



## MEMORANDUM

**Date:** April 14, 2020  
**To:** Craig Eicher, Chief of Police, Acting  
**From:** Kurt Schlehuber, Operations Division Commander, Acting  
**Subject:** Administrative Investigation – Incident # 18-30256

*K.S.* 4/21/20

---

The purpose of this memo is to inform your office of the completion of the administrative investigation into the in-custody death of Jacob Bauer on August 1, 2018. This investigation was completed by Sergeant Eric Gora and reviewed by Lt. Penelope Tamm and me. The purpose of the administrative investigation was to identify any violations of department policy, review the actions of all involved, and to identify any areas where additional training or change in procedures is warranted.

The outcome of the investigation revealed that several officers failed to conduct a spark test of their Taser before their shift as directed in policy. It also identified one officer who failed to turn on their body worn video camera during the incident. Both of these issues have been addressed and I recommend additional training for the department on these topics be included in our annual training matrix.

Of all the policy and procedures reviewed by the investigating Sergeant the above two policy violations are the only policy issues that need to be addressed. All other applicable policies were reviewed and when the facts of the case are measured against these policies all those involved acted within the scope of their duties.

I also recommend continuing to include in our annual training cycle training on crisis intervention, de-escalation techniques and dealing with persons in a mental health crisis. This is essential to ensure our officers are continuously improving the tools at their disposal to handle calls of this nature.

After a careful review of the criminal investigation, the Alameda County District Attorney's office concluded that the evidence in this case did not justify criminal charges against any of the involved officers.





## MEMORANDUM

**Date:** February 19, 2020

**To:** Craig Eicher, Acting Chief of Police, via Chain of Command

**From:** Penelope Tamm, Police Lieutenant *PT*

**Subject:** Administrative Investigation – In Custody Death – Incident Number 18-30256

*Rec'd  
4/2/20  
KS 205*

On August 1, 2018 officers responded to a report of a male subject, Jacob Bauer, causing a disturbance and vandalizing property inside Raley's supermarket. Due to the actions of Bauer, officers used multiple force options to overcome his resistance and apprehend him. While Bauer was in police custody, he died.

Sergeant Eric Gora was assigned to complete the administrative investigation of the case. The results of that investigation determined that the involved officers acted appropriately and within policy. The only violations of policy that were violated are listed below.

### **Pleasanton Police Department Policy 309.3 – Issuance and Carrying Conducted Energy Devices.**

The investigation determined that multiple officers were in violation of this policy as they did not conduct a spark test of their TASER prior to the beginning of their shift. The officers who were in violation of this policy were:

Officer Bradlee Middleton  
Officer Richard Trovao  
Officer Steven Bennett  
Officer Alex Koumiss  
Officer Matt Lengel  
Officer Rudy Granados  
Officer Bradley Palmquist  
Sergeant Jason Knight  
Sergeant Marty Billdt  
Sergeant Ben Sarasua

This policy violation has been addressed with the individual officers and will also be addressed, department wide both in daily briefings, as well as, part of the curriculum in future Advanced Officer training classes. This training will be done by the Force Options Team.



**Pleasanton Police Department Police 450.3 – Activation of the Body Worn Camera System.**  
Only one officer was found to be in violation of this policy. The officer who was in violation of this policy was:

Officer Alex Koumiss


The violation has been addressed with the officer, via counseling session with his supervisor.

On January 30, 2020 the Alameda County District Attorney published the Final Report written by the Critical Incident Team. This report concluded that the evidence in this case did not justify criminal charges against any law enforcement agency. The findings from the Pleasanton Police Department internal investigation and the investigation from the Alameda County District Attorney's office are consistent, finding that while there were a few minor policy violations, that will be addressed via training, there was no evidence that the officers committed a crime related to the level of force use.





## MEMORANDUM

**Date:** February 19, 2020  
**To:** Craig Eicher, Acting Chief of Police  
**From:** Eric Gora, Sergeant   
**Subject:** Administrative Investigation – In Custody Death – Incident Number 18-30256

---

### SUMMARY:

On August 1, 2018, officers responded to the report of a male subject, Jacob Bauer, causing a disturbance and vandalizing property inside Raley's supermarket. Officers located Bauer walking away from the business. Bauer exhibited abnormal behavior upon contact, refused to comply with the officer's lawful orders and resisted the officers when they attempted to detain him. As Bauer began to resist arrest, officers performed a leg sweep takedown and the subject escalated his resistance.

Officers utilized multiple force options to overcome Bauer's resistance and apprehend him. An officer struck Bauer with a closed fist two times on the back while Bauer was grabbing and scratching at the officer's arm. An officer deployed his TASER, striking Bauer with the probes but the deployment was ineffective. Two TASER deployments in "drive stun" mode were deployed on Bauer but were also ineffective. An officer struck Bauer two times with a baton on the side of his torso but the strikes were ineffective. Officers used their batons as levers to successfully pull Bauer's hands out from underneath his body.

After Bauer was taken into custody, he was placed into a restraint device, The WRAP, and monitored by paramedics. It took approximately 14 minutes from the time Bauer began resisting the officers until he was fully secured in the WRAP. Approximately nine minutes later, Paramedics administered a dose of Versed (Midazolam) to Bauer and then placed him onto a gurney and into an ambulance.

As paramedics were monitoring Bauer and prepping him to be transported to the hospital, he stopped breathing. Paramedics and firefighters immediately started CPR and Bauer was transported, via ambulance, to Stanford Health Care – Valley Care emergency room where he subsequently died.

**\*\*\* CONFIDENTIAL DOCUMENT \*\*\***

**INVOLVED PARTIES:**

**Suspect:**

Jacob John Bauer  
DOB 06/27/1980  
615 Junipero Street  
Pleasanton, CA 94566

**Witnesses:**

**Involved Officers:**  
*(In Order of Arrival)*

Bradlee Middleton  
Jonathan Chin  
Steven Bennett  
Alex Koumiss  
Richard Trovao  
Jason Knight  
Mardene Lashley  
Eric Billdt  
Matthew Lengel  
Bradley Palmquist  
Agatha Socha  
Rudy Granados  
Benjamin Sarasua

**Role:**

Primary Officer  
Secondary Officer  
Assisting Officer  
Assisting Officer  
Assisting Officer  
Supervisor  
Assisting Officer  
Supervisor  
Assisting Officer  
Assisting Officer  
Assisting Officer  
Assisting Officer  
Supervisor

**Force Used**

Control Hold/Takedown/Taser/WRAP  
Control Hold/Takedown/Strike/WRAP  
Control Hold  
Control Hold/Baton/WRAP  
Control Hold/Baton/Taser/WRAP  
Control Hold  
WRAP  
None  
WRAP  
Control Hold/WRAP  
WRAP  
Control Hold/WRAP  
WRAP

**Other Involved Parties:**

**LPFD**

Engineer/Paramedic  
Captain/Paramedic  
Captain/Paramedic

**Paramedics Plus**

Paramedic  
Paramedic

## **INVESTIGATION:**

On 08/01/18 at approximately 1442 hours, I was in my office assigned as the Professional Standards Unit supervisor. I heard the radio traffic related to this incident and contacted Captain Cox who advised I would be assigned the administrative investigation. I was advised to report to Tamm who would manage the investigation.

Tamm and I drove to the scene located at Mission Drive near Sunol Boulevard, where we met Pittl and other investigators. I completed a walkthrough of the scene with Pittl and Sergeant Sarasua. After the walkthrough, Tamm and I returned to the police department. I uploaded the body worn camera video from the involved officers.

I prepared Administrative Notifications for Officer Middleton, Officer Chin, Officer Trovao, Sergeant Billdt, Sergeant Knight, Sergeant Sarasua, Officer Granados, Officer Lengel, Officer Lashley, Officer Koumiss, Officer Palmquist, Officer Bennett, and Officer Socha. Each of them signed the notification forms prior to their interview with detectives.

On 08/01/18 and 08/02/18, all thirteen officers were interviewed by detectives. Tamm and I witnessed each of the interviews. Some of the interviews were attended by legal representatives and investigators from the Alameda County District Attorney's Office.

## **Timeline – August 1, 2018:**

(All times are approximate)

### **1425 Hours**

Bauer entered the Raley's store and walked to an aisle containing beverages. Bauer selected multiple beverages then appeared to open and drink from them. After taking a drink, he placed the beverage on the floor and selected another. This continued for approximately 7 minutes until he selected another beverage and walked to a different aisle, leaving the opened beverages on the ground. A couple minutes later Bauer returned to the beverage aisle, selected an additional beverage off the floor, and walked away.

Bauer was in the store for approximately 22 minutes. Bauer did not have a shopping cart or bag. He walked aimlessly through the store, appearing to grab items at random. He drank from items in the store and then discarded them on the ground. When he left, he was holding items in his hands while aggressively gesturing to someone still in the store.

### **1442 Hours**

The call for service was generated after a phone call to dispatch from a Raley's employee, ... explained that a "deranged" male, later identified as Bauer, was inside the store acting strangely and was having issues with purchasing items in the self-checkout kiosk. ... assisted Bauer with his purchase and noticed he was breathing hard and panting. Bauer exited the store for a couple minutes and then returned. Once inside, Bauer picked up a shopping cart and slammed it to the ground. Bauer then walked around the store, at one point he grabbed liquor bottles, and attempted to open them. ... asked for the police to assist in asking Bauer to leave the store.

### **1446 Hours**

Officer Middleton and Officer Chin were dispatched to Raley's. Dispatch advised they were responding to a suspicious male who was ranting to himself and that the Raley's manager wanted the male to leave but he was refusing their requests. A description was provided of a white male, 30-35 years old, 6'5", 220 lbs., with multi-colored hair and a beard.

### **1451 Hours**

Officer Middleton and Officer Chin arrived and met with Raley's employees at the front entrance. An employee, pointed toward Bauer identifying him as the subject in the call for service. He explained, Bauer was acting "really aggressive." The employee commented Bauer was opening bottles and pouring liquids on the floor. He also said Bauer was, "crazy or on drugs."

Officer Middleton asked the employee if he wanted Bauer arrested and the employee replied, "He's destroying stuff...if he's intoxicated...yeah."

A female employee commented they were afraid of Bauer's actions and felt he could hurt somebody.

### **1452 Hours**

Officer Middleton and Officer Chin walked toward Mission Drive and saw Bauer walking westbound on the sidewalk. Officer Middleton walked behind Bauer and said, "Hey Bud," which caused Bauer to stop and turn in his direction. Officer Middleton asked, "What's going on man?" as he approached. Upon contact, Bauer was holding a glass in his right hand and a cellphone and gift cards in his left hand.

### **1453 Hours**

Officer Middleton asked Bauer what happened in Raley's and Bauer replied, "Nothing, some people dropped something in there." Officer Middleton said, "They said you broke some stuff," and Bauer shook his head and said, "No."

When asked, Bauer said he did not have any "ID" because he left it at a friend's house. Bauer verbally provided his information and continued briefly answering the officer's questions. Officer Middleton aired the information to dispatch requesting a records check. Bauer stated he was going back home pointing in the opposite direction from where was walking.

### **1455 Hours**

Dispatch aired Bauer is "Clear and Valid."

Officer Middleton asked Bauer if he has anything illegal on him. Bauer did not reply. At this point, Bauer was standing up straight and staring to the north. Officer Middleton replied, "Jacob," but Bauer did not move or reply.



### **1456 Hours**

Officer Middleton and Officer Chin approached Bauer and said, "Do me a favor." Bauer replied, "Whoa, whoa..." and started to pull away from Officer Chin and Officer Middleton as they reached out to grab his lower arms/hands. Officer Middleton explained to Bauer he was being detained and they were trying to "figure out what's going on." Officer Middleton asked Bauer to relax as Bauer began to actively resist and asked, "Am I free to go." Officer Middleton stated, "No, you are not free to go, you are going to be detained," as he tried to gain control of Bauer's left hand.

Officer Chin asked Bauer to calm down and Bauer replied, "I'm not doing anything." Officer Chin ordered Bauer to place his arms behind his back as Officer Middleton aired for an additional unit.

After several attempts to gain compliance, Officer Middleton and Officer Chin completed a leg sweep takedown bringing Bauer to the grass. Officer Middleton then told Bauer to "just listen," and place his arm behind his back. Bauer evenly responds, "I can't put my arm behind my back," as he was grabbing at Officer Middleton's radio mic.

### **1457 Hours**

Officer Chin was able to apply a handcuff to Bauer's right wrist as Bauer continued to resist. Officer Chin aired for two additional units to respond. Dispatch advised two units were responding Code 3.

Officer Middleton told Bauer to quit resisting or he will be "tased."

### **1458 Hours**

Bauer continued to resist officers while on the ground by rolling back and forth and pulling his arms away from the officers. Bauer attempted to bite Officer Chin as Officer Middleton unholstered his Taser. Officer Middleton loudly said, "Taser, Taser, Taser." Officer Middleton then deployed his Taser striking Bauer with the probes. Bauer continued to fight and resist officers. The Taser deployment appeared to be ineffective. Officer Middleton then "drive stunned" Bauer with his Taser. Bauer continued to resist and grabbed Officer Middleton's left wrist. Officer Middleton was holding his Taser in his left hand.

Officer Bennett arrived on scene and attempted to restrain Bauer's legs.

Officer Koumiss and Officer Trovao also arrived on scene.

### **1459 Hours**

Officer Bennett, Officer Chin and Officer Middleton were holding Bauer down as he continued to actively resist. Officer Trovao and Officer Koumiss kneeled on opposite sides of Bauer. Officer Trovao attempted to pull Bauer's left hand out from under his body. Officer Trovao deployed his collapsible baton and struck Bauer two times on the left side of his torso. The baton strikes were ineffective. Officer Trovao transitioned to his Taser and "drive stunned" Bauer on the left side of his torso but the deployment was ineffective.

Officer Trovao and Officer Koumiss communicated about "flipping" Bauer over as Officer Middleton continually provided commands to Bauer to stop resisting.

**\* \* \* CONFIDENTIAL DOCUMENT \* \* \***

Sergeant Knight, Sergeant Billdt, and Officer Lashley arrived. Bauer continued to resist and attempted to scratch Officer Chin. Officer Chin told Bauer, multiple times, to stop scratching. Officer Chin punched Bauer, two times, on the back with his closed fists but the strikes were not effective.

### **1500 Hours**

Officer Koumiss and Officer Trovao attempted to use their batons to pry Bauer's left hand from underneath his body. Sergeant Knight aired to dispatch to "slow down" responding units.

Officer Lengel and Officer Granados arrived. Officer Koumiss used his baton and, with the help of Officer Middleton, was able to move Bauer's left arm from underneath his body.

### **1501 Hours**

Bauer continued to resist officers but was handcuffed with multiple pairs (3 or 4) of handcuffs. Officers attempted to reduce the number of handcuffs applied to Bauer since the number of handcuffs allowed for too much movement.

Officer Lengel and Officer Lashley began to unpack the WRAP and prepare it for deployment.

### **1502 Hours**

Sergeant Sarasua arrived on scene.

Officer Lashley, Officer Lengel and Officer Koumiss began to apply the lower section of the WRAP around Bauer's legs.

Officer Socha and Officer Palmquist arrived on scene.

Dispatch advised "Fire" is en-route for medical aid.

### **1506 Hours**

Officer Middleton, Officer Chin, Officer Granados, Officer Trovao, Officer Palmquist, Officer Bennett and Officer Koumiss applied the lower section of the WRAP with assistance from Officer Socha, Officer Lengel and Officer Lashley. Sergeant Knight and Sergeant Billdt monitored the application of the WRAP.

Bauer continued to scream and resist officers.

### **1510 Hours**

The WRAP was completely applied to Bauer including a spit shield. Bauer continued to resist officers, scream and makes multiple statements similar to, "Mama, kill me," and, "they are trying to rape me," and, "Mr. Trump, please kill me."

### **1510-1515 hours**

LPCD arrived on scene and visually monitored Bauer. LPCD advised Officer Socha of a minor injury to Bauer's head.

Bauer continued to resist but was fully restrained in the WRAP. He continued to scream and make similar statements as before.

Paramedics Plus arrived and moved the gurney next to Bauer

### **1515-1519 hours**

Sergeant Sarasua stood behind Bauer and held Bauer's shoulders to prevent Bauer from falling over. Officer Granados was standing to Sergeant Sarasua's right. Bauer began to calm down and said, "I can't breathe." Officer Granados explained to Bauer the more he fights and yells the harder it is to breathe. Sergeant Sarasua asked Bauer some basic questions and explained he would be provided medical attention. Sergeant Sarasua asked Bauer if he would cooperate with the officers and Bauer replied he would. Bauer was breathing heavily and began calming down.

### **1519 hours**

Paramedic \_\_\_\_\_ arrived and administered a dose of Versed (Midazolam) into Bauer's right arm. Bauer calmed down and stopped yelling and fighting.

Paramedic \_\_\_\_\_ walked over to the side of Bauer and asked Officer Granados, "Are we going to be able to move his hands forward? Is there any way we can do that?" Officer Granados replied that he would not recommend it. Paramedic \_\_\_\_\_; replied, "Well the thing is, I just gave him Versed and I'm gonna need access to be able, to like, keep his airway open so ideally I need to have his hands at least in a place where I can keep his airway open. If I have them on the side, it's my preference.

### **1520-1522 Hours**

Officer Granados communicated the plan with other officers explaining that they would assist in placing Bauer onto the gurney. Officers planned to remove the handcuffs from Bauer and place him in the "soft restraints" provided by Paramedics Plus.

Officers started by placing the soft restraints on Bauer's wrists and then lifted him onto the gurney. Officer Trovao then removed the handcuffs from Bauer, attaching the soft restraints to the gurney. This action moved Bauer's hands from behind his back to his sides.

### **1523-1524 Hours**

Paramedic \_\_\_\_\_ confirmed the soft restraints were on Bauer correctly and stated, "He fully restrained."  
Paramedic \_\_\_\_\_ slapped Bauer's left arm and asked his name. Bauer did not respond. Paramedic \_\_\_\_\_ then checked Bauer's pupils and commented, "His pupils are huge." Paramedic \_\_\_\_\_; also stated Bauer appeared to be on a stimulant based on his pupil size.

**1525 Hours**

LPFD checked Bauer's left carotid artery for a pulse.

**1526 Hours**

LPFD checked Bauer's left carotid artery for a pulse. Sergeant Sarasua directed Officer Lengel, Officer Palmquist and Officer Socha to go in the ambulance with Bauer during the transport to the hospital.

**1527 Hours**

Paramedic asked LPFD, "Let me see how his vital sounds are before you guys bail." LPFD agreed.

**1528 Hours**

Paramedics Plus and LPFD loaded Bauer into the back of the ambulance and were tending to him.

**1529 Hours**

Paramedic removed Bauer's spit hood and said she needed a blood pressure cuff. Officer Lengel, who was the only officer near the ambulance, began to walk back to his patrol vehicle momentarily. As he began walking back, LPFD said they need an officer to remove the wrap because Bauer just "coded".

**1530 Hours**

Officer Lengel, Palmquist and Officer Socha get into the ambulance as LPFD was performing CPR.

**1531 Hours**

Officer Lengel and Officer Socha remove the top portion of the WRAP as LPFD continued CPR.

**1532 Hours**

Paramedics apply a CPR plunger as they prepare for transport.

**1535 Hours**

The ambulance left the scene and transported Bauer "Code 3" to Stanford Valley Care.

**1543 Hours**

The ambulance arrives at Stanford Valley Care

**1546 Hours**

Hospital Staff took over care for Bauer, from Paramedics Plus, and continued lifesaving efforts.

## 1614 Hours

Bauer was pronounced deceased by hospital staff.

### Investigation Continued:

I reviewed the following documents, which can be found in the criminal investigation forwarded to the Alameda County District Attorney's Office:

- Pittl's Initial Incident Report
- Witness                      and Witness                      Interviews
- LPFD Engineer                      Interview
- Witness                      Interview
- Witness                      and                      Interviews
- Officer Bennett's Interviews of Speedee Oil Change employees
- LPFD Captain                      and Captain                      Interviews
- Paramedic's Plus Paramedic                      Interview
- Officer Granados' Supplemental Report of Businesses
- Ambulance Consent Search
- Sergeant Knight Interview
- PPD Radio Traffic Supplemental Report
- Raley's Security Camera Report
- Raley's Employee                      Interview
- Speedee Oil Change Employees                      and                      Interviews
- Neighborhood Canvass
- Autopsy Supplemental
- ACSO Evidence Supplemental Report
- Officer Middleton Interview
- Officer Chin Interview
- Officer Trovao Interview
- Sergeant Billdt Interview
- Officer Koumiss Interview
- Officer Palmquist Interview
- Officer Socha Interview
- Raley's Employee                      Interview
- Supplemental Timeline
- Evidence Supplemental Reports
- Livermore Police Department Reports
- Search Warrants

Additionally, I reviewed all of the dispatch audio tapes, additional officer's body worn camera videos, and outside media uploaded into Evidence.com.

I reviewed the criminal investigation submitted to the Alameda County District Attorney's Office. The investigation was thorough and comprehensive. I concur with Pittl's conclusion and analysis.

**\* \* \* CONFIDENTIAL DOCUMENT \* \* \***

**Officer Middleton:**

Officer Middleton was the primary officer and responded directly to the Raley’s front entrance. Officer Middleton activated his body worn camera when he arrived on scene.

Officer Middleton initiated contact with Bauer, conducted a records check and attempted to detain him. During the detention, Officer Middleton explained to Bauer that he was being detained. When Bauer resisted, Officer Middleton attempted to place Bauer into a control hold but was met with active resistance by Bauer. Officer Middleton assisted forcing Bauer to the ground and deployed his Taser. Officer Middleton deployed his Taser on Bauer, once using the probes and three times using the drive stun mode. Officer Middleton also assisted in deploying the WRAP.

A downloaded report of Officer Middleton’s Taser was attached to this report. Below is a snapshot of Officer Middleton’s Taser usage on August 1, 2018. The report is consistent with Officer Middleton’s statement that he visually inspected his Taser but did not conduct a “spark test” at the beginning of his shift. Sequence Number 476 reflects Officer Middleton arming the Taser. Sequence Number 477 is the 6-second probe deployment of Officer Middleton’s Taser. Sequence Number 478, 479 and 480 are Officer Middleton’s three subsequent “drive stun” deployments each lasting 5 seconds in duration.

|     |                      |         |     |    |    |
|-----|----------------------|---------|-----|----|----|
| 476 | 01 Aug 2018 14:45:22 | Armed   |     | 29 | 83 |
| 477 | 01 Aug 2018 14:45:24 | Trigger | 6   |    | 83 |
| 478 | 01 Aug 2018 14:45:34 | Trigger | 5   |    | 83 |
| 479 | 01 Aug 2018 14:45:41 | Trigger | 5   |    | 83 |
| 480 | 01 Aug 2018 14:45:49 | Trigger | 5   |    | 83 |
| 481 | 01 Aug 2018 14:54:15 | Safe    | 533 | 45 | 61 |

I reviewed Officer Middleton’s Body Worn Camera video, his recorded statement with investigators and Detective Pittl’s summary of his interview. All were consistent with each other.

Officer Middleton provided the following statement in summary:

Officer Middleton explained his approach to the call for service and contact with the Raley’s manager. Officer Middleton recalled the manager verbally stating Bauer had just left the premises and confirmed he wanted to press charges for vandalism. Officer Chin arrived and they contacted Bauer on Mission Drive walking away from the business.

Upon contact with Bauer, Bauer initially complied but denied being involved with the incident inside Raley’s. Officer Middleton recalled Bauer would answer his questions but refused to look Officer Middleton in the eye. Bauer did not have his identification but provided his information verbally. When Bauer’s record check returned clear, Officer Middleton asked Bauer if he had anything illegal on him. Bauer did not respond and stared straight ahead. He asked the question again but Bauer continued staring forward, unresponsively. Officer Middleton was “a little nervous” based on not knowing who Bauer was, what his intentions were and if he possessed any weapons or contraband. Officer Middleton also commented that Bauer was approximately 6’2” tall, “kinda a big guy,” with a “tweaker” look in his eyes. In Officer Middleton’s six years of

experience as a police officer, he realized Bauer's actions were not normal which led to Officer Middleton's decision to detain him and continue with the criminal investigation.

Officer Middleton decided to go "hands on" due to Bauer's strange behavior and Officer Middleton's uncertainty of Bauer's intentions. Officer Middleton said to Officer Chin, "10-15," to communicate his intent to detain Bauer in handcuffs. As Officer Middleton and Officer Chin both grabbed Bauer's wrists, Bauer immediately tensed up and tried to pull away from the officers. Officer Middleton tried to calm Bauer down and told Bauer he was being detained. Officer Middleton did not know if Bauer was intending to fight, flee or grab a weapon at this point.

Bauer continued to tense his arms and resist the officers attempt to get Bauer's hands behind his back. Officer Middleton continued to tell Bauer to "relax" but Bauer continued to resist. Officer Middleton was able to air to dispatch for additional units.

As Bauer continued to resist, Officer Middleton attempted to take him to the ground but was unable to. Officer Chin may have seen what Officer Middleton was attempting and completed the takedown, forcing Bauer to the ground. On the ground, Officer Chin maintained control of Bauer's right arm but Bauer continued to resist as Officer Middleton tried to grab Bauer's left hand. Officer Middleton continued to provide commands for Bauer to calm down and quit resisting but Bauer refused Officer Middleton's commands. Officer Middleton expressed concern because he had not searched Bauer and was uncertain if he possessed weapons.

Officer Middleton then recalled hearing Officer Chin tell Bauer something similar to, "Stop biting me," which elevated the assault against Officer Chin in Officer Middleton's mind. Officer Middleton estimated he had been struggling with Bauer for approximately two minutes at this point and Officer Middleton explained he was "gassed." Officer Middleton said he was sweating profusely trying to hold Bauer. Officer Middleton warned Bauer, "You are going to get Tased," and Officer Middleton heard Officer Chin ask him to "drive stun" Bauer.

Officer Middleton's arm was still under Bauer, as Officer Chin rolled Bauer, exposing the side of his torso. Officer Middleton sat back and unholstered his Taser. Officer Middleton said, "Taser, Taser, Taser" and deployed the prongs striking Bauer on the side of his torso. Officer Chin continued to give Bauer commands to roll onto his stomach but Bauer continued fighting. After the first Taser cycle, Officer Middleton said the Taser was ineffective due to the lack of distance between the prongs. Officer Middleton then decided to "drive stun" Bauer while leaving the cartridge in the Taser. Officer Middleton deployed a Taser drive stun to Bauer's shoulder but it was ineffective. Realizing the Taser was ineffective, Officer Middleton believed he threw the Taser to the ground and attempted to grab Bauer's left wrist again.

Other officers were arriving and assisting and were able to pull Bauer's left hand from underneath him. Bauer was secured in handcuffs. Bauer continued to fight and scream at officers as they were trying to hold him on the ground but Officer Middleton felt he and the other five or six officers finally had control of Bauer. Officer Middleton asked if any of the officers had a WRAP and then saw Officer Palmquist and Officer Socha preparing to deploy one. Officer Middleton then assisted as Bauer struggled with officers trying to place him into the WRAP.

Once Bauer was in the WRAP, Officer Middleton stepped back because he was exhausted. Officer Middleton later explained to the Paramedics that Bauer had Taser probes still stuck in his side. As

officers were assisting, the Paramedics place Bauer on the gurney, Officer Middleton went back to Raley's to continue his investigation.

(End of Statement)

**Officer Chin:**

Officer Chin was the secondary or cover officer and responded directly to the Raley's front entrance. Officer Chin activated his body worn camera when he arrived on scene.

Officer Chin was with Officer Middleton when he initially contacted Bauer. Officer Chin assisted in the detention of Bauer and performed a leg sweep takedown of Bauer. During the struggle, Bauer bit Officer Chin one time on his arm and scratched him multiple times. Officer Chin struck Bauer two times on the back with a closed fist during the struggle in an attempt to release Bauer's grip of Officer Chin's hand. Officer Chin also assisted in the deployment of the WRAP and lifting Bauer onto the gurney.

A downloaded report of Officer Chin's Taser was attached to this report. Below is a snapshot of Officer Chin's Taser usage on August 1, 2018. The report is consistent with Officer Chin's statement that he conducted a "dry test" of his Taser before his shift and did not deploy it during the confrontation with Bauer.

| Seq # | Local Time<br>[DD:MM:YYYY hh:mm:ss] | Event<br>[Event Type] | Duration<br>[Seconds] | Temp<br>[Degrees Celsius] | Batt Remaining<br>[%] |
|-------|-------------------------------------|-----------------------|-----------------------|---------------------------|-----------------------|
| 260   | 01 Aug 2018 11:38:01                | Armed                 |                       | 23                        | 77                    |
| 261   | 01 Aug 2018 11:38:04                | Trigger               | 5                     |                           | 77                    |
| 262   | 01 Aug 2018 11:38:13                | Safe                  | 12                    | 23                        | 77                    |

I reviewed body worn camera video, Officer Chin recorded statement with investigators and the summary of his interview. All were consistent with each other.

Officer Chin provided the following statement in summary:

Officer Chin provided a similar account of the call for service and contact of Bauer. During the initial contact, Officer Chin commented Bauer was avoiding making eye contact with Officer Middleton. When Officer Middleton asked if Bauer had any weapons Bauer became uncommunicative. Officer Chin felt Bauer's demeanor was not normal and was unsure if Bauer was planning to escape or resist. When Officer Chin grabbed Bauer's wrist, Bauer turned his body and tried to pull his wrist away.

After telling Bauer multiple times to calm down and advise him he was being detained he noticed Officer Middleton unsuccessfully attempt a takedown of Bauer. Officer Chin then successfully performed a leg sweep takedown forcing Bauer to the ground. Officer Chin said taking Bauer to the ground provided more control and an advantage to he and Officer Middleton. While on the ground, Bauer continued to fight, yell and ignore their commands to stop resisting.

Officer Chin was struggling to keep control of Bauer's right hand and saw Officer Middleton having difficulty getting Bauer's left arm controlled so he told Officer Middleton to deploy his



Taser. Simultaneously, Officer Chin was unaware if Officer Middleton was able to request additional units so Officer Chin requested Code 3 cover via his radio.

During the struggle, Bauer bit Officer Chin on the arm and attempted to scratch Officer Chin's hand in an attempt to free Officer Chin's control of his wrist. Officer Chin recalled Officer Middleton deploying the Taser and felt the electricity from the wires. Officer Chin was hoping the Taser would stop Bauer's resistance, even momentarily so he could gain control of Bauer's hands, but Officer Middleton's Taser deployment was ineffective.

As Bauer rolled onto his stomach, Officer Chin laid across his back. Officer Chin's hand was still holding onto the handcuff that was underneath Bauer's body. Officer Chin was still attempting to pull Bauer's arm out from underneath him. Officer Chin recalled fearing Bauer may be reaching for a weapon in his waistband because when asked about weapons Bauer refused to answer.

During the struggle, Bauer was grabbing onto Officer Chin's hand and digging his fingernails into Officer Chin's skin. Officer Chin told Bauer multiple times to stop scratching him and at one point punched Bauer in the arm as a distraction to release his grip. Officer Chin said the strike was effective in releasing Bauer's grip.

As other officers arrived, they eventually were able to gain control of Bauer's hands and secure him in handcuffs. Bauer continued to resist the entire time. Bauer was screaming and saying something similar to, "Trump help me." Eventually, officers were able to secure Bauer in the WRAP.

Officer Chin also assisted in lifting Bauer onto the gurney and securing his hands in the soft restraints.

(End of Statement)

#### **Officer Trovao:**

Officer Trovao was the fifth officer to arrive to this incident. Officer Trovao responded from the Police Department and drove Code 3 to the scene. Officer Trovao activated his body worn camera at the time he was dispatched from the station.

A downloaded report of Officer Trovao's Taser was attached to this report. Below is a snapshot of Officer Trovao's Taser usage on August 1, 2018. The report is consistent with Officer Trovao's statement that he did not conduct a "spark test" at the beginning of his shift. Sequence Number 521 reflects Officer Trovao arming the Taser. Sequence Number 522 is the 5 second "drive stun" deployment that was ineffective. Sequence Number 523 and 524 is Trovao switching his Taser off and then immediately back on. Sequence Number 525 is another "drive stun" deployment that was ineffective. Sequence Number 526 was Officer Trovao securing his Taser in his holster. Sequence Number 527, 528 and 529 occurred after the incident when Officer Trovao was testing if his Taser was working properly.

|     |                      |         |    |    |    |
|-----|----------------------|---------|----|----|----|
| 521 | 01 Aug 2018 14:58:40 | Armed   |    | 28 | 37 |
| 522 | 01 Aug 2018 14:58:41 | Trigger | 5  |    | 37 |
| 523 | 01 Aug 2018 14:58:49 | Safe    | 9  | 28 | 37 |
| 524 | 01 Aug 2018 14:58:49 | Armed   |    | 28 | 37 |
| 525 | 01 Aug 2018 14:58:51 | Trigger | 5  |    | 37 |
| 526 | 01 Aug 2018 14:59:09 | Safe    | 20 | 30 | 37 |
| 527 | 01 Aug 2018 15:29:18 | Armed   |    | 36 | 37 |
| 528 | 01 Aug 2018 15:29:24 | Trigger | 1  |    | 37 |
| 529 | 01 Aug 2018 15:29:25 | Safe    | 7  | 36 | 37 |

I reviewed body worn camera video, Officer Trovao's recorded statement with investigators and Detective Pittl's summary of his interview.

Officer Trovao provided the following statement in summary.

Officer Trovao explained he was at the station when the call for Code 3 cover came out. He responded Code 3 directly behind Officer Koumiss. When he arrived, he saw the other officers struggling with Bauer and he took a position on Bauer's right side.

Officer Trovao saw Officer Middleton and Officer Chin both struggling, trying to get Bauer's hands out from underneath his body. He could see both Officer Middleton and Officer Chin were fatigued from the fight. Officer Bennett was also on scene attempting to control Bauer's legs. Officer Trovao commented on Bauer's size stating he was about 6' tall and "a big guy."

Officer Trovao could see the officers were breathing heavily and struggling with grabbing Bauer's hands. Officer Trovao unholstered his Taser and disconnected the cartridge. Officer Trovao then deployed his Taser in a "drive stun mode" on Bauer's back but the Taser was ineffective. Officer Trovao again deployed his Taser in a "drive stun mode" and it was not effective.

Officer Trovao and Officer Koumiss grabbed their collapsible batons and expanded them. Together they used the batons as levers to pry Bauer's left hand from underneath his body. Officer Trovao then assisted with handcuffing Bauer.

After Bauer was placed in the WRAP, Officer Trovao witnessed Kitchen administer the Versed to Bauer.

Officer Trovao assisted in lifting Bauer onto the gurney and placing him in soft restraints.

(End)

**Officer Bennett:**

Officer Bennett was the third officer to arrive to this incident. Officer Bennett was assigned as a Motor Officer and responded Code 3 from the field. Officer Bennett activated his body worn camera

immediately and throughout his response to the incident. I reviewed body worn camera video, Officer Bennett's recorded statement with investigators and the summary of his interview. All were consistent with each other.

Upon arrival, Officer Bennett assisted by placing Bauer's legs a "figure four" lock to prevent Bauer from kicking. Officer Bennett held that position until the WRAP was deployed. Officer Bennett assisted with the deployment of the leg portion of the WRAP. Bennet then left to speak with witnesses at SpeedDee Oil Change and Raley's.

Officer Bennett did use any force outside of the control hold of Bauer's legs.

A downloaded report of Officer Bennett's Taser was attached to this report. The report is consistent with Officer Bennett's statement that he did not deploy his Taser during this incident and he did not conduct a "spark test" at the beginning of his shift.

|     |                      |           |   |    |         |
|-----|----------------------|-----------|---|----|---------|
| 956 | 14 Jun 2018 12:39:53 | Armed     |   | 31 | 68      |
| 957 | 14 Jun 2018 12:39:58 | Safe      | 5   | 32 | 68      |
| 958 | 02 Aug 2018 15:44:59 | USB       |   |    | Unknown |
| 959 | 02 Aug 2018 15:45:00 | Time Sync | From '02 Aug 2018 15:45:00' to '02 Aug 2018 15:51:03' |    |         |

(End)

**Officer Koumiss:**

Officer Koumiss was the fourth officer to arrive to this incident. Officer Koumiss responded Code 3 from the Police Department. Officer Koumiss activated his body worn camera approximately ten minutes after his arrival at the scene. Officer Koumiss explained that he failed to activate his body worn camera because he was focused on getting to the scene. It was minutes after his arrival, he was placing on gloves that he realized his camera was not activated and immediately started recording. I reviewed body worn camera video, Officer Koumiss' recorded statement with investigators and the summary of his interview. All were consistent with each other.

Officer Koumiss assisted in attempting to pull out Bauer's hands from underneath his body. Officer Koumiss deployed his collapsible baton but did not strike Bauer with it. Instead, he used it as a lever in an attempt to pry Bauer's hands out from underneath his body. After Bauer was handcuffed, Officer Koumiss assisted in the deployment of the WRAP. Officer Koumiss did use any other type of force.

A downloaded report of Officer Koumiss' Taser was attached to this report. The report is consistent with Officer Koumiss' statement that he did not deploy his Taser during this incident and he did not conduct a "spark test" at the beginning of his shift.

|     |                      |         |    |    |    |
|-----|----------------------|---------|----|----|----|
| 511 | 23 Jul 2018 05:53:05 | Trigger | 5  |    | 20 |
| 512 | 23 Jul 2018 05:53:11 | Safe    | 7  | 23 | 20 |
| 513 | 06 Aug 2018 07:19:14 | Armed   |    | 23 | 20 |
| 514 | 06 Aug 2018 07:19:24 | Trigger | 5  |    | 20 |
| 515 | 06 Aug 2018 07:19:29 | Safe    | 15 | 23 | 20 |

(End)

**Sergeant Knight:**

Sergeant Knight was the sixth officer on scene and the first supervisor to arrive. Sergeant Knight responded Code 3 from the police station and activated his body worn camera immediately. I reviewed body worn camera video, Sergeant Knight's recorded statement with investigators and the summary of his interview. All were consistent with each other.

Upon arrival, Sergeant Knight assisted Officer Chin by attempting to place on a control hold on Bauer's right hand. This was the only force used by Sergeant Knight. Sergeant Knight then disengaged and supervised the incident. Sergeant Knight aired to dispatch that officers were taking Bauer in custody and advised responding units to terminate their Code 3 response. Sergeant Knight also monitored the deployment of the WRAP. Sergeant Knight commented that the WRAP was applied properly per department policy and training.

Prior to Bauer being place on the gurney, Sergeant Knight left the scene to go into Raley's to get water for the officers on scene. When he returned, paramedics were monitoring Bauer on the gurney and taking him into the ambulance.

At 15:34 hours, Sergeant Knight received a phone call from Silacci and provided him an update. Sergeant Knight then advised Dispatch to hold Day Watch officers and requested additional units respond to the scene. At 15:40 hours, Sergeant Knight left the scene to go the hospital and deactivated his camera.

At the hospital, he was notified of Bauer's death and advised Lieutenant Silacci.

A downloaded report of Sergeant Knight's Taser was attached to this report. The report is consistent with Sergeant Knight's statement that he did not deploy his Taser during this incident and he did not conduct a "spark test" at the beginning of his shift.

|     |                      |           |   |    |         |
|-----|----------------------|-----------|---|----|---------|
| 344 | 30 Jul 2018 06:53:22 | Armed     |   | 28 | 84      |
| 345 | 30 Jul 2018 06:53:23 | Trigger   | 4   |    | 84      |
| 346 | 30 Jul 2018 06:53:27 | Safe      | 5   | 29 | 83      |
| 347 | 02 Aug 2018 13:09:43 | USB       |   |    | Unknown |
| 348 | 02 Aug 2018 13:10:36 | Time Sync | From '02 Aug 2018 13:10:36' to '02 Aug 2018 13:10:50' |    |         |

(End)

**Officer Lashley:**

Officer Lashley was the seventh officer to arrive to this incident. Officer Lashley responded from the police station and activated her body worn camera when she arrived on scene. I reviewed body worn camera video, Officer Lashley's recorded statement with investigators and the summary of her interview. All were consistent with each other.

Upon arrival, Officer Lashley assisted with the deployment of the WRAP. A downloaded report of Officer Lashley's Taser was attached to this report. Officer Lashley's Taser report shows a history of consistent weekly "spark tests" but an internal issue caused her Taser to stop documenting the accurate time. All time stamps on her report since May 5, 2017 display as January 1, 01 at 0400 hours. Officer Lashley was issued a new Taser after the incident.

|     |                      |         |   |    |    |
|-----|----------------------|---------|---|----|----|
| 618 | 05 May 2017 03:56:28 | Trigger | 5 |    | 92 |
| 619 | 05 May 2017 03:56:34 | Safe    | 7 | 23 | 92 |
| 620 | 01 Jan 0001 04:00:00 | Armed   |   | 23 | 92 |
| 621 | 01 Jan 0001 04:00:00 | Trigger | 5 |    | 92 |

(End)

**Sergeant Billdt:**

Sergeant Billdt was the eighth officer on scene and the second supervisor to arrive. Sergeant Billdt responded Code 3 from the police station and activated his body worn camera immediately. I reviewed body worn camera video, Sergeant Billdt's recorded statement with investigators and the summary of his interview. All were consistent with each other.

Upon arrival, Sergeant Billdt briefly assisted officers as they brought Bauer's left hand behind his back. No force was used by Sergeant Billdt. Sergeant Billdt witnessed portions of the deployment of the WRAP and commented it appeared that it was applied correctly. After Bauer was transported to the hospital, Sergeant Billdt stayed at the scene as the scene supervisor.

A downloaded report of Sergeant Billdt's Taser was attached to this report. The report is consistent with Sergeant Billdt's statement that he did not deploy his Taser during this incident and did not conduct a "spark test" at the beginning of his shift.

|      |                      |           |   |    |         |
|------|----------------------|-----------|---|----|---------|
| 1340 | 01 Aug 2018 14:27:25 | Armed     |   | 24 | 58      |
| 1341 | 01 Aug 2018 14:27:25 | Trigger   | 5   |    | 58      |
| 1342 | 01 Aug 2018 14:27:30 | Safe      | 5   | 24 | 58      |
| 1343 | 02 Aug 2018 15:38:41 | USB       |   |    | Unknown |
| 1344 | 02 Aug 2018 15:38:52 | Time Sync | From '02 Aug 2018 15:38:52' to '02 Aug 2018 15:02:52' |    |         |

**Officer Lengel:**

Officer Lengel was the ninth officer on scene. Officer Lengel responded Code 3 from the field and activated his body worn camera immediately. I reviewed body worn camera video, Officer Lengel's recorded statement with investigators and the summary of his interview. All were consistent with each other.

Upon arrival, Officer Lengel assisted officers with controlling Bauer's leg and then moved to assist pulling Bauer's right hand behind his back. After Bauer was detained in handcuffs, Officer Lengel assisted in the deployment of the WRAP. Officer Lengel did not use any other level of force.

At 15:29 hours, Officer Lengel was notified by LPFD that Bauer had "coded." Officer Lengel rode in the back of the ambulance with LPFD, Medics, Officer Palmquist and Officer Socha as the EMT drove the ambulance to the hospital. Officer Lengel stayed in the emergency room and witnessed the emergency room staff pronounce Bauer's death. Officer Lengel preserved the emergency room scene with Officer Palmquist and Officer Socha until relieved.

A downloaded report of Officer Lengel's Taser was attached to this report. The report is consistent with Officer Lengel's statement that he did not deploy his Taser during this incident and did not conduct a "spark test" at the beginning of his shift.

|      |                      |         |   |    |    |
|------|----------------------|---------|---|----|----|
| 1621 | 01 Oct 2018 14:26:58 | Armed   |   | 22 | 38 |
| 1622 | 01 Oct 2018 14:26:58 | Trigger | 1 |    | 38 |
| 1623 | 01 Oct 2018 14:26:58 | Safe    | 0 | 22 | 38 |
| 1624 | 03 Oct 2018 23:35:45 | Armed   |   | 25 | 38 |

**Officer Granados:**

Officer Granados was the tenth officer on scene. Officer Granados did not respond Code 3 to the incident and activated his body worn camera when he arrived. I reviewed body worn camera video, Officer Granados' recorded statement with investigators and the summary of his interview. All were consistent with each other.

Upon arrival, Officer Granados assisted officers with controlling Bauer's legs. After Bauer was detained in handcuffs, Officer Granados assisted in the deployment of the WRAP. Officer Granados also aided in placing Bauer in the soft restraints and loading him onto the gurney. Officer Granados did not use any other level of force.

After Bauer was transported to the hospital, Officer Granados assisted with scene preservation and witness interviews.

A downloaded report of Officer Granados' Taser was attached to this report. The report is consistent with Officer Granados' statement that he did not deploy his Taser during this incident and did not conduct a "spark test" at the beginning of his shift.

|     |                      |       |     |    |    |
|-----|----------------------|-------|-----|----|----|
| 408 | 30 Jul 2018 16:49:18 | Armed |     | 28 | 99 |
| 409 | 30 Jul 2018 16:51:46 | Safe  | 148 | 35 | 98 |
| 410 | 02 Aug 2018 13:19:29 | Armed |     | 21 | 98 |
| 411 | 02 Aug 2018 13:19:29 | Safe  | 0   | 21 | 98 |

**Sergeant Sarasua:**

Sergeant Sarasua was the eleventh officers on scene and the third supervisor to arrive. Sergeant Sarasua responded to the scene but did not respond Code 3 because of the number of officers already on scene. Sergeant Sarasua activated his body worn camera when he arrived on scene. I reviewed body worn camera video, Sergeant Sarasua's recorded statement with investigators and the summary of his interview. All were consistent with each other.



Sergeant Sarasua did not use any level of force. He only assisted holding Bauer up after he was placed in the WRAP. Sergeant Sarasua spoke with Bauer while he was placed in the WRAP. Sergeant Sarasua calmed Bauer down and advised him that he would be provided medical aid.

Sergeant Sarasua then assisted Sergeant Knight and Sergeant Billdt with the supervision and management of the scene.

A downloaded report of Sergeant Sarasua's Taser was attached to this report. The report is consistent with Sergeant Sarasua's statement that he did not deploy his Taser during this incident and he did not conduct a "spark test" at the beginning of his shift.

|     |                      |         |   |    |    |
|-----|----------------------|---------|---|----|----|
| 241 | 04 Dec 2017 06:14:42 | Armed   |   | 21 | 82 |
| 242 | 04 Dec 2017 06:14:43 | Trigger | 5 |    | 82 |
| 243 | 04 Dec 2017 06:14:47 | Safe    | 5 | 21 | 81 |
| 244 | 02 Aug 2018 13:12:32 | Armed   |   | 26 | 81 |
| 245 | 02 Aug 2018 13:12:33 | Safe    | 1 | 26 | 81 |

**Officer Palmquist:**

Officer Palmquist was assigned as the Field Training Officer for Officer Socha and was the passenger in their patrol vehicle. Officer Palmquist was the twelfth officer to arrive and activated his body worn camera when he arrived on scene.

Upon arrival, Officer Palmquist assisted officers in applying the WRAP. After the WRAP was attached, Officer Palmquist stayed with Bauer keeping him in a seated position. Officer Palmquist did not use any level of force.

When LPPD advised Bauer coded, Officer Palmquist ran toward the ambulance with Officer Socha. Officer Palmquist rode in the ambulance while Bauer was transported to the hospital. Officer Palmquist stayed with Bauer at the emergency room and preserved the ambulance crime scene until he was relieved.

A downloaded report of Officer Palmquist's Taser was attached to this report. The report is consistent with Officer Palmquist's statement that he did not deploy his Taser during this incident and he did not conduct a "spark test" at the beginning of his shift.

|     |                      |           |   |    |         |
|-----|----------------------|-----------|---|----|---------|
| 942 | 30 Jul 2018 13:39:52 | Armed     |   | 26 | 81      |
| 943 | 30 Jul 2018 13:39:54 | Trigger   | 5   |    | 81      |
| 944 | 30 Jul 2018 13:40:01 | Safe      | 9   | 26 | 81      |
| 945 | 02 Aug 2018 15:36:52 | USB       |   |    | Unknown |
| 946 | 02 Aug 2018 15:36:54 | Time Sync | From '02 Aug 2018 15:36:54' to '02 Aug 2018 15:44:18' |    |         |

**Officer Socha:**

Officer Socha was the thirteenth officer on scene. Officer Socha responded from the field and drove Code 3 until Sergeant Knight advised incoming units to reduce. Officer Socha activated her body worn camera

immediately but turned it off when she reduced from Code 3, at the request of Officer Palmquist. Officer Socha reactivated her body worn camera when she arrived on scene.

Officer Socha assisted with the deployment of the WRAP. Officer Socha did not use any force during this incident.

When Officer Palmquist ran toward the ambulance after Bauer “coded,” Officer Socha got into the back of the ambulance. Officer Socha assisted paramedics in removing the top portion of the WRAP while CPR was being administered. Officer Socha and Officer Palmquist assisted with preserving the ambulance crime scene. Officer Socha stayed at the hospital until she was relieved.

A downloaded report of Officer Socha’s Taser was attached to this report. The report is consistent with Officer Socha’s statement that she did not deploy her Taser during this incident and she did conduct a “spark test” at the beginning of his shift.

|     |                      |           |   |    |         |
|-----|----------------------|-----------|---|----|---------|
| 272 | 01 Aug 2018 13:10:41 | Armed     |   | 26 | 49      |
| 273 | 01 Aug 2018 13:10:41 | Trigger   | 5   |    | 49      |
| 274 | 01 Aug 2018 13:10:47 | Safe      | 6   | 25 | 49      |
| 275 | 02 Aug 2018 16:41:33 | USB       |   |    | Unknown |
| 276 | 02 Aug 2018 16:41:45 | Time Sync | From '02 Aug 2018 16:41:45' to '02 Aug 2018 16:46:31' |    |         |

**Training Records:**

I completed a query of the involved officer’s training records located in TMS (Training Management System) of the 2017/2018 POST Training Cycle. All of the involved officers were in compliance with POST Continual Professional Training and Perishable Skill mandates. I attached the reports to this investigation.

The reports detail the following related to their most recent First Aid/CPR, Taser, Defensive Tactics and WRAP trainings and dates for each officer:

- Officer Middleton
  - Taser/Less Lethal/WRAP 11/13/17
  - Defensive Tactics/Impact Weapons 11/13/17
  - First Aid/CPR Refresher 01/23/17
- Officer Chin
  - First Aid/CPR Refresher 01/22/18
  - Defensive Tactics/Impact Weapons 11/13/17
  - Taser/Less Lethal/WRAP 11/13/17
- Officer Bennett
  - First Aid/CPR Refresher 01/22/18
  - Defensive Tactics/Impact Weapons 12/14/17
  - Taser/Less Lethal/WRAP 12/14/17
- Officer Koumiss
  - First Aid/CPR Refresher 02/23/18



- Defensive Tactics/Impact Weapons 12/14/17
- Taser/Less Lethal/WRAP 12/14/17
- Officer Trovao
  - First Aid/CPR Refresher 01/22/18
  - Defensive Tactics/Impact Weapons 11/13/17
  - Taser/Less Lethal/WRAP 11/13/17
- Sergeant Knight
  - First Aid/CPR Refresher 02/23/18
  - Defensive Tactics/Impact Weapons 12/14/17
  - Taser/Less Lethal/WRAP 12/14/17
- Officer Lashley
  - First Aid/CPR Refresher 01/22/18
  - Defensive Tactics/Impact Weapons 11/13/17
  - Taser/Less Lethal/WRAP 11/13/17
- Sergeant Billdt
  - First Aid/CPR Refresher 01/22/18
  - Defensive Tactics/Impact Weapons 12/14/17
  - Taser/Less Lethal/WRAP 12/14/17
- Officer Lengel
  - First Aid/CPR Refresher 02/23/18
  - Defensive Tactics/Impact Weapons 12/14/17
  - Taser/Less Lethal/WRAP 12/14/17
- Officer Granados
  - First Aid/CPR Refresher 01/22/18
  - Defensive Tactics/Impact Weapons 12/14/17
  - Taser/Less Lethal/WRAP 12/14/17
- Sergeant Sarasua
  - First Aid/CPR Refresher 01/22/18
  - Defensive Tactics/Impact Weapons 03/21/16
  - Taser/Less Lethal/WRAP 12/03/15
- Officer Palmquist
  - First Aid/CPR Refresher 01/22/18
  - Defensive Tactics/Impact Weapons 12/14/17
  - Taser/Less Lethal/WRAP 12/14/17
- Officer Socha
  - Basic Academy Graduation 06/29/18
  - PPD Orientation
    - Force Options Training 07/05/18
      - Taser
      - Wrap
      - Defensive Tactics

**Autopsy Report:**

On 10/05/18, I received a copy of the Autopsy Report from Pittl. The report details the cause of death is “Acute Methamphetamine Toxicity” with the following other conditions, “Probable mechanical asphyxia while being placed in restraint device by police; cardiac hypertrophy; morbid obesity.”

Additionally, there was note,

*“Mr. Bauer was given 4 mg of Midazolam as an intramuscular (IM) injection in his right upper arm. IM absorption is slower than intravenous injection; however, with an intact circulatory system I would have expected at least a trace amount of the drug to be found in his postmortem blood (I had our toxicologist recheck their data, and they confirmed no Midazolam was found.) Its absence suggests to me that his circulatory system already had collapsed or was the process of collapsing when the dose was administered.”*

The Autopsy Report also contained blood test results from Bauer. The drug screen revealed methamphetamines were detected in his blood (.42mg/L).

I attached a copy of the Autopsy Report to this report.

**Updated WRAP Training:**

On 11/01/18, I interviewed Lewellyn who provided me the following statement in summary.

Lewellyn was assigned as a Force Options Instructor to train patrol officer on the use of the new WRAP devices issued to patrol. Lewellyn explained the WRAP functions the same way as the previous version with a couple of minor changes. During the training, Lewellyn showed the officers the training video found on the SafeWrap website. Lewellyn then had each officer demonstrate applying the WRAP on one another.

Lewellyn provided the WRAP training on the following dates, which included the following officers:

|        |  |
|--------|--|
| Team 1 | June 26, 2018<br>Gamez, Bradley, Officer Koumiss, Officer Lashley, Paulson, Officer Trovao                     |
| Team 2 | June 13, 2018<br>Silacci, Cavellini, Officer Chin, Efting, Officer Granados, Officer Lengel, Officer Palmquist |
| Team 3 | June 26, 2018<br>Niederhaus, Harvey, Johnston, Leonardo (Kyle), Martens, Tujague                               |
| Team 4 | June 23, 2018<br>Ayers, Guillermo, Murazzo, Swick, Albert, Sergeant Billdt, Hunter                             |
| Team 5 | June 23, 2018<br>Niceley, Habib, White, Wilson   |
| Team 6 | June 23, 2018<br>Shuffield, Cerri, Evans, Garcia, Jewell, McNeff   |

Each of the trainings were captured in the Daily Watch Report.

**Force Options Review:**

On 11/01/18, Force Options Supervisors/Instructors Fountain and Lewellyn reviewed the application of the WRAP device. Fountain authored a memorandum confirming the utilization of the WRAP and spit

hood was done in compliance with departmental policy and as trained by Force Options staff. The memorandum was attached to this investigation.

### **Safe Restraints Review:**

I reviewed the WRAP Basic Application Manual provided by the manufacturer, Safe Restraints. I also viewed the training videos located on the Safe Restraints website, [www.saferestraints.com](http://www.saferestraints.com). The deployment of the WRAP on Bauer was consistent with both the training videos and application manual. I met with the owner of Safe Restraints, \_\_\_\_\_ and provided him the body worn camera video of the WRAP deployment. \_\_\_\_\_ reviewed the video with the WRAP developers and instructors. \_\_\_\_\_ explained the deployment of the WRAP on Bauer was consistent with their recommendations and training guidelines.

### **Officer Trovao Second Interview:**

After reviewing Officer Trovao's body worn camera video, I noticed a discrepancy between his statement to investigators and the video footage. The video reveals, when Officer Trovao arrives he kneels down next to Bauer, pulls out his collapsible baton, and strikes Bauer two times on the side of his torso. During his initial interview, Officer Trovao stated he did not use his baton as an impact weapons, only as a "pry tool."

I advised Tamm of the discrepancy and she recommended we conduct a second interview of Officer Trovao to seek clarification. The two baton strikes did not constitute a violation of policy and were aligned with our department's Force Options training. Additionally, the discrepancy did not appear to be an intentional omission or have an appearance of dishonesty. Prior to Officer Trovao's initial statement he had the opportunity to view his body worn camera video, which did not capture the baton strike. The strikes were recorded by another officer's camera. The purpose of the interview was to determine if Officer Trovao had recalled the specific details of striking Bauer with the baton.

On January 10, 2019, I met with Officer Trovao and provided him a notice of the interview that I had scheduled for January 16, 2019. I explained that Officer Trovao that he was considered a witness in this investigation but would be allowed to have a representative if he desired. Officer Trovao expressed that he did not want a representative and asked if we could proceed with the interview immediately. Tamm and I agreed and conducted an interview of Officer Trovao in Tamm's office.

On January 10, 2019 at 1558 hours, I conducted the interview of Officer Trovao. Officer Trovao, Tamm and I were the only people present. I read Officer Trovao the Police Department Administrative Admonishment (Witness Employee) which Officer Trovao acknowledged with his signature. Officer Trovao told me the following statement in summary.

After detailing the discrepancy, I offered to show Officer Trovao the body worn camera of the baton strikes to Bauer. Officer Trovao explained that he had not recalled striking Bauer with the baton until I brought it up. Officer Trovao explained Bauer's hands were still underneath him at the time and Bauer was actively fighting officers. Officer Trovao struck Bauer two times with his baton in an attempt to gain control of Bauer's hands. He remembered the baton strikes were ineffective so he reholstered his baton. Officer Trovao then transitioned to his Taser, which was also ineffective. Another officer had expanded their baton and Officer Trovao assisted in pulling Bauer's arm out from underneath his body.

Officer Trovao explained he did not intentionally omit any information. He recalled being tired when he was interviewed and failed to remember everything exactly as it happened. Once I told him about the baton strikes, it sparked his memory and he provided the detail as he remembered.

**District Attorney's Final Report:**

On January 30, 2020, District Attorney Nancy O'Malley submitted her office's final report of this incident including the report authored by their Critical Incident Team. In summary, the report concluded the evidence does not justify criminal charges against the involved officers. As indicated in the report, no further action will be taken.

(End)

## **Command Notification**

### **Pleasanton Police Department Policy 205.2 – Command Notification**

*“Any time the ranking officer, on-duty or supervisor or Watch Commander becomes aware of an emergency, significant incident, or need for assistance, an evaluation shall be made to notify the appropriate division commander”*

The requirements listed in this policy section were adhered to. Both division commanders were on duty and were aware of the incident. Updated information was routed to each division commander via the chain of command.

## **Use of Force**

### **Pleasanton Police Department Policy 300.3.1 - Use of Force to Effect an Arrest**

*“Any peace officer may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835a).”*

The requirements listed in this policy section were adhered to. Upon arrival, Officer Middleton had obtained a brief summary from Raley’s employees who detailed Bauer’s odd behavior and established the criminal elements of vandalism were met. Raley’s employees desired prosecution, provided a description of Bauer and pointed in the direction where Officer Middleton subsequently contacted Bauer. Officer Middleton located Bauer walking away from the business and Bauer matched the unique description of being an overweight male with purple hair. Bauer admitted to being inside the store but denied breaking any items.

Although Officer Middleton had sufficient reasonable suspicion to detain Bauer, Officer Middleton opted to consensually contact Bauer. When Officer Middleton elevated the contact to a detention Bauer began to resist. Bauer’s willful resistance violated Penal Code Section 148(a)(1) therefore transitioning his detention to an arrest. The use of force, restraints and other measures to obtain and maintain control of Bauer was reasonably necessary.

### **Pleasanton Police Department Policy 300.3.2 - Factors Used to Determine the Reasonableness of Force**

*“When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:”*

*“(a) Immediacy and severity of the threat to officers or others.”*

As Bauer was being detained, he immediately stopped complying with the officer’s commands and began actively resisting. Officer Middleton articulated good cause to handcuff Bauer and explained to Bauer that he was being detained. Bauer’s resistance demonstrated an immediate

threat to the officer's safety. At no time did Bauer comply with the officer's commands to quit resisting and was actively fighting and struggling with the officers.

Each of the involved officers remained calm, communicated with each other and provided clear, concise commands to Bauer. Officers took control of Bauer's extremities and worked in concert to safely restrain Bauer. Once Bauer was restrained in handcuffs, they methodically placed Bauer into the WRAP in accordance with department training.

*“(b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.”*

Officer Middleton and Officer Chin explained they were aware they were dispatched to Raley's regarding an agitated subject who was breaking items in the store. During the contact, Bauer's cooperation quickly and steadily declined. Bauer stood rigid with his eyes locked into the distance. Bauer stopped responding to the officer's communications until officers attempted to detain him in handcuffs. Bauer immediately responded with resistance and agitation. Once Officer Chin performed a leg sweep takedown, Bauer began actively fighting including biting Officer Chin.

As additional officers arrived, they recognized Bauer was aggressive and actively fighting the officers. Each officer involved commented on Bauer's high level of aggression and the abnormal comments he was making, e.g., “Mama, kill me,” and “They're trying to kill me President Trump.” Bauer's conduct was resistive and aggressive throughout his detention and arrest.

*“(c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).”*

A major factor in this incident was the size and strength of Bauer compared to the size and strength of the officers. Bauer was 5' 9" tall and weighed approximately 274 lbs. During the detention, Bauer demonstrated superior strength which officers had difficulty overcoming. Officers were unable to pull Bauer's right arm out from underneath his body and needed to use their batons as levers to increase the leverage to overcome Bauer's resistance.

Bauer continued to resist for approximately 14 minutes until he was secured in the WRAP. Officer Middleton and Officer Chin both appeared and commented during interviews that they became exhausted during the incident. In total, eight officers were used to place Bauer in handcuffs with two additional officers aiding in the deployment of the WRAP. Bauer continued to yell and resist the officer's efforts to place him in handcuffs. Bauer grabbed, scratched and bit the officers, as well as attempted to grab Officer Middleton's Taser, as officers attempted to handcuff him.

*“(d) The effects of drugs or alcohol”*

Raley's employees initially commented to Officer Middleton that Bauer was, “either crazy or he's on drugs.” Bauer's actions and conduct was consistent with being under the influence of drugs or alcohol. Bauer's verbal responses to questions were inconsistent with known information. Bauer stated he was walking home but was walking in the opposite direction of his home. He was rigid, avoided eye contact with officers and became immediately combative with officers during the detention.

**\* \* \* CONFIDENTIAL DOCUMENT \* \* \***

*“(e) Subject’s mental state or capacity”*

Bauer demonstrated cognitive awareness of who he was, where he lived and what he was doing, however he stood with a rigid body stance, stared off into the distance and made odd statements. Bauer’s actions were abnormal and consistent with a person in crisis and/or under the influence of drugs or alcohol.

*“(f) Proximity of weapons or dangerous improvised devices “*

Prior to being detained, Bauer was unsearched and wearing an untucked shirt covering his waistband and pant pockets. As Bauer was being detained, Officer Chin was able to apply a handcuff to his right wrist but was unable to maintain control of Bauer’s arm. As Bauer resisted, he grabbed at Officer Middleton’s taser, bit and scratched Officer Chin and had access to unsearched areas on his body where weapons are commonly hidden, e.g., front waistband, groin, front pant pockets. Bauer proximity to potential weapons supports the reasonableness of the force used.

*“(g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained”*

Bauer was not fully restrained until he was secured in the WRAP, which took approximately 14 minutes. Bauer actively resisted despite being restrained by multiple officers and through multiple taser deployments, hand strikes, and two baton strikes. Bauer’s ability and degree of resistance supported the officer’s reasonableness of force.

*“(h) The availability of other options and their possible effectiveness”*

The control holds and verbal commands attempted to control Bauer were ineffective. Officer Chin completed a leg sweep takedown as Bauer became increasingly more aggressive. Once Bauer bit Officer Chin, Officer Middleton deployed his taser as additional officers arrived. Officer Trovao struck Bauer twice, on the side of his torso with a baton, but the strikes were ineffective. Officer Trovao deployed his Taser, which was also ineffective. Once officers were able to handcuff Bauer they transitioned to placing Bauer in the WRAP.

There were no other force options available to the officers that would have increased effectiveness. Due to the close nature of the struggle, officers would have been exposed to deployed pepper spray, which could lead to a decrease in their effectiveness. Similarly, the close proximity of the officers and Bauer would have made the deployment of a less lethal shotgun too dangerous.

*“(i) Seriousness of the suspected offense or reason for contact with the individual”*

Officer Middleton and Officer Chin conducted an investigative contact of Bauer during a vandalism investigation. Raley’s employees reported Bauer demonstrated bizarre behavior and was acting aggressively when inside the store. During the detention, Bauer disobeyed and resisted the officers in violation of PC 148(a)(1). The seriousness of Bauer’s offenses support the reasonableness of the force used.

*“(j) Training and experience of the officer”*

The involved officers ranged in experience levels from newly hired officers to veteran officers and supervisors. The training and experience of the officers was demonstrated through the lawful and appropriate decision-making during this entire incident. The involved officers remained calm, communicated with each other, demonstrated restraint and provided clear and lawful commands to Bauer. Additionally, the officers immediately called for paramedics to assess and treat Bauer. Each officer worked in conjunction to safely apprehend Bauer and deploy the WRAP safety and consistent with contemporary police training.

*“(k) Potential for injury to officers, suspects and others”*

Bauer’s strength, proximity of weapons and aggressive behavior could have potentially injured any of the involved officers. The sidewalk and uneven grassy area, which was near a busy roadway, had the potential to injure officers as well.

*“(l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer”*

Bauer began resisting officers during the detention and he became an imminent and active threat to the officers. Bauer’s resistance elevated to physically attacking officers as he grabbed and bit at the officers. This supported the reasonableness of the force used.

*“(m) The risk and reasonably foreseeable consequences of escape”*

Bauer’s behavior was unpredictable and increasingly aggressive and abnormal. This incident occurred in a busy shopping center near a major thoroughfare. Escape into the roadway would have presented a danger to the officers, Bauer, passersbys and drivers on the roadway. Although the crimes Bauer committed were relatively minor, his aggressive actions were the cause for the most concern and could have reasonably led to a more violent confrontation if he were to escape.

*“(n) The apparent need for immediate control of the subject or a prompt resolution of the situation”*

Immediate apprehension was necessary, due to Bauer’s level of resistance and unusual behavior. Once officers made the decision to legally detain Bauer, they used the amount of force necessary to gain immediate control of him. Officers had obtained a tactical advantage with Bauer on the ground and officers methodically worked together to resolve the situation.

*“(o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others”*

Bauer continued to resist officers and was a constant imminent threat to the officers and the community until he was fully secured in the WRAP. The use of the WRAP allowed the officers to gain control over Bauer making the situation safe for all.

**\* \* \* CONFIDENTIAL DOCUMENT \* \* \***



*“(p) Prior contacts with the subject or awareness of any propensity for violence”*

The Pleasanton Police Department had one prior contact with Bauer 3 days earlier, however none of the officers on scene were aware of this information or had been the ones to contact him.

*“(q) Any other exigent circumstances”*

None

### **Pleasanton Police Department Policy 300.3.3 – Pain Compliance Techniques**

*Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:*

- a. The degree to which the application of the technique may be controlled given the level of resistance.*
- b. Whether the person can comply with the direction or orders of the officer.*
- c. Whether the person has been given sufficient opportunity to comply.*

*The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.*

The requirements listed in this policy section were adhered to. Officers elevated their application of pain compliance techniques in response to Bauer’s resistance. Bauer refused to comply with the officer’s continual commands and constantly resisted the officers until secured in the WRAP. Bauer was provided sufficient opportunity to comply. Multiple commands and requests from officers were given to Bauer in a clear and concise manner.

### **Pleasanton Police Department Policy 300.5 - Reporting the Use of Force**

*“Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.”*

The requirements listed in this policy section were adhered to. A criminal investigation was completed along with this administrative investigation.

### **Pleasanton Police Department Policy 300.5.1 - Notifications to Supervisors**

*“Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:*

- (a) The application caused a visible injury.*
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.*
- (c) The individual subjected to the force complained of injury or continuing pain.*
- (d) The individual indicates intent to pursue litigation.*
- (e) Any application of a TASER device or control device.*
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.*
- (g) The individual subjected to the force was rendered unconscious.*
- (h) An individual was struck or kicked.*
- (i) An individual alleges any of the above has occurred.”*

The requirements listed in this policy section were adhered to. Sergeant Billdt, Sergeant Knight and Sergeant Sarasua were on scene during this investigation.

### **Pleasanton Police Department Policy 300.5.2- Reporting to California Department of Justice**

*“The Professional Standards Unit Supervisor or the authorized designee shall ensure that data required by the Department of Justice (DOJ) regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is collected and forwarded to the DOJ as required by Government Code § 12525.2.”*

The requirements listed in this policy section were adhered to. I reported this incident to DOJ via URSUS.

### **Pleasanton Police Department Policy 300.6 - Medical Considerations**

*“Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.*

The requirements listed in this policy section were adhered to. LPFD and Paramedics Plus were on scene and continually monitored Bauer after he was placed in the WRAP.

### **Pleasanton Police Department Policy 300.7 - Supervisory Responsibility**

*“When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:*

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.*
- (b) Ensure that any injured parties are examined and treated.*
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:*
  - 1. The content of the interview should not be summarized or included in any related criminal charges.*

2. The fact that a recorded interview was conducted should be documented in a property or other report.  
3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.

(d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.

(e) Identify any witnesses not already included in related reports.

(f) Review and approve all related reports.

(g) Determine if there is any indication that the subject may pursue civil litigation.

1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

(h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate. In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit."

The requirements listed in this policy section were adhered to. This investigation was completed by the Criminal Investigations Unit and supervised by Investigations Sergeant Fountain.

Sergeant Knight, Sergeant Billdt and Sergeant Sarasua responded to the scene and each assumed a supervisory role. Sergeant Knight responded initially and managed the responding officers. Sergeant Knight and Sergeant Billdt supervised the use of force and deployment of the WRAP.

Sergeant Sarasua assisted in supervising medical attention and attempted to calm Bauer after the WRAP deployment.

Sergeant Knight responded to the emergency room to supervise. Sergeant Billdt remained at the scene and communicated the pertinent information appropriately.

## **Conducted Energy Devices**

### **Pleasanton Police Department Policy 309.3 - Issuance and Carrying Conducted Energy Devices**

*“Only members who have successfully completed department-approved training may be issued and carry the TASER device.*

*Officers shall only use the TASER and cartridges that have been issued by the Department. The TASER shall be carried as part of a uniformed officer's equipment in an approved holster. In situations where a holster is impractical officers must seek supervisory approval to carry the TASER in such a manner that it is readily accessible at all times. Members carrying the TASER device should perform a spark test on the unit prior to every shift. When carried while in uniform officers shall carry the TASER device in a weak-side holster on the side opposite the duty weapon.*

*(a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.*

*(b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the TASER device.*

*(c) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.*

*(d) Officers should not hold both a firearm and the TASER device at the same time.”*

Some requirements listed in this policy section were **not** adhered to. All involved officers had successfully completed department-approved training and were carrying the TASER as outlined in the policy.

Officer Middleton, Officer Trovao, Officer Bennett, Officer Koumiss, Sergeant Knight, Sergeant Billdt, Officer Lengel, Officer Granados, Sergeant Sarasua and Officer Palmquist did not perform a spark test of their TASER prior to their shift.

### **Pleasanton Police Department Policy 309.4 – Verbal Warning**

*A verbal warning of the intended use of the CED should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:*

- a. Provide the individual with a reasonable opportunity to voluntarily comply.*
- b. Provide other officers and individuals with a warning that the CED may be deployed.*

*If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the CED. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.*

*The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the CED in the related report.*

The requirements listed in this policy section were adhered to.

Prior to deploying his TASER, Officer Middleton warned Bauer twice, "You are going to get tased." Bauer continued to resist. Officer Middleton provided an additional warning to alert his fellow officers of his intent to use his CED by saying loudly, "TASER, TASER, TASER."

Prior to Officer Trovao deploying his TASER in drive stun mode, he warned Bauer and other officers, "You're gonna get tased."

### **Pleasanton Police Department Policy 309.5.1 – Application of the Conducted Energy Device**

*The CED may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:*

- a. The subject is violent or is physically resisting.*
- b. The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.*

*Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the CED to apprehend an individual.*

The requirements listed in this policy section were adhered to. During the application of both Officer Middleton and Officer Trovao's CED, Bauer was actively and physically resisting officers. Bauer was pulling away from officers, his body was rigid and he began grabbing and biting the officers. Bauer continually refused to comply with officers and demonstrated an intention to physically resist and escape.

### **Pleasanton Police Department Policy 309.5.3 – Targeting Considerations**

*Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the CED probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.*

The requirements listed in this policy section were adhered to. All CED activations were deployed at Bauer's lower torso and side of his body. Officer Middleton targeted Bauer's torso and the side of his stomach. Officer Trovao targeted Bauer's side and lower torso.

### **Pleasanton Police Department Policy 309.5.4 – Multiple Applications of the Conducted Energy Device**

*Officers should apply the CED for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the CED against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.*

*If the first application of the CED appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the CED, including:*

**\* \* \* CONFIDENTIAL DOCUMENT \* \* \***

- a. *Whether the probes are making proper contact.*
- b. *Whether the individual has the ability and has been given a reasonable opportunity to comply.*
- c. *Whether verbal commands, other options or tactics may be more effective.*

*Officers should generally not intentionally apply more than one CED at a time against a single subject.*

The requirements listed in this policy section were adhered to. Although multiple activations of the CED were applied, they appeared ineffective in gaining control of Bauer who continued to fight with the officers.

#### **Pleasanton Police Department Policy 309.5.5 – Actions Following Deployments**

*Officers shall notify a supervisor of all CED discharges. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.*

The requirements listed in this policy section were adhered to. The discharges of the CED's were reported to the investigators and cartridges were booked into evidence.

#### **Pleasanton Police Department Policy 309.6 - Documentation**

*Officers shall document all CED discharges in the related arrest/crime report and the CED report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.*

The requirements listed in this policy section were adhered to. All CED discharges were documented in the crime reports authored by investigators.

#### **Pleasanton Police Department Policy 309.6.2 - Reports**

*The officer should include the following in the arrest/crime report:*

- a. *Identification of all personnel firing CEDs*
- b. *Identification of all witnesses*
- c. *Medical care provided to the subject*
- d. *Observations of the subject's physical and physiological actions*
- e. *Any known or suspected drug use, intoxication or other medical problems*

The requirements listed in this policy section were adhered to. The above information was documented by investigators in their crime reports.

#### **Pleasanton Police Department Policy 309.7 – Medical Treatment**

*Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove CED probes from a person's body. Used CED probes shall*

*be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.*

*All persons who have been struck by CED probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:*

- a. The person is suspected of being under the influence of controlled substances and/or alcohol.*
- b. The person may be pregnant.*
- c. The person reasonably appears to be in need of medical attention.*
- d. The CED probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).*
- e. The person requests medical treatment.*

*Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.*

*The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CED.*

The requirements listed in this policy section were adhered to. Officers requested Livermore/Pleasanton Fire Department to respond for medical aid during their struggle to take Bauer into custody. Multiple factors led to the request for medical aid including indicators that Bauer may have been under the influence of a controlled substance, Bauer was struck by CED probes, and Bauer indicating he was in distress by stating, "I can't breathe."

Bauer was treated by Livermore/Pleasanton Fire Department and Paramedics Plus immediately after being placed in the WRAP. Paramedics continually monitored Bauer and prepared him for transport to the hospital. While in the ambulance, Bauer stopped breathing. Paramedics immediately started CPR and Bauer was transported Code 3 to the hospital where he subsequently died.

### **Pleasanton Police Department Policy 309.8 Supervisor Responsibilities**

*When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the CED may be used. A supervisor should respond to all incidents where the CED was activated.*

*A supervisor shall review each incident where a person has been exposed to an activation of the CED. The device's onboard memory should be downloaded through the data port by Personnel and Training or a supervisor and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.*

The requirements listed in this policy section were adhered to. Each of the involved officer's CED were downloaded by Personnel and Training staff and attached to this report.



## **Pleasanton Police Department Policy 309.9 - Training**

*Personnel who are authorized to carry the CED shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the CED as a part of their assignment for a period of six months or more shall be recertified by a department-approved CED instructor prior to again carrying or using the device.*

*Proficiency training for personnel who have been issued CEDs should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Officer. All training and proficiency for CEDs will be documented in the officer's training file.*

*Command staff, supervisors and investigators should receive CED training as appropriate for the investigations they conduct and review.*

*Officers who do not carry CEDs should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.*

*The Training Officer is responsible for ensuring that all members who carry CEDs have received initial and annual proficiency training. Periodic audits should be used for verification.*

*Application of CEDs during training could result in injury to personnel and should not be mandatory for certification.*

*The Training Officer should ensure that all training includes:*

- a. A review of this policy.*
- b. A review of the Use of Force Policy.*
- c. Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.*
- d. Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.*
- e. Handcuffing a subject during the application of the CED and transitioning to other force options.*
- f. De-escalation techniques.*
- g. Restraint techniques that do not impair respiration following the application of the CED.*

*The requirements listed in this policy section were adhered to. Each of the involved officers received annual CED training and copies of their training records are attached to this report.*



## **Officer Involved Shootings and Deaths**

### **Pleasanton Police Department Policy 310.5.1 - Duties of Initial On Scene Supervisor**

*“Upon arrival at the scene of an officer-involved shooting, the first uninvolved supervisor should:*

*(a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.*

*(b) Attempt to obtain a brief overview of the situation from any non-shooter officer(s).*

*1. In the event that there are no non-shooter officers, the supervisor should attempt to obtain a brief voluntary overview from one shooter officer.*

*(c) If necessary, the supervisor may administratively order any officer from this department to immediately provide public safety information necessary to secure the scene and pursue suspects.*

*1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information.*

*(d) Absent a voluntary statement from any officer(s), the initial on scene supervisor should not attempt to order any officer to provide other than public safety information.*

*(e) Provide all available information to the Watch Commander and Dispatch. If feasible, sensitive information should be communicated over secure networks.*

*(f) Take command of and secure the incident scene with additional personnel until relieved by a detective supervisor or other assigned personnel.*

*(g) As soon as practical, shooter officers should respond or be transported (separately, if feasible) to the station for further direction.*

*1. Each involved officer should be given an administrative order not to discuss the incident with other involved officers pending further direction from a supervisor.*

*2. When an officer's weapon is taken or left at the scene (e.g., evidence), the officer will be provided with a comparable replacement weapon or transported to the station by other officers.”*

The requirements listed in this policy section were adhered to. Although none of the officers fired a firearm, the same protocol was initiated once Bauer was pronounced deceased. Medical aid had responded to the incident and rendered aid prior to Bauer's death. Supervisors responded to the scene and provided updated information to the Watch Commander and Dispatch. Supervisors managed and secured the scene until later relieved by investigations. Involved officers were separated at the police department and later interviewed by detectives.

### **Pleasanton Police Department Policy 310.5.2 - Watch Command Responsibilities**

*“Upon learning of an officer-involved shooting or death, the Watch Commander shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief of Police or a Division Commander.*

*All outside inquiries about the incident shall be directed to the Watch Commander.”*

The requirements listed in this policy section were adhered to. The supervisors on scene contacted the Watch Commander who coordinated the patrol and investigative response to the incident. Both Division Commanders were on duty during the incident fully informed of what was going on.

### **Pleasanton Police Department Policy 310.5.3 – Notifications**

*“The following person(s) shall be notified as soon as practicable:*

*Chief of Police*

*Operations Division Commander*

*Investigations and Support Services Division Commander*

*Outside agency investigator (if appropriate)*

*Psychological/peer support personnel*

*Chaplain*

*Coroner (if necessary)*

*Involved officer's agency representative (if requested)”*

The requirements listed in this policy section were adhered to. All notifications were made as soon as practical in accordance with this policy.

### **Officer Response to Calls**

#### **Pleasanton Police Department Policy 317.2 - Response to Calls**

*“Officers dispatched "Code-3" shall consider the call an emergency response and proceed immediately. Officers responding Code-3 shall continuously operate emergency lighting equipment, including at minimum a steady forward facing red light, and shall sound the siren as reasonably necessary pursuant to Vehicle Code § 21055.*

*Responding with emergency light(s) and siren does not relieve the officer of the duty to continue to drive with due regard for the safety of all persons. The use of any other warning equipment without a red light and siren does not provide any exemption from the Vehicle Code.*

*Officers should only respond Code-3 when so dispatched or when circumstances reasonably indicate an emergency response is required. Officers not authorized to respond Code-3 shall observe all traffic laws and proceed without the use of emergency lights and siren. ”*

The requirements listed in this policy section were adhered to. Body Worn Camera footage showed officers drove to the scene with red lights and sirens activated while driving with regard to safety.

#### **Pleasanton Police Department Policy 317.3 - Requesting Emergency Assistance**

*“Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting officer shall immediately notify Dispatch.*

*If circumstances permit, the requesting officer should give the following information:*

- The unit number*
- The location*
- The reason for the request and type of emergency*

**\* \* \* CONFIDENTIAL DOCUMENT \* \* \***

- *The number of units required*

The requirements listed in this policy section were adhered to. Officer Middleton initially aired for “another unit,” and a scuffle could be heard in the background. Officer Chin then requests “two units Code 3,” and again a scuffle could be heard in the background. As additional officers are responding, Officer Middleton provides a more accurate location explaining that they are across the street from the “oil change place,” on Mission Drive.

### **Pleasanton Police Department Policy 317.5 - Responsibilities of Responding Officer(s)**

*“Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of the vehicle.*

*The decision to continue a Code-3 response is at the discretion of the officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of red lights and siren at the legal speed limit. In such an event, the officer should immediately notify Dispatch. An officer shall also discontinue the Code-3 response when directed by a supervisor.*

*Upon receiving authorization or determining a Code-3 response is appropriate, an officer shall immediately give the location from which he/she is responding.”*

The requirements listed in this policy section were adhered to. All involved officers responded in accordance with this policy however, several of the responding units did not immediately give the location from where they were responding to dispatch. Officer Bradley and Officer Paulsen provided the required information but reduced prior to arriving. Many of the involved officer responded from the Police Department and did not air their location intentionally to reserve radio traffic for the officers involved in the altercation.

### **Pleasanton Police Department Policy 317.7 - Supervisor Responsibilities**

*“Upon being notified that a Code-3 response has been initiated, the Watch Commander or the field supervisor shall verify the following:*

- (a) The proper response has been initiated*
- (b) No more than those units reasonably necessary under the circumstances are involved in the response*
- (c) Affected outside jurisdictions are being notified as practical*

*The field supervisor shall monitor the response until it has been stabilized or terminated and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment, the circumstances require additional units to be assigned a Code-3 response, the supervisor may do so.*

*It is the supervisor's responsibility to terminate a Code-3 response that, in his/her judgment is inappropriate due to the circumstances.*

*When making the decision to authorize a Code-3 response, the Watch Commander or the field supervisor should consider the following:*

- *The type of call*

- *The necessity of a timely response*
- *Traffic and roadway conditions*
- *The location of the responding units”*

The requirements listed in this policy section were adhered to. Upon arrival, Sergeant Knight assessed the incident and realizing sufficient units were on scene he aired for responding units to reduce their response.

## **Major Incident Notifications**

### **Pleasanton Police Department Policy 359.4 - Watch Commander Responsibility**

*“The Watch Commander is responsible for making the appropriate notifications. The Watch Commander shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Watch Commander shall attempt to make the notifications as soon as practicable. Notification should be made by calling the home telephone number first and then by any other available contact numbers.”*

The requirements listed in this policy section were adhered to. The supervisors on scene contacted the Watch Commander who coordinated the patrol and investigative response to the incident. Both Division Commanders were on duty during the incident fully informed of what was going on.

## **Crime and Disaster Scene Integrity**

### **Pleasanton Police Department Policy 406.3 - Scene Responsibility**

*"The first officer at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Officers shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the officer shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person."*

The requirements listed in this policy section were adhered to. Immediately upon realizing that Bauer had "coded" by Paramedics Plus, Sergeant Sarasua began securing and preserving the scene. The scene was barricaded by police vehicle, traffic cones and yellow caution tape. Sergeant Billdt and Sergeant Sarasua identified potential witnesses and directed officers to interview them. Sergeant Sarasua also directed officers to start a crime scene log.

### **Pleasanton Police Department Policy 406.4 - First Responder Considerations**

*"The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:*

- (a) Broadcast emergency information, including requests for additional assistance and resources.*
- (b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.*
- (c) Locate or identify suspects and determine whether dangerous suspects are still within the area.*
- (d) Provide first aid to injured parties if it can be done safely.*
- (e) Evacuate the location safely as required or appropriate.*
- (f) Secure the inner perimeter.*
- (g) Protect items of apparent evidentiary value.*
- (h) Secure an outer perimeter.*
- (i) Identify potential witnesses.*
- (j) Start a chronological log noting critical times and personnel allowed access."*

The requirements listed in this policy section were adhered to. Emergency information was broadcasted and the response was monitored by three supervisors. Bauer received medical aid and constant monitoring by paramedics immediately after he was secured in the WRAP. Sergeant Sarasua secured the crime scene and closed affected roadways. Items of apparent evidentiary value were left in their location and secured within the inner perimeter. Officers interviewed witnesses and collected a cell phone video from a witness. Sergeant Sarasua also directed an officer to start a crime scene/chronological log. Officers secured the crime scene until investigators directed them to break down the crime scene and return to the police station.

## **Body Worn Camera Systems**

### **Pleasanton Police Department Policy 450.2 - Policy**

*“Wearing the BWCS: All Department members, including Police Managers who are assigned a BWCS shall wear the device when working any uniformed assignment and shall activate the device as provided in this Policy. Except as otherwise provided in this Policy, any Department member assigned to a non-uniformed position, including the Criminal Investigations Unit, the Special Enforcement Unit, and SWAT, including Police Managers, shall wear and activate the device during pre-planned enforcement encounters such as probation searches, parole searches, arrests or search warrant entries, gang enforcement, or as directed by a Supervisor.*

*Police Managers are exempt from wearing their BWCS while inside the Department or while performing administrative functions.”*

The requirements listed in this policy section were adhered to. All involved personnel wore their BWCS as outlined in this policy.

### **Pleasanton Police Department Policy 450.3 - Activation of the Body Worn Camera System**

*“This policy is not intended to describe every possible circumstance in which the BWCS should be used, however, it should be used when the officer or Supervisor reasonably determines that it would be appropriate and/or valuable to the documentation of a law enforcement related incident. Unless it is not safe or practical to do so, or mechanical issues or other logistical or operational considerations are present, as determined by a Supervisor, members shall make every effort to activate their BWCS prior to making contact with members of the public, or as soon as reasonably possible under the circumstances in any of the following types of incidents.*

Portions of the requirements listed in this policy section were **not** adhered to. All but one of the involved officers activated their BWCS as outlined in this policy. Officer Koumiss activated his body worn camera approximately ten minutes after his arrival at the scene. Officer Koumiss explained that he failed to activate his body worn camera because he was focused on getting to the scene. It was minutes after his arrival, while putting on his gloves that he realized his camera was not activated and immediately started recording.

## **Handcuffing and Restraints**

### **Pleasanton Police Department Policy 306.3 – Use of Restraints**

*Only members who have successfully completed Pleasanton Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.*

*When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include, but are not limited to:*

*The circumstances or crime leading to the arrest.*

*The demeanor and behavior of the arrested person.*

*The age and health of the person.*

*Whether the person is known to be pregnant.*

*Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.*

*Whether the person has any other apparent disability.*

The requirements listed in this policy section were adhered to. Each of the involved officers had successfully completed Pleasanton Police Department approved training on the use of restraint devices. The decision to apply handcuffs occurred once Officer Middleton decided to detain. Officer Middleton had legal authority to detain Bauer based on the criminal investigation. The decision to use handcuffs was also supported by Bauer's unusual behavior that quickly turned aggressive and non-compliant.

### **Pleasanton Police Department Policy 306.4 -Application of Handcuffs**

*Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.*

*Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.*

*In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.*

*In situations where one pair of handcuffs does not appear sufficient to restrain the individual or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.*

*Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.*

The requirements listed in this policy section were adhered to. After resisting arrest and fighting officers, Bauer was handcuffed with his hands behind his back. Several pairs of handcuffs were used due to Bauer's size. After being secured in the WRAP, Bauer was placed onto a gurney, provided by the paramedics, and his handcuffs were removed. Paramedics used soft restraints that attach to the gurney to secure Bauer's hands.



### **Pleasanton Police Department Policy 306.5 – Application of Spit Hoods/Masks**

*Spit hoods/masks/socks are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.*

*Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.*

*Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid comingling individuals wearing spit hoods with other detainees.*

*Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated including hair, head and clothing prior to application of a spit hood.*

*Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.*

The requirements listed in this policy section were adhered to. The decision to apply the spit hood was made to prevent Bauer from the transferring or transmitting fluids to officers or medics. Bauer had continually attempted to bite officers, was screaming and yelling and he had a small amount of blood near his mouth. After application of the spit hood, Bauer was under constant monitoring by members of Pleasanton Police Department, Livermore/Pleasanton Fire Department and Paramedics Plus.

### **Pleasanton Police Department Policy 306.6 -Application of Auxiliary Restraint Devices**

*Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.*

*Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.*

The requirements listed in this policy section were adhered to. Officers placed Bauer in the WRAP immediately after handcuffing him. Force Options reviewed the use of the WRAP and determined it was appropriately applied and consistent with the WRAP training the officers had received.

### **Pleasanton Police Department Policy 306.8 Required Documentation**

*If an individual is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints in a CAD note or written report.*

**\* \* \* CONFIDENTIAL DOCUMENT \* \* \***

*If an individual is arrested, the use of restraints other than handcuffs shall be documented in the related report. The officer should include, as appropriate:*

*The amount of time the suspect was restrained.*

*How the suspect was transported and the position of the suspect.*

*Observations of the suspect's behavior and any signs of physiological problems.*

*Any known or suspected drug use or other medical problems.*

*The type of restraint device used.*

The requirements listed in this policy section were adhered to. Investigators documented the required information in their case reports.