Florida Department of Law Enforcement

Case Number: KW-37-0006

Sixteenth Judicial Circuit of Florida

Investigative Summary:

In-Custody Death

Key West Police Department

Incident Date: November 28, 2013

Case Agent:
Special Agent Kathy Smith

SUBJECT:

Charles John Eimers
12048 Rottiers Street
Birch Run, Michigan 48415
White / Male
DOB: February 25, 1952
Next of Kin Identified:
Trevor Eimers

LAW ENFORCEMENT:

Sgt. Francisco Zamora, Ofc. Gabriel Garrido, Ofc. Gary Celcer, Ofc. Matthew Johnson, Ofc. Thaddeus Calvert, Det. Todd Stevens, Ofc. Gary Lee Lovette, Ofc. Nicholas Galbo, Ofc. KathyAnn Wanciak, Ofc. Derek Wallis, Ofc. Gustavo Medina, Ofc. Henry del Valle

Key West Police Department
1604 N. Roosevelt Boulevard
Key West, Florida 33040

INCIDENT LOCATION:

Southernmost Beach Cafe
1405 Duval Street
Key West, Florida 33040

This document is a synopsis of activity regarding the inquiry into the in-custody death of Charles John Eimers that occurred at 1405 Duval Street, Key West, Florida. This report clearly does not contain all information generated during the course of this investigation. The purpose is to summarize the investigation with respect to the events leading up to the incident, the description of the incident itself, and the synopsis of the interviews conducted. In short, this document is a summary of information contained within the more specific and detailed investigative case file.

FDLE's Response to Scene (IR-1)

On November 28, 2013, the Key West Police Department (KWPD) requested the Florida Department of Law Enforcement (FDLE) to conduct an investigation into the KWPD arrest of Charles John Eimers, which occurred on the beach, behind the Southernmost Beach Café, located at 1405 Duval Street, Key West, Florida. KWPD advised that the arrest occurred after Eimers fled from a routine traffic stop. During the arrest, Eimers was handcuffed and then became unresponsive. At the time of the request, KWPD advised that Eimers had been taken to the Lower Keys Medical Center, where he remained unconscious.

The case was initially opened under FDLE case number KW-73-0628. After Eimers died, the case was administratively switched into KW-37-0006.

Location

The incident location occurred at 1405 Duval Street, behind the Southernmost Beach Café. The building is located at the end of Duval Street, on the east side. The entrance can be accessed from a driveway on the west side, where there is a small parking lot (for approximately 4 cars). Next to the parking lot, on the south west corner, is sand leading to the beach. The east and south side of the restaurant is bordered by a beach. There is a small concrete wall, with a metal wrought iron fence on top, which encloses the west side of property.

Summary of Incident (IR-1)

On November 28, 2013, at 8:25 a.m., as seen on his patrol car dash camera, Key West Police Officer Gary Celcer was in his marked patrol unit, conducting a routine traffic stop of a Silver PT Cruiser, at the intersection of North Roosevelt Boulevard and Kennedy Drive, Key West, Florida. Officer Celcer observed the driver of a PT Cruiser bearing Michigan license tag, SZOUBZ, commit a traffic infraction by making an erratic turn from a left turn lane into a straight away lane where Officer Celcer's car was positioned. Officer Celcer, wearing his KWPD uniform, approached the car and began talking with

the driver, later identified as Charles John Eimers. Officer Celcer asked Eimers why he "switched lanes cutting across in my lane."

Mr. Eimers responded that he was "...looking out for society. I care about people." Eimers also stated that he was "trying to save lives." Officer Celcer asked Eimers, "Whose lives?" Eimers replied "Everybody's." Officer Celcer asked Eimers, "So by you almost hitting me, that's saving lives?" Mr. Eimers stated "No" and stated he was "working for God." As Officer Celcer prepared to step back to his patrol car to conduct a license/criminal history check on Eimers, Officer Celcer stated to Mr. Eimers, "Please wait in your car and I will be back with you in just a moment."

Officer Celcer then walked away from Eimers and entered his marked unit. Officer Celcer then noted that Eimers began to drive away from the traffic stop. Officer Celcer immediately advised via radio, at 8:25 a.m., that Eimers had fled the scene. Officer Celcer began to follow Eimers and utilized his lights and sirens to attempt to conduct a traffic stop for the second time. Eimers continued to drive away and began committing numerous traffic violations which included speeding, disregarding stop signs and driving in the wrong traffic lanes. At 08:26 a.m., Sergeant Zamora advised all units via radio to make sure that they were recording the incident (via dash cameras or a system known as I-Cops).

Multiple marked units arrived in the area to assist with the incident, and their dash cameras provided video footage of Eimers' travels, as well as officers' attempts to stop the vehicle via lights and sirens. The KWPD drive through the city following Eimers lasted approximately nine minutes. Two civilian witnesses, visiting from out of town, stated that the driver (Eimers) almost struck their vehicle when they were approaching an intersection.

The remainder of the summary will utilize Officer Celcer's dash camera clock as a timestamp. At 8:34:06 a.m., Eimers drove through the parking lot of the Southernmost Beach Café and onto the sand, where he parked his car on the beach.

An unknown tourist captured cell phone video of Eimers exiting his vehicle and then interacting with officers during his arrest. The video is approximately 1 minute two seconds in length. The tourist gave the video to Kassie Dolson, the manager of the Southernmost Beach Café, who in turn, provided it to the police. On the video, officers can be heard ordering Eimers to the ground. The video shows Eimers looking at uniformed Officer Wanciak, and then walking away from his car, and at 8:34:38 a.m., laying down in the sand, on his stomach, resting on his forearm/elbow area, with his head facing upward toward the officers who were arriving in the area. As heard on the tourist's video and on Officer Medina's department issued external recorder which was attached to the officer's belt, Officer del Valle and Officer Wanciak gave loud verbal commands to Eimers to "get down on the ground", and to "show me your hands."

The video shows that Officer Garrido and Officer del Valle, both in KWPD uniforms, then approached Eimers as Officer Wanciak, provided "cover". Officer Garrido, assisted by Officer Medina, took Eimers' left hand and placed it into a handcuff. As Officer Garrido attempted to handcuff Eimers' right wrist, as heard on Officer Medina's recorder, Eimers said "No!" Officer Wanciak then told Eimers to "Stop resisting." Eimers again said "No!"

The tourist's video shows that during the handcuffing of Eimers' right arm, Eimers began to move his feet and body. The video shows several officers reacting to the struggle and simultaneously moving closer to assist.

The video shows Officer Lovette walk up to the arrest area and slowly kneel down, taking a position near Eimers' head and shoulder area. The tourist's video then panned away from the arrest, and focused the camera lens on the multiple marked units that were in the area.

The tourist then panned the camera lens back toward Eimers' vehicle, and the video shows uniformed Officer Calvert and uniformed Officer Wallis approaching each side of Eimers' car. The officers clear Eimers' car for safety by opening the rear passenger door and the hatchback.

The video shows Officers Calvert and Wallis searching Eimers' car while simultaneously, the remaining officers continue to try to handcuff Eimers. The video shows Eimers' legs kicking up, his feet moving apart, and thrusting backward. Officer Wanciak is seen briefly stepping away from the struggle, and then she quickly re-engages by stepping back toward Eimers and the handcuffing officer. The struggle between Eimers and the arresting officers caused Eimers' body to move across the sand. This, in turn, caused the officers' feet and knees to move in order to stay near Eimers' body and maintain control. The videos do not capture the remainder of the arrest activity, or Eimers' receiving medical care. The video camera at the restaurant was not aimed in the area of the arrest.

As Officer Garrido attempted to finish handcuffing Eimers, Officer Garrido's finger became wedged between Eimers' wrist and the metal of the handcuff. Medina's recorder revealed that Officer Garrido said "Ow!"

During the handcuffing, Officer Lovette removed his TASER from the holster, which automatically began a video and audio recording which continued to record during and after the event. Despite civilian testimony which indicated that a witness thought Officer Lovette utilized the TASER and that he "excessively" shocked Eimers, a review of the TASER download shows that Officer Lovette did not deploy any electric shock to Eimers. Officer testimony matches this information, photographs of Eimers show no burn marks and the Medical examiner later found no wounds consistent with the use of a TASER.

Although Officer Lovette later re-holstered the TASER, the recording continued, which provided audio for approximately 90 minutes. The information on the recording is detailed in this document, in the section entitled "Audio and Video recordings".

After kneeling down, Officer Lovette's knee was placed next to Eimers' head. At that time, Eimers' head was facing toward the Southernmost Beach Café and away from Officer Lovette's knee. One witness stated that he thought Eimers' face was in the sand in a "smothering" manner. All officer testimony indicated that Eimers' face was not put "face down" into the sand, in a smothering manner. The Medical examiner's report later stated that there was no sand found in Eimers' lungs however there was sand noted in and around his nose.

As the struggle continued, Officer Lovette placed his knee on Eimers' back. Testimony from all officers indicated that Eimers was kicking. Several times, Officer Wanciak heard Officer Lovette giving loud verbal commands to Eimers' advising him that he (Officer Lovette) would use his TASER if Eimers did not comply with commands. Officer Calvert arrived and attempted to hold Eimers' feet. He was later relieved by Officer Galbo, who took over that position. Officer Wanciak instructed Eimers "Sir, stay still." Officer Wanciak then ran to her vehicle to retrieve a wire leg restraint device called a "hobble". As seen on dash cam video, Officer Johnson obtained the hobble from Officer Wanciak and brought it to the area Eimers was being arrested. Due to Eimers' ongoing leg movement, Officer Johnson was unable to secure the device on Eimers. Civilian witness Joelle Grassi stated that Eimers was "struggling with the officers, not hitting the officers, but being very uncooperative." It appeared to Grassi that Eimers did not want to be placed into handcuffs, because Eimers was "squirming his legs" as his arms were behind his back.

Sgt. Zamora noted blood behind Eimers ear, and on Officer Lovette's hand, which was holding Eimers' head so that it faced the restaurant. Sgt. Zamora told Officer Lovette to "clean up" and then Sgt. Zamora took over Officer Lovette's position near Eimers' head and Sgt. Zamora also placed his knee on Eimers shoulder area.

Eimers was then successfully handcuffed, and officers attempted to lift Eimers to his feet. At that time, Sergeant Zamora noted that Eimers was unconscious and Eimers' face was blue in color. Sergeant Zamora said "He's out" and removed the handcuffs from Eimers. At 08:38:37 a.m., Officer Del Valle requested dispatch to send a rescue unit. Sgt. Zamora ordered the officers to "Take everything off of him.", referring to removal of clothing which would permit access to Eimers' torso area. After finding no pulse, Officer Celcer and Officer del Valle, who are trained paramedics, began CPR. Officer Wanciak then called for rescue to expedite. Restaurant employees retrieved an Automated External Defibrillator (AED), and gave it to Officer Wallis, who applied the AED pads to Eimers' torso. Officer Garrido retrieved a medical bag from his patrol unit.

The total time from the ending of the video to the request for rescue units is under three minutes.

According to Fire/Rescue channel dispatch times, at approximately 8:40 a.m., Fire Engine 6 arrived on scene. At approximately 8:42 a.m., Medic Two arrived on scene. At approximately 8:57 a.m., Medic Two advised that they were enroute to the Lower Keys Medical Center (LKMC).

LKMC documents show Charles Eimers arrived in the hospital with a history of "Cardiac; cardiomyopathy; renal failure; CHF (congestive heart failure)". Eimers' son Trevor later advised LKMC staff that his father was recently hospitalized and not compliant with his "meds".

The LKMC initial diagnosis of Mr. Eimers' condition was "Cardiac Arrest, Atrial Fibrillation, Cardiomyopathy-with low EF, Pneumonia-right perihillar, Pulmonary Edema-CHF (congestive heart failure), Bladder Infection (UTI), Hypokalemia, Hypoxic encephalopathy." A urine screen, for drugs of abuse ie: cocaine and opiates, was negative.

KWPD Detective Stevens photographed Eimers, who was in a coma, at the hospital. A visual inspection of these photos showed that there was sand in Eimers nose, and ears. The sand in his nose appeared to be on the edges, and not fully packed with sand. It should be noted that these images were taken after Eimers was already treated in the Emergency Room, therefore they do not depict the condition that Eimers was in when he first arrived. The initial assessment by Dr. Gajic noted sand in Eimers' eyes, however, did not make note of sand elsewhere, and the assessment indicated that Eimers was manually ventilated and had "air entry to both lungs".

Detective Stevens spoke with the hospital cardiologist, who advised him that Eimers' heart had "5-10%" ejection fractions which is the percentage of blood which leaves the heart each time it contracts, and a healthy person should have 60% ejection fractions.

Detective Stevens stated that he "kept" Officer Celcer at the hospital. Per hospital staff testimony, KWPD did not leave a police officer posted at the hospital for the duration of Eimers' time at the hospital.

On December 1, 2013, the family was notified of the incident by KWPD Detective Stevens.

On December 4, 2013, Eimers' family elected to remove him from life support. Eimers' son, Trevor Eimers, was present in the hospital, on December 4, 2013, at 1852 hours when his father was pronounced dead.

An LKMC medical record form entitled "Death Record", showed that hospital staff documented that Eimers did not meet "autopsy criteria", and that upon his death, they did not notify the Medical Examiner's office, but instead, sent Eimers' body and his belongings directly to the Dean-Lopez Funeral Home.

Interviews with the hospital staff revealed that they were not aware that Mr. Eimers was in police custody because he was never handcuffed to the bed, and because there was no police officer posted in the area. Additionally, had there been an officer posted, it is hospital protocol that the officer, who would be exposed to sensitive medical information, would be required to sign a HIPPA form, which would have been in the file. This form was not in the file.

RN Angelina Kontodiakos stated that KWPD Detective Stevens spoke with her and asked her to contact him if Eimers expired. RN Kontodiakos wrote Detective Stevens' information on a yellow "stickum" and placed it in the file with instructions to call him in the event of Eimers' death. RN Kontodiakos stated that Detective Stevens checked in with her "a lot" during the time that Eimers was in the hospital. Although RN Kontodiakos was with patient Eimers when he expired, she "didn't think of calling him" (Detective Stevens). RN Kontodiakos stated that she was focused on assisting Eimers' son Trevor, who was upset.

On December 11, 2013, Detective Stevens called SA Smith to advise her that Mr. Eimers was deceased. SA Smith contacted Dr. Scheuerman, M.E., to inquire if he had received Eimers' body. Dr. Scheuerman stated that he had not, and advised that he would contact the Dean-Lopez Funeral Home. Dr. Scheuerman later called SA Smith back and stated that he would have Eimers' body, which had been scheduled for cremation, brought to the Medical Examiner's Office.

On December 12, 2013, Dr. Scheuerman conducted an autopsy on Charles Eimers. On April 28, 2014, the autopsy and medical examiner's report ruled the death of Charles John Eimers to be an "Accident." The report stated the cause of death was "Anoxic Encephalopathy due to Cardiac Dysrhythmia" due to "Dilated Cardiomyopathy" and the contributory factor was listed as "Stress of Struggling with Police".

The Medical Examiner's report showed that Eimers' eyes were "free of petechiae", that Eimers' ribs were fractured (right side #2-7 and left side #2-5, listed as artifacts of resuscitation), Eimers' scalp had no contusions, his skull had no fractures, and there were no noted injuries to Eimers' neck.

The Medical Examiner (ME) summarized that "Mr. Eimers was at risk of a sudden death, at any time, due to either a chaotic cardiac rhythm or worsening of his congestive heart failure. His sudden change from struggling to unresponsiveness is evidence for a dysrhythmia. Due to the resulting cardiac arrest and the resultant hypoxia (low blood oxygen), he suffered irreversible brain damage."

The ME stated that a struggle with officers, would "most likely have resulted in an elevation of circulating catecholamine (chemicals from his adrenal glands) in his blood." This increase "would most likely have had a deleterious effect on his (Eimers) already compromised heart function.

The ME noted that "A few minor, blunt impact wounds were found on his hands and arms at autopsy, but no evidence of impact to the head, neck or torso was found."

CAD/Dispatch (IR-2, 32)

The activity related to the traffic stop, arrest and request for Fire/Rescue was recorded on KWPD Com 1 and Com 2. Verbatim transcripts are located in the case file.

Time (audible time stamp)	Transmission
November 28, 2013, 08:25 a.m.	Officer Celcer calls KWPD dispatch with a traffic stop reference failure to obey traffic control/careless driving. Officer Celcer gives dispatch his location as across from Pizza Hut on the Boulevard. Officer Celcer requested registration information on the Michigan tag.
November 28, 2013, 08:26 a.m.	Dispatcher advises vehicle is registered to Charles Eimers out of Freeland. Officer Celcer advises that the vehicle just left and requests another unit. KWPD officers call out the suspect's

	location as he travels through Key West streets. Sergeant Zamora advises officers: "Do not pursue him." Officer Celcer advises he is "disengaging." Sergeant Zamora tells responding officers to make sure they are recording the incident.
November 28, 2013, 08:29 a.m.	Officer Lovette gives the suspect's direction of travel. Officer del Valle gives the suspect's direction of travel. Sergeant Zamora states to make sure officers have their I-Cops running.
November 28, 2013, 08:31 a.m.	KWPD Officers continue giving suspect's location as he travels through Key West.
November 28, 2013, 08:32 a.m.	Officer Lovette asks Officer del Valle to call out suspect's location because he was out of his view. Officer del Valle tells Officer Lovette "coming toward you on Duval, watch out." Officer Wanciak puts out a suspect description as he passes her unit.
November 28, 2013, 08:33 a.m.	Officer Wanciak advises that the suspect is pulling into the Southernmost Beach Cafe' and states that he is "riding the beach."
November 28, 2013, 08:33 a.m.	Officer Wanciak advises the suspect is on the ground and to slow everybody down because he was detained.
November 28, 2013, 08:35 a.m.	Officer del Valle advises again that the suspect is detained. Officer del Valle requests rescue. Officer Wanciak requests rescue to expedite. Dispatcher advises that rescue has been dispatched.
November 28, 2013, 08:37 a.m.	An unknown officer advises that CPR is in progress.
November 28, 2013, 08:38 a.m.	Officer Wanciak states that the restaurant is bringing out an AED.
November 28, 2013, 8:52 a.m.	Sergeant Zamora requests for a detective to come to scene. Detective Stevens advises he will respond.
November 28, 2013, 8:53 a.m.	Sergeant Zamora requests case

	number. Dispatcher stated that it is being changed from a 10-50(traffic stop) to a 13 I.(suspicious incident)

Fire/ Rescue Channel Dispatch **(IR-52)**

On May 31, 2014, SA Kathy Smith received the Key West Police Department (KWPD) Fire/Rescue channel recordings from Lieutenant (Lt.) Kathleen Ream for the date of November 28, 2013.

Time (audible time stamp)	Transmission
0837- Dispatcher	Key West to Medic Two, Fire to assist, officer requesting rescue at the Southernmost Beach Cafe, 1405 Duval
0837-Medic Two	Medic Two
0837-Dispatcher	Medic two, with Fire to assist, offer, officer requesting rescue at the Southernmost Beach Cafe, 1405, it's going to be in reference to the male involved in the pursuit, they tased him, they're advised they're not sure if he's breathing now, again, Southernmost Beach Cafe, 1405 Duval
0837-Medic Two	Roger 10-4 show us enroute
0837- Dispatcher	CPR is in progress. Fire did you copy that
0838-Unknown	Station two did you copy
0838-Engine Six	Engine six enroute
0839-Dispatch	Engine six enroute at 839
0840-Engine Six	Engine six arrival
0842-Dispatch	842
0844-Medic Two	Key West, Medic Two arrival
0844-Dispatch	Medic 2 at 844
0858-Medic Two	Key West he's uh 3 (Unintelligible), 10-18
0858-Dispatch	At 858
0901-Medic One	Medic One to Medic Two, I'm at the ER, what would you like me to tell the Doctor know you're coming in with?"

All transmissions regarding this case ceased at 0901 hours. According to the audio, Medic Two did not respond to the above question from Medic One, nor did they provide dispatch with their arrival at the hospital.

Sworn Interview with KWPD Sergeant Francisco Zamora **(IR-18)**

On February 20, 2014, FDLE Special Agent (SA) Kathy Smith and SA Mike Langston conducted a sworn, voluntary, digitally recorded interview with KWPD Sergeant Frank Zamora at the Monroe County State Attorney's Office (SAO) in Key West, Florida. Also present during the interview was Sergeant Zamora's counsel, Police Benevolent Association (PBA) Attorney Andrew Axelrad.

Sergeant Zamora explained his activities during the incident involving the arrest of Eimers. Sergeant Zamora said he heard over the police radio that Officer Gary Celcer had conducted a traffic stop on a vehicle. Zamora heard Officer Celcer say "he's taking off on me", thus fleeing from Officer Celcer's traffic stop.

Sergeant Zamora stated in his sworn interview that he instructed other road patrol units to monitor the subject visually, but not pursue, due to KWPD policy. Sergeant Zamora said officers reported that the suspect drove to the 1400 block of South Beach where he parked in the sand. Sergeant Zamora drove to South Beach where he witnessed officers Henry del Valle, Gary Lovette, KathyAnn Wanciak, Nicholas Galbo and Thaddeus Calvert struggling with the suspect who was in a prone position in the sand, and "actively resisting" the officers.

Sergeant Zamora assisted the officers by placing his knee on the suspect's left shoulder. Sergeant Zamora said the suspect was actively resisting arrest and kicking his legs. Sergeant Zamora said the suspect's face was turned to the right during the struggle and he noticed blood behind the suspect's "right side, behind his ear" as well as blood on Officer Lovette's hand. Sergeant Zamora said he "did not know where the blood was coming from". Sergeant Zamora then told Officer Lovette to remove himself and "clean up". Officer Lovette left and Sergeant Zamora took Officer Lovette's position restraining the suspect.

Sergeant Zamora said that handcuffs were then placed on the suspect. Sergeant Zamora then tried to lift the suspect and noticed the suspect was unconscious. Sergeant Zamora said he immediately told other officers "He's out". Sergeant Zamora then quickly removed the handcuffs from the suspect. Sergeant Zamora said the suspect was then rolled onto his back where Officer del Valle began CPR and medical units were called.

Sergeant Zamora estimated the time from his arrival until the suspect was unconscious was one minute. Sergeant Zamora said he never took out any weapons, and did not observe any other officers use a TASER or weapons during the incident.

Sworn Interview with KWPD Officer Gabriel Garrido (IR-19)

On February 20, 2014, FDLE SA Kathy Smith and SA Mid Quad conducted a sworn, voluntary, digitally recorded interview with KWPD Officer Gabriel Garrido at the Monroe County SAO in Key West, Florida. Also present during the interview was Officer Garrido's PBA counsel, Andrew Axelrad.

On November 28, 2013, Officer Garrido was advised over the police radio that Officer Gary Celcer initiated a traffic stop on a vehicle, which had fled. Officer Garrido was a couple of blocks behind the suspect's vehicle when he heard Officer Henry del Valle announce over the police radio that the suspect's vehicle had pulled onto the beach at the "Southernmost".

Officer Garrido saw Officer del Valle get out of his patrol car with his "weapon drawn". Officer Garrido noticed that the suspect's vehicle was parked on the sand. Officer Garrido exited his vehicle and walked toward the suspect's vehicle. The suspect got out of his vehicle as Officer del Valle was "yelling" out "verbal commands". The suspect "appeared to be complying, laid down in the prone position, and had his arms out to the side". Officer Garrido approached the suspect while the other officers continued to give commands. The suspect was still complying and in the prone position. Officer Garrido grabbed the suspect's left hand and placed it into the handcuff. As Officer Garrido attempted to secure the suspect's right hand the suspect began to "stiffen his arms, pull, and roll". Officer Garrido noted that other officers arrived on the scene and placed the suspect's right hand into the handcuff. Officer Garrido's finger then became entangled in the handcuff due to all the "rolling" by the suspect.

Regarding positioning, Officer Garrido stated that he was on the suspect's right side, while the suspect was still in the prone position and Sergeant Frank Zamora was on the suspect's left side. Officer Garrido noticed that the other officers were having trouble controlling the suspect's feet because the suspect was "kicking".

As the officers began to stand the suspect onto his feet, the officers noticed the suspect became unconscious and the officers immediately placed the suspect back down onto the ground. Officer Garrido ran to his patrol car and retrieved his first aid/medical bag. When Officer Garrido came back to the scene he noticed that the suspect was un-cuffed and the officers were administering CPR. Rescue arrived shortly thereafter.

Sworn Interview with KWPD Officer Gary Celcer (IR-20)

On February 20, 2014, FDLE SA Kathy Smith and SA Mike Langston conducted a sworn, voluntary, digitally recorded interview with KWPD Officer Gary Celcer at the Monroe County SAO in Key West, Florida. Also present during the interview was Officer Celcer's PBA counsel, Andrew Axelrad.

Officer Celcer said that on the date in question, he was Westbound on North Roosevelt Boulevard and stopped for a red light at the intersection of Kennedy Drive and North Roosevelt Boulevard. When the light turned green, he noticed a "PT Cruiser" bearing a Michigan tag, improperly pass him from the left turn lane within the intersection. Officer Celcer made the traffic stop, approached the vehicle and made contact with the driver. Officer Celcer asked the driver why he made the improper lane change. The driver said he was "doing the work of God, trying to help or save others". Officer Celcer said the subject was unable to provide vehicle registration or insurance. Officer Celcer told the subject to remain with his vehicle.

While returning to his patrol vehicle, Officer Celcer saw the PT Cruiser drive away, travelling Westbound on North Roosevelt Boulevard. Officer Celcer said he announced over the radio that he needed additional units to assist because the subject had "left the scene". Officer Celcer continued to follow the subject with his emergency lights and siren activated. Officer Celcer thought that the subject may have thought "he was free to go". Officer Celcer said he was behind the subject when the subject began to pass other cars in the center turn lane and was travelling approximately 50 miles per hour. Officer Celcer then terminated his active pursuit. Officer Celcer then heard Officer KathyAnn Wanciak advise via radio that the subject had parked his vehicle on the beach at 1405 Duval Street. Shortly thereafter, while Officer Celcer was driving to the location, he heard Officer Wanciak on the radio say "one in custody".

Officer Celcer said when he arrived at the location he heard Officer Henry del Valle request a rescue unit to respond to the location. Officer Celcer said he walked up to the subject who was on his back, in the beach area and observed Officer del Valle check for a pulse, then start chest compressions. Officer Celcer retrieved a "bag valve mask" from Officer Gabriel Garrido's first aid kit and began to give ventilations to the subject while Officer del Valle was performing compressions. Officer Celcer stated CPR was continued until Fire/Rescue units arrived and took over.

Officer Celcer said he did not observe any weapons displayed, or used by other officers. Officer Celcer said he did not speak with any witnesses and was not present when the subject was struggling with officers.

Sworn Interview with KWPD Officer Matthew Johnson (IR-21)

On February 20, 2014, FDLE SA Kathy Smith and SA Mid Quad conducted a sworn, voluntary, digitally recorded interview with KWPD Officer Matthew Johnson at the Monroe County SAO. Also present during the interviews was Officer Johnson's PBA counsel, Andrew Axelrad.

The following is a summary of Officer Johnson's statement:

On November 28, 2013, Officer Johnson heard a call for assistance on the radio regarding a traffic stop. He learned via radio that the suspect's vehicle stopped on South Beach. Officer Johnson parked approximately a block away and approached on foot.

Upon arrival, Officer Johnson was approached by Officer Wanciak who gave him a hobble device to give to arresting officers. Officer Johnson then approached the handcuffed suspect who was on his stomach in the sand and attempted to secure a hobble device on the suspect's legs. The suspect was “disregarding” the officer's loud verbal commands to "Stop resisting". Officer Johnson did not see the position of the suspect's head because he was focused on securing the hobble on the suspect's legs. Before the hobble could be tightened on the suspect's legs Officer Johnson heard Sergeant Frank Zamora say to" Take everything off of him". Sgt. Zamora then rolled the suspect over onto his back and officers started performing CPR. Fire/Rescue then arrived at the scene.

During the incident, Officer Johnson never unholstered his firearm or any intermediate weapons nor did he see any officers with their weapons drawn.

Sworn Interview with KWPD Officer Thaddeus Calvert (IR-22)

On February 20, 2014, FDLE SA Kathy Smith and SA Mike Langston conducted a sworn, voluntary, digitally recorded interview with KWPD Officer Thaddeus Calvert at the Monroe County SAO. Also present during the interviews was Officer Calvert's PBA counsel, Andrew Axelrad.

The following is a summary of the statement of Officer Calvert:

On November 28, 2013, Officer Calvert heard Officer Gary Celcer advise via radio a driver had just fled during a traffic stop. When radio traffic advised the suspect was on South Beach, Officer Calvert drove to the scene. Upon arrival he saw Officers del Valle, Garrido, Lovette, and Wanciak on the beach with the suspect. Officer Calvert then began to "clear" the suspect's vehicle.

It appeared the suspect was originally complying with the arresting officers and then started resisting. Officer Calvert noted that the suspect was on the ground and officers were trying to restrain him but they couldn't because he was "turning back and forth and balling up". Officer Calvert then came to assist officers and grabbed control of the suspect's feet.

Officer Galbo then arrived and relieved Officer Calvert who was holding down the suspect's feet. Officer Calvert then went to conduct crowd control. As Officer Calvert was walking away he heard Sergeant Frank Zamora advise that the suspect was turning blue. The officers started CPR and then Rescue responded.

Officer Calvert estimated approximately one minute elapsed from the time Eimers was being handcuffed to the time the suspect turned blue.

Officer Calvert stated he never took any weapons out of his holsters nor did he see any other officers with weapons out of their holsters. He stated Officer del Valle had an AR-15 slung over his back.

Sworn Interview with KWPD Detective Todd Stevens (IR-23)

On February 20, 2014, FDLE SA Kathy Smith and SA Mike Langston conducted a sworn, voluntary, audio-recorded interview with KWPD Detective Todd Stevens at the Monroe County SAO. Also present during the interviews was Detective Stevens' Police PBA counsel, Andrew Axelrad.

The following is a summary of Detective Stevens' statement:

On November 28, 2013, Detective Todd Stevens was the duty detective and was requested by Sergeant Frank Zamora to respond to South Beach regarding a suspect being taken into custody. Sergeant Zamora explained that Officer Celcer was conducting a traffic stop and the suspect fled and came to a stop on South Beach. Sergeant Zamora said that the suspect's face turned blue and that officers had un-cuffed the suspect, who was then was taken to the hospital.

Detective Stevens contacted Detective Janeth Calvert and requested her to respond to the scene for crime scene purposes. Detective Stevens then responded to the hospital and photographed the suspect's ears, nose, and wrists. Detective Stevens noticed sand in the suspect's ears and nose and older abrasions on the suspect's wrists.

According to Detective Stevens, the hospital cardiologist advised him that a CT scan had been performed on the suspect. The CT scan revealed a cardio nonaschemic myopathy and ejection fractions at 5 to 10%. The cardiologist stated that a healthy person should have 60% ejection fractions. Detective Stevens then spoke to a nurse by the name of "Angelina" (later identified as RN Kontodiakos) and learned that the suspect was going to be admitted to "ICU" (Intensive Care Unit). Detective Stevens gave RN Kontodiakos his cell phone number and requested to be advised of any changes in the suspect's health.

Detective Stevens then went to the scene of the arrest and assisted FDLE SA Mid Quad with interviews of Southernmost Beach Café employees who witnessed the incident. Detective Stevens then obtained a video from the manager of the restaurant. The video was originally captured by a tourist, and provided to the manager.

Detective Stevens then responded to the KWPD station to write reports.

The following Sunday, [December 1, 2013] Detective Stevens' supervisors realized Detective Stevens had not notified Eimers' next of kin; therefore he was directed to locate them. Detective Stevens located "the brother" (name not provided), who stated he would contact Eimers' family members.

The hospital then contacted Detective Stevens to advise that Eimers' son, Trevor Eimers, had arrived at the hospital. The hospital then provided Trevor with Detective Stevens' cell phone number. Trevor then spoke with Detective Stevens, who requested that Trevor notify Detective Stevens if there were any changes in Trevor's father's health.

Detective Stevens then spoke with the son to give him access to Eimers' vehicle, so that certain items could be retrieved. "A few days later", Detective Stevens contacted the hospital to inquire about Eimers' condition and was told that Eimers' son had removed his father from life support "the previous week." Detective Stevens then contacted his supervisors, who in turn, contacted FDLE.

Sworn Interview with KWPD Officer Gary Lee Lovette (IR-24)

On February 20, 2014, FDLE SA Kathy Smith and SA Mid Quad conducted a sworn, voluntary, digitally recorded interview with KWPD Officer Gary Lee Lovette at the Monroe County SAO. Also present during the interviews was Officer Lovette's PBA counsel, Andrew Axelrad.

The following is a summary of Officer Lovette's statement:

On November 28, 2013, Officer Lovette heard Officer Celcer advise via radio that a vehicle had fled from him. Officer Lovette then saw the vehicle and tried to initiate a traffic stop on the vehicle with lights and sirens. The suspect did not stop. The vehicle ultimately stopped at the Southernmost Beach Cafe on the beach.

Upon arrival, Officer Lovette heard officers yelling "loud verbal commands" to the suspect. The suspect was on the ground and resisting the officer's commands. Officer Lovette had his knee placed next to the suspect's head. The suspect's head was facing away from Officer Lovette and toward the restaurant. Officer Lovette then pulled his department issued TASER out, and removed the cartridge, with the intention to [expose the prongs] and deliver a "drive stun". Officer Lovette elected not to "tase" Eimers because Officer Garrido's finger was stuck in the handcuffs and was therefore at risk of also being affected by the TASER. Officer Lovette stated that he put the cartridge back onto his TASER and re-holstered his TASER.

Officer Lovette stated the suspect "kept trying to turn his head" toward Officer Lovette. As this occurred, Officer Lovette noticed that the suspect had blood behind his right ear. Officer Lovette got the blood on his hands and was instructed by Sergeant Zamora to clean the blood off of his hands. Sergeant Zamora then took Officer Lovette's position at the suspect's head.

After cleaning up, Officer Lovette attempted to hold the suspect's feet because the suspect was kicking. When officers tried to stand the suspect up he went limp. The handcuffs were removed from the suspect and he was rolled over on his back. Officer Lovette then cut off the suspect's denim jacket and hospital shirt. Officer Lovette noticed the suspect was wearing a hospital bracelet. Officer Lovette stepped away from the suspect in order to give medically trained Officers del Valle and Celcer access to the suspect. Fire/Rescue arrived at the scene and the suspect was taken to the hospital.

Sworn Interview with KWPD Officer Derek Wallis (IR-25)

On February 20, 2014, FDLE SA Kathy Smith and SA Mike Langston conducted a sworn, voluntary, digitally recorded interview with KWPD Officer Derek Wallis at the Monroe County SAO. Also present during the interviews was Officer Wallis' PBA counsel, Andrew Axelrad.

The following is a summary of Officer Wallis' statement:

Officer Wallis heard the call on the radio from Officer Celcer that a suspect had just fled from a traffic stop. Officer Wallis saw the suspect's vehicle and activated his lights and sirens. The suspect began to drive faster. Officer Wallis then turned his lights and sirens

off. Officer Wallis stated they ended up at South Beach with the vehicle parked on the beach.

Upon arrival, Officer Wallis cleared the vehicle to make sure there were no other occupants. Officer Wallis stated that he observed the suspect positioned on his stomach being handcuffed. Officer Wallis heard at least three officers telling the suspect to" Stop resisting".

Officer Wallis heard Sergeant Zamora instruct the officers to remove the handcuffs. Officer Wallis then gave Sgt. Zamora his handcuff key. After removing the handcuffs, the suspect was rolled over. Officer Wallis than ran to get a defibrillator and applied the AED pads to the suspect. He stated the defibrillator advised "No shock" and CPR was continued.

Sworn Interview with KWPD Officer Nicholas Galbo (IR-26)

On February 20, 2014, FDLE SA Mid Quad and SA Kathy Smith conducted a sworn, voluntary, audio-recorded interview with KWPD Officer Nicholas Galbo at the Monroe County SAO in Key West, Florida. Also present during the interview was Officer Galbo's PBA counsel, Andrew Axelrad.

The following is a summary of Nicholas Galbo's statement:

On November 28, 2013, Officer Galbo was advised over the police radio that a vehicle fled the scene of a traffic stop, initiated by Officer Gary Celcer. Officer Galbo was advised via radio that the suspect's vehicle was at the beach, located at the Southernmost Beach Cafe, and that the suspect's vehicle had driven up onto the sand.

Officer Galbo arrived at the scene and saw the suspect "proned out" and several officers attempting to place the suspect in handcuffs. Officer Galbo noticed that the suspect was "resisting and kicking his legs up". Officer Galbo switched out with another officer, and attempted to gain control of the suspect's feet and ankles. The suspect was still trying to "lift his feet and move around". The suspect was then placed in handcuffs.

The officers tried to sit the suspect up, when one of the officers noticed that the suspect was not responding. The officers laid the suspect back down. Officer Galbo and Sergeant Frank Zamora took the handcuffs off of the suspect and rolled the suspect onto his back. Officers began performing CPR until the paramedics arrived and took over medical duties.

Officer Galbo did not have any weapons out when he arrived on scene, but was aware of an officer carrying an AR-15.

Sworn Interview with KWPD Officer KathyAnn Wanciak (IR-27)

On February 20, 2014, FDLE SA Kathy Smith and SA Mike Langston conducted a sworn, voluntary, digitally recorded interview with KWPD Officer KathyAnn Wanciak at the Monroe County SAO. Also present during the interviews was Officer Wanciak's PBA counsel, Andrew Axelrad.

The following is a summary of Officer Wanciak's statement provided during the interview:

Officer Wanciak heard the call on the radio from Officer Celcer that a suspect had just fled from a traffic stop. The vehicle ended up at the Southernmost Beach Cafe.

Upon arrival, Officer Wanciak began running along a seawall, towards the suspect's vehicle. Officer Wanciak then gave the suspect verbal commands "Get on the ground", "Get on the ground". Officer Wanciak heard the suspect say "I didn't do anything wrong".

The suspect "then got down with his face in the sand". Officer Wanciak observed Officer Garrido arrive, holster his weapon and retrieve his handcuffs. Officer Wanciak then observed Officer Garrido place the suspect's left hand in a handcuff. At that point, Officer Wanciak observed the suspect begin "flailing his arm around". Officer Wanciak attempted to assist in securing the suspect's arm. Officer Wanciack told the suspect "Stop resisting, just stop it."

After the handcuff was placed on the suspect, he continued kicking. Officer Wanciak said "Sir, stay still". Officer Wanciak heard Officer Lovette giving loud verbal commands that he "would use his TASER on him" if the suspect did not comply with officer's commands. Officer Wanciak saw Officer Lovette with his TASER out but noted that he did not deploy it. Officer Lovette told the suspect, "Sir, if you resist your going to get tased". The suspect continued to flail with his legs. As the struggle ensued, an unknown officer shouted "we need a hobble". Officer Wanciak ran to get a hobble from her car. When she came back she observed sand on the suspect's face, which was turned to the side. Officer Wanciak heard Sergeant Zamora yelling, "He's out. He's out! Take them off! Take them off! ". Officer Wanciak observed the handcuffs being removed and saw CPR being administered. Officer Wanciak requested over the radio for the paramedics to expedite the call.

Officer Wanciak estimated the takedown only lasted a couple of minutes. Officer Wanciak noticed one man that was "yelling" that the police "murdered the guy". Two witnesses later identified as Jim Burton and Leslie Charlene Knotts came up to Officer Wanciak and stated that the suspect almost ran them over and they positively identified the suspect's vehicle. The witness statements are included in the summary in the Civilian Statement Section of this investigative summary.

Sworn Interview with KWPD Officer Gustavo Medina (IR-28)

On April 2, 2014, FDLE SA Kathy Smith and SA Mike Langston conducted a sworn, voluntary, digitally recorded interview with KWPD Officer Gustavo Medina at the Monroe County SAO. Officer Gustavo Medina's PBA counsel, Andrew Axelrad, represented him via telephone during the interview.

The following is a summary of Officer Medina's statement:

On November 28, 2013, Officer Medina heard Officer Celcer advise via radio that a suspect drove off during a traffic stop, and had parked his car on the Southernmost Beach.

Officer Medina arrived at the beach, and observed the suspect struggling with KWPD officers while they were trying to detain him. Officer Medina assisted Officer Garrido with handcuffing the suspect. Officer Medina took the suspect's left hand, and continued to struggle to get him handcuffed. He stated the suspect was large, very strong and that he kept tensing up and grabbing officer's fingers while simultaneously bracing his body. Officer Medina noted that the suspect was handcuffed, and his face was turning side to side. While handcuffing him, Officer Medina noticed the suspect had blood in his right ear. During the handcuffing, Officer Medina noticed Officer Lovette was positioned at the suspect's head and shoulder area.

After securing the suspect, the officers tried to stand the suspect up onto his feet. At that time, Sergeant Zamora advised that the suspect was unresponsive. The officers placed the suspect back on the ground and Officer del Valle and Officer Celcer began administering CPR. The paramedics arrived and took the suspect to hospital.

Sworn Interview with KWPD Officer Henry del Valle (IR-29)

On April 2, 2014, FDLE SA Kathy Smith and SA Mike Langston conducted a sworn, voluntary, digitally recorded interview with KWPD Officer Henry del Valle at the Monroe County SAO. Officer del Valle's PBA counsel, Andrew Axelrad, represented him via telephone during the interview.

The following is a summary of Officer del Valle's statement:

On November 28, 2013, Officer del Valle heard Officer Celcer advise via radio that a suspect drove off while Officer Celcer was conducting a traffic stop. Officer del Valle observed and followed the suspect vehicle to South Beach where it stopped.

Officer del Valle exited his vehicle with his rifle and engaged the subject verbally by instructing him to: "Get out of the car.", and to "Show me your hands.", and to "Get on the ground." Officer del Valle stated that he gave loud, repetitive and clear verbal commands. Officer del Valle was close in proximity to the suspect while he was giving these commands. The suspect then exited the vehicle.

Officer del Valle attempted to get control of the suspect by giving loud verbal commands to the suspect. The suspect started to comply and laid down on the sand. Officer del Valle then approached the suspect, whose head was raised in an upward position, looking up at Officer del Valle.

Additional KWPD officers then arrived on the scene and attempted to handcuff the suspect. The suspect began to resist by "pulling away, throwing elbows and moving around." Officer del Valle then assisted officers who were attempting to secure the suspect's left hand. Officer del Valle advised that the suspect was strong. Officer del Valle then ran around the suspect and began to maintain a line of sight, from several feet away. The suspect was in a prone position and was lifting his head. Officer del Valle stated the suspect's head was" not smothered in the sand." According to Officer del Valle, the sand was on the suspect's face because the suspect was moving his head around while being handcuffed.

Officer del Valle and other officers then attempted to get the suspect to his feet. It appeared to Officer del Valle that the suspect was having trouble standing. Officer del Valle noted the suspect's face was a grey, pale color. The suspect then became unconscious and the officers laid him down and un-cuffed him. As a certified paramedic, Officer del Valle stated that he knew there was a medical problem and he called Rescue. Officer del Valle and Officer Celcer, who is also a trained paramedic, began administering CPR to the suspect. Officer del Valle checked twice for a pulse and could not find one. Officer del Valle then began chest compressions and Officer Celcer began ventilations until rescue arrived, and the suspect was taken to the hospital.

Officer del Valle estimated that the entire incident took around three and one half minutes. Officer del Valle estimated that approximately one minute or one minute and a half lapsed between the time the suspect was handcuffed and CPR began.

Sworn Interview with KWPD Officer Randle Hartle (IR-30)

On April 21, 2014, FDLE SA Kathy Smith contacted KWPD Officer Randall Hartle regarding the in-custody death of Charles Eimers via telephone. Hartle stated that he was not involved in the traffic stop or the arrest of Eimers. Officer Hartle stated that he arrived at the scene after the arrest and observed officers providing medical assistance to Eimers.

Electronic Control Device "TASER" Download (IR- 17)

KWPD Sergeant Jeff Williamson provided FDLE with a copy of the data download from a total of eleven electronic control devices referred to as "TASERs". The download occurred on November 28, 2013 at 2:20 p.m.

A review of the TASER data from the following KWPD officers revealed that none were "fired" during the time that Eimer's was arrested:

Officer Calvert, Officer Celcer, Officer Del Valle, Officer Galbo, Officer Garrido, Officer Hartle, Officer Lovette, Officer Medina, Officer Wallis, Officer Wanciak, and Sergeant Zamora.

Civilian Witnesses	**(IR's 5, 6, 7, 27, 34, 44, 45)**

There are a total of seven witness statements.

A. Three civilians who were working at the Southernmost Beach Café on November 28, 2013. Their interviews were conducted at the Southernmost Beach Cafe by FDLE SA Quad and KWPD Detective Stevens on November 28, 2013 following the Charles Eimers' arrest.

B. Two witnesses from Alabama gave a written statement to KWPD.

C. Three witnesses from the Key West Cupcakes Bakery provided SA Smith with testimony regarding what they heard Officer Lovette say the day after the arrest.

1. Joelle Grassi (IR-5) (Southernmost Beach Café Employee)

Grassi stated that at approximately 0830 hours, Grassi saw a gray PT Cruiser drive off the road onto the beach. Grassi saw a man, later identified as Charles J. Eimers, get out of the car. Several seconds later a Key West Police Department officer drove up and got out of his car with a large gun and approached Eimers. The police officer asked Eimers to "Get on the ground", at which point several other police officers arrived on the scene. Eimers was acting "very strange" and did not listen to the officers commands to "Get on the ground".

Grassi walked away in the event Eimers had a weapon. Grassi observed several customers who were running away. After realizing that Eimers did not have a weapon, Grassi walked back to the scene, and noticed 4 to 5 police officers surrounding Eimers, who was lying down on the ground.

Eimers was "struggling with the officer, not hitting the officers, but being very uncooperative". It appeared to Grassi that Eimers did not want to be placed into handcuffs. Eimers was "squirming his legs", as his arms were behind his back. While Eimers was on the ground, Grassi heard Eimers say "No". Grassi also heard Eimers say other words, however, they were inaudible.

As the officers were trying to get handcuffs on Eimers, Grassi stated that "it seemed" like an officer had tased him on the right side of his upper body towards Eimers' neck or his upper arm.

After the officers realized Eimers was not moving anymore, they began to give Eimers CPR. At that point, one of the officers came to the restaurant and obtained the AED.

Grassi said that the police and paramedics conducted CPR for a "long time", and eventually saw Eimers being placed on the stretcher and into an ambulance.

2. William Barrow (IR-6) (Southernmost Beach Café Employee)

While in the restaurant, Barrow heard noise coming from the restaurant's beach area. Barrow then saw people running from their tables. Barrow walked over to where the noise was coming from and observed a PT Cruiser facing the pier, stuck in the sand. Barrow saw an older male, later identified as Eimers, in his late 50's early 60's, with red glassy eyes," looking confused."

Barrow observed Eimers walk out of the car and kneel on the sand. Barrow noticed a female Key West Police Officer shouting commands at Eimers, and a male police officer behind her carrying an AR-15 approaching Eimers. Eimers was lying flat on his stomach and a male police officer had his knee on Eimers' back. The officer was yelling, "Stop resisting. Stop resisting". A New York reserve police officer who was dining at the restaurant told Barrows that the force utilized by the officers, to subdue Eimers, specifically, the TASER, was excessive. This alleged reserve officer was not located by FDLE.

Barrow estimated that approximately five (5) or more police officers approached Eimers. Barrow stated that Eimers began to wiggle his lower body. The officers then began to wrap Eimers' feet up in what appeared to be black cord or black wire.

Barrow did not see Eimers resisting, however, he noticed Eimers' body may have been moving due to an officer utilizing what appeared to be a TASER in the upper chest area of Eimers. Barrow stated the police officer was repeatedly striking Eimers with the TASER, which Barrow believed may have caused Eimers to move. The police officers then rolled Eimers to his side, at which time, Barrow noticed that Eimers' face was covered in sand and appeared to look blue in color. Barrow saw several officers draw their weapons on Eimers, and said that Eimers went to a knee and then went face down onto his stomach. One of the police officers then placed his knee into Eimers' chest area, and then Eimers eventually was placed onto his back. Barrows believes the officers were all "trying to smother" Eimers and subdue him. The police officers then began CPR on Eimers. Barrows said that the female officer retrieved a defibrillator from the restaurant, and the officers began to utilize it on Eimers. Barrow said that the police officers, along with the medical personal, continued to perform CPR on Eimers as he was taken into the ambulance.

3. Kassie Dolson (IR-7) (Southernmost Beach Café Manager)

On November 28, 2013, at approximately 0835 to 0840 hours Dolson was working in the "back area" of the restaurant when she overheard the staff members saying that there was some "stuff" going on in the front area of the restaurant. Dolson walked over to the front area of the restaurant on the beach and noticed a handful of Key West Police Officers surrounding a "guy", later identified as Eimers, who was face down in the sand, motionless, and handcuffed behind his back.

Dolson estimated that there were 4 to 5 officer trying to lift Eimers up, while trying to tie his legs together. The officers tried to lift Eimers up 2-3 times and then one of the officers noticed that Eimers body went limp, and looked as if he was not breathing.

Dolson then saw the officers place Eimers on his back and begin performing CPR. Dolson heard one of the officers call for an AED, and Dolson began to retrieve the AED. Dolson went to retrieve the restaurant's AED but noticed that one of her employees had already taken the device off the wall and provided it to the police officer.

Dolson said she did not see Eimers struggling with the police officers, nor did she see any of the police officers struggling with Eimers. Dolson did not see a TASER being deployed by the police officers and she did not hear anything being said from Eimers or the police officers.

4. Jim Burton and Leslie Charlene Knotts (IR-27) (Witnesses from Alabama)

On November 28, 2013, Officer Wanciak obtained the following statement:

On November 28, 2013 Jim Burton and Leslie Charlene Knotts, were visiting from Mobile, Alabama. They were in their vehicle when a silver vehicle "almost hit them while they were approaching an intersection". They later saw police handling a matter involving a silver vehicle and told officers what they saw.

5. Sherrie Waltz (IR-34) (Witness from Key West Cupcakes Bakery)

FDLE was made aware of this witness by the Horan, Wallace and Higgins Law Firm. On May 15, 2014, SA Smith and Monroe County Assistant State Attorney (ASA) Val Winter interviewed Sherrie Waltz at the Monroe County State Attorney's Office.

Ms. Waltz stated that on November 29, 2013, the day after Thanksgiving, that KWPD Officer Lee Lovette came into her place of employment, Key West Cupcakes. She stated that Lovette would come in often because his mother Ada Marrinitti also worked at the bakery. Ms. Waltz stated that Lovette told his mother, Mary Nowak and herself [Sherrie Waltz] that his Thanksgiving "was fine until the chase". Lovette stated it ended at South Beach.

Waltz stated that Lovette said that the guy got out of his car very combative and flailing his arms and he took him down and got him on the ground. Waltz stated that Lovette said that he and another officer got on his back. Lovette then stated he held his TASER to the back of the guy. Ms. Waltz stated that Lovette made statements that he was going to tase the guy but an officer's pinky finger got stuck in the handcuffs. Lovette stated that the guy was kicking his legs up and flailing and lifting the officers off of him. Waltz stated that Lovette made a comment that he had "elbowed the guy in the back of the head to push his head in the sand" and that "quieted him down". Ms. Waltz stated that Lovette made comments that the "guy was really strong and must have been on drugs".

Approximately a week later, Ms. Waltz stated that Lovette was speaking with his mother about his trip to Orlando and his mother asked him if he knew anything about the case and if Eimers was still alive. Lovette stated, "Yeah he's still alive". Lovette's mother told him that it was on the front page of the paper that he died. Lovette stated, "He's not dead, if he was I would still be away."

Ms. Waltz stated that Lovette mentioned a lot of times that he did not tase the guy. She stated that Lovette jokingly made comments about tasing people. Ms. Waltz stated that Lovette's mother said something she could not hear and Lovette responded, "I have already killed someone once, I won't be doing that again". Ms. Waltz stated it was said in a joking manner. Ms. Waltz believed that during these conversations with Lovette, he was boasting and bragging.

6. Paul Rutigliano (IR-44)) (Witness from Key West Cupcakes Bakery)

On May 15, 2014, SA Kathy Smith and Monroe County Assistant State Attorney (ASA) Val Winter interviewed Paul Rutigliano at the Monroe County State Attorney's Office (SAO). Mr. Rutigliano is co-owner of Key West Cupcakes. Key West Police Department (KWPD) Officer Lovette's mother Ada Marrinitti worked for Rutigliano during the timeframe of the arrest of Charles Eimers.

Rutigliano stated that he heard "stuff" said by Officer Lovette but could not remember any details. Rutigliano stated he did remember that Officer Lovette stated that "the guy was trying to get away."

Rutigliano stated that when Officer Lovette spoke, Rutigliano did not pay attention, because he "was not interested." Rutigliano stated that he was present during the conversation between Officer Lovette and the bakery employees which occurred the day after the arrest of Charles Eimers. Rutigliano apologized for not having any additional information. He stated that he would "tune out" Officer Lovette and not pay attention to what Officer Lovette was saying.

7. Mary Nowak (IR-45)) (Witness from Key West Cupcakes Bakery)

On May 29, 2014, at 0900 hours, SA Kathy Smith and SA Mid Quad arrived at the Key West Cupcakes bakery to interview Mary Nowak regarding statements she may have heard from Key West Police Department (KWPD) Officer Lovette the day after Charles Eimers' arrest.

Ms. Nowak stated the day after Thanksgiving, Officer Lovette came into the Key West Cupcakes' bakery and said he had a "lousy Thanksgiving" because he had a problem with what he thought was a "homeless" person that "had taken off" in a car. Officer Lovette stated that at the beach, "the guy" was "resisting and being combative and fighting them."

Officer Lovette stated that they were trying to "restrain him and putting him in handcuffs." Officer Lovette said "this guy was so smart" to intentionally have an officer get his finger caught in the handcuff so he could not get tased. Officer Lovette said that he had to "hit him (Eimers) in the back of the head... while he was trying to handcuff him." After the arrest Officer Lovette walked away, and was told by another officer, that "the guy went limp." Officer Lovette told another officer "He was fine when I left him, so whatever happened, you did it."

Nowak stated that at the bakery, Officer Lovette was laughing about "putting a man in the hospital and he did not feel bad about it at all." Nowak stated she heard that Officer Lovette had received other complaints about "roughing up" homeless people.

She stated that Officer Lovette went on vacation to Disney World following the arrest of Eimers. When Officer Lovette got back, the morning newspaper published an article that Eimers had died. That day, Officer Lovette came into the bakery. A bakery employee said to Officer Lovette, "You know he died." Officer Lovette responded, "Oh no he didn't, If he died, I would have known and wouldn't have been back, I wouldn't be back here right now if he died."

Audio and Video Recordings **(IR's 15, 16, 17, 47)**

A. A tourist utilized a cellphone to record the incident. The video contains images of Mr. Eimers' arrival on the beach and a portion of Eimers' arrest. The video shows Eimers' getting out of his vehicle on the beach and initially responding to officer's commands. The video then reveals Eimers' feet and body moving as officers attempted to place him in handcuffs.

B. Upon arrival at the scene, Officer Lovette removed his TASER from its holster, which began an audio and video recording. The TASER remained in a recording mode for several hours. Officer Lovette then spoke with several co-workers and acquaintances and recounted the incident. The conversations vary as Officer Lovette recounts the incident:

- All conversations indicated Officer Lovette did not deploy his TASER on Eimers
- Conversation indicated Officer Lovette felt that the officers "did everything by policy", and that the KWPD officers did not "chase" Eimers' vehicle.
- In several conversations Officer Lovette expresses that Eimers was very strong and states Eimers was either "fighting" the arresting officers, or he expresses that Eimers was "...beating the shit out of six of us...."
- Officer Lovette told an unknown person that "we tackled him and got in a fight."
- Officer Lovette stated "Me, I dropped like a fucking bomb on his head."
- When an unknown male asked, who "killed" Eimers, Officer Lovette responded "Gabe"

- When asked "How bad did y'all beat him up, though?" Officer Lovette replies "Mainly just me."

- Regarding the next phase, Officer Lovette acknowledges that there will be an investigation.

- Officer Lovette summarizes the event in several ways in different conversations:

  - As a "police involved death"
  - As an "in custody murder"
  - In response to an unknown remark, Officer Lovette states "That would be funny if we didn't just kill someone."
  - In response to an unknown remark, Officer Lovette states "We just killed someone."
  - In response to an unknown phone call Officer Lovette states "...yeah, well we killed him..."
  - In response to an unknown person Officer Lovette states "He's not breathing anymore."

C. On June 3, 2014, SA Smith and SA Quad re-interviewed Officer Lovette, in the presence of his PBA Attorney Andrew Axelrad, for the purpose of clarifying his statements both on the TASER recording, and statements made to civilian witnesses. In summary, Officer Lovette stated that his remarks were made either jokingly, to "shop talk", to "decompress" with trusted officers, or to make himself look like "a bad ass". As to the force used during the arrest of Eimers, Officer Lovette stated he did not punch, elbow, or hit Eimers. Officer Lovette stated that he did not deploy his TASER during the arrest of Eimers. Officer Lovette stated that Eimers was very strong and was resisting and fighting the officers while they were trying to handcuff Eimers.

D. Patrol car dash camera videos were recorded from Officer Wanciak, del Valle, Lovette, Medina, Garrido and Celcer. Along with the videos, are recordings from the dash camera's external microphones, which are issued by KWPD and were worn by the KWPD police officers. This audio captured portions of the following phases: pre arrest, arrest, and post arrest. The statements taken from the KWPD officers are consistent with these recordings, for example, Officer Celcer's dash cam depicts the traffic stop of Eimers. Officer Celcer, Lovette and Wanciak's dash cam shows Eimers' pattern of travel to the Southernmost Beach. The external microphone of Officer Medina capture Officers del Valle and Wanciak giving loud verbal commands and it captures Officer Garrido saying "Ow" when his finger was stuck in the handcuff. Officer Medina's microphone also captures Eimers saying "No".

Crime Scene	**(IR-13, 56)**

On December 4, 2013, FDLE SA Smith received a CD copy of the crime scene and

hospital pictures from KWPD. KWPD Crime Scene Investigator (CSI) Detective Janeth Calvert took the photographs of the crime scene and Detective Stevens took the photographs in the Hospital.

A review of the CD revealed the following:

The images taken at the crime scene, labelled within the disc as 3393-3496 include but are not limited to images of the general area surrounding the Southernmost Beach Café, images within the crime scene tape area to include the arrest area, images of the exterior and interior of Eimers' PT Cruiser which was parked on the beach.

Of particular note were:

Tire marks in the sand where Eimers drove onto the beach.

Eimers' vehicle parked on the beach.

Red medical bags located in the area where CPR occurred.

Several items of clothing which appear to have been cut off for medical access to Eimers.

A prescription bottle of Nitrostat, an aspirin bottle and several additional prescription bottles.

It was noted that the car was filled with clothing, food, drinks, laundry, mattresses, pillows, rope, mail, and a briefcase with personal effects.

The images taken at the Emergency Room, labelled within the disc as 1-32, are images of Eimers at the hospital, lying on an orange backboard, which is placed upon a hospital table.

Also included are images of hospital heart and oxygen monitors.

The images of Eimers were taken from various angles and showed:

- Eimers on the table, with a small amount of sand showing on both the outer portion of the nose area and a small amount on the inside of his nose. It is noted that Eimers is intubated, and has patches associated with a defibrillator attached to his torso. A hospital bracelet and blood appear above the right wrist area.

- Eimers' right side, showing sand in his ear.

- Eimers' left arm showing medical tubing and an open scab

- A close-up of the exterior and interior of Eimers' nose, showing sand around the edges both outside and inside of the nose.

- A close up image of Eimers' right ear, eye and forehead, showing sand in his ear.

- Eimers' left and right arms and hands.
- An image of Eimers' left hand showing a red mark above the knuckle area.
- Eimers' left ear, showing sand throughout.
- The top of Eimers' head, showing no marks.
- Eimers' face, showing no marks. Sand is noted in the nose area.
- The torso area between the groin and bellybutton, showing a red area.
- Eimers' left side, depicting a defibrillator pad.

Interviews with CARE Ambulance Paramedics (IR 's 8, 9, 10, 11, 54)

On November 28, 2013, the CARE Ambulance Paramedics, Mike Brockner, Craig Faucett, and Randy Charles responded to 1405 Duval Street reference a medical emergency. On December 2, 2013, the paramedics were all individually interviewed by SA Smith. Each paramedic stated the arrestee was unresponsive the entire time they were with him and that he did not make any statements. The paramedics transported the patient to Lower Keys Medical Center.

A review of the hospital records showed that Paramedic Charles' written report stated "KWPD reported that PT left his vehicle and ran, then collapsed on the beach." Because this conflicts with video and testimony, a second interview was conducted with Paramedic Charles. In the second FDLE interview Paramedic Charles stated "I can't remember whether it was an officer or dispatch" who provided him with that information.

Hospital Records (IR 46)

The review of Page 1 of 8 of the LKMC hospital records' Nurses Chart indicates that on November 28, 2013, at approximately 913 a.m., Mr. Eimers was admitted in the Lower Keys Medical Center (LKMC). Mr. Eimers was seen by Dr. Gajic. Dr. Gajic stated that "upon presenting to the Emergency Department, his name with [sic] unknown, however, a prescription bottle was found in his pocket and via that information, it was found that he is from Michigan. He apparently has been seeing a cardiologist and had a catheterization in the recent past because of severe left ventricular systolic dysfunction. The cardiac catheterization did not show any evidence of obstruction. He was diagnosed with "nonschemic cardiomyopathy".

Dr. Sarahi Rodriguez-Perez, then provided a consultation, and evaluated Mr. Eimers. Dr. Rodriguez-Perez stated that "per emergency room (ER) records, the patient was hospitalized at Bay City in Michigan in 10/2013, he was found to have cardiac failure with cardiomyopathy and an ejection fraction of 5-10 percent. He apparently also has a history of COPD and chronic kidney disease."

On December 4, 2013, at 1200 hours, Trevor Eimers arrived at LKMC and was provided with an update of his father's condition by the doctor. According to the report, Trevor Eimers spent time with his father and then at 1305 hours, Trevor Eimers signed a "DNR" (Do Not Resuscitate) form. At 1500 hours, "Dr. Rodriguez orders to extubate" Charles Eimers. The notes state that the Trevor had spoken with his siblings and that all were in agreement with the extubation procedure. Trevor Eimers additionally requested "comfort care only" for his father. At 1510 hours RN Kontodiakos extubated Eimers.

According to the Record of Death, Charles Eimers died on December 4, 2013, at 1852 hours. Present were: Trevor Eimers, Dr. Rodriguez-Perez, RN Angelina Kontodiakos, RN Kelly Moon and RN Wendy Klaes.

On December 4, 2013, at 1953 hours, The Record of Death form was completed by RN Wendy Klaes.

The form lists several questions:

Does patient meet autopsy criteria? The box is checked no.

If yes, was autopsy requested? There are no boxes checked.

Medical Examiner case? The box is checked no.

The following was left blank:

Medical Examiner notified by_____ time_____.

The form lists the "diagnosis" as cardiac arrest, and the "immediate cause" to be cardiac death.

In the section entitled Funeral Director's Receipt, a list of clothing and valuables was provided. These items were sent with Mr. Eimers' body to the Dean-Lopez Funeral Home. Jeffery Dean, of Dean-Lopez Funeral Home signed the receipt. The receipt is dated December 4, 2013 at 9:45 p.m.

Sworn Interview with RN Angelina Kontodiakos (IR-49)

On June 6, 2014 SA Kathy Smith and RAC Carol Frederick met with Registered Nurse (RN) Angelina Kontodiakos, at the Lower Keys Medical Center (LKMC) pursuant to a subpoena for testimony in the investigation.

RN Kontodiakos provided the following sworn, digitally recorded testimony, in summary: She has worked at LKMC since 2008. On the day that patient Eimers came into the hospital, RN Kontodiakos was working 6:45 am to 7:15 pm, and was the admitting nurse in the intensive care unit (ICU). While in the ICU she received patient Eimers' report from "Joanne" in the Emergency room, and it was in this report that she learned about his interaction with police.

When patient Eimers arrived in the ICU he had sand in his nose and ears, and he was on a ventilator. When asked if patient Eimers was wearing a hospital bracelet at the time of his arrival at LKMC, RN Kontodiakos stated that if there had been one, it would have been cut off and a new LKMC bracelet would have been put on in the ER or by Admissions.

RN Kontodiakos stated that page 14 of 17 in the Medical records shows that a drug toxicology screen was completed on patient Eimers, which showed no controlled substances in his systems such as cocaine or opiates.

RN Kontodiakos stated that she spoke with KWPD Detective Stevens, who asked her to call him in the event that the "patient expired". Because the patient was not in custody, and there was no "guard", RN Kontodiakos could not provide Det. Stevens with details of patient Eimers' condition, due to HIPPA rules, therefore RN Kontodiakos wrote Detective Steven's information on a yellow "stickum" and placed it in the file with instructions to call him in the event of patient Eimers' death. Although RN Kontodiakos was with patient Eimers when he expired, she "didn't think of calling him" (Detective Stevens). RN Kontodiakos stated that she was focused on assisting patient Eimers' son Trevor, who was upset.

RN Kontodiakos stated that she recalls giving Trevor Eimers the phone number of Detective Stevens. RN Kontodiakos stated that while patient Eimers was in the hospital, Detective Stevens called "often".

RN Kontodiakos stated that she thought it was the day after patient Eimers passed away, that Detective Stevens contacted her, and asked about the patient. When Detective Stevens learned that Eimers had died, he asked her why she didn't call him . RN Kontodiakos told Detective Stevens, "I am sorry but that was the last thing on my mind." RN Kontodiakos said she didn't think it was her responsibility. RN Kontodiakos told Detective Stevens that she had given Detective Stevens' phone number to Trevor Eimers. As to whether patient Eimers was in police custody, RN Kontodiakos stated that she didn't believe he was in custody because there were no officers at the bedside, nor did she ever see any officers "come up".

RN Kontodiakos stated that on December 4, 2013 at 1510 hours, per doctor's orders, and with the approval of patient Eimers' family, she extubated patient Eimers.

Sworn Interview with RN Kelly Moon- Moore (IR-50)

On June 6, 2014 SA Kathy Smith and RAC Carol Frederick met with Registered Nurse (RN) Kelly Moore, at the Lower Keys Medical Center (LKMC) pursuant to a subpoena for testimony in the investigation.

RN Moore provided the following sworn, digitally recorded testimony, in summary:

During the time that Eimers was in the LKMC, RN Moore's name was RN Moon, and it is reflected as such in the documents. RN Moore stated that she works a 7 pm to 7 am

shift at the hospital, and her only interaction with patient Eimers was at the time of his death. RN Moore recalled that patient Eimers' son had agreed to withdraw medical care.

Upon patient Eimers' death, RN Moore made notifications to the doctor, and handled post mortem care such as removing all medical items from the patient. RN Moore's knowledge of why patient Eimers was in the hospital was limited to knowing that he had been in an altercation with police. RN Moore never spoke to a police officer about patient Eimers.

When asked if she believed patient Eimers was in police custody, she stated that she did not think so because if he was, he would be handcuffed to the bed and there would be an officer in the area.

RN Moore stated that she had no conversation with anyone regarding transporting patient Eimers to the Medical Examiner's office.

Sworn Interview with RN Wendy Klaes (IR-51)

On June 6, 2014 SA Kathy Smith and RAC Carol Frederick met with Registered Nurse (RN) Wendy Klaes, at the Lower Keys Medical Center (LKMC) pursuant to a subpoena for testimony in the investigation.

RN Klaes provided the following sworn, digitally recorded testimony, in summary:
On December 4, 2013, patient Eimers died just before the start of her shift, which is 7pm to 7am. RN Klaes is the nursing supervisor, and whenever there is a death, she is contacted and brings the appropriate paperwork to the staff members handling the patient.

When asked about the medical examiner being contacted or not contacted, RN Klaes stated that because patient Eimers was a "DNR" (Do Not Resuscitate) patient, and he was on a ventilator, his death was expected, therefore she did not review his patient chart.

She did not believe he was in police custody because there was no officer in the room. Had there been an officer in the room when patient Eimers arrived at the hospital, the officer would have been asked to sign a HIPPA form.
Additionally, regarding custody of the body, RN Klaes stated that the hospital does not have a morgue, therefore they are transported to the Dean-Lopez Funeral Home.

Medical Examiner's Report (IR-36)

On April 28, 2014, SA Smith received the autopsy and medical examiner's report from District 16 Medical Examiner, E. Hunt Scheuerman, MD, regarding the in-custody death of Charles Eimers. Dr. Scheuerman reported that the cause of death of Mr. Eimers was "Anoxic Encephalopathy due to Cardiac Dysrhythmia due to Dilated Cardiomyopathy." A

contributory factor was listed as "stress of struggling with police." The manner of death was ruled an "Accident".

The Medical Examiner's (ME) report showed that Eimers' eyes were "free of petechiae", that Eimers' ribs were fractured (right side #2-7 and left side #2-5), Eimers' scalp had no contusions, his skull had no fractures, and there were no noted injuries to Eimers' neck.

The ME diagnosis was:

1. Dilated cardiomyopathy

    a. Cardiomegaly
    b. Peripheral edema
    c. Pulmonary vascular congestion and edema
    d. Chronic passive congestion of the liver
    e. Congestive Splenomegaly
    f. Cardiac Dysrhythmia

1. Artifacts of resuscitation
    a. Multiple, bilateral, anterior, rib fractures
    b. Reddening of laryngo-trachael mucosa

2. Anoxic encephalopathy

3. Minor Blunt impact wounds-contusions and abrasions of the upper extremities.
4. Chronic bronchitis with emphysema
5. Encephalomalacia, small, left basal ganglia

The Medical Examiner summarized that "Mr. Eimers was at risk of a sudden death, at any time, due to either a chaotic cardiac rhythm or worsening of his congestive heart failure. His sudden change from struggling to unresponsiveness is evidence for a dysrhythmia. Due to the resulting cardiac arrest and the resultant hypoxia (low blood oxygen), he suffered irreversible brain damage."

The ME noted that "A few minor, blunt impact wounds were found on his hands and arms at autopsy, but no evidence of impact to the head, neck or torso was found. The ME noted bruises on both wrists.

Inconsistencies

The following inconsistencies were noted during the investigation:

Civilian witness, Joelle Grassi, stated that she believed an officer tased Eimers on the right side of his upper body towards his neck or upper arm. During the investigation, it

was determined by video, audio, and electronic data that the TASER of Officer Lovette was never utilized. Officer Lovette un-holstered his TASER but did not fire it.

Civilian witness, William Barrow, stated that he witnessed an officer repeatedly striking Eimers in the upper chest with a TASER. This activity was not seen on the video recorded portion of the arrest. The video does show Eimers on his stomach area during handcuffing and his chest area was not exposed for potential striking. The medical examiner did not find bruising in the chest area.

Civilian witness, William Barrow, stated that an officer placed his knee on Eimers' chest area then eventually turned him on his back. The video shows that Eimers went in a "prone position" on his stomach during handcuffing and his chest area was not exposed. Officer testimony indicated that Officer Lovette had his knee near Eimer's head area, and Sergeant Zamora placed his knee on Eimer's left shoulder area. Officer testimony indicates that Eimers chest area was exposed only during CPR, and no enforcement action was being taken while medical assistance was being provided. Officer Lovette's statement is consistent with the video obtained of the event.

Civilian witness, William Barrow, stated that a New York reserve police officer who was dining at the restaurant told Barrows that the use of the TASER by the officers to subdue Eimers was excessive. The investigation revealed that a TASER was un-holstered, but not activated.

KWPD Sergeant Zamora, Officer Lovette and Officer Medina stated that they noticed blood in Eimers' right ear during the arrest. The photographs which were taken at the hospital, on the day of the incident, did not show blood in either of Eimers' ears. The medical examiner did not note any injuries to Eimers ear area.

Regarding the contact between Eimers' face and the sand on the beach, Officer Wanciak stated Eimers was"...face-down in the sand". The cell phone recording shows that when Eimers complied and got down on the sand, he is resting on his forearm/elbow area with his head upward looking at the officers that were responding. Officer Lovette testified that Eimers face was looking toward the restaurant, not face down in the sand. Lovette's knee was placed next to the back of Eimers' head. The audio capture's Eimers saying "No" during handcuffing which indicates his face was not in the sand at the time he spoke. The Medical Examiners' report showed no sand in Eimers' airways.

The hospital records showed a date of birth clerical error, which was rectified in later reports. The hospital records also showed a different summary of events regarding Eimers' interaction with police which conflicted with the tourist's video. It was determined that Paramedic Charles had provided the hospital with an inaccurate summary, which he stated that he obtained at the scene, from an unknown officer or dispatcher, just prior to transport. This same scenario was passed on to each hospital shift.

A review of the Fire/Rescue channel dispatch log indicated that Eimers was "tased". An interview with former Dispatcher Andrea Coan, revealed that she did not recall the specific event and could not provide further details as to where she learned about a TASER. Her co-worker, Dispatcher Keith Kline advised that he recalled hearing an officer say that he had Eimers at "TASER point", and typed that into the CAD. Andrea,

then quickly glanced over at the CAD notes as she dispatched medical units, and therefore used the word "Tased". Dispatcher Kline stated that Eimers was not "tasered" and he was unsure as to whether he had corrected his CAD notes.

After the arrest, Officer Lovette made several statements to fellow officers and family members. One remark in particular indicated that he "dropped like a bomb on his head" The video does not reflect that happening. Another statement made by Officer Lovette is, "...we tackled him and got into a fight". Officer Lovette clarified that he assumed that Eimers had been tackled because Officer Lovette arrived after Eimers was on the ground and engaged with other officers, and because Eimers had failed to comply with officers who were trying to conduct traffic stops.

Summary

After a comprehensive investigation into the in-custody death of Charles John Eimers and careful review of the sworn testimony, the physical evidence, and the medical examiner's report, the statements of the officers were consistent with the physical evidence and overall testimony, but for the above inconsistencies previously noted.

Notarization

I swear the foregoing is true and correct

Kathy M. Smith

Special Agent Kathy M. Smith
Florida Department of Law Enforcement
19980 Overseas Highway
Sugarloaf Key, FL 33042

SWORN to and SUBSCRIBED
This 11th day of June, 2014

Carol A Frederick

Notary Public or LEO
Carl Frederick Don