

Forensic Examination Report



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Date: April 2, 2025

Re: *United States v. Seaun Ford*, Case No. 24-CR-2739-BTM

This examiner is an extensively published, experienced, and court qualified expert in the areas of crime reconstruction and crime scene analysis — as well as racial discrimination and criminal / racial profiling (see Chisum & Turvey, 2012; Coronado & Turvey, 2018; Coronado & Turvey, 2022; Crowder & Turvey, 2017; and Turvey, 2023a; & Turvey 2023b).

This case involves a traffic stop in which Seaun Ford (Black Male, 36 YO), the Defendant, was pulled over and detained by law enforcement, Reporting Officer (RO) Dillon Fuston (SH4469). According to the Arrest Report by Deputy Fuston: "On 10/12/2024 at approximately 1133 hours, I conducted a traffic stop on a silver Chrysler 300 (CA-5PRR185) for expired registration and a limit line violation at the intersection of Jamacha Boulevard and Campo Road". Note that Deputy Fuston wrote in his report that the incident date was October 12, 2024. This is an error. The incident in this case involving Defendant Ford occurred on October 11, 2024 just after 11:30 p.m.

The purpose of this report is to summarize the forensic conclusions that this examiner has reached in regards to the facts and evidence this case — specifically as they relate to crime reconstruction issues; responding officer's compliance with agency protocols and procedures; and responding officer's reported justifications for effecting the vehicle stop.

Background / Officer Reporting

The following summary of reported events is taken from pp.10-12 of Deputy Fuston's report for case no. 24141621:

On 10/12/2024 at approximately 1133 hours, I conducted a traffic stop on a silver Chrysler 300 (CA-5PRR185) for expired registration and a limit line violation at the intersection of Jamacha Boulevard and Campo Road.

During the initial moments of the traffic stop I saw the driver, later identified as Seaun Ford by California ID, make a furtive movement to the area of his lower torso. I saw the center console of the vehicle open up and the passenger, later identified as Samantha Perez by California ID, reached towards the center console area. Ford also reached towards the center Console then I saw it close. Ford was driving slowly for an extended period of time past multiple safe areas to yield his vehicle.

Ford finally yielded his vehicle just south of the intersection of Jamacha Road and Campo Road. I contacted Ford and Perez at the vehicle and removed them to conduct a vehicle pat down for weapons.

While detaining Ford I saw a meth pipe in the driver door pocket. Perez was detained as well so I could safely conduct my pat down.

While searching the vehicle I located a loaded Smith and Wesson model 59 handgun (Ser#A558440) which was later found to be loaded with 12 nine-millimeter rounds of ammunition in the center console of the vehicle.

Further search of the center console revealed a plastic tube containing a white crystalline material that later tested positive for .91 grams of methamphetamine, a plastic baggy containing a white crystalline material which later tested positive for 2.89 grams of methamphetamine, a plastic baggy containing a white crystalline material that later tested positive for .35 grams of methamphetamine, three purplish pills with the label ABG 30 that were later identified as morphine sulfate, and a plastic baggy containing a brown chunky substance that tested inconclusive and weighed .72 grams.

A search of the cup holder located in front of the center console revealed a plastic baggy containing a white crystalline material which later tested positive for 1.04 grams of methamphetamine and a plastic baggy containing a brown crystalline material which later tested inconclusive and weighed .40 grams.

A silver handgun magazine that was later found to properly work in the handgun found in the center console was found in the right side of the vehicle's trunk.

A search of the sunglass container that is located above the dashboard in the center of the roof panel revealed a plastic baggy containing a brown crystalline material which later tested inconclusive and weighed 1.2 grams, and another plastic baggy containing a brown crystalline which later tested inconclusive and weighed .83 grams.

A records check of the firearm revealed it was registered to William Better. The Smith and Wesson handgun and narcotics were located within arms reach of Perez and Ford. The Smith and Wesson Handgun was loaded and ready to do great bodily injury or harm to another.

Ford was a prior convicted felon. Ford was placed under arrest for felon in possession of firearm, carrying a concealed weapon in a vehicle, carry an unregistered firearm, conspiracy, felon in possession of ammunition, possession of a controlled substance while armed, and possession of narcotics paraphernalia.

Perez was placed under arrest for carrying a concealed weapon in a vehicle, possession of an unregistered firearm, possession of a controlled substance while armed, and conspiracy.

Ford provided a post admonished statement on scene that the firearm I located was his friends that he got on 10/09/2024 and he didn't know whose firearm it was. Ford also admitted the narcotics located were all methamphetamine and the pills I located were morphine.

Ford also told me the brown crystalline and chunky material I located in plastic baggies were methamphetamine that he had previously smoked and scraped from the bowl of his meth pipe.

Ford later admitted the firearm was his and that when I conducted the traffic stop, he reached down into his waistband, grabbed the handgun, and put it into the center console.

The silver chrysler 300 (CA-5PRR185) was towed from the scene.

Subsequently, Defendant Shaun Ford was arrested by Deputy Fuston but then later referred to the US Attorney's Office for federal charges related to Felon in Possession of Firearm & Ammunition.

Forensic Examination / Crime Scene Analysis

Crime Scene Analysis is reliant upon crime reconstruction and context analysis. The objectives of Crime Scene Analysis are to reliably establish what happened, how it happened, where it happened, to whom, and ultimately why - from the perspective of the physical and behavioral evidence. Additionally, limitations within the available evidence must be identified to prevent inappropriate or unfounded theories and interpretations. See generally Chisum & Turvey (2012); Crowder & Turvey (2017); and Coronado & Turvey (2022).

Crime Scene Analysis is also conducted to assist with satisfying the requirements of considering the totality of the circumstances when examining cases involving potential violations of *The California Racial Justice Act of 2020 (AB 2542, 2020)*.

Best Scientific Practices

The findings of the forensic examiner in this case have been made in comportment with the literature on proper scientific methodology and interpretation of forensic evidence (see generally Edwards & Gotsonis, 2009; NAS, 2002; NAS, 2009; and Thornton, 1997); as well as being in agreement with his education, training, research, publications, and experience (see Chisum & Turvey, 2012; Coronado & Turvey, 2022; Crowder & Turvey, 2017; and Turvey, 2023a & 2023b).

Materials Examined

To complete this forensic examination, at least the following facts, reports and, evidence have been considered:

1. Discovery 0001-0025 Arrest Report by San Diego County Sheriff's Department (SDCSD) Deputy Dillon Fuston.
2. Body Worn Camera recordings from responding officers: 8 .mp4 files: X81008251-2024-10-12-06-41-31(2024).mp4, X81008251-2024-10-12-07-52-56 (2024).mp4, X81412711-2024-10-12-06-41-31(2024).mp4, X81641568-2024-10-12-06-33-57 (2024).mp4, X81641568-2024-10-12-08-04-07 (2024).mp4, X81697703-2024-10-12-06-40-51(2024).mp4, X81697703-2024-10-12-07-37-49 (2024).mp4, and X81698382-2024-10-12-06-41-39 (2024).mp4

3. Law enforcement photos of the vehicle stop scene, the vehicle search and interior, evidence collected and documented, and the defendants detained.
4. The SDCSD Policy & Procedure Manual.
5. The County of San Diego CITIZENS' LAW ENFORCEMENT REVIEW BOARD SEMI-ANNUAL REPORT 2022 (CLERB, 2022).
6. STATE OF CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST), PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD (POSAAB) MEETING THURSDAY, MARCH 21, 2024, re: Dillon Fuston
7. STATE OF CALIFORNIA POST COMMISSION MEETING AGENDA, June 12, 2024, re: Dillon Fuston.
8. *Elante Shine v. Officer Dillon Fuston, et al.* (2021) United States District Court, Southern District of California, Case No. 20-cv-2036-LAB-DEB, 09-29-2021.
9. Traffic Stop Investigation Report by RA Investigative Consultants dated March 19, 2025. This includes related photos and videos.

Additional research and material that have informed this examination are referenced within the body of this report.

1. CONTEXT ANALYSIS

As explained in Turvey (2023b; pp.205-206) "Crime and violence cannot be fully understood or accurately described outside of the physical, cultural, and relationship contexts in which they occur, or apart from the complex history of the spaces and people involved... Context Analysis is foundational to any competent criminal investigation, and essential to most integrated forensic assessments (e.g., hate crimes, sexual harassment, child/elder neglect and abuse, domestic violence, sex crimes, serial crimes, and all basic death investigation protocols)." This necessarily includes contexts where there may be allegations or concerns related to racial bias and/or racial profiling.

The traffic stop in this case occurred in an historical and contemporary context of *racial discrimination* against minorities in general, and black persons in specific, by law enforcement in the State of California¹. This historical and contemporary context of racial discrimination had been research and documented at the National, State,

¹ *Racial discrimination* is a form of structural violence. It refers to treating an individual unfavorably because they belong to a certain race; because the individual displays characteristics associated with a particular race (e.g., hair texture, skin color, certain physical features); or because the individual is affiliated with or even married to a person of a particular race or color. Manifestations of racial discrimination in the criminal justice system include targeting and over-policing specific or non-white races and ethnic groups; and the resulting mass incarceration. See: Delgado & Stefancic (2016).

and local level. This specifically includes San Diego County and its Sheriff's Department. This is based on the following evidence and information:

A. California: A Statewide Context of Racial Discrimination

There is a well documented and highly reported statewide context of racial discrimination against black persons by law enforcement in The State of California. This is evidenced by the following:

Auditor of The State of California

In 2022, the Auditor of The State of California published a report regarding biased conduct in law enforcement. As explained in the report: "We conducted an audit of five law enforcement departments throughout the State—the Los Angeles Sheriff; the police departments of San Bernardino, San José, and Stockton; and CDCR—to assess their efforts to guard against officers' biased conduct" (Auditor, 2022). They ultimately determined that some officers at every agency were engaged in bias and discriminatory conduct; some agencies did not understand that stereotyping is discriminatory; none of the departments had fully implemented best practices to mitigate the effects of officer bias; and some agencies did not consistently or adequately investigate their officers' possibly biased conduct.

Catalyst California & the American Civil Liberties Union of Southern California

In 2022, Catalyst California and the American Civil Liberties Union of Southern California examined data from four large California sheriff's departments. They found that people of color, and specifically Black people, were stopped by these sheriff's departments at higher rates white people (Winkley, 2022). This report states that (Smith, et al, 2022):

..both lived experience and data continuously show that people of color are disproportionately profiled by law enforcement. In addition to confirming that problem, this report explains how patrol activities undermine safety and waste tremendous public dollars. It does so by analyzing Racial & Identity Profiling Act (RIPA) stop data from a sample of four sheriff's departments (Los Angeles, Riverside, Sacramento, and San Diego) that collectively account for nearly 20% of the state's sworn law enforcement personnel, have jurisdiction over counties that represent 44% of California's population, and patrol areas covering approximately 17% of the state population.

Specifically, this report found that "Sheriff's departments dedicate significant patrol time (and, in turn, public resources) to racially biased pre-textual stops that undermine community safety." And that "The impact of sheriff's departments' patrol activities is extremely detrimental to people of color because they are far more likely to experience numerous harms as a result of pre-textual stops." (Smith, et al, 2022; p.6).

The State of California Racial and Identity Profiling Advisory Board

In 2024, The State of California Racial and Identity Profiling Advisory Board published a report which found that racial profiling remains a problem for people of color across the State, and specifically within the Hispanic and Black communities (RIPA, 2024). In part, the Advisory Board reported that:

- "Black individuals were stopped 131.5 percent more frequently than expected, given their relative proportion of the California population, using a comparison of stop data and residential population data."
- "The most common reason reported for stops across all racial and ethnic groups was a traffic violation (82.1%), followed by reasonable suspicion that the person was engaged in criminal activity (14.2%)."

According to their website: "The Racial and Identity Profiling Advisory (RIPA) Board was created "for the purpose of eliminating racial and identity profiling, and improving diversity and racial and identity sensitivity in law enforcement." (Pen. Code, § 13519.4, subd. (j)(1).)" This subsequent to AB 953: The Racial and Identity Profiling Act of 2015, which prohibits racial and identity profiling by law enforcement and requires law enforcement agencies to report data to the Attorney General's Office on all vehicle and pedestrian stops and citizen complaints alleging racial and identity profiling.

The necessity for this legislation — and the resulting mandates for The Racial and Identity Profiling Advisory (RIPA) Board as an instrument of the California DOJ / Office of the Attorney General — were a response to the documented and recognized context of racial discrimination against black persons by law enforcement in The State of California.

The California Racial Justice Act & The California Racial Justice Act for All

In September of 2022, AB 256, *the California Racial Justice Act for All*, was signed in to law by Governor Gavin Newsom. As explained in the related press release (Kalra, 2022):

AB 256 will allow persons with convictions or judgments prior to January 1, 2021 to petition the court and seek relief if racial bias was proven to be present in their case. AB 256 builds upon landmark legislation in 2020, the California Racial Justice Act, AB 2542 (Kalra, Chapter 317, Statutes of 2020), which allowed individuals to challenge racial bias in criminal charges, convictions, and sentences but was limited to cases after January 1, 2021.

The necessity for this legislation, and the resulting mandates for law enforcement in The State of California, were a response to the documented and recognized context of racial discrimination against black persons by law enforcement throughout The State. Additionally, they serve as recognition of the historical structural disparities which have prevented remedies for individuals discriminated against by law enforcement throughout the State.

B. San Diego County / El Cajon Area

There is a well documented and highly reported local context of racial discrimination against black persons by law enforcement in San Diego County and the area of El Cajon, California (near the area of the traffic stop in this case). This is evidenced by the following:

KPBS Public Record Investigation

A public records investigation into the San Diego Police and Sheriff's departments conducted by KPBS (a Public Broadcasting media organization that serves the greater San Diego area) was conducted and published in 2020. Their report, published in the media, states (Trageser, 2020):

A KPBS analysis of nearly 130 records from police departments dating back to 2001 shows that when local police use force on a suspect, if the suspect is a person of color they're more likely to shoot. If the suspect is white, police are more likely to use alternative methods of force, including Tasers, beanbags, police dogs or tackling the suspect. The analysis does not provide a complete picture of how San Diego police departments have used force over the decades because they have only released about a third of the records in their possession. But here is what we know so far: The records include 62 people of color. Police shot 40 of them, or 65%. Meanwhile, police officers shot 27 of the 65 white people they encountered in these cases, which amounts to 42%. In the cases where police used another method of force besides shooting, the numbers were reversed. In those cases, police used alternative force on 22 people of color, or 35%, and on 38 white people, or 58%

This independent research demonstrates an ongoing local context of racial discrimination against black persons by law enforcement in San Diego County.

CITIZENS' LAW ENFORCEMENT REVIEW BOARD SEMI-ANNUAL REPORT 2022

In 2022, the County of San Diego's Citizen's Law Enforcement Review Board (CLERB), compelled by the local data and its own research which revealed racial disparities in law enforcement vehicle stops, reported the following (CLERB, 2022; pp.9-10):

In the last quarter of 2021, CLERB asked for public input into its investigations of racial discrimination allegations. While researching the topic, it was discovered that a Campaign Zero report detailing its investigation into the SDSD practices from 2016-2108 identified racially disparate policing outcomes. In addition, a report by the Center for Policing Equity (CPE) commissioned by the SDSD also identified racially disparate policing outcomes. Both reports indicated that persons of color are subjected to enforcement at a greater rate than those who are white. Based upon these reports, CLERB created the "Racial Disparity, Racial Profiling, and Implicit Bias Ad Hoc Committee" for the purpose of identifying opportunities for and making recommendations to the SDSD to reduce racially disparate policing practices.

This State mandated investigation demonstrates formal recognition of an ongoing local context of racial discrimination against black persons by law enforcement in San Diego County.

Catalyst California & the American Civil Liberties Union of Southern California

As mention in the prior section — In 2022, Catalyst California and the American Civil Liberties Union of Southern California examined data from four large California sheriff's departments. They found that people of color, and specifically Black people, are stopped by these sheriff's departments at higher rates white people (Winkley, 2022). This included the San Diego County Sheriff's Department.

This independent research demonstrates an ongoing local context of racial discrimination against black persons by law enforcement in San Diego County.

CBS 8 Public Record Investigation

A public records investigation into the San Diego Police and Sheriff's departments conducted by CBS 8 (a local media organization that serves the greater San Diego area) was conducted and published in 2023. Their report, published in the media, states (Hargrove & Holmes, 2023):

Law enforcement agencies throughout California continue to release police officer misconduct investigations as part of a 2022 law aimed at improving transparency in law enforcement agencies. For the San Diego Police Department, many of the newly released investigations show numerous examples of racially-charged accusations against San Diego Police officers in recent years. They include accusations lodged against patrol officers for racially profiling Black motorists, for improper searches and seizures of young Black men, and in one instance an investigation into an officer who was caught yelling, "I kill [Black People] for a living. I am a cop."

The newly released misconduct records come after years of tensions between San Diego's minority residents and the San Diego Police Department over what some residents feel are disparities in the department's treatment of Black and Hispanic people compared to their white counterparts.

In recent years, researchers substantiated those sentiments. In a 2016 study, researchers at San Diego State University analyzed traffic stops and detentions from those traffic stops citywide. Researchers found, "stop and post-stop enforcement patterns show meaningful differences in the treatment of Black and Hispanic drivers, as compared to whites..." adding, "these disparities, which match the perceptions of some members of San Diego's minority communities, contribute to a recognized tension between these communities and the SDPD." And as the department reveals its internal complaints, public records show the department's efforts to diversify its police force have been unsuccessful.

This independent research demonstrates an ongoing local context of racial discrimination against black persons by law enforcement in San Diego County and the El Cajon area — as incidents in these areas are specifically referenced².

² As reported in Hargrove & Holmes (2023): "[An] incident occurred in January 2021 when San Diego Police Officers busted an illegal gambling den on El Cajon Boulevard. During the raid, a sergeant was overheard stating that his K9 would not bite a white officer as the dog only likes "dark meat." Moments later the officer said when having problems getting handcuffs on a Hispanic woman, that the handcuffs did "not like dark meat." Internal investigators determined that the officer did not conduct themselves to departmental standards and failed to follow proper procedure. The officer who said his police dog only liked 'dark meat' continues to serve on the force. See also *Bonds v. The Superior Court of San Diego County* (2024).

The above items A-B demonstrate that the traffic stop in this case occurred in an historical and contemporary context of *racial discrimination* against minorities in general, and black persons in specific, by law enforcement in the State of California.

2. VEHICLE STOP / RECONSTRUCTION RE: REPORTED EVENTS

There are different types of vehicle stops from the perspective of law enforcement. These include *Traffic Enforcement*, *Investigative*, and *Felony / High Risk*.

Traffic Enforcement stops are conducted for minor infractions such as speeding, violating traffic lights or signs, broken lights, or expired registrations.

Felony / High Risk stops involve the belief that a crime has or is taking place, and that the vehicle occupants represent a threat. In such cases, law enforcement take extra precautions to ensure safety from the harm perceived. Specifically, felony stops typically involve calling and waiting for multiple officers and backup units. They also involve proper vehicle positioning and a cautious approach, during which officers will approach the stopped vehicle with great care, maintaining a safe distance, and covering each other with their weapons. Finally, they involve securing the occupants of the vehicle to ensure safety while any related searches are conducted.

This context makes the following event details reported by Deputy Fuston relevant to this case:

- A. Deputy Dillion Fuston reports: “On 10/12/2024 at approximately 1133 hours, I conducted a traffic stop on a silver Chrysler 300 (CA-5PRR185) for expired registration and a limit line violation at the intersection of Jamacha Boulevard and Campo Road.” This indicates that Dep. Fuston initially viewed the stop as *Traffic Enforcement* related.
- B. Deputy Fuston further reports: “Ford was driving slowly for an extended period of time past multiple safe areas to yield his vehicle. Ford finally yielded his vehicle just south of the intersection of Jamacha Road and Campo Road. This suggests that the defendant was not immediately compliant when the officer activated his lights, failing to pull over immediately.” Despite the editorial comments in this narrative report by Dep. Fuston, the Traffic Stop Investigation Report by RA Investigative Consultants estimates it took less than a minute and a half from the time that Dep. Fuston activating his lights to the time that the Defendant yielding to a stop. Observed in the related investigative video, the only place to pull over during this interval was a bike lane that became a turn lane. There was no clearly designated shoulder on which to stop safely — all of which was made even less safe by the dark of night and the absence of roadway lighting.
- C. According to Deputy Fuston, the context of the vehicle stop eventually changed, based on the following report: “During the initial moments of the traffic stop I saw the driver, later identified as Shaun Ford by California ID,

make a furtive movement to the area of his lower torso. I saw the center console of the vehicle open up and the passenger, later identified as Samantha Perez by California ID, reached towards the center console area. Ford also reached towards the center Console then I saw it close. Ford was driving slowly for an extended period of time past multiple safe areas to yield his vehicle.”

From this narrative it is unclear at precisely which moment and where on the road Dep. Fuston reports observing these furtive moves. Regardless of where and when, Dep. Fuston’s ability to make any such observations from a position in his own vehicle through the back window of the Defendant’s vehicle is in serious doubt. This is based on the following facts: the rear window of the defendant’s vehicle is narrow, accommodating the existence of a large trunk; fabric hanging down from the ceiling on the interior of the defendant’s vehicle narrows and obstructs the view from the rear further; headrests in the backseat obstruct the view from the rear further; the center break light in the rear window obstructs line of sight for the center console, obstructing the overall view from the rear further; the large plastic container in the center of the back seat further obstructs line of sight to the center console, obstructing the overall view further; both the defendant and his passenger can be observed sitting naturally low in the front seats of the vehicle, with the headrests and seats further obstructing the view through the narrow back window to any activity in that location — especially in the dark. This suggests that Dep. Fuston did not have a clear line of sight from his patrol vehicle to the area where he reports having observed furtive moves inside the defendant’s vehicle.

- D. According to Deputy Fuston, the context of the vehicle stop should have changed based on the following report of a furtive move, and fear regarding the belief that a weapon was present: “I approached the vehicle from the passenger side to give myself a better vantage point into the cabin of the vehicle for my safety. I feared there may have been a dangerous weapon concealed within the center console. I also know from my experience that most of the population is right-handed. Having seen Ford make the furtive movement with his right hand towards his lower torso, I believed he was also righthanded. Approaching from the passenger side allows me more reaction time in the case a deadly altercation occurs during the initial moments of the traffic stop.” This narrative would tend to suggest that Dep. Fuston believed this evolved into a high risk felony car stop in which he feared for his life — prior to exiting his patrol vehicle.
- E. Despite the seriousness of the reported context and observations by Deputy Fuston, he parked behind the suspect vehicle; he exited his patrol vehicle and approached on the passenger’s side; his weapon was not drawn, and his hand was occupied with a flashlight; he did not mention any suspicions and certainly

did not present as afraid in either manner or tone to the occupants; he then casually obtained the IDs of both suspects, one of which was on the passenger's cellphone. At that point, both of the Deputy's hands were fully occupied and his ability to respond to any form of lethal force from within the vehicle — with any of his own weapons — was entirely diminished. Additionally, Dep. Fuston did not appear to call for back-up until after the defendant refused to answer questions about his criminal history.

- F. Deputy Fuston did not secure either the defendant or the passenger at this time — instead leaving them to move freely within the vehicle until back-up arrived — with both of his hands occupied holding his flashlight, a notepad, an ID, and the passenger's phone.
- G. When Defendant Ford and his passenger Samantha Perez were taken out of their vehicle, they were not immediately handcuffed or made safe. They were simply moved out of the way to facilitate a comprehensive vehicle search, which seems to have been the focus of this vehicle stop — not a traffic violation or felony car stop involving vehicle occupants represent an imminent threat. Both were handcuffed and subsequently taken into custody when a gun was found in the center console — after the out of policy search was conducted without their consent and over Ford's protestations.

These collective actions taken by Deputy Fuston, contradictory and out of policy with respect to best / safe practices for a high risk felony car stop, tend to suggest that he could not have seen inside the vehicle to the area of the center console or the defendant's waistline; that he could not have had an actual belief that a weapon was present in the vehicle; nor was he in apparent fear with respect to his actions prior to calling for back-up. Rather, this stop appears to be a pretext for a vehicle search — as indicated by Dep. Fuston's reference to *Michigan v. Long* (1983) in outset of his report.

3. OUT OF POLICY REPORTING & BWC MUTING BY DEPUTIES

At multiple points throughout this incident, multiple Deputies can be observed deliberately and selectively muting their Body Worn Cameras (BWCs), while leaving the video active. These are troubling violations of San Diego County Sheriff's Department Policy and Procedures, for the following reasons:

- A. *Absence of "Cover Unit" Detail in Fuston Report:* Deputy Fuston's report mentions a response by "cover units" to his vehicle stop with the defendant. His report further mentions a search of the vehicle, photos being taken of the interior, and the evidence subsequently discovered. None of the responding "cover units" were identified in his report, to include an absence of names, badge numbers, and assigned duties. However, BWC video from multiple officers was provided. In these BWC videos, the "cover unit" deputies can be

observed carrying out multiple duties at the scene — to include cuffing the suspects, questioning the suspects, searching the vehicle, collecting evidence, and taking photos. The failure to write and submit a fully accurate report that makes clear the identity of responding officers and their respective duties in negligent practice at best.

- B. *Absence of Reports from “Cover Units”*: It should be noted that no reports from any of the multiple deputies that responded to this call (aka “cover units”) have been provided to this examiner. All personnel from these “cover units” were involved in detaining the suspects, searching their vehicle, and collecting evidence. This is further indicated by Deputy Fuston’s report which states: “RELATED REPORTS: None.” Furthermore, on p.15 he states “All evidence was collected on the scene.” This is stated without reference to the officers that actually located and collected the evidence, which is misleading at best. The failure to write and submit a report of activity related to any vehicle stop is a policy violation at best, let alone one that involves arrests, a vehicle search, and the documentation / collection of evidence by multiple responding officers.
- C. As explained in the San Diego County Sheriff’s Department Policy and Procedure Manual, in “Section 6 Operations” under the subheading of “MUTING”: “BWC’s are equipped with functionality to allow for the “muting” of the camera. This allows video recording without audio. Muting is generally discouraged; however, there are situations in which muting may be beneficial. The muting of the camera shall only be performed as directed by a supervisor or in accordance with the specific considerations of this policy. Audio may be muted for a specific articulable reason and only for the amount of time necessary to complete the privileged conversation. Once privileged conversation has concluded, the camera shall be returned to full function. In all instances of muted audio, the deputy will document the reason for muting. Before muting the recorder, the deputy shall consider verbally explaining the reason for muting.”
- D. As explained in the San Diego County Sheriff’s Department Policy and Procedure Manual, in “Section 6 Operations” under the subheading of “MUTING”: “In all cases where BWC video is muted, it shall be documented in writing. How it is documented will be situationally dependent. The reason for muting the camera(s) will be briefly noted in the body of a report (arrest, crime misc. incident).”
- E. Deputy Fuston can be observed muting his BWC when explaining his probable cause to a responding officer that is part of the “cover unit” detail, subsequent to the vehicle search.
- F. At least one Deputy mutes their BWC during conversations about the stop during which related paperwork is being filled out / prepared.
- G. There is no documentation on video or in subsequent written reports as to why their BWCs were selectively and deliberately muted throughout this incident.

Not verbally or in writing. This is a direct violation of agency policy by all present and responsible, which is negligent at best.

To be clear, multiple deputies can be observed deliberately and selectively muting their BWCs during this stop, while leaving the video active, and while in the performance of their duties. This appears to occur in order to prevent documentation of shared Deputy conversations about the incident, probable cause, and details related to incident reporting.

Regardless of why this happened, the required on-camera and/ or written explanations for muting BWCs are absent in the evidence and documentation provided from Deputy Fuston, and there are no written reports provided from the other the deputies involved — in direct violation of San Diego County Sheriff's Department Policy and Procedures. Rather, conversations about the incident, taking place during the on-camera search of the Defendant's vehicle and the preparation of related reports, have been deliberately muted to prevent their documentation. Again, this occurs without explanation and in direct violation of agency policy.

The consistency of these policy violations across the responding deputies indicates a pattern and practice of violating the San Diego County Sheriff's Department Policy and Procedure Manual with respect to BWCs, with impunity.

4. GIGLIO ISSUES: DEPUTY FUSTON

The "Giglio rule" stems from the U.S. Supreme Court case *Giglio v. United States* (1972). It mandates that prosecutors must disclose any evidence that could be used to impeach the credibility of prosecution witnesses, including law enforcement officers, to the defense. When a law enforcement officer is found to have credibility issues that can be used to faithfully impeach their sworn testimony, they are considered "Giglio impaired". Generally, this is meant to signal that they are incapable of being trusted to give accurate, reliable, or honest testimony. *Giglio* details the responsibility of the State to provide such information and material to the defense, in the same spirit as *Brady v. Maryland* (1963).

No *Giglio* disclosures were made to the defense in this case regarding Deputy Fuston or any other members of the San Diego Sheriff's Department. However, a simple Google search of publicly available information related to Deputy Fuston revealed a number of significant events that raise *Giglio* issues, suggesting that he is likely *Giglio* impaired. This includes the following:

- A. Dillon Fuston is reported to be a 270-pound police officer and former Marine.
- B. Dillon Fuston was employed by San Diego Police Department (SDPD) from 9-04-2018 to 9-22-2022, as a police officer. He resigned from San Diego PD, and was apparently hired by the San Diego County Sheriff's Department on 09-23-2022.
- C. Multiple Physical Abuse/Excessive Use of Force claims have been filed against now Deputy Fuston during his law enforcement career.

- D. *Elante Shine v. Officer Dillon Fuston, et al. (2021) / December 14, 2019*: POST2300192 – San Diego Police Department. Claim: Physical Abuse/ Excessive Use of Force and Demonstrating Bias – Sustained by the agency, but closed by POST as non-actionable. Details: Fuston detained a suspect matching a vandalism suspect’s description. The suspect resisted, head-butting an officer, and was subdued via a carotid hold. The agency found the Respondent violated Use of Force and Carotid Restraint procedures by using a non-approved restraint and exceeding the 15-second hold limit. However, the agency determined there was no evidence of racial bias. POST deemed this matter non-actionable since the incident predated the January 1, 2022, effective date of Senate Bill 2 and Penal Code section 13510.8(b)(3).
- E. *Elante Shine v. Officer Dillon Fuston, et al. (2021) / December 14, 2019*: As subsequently reported in Garrick (2023): “the city [of San Diego] is paying \$875,000 to Elante Shine, a man who was restrained by police using an unauthorized version of a carotid hold in December 2019 after a street fight. Shine was arrested and charged by the District Attorney’s Office for breaking a window during the fight, but charges were later dismissed when video showed the window was smashed when Shine got pushed into it.”
- F. *False Reporting / April 10, 2020*: Another incident involving multiple instances of related misconduct by Officer Fuston (SDPD) occurred on April 10, 2020 — San Diego Police Department Case # 20019975 / Report #20408; San Diego Police Internal Affairs Case # 2020-0233; California POST Case # 2300809³. The San Diego Police Department’s investigation ultimately sustained allegations that Officer Fuston failed to accurately document all facts and circumstances surrounding the use of force during an arrest. While the excessive use of force claim itself is not actionable due to statutory limitations, the dishonesty in reporting the incident is subject to review under Penal Code section 13510.8(b)(1) and (g)(1)(A).
- G. *False Reporting / April 10, 2020*: Evidence from the San Diego Police Department’s investigation confirmed that Officer Fuston made multiple false statements in his official police report, including: Misrepresenting the suspect’s immediate access to a weapon; Falsely describing the use of “distraction blows” to secure the suspect’s arm; Incorrectly stating that the suspect was “guided” to the ground after a leg sweep; and Misreporting the duration of the suspect’s unconsciousness following an unapproved leg sweep.
- H. *False Reporting / April 10, 2020*: The San Diego Police Department’s investigation confirmed that these false statements made by Officer Fuston “directly relate to the Respondent’s reporting of the resisting arrest charge and were a clear attempt to mitigate the extent of the suspect’s injury by falsely

³ This incident was reported to CA POST on January 20, 2023, subsequent to Officer Fuston’s resignation from the SDPD and after he was able to secure employment with the Sheriff’s Department.

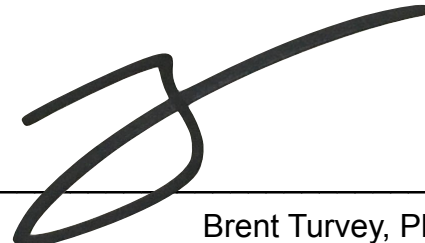
stating the suspect had immediate access to weapons, used distraction blows to secure an arm, guided the suspect to the ground after the leg sweep and the length of time the suspect was unconscious.” Given the statutory definition of dishonesty under California Regulation 1205(a)(1), this conduct met the threshold for review and potential action regarding the Respondent’s CA POST Certification.

- I. *CA POST / Absence of Giglio Disclosures*: based on the aforementioned incidents of improper use of force and related false reporting to conceal misconduct, is unclear to this examiner how Deputy Fuston has maintained his CA POST Certification as a law enforcement officer. It is further unclear, given the public availability of this information, why it was not provided to the defense as part of initial State disclosures. These incidents of misconduct are not only relevant to similar issues in the present case against Defendant Ford, but Deputy Fuston is the only witness that can attest to the veracity of his narrative regarding the probable cause for the stop.

The above facts, evidence, and agency determinations indicate that Deputy Fuston may be *Giglio* impaired, and that he may have been allowed to move agencies in order to avoid termination for established misconduct. Given that the defense was not provided any of this information as part of the State’s disclosures in this case, this examiner recommends a full investigation into this issue. This should include the specific details of his departure from SDPD, and the circumstances of his immediate hiring by the SDSD on the day after.

The above facts, evidence, and agency determinations further call into doubt the accuracy of reporting by Deputy Fuston with respect to his narrative of events prior to the vehicle stop in the present case. Specifically, this relates to his reported ability to see movement in the suspect vehicle which was obstructed; and whether he believed a weapon was present in the suspect vehicle in the moments prior to exiting his patrol car and talking with the occupants. This is given his specific history of “misrepresenting” suspect activity related to observable weapons access in his police reports; and his general related history of filing false police reports.

Should any new information be made available, these opinions would be subject to revision.



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March 31, 2025

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