dTodd Simonson:

Okay. The time is 3:03 in the afternoon. The date is Monday, May the 30th of 2022. My name is Todd Simonson. I'm on a Zoom video conference call with officer David Franson of the Brentwood Police Department. Is that correct?

David Franson:

That is correct.

Todd Simonson:

And David, could you just spell your last name to make sure I have it right?

David Franson:

Absolutely. It's F-R-A-N-S-O-N.

Todd Simonson:

Great, thank you. You understand I'm recording this?

David Franson:

I do.

Todd Simonson:

All right. Did you get a notice, I think from Chief Hanson, about this interview and the expectations?

David Franson:

I did.

Todd Simonson:

Okay. Tell me a little bit about your law enforcement career, any prior law enforcement before you came to Brentwood?

David Franson:

Yes. So I worked for the San Mateo County Sheriff's Office, I began employment there in 2007, in May, as a correctional officer. I promoted to the rank of deputy sheriff in 2011. Spent most of my time at the Sheriff's office from 2011 to 2020, on patrol. A little of that was in the jail, and then did a few different things while I was there, but that's the gist of my law enforcement experience prior to Brentwood.

Todd Simonson:

And when did you start Brentwood?

David Franson:

Brentwood was June of 2020.

Todd Simonson:

All right. And where have you been assigned since you started in June of 2020?

David Franson:

Primarily graveyard shift. I did my training, part of it was on day shift on patrol, and then part of it was during graveyard shift. I've done a few shifts here and there on different shifts, but most of that has all been graveyard.

Todd Simonson:

Okay. I did graveyard for about four years and I don't think I'd want to do it again, so more power to you. Who was on your team in April?

David Franson:

Of this year?

Todd Simonson:

Yeah.

David Franson:

Okay. So Officer Matejcek, Officer Flynn, Officer Kephart, and Officer Stroben, and myself, and then our supervisor was Sergeant Alvarez.

Todd Simonson:

Okay. Matejcek, I'm going to spell because this thing will be transcribed. Matejcek is M-A-T-E-J-C-E-K.

David Franson:

I believe so, I struggle with that myself, but yes, I think so.

Todd Simonson:

I think it is. Officer Flynn is F-L-Y-N-N.

David Franson:

I believe so, yes.

Todd Simonson:

Kephart is K-E-P-H-A-R-T.

David Franson:

Yes.

Todd Simonson:

Strobin, S-T-R-O-B-I-N.

David Franson:

I think it's B-E-N.

Todd Simonson:
B-E-N. All right. Alvarez, A-L-V-A-R-E-Z.

David Franson:
Correct.

Todd Simonson:
Got it. Okay. Have you talked to anybody, including those you just named on your team, about this investigation or the allegation or the incident itself?

David Franson:
I've never discussed in detail, only the fact that there was the interview coming up.

Todd Simonson:
Okay. Who did you tell that to?

David Franson:
Well, Flynn and I knew about that.

Todd Simonson:
Okay. But nothing of substance?

David Franson:
Oh, no, no, I didn't talk at all about the actual ... no.

Todd Simonson:
All right. Have you reviewed the entire report about this incident?

David Franson:
No.

Todd Simonson:
So you haven't seen Officer Matejcek's report?

David Franson:
I have not.

Todd Simonson:
All right. And you wrote a short supplemental report, yeah?

David Franson:

Correct, I did.

Todd Simonson:

Okay. I'll ask you a little bit about that at the end, I think. Have you reviewed any audio or camera footage of this?

David Franson:

Only the portion of the footage that kind of related to what I wrote in my supplemental report, but nothing, I don't know if I, because I had no access to it, I had to request that through my sergeant who played it for me. So I don't know if where he played it for me was from the beginning of when that video began recording, or if it was at the beginning of the part I was asking to see, so I could just make sure I was writing an accurate supplemental report. And I did not see anything after a certain point either, so I have not had a chance to review the entirety of what I recorded.

Todd Simonson:

Okay. That's fine. So just for the record, I'm going to end up using one of the videos I have for you. I've got a vehicle video from you that doesn't seem to have much audio. And then I've got your body [inaudible 00:04:52] camera video, which is about 13 and a half minutes long. You're saying you didn't review the entirety of that one?

David Franson:

Neither one, no.

Todd Simonson:

Okay. Okay. Defensive tactics training, when's the last defensive tactics training that you went through?

David Franson:

Let's see, I can't tell you for sure, but it was recent, prior to that incident, it was quite recent. It may have been in April or March.

Todd Simonson:

And who taught that, if you recall?

David Franson:

Let's see, there were a few guys [inaudible 00:05:39]. Sergeant Aguiar was there for that.

Todd Simonson:

A-G-U-I-A-R?

David Franson:

A-G-U-I-A-R, correct.

Todd Simonson:

Okay. Was there a Sergeant Nance who headed it up?

David Franson:

I don't recall if he was there because I know he's been out on injury. I don't remember him being there for that.

Todd Simonson:

But is Sergeant Nance a defensive tactics instructor?

David Franson:

I'm not 100% sure on that either. I still feel kind of new there, so I'm still trying to figure out who the people are.

Todd Simonson:

I understand. Did Officer Matejcek attend, if you remember?

David Franson:

Yes, he was there.

Todd Simonson:

All right. And do you recall what they went over, the curriculum of that particular class?

David Franson:

I mean, we did a lot of hands on stuff for the defensive tactics portion. We did some of the force options simulator during that class. I know some of the classroom portion did cover, and I can't tell you sections or the laws or whatever on it, but the kind of the newer stuff, how we're mandated to report stuff to a supervisor.

Todd Simonson:

Mandated to intercede, that type of thing.

David Franson:

Intercede, that stuff, yeah.

Todd Simonson:

Okay. All right. How long is the course, is it over a couple of days or is it just one day?

David Franson:

That was a full day, that last course.

Todd Simonson:

Full day. Okay. All right. So I want to go to the date, the date of the incident, just for the record, was April 23rd. The call at Home Depot was at about 05:24. So working graveyard, what are your shift hours?

David Franson:

So we work between 20:00 hours, 8:00 PM and 07:00.

Todd Simonson:

So this was toward the end of your shift, right?

David Franson:

Correct.

Todd Simonson:

This call. Okay. Were there any significant calls leading up to the call at Home Depot, that you remember, that might have affected your ability to recall what happened at Home Depot?

David Franson:

No, not that I recall.

Todd Simonson:

Okay. So the call, you recall what the call was that got you to go to Home Depot?

David Franson:

I'm sorry, did you ask if I recall what the call was?

Todd Simonson:

Yeah. What you were dispatched to, to get there?

David Franson:

Yeah, basically. Do you want me to tell you?

Todd Simonson:

Sure.

David Franson:

It was a report of someone screaming, coming from the parking lot, it was a report of transients who lived in the storage sheds that were on display there in the Home Depot parking lot. That was pretty much the call.

Todd Simonson:

Have you been to calls like that in the past?

David Franson:

I have, not there specifically, but that type of call, yes.

Todd Simonson:

Okay. But not necessarily in the sheds at the Home Depot?

David Franson:

Not myself, no.

Todd Simonson:

Okay. And did you meet with the reporting party?

David Franson:

I did, briefly.

Todd Simonson:

And where was she and what did she tell you?

David Franson:

So when I kind of pulled into the plot, I drove in front of, I guess, to get to the storage sheds the way I came into the lot, I was driving by the front of the garden department anyway, and that's where she was. She kind of walked out toward me and I talked to her from my patrol car. She told me that she heard somebody yelling, coming from one of the central positioned, if that makes sense, the centralized the storage sheds, because there's a whole bunch in a line there. She said it was somewhere in the middle, she didn't know if there was one person or more than one person, she never saw anybody, so she couldn't describe who it was. And she also thought that whoever was yelling might have been experiencing some sort of a mental health episode of some sort.

Todd Simonson:

Okay. So I've seen the video, it's quite a few sheds in a big line in the front parking lot, right?

David Franson:

Correct.

Todd Simonson:

Okay. And are all the sheds left unlocked?

David Franson:

I think so, but I don't know, I didn't check them.

Todd Simonson:

And ultimately you found somebody in the shed, how did you come upon the person in the shed?

David Franson:

So after I briefly met with the RP, I drove over, I met with Officer Matejcek, Officer Flynn. We together kind of approached the front of the central positioned sheds. And as we were getting closer to them, suddenly one of the doors on one of the sheds kind of slammed shut, it was ajar, kind of slammed shut, and so kind of gave away that, okay, there's somebody in there. So there's no way it could have been wind or something like that. So I went to, let's see, the, I guess it would be the southeast corner of the shed, so the front right side facing the shed, and I kind of pounded with my fist on the side, announced

ourselves. I said something similar to, "Police Department, come out with your hands up." There was nothing.

David Franson:

So then I believe it was Officer Matejcek went to the door and kind of, I don't know, through sign language, body language, whatever, kind of indicated, hey, he's going to open the door. That's when I pulled my taser out, just for officer safety reasons, I didn't know who we're dealing with, who was in there, how many people were in there, if somebody was hurt, if somebody was armed, it was all sorts of things that could have been going on. So had my taser out, Officer Matejcek pulled the door open, and it was a female standing in the doorway, someone we've had numerous contacts with in the past, V1 V1 she was standing there. And so if that answers your questions, that's how we came in contact with her.

Todd Simonson:

Yeah. You got me right to about the place I'm going to start showing you a little bit of video. I mean, before I do, how many prior contacts had you had with V1 before this, if you know?

David Franson:

I can't, I mean, right now off the cuff, I can't recall if I had any where I was the primary officer. Actual contacts where I was just somehow associated or related to that contact, I would say less than five.

Todd Simonson:

Okay.

David Franson:

But I don't know for sure. But then hearing about all the other contacts everyone else has had, I knew that she was somebody who has been contacted numerous times by the police department.

Todd Simonson:

All right. Let me ask you about that in a second. Who was primary, who was cover on this particular call, if you remember?

David Franson:

So this would be Officer Matejcek's beat, he was working beat one and he was the primary officer, as far as I was concerned.

Todd Simonson:

And you were dispatched as cover?

David Franson:

Correct. But it's a little more complicated than that because I remember the call came out, I think, and I think, I could be wrong, but I think initially I answered up to cancel, and I can't be certain on that, but it was a little more complicated than just Officer Matejcek was dispatched and I was dispatched as cover. I think I answered up, somebody canceled me and then I canceled somebody else and ended up going,

but then Officer Flynn ended up showing up as well. So I was a cover unit, Officer Flynn was a cover unit as well.

Todd Simonson:

So since it was Matejcek's beat, he would normally be the primary, yes?

David Franson:

Correct.

Todd Simonson:

Okay. So based on what you had heard about V1 and your five or so contacts that you think you might have had before with her, did you know her as a meth user?

David Franson:

I've never evaluated her for drug influence, but I did make that assumption, I think, I mean, I can't say for sure, but I believe I had heard that she was a drug user and then I just believed that she was.

Todd Simonson:

What about a heavy drinker?

David Franson:

I don't know if before that incident, if I recall knowing that she was a heavy drinker, I don't know about that.

Todd Simonson:

Okay. What type of contacts had you had with her before?

David Franson:

I believe she had broken into a house one time, I kind of showed up after the fact on that one. She went through, it was a house that was almost done being built, and I don't know if it was her or somebody else that smashed the back window, she ended up going inside and she was hiding in a closet. They ended up pulling her out or not pulling her out, but had her come out, I think at gunpoint. And I was there after the fact when she was, I think, on a stretcher with AMR. I'm trying to think of other contacts. I don't know for sure, off the cuff. I know that one for sure.

Todd Simonson:

In the contacts you had had with her, did she act aggressively, I mean, excluding this one?

David Franson:

Sure. So I think when I first saw her on that one incident I just described, she was on a stretcher and I remember her yelling. It was not normal behavior by any means, but I didn't talk to her, I don't think, and I didn't know completely what was going on there. So I don't know if there was drug influence, mental health stuff, I'm not sure.

Todd Simonson:

Okay. Do you know of her acting erratically at times?

David Franson:

In general, like in the past?

Todd Simonson:

In general, in the past.

David Franson:

I've heard of that type of behavior from her, yes.

Todd Simonson:

Okay. What about violently? Do you know of any officers that she's been violent with in the past?

David Franson:

So I can't say that with certainty, I feel like, yes, I have heard of that in the past, but I can't say for sure. I don't know for sure. I can't tell you of an instance.

Todd Simonson:

Okay. All right. Let me pull up the video here, can you see this video?

David Franson:

Yeah. Let me try and turn my phone sideways, yeah, that's a lot better. Yeah, I can see it.

Todd Simonson:

Okay. So I've got it at 30 seconds, which is about when the sound starts. The Axons don't start the audio for 30 seconds, is that right?

David Franson:

I believe there's a 30 second buffer, so I think after that, approximately 30 seconds passes, then the sound kicks in.

Todd Simonson:

Okay. So I'm going to play it for about 30 seconds, and then I'll stop and ask a couple questions here.

David Franson:

Okay.

Todd Simonson:

Can you hear it?

David Franson:

I cannot hear anything other than you.

Todd Simonson:

I'm going to it at 1:06. So the person coming out of the shed there was V1, yes?

David Franson:

As far as I know, yes, it was.

Todd Simonson:

And you saw Officer Matejcek pull V1 to the ground and handcuff her.

David Franson:

Correct.

Todd Simonson:

Did you believe that the force he used the pull her to the ground and handcuff her, was reasonable under the circumstances?

David Franson:

I think at that point, yes.

Todd Simonson:

And in your view, what was going on at the time? Was she being placed under arrest or being detained to figure out what was going on or what?

David Franson:

I mean, based off the call for service to somebody yelling, screaming, we didn't know what was going on. So I mean, as part of our investigation, like one of my concerns I expressed to you a couple minutes ago, is we don't know if there's somebody else involved, if there's somebody else inside that's been, for example, stabbed or shot or somebody who overdosed, I don't know what's going on in there. And so for our safety, I think that was absolutely not only reasonable, but necessary at that time to detain her.

Todd Simonson:

Right. Okay. So I'm not going to play the several minutes of video leading up to the use of force that we're here about. Do you recall chatting with her for a few minutes, about a guy attacking her or shooting her with something in the nose?

David Franson:

I do recall her saying something about that.

Todd Simonson:

Yeah.

David Franson:

I can't tell you in detail what she said, I don't recall.

Todd Simonson:

All right. I do recall one bit where she denied using drugs to you.

David Franson:

I don't remember that, no.

Todd Simonson:

Okay. I'm going to fast forward. So you guys have, until the use of force we're going to talk about, which is at about nine minutes on this thing, you guys have this dialogue with her, you, Flynn and Matejcek, and then you kind of talk amongst yourself. What was going on during that time, just generally? Were you trying to figure out what to do with her or what?

David Franson:

Well, quite frankly, I don't recall most of what we talked about, but I'm assuming that yes, I mean, typically that's what we would be doing in a situation like this. "Hey, what do we have? Do we have a crime? If so, what crime, or what crimes do we have?" I recall her, I think, again, I can't tell you with 100% certainty, but I think one of the things we may have discussed was alcohol influence. I do remember smelling a strong odor of an alcoholic beverage coming from her person, her eyes were red and watery. I believe there was alcohol influence. I don't know at that point, I believe there was drug influence. I think the dialogue with her that Officer Flynn and I had, that I recall, was okay, that she was maintaining kind of a certain level of calm, and then I feel like all of a sudden it kind of ramped up and I'm not sure why that happened. Yeah.

Todd Simonson:

Yeah. So I think I know what you're talking about and I've actually got it time marked to start playing the video when she seems to start getting a little upset. I'm going to start it at, hold on, let me fast forward a little here. Actually, I'm going to stop sharing and see if I can get the sound to go here. Hold on. Okay, this might work. Can you hear it?

David Franson:

Yes, yeah.

Todd Simonson:

So I'm starting at 6:42 or so, 6:44. There's Flynn and Matejcek, the body armor camera's obviously on you. They talk for a little bit, you know what they're talking about? You can't hear them much at all.

David Franson:

I can't tell you. I don't know.

Todd Simonson:

Okay. I'm going to keep going. That's okay. I'm going to keep playing from here, 6:44.

Audio:
V1

Audio:
Yeah.

Audio:
Why is this so dirty over here? What'd you do with all this stuff?

Audio:
You know what, I'm sick and tired of you following me, dude. I don't understand, dude. Quit following me. I can do whatever the fuck I want [inaudible 00:21:58] you two, fucking shine lights in my eyes and shit.

Audio:
Yeah.

Audio:
I mean, how often do you guys fucking kill these fools, like murder me?

Audio:
Why are you yelling?

Audio:
Are you thinking of harming yourself?

Audio:
No.

Audio:
Are you thinking of harming anybody else?

Audio:
No.

Audio:
No. That was a softball question. You did not hit that one.

Audio:
I don't play softball.

Audio:
I don't either.

Audio:
Hey, thank you, for following me.

Audio:
For finding you?

Audio:
No, quit following me.

Audio:
Oh, okay.

Audio:
Yeah. Yeah. Thank you.

Audio:
Why do you have so much beer?

Audio:
What do you mean beer? I can drink beer whenever the fuck I want. It's not beer, dude.

Audio:
It is. It's Budweiser.

Audio:
So the fuck what?

Audio:
Cool. I said it was beer, you said it wasn't.

Audio:
I don't give a fuck if it's beer or not, drink as much beer as I fucking want.

Todd Simonson:
Let me stop it there. You there, Dave?

David Franson:
I'm sorry.

Todd Simonson:
I'm sorry, I couldn't tell you were still there. One of my screens disappeared. Could you hear and see all that?

David Franson:

I could, yes.

Todd Simonson:

So I stopped it at 7:58. So that was like a minute and 10 seconds of dialogue between you guys, or mostly Flynn and Matejcek and [redacted]. During that minute, what's the process that's going on? Are you guys just kind of talking to her to figure out what her condition is or what?

David Franson:

Maybe so, I mean, as a cover officer at that point, I'm standing off to the side and I'm really trying not to take the reins on it, because it's not my call. I'm there kind of doing what I'm trained to do, my reason for being there is in providing safety and covering the primary unit, being Matejcek. So what he was doing, I can't tell you for sure what was going through his mind, but I would assume he's trying to figure out what's going on with her. And I would think in the forefront of his mind would be alcohol influence, drug influence, trespassing, something like that, maybe even vandalism. I don't remember the condition of the shed.

Todd Simonson:

51-50, maybe too?

David Franson:

Maybe so. And I do understand that she has been 51-50d in the past. So I mean the way she was talking, could it have been drug influence? Absolutely. Alcohol? Sure. Mental health? Absolutely. Maybe all three, I don't know.

Todd Simonson:

Okay. I'm start it back here at 7:58. I want you to listen, Matejcek and Flynn discuss something, you can kind of hear what they say, but I couldn't catch the whole thing. It's going to come up real quick when I start this.

David Franson:

Okay.

Todd Simonson:

Did you hear that?

David Franson:

No, I didn't hear anything.

Todd Simonson:

I'm going to replay here. Oops. Oh, I didn't share the screen, that's why, hold on. Too many things.

David Franson:

I can only imagine.

Todd Simonson:
Okay. I'm going to back it up.

Audio:
No, quit following me.

Audio:
Oh, okay.

Audio:
Yeah. [inaudible 00:25:14] beer [inaudible 00:25:16] drink as much beer as I fucking want.

Audio:
[inaudible 00:25:24].

Todd Simonson:
Did you hear what they said there?

David Franson:
No.

Todd Simonson:
Okay. That's all right. It sounded like, think we have enough to something her, but it was really hard to tell. It was Matejcek asking Flynn.

David Franson:
I'm sorry, I don't recall. I can't hear.

Todd Simonson:
I'm going to keep playing a couple. That's your angle on the right?

David Franson:
Yes.

Todd Simonson:
And now you muted your audio. Do you know why you muted the audio there?

David Franson:
I'm assuming, I can't tell you for sure if there was something I was about to say, I think just game planning is why, and there being no need to record what we were going to discuss, but I don't know for sure what we said at that point. Sorry, again, I can't tell you.

Todd Simonson:

Yeah. When you say game planning, Dave, what do you mean?

David Franson:

I'm sorry, just trying to figure out what we're doing, what do we have, what route can we take to address this issue best?

Todd Simonson:

Okay. And so when officers do that, you're allowed to mute the audio?

David Franson:

Yeah. My understanding for perp policy at the police department, is we should be recording, it's not quite at a shall at this point. And as far as I'm concerned, yes, we are allowed to mute.

Todd Simonson:

Okay. And you and others have done that in the past?

David Franson:

Correct.

Todd Simonson:

Okay. I'm going to keep sharing. So for the next minute or so, you can't hear anything, obviously. I don't think there's audio for the remainder of the video, but you can tell that y'all talk, you just don't know what's said. You remember what you were talking about? I'm going to play it while I ask you questions. What was going on between the four of you?

David Franson:

You want me to just kind of narrate it if something comes up?

Todd Simonson:

No, no, I want you to describe what you remember and then I'll stop the video at the right place. But it's just the minute of silence where she's ... if you can see her here, can you see her at the bottom of the screen?

David Franson:

Barely.

Todd Simonson:

Yeah. So she's talking to you and it looks like Matejcek's talking to her there and Flynn's watching and I don't know what you're doing other than videoing. Do you know what's going on, what you're talking about?

David Franson:

I don't specifically remember saying anything myself, if this is, I'm assuming this is the part leading up to the kick.

Todd Simonson:

Yeah. So the kick's going to be in about 10 seconds, it's at 8:57 right now. So for about a minute.

David Franson:

Oh, okay.

Todd Simonson:

Silence, but you guys are obviously talking, I'm just wondering what you're all talking about.

David Franson:

I couldn't tell you, just because I don't recall. I don't believe there was anything of significance. It might have been similar to what was played when the audio was last activated. I just remember at one point she was upset, like she was seen or heard in the last video sequence, and then suddenly she stands up and I believe there were repeated orders to sit down. I don't know if I ever said that, but I know that at least Officer Matejcek or Officer Flynn did, and she did not comply with that.

Todd Simonson:

All right. Was she yelling, screaming when this was going on? I mean, did things kind of escalate? It seemed like for the first several minutes, she was fairly calm, and then before you muted, she escalated about following me and shining lights on her and that kind of thing. Did she stay escalated during this last minute before the kick, if you remember?

David Franson:

I don't remember exactly what she said much of anything, the significant part to me was when she stood up and refused to sit back down. I don't remember any dialogue that was significant from her.

Todd Simonson:

Do you notice that she was trying to start to stand up?

David Franson:

I was looking that way, I don't remember maybe the split second initial, her standing up, but I know that she stood up. I mean, I was facing that way, so I remember her standing up. I don't know if I saw her trying to kind of tuck her legs in a certain way to stand up, like if it was a longer process, like we had much of a warning, but I do remember her standing up, if that makes sense.

Todd Simonson:

All right. Did you have any concerns about your safety at all when she started to try to stand up?

David Franson:

No major safety concerns at that point.

Todd Simonson:

She was handcuffed still, yes?

David Franson:

That is correct.

Todd Simonson:

I'm going to play it through the kick here. I'm playing starting at 8:58. Oops, shit, I'm not sharing. Sorry, I'm going to [inaudible 00:30:40].

David Franson:

No problem.

Todd Simonson:

Okay, let me share it. Can you see it?

David Franson:

Yes, I can see it.

Todd Simonson:

Okay, 8:58 starting.

David Franson:

Okay.

Todd Simonson:

So I'm going to stop it there. You saw Officer Matejcek kick V1 there?

David Franson:

Yes, I did.

Todd Simonson:

About how far away was he when he started toward her? When he was standing there talking to her for a while, how far away was he from V1, do you think?

David Franson:

Oh man, just a rough estimate, maybe seven feet, eight feet.

Todd Simonson:

How far away was Flynn, about the same?

David Franson:

I'd say approximately the same, yeah.

Todd Simonson:

And how far away were you?

David Franson:

I was probably about the same as well, yeah, probably about seven, eight feet away.

Todd Simonson:

Okay. So what it looked like was Matejcek took two or three quick steps toward V1 and then used his right foot to kick her in the left torso area, and then she kind of goes sprawling back into the shed door and then falls to her buttocks. Does that sound about right?

David Franson:

That sounds about right, yeah.

Todd Simonson:

Do you know why Officer Matejcek kicked V1 like that?

David Franson:

No, I don't.

Todd Simonson:

Did you have any idea he was going to do that?

David Franson:

No, I had no idea.

Todd Simonson:

Were you surprised when he did it?

David Franson:

Absolutely, I'm still surprised.

Todd Simonson:

Okay. And you and Officer Flynn don't even seem to move when he did that, did you recognize that?

David Franson:

I did recognize that.

Todd Simonson:

I mean, the lack of movement to me as a officer, indicates that you didn't see the immediate threat that prompted whatever Officer Matejcek did.

David Franson:

Yeah, you're correct. I did not feel a threat near that level at that point at all.

Todd Simonson:

All right. In your view, were there other options involving less force that could have been used, like grabbing her arms to sit her down again or escorting her and putting her in one of the cars?

David Franson:

Yes.

Todd Simonson:

Okay. Did you believe officer Matejcek's kick was reasonable force under the circumstances?

David Franson:

No.

Todd Simonson:

I'm going to ask why, I'd like to hear your view.

David Franson:

Well, first of all, she's handcuffed. She's a fairly small person, that's comparing her to me. Officer Matejcek's size is different than mine, it's different than Flynn's, he's smaller than both of us as far as height.

Todd Simonson:

How tall are you?

David Franson:

I'm sorry, how tall am I?

Todd Simonson:

How tall are you, yeah?

David Franson:

Sorry, the phone's cutting out a little bit. I'm PII and about PII. So that's where I'm at.

Todd Simonson:

Got it.

David Franson:

Yeah. So comparing size, the fact that she's handcuffed, I believe she had been pat searched at that point, there's no concern. I mean, maybe biting, but she wasn't showing that as an indicator that she might bite us, or spitting, there was none of that going on. It was clearly just way too far, as far as force goes, for that. Like you said, grabbing an arm, verbal commands to light touch, to maybe a control hold, would be appropriate under those circumstances, from what I recall at that time of that incident.

Todd Simonson:

Okay. Are you taught in defensive tactics at all, either be it a San Mateo County Sheriff or Brentwood, have you been taught that there are situations where you could kick a suspect like that, if you remember?

David Franson:

I mean, I don't remember specifically talking about kicking a suspect in that situation. However, the way that continuum of force goes, I mean, for example, lethal force doesn't have to be from a firearm, it doesn't have to be from a vehicle or a blade, it can be anything, but that's if that situation requires that or reaches that level, and this, no.

Todd Simonson:

And this one did not, according to in your view, right?

David Franson:

No, unless I completely missed something, I don't think I did though.

Todd Simonson:

Okay. Before this incident, did you ever hear anything from Matejcek about [redacted], that is objectively negative things, like there might have been some other reason for him to have kicked her like that, other than what was going on at the time?

David Franson:

Not that I know of.

Todd Simonson:

Okay. Did you discuss this with him at all afterwards, did he ever tell you why he kicked her like that?

David Franson:

No.

Todd Simonson:

What about-

David Franson:

I'm sorry. Well, I never had a follow up conversation with him about the incident, I thought that's where you were going. Afterward, we did briefly discuss, Officer Flynn, Matejcek and myself. I think, from what I understood, and I don't remember what he said exactly, but he felt that her standing up was presenting some sort of a threat to him. I think, again, I don't remember what he said exactly, but the way that he spoke about it was almost like it was a justifiable use of force, and I did not agree with that. I never saw that and I still don't.

Todd Simonson:

Did you say, "I don't agree with that," or you just not say anything at all?

David Franson:

Well, when Officer Flynn and I talked to him about it, I actually did, I actually did, and I don't know what my words to him were, but I conveyed to him that that was too much. And so ultimately Officer Flynn and I talked to him, pulled him aside while we were still on scene, after V1 was in the back of the patrol car, saying, "Hey, we're going to have to talk to the Sergeant about what happened," just because of everything.

Todd Simonson:

So what was Matejcek's response?

David Franson:

So when I first, and again, I don't remember what I said to him, but I conveyed to him that I did not agree with it, and he sounded kind of defensive, which is unusual, because I've never really had a conversation with him where he was visually disagreeing with me and maybe taking offense to the way I was speaking to him, so to speak. I'm not a very confrontational guy, so I don't get in debates with him or anything, I agree with a lot of people and just kind of keep the boat from rocking, that's just my personality, that's the way that I am. But with him, that was kind of the first time I'd ever experienced him kind of come back at me, and I don't remember what he said, well maybe it was something about, "Well, what should I have done," or something, but it was kind of more aggressive. And I was like, "Man, he obviously doesn't agree with where I'm coming from."

Todd Simonson:

Okay. So this was a short conversation after V1 was in the back of the patrol car?

David Franson:

I don't remember where she was at that time. So when that exact conversation happened that I just described, that was very soon after the incident took place, but she had to have been in the car. I'm assuming, I just don't remember with 100% certainty.

Todd Simonson:

Yeah. So I'll just show you the rest of the video here, in fact I'm just going to fast forward through it. It looks like Matejcek pulls her up by arms and kind of hustles her back to his car, is that right? Let's see.

David Franson:

Yes, that would be his car.

Todd Simonson:

That's his car. He searched, it looks like you come up from behind him while he's searching her. Pretty sure he pulls out a few beer cans. Looks like the sun's coming up. I remember that feeling. Was there anything significant or remarkable about the search or putting her in the car, taking her to the jail, that you're aware of?

David Franson:

No, I don't recall any of that. I do know that after we left the scene, he returned to the station with V1 I believe that a CSO coming on for day shift was going to do the transport with her to the jail.

Todd Simonson:

Is that Alan Sheffield?

David Franson:

I think it was.

Todd Simonson:

Okay. Yeah. I have a sup report from him, I assume it's him. Yeah, so this video ends, it looks like right at the end of getting all the stuff out of her pockets and putting her in the car. Did you discuss it, I'm going to stop sharing, did you discuss it at all separately with Officer Flynn afterwards?

David Franson:

So we did discuss it. I don't know where Officer Matejcek went. While we're all on scene, all of our cars were kind of in the same general area in the parking lot. Officer Matejcek, I don't know where he went, if he went back to his car or he might have gone back to the front of Home Depot. I don't remember for sure. But at one point when he stepped away from Officer Flynn and myself, I think we both briefly discussed it and we were shocked. We were just completely like, "Where did that come from? What just happened?" So we were trying to process it and we were like, "Hey, did you see what I saw?" "Yes. Did you see what I saw?" "Yes." "Okay. So we're on the same page, why did that happen?" And we were both baffled by it.

Todd Simonson:

Had you ever seen Officer Matejcek do anything like that before?

David Franson:

No.

Todd Simonson:

Okay. Did Sergeant Alvarez come to the scene?

David Franson:

No.

Todd Simonson:

Did somebody notify him about what happened?

David Franson:

Yes.

Todd Simonson:

Who was that?

David Franson:

So I don't remember who initially notified him, but the plan from the scene and Officer Matejcek, Flynn and I agreed that we were going to return to the station and we were going to talk to the Sergeant, our Sergeant about it, Alvarez, before we went home. So basically as soon as we returned. I had to get gas, because my patrol car was real low, so I went to the courtyard real quick, got gas, and then I met with Officer Matejcek and Officer Flynn, who were already at the station. When I pulled into the back lot, officer Matejcek, Officer Flynnm and Sergeant Alvarez were all standing there by the Sally port. I walked up, they were waiting for me and we were all there together when the news was shared with Sergeant Alvarez of what happened.

Todd Simonson:

Who shared the news and what was shared?

David Franson:

Again, I'm sorry, I don't know verbatim what was said, but in essence, that this was the situation we came upon, what we were dispatched to, which I believe he was already aware of that we contacted V1 V1 at the shed. She was cuffed, she got mouthy, she stood up, Officer Matejcek kicked her. I don't remember verbatim what was said, but I think it was conveyed to him that it was a use of force and it may not have been a justifiable use of force.

Todd Simonson:

Who said that to him, who gave him kind of the synopsis that you just described to me?

David Franson:

So I think I was there, I may have said something, I don't remember what I said. It wasn't me, it may have been Flynn, or it may have been Matejcek, and I wish I knew for sure. I just can't tell you for sure, I'm sorry, but it was one of them

Todd Simonson:

But somebody raised the notion that it might not have been a justifiable use of force to Sergeant Alvarez during that meeting?

David Franson:

Yeah. And I don't know if it was that word specifically, but at least that's what I recall was message being conveyed to him at that time.

Todd Simonson:

Okay. How long did that meeting last for?

David Franson:

It was fairly brief, maybe just a few minutes. Less than five minutes, I would say.

Todd Simonson:

And this was right before you got off?

David Franson:

Correct.

Todd Simonson:

Okay. And then did he give you, Matejcek or Flynn, any next steps, any directions?

David Franson:

Not that I recall, and not at that point. Later on, I was directed to generate a supplemental report.

Todd Simonson:

Okay. I have your supplemental report in front of me, one page, and it looks like it ends where Matejcek detained V1 in handcuffs initially after kind of initially pulling her down to her a seated position. Why did you stop there and not describe the whole incident, including the use of force?

David Franson:

So first of all, I wasn't directed to do that. And the fact that first, I don't think I was going to be writing anything on it, as I was not the primary officer and I was not tasked with generating the use of force report. But later on, and I believe this came from Sergeant Aguiar, when he found out about me using a taser to point at V1, that's technically a use of force, so that needs to be documented. So that part, and then also the fact that I spoke with the RP initially, as opposed to Officer Flynn or Matejcek, so just to document my contact with her and drawing my taser and pointed at it V1.

Todd Simonson:

Did anybody instruct you not to include the use of force by Matejcek, or is that just pretty typical that he would cover that?

David Franson:

I don't think anybody directed me not to, nobody told me to, I think on my own it was, I just knew that I wasn't authoring the report, I wasn't authoring the use of force portion, and so I was just documenting those two main portions, so it would be included.

Todd Simonson:

Okay. The RP, I think her name was IP8, did she see any of the contact with V1 that you know of?

David Franson:

With our contact with V1

Todd Simonson:

Yes.

David Franson:

I don't know, I never talked to her after that.

Todd Simonson:

Okay. Did V1 complain of any injuries or pain from Officer Matejcek's kick, that you're aware of?

David Franson:

I think she, well, I don't know exactly what she complained of, but some kind of pain. And I do actually recall saying that maybe we should start medical attention and I think medical attention did actually come to the scene. Sorry, I didn't include that, I forgot about that.

Todd Simonson:

Okay. Do you know if she sustained any injuries from the kick? It looked like she had some cuts on her nose, but that's not where the kick was.

David Franson:

No, I think that was prior to our arrival. I know she wasn't transported by AMR, I don't think she was even treated. I think she was maybe quickly examined by AMR and they cleared the scene. So not that I know of, no, I don't know of any injuries to her person as a result of the kick.

Todd Simonson:

Was she complaining about the kick at all?

David Franson:

From what I recall, I think so, I don't know for sure, but I think that's what prompted me to suggest that we call medical attention, was just in case there was something related to that.

Todd Simonson:

Co AMR checked her at the scene, and then she was transported by Matejcek to jail?

David Franson:

To the police department.

Todd Simonson:

To the police department. And you have a holding cell, and then the CSO took her to MDF.

David Franson:

We do have holding cells there, I'm not sure if she ever went inside the police department or if she was transferred from vehicle to vehicle.

Todd Simonson:

I see. Is that what typically happens, that you'll transport somebody directly to MDF?

David Franson:

Sometimes it is common for that to happen, and if there's no reason for a prisoner to go inside the holding cell area, then we usually leave them in the car and transfer.

Todd Simonson:

Okay. All right. Did you have any more involvement with V1 that evening, after she was put in officer Matejcek's car and taken wherever she was taken?

David Franson:

No.

Todd Simonson:

Okay. So you reported to Sergeant Alvarez, you go off duty. Anything else about the incident, other than being noticed for this interview, that I need to know about?

David Franson:

No, I don't think so, no.

Todd Simonson:

Anything you want to add for the good of the order, before I go off the recorder?

David Franson:

Sure. That again, like I already said, I think, to you, that I was shocked by what happened. I never saw it coming. I'm still baffled as to why it happened, I don't understand it. But what I wanted to say is with that said, I never saw it happen, maybe part of the reason I'm surprised by that is because of Officer Matejcek and my history of working with him. This year is my first year really working with him, being on the same team. He's a good guy and he is a go getter. I've looked up to him as being a competent police officer who really does care about and value the job. So I think maybe that's why I'm surprised it happened from a guy like him. I respected him and I mean, his volume of arrests and just proactivity and I've worked with him quite a bit this year and seen him work and I'm impressed with the way he's talked to people and all that stuff, and he is been professional.

David Franson:

So I think all that stuff, considering that, and then seeing what happened, it was just shocking. I just never suspected that would happen. So anyway, that's all.

Todd Simonson:

Yeah, no, good enough, I appreciate that. And Dave, if you want to add anything else, this is not the last time you can talk to me, and feel free to contact me. And if we need to add to your statement, we can certainly do that. And you can send any, sometimes I have witnesses, documents, if there's any notes or anything you want to send me, feel free to send them to me, okay?

David Franson:

Okay. Sounds good.

Todd Simonson:

Okay. Let me go off, hold on, don't hang up on me yet. It's 3:55.

David Franson:

Okay.