 **RELEVANT AND MATERIAL INFORMATION IN THE PROSECUTION'S**
10 **POSSESSION THAT WILL ASSIST THE PREPARATION AND**
11 **PRESENTATION OF THEIR DEFENSE.**

12 The right of criminal defendants to discovery is governed by
13 the "fundamental proposition" that they are entitled to a fair
14 trial and an intelligent defense in light of all relevant and
15 reasonably accessible information. City of Santa Cruz v.
16 Municipal Court (1989) 49 Cal.3d 74, 84, quoting, Pitchess v.
17 Superior Court (1974) 11 Cal.3d 531, 535. Accordingly, criminal
18 defendants can compel discovery by showing that requested
19 information will facilitate the ascertainment of facts and a fair
20 trial. Id.

21 A showing that the defendant cannot readily obtain the
22 information through his own efforts will ordinarily entitle him to
23 pretrial knowledge of any unprivileged evidence or information
24 that might lead to the discovery of evidence if it appears
25 reasonable that such knowledge will assist him in preparing his
26 defense. Hill v. Superior Court (1974) 10 Cal.3d 812; Kelvin L.
27 v. Superior Court (1976) 62 Cal.App.3d 823.

1 **II. A SHOWING OF GOOD CAUSE UNDER EVIDENCE CODE SECTION**
2 **1043 IS SATISFIED BY GENERAL ALLEGATIONS OF INFORMATION**
3 **AND BELIEF.**

4 The qualified governmental privilege enjoyed by police
5 personnel records is codified in Penal Code section 832.7 and
6 832.8 and Evidence Code sections 1043 through 1045. City of Santa
7 Cruz v. Municipal Court (1989) 49 Cal.3d 74, 81. Evidence Code
8 section 1043 provides that such information may be discovered
9 where a timely motion is filed describing the type of information
10 sought along with affidavits showing "good cause" for discovery.

11 The California Supreme Court in City of Santa Cruz, supra,
12 considered what showing was necessary to constitute "good cause"
13 under Evidence Code section 1043. It held that the statute does
14 not require personal knowledge of material facts. Id. at 89.
15 Affidavits based on information and belief are sufficient. Id.
16 Citing the statute's legislative history, the court noted, "the
17 purpose of discovery is to find detail. If the petitioner already
18 had the particulars of the record he would not need to use
19 discovery." Id.

20 Additionally, the court held that the statute does ;not
21 require personal knowledge of particular prior complaints. Id.
22 The court held that counsel's statement that the police officers
23 used excessive forces against defendant was sufficient to
24 establish a "reasonable belief" that the same officers may have
25 been accused of using excessive force in the past. Id. at 93.
26
27

1 **III. GOOD CAUSE FOR DISCLOSURE EXISTS IN THE PRESENT CASE**
2 **AND THE DEFENDANT IS ENTITLED TO DISCOVERY OF CITIZENS**
3 **COMPLAINTS AGAINST THE POLICE OFFICERS INVOLVED IN THIS**
4 **CASE.**

5 Evidence of an officer's tendency to violence, whether in the
6 form of (1) an opinion, (2) evidence of reputation, or (3)
7 evidence of specific instances of conduct, is admissible in a
8 prosecution in which the defendant is charged with battery on a
9 police officer and/or resisting arrest. Evidence Code section
10 1103; Pitchess v. Superior Court, supra, 10 Cal.3d 812; People v.
11 Municipal Court (Hayden) (1980) 102 Cal.App.3d 181.

12 Pitchess, supra, arose from a battery on a police officer in
13 which a self-defense issue was raised. The court held that
14 pursuant to Evidence Code section 1103 the defendant was entitled
15 to discovery of citizen complaints against the police officers
16 involved and the disciplinary records of the police department
17 concerning the officer's propensity to commit acts of violence.

18 Citing Evidence Code sections 1105 and 1101(b), the court in
19 People v. Memro (1985) 38 Cal.3d 658, held that this discovery
20 could lead to evidence of habit or custom of the officers to
21 obtain unlawful confessions and also to show their motive, intent
22 or plan.

23 Evidence of the officer's character, habits, customs and
24 credibility is both relevant and admissible to the case at bar.
25 California Evidence Code section 1103 provides that:

- 26 (a) On a criminal action, evidence of the
27 character (in the form of an opinion,
 evidence of reputation, or evidence of

1 specific instances of conduct) of the
2 victim of the crime for which defendant
3 is being prosecuted is not made
4 inadmissible by section 1101 is such
5 evidence is: (1) offered by the
6 defendant to prove conduct of the victim
7 in conformity with such character or
8 trait of character.

9 This Memro decision has broadened many aspects of Pitchess
10 case law and casts doubt on the validity of some prior restrictive
11 rulings of the lower courts.

12 In the present case the defendant contends that he attempted
13 to break free when trapped in the court by Officer Ray because of
14 his belief that the officer had fired a weapon at him which, if
15 true, would constitute excessive force. Similarly, defendant
16 alleges that he continued to flee after his confrontation with
17 Officers Gaul and Ferrari because of his fear and panic from the
18 contact with Officer Ray, further exacerbated by Officer Ferrari
19 pointing a weapon at him at the scene of the collision with the
20 parked car. His belief that he would be killed was made all the
21 more real by the fact that both officers then opened fire,
22 shooting at least one time each as the defendant drove away by
23 their own admissions, even more if the defendant's perceptions
24 were correct.

25 Similarly, the fact that the defendant was confronted once
26 again by Officer Ray who then fired repeatedly from a shotgun on a
27 busy public street.

These allegations raise the reasonable belief that these same
officers may have been accused of using excessive force in

1 effecting arrest in the past and that such material information
2 may be found in the officers' personnel records and complaints
3 lodged against them with the Martinez Police Department. In
4 addition, it is reasonable that any such shooting incident
5 involving an officer discharging his weapon would be subject to an
6 internal investigation by the police department and any
7 statements, reports and conclusions mad as part of such an
8 investigation would be material and relevant to a fair trial in
9 this case. As such, good cause for discovery of the requested
10 information has been shown. City of Santa Cruz, supra, at 93;
11 People v. Memro (1985) 38 Cal.3d 658, 682.

12 **IV. THE CONSEQUENCES OF NONDISCLOSURE OF REQUESTED ITEMS TO**
13 **THE ACCUSED OUTWEIGHS THE CONSEQUENCES TO THE PUBLIC OF**
14 **DISCLOSURE.**

15 California Evidence Code section 1040(b) grants public
16 entities a privilege against disclosure of official information.
17 However, that privilege is conditional upon a balancing of any
18 public interest in nondisclosure against the potential
19 consequences of nondisclosure to a defendant/litigant. The court
20 must ultimately decide which interest outweighs the other.
21 Pitchess v. Superior Court (1974) 11 Cal.3d 531, 539. In the
22 instant case, the defendant's right to a fair trial outweighs the
23 consequences that disclosure of records of such investigation may
24 have for the people.

25 Disclosure of requested information will have no "chilling
26 effect" on the disciplinary process and functioning of the
27 Martinez Police Department when acting upon legitimate complaints

1 and when officers use only necessary force. Nondisclosure, on the
2 other hand, would allow police officers "unfettered discretion" to
3 use force on suspects and subvert constitutional rights without
4 fear of any punishment by their departments.

5 **V. SPECIFIC ITEMS SOUGHT.**

*Mve then 5 officers
(b)(1)*

6 The discovery desired of the Martinez Police Department
7 hereafter "The Department," concerning Officers Ray, Gaul and
8 Ferrari is listed below with supporting authorities:

- 9 1. The names, addresses and telephone numbers of all
10 persons who have filed complaints with the Department
11 against Officers Ray, Gaul and Ferrari for acts of
12 aggressive behavior, acts of violence and/or attempted
13 violence, acts of excessive force and/or attempted
14 excessive force, and acts of moral turpitude. *fishy*
15 Defendant is entitled to discovery of any acts
16 involving the officers' fabrication of testimony or *fishy*
17 evidence and/or acts involving or questioning their
18 moral turpitude. California Constitution article I,
19 section 28(d); Evidence Code section 1045(a); People v.
20 Wheeler (1992) 4 Cal.4th 284; People v. Mickle (1991) 54
21 Cal.3d 140; City of Santa Cruz v. Municipal Court
22 (1989) 49 Cal.3d 74; People v. Harris (1989) 47 Cal.3d
23 1047; Pitchess v. Superior Court, supra, 11 Cal.3d 531;
24 In re Ferguson (1971) 5 Cal.3d 525; Cadena v. Superior
25 Court (1978) 79 Cal.App.3d 212; Arcelona v. Municipal
26 Court (1980) 113 Cal.App.3d 523; Gonzales v. Municipal

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Court (1977) 67 Cal.App.3d 111; People v. Taylor (1986) 180 Cal.App.3d 622.

2. All Statements, written or oral, by persons who have brought complaints against the above-named officers, as described in section 1 above. California Constitution article I, section 28(d); Caldwell v. Municipal Court (1976) 58 Cal.App.3d 377; Hinojosa v. Superior Court (1976) 55 Cal.App.3d 692; Gonzales v. Municipal Court, supra; People v. Wheeler, supra; People v. Mickle, supra; People v. Harris, supra; In re Ferguson, supra; People v. Taylor, supra.

*with
William*

3. The names, addresses, and telephone numbers of all persons interviewed by the Martinez Police Department, its investigators and other personnel during investigation into complaints as described in section 1 above, against Officers Ray, Gaul and Ferrari. California Constitution article I, section 28(d); Evidence Code section 1045(a); Pitchess, supra; Arcelona, supra; Kelvin L. v. Superior Court (1976) 62 Cal.App.3d 823; Lemelle v. Superior Court (1978) 77 Cal.App.3d 148; Gonzales, supra; Wheeler, supra; Mickle, supra; Harris, supra; In re Ferguson, supra, Taylor, supra.

4. All statements, written or oral, made by persons interviewed by the Martinez Police Department, its investigators and other personnel during their

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

investigation into complaints as described in section 3, above. California Constitution article I, section 28(d); Evidence Code section 1045(a); Caldwell, supra; Hinojosa, supra; Matos, supra; Arcelona, supra; Wheeler, supra; Mickle, supra; Harris, supra.

5. All tape recordings and/or transcriptions thereof, and notes and memorandum by investigating personnel of the department made pursuant to investigations described in sections 1 and 5 of this motion. California Constitution article I, section 28(d); Caldwell, supra; Wheeler, supra, Mickle, supra; Harris, supra; In re Ferguson, supra; Taylor, supra.

6. The names and assignments of investigators and other personnel employed by the Martinez City Police Department as described in sections 3, 4, and 5 above. Caldwell, supra; Wheeler, supra; Mickle, supra; Harris, supra, In re Ferguson, supra; Taylor, supra.

7. The written procedures established by the Department to investigate citizen complaints against the Department or its personnel. Penal Code section 832.5(a).

*subjective
alternate
source
1045(c)
8.
1045(b)(2)
conclusion
of
officers*

8. All records of the Department concerning records of statements and opinions, including, but not limited to, findings, letters, formal reports, and oral conversations made by superior officers and fellow officers, of the above-named police officers, which pertain to unnecessary acts of aggressive behavior,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

*White D
white logs
fishy*

acts of violence and/or attempted violence, acts of excessive force and/or attempted excessive force, and acts demonstrating racial prejudice, or any act (demonstrating a morally lax character.) California Constitution article I, section 28(d); Cadena, supra, Hinojosa, supra; Arcelona, supra; Mickle, supra; Harris, supra; In re Ferguson, supra; Taylor, supra.

9. All records of discipline imposed by the Martinez Police Department upon Officers Ray, Gaul and Ferrari for conduct specified in section 1 of this motion. California Constitution article I, section 28(d); Evidence Code section 1045(a); Arcelona, supra; In re Ferguson, supra; Taylor, supra.

*1045
(b)(2)
conclusions
of
officers*

10. Any and all statements of witnesses, reports, and other conclusions of any internal investigation conducted by the Martinez Police Department as a result of the discharge of firearms by Officers Ray, Gaul and Ferrari during the pursuit and apprehension of defendant Jerry White on June 23, 1997.

///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

CONCLUSION

The defendant's right to a fair trial constitutes good cause for his need for the requested information, which outweighs both the officers' privacy interests and the Martinez Police Department's interest in maintaining confidential records.

Dated: March 19, 1999

Respectfully submitted,



D.L. Clark
Attorney for Defendant

DLC/sg
(WORD)WHITE.PITCH.DOC

1 DAVID COLEMAN, State Bar #55545
2 Acting Public Defender, Contra Costa County
3 By: D.L. Clark, Deputy Public Defender
4 800 Ferry Street
5 Martinez, California 94553
6 Telephone: (925) 335-8000
7 State Bar #138879

8 Attorneys for Defendant

9
10 IN THE SUPERIOR COURT OF THE DELTA JUDICIAL DISTRICT
11 IN AND FOR THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

12 THE PEOPLE OF THE STATE OF CALIFORNIA) No. 981964-0
13)
14 v.) DECLARATION OF
15) D.L. CLARK IN
16) SUPPORT OF MOTION
17 JERRY WHITE,) TO COMPEL DISCOVERY
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)

Defendant.

DECLARATION

I, D.L. Clark, hereby declare under penalty of perjury:

- (1) That the Offices of the Public Defender for the County of Contra Costa is the attorney of record for the defendant, Jerry White.
- (2) That I am a deputy public defender employed by the Contra Costa County Public Defender.
- (3) That I am the attorney assigned to represent the defendant, Jerry White.
- (4) I have conducted an investigation of the facts surrounding the pursuit and arrest of Jerry White by reviewing the police report, reviewing the taped interview of Mr. White, and contacting percipient witnesses by use of a public defender investigator, and

1 questioning police witnesses during the preliminary
2 hearing on December 3, 1998. I believe excessive and
3 unnecessary force was used by members of the Martinez
4 Police Department in their attempts to shoot Mr. White
5 during their pursuit of him and officers then
6 fabricated testimony to minimize their conduct.

7 (5) Officer Ray testified during the preliminary hearing
8 that the Martinez Police Department normally conducts
9 an investigation of the details and propriety of the
10 actions whenever an officer discharges his or her
11 firearm. (Px.Tx. 26:3-7) He further testified that as
12 part of that investigation he was questioned about
13 firing the shotgun and that weapon was turned over to
14 the investigators for examination. (Px.Tx 26:8-13) He
15 did not recall whether there was any such investigation
16 regarding his handgun. (Px.Tx 25/26)

17 (6) In an audio taped statement given the night of his
18 arrest Mr. White repeatedly told investigators that
19 when he was confronted on Andrews Court by Officer Ray,
20 that he heard a gun shot; that shot made him fearful
21 for his safety and he then fled the area. I believe
22 disclosure of any internal investigation by the
23 Martinez Police Department may disclose exculpatory
24 material regarding that confrontation which would be
25 discoverable under the holding in Brady v. Maryland
26 (1963) 473 U.S. 83, 83 S.Ct. 1194.

27

- 1 (7) Officers Ferrari and Gaul both reported and
2 subsequently testified at preliminary hearing that they
3 respectively fired a single round each at the fleeing
4 defendant during a confrontation on Ulfonian Drive.
- 5 (8) An investigator from the Public Defender's Office has
6 interviewed witnesses who cast doubt on the total
7 number of shots fired on Ulfonian Drive. These witness
8 statements would not normally be discoverable by the
9 prosecution under the holding of Izazaga v. Superior
10 Court (1991) 54 Cal.3d 356, 385 C.R. 231. Therefore
11 the defense is prepared to disclose these witnesses and
12 their statements in camera should it be required.
- 13 (9) I believe any internal investigation by the Martinez
14 Police Department into the propriety of the firearm
15 discharges by Officers Ray, Ferrari and Gaul will
16 contain statements by all three officers and other
17 percipient witnesses which will be relevant to a full
18 and impartial disclosure of facts to ensure a fair
19 trial for Mr. White. I further believe any such
20 investigation would include an examination of physical
21 evidence such as the firearms in question, expenditure
22 of ammunition, physical location of expended cartridges
23 and other such physical evidence relating to the
24 shooting which may provide exculpatory evidence to the
25 defense.
- 26
27

1 (10) In order to adequately prepare and defend my client on
2 these charges, it is necessary that I obtain discovery
3 regarding the arresting officers' backgrounds as more
4 fully set forth in the points and authorities attached
5 hereto and made a part hereof. Good cause exists to
6 require the production of this material in that it is
7 necessary to prove the tendency of these officers to
8 fabricate, raises questions of moral turpitude, to use
9 excessive force, and to engage in unnecessarily
10 aggressive conduct. This evidence is relevant and
11 material to the presentation of the defense, or in the
12 alternative, it may lead to admissible evidence.

13 (11) In the event that there are discoverable prior acts the
14 defense moves to obtain the actual reports of citizen
15 complaints so that I may review these reports with the
16 witnesses and refresh their recollections regarding the
17 occurrences, which may have been quite a long time ago.

18 These reports are also necessary for impeachment of
19 the police officers when they testify in trial about
20 these prior acts involving the officers.

21 (12) I believe that all the materials requested herein are
22 directly relevant to the questions involving the
23 officers' tendencies to engage in acts of fabrication,
24 credibility, force, violence, or excessive force
25 against suspects or potential suspects.
26
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

(13) I have no other source for obtaining the requested information, and believe the information requested is readily available and does not involve any unreasonable or time consuming searching to retrieve the documentation requested.

(14) I believe the requested information may lead to the discovery of other evidence which would assist us with preparation of said defense.

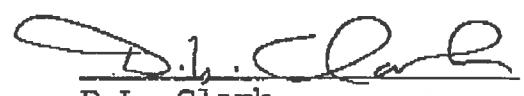
(15) I do not have access to any of the Martinez Police investigation files. I do not have access to complaints made by citizens to any of these departments without process and assistance of this court.

(16) It is my information and belief that the Martinez Police Department has in its possession certain records or information sought in the attached motion.

I declare under penalty of perjury that the foregoing is true and correct except for those matters stated on information and belief and I believe those matters to be true.

Executed this 19th day of March, 1999 at Martinez, California.

Respectfully submitted,



D.L. Clark
Declarant and Attorney
for Defendant

MARTINEZ POLICE

CA0071400

LADE NO. **47-2328** PAGE **2**
 REFER CASE #(S) OF

DATE/TIME REPORTED	CODE SECTION(S)	CRIME/INCIDENT
LOCATION OF OCCURRENCE		
OCCURRED BETWEEN DATE TIME DAY	VC VEH	LICENSE NO STATE YEAR MAKE/MODEL
AND DATE TIME DAY	SUS VEH	LICENSE NO STATE YEAR MAKE/MODEL
DVR INFO		WEAPON INVOLVED: <input type="checkbox"/> FIREARM <input type="checkbox"/> KNIFE <input type="checkbox"/> OTHER <input type="checkbox"/> BODILY FORCE <input type="checkbox"/> NONE
RELATIONSHIP OF PARTIES		<input type="checkbox"/> FEARS INJURY <input type="checkbox"/> VISIBLE INJURY <input type="checkbox"/> PAIN COMPLAINT
		<input type="checkbox"/> WC INFO PROVIDED

I N V O L V E D P E R S O N S	1	NVL/WIT V-4	NAME (LAST, FIRST, MIDDLE) [REDACTED]	DOB [REDACTED]	RACE/SEX WM	HAIR/EYES [REDACTED]	HEIGHT/WEIGHT [REDACTED]	
	RESIDENCE ADDRESS			RES. PHONE	DRIVERS LICENSE #		STATE	
	BUS. NAME/ADDRESS/PHONE <i>(PROPERTY OWNER)</i>			OCCUPATION	SOCIAL SECURITY #		ARREST	
	2	NVL/WIT 3	NAME (LAST, FIRST, MIDDLE) WHITE, JERRY	DOB 7-5-73	RACE/SEX WM	HAIR/EYES Red/Blu	HEIGHT/WEIGHT 5-7 1/2	
RESIDENCE ADDRESS LRA: 1160 LINCOLN AVE. #			RES. PHONE	DRIVERS LICENSE #		STATE		
BUS. NAME/ADDRESS/PHONE UNEMPLOYEED			OCCUPATION ROOFER	SOCIAL SECURITY #		ARREST		
3	NVL/WIT V5	NAME (LAST, FIRST, MIDDLE) [REDACTED]	DOB [REDACTED]	RACE/SEX WF	HAIR/EYES [REDACTED]	HEIGHT/WEIGHT [REDACTED]		
RESIDENCE ADDRESS			RES. PHONE	DRIVERS LICENSE #		STATE		
BUS. NAME/ADDRESS/PHONE <i>(OWNER of Stolen Vehicle)</i>			OCCUPATION	SOCIAL SECURITY #		ARREST		
4	NVL/WIT [REDACTED]	NAME (LAST, FIRST, MIDDLE) [REDACTED]	DOB [REDACTED]	RACE/SEX [REDACTED]	HAIR/EYES [REDACTED]	HEIGHT/WEIGHT [REDACTED]		
RESIDENCE ADDRESS			RES. PHONE	DRIVERS LICENSE #		STATE		
BUS. NAME/ADDRESS/PHONE			OCCUPATION	SOCIAL SECURITY #		ARREST		

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

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

YES	NO	EVIDENCE COLLECTED	# FINGERPRINTS	# ROLLS FILM	TOTAL
-----	----	--------------------	----------------	--------------	-------

NARRATIVE	ORS
-----------	-----

REPORTING OFFICER / SERIAL NO.	DATE AND TIME	REVIEWED BY	FOLLOW-UP NEEDED
INV CPS JUV/PROB DDA VIC/CTR WC	SIGNATURE OF SUSPECT		

MARTINEZ POLICE

CASE NO. **97-2328** PAGE
 REFER CASE (S) OF

DATE REPORTED **5-97** 1952
 CA0071400

JOE SECTION: **245 (6) P.C.** CRIME/INCIDENT: **ASSAULT WITH A DEADLY WEAPON** CLASSIFICATION: **ON POLICE OFFICER**
 LOCATION OF OCCURRENCE: **600 BLK ANDREWS DR.**

OCCURRED BETWEEN DATE: **6-23-97** TIME: **1955** DAY: **MON** VC LICENSE NO. STATE YEAR MAKE/MODEL. STYLE COLOR
 AND: TIME: **2004** DAY: VC LICENSE NO. STATE YEAR MAKE/MODEL. STYLE COLOR
WAYFINE CA 86 CHEV / CAMERO 2DR. COLOR

DVR INFO RELATIONSHIP OF PARTIES FEARS INJURY VISIBLE INJURY PAIN COMPLAINT WEAPON INVOLVED: FIREARM KNIFE OTHER BODILY FORCE NONE VIO INFO PROVIDED

INVOLED PERSONS	INVT	NAME (LAST, FIRST MIDDLE)	DOB	RACE/SEX	HAIR/EYES	HEIGHT/WEIGHT
1	V-1	KAY, ROGER		WM		
RESIDENCE ADDRESS			RES. PHONE	DRIVERS LICENSE #	STATE	
SUB. NAME/ADDRESS/PHONE			OCCUPATION	SOCIAL SECURITY #	ARREST	
2	V-2	FERRARI, FRANK		WM		
RESIDENCE ADDRESS			RES. PHONE	DRIVERS LICENSE #	STATE	
SUB. NAME/ADDRESS/PHONE			OCCUPATION	SOCIAL SECURITY #	ARREST	
3	V-3	GAWL, STEVEN		WM		
RESIDENCE ADDRESS			RES. PHONE	DRIVERS LICENSE #	STATE	
SUB. NAME/ADDRESS/PHONE			OCCUPATION	SOCIAL SECURITY #	ARREST	
4	V-4	BROWN, DAVID		WM		
RESIDENCE ADDRESS			RES. PHONE	DRIVERS LICENSE #	STATE	
SUB. NAME/ADDRESS/PHONE			OCCUPATION	SOCIAL SECURITY #	ARREST	

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

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

YES NO EVIDENCE COLLECTED # FINGERPRINTS # ROLLS FILM TOTAL

SYNOPSIS:
 (S) SEEN DRIVING A STOLEN VEHICLE. WHEN OFFICER ATTEMPTED TO STOP THE VEHICLE THE (S) FLED. DURING PURSUIT THE (S) STRUCK OFFICER WITH HIS VEHICLE, TRAMEN PATROL VEHICLES AND WAS EVENTUALLY TAKEN INTO CUSTODY ON ASSAULT ON POLICE OFFICER, FURNISH ARREST AND FELONY DRUNK DRIVING

REPORTING OFFICER / REVISE NO. DATE AND TIME REVIEWED BY FOLLOW-UP NEEDED
R. Duffin 6-23-97 **DEH**
 INV. NO. CPS JUVPROB DDA VCA/TR VVC OTHER SIGNATURE OF SUSPECT
6126 **CHP-Pursuit / Parole** } **6126**
Admin (MPD)
 MPD DAILY REPORT FORM (REV 8-84) MPD #30 DESIGNED BY M. THOMPSON #90

INDEXED
 RIGHT THUMB PRINT

97-2328

245C PC ASSAULT W/DEADLY WEAPON ON POLICE OFCR 97-2328 PAGE 2
REFER TO MARTINEZ PD CASE #97-2308 (10851 CVC) attached.

On 6/23/97 at 08:18 hours, Officer KRUTA from the Martinez Police Department completed the investigation for the reported stolen 1986 Chevrolet Camaro under case #97-2308. This vehicle had been taken from a parking lot at 100 Church Street by an unknown subject. During patrol briefing for the evening watch at the Martinez Police Department, information concerning the stolen vehicle was disseminated to the beat officers. Officer RAY of the Martinez Police Department was assigned to make a security check at the victim's residence at [REDACTED] in Martinez as there was victim's personal identification, keys, etc. in the stolen vehicle. Officer RAY advised that he made contact with the victim and upon contact, he realized that he knew the victim and was familiar with the stolen 1986 Camaro.

While on routine patrol at approximately 19:00 hours, Officer RAY was southbound on Pine Street at Warren Street when he observed a red Camaro going northbound past him on Pine Street. Officer RAY checked and observed the personalized license plate on the vehicle ([REDACTED]). He then confirmed this was the license plate and description of the vehicle which had been reported stolen. Officer RAY then made a U turn in the roadway and attempted to follow the suspect vehicle. Officer RAY advised that he observed a white male adult driving the vehicle. As he turned around, he saw the suspect vehicle turn onto westbound Arriba Street from Pine Street and it appeared to accelerate. Officer RAY said that he then received confirmation on his radio of the vehicle having been reported stolen and he attempted to follow. Officer RAY advised that in the area of Arriba Street at Willow, he turned on the emergency lights of his marked patrol vehicle and attempted to make a traffic stop on the suspect vehicle. At this time, the suspect vehicle accelerated very rapidly as it approached Pacheco Boulevard. The vehicle swerved into southbound Pacheco Boulevard, nearly hitting a bicyclist who had been riding on Pacheco Boulevard. The suspect had to take extreme evasive action to keep from striking this bicyclist. Officer RAY stated that at this time he advised Dispatch that he was in pursuit, activated the siren on his marked patrol vehicle and attempted to apprehend the suspect. Officer RAY stated that he followed the vehicle southbound on Pacheco Boulevard to Beech Street where the suspect made a right turn on Beech Street, drove one block to where Beech Street dead ends and made a right turn on LaSalle Street. The vehicle then drove northbound on LaSalle to Gregory Avenue, to Pine Street where the suspect turned

southbound on Pine Street to Andrews Drive. Officer RAY said that the vehicle at this time was being driven at a very rapid manner, tires squealing, accelerating heavily in an obvious attempt by the suspect to avoid apprehension. Officer RAY stated that the vehicle then turned right onto Andrews Drive and accelerated heavily. Officer RAY realized that Andrews Drive was a dead end street and therefore, attempted to have other officers respond to this area to apprehend the suspect in the dead end court area. Officer RAY stated that the suspect drove into the dead end of the court where he made an emergency stopping maneuver. Officer RAY stated that he then drove his patrol vehicle into the court area and attempted to park his vehicle across the roadway in such a manner as to keep the suspect from being able to exit the court. Officer RAY stated that he then stepped from his vehicle, standing behind the driver's front door and was preparing to draw his service revolver to apprehend the suspect. He stated the suspect then made a very aggressive turning movement, spinning his vehicle around to where the suspect vehicle was directly facing Officer RAY who was now standing behind the driver's door of the marked police unit. Officer RAY said that the vehicle then came to a stop and he and the driver made direct eye contact. Officer RAY stated at this time, the suspect accelerated the vehicle very heavily, (which he heard by the sound of the roaring engine and the screeching of tires breaking traction as the suspect accelerated towards him). Officer RAY stated that it appeared as if the suspect was going to ram his vehicle, so he turned and ran to the rear of his patrol vehicle. Officer RAY stated that the suspect vehicle then struck the parked patrol vehicle adjacent to the front door which was standing open, driving the door closed and causing extensive body damage to the entire left (driver's) side of the patrol vehicle. The suspect vehicle continued in a rapidly accelerating manner towards the rear of the patrol vehicle, at which point, the suspect vehicle struck Officer RAY, driving Officer RAY over the hood of the vehicle and throwing him to the ground as the suspect vehicle passed. Officer RAY stated that he was thrown approximately twenty (20') feet to the pavement where he sustained minor injuries to his left arm, consisting primarily of skin abrasions (i.e. Road Rash) and impact pain to his hand. Officer RAY stated at this time, he immediately got on his police radio as he observed the suspect vehicle continuing eastbound on Andrews Drive towards Ulfonian. Officer RAY stated that he advised, via radio, that the suspect had just assaulted him and the direction of the suspect's travel. Officer RAY stated at this time, he realized that he had sustained some minor injuries upon being struck by the

suspect vehicle, so he requested a Code 2 ambulance respond to his location. Officer RAY stated at this time, he heard Officer FERRARI advising that the suspect vehicle had now turned onto eastbound Ulfonian Way and he was giving chase to the suspect vehicle. Officer RAY stated that shortly afterwards, he heard the sound of two gunshots and heard officers on the radio advising that shots had been fired at the suspect vehicle. Officer RAY stated at this point, he then returned to his patrol vehicle, discovered that the driver's door had been damaged to the extent that it would not remain closed, so seat belted himself into the vehicle and attempted to respond to the area where the shots had been fired on Ulfonian Way near Pine Street. Officer RAY stated that by the time he arrived at the Ulfonian/Pine Street area, the suspect and officers had fled that area. Officer RAY heard on the radio that the suspect was being pursued by officers southbound on Pacheco Boulevard towards 680. Officer RAY said that he attempted to parallel the pursuit by driving southbound on Pine Street to Highway 4. He then entered onto Highway 4 in an eastbound direction while overhearing on the radio that the pursuit was now driving southbound on 680 and the suspect had then turned westbound on Highway 4. Officer RAY stated that at this time, he was just to the east of the Morello Avenue overcrossing. He pulled into the center divider to wait and ascertain the direction of the pursuit. Officer RAY stated that he then heard over the radio that the suspect was now driving the suspect vehicle westbound in the #1 eastbound lane of Highway 4. Officer RAY stated that he then observed the suspect vehicle approach his location where his vehicle was parked in the center divider with his emergency lights activated. The vehicle then approached within approximately fifty (50) yards of his unit and he removed the shotgun from his unit for use if necessary in an attempt to disable the suspect vehicle. Officer RAY stated that suddenly and without warning, the suspect vehicle veered to the left across the three (3) eastbound traffic lanes of Highway 4, up a slight dirt and grass covered embankment. The suspect then drove the vehicle through a six (6') foot high cyclone fence at the boundary line of the freeway and onto westbound Muir Road. Officer RAY stated at this time he had personal knowledge that shots had been fired at the suspect, the suspect had attempted to run over him and had struck him with his vehicle and was driving in a manner that was so reckless as to grossly endanger the safety of other motorists. Officer RAY stated that he then ran across the eastbound traffic lanes of Highway 4 and ran to within approximately five (5') feet of the cyclone fence. Officer RAY then fired three (3) rounds from his department issued

12 gauge shotgun at the suspect vehicle as it passed westbound past his location. Officer RAY stated it was his intent to attempt to disable the vehicle at this time. He stated that he fired his first round and struck the vehicle in the right rear quarter panel. He thought the second round may have broken out the passenger window and the third round struck the vehicle again, probably to the right rear. Officer RAY stated that the vehicle continued to accelerate very rapidly, driving westbound on Muir Road out of his sight. Officer RAY stated that he immediately returned to his vehicle and returned in a westbound direction towards Morello Avenue, entering Morello Avenue and began an area check for the suspect vehicle. Officer RAY stated that he had driven southbound on Center Avenue and then eastbound onto Vine Hill Way, where he observed the suspect vehicle driving southbound on Vine Hill Way with a white Sheriff's unit directly behind the suspect vehicle. Officer RAY stated that as he approached with his emergency lighting on, the suspect took an evasive action by turning onto eastbound Ashwood Drive. Officer RAY stated that he then pursued the vehicle with his emergency lighting and siren on Ashwood Drive to Beechwood Drive. The suspect took a right turn on Beechwood and as he approached Elderwood Drive, he was driving at approximately 50 - 60 miles per hour and attempted to stop and make a left turn onto northbound Elderwood Drive. Officer RAY stated that the suspect locked his brakes up and skidded past the intersection, but he backed up and was attempting to swing his vehicle to the side to make a left turn onto northbound Elderwood. As he approached, Officer RAY stated at this time, he was in fear that if the suspect continued to flee, someone would be seriously injured, so at this time, he drove his patrol vehicle with his emergency lighting and sirens still activated into the left (driver's) side of the suspect vehicle, driving the suspect vehicle onto the curb to an adjacent yard where the suspect vehicle was then apparently disabled. Officer RAY stated that as he was attempting to get out of his patrol vehicle, the suspect was still attempting to re-start the suspect vehicle in an apparent attempt to continue to escape. Officer RAY stated that he then drew his service revolver and yelled at the suspect to give up or he would be killed. At this time the suspect stopped his attempts to re-start the suspect vehicle. Additional Martinez Police Department units arrived at this time. Officers BUTLER and GAUL assisted in taking the suspect out of the suspect vehicle and securing him in handcuffs adjacent to the suspect vehicle.

Officer RAY indicated that he was sure that it was the suspect's intent to run over him when

he was cornered at the dead end of westbound Andrews Drive at which time the suspect intentionally drove his vehicle into the side of the marked patrol vehicle and then struck Officer RAY, throwing him onto the pavement.

The suspect was taken into custody for violation of CVC 2800.2 - Evading Arrest, 245© - Assault with a Deadly Weapon on a Police Officer. The suspect was then transported by AMR ambulance to the Contra Costa County Hospital (Merrithew Memorial Hospital) for medical examination of an apparent minor wound to his left forearm area. Officer MUNCHER of the Martinez Police Department accompanied the suspect in the AMR ambulance to the hospital. At the Contra Costa County Hospital, Martinez Police Reserve officers remained with the suspect until Detective WALKUP responded and transported the suspect to the Martinez Police Department after the completion of suspect's examination and treatment.

I next spoke with Officer FRANK FERRARI of the Martinez Police Department who told me that he and Officer STEVE GAUL had been a two-man unit operating as Beat 2 on this evening shift. Officer FERRARI stated that he had also received information of a possible stolen vehicle at the evening briefing. He had been assigned to conduct a follow up investigation at 2229 Pacheco Boulevard on a previously reported offense. Officer FERRARI stated that he and Officer GAUL had arrived at the Pacheco Boulevard residence and were walking up to the residence when they overheard Officer RAY advise that he was following the possible stolen vehicle and then heard Officer RAY go into pursuit of the stolen vehicle. Officers FERRARI and GAUL then returned to their patrol vehicle and drove to an area on northbound Pacheco Boulevard near Cedar Street, where they stopped to await the possible arrival of the suspect vehicle. Prior to arriving at that location, they heard Officer RAY advise that the suspect had turned right (westbound) onto Beech Street and then to LaSalle Street. Officer FERRARI stated that he and Officer GAUL then proceeded to back up Officer RAY. Officer FERRARI stated that they proceeded to LaSalle Street and drove southbound on LaSalle Street to Bush Street, then westbound on Bush Street to Pine Street in an attempt to intercept the possible suspect vehicle. At this time, they were advised by Officer RAY that the suspect vehicle had turned westbound on Andrews Drive, was headed into a dead end street and that he was attempting to get officers to respond to that location to possibly get involved in a foot pursuit. Officer FERRARI stated that they then drove westbound onto Andrews Drive heading

towards the west end of Andrews Drive. As they approached the intersection with Ulfonian Way, they could see the overhead rotating lights on Officer RAY's vehicle. They were advised by Officer RAY that the suspect had just assaulted him with the suspect vehicle and was now eastbound on Andrews Drive. Officer FERRARI stated at this time, they suddenly saw the suspect vehicle appear, driving directly towards the now stopped marked Martinez Police patrol vehicle and believed that the suspect vehicle was traveling at such a speed that it would probably either strike their unit head on or possibly broadside. They were preparing for the impact and observed the suspect vehicle make a left turn onto eastbound Ulfonian Way and immediately was out of sight by the time they attempted to start their patrol vehicle and give chase. Officer FERRARI stated that as they proceeded eastbound on Ulfonian, they came around a curve in the residential area, observed the suspect vehicle had struck a parked Ford sedan and that the suspect vehicle was stuck to this parked vehicle. They stated it was very obvious that the suspect vehicle was attempting to free itself from the parked vehicle. This was demonstrated by the sound of a loud acceleration of the vehicle's engine and tire smoke coming from the tires as the suspect attempted to force his vehicle away from the parked vehicle. Officer FERRARI stated at this time, Officer GAUL, who was driving the patrol vehicle, pulled to the right side of the suspect vehicle, coming to a stop with the bumpers of the suspect vehicle and patrol vehicle approximately adjacent. Officer FERRARI stated that he immediately exited the patrol vehicle, ran around towards the front of the suspect vehicle approximately ten (10') feet in front of the vehicle and began to yell in a very loud manner for the suspect to stop his attempts to flee and to shut the engine off. Officer FERRARI stated that he repeatedly yelled these instructions to the suspect. Suddenly it appeared that the suspect vehicle had become free of its contact with the parked vehicle and lurched forward, accelerating rapidly directly at him. Officer FERRARI stated that he had to immediately back away to the left to avoid being struck. He stated as the vehicle approached him, he discharged one round from his department issued .40 caliber Beretta pistol with the round striking the right front passenger window of the suspect vehicle. Officer FERRARI stated that the vehicle then drove past him, at which time, he heard one more gunshot as apparently, Officer GAUL had also discharged his hand gun at the suspect vehicle. Officer FERRARI stated that the suspect vehicle drove across Pine Street and continued in an easterly direction on Ulfonian Way out of sight. Officer FERRARI stated that at this time, he yelled

at Officer GAUL to give pursuit of the suspect vehicle and Officer GAUL immediately drove away from the area leaving Officer FERRARI behind. Officer FERRARI stated at this time he hailed a passing motor vehicle, a pickup truck and requested assistance from this party to attempt to follow Officer GAUL to a termination of the pursuit. Officer FERRARI stated that the driver of the pickup truck, known to him as [REDACTED] provided him transportation to the location at Beechwood and Elderwood where the pursuit was terminated by the intentional intervention of Officer RAY. Officer FERRARI stated that the suspect was in custody upon his arrival and he took no further action in the incident.

I then spoke to Officer STEVEN GAUL of the Martinez Police Department who told me that he and Officer FERRARI had been a two-man unit working Beat 2. Upon hearing the pursuit that was radioed by Officer RAY, he was driving the patrol unit and they attempted to follow Officer RAY through the pursuit and assist in the apprehension of the suspect. Officer GAUL stated that he overheard Officer RAY advising that the suspect was westbound on Andrews Drive toward the dead end and Officer RAY was attempting to get units to respond to the area and assist in what he felt could possibly be a foot pursuit. Officer GAUL stated that they arrived at the area of Andrews and Ulfonian Way and he overheard Officer RAY advise that he had just been the victim of an assault with a deadly weapon and that the suspect was now eastbound on Andrew Drive towards Ulfonian Way. Officer GAUL stated that at this time, he observed the suspect vehicle eastbound on Andrews Drive driving directly towards his patrol vehicle which was now stopped in the intersection at Andrews near Ulfonian Way. Officer GAUL stated that the suspect vehicle was being driven at this time at such a speed that he feared that the suspect vehicle would collide with his patrol vehicle and he began to brace himself for the collision. He stated that somehow the suspect was able to make a left turn onto eastbound Ulfonian and then immediately passed out of sight as the roadway at this area is a right hand curve in the residential area. He stated that he immediately began to follow the suspect vehicle and as they came around the curve, he observed that the suspect vehicle had struck a parked car and appeared to be entangled with this parked vehicle. He stated that he observed the suspect vehicle rocking back and forth and saw smoke coming from the rear tires as the suspect was attempting to accelerate the vehicle to escape. Officer GAUL stated that he drove along the right side of the suspect vehicle, stopping his patrol vehicle adjacent to the suspect vehicle with the

bumpers in a nearly adjacent fashion. Officer GAUL stated that immediately upon coming to a stop, Officer FERRARI exited the patrol vehicle and ran around to about ten (10') feet in front of both the suspect vehicle and the patrol vehicle. Officer GAUL stated that he attempted to get out of his patrol vehicle, but it was stopped so closely to the side of the suspect vehicle that he was unable to open the driver's door far enough to get out. He stated that he had his left leg out of the vehicle and as the suspect vehicle rocked backwards, it struck the open door of the patrol vehicle, temporarily pinning his leg between the door and the door jam. Officer GAUL stated that the suspect was "gunning" the engine in a very aggressive manner and that the suspect vehicle was rocking back and forth as the suspect attempted to free the suspect vehicle from the parked vehicle he had hit. He stated that the suspect was finally able to free his vehicle, lurched forward, driving directly forward at Officer FERRARI, who was still in front of the patrol and suspect vehicles. Officer GAUL stated that as the suspect vehicle passed forward enough that he was able to get out of his vehicle, he stood up at which time, he observed Officer FERRARI take evasive action to keep from being struck by the forward moving suspect vehicle. He stated that the suspect vehicle passed within approximately five (5') feet of Officer FERRARI, who then discharged one round from his service revolver into the right side of the suspect vehicle. Officer GAUL stated at this time that the suspect vehicle had been driving directly towards Officer FERRARI and he feared for Officer FERRARI's safety, so he also discharged one round from his service revolver at the suspect vehicle in an attempt to stop the vehicle from proceeding forward. Officer GAUL stated that he feels he possibly hit the suspect vehicle in the rear. Officer GAUL stated that he fired one round from his .40 caliber department issued Beretta pistol. Officer GAUL stated that at this time, the suspect vehicle passed forward, continuing in an eastbound direction on Ulfonian Way across Pine Street where it struck another parked vehicle then it passed out of sight eastbound on Ulfonian. Officer GAUL stated that at this time, Officer FERRARI was at the north curb line of Ulfonian Way near the parked vehicle and yelled for him to give pursuit of the suspect. Officer GAUL stated that he accelerated across Pine Street eastbound on Ulfonian Way and as he approached LaSalle, he saw another Martinez Police unit being operated by Sergeant DAVID BROWN coming towards him in a westbound direction. Officer GAUL stated that the suspect vehicle then side swiped the patrol vehicle being driven by Sergeant BROWN. Officer GAUL stated that he felt the impact with the

marked patrol vehicle driven by Sergeant BROWN was an intentional act as there was plenty of room in the roadway for the suspect vehicle to pass by the patrol vehicle without making contact. Officer GAUL stated that the patrol vehicle (unit #1215) operated by Sergeant BROWN, was well within his traffic lane and the roadway was of a sufficient width for both vehicles to pass. In fact, he easily passed by Sergeant BROWN's vehicle after the impact and continued the pursuit. Officer GAUL stated that he followed the suspect vehicle now being operated in a very aggressive and rapid fashion eastbound on LaSalle for approximately one more block, where the suspect vehicle turned southbound on Pacheco Boulevard. Officer GAUL was now in pursuit of the suspect vehicle as it continued southbound on Pacheco Boulevard. Officer GAUL indicated that the suspect was driving the vehicle at approximately 60 miles per hour at this point. As the vehicles passed Morello Avenue, Officer GAUL was advised by Sergeant BROWN that part of the vehicle operated by Officer GAUL was dragging on the ground which was a possible hazard. Sergeant BROWN then passed Officer GAUL and took over as the primary officer in the pursuit with Officer GAUL then following behind. Officer GAUL advised that the suspect vehicle continued southbound on Pacheco Boulevard onto southbound Freeway 680. The suspect vehicle continued southbound on 680 being driven at a high rate of speed, which he estimated to be somewhere between 80 and 90 miles per hour and that the suspect vehicle was weaving back and forth between the #1 and #2 traffic lanes, passing vehicles in a very erratic manner. Officer GAUL stated that the suspect then took the transition ramp from southbound 680 onto westbound Highway 4 and continued westbound on Highway 4 with Sergeant BROWN and Officer GAUL in pursuit. Officer GAUL stated that after passing over the Pacheco Boulevard overcrossing, the suspect vehicle passed several cars on the right shoulder of Highway 4 and then immediately crossed over onto the #1 eastbound lane, passing between two cement trucks. He stated that the cement trucks had to take evasive action to avoid contact with the suspect vehicle. The suspect continued westbound on Highway 4 at speeds approaching 70 - 80 miles per hour with Sergeant BROWN directly behind him. Officer GAUL stated that at this time, a Sheriff's patrol unit also became involved in the pursuit and was operating directly behind Sergeant BROWN. Officer GAUL stated that he observed the suspect vehicle cross over the center divider and then onto the #1 eastbound traffic lane of Highway 4 where the suspect continued to drive at 60+ miles per hour into oncoming traffic. Officer GAUL stated at this point that he noticed numerous vehicles in the

eastbound traffic lanes having to take emergency evasive action in order to avoid impact with the suspect vehicle. Officer GAUL stated that he drove past the suspect in the westbound lanes with the intent of trying to get ahead of him to see if there was some place that he could either be forced back into the open traffic lane or other intervention could be done. Officer GAUL stated that as he passed the suspect vehicle, he observed Officer RAY parked in the center divider west of this location with his emergency equipment operating. He stated that as the suspect approached near Officer RAY's vehicle, he suddenly veered to the left across the three traffic lanes of eastbound Highway 4, drove his vehicle through the cyclone perimeter fence of the freeway onto westbound Muir Road. Officer GAUL stated at this time, he exited the freeway at Morello, crossed back and attempted to locate the suspect through a grid pattern. Officer GAUL advised that after he left the freeway, he heard something dragging from his vehicle. At this time, he stopped in the area of Vine Hill at Paradise Drive and noted that the front bumper of his unit had been torn loose by the contact with the suspect vehicle on Ulfonian at Pine Street. Officer GAUL advised at this time he was able to remove the remainder of the front bumper which he left in front of a residence at Paradise Drive for pick up by other units of the Martinez Police Department. He then continued the area search for the suspect vehicle. Officer GAUL stated that he then heard Officer RAY state that he had again located the suspect vehicle in the area of Vine Hill Way at Ashwood Drive and that the pursuit was again being given eastbound on Ashwood Drive. Officer GAUL stated that he then proceeded to the area of Beechwood Drive at Center Avenue where he was advised that the pursuit had been terminated by legal intervention. He then responded to the area of Beechwood Drive at Elderwood where he assisted Officers RAY and BUTLER in removing the suspect from the suspect vehicle and securing him in handcuffs, awaiting the arrival of medical treatment and further investigation. Officer GAUL advised that he did not receive any personal injuries to his leg when it was pinned between the rocker panel of his unit by the suspect vehicle. I further inquired from Officer GAUL as to why he had decided to use lethal force attempt to stop the suspect and he stated that from his vantage point, he observed the suspect vehicle driving directly towards Officer FERRARI and accelerating heavily. He stated that Officer FERRARI had to throw himself to the side to avoid being struck. Officer GAUL stated that he fired the round at the suspect vehicle in an attempt to stop the suspect vehicle but after the vehicle had passed by Officer FERRARI, he did not see any other

immediate life threatening injuries, so he did not fire any additional rounds.

I then spoke with Sergeant DAVID BROWN of the Martinez Police Department who stated that he overheard Officer RAY becoming involved in a pursuit and he responded to the area. Sergeant BROWN advised that he heard Officer RAY had been in the dead end of Andrews Drive and that Officer RAY had been the victim of an assault by the suspect vehicle. He also then overheard that shots had been fired in the area of Ulfonian at Pine Street. Sergeant BROWN stated that he was on Pacheco Boulevard turned onto westbound Ulfonian when he overheard that the suspect vehicle had continued in an eastbound direction on Ulfonian. Sergeant BROWN stated that he immediately observed the suspect vehicle coming towards him at, what he described as, a heavily accelerated and high rate of speed for the narrow residential street. Sergeant BROWN stated that the suspect vehicle approached him and it suddenly veered to the left, side swiping his marked patrol vehicle, knocking the left rear view mirror and causing body damage to the full length of the driver's side of his unit. Sergeant BROWN stated that he felt it was an intentional act on the part of the suspect as the road width was sufficient for both vehicles to pass by without any contact. Sergeant BROWN stated that this was also demonstrated by the fact that Officer GAUL immediately followed past his patrol vehicle without any difficulty passing between the two, therefore, he felt there was more than sufficient roadway width at this location. Sergeant BROWN stated that he immediately made a U turn and entered into the pursuit.

Sergeant BROWN stated that the suspect vehicle was southbound on Pacheco Boulevard, driving in between 50 - 60 miles per hour in the 25 mile per hour zone and increasing to between 60 - 70 miles per hour, passing Morello Avenue where the roadway widens and the speed limit is 45 miles per hour. Sergeant BROWN stated that as they passed by Morello, he advised Officer GAUL that part of Officer GAUL's vehicle was dragging and for officers' safety, he should back off and allow Sergeant BROWN to become primary on the pursuit. He stated that he then began to follow the suspect vehicle onto southbound Freeway 680 where the suspect vehicle accelerated to speeds between 80 - 90 miles per hour and was seen weaving between traffic lanes, passing vehicles on both sides, nearly striking a large tractor trailer truck that was southbound on 680. Sergeant BROWN stated that the vehicle continued southbound until it turned onto westbound Highway 4. He stated that the suspect passed several vehicles on the right hand shoulder and then made an abrupt left hand

movement passing between two closely following large cement trucks. One of the vehicles had to apply its brakes very abruptly to avoid contact with the suspect vehicle. Sergeant BROWN stated that the suspect then continued westbound in the #1 traffic lane and that upon approaching the Glacier Drive overcrossing, the suspect crossed through the dirt and grass center divider and entered onto the #1 eastbound lane of Highway 4 and began to travel against the flow of traffic in this lane. Sergeant BROWN stated that he noticed there was moderate traffic eastbound at this location and that numerous vehicles had to take evasive action to avoid contact with the suspect vehicle. Sergeant BROWN stated that as they were approaching the area adjacent to the 1700 block of Muir Road, he observed Officer RAY's police vehicle parked in the center median to the west with the emergency lights flashing and at this time, the suspect made an abrupt left turn across the three eastbound traffic lanes of Highway 4, drove through the cyclone fence and onto westbound Muir Road. Sergeant BROWN stated that he observed a Contra Costa County Sheriff's unit follow the suspect vehicle through the now downed fence line in a continued attempt to pursue the suspect vehicle. Sergeant BROWN stated that he immediately left the freeway onto Morello Avenue exit and began an area check in the area south of Highway 4 and east of Center Avenue. Sergeant BROWN stated that he later overheard Officer RAY advise that he was again in pursuit of the vehicle on Ashwood Drive and that the pursuit had been terminated by lawful intervention at the intersection of Elderwood Drive at Beechwood. Sergeant BROWN stated that he immediately drove to that location and, upon arrival, found that the suspect had been taken into custody by Officer GAUL and BUTLER with the assistance of Officer RAY.

I then spoke with Contra Costa County Sheriff's Deputy RANDY ELEY, #42073 who advised that he had been on routine patrol in a marked Sheriff's unit in the area of Pacheco Boulevard when he overheard information that Martinez units were in pursuit of a suspect vehicle and that shots had been fired. Deputy ELEY advised that he became involved as the #2 vehicle in the pursuit as the suspect vehicle was westbound on Highway 4. He observed the suspect vehicle cross into the opposite traffic lanes eastbound on Highway 4, operating the vehicle at a high rate of speed westbound in the #1 eastbound lane. Deputy ELEY stated that he saw a police car in the median to the west with its' emergency lights and that as the suspect vehicle approached that location, it suddenly made a left turn across the traffic lanes through the cyclone border fence of the freeway.

Deputy ELEY stated at this time with his knowledge that the suspect was driving a stolen vehicle and that shots had been fired indicating the use of deadly force either by the suspect or by the Martinez units, he determined that he should follow the suspect vehicle through the fence line onto westbound Muir Road. Deputy ELEY advised that he was able to follow the suspect vehicle through several residential streets, which he was unable to identify at the time of my interview, as he was unfamiliar with the area. HE eventually came to the area of Elderwood at Beechwood where the suspect was stopped by the lawful intervention of the Martinez unit. Deputy ELEY advised that he had been attempting to contact his department via radio, but was unable to make contact and it was not until he stopped that he realized that the overhead light bar and radio antenna that was mounted on the roof of his unit was missing. Apparently the upper guidewire on the cyclone fence had made contact with the light bar, dragging it off the top of his unit, leaving him with no emergency lighting or radio contact. Officer ELEY was able to stay in contact with the suspect and able to alert Martinez units when he saw them in the area of Vine Hill Way at Ashwood Drive and proceeded to follow the pursuit to its' termination.

Suspect JERRY WHITE was transported to the Contra Costa County Hospital (Merrithew Memorial) and eventually to the Martinez Police Department where he was admonished and interviewed by Officers WALKUP and VANDERMEULEN. See their supplemental reports concerning this interview. Suspect WHITE was booked into the Contra Costa County Jail by Officer STARZYK of the Martinez Police Department. He was charged with four (4) counts of 243© - Assault with a Deadly Weapon on a Police Officer, One (1) count of 2800.2 CVC - Felony Evading Arrest, 23153 - Felony Driving Under the Influence of Narcotics or Alcohol and an outstanding parolee at large no bail warrant was served on the suspect.

It was Officer RAY's opinion that the suspect intentionally attempted to injure him in his attempt to escape from the end of Andrews Drive. Officer FERRARI indicated that he made eye contact with the suspect while he was attempting to remove the suspect vehicle from the parked vehicle after the collision on Ulfonian at Pine Street and that the suspect lurched forward in such a manner as to threaten Officer FERRARI's life. Sergeant BROWN indicated that as the suspect vehicle approached him eastbound on Ulfonian Way, the vehicle definitely swerved from his path to strike Sergeant BROWN's patrol vehicle, threatening Sergeant BROWN's life. It appears that the

suspect operated his vehicle in such a manner as to be grossly negligent in his attempt to evade pursuing officers. Investigation has also determined that the suspect vehicle apparently struck approximately three (3) to four (4) parked vehicles on Ulfonian during his passage through that residential area. Refer to supplemental investigative information by Detective WALKUP.

Request this report be forwarded to the District Attorney's office for review for criminal complaints.

R. DUFFIELD, #24

Iam 6/25/97

MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT

97-2328GW1 PAGE 1

On 6/24/97 at approximately 00:10 hours I interviewed JERRY WHITE in the interview room at the Martinez Police Department along with Detective VANDERMEULEN. The interview was both tape and video recorded. This will be a summary of that interview.

When I first started speaking with WHITE prior to it being tape recorded, I noticed that his speech was extremely rapid and he had great difficulty concentrating and staying focused on a particular subject matter. He continually changed topics and appeared to be confused about the sequence of events. Based on previous training and experience, I believed that he was probably under the influence of a central nervous system stimulant, probably Methamphetamine.

At approximately 00:10 hours, I advised WHITE of his Miranda rights verbatim from the admonishment card provided by MPD and he stated that he understood and was willing to provide a statement to me.

I asked WHITE to tell me what had happened, beginning with when he had taken possession of the Camaro. WHITE told me that "somebody" had been driving the Camaro and picked him up at the Methodist Church, (refer to case #97-2308 and #97-2311), sometime in the morning of 6/23/97 and that they drove around for a number of hours. He said that he came into possession of the Camaro at approximately 11:00 hours and did so after giving the other subject \$20, then he continued driving the vehicle around by himself. WHITE said that he noticed a CHP unit, (later determined to be Officer RAY of the Martinez Police Department), on Pine Street passing the opposite direction and noted that the unit made a U turn, at which time he decided to take off. He stated that he did not want to stop for the police unit because he knew that he had violation of parole and that "I knew I'd be through if I stopped."

WHITE denied stealing the vehicle and denied breaking into the church initially and continually blamed this on the "other" person for actually committing the crimes. Throughout the interview until the last portion of it, WHITE continually blamed this second person as having a part in the taking of the vehicle and dividing the property that was in the vehicle. I continually asked WHITE to stop lying and to tell me the truth regarding the various facts of the case. In order to put the report into chronological order and to better understand WHITE's statement, I took a number

of his statements out of sequence.

I asked WHITE how much Methamphetamine he had used and when was the last time he had used it and he admitted that he used approximately 1/16th of an ounce of Methamphetamine about two hours prior to being arrested. He stated that he purchased it in Martinez and that he had "slammed it". He said he had injected himself three (3) separate times over the course of twenty (20) minutes. He also admitted that he had been in Pittsburg earlier in the day and was "fronted twenty (20) rocks of Cocaine" for a price of \$190. He stated that he smoked six (6) of the rocks and traded the rest. He stated that he was supposed to pay the seller either \$190 in cash or various pieces of stereo equipment that the seller had told him.

I asked WHITE how he was able to gain entry into the First Methodist Church and he stated that it was at approximately 06:00 to 07:00 hours on 6/23/97 when he made entry into the church. He initially stated that the church door was open however, he admitted that he was able to pull it slightly and he used a silver crowbar and was able to force the lock open. He stated that the silver crowbar was in his bag that he had left in the car. He also stated that he had numerous other pieces of property in that bag. (Refer to item #33).

I asked him what he did once he was inside the church and he stated that he was there for approximately thirty (30) minutes. He went to the refrigerator in order to get something to eat and then went into one of the offices. He stated he was "just doing my thing, seeing what I could find". He stated that he found a phone card (item #9) on top of the desk. He remembered finding some apple cider in one of the rooms and brought it out, however, spilled it on the floor. He said that he rummaged through a desk and took a set of keys. I asked him why he took the keys and he stated that he usually takes the keys so that when the owner returns, they would be unable to gain entry into various offices and/or buildings.

I asked him how he gained entry into the Camaro and he told me that he observed the Camaro pull up into the parking lot of the day care center, across from the First Methodist Church and observed a lady get out of the vehicle with a child and walk away. He then walked over to the car and noticed that there were keys in the ignition. He opened the driver's door, got in and drove away.

WHITE continually told us that there was a second subject in the vehicle and had initially

stated that the second subject was driving, however, WHITE did admit that he was driving and later in the interview, admitted that he was alone throughout the entire incident, from breaking into the church until he was arrested.

I asked WHITE if he took the property that was in the Camaro and he admitted that he had. He had initially told me that the other subject had noticed the purse on the back seat and that he had rummaged through it, finding \$165 in cash, however, he stated that all he took was \$40. WHITE said that he took the \$40 in order to purchase Methamphetamine later. He stated that he took calling cards so that he could "take care of business". I asked him what he had done throughout the day and he stated that he had just driven around between Antioch, Pittsburg, Walnut Creek, Pleasant Hill and numerous other places. He admitted to purchasing the Cocaine in Pittsburg, the Methamphetamine in Martinez and stated that he had stopped at the Burger King on Muir Road in Martinez in order to purchase some food in the early evening hours. He stated that he believed it was between 5 and 6. While searching the duffle bag, I located a Burger King receipt dated 5/23/97 and time stamped at 18:48 hours. Refer to items #33 and #58. I asked him why he took the calling/credit cards out of the purse and he stated that he didn't want to leave the cards in the wallet in case someone else took them. He stated that he believed that he would get in trouble if someone else had taken them and used them. He did admit, however, that his intentions were to use them but he had not had the opportunity yet.

I asked him to explain the pursuit portion of the case and he told me that he was driving on Pine Street and noticed a CHP unit passing his location. He said that he saw the unit make a U turn and decided not to stop because he had knowledge of a warrant. He continued on Pine Street, however, could not remember the street names he had turned on but did remember driving into the court area, which I believed was Nicolette Court.

He stated that as he was driving into the court, he slammed on his brakes in order to make a U turn after realizing it was a dead end. He said that was when he heard a "bang" and then a second "bang", at which time, he collided with a police vehicle. WHITE was confused as to the sequence of the events and believed that he had been shot at while in the Nicolette Court area. After going over it a number of times, WHITE recalled that he slammed on his brakes and heard a shot. At this point, he ducked and "punched it" and said he was not looking when he struck the police

vehicle. WHITE denied ever hitting Officer RAY and stated at no time did he see Officer RAY outside of the police vehicle. WHITE admitted that when he was making the turn, he was able to see the police vehicle come to a stop, blocking him into the court. WHITE stated that when he struck the police vehicle, it was his intent to move it out of the way in order to continue fleeing. He stated that he struck the police vehicle on purpose and remembers a second collision, however did not know what he had hit. He believed he had gone up on a grass area adjacent where he had struck the police vehicle and hit a small white picket fence. He continued on Nicolette after striking the police vehicle back to Ulfonian towards Pine.

He stated that he remembered a second police vehicle coming head on at him at which time, he turned on Ulfonian from Andrews. WHITE believed that the second police vehicle, later determined to be Officers GAUL and FERRARI, cut him off and forced him to collide with the two parked cars in front of [REDACTED] [REDACTED] is the house located on the northwest corner of [REDACTED]. The vehicles that were struck belonged to Witnesses [REDACTED] and [REDACTED]. [REDACTED]'s vehicle was a Cadillac Seville and [REDACTED]'s vehicle was a Ford Galaxie).

WHITE stated that after striking the Cadillac and Ford, that he was boxed in by Officer GAUL. In his attempt to flee again, he placed the vehicle in 'forward' and 'reverse' numerous times attempting to break free of the vehicles. He stated that he believed he was hooked to Officer GAUL's vehicle and had felt the vehicle "rocking" numerous times and knew that the police vehicle was hooked to his vehicle somehow and that he needed to continually drive forward and backward in order to break free. He stated that he knew he was moving the police vehicle and eventually admitted that he knew he had struck it a number of times. He believed that at approximately the same time he was able to break free from the police and parked vehicles, he heard four (4) gunshots. He said that he believed he was being shot at and that was the reason he continued to flee. He stated that he remembered seeing the passenger in the police vehicle, later determined to be Officer FERRARI, exit the passenger side and run around towards the front of his vehicle. He said that he was able to see peripherally that Officer FERRARI was pointing a weapon at him and remembered hearing Officer FERRARI yelling at him. I asked him what he believed was being said and he stated that it sounded something like "get out of the car. Get out of the car." He then told me that he then believed there were two shots fired at him prior to his pulling away from the vehicle and three to four

shots after he was able to break free. We continually asked him why he did not stop and he stated that there was no way that he was going to stop while he was being shot at

WHITE said that he remembered seeing Officer GAUL get out of the vehicle on the driver's side as he was pulling away and remembered seeing Officer GAUL running up towards the passenger side of the Camaro. Once again I asked him if he thought he was going to be able to get away by hitting a police officer's vehicle and he stated that he thought he could break free by going in reverse and forward. He then realized that he kept hitting the vehicle however, had hoped that he would be able to break free and veer to the right in order to pass them. The way that WHITE described it would have meant that he was veering directly at Officer FERRARI in order to continue fleeing. I asked him where he thought Officer GAUL was going to go while he continually hit his vehicle in his attempt to break free and he stated that he didn't really think about it. I asked WHITE if he heard anything else and he admitted that he heard something similar to "get down. Get down right now."

WHITE stated that once he was able to break free from the parked/police vehicles, he remembered seeing glass flying from the passenger side of his vehicle and then heard a second shot within seconds. He stated that after seeing the glass break, he felt something hit his arm, however did not know what it was. He stated that he believed he had been shot and continued fleeing eastbound on Ulfonian crossing over Pine. He stated that he heard additional gunshots at which time he swerved to his left and struck another parked vehicle, later determined to be a Chevy El Camino parked in front of [REDACTED], belonging to [REDACTED]

WHITE then continued driving on Ulfonian, turning right on Pacheco Boulevard. I asked WHITE if he knew how fast he was going and he stated that he was going approximately 60 miles per hour, that he didn't believe he could go any faster because of the damage to his vehicle. I asked him if he remembered seeing people on the sidewalks and on the street and he stated that he did. He said that he saw numerous bicyclists and other vehicles traveling in the same direction that he was.

I asked him if he remembered any specific pedestrians and he stated that he remembered seeing a subject on a mountain bike with a couple of small children. He stated that they were going the same direction as he was. He remembered having to slam on his brakes because a subject was crossing the street and had to make quick evasive action in order not to hit the subject.

I asked him if he remembered which direction he went after leaving Pacheco Boulevard and he stated that he was unsure of the streets therefore, I picked up the story from the point he struck the fence on Highway 4 adjacent to Muir Road.

I asked him why he drove through the fence and he stated that he was on Highway 4 traveling westbound and noticed police vehicles up ahead. He stated that he believed they were there in order to set up a road block and he thought by crossing over Highway 4 that he would be able to get through a portion of the fence, at which time he would be able to lose any of the pursuing officers and get away. He stated it was his intention to get out of the vehicle and flee on foot afterwards.

He said that after crossing Highway 4, he was then driving westbound in the eastbound #1 lane of Highway 4. I asked him why he would drive in the oncoming lane of traffic and he stated that he believed it was safe because he was not going that fast and he told me that he continually honked his horn and believed that people would be able to both hear and see him in order to avoid any collisions.

WHITE said that he remembered after going through the fence seeing a subject on a bicycle that had to swerve out of his way in order to avoid a collision. I later interviewed a Subject named [REDACTED] and determined he was the subject that was jogging on the other side of the fence when WHITE had broken through it.

WHITE said that he continued fleeing after going through the fence and was apprehended a short time later. WHITE was unable to recall which streets he had driven on after fleeing the fence area and prior to being arrested.

I re-directed him back to the Nicolette Court area and asked him why he would hit the police vehicle. He stated that he was trying to get away and just trying to get past the officer. I asked him what he thought would happen when he hit the police vehicle and he stated that he didn't really think about it, that he was only trying to move the vehicle out of the way and he was only going 10 - 15 miles per hour. I advised him that Officer RAY had told me that he believed he had eye contact with him and WHITE denied doing so. WHITE continued to tell me that he had not seen Officer RAY by the vehicle and believed that he was still in the driver's position when he struck the vehicle.

At 02:45 hours, the interview was stopped and he was later processed by Officer STARZYK and transported to MDF.

G. WALKUP, #95

Iam 6/30/97

MARTINEZ POLICE DEPARTMENT

SUPPLEMENTAL REPORT

97-2328GW3 PAGE 1

On 6/29/97 at approximately 10:00 hours, I met with [REDACTED] (DOB: [REDACTED]; California driver's license # [REDACTED] at the Martinez Police Department. She was the room mate of [REDACTED] and I believed that she was also a victim of a possible burglary that may have been committed by WHITE.

I had [REDACTED] look at the property I had logged into MPD in order to possibly identify some of it as hers. She advised me that seeing the red Stanley hat (the one that WHITE had been wearing on Sunday, 6/08/97). She remembered Item #62 - Burnsomatic torch head as possibly belonging to [REDACTED]. She remembered him using a torch head that was very similar to that one in her kitchen in the past.

She remembered Item #63 - a black knife sheath with the phrase "The Best Defense" inscribed on it as belonging to her son. She stated that she did not know where it was taken from, however, believes that it would have been taken either from the garage or her son's bedroom. [REDACTED] called me at the police department and advised me that she had located her son's knife that went with the sheath and it also had the logo "The Best Defense" inscribed on it. She stated that the sheath was missing, however, still could not tell me exactly where it had come from.

She looked through Item #30 - the wood shoe shine box and stated that she believed the Shimano Deore XT bicycle rear derailleur belonged to her son. She also believed that the front derailleur was in the box as well. It was a specialized green "rock hopper" front derailleur and stated that both derailleurs were old parts that her son had taken off of his bicycle and left in the garage.

She advised me that she believed a couple of the other items may belong to [REDACTED] however, was not sure. She told me that she would attempt to contact [REDACTED] and have him contact me regarding the case and identifying possible property.

I spoke to Detective ISHIKOWA with the Concord Police Department and he told me that [REDACTED] had been assigned DR #97-15610 in which her Chevy S10 pickup truck had been stolen (California license [REDACTED] at the same time. Forward this supplemental report to Detective ISHIKOWA at the Concord Police Department for prosecution in that case.

G. WALKUP, #95

Iam 7/01/97

**MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT**

97-2328GW2 PAGE 1

On 6/23/97 at approximately 20:15 hours, I was called by MPD Officer GARY PETERSON and advised that I needed to respond to the police department for an officer involved shooting.

I arrived at the police department at approximately 20:45 hours and then responded to Ulfonian and Pine in order to gather evidence at that crime scene.

When I arrived, Reserve Officer SWINDELL and a CCCSO Deputy were already at the scene and had secured it. I brought Officer FERRARI with me in order to obtain a synopsis of what had happened at that scene and Officer GAUL responded in his patrol vehicle.

Officer FERRARI advised me of an expended shell casing on Ulfonian that was beside a parked vehicle parked in front of [REDACTED]. This was collected as Evidence Item #1 and later determined to have come from Officer GAUL's firearm. Officer FERRARI advised me that Officer GAUL had placed his baton on the ground next to the expended shell casing in order to locate it later. Officer FERRARI then showed me a second expended shell casing that was collected as Evidence Item #2 and determined to have come from Officer FERRARI's firearm. I collected both the expended shell casings and Detective VANDERMEULEN later obtained additional photos of the area and completed a diagram as to the exact locations. It should be noted that I took a series of photos of the crime scene as evidence.

There was moderate damage to the right front portion of the Cadillac Seville and moderate damage to the front left portion of the Ford Galaxie. The Chevy El Camino had been driven away by owner [REDACTED] prior to my ability to contact him. I was told by his girlfriend, [REDACTED] that his vehicle had been struck by the suspect.

After collecting the evidence and taking photographs, I contacted numerous witnesses that had been on the street during the time of the incident.

I first contacted a subject who identified himself verbally as [REDACTED] [REDACTED]). He told me that he was standing on the grass area between the Cadillac and the Ford Galaxie on Ulfonian. He heard screeching tires coming eastbound on Ulfonian and then noticed a red Camaro coming at a high rate of speed striking the Cadillac and then crashing into his Ford. The vehicle came to a complete rest, at which time a police vehicle, later determined to be Officers GAUL

and FERRARI, pulled up alongside the Camaro. He stated that the police vehicle did not strike the Camaro and he believed the police vehicle was blocking the Camaro in. He remembered seeing Officer FERRARI get out of the police vehicle from the passenger side of the vehicle and draw his weapon at the suspect. He remembered Officer FERRARI yelling at the suspect and then remembered the suspect putting his vehicle in forward and reverse, continually hitting the police vehicle in order to break free. He stated that he believed that the police vehicle and/or the Ford was hooked to the suspect vehicle and that is why the suspect continually went back and forth. He stated that at one point, he remembers seeing the suspect vehicle back up and he heard the engine revving very loudly. He saw a lot of smoke that he believed was coming from the suspect's tires, due to the rapid acceleration. He remembered seeing Officer FERRARI fire a round at the vehicle and heard the glass breaking from the suspect vehicle. He then went to the ground for safety reasons and remembered hearing a second shot within seconds of the first. He then saw the suspect vehicle flee that scene and strike the El Camino then continue traveling on Ulfonian towards Pacheco.

I next contacted [REDACTED] and she stated that she is visiting a relative at [REDACTED] and was inside the house when she heard a loud crash. She said that she came out onto the porch and saw the red Camaro pinned against her Cadillac by a police department vehicle. She observed the suspect driving his car in a reverse and then forward motion several times and hit the Ford while attempting to flee. She observed the suspect back up again and hit the police vehicle numerous times. She saw an officer exit the police vehicle passenger side and heard him yelling, however, could not remember what he was yelling. She then saw him shoot at the suspect vehicle and there was glass flying from the suspect vehicle. She stated that the officer was standing in front of [REDACTED] near the telephone pole. It should be noted that was where I located Evidence Item #2.

I next contacted [REDACTED] who resides at [REDACTED]. He stated that he was inside his residence with his son, [REDACTED] and heard a crash outside. He was in the doorway and saw the suspect vehicle at rest between the Cadillac and police unit. [REDACTED] did not see the officer exit the vehicle, however, saw him with a weapon in his hand and heard him yelling at the suspect similar to "Stop. Get down." He then saw the officer shoot and believed that the left rear window had been shattered. [REDACTED] stated

that he did not recall a second shot and had not seen Officer GAUL.

I then contacted his son, [REDACTED] and he told me that he saw an officer at the side passenger area of the police vehicle. Based on the location, I believed that it was Officer GAUL, however he was unable to describe the officer. He then saw the officer shoot at the suspect vehicle however, cannot remember hearing anything.

I next contacted [REDACTED] [REDACTED] who resides at [REDACTED]. She told me that she was in the house with her boyfriend, [REDACTED] and heard a collision west of their residence on Ulfonian. She said they both came outside to the front porch area and she could see the suspect vehicle between the Ford Galaxie and the police vehicle. She said that she observed the suspect vehicle going back and forth in an attempt to flee, striking both the police car and the parked car numerous times. She remembered seeing an officer on the passenger side of the suspect vehicle and could hear him yelling, however, was unable to make out what he was saying. She then thought she heard a gunshot, at which point she closed the door and did not see anything further. She said that she heard a second gunshot within seconds, however did not see anything further. Within a few seconds of the gunshot, she heard another crash and went outside and saw that the El Camino had been struck and pushed into her Ford Probe which was parked just east of the El Camino.

[REDACTED] told me that her boyfriend, [REDACTED] had to leave for work and had taken the El Camino and she provided his information and stated that I could contact him the next day.

After completing my interview with [REDACTED] I responded to Merrithew Memorial Hospital in order to make contact with the suspect, later determined to be WHITE. He was on a gurney in the emergency room area receiving treatment for a minor wound to his left inside forearm. Reserve Officers FERRER and SAGE were standing by with him and FERRER handed me a bag of property that had been taken from WHITE. FERRER told me that he had removed \$40 from WHITE's jeans pocket and a couple of wire neck chains that WHITE had been wearing. He had received the bag of property from Officer MUNCHER which included a wallet, (item #7), keys (item #8), a small piece of red plastic, approximately 1" x 2" that appeared to be some type of battery cover to a small electronic item (item #21), a single key stamped "15T" on it from his pocket by Officer FERRER (item #22).

I opened the wallet and located a Pacific Bell calling card with the name "First Methodist

Church of Martinez” and the phone number of “[REDACTED]” on it. I asked WHITE if he was willing to talk to me and he stated that he was. He appeared to be coherent and was able to speak to me. I asked him where he had obtained the [REDACTED] phone calling card and he stated that he was at the church earlier and an employee there had given it to him in order to allow him the ability to make phone calls. I then noticed that there were numerous cards including calling cards and photo Bank of America identification cards for a “[REDACTED]” in his wallet. I asked him where he obtained them and he stated that he didn’t know. At this point, I contacted Dr. [REDACTED] who was the emergency room attending physician treating WHITE. I asked him what type of wounds WHITE had sustained and he stated that the only one that he could find was a small circular bruise/laceration to the inside portion of his left forearm. I asked him if he believed that it was a gunshot wound and he stated that he did not believe it was and that it did not appear to be consistent with a gunshot type wound. He stated they had taken x-rays and had negative results for any foreign objects in his arm. Within approximately fifteen (15) minutes of my arrival, [REDACTED] advised me that WHITE was medically cleared and I had Dispatch send a marked patrol vehicle to transport WHITE to MPD for processing. Once at the police department, I recontacted WHITE and conducted the attached interview along with Detective VANDERMEULEN.

On 6/24/97 I conducted the following interviews:

On 6/24/97 around 12:00 hours, I contacted [REDACTED] who resides at [REDACTED]. He told me that he was standing at the top of the driveway next to the sidewalk. He then saw a red Camaro eastbound on Ulfian passing his residence. The Camaro then crashed into a parked car and hit a second parked car. He saw the patrol car pull up next to the Camaro, blocking it in and then saw the passenger in the patrol vehicle get out. [REDACTED] said that he could not recall what Officer FERRARI was saying to the suspect, however, he remembered him yelling. He also could not remember seeing Officer GAUL get out of his vehicle. He heard gunshots, however, did not recall how many due to taking cover and trying to protect his young son.

I next contacted [REDACTED] and he gave me essentially the same information that [REDACTED] did. He added that he saw the police unit pin the suspect in and saw the suspect going forward and reverse two or three times and then recalled seeing a lot of smoke from the suspect vehicle’s tires.

He heard a gunshot at which time ██████████ closed the door for protection. ██████████ said that he heard another collision outside his residence just after the gunshots and later determined that the El Camino had been struck, pushing it into his girlfriend's Ford Probe. ██████████ had no further information at this time.

After leaving that crime scene area, I responded to the area of Ulfonian and LaSalle with Detective VANDERMEULEN. While we were at that location investigating the area where Sergeant BROWN had been struck, a female subject who identified herself as ██████████ ██████████ residing at ██████████ contacted me. She said that she was in her residence looking out of the window when she heard the collisions west of her residence. She observed a police vehicle traveling westbound on Ulfonian in front of her residence and the Suspect red Camaro vehicle traveling eastbound. She stated that she saw the Camaro strike the driver's side door of the police vehicle and continued traveling towards Pacheco Boulevard. She was unable to see whether the suspect vehicle had swerved into the police vehicle and did not know if there was sufficient room to pass safely. She told me that she had picked up a mirror from the street and then gave it to me. It was determined to be the driver's side mirror from unit ██████████. I then located a second mirror on Ulfonian just east of ██████████ that was later determined to be the mirror from the driver's side on the suspect vehicle. Those items were placed into evidence as Items #31 and #32. Refer to Detective VANDERMEULEN's supplemental report and diagram for locations.

I was contacted by ██████████ at the police department later that day regarding the pursuit. He told me that he was jogging on Muir Road adjacent to the fence line at which time he heard the suspect vehicle and saw it crashing through the fence. He stated that he had to dive away from the vehicle in order to avoid being struck. He said that in doing so, he strained a muscle in his back and received various abrasions to his hands and arms. He told me that he did not receive medical care, however, his lower back was in a moderate amount of pain. He stated that he recalled seeing the Camaro come through the fence and then continue traveling on Muir Road. He had no further information.

I responded to the corporation yard along with Detective VANDERMEULEN in order to search the suspect/recovered stolen vehicle. I located a duffle bag (item #33) on the right passenger

floorboard. I opened it and noticed that there was a chrome/silver colored crowbar. I believed this was the crowbar that WHITE had referred to as using to make entry into the church. I logged this as item #34. I located a small red mini-radio (Benson & Hedges brand) with a missing battery cover. Later on at the police department, I matched the red plastic piece that had been taken from WHITE and found that it fit the Benson & Hedges brand radio. I logged this as Item #35. There was an empty box of Remington .38 caliber ammo (146 grain) in the bag. I located three loose live .38 caliber rounds in that bag, also. Those were logged in as items #40 and #41 respectively.

I located a ring of seven (7) keys (item #42). I located item #58 - a Burger King receipt dated 6/23/97 at 18:48 hours that matched with WHITE's earlier statement.

There was a hypodermic syringe in the center console area that WHITE had described earlier when discussing his drug usage. He had told me that I would find a hypodermic syringe in the console area. I found an additional hypodermic syringe on the rear passenger side seat. I located a Nokita cellular telephone (missing battery) with what appeared to be a bullet hole through it. I gave it to Detective VANDERMEULEN as evidence and he later logged it in. Refer to Detective VANDERMEULEN's supplemental report regarding the collection of the two bullets located in the vehicle.

Based on the items found, I called the victim, [REDACTED] and had her respond to the corporation yard in order to take possession of some of her property. When she arrived, she took possession of the following items, a black and grey wallet with a California driver's license of [REDACTED] in it, black organizer, Stanley brand garage door opener, numerous checks from a blue checkbook, numerous completed checks that were in an envelope with "Gifts" written on it, two GM keys, one of which was in the ignition and one that [REDACTED] stated she had left in the car as a spare key. There was a second checkbook with numerous checks with the name [REDACTED] and [REDACTED] on it that she took as well. [REDACTED] stated that it appeared that all of her checks were accounted for and she took possession of the above listed items. None of those items were listed as evidence in this case.

I had [REDACTED] look through the duffle bag and the rest of the vehicle for any additional property. She stated that nothing else in the vehicle belonged to her. (Refer to evidence sheet for additional items that were located in the duffle bag).

I responded back to the police department and contacted the [REDACTED]. He responded to the police department in order to identify property belonging to the church. He stated that the phone calling card belonged to his church and had been taken from an envelope that was in a desk drawer in his office. He stated that the rest of the miscellaneous cards were taken from a briefcase in the same office. Refer to photocopy of miscellaneous cards. He stated that there were keys taken from the right hand drawer of the desk in his office and he recognized items #42 and #43 as those keys. I released Items #9, #10, #42 and #43 to [REDACTED]. [REDACTED] told me that WHITE did not have permission to be in the church and that he desired prosecution against him for committing the burglary. For further burglary information, refer to report #97-2311 written by Officer PETERSON.

While conducting a further search of the duffle bag, I located a payroll stub for the name [REDACTED]. I located additional items in the duffle bag with [REDACTED]'s name on them, which included refinery photo identification card (Refer to items #36, #37, #38, #59.)

I contacted Detective ISIKOWA from the Concord Police Department and inquired about JERRY WHITE. He stated that WHITE was a suspect in crimes that were committed in the city of Concord and that he knew the name of [REDACTED] to be a room mate of one of the victims in his crimes. He provided me with the address of [REDACTED] with a telephone number of [REDACTED]. I attempted to make contact with [REDACTED] however, was unsuccessful.

I located a Public Storage card in the duffle bag with the number 401556 on it. While speaking to Detective ISIKOWA, he informed me that he believed WHITE had committed a number of burglaries and there was a large amount of property still outstanding. He told me that he was currently working a PC 12021 case against WHITE in which he was observed with a .38 caliber hand gun.

[REDACTED] responded to MPD and identified the key ring that had the red stretch cord on it as well as all of her personal credit cards. I released item #8, #11, #12, #13, #14, #15, #16, #17, #18, #19 and #20 to [REDACTED]. [REDACTED] informed me that there was approximately \$500 - \$600 in cash in her purse that came from her husband's payroll check. I located \$72 in US currency in WHITE's wallet and an additional \$40 in US currency in his pocket.

There were numerous other items in the duffle bag, however, at the time that I logged them into evidence, I was unable to identify anything further.

Forward report back to me for additional follow up regarding the items belonging to [REDACTED] and the storage unit card.

G. WALKUP, #95

Iam 6/30/97

MARTINEZ POLICE DEPARTMENT

SUPPLEMENTAL REPORT

97-2328JV1 PAGE 1

On 6/23/97 at approximately 21:30 hours, I was contacted at my residence by MPD Detective Sergeant R. DUFFIELD who requested that I respond to MPD for the purpose of assisting with this investigation.

I responded to the police department's communication center where I obtained the original reel to reel audio tape recordings of telephone and two way police radio communications. The tape was placed into evidence at MPD pending a re-recording of the original with that recording being transferred to cassette for ease and convenience of court play back.

On 6/24/97 at approximately 00:10 hours, I assisted MPD Detective WALKUP with the interview of Suspect JERRY WHITE. I subsequently placed into evidence the two 90 minute cassette tape recordings of the interview with Suspect WHITE. Refer to the supplemental report from Detective WALKUP.

On 6/24/97 at approximately 15:00 hours, I responded to the 1000 block of Ulfinian Way where I took photographs of the scene as well as roadway measurements. I then responded to the intersection of Ulfinian Way and LaSalle Street where I also took photographs of the scene and measurements of the roadway.

On 6/24/97 at approximately 16:45 hours, I responded to the city of Martinez corporation yard which was the location where the suspect vehicle in this investigation was being stored. I photographed the vehicle's exterior and interior and also took photographs of specific property items that were pointed out to me by Detective WALKUP for the purposes of his investigation. Since MPD officers involved in the pursuit and arrest of the suspect had discharged firearms at the suspect vehicle during various stages of the pursuit, I inspected the suspect vehicle for damage/evidence of having been shot at. Officers GAUL and FERRARI had both stated that they shot at the rear and passenger side of the suspect vehicle respectively and Officer RAY stated that he discharged three (3) shotgun rounds at the suspect vehicle. I inspected the left rear tail light assembly of the suspect vehicle and observed what appeared to be a bullet hole in the tail light lens. I opened the Camaro's trunk lid and was able to trace the path of the bullet presumably fired by Officer GAUL. I located an expended bullet that was lodged in the sound proofing material of the trunk approximately 1 1/2'

to 2' beyond the tail light assembly. The bullet's path had been stopped after striking interior body sheet metal of the trunk. I then shifted my attention to the passenger compartment of the vehicle, at which time I located a Nokia cellular telephone on the right front passenger floorboard area. I saw that the cellular telephone had sustained what appeared to be a bullet hole in the key pad portion, although there was no projectile presence. I then examined the driver's side floorboard area and recovered a second projectile presumably that fired by Officer FERRARI. I could clearly see that the bullet I recovered from the driver's floorboard area had a section of plastic embedded in it from the key pad of the cellular telephone. It would appear that the bullet came to rest on the floorboard after striking the cellular telephone. Both bullets were placed into evidence at the Martinez Police Department along with the cellular telephone. I did not observe any damage to the exterior of the vehicle that would have been consistent with being struck with shotgun pellets.

J. VANDERMEULEN, #64

Iam 6/27/97

SUPPLEMENT

97-2328
245 C PC

S-WHITE, JERRY

WITNESS: [REDACTED]
[REDACTED]

I assisted Det. WALKUP by interviewing witness [REDACTED] who had witnessed Officer's FERRARI and GAUL attempted to capture S-WHITE on Ulfina way near Pine Sts.

W- [REDACTED] said she had been waiting for a ride in front of Pine St. after she got off work. The W said she heard what sounded like a car crash then she saw the red camaro E/B on Ulfina way strike 2 (two) parked cars.

The W said the suspect vehicle became stuck against one of the parked vehicles and then a police car arrived and she saw a police officer standing in front of the suspect vehicle and she clearly heard the police officer yelling at the driver to "stop and to get out of the car". The W was approximately 150 ft. Away from the vehicles but she said she could clearly hear the officer yelling at the driver. The W also said she could hear the S vehicle's engine roaring as the driver attempted to flee.

The W said she then heard two gun shots as the S vehicle fled E/B out of site.

R. Duffield #24
6-24-97

**MARTINEZ POLICE DEPARTMENT
SUPPLEMENTAL REPORT**

97-2328JC1 Page 1

Witness:

[REDACTED]

Witness:

[REDACTED]

On 6-23-97 at about 2030 hours, I was called by the Martinez Police Dispatch center to respond to Mt Diablo Hospital, in Concord, to stay with Officer R. RAY #71. I was informed that Officer RAY was involved in a traffic accident and was being treated there for his injuries.

At about 2100 hours, I arrived at the emergency room of Mt. Diablo Hospital and stayed with Officer RAY until he was cleared medically by an emergency room physician. After Officer RAY was released from the hospital, I transported him back to the Martinez Police station.

I was then assigned to go to the area of Andrews Dr. to look for evidence of a vehicle collision. Upon my arrival there, I found what appeared to be shattered glass from a vehicle window. The majority of this glass was in front of [REDACTED], towards the west end of that residence. The center mass of this glass was approximately 228'5" W. of the prolongation of the W. curblineline of Nicolette Ct. and 10'0" N. of the S. curblineline of Andrews Dr. (Refer to attached diagram). I also collected three (3) samples of broken glass and submitted them for evidence.

While at Andrews Dr., I took six (6) photographs of the broken glass and area.

After I cleared from Andrews Dr., I went to the area of Muir Rd., east of Elderwood Dr.. While there, I attempted to locate evidence of Officer RAY's shooting his shotgun at the suspect's vehicle. Due to the darkness, I was not able to locate any evidence at this time.

On 6-24-97 at about 0845 hours, I went back out to Muir Rd., east of Elderwood Dr., and did recover three (3) spent shotgun shells (refer to attached diagram of area and recovery

locations, with measurements. Measurements were made with a rollatape and a steel 100 foot tape measure). The shell casings were marked and placed into evidence for safekeeping.

I also took seven (7) photographs of the area where the shells were recovered.

At about 1600 hours, I went back to the 900 block of Andrews Dr. to see if I could locate any witnesses to the incident when Officer RAY was struck by the suspect's vehicle. I contacted [REDACTED] at [REDACTED] and she told me she was out in front of her house, up by the N/E corner, in her yard. [REDACTED] heard a siren and the siren was getting closer to her home. [REDACTED] then saw a red Camaro heading towards the dead end of the street (W/B) at a high rate of speed. There was a police car behind the Camaro, and the police car had its emergency lights and siren on. The Camaro made a sharp U-turn at the cul-de-sac, and stopped facing an easterly direction, towards the police car. The police car came to a stop at an angle, blocking the path of the Camaro. As the police officer got out from his patrol car and went to the rear area of the patrol car, the driver of the Camaro "floored" the gas and aimed the Camaro at the police car, and at the officer. [REDACTED] further stated the driver of the Camaro did not hesitate to accelerate and hit the police car and the police officer. In [REDACTED] mind, the driver of the Camaro intended to hit the police officer with the Camaro, and did hit the officer. As the Camaro accelerated towards the police car and officer, the officer turned and tried to run away from the path of the car, but was hit from behind. The impact caused the officer to "fly" over the hood of the Camaro and to the north side of the roadway. After the officer was hit, and the Camaro sped off, the officer got up, went to his car and went after the fleeing Camaro.

[REDACTED] also informed me that the Camaro hit two (2) of her cars which were parked on Andrews Dr.. One of the cars is a 1988 Isuzu Trooper, red, 4 door, CA [REDACTED] This car was parked on the south side of the roadway, directly in front of [REDACTED], and sustained damage to the rear bumper. The other vehicle is a 1973 Ford F-250 p/u, white/brown/white, CA [REDACTED] This vehicle was parked on the north side of the roadway, across the street from [REDACTED], and sustained damage to the left side along the cargo

area.

██████████ closed by saying that a neighbor had swept up the broken glass and car parts that were left after the collision.

Witness ██████████ told me she saw the Camaro come down into the cul-de-sac, with the police car behind it. ██████████ did not see the collision between the two vehicles and the officer being hit due to her aunt (██████████) standing in front of her, however, ██████████ did hear the collision of the two cars hitting, and saw the Camaro as it sped off E/B on Andrews Dr. towards Ulfonian.

Nothing further by me.

J. CHASE #88
6-25-97

jvc

Continuation
 Supplemental

CONTRA COSTA COUNTY SHERIFF'S DEPARTMENT CA0070000
P.O. Box 391, Martinez, California 94553-0039

Beat _____
 HRO Arrest SI

1. DR No.	2. City Code LEN 20	3. Crime/Classification	4. Detail 1. _____ 2. _____	5. Reclassification <input type="checkbox"/>
6. Victim Name (L, F, M)		7. Date Orig. Report 6-23-97	8. Employee No. 42073	
9. Address / Location of Occurrence			10. Suspect's Name (L, F, M)	

11. Property Description:
Impounded, Recovered, Found, Lost, Stolen - Item Number, Article, Quantity, Brand/Make/Manufacturer's Model Number, Serial Number, Miscellaneous Description, Location Where Taken, Value, Include Total Loss - LIST IN FOLLOWING ORDER: A) Currency, Notes; B) Jewelry; C) Clothing, Furs; D) Vehicles; E) Office Equipment, F) Radio, TVs, etc.; G) Firearms; H) Household Goods; I) Misc.

12. Recovered Property \$	13. Narrative / Statements (1)
---------------------------	-----------------------------------

(2) I RESPONDED TO A PURSUIT BY MARTINEZ P.D.
(3) OF A 10851 WITH SHOTS FIRED. I JOINED MARTINEZ
(4) AT PACHECO ON RAMP, SOUTH BOUND 680. THERE WAS
(5) ONE UNMARKED UNIT AND A MARKED MARTINEZ UNIT.
(6) ALL UNITS AND THE SUSP. TOOK THE W/BOUND
(7) HWY 4 EXIT, WITH SUSP. UNIT WEAVING ALL THRU THE
(8) LANES, ON THE SHOULDER AND ALMOST STRIKING AN 18
(9) WHEELER.
(10) I WAS FOLLOWING THE MARTINEZ MARKED UNIT
(11) IN THE NUMBER 1 LANE W/B HWY 4 WHEN THE SUSP.
(12) VEH. CROSSED THE CENTER MEDIAN, DRIVING W/B IN THE
(13) E/B LANES. I CONTINUED W/B IN THE W/B LANES
(14) W/ MARTINEZ.
(15) I SAW A MARTINEZ UNIT ON THE MEDIAN,
(16) AND THE E/B TRAFFIC ON HWY 4 WAS STOPPED.
(17) THE SUSP. VEH. ATTEMPTED TURN AROUND, BUT FINALLY
(18) WENT OFF THE ~~THE~~ FREEWAY, DRIVING THRU
(19) A CHAIN LINK FENCE. I WAS THE #1 UNIT BEHIND
(20) THE SUSP. SO I CONTINUED BEHIND HIM, THRU THE
(21) FENCE.
(22) I HADN'T NOTICED THE WIRE STILL ATTACHED
(23) ON THE TOP OF THE FENCE AS I WENT THRU. I
(24) BELIEVE I LOST MY LIGHT BAR AND RADIO AT THIS
(25) TIME.

14. Distribution <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> DA <input type="checkbox"/> DE <input type="checkbox"/> L <input type="checkbox"/> O <input type="checkbox"/> SR <input type="checkbox"/> V <input type="checkbox"/> Investigation <input type="checkbox"/> Vice <input type="checkbox"/> Narcotics <input type="checkbox"/> Juv <input type="checkbox"/> Coroner <input type="checkbox"/> Property Clk <input type="checkbox"/> ACS <input type="checkbox"/> Intell. <input type="checkbox"/> R.O. <input type="checkbox"/> SHC <input type="checkbox"/> Patrol Captain <input type="checkbox"/> Compl. Ofc. <input type="checkbox"/> Marine Patrol <input type="checkbox"/> Other _____	15. Additional Routing 				
16. Reporting Deputy (Print) R. ELEY		17. Date / Time Written		18. Diapo.	
19. Approving Supv. (Print)		20. Supv. No.	21. Date	22. Page ____ of ____	

Continuation

CONTRA COSTA COUNTY SHERIFF'S DEPARTMENT CA0070000

Beat _____

P.O. Box 391, Martinez, California 94553-0039

Supplemental

HRO Arrest SI

1. DR No.	2. City Code CEN 20	3. Crime/Classification	4. Detail 1. 2.	5. Reclassification <input type="checkbox"/>
6. Victim Name (L, F, M)		7. Date Orig. Report 6-23-97	8. Employee No. 42073	
9. Address / Location of Occurrence			10. Suspect's Name (L, F, M)	
11. Property Description: Impounded, Recovered, Found, Lost, Stolen - Item Number, Article, Quantity, Brand/Make/Manufacturer's Model Number, Serial Number, Miscellaneous Description, Location Where Taken, Value, Include Total Loss - LIST IN FOLLOWING ORDER: A) Currency, Notes; B) Jewelry; C) Clothing, Furs; D) Vehicles; E) Office Equipment; F) Radio, TVs, etc.; G) Firearms; H) Household Goods; I) Misc.				
12. Recovered Property \$		13. Narrative / Statements (1)		
(2) WE ENDED UP W/3 ON MOIRRA. AT NO TIME				
(3) DID I DRWG INTO E/O TRAFFIC I FOLLOWED THE				
(4) SUSP. VEH ONLY AFTER ALL TRAFFIC WAS STOPPED.				
(5) I CONTINUED CHASING THE SUSP. VEH. NOT				
(6) REALIZING I HADNT A LIGHT BAR, AS MY SIREN				
(7) WAS WORKING, I FOLLOWED THE SUSP. THRU SEVERAL				
(8) RESIDENTIAL STREETS, REDWOOD, CENTER, ENDING UP				
(9) AT BECHWOOD AND EUDERWOOD, WHERE THE SUSP				
(10) VEH. TIKID WITH A MARTINEZ UNIT.				
(11)				
(12)				
(13)				
(14)				
(15)				
(16)				
(17)				
(18)				
(19)				
(20)				
(21)				
(22)				
(23)				
(24)				
(25)				
14. Distribution <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> DA <input type="checkbox"/> DE <input type="checkbox"/> L <input type="checkbox"/> O <input type="checkbox"/> SR <input type="checkbox"/> V <input type="checkbox"/> Investigation <input type="checkbox"/> Vice <input type="checkbox"/> Narcotics <input type="checkbox"/> Juv <input type="checkbox"/> Coroner <input type="checkbox"/> Property Ck. <input type="checkbox"/> ACS <input type="checkbox"/> Intel. <input type="checkbox"/> R.O. <input type="checkbox"/> SHC <input type="checkbox"/> Patrol Captain <input type="checkbox"/> Compl. Ofc. <input type="checkbox"/> Marine Patrol <input type="checkbox"/> Other _____		15. Additional Routing		
16. Reporting Deputy (Print)		17. Date / Time Written		18. Dispo.
19. Approving Supv. (Print)		20. Supv. No.	21. Date	22. Page ____ of ____

MARTINEZ POLICE DEPARTMENT
INVESTIGATION STATUS REPORT

CASE# 97-2328

INVESTIGATOR: Duffield

CRIME: 245 c pc

STATUS: A

REPORT DATE: 06-23-97

(A=Assigned)
(I=Information)

ASSIGNED DATE: 06-23-97

VICTIM#1: [REDACTED]

ADDRESS: MPD

CTY/ST/ZIP: ,

VICTIM# 2: [REDACTED]

ADDRESS: MPD

CTY/ST/ZIP: ,

SUSPECT#1: WHITE, JERRY

JUV: N

AKA:

DOB: 07-05-73

SUSPECT#2: ,

JUV:

AKA:

DOB:

DIRECT FILE: Y or N

DIRECT FILE DATE:

DISPO: Closed

DISPO DATE: 7-10-97

COMPLAINT CHARGE: 3 cts. 245 c / 10851 / 459 pc

EVIDENCE HELD: Y N

PRINTS HELD: Y N

JUVENILE CHARGE: 2800.2 / 496 pc

EVIDENCE TO LAB : Y N

PRINTS EVALUATED : Y N

FEL/MISD: F M

LETTER NEEDED: Y N

DESTROY EVIDENCE: Y N

COMMENTS: 16 felony counts felon

Sergeants Approval: [Signature] Date: 7-10-97 Data Entry: _____

MUNICIPAL COURT OF CALIFORNIA, COUNTY OF CONTRA COSTA
MT DIABLO JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

VS.

NO. 179390-0
DA NO. C 97 009224-7
COMPLAINT - FELONY

JERRY WHITE,

DEFENDANT./

- 01) PC 245(c)
- 02) PC 245(c)
- 03) PC 245(c)
- 04) CVC 10851(a)/666.5
W/PRIORS
- 05) CVC 2800.2
- 06) PC 459-460(b)
- 07) PC 496(a)
- 08) PC 487(a)
- 09) PC 12316(b)(1)
- 10) PC 496(a)
- 11) CVC 10851(a)/666.5
W/PRIORS
- 12) PC 496(a)
- 13) PC 459-460(a)
- 14) CVC 10851(a)/666.5
W/PRIORS
- 15) PC 12021(a)(1)
- 16) PC 417.3
W/DEF ENHANCEMENTS

M

The undersigned states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of PENAL CODE SECTION 245(c) (ASSAULT WITH DEADLY WEAPON ON PEACE OFFICER OR FIREMAN), committed as follows, to wit:

On or about June 23, 1997, at Martinez, in Contra Costa County, the Defendant, JERRY WHITE, by means of an automobile, a deadly weapon and instrument, and by means likely to produce great bodily injury, did wilfully, unlawfully and feloniously commit an assault upon the person of Roger RAY, a peace officer engaged in the performance of his duties; and the Defendant, JERRY WHITE, knew and reasonably should have known that Roger RAY was a peace officer engaged in the performance of his duties.

COUNT TWO:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of PENAL CODE SECTION 245(c) (ASSAULT WITH DEADLY WEAPON ON PEACE OFFICER OR FIREMAN), committed as follows, to wit:

On or about June 23, 1997, at Martinez, in Contra Costa County, the Defendant, JERRY WHITE, by means of an automobile, a deadly weapon and instrument, and by means likely to produce great bodily injury, did wilfully, unlawfully and feloniously commit an assault upon the person of Steve GAUL, a peace officer engaged in the performance of his duties; and the Defendant, JERRY WHITE, knew and reasonably should have known that Steve GAUL was a peace officer engaged in the performance of his duties.

COUNT THREE:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of PENAL CODE SECTION 245(c) (ASSAULT WITH DEADLY WEAPON ON PEACE OFFICER OR FIREMAN), committed as follows, to wit:

On or about June 23, 1997, at Martinez, in Contra Costa County, the Defendant, JERRY WHITE, by means of an automobile, a deadly weapon and instrument, and by means likely to produce great bodily injury, did wilfully, unlawfully and feloniously commit an assault upon the person of Frank FERRARI, a a peace officer engaged in the performance of his duties; and the Defendant, JERRY WHITE, knew and reasonably should have known that Frank FERRARI was a peace officer engaged in the performance of his duties.

COUNT FOUR:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of VEHICLE CODE SECTION 10851(a)/666.5 (UNLAWFUL DRIVING OR TAKING OF VEHICLE WITH PRIOR CONVICTION), committed as follows, to wit:

On or about June 23, 1997, at Martinez, in Contra Costa County, the Defendant, JERRY WHITE, did wilfully, unlawfully and feloniously drive and take a 1986 red Camaro, License "Wayfine", a vehicle which was the property of [REDACTED] without the consent of and with the intent to deprive [REDACTED] of title to and possession of the vehicle.

PRIOR CONVICTION(S)

It is further alleged that the Defendant, JERRY WHITE, has been previously convicted of the crimes stated below:

<u>VIOL.</u> <u>DATE</u>	<u>CONV.</u> <u>DATE</u>	<u>OFFENSE</u>	<u>DOCKET</u>	<u>COURT</u>
	01/22/93	CVC 10851	922772-9	CONTRA COSTA SUPERIOR

COUNT FIVE:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of VEHICLE CODE SECTION 2800.2 (EVADING A PEACE OFFICER WHILE DRIVING IN WILFUL DISREGARD OF OTHERS), committed as follows, to wit:

On or about June 23, 1997, at Martinez, in Contra Costa County, the Defendant, JERRY WHITE, while operating a motor vehicle in wilful and wanton disregard for the safety of persons and property, did wilfully, unlawfully and feloniously flee and otherwise attempt to elude a pursuing peace officer's motor vehicle; and the peace officer's motor vehicle was exhibiting a lighted red lamp visible from the front and Defendant saw and reasonably should have seen the lamp, the peace officer's motor vehicle was sounding a siren as reasonably necessary, the peace officer's motor vehicle was distinctively marked, and the peace officer's motor vehicle was operated by a peace officer wearing a distinctive uniform.

COUNT SIX:

The undersigned further states, on information and belief, that JERRY WHITE, defendant, did commit a felony, to wit; violation of PENAL CODE SECTION 459-460(b) (BURGLARY - SECOND DEGREE), committed as follows, to wit:

On or about June 23, 1997, at Martinez, in Contra Costa County, the Defendant, JERRY WHITE, did wilfully, unlawfully and feloniously enter a building, the property of [REDACTED] located at [REDACTED], with the intent to commit theft.

COUNT SEVEN:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of PENAL CODE SECTION 496(a) (RECEIVING STOLEN PROPERTY), committed as follows, to wit:

On or about June 23, 1997, at Martinez, in Contra Costa County, the Defendant, JERRY WHITE, did wilfully, unlawfully and feloniously conceal, withhold and aid in concealing and withholding a calling card, credit cards, thirteen (13) keys, the property of Reverend [REDACTED] and [REDACTED] which had been stolen; and the Defendant, JERRY WHITE, knew that the calling card, credit cards and keys had been stolen.

COUNT EIGHT:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a misdemeanor, to wit: violation of PENAL CODE SECTION 487(a) (GRAND THEFT - Personal Property Exceeding \$400.00 in Value), committed as follows, to wit:

On or about June 23, 1997, at Martinez, in Contra Costa County, the Defendant, JERRY WHITE, did wilfully and unlawfully take \$500.00 cash, the personal property of [REDACTED] of a value exceeding four hundred dollars.

COUNT NINE:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of PENAL CODE SECTION 12316(b)(1) (PROHIBITED POSSESSION OF AMMUNITION), committed as follows, to wit:

On or about June 23, 1997, at Martinez, in Contra Costa County, the Defendant, JERRY WHITE, while being a person prohibited from owning or possessing a firearm under Penal Code section 12021 and 12021.2, and under Welfare and Institutions Code section 8100 and 8103, did wilfully, unlawfully and feloniously own, possess, have in his custody or control ammunition or reloaded ammunition.

COUNT TEN:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of PENAL CODE SECTION 496(a) (RECEIVING STOLEN PROPERTY), committed as follows, to wit:

On or about May 15, 1997, at Pittsburg, in Contra Costa County, the Defendant, JERRY WHITE, did wilfully, unlawfully and feloniously conceal, withhold and aid in concealing and withholding a Toyota 4-Runner, License Number [REDACTED], the property of [REDACTED] which had been stolen; and the Defendant, JERRY WHITE, knew that the Toyota 4-Runner had been stolen.

COUNT ELEVEN:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of VEHICLE CODE SECTION 10851(a)/666.5 (UNLAWFUL DRIVING OR TAKING OF VEHICLE WITH PRIOR CONVICTION), committed as follows, to wit:

On or about May 27, 1997, at Pittsburg, in Contra Costa County, the Defendant, JERRY WHITE, did wilfully, unlawfully and feloniously drive and take a 1997 blue Mercury Gran Marquis, a vehicle which was the property of [REDACTED], without the consent of and with the intent to deprive [REDACTED] of title to and possession of the vehicle.

PRIOR CONVICTION(s)

It is further alleged that the Defendant, JERRY WHITE, has been previously convicted of the crimes stated below:

<u>VIOL.</u> <u>DATE</u>	<u>CONV.</u> <u>DATE</u>	<u>OFFENSE</u>	<u>DOCKET</u>	<u>COURT</u>
	01/22/93	CVC 10851	922772-9	CONTRA COSTA SUPERIOR

COUNT TWELVE:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of PENAL CODE SECTION 496(a) (RECEIVING STOLEN PROPERTY), committed as follows, to wit:

On or about June 8, 1997, at Concord, in Contra Costa County, the Defendant, JERRY WHITE, did wilfully, unlawfully and feloniously conceal withhold and aid in concealing and withholding a 1991 Ford F-380 pickup, License Number [REDACTED], the property of [REDACTED] which had been stolen; and the Defendant, JERRY WHITE, knew that the pickup had been stolen.

COUNT THIRTEEN:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of PENAL CODE SECTION 459-460(a) (FIRST DEGREE BURGLARY), committed as follows, to wit:

On or about June 16, 1997, at Concord, in Contra Costa County, the Defendant, JERRY WHITE, did wilfully, unlawfully and feloniously enter an inhabited dwelling house, the property of [REDACTED] located at [REDACTED], with the intent to commit theft.

COUNT FOURTEEN:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of VEHICLE CODE SECTION 10851(a)/666.5 (UNLAWFUL DRIVING OR TAKING OF VEHICLE WITH PRIOR CONVICTION), committed as follows, to wit:

On or about June 20, 1997, at Pittsburg, in Contra Costa County, the Defendant, JERRY WHITE, did wilfully, unlawfully and feloniously drive and take a 1986 white Chevrolet S-10, License Number [REDACTED] a vehicle which was the property of [REDACTED] without the consent of and with the intent to deprive [REDACTED] of title to and possession of the vehicle.

PRIOR CONVICTION(S)

It is further alleged that the Defendant, JERRY WHITE, has been previously convicted of the crimes stated below:

<u>VIOL.</u> <u>DATE</u>	<u>CONV.</u> <u>DATE</u>	<u>OFFENSE</u>	<u>DOCKET</u>	<u>COURT</u>
	01/22/93	CVC 10851	922772-9	CONTRA COSTA SUPERIOR

COUNT FIFTEEN:

The undersigned further states, on information and belief, that JERRY WHITE, Defendant, did commit a felony, to wit: violation of PENAL CODE SECTION 12021(a)(1) (POSSESSION OF FIREARM BY FELON), committed as follows, to wit:

On or about June 20, 1997, at Pittsburg, in Contra Costa County, the Defendant, JERRY WHITE, who had been duly and legally convicted of Penal Code section 460(a) (5 counts), section 460.2, section 4532(b) and Vehicle Code sections 10851 and 2800.2, felonies, did wilfully, unlawfully and feloniously own, possess and control a revolver, a firearm.

COUNT SIXTEEN:

The undersigned further states, on information and belief, that JERRY WHITE, defendant, did commit a felony, to wit; violation of PENAL CODE SECTION 417.3 (EXHIBITING FIREARM IN PRESENCE OF VEHICLE OCCUPANT), committed as follows, to wit:

On or about June 20, 1997, at Pittsburg, in Contra Costa County, the Defendant, JERRY WHITE, did wilfully, unlawfully and feloniously draw and exhibit a revolver, a firearm, in a threatening manner, in the presence of [REDACTED] an occupant of a motor vehicle proceeding on a public street and highway, in such a way as to cause a reasonable person apprehension and fear of bodily harm.

ENHANCEMENT
TWO OR MORE PRIORS ("THREE STRIKES")

It is further alleged pursuant to Penal Code section 1170.12(b) and (c) that prior to the commission of the offenses specified in Counts One, Two, Three, Four and Five the Defendant, JERRY WHITE, did suffer the following prior conviction or juvenile adjudication, as defined by Penal Code section 1170.12(b) and (c):

On or about January 22, 1993, in the Superior Court of the State of California in and for the County of Contra Costa, the Defendant, JERRY WHITE, was convicted of the crime of First Degree Burglary (Penal Code section 460(a)), a felony.

On or about January 22, 1993, in the Superior Court of the State of California in and for the County of Contra Costa, the Defendant, JERRY WHITE, was convicted of the crime of First Degree Burglary (Penal Code section 460(a)), a felony.

On or about January 22, 1993, in the Superior Court of the State of California, in and for the County of Contra Costa, the Defendant, JERRY WHITE, was convicted of the crime of First Degree Burglary (Penal Code section 460(a)), a felony.

On or about January 22, 1993, in the Superior Court of the State of California, in and for the County of Contra Costa, the Defendant, JERRY WHITE, was convicted of the crime of First Degree Burglary (Penal Code section 460(a)), a felony.

On or about January 22, 1993, in the Superior Court of the State of California, in and for the County of Contra Costa, the Defendant, JERRY WHITE, was convicted of the crime of First Degree Burglary (Penal Code section 460(a)), a felony.

ENHANCEMENT
PRIOR PRISON CONVICTION

It is further alleged, pursuant to Penal Code section 667.5(b), that on or about January 22, 1993, in the Superior Court of the State of California, in and for the County of Contra Costa, the Defendant, JERRY WHITE, was convicted of the crimes of Penal Code section 460(a) (5 counts), section 460.2, section 4532(b), Vehicle Code sections 10851 and 2800.2, felonies; served for said offenses a prior prison term as defined in Penal Code section 667.5; and did not remain free of both prison custody and the commission of an offense which resulted in a felony conviction for a period of five years.

PROBATION INELIGIBILITY CLAUSE
TWO OR MORE PRIOR FELONY CONVICTIONS

It is further alleged, pursuant to Penal Code Section 1203(e)(4), that the Defendant, JERRY WHITE, is ineligible for probation, in that prior to the commission of the crimes, as charged above, the Defendant was convicted of the following felonies:

<u>CONVICTION DATE</u>	<u>CHARGE</u>	<u>COURT</u>
1-22-93	PC 460(a)	Contra Costa Superior
1-22-93	PC 460(a)	Contra Costa Superior
1-22-93	PC 460(a)	Contra Costa Superior
1-22-93	PC 460(a)	Contra Costa Superior
1-22-93	PC 460(a)	Contra Costa Superior
1-22-93	CVC 10851	Contra Costa Superior
1-22-93	PC 460.2	Contra Costa Superior
1-22-93	CVC 2800.2	Contra Costa Superior
1-22-93	pc 4532(b)	Contra Costa Superior

COMPLAINANT REQUESTS THAT DEFENDANT(S) BE DEALT WITH ACCORDING TO LAW. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: July 8, 1997

AT CONCORD, CALIFORNIA

R. DUFFIELD
COMPLAINANT

RUANNE M. CASTRO/mc
DEPUTY DISTRICT ATTORNEY

MARTINEZ POLICE DEPARTMENT