Todd Simonson:

Okay. We are on after some minor technical glitches. It is 4:42 in the afternoon. The date is Thursday, May the 26th of 2022. My name is Todd Simonson and I'm on zoom video conference call with Officer Josh Flynn of the Brentwood Police Department. Is that right?

Josh Flynn:

Yes.

Todd Simonson:

Okay if I call you Josh in this interview?

Josh Flynn:

Yes, sir.

Todd Simonson:

Okay. And you call me Todd, okay?

Josh Flynn:

Okay.

Todd Simonson:

Josh, you understand I'm recording this?

Josh Flynn:

Yes, I do.

Todd Simonson:

Did you get a notice? I believe it was from Chief Hanson about today's interview and the expectations?

Josh Flynn:

Yes, Captain Herbert gave it to me.

Todd Simonson:

Okay, great. Just tell me a little bit about your professional career, any prior law enforcement before you came to the city of Brentwood?

Josh Flynn:

I started a law enforcement career in 2014 in the state of Kansas at Hutchinson PD. A town very much like Brentwood. And then in 2016, lateraled out to Brentwood PD.

Todd Simonson:

Okay. And you've been at Brentwood for about six years?

Josh Flynn:

Yes.

Todd Simonson:

Okay. And where have you been assigned during your time at Brentwood?

Josh Flynn:

So I've been a patrol officer the entire time, but I've also had collateral duties for teaching assignments and training assignments such as medical, active shooter as part of the SWAT team, field training officer.

Todd Simonson:

You are a field training officer?

Josh Flynn:

I was. I recently left Brentwood and got out of the profession and came back in March 1st.

Todd Simonson:

March 1st of this year?

Josh Flynn:

Yes.

Todd Simonson:

How long were you out the profession for?

Josh Flynn:

About nine months.

Todd Simonson:

Nine months.

Josh Flynn:

So I left in June of 2021. Came back March 1st, 2022.

Todd Simonson:

Out of curiosity, what'd you do for those nine months?

Josh Flynn:

I went into the private sector and tried to do work in construction for a big company, doing a safety coordinator type work.

Todd Simonson:

Okay. So we're going to talk about April 23rd of this year. Where were you assigned in April?

Josh Flynn:

I was patrol graveyards and that specific night I was actually driving undercover car because we had a rash of burglaries at one of our Walgreen stores. So I was driving around the city doing special enforcement. Full uniform but in a UC car.

Todd Simonson:

Okay. Do you wear eyeglasses while you're on duty?

Josh Flynn:

I do.

Todd Simonson:

I mean, I've watched the video a few times and I [inaudible 00:03:00] the eyeglasses on this time.

Josh Flynn:

Yes.

Todd Simonson:

And who else is on your team or your squad? I don't know what you call it.

Josh Flynn:

So our team is comprised of at the time Sergeant Alvarez, Dave Franson, Tanner Kephart, Jordan Stroben and Paul Matejcek.

Todd Simonson:

Okay. I may spell some of these names. Dave Franson is F-R-A-N-S-O-N?

Josh Flynn:

Correct.

Todd Simonson:

Officer Kephart. How you spell his last name?

Josh Flynn:

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

Todd Simonson:

Stroben?

Josh Flynn:

S-T-R-O-B-E-N.

Todd Simonson:

And Matejcek is M-A-T-E-J-C-E-K. Is that right?

Josh Flynn:

Yes.

Todd Simonson:

Okay.

Josh Flynn:

Mate j check. That's how I remember it.

Todd Simonson:

And your sergeant in April was who?

Josh Flynn:

Alvarez.

Todd Simonson:

He's no longer your sergeant?

Josh Flynn:

No, he's recently moved to day shift and we've acquired Sergeant Wernholm and that'll again change in a couple weeks and we'll get Sergeant Tonkle.

Todd Simonson:

Eric Wernholm?

Josh Flynn:

Yes, sir.

Todd Simonson:

I grew up in Moraga. He's a year ahead of me. I think I played on his dad's little league team.

Josh Flynn:

Okay.

Todd Simonson:

Okay. Have you talked to anybody on your team about this investigation or the allegations of the incident?

Josh Flynn:

No, not after that day after it happened.

Todd Simonson:
All right. Have you reviewed the report?

Josh Flynn:
I have not.

Todd Simonson:
Did you write any sort of supplemental report? I didn't see one.

Josh Flynn:
No, I didn't.

Todd Simonson:
Okay. Have you reviewed any of the body worn camera footage from those?

Josh Flynn:
Nope. Not since that day.

Todd Simonson:
That day, what body worn camera footage did you review?

Josh Flynn:
We reviewed Officer Franson's body worn camera.

Todd Simonson:
Okay. So I think the one I'll show you probably is the same one. There's a number of different videos. It looked like you had about a three minute video and then you turned off your camera.

Josh Flynn:
I did.

Todd Simonson:
After searching some of the sheds in the Home Depot lot?

Josh Flynn:
Yes.

Todd Simonson:
Why did you turn it off at that time, do you remember?

Josh Flynn:
I thought we were done. I thought the contact was about to be over. I thought my involvement was over.

Todd Simonson:

Right. Okay. Have you been through defensive tactics training? I assume you have, you're a police officer?

Josh Flynn:

Yes.

Todd Simonson:

In the academy?

Josh Flynn:

In the academy and just recently at the police department as well.

Todd Simonson:

And who's the instructor there at the police department?

Josh Flynn:

We have several, but I believe the sergeant in charge of it is Nance, N-A-N-C-E.

Todd Simonson:

Okay. Did your whole team attend that same training?

Josh Flynn:

Yes.

Todd Simonson:

Including Officer Matejcek?

Josh Flynn:

Yes.

Todd Simonson:

Okay. And basically what is the training... how long does the training last, the one you just did and what's the curriculum?

Josh Flynn:

I believe there was a 10 hour training day. We went over policy as it relates to use of force. And more specifically that day we were going over the new duty to intercede law that's just been passed or... yeah, I think just passed recently. And then in the actual hands-on training, we were learning a lot of grappling type techniques for being able to use certain techniques to control people, or I guess control subjects without having to be overly appearing violent, I guess.

Todd Simonson:

Okay. The training that you're speaking of, was that before this incident, the incident took place on April 23rd. When was the training?

Josh Flynn:

Yes. I can look on my phone and see when that training was.

Todd Simonson:

Sure. That would be great. Just so you know, you're the first person I've talked to so I'm probably going to you more questions. Some of them even.

Josh Flynn:

No problem. You know, without pulling up the schedule, I couldn't tell you.

Todd Simonson:

That's okay. I can find out some other way. Don't worry about it.

Josh Flynn:

Yeah.

Todd Simonson:

All right. How much have you worked with Officer Matejcek in the past?

Josh Flynn:

We used to be on four month rotations as a regular schedule. I think I worked one or two rotations with him.

Todd Simonson:

Okay. How do you get along with him?

Josh Flynn:

Decently well.

Todd Simonson:

Okay. I usually ask the question because obviously I don't know you from Adam or Officer Matejcek.

Josh Flynn:

Right.

Todd Simonson:

Are there any big issues between you where he might say you're not telling the truth about him or anything like that?

Josh Flynn:

No.

Todd Simonson:

Okay. So let's go to the shift at issue here. Since it was a graveyard shift I assume you straddled midnight, yes? You start one day and then another?

Josh Flynn:

Yes. We start at 20:00 hours and end at 07:00 hours.

Todd Simonson:

All right. And do you have certain days off during the week or do you rotate them?

Josh Flynn:

We rotate. We're four on four off.

Todd Simonson:

All right. So this was Sunday, April 22nd into Monday, April 23rd. It would've started at 20:00 hours. This particular call came in, it looks like at about 05:24. So you were near the end of your shift at that time, yeah?

Josh Flynn:

Correct.

Todd Simonson:

Okay. Had there been any significant calls before that Home Depot call that might have affected your ability to observe what occurred at Home Depot?

Josh Flynn:

Nope.

Todd Simonson:

And I'm going to try to test your recollection here. I probably know the answer but will still ask the question. Do you remember what the call was at Home Depot?

Josh Flynn:

To the best of my knowledge I believe it was a subject in the shed area of Home Depot. Screaming. I think the original call might have said screaming... possibly screaming for help. But whoever the reporting party was affected enough by it that they didn't want to go over to the sheds and check it out themselves.

Todd Simonson:

And were you actually dispatching the call or did you just show up as cover?

Josh Flynn:

No. Due to the nature of the call, I just responded as a cover officer.

Todd Simonson:

Who was dispatched?

Josh Flynn:

Well, it's Officer Matejcek's beat, so I know he was and I think Officer Franson answered up as a cover officer as well.

Todd Simonson:

Okay. I don't know how the beats work. How many beats in the city and what beat is Home Depot on?

Josh Flynn:

We have four beats in the city and Home Depot's in beat one.

Todd Simonson:

That's on Lone Tree Way?

Josh Flynn:

Yes.

Todd Simonson:

Okay. Had you gotten calls like this in the past of homeless folks in the...

Josh Flynn:

Yes.

Todd Simonson:

Okay. So did you meet with the RP? I think her name was IP8 .

Josh Flynn:

I did not. I believe that was Officer Franson.

Todd Simonson:

Okay. Where did you go to when you arrived?

Josh Flynn:

I arrived first on scene in the undercover car. And just due to the fact that it was Officer Matejcek's call and I was in an undercover car, I waited for his arrival just near the car that I was driving.

Todd Simonson:

What kind of car were you driving?

Josh Flynn:

I think it's a Ford Fusion.

Todd Simonson:

Okay. And where did you park the undercover Ford Fusion?

Josh Flynn:

I parked to the north... well, yeah the north side of the parking lot but to the west of all of the storage sheds.

Todd Simonson:

And the storage sheds are kind of in a line like I see in the video or is it just one line?

Josh Flynn:

Correct. Yeah, just one line of sheds at the north end of the parking lot facing south.

Todd Simonson:

Okay. Home Depot keeps them unlocked?

Josh Flynn:

Yeah.

Todd Simonson:

They haven't learned their lesson yet?

Josh Flynn:

No. Constant issue.

Todd Simonson:

Okay. All right. How did you ultimately come upon the person in the shed?

Josh Flynn:

Officer Franson, after speaking with the RP, came over and told us that we should focus our attention to the center area of that line of sheds. And so as we approached the sheds we... I don't know how our attention was drawn to this one specific one, but I specifically remember the door being pulled shut very hard. And it was very obvious that somebody retreated back inside the shed and pulled the door shut.

Todd Simonson:

That's a clue.

Josh Flynn:

Yes.

Todd Simonson:
So at that point you didn't know the identity of that person or the gender?

Josh Flynn:
No idea.

Todd Simonson:
Okay. I'll show you the video, but eventually you got the person out of the shed. Did you recognize her?

Josh Flynn:
Not immediately. Last time I dealt with her was quite a while ago.

Todd Simonson:
And it's V1 just for the record.

Josh Flynn:
Correct.

Todd Simonson:
V1 correct?

Josh Flynn:
Yes.

Josh Flynn:
Yes. She had lost a lot of weight and looked, I guess, further gone as far as drug user appearances.

Todd Simonson:
So what type of prior contact before this call had you had with her?

Josh Flynn:
Much of the same, intoxicated in public, yelling, screaming, causing issues for paying customers of various businesses in Brentwood.

Todd Simonson:
And business owners will call on her?

Josh Flynn:
Yes.

Todd Simonson:
Okay. How many prior contacts do you think you've had with V1 ?

Josh Flynn:
Probably half dozen or so.

Todd Simonson:
Okay. Has she ever been violent with you before?

Josh Flynn:
Not with me, no.

Todd Simonson:
Aggressive or erratic with you before?

Josh Flynn:
Just loud yelling.

Todd Simonson:
She yells?

Josh Flynn:
Yeah.

Todd Simonson:
Do you know her to be a methamphetamine user?

Josh Flynn:
Yes.

Todd Simonson:
Do you know her to be a heavy alcohol user?

Josh Flynn:
Yes.

Todd Simonson:
Okay. Do you know if she's flagged for officer safety? Either in dispatch or in records or something?

Josh Flynn:
I actually don't know if she's flagged with dispatch, but I know that the majority of officers know that she has aggressive tendencies. And I know that she has spit on officers in the past.

Todd Simonson:
Do you know if she spit on Officer Matejcek in the past?

Josh Flynn:

I have no idea.

Todd Simonson:

Do you know if he's had any contacts where she's been violent toward him?

Josh Flynn:

I don't know. I know that he knew her just like I did, but I don't know what contacts he's had with her in the past.

Todd Simonson:

Had you had any prolonged discussions with Officer Matejcek about V1 before this particular call? If you recall?

Josh Flynn:

No.

Todd Simonson:

Okay. Let me just kind of show you a couple things in this video. I'm going to try to share my screen here. And this is Franson's video. It's 13 minutes and 49 seconds in length. I'm not going to show you the whole thing. Can you see my screen here?

Josh Flynn:

Yes.

Todd Simonson:

Okay. This is the line of sheds that you were talking about?

Josh Flynn:

Correct.

Todd Simonson:

Okay. I'm going to play it. I started at zero. I'm just fast forwarding. You guys are shining lights on a particular shed. And I think the sound starts at 30 seconds. I'm just playing this until I'm at a point [inaudible 00:16:02]. I'm playing at 53 seconds. Actually I'm going to stop at 1:03. So I just played a snippet in which V1 comes out of the shed and Officer Matejcek kind of pulls her by the left arm and forces her to the ground and then he ultimately handcuffs her. You saw?

Josh Flynn:

Yes.

Todd Simonson:

Did you have any issue with the force he used to pull her to the ground or handcuff her?

Josh Flynn:

No, he gave her multiple commands to sit down and stop and she wasn't listening. And so I felt it was appropriate to get her to the ground and detain her in handcuffs.

Todd Simonson:

I know this is probably irrelevant, I'll ask it nonetheless. Was she being detained for something or is she under arrest at the time or what was the plan if there was one?

Josh Flynn:

I think we were all surprised that she came out of the shed and we had given multiple commands to... for whoever was inside before we knew it was her, we gave multiple commands for whoever was inside the shed to come out and nobody emerged from the shed. And that's ultimately why we had to open the door and figure out what was going on.

Josh Flynn:

I think for me personally I was overwhelmed by what it looked like inside the shed. It was very obvious that struggle or erratic behavior had happened just with broken bottles and trash everywhere. And then when we opened the door, who we found out to be V1, was standing I mean almost nose to the door. And at least for myself I was very surprised. You always want to expect that there's somebody behind the door. And we knew there was somebody behind the door, but for her to be that close to the door was definitely a shock. And I think when this is only me assuming, but if it was me in Officer Matejcek's position and she started walking towards him after I just got surprised by somebody inside a door, I think your natural reaction is to detain that person and figure out why weren't you listening to me? Why didn't you open the door and why didn't you come out when I told you to?

Todd Simonson:

Yep. So there was some broken glass outside this shed?

Josh Flynn:

I don't remember where it was, but I remember thinking, wow somebody had a time here.

Todd Simonson:

Hmm. And then what was inside the shed? It was hard to tell from the camera.

Josh Flynn:

It's a bunch of trash, newspaper, toilet paper. It smelled like alcohol and feces.

Todd Simonson:

Yeah. What was her condition if you could tell? Did she seem under the influence of meth or alcohol or both? Could you tell?

Josh Flynn:

At least alcohol.

Todd Simonson:

Yeah. Could you smell it coming off of her?

Josh Flynn:

Yes.

Todd Simonson:

All right. Let me just kind of fast forward here a little bit. What was she holding in her hands? Unless she dropped some stuff out of her hands at the time, looks like you're shining a flashlight down that.

Josh Flynn:

Yeah. I actually don't know what was in her hands.

Todd Simonson:

Did she have any narcotics on her, do you recall?

Josh Flynn:

Not that I know of. No. She had numerous cans of beer in her jacket. I remember that.

Todd Simonson:

Like three cans of Budweiser?

Josh Flynn:

Yeah.

Todd Simonson:

Yeah. Okay. I'm going to fast forward here. It looks like you're checking around the shed. And then I think if I recall correctly from your video, once she's detained in the handcuffs and seated on her butt, you go start searching other sheds. Do you remember that?

Josh Flynn:

Yes.

Todd Simonson:

You're going to disappear off this video, but I looked at your video quickly and it looks like you made sure there wasn't any other people in the adjoining sheds. Is that right?

Josh Flynn:

That is correct.

Todd Simonson:

Okay. And then you turned off your body worn camera because you thought there was no reason to continue having it on?

Josh Flynn:

Correct. I thought my involvement... I fully expected to clear the call. It seemed like at best we were going to arrest V1 for being intoxicated in public and she seemed to have calmed down. So since I was in a UC car, I intended to clear. I don't remember what made me stick around and not activate my camera, but I think maybe we are talking through the details about, well, do we have any crime? Is there any damage to the sheds? Who needs to go talk to the RP? The original RP and that type of thing.

Todd Simonson:

Where was the RP, if you know, when all this was going on?

Josh Flynn:

Close to Home Depot. I don't know. I never saw them. I never talked to them.

Todd Simonson:

Okay. Did you hear V1 say that she had been attacked by a male? I think she said Hispanic.

Josh Flynn:

I don't remember the Hispanic part, but I remember she kept on screaming about being shot and having lasers pointed at her and being beat up.

Todd Simonson:

Okay. Let me fast forward a little bit. Yeah. Fast forward. More at 3:33 there. So like five minutes and 24 seconds in you come... you reappear from behind the sheds. What had you been doing back there?

Josh Flynn:

I've been looking for any type of vandalism to the back of the shed. What kind of trash was behind the shed. Making sure there's no individuals back there or in between any of the sheds as well. There was also numerous empty beer cans and beer bottles back there. So I was trying to get a better idea of how intoxicated is she really. Was this all her or is that built up over time?

Todd Simonson:

Okay. Let me fast forward a little bit. I have it at... let's see. At 5:43, I noticed that you and other officers kind of tuck your hand behind your vest. Was it cold or was it...

Josh Flynn:

Yes, it was chilly that morning.

Todd Simonson:

Okay. Is that your ballistic vest that you wore over your uniform?

Josh Flynn:

Yes.

Todd Simonson:

Okay. Let me fast forward here a little bit. I'm going to stop it there at 6:45. It looks like you and Matejcek are kind of talking while V1 talking to nobody in particular. Do you remember what you were talking about?

Josh Flynn:

That was when we were discussing what type of crime we had or whether based on what she was talking about and how she was acting if she fits 5150 criteria. We were just kind of deciding what's the best course of action in that situation for what we had at the time.

Todd Simonson:

And what was Matejcek's input, if you remember?

Josh Flynn:

He's the one that brought up 5150. I'm also the only EMT at Brentwood and a former medical instructor. And so a lot of people rely on me for my medical opinion or that type of thing. And I was just telling him, I said, "We don't have enough for a 5150. She's not saying anything or there's nothing to indicate that she's a danger to herself or others other than yelling and screaming." And so I was telling him, "Let's think about a different route because 5150 doesn't fit here."

Todd Simonson:

Did he suggest a different route like a 647F?

Josh Flynn:

I did. I suggested a 647F and I believe I told him... I mean, I didn't find any damage. And I think the best we have is a 647F.

Todd Simonson:

Okay. Let me keep playing. I'm going to keep playing from 6:45 on to about eight minutes here. I'm going to stop it there at about 7:59. About a minute long dialogue with V1 that we just listened to. Is that pretty typical of her demeanor when you contact her in the past?

Josh Flynn:

Yeah, I would best describe it as a roller coaster. One minute you're just talking about the weather and then the next minute she's calling you all kinds of names and being very aggressive verbally. But pretty standard for her.

Todd Simonson:

Okay. So when I hit play here at eight minutes, there's a conversation that occurs between you and Matejcek. I couldn't quite make out what was said, but it sounds like Matejcek asks you a question like, "I think we have enough to something her." Let me just play it for you. I think I have the audio as high as I can go, yeah. Could you hear what he said?

Josh Flynn:

No, I can't hear any audio.

Todd Simonson:

Oh, you can't hear any audio?

Josh Flynn:

I can hear you, but I can't hear the video audio.

Todd Simonson:

Weird. Okay. So when I just played that minute long thing of the dialogue, could you hear her yelling? Like, "Why are you fucking talking..."

Josh Flynn:

No, I just remember it.

Todd Simonson:

Oh, weird, huh. I may be able to fix that. Hold on. Despite the fact that I've been using zoom during the pandemic, I'm still not a complete master at doing this. Hold on. Well, I'm not going to be able to do this, but I'll just keep playing. Let me just show you something here. So over at 8:05... so at 8:10 Officer Franson reaches up and turns off the audio to his body worn camera but the video continues. So for the rest of the video after 8:10 you can't hear anything. Do you know why he turned off his audio there?

Josh Flynn:

It's very common practice to turn off the audio during the time that we're discussing details of what we have as far as criminal elements of crimes and specific matters of the case, just to protect those conversations from being scrutinized in court, I guess, criminally.

Todd Simonson:

Okay. So that's pretty typical when you guys are discussing such as what can we take her in on something, so that you would mute your video?

Josh Flynn:

Right. And that lines up perfectly with that question from Matejcek to me. I think Franson took note of that and said, "Hey, I'm going to turn off my audio during this time." But again, that's just me speculating.

Todd Simonson:

Okay. Enough. What's the distance, if you can estimate, between V1 and Matejcek and you?

Josh Flynn:

Can you put it back up just as a refresher?

Todd Simonson:

Oh sure. Sorry. Hold on. Yeah, I forgot to re-share.

Josh Flynn:

Eight to 10 feet at best.

Todd Simonson:

You're a little closer than Matejcek there to V1

Josh Flynn:

I don't think so. I think we're about the same. The camera angle makes it seem weird but...

Todd Simonson:

Okay. And so between eight and nine minutes on this video, there's obviously dialogue going back and forth. You can kind of see her talking to you guys. And I assume there's some response. Do you remember what was being talked about then?

Josh Flynn:

There's when she would hit that low spot on the roller coaster and start being calm, we were trying to talk to her about what she was doing there, why she had alcohol. But then anytime we asked her a question that would just elevate her to screaming and yelling again. And her screaming and yelling is nonsensical things, calling us all kinds of names and referring to meth. And a lot of her yelling always in context with her and here as well, if you ask a question, for instance, we said one of the questions was, "When's the last time you used meth?" And that sent her into a tirade about, "You use meth. You're the meth king" and just hurling insults that have to do with methamphetamine. So it almost becomes the subject of her next rant.

Todd Simonson:

I see.

Josh Flynn:

And so I think during this time, we're trying to have normal conversations with V1 to find out if she needs help because she was talking about somebody chasing her. But then we also have the incident of her not listening to us and I was just trying to game plan together about what the best route or best option is while trying to have broken conversations with her as well.

Todd Simonson:

Do you remember, did you and Officer Matejcek and/or Franson try to coordinate what do we do with this person? She can't sit out there all night, so were you going to bring her to the car or what... was there any sort of coordination of a plan with her?

Josh Flynn:

Yeah. And that's what... this time, that's why I think Officer Franson turned off his audio was discussing what's our next step? What do we have as far as elements of a crime? And I remember looking at Matejcek and I said, "I think the best you have is 647F." And I told him, "If she doesn't... this is going to continue if we don't solve the problem right now. There's nothing to indicate that her behavior is going to change if we decide not to arrest her." And so I think that's when our... what would you call it? Our opinion changed to, okay V1 is going to need to go to jail for at least 647F at this point.

Todd Simonson:

All right. And you believe she met the elements of...

Josh Flynn:

Yes.

Todd Simonson:

... 647F, intoxication of alcohol?

Josh Flynn:

Yes.

Todd Simonson:

Okay. All right. So in a few seconds here, it looks like she's going to start to try to stand up. I'll play it until I see that. We're at 8:43 into the video right now. Looks like she's yelling at 8:53 at Matejcek. I'm going to stop. Okay. So that's when Matejcek starts approaching her. What was going on before Matejcek kicked her?

Josh Flynn:

A lot of her yelling more and more. I don't know if she caught on to our conversation about possibly sending her to jail, but her behavior... or not behavior I guess, her verbal statements toward us became aggressive in nature again.

Todd Simonson:

What was she saying, do you remember?

Josh Flynn:

I don't remember.

Todd Simonson:

Was she threatening violence on you? That she was going to get up and kick your ass kind of thing or...

Josh Flynn:

No, just the same, "You guys are pigs. You guys are this, you guys are that."

Todd Simonson:

Did anybody give her any sort of commands? Like, "stay seated".

Josh Flynn:

Yeah. All three of us told her to sit down and not stand up.

Todd Simonson:

Because you could tell that she was trying to stand up?

Josh Flynn:

Yeah, because of the way she was seated she had to move her body weight in a way in order to get up. And so all of us caught onto that. We were like, "V1 just sit down, just stay seated. You don't need to get up right now."

Todd Simonson:

So all three of you were saying that to her?

Josh Flynn:

Yes.

Todd Simonson:

Okay. Did you have any concerns about your safety or other officer's safety if she actually did manage to stand up?

Josh Flynn:

No. I thought the worst we'd have to do is maybe take a couple running steps to catch her if she tried to run since she was in handcuffs.

Todd Simonson:

Had she tried to run before that you know of?

Josh Flynn:

I don't know.

Todd Simonson:

Okay. Going to back it up a little bit here and then I'm going to play it through the kick. 9:04 we're starting. Officer Matejcek takes a couple steps forward and kicks her kind of in the left arm, chest area. Did you see that?

Josh Flynn:

Yes.

Todd Simonson:

All right. And it sends her kind of flying backwards into the shed door. And then how did she land? It was kind of hard to tell.

Josh Flynn:

Based on what I remember, she landed on her butt and then kind of fell to her left side or her momentum carried her to her left side.

Todd Simonson:

Okay. Did you have any idea that Officer Matejcek was going to do that?

Josh Flynn:

No clue.

Todd Simonson:

Do you know why he kicked her like that?

Josh Flynn:

No idea.

Todd Simonson:

Were you surprised when it happened?

Josh Flynn:

I was very surprised. I think the video reflects that also.

Todd Simonson:

Why do you say that? I didn't really look at your face or anything else.

Josh Flynn:

I almost slow motion look at Franson like what just happened?

Todd Simonson:

I'm just replaying it here. So you don't... Yeah, so I saw a little look there toward Franson at about 9:15 into the video. It doesn't appear that you or Franson really moved at all until after the kick and she was on the ground. Is that right?

Josh Flynn:

Yes.

Todd Simonson:

Why didn't you move?

Josh Flynn:

I didn't see V1 getting up as a major issue.

Todd Simonson:

Okay.

Josh Flynn:

I mean, we didn't want her to stand up, but I didn't feel like immediate safety issue.

Todd Simonson:

Okay. Because she was handcuffed or because she's smaller or because she's...

Josh Flynn:

Because she's handcuffed.

Todd Simonson:

Okay. In your view, were there other options involving less force that could have been used? Like grabbing her by the arms and sitting her down again or just escorting her and putting her in a police car?

Josh Flynn:

Those would've been my two options that I would've chose.

Todd Simonson:

Okay. Did you believe Officer Matejcek kick was reasonable force under the circumstances?

Josh Flynn:

No.

Todd Simonson:

Why?

Josh Flynn:

I didn't see the need to use that level of force in that situation.

Todd Simonson:

Okay. Did V1 say anything about the kick? There's a dash cam video that I could bring up, but she kind of just makes a loud grunt I could hear. Did she say anything immediately after the kick about it?

Josh Flynn:

No. She was quiet. I remember when... because we called for paramedics to come check her out and clear her medically. I remember at a certain point there she said something about, "You assaulted me" or, "The cops assaulted me" or something like that. But I couldn't be specific on what she actually said. I just know that there was a statement like that.

Todd Simonson:

All right. Are you, that is are Brentwood officers, taught either by Sergeant Nance or otherwise to kick a suspect in defensive tactics? Is there any training about kicking?

Josh Flynn:

There have been... we have not trained physically to kick people. I think where kicking has come into conversation is utilizing tools if you're in a hand to hand combat type of situation. And if you can utilize kicks in a hand to hand combat type of situation, then kicks would be allowed. But we don't specifically train on how to kick people, no.

Todd Simonson:

Okay. After the kick, Officer Matejcek kind of hustles V1 back to his car. Is that right?

Josh Flynn:

Yes.

Todd Simonson:

Okay. And she was going to be arrested for the 647F?

Josh Flynn:

Correct.

Todd Simonson:

Okay. The police report indicates that Matejcek also charged her with 243B, battery of a police officer. Do you know why?

Josh Flynn:

No, I did not know that.

Todd Simonson:

Okay. After the kick, did Matejcek ever tell you why he had kicked V1 like that?

Josh Flynn:

He said that she was standing up. He said that she had been aggressive with him in the past and he felt the need to get her back down to the ground as fast as possible.

Todd Simonson:

When did he tell you that?

Josh Flynn:

We had a sideline conversation about what we needed to do as far as getting her medical care because of the use of force and that type of thing. And we asked the question, we said, "Hey, why'd you choose to kick?" And that was the answer that he gave.

Todd Simonson:

When you say we, you and Officer Franson?

Josh Flynn:

Correct.

Todd Simonson:

Was that at his car?

Josh Flynn:

Yes.

Todd Simonson:

Okay. And so did one of you call the Sergeant to the scene?

Josh Flynn:

No, we did not.

Todd Simonson:

Any reason why? Are you supposed to in a use of force situation like that?

Josh Flynn:

No. We're supposed to make the sergeant aware of a use of force, but based on my knowledge, I don't think we have to call him out to the scene. We just have to make him aware that a use of force was done.

Todd Simonson:

Did someone make Sergeant Alvarez aware that a use of force had been done?

Josh Flynn:

Once we got back to Brentwood Police Station we did.

Todd Simonson:

Okay. Did medical go out and take a look at V1 at the scene?

Josh Flynn:

They did, yeah. AMR came out and checked her out.

Todd Simonson:

Did you discuss what occurred at all afterwards with Officer Franson?

Josh Flynn:

Yes. You can see that we're trailing behind Officer Matejcek.

Todd Simonson:

When he was kind of hustling her to the car?

Josh Flynn:

Right.

Todd Simonson:

Yeah.

Josh Flynn:

And just based on our conversation about why did that just happen? Because we didn't understand why that level of force was used. Once we got to the car Officer Franson told Officer Matejcek like, "Hey, we'll take it from here." Because we didn't know what was going on or if something had happened that we didn't see or there was another reason for the use of force. And so Officer Matejcek turned around, he just... I think he smiled at us and he's like, "No, I'm good. We're good." And everything seemed to be in control. So we let him finish his investigation into the arrest as far as getting the beer cans out of her jacket and going and talking to Home Depot employees.

Todd Simonson:

Okay. Do you know if any Home Depot employees, including the RP, who witnessed the kick?

Josh Flynn:

I have no idea.

Todd Simonson:

Okay.

Josh Flynn:

I didn't see anybody standing around, so my assumption would be no.

Todd Simonson:

All right. So the rest of the video till the end it looks like pulling beer cans out of her pockets and filling out paperwork. Nothing really of note. Was there anything of note that occurred at Officer Matejcek's car that you recall?

Josh Flynn:

No.

Todd Simonson:

Okay. Well, she's smiling there.

Josh Flynn:

Right. That rollercoaster.

Todd Simonson:

Yeah, the rollercoaster. Okay. I'm going to stop sharing then. Did Franson confide in you? Like you had an issue with the kick?

Josh Flynn:

He agreed. He said he didn't understand why that happened.

Todd Simonson:

Did Matejcek ever say, "Hey, I might have screwed up there" or make any admissions?

Josh Flynn:

No.

Todd Simonson:

Okay. Franson wrote a brief supplemental. Is there a reason you did not write a supplemental report?

Josh Flynn:

I wasn't really involved...

Todd Simonson:

Okay.

Josh Flynn:

... at all. So I was basically just standing there the whole time.

Todd Simonson:

Do you guys have to write reports if you pull out your taser?

Josh Flynn:

Yes. So that's why Officer Franson... you just refreshed my memory. That's why Officer Franson wrote it because he had pulled out his taser.

Todd Simonson:

Okay. Did you give any sort of statement to your sergeant or anybody else after this occurred?

Josh Flynn:

No.

Todd Simonson:

Did you talk to you to your sergeant or anybody?

Josh Flynn:

So Officer Franson, myself, Officer Matejcek, all met with Sergeant Alvarez when we got back to the police department together. And Officer Matejcek gave him the report of his that he had used force and how he had used force. And it was a very quick conversation where Sergeant Alvarez said, "Okay, I'll review video and we'll talk about it."

Todd Simonson:

Did you ever talk about it with him after he reviewed the video?

Josh Flynn:

No, because by the time we got back that evening, I believe Officer Matejcek was on administrative leave.

Todd Simonson:

Do you know how that occurred? Why he was put on admin leave?

Josh Flynn:

I have no idea.

Todd Simonson:

Okay. All right. I've kind of come to the end of my questions, Josh. Is there anything else you need to add that I didn't ask that you think I need to know about?

Josh Flynn:

I don't think so.

Todd Simonson:

Okay. You've got my contact information. If something comes up that pops in your brain and you think I need to know, I want you to feel free to contact me, okay?

Josh Flynn:

Sounds good. Thank you.

Todd Simonson:

Okay. Hold on. Don't hang up on me yet.

Josh Flynn:

Okay.

Todd Simonson:

So the time is, if my computer works, 5:28.