Kendra Timmons: Not that I know of. No.

Detective Terry Schillinger: And Mike, Jr. is both of their kid?

Kendra Timmons: Mm hmm. Chubby little boy.

Detective Terry Schillinger: Yeah?

Kendra Timmons: Mm hmm.

Detective Terry Schillinger: Is he at school today or—

Kendra Timmons: No, he ain't at school no more, he older than that.

Detective Terry Schillinger: — he don't go to college or nothing?

Kendra Timmons: No.

Detective Terry Schillinger: All right. Do you know if Mike, Jr. has ever been arrested for anything?

Kendra Timmons: No.

Detective Terry Schillinger: Is there anything else you can tell me about your relationship to Mike?

Kendra Timmons: Um, no, I mean, he just a quiet, he, he, Mike, I, I really can't believe that, that he did anything violent yesterday. I mean, because he usually don't, is not like that. You know what I mean? He would, I mean, in public he well mannered and, you know, respectful. And I'm not saying that just because that's my brother, but it's the truth.

Detective Terry Schillinger: Okay. Have you ever known him to be violent against, uh—

Kendra Timmons: Nobody.

Detective Terry Schillinger: — nobody?

Detective Terry Schillinger: Not his wife?

Kendra Timmons: Nobody. He don’t have no history of beating up no women or none of that.

Detective Terry Schillinger: So you got 11 brothers and 4 sisters?

Kendra Timmons: Mm hmm.

Detective Terry Schillinger: Damn. Are they all in Richmond?

Kendra Timmons: Uh uh.

Detective Terry Schillinger: So you –

Kendra Timmons: Some of them in jail for life. Um, some of them in Sac, two of them in Sacramento, one of them dead. And then I got Michael, then I got two out here.

Detective Terry Schillinger: – two out here? Mom lives in Clearlake, grandma lives in Richmond.

Kendra Timmons: Mm hmm.

Detective Terry Schillinger: Does Mike stay anywhere else besides there? Have you seen him at any other place that he lives?

Kendra Timmons: Nope. Just to gran’ly’s house on 20th and Potrero. I mean, he had come over there. He comes over there every day.

Detective Terry Schillinger: Oh, he does?

Kendra Timmons: Yeah.

Detective Terry Schillinger: Does he take care of gran’ly?

Kendra Timmons: When she needs to go drive somewhere. That’s why she gave him that
Detective Terry Schillinger: Oh.

Kendra Timmons: She, she don’t drive anymore, she gave him that car. He go and pick her up, take her to church and, you know she don’t really go too many places but to church.

Detective Terry Schillinger: How old is she?

Kendra Timmons: Shit, man, about 80 something.

Detective Terry Schillinger: Oh, really?

Kendra Timmons: Yeah.

Detective Terry Schillinger: She’s, granny’s up there, huh?

Kendra Timmons: Yeah.

Detective Terry Schillinger: But he doesn’t live there at any time? He doesn’t stay –

Kendra Timmons: Uh uh.

Detective Terry Schillinger: – the night, nothing like that? Granny lives alone?

Kendra Timmons: Uh, with, my sister, Latish, stay with her.

Detective Terry Schillinger: Okay. And Mike’s lived at this address –

Kendra Timmons: Hmm?

Detective Terry Schillinger: – three, four years now?

Kendra Timmons: Yeah. About three years.

Detective Terry Schillinger: About three years?

Kendra Timmons: Mm hmm.
Detective Terry Schillinger: Where'd he live before that?

Kendra Timmons: Um, I think by Kennedy Manor. Where did he live, um, before that? I don't know. By Kennedy Manor. Some apartments over there.

Detective Terry Schillinger: Okay. All righty.

Kendra Timmons: Now, can I ask you why did they shoot him?

Detective Terry Schillinger: I can't talk about it.

Kendra Timmons: Hmm.

Detective Terry Schillinger: Okay? I think that's all the questions I got right now. Thanks, thanks for talking to us.

Kendra Timmons: Mm hmm.

Detective Terry Schillinger: And—

Kendra Timmons: I hope he lives.

Detective Terry Schillinger: —okay. Uh, interview's concluded at, uh, 2:54 p.m. Again, it's Detective Schillinger in the presence of—

Kendra Timmons: Kendra Timmons.

Detective Terry Schillinger: —Kendra Timmons.
SUPPLEMENT

Transcription of interview with John Chere:

Detective Schillinger: Hey, John, you there?

John Chere: Yes, I can hear you.

Detective Schillinger: All right, so what did you see last night?

John Chere: I didn't really see anything, um, much, so when I, when I heard the, the first shots were fired, I, I can't remember. I was riding with my buddy, um, I was the passenger drivin' and, uh, it was probably about from my, oh I don't know, like 5:00, 4:00, 5:00 and I, I hear shots fired and we were just going down, I would say was, uh, south on San Pablo, um, I, I think I just passed, I wanna say it was Cutting, whatever where that gas station is right there, kind of across the street from Safeway. I'd say it's a little farther south and across the street from Safeway, had just crossed that intersection, and, uh, I kinda turned my head when I, when I heard the shots fired, um, 'cause it was pretty, it wasn't, it wasn't too rapid. I'm like oh it's probably the cops firing. I don't know who that is. It was, it was pretty steady fire. It was five or six shots and when I turned back to look, um, I saw some, some yellow lights already, um, you know, posted at the, in that gas station area, but, you know, I, I **** get the heck out of here. Right at that instant, you know, the, uh, I hopped on the phone to dial 911, um. The El Cerrito PD I see come flying out 'cause I live right down the street from 'em. I see them come flying off of Manila, hang a right on San Pablo flooring it down, back, uh, northbound on San Pablo, um, to that location. But, I really didn't, I didn't see anything. I didn't see movement, um, the firing like I said sounded control so I'm like well, I don't know. I, I would not think that that would be somebody, you know, that doesn't know how to use a firearm firing, but, uh, that was really the only thoughts that I had and I didn't see much.

Detective Schillinger: Okay, so you were a passenger in the car. You're driving south on San Pablo Avenue?

John Chere: Right

Detective Schillinger: Uh, you already had passed the Safeway?

John Chere: Right, and we, we were actually coming out – we came from Safeway, so, you

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know, we, um, were in the, in the street in between the BART and the Safeway and hung a left on San Pablo. It's just that weird like 4 or 5 east intersection.

Detective Schillinger: Yeah

John Chere: You know, like it meets up right there. We took that left, you know, we're headed southbound, came to a stoplight, and then, uh, you know, pulled off and we were – I'm trying to recall. I think, it's like I can't remember exactly where we were at when I heard shots fired, because I, I could sorta see that maybe like a 15-degree angle, you know, remaining of top of the station. I could see like what looked like yellow emergency lights already, so I figured the cops were already there.

Detective Schillinger: Okay, how many, how many shots did you hear?

John Chere: I wanna say five or six, at least five.

Detective Schillinger: Okay, five to six shots?

John Chere: Yeah, yeah, and I, I couldn't tell if they were coming, like I said, from multiple weapons or, or from one. It sounded, sounded like one, but, uh, it, it sounded pretty controlled.

Detective Schillinger: Okay, and about the time you heard the shots had, you had passed, uh, the gas station or approaching it?

John Chere: Right, had, had already passed it. We had, um, just crossed the intersection.

Detective Schillinger: Okay, okay, okay, anything else you can think of?

John Chere: No, no, I'll certainly rack my brain though. Uh, if there's anything else I can remember seeing or, uh, if you want to sit down with a hypnotist if it comes to that, not a problem. Just let me know.

Detective Schillinger: Okay, hey, can I get your first name again?

John Chere: John

Detective Schillinger: And your last name?

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John Chere: CHERE, C-H-E-R-E.

Detective Schillinger: C-H-E-R-E?

John Chere: You got it.

Detective Schillinger: And your date of birth?

John Chere: 5/14/1983

Detective Schillinger: 83, and home address?

John Chere: Uh, 6410 Schmidt Lane, that's El Cerrito 9450

Detective Schillinger: Okay, and, uh, another good contact number for you.

John Chere: Be my home, it's, uh, 202-239-0656.

Detective Schillinger: 0656, okay, uh, started this interview at, uh, 0442 hours, concluded at 0445 hours and again it's Detective Schillinger with John Chere. All right, John, thank you very much.

John Chere: You bet, let me know if there's anything else.

Detective Schillinger: No problem, thank you.

John Chere: Okay

Detective Schillinger: Bye
Investigations Division
12-23364
CA0070500
10900 San Pablo Ave • El Cerrito, CA 94530
(510) 215-4400 • FAX (510) 235-5618

SUPPLEMENT

Transcription of Interview with Devario Bennett:

Detective Schillinger: All right, so you say your first name's Devario?

Devario Bennett: Yeah.

Detective Schillinger: Okay, I'm gonna have to get some personal information from you, okay?

Devario Bennett: Mm hmm.

Detective Schillinger: And this is regarding Case No. 12-23364. The time is, uh, 1856 hours, speaking to Devario. How do you spell that, your first name, Devario?


Detective Schillinger: Uh, one more time please.


Detective Schillinger: D-E-Z-A-R-I-O?

Devario Bennett: Yeah.

Detective Schillinger: And your last name?

Devario Bennett: Bennett, B-E-N-N-E-T-T.

Detective Schillinger: All right, and your date of birth sir?

Devario Bennett: November 9, 1989.

Detective Schillinger: And home address?

Devario Bennett: 752 Sixth Street, Vallejo, California.

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Detective Schillinger: Sixth Street?

Devario Bennett: Yeah.

Detective Schillinger: Vallejo, and do you have another contact number?

Devario Bennett: No.

Detective Schillinger: You don't? Okay and, uh, do you have a driver's license or a California I.D. card?

Devario Bennett: Uh, I have my driver's license but I don't have it on me at the moment. I'm riding a bus right now.

Detective Schillinger: Okay, that's fine.

Devario Bennett: Yeah.

Detective Schillinger: Um, so this is a call in regards to the 911 call you made last night.

Devario Bennett: Uh huh.

Detective Schillinger: Can you kind of give me a rundown of everything you saw?

Devario Bennett: Okay, pretty much I was at the gas station pumpin' my gas—

Detective Schillinger: Okay.

Devario Bennett: — and I had my security uniform on 'cause I had just came from work and, um, as I'm pumpin' my gas, a, a white lady, kind of looked like **** or whatever, she, she was **** come out runnin' to me saying oh, it's a lady been attacked, well first she said the lady was bein' raped, and—

Detective Schillinger: Who, who said that?

Devario Bennett: Um, uh, it was like, there was some lady got up close to me while I was at the gas station, 'cause I had on my security uniform, 'cause I do security for a hospital—
Detective Schillinger: Okay.

Devario Bennett: -- so I guess because I had my uniform she just approached me or whatever

Detective Schillinger: Okay.

Devario Bennett: -- but she, she came over sayin' that there was a lady bein' attacked. She, at first she, she was like, she's being raped, this and that, goin', she pretty much just ran over and pretty much almost cryin' or whatever about the situation, so I told her, I told her to call the police. She said oh I'm scared and I don't wanna get involved, I don't have a phone either, so I said okay, ma'am, whatever, I'll, um, I'll, I'll take care of this for you, so that's when I called you guys and gave the information.

Detective Schillinger: Okay, did you ever, did you ever see the woman being beaten?

Devario Bennett: I, I didn't see a woman bein' beaten. The only information I got was from the lady, 'cause she gave me the description, like height, color and all that.

Detective Schillinger: Okay, did you have a, did you have a cousin with you?

Devario Bennett: I had my little cousin with me.

Detective Schillinger: Okay, how old is your little cousin?

Devario Bennett: So he, he's only like, he only 12.

Detective Schillinger: Okay, did he happen to see anything?

Devario Bennett: Nu uh, nah, nah, I kept him in the car --

Detective Schillinger: Okay, so --

Devario Bennett: -- 'cause I don't, I don't even, 'cause I don't, I don't even like being around Richmond, so anytime I'm actually like in that area, I don't even let him even get out of the car.

Detective Schillinger: Okay, so once you made the, once this lady came up to you, kind of, from what I'm gathering, she was kind of hysterical, sayin' a lady's--
Devario Bennett: Yeah.

Detective Schillinger: — bein' beaten and, and raped?

Devario Bennett: Yeah, 'cause I mean, at first I didn't even believe it, because the lady, she seemed kind of crazy —

Detective Schillinger: Uh huh.

Devario Bennett: — and I was really like, I don't even wanna be involved 'cause I'm actually thinking like she's tryin' to set me up for something.

Detective Schillinger: Okay.

Devario Bennett: So I kind of like, I kind even didn't want to get involved. At first I wasn't even gonna call you guys, but it's like the way she said it, it was kinda convincin', like she gave me where it was and all that information, so —

Detective Schillinger: What did she exactly say to you? Where'd she say it was, it was happening?

Devario Bennett: She said it was happenin', happenin' right behind, right behind the, uh, Chevron.

Detective Schillinger: Right behind the Chevron? Did she say any —

Devario Bennett: Yeah.

Detective Schillinger: — any details of anything else?

Devario Bennett: She, all she said was he was a black male, she said he was a, he was a black man probably like 30, 40, 45, somethin' like that, and she just said he was, um, it looked he was just attacking that woman.

Detective Schillinger: Okay, did she say if he was hittin' her or any weapons involved or anything like that?
Devario Bennett: Not **** nothing **** she, all she said was she was being attacked.

Detective Schillinger: She was being attacked?

Devario Bennett: Yeah.

Detective Schillinger: Okay, um, so after, after you called 911 and you never left your car where the, where it was pumping gas, right?

Devario Bennett: Yeah.

Detective Schillinger: Okay, so you never went to go look in the area that –

Devario Bennett: I never, I never went. She wanted me to go look 'cause I don't say, I don't even wanna get involved, but I made sure 'cause like I took it, I took the information like a regular security report.

Detective Schillinger: Uh huh.

Devario Bennett: I would in my job so I just got all the information, the details and she was, it seems like she was so scared like it was almost like she feared for her life, so I, I started to feel bad for the lady so I just told her I'll, I'll take care of it for you and she, she said thank you and she got in her car and literally, like literally drove off.

Detective Schillinger: Okay, the, the, the description you gave to dispatch when you called, uh, you said the suspect was a black male about 35 –

Devario Bennett: Mm hmm.

Detective Schillinger: – years old –

Devario Bennett: Yeah, 30, 40.

Detective Schillinger: – 30, 5, 5 foot 8, 8 inches tall, black –

Devario Bennett: Yep.

Detective Schillinger: – jacket, puffy blue jeans and you didn't see any weapons. Is that about

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right?

Devario Bennett: Yeah, that's about right. That's the description she gave.

Detective Schillinger: Okay and then, uh, just after you made to the call to 911, did you just get in your car and drive off?

Devario Bennett: Yeah, like I, I had my, I was borrowin' my cousin's car and soon as I got in the car, as soon as we like hit the corner, 'cause I wanted to get at least a, a little bit away from the, uh, gas station 'cause I didn't know if there was like gonna be like a shootin' or somethin' so like, immediately after she left, as soon as my car got done pumpin' gas, I left and then that's when I called you guys and gave you the information and I headed to Vallejo.

Detective Schillinger: Okay, which way did you leave the gas station?

Devario Bennett: I left out, uh, the way drivin' past Carrows.

Detective Schillinger: Driving past Caro? So you went down –

Devario Bennett: Yeah.

Detective Schillinger: – and exited onto Potrero and –

Devario Bennett: Yeah.

Detective Schillinger: – went towards Richmond more?

Devario Bennett: Yeah.

Detective Schillinger: Okay, and then you never saw anybody leaving or walking or anything like that, suspicious?

Devario Bennett: Noth, nothin' like that but the thing was it was like, there were so many people at the gas station. It was like another guy in a, it was like an older gentleman behind me and there was like plenty of people there.

Detective Schillinger: Okay, uh, just 'cause when I look at the video, what kind of car were you driving?

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Devario Bennett: I was drivin' a Honda Civic.

Detective Schillinger: Honda Civic?

Devario Bennett: Uh huh.

Detective Schillinger: Okay, what color is it?

Devario Bennett: It's tan.

Detective Schillinger: A tan Honda Civic?

Devario Bennett: Uh huh.

Detective Schillinger: And you were wearing a security guard outfit?

Devario Bennett: Yeah, yeah, my security guard outfit.

Detective Schillinger: What security company do you work for?

Devario Bennett: I work for Securitas.

Detective Schillinger: Securitas? 

Devario Bennett: Uh huh.

Detective Schillinger: Securitas. Do you have a business number or anything like that or address?

Devario Bennett: I don't, I don't have, I know the address. It's the, it's in Walnut Creek, I know that. I don't have the, uh, actual business information because all, the only number I have on me is just the number for the hospital.

Detective Schillinger: You work at the hospital?

Devario Bennett: Yeah.
Detective Schillinger: What number is that?

Devario Bennett: That's, uh, 510-752-7777.

Detective Schillinger: 7777? Okay, so you left and you never heard anything else. Did you see the police arrive or anything like that?

Devario Bennett: No, I wasn't around for none of that.

Detective Schillinger: Okay, all right, I don't think I have any more questions at this time. If I need to contact ya I'll give ya a call and most likely leave you a message.

Devario Bennett: Okay.

Detective Schillinger: All righty?

Devario Bennett: All right.

Detective Schillinger: Eh, thanks.

Devario Bennett: No problem.

Detective Schillinger: And one more second, D-E-Z-A-R-I-O?


Detective Schillinger: D-E-Z-A-R-I-O, all right, thank you very much sir.

Devario Bennett: Mm hmm.

Detective Schillinger: And the time is, uh, 7:03 p.m.
STATE of CALIFORNIA, COUNTY of Contra Costa,

SEARCH WARRANT and AFFIDAVIT  
(AFFIDAVIT)

Detective Robert Chalk swears under oath that the facts expressed by him in the attached and incorporated Affidavit are true and that based thereon he has probable cause to believe and does believe that the articles, property, and persons described below are lawfully seizable pursuant to Penal Code Section 1524 et seq., as indicated below, and are now located at the locations set forth below. Wherefore, Affiant requests that this Search Warrant be issued.

(Signature of Affiant)

HOBBS SEALING REQUESTED:  □ YES  □ NO
NIGHT SEARCH REQUESTED:  □ YES  □ NO

(SEARCH WARRANT)

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICEMAN OR PEACE OFFICER IN THE COUNTY OF Contra Costa: proof by affidavit, under penalty of perjury, having been made before me by Detective Robert Chalk there is probable cause to believe that the property or person described herein may be found at the location(s) set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 et seq., as indicated below by "□"(s), in that:

- □ it was stolen or embezzled;
- □ it was used as the means of committing a felony;
- □ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery;
- □ it tends to show that a felony has been committed or that a particular person has committed a felony;
- □ it tends to show that sexual exploitation of a child, in violation of Penal Code Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring;
- □ there is a warrant to arrest the person;
- □ a provider of electronic communication service or remote computing service has records of evidence, as specified in Penal Code Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things in possession of any person with intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery;

You are Therefore COMMANDED to SEARCH:

THE PREMISES located at and described as: 3411 Cutting Boulevard, Richmond, CA. 94804.

3411 Cutting Boulevard, Richmond, CA. 94804 is a tan colored duplex located on the north curb line of Cutting Boulevard at S. 34TH Street. The top and bottom units are separate units. There is an off white colored door located on the east side of the duplex on the first floor and is located to the right of the stair case which is where Johnson resides. There is only one door located on the east side of the complex with access to the lower level unit. There is a window located on the east side of the building to the left of the lower level front door. There is a fence which surrounds the east side of the building and there is a common parking area inside of the fenced area. There is a driveway which is accessible from Cutting Boulevard and allows access to the front door of the lower level residence.

Including basements, attics, storage spaces, appurtenant buildings, the surrounding grounds, and all containers and thereon which could contain any of the items sought.
For the following PERSON(S): N/A

The following VEHICLE(S) described as:
1990 Gold 4 door Lincoln Town Car (CA. Lic#5UVK356, VIN#1LNLM81F5L Y680191)
Registered Owner: J. Doe. 14151 Lakeshore Dr.#8, Clear Lake, CA. Buyer as of 12/20/2012 is Michael Johnson at 629 S. 20th Street, Richmond, CA.)

Including the passenger compartments, storage areas such as trunks and glove boxes, and any containers within the vehicles which could contain any of the items sought.

For the FOLLOWING PROPERTY listed below:

1. Indicia and/or paperwork identifying the residents at 3411 Cutting Boulevard, Richmond, CA., including but not limited to utility company receipts, rent receipts, and addressed envelopes.
2. Items related to firearms such as holsters, carrying cases, spare parts, cleaning equipment, manufacturers packaging, receipts, ammunition, clips or magazines, expended ammunition, owners’ manual, reloading equipment, photographs of weapons.
3. Cellular telephones and other telecommunication devices to include but not limited to: cellular telephones, pagers and two way communication devices. This search warrant authorizes officers who seize the telecommunication device(s) to conduct a forensic search of the device in order to extract the data from the telecommunication device to include incoming/outgoing call records, sent and received SMS conversations, sent and received e-mail messages, sent and received voicemail messages, photographs, videos and note entries regarding this case.
4. Diaries, notebooks, calendars, datebooks, letters to and from personal organizers which tend to establish and document entries authored by Michael Johnson regarding his relationship with his state of mind prior to the incident, past actions Johnson has taken and also actions Johnson planned on taking regarding acts of violence toward
5. Computers, internal hard drives, external hard drives, removable hard drives and zip drives. This search warrant authorizes the officer(s) who collect the evidence to take the item(s) to be forensically analyzed by the Northern California Computer Crimes Task Force or similar law enforcement computer forensic team to analyze the items in order to locate photographs, videos, etc. containing evidence related to firearms and e-mails or any other type of communication sent to/from
6. Evidence to include but not limited to still cameras and video cameras which could possibly contain photographs taken of Johnson which may potentially document Johnson stalking
AND TO SEIZE IT / THEM IF FOUND and bring it / them forthwith before me, or this court, at the courthouse of this court. This Search Warrant and Affidavit and attached and incorporated Statement of Probable Cause were sworn to as true and subscribed before me on this 28 day of DEC., 2012, at 7:10 A.M. P.M.

Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

[Signature]
Judge of the Superior Court of California, County of Contra Costa

[Signature]

HOBBS SEALING APPROVED: ☑ YES ☒ NO
NIGHT SEARCH APPROVED: ☑ YES ☒ NO

[Signature of Magistrate]

Search Warrant.doc - revised 03-05-2005 MLV
STATE of CALIFORNIA, COUNTY of Contra Costa, 
ATTACHED and INCORPORATED 

AFFIDAVIT 

My name is Robert Chalk and I am a Police Officer with the City of El Cerrito and am currently assigned to the West Contra Costa County Narcotic Enforcement Team (West-NET). During my time as a Police Officer I worked as a patrol officer where I investigated crimes to include; kidnapping, domestic violence, attempt murder and other firearms related offenses. I have received on the job training through the field training program and I have attended a POST certified basic academy. This training also includes investigations of the listed crimes and investigative techniques. I have investigated no less than 30 firearms and domestic violence investigations which resulted in the arrests of the suspects. I have also been involved in many searches of suspect's property, including their houses, vehicles, hotel rooms, lockers and personal effects. These searches were performed under many different authorities such as search warrants, parole and probations searches, consent searches, searches incident to arrest and plain view searches. During my time as a Police Officer and detective I have personally observed that subjects committing a specific crime will quite often be involved in other forms of criminal activity. I have talked with more experienced investigators and learned from them their techniques and methods of investigating these crimes. Below and attached is a summary of facts concerning an investigation occurring on December 27th, 2012.

On December 27th, 2012, at approximately 1335 hours, the El Cerrito Police Department dispatch received a call from a citizen (no further description) who lives behind 11319 San Pablo Avenue (Chevron Gas Station), who heard a woman screaming for help. The citizen believed the woman screaming was in the empty lot to the rear of the Chevron gas station. The El Cerrito Police Department dispatcher advised of a second call at approximately 1837 hours, from an unknown citizen (no further description), who stated a female employee of the Chevron gas station was being assaulted.

El Cerrito Police Officers arrived on scene at approximately 1838 hours, and located a male later identified as Michael Christopher Johnson (DOB: June 21st, 1964). Michael Johnson was located on the northwest side of the Chevron gas station. Officers also located a female later identified as (DOB: who was also at the scene. Responding officers observed Michael Johnson holding a firearm in his hand. Johnson was striking in the head with the butt of the firearm. In effort to preserve the life of who was in imminent danger, Officers discharged their firearms, striking Johnson which resulted in life threatening injuries. Johnson is currently in critical condition at the hospital

During an interview with it was revealed that Johnson and have children in common and had been in a dating relationship extending over two decades. (DOB: stated she is an employee of the Chevron gas station at 11319 San Pablo Avenue, El Cerrito, CA. Johnson had been coming to her job multiple times to speak with said that she felt that Johnson has been stalking her because he seemed to know what time she usually takes her lunch break.

Gallon stated that in the past Johnson and have had incidents of domestic violence resulting in the issuance of a restraining order listing Johnson as the restrained party. Detective Sergeant Ciatt of the El Cerrito Police Department reviewed the prior incident reports from the Richmond Police Department involving Johnson and Gallon and learned the following. In 2004, Gallon reported that Johnson accused her of having an affair and threatened her with a gun (Richmond Police Department Case#2004-10105). In 2008, Johnson battered , held her at gun point and barricaded himself in his residence at 3411 Cutting Boulevard. He was convicted in Contra Costa County Superior Court of felony domestic battery as a result of this incident (Richmond PD Case#2008-29583). Gallon reported a total of five domestic violence related offenses to the Richmond PD involving Johnson since 2004.

During the investigation it was determined that Johnson had arrived at the gas station in a vehicle which is described as a 1990 Gold Lincoln Town Car. A California DMV check revealed the registration information:
The vehicle was located at the scene of the crime. Per DMV the vehicle is currently registered in the name of _, but is pending a title transfer to Johnson residing at 629 S. 20th Street, Richmond, CA. as of 12/20/12. The vehicle was towed to the El Cerrito Police Department for evidence per California Vehicle Code section 22655.5 and will remain at the El Cerrito Police Department until search warrant is executed.

A California DMV search revealed that Michael Johnson (DOB: 06/21/1964), resides at 629 S. 20th Street, Richmond, CA. 94804 as of 02/24/2010. A local record check of Johnson revealed that he has provided 3411 Cutting Boulevard, Richmond, CA. as his place of residence to the police.

On December 28th, 2012, at approximately 0130 hours, directed me to 3411 Cutting Boulevard, Richmond, CA. 94804 and stated Johnson resides at that location. I was at that location in order to notify Johnson's next to kin about the incident and said that Johnson's son resides at 3411 Cutting Boulevard with Johnson. I accompanied down the driveway on the east side of the duplex at this location. I walked up to the door which was located on the first floor on the east side of the business. I pointed at the door on the right side of the staircase on the outside of the building and stated that was the front door to Johnson's residence.

On December 28th, 2012, at approximately 1530 hours, Detective Schillinger of the El Cerrito Police Department interviewed a woman by the name of Kendra Timmons who was in custody at the El Cerrito Police Department for an unrelated offense. It was determined that Timmons informed Detective Schillinger that she was the half sister of Johnson and that on December 27th, 2012, at 0900 hours, she went to visit Johnson at his residence at 3411 Cutting Boulevard. Timmons stated Johnson lives on the bottom floor of the complex and the front door is on the east side of the building, to the right of the staircase. Timmons met with Johnson who was inside of the residence and she was there to borrow money from Johnson. Timmons stated that Johnson has resided at 3411 Cutting Boulevard for approximately three years.

I know based on my training and experience and speaking with other investigators the following information to be true.

Persons who possess firearms commonly possess other associated items such as holsters, ammunition, packaging, magazines and photographs in their place of residence or vehicle's.

Persons engaged in a dating relationship or marriage often times possess in their residence, vehicles or on their person, items such as notebooks, journals, datebooks and diaries. It is common for individuals to document the status of the relationship they are engaged in. Subjects may write personal entries to include acts of violence committed in the past and also actions planned for the future.

Individuals possess cellular phones, two way pagers and other telecommunication devices in their residence or vehicle's which contain text messages, e-mails, call logs, voicemail messages, photographs, videos, and note pad entries. These items tend to provide information about a relationship between two individuals such as a history of violence, threats of future violence, current relationship status and evidence of stalking.

Persons possess computers, tablets, internal and external hard drives and zip drives which often times contain the following information. Photographs, videos, sent and received e-mails, note pad entries, contact lists and address books. These items document a relationship between two individuals and may reveal evidence of future and past threats/acts of violence, current relationship status and annoying or harassing e-mails.

It is common for individuals engaged in stalking to often times possess still cameras and video cameras which contain saved videos or photographs of the subject being stalked. These videos and photographs often times contain images of the victim during their daily routine and document the locations the victim frequents to include their place of residence or their work place.

AFFIDAVIT
Page 2 of 3
I pray that a Search Warrant be issued based upon the aforementioned facts, for the seizure of said property, or any part thereof, between the hours of 7:00 A.M. and 10:00 P.M., good cause being shown thereof, and the same be brought before this Magistrate or retained subject to the order of the court, or of any court in which the offense(s) in respect to which the property of things taken, triable, pursuant to Section 1536 of the Penal Code,

Items attached and incorporated by Reference: YES □ NO  □
I certify (declare) under penalty of perjury that the foregoing is true and correct.

Judge of the Superior Court of California, County of Contra Costa

[Signature of Affiant]  28th day of December, 2012 at 7:10 a.m. / P.M.
EL CERRITO POLICE DEPARTMENT
0705

RECEIPT FOR PROPERTY SEIZED

CASE NO. 2-23364

The following items, which constitute Evidence of Crime, Contraband, or Stolen Property, were discovered in plain view while searching for items listed on the Search Warrant which was being served at 3411 Cutting Blvd., Richmond, California, on December 28, 2012.

1) Box of 38 rounds (Federal)

2) Atfe bill top of closet (w/DC)

3) FDD eligibility form Michael Johnson

4) Receipt in name of Michael Johnson

5) (9) .20 gauge shotgun rounds

6) ATI rifle in name of Michael Johnson

- Leave 1 copy at place searched
- ORIGINAL WITH SEARCH WARRANT AND RETURN TO JUDGE
- 1 copy for police file

RECEIPT FOR PROPERTY SEIZED
List seized items not named on search warrant

158 Officer's PSN

Scillingber Officer's Name

12/28/12 Date

COPY
SUPPLEMENT:

On 12-28-12, during the service of a search warrant at 3411 Cutting Blvd, I contacted James Johnson who is the son of the suspect and victim in this case. James Johnson told me there was an incident the victim told him about which possibly occurred the weekend prior to this event. James said the victim told him the suspect had come to her place of business at Chevron last weekend and disabled a light which illuminates the area behind the Chevron station where this current incident took place. James told me the victim said she forgot to mention the prior incident to the police when she was interviewed. James told me the victim said she or another employee of Chevron had seen the suspect walk to the rear of the Chevron station this past weekend and disabled the lights behind the building. James did not have any more information about the prior incident.

On 12-29-12 at approx. 1547 hours, I contacted the victim at 4785 Harnett Ave Apt. H, for a follow-up interview concerning the information given to me by James Johnson. I explained to the victim why I was there and interviewed her concerning the information. The interview was audio taped using a digital recorder and the interview was later transcribed by SpeakWrite. After making corrections to the transcription I labeled the report as "Follow-up" and it was attached to this report.

After talking with Det. Schillinger and I drove by the scene of this shooting. We located the light described and it was a small flood light which normally has two light bulbs attached to it. One of the sockets was empty and the other had a bulb in it which appeared to be fairly old. The light was attached to the rear of 6115-6117-6119 Potrero Ave. I located a phone number for the property owner, who was identified as Marie Rollari (707-823-6726).

On the evening of 12-29-12, I contacted Rollari and she told me the light behind her building on Potrero, has not worked in over a year and the cameras attached to the roof of the building is just a dummy camera. She stated it was placed there as a deterrent, but it does not work and never has.
Follow-up

Strang: This is Strang. It is December 29th, 2012. It is approximately 1547 hours. This will be
an interview of
a follow-up interview. Uh, present in the room is–

Detective Schillinger: Detective Schillinger.

Strang: Continuing interview of Mrs. in regards to a possible incident which occurred
prior to, uh, the assault on her by the suspect. Um, so Ms. can you just explain? James
had told us when we did the search warrant last night that there was an incident that happened
possibly last weekend and you had forgotten to mention it.

: I did because, uh, there's the building that, that, that, uh, the incident
happened where he had me held up where that building used to have a light up top and it also has
cameras just 'cause the, the owner of the building, of the property said he, he came in one time
and said it was, uh, cameras out there, he put cameras out there, but it used to be a light that was
out there too, but that, that night, it got, it was dark because, I wonder if he went and broke that
light, 'cause he, he, uh, Thursday night he, he was in a car with his friend, and his friend works
with me, his name is Dwayne ****, his name is Dwayne Reid and he was picking up his check.
It was about 10:00 because I was just gettin' off waitin' for my ride and I seen Mike wanderin'
around the building and then he runs back and get in the car and I asked my son, I say Maurice,
did you see Mike in that car, he right there? He says no, I didn't see him. I said he must have
ducked down under, under the seat where you couldn't see. He say he wasn't there, mama. Yes,
he was. I'm not crazy, he was there. So then I'm thinkin' he broke that window. He was tryin' to,
he was plannin' this all this time.

Strang: He broke the light?

Amy Gallon: Broke the light. I believe he broke the light.

Strang: So, so what night is it you're talkin' about?
Amy Gallon: It was on Thursday, maybe the week before Christmas so 24th, 24th, 23rd, 22nd, it'd be the 21st or the 22nd. It was on a Thursday.

Strang: Thursday prior to Christmas.

... Right.

Strang: And you were there with who?

: I was at work.

Strang: Oh, you were at work.

: I was at work. I was just gettin' off, waitin' for my ride.

Strang: Okay

Strang: And who was your ride?

: My son, Maurice Skinner.

Strang: Okay.

: And also I asked him when I got in the car, I said did you see Mike. He said no, I didn't see Mike. I said he was there in Dwayne's car. And I said he must've ducked down and you didn't see him, but I seen him out the side of my eye when he ran around the building, and then he came back.

Strang: Did he ever come inside –

No he never came in cause the doors was locked ****-

Strang: But Dwayne was there to pick up his check.

Yeah. He was at the window. He had his check through the window.
Strang: Okay. Okay.

: And he was, he was there with him.

Strang: Okay. And so Mike ran around the back of the building –

Yeah. And ran back.

Strang: – and then ran back ****.

Yeah. And did it quick **** tryin' to be quick where nobody would see him.

Strang: Where was Dwayne's car parked?

Right at Comp number, wanna say a number between us, the, the 7. Parked right there by 7. You can see his car like in the middle of the aisle.

Strang: Okay. What, what kinda car does Dwayne drive?

: Uh, I think it's a Mitsubishi, a red Mitsubishi.

Strang: Okay. And this was about 10:00 that night?

: Yeah, 10:00.

Strang:****.

: I just got, just got, gettin' off.

Strang:Okay. Do you know what, um, Mike had on that day?

No. It was somethin' black. I just noticed –

Strang: ****?

: – runnin' there and runnin' back.
Strang: But nobody told you that—

: No, no, no.

Strang: — they saw him break the light, Dwayne never mentioned it—

: I ****. No, no. **** didn't mention **** 'cause **** —

Strang: We just don't know **** —

: No. I did not. I don't ****.

Strang: When was the last time that light, you remember that light was working?

: Oh, I'm not sure, but I noticed that, that used to be a little light back there.

Strang: Okay.

: Not sure of, and I'm, I was telling my son that I wonder if he was the one who broke that light 'cause—

Strang: Okay So.

: — there used to be a light there.

Strang: Uh, I know on the back of the bar there's a camera up on that corner, right?

: Yeah. There's supposed to be a little light. He had a little light—

Strang: Is the light up by the camera or a little, down below, or is on the other side of the, the building?

: I don't know 'cause I only see it when I used to do the garbage before it got dark you could see the little light flashing in the back of the building.

Strang: Did it light up that corner?
Yeah. Right there it lit up that, that little spot.

Strang: But you don't remember the last time you saw it.

: No. No, I was just saying I think that's, he prob'ly was planning on, on this thing all this time because he prob'ly broke that light.

Strang: Okay.

: I started thinkin' about stuff, you know, I said hey, I wonder if he the one broke that light.

Strang: Uh huh.

: Prob'ly, he prob'ly did.

Strang: Do you know was it, can you describe the light. So if we go look at it we could figure it out.

: It's prob'ly one of them little spotlights. Little, the little spotlights that just come down and around certain spots, like –

Strang: Okay.

: I don't know how high it is off ****.

Strang: And there was only one that ever worked on the back of the building?

Well, I remember that one because when you come around you can see the fence. You know, the little wooden fence they got back there you can see that area good it wasn't dark.

Strang: Okay. Okay. And who's the owner of that building? Did you –

: I don't know his name, but he's –

Strang: And you had mentioned he has cameras for what reason –
He came in because somethin' was goin' on and he was sta tellin' us about he got somebody cleanin' up over there, he placed cameras back there 'cause I guess a lotta stuff was goin' on back there or somethin'. I don't know. And he owns Chevron's property, too, and he just come in every now and then. I don't know his name. I couldn't even tell you exactly what he look like. I know he's a white guy, older dude and he just comes in and just talkin' to us about, uh, the cameras he placed up there.

Strang: Okay. How long ago did he put the cameras up there?

: That was, that was 'bout three or four months, I guess.

Strang: So it's been pretty recent.

: Yeah.

Strang: So that camera up there is fairly recent?

: Yeah I think so.

Strang: Okay. And he put it up there because people were doin' ****

: I don't know. I don't know **** just cause I guess people tryin' to break in there or tryin' to sleep, I don't know.

Strang: Okay.

: I don't know.

Strang: Okay. Well, that clears some stuff up. Um, do you know when Dwayne works again?

Uh, he works graveyard between hours of 10 to 6 in the morning on Monday, Tuesdays, and Wednesdays.

Strang: Monday, Tuesday, and Wednesday 10 to 6. Do you know where he lives?
Yeah, I don't know the address. He stays in Pinole, in ah not Pinole ah El Sobrante.

Strang: El Sobrante. Okay. And you say it's Dwayne Reid. Is it R-E-E or R-E-I or do you know how to spell it?

          Uh, R, I think it's R-E-E.

Strang: R-E-E-D? What race is he?

          He's black.

Strang: How old do you think he is?

          Uh, he should be ****, I wanna say 56, 57, 58.

Strang: Okay. What's he look like? How tall do you think he is?

          He around maybe 6 feet. 6 somethin', uh, light skinned, **** brownish skin.

Strang: Hmm.

          Skinny built.

Strang: Any beard or moustache anything?

          No.

Strang: No? How long is his hair?

          Short.

Strang: Real short? Okay. All right. And you said he has, um, what kinda car is that?

          I think it's a Mitsubishi. It's a burgundy type car.

Strang: Okay. All right. Well, thank you much. Um, I hope you're feelin' better.
Yeah, I'm plannin' on going back to work, I can't, I can't sit still, I'm a work a'holic, always active.

Strang: How 'bout, um, do you know who, uh, Ruby is?

: Ruby Johnson, that's his mother.

Strang: That's him.

: That's Mike, Michael Johnson's mother.

Strang: That's his mom

: That's Michael Johnson's mother.

Strang: Did she live at the 20th Street address?

: Yes.

Strang: Um, does she live there by herself?

: She stay there with her, uh, dau, uh, not her daughter, uh, Niecy and, uh, Tamika Carter.

Strang: Okay, alright. Do you happen to know the phone number on 20th?

: Uh, 23 –

Strang: Hold on a second.

: There tryin to keep her quiet away from all of that.

Strang: Yeah, yeah

Because, because she's 97, ninety, she's 98 years old, somethin' like that.
Strang: Ruby Johnson, what do you think the phone number is over there?

I know the number. It's 235-4269.

Strang: 4269. Okay. Thanks. Okay. We'll thank you very much and this'll end the interview with, uh, Ms.
Involved Officer Interviews:

On 12-27-12 at approx. 1852 hours, I received a text message from Sgt. Cliatt concerning an officer involved shooting which had recently occurred. Sgt. Cliatt stated he did not have any details about the shooting, but asked if I would be able to respond to ECPD to assist in the investigation. I arrived at ECPD at approx. 1945 hours and responded to the scene of the shooting with Sgt. Cliatt. We arrived at approx. 2003 hours.

The crime scene was located on the north-west side of the Chevron located at 11319 San Pablo Ave. The entire business and sidewalk surrounding the business was closed off with crime scene tape. Officer Turner from the Kensington Police Department was assigned to log individuals in and out of the scene. While at the scene I saw a fully marked El Cerrito patrol car #1 was parked near the north-west corner of the Chevron building. The patrol car had its lights on to include the overhead emergency lights, the engine was running and the driver’s side door was open. There were several crime scene placards on the ground marking items of evidence. I did not walk down into the area where the victim and suspect were originally located.

After viewing the crime scene, I returned to ECPD for a briefing about the event.

During the briefing I was assigned to work with Daryl Jackson who is an Inspector with the Contra Costa County DA office. Our assignment was to interview the two involved Officers and one Officer who was near the scene at the time of the shooting. The two involved Officers were identified as Reserve Officer Chi Lee and Officer Mario Guzman. I learned that the three officers we were to interview were being sequestered in three separate hotel rooms at the Courtyard Marriott at 3150 Garrity Way Richmond, Ca. Prior to interviewing the involved Officers, we monitored the interview with the victim and listened to the dispatch recording of the 911 calls and the radio traffic.

I drove to the hotel and arrived just after midnight on 12-28-12. Inspector Jackson and I met with Investigator Robert McFarlane and Attorney Peter Hoffmann from the law firm of Rains, Lucia Stern, PC. We were told McFarlane would be representing Officer Thepkaysone and Hoffmann would be representing Officer Guzman and Reserve Officer Lee. It was determined that we would interview each Officer separately in each of their rooms and Officer Thepkaysone would be interviewed first.

We located Officer Thepkaysone in room #211 and present during the interview was Officer Thepkaysone, Inspector Jackson, Investigator McFarlane and I. The interview began at approx. 0026 hours and the interview was recorded using a digital audio recorder. During the interview Officer Thepkaysone was asked to draw a diagram of the crime scene to help explain some aspects of the event. The diagram was initialed by Officer Thepkaysone and collected by me. I wrote the case number and “BAILEY THEPKAYSONE” on the top of the diagram and the
diagram was later booked into evidence. The audio recording of the interview was sent to SpeakWrite for a printed transcription of the interview. Once I received the printed transcription from SpeakWrite, I made corrections to the document and it was labeled “OfficerThepkaysone1” and “Officer Thepkaysone 2”. The transcript is attached to this report.

After concluding the interview with Officer Thepkaysone, we interviewed Reserve Officer Lee in room #213. Present during the interview was Reserve Officer Lee, Inspector Jackson, Attorney Peter Hoffmann and me. The interview began at approx. 0103 hours and the interview was recorded using a digital audio recorder. During the interview Officer Lee was asked to draw a diagram of the crime scene to help explain some aspects of the event. The diagram was initiated by Officer Lee and collected by me. I wrote the case number and “CHI LEE” on the top of the diagram and the diagram was later booked into evidence. While using the diagram drawn by Officer Lee some of the aspects of the scene became unclear so Inspector Jackson used his iPad to bring up an aerial view of the scene using the included mapping program within the iPad. The audio recording of the interview was sent to SpeakWrite for a printed transcription of the interview. Once I received the printed transcription from SpeakWrite, I made corrections to the document and it was labeled “OfficerLee”. The transcript is attached to this report.

After concluding the interview with Officer Lee, we interviewed Officer Guzman in room #214. Present during the interview was Officer Guzman, Inspector Jackson, Attorney Peter Hoffmann and me. The interview began at approx. 0220 hours and the interview was recorded using a digital audio recorder. During the interview Officer Guzman was shown an aerial view of the crime scene using Inspector Jackson’s iPad to help explain some aspects of the event. The aerial view shown to Officer Guzman was from the mapping program included with the iPad. The audio recording of the interview was sent to SpeakWrite for a printed transcription of the interview. Once I received the printed transcription from SpeakWrite, I made corrections to the document and it was labeled “OfficerGuzman”. The transcript is attached to this report.

After the interviews were concluded the Officers were released and allowed to return to ECPD. I transferred the recorded interviews of the Officers from the digital recording device to a CD and the CD was booked into evidence. Copies of the CD are attached to this report.
Officer Guzman

Strang: This is Detective Strang. It's December 28, 2012. It's approximately 0220 hours. This will be an interview of Officer Guzman. Present with me during the interview is –

Jackson: Daryl Jackson, Contra Costa County District Attorney's Office.

Hoffmann: Peter Hoffmann, Rains Lucia Stern, counsel for Officer Guzman.

Jackson: Uh, Mario is your first name?

Officer Guzman: Yes.

Jackson: Okay, um, Mario, how long have you been an El Cerrito police officer?

Officer Guzman: Uh, El Cerrito for 5½ years and prior to that I was a police officer with the City of Clayton for 2½ years.

Jackson: Okay, so total of eight years. All right. Um, other than the basic academy, do you have any, um, additional training?

Officer Guzman: Yes, we have in-house, uh, training, uh, which consists of firearms training, simululations training, detacts training. I've been sent to special, uh, training classes in Alameda County Sheriff's Office, um, –

Jackson: What was the subject matter in those training classes?

Officer Guzman: Uh, I went to a, uh, officer safety tactical, um, survival course. It was a 40-hour course.

Jackson: Okay.

Officer Guzman: About a, I think about a month and a half ago and there was some LEOKA training, um, and some other firearms training.
Jackson: Okay. Yes. Um, what's your normal shift?

Officer Guzman: My normal shift is graveyards, uh, weekdays which consists of Tuesdays, Wednesdays, Thursdays and every other Monday from 6:00 p.m. to 6:00 in the morning.

Jackson: Okay. Um, so this would be your normal shift, you work 6:00 p.m. to 6:00 a.m.

Officer Guzman: Yes.

Jackson: How much sleep did you get during the course of the day?

Officer Guzman: Well, I went to bed at 7:00 in the morning, uh, when I got home and I woke up at 2:30 in the morning, I'm sorry, 2:30 in the afternoon.

Jackson: Okay.

Officer Guzman: So that was, that was plenty of sleep for me.

Jackson: Okay and what'd you have to eat?

Officer Guzman: Right before, um, I came to work I stopped by the Vietnamese restaurant in El Cerrito and picked up, um, some Vietnamese food and I brought it back to the station right before I began my shift.

Jackson: Okay. Are you on any medication at all?

Officer Guzman: No, none.

Jackson: Um, when — so what time did you get to the, uh, department today?

Officer Guzman: I got to the department early today because I had to drop off some uniforms at Butler's Uniforms to get my patches sewed, um, so I was there at about 5:00 p.m., uh, an hour prior to my shift.

Jackson: Okay and as you prepare for your shift what do you, type of uniform do you put on, if any?
Officer Guzman: I put on my, um, blue, uh, BDU pants, uh, my El Cerrito Police Department BDU shirt which consists of, um, a star on the top left that, that reads El Cerrito Police, uh, patches on both arms, uh, that also say El Cerrito Police. Um, I wear my duty belt which consists of my Sig 226 40 caliber firearm, uh, a flashlight, two handcuffs, my, uh, radio, my department-issued radio.

Jackson: Okay.

Officer Guzman: Um, and my two, a, a pouch with two extra magazines.

Jackson: Okay and magazine capacity in your weapon?

Officer Guzman: 12, uh, for the magazine and one in the chamber.

Jackson: Okay, so on a, when, when you come on duty you have 13 rounds –

Officer Guzman: Yes.

Jackson: – at your disposal.

Officer Guzman: That is correct.

Jackson: Okay. Um, did you have lineup training? **** –

Officer Guzman: Yes. Yes.

Jackson: Okay. Do you attend lineup?

Officer Guzman: Yes, at, at 6:00 p.m.

Jackson: All right.

Officer Guzman: That's when it starts.

Jackson: Okay. Uh, what was your first call after clearing lineup?
Officer Guzman: After clearing lineup, um, I got into my car, put all my gear in my car and as soon as I was ready to start patrolling, uh, we got a call of a female yelling for help at 6105 Potrero Avenue.

Jackson: Walk us through that please.

Officer Guzman: Yes. Um, it was my beat. I was assigned to the north end of the city which we call Beat 11 and dispatch, uh, advised that, uh, there was a female yelling for help, screaming for help at that address, um, so I started driving towards that location. The first thing that popped in my mind was it's a robbery 'cause it happens all the time.

Jackson: Okay, my apology, but I'm **** –

Officer Guzman: Okay.

Jackson: – do this, you said started towards that direction. What direction is that?

Officer Guzman: Okay. I made a left off of the parking lot.

Jackson: Okay.

Officer Guzman: In El Cerrito and then I left, uh, for, there's a, a church parking lot that leads on to San Pablo Avenue, um, and then I made a right on San Pablo Avenue and went towards Potrero which is where the, the address was, was at:

Jackson: So that's driving northbound on San –

Officer Guzman: North, exactly. Northbound on San Pablo Avenue.

Jackson: Okay. Go from there please.
Officer Guzman: So while I was responding I, um, I was thinking okay, this is a robbery, it happened last week, very similar call, female yelling for help. Um, when I got to Potrero and San Pablo Avenue I made a left on, on Potrero heading westbound, um, and I passed the Chevron. I didn't know that it was actually the Chevron at that time, um, 'cause dispatch said that it was, it was in the, in a empty lot or something in, in that, in that, um, line, so I, I, I looked into the, the parking lot and didn't see anyone and then I said maybe it's the other parking lot 'cause there's another church a block west of our location and I thought maybe the location's wrong. So I went to that parking lot as well to the church that, to that church's parking lot and I shined my flashlight, um, my spotlight and I didn't see anything going on there.

Jackson: Let me pause.

Officer Guzman: Yeah.

Jackson: You said the church you're talking about is the one actually west of the I80 over freeway.

Officer Guzman: You are correct. Yes.

Jackson: On the –

Officer Guzman: On the north ****.

Jackson: – north, north curb line.

Officer Guzman: Right, yes.

Jackson: Okay.

Officer Guzman: So I shined my flash, my spotlight there, didn't see anything going on, so I made a U-turn. At this time my lights were turned on.

Jackson: Okay.
Officer Guzman: That I was responding Code 3, no siren. Um, I made a U-turn and dispatch updated the location that it was to the rear of, of Chevron. Um, so at that time I went eastbound on, on, uh, Potrero and then at that same time I saw another unit coming, making a left turn on, onto, uh, Potrero Avenue. So I made the first left into the Chevron gas station, um, and, uh, I stopped. I didn't see anything at the, when I pulled in and I stopped, um, in the back lot, got out of my patrol car, lights were still on flashing, and I hear a female voice yelling, screaming. So I walked around my patrol car to the back and she's screaming. I, I look and I see the victim and the suspect in the corner of the building, um, and it, that portion of it is a little dark. It's, there's not great lighting, uh, but I could see the suspect and I could see the victim and she, and the suspect's on top of the victim and the very first thing that came to my mind is is he raping her and, but then I saw him hitting her over the head as she's on the bottom and he's on the top just hitting her, uh, in the head and she's trying to escape but he's, he's not letting her go. So I pull out my firearm and I pointed it at, at him, um, and I ordered him to stop. I said, I said, "Police, stop" or something in those lines to, so he could stop and he stops, he looks at me and he continues hitting her, right. So he's hitting her and at that point I don't see a weapon on him and I was about to transition to my taser, my less lethal to shoot him with the taser. Right before I made that decision I saw an objection on his hand as he's hitting her over the head with it and then I see, and then I, it took me a, a few seconds to click and say, "Oh, shit, that's a fucking gun."

Jackson: Mm hmm.

Officer Guzman: And I said that in, in my head and I wasn't in a position where I had cover, so I took maybe two steps back and he's hitting her with the butt of the gun and then when he stops the muzzle comes to her head and I go, this is, I need to shoot him because he's about to kill her and so I, I shot like three or four rounds. I aimed at center mass and I know I hit him because he, he, he leaned against the wall, fell and at that point, um, he didn't have a gun anymore. He wen, it was, he was on the ground. Um, another officer came and grabbed the victim and brought her to safety. I still had the suspect at gunpoint and I told my, the, the other u, the other officer, which I believe it was Alvarez I told him, "Hey, he's got a gun." I didn't know where it landed and he says, "I see the gun," um, and he, he, tells me to glove up, to handcuff the suspect, so I put away my gun. Um, I gloved up and, uh, I gave him some more commands. I told him not, before I holstered up, I told him if he goes for the gun he's gonna get shot and he said, the suspect looked at me and said, "I can't move." So I knew he, he was hit. I didn't know where I hit him.

Jackson: Okay.
Officer Guzman: Um, so then I holstered back my gun and then, uh, once I gloved up, uh, Rog said go ahead and cuff him up. I went ahead and cuffed the suspect. I did a very quick patdown search on him.

Jackson: Mm hmm.

Officer Guzman: And then I informed dispatch, I told her, um, shots fired, send Code 3 AMR and then she got back on the radio and asked, um, is any officers injured and I said, I told her no, that, uh, the suspect's down and that's the transmission I recall saying and then after that, um, my supervisor came on scene, other units came on scene and, um, I was told to stay with the supervisor. Um, he asked me very brief, um, safety questions, how many shots that I've shot where at.

Jackson: Mm hmm.

Officer Guzman: Is there any way that the rounds went over the building. Told him no. I told him that I believe I shot three, three times, three or four times, um, and then, and that's, that's pretty much what happened. Oh, um, and I'm not sure by the way you said this, but once he got handcuffed or, uh, they, they Rog grabbed the gun and secured it.

Jackson: Okay. All right. I'm gonna back you up.

Officer Guzman: Okay.

Jackson: Let's go back so you went to the wrong location initially.

Officer Guzman: Yes.

Jackson: The church on Potrero Avenue.

Officer Guzman: Yes.

Jackson: As you came back eastbound on Potrero –

Officer Guzman: Yes.
Jackson: towards San Pablo Avenue. You said that you turned into the Chevron parking lot.

Officer Guzman: Correct.

Jackson: Did you go up to San Pablo Avenue and make a left, and make a U-turn and turn into the Chevron parking lot from there?

Officer Guzman: I don't remember. I don't remember if I made a U-turn at the San Pablo Avenue or I just crossed to the left.

Jackson: Okay and you said you drove through Chevron parking lot.

Officer Guzman: Yes on the Potrero side.

Jackson: On the Potrero side.

Officer Guzman: Correct.

Jackson: Now, I'm an old man.

Officer Guzman: Okay.

Jackson: How do you drive through the Chevron parking lot if you're turning back behind the Chevron, the building? How do you go through the parking lot of Chev, Chevron station?

Officer Guzman: Um, I think you would make a U-turn on San Pablo Avenue and then make a right onto it.

Jackson: Okay, so then you think it, I'm not ****, I'm not trying to put word****.

Officer Guzman: Sure.

Jackson: I want you to think it through–

Officer Guzman: Right.
Jackson: — for me, uh, because I do know that area very, I know that area very well, so I want you to tell me how you, how you tonight got into the Chevron parking lot without me telling you—

Officer Guzman: Right.

Jackson: — how you got there.

Officer Guzman: Right. Well, I remember going eastbound on Potrero.

Jackson: Okay.

Officer Guzman: And then I could have have made a, a U-turn on, on San Pablo Avenue to go back to westbound Potrero and then make that right onto, into the, the, the parking lot.

Jackson: Okay. The key words there is could have. Think, think it through for me.

Officer Guzman: Right.

Jackson: Did you turn into the Chevron parking lot?

Officer Guzman: Yes.

Jackson: Okay. Um—

Officer Guzman: Yes.

Jackson: So you drove would have been in, in the front of the Chevron doors.

Officer Guzman: No.

Jackson: So **** left side.

Hoffmann: Draw a map.

Jackson: Let's, let's do this 'cause I kept ****.
Officer Guzman:  Sure.

Jackson:   Okay. What I'm showing, showing you here, um, is, using my iPad—

Officer Guzman:  Okay.

Jackson:   — um, there's the intersection of San Pablo Avenue and Potrero.

Officer Guzman:   Yes.

Jackson:   This is the Chevron gas station.

Officer Guzman:   This one right here.

Jackson:   Yes

Officer Guzman:   Yeah, So I want, so I don't remember if I made a U-turn here or on San Pablo Avenue, but I was riding eastbound—

Jackson:   Okay.

Officer Guzman:   — on Potrero and then started driving westbound on Potrero, whether I crossed here or crossed there and then, I don't really remember.

Jackson:   Okay. Is this still an island?

Officer Guzman:   Sir, I don't remember if there's a center median there, but I drove—

Jackson:   It is.

Officer Guzman:   Okay. Then I made a U-turn at, uh, San Pablo Avenue.

Jackson:   Okay, so you made a left at San Pablo, uh, made a U-turn.

Officer Guzman:   Yes.

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Jackson: And you drove –

Officer Guzman: Yeah, made a U-turn and then pulled into here.

Jackson: Okay. Uh, which is not the Chevron parking lot.

Officer Guzman: Correct, it's the parking lot by the, the cleaners.

Jackson: Okay, in between the cleaners and the old bar, uh –

Officer Guzman: Yes-

Officer Guzman: Yes.

Jackson: Angie's I think it is.

Guzman: It is, you're right.

Jackson: All right. So this **** you know that now you didn't drive through the Chevron –

Officer Guzman: Okay.

Jackson: – parking lot. You good with that?

Officer Guzman: Yes.

Jackson: Okay.

Officer Guzman: So you drove through, you made a right turn into this, the - the parking area between the laundromat and, uh, Angie's, um –

Jackson: Headlights, headlights are on?

Officer Guzman: Headlights are on, uh, overhead lights are on.

Jackson: Okay. Were you utilizing your spotlight at all?
Officer Guzman: Um, I believe so, yes.

Jackson: Okay. Uh passenger side or driver side?

Officer Guzman: Driver side.

Jackson: Okay. So when you came in through the parking lot what happened next?

Officer Guzman: I didn't see anyone in this parking lot and I made a right and stopped my vehicle at about right here.

Jackson: Okay.

Officer Guzman: And then I got out the car and that's when I heard the female yelling.

Jackson: Okay and when you heard, when you got out the car did you walk around the front of your vehicle?

Officer Guzman: No, the back of the vehicle.

Jackson: You walked around to the rear of the vehicle.

Officer Guzman: Yes.

Jackson: Okay. Did you walk back towards this corner of this building?

Officer Guzman: I, I did to this corner 'cause I saw them in this, in this corner right here.

Jackson: Was it the corner here or was it closer up here?

Officer Guzman: It should be right, yeah, should be right there.

Jackson: Okay. So were you, you, your patrol car parked somewhere over here.

Officer Guzman: That is correct.
Jackson: You came around to the rear.

Officer Guzman: Uh huh.

Jackson: You heard –

Officer Guzman: Yeah, a female yelling.

Jackson: Okay.

Officer Guzman: Screaming.

Jackson: So it would have been to your left then, correct? When you’re walking back around this way –

Officer Guzman: Yeah.

Jackson: – off to your left side –

Officer Guzman: Yeah.

Jackson: – and you could be turning looking at that, it could be more frontal but **** turning back this way.

Officer Guzman: Right.

Jackson: Did you have your, uh, handgun out?

Officer Guzman: No, not yet.

Jackson: Okay.

Officer Guzman: Okay and I see, I see, when I see them, and he’s sitting here that’s when I pulled out my gun and gave him an order to stop.

Jackson: Okay and using, uh, which hand is he using to strike her with?