

OAKLAND POLICE DEPARTMENT – INTERNAL AFFAIRS DIVISION

INTERVIEW OF LIEUTENANT CHRIS MUFARREH

Sgt. Floyd: Okay, so we were talking about the knowledge that you had of the layout of the building, came from Dan Sakai, um, was anybody else responsible for doing any kind of reconnaissance on the layout of the building?

Lt. Mufarreh: I said I believe it came from Dan Sakai.

Sgt. Floyd: Okay. Um, did you have any information at that point in time about the layout of the apartment specifically?

Lt. Mufarreh: No.

Sgt. Floyd: Okay. Um, let's go back to...

Lt. Mufarreh: ...but I believe that Dan did as well.

Sgt. Floyd: Okay. Um, let's go back to what information did Dan have about the layout of the apartment?

Lt. Mufarreh: I mean honestly he wasn't talking to me, but when they were planning, the entry team were planning, um, I, you know, as I was walking back and forth I overheard, you know, Dan talking, and I thought showed them something, but maybe not, but talked about the layout of the apartment building and all that, because he's the team leader, he's on the SWAT team and he was there the entire time, so he's expected to know all that
(inaudible).

Sgt. Floyd: Do you know where he got the information from?

Lt. Mufarreh: I believe he got on himself, like I was telling you earlier.

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1 Sgt. Floyd: Okay. Um, we're going to take a look at some photographs. I've marked
2 them all with numbers for the record, so could you just describe for me what photograph
3 number 1 is?

4 Lt. Mufarreh: Well it's the front door of the building.

5 Sgt. Floyd: Okay. And um, in relation to the front door, speaking right, left, where is
6 the suspect's apartment?

7 Lt. Mufarreh: Well right when you walk in, to the right.

8 Sgt. Floyd: Okay. And um, photograph number 2, can you describe that one for me
9 also?

10 Lt. Mufarreh: This photograph has the windows to the suspect's apartment.

11 Sgt. Floyd: Okay.

12 Lt. Mufarreh: That I believed to be the windows.

13 Sgt. Floyd: Okay. Um, to your knowledge from the information that you gathered at
14 that point in time, were those the only two windows that the suspect's apartment had?

15 Lt. Mufarreh: To my knowledge, yeah.

16 Sgt. Floyd: Okay. Um, and for the record, I'm showing you photograph number 3.
17 Could you just describe what that photograph shows?

18 Lt. Mufarreh: Well it's the side of the building. I guess it would be the north side of
19 the building.

20 Sgt. Floyd: So the wall...

21 Lt. Mufarreh: ...they're no windows there.

22 Sgt. Floyd: Okay, the wall to the outside of that, would that be the wall of the
23 suspect's apartment?

24 Lt. Mufarreh: Yeah I believe so, yeah.

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1 Sgt. Floyd: And that photograph, is that taken ~~en~~ from a view that you would have had
2 on the scene?

3 Lt. Mufarreh: Correct.

4 Sgt. Floyd: Okay. Um, where was the bear cat parked um, in relation to any of these
5 photographs?

6 Lt. Mufarreh: Right in front of number 2 here, right in front of the doorway.

7 Sgt. Floyd: Okay, how close to the doorway was the bear cat parked?

8 Lt. Mufarreh: It was like across the street, so it would be, you know, on the east side
9 of the street facing -- I want to say facing northbound.

10 Sgt. Floyd: Okay.

11 Lt. Mufarreh: Yeah that's I want to say.

12 Sgt. Floyd: So it was parked kind of sideways?

13 Lt. Mufarreh: No, it parked like he was driving straight, it was stopped right in front.

14 Sgt. Floyd: Okay. Um, and then photograph number 4, that's again a photograph of
15 the north wall of the suspect's apartment.

16 Lt. Mufarreh: Okay.

17 Sgt. Floyd: Um, photograph number 5 for the record is the ~~south~~ side of the building.

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18 Lt. Mufarreh: Okay.

19 Sgt. Floyd: Um, now looking at um -- take a look at photograph number 1 again.

20 There's another apartment to the south of the entry ~~way~~.

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21 Lt. Mufarreh: Okay.

22 Sgt. Floyd: Um, do you know where the front door was for that apartment?

23 Lt. Mufarreh: Yes -- up a couple of stairs.
24

1 Sgt. Floyd: Okay. So your understanding was -- and is this at the time prior to
2 making entry, do you know?

3 Lt. Mufarreh: I don't remember.

4 Sgt. Floyd: Okay. So it could be you developed that information?

5 Lt. Mufarreh: I could have.

6 Sgt. Floyd: Okay.

7 Lt. Mufarreh: It's possible.

8 Sgt. Floyd: Um, and this is the photograph number 6, the back of the building.

9 Lt. Mufarreh: Right.

10 Sgt. Floyd: Um, did you ever see the back of the building?

11 Lt. Mufarreh: No.

12 Sgt. Floyd: Do you know if any officers that were...

13 Lt. Mufarreh: ...yeah it was described to me.

14 Sgt. Floyd: Okay. And what did they tell you when they described it?

15 Lt. Mufarreh: That it was the fire escape.

16 Sgt. Floyd: Okay.

17 Lt. Mufarreh: And that's basically it.

18 Sgt. Floyd: Okay.

19 Lt. Mufarreh: Because, you know, we're talking about evac, it was part of the
20 discussion.

21 Sgt. Floyd: Okay.

22 Lt. Mufarreh: Who I got that information from, I'm just assuming it was Dan Sakai
23 but I can't tell you 100% →

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1 Sgt. Floyd: Okay. And um, you indicated that you directed Andreotti to take a team
2 and make sort of -- in my words, an inner perimeter around the, around the apartment
3 building.

4 Lt. Mufarreh: Right.

5 Sgt. Floyd: Do you know if there were people in the back of the apartment building,
6 officers or anybody?

7 Lt. Mufarreh: I don't think there was anybody, my understanding there was nobody
8 actually in the back yard.

9 Sgt. Floyd: Okay.

10 Lt. Mufarreh: But they did have eyes on the back yard.

11 Sgt. Floyd: Okay. Do you know where the officers were?

12 Lt. Mufarreh: No.

13 Sgt. Floyd: Okay. Um, and this is a photograph taken from 73rd Avenue facing
14 towards 74th Avenue.

15 Lt. Mufarreh: Okay.

16 Sgt. Floyd: Um, just for reference. Um, at the point in time that the entry team was
17 there and kind of gathering, did you know if there were units in the rear of the apartment
18 building?

19 Lt. Mufarreh: What do you mean units?

20 Sgt. Floyd: Um, if there were other, so the suspect's apartment from what you've
21 described would be on the northeast side of the building, do you know if there was a unit
22 behind (*inaudible*)?

23 Lt. Mufarreh: No. I don't -- I don't know.
24

1 Sgt. Floyd: Okay. Um, did um, as part of the team that you kind of directed
2 Andreotti to set up.

3 Lt. Mufarreh: Mm-hmm.

4 Sgt. Floyd: Um, did they, um, a designated d arrest team?

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5 Lt. Mufarreh: Correct.

6 Sgt. Floyd: Okay. And um, who was in charge of that team?

7 Lt. Mufarreh: You just said, Andreotti.

8 Sgt. Floyd: Okay. So he was the sergeant both in charge of the perimeter, the inner
9 perimeter around this building, and the designated arrest team?

10 Lt. Mufarreh: Well I mean it's possible.

11 Sgt. Floyd: Okay. Um, do you know if he designated or sort of sub designated any
12 officer to be in charge of the DAT?

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13 Lt. Mufarreh: You'd have to ask him.

14 Sgt. Floyd: Okay. Um, were -- when the entry team arrived, were any of the inner
15 perimeter units that Andreotti had set up, were they replaced with entry team members?

16 Lt. Mufarreh: I don't believe so.

17 Sgt. Floyd: Okay. And is that something that's I guess normal procedure to replace
18 the inner perimeter units DATs with?

19 Lt. Mufarreh: Depending on the circumstances of the incident.

20 Sgt. Floyd: Okay. So again, I'm going to betray my inexperience. Um, under what
21 circumstances would the entry team replace patrol officers on a perimeter, on an inner
22 perimeter or on a designated arrest team?

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23 Lt. Mufarreh: Can you rephrase that question?

24 Sgt. Floyd: Well you said it depends on the circumstances.

1 Lt. Mufarreh: Right. In this particular circumstance, it apparently wasn't called for.

2 Sgt. Floyd: Okay. And why wasn't it called for?

3 Lt. Mufarreh: Because um, this house was going to be cleared amongst the, you
4 know, me having a huge perimeter that we were going to clear and this was one portion of it.

5 Sgt. Floyd: Okay.

6 Lt. Mufarreh: We weren't focused ~~in~~ on this one residence.

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7 Sgt. Floyd: Okay. Um, who made, who made the decision that entry team members
8 were not going to replace (*inaudible*)?

9 Lt. Mufarreh: I don't know if that ever even came up.

10 Sgt. Floyd: Okay.

11 Lt. Mufarreh: So I don't know if the decision needed to be made.

12 Sgt. Floyd: Okay. Um, so who actually did the briefing of the entry team leaders
13 when they arrived on the scene?

14 Lt. Mufarreh: The briefing of?

15 Sgt. Floyd: Did somebody brief the entry team leaders when they arrived on the
16 scene?

17 Lt. Mufarreh: Well I know, you talking about me? If you did, I mean I know I had a
18 lot of discussion with the entry team leaders.

19 Sgt. Floyd: Okay.

20 Lt. Mufarreh: I know so did the captain and Dan Sakai was ~~very~~ instrumental in that
21 as well.

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22 Sgt. Floyd: Okay.

23 Lt. Mufarreh: So I guess what I'm getting at is we talked about roles. We established
24 Kozicki as the incident commander. We established Orozco as the tactical commander.

1 Sgt. Floyd: Um, what would you say your role was at this point in time?

2 Lt. Mufarreh: I didn't have -- I didn't have a role.

3 Sgt. Floyd: Okay.

4 Lt. Mufarreh: I mean, you know, I think about it every day. I really didn't even have
5 a role. I assisted.

6 Sgt. Floyd: Okay.

7 Lt. Mufarreh: You can say I was the assistant, if you want to give me a role.

8 Sgt. Floyd: The assistant -- who were you assisting at this point in time when the
9 entry team was...

10 Lt. Mufarreh: ...you know I would have been maybe assisting Orozco.

11 Sgt. Floyd: Okay.

12 Lt. Mufarreh: Um, but technically -- technically didn't really have a role.

13 Sgt. Floyd: Okay.

14 Lt. Mufarreh: But if you want to label one, you could call me the assistant.

15 Sgt. Floyd: Okay. Was there um -- was there a formal briefing of the team leaders
16 when they arrived on the scene as far as did any commander, I guess, formally brief them?

17 Lt. Mufarreh: I mean I know I briefed them.

18 Sgt. Floyd: Okay.

19 Lt. Mufarreh: Um, at one point.

20 Sgt. Floyd: And do you know why Orozco didn't do that, or did he do it?

21 Lt. Mufarreh: Maybe he did. I don't remember.

22 Sgt. Floyd: Okay. Um, when you briefed the team leaders, what did you tell them?

23 Lt. Mufarreh: Um, I couldn't tell you specifically, but um, I know I would have told
24 them everything I knew.

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1 Sgt. Floyd: Okay. What did you tell them specifically with regard to your belief
2 about the suspect being in the apartment?

3 Lt. Mufarreh: Um, well I know at some point, um, I told him to assume the suspect
4 was in the apartment.

5 Sgt. Floyd: Okay. Did you share with him um, your belief about the low probability
6 or possibility of the suspect being in the apartment?

7 Lt. Mufarreh: Um, I don't recall.

8 Sgt. Floyd: Okay. Um, do you recall what, if anything, Captain Orozco told the team
9 leaders?

10 Lt. Mufarreh: No I don't. I don't recall.

11 Sgt. Floyd: Do you recall, what, if anything, if Deputy Chief Kozicki told the team
12 leaders?

13 Lt. Mufarreh: No I don't.

14 Sgt. Floyd: Okay. Um, and once again, I'm going to betray my uh, my inexperience,
15 but as far as the planning for something like this, um, would you just explain, I guess the
16 practice of who makes plans for this type of entry, as far as are we going to use gas, or are we
17 going to use the dog, that sort of thing. Is that like a decision that's made with the
18 commanders and the team leaders, the commanders themselves, the team leaders themselves,
19 how does that come about, typically?

20 Lt. Mufarreh: Um, you know, I mean I don't have a lot of experience on the
21 command level.

22 Sgt. Floyd: Okay.
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1 Lt. Mufarreh: So it's difficult for me to answer that question, but I can tell you this,
2 um, the plan of once it's decided that they are going to enter and they being the team, the
3 team leaders would put the entry plan together.

4 Sgt. Floyd: And by the entry plan, what does that entry plan entail?

5 Lt. Mufarreh: Um, you know, you're asking me -- you know, I'm somewhat of a
6 laymen as well, so if you're asking me some questions...

7 Sgt. Floyd: ...but you, you're imminently qualified to answer the question given your
8 entry team experience. You've been on the entry team for ten years prior to being promoted
9 and now becoming tactical commander, so just from your observations as a team member,
10 what do these plans entail?

11 Lt. Mufarreh: Well the plans obviously entail, you know, the stacking order, you
12 know, who's -- well first of all, who is the team leader, the stacking order, you know, is gas
13 going to be deployed, is, you know, how many flash bangs are going to be thrown, you
14 know, what type of weapons are we going to have up front, who's going to, you know, hit the
15 door, who's going to throw the flash bang, you know, that type of stuff.

16 Sgt. Floyd: So, um, how is command get involved in that, in that sort of decision
17 making?

18 Lt. Mufarreh: Um, I think command is more involved of the overall picture, you
19 know, the overall picture as far as like maybe, if there's different types of incidents, we're
20 talking scenarios which I really don't feel comfortable talking about, but um, if we're talking
21 about scenarios, you know, that commands more, in my understanding, is you know, the
22 bigger picture, you have your snipers and your hostage negotiators, how long is it going to
23 go, are we going to deploy gas, um, you know, that, that type of stuff, the overall picture.
24 But then the actual plan, the actual entry is going to be the team leaders, that's why they're

1 team leaders, they put that plan together. Because once they, once they go, you know, we're
2 not there with them, you know. Those decisions have to be made with people on the inside,
3 not people on the outside.

4 Sgt. Floyd: So now please correct me if I'm wrong, I know you will. Um, the entry
5 team would not then be involved, the team leaders, the actual entry team would not be
6 involved in making decisions such as are we going to call inside or are we going to negotiate
7 with this guy?

8 Lt. Mufarreh: Absolutely they would be. They would have a huge role in that, you
9 know.

10 Sgt. Floyd: Okay.

11 Lt. Mufarreh: Again -- again, these are the experts -- these are the experts. And um,
12 the team leaders are going to be involved in a lot of this stuff.

13 Sgt. Floyd: Okay.

14 Lt. Mufarreh: Depending on who you are and maybe what your expertise is.

15 Sgt. Floyd: Okay.

16 Lt. Mufarreh: You know, the final decision obviously is going to rest with, excuse
17 me, not even the tactical commander, it's the incident commander, you know, according to
18 our policies, but you know, it's going to go through the tactical commander and then they're
19 going to give all this information to the incident commander and based on that information
20 that they have, they are going to make -- they are going to make the best decisions they have
21 at the time, even if that incident commander has no experience whatsoever.

22 Sgt. Floyd: Mm-hmm.

23 Lt. Mufarreh: A month on or so, do you know what I mean? Personally, since we're
24 talking about it, I think the policy needs to be really examined now, you know? I mean we're

1 saying that an incident commander with no experience should have the ultimate say on
2 whether we should enter a building or not, um, no matter what experience level that they
3 have, but that's what our policy says. So to be a halfway decent leader, you have to consult
4 all these people.

5 Sgt. Floyd: Okay.

6 Lt. Mufarreh: To try to make the appropriate decisions at the time. And if you don't,
7 then you're going to fail.

8 Sgt. Floyd: Okay. So in this case specifically, and I'm trying to kind of run down
9 and understand the chronology of events, um, the discussion as to whether or not entry was
10 going to be made into that -- into that unit, um, who was present during the first time entry
11 into that unit was discussed?

12 Lt. Mufarreh: Um, I mean you're talking about like with the patrol officers...

13 Sgt. Floyd: ...after that, once the entry team got there?

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14 Lt. Mufarreh: Okay, ask the question again.

15 Sgt. Floyd: The first time -- when the entry team arrives, the first time the discussion
16 as to whether or not entry was going to be made into that unit, who was present?

17 Lt. Mufarreh: Um, I can only assume. I can't -- I mean you're starting to ask me so
18 specific questions where it's difficult. Um, well obviously the decision was made with
19 Orozco and um, the final decision was made with Orozco and um, Captain or DC Kozicki.
20 So obviously they were present.

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21 Sgt. Floyd: Okay. So were you involved in that conversation with the two of them?

22 Lt. Mufarreh: Yes.

23 Sgt. Floyd: Okay. And then was that before or after the team leaders were consulted
24 as to whether or not entry should be made or how entry would be made?

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1 Lt. Mufarreh: Once the final decision was made, everybody was consulted.

2 Sgt. Floyd: Okay. So the decision, and please again, correct me if I'm wrong, the
3 decision was to make entry into the building with you, Captain Orozco and Deputy Chief
4 Kozicki and then the team leaders were, ~~told, were~~ consulted about the decision, is that my
5 understanding and chronology correct?

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6 Lt. Mufarreh: No.

7 Sgt. Floyd: Okay.

8 Lt. Mufarreh: No. When the final decision was made and I am going to correct you.

9 Sgt. Floyd: Yes please.

10 Lt. Mufarreh: It wasn't me, Captain Orozco and Kozicki that made the final decision.
11 It was Kozicki that made the final decision.

12 Sgt. Floyd: Okay.

13 Lt. Mufarreh: He's the only one that has the authority to make the final decision.
14 We're part of the decision-making process...

15 Sgt. Floyd: ...okay...

16 Lt. Mufarreh: ...you know, is part of his process, but he made the decision. I think it
17 was a good decision.

18 Sgt. Floyd: Okay.

19 Lt. Mufarreh: Then, now obviously, two people are dead. Maybe more would have
20 died, I don't know. Um, he made the decision so let's make that -- I support his decision,
21 even today, I support his decision.

22 Sgt. Floyd: Okay.
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1 Lt. Mufarreh: Um, and I'm not taking anything away from me, I was part of that
2 decision-making process. The entry team members were consulted, everybody was
3 consulted prior to making that final decision.

4 Sgt. Floyd: Okay. And that was my original question, who was present for that
5 original discussion as to whether or not entry was going to be made. So again, we'll go over
6 the chronology. It sounds like the team leaders were consulted in sort of a discussion and
7 then Kozicki made the decision after that.

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8 Lt. Mufarreh: Yeah. And like I said, it's not like, boom, boom, boom, things were
9 fluid, things are going back and forth, things are chaotic, people are yelling, there's a million
10 cops out there, we have helicopters there, you know, so let's not, let's not, let's not lose sight
11 of, of, of that aspect. It was continual chaos and the chaos didn't end until, for me, until I
12 went home that night.

13 Sgt. Floyd: Okay.

14 Lt. Mufarreh: I mean it was continual.

15 Sgt. Floyd: Okay. So you have the first conversation with the team leaders present
16 and three commanders, you, Orozco, and Kozicki. Then Kozicki makes the final decision
17 and you said that you were part of that decision and that you support it. Am I understanding
18 all that correct?

19 Lt. Mufarreh: That's correct.

20 Sgt. Floyd: Okay. Before Kozicki made his final decision, when you guys were
21 speaking with the team leaders, um, were options discussed at that time other than making
22 entry into the unit?

23 Lt. Mufarreh: Yes. I thought we went over this.

24 Sgt. Floyd: And we're going to go over it again.

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1 Lt. Mufarreh: Yes, no problem.

2 Sgt. Floyd: Um, so what options were discussed at that point in time? And I'm sorry
3 to ask you to go over it again, I know we have.

4 Lt. Mufarreh: No, that's okay, that's okay. Um, you know, different options, gas was
5 discussed, dog was discussed, um, evacuation was discussed, um, those types of things were
6 all discussed.

7 Sgt. Floyd: Okay. And um, were all those things ruled out at that point in time?

8 Lt. Mufarreh: At some point they were ruled out, yes.

9 Sgt. Floyd: At some point in that first conversation?

10 Lt. Mufarreh: You know, I know you guys want to pin me down, the first
11 conversation, the second conversation, but, like I said, it was completely chaotic, going back
12 and forth and I really can't, I can't commit to, you know, first conversation and second.

13 Sgt. Floyd: Sir, To me, it's not about pinning you down, it's just about trying to
14 understand how the information flow was and more of getting like a timeline of when...

15 Lt. Mufarreh: ...it's difficult -- I mean, one it's difficult for me to remember. I mean
16 I remember what was said, but it's difficult to remember when it was said and what moment
17 it was said. Um, you know, you know, and, and things aren't like, you know, okay I went
18 and I met with this guy and things are, you know, going back and forth, you're talking to this
19 person, you're talking to this person, you know, you could be talking to one person and there
20 could be ten people around you and not even notice.

21 Sgt. Floyd: Okay.

22 Lt. Mufarreh: You know, so it was -- I mean I can't stress enough how chaotic it was
23 and it wasn't that, it's not that I'm not trying to answer the questions, but it's just very, very,
24 it's just very difficult.

1 Sgt. Floyd: And I understand that, and I'm still going to ask the questions and you
2 know I have to.

3 Lt. Mufarreh: Right and I understand.

4 Sgt. Floyd: Um, did you discuss preventing access to other residents by the suspect?
5 In other words the suspect in this building you believed is occupied or maybe occupied, um,
6 did you ever discuss any kind of plan to prevent the suspect from leaving his own apartment?

7 Lt. Mufarreh: And go where?

8 Sgt. Floyd: Someplace else in the building, anything, any plan? Was it ever
9 discussed as a...

10 Lt. Mufarreh: ...well we had the, you know, we had a designated arrest team, you
11 know, God forbid, you know, and like I said earlier, the probability was whether he was even
12 in there, but we did have contingency plans, we did think of those things, you know, God
13 forbid he did come out or do something else, we had, you know, plans set up for that at some
14 point.

15 Sgt. Floyd: Yeah, okay. Um, was there ever a plan discussed of putting a designated
16 arrest team actually inside the building with eyes on the suspect's front door?

17 Lt. Mufarreh: You know what, I don't even see that even being a possibility.

18 Sgt. Floyd: Okay. And why?

19 Lt. Mufarreh: It was too dangerous to even evacuate people. There was no way we
20 would have put somebody...

21 Sgt. Floyd: Okay. And that's one of the things I want to talk about. Um, before we
22 talked about the evacuation, just this one question.

23 Lt. Mufarreh: Mm-hmm.
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1 Sgt. Floyd: Did you um, discuss preventing the residents that were inside the
2 building from moving down the stairs toward the front door? You indicated it would be
3 dangerous to pass in the front of the front door.

4 Lt. Mufarreh: Correct. Right.

5 Sgt. Floyd: Did you discuss how you were going to keep other people from passing
6 in front of the front door, the suspect's door?

7 Lt. Mufarreh: Well you know, we were out there and I believe some of that
8 discussion did go on, but we were out there for like I said, I think an hour and a half and
9 nobody ever moved. Nobody came in. Nobody came out. And we were there for a long
10 time. It's not like people didn't know we were there, you know. So there was no reason to
11 believe that when entry was made, that anybody would come in or out at that time, cause no
12 one had.

13 Sgt. Floyd: Okay. Um, and you said it would have been dangerous to put somebody
14 inside the building, like designated arrest teams inside the building.

15 Lt. Mufarreh: Correct.

16 Sgt. Floyd: Um, because they would to had to pass in front of the suspect's door.

17 Lt. Mufarreh: It just wasn't feasible.

18 Sgt. Floyd: Okay. I want to talk a little bit about the ballistic shields that the entry
19 has, um, are you familiar with their capabilities?

20 Lt. Mufarreh: Yes.

21 Sgt. Floyd: Um, what are their capabilities?

22 Lt. Mufarreh: (b)(5)(D) .

23 Sgt. Floyd: At that time, did you have any reason to believe that he was armed with
24 anything other than a 9-millimeter handgun?

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1 Lt. Mufarreh: No.

2 Sgt. Floyd: So would the ballistic shields have stopped the 9-millimeter round that
3 you believed he was armed with?

4 Lt. Mufarreh: Yes.

5 Sgt. Floyd: Okay. And do you know where those were located at that point in time?

6 Lt. Mufarreh: What?

7 Sgt. Floyd: The ballistic shields.

8 Lt. Mufarreh: ~~They~~ should have been in the SWAT van.

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9 Sgt. Floyd: Okay.

10 Lt. Mufarreh: But I don't know. I mean I've been off the team for -- you're asking
11 me the question, I've been off the team for four or five years. I couldn't, I want to say, ~~they~~
12 moved them, they used to be ~~in~~ the SWAT ~~van~~.

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13 Sgt. Floyd: So, I guess and I'm asking for your expert opinion based upon the
14 numbers of years you've spent as an operator on the entry team, would it had been safe or
15 safer um, to put a designated arrest team inside using ballistic shields to walk past the
16 suspect?

17 Lt. Mufarreh: No. If you're asking my personal opinion, should I answer a personal
18 opinion question?

19 Mr. Raines: Yeah you can.

20 Lt. Mufarreh: Um, my personal opinion I don't like using ballistic shields when I
21 was an operator.

22 Sgt. Floyd: Okay.

23 Lt. Mufarreh: They were cumbersome.

24 Sgt. Floyd: Are they heavy?

1 Lt. Mufarreh: They're heavy. They're hard to deal with and um, we had people
2 outside, there was no need to put anybody on the inside.

3 Lt. Whent: Okay. Why do we have ballistic shields?

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4 Lt. Mufarreh: (b)(5)(D)

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

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9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]. But like I said, I've been gone from the team
13 for, for a number of years and a lot of things have changed since then. And it's a lot different
14 than being an operator than managing an entire incident.

15 Lt. Whent: Okay. Was there a discussion of using shields then or no?

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16 Lt. Mufarreh: I don't think so, but see that discussion would have been with the entry
17 team guys.

18 Sgt. Floyd: Just the team leaders you mean?

19 Lt. Mufarreh: Yeah. Yeah, I mean there would be no reason for a lieutenant to be
20 part of that, unless I happen to overhear it.

21 Sgt. Floyd: Okay. Would a lieutenant be -- or a tactical commander, would they be
22 involved in a discussion as to any, you know we need to prevent this guy from maybe going
23 mobile inside the building, so we're going to put a team inside. Is that an idea that would
24 come from...

1 Lt. Mufarreh: I mean it might, but I don't have a lot of experience -- I have basically
2 no experience as a tactical commander. I mean and I know I've answered some questions as
3 to what a tactical commander does. Um, like I said before, I was a tactical commander for
4 about three or four weeks. I haven't even been to a SWAT training yet, so, you know, I'm
5 not, all I had, I just got the uniform for God sakes, you know what I mean? So I don't have, I
6 don't have that knowledge and that's the reason why, you know, they require, it would
7 require me to go to school and be shadowed for six or seven months, you know, so I can
8 learn all the stuff that you're talking about.

9 Sgt. Floyd: Mm-hmm.

10 Lt. Mufarreh: I can kind of answer the questions as a patrol watch commander or
11 maybe as an operator from five, five years ago, but to answer those questions from today's
12 aspect, it's very, very difficult and I would be just guessing.

13 Sgt. Floyd: Okay. Um, as an operator, do you think referring to picture number 6, do
14 you think it would have been possible to get entry team members inside the building using
15 the fire escape or anything else?

16 Lt. Mufarreh: Anything is possible, but I'll tell you right now, I wouldn't want to go
17 up there, would you?

18 Sgt. Floyd: Okay.

19 Lt. Mufarreh: I mean you don't even know if that thing works.

20 Sgt. Floyd: True.

21 Lt. Mufarreh: You know, um anything is possible. I mean a helicopter drop is
22 possible too. I mean there are definitely different possibilities.

23 Sgt. Floyd: Was there any discussion about making entry into the building through
24 the back, either the windows or the fire escape or using the (*inaudible*)?

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1 Lt. Mufarreh: No. No. And not with me. But it doesn't mean -- because this type of
2 entry, you know, what point of entry we're going to go in and go out. That's all team leader
3 stuff. That has nothing to do with lieutenants.

4 Sgt. Floyd: Okay.

5 Lt. Mufarreh: And that's important for us to understand.

6 Lt. Whent: Do the team leaders ever tell the commander what their plan is?

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7 Lt. Mufarreh: I would assume so. I would assume so. Now, but like I said, you
8 know, I haven't even been on an operation before, so I don't have any of that experience. I'll
9 tell you, I would want to know.

10 Lt. Whent: I mean like would you ask -- (inaudible) you hadn't done it because you
11 hadn't tactical commander experience, but would then ask them if they considered those
12 types of things like the fire escape as a point of entry?

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13 Lt. Mufarreh: Maybe I would ask. Um, but like right now, today, I would rely on
14 those guys. Just because, just because I have lieutenant bars doesn't give me more
15 experience than, you know, you know, a Pat Gonzalez or a Erv Romans. I mean those guys
16 live and breath with this stuff.

17 Lt. Whent: Right, but....

18 Lt. Mufarreh: ...I mean you'd ask questions and stuff maybe.

19 Lt. Whent: Being a commander, you're still responsible, so you can't abdicate that
20 completely.

21 Lt. Mufarreh: Right.

22 Sgt. Floyd: Okay. Um, with regard to the use of gas, was that discussed?

23 Lt. Mufarreh: Yes.

24 Sgt. Floyd: Okay. And was it ruled out?

1 Lt. Mufarreh: Yes.

2 Sgt. Floyd: Why was it ruled out?

3 Lt. Mufarreh: Um, I can't tell you specifically for one reason, but there are a number
4 of reasons why it was discussed or, I believe ruled out. You want me to go through them?

5 Sgt. Floyd: Yes, please.

6 Lt. Mufarreh: Um, you know, one is because we couldn't evacuate the building.
7 Two, um, nobody had gasmasks, you know, on the perimeters. Um, could they go back and
8 get their gasmasks? I don't think so, because I don't think even half of them even knew
9 where their cars were parked. There was a mass of people. We had, you know, outside
10 agencies help there as well, so you know, which would be a real hindrance for everybody.
11 Plus, you know, we're not really focused on this one location, we're focused on the whole
12 area and this is part of the one location. Um, and the lastly, a lot of times, you know,
13 operators you know, don't like going in when it's just been gassed, you know, it's one thing
14 to gas the place and wait you know, 15 hours or 10 hours and then go in. It's another thing
15 to, to pump a bunch of gas and then go in, and then you can't see a darn thing. And, you
16 know, I know, go back to hypothetical, but I know from experience when I was an operator,
17 you know, there's been more than one time where we get affected by the gas, because the
18 suspect never surrenders and he may just power through it, you know? And it seems like it's
19 all about mindset, you know. So and yeah, it was discussed and it was ruled out.

20 Sgt. Floyd: So you indicated one of the reasons it was ruled out was because you
21 couldn't evacuate the building.

22 Lt. Mufarreh: Correct.

23 Sgt. Floyd: Um, based on the photographs, your team -- the period your team waited,
24 could the building could have been evacuated?

1 Lt. Mufarreh: No.

2 Sgt. Floyd: Okay. Would there had been a problem with getting people down the fire
3 escape, making entry into the building, getting people downstairs and going down through
4 the fire escape?

5 Lt. Mufarreh: Yeah, yeah. I don't see that to be a viable option.

6 Sgt. Floyd: I mean, why not?

7 Lt. Mufarreh: One you don't even know if it works.

8 Sgt. Floyd: Okay.

9 Lt. Mufarreh: And two, it's just not a lot of workable space.

10 Sgt. Floyd: Did anybody try to find out if the fire escape worked?

11 Lt. Mufarreh: Even if it worked, it still wouldn't have been a viable option in my
12 opinion.

13 Sgt. Floyd: Okay. And the reason for that is?

14 Lt. Mufarreh: Just because ~~its just~~ unsafe.

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15 Sgt. Floyd: Okay. Um, what -- I'm really trying to understand, these are questions
16 that are going to be asked later on, so I have to ask you now.

17 Lt. Mufarreh: Right.

18 Sgt. Floyd: What would have made that unsafe?

19 Lt. Mufarreh: I mean just the size of the fire escape is one consideration. You know,
20 you don't know the people who you're dealing with, you know, can even walk down the fire
21 escape or we have to carry people down the fire escape, you know, um, can we -- if this guy
22 decides to come out and engage -- can we engage from the fire escape. You know, there's a
23 whole bunch of different aspects that go in it. You know, can someone run down the fire
24 escape? Yeah absolutely, but can there be major problems with it? Absolutely, you know?

1 You know, you're talking about scenarios. What if we decide to do an evac and the guy
2 came out and killed four of us? I mean that's a possibility -- I mean that's a possibility too
3 and we would be talking about that.

4 Sgt. Floyd: Mm-hmm.

5 Lt. Mufarreh: But I mean the way it's set up, it wasn't a viable option. I felt that -- I
6 mean it was discussed. All options were discussed and we just felt that sheltering in place is
7 what the best option was at the time.

8 Sgt. Floyd: Okay. And with regard to, explain to me what sheltering in place means.

9 Lt. Mufarreh: It means just leaving the residents alone.

10 Sgt. Floyd: Okay. And was there any discussion about um, -- what would the
11 problem have been using gas with the residents still inside the building? What was the
12 concern?

13 Lt. Mufarreh: You know what honestly, I'm not really exactly 100 percent sure about
14 that. It was a concern and it came up.

15 Sgt. Floyd: Okay.

16 Lt. Mufarreh: And um, I don't -- I went with it, but that wasn't the number one
17 reason. There are a lot of other reasons, so gas just didn't seem like an option.

18 Sgt. Floyd: Okay. Um...

19 Lt. Mufarreh: ...and it wouldn't be me ordering that gas anyway.

20 Sgt. Floyd: Okay. Who would have been ordering the gas?

21 Lt. Mufarreh: It would have been -- it would have been Orozco and Kozicki.

22 Sgt. Floyd: Alright.

23 Lt. Mufarreh: In part of their discussion, you know, obviously they have a lot more
24 experience when it comes to that than me. And for me, I'm looking at it as an operator, I

1 wouldn't want to go in there with a bunch of gas. Plus I don't -- plus all the officers on the
2 outside and they got to continue this yard search and all that stuff, you know, that for me
3 personally, that's what I -- you know, that's why I wouldn't want to use gas.

4 Sgt. Floyd: Okay, that's helpful. And just with regards to the evacuation. Referring
5 to photograph number 5, this is the photograph of the south side of the suspect apartment
6 complex. These are the windows belonging to the front unit, not the suspect unit, but the unit
7 directly across the hall from there. Um, and you indicated before it was your understanding
8 that, that door um, to that other front unit was up a flight of stairs.

9 Lt. Mufarreh: Correct.

10 Sgt. Floyd: Um, would there have been -- would it have been more safe or less safe
11 in your opinion, and this is an opinion question, to bring people out these side windows that
12 goes to the fire escape, should evacuation had been decided upon?

13 Lt. Mufarreh: Um, I mean, you know, obviously that's a no brainer. If you're going
14 to -- I mean we're talking hypothetical here.

15 Sgt. Floyd: Yeah.

16 Lt. Mufarreh: So I want to make that very clear. If you're going to have people come
17 out of that one unit, then absolutely, if, IF they can come out, you know?

18 Sgt. Floyd: Mm-hmm.

19 Lt. Mufarreh: If they're capable of coming out.

20 Sgt. Floyd: Physically capable?

21 Lt. Mufarreh: Physically capable. Well then of course it's going to be better than
22 trying to come out of a fire escape, that's one unit. What about the rest of the building?

23 Sgt. Floyd: Okay. So was getting, was using these windows as a point of egress for
24 evacuation from the building, was that ever discussed?

1 Lt. Mufarreh: No, it wasn't even an option.

2 Sgt. Floyd: Did it ever get -- did the conversation about evacuation ever get that
3 specific?

4 Lt. Mufarreh: No.

5 Sgt. Floyd: Okay. And do you know why it didn't?

6 Lt. Mufarreh: It didn't need to. There was, you know, we had guys look at the
7 building, experts and um, you know, experts like Dan for example and it was just decided
8 that hey, we don't have any viable options and plus the probability -- I mean it's all
9 everything. It's not, I mean it's not just who we evacuate, you know, it's all, the probability
10 of the guy even being there, was very, very low, so if that went -- that was part of the
11 consideration in my mind. I mean I can't speak for anybody else, but in my mind, that's part
12 of the consideration. So and nobody came out or there was no movement in the entire
13 building for an hour, hour and a half, that was part of the consideration. I mean there's a lot
14 of considerations that went into it. At the time, you know, okay we started evacuating and
15 we're going to burn up so much time. Um, and that's you know, evacuating wouldn't have
16 made a difference one way or another if you really want to look at it that way.

17 Sgt. Floyd: Only that we could have used gas and gas was ruled out because of -- one
18 of the reasons you indicated gas was ruled out was because of evacuation.

19 Lt. Mufarreh: Because -- I mean because of evacuation, but that came from
20 somebody else.

21 Sgt. Floyd: Okay.

22 Lt. Mufarreh: In my mind, that's just one of many, many reasons why we wouldn't
23 want to use gas in a scenario like this.

1 Sgt. Floyd: Okay. So you spoke about in your mind the probability of the suspect
2 being located in there as related to going through the evacuation. How, how are those two
3 things...

4 Lt. Mufarreh: I'm sorry, say that?

5 Sgt. Floyd: You indicated that evacuation not really being a viable option was related
6 to the probability of the suspect...

7 Lt. Mufarreh: ...I mean that's kind of one -- it would be like one piece of the pie.
8 Like if you decide to do, you know, make a decision on something, that's one piece of the pie
9 that goes into your decision making on that one thing.

10 Sgt. Floyd: Okay.

11 Lt. Mufarreh: You know, so there's a number of things that go into -- and for me, it
12 would obviously go into making a decision on one thing, so, you know, that would be one of
13 them.

14 Lt. Whent: I'm sorry.

15 Sgt. Floyd: Go ahead.

16 Lt. Whent: Um, you said as the team went down, went down to go make entry, the
17 last thing you said to them was, you know, hey, you know, assume the guy is in there.

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18 Lt. Mufarreh: Right.

19 Lt. Whent: Um, so that the -- it's seems it's important to you that the team have the
20 mindset that the guy is in there.

21 Lt. Mufarreh: Absolutely.

22 Lt. Whent: Okay. But um, and the reason for that is so that they take actions
23 consistent with preparing for a suspect to be there.

24 Lt. Mufarreh: Right. Right.

1 Lt. Whent: But it doesn't seem then that it's now applied into the commanders. I
2 mean do you not do evacuations and things?

3 Lt. Mufarreh: No, no, no.

4 Lt. Whent: Because you don't think the guy is there?

5 Lt. Mufarreh: No. It's all about probability. I didn't believe the guy was there, but
6 we took all the necessary steps. Now, had um, we, you know, like I said, it's all about
7 probability. I didn't kind of, I didn't believe the information we had that the person was
8 there, right?

9 Lt. Whent: Mm-hmm.

10 Lt. Mufarreh: So, but you assume there's a small possibility that he is there, that's
11 why (*inaudible*).

12 Lt. Whent: Mm-hmm.

13 Lt. Mufarreh: Right? I would have sent patrol in, if that was the case.

14 Lt. Whent: Right.

15 Lt. Mufarreh: So yeah that holds true, that holds true for all of us. Does that make
16 sense?

17 Sgt. Floyd: For the record my recorder died. Is yours still working?

Deleted: Lt. Whent: (*Inaudible*) by

18 Sgt. Shaver: We're running.

Deleted: Sgt. Floyd

19 Sgt. Floyd: Can you move that one over here?

Deleted: Lt. Whent

20 Sgt. Floyd: Yes. Okay.

21 Lt. Mufarreh: Is that, does that make sense?

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22 Lt. Whent: Yes.

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1 Sgt. Floyd: Speaking about probabilities and possibilities and all of that, if you had
2 believed that it was likely that the suspect was in there, or if you had known the suspect was
3 in there, would you have evacuated the building and used gas?

4 Lt. Mufarreh: I don't know.

5 Sgt. Floyd: Okay.

6 Lt. Mufarreh: Um, now we're talking hypotheticals obviously.

7 Sgt. Floyd: Yes.

8 Lt. Mufarreh: So let's make that clear. With -- do things change? Absolutely. New
9 information, new things develop, things change, you know, it changes decisions that are
10 made, you know? You know, if I knew the guy had an SKS, that would have changed -- may
11 have changed things too. I mean there's, you know, so those are all hypotheticals and
12 unfortunately, none of that information we had at the time.

13 Sgt. Floyd: Okay. Um, with regard to the use of gas, did the entry team have their
14 gas masks with them, do you know?

15 Lt. Mufarreh: I would assume, I don't know.

16 Sgt. Floyd: Okay. When you were an operator on the entry team, was that something
17 that you normally carried with you?

18 Lt. Mufarreh: I did.

19 Sgt. Floyd: Okay. Um, and you indicated before you asked the guys if they had all
20 their equipment and they indicated they did?

21 Lt. Mufarreh: That's correct. Yes.

22 Sgt. Floyd: Okay. And in that equipment, do you assume their gas masks would
23 have been in that equipment? I mean did they carry it on their person or in a bag?

24 Lt. Mufarreh: I didn't assume. I didn't assume...

1 Sgt. Floyd: Okay.

2 Lt. Mufarreh: ...anything. I just asked them if they had everything and they said yes.

3 Sgt. Floyd: Okay. Um, during that meeting with commanders and the entry team
4 leaders, was making contact or an attempt to make contact with the suspect ever discussed?

5 Lt. Mufarreh: Um, not with me.

6 Sgt. Floyd: Okay. Um, and do you know, for example, why didn't you, why didn't
7 you bring that up as a possibility?

8 Lt. Mufarreh: Well I mean how would we make contact with somebody that we
9 didn't think he was in there?

10 Sgt. Floyd: Well we may have had his cell phone number, although we're not really
11 sure on that. But if we did have his cell phone number, and you wanted to make contact with
12 him, why would that not be a viable option?

13 Lt. Mufarreh: Because he may not be there. Like I said earlier, you know, you call
14 that cell phone number, and if it was his cell phone number hypothetically, he could have
15 been in a different city.

16 Sgt. Floyd: Okay. What about the use of a bullhorn to contact the suspect?

17 Lt. Mufarreh: Well the same thing, we're talking about, we're talking hypothetically,
18 you know, we don't think he's in there, we use a bullhorn, let's say he's in the perimeter
19 somewhere and comes pops out of somewhere else? You know, I mean I know we're so
20 focused in on this house now, you know, a month later. At the time, you have, remember,
21 it's 10-block radius. It's the perimeter that we're focused on, so we don't know where the
22 suspect is. So what if he ends up being in the perimeter somewhere else and hypothetically
23 we're talking, and you bullhorn him and he pops out somewhere else? I mean that's...

1 Sgt. Floyd: I mean you talked a lot about um, about probabilities and possibilities,
2 and I think that's completely appropriate especially if there are things that were going
3 through your mind at that point in time and contributed to the decision making here. I just
4 want to ask if you, you thought that it was a low possibility that the suspect was in there and
5 one of the things you said was, your 19 years of experience, you've never seen someone
6 commit this kind of heinous crime and then go and hide 50 yards away.

7 Lt. Mufarreh: Correct.

8 Sgt. Floyd: And that's part of the reason you didn't believe the suspect was, or you
9 believed the possibility was low the suspect was in this building.

10 Lt. Mufarreh: It was low, yeah, correct.

11 Sgt. Floyd: Um, what would you say was the possibility that the suspect was in the
12 yards next to it or across the street from it?

13 Lt. Mufarreh: Um, you know, I don't know. I mean, you know, it's still low, you
14 know, it's still low. I thought the suspect was gone from the entire perimeter.

15 Sgt. Floyd: Okay.

16 Lt. Mufarreh: I thought he'd fled the area, um, from all reports.

17 Sgt. Floyd: So would you say the probability that he was hiding in the yards was low,
18 but high enough that you thought that it would be unsafe to use the bullhorn that we were
19 talking about?

20 Lt. Mufarreh: We don't know. We just don't know.

21 Sgt. Floyd: Okay.

22 Lt. Mufarreh: You know? I mean, you know, we're talking about stuff that we know
23 now. Um, so it's difficult -- it's difficult to say, you know, I mean hypothetically, what if we
24 did that and he popped out and he killed three people, then you'd be asking me that question.

1 Sgt. Floyd: Absolutely.

2 Lt. Mufarreh: You know, so we just don't know. And um, you know, it was a very,
3 very, very stressful day. It still is. Um, I stand behind the decisions that was made, what we
4 knew then, obviously, you know, two people are dead. More could have died. So, you
5 know, maybe -- maybe the decision was a good decision and we saved some cops. We'll
6 never, we'll never know. Um, but you know, it was very, very, very hectic.

7 Sgt. Floyd: Again, talking about attempting to contact the suspect, what about the use
8 of a throw phone?

9 Lt. Mufarreh: No, no. That's not even an option.

10 Sgt. Floyd: Was it discussed?

11 Lt. Mufarreh: No.

12 Sgt. Floyd: Okay, why?

13 Lt. Mufarreh: Not with me.

14 Sgt. Floyd: Okay.

15 Lt. Mufarreh: I mean it wasn't discussed with the entry team guys or the other
16 commanders or whatever.

17 Sgt. Floyd: Why was it -- why was it not an option?

18 Lt. Mufarreh: Because, um, and this is from me -- this is from me talking and
19 inexperience as a tactical commander as opposed to them, so you might get a different
20 answer from somebody else. For me, we're going in there to clear it as a jumping point to
21 clear the entire area, search the entire area. We had no reason to believe that this person was
22 in there. Um, so I mean it kind of defeats, it kind of defeats the point of our thinking, you
23 know, throwing the throw phone in there is more of a like, you know, you know the guy's in
24 there and the probability is a lot higher. I mean you would do things differently.

1 Sgt. Floyd: Would something had been lost or compromised or anything by trying to
2 throw in a throw phone?

3 Lt. Mufarreh: I didn't see -- don't see the benefit of it. Just like the bullhorn and all
4 that stuff. With the information that we had at the time, and I know I keep stressing that,
5 because it's just now a month later, you know, you have to have so much information in my
6 head.

7 Sgt. Floyd: Right.

8 Lt. Mufarreh: But um, it didn't seem -- it didn't seem viable, wouldn't seem viable.

9 Sgt. Floyd: Um, I've been told and I don't know this for myself that some of the
10 throw phones have like cameras on them so you can actually see um, what's inside when you
11 throw the phone into the apartment, you can see inside of the apartment.

12 Lt. Mufarreh: Right, right.

13 Sgt. Floyd: Are you aware of...

14 Lt. Mufarreh: ...yes...

15 Sgt. Floyd: ...if we have phones that do that?

16 Lt. Mufarreh: Um, I don't know now, but I believe we had them before.

17 Sgt. Floyd: Okay. So making entry into an apartment having um, a view of the
18 apartment, was that in your mind, to be helpful?

19 Lt. Mufarreh: Not necessarily. I mean it could be, it couldn't be. I mean we're
20 talking hypothetical so I don't know, I mean it's just...

21 Sgt. Floyd: Okay.

22 Lt. Mufarreh: I mean at the time, it seemed like it would be better just for the, you
23 know, the SWAT team just to go in, you know, and if he was in there, um, which he ended
24 up being there, it may be some sort of element of surprise, you know, as opposed to us doing

1 all this other stuff and, you know, you talk hypothetical where we did all this other stuff, he
2 could have barricaded himself even more. He could have killed more officers. I mean a lot
3 of different things could have happened, and, you know, I mean who knows? I mean I don't
4 know and we'll never know.

5 Lt. Whent: Can I ask a question about the element of surprise, typically speaking
6 does the SWAT team really have the element of surprise when they make these entries?

7 Lt. Mufarreh: I mean in this case, obviously not.

8 Lt. Whent: I mean do they ever? I mean I'm just curious. I mean that's what they
9 do.

10 Lt. Mufarreh: Yeah I think so. I think they do have the element of surprise, um, you
11 know, I don't know in this guy -- I mean I can't speak about this scenario, because I don't
12 know what this guy was thinking or whatever and we'll never know.

13 Lt. Whent: Sure.

14 Lt. Mufarreh: But um, you know, you hit a door, you throw a flash bang and nine
15 times out of ten, that person is like stunned, gun or not. Um, and that is an element of
16 surprise because he may not know or she may not know when they're coming in or from
17 what location they're coming in. Yeah, SWAT teams do have -- can have an element of
18 surprise.

19 Lt. Whent: Okay.

20 Sgt. Floyd: Um, I asked kind of a hypothetical question before, um, about if ,if you
21 had known the suspect was inside, if you would have used gas or tried to evacuate the
22 building, if you had known the suspect was inside, would you have attempted to contact or
23 suggested to Orozco that if you make the decision...

1 Lt. Mufarreh: If we knew -- you're talking like we knew a hundred -- like all
2 probabilities the suspect was inside, what would we do. You're asking this scenario
3 question, correct?

4 Sgt. Floyd: Yes.

5 Lt. Mufarreh: Well a lot of things would have changed. Like we wouldn't have had
6 a ten-block perimeter that we knew to focus in on, you know. You know, we could have
7 done things a little bit different, you know. Um, I don't know what other tools we would
8 have had or didn't have, but um, things, absolutely probably would have been different. But
9 see, that's hypothetical. We didn't think that. We thought the complete opposite, you know,
10 we thought this was a starting point to the entire area. So complete opposite. I know you
11 have to ask that question.

12 Sgt. Floyd: Yeah.

13 Lt. Mufarreh: But it's difficult for me to answer a hypothetical question, because I've
14 been running through these types of questions, um, every single moment of every single day.
15 Um, but I didn't know any of that stuff and we didn't know that he was in there and we
16 didn't know that he had an SKS, or you know. If we went in there and he had a pee shooter
17 handgun, you know, that changes the scenario too right? Let's say we knew that 100 percent
18 he had a, you know, a 9-millimeter, would he have killed two cops? I mean I don't know. I
19 mean so we're -- I mean we can what if this and ask hypothetical questions all day long. I
20 mean to be honest with you, I understand that someone wants to know, and I don't know
21 why, but those aren't the facts.

22 Sgt. Floyd: Well I guess the reason I'm asking the question is, if we're saying
23 knowing the suspect was in there would have changed how we operated, would have
24 changed the decisions that were made and possibly that, you know, it would change the

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1 scenario, and we didn't do anything to confirm that the suspect was in there or not in there.
2 Um, like if we had thrown a phone in with a camera on it and the suspect is sitting there, you
3 know, that would change things, right? We'd be 100 percent certain that at least there was
4 somebody in there. Um, you know, for example like, why wasn't a tracking dog used to
5 track from the car to the suspect's apartment? Like if you take the dog to the car and he
6 picks up the scent of the suspect, and then the dogs go to the apartment, would that, would
7 that change the scenario? Would that be a fact that would change it?

8 Lt. Mufarreh: I don't know if that would have changed the scenario. Was that
9 discussed? Absolutely it was discussed and it was decided that um, no let's just clear this
10 residence first.

11 Sgt. Floyd: Okay.

12 Lt. Mufarreh: Before we start using (*inaudible*).

13 Sgt. Floyd: Do you know why that -- do you know why that was ruled out or wasn't
14 there a discussion about that?

15 Lt. Mufarreh: Um, there was a discussion about that and it was ruled out and um, I
16 can't remember um, exactly the details on it, but it was something that it would just be better
17 that if in fact this person, you know, if there was somebody in there or an associate in there
18 or if somebody was in there, that it would just be better to just go ahead and clear that
19 residence before we start using search dogs and stuff.

20 Sgt. Floyd: Who gave, who gave that opinion, if you recall?

21 Lt. Mufarreh: Um, I know Dan was involved a lot in the um, in the giving advice
22 about dogs.

23 Sgt. Floyd: Okay.
24

1 Lt. Mufarreh: And stuff. Um, ultimately it's gonna be, you know, the decisions of
2 the command whether we do that or not.

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3 Sgt. Floyd: Okay. Um, was it -- speaking of the use of a dog, was it ever discussed
4 of um, hey let's ~~when we~~ key the door, can we just send the dog in, that would, before the
5 team goes?

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6 Lt. Mufarreh: That would be a plan with the entry team.

7 Sgt. Floyd: Okay, so that would be the lower level?

8 Lt. Mufarreh: Right. I don't know if they discussed that or didn't discuss that.

9 Sgt. Floyd: Okay, was that ever discussed as a group with the commanders and the
10 entry team leaders?

11 Lt. Mufarreh: Not with me.

12 Sgt. Floyd: Not with the entry team leaders. Okay. Um, was there a discussion of
13 firing any impact munitions or beanbags or anything into -- through the windows of the
14 suspect apartment?

15 Lt. Mufarreh: Um, that would be on a different level than me, so I don't know if
16 there was any discussions on that.

17 Sgt. Floyd: Okay. Um, referring to photograph number 2, um, it shows like some
18 sheets and curtains kind of covering the suspect -- the windows.

19 Lt. Mufarreh: Right.

20 Sgt. Floyd: Um, from the suspect apartment looking out onto 74th Ave. Um, from
21 your perspective, as your experience on the entry team, from your thoughts on the team,
22 would it have been helpful to be able to see inside the apartment?

23 Lt. Mufarreh: I mean for me, it wouldn't have made a difference. I mean the mission
24 was not what we know of today.

1 Sgt. Floyd: Okay.

2 Lt. Mufarreh: You know, what we know of today, would things had been done a
3 little bit differently? Probably. Would the outcome been the same, maybe, maybe not. We
4 don't know. Um, but I can tell you this. It wasn't a hasty plan. It was thought out and it was
5 felt that was the best plan at the time.

6 Sgt. Floyd: Okay. Um, I know you kind of touched on this earlier, but why did you
7 choose -- why was the decision made to make entry at the time um, the entry was made?

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8 Lt. Mufarreh: Um, I believe it was because -- and uh, it was because and ultimately I
9 didn't make the decision, but from my perspective and I would have made the decision if it
10 was just me out there.

11 Sgt. Floyd: Okay.

12 Lt. Mufarreh: Um, from my perspective, time is a factor, um, and um, and we held
13 off the patrol units from entering and clearing this place. The entry team was there and they
14 were ready to go and we just needed to move on, and um, because of the probability factor
15 that this person was probably long gone, um, we needed to execute.

16 Sgt. Floyd: Okay.

17 Lt. Mufarreh: And um, that was part of the decision that to go forward when we did.

18 Sgt. Floyd: And...

19 Lt. Mufarreh: ...I believe, because like I just said, I didn't make the ultimate decision.

20 Sgt. Floyd: Okay. Was that something -- that process, was that discussed um,
21 among, between you, Orozco and Kozicki?

22 Lt. Mufarreh: I believe so.

23 Sgt. Floyd: Or with the team leaders?

24 Lt. Mufarreh: I believe so, yes.

1 Sgt. Floyd: Okay. Um, do you recall anyone offering any specific opinion with
2 regard to, to what you said?

3 Lt. Mufarreh: Opinion?

4 Sgt. Floyd: Yeah, or making any statement with regards to, you know, this is
5 something we need to do?

6 Lt. Mufarreh: Well everybody was on agreement. There was, everybody, nobody
7 felt otherwise.

8 Sgt. Floyd: Okay.

9 Lt. Mufarreh: Nobody.

10 Sgt. Floyd: Is it unusual for um, for an entry element to made up of five team
11 leaders? I mean it was Beaver, Sakai, Romans, Gonzales, and Reilly, right?

12 Lt. Mufarreh: Yes.

13 Sgt. Floyd: And then Anwawn Jones and Mike Leite,

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14 Lt. Mufarreh: Correct.

15 Sgt. Floyd: Am I correct?

16 Lt. Mufarreh: Well I know that from -- I remember that from after the fact.

17 Sgt. Floyd: Did you know that they were five team leaders?

18 Lt. Mufarreh: I didn't realize, the officer -- I didn't realize there were five team
19 leaders, um, until afterwards.

20 Sgt. Floyd: Okay. Knowing that now, is that something that is unusual?

21 Lt. Mufarreh: I don't know if it's...

22 Sgt. Floyd: ...send five team leaders in to make entry?

23 Lt. Mufarreh: I don't know that it's unusual or not unusual. I mean, you know, you
24 might have to save that question for somebody else.

1 Sgt. Floyd: Okay.

2 Lt. Mufarreh: Um, but um, would it have changed anything, or would it have
3 stopped five team leaders from going in there? I don't think, I don't think we would have.

4 Sgt. Floyd: From your experience as an operator, had you ever been on an entry
5 where five team leaders made up that specific entry team?

6 Lt. Mufarreh: Um, not that I can recall, no.

7 Sgt. Floyd: Okay. Um, was it ever discussed that maybe tying these guys up doing
8 this, all these team leaders, would ~~deplete the leadership of the team once everybody else~~
9 arrived?

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10 Lt. Mufarreh: Not for me, no.

11 Sgt. Floyd: Okay. But was that an issue that you thought about?

12 Lt. Mufarreh: No.

13 Sgt. Floyd: Did it seem like a problem to you?

14 Lt. Mufarreh: Like I said, I didn't realize I had five um, team leaders go in.

15 Sgt. Floyd: Okay.

16 Lt. Mufarreh: Not that it would have changed anything. I'm not saying that it would
17 or wouldn't have.

18 Sgt. Floyd: Okay.

19 Lt. Mufarreh: Um, I didn't realize that until afterwards and not afterwards that day,
20 but like I don't know how many, like way afterwards.

21 Sgt. Floyd: Okay, okay. That makes sense. Um, do you have any idea of how long
22 you would to have waited for the entire entry team to get there, and by that I mean, HNT, the
23 sniper element and the rest of the entry team guys?

24 Lt. Mufarreh: I'm sorry, ask that question again.

1 Sgt. Floyd: Do you know how long you would to have waited if you were going to
2 wait for HNT, the sniper...

3 Lt. Mufarreh: ...I assumed they were all there.

4 Sgt. Floyd: Okay. Did you -- did you see the HNT team there?

5 Lt. Mufarreh: I didn't -- no I just assumed everybody was there.

6 Sgt. Floyd: Okay. And what did you base that assumption on?

7 Lt. Mufarreh: Nothing. We made a call a long time ago, I assumed everybody was
8 there.

9 Sgt. Floyd: Okay. Did you see any snipers in place?

10 Lt. Mufarreh: ~~We~~ didn't need to put snipers in place.

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11 Sgt. Floyd: What would have snipers had been used for?

12 Lt. Mufarreh: Snipers would have, not in, in this particular incident, snipers ~~wouldn't~~
13 ~~really been~~ to use for much, because -- and I know I keep going back to this -- we have a big
14 huge area we're going to search and snipers would have been part of the teams, you know,
15 over watch teams that you go into the yards and stuff like that.

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16 Sgt. Floyd: Mm-hmm.

17 Lt. Mufarreh: This is, this is just one location, you know, as we moved on, we would
18 have, I'm sure encountered -- we would have encountered sheds. We would have
19 encountered, um, you know, basements that we would probably have to clear, you know.
20 You know, things -- crawlspaces under houses we would had to clear, stuff like that. So if
21 this -- in my mind, this isn't your typical one house SWAT, you know, action or whatever
22 you want to call it. So, um, and I understand, you know, that's what everybody thinks, um,
23 but for us out there, that's not what it was. It was an entire area that needed to be cleared and
24 searched.

1 Sgt. Floyd: Okay.

2 Lt. Mufarreh: So um, you know.

3 Sgt. Floyd: And before we move on, and I promise you we'll move on.

4 Lt. Mufarreh: That's okay.

5 Sgt. Floyd: Um, why was it felt that this needed, this apartment, this building, this
6 unit needed to be the starting point for this larger search?

7 Lt. Mufarreh: Um, I can tell you from my perspective, you know?

8 Sgt. Floyd: Okay.

9 Lt. Mufarreh: And like I said, I don't make the decisions, but I give my opinion
10 obviously as part of the plan and stuff and um, we know he's associated -- well we believe
11 he's associated with this apartment, all right?

12 Sgt. Floyd: Okay.

13 Lt. Mufarreh: We don't know if he's the suspect. We don't know if he has an
14 associate. We don't know if this place needs to be sealed off for a search warrant, you know,
15 even though it's the ground unit, it's somewhat in an elevated position. We have to be
16 tromping around in the yards and stuff like that. We just felt like there was a low probability
17 that he was in there, or somebody was in there. It just needed to be cleared. And this was
18 right across the street from the scene.

19 Sgt. Floyd: Mm-hmm.

20 Lt. Mufarreh: So um, it just seemed like a natural starting point.

21 Sgt. Floyd: Okay. So -- and we're moving on right now. Um, given the low
22 probability that, that was in your mind as far as the suspect being inside that unit, how do you
23 think that affects the probable cause to make entry into, into the unit?

1 Lt. Mufarreh: Um, I know a search warrant aspect was discussed, did we need a
2 search warrant.

3 Sgt. Floyd: Who brought that up?

4 Lt. Mufarreh: I believe it was brought up with Kozicki and um Orozco. I think, I
5 don't remember who was -- I don't even know if I was a part -- I don't think I was even a
6 part of that discussion. I know they had mentioned it to me and they discussed it and they
7 felt that a search warrant wasn't needed, um, so I know it was discussed, but I never gave it
8 much thought.

9 Sgt. Floyd: Okay. So your opinion with regard to -- um, you're involved in this
10 conversation with the team leaders, with Orozco and Kozicki, and your opinion is that there
11 is a low probability of him being in there.

12 Lt. Mufarreh: Right.

13 Sgt. Floyd: How did that affect the probable cause to go in?

14 Lt. Mufarreh: I don't think -- me personally, I don't think it does, but I didn't make
15 that decision and I know it was discussed.

16 Sgt. Floyd: Okay. So what were, what was the team looking for when they went
17 inside that unit?

18 Lt. Mufarreh: A person.

19 Sgt. Floyd: Okay. And was there ever a discussion about whether this was fresh
20 pursuit or hot pursuit or any...

21 Lt. Mufarreh: I believe it was part of their discussion, but I wasn't privy to that
22 discussion and I know I keep going back to that, but you're going to have to save that
23 question for either Kozicki or Orozco.

24 Sgt. Floyd: Okay.

1 Lt. Mufarreh: But I know that was relayed to me, I remember it. It was discussed,
2 and I didn't have any reason to question their -- the decision on it.

3 Sgt. Floyd: Okay.

4 Lt. Whent: So you think that the entry into the apartment was legal?

5 Lt. Mufarreh: Yes.

6 Lt. Whent: On what basis? What did you base that on?

7 Lt. Mufarreh: I based it on...

8 Lt. Whent: ...(inaudible) Search and seizure law...

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9 Lt. Mufarreh: Well I based it on because there is still a probability the guy is in there.
10 Even though it's low, it was a probability, you know. Um, there were witnesses that said
11 they saw him run down 74th Avenue. I personally felt that he was out of the area, but there
12 was still a probability that he was in there. I felt like we had a duty to go in there and clear it
13 and ensure that he wasn't in there. Now obviously he or whoever we were looking for, and I
14 know I keep saying "he" because I know what happened now, but we needed to clear that.
15 We didn't know, and clear it, seal it and then um, you know, if it ends up being bad, it ends
16 up being bad, but I just felt like there was some sort of obligation to, you know, to clear that
17 unit.

18 Lt. Whent: What level of probability do you think is needed for a legal entry to enter
19 into a place to search for a suspect that recently committed a crime?

20 Lt. Mufarreh: In my opinion, a small probability.

21 Lt. Whent: A small probability is sufficient?

22 Lt. Mufarreh: Right, for hot pursuit.

23 Lt. Whent: For hot pursuit, or do you have hot pursuit or fresh pursuit?

Deleted: (inaudible)?

24 Lt. Mufarreh: Well I mean now you're confusing the heck out of me. (Laughter).

1 Lt. Whent: Um, I'll define hot pursuit for you. Hot pursuit is literally chasing
2 somebody into the place.

3 Lt. Mufarreh: Okay, then fresh pursuit. How about that?

4 Lt. Whent: Okay, so um, a small probability is your impression is what was required,

Deleted: was (inaudible)?

5 Lt. Mufarreh: Right.

6 Lt. Whent: Okay. And would you say that the term "probable cause" equates to
7 small probability or something higher than that or?

8 Lt. Mufarreh: I don't know. I'm kind of confused right now. My brain -- to be
9 honest with you, my brain is fried. We been sitting here for three hours, I'm getting a little
10 confused.

11 Lt. Whent: Okay.

12 Lt. Mufarreh: So um, you know, I know it was discussed by people that I have a lot
13 of faith in and they were fine with it, so I was fine with it. I mean really bottom line. I didn't
14 really give it much more thought than that.

15 Lt. Whent: That's fine.

16 Sgt. Floyd: Um, did you have any discussion or did you hear any discussion between
17 the team leaders and you or any other commanders on the team about what search method
18 was going to be used?

19 Lt. Mufarreh: No.

20 Sgt. Floyd: Okay. Um, and again, why didn't -- why wasn't the decision made for
21 the entire entry team to arrive before making entry into this residence?

22 Lt. Mufarreh: Um, like I said, I assumed they were already there and um, you know,
23 we needed to clear this place to develop our teams, you know, comprised of obviously, the
24 dogs from all over the Bay area, you know, snipers, SWAT members, patrol rifle men,

1 patrolmen, you know, I think we had six dogs out there I want to say. I can't remember.
2 And you know, go off and try to do somewhat of a methodical search. And this was just part
3 of this entire whole area. So um, you know, when you ask questions like that it goes back to
4 the hypothetical.

5 Sgt. Floyd: Mm-hmm.

6 Lt. Mufarreh: You know, if we knew he was there, if we knew he had a, you know,
7 giant bazooka, whatever, you know what I mean? You know, if we knew all these different
8 things, you know, would we have done things different, maybe. Would the outcome have
9 been different? I don't know. Um, but we're running off this completely different type of
10 premise than what we know now.

11 Sgt. Floyd: Okay.

12 Lt. Mufarreh: And I know it's kind of difficult for me and I'm sure it's difficult for
13 you guys, and a month has gone by, and to try to, you know, separate what was known then
14 and what is known now.

15 Sgt. Floyd: And I -- I hope I've been successful in doing that. I mean that's been my
16 goal to try to kind of separate that out, so that we could evaluate this from that perspective.
17 Um, given -- did you ever tell the entry team, you specifically, did you ever tell the entry
18 team to use a PA on the bear cat to make an announcement to the suspect's apartment?

19 Lt. Mufarreh: I don't remember if I did or if I didn't.

20 Sgt. Floyd: Okay.

21 Lt. Mufarreh: I don't think so, but I don't know.

22 Sgt. Floyd: Do you recall if anybody else gave that direction?

23 Lt. Mufarreh: I don't recall.
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1 Sgt. Floyd: Okay. Um, in your original statement to the Homicide, you indicated
2 that you went down 74th Ave away from Orozco and Kozicki...

3 Lt. Mufarreh: ...correct...

4 Sgt. Floyd: ...and met the entry team keep eyes on the door.

5 Lt. Mufarreh: Correct.

6 Sgt. Floyd: Did you provide during that period of time when you were away from
7 Orozco and Kozicki, did you provide any additional instructions?

8 Lt. Mufarreh: No, I actually wasn't with them.

9 Sgt. Floyd: Okay.

Deleted: I just didn't

10 Lt. Mufarreh: All right, so maybe I better make myself clear. The last time I spoke
11 to them was at the location where Orozco and Kozicki was when I told them to ensure, you
12 know, to make sure you think that the guy is in there type of thing.

13 Sgt. Floyd: Yeah.

14 Lt. Mufarreh: Um, and then they went off. I told Kozicki -- or I talked to um,
15 Orozco for a second. He said he was going to put it on the air that I'm going to walk down
16 there with those guys. So I wasn't with them. I was steps behind them, you know.

17 Sgt. Floyd: Okay.

18 Lt. Mufarreh: And I just walked right to the bear cat.

Deleted: (inaudible)

19 Sgt. Floyd: Um, it sounds like listening to radio purge medical was staged at kind of
20 the last moment. Do you remember if anybody attempted to stage medical prior to the team
21 walking down?

22 Lt. Mufarreh: To be honest with you, I know they asked for medical at that point, I
23 believe. But I believe medical was there the entire time. And I could be wrong but.

24 Sgt. Floyd: Did you stage it?

1 Lt. Mufarreh: Me personally, no. I believe -- I thought I saw them or somebody else
2 call them. I can't remember, but it was my impression that medical was staged the entire
3 time.

4 Sgt. Floyd: Okay.

5 Lt. Whent: When did you realize they weren't?

6 Lt. Mufarreh: I didn't until right now. So you're me asking this question, so I'm
7 assuming they weren't.

8 Lt. Whent: Do you think medical could have been on scene?

9 Lt. Mufarreh: I thought medical...

10 Lt. Whent: ...or was it after?

11 Lt. Mufarreh: I thought medical was on the scene.

12 Lt. Whent: Then how come neither officer got transported by an ambulance?

13 Lt. Mufarreh: Well I was down there with them and um, we threw the first officer in
14 a black unmarked car with a, without a cage and they just went straight to the hospital. I just
15 assumed that it would be better for them. I don't know. I don't know why they didn't stop,
16 so I can't answer that question. It'd just be an assumption.

17 Lt. Whent: Yeah, well let me uh, I don't know if medical was on the scene or not.
18 I'm just assuming if they were on the scene...

19 Lt. Mufarreh: Well they couldn't come down to where we were at. It was too
20 dangerous.

21 Lt. Whent: Okay.

22 Lt. Mufarreh: We had to evacuate them and like I said, I was there in the middle of it
23 and I just assumed that the ambulance was there, waiting. As a matter of fact on the news, I
24

1 see them -- or somebody was there and they looked at Dan in the bear cat and they just kept
2 them in bear cat. But they couldn't come to that location. It was impossible.

3 Lt. Whent: That makes sense.

4 Lt. Mufarreh: Because the bullets are flying out the window, you know?

5 Sgt. Floyd: Ultimately, and this is just a recap question. Ultimately, who is the
6 individual responsible for um approving the plan to send the team in at that point in time?

7 Lt. Mufarreh: I mean in my mind, obviously it's you know, the DC, you know, he
8 allowed, but it's not like I'm trying to throw him under the bus, I think it's -- I thought it was,
9 you know, under the circumstances, it was a great plan. I stand behind it and I stand behind
10 him, you know, and he had the guts to be out there and um, you know, and good for him.

11 Sgt. Floyd: And your role in forming that plan was what?

12 Lt. Mufarreh: Well my role I mean I don't -- you know, if you want to put a name on
13 my role, I don't know what it is. But my role was I just felt like, you know, find a need and
14 fill it type of thing.

15 Sgt. Floyd: Okay.

16 Lt. Mufarreh: And I was there and there were a lot of needs and I tried to fill them.
17 And um, you know, I did the best job I could and I gave my opinions and um, my
18 suggestions to my captain and my DC.

19 Sgt. Floyd: Did you ever make any decisions or form any plans that were not run
20 through the tactical commander Orozco?

21 Lt. Mufarreh: Before they were there, of course.

22 Sgt. Floyd: After they had arrived, any plans related to the tactical team?

23 Lt. Mufarreh: No.

24 Sgt. Floyd: Okay.

1 Lt. Mufarreh: I think those guys were there before the tactical team showed up. I
2 think, but I don't remember.

3 Sgt. Floyd: Okay. That's all the questions I have. Mr. Raines?

4 Mr. Raines: Um, just a couple of things if I can. Chris you are -- just so we're clear
5 on this, you arrive at work Saturday morning on March 21st around noon.

6 Lt. Mufarreh: Yes.

7 Mr. Raines: To be the Area 2 commander.

8 Lt. Mufarreh: That's correct.

9 Mr. Raines: And this occurs in Area 3.

10 Lt. Mufarreh: That's correct.

11 Mr. Raines: Um, you hear the broadcast, you go to Area 3 arriving and knowing that
12 officers had been shot, is that true?

13 Lt. Mufarreh: Correct.

14 Mr. Raines: Is that because of you're on a different channel?

15 Lt. Mufarreh: I believe that to be the reason, yes.

16 Mr. Raines: Okay. Because I'm sure by then, other officers were aware that the
17 officers were down.

18 Lt. Mufarreh: Yes.

19 Mr. Raines: Okay. And I take it that one of the options you had as the Area 2
20 commander was to essentially stay in Area 2, right?

21 Lt. Mufarreh: Yes.

22 Mr. Raines: I mean you could have stayed at (*inaudible*).

23 Lt. Mufarreh: Yes.

24 Mr. Raines: You chose not to?

1 Lt. Mufarreh: Yes.

2 Mr. Raines: You chose to go out there, is that right?

3 Lt. Mufarreh: Yes.

4 Mr. Raines: You chose to offer up some help, right?

5 Lt. Mufarreh: Yes.

6 Mr. Raines: You apparently observed Lieutenant Lindsey and I know you're not
7 pointing fingers, nor am I and I don't think that's proper or appropriate. I've already made
8 that speech at another time on another date. Um, so I know you're not pointing fingers.

9 Lt. Mufarreh: No.

10 Mr. Raines: But you saw Lieutenant Lindsey in a situation where you thought
11 decisions needed to be made that weren't made.

12 Lt. Mufarreh: Yes.

13 Mr. Raines: And you started doing it.

14 Lt. Mufarreh: Yes.

15 Mr. Raines: You didn't have to do it.

16 Lt. Mufarreh: No.

17 Mr. Raines: Um, you could have said to her, you need to make decisions. Tell me
18 what you want me to do.

19 Lt. Mufarreh: Yes.

20 Mr. Raines: That'd been easier for you, right?

21 Lt. Mufarreh: Yes.

22 Mr. Raines: And more convenient right?

23 Lt. Mufarreh: Yes.

24 Mr. Raines: You may not have been sitting here, if you would have stayed...

1 Lt. Mufarreh: I wouldn't have been sitting here.

2 Mr. Raines: All right, but you stepped up and made some decisions, right?

3 Lt. Mufarreh: Yes.

4 Mr. Raines: And did you think that the decisions you made under the -- and I know
5 you described the situation as chaotic and I'm sure there are other adjectives similar to that,
6 that can be used.

7 Lt. Mufarreh: Correct.

8 Mr. Raines: In your 19 years approximately at this department, had you ever, ever
9 seen the sort of carnage that you saw out there that day?

10 Lt. Mufarreh: Never.

11 Mr. Raines: Um, had you ever seen a department in a state of shock and disbelief,
12 seeing colleagues of yours in that state that you saw that day?

13 Lt. Mufarreh: No, I never have.

14 Mr. Raines: Um, and I know at least at another interview at another time and place,
15 you described Lieutenant Lindsey at one point as seemingly overwhelmed.

16 Lt. Mufarreh: That's correct.

17 Mr. Raines: Can you envision anybody with any amount of experience, yourself
18 included that stepped into the role of trying to make decisions not being overwhelmed with
19 what happened?

20 Lt. Mufarreh: Anybody in that would have been overwhelmed in her shoes.

21 Mr. Raines: And you did -- and so understandable, this young lieutenant without a
22 whole lot of experience I gather in patrol, it's understandable that she was overwhelmed?

23 Lt. Mufarreh: Yes.

1 Mr. Raines: Um, let me ask you this. There's been discussions about
2 communications that occurred between you and a number of people including Ersie Joyner at
3 one point.

4 Lt. Mufarreh: Correct.

5 Mr. Raines: And you described what you believed the communication to have been
6 between you and Ersie.

7 Lt. Mufarreh: Correct.

8 Mr. Raines: Um, given the flow of information that was going on out there, were you
9 getting information by the way through the radio?

10 Lt. Mufarreh: Yes.

11 Mr. Raines: Were you on the telephone?

12 Lt. Mufarreh: Yes.

13 Mr. Raines: Were people walking up to you and talking to you?

14 Lt. Mufarreh: Yes.

15 Mr. Raines: And was this at all going on simultaneously at times?

16 Lt. Mufarreh: Yes.

17 Mr. Raines: Um, would you conceded that there may have been conversations that
18 occurred -- communications that occurred between you and others out there that maybe never
19 sunk in to your mind?

20 Lt. Mufarreh: Absolutely.

21 Mr. Raines: Um, those might include conversations that occurred with Lieutenant
22 Joyner or others?

23 Lt. Mufarreh: Correct.

1 Mr. Raines: In other words, somebody could have come up to you and said, hey
2 Lieutenant Mufarreh, you know, I just saw the curtain move on that apartment over there and
3 I saw a guy standing there with a 9-millimeter handgun, theoretically somebody might have
4 said that, right?

5 Lt. Mufarreh: Hopefully, I would remember that. *(Laughter)*

6 Mr. Raines: Oh I understand that. I understand. Given the amount of
7 communication you were getting, it would get to you?

8 Lt. Mufarreh: It's impossible to remember everything. It was crazy.

9 Mr. Raines: Just as a demonstration and I know we're all second guessing everything
10 here, but I'm sure you've been in this situation and I know I have and we talked about it a
11 little bit, where in a much more calm situation, perhaps someone near and dear to you like
12 your wife may have been talking to you at some point in time and you're looking at her and
13 she's looking at you and she says something to you and it never registers, and you know she
14 said something, but you ain't no paying no attention because you're thinking of something
15 else.

16 Lt. Mufarreh: Correct.

17 Mr. Raines: That ever happen?

18 Lt. Mufarreh: Yes.

19 Mr. Raines: Um, and of course as I say, that maybe in a much calmer time than you
20 were faced with out there at that time.

21 Lt. Mufarreh: Correct.

22 Mr. Raines: So this communication gap that we're talking about certainly is
23 understandable, if you were to understand it?

24 Lt. Mufarreh: Yes.

1 Mr. Raines: You would understand that if other commanders didn't hear certain
2 information that maybe now in retrospect, we think they should have.

3 Lt. Mufarreh: Right.

4 Mr. Raines: All right. I think that's all we have.

5 Lt. Whent: Lieutenant Mufarreh, let me just ask a question. This is related to the
6 questions I just asked. Okay, so Area 3 was not your area of responsibility for that day.

Deleted: Sgt. Floyd

7 Lt. Mufarreh: No.

8 Lt. Whent: Alright. Now do you feel as though as a command officer here in the
9 Oakland Police Department when you see another commander in a perfect situation perhaps
10 not doing everything that needs to be done, do you feel that you have a responsibility to step
11 up and make sure things get done?

Deleted: Sgt. Floyd

12 Lt. Mufarreh: Me personally, I do.

13 Lt. Whent: Okay. Do you think the Department expects that of you?

Deleted: Sgt. Floyd

14 Lt. Mufarreh: I would assume they do, but I mean it's more of a personal thing.

15 Sgt. Floyd: Okay. Anybody else?

16 Lt. Whent: No.

17 Sgt. Floyd: Okay. Lieutenant Mufarreh do you have anything you want to add?

18 Lt. Mufarreh: No.

19 Sgt. Floyd: Thank you very much for your time. The time is 1329. I'm supposed to
20 remind you that this is an on-going investigation, so please don't discuss it with anyone
21 involved or uninvolved in the case.

22 Edited by Sgt. Floyd 30MAY09 / 1051HRS

23 *End of sound file.*

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