

Supplemental Case Report
Antioch Police Department

CA0070100 - 300 L Street (925)779-6900

CASE NO: 09011139
EVENT NO: 09122954

Classification: PC 243(C)(1) (BAT EMERGENCY PERSON/ETC) - FELONY

Officer ID: KINT #3652

Location Name:

Location: 821 W 14TH ST ANTIOCH

XStreet: MACAULAY ST

2nd XStreet:

Beat: 1

Occurred	Date	Time	Day
On/From	11/21/2009	02:33	Sat
To	11/21/2009	05:26	Sat
Received	11/21/2009	02:33	Sat

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REPORT - 6 SUPPLEMENT

Officer ID: GREEN #3639

Supervisor: AGUINAGA #2383

PROP Evidence VIDEO

ITEM#: 1

Quantity: 1 Category: CD's DVD's etc

Article: VIDEO

Brand:

Model:

Value:

Color:

Serial #:

Owner Applied #:

Size:

Special Marks:

Officer ID:

Inv Date: 12/07/2009 15:52

Obliterated Restored:

Obliterated Removal Code:

Obliterated Drill Size:

Comments: DVD COPY OF 8MM VIDEO.

Total Evidence: \$

NARRATIVE

On 11/23/209, I received this case for follow up investigation. I obtained the 8mm video cassette obtained at the scene. I contacted [REDACTED] and obtained his camera to record the video onto a DVD. I later provided the camera and the cassette tape to Community Service Officer J. Green to transfer to a DVD. I spoke with [REDACTED]. The following is a paraphrased summary of [REDACTED] statement. Refer to the attached recording for the exact words.

[REDACTED] was woken up by [REDACTED] because Sterling and two other men were in the street yelling and acting obnoxious. The yelling continued on for 30 minutes after he had woken up. He could hear Sterling yell "Jimmy smoke that shit nigga!" He assumed that Sterling was smoking marijuana with the other men.

[REDACTED]

Sterling and the other men were constantly running in and out of the house, leaving the front door open prior to the police arrival. He watched from his bedroom window with the window closed as the officer's tried to speak to Sterling and the other. The other two men spoke quietly to the officers as Sterling yelled at them. Every other word from Sterling's mouth was, "Fuck you, fuck you pigs, fuck you cops." He could not clearly hear everything the officers said or what the other two men said to the officers, but he could hear Sterling clearly because of how loud he was. Sterling yelled at one point, "Hey neighbors fuck these cops."

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(Cont'd)

He could see the hand gestures and body positions made by the officer and did not feel the officers did or made any movements that were threatening. The officers appeared calm. Sterling and the other two men would raise their voices; break the plane of the door and walk towards the officers with their arms raised.

He saw the tall male lunge towards one of the officer and he could see the officer grab the man's arm. The man pulled the officer into the house. He saw the officer punch the male who grabbed him. He could tell by the officer's actions that they were attempting to arrest the male. He saw the the officers were trying to gain control of the male's arms. He saw Sterling attack the officers as they tried to arrest the male. **(Based on the video I later watched, I determined the male to be Barr.)** Both officers struggle with Sterling as the fight carried into the house. He heard the officers yell, "Get down, put your hands behind your back, get on the ground, get on the ground." He heard this repeated at least twice. He could not hear anything else.

He felt that this was a situation based on Sterling's demeanor that would likely result in a confrontation. He felt this situation would have been avoided if Sterling and the other men had listened to the officers to turn the music down and close the door. He felt the officers did not do anything excessive and he does not think this would have ended any other way because of Sterling's attitude.

I concluded my interview with [REDACTED] and I spoke with his [REDACTED]. The following is a paraphrased summary of [REDACTED] statement:

█████ was asleep on the couch in █████ living room and woke to Sterling and the other men yelling. █████ was startled by the noise. █████ neighborhood is somewhat loud at times, but Sterling and his friends were being the loudest and most disturbing █████ had ever experienced. █████ has known Sterling for several years and █████ has never seen him behave like this before. Sterling was complaining that his girlfriend took all of his marijuana. He was screaming at the top of his lungs and █████ did not want to confront Sterling the way he was acting. █████ has a rapport with Frank that if he had been loud █████ would have been able to tell him to go inside and he would have listened. █████ did not feel comfortable speaking to Frank this night due to his belligerence.

█ did not see the police yell or threaten Sterling in any way. █ could hear Sterling yelling at the officers from the moment they arrived about not having a search warrant. █ never saw the police officer enter the Sterling's house or make any attempts to come in. █ heard Sterling yell "fuck you" at the officers several times and █ did not hear the police officers raise their voice's once. █ did see the police struggle with Sterling and another male but █ could not tell what was going on. █ does not feel that Sterling would have allowed this situation to end in any other way. █ believes had █ or another neighbor tried to ask Sterling to calm down, they would have been treated the same way or assaulted. █ feels the actions the officers took were appropriate if not minimal based

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on Sterling's behavior and constant threats.

█████ believed that had Sterling cooperated with officers at the initial contact and closed the door, the situation would not have escalated.

I concluded my interview with █████

On 11/24/2009, I received the DVD of the video CSO Green burned. I reviewed the video in its entirety. The first 15 minutes of the video was a pornography film. I had CSO Green burn the video without the pornography video.

I could clearly see Officer Kint and Hoffman standing at the front door of 821 W 14th Street. I could also see two males who I recognized from their booking photos as Barr and Sterling standing at the door. Barr was wearing a blue shirt and Sterling was wearing a red shirt. Both Sterling and Barr appeared much larger than Officer Kint and Officer Hoffman. I could see a third male in the house; however I could not clearly see this male's face. During the entire contact with Barr and Sterling, Officer Kint and Hoffman did not stand or gesture in a threatening manner, I never heard them yell and it did not appear they broke the threshold of the door.

At 06:13 minutes of the video counter, Sterling stepped out the door in between Officer Kint and Officer Hoffman yelling, "Yo neighbors fuck these cops!" It should be noted that █████ video taped this incident █████. Sterling could be heard yelling in the video even with █████ inside of the house. Officer Kint and Hoffman stayed at the door way while Sterling continued to yell. At 09:00 minutes into the video, Barr and Sterling can be seen walking in and out of view, coming into close proximity of Officer Kint's face as they yelled.

At 09:22 minutes into the video, Barr comes into view waving his hands in close proximity to Officer Kint's face. At 10:31 minutes, Barr lunges towards Officer Hoffman, and it appears that Officer Hoffman loses his balance for a moment as he is █████ back. Officer Hoffman grabs onto Barr's arm as Barr pulls Officer Hoffman into the house. Officer Kint and Officer Hoffman attempt to gain control of Barr as Sterling comes into view. Officer Hoffman punches at someone, but it is unclear from the video who he hits. It should be noted that Officer Hoffman threw a punch after being pulled into the house by Barr and as Sterling advances him.

At 10:39 minutes, Sterling bends over grabbing Officer Hoffman's legs. Sterling picks Officer Hoffman up and it seems Officer Hoffman is now in the air on Sterling's shoulder and off of his feet. Sterling goes out of the cameras view while he still had control of Officer Hoffman's legs. Officer Kint attempts to assist Officer Hoffman and enters the house and out of view. Someone yelled "Get down." There was more yelling however due to the audio quality of the video it was indecipherable. Officer Kint can be seen in view and appears to deliver three flash light strikes, but I cannot tell who or what is being struck. The strikes

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Officer Kint delivers are consistent with those used in baton training. Barr stood above Officer Kint the entire time and follows him out of view. Nothing remarkable occurs after this point.

I contacted Officer Kint to check on his injuries. Officer Kint complained of pain to his lower back and his left wrist. Officer Kint had a small circular bruise on the inner portion of his right bicep. Officer Kint signed a medical release form. I contacted Officer Hoffman at his home. Officer Hoffman's laceration to his face will leave a permanent scar. Officer Hoffman still felt aches over his body. I took pictures of Officer Hoffman and Officer Kint and later logged them into evidence at Antioch Police Department.

Officer Kint is a veteran with the Antioch Police Department, having over 7 years of patrol experience. During that time he has been involved in numerous critical incidents including an incident in which an officer was killed and one incident when he suffered a laceration to his face by a subject with a knife. In his own words this incident was the most physically violent he has endured in his career. Officer Kint feared for his safety during the struggle due to the level of fatigue he felt from struggling with three much larger subjects.

Officer Hoffman has been a police officer for over 4 years with Contra Costa County Office and with Antioch Police Department. Officer Hoffman worked in a detention facility where he regularly had to control combative subjects. Officer Hoffman actively trains in self defense outside of work and is in good physical condition. This was the first incident in his career that he felt fatigue and at the point of losing consciousness due to being struck in the face with an unknown object. It should be noted that there were many objects to the disposable of Barr or Vierra and that broken glass was found on the floor where Officer Hoffman had struggled with Sterling.

It should be recognized that both officers showed a great deal of restraint while handling three larger and intoxicated individuals. Three subjects whose belligerence [REDACTED] enough that he armed himself with a gun.

Based on my investigation, witness statements and the video of the incident, I determined Sterling was extremely combative and uncooperative from the initial contact. This situation could have been greatly avoided by Sterling had he cooperated by turning down his music and closing the door. I believe had the officers left, Sterling would have continued his belligerent behavior as he was further agitated by a neighbor calling the police on him. Sterling had no regard for the officers on scene and willingly assaulted them in an attempt to aid Barr from being arrested. Both officers reported being struck from behind and seeing Viera and Barr standing behind them during the struggle. It is my belief that Veira and Barr willfully assaulted Officer Kint and Officer Hoffman in an effort to assist Sterling escape. I request the felony charges of PC 69, PC 245(a)(1) and PC 243(c)(2).

Detective Robert Green #3639