



## **Statement On Investigative Review of Aug. 12 Petito-Laundrie Incident**

After a formal complaint was filed with the Moab City Police Department, an independent law enforcement agency has completed a thorough review of the August 12, 2021 domestic violence incident involving Gabby Petito and Brian Laundrie.

The independent agency's investigative report finds that the officers who responded to the incident made several unintentional mistakes that stemmed from the fact that officers failed to cite Ms. Petito for domestic violence. The City acknowledges that this finding may raise questions, and the issue is examined extensively in the investigative report.

The report recommends improvements to both the policies and the training of the Moab City Police Department. These recommendations include: providing additional training in domestic violence investigation, as well as additional legal training to ensure officers understand state laws and statutes; conducting an overall policy review; conducting a software review; and strengthening the review process for incident reports. The investigative report also finds that a statement was never obtained from the original 911 caller, and recommends that be done to make the incident report more complete. The City intends to implement the report's recommendations.

Based on the report's findings, the City of Moab believes our officers showed kindness, respect and empathy in their handling of this incident. As the Moab City Police Department continues its daily mission to serve our community, efforts are underway to provide additional resources and tools to assist in addressing domestic violence incidents. Plans are in place to add a trained domestic violence specialist to oversee incidents investigated by Moab officers. We also will implement added and ongoing training and testing to ensure that the officers understand policies and procedures.

The City of Moab sends our sincere condolences to the Petito family. Our hearts go out to them as they continue to deal with the tragic loss of their daughter.



# AGENCY ASSIST

## MOAB PD

### REPORT INFORMATION

This document contains the investigative review into how Moab Case #2021-001108 was investigated.

**Captain Brandon Ratcliffe**

Price City Police Department

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## Introduction

On September 27, 2021, I was asked to conduct an independent investigation into the way Moab Police Department handled a domestic violence incident that occurred on August 12, 2021. The incident has been documented by Moab Police Officers Eric Pratt and Daniel Robbins and is identified by Moab PD Case #2021-001108. There were also two additional officers on scene, Park Ranger Mellissa Hulls and Park Ranger Ryan Kral. The incident involved Brian Christopher Laundrie and Gabrielle (Gabby) Venora Petito. I was asked to conduct this investigation by Chief Bret Edge and Assistant Chief Braydon Palmer.

Officer Pratt has worked with the Moab City Police Department intermittently since July 2018. This included part-time employment and full-time employment. Officer Pratt returned full-time with Moab City Police Department in December of 2020. Officer Pratt has approximately 16 years of law enforcement experience. At the time of this incident, Officer Pratt was the acting Field Training Officer for Officer Robbins.

Officer Robbins was hired in May of 2021 with the Moab City Police Department and had no prior law enforcement experience. At the time of this incident, Officer Robbins was on the final phase of his Field Training Program.

I have been forwarded an email from the initial complainant, Attorney Tanya Reeves, which I have attached to this report. Chief Edge indicated the Moab Police Department received the complaint and they believe there is value and insight to be gained from having an independent investigation that will ultimately provide insight and improve the department's responses to domestic violence cases moving forward. The investigator in this case is Captain Brandon Ratcliffe who is employed by the Price City Police Department.

### **\*DISCLAIMER\***

As part of my investigation, I reviewed the body-worn camera footage and interviewed Assistant Chief Palmer, Officer Pratt, and Officer Robbins. The interviews were recorded using an audio recording device. The interviews with Officer Pratt and Officer Robbins were done following the issuance of a Garrity Statement of Rights.

While watching the videos and while listening to the audio interviews, I typed notes as it related to each of the recordings. During those notes, there were times where I attempted to transcribe the interactions, questions, and answers. The notes should in no way be considered an exact transcription of the recordings as they are likely not accurate and they lack the appropriate grammar and spelling into the way the words were actually said compared to how they were written. The notes were made specifically to allow myself a way to review what I observed more easily rather than trying to review these recordings more times than absolutely necessary. Taking notes into each of these recordings have provided me the ability to document a more accurate and detailed report regarding this investigation.

On a part-time basis, I have spent months reviewing this case and have been provided the luxury of being able to pause, rewind, fast-forward, take notes, etc. This same luxury is not afforded in the grand majority of police investigations. The officers in this case had about 75 minutes while I've had an

unlimited amount of time. While I have the reports and recordings from this case, I will not pretend to know that I have the same perception the officers had while investigating this case.

There are many “what-if’s” that have presented itself as part of this investigation, the primary one being: Would Gabby be alive today if this case was handled differently? That is an impossible question to answer despite it being the answer many people want to know. Nobody knows and nobody will ever know the answer to that question. My job is to provide information into the details of this investigation and if it was handled appropriately.

## Synopsis

This investigation arises after Moab City Police Department received a complaint about the way Moab PD Case #2021-001108 was handled. The complaint was received by Moab Police Department on September 21, 2021 by Tanya Reeves. A follow-up complaint was received by Tanya Reeves on October 1, 2021. I was asked to complete this investigation on September 27, 2021.

A summary of the facts in this case will be detailed below. The summary will come from information obtained from the officer reports, dispatch notes and audio, witness statements, and body-worn camera video of the incident.

### Initial Call to Dispatch:

On August 12, 2021, at 16:39:16, the Grand County Dispatch Center received a call from [REDACTED] who was calling to report what he described as a “domestic dispute.” [REDACTED] reports he was driving and saw a “gentleman slapping the girl.” [REDACTED] stated he stopped driving and the male and female “ran up and down the sidewalk” where “he proceeded to hit her.” [REDACTED] stated they hopped in the van and drove off. [REDACTED] said he took a picture of the license plate and describes the vehicle and the license plate information. [REDACTED] further describes the make, model, and other characteristics of the van.

### Dispatch Action:

Dispatch uses the emergency tone and alerts all law enforcement working in the area of the call they just received. Dispatch states they had a report of a male hitting a female and the van left northbound from the Moonflower Community Co-Op. Dispatch further provided a description of the vehicle to law enforcement.

### Moonflower Community Co-Op Action:

Officer Pratt arrives on scene at the Moonflower Community Co-Op where the incident took place and asks dispatch for the reporting party’s phone number. Officer Pratt also tells dispatch he spoke to another witness who gave more details on the vehicle that left. Based on Officer Pratt’s report, the witness Officer Pratt is referring to is [REDACTED].

### Traffic Stop:

Officer Robbins stops the vehicle on the turnoff road that goes into Arches National Park after he observed the van cross over the double yellow line and crosses back over and hits the curb on the passenger side. Officer Robbins reports to dispatch the driver may be intoxicated after observing the driving pattern. Officer Robbins stops the vehicle and has the female exit the vehicle, separating the male driver and female passenger. From this point forward, the male and female (Brian Laundrie and Gabby Petito) never speak to each other again while law enforcement is in contact.

### Brian Laundrie Statements to Law Enforcement

Brian stated he and Gabby had not been drinking and said it has been a “long day.” Brian stated their “little squabble” started earlier this day when they were at the coffee shop. Brian stated they had been there “for so long” from about 9am to 3pm. Brian stated the “flies” had been “intense” and that the flies have “definitely been getting to her” (Gabby). Brian stated when they got back to the van, there was “some little dirt” at the back of the van. Brian stated he moved their food around and there was “a little

disagreement there.” When asked about the disagreement, Brian stated it wasn’t much of a disagreement but went on to say he had “dirty feet” and said there were “little things, relationship things,” they were arguing about.

Brian stated Gabby was working on her website/blog and said he “gave her time.” Brian stated they had a “nice morning” but Gabby got “worked up” as they were trying to get their day going. Brian said he tried to “distance” himself from Gabby by locking the van up and walking away. Brian said while doing this, he suggested to Gabby they both take a “breather.” Brian said he felt that was the only way for them to calm down but Gabby was getting “worked up.”

Brian said Gabby had her phone and was trying to get the keys from him and that is when he was pushing her away. Brian said he knew he “shouldn’t push her” but stated he was just trying to push her away, stating they needed to “take a minute, step back, and breathe.” Brian said he had the keys because he didn’t want Gabby to go anywhere as he didn’t have his phone, then added he doesn’t “really have a phone,” and was worried about her leaving without him and him being left alone. Later on, Brian would provide Officer Robbins his phone number and confirmed the number by looking at his cell phone. This was interesting considering he said previously that he, “didn’t really have a phone.”

Brian said things weren’t “physical” before the point Brian said, “Let’s just take a breather” stating he was locking up the van and they should each go for a walk. Brian said it was at the time Gabby was trying to get the keys from him where he demonstrated pushing her away and said that is “when she hit me.” Brian said he didn’t get “really physical” but stated he was just trying to push Gabby away and “not get hit.” Brian said this was when he “got really loud” and stated that was what “probably” drew everyone’s attention. Brian said he was yelling, “Back up! Get Away!” Brian said he was “trying to make her calm down” and pointed out to Gabby that “everyone’s watching.”

Brian said the injury near his eye was from Gabby’s phone. Brian said Gabby had jumped on him and was “swinging” when he pushed her. Brian stated Gabby also wore rings and the combination of the phone, her rings, and her nails are what likely caused his injuries.

Park Ranger Ryan Kral, points out scratches on the left side of Brian’s neck, left side of his nose, scratch near the center of his face, and bruise and bleeding on the right side of his head. Officer Robbins finds an additional injury on Brian’s right bicep/tricep area. Brian said he was not in any pain, and that he “wasn’t complaining.”

When asked about medication, Brian said he doesn’t take any but said Gabby has told him in the past to take Xanax because of his high anxiety. When asked if Gabby takes medication, he replies while chuckling/sminking, “She’s just crazy!” Brian then immediately takes back the comment by saying he is “kidding.”

In regards to the driving behavior, Brian stated he hit the curb because Gabby grabbed and turned the wheel. Brian said Gabby told him, “I can’t believe we’re getting pulled over” when she grabbed the wheel. When asked about his speed, Brian stated it was probably from the adrenaline of getting pulled over and Gabby grabbing the wheel, further stating he was still “shaken up” from everything that just happened. Brian apologized multiple times for his driving, stating if he was driving too fast before getting pulled over, he was sorry. Brian said they were headed to the park to get water.

### *Gabrielle Petito Statements to Law Enforcement*

While still in the vehicle, Gabby is asked why she was crying. Gabby stated they have been fighting this morning, stating there have been “personal issues.” Gabby states, “I was distracting him from driving, I’m sorry.”

Once separated, Gabby said she has been having a “very stressed morning,” later confirming they have not been drinking and they do not drink. Gabby said she was trying to get work done and was apologizing to Brian after she had thrown a bunch of stuff in the back of the van. Gabby said she gets “so stressed out” and has “OCD.” Gabby further stated she has a “mean attitude” but was not trying to be mean about straightening things up. Gabby said she was apologizing but said it in a “mean tone” and Brian got frustrated with her and locked her out of the van and told her to “go take a breather.” Gabby said she wanted to get going and said they were out of water and they were going to the park to refill with water.

Gabby states she is trying to start a blog and is building her website and has been stressed about it. Gabby stated she had “so much work” she was doing on her computer and said Brian “doesn't really believe” that she can do “any of it” which was upsetting to her. Gabby states they have been “fighting all morning” and Brian wouldn’t let her in the van before.

When asked why Brian wouldn’t let her in the van, Gabby said Brian told her she “needed to calm down.” Gabby said she is “perfectly calm” and states Brian “really stresses” her out and said it has been a “rough morning.”

Gabby said Brian walked away to take a breather but she didn’t want to. Gabby said she wanted to sit in the van because all of her stuff was in there. Gabby stated she had been working in the van and that is where she wanted to be. Gabby said Brian told her to “relax” but she didn’t want to so she “got real mad.”

Gabby was asked about the injuries on her left cheek and left arm. Gabby initially said she wasn’t sure what caused it, stating the incident happened “really fast.” Gabby said she was trying to get back in the van and said that Brian’s backpack was what “got her.”

Gabby was told about witnesses that reported Brian had hit her. Gabby responded, “to be honest, I definitely hit him first.” Gabby said she had slapped Brian a couple of times and Brian kept telling her to “shut up.” Gabby said she hit Brian as “I was trying to get him to stop telling me to calm down.” Gabby said Brian reacted by grabbing her arm, “so I wouldn’t slap him.” Officer Pratt asked if Brian only “grabbed” her and she said, “yeah.” Officer Pratt then asked, “did he hit you though?” Gabby replied saying, “I guess but I hit him first.”

Gabby stated Brian “grabbed my face I guess” (while also demonstrating the action). Gabby states, “like he didn’t punch me in the face.” Gabby said Brian grabbed her face and said she could feel a cut on her left cheek. Gabby stated when she touches it, “it burns.”

When asked about the van hitting into the curb, Gabby said, “I hit him,” and stated that was the reason Brian hit the curb. Gabby stated she was hitting Brian while he was driving but “not a lot but yeah.” Gabby said it didn’t last long and said she saw the police car behind them and she demonstrated



throwing a punch. Gabby said it was when she saw the police lights that she hit Brian and said, "You're so stupid," or, "You're an idiot."

Gabby said she did not "touch the steering wheel but only for like a second I just saw the lights come on." Gabby demonstrated the punch she did to Brian while stating, "You're an idiot." Gabby was asked again if she ever touched the steering wheel and Gabby said, "No, no, I didn't touch the steering wheel at all."

Gabby was asked if she takes any medication and she stated she didn't. Gabby said she does yoga as a coping mechanism and states she has high anxiety and OCD. When asked if Brian is patient with her, Gabby said, "Yeah but I get, it just makes me upset I know he definitely gets frustrated with me a lot because I have a lot of anxiety and he definitely has anxiety too."

### Written and Verbal Witness Statement

Officer Pratt called one of the witnesses, [REDACTED], via cell phone. [REDACTED] also provided a sworn written statement later on. [REDACTED] stated he had observed Brian and Gabby involved in a "dispute." [REDACTED] stated from what he could tell, it appeared at one point they may have been fighting over a phone and [REDACTED] thought it may have been Gabby's phone. [REDACTED] reported Brian was trying to keep Gabby from getting into the van. [REDACTED] said Brian was sitting in the driver's seat while Gabby was trying to get into the van through the driver side door. [REDACTED] said Gabby hit Brian a few times in the arm and/or face while trying to get into the vehicle. [REDACTED] said Gabby "forced" her way over Brian's lap via the driver side door and got into the passenger seat. [REDACTED] heard Gabby tell Brian, "Why do you have to be so mean?" [REDACTED] stated he wasn't sure if it was "play fighting," stating Gabby's punches were nothing like "slugs to the face," but [REDACTED] felt something was "off" and he had a "weird vibe." [REDACTED] stated he wasn't sure how serious the incident was but to him it seemed like Brian was trying to leave Gabby and possibly take her cell phone.

Officer Pratt asked if [REDACTED] ever saw Brian strike Gabby. [REDACTED] hesitated in his answer and stated he "maybe" saw a push or a shove but nothing like a "full on punch to the face or anything." Officer Pratt asked if [REDACTED] could tell if the push or shove was an "aggressive" action or a "defensive maneuver." [REDACTED] wasn't sure, stating it was a "good question" and wasn't entirely sure what exactly was going on. [REDACTED] said it appeared to him that Brian was trying to close off the passenger side of the vehicle and "close things up." [REDACTED] said Brian put a "backpack or something" on the back of the vehicle. [REDACTED] said Brian was stepping into the vehicle and Gabby was out trying to get in. [REDACTED] said he didn't see anything that was Brian kicking Gabby or hitting Gabby, further stating the fighting was "kind of light" and they were "laughing."

[REDACTED] again said that Brian was in the driver's seat and had the driver door open and Gabby was hitting Brian near the arm or maybe in the face with an open hand and was telling Brian to let her in. Officer Pratt made arrangements to pick up a statement from [REDACTED] at a later time and [REDACTED] said he would start writing down what he remembered while it was still fresh on his memory. [REDACTED] said he was "casually observing" the incident and said again that "something seemed off." [REDACTED]'s statement was attached to the report.

### Officer Action

Officer Robbins is the investigating officer in this case and was assisted by Officer Pratt. It is my understanding and assumption through watching the body-worn camera videos, that Officer Pratt is more experienced than Officer Robbins and was taking an active role in guiding Officer Robbins throughout this investigation. At the end of the investigation, when another call came out, Officer Pratt asks Officer Robbins if he (Officer Robbins) would feel more comfortable taking the call that just came out, leaving Officer Pratt to conclude this investigation.

Ultimately, it was decided Officer Robbins would conclude this case and Officer Pratt left the scene. Officer Robbins advised Gabby that she was not going to be getting charged with anything but stated he had to separate her and Brian for the night. Officer Robbins tells Brian the same thing, stating that since Gabby did not “intend” to hurt him, “technically speaking it does not fit the letter of the code,” so he was not charging Gabby with domestic violence assault.

Officer Robbins advises them both to not have any contact with each other until the following day and allows Gabby to take custody of the van while Officer Robbins transports Brian to the Bowen Motel.

During the investigation, Officer Pratt spoke to [REDACTED], Brian, and Gabby to gather the facts of this case. Officer Robbins spoke with Brian and Gabby and took photographs of Brian’s injuries and both of their driver’s licenses.

## Summary and Evidence

This section will include the initial complaint, the applicable Utah Code sections, and the applicable Moab City Police Department policies. If there are any other policy sections outside of the domestic violence policy, those sections will also be addressed. In total, this will highlight all the sections that I will attempt to investigate and, if possible, provide a conclusion on whether or not there was a violation, whether it be of law or policy. Since there was a formal complaint, those complaints will be noted first.

For the findings as it relates to various policies and or laws, I will provide the following responses:

**Unfounded** – Investigation finds there was no violation

**Exonerated** – Investigation finds a violation did occur but that it was justified, lawful, and/or proper

**Not Sustained** – Investigation finds there is insufficient evidence to sustain or exonerate a violation of the specific code or policy

**Sustained** – Investigation finds sufficient evidence to establish that the code or policy was violated

### Formal Complaints from Attorney Tanya Reeves:

**1) An officer discussed his wife’s private medical diagnosis and prescribed medication with Brian Laundrie while transporting him to the police station, which was captured on body cam and subsequently released without redaction.**

Brian was not transported to the Police Station; he was transported to a local motel.

Moab City Police Policy, Chapter 342 (Department Use of Social Media), Section 342.5 (Prohibited Content) addresses the information that is prohibited for release. Line item H states: **“Personal information of an officer, or the officer’s immediate family member.”**

Moab City Police Policy, Chapter 422 (Portable Audio/Video Recorders), Section 422.4 (Member Privacy Expectation) states: All recording made by members on any department-issued device at any time, and any recording made while acting in an official capacity of this department, regardless of ownership of the device it was made on, shall remain the property of the Department. **Members shall have no expectation of privacy or ownership interest in the content of these recordings.”**

Moab City Police Policy, Chapter 422 (Portable Audio/Video Recorders), Section 422.10 (Review of Recorded Media Files), last paragraph states, “All recordings should be reviewed by the Custodian of Records prior to public release. **Recordings that unreasonably violate a person’s privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.”**

This specific complaint is regarding personal information that was discussed by Officer Robbins, regarding his wife. The complaint states Officer Robbins disclosed his wife’s “medical diagnosis” and “prescribed medication” with Brian Laundrie. At no point during their discussion did Officer Robbins specifically disclose any of these things. Officer Robbins states his wife has anxiety and takes medication for it. Although the line can be drawn and an assumption could be made that there is a diagnosis because of taking medication, we don’t know what the actual diagnosis is or what medication she is taking, or even if the medication is “prescribed.” I was also unable to find anywhere in Moab City Department Policy where it specifies what constitutes “personal information,” and where the line is drawn on what can and cannot be released as it relates to that.

Officer Robbins and Officer Pratt spent approximately 75 minutes with Brian and Gabby and demonstrated throughout the contact their ability to have an authentic and respectful conversation regarding this incident. During this interaction, Officer Robbins and Officer Pratt felt comfortable enough to share details regarding their personal lives that related to Brian and Gabby's relationship and this incident. Officer Robbins is aware his body-worn camera is on and recording and also knows, or should know, he has no expectation of privacy as it relates to his law enforcement interactions with the public. Additionally, while knowing his body-worn camera is on, if Officer Robbins was comfortable sharing the generic details he did with Brian, it would be difficult to say that he unreasonably violated his wife's privacy or sense of dignity unless a complaint was made by Officer Robbins' wife herself.

**2) Several officers discuss the legislature's intent to remove discretion from the responding officers in suspected domestic violence calls, and strategize around how they can evade the imposition of legislative intent to arrest and/or cite suspects**

This concern is addressed in detail later on in the report. To provide a brief response, I would disagree that the officers "strategized" a way around the statute. I would say the officers made a mistake by not reading the entire assault statute as well as misinterpreting the language in the statute.

**3) An officer appears to carefully and deliberately "coach" Gabby Petito to answer questions regarding intent in a manner that would allow the officer to avoid issuing her a citation or arrest**

Some of the statements made by Officer Pratt to Gabby during this questioning are below:

- Officer Pratt tells Gabby he has a question for her and "how" she answered the question determined what happened next and further states that she was the only one that could answer the question.

- "Think very hard before you answer the question"

- "When you slapped him those times, were you attempting to cause him physical pain or physical impairment." Gabby answers immediately, shaking her head side to side and stating, "no."

- "What were you attempting to do? What was the reason behind the slapping and stuff? What were you attempting to accomplish by slapping him?" Gabby replies, "I was trying to get him to stop telling me to calm down."

- Officer Pratt then says out loud, "Well it doesn't sound like to me she attempted to injure him."

I asked Officer Pratt if he recalled the manner in which he questioned Gabby regarding her intent. Officer Pratt stated he recalled telling Gabby to not answer quickly and to think about the question(s) before answering them. Officer Pratt said, "I do recall telling her to think about it because it's important and I think that's a fair thing to tell somebody." Officer Pratt said you would have to assume that Gabby knew what answer Officer Pratt wanted her to give him, which he never provided her.

Officer Pratt said, "What I didn't want to see that day was her take all of the criminal responsibility for this incident upon herself at 22-years-old."

I asked Officer Pratt if he deliberately coached Gabby in her responses to his questions regarding her intent. Officer Pratt said he had no idea what she was going to say. Officer Pratt acknowledged that he

could see why some people might think he coached her. Officer Pratt said, “I truly did not know what she was going to say next. I was afraid that she was going to say something that was going to make her go to jail. I didn’t want her to go to jail but I would have taken her to jail if she had said the other thing and I don’t consider giving someone fair warning to think about their answer, because it’s an important question, to be coaching.”

Officer Pratt stated multiple times that he wanted an honest answer out of Gabby. Officer Pratt said the way he asked the questions was to stress the importance to Gabby to think about the question and provide an honest answer. Officer Pratt said, “Maybe I coached her into giving me an honest answer cause that’s what I was wanting. That’s what I wanted and honestly that’s haunted me. Her saying, I just wanted him to stop telling me to calm down. She’s little, I have daughters, I can imagine them in these situations. I can totally see one of my daughters just wanting someone to stop telling them to calm down. I believe what she said, I believed it then, I still do.” Officer Pratt said he was not deliberately coaching Gabby and just wanted an honest answer.

Officer Robbins was present during the above questioning. I asked Officer Robbins if he recalled this conversation and he said, “vaguely.” I asked if Officer Robbins recalled the manner in which the questions were asked. Officer Robbins said he didn’t and only remembered Gabby being asked about the intent and her denying the intent to hurt Brian.

**4) An officer refers to Gabby Petito as a blond haired, blue-eyed girl who is 110 pounds dripping wet, and refers to Brian Laundrie as a big, tough, strong guy who can defend himself, which is not relevant evidence when evaluating the protocol for legislature mandated action in domestic violence calls. Further, it is unclear why the eye and hair color of one of the subjects would be material to any analysis, and may suggest the officers were operating under a confirmation bias, or that they were unconsciously influenced by stereotypes about who is involved in domestic violence**

The complainant, Tanya Reeves, sent a follow-up email apologizing and stated she misattributed the “blonde haired, blue-eyed” remark which is correct as she states in her follow-up email, that information was said by Brian, not the officer(s). The first part of this complaint is addressed in further detail in this report.

**5) An officer makes disparaging references to the legislation relevant to this call in the presence of the subjects, claiming that he cannot treat the subjects differently because of the gender of the primary aggressor, and then proceeds to do precisely that**

While reviewing the body-worn camera footage, this topic is discussed on multiple occasions. Officer Pratt discusses with Brian, Gabby, and other officers the lack of discretion in these cases. When describing this to Brian and Gabby, he explains that it doesn’t matter the gender and/or the size of whoever the primary aggressor is, or if the injuries are minimal. Officer Pratt states they have to treat all domestic violence assault cases the same.

Officer Pratt tells Gabby that the law doesn’t allow them to treat people different, stating, “Even if it makes no sense that you probably could not physically destroy this man the way that he could if he attacked you. We can’t treat you different.”

He further tells Gabby that the law was made in Utah because “they don’t trust the police to make good decisions because too many cops have made bad decisions.” He goes on to say that is why they took

discretion away on domestic violence cases stating that whoever the primary aggressor is, has to be charged. Officer Pratt tells Gabby, “We literally have no choice. He does not want to press charges. We don’t have any choice in this.” He further states that if he had discretion, he would separate them for the night and tell them to stop hitting each other, “but I lawfully don’t have discretion here.”

While an argument could be made that his statements were “disparaging,” it was done in the context of trying to explain what law enforcement could and could not do. As far as the officers doing precisely what they said they couldn’t do, that is explained in further detail in this report.

**6) The officer references a 911 call that identified Brian Laundrie pushing Gabby Petito away from him, and then says there is a second witness who they haven’t spoken with yet but may corroborate this claim (the 911 call of the second witness in fact claims Brian Laundrie slapped Gabby Petito). Should the officer have obtained this statement from the second witness, or listened to the 911 call before determining who was the primary aggressor?**

There was only one 911 call in reference to this incident. That caller reported Brian slapping Gabby. The other witness was found on scene at the Moonflower and provided a verbal and written statement later on. This issue is addressed in more detail later on in the report but in short, the answer would be yes, the officers should have obtained a statement from the 911 caller ( [REDACTED] ) before making a final determination, if it was possible for them to do so.

**7) The officers twisted themselves into knots trying to find a way to avoid effecting an arrest or citation because of their sympathy for this couple, and their assessment that no one was actually in danger, which is precisely what the legislature attempted to curtail (substituting the judgment of the officers for the mandates of the legislation).**

I believe it is clear from the body-worn camera footage that stating the officers “twisted themselves into knots trying to find way to avoid effecting an arrest” is a gross mischaracterization of what actually happened. Law enforcement is being second guessed now more than ever which has led to officers taking more caution and time (as allowed) before making a decision to try and avoid the inevitable “second guessing.” These officers were authentic in their interactions and treated Brian and Gabby with kindness and respect. I would say the officers displayed sympathy and empathy for this couple which undoubtably led to Officer Pratt second guessing himself despite the fact he said multiple times what needed to happen. Officer Pratt resorted to calling a supervisor and then re-reading the assault statute. From there, the statute is not fully read and what was read was misinterpreted which led to not arresting anyone in this incident.

**8) The officer concluded in his report that he did not believe the incident rose to the level of domestic assault so much as a mental health crisis. Have officers received sufficient training in mental illness and domestic violence to accurately make that determination?**

I was unable to answer this question in full but asked both officers for an explanation into why they categorized this incident in such a way. Their responses are documented later on in this report.

**9) One additional concern I wish to add to my complaint is the officer’s lack of investigatory follow up after Gabby Petito told him that Brian had grabbed her face with his fingers digging in to the point of causing a cut on the inside of her cheek. It was hard to discern her exact words (although I did hear the word “cut”), but she seemed to indicate that her cheek was swelling up or tender, & she cupped it**

with her hand as she described the injury. The very first question the officer asked in response to this was if Brian had been drinking. His very next question returns to the swerve & curb strike incident. In the footage available to me, he never returns to Gabby's allegation of a crime to ask more questions, investigate or follow up in any manner.

The officers seemed distracted by the center line swerve and curb strike, and the admission that Gabby had punched Brian in the shoulder when the lights were activated. They spend the majority of the investigation pursuing this allegation, while the reason for the initial detention (the two 911 calls reporting a man shoving/slapping a woman) fell by the wayside. Even when Gabby reports a battery that caused injury, her statement is entirely ignored because the officers seem to be operating under a confirmation bias that influenced how they interpret the evidence and their theory of the case.

Brian was thoroughly examined for evidence, including an examination underneath his clothing for injuries of which he may not be aware, photographic evidence was obtained, and he was offered EMS services for his injuries. None of this appears to have been provided to Gabby Petito, even after she reported a battery resulting in injury.

These concerns are addressed in multiple sections throughout this report.

## Utah State Code:

### **Powers and Duties to Arrest – Utah State Code 77-36-2.2**

**(1) The primary duty of law enforcement officers responding to a domestic violence call is to protect the victim and enforce the law. SUSTAINED**

**(2)(a) In addition to the arrest powers described in Section 77-7-2, when a peace officer responds to a domestic violence call and has probable cause to believe that an act of domestic violence has been committed, the peace officer shall arrest without a warrant or shall issue a citation to any person that the peace officer has probable cause to believe has committed an act of domestic violence. SUSTAINED**

This incident from the beginning was classified as an assault that took place between a male and a female. During the investigation it was found they were cohabitants. It is my finding that an assault did take place, therefore should be classified as a domestic violence investigation.

This incident starts with both witnesses who included the witness that called 911 and reported Brian slapping Gabby, to a second witness that stated Gabby was hitting Brian and Brian pushed or shoved Gabby. It continued on with the roadside investigation and statements made by both Brian and Gabby. I have already documented the many statements they each made to law enforcement. In short, Brian and Gabby each acknowledge a verbal argument that escalated into a physical confrontation. Brian and Gabby each acknowledge getting physical with the other. It was also concluded Brian and Gabby were cohabitants due to their statements that they were engaged and living together.

There were four statements made with three of the statements being fairly consistent stories (Gabby, Brian, and one of the two witnesses, [REDACTED]). A combination of using all of these individuals' statements along with the observations and physical evidence, would point towards Gabby being the predominant aggressor, at least as it relates to this specific incident.

As it relates to the fourth witness, [REDACTED], contact was not made with him outside the 911 call so there is no written statement and no formal interview conducted. In his statement to dispatch, he stated he saw, "the gentleman slapping the girl." [REDACTED] stated he was driving when he first observed Brian and Gabby. [REDACTED] stated he pulled over and continued observation of the couple. [REDACTED] then said the male and female "ran up and down the sidewalk" where "he proceeded to hit her."

When speaking with Gabby, Officer Pratt shared [REDACTED]'s statement to Gabby, as it related to Brian hitting Gabby. Gabby replied, "to be honest, I definitely hit him first." When pressed for details and after Gabby said Brian just "grabbed" her to prevent her from hitting him, Officer Pratt asks, "did he hit you though?" Officer Pratt stresses the importance of telling the truth. Gabby replied, "I guess but I hit him first." Officer Pratt asked where Brian hit her. Gabby stated Brian "grabbed my face I guess" (while also demonstrating the action). Gabby states, "like he didn't punch me in the face." Gabby said Brian grabbed her face and said she could feel a cut on her left cheek. Gabby stated when she touches her cheek, "it burns."

The end result of this investigated incident concluded with separating Brian and Gabby and not making an arrest, either by citation or custody. Based on the information provided, in this specific incident, Brian would be the victim with Gabby being the suspect.



As it relates to the primary duty of law enforcement while responding to a domestic violence call, the officers protected the victim by separating Brian from Gabby; however, I do not find that they enforced the law. They responded to a confirmed domestic violence incident and they had evidence showing an assault had taken place. The statements of all those involved, along with the evidence presented, provided probable cause for an arrest.

Officer Pratt talks in detail, multiple times, about the lack of discretion law enforcement officers have when it comes to domestic violence incidents. It is clear to me that an arrest, either by citation or custody, was decided would be the most appropriate action to take throughout this entire investigation. Officer Pratt describes to Gabby the actions they must take and Gabby becomes extremely emotional talking about how she doesn't want to be separated from Brian. Officer Pratt states they, "lawfully don't have discretion here." Officer Pratt tells Gabby that the best thing he can do for her at this point is to speak to a supervisor to see if he is "missing something." Officer Pratt explained to Gabby he didn't think there was anything he was missing but he would still follow up with a supervisor and ask.

Officer Pratt calls Assistant Chief Palmer and explains the circumstances. Officer Pratt tells Assistant Chief Palmer at the end of the conversation that he is going to "re-read the statute" to see if this "fits" or if there is a way that "it doesn't fit." When speaking to Officer Robbins regarding his conversation with Assistant Chief Palmer, Officer Pratt indicates the only way they can't take action on this case, is if the circumstances don't "fit" what the statute states. Officer Pratt stated if it "fits," then they must follow the law and they must take action.

In a subsequent interview with Officer Pratt and Assistant Chief Palmer, they both recalled this conversation and their answers to what the content of the conversation was, was consistent. Assistant Chief Palmer stated he referred Officer Pratt to city policy and state law and to follow what fits the situation. Assistant Chief Palmer stated he was not on scene and didn't have all the facts that Officer Pratt had so that was the gist of his advice. Officer Pratt confirmed this by stating he was told to do what fits; "If it's a domestic, do a domestic. If it's not, then don't."

Officer Pratt starts looking at the specific wording used in Utah Criminal Code for "Assault" (76-5-102) and the definition of "Bodily injury" (76-1-601)(4). This is where I believe Officer Pratt made a mistake by assigning the wrong culpability to the code (intentional), as well as not reading the entirety of the assault statute.

According to Utah Criminal Code for assault, it states:

(1) Assault is:

- (a) an attempt, with unlawful force or violence, to do bodily injury to another; **or**
- (b) an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another.

Officer Pratt tells Officer Robbins how important it is to read the actual verbiage of what is written in the various codes. Officer Pratt talks about the verbiage of assault being, "the intent to do bodily injury." Officer Pratt only reads subsection (a) of the statute. Officer Pratt then looks up the definition of bodily injury in Utah Criminal Code and reads it to Officer Robbins. The definition in Utah Criminal Code for bodily injury states:

(4) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

As it is written, “intent” is not written in the assault code and as I previously said, I believe Officer Pratt made a mistake in the way he interpreted the code as well as not reading the complete code. As it relates to various crimes written throughout the Utah State Criminal Code, there are many crimes that specifies the culpability (intent) needed to fit a specific statute or classification. These are explained in Utah Criminal Code 76-2-103. There are four culpability definitions explained which are: Intentionally, Knowingly, Recklessly, and with Criminal Negligence.

In Utah Criminal Code 76-2-102, it describes the culpable mental state requirements. It states:

*Every offense not involving strict liability shall require a culpable mental state, and when the definition of the offense does not specify a culpable mental state and the offense does not involve strict liability, intent, knowledge, or recklessness shall suffice to establish criminal responsibility. An offense shall involve strict liability if the statute defining the offense clearly indicates a legislative purpose to impose criminal responsibility for commission of the conduct prohibited by the statute without requiring proof of any culpable mental state.*

Since the assault statute doesn’t provide a culpability requirement and it also does not label it as a strict liability offense, intent, knowledge, or recklessness is what would be required to establish criminal responsibility for assault.

Officer Robbins asks Officer Pratt if the definition included “attempt AND intent” or “attempt OR intent.” Officer Pratt replies stating, “When you’re attempting to do something, you have to intend to do it.” By Officer Pratt believing assault had the highest level of culpability (intentionally), he believed that Gabby had to have acted with the intent to cause the injuries that Brian sustained, and therefore, didn’t believe this incident fit the statute after asking Gabby what her intent was. However, as previously explained, assault does not have an assigned culpability written in the statute so the culpability of assault would have to meet the requirement of intent, knowledge, or recklessness.

At one point during this incident, Officer Pratt tells Officer Robbins that he doesn’t care if they use “the actual letter of the law” in deciding not to charge Gabby. He also tells Officer Robbins that it makes sense “to go full-on domestic assault.” When people talk about the “letter of the law,” they are talking about the actual words written, the literal interpretation of the words. This line of thinking lines up with what Officer Pratt explains later on that one officer may see things differently than another officer and Officer Pratt believed this incident didn’t meet the elements of the assault code as it was written.

#### Applicable Interview Responses – Officer Pratt

In a subsequent interview with Officer Pratt, I asked how he reached the conclusion that “this incident was more accurately categorized as a mental/emotional health break, than a domestic assault.” Officer Pratt said he applied his numerous years in law enforcement as well as his overall life experience when stating he believed to see signs of mental health issues from both Brian and Gabby. Officer Pratt said, “I saw the dynamics of their relationship...If there were all these red flags that he was going to murder Gabby I didn’t see those. I saw the same red flags I see every time I get called to a relationship issue. They don’t call us there because their doing great and want the police to come over and see how great they’re doing; they call us because something is devolved...” Officer Pratt described seeing this as “another unhealthy relationship.” Officer Pratt said, “if it was not an assault, which I decided it wasn’t, then what else could it, then what could I call it? It wasn’t an assault. If it was an assault she would have had to be arrested. But there’s elements to the offense of assault and you have to meet those.”

I asked Officer Pratt if he believed a domestic violence assault took place during this incident. Officer Pratt gave the example that one officer will handle a call different than another officer, based on their training, experience, and their interpretation of the totality of the circumstances presented to them. Officer Pratt said, "It's our duty to document and to support with reasoning, logic, and hopefully the law backing us because we all read the same code, why we chose to do the arrest or not do the arrest. And the better you are at that, usually the better cop you are. But everyone makes mistakes or reads something wrong."

Officer Pratt stated he had determined that one of the elements for assault was missing. Officer Pratt explained this as being the attempt to use unlawful force or violence to cause bodily injury to Brian. Officer Pratt described this stating, "implicit with attempt is intent. You can't attempt something with no intent to do it. So obviously intent is part of assault..." Officer Pratt stated this was the reason why he asked Gabby what her intent was when she was hitting Brian. Officer Pratt stated most "guys our size" would say that you "can't slap people and do that," but followed that up with, "well we've never been a 110-pound female." Officer Pratt stated Gabby's intent was important and when she was asked why she was slapping Brian, Gabby said, "I just wanted him to stop telling me to calm down." Officer Pratt said that sounded very reasonable to him and that he didn't "think she had the intent behind it to do bodily injury to him. I think she wanted to modify his behavior and she doesn't have the tools in her toolbox to do it."

Officer Pratt added, "That's why we spend so much time in court, way more time than I have on the side of the road, they have entire days of trials spent nothing more than just establishing intent on a crime. I don't have special expert witnesses on the side of the road, I don't have five days of my trial with these people to figure out who to charge. I got like less than an hour apparently. So, they trust me after 16 years to figure it out and I took my 16 years of experience and said I believed Gabby based on the totality of the circumstances and based on what she appears physically capable of and based on what I saw him doing and act the way he was acting that I don't think she assaulted him."

Officer Pratt also added what he believed could happen if Gabby had been arrested and Brian bailed her out and signed the protective order waiver. Officer Pratt pointed out that Brian had said they didn't have a lot of money. Officer Pratt said, "So, if he's going to go bail her out, is he not going to have more control over her now? 'Now we're out of money,' blame it on her because 'I had to bail you out'... you know, all it's going to do is put the power and dynamics more on him, in his favor where he's like, 'now we have to come back to court or video court, now we don't have the money because I had to bail you out. Oh, we're in another fight, go ahead and call the cops! How did that go for you last time?'"

I asked Officer Pratt where he looked up the code for assault which he stated it was from the Utah Legislature website. I asked Officer Pratt, if at the time of this incident, if he believed he read the entire definition of assault to Officer Robbins. Officer Pratt stated he believes he did and also stated he looked up the definition of bodily injury to further expand on what the code was stating. Officer Pratt stated he first had to see if the crime of assault was met and if so, then they would be able to attach the domestic violence attribute to that. However, if there was no crime of assault, then it couldn't be a domestic violence assault.

I asked Officer Pratt if he still believes to this day (November 1, 2021) that "attempt" and "intent" were synonymous or implicit with each other. Officer Pratt stated, "to this day I still believe that." Officer Pratt stated if he is wrong, he would adjust his future interactions in acknowledgement of that information.

I explained to Officer Pratt the four culpabilities and their levels. I also read Officer Pratt the assault code in full. Officer Pratt said, “that does change things.” Officer Pratt stated he is sure he has read that part of the assault code before and it “has to be addressed.” Officer Pratt said he probably got side tracked with the bodily injury portion of the assault code and went and read the definition for bodily injury, neglecting to scroll down and read the rest of the assault statute. Officer Pratt said, “And if I did that’s a mistake and it may have changed our decisions but I can’t say that even here now, until I read it and really think about it for a few minutes, because I do take the act of putting people in handcuffs and taking their freedom and giving them charges very seriously and I usually spend a little bit of time reading up on it first and then trying to figure out if that’s going to fly. So yes, that second part you said I would admit that could have changed what we decided to do but I would still have to look it over and think about it.”

#### Applicable Interview Responses – Officer Robbins

In a subsequent interview with Officer Robbins, I asked how he reached the conclusion that an assault did not take place. Officer Robbins stated he observed the code Officer Pratt showed him and, in that code, it said, “with the intent to cause harm.” Officer Robbins stated, “I went with that one because she said that she didn’t have the intent to harm him.” I asked Officer Robbins if he just went with what he was told by Officer Pratt or if he actually observed the code himself. Officer Robbins stated Officer Pratt “showed me the code.” Officer Robbins added again that the assault code says, “with the intent to cause bodily injury.” I read the assault code in full and asked Officer Robbins if anywhere in the code it said the word, “intent.” Officer Robbins said, “it might have been somewhere else I’m not sure.”

I asked Officer Robbins if he actually felt at the time of this incident that the definition of assault included the intent to cause bodily injury. Officer Robbins said, “yes.” I asked Officer Robbins if his decision during this incident was a decision made to benefit himself or anyone else. Officer Robbins stated he did what he thought was best for the situation.

I asked Officer Robbins if he was aware of the duties of arrest in Utah State Code. Officer Robbins stated he was aware. I read him the duties of arrest and asked Officer Robbins if he believed he followed Utah State Code. Officer Robbins said, “At the time I did.”

I asked Officer Robbins how he reached the conclusion, written in his report, that states, “I do not believe the situation escalated to the level of a domestic assault as much as that of a mental health crisis,” and I asked how he quantified the two. Officer Robbins stated he was trying to fix the problem and figure out what the underlying problem was. Officer Robbins didn’t feel it was an “ongoing issue of assault but an ongoing mental health issue” which caused the “domestic.” I asked if this incident was more of a mental health crisis, why he didn’t get Brian and Gabby in touch with mental health professionals. Officer Robbins stated it was a busy day and “calls were stacking up left and right and mistakes were made. It completely slipped my mind. I didn’t even think about it.” Officer Robbins stated the stress of the situation and everything else going on at the time, contributed to not thinking about doing this.

**(2)(b)(i) If the peace officer has probable cause to believe that there will be continued violence against the alleged victim, or if there is evidence that the perpetrator has either recently caused serious bodily injury or used a dangerous weapon in the domestic violence offense, the officer shall arrest and take the alleged perpetrator into custody, and may not utilize the option of issuing a citation under this section. UNFOUNDED**

Based on all the information provided, I do not find that this section applies in this case. There was no information provided that would cause any of the officers to believe there would be continued violence. There was also no information provided that there was serious bodily injury or that a dangerous weapon was used in the domestic violence offense.

**(2)(c) If a peace officer does not immediately exercise arrest powers or initiate criminal proceedings by citation or otherwise, the officer shall notify the victim of the right to initiate a criminal proceeding and of the importance of preserving evidence, in accordance with the requirements of Section 77-36-2.1. SUSTAINED**

Due to Officer Robbins not exercising arrest powers by custodial or citation arrest, this section would apply to this case. Brian was adamant he did not want to pursue charges against Gabby in this case and made it clear through his statements, that he wouldn't want to initiate criminal proceedings in the future. Brian said, "I'm not going to pursue anything," further stating, "I want a checklist of things to do to get rid of it."

There are numerous things the officers did do as it applied to this section. The officers took action that provided safety for Brian by separating him from Gabby, the officers provided emergency shelter to Brian, and they asked if he needed medical treatment. In response, Brian said, "No I'm okay," and referred to his injuries as "baby injuries."

What I have found that the officers did not do was meet the requirements in accordance with UCA 77-36-2.1. This requires Brian be provided with the immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence. This should be a written notice that provides information on how to obtain a protective order, list of shelters, services, and resources, along with phone numbers to assist the victim in accessing any needed assistance.

**(3) If a law enforcement officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to identify the predominant physical aggressor. If the officer determines that one person was the predominant physical aggressor, the officer need not arrest the other person alleged to have committed domestic violence. In determining who the predominant aggressor was, the officer shall consider:**

- 1. Any prior complaints of domestic violence;**
- 2. The relative severity of injuries inflicted on each person;**
- 3. The likelihood of future injury to each of the parties; and**
- 4. Whether one of the parties acted in self-defense.**

## **UNFOUNDED**

There are some important things to note as it pertains to this section because throughout this contact as well as highlighted in the initial complaint, the words "primary aggressor" is what is commonly used. Primary aggressor and predominant aggressor are not the same thing. A predominant aggressor is not automatically the person who starts a domestic violence incident and they are also not automatically the person who has the least severe or least amount of injury.

In this instance, there were two opposing persons, none of which reported the incident but was reported by a third party. There were no prior complaints of domestic violence reported by either party nor was this question asked by either of the officers. The overall severity of the injuries sustained by both parties were minor as evidenced by the statements made by both parties and the observations of the officers. There was no information provided at the time that would lead the officers to believe there would be continued violence that would lead to the likelihood of future injury. Additionally, the statements made, specifically by the two involved individuals and one of the two witnesses, would lead the officers to believe that Brian was acting in self-defense.

An issue with this section is that there was no further investigation into the complaint made by Gabby about Brian grabbing her face and causing the scratch on her cheek, outside what Gabby disclosed. Brian was not asked about it and the witness who called 911 was not interviewed. With that said, Gabby made multiple statements to officers that would lead them to believe she was the predominant physical aggressor.

There are a couple things that could point to Brian being the predominant physical aggressor, that is, if Gabby hadn't made the statements she did. The lack of emotion and fear from Brian may point towards someone who is the predominant aggressor but as previously mentioned, Gabby's statements to law enforcement make it extremely difficult, if not impossible, to substantiate a charge against Brian as it relates to this incident.

**(4) A law enforcement officer may not threaten, suggest, or otherwise indicate the possible arrest of all parties in order to discourage any party's request for intervention by law enforcement. UNFOUNDED**

This is not applicable as no officers made such statements and Officer Pratt accurately explained to Officer Robbins on scene that this is something they could not do and explained this is something that is unlawful.

**(5)(a) – A law enforcement officer who does not make an arrest after investigating a complaint of domestic violence, or who arrests two or more parties, shall submit a detailed, written report specifying the grounds for not arresting any party or for arresting both parties. SUSTAINED**

**(5)(b) – A law enforcement officer who does not make an arrest shall notify the victim of the right to initiate a criminal proceeding and of the importance of preserving evidence. UNFOUNDED**

These sections apply as no arrest was made, however, when speaking with Brian, he made it clear he did not want to be a victim in this case and didn't want any charges brought onto Gabby. It was explained to Brian the lack of discretion officers have in domestic violence cases and Brian maintained his position that he and Gabby "are a team" and he didn't want her to be charged. Officer Pratt explained to Brian his options when it came to Brian speaking with the County Attorney and Brian's potential future involvement in this case. Brian's injuries were photographed at the time and there would be no further evidential items that Brian would need to preserve (even though those photographs are no longer available, either by officer error or software error). Officer Robbins did take pictures of Brian's injuries for the purpose of preserving and documenting the information.

There was a report submitted that specified the grounds for not making an arrest. As far as it being detailed, I have documented my many concerns with the content of the case reports under the section

further into the report titled, Investigations 311.4, subsection (b). The lack of details in the report is the justification for sustaining this section above (5a).

**(6)(a) – A law enforcement officer responding to a complaint of domestic violence shall prepare an incident report that includes the officer’s disposition of the case. UNFOUNDED**

This is addressed in the above response.

**(6)(d) – The incident report shall be made available to the victim, upon request, at no cost. UNFOUNDED**

To the knowledge of Assistant Chief Palmer, the victim did not attempt to obtain the report following the incident.

**(6)(e) – The law enforcement agency shall forward a copy of the incident report to the appropriate prosecuting attorney within five days after the complaint of domestic violence occurred. SUSTAINED**

According to Assistant Chief Palmer, he does not believe the report was ever forwarded to the appropriate prosecuting attorney as there were no charges or arrest. Due to this incident being a domestic violence incident, the report should have been filed. The investigating officer made a mistake in mis-categorizing the incident which should have been addressed by administrative personnel as the report was forwarded on from the officer.

**(8) – Each law enforcement agency shall, as soon as practicable, make a written record and maintain records of all incidents of domestic violence reported to it, and shall be identified by a law enforcement agency code for domestic violence. SUSTAINED**

There was a case report completed regarding this case and it has been identified as Moab Police Case #2021-001108.

In the case report, the incident is categorized as a “Disorderly Conduct” incident and details the disposition of the case. The classification for this report should have been a domestic violence related category.

### Moab City Domestic Violence Policy:

I will detail Moab City's domestic violence policy section by section below. I will not provide a response to the generalities of the policy but when it talks about specifics of the policy, I will provide a response as it relates to this specific case and investigation.

#### **311.1 PURPOSE AND SCOPE**

**The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims, and to guide officers in the investigation of domestic violence. SUSTAINED**

This section has been addressed previously in this report under Utah State Code.

##### **311.1.1 DEFINITIONS**

**Domestic Violence – Includes any crime involving the actual, threatened, or attempted violence or physical harm of a cohabitant. Domestic violence also includes committing or attempting to commit any crime listed in Utah Code 77-36-1(4) by one cohabitant against another.**

#### **311.2 POLICY**

**The Moab City Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible. SUSTAINED**

This section has already been addressed previously in the report under Utah State Code.

#### **311.3 OFFICER SAFETY**

**The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved. UNFOUNDED**

The officers conducted a roadside interview that lasted just over an hour regarding this incident. Despite the emotionally charged environment, the officers spent a significant amount of time investigating the incident and did so with professionalism, empathy, and respect. The officers took due caution in providing for the safety of themselves as well as Brian and Gabby.

#### **311.4 INVESTIGATIONS**

**The following guidelines should be followed by officers when investigating domestic violence cases:**

**(a) Calls of reported, threatened, imminent, or ongoing domestic violence, and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 911 calls. UNFOUNDED**



It is clear from the time this incident was reported, dispatched, and investigated, that the incident was handled as a high-priority call which is evidenced by the quick response of law enforcement by multiple agencies, to locate and investigate the incident. The call was received at 1639 hours and law enforcement had located the involved vehicle and parties by 1644 hours. The last officer on scene, Officer Robbins, cleared the call around 1804 hours.

**(b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.**

**SUSTAINED**

There are two known witnesses, ( [REDACTED] ) in addition to those involved in the altercation (Gabby and Brian).

Officers were able to obtain verbal statements from Brian and Gabby. Officers were also able to obtain a verbal and written statement from [REDACTED] who was on scene where the originating incident took place. Officers had a brief verbal statement via the 911 call from another witness [REDACTED] who was not followed up with by law enforcement. The officers didn't have access to the 911 call but they did have immediate access to the dispatch notes while the call was active. It was surprising to me that [REDACTED] wasn't contacted as Officer Pratt requested [REDACTED]'s information from dispatch and dispatch provided the phone number of [REDACTED] to Officer Pratt, over the radio. This information would have also been heard, or should have been heard, by Officer Robbins.

In a subsequent interview with Officer Pratt, he described what was happening when he requested [REDACTED]'s phone number. Officer Pratt stated he had responded to the Moonflower to meet with [REDACTED] and was there relatively quick following the reported incident. According to the dispatch log, I believe Officer Pratt arrived at the Moonflower between 1641 and 1643 hours. Officer Pratt stated he pulled up and started walking around, expecting witnesses to come to him with information. Officer Pratt said it was "weird" as everyone around was acting like nothing had happened and nobody expected to see law enforcement show up. Officer Pratt was starting to think maybe the incident occurred elsewhere because nobody was saying anything.

Officer Pratt said he was walking back to his car when he requested [REDACTED]'s phone number because he couldn't find [REDACTED] at the scene. Seconds later, [REDACTED] walked up and asked if Officer Pratt was there because of the "domestic." At that time, Officer Pratt collected details from [REDACTED] about the white van that could help differentiate it from other white vans in the area. Officer Pratt also collected [REDACTED]'s information to follow-up with later as Officer Robbins had located the wanted vehicle and Officer Pratt needed to respond to that location.

After observing all the reports, dispatch log, and body-worn camera in this case, it was practicable for the officers to follow up with the reporting party, [REDACTED], who called 911. With that said, Officer Pratt's interview with Gabby highlighted a statement made by [REDACTED] (Brian assaulting Gabby) and Gabby's response to that was, "I definitely hit him first." Officer Pratt called the second witness after Gabby made this statement and that witness' account was similar to Brian and Gabby's statements.

It would be purely speculative to try and explain what could have or might have changed, if anything, by officers reaching out and speaking to the original reporting party. It's important in any investigation to interview and have statements by all those who are involved to better form a conclusion and to help guide the investigation for a better understanding of what actually happened. This would be especially

important if there was a witness statement that was made which conflicted with other statements that were obtained. The fact that [REDACTED] has still not been contacted and a statement has still not been obtained from him, is concerning.

It was practicable for officers to at least attempt to call the original reporting party and despite Gabby's response to part of [REDACTED] statement, and despite the statements made from Gabby, Brian, and [REDACTED], it's impossible to state or know whether or not anything would have changed the outcome of this investigation through speaking with [REDACTED].

As far as the documentation of the statements made, both Officer Pratt and Officer Robbins completed reports documenting their interactions regarding this case. They also both discussed the information they obtained independently from the other, from those involved, when trying to decide what action(s) to take.

#### Written Report – Officer Pratt

Officer Pratt played an integral role in this investigation, yet, Officer Pratt's written report doesn't reflect that. Officer Pratt spent a significant amount of time with Gabby and he also had a phone conversation with one witness, [REDACTED]. Officer Pratt's time with Brian was much more minimal and very little of his conversations with Brian was regarding Brian's statement of what happened.

In Officer Pratt's report, he states that he had spoken with Brian, Gabby, and [REDACTED] and stated they all three gave "similar and consistent" stories. Officer Pratt then describes the incident in very little detail about what he understood what happened based on all three stories. Although I would agree their stories were similar, when it comes to documenting an incident and the statements from those involved, it's important to differentiate who said what so it's clear what was "similar and consistent" and what wasn't. This should include the who, what, when, where, how, and why, as that information could play a role in determining the predominant aggressor. There was also no documentation describing the injuries Officer Pratt observed, specifically on Gabby.

There are statements made in Officer Pratt's report that require further follow-up. Officer Pratt states, "It wasn't clear, but I believe it was reported the male had been observed to have assaulted the female." This thought, presumably came from the 911 caller, [REDACTED], and was reported through dispatch notes as well as to responding officers through dispatch radio.

Officer Pratt additionally documents in his report that Brian grabbed Gabby's face and pushed her back. After Officer Pratt documents both incidents (911 caller stating male was assaulting female and Brian grabbing Gabby's face and pushed her), it's then documented in his report, "No one reported that the male struck the female."

#### Applicable Interview Responses – Officer Pratt

I asked Officer Pratt what wasn't "clear" when he documented in his report that "it wasn't clear, but I believe it was reported the male had been observed to have assaulted the female." Officer Pratt said, "I wrote this report after the incident was completed and by the time the incident was completed, I knew I had one person saying the opposite of another person and those are my two independent witnesses, so to me that's why I would have written it wasn't clear." I clarified with Officer Pratt that the statements made were clear but what actually happened wasn't. Officer Pratt said again, when his report was written, "it still wasn't clear to me because I had two witnesses saying opposite things. So therefore, I don't think it could be clear to the reader."

I asked Officer Pratt how he came to the conclusion in his report that “nobody reported Brian struck Gabby.” Officer Pratt said he spoke to Brian, Gabby, and [REDACTED], none of who reported this. Officer Pratt said by the time he was able to write his report, he recalled that he had three people all stating the opposite. Officer Pratt said in order for him to get access to the dispatch audio from the original caller [REDACTED], that information had to be formally requested and would take time. Officer Pratt said when he was writing his report, he was questioning himself on if he had even heard the original report from dispatch correctly due to the three statements he had, being contradictory to what he remembered hearing from dispatch.

I asked Officer Pratt again about the statement in his report about nobody reporting Brian had hit Gabby despite the statement from Gabby that Brian had grabbed her face and caused a scratch. I asked Officer Pratt if he didn’t consider someone grabbing a face a “strike” or a “hit.” Officer Pratt said he didn’t consider a grab to be either of those. Officer Pratt gave examples of “a hit being a hit, a slap being a slap,” etc. Officer Pratt explained that he believed it was important when we interview people to figure out what kind of contact was made and explain that contact. Officer Pratt said “maybe we could have done better at this.” Officer Pratt said that although he doesn’t consider a grab of the face a “strike,” he stated it could be an assault. Officer Pratt said it’s important to describe the contact and the circumstances surrounding the contact.

I told Officer Pratt that Gabby said Brian hit her and described it through demonstration (face grabbing). Officer Pratt said he never recalls Gabby stating or acknowledging Brian hitting her (other than grabbing her face). Officer Pratt said he only recalls Gabby replying, “Well I definitely hit him first.” This is accurate but after this response, Officer Pratt asks if Brian hit her and Gabby replies “I guess but I hit him first.” When Gabby describes the violence against her, the only thing she ever describes is her face being grabbed. Regardless of whether or not there is confusion on what is being called a “strike” or a “hit,” Officer Pratt acknowledges that Brian caused injury to Gabby by grabbing her face and Gabby interpreted being hit as having her face grabbed (at least according to her response).

I asked Officer Pratt why there wasn’t any follow-up with Brian regarding the statement Gabby made of Brian grabbing her face and causing injury. Officer Pratt said he thought it had been taken care of. Officer Pratt said Officer Robbins heard this information and Officer Robbins had spent the majority of his time with Brian while Officer Pratt spent the majority of his time with Gabby. Officer Pratt said, “I shouldn’t make these assumptions but I assumed that he addressed it and it was corroborated and may have, should have, talked to Brian more about that.”

Officer Pratt acknowledged the amount of time they had on the side of the road investigating this incident and said, “Some of these calls require more than that and this was one of those calls where I wish we had more time. I wish I hadn’t been called away. I wish I didn’t feel like I had to rush at all.” Officer Pratt also said, “If I didn’t talk to Brian about that or it wasn’t followed up with Brian, that should have happened. For sure. I guess I assumed it had, I didn’t know it hadn’t.” Officer Pratt explained that at this time, the only on-duty patrol officers were him and Officer Robbins. Officer Pratt stated Officer Robbins was still in field training and Officer Pratt is required to be on every call that Officer Robbins is on.

According to a survey in 2019, the population of Moab was just over 5,000 people while tourism saw over 3 million visitors. It’s believed that tourism has surpassed that number the last couple of years due to the Covid-19 pandemic. Officer Pratt said, “So how much time do you spend on a call? You know I work 10 hours; I gave 1/10<sup>th</sup> of my day to one couple and I have many other calls. The other calls that

are going on, a guy laying in traffic that it's important to him that I come drag him out of traffic. ALL these calls are important. If I had my way, I'd spend as much time as I needed on every call to make sure every call worked out right but.... we don't have the staff. I'm not blaming the department, but we don't have the staff."

I asked Officer Pratt why he didn't call the reporting party, [REDACTED]. Officer Pratt said calling [REDACTED] would have been the next thing he did or would have had Officer Robbins call him had he not been called away for a more urgent call. Officer Pratt stated at this time they had spoken to Brian, Gabby, and [REDACTED] regarding this incident. Officer Pratt stated that his observations as well as the statements made along with the physical evidence, everything was "lining up." Officer Pratt said multiple times that [REDACTED] should have been called. Officer Pratt said that if he had been called, and [REDACTED] repeated the same things he told dispatch, the three other statements along with physical evidence was still much stronger than [REDACTED]'s statement.

Officer Pratt described his line of questioning when talking with Gabby. Officer Pratt said he told Gabby, "We have two independent witnesses, I said this because I thought my witness would line up with what I thought this guy told us. I thought we were going to have two. And her response was, well I definitely hit him first. At the end of everything, her statement was like Brian's, was like my witnesses," [REDACTED]

Officer Pratt said multiple times during this call that there were two independent witnesses. Officer Pratt said this on multiple occasions and in front of Officer Robbins. Officer Pratt said he told Officer Robbins to get the reporting party's statement, referring to [REDACTED]. Officer Pratt said later on when reviewing Officer Robbins report, he didn't find a statement from [REDACTED]. Officer Pratt asked Officer Robbins where the reporting party's statement was. Officer Robbins told him it was part of the report. It was then that Officer Pratt learned that Officer Robbins thought the reporting party was [REDACTED], not [REDACTED].

When talking about not following up with [REDACTED], Officer Pratt said, "There's no way I can tell you this investigation should have had an end of report at the end of it without having talked to the guy who called. There's not an excuse for it, I can explain it, I can't excuse it." Officer Pratt also said, "I can't imagine what he could have said, especially if it was what he told dispatch, that could have changed the decision that was made. Now maybe if we didn't have that other independent witness, sure."

#### Written Report – Officer Robbins

In Officer Robbins report there are similar concerns. Officer Robbins spent the majority of his time speaking with Brian but also got statements from Gabby regarding this incident. Officer Robbins was the reporting officer and ultimately the decision on how this case concluded was made by him. There are more details listed in Officer Robbins' report than Officer Pratt's, however, there are many details missing from the statements he received from those he had contact with. There are also additional statements made in Officer Robbins' report that are cause for concern.

In Officer Robbins report, while describing the statement made to him from Brian, Officer Robbins states Brian indicated Gabby went into a "manic state." After watching the body-worn camera multiple times, I am unable to hear this statement actually made. It seems to me that Officer Robbins draws that conclusion himself and states that is what Brian said.

Officer Robbins describes seeing “minor visible scratches” to Brian’s face but doesn’t indicate where these are at. Officer Robbins states he observed scratches on Brian’s right arm but again, doesn’t indicate where on the arm the injuries are at. Officer Robbins states Brian believed the injuries on his right arm occurred when Gabby was trying to get his attention about Officer Robbins being behind them with his lights on. Officer Robbins then makes the following statement, “This, however, was not consistent with Gabrielle’s statement, further suggesting her confused and emotional state.”

Gabby’s statement to Officer Robbins, which he documented in his report, was that she hit Brian in the arm to alert him to the police car behind them with their lights on. Brian also said that he believed that is where the marks came from, was Gabby hitting him when she was trying to get his attention. This adds confusion as to what Officer Robbins documented, as the information is actually consistent with Gabby’s statement which doesn’t validate the conclusion made by Officer Robbins about Gabby’s “confused and emotional state.”

As with Officer Pratt’s report, Officer Robbins’ report should include the who, what, when, where, how, and why, as that information could play a role in determining the predominant aggressor. There are many details not documented in his report as well as details documented that appear to be speculation or just flat out inaccurate.

#### Applicable Interview Responses – Officer Robbins

There were multiple questions I had for Officer Robbins regarding his written report and the statements he reported to have been made. When I asked Officer Robbins if he had reviewed his body-worn camera footage of this incident prior to writing his report, he stated he thought he had but wasn’t positive. Officer Robbins confirmed he has access to the video but did not have access to the dispatch notes and audio.

When I asked Officer Robbins how many witnesses there were in this incident and whether or not he had talked to any of them, he stated there had been two. Officer Robbins stated he made contact with [REDACTED] and retrieved a written statement from him. Officer Robbins stated he had thought [REDACTED] was the person who had called 911 but later found out that was not accurate. Officer Robbins stated he didn’t reach out to [REDACTED] for his statement at any time during or following this incident.

In Officer Robbins report he stated [REDACTED] saw Brian and Gabby arguing over a phone. I asked Officer Robbins if he investigated this further by asking Brian or Gabby about it. Officer Robbins said he did not.

In Officer Robbins report he stated [REDACTED] observed Gabby climbing into the van via the driver side window. I asked Officer Robbins when, where, and to who this information was stated. Officer Robbins stated [REDACTED] told him this on the day he collected the written statement. I asked this information because during the phone call with Officer Pratt as well as [REDACTED]’s written statement, it appears that Gabby climbed into the van via the driver side door and over Brian’s lap. There was never any mention about it being through the window. I asked Officer Robbins if his body-worn camera was activated while collecting this information from [REDACTED]. Officer Robbins stated he wasn’t sure if it was or wasn’t. I have since found there is no body camera recording of this contact.

In Officer Robbins report he stated [REDACTED] was “not entirely sure what it is he had seen.” I asked Officer Robbins what this was referring to as he gave a prior statement to Officer Pratt on the phone and

also provided a written statement which provided numerous details of what he had observed. Officer Robbins stated [REDACTED] was concerned about the incident possibly being involved in “human trafficking.” I asked Officer Robbins if what [REDACTED] was “not sure” about was what he actually saw or if he was “not sure” about the circumstances causing the incident. Officer Robbins stated [REDACTED] was confident in what he actually saw, but wasn’t sure of what the bigger picture or reasoning might be behind what he saw.

In Officer Robbins report, he described Brian’s statement of what happened. Officer Robbins said that while Gabby and Brian were arguing near Main Street, Brian had attempted to separate from Gabby so they could both calm their emotions. Officer Robbins stated, “he got into their van and Gabrielle had gone into a manic state. Brian said Gabrielle, thinking he was going to leave her in Moab without a ride, went to slap him. As Gabrielle started to swing, Brian pushed her away to avoid the slap. As a result, Gabrielle off balance, but still caught Brian’s face with some fingers causing some minor visible scratches.”

I asked Officer Robbins if stating Gabby went into a manic state was something that Brian actually said or if it was something Officer Robbins concluded. Officer Robbins said, “I haven’t sat down and watched my bodycam, I don’t remember. I was also still on FTO and not very good at writing reports so I’m probably guilty of possibly putting speculation in there.”

I then brought up the series of events that Officer Robbins documented above, into how the physical fight started. I read it back to Officer Robbins and asked, “Do you recall what the actual information was that was provided to you by Brian?” Officer Robbins said, “no.”

I told Officer Robbins that after watching the video multiple times, I was unable to find anywhere that Brian said Gabby was being manic. I also was unable to find anywhere that Gabby or Brian described Gabby was scared Brian was going to leave her in Moab. I told Officer Robbins that BRIAN said he was worried that Gabby was going to leave HIM in Moab but not the other way around. Officer Robbins replied, “I might have mixed those up.”

I reminded Officer Robbins of the series of events that he described being how the physical fight started. I told Officer Robbins I was unable to verify that the information he put down is what was actually said. Officer Robbins replied, “I was trying to piece it together. Because their stories were all over the place as I’m sure you saw. They weren’t exactly: this event happened, this event happened, this event happened, this event happened, it was this event happened and then 20 minutes later this even happened, and then three days ago this event happened. So, I was trying to piece everything together.”

In Officer Robbins report he said, “I observed some small scratches to Brian’s right arm and when I asked him about them, he supposed they must’ve happened when Gabrielle was trying to get his attention about me being behind them with my lights on. This, however, was not consistent with Gabrielle’s statement, further suggesting her confused and emotional state.” I asked Officer Robbins what exactly was not consistent with Gabrielle’s statement. Officer Robbins said, “If I remember correctly, Brian said that she grabbed his arm, or she said that he grabbed his arm, anyways the conflicting stories where one said he was being hit in the shoulder and the other one said that his arm was grabbed and that’s what caused them to swerve and hit the curb. Something along the lines of that at least.”

I told Officer Robbins that in his report, he stated Gabby told him that she hit Brian in the arm and Brian’s statement was that Gabby pulled on the steering wheel. When Officer Robbins asks Brian about

the scratches, Brian said they must have happened when Gabby was trying to get his attention about the cops behind them. I told Officer Robbins that the inconsistency is with Brian's story, not Gabby's. Officer Robbins did not have a response.

I asked Officer Robbins what else he recalled Gabby being "confused" about. Officer Robbins said, "It didn't seem that she understood why we were there or the way that things could appear from the outside. She was obviously very emotional."

I asked Officer Robbins if he ever noticed any injuries to Gabby during his interactions with her. Officer Robbins stated he recalled there being a small scratch on one of her cheeks. I asked Officer Robbins if he asked Gabby how she received the injury and Officer Robbins couldn't recall. I asked Officer Robbins if he asked Brian about the scratch on Gabby's cheek. Officer Robbins said he couldn't recall. Officer Robbins said he remembered there being something about Brian grabbing Gabby's face and pushing her back but he couldn't recall where he got that information. From the information I have reviewed, nobody asked Brian about the scratch on Gabby's cheek.

There were a considerable number of details lacking from both officers' reports as it related to the statements made by all those involved. [REDACTED] called 911 to report this incident and his information as well as his statement was not obtained or documented in either of these reports. There is no information in either report to document any injury that was sustained by Gabby, despite her disclosing the injury. There was also very little detail regarding the injuries sustained by Brian. There were numerous injuries pointed out on Brian during their interaction with very little of those injuries actually documented in the report. There are also numerous conclusions drawn or documented by Officer Robbins that don't actually appear to be accurate. Both written reports are missing significant details as it relates to the who, what, when, where, and how as it relates to this incident.

**(c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up. UNFOUNDED**

This section does not apply as it pertains to this investigation.

**(d) When practicable and legally permitted, video or audio record all significant statements and observations. NOT SUSTAINED**

Officer Robbins' body-worn camera was activated for the entirety of his contact with Gabby and Brian. I have learned that they do not have dash cameras on their vehicles which also means they don't have in-car video or audio. Officer Pratt's body-worn camera is activated from the time he arrives on scene with Brian and Gabby until he leaves for another call.

The only videos that may be of importance that I have not received, would be if there is video of when Officer Pratt first arrives at the Moonflower Co-Op, where he first meets [REDACTED]. The other video would be when Officer Robbins follows up with [REDACTED] later on and collects a written statement from him.

Officer Pratt received a recorded verbal statement from [REDACTED], and Officer Robbins later recovers a written statement from [REDACTED]. I am unsure if all significant statements were



documented because there may have been additional information stated verbally through these contacts that was additional or different than what was already documented.

After meeting with Officer Pratt, Officer Robbins, and Assistant Chief Palmer, it has been determined that there are no videos of these two additional meetings as they did not activate any recording devices during these contacts. Based on the lack of information provided in the reports or the inaccurate statements made in the reports, it's impossible to know if there were any significant statements or observations that would have needed to be documented and/or recorded.

**(e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. When practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Investigations in the event that the injuries later become visible. SUSTAINED**

While reviewing the body-worn camera of this incident, I determined photographs were taken of Brian's injuries by Officer Robbins while no photographs were taken of Gabby's injuries. There were multiple injuries observed on both Brian and Gabby. Officer Robbins took into account Brian's personal privacy when asking him to lift up his shirt by having him move behind the van as to hide the view from passing motorists. Had there been pictures taken of Gabby, there was a female officer on scene to take those photographs if found to be necessary to preserve her privacy.

On Gabby, there was a mark pointed out on her left arm as well as a scratch on her left cheek. On Brian, injuries were pointed out by Park Ranger Ryan Kral near his right eye, left side of his neck, left side of his nose, center of his face, bruise and bleeding on the right side of his head, and a red mark near his right bicep/tricep area.

Officer Robbins photographed Brian's hands, left side of his head, face, and neck, and right arm. Officer Robbins asks Brian to lift his shirt up and I believe I can see a long, red scratch or scar underneath his left pectoral but no photograph is taken. When asked during an interview, Officer Robbins stated he did not observe this mark and if he had, he would have addressed it.

When receiving all the requested documents for this investigation, I requested the photographs but have not received any.

In a subsequent interview with Officer Robbins, I reminded Officer Robbins of the numerous photographs he had taken during this incident. I pointed out that the injuries on Brian were the only ones photographed and no photographs of Gabby's injuries were taken. I also said there were photographs taken of both of their driver's licenses. I asked Officer Robbins why there were no photographs taken of Gabby's injuries. Officer Robbins stated that Officer Pratt spent the most time with Gabby and he made an assumption that Officer Pratt would have taken those photos.

I asked Officer Robbins why the photographs weren't uploaded to the report. Officer Robbins said, "that one to this day I still don't know." Officer Robbins went on to say that he believes he did upload the photographs but they were not there when he checked. Officer Robbins stated the photographs are no longer on the phone he used to take the photographs, and stated he used his police department issued phone to take the photographs.



The way the policy reads, I interpret it as all injuries on the victim should be photographed. I would recommend that the policy be clarified to state that all injuries of all involved parties should be photographed. I asked Assistant Chief Palmer if he ever saw these photographs and he stated he did not. I asked Officer Pratt if he ever saw the photographs and he also said he had not. Officer Pratt provided an example of when the same thing happened to him on a different case, around the time of this incident.

Officer Pratt stated they use software from Taser that is installed on their department issued cell phones. The software allows you to take video and photographs and upload them into the software where they can access it later on to attach to their reports. Officer Pratt said he had recorded a video using his phone off video surveillance that showed a hit and run accident. Officer Pratt said there's proof he recorded the video from his body-worn camera and then there's proof of him pulling it up later to show someone involved in the case and the video was gone. Officer Pratt said he hasn't had any issues with it since and doesn't know if something similar happened to Officer Robbins, but acknowledged that losing photographic or video evidence in this way has happened before.

**(f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable. UNFOUNDED**

This section does not apply as it pertains to this investigation.

**(g) If the suspect is no longer at the scene, the officer should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate. UNFOUNDED**

This section does not apply as it pertains to this investigation.

**(h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.**

**1. This applies to both investigations involving domestic violence or dating violence (Utah Code 77-36-2.1; Utah Code 78B-7-408). UNFOUNDED**

This section does not apply as it pertains to this investigation.

**(i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report. UNFOUNDED**

This section does not apply as it pertains to this investigation, however, I will address some of the issues as it pertains to protective orders and how it could have applied to this case under the section "311.6 DISPATCH ASSISTANCE" further on in the report.

**(j) Officer should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:**

1. Whether the suspect lives on the premises with the victim.
  2. Claims by the suspect that the victim provoked or perpetuated the violence.
  3. The potential financial or child custody consequences of arrest.
  4. The physical or emotional state of either party.
  5. Use of drugs or alcohol by either party.
  6. Denial that the abuse occurred where evidence indicates otherwise.
  7. A request by the victim not to arrest the suspect.
  8. Location of the incident (public/private).
  9. Speculation that the complainant may not follow through with the prosecution.
  10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
  11. The social status, community status, or professional position of the victim or suspect.
- UNFOUNDED**

As already documented, I believe there was probable cause an assault occurred between two cohabitants which makes this incident a domestic violence offense and enforcement action should have taken place. After reviewing all the provided information, the following numbered sections that correlate with the numbered items above, were observed, discussed, and/or documented during the investigation.

1. There is conversation about the difficulty of separating Brian and Gabby because they have been living in the van for several months and they don't have any friends or family in the area.
2. Gabby said Brian kept telling her to "shut up." Gabby also said, "I was trying to get him to stop telling me to calm down."
4. When it comes to Brian and Gabby's "physical state," they both appeared to be healthy and fit with no obvious physical ailments. As it relates to "mental state," Brian was very much in control of his emotions. Brian was calm and deliberate throughout this investigation and even joked around at times with the officers. Gabby was the complete opposite. At times, Gabby struggled to speak and her emotions were consistently escalated. Gabby's emotions caused her at times to have to stop and catch her breath. Gabby was sobbing while begging and pleading with Officer Pratt to not separate her and Brian.
7. When discussing the options of taking Gabby to jail or separating them, Brian asks, "Can I go to jail?" When he is told "no," Brian asks why. Brian is told they don't have a "charge" for him. Brian then jokes by asking "what if" he took Officer Robbins radio. Brian states multiple times that he didn't want to pursue anything against Gabby and wanted to "get rid of this," referring to the impending charge.
9. Based on their interviews and investigation, there was never speculation that Brian may not follow through with the prosecution as Brian made it clear he didn't want anything done. Officer Pratt talked about the court process with Brian stating officers had to follow the law but said that the prosecutor could still potentially dismiss the case.
10. The individual characteristics of Brian and Gabby were also talked about multiple times during this investigation. It is explained multiple times by Officer Pratt that just because Brian was bigger and stronger than Gabby, he could still be a victim of domestic violence assault. Officer Pratt stated in his

report that Brian was “older, taller, and much heavier” than Gabby. On scene, Officer Pratt refers to Gabby as “tiny,” “little,” “105 pounds soaking wet,” and numerous other statements regarding Gabby not actually being a threat or danger to Brian based on their physical characteristics.

Based on all the information received in this case, I don’t believe that any individual reason above was used as “sole justification” for not taking law enforcement action. There were multiple factors regarding this investigation discussed but none of the reasons listed above were clearly used as “sole justification” reasons. I believe a combination of all the factors above, especially Gabby’s emotional state, caused Officer Pratt to second guess himself and call a supervisor.

According to body-worn camera video, I believe the sole justification reason that enforcement action didn’t take place was due to the officers not reading the entire assault code as well as their misinterpretation of the assault code.

#### **311.4.1 If Suspect is Arrested UNFOUNDED**

This section does not apply based on the actions of the officers.

#### **311.4.2 If no Arrest is Made**

**If no arrest is made, the officer should:**

**(a) Advise the parties of any options, including but not limited to:**

- 1. Voluntary separation of the parties**
- 2. Appropriate resource referrals (counselors, friends, relatives, shelter homes, victim witness unit). NOT SUSTAINED**

**(b) Document the resolution in a report. UNFOUNDED**

The officers facilitated a separation of Brian and Gabby while still ensuring they each had shelter for the day and night if needed. Whether or not the separation of the parties was “voluntary,” is unclear. Officer Robbins tells Brian that although he asks that they give each other the night apart, and take advantage of the time apart to decompress and gather their emotions, that he is not “legally required” to “hold” them to it. Officer Robbins tells Gabby that unless there is “earth shattering emergency news” to not contact Brian as he wanted them to have time to relax, breathe, and contact their families.

Brian was set up with a room using the help of a local resource to help victims of domestic violence. Outside of setting Brian up with a room and suggesting they contact their families; I did not see there was any other resource referrals provided to Brian or Gabby. The officers documented this incident and resolution in a report.

In a subsequent interview with Officer Robbins, I asked him to explain the legal authority he had to separate someone if he didn’t believe a domestic violence assault had taken place. Officer Robbins went on to explain that he was going to arrest Gabby for domestic violence assault before concluding that the incident didn’t meet all the elements of assault. Officer Robbins then decided to just separate them so they could “cool off.” Officer Robbins stated he was trying to create that environment for both of them. I asked Officer Robbins again what legal authority he had to separate someone if he didn’t believe a

domestic violence assault had occurred. Officer Robbins said, “I can’t answer that because I don’t know.”

In a subsequent interview with Officer Pratt, I asked him how Officer Robbins can lawfully require a separation to take place “in lieu of making a case against Gabby for domestic assault.” Officer Pratt said, “He can’t. If you’re not going to charge them you can’t. He required it, he didn’t say by law, they didn’t ask. As far as I know, you can’t require someone to separate. He feels like if they gave any indication, they weren’t going to follow that advice, then Officer Robbins would have made the other case for the safety of both of them.”

### **311.5 VICTIM ASSISTANCE**

**Because victims may be traumatized or confused, officers should be aware that a victim’s behavior and actions may be affected. The following applies to domestic violence and dating violence (Utah Code 77-36-2.1; Utah Code 78B-7-408).**

**(a) Victims shall be provided with the department’s domestic violence information handout, even if the incident may not rise to the level of a crime. SUSTAINED**

**(b) Victims shall also be alerted to any available victim advocates, shelters, and community resources. SUSTAINED**

**(c) When an involved person requests law enforcement assistance while removing essential items of personal property, the officer shall stand by for a reasonable amount of time. UNFOUNDED**

**(d) If the victim has sustained injury or complains of pain, the officer shall seek medical assistance for the victim as soon as practicable. UNFOUNDED**

**(e) Officers should ask the victim whether he/she has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists. UNFOUNDED**

**(f) Officers should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for. UNFOUNDED**

**(g) If appropriate, officers shall seek or assist the victim in obtaining an emergency order. UNFOUNDED**

Sections (f) and (g) do not apply in this investigation.

(a) – I did not find through body-worn camera or reports that Brian or Gabby received the department’s domestic violence information handout.

(b) – Brian was provided a place to shelter for the night utilizing a community resource they have for victims of domestic violence. Outside of the shelter, I could not find that anyone was provided with any information regarding a victim advocate.

(c) – Before separating Brian and Gabby, Brian asked if he could retrieve some items out of the van before they were separated. Park Ranger Ryan Kral assisted Brian in retrieving any relevant or necessary items he needed.

(d) – Gabby and Brian both sustained injuries and Gabby mentioned pain she was having from her injury. Brian was asked if he needed medical attention and Brian declined the offer. The policy only states that this applies to the victim. At the time Gabby disclosed her injury, they had not concluded who the predominant aggressor was and she was not asked if she needed medical attention. There were also no follow-up questions asked to Brian regarding the injury Gabby sustained.

(e) – After finding out Brian and Gabby didn't have any friends or family in the area where one of them could stay, shelter was arranged for Brian utilizing a local community resource for victims of domestic violence while Gabby was allowed to stay with the van they had been traveling and living in.

### **311.6 DISPATCH ASSISTANCE**

**All calls of domestic violence, including incomplete 911 calls, should be dispatched as soon as practicable.**

**Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order. NOT SUSTAINED**

The incident was reported as a domestic violence incident. Officer Robbins handled the investigation and obtained the identifying information from Brian and Gabby. It's common practice to run individuals through dispatch to check for wants, warrants, protective orders, and driver license information. Officer Robbins only asks dispatch for a "29" check by name and date of birth for Brian. A "29" check refers to the 10-Code of 10-29, which is checking for wants, warrants, protective orders, etc. Officer Robbins asks dispatch to run Brian out of Florida. Dispatch returns and states they are unable to find anyone with that name and date of birth out of Florida. I'm not sure if they also checked for a driver's license for Brian as well or just checked the "29" status as requested by Officer Robbins.

Officer Robbins asks dispatch for another "29" by name and date of birth, this time for Gabby. Officer Robbins misheard Gabby's last name and misspelled it. Officer Robbins read the incorrect letters back to Gabby and she didn't correct Officer Robbins. The last name was relayed to dispatch as being "Petico" rather than Petito. Officer Robbins asks dispatch to run Gabby out of Florida. Dispatch relays to Officer Robbins that the "29's" are "10-10" and states there was no "27" (driver license) found. When "10-10" is used, it means there are no listed wants, warrants, protective orders, etc. Because of the misspelled name, if there had been a protective order under her name, there's a chance they wouldn't have found it.

In a subsequent interview with Officer Robbins, I asked Officer Robbins why he didn't verify the information with Gabby after dispatch had told him they were unable to find any driver license information based on the information Officer Robbins reported to them. Officer Robbins said he didn't know and said, "the driving statuses weren't on my highest priority list." Officer Robbins also added that he may have missed that information as it was busy and it's difficult sometimes to catch everything that is going on "in front of you" as well as what's being relayed in your ear by dispatch. Officer Robbins also stated the ear piece he had at the time was not functioning well and the quality of the audio he was hearing was poor.

I explained the importance of finding out driver license information, especially as it relates to people who are not local, so you can confirm they are who they say they are as well as ensuring you're gathering and transmitting accurate information.

### **311.7 FOREIGN COURT ORDERS**

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe, or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state. **UNFOUNDED**

There were no protective orders found between Brian and Gabby. As documented above, there could have been one and it may not have been found; However, with Brian's correct information relayed, it's likely if there had been a protective order between Brian and Gabby, it should, or could have come up when checking Brian's information as well.

### **311.8 VERIFICATION OF COURT ORDERS**

Determining the validity of a court order, particularly an order from another jurisdiction, can be challenging. Therefore, in determining whether there is probable cause to make an arrest for a violation of any court order, officers should carefully review the actual order when available, and, where appropriate and practicable:

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
- (b) Check available records or databases that may show the status or conditions of the order.
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

Officers should document in an appropriate report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact a supervisor for clarification when needed. **UNFOUNDED**

This doesn't apply in this case since no protective orders were located.

### **311.9 LEGAL MANDATES AND RELEVANT LAWS**

Utah law provides for the following:

#### **311.9.1 STANDARDS FOR ARRESTS**

**(a) Officers responding to a domestic violence call shall arrest or issue a citation to a domestic violence offender if there is probable cause to believe an offense has occurred. The offense need not occur in the officer's presence (Utah Code 77-36-2.2). Any citation issued shall note that the offense involved a domestic violence offense (Utah Code 77-7-20). **SUSTAINED****

This has already been previously addressed and responded to in this report under Utah State Code.

**(b) An officer shall arrest an alleged perpetrator whenever there is probable cause to believe that the alleged perpetrator has violated any of the provisions of a court order or condition of release agreement and there is evidence the order has been served. The offense need not occur in the officer's presence (Utah Code 77-36-2.4; Utah Code 78B-7-119). **UNFOUNDED****

This section does not apply as no court orders were located between the two parties.

**(c) If an officer has probable cause to believe there will be continued violence against the victim or if there is evidence that the perpetrator has either recently caused serious bodily injury or used a dangerous weapon in the domestic violence offense, the officer may not utilize the option of issuing a citation (Utah Code 77-36-2.2). Factors that may support the likelihood of a continuing offense include:**

- 1. A prior history of arrests or citations involving domestic violence.**
- 2. The alleged perpetrator is violating a court order.**
- 3. The alleged perpetrator has a prior history of other assaultive behavior (e.g., arrests or convictions for assault and battery or aggravated assaults).**
- 4. The victim states that the alleged perpetrator has a history of physical abuse toward the victim.**
- 5. The victim expresses fear of retaliation or further violence should the alleged perpetrator be released.**
- 6. Any other evidence that would indicate the victim may be subjected to continued violence or abuse.**

**UNFOUNDED**

This has already been previously addressed and responded to in this report. I will, however, note each section above briefly.

Section 1: This was not investigated or disclosed by either party

Section 2: No protective order was found

Section 3: This was not investigated or disclosed by either party

Section 4: This was not investigated or disclosed by either party

Section 5: This was not disclosed by either party

Section 6: There was no evidence disclosed or observed that were clear signs that the victim would be subjected to continued violence or abuse.

**(d) In responding to domestic violence incidents, officers should generally be reluctant to make dual arrests. If an officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to identify the predominant physical aggressor. If the officer determines that one person was the predominant physical aggressor, the officer need not arrest the other person alleged to have committed domestic violence. In determining the predominant aggressor, the officer shall consider (Utah Code 77-36-2.2):**

- 1. Any prior complaints of domestic violence.**
- 2. The relative severity of injuries inflicted on each person.**
- 3. The likelihood of future injury to each of the parties.**
- 4. Whether one of the parties acted in self-defense.**

#### **UNFOUNDED**

This has already been addressed under the Utah State Code section.

**(e) An officer may not threaten, suggest, or otherwise indicate the possible arrest of all parties in order to discourage any party's request for intervention by law enforcement (Utah Code 77-36-2.2).**

#### **UNFOUNDED**

This has already been addressed under the Utah State Code section.

**(f) Whenever an alleged perpetrator is arrested or issued a citation and subsequently released by this department, the releasing officer shall then make a reasonable effort to notify the victim of that release and shall transmit that information to the statewide domestic violence network (Utah Code 78B-7-802). UNFOUNDED**

This section does not apply as nobody was arrested, either by citation or by custody.

**(g) An officer who does not make an arrest shall notify the victim of his/her right to initiate a criminal proceeding and of the importance of preserving evidence (Utah Code 77-36-2.2). UNFOUNDED**

This has already been addressed under the Utah State Code section.

**(h) Whenever a complainant advises of the existence of a court order, the officer shall determine if a valid court order exists and use every reasonable means to enforce the order. The officer should determine whether the order is in the statewide domestic violence network (Utah Code 78B-7-113) and/or:**

- 1. Whether a court order is on file with a law enforcement agency or whether the complainant has a copy of the court order in his/her possession.**
- 2. Whether proof of service or prior notice exists, whether the alleged perpetrator was in court when the order was made, or it was provided by a court ex parte.**



**3. The terms of the court order that may be enforced against the alleged perpetrator.****UNFOUNDED**

This section does not apply as no court orders were located and none of the involved parties indicated there was any court orders.

**(i) In the event the alleged perpetrator is no longer at the scene, officers shall document the incident for follow-up investigation. UNFOUNDED**

This section does not apply.

**(j) If an arrest is made or a citation is issued, the arresting officer shall provide the individual with a written notice containing the following information (Utah Code 78B-7-802):**

- 1. The individual may not telephone, contact, or otherwise communicate directly or indirectly with the victim before being released.**
- 2. The individual may not be released except by court order or a written jail release agreement.**
- 3. Notification of the penalties for violation of the court order or any jail release agreement executed and that the individual must appear in court on the next business day after arrest.**

**UNFOUNDED**

This section does not apply.

**311.9.2 REPORTS AND RECORDS**

**(a) Reports on all incidents of domestic violence shall include (Utah Code 77-36-2.2):**

- 1. The officer's disposition of the case.**
- 2. The appropriate crime classification for domestic violence.**
- 3. If no arrest was made, the report shall detail the grounds for not arresting.**
- 4. If two parties are arrested, the report shall detail the grounds for arresting both parties.**

**SUSTAINED**

There was a case report completed regarding this case and it has been identified as Moab Police Case #2021-001108. As it relates to Utah Code 77-36-2.2, that has already been addressed previously in this report under Utah State Code.

In the case report, the incident is categorized as a "Disorderly Conduct" incident and details the disposition of the case. The classification for this report should have been a domestic violence related category.

The report details the grounds for not arresting and due to there being no arrests, the report does not need to detail grounds for arresting both parties. I have detailed my concerns with the content of the case reports under the section above titled, Investigations 311.4, subsection (b).

**(b) The officer creating the report should provide the victim with the case number of the report. The case number may be placed in the appropriate space on the victim information handout provided to the victim. If the case number is not immediately available, the officer should explain to the victim how he/she can obtain the information at a later time.**

This has already been previously addressed under the Utah State Code section.

**(c) The report shall be made available to the victim, upon request, at no cost (Utah Code 77-36-2.2(6)(d)). UNFOUNDED**

This has already been previously addressed under the Utah State Code section.

**(d) The Records Manager shall forward a copy of the incident report to the appropriate prosecuting attorney within five days after the complaint of domestic violence occurred (Utah Code 77-36-2.2(6)(c)). SUSTAINED**

This has already been previously addressed under the Utah State Code section.

**(e) The officer completing a domestic violence report should include information regarding whether the victim would like the court to impose release restrictions upon the arrestee, including prohibiting the arrestee from having personal contact with the victim or from entering the victim's residence or other premises temporarily occupied by the victim (Utah Code 78B-7-802). UNFOUNDED**

This has already been previously addressed under the Utah State Code section.

**(f) The Records Manager or the authorized designee shall update the statewide domestic violence network when a person is released upon a written jail release agreement (Utah Code 78B-7-802; Utah Code 78B-7-113). UNFOUNDED**

This section does not apply.

## Moab City Policy – Other Applicable Sections:

### **319 – VICTIM AND WITNESS ASSISTANCE**

#### **319.4 CRIME VICTIMS**

**Officers should provide all victims with the applicable victim information handouts. SUSTAINED**

This information has been previously addressed in the report.

### **321 STANDARDS OF CONDUCT**

#### **321.4.1 LAWS, RULES, AND ORDERS**

**(c) Violation of federal, state, local or administrative laws, rules or regulations. SUSTAINED**

As previously described, I believe the officers responded to a domestic violence call and had probable cause an act of domestic violence had been committed. This should have meant an arrest was made, either by citation or custody. This was a violation of Utah State Code 77-36-2.2.

#### **321.4.7 EFFICIENCY**

**(a) Neglect of duty - SUSTAINED**

**(b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse - SUSTAINED**

Cause for these determinations have already been addressed previously in the report.

#### **321.4.8 PERFORMANCE**

**(a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation. SUSTAINED**

This applies to Officer Robbins report and the information he put in the report which was inaccurate or misrepresented which has already been detailed. Officer Robbins stated himself that he may be “guilty of speculation” when asked about some of the discrepancies.

**(e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members. NOT SUSTAINED**

This is in response to complaint #5 from Tanya Reeves where it is addressed in further detail.

**(i) Any act on – or off-duty that brings discredit to this department. SUSTAINED**

Cause for this determination has already been addressed previously in the report.

### **323 REPORT PREPARATION**

**323.1.1 REPORT PREPARATION – Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless**

permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be held.

All reports must accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees must not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

### **SUSTAINED**

I have already addressed the report writing concerns I had previously in this report. I don't believe the reports were sufficiently detailed as it related to this investigation.

**323.4 REPORT CORRECTIONS – Supervisors must review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should contact the authoring officer, stating the reasons for rejections. The original report should be returned to the reporting employee for correction as soon as practical. It must be the responsibility of the originating officer to ensure that any report returned for correction is processed in a timely manner. SUSTAINED**

Although by the time the report would have made it to a supervisor wouldn't have changed how the call was handled at the time, a supervisor reviewing the report should have addressed the concerns about the lack of arrest, the lack of details in the report, as well as the lack of follow-up with the reporting party. As part of addressing those concerns, the reporting party should have been contacted so their statement could have been documented as part of the report. Officer Robbins' report was reviewed and sent back for grammatical errors but I am unaware of there being any content issues addressed by any supervisors reviewing the reports; That is outside of Officer Pratt addressing the lack of Officer Robbins following up with the original reporting party.

### **342 DEPARTMENT USE OF SOCIAL MEDIA**

**342.5 PROHIBITED CONTENT – Content that is prohibited from posting includes but is not limited to:**

**(b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal, or local laws**

**(h) Personal information of an officer, or the officer's immediate family member.**

### **NOT SUSTAINED**

This is in response to complaint #1 from Tanya Reeves which I have provided a detailed response under that complaint.

### **422 PORTABLE AUDIO/VIDEO RECORDERS**

**422.6 ACTIVATION OF THE PORTABLE RECORDER – This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.**

The portable recorder shall be activated in any of the following situations (Utah Code 77-7a-103; Utah Code 77-7a-104):

(a) All enforcement and investigative contacts including stops and field interview situations

(c) Self-initiated activity in which a member would normally notify Dispatch

(f) Dispatched calls for service

#### **SUSTAINED**

There were two identified contacts during this incident, both contacts with witness [REDACTED], that were not recorded. The first contact by Officer Pratt was after officers were dispatched regarding this incident. The second contact was by Officer Robbins who responded to [REDACTED] residence to collect a statement. According to this policy, the sections I noted above apply to this case. Explanations by both officers regarding the lack of video being activated for these contacts are explained previously in this report.

#### **600 INVESTIGATION AND PROSECUTION**

**600.3.1 OFFICER RESPONSIBILITIES** – An officer responsible for an initial investigation shall complete no less than the following:

(a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:

1. An initial statement from any witnesses or complainants
2. A cursory examination for evidence.

(b) If information indicates a crime has occurred, the officer shall:

4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
6. Take any appropriate law enforcement action.

#### **SUSTAINED**

Cause for this determination has already been addressed previously in the report.

## Conclusion

There is one thing I would like to point out that I believe is applicable to this case as well as many domestic violence cases.

Just because Gabby was determined to be the predominant aggressor as it related to this incident, doesn't mean she was the long-term predominant aggressor in this relationship. Oftentimes in cases of domestic violence, the long-term victim gets to a point emotionally where they defend themselves or act out in such a way where law enforcement is summoned. There have been many times in my career where someone who we know from past experience to be a long-term victim of domestic violence, gets arrested for committing an act of domestic violence against their long-term abuser. Despite knowing the history of those involved, we have had to make a decision based on the information presented to law enforcement at the time, despite our personal feelings and the known history of the relationship.

It's very likely Gabby was a long-term victim of domestic violence, whether that be physically, mentally, and/or emotionally. Gabby had a job which she left in order to travel the country with Brian. Gabby was trying to start an online career which Brian didn't support or believe she could accomplish. Brian tried locking Gabby out of the van in an attempt to control her movements. Brian said he was trying to "make" Gabby calm down and Gabby said she was trying to get Brian to stop telling her to calm down. Gabby also said Brian kept telling her to "shut up." Based on the information provided, I can only assume the act of Brian grabbing Gabby's face, was his attempt to "make" Gabby calm down or "make" her shut up. Although the act of grabbing someone's face, like in this case, rarely causes any significant injury, I find that the specific act of grabbing someone's face is extremely personal, violent, and controlling. Just because there may have been some signs that Brian was the long-term predominant aggressor, law enforcement could only act on the information they were provided.

Officer Pratt said, "we're all doing this with the fact in our mind that we know what happened later. So, it's really convoluted and hard to tell you like anything other than what I thought at the time which was if I missed a big red flag that he was a murderer, then yes I missed it.... if I would have known he was going to murder her, I would have taken vacation to follow them, because I care about people, to the point where he was going to murder her..., and I would have intervened and citizens arrested him in Wyoming! I would have taken my own time; I would have missed my family to go do that. I'm desperately fucked over that she got killed. I really am. I would have done anything to stop it if I would have known that was coming."

When speaking with Officer Pratt, I asked him if there was anything else that he thinks I should know or add as it related to this investigation. Officer Pratt said he accepts responsibility for anything that was found he did wrong in this case. Officer Pratt said, "I accept responsibility for it but I don't want anyone to think that I did not care. I have daughters, and I do want anyone involved to know that I talked to Gabby and I treated Gabby as much like I could, fatherly, the way I would want another cop to interact with my daughter, even if he got it wrong. I do care. I am devastated about it. I cared that day and I still care. I don't think the public gets that we....I don't know if they know we care. I don't know if they know."

There is a lot of speculation regarding this incident and I can't answer the "what-if" questions. There were mistakes made in how this case was handled. If this case was handled flawlessly, would it have changed anything? Nobody knows. More and more in law enforcement, perfection is what is being

expected and with that comes officers second guessing themselves and their decisions. After reviewing all the information and speaking with the officers, I am confident and comfortable in stating the mistakes that were made were not made intentionally. The officers did not know what they were doing was wrong at the time and did not make the decision to benefit themselves in any way. They both believed at the time they were making the right decision based on the totality of the circumstances that were presented.

The Moab Police Department and specifically, Officer Pratt and Officer Robbins, are responsible for their actions or lack thereof as it pertains to this investigation. However, I find it difficult to assign responsibility to anyone other than the person or persons directly responsible for Gabby's death, weeks after and several hundred miles away from their August 12<sup>th</sup> incident in Moab.

Based on my findings in this report, I would recommend, at a minimum, the following:

- Both officers be placed on probation, or if they are still on probation, that probation be extended.
- A review of Officer Robbins' FTO program to determine if he needs to complete additional time on Field Training
- Report Writing training – at least 8 hours
- Domestic Violence investigation related training – at least 8 hours
- Legal Training – In addition to attending legal training to ensure officers understand Utah State Laws and Statutes, I would suggest building a stronger relationship with your local prosecutors to where if there are legal questions that officers are unable to answer, that they are able to and feel comfortable with, reaching out for additional guidance
- A review of the report approval processes previously in place to determine if more checks and balances are needed
- A follow-up with [REDACTED] to obtain his statement, regardless of how long it has been and whether or not his statement may be tainted due to the coverage of this case
- A review of the software used to transfer files to reduce the risk of photographic evidence being lost in the future
- Overall Policy Review – Update applicable policy sections to require photographs of injuries be taken of all those involved and require asking medical assistance to all those involved, regardless if they are a suspect or victim
- Implement a Lethality Assessment protocol and policy in all domestic violence cases

## Exhibits

Everything that I have used as part of this report, or documented myself, has been included with this report. All of this information will also be placed on a thumb drive and the entirety of the contents of this investigation will be turned over to Moab City Police Department. The Price City Police Department will not retain any of these records.

- Audio Recording of Interview with Assistant Chief Palmer, Officer Pratt, and Officer Robbins
- Body-Worn Camera Notes (taken by Brandon Ratcliffe)
- Body-Worn Camera Recordings from Officer Pratt and Officer Robbins
- Case Report 2021-001108
- [REDACTED] Written Statement
- Dispatch Logs, Dispatch 911 Audio Call, and Radio Traffic
- Emailed Communication between Assistant Chief Palmer and Captain Brandon Ratcliffe
- Formal Complaint from Attorney Tanya Reeves
- GRAMA request form to obtain Dispatch Information
- Moab Police Department Policy (Digital Form Only)
- Notes from Interviews with Assistant Chief Palmer, Officer Pratt, and Officer Robbins (taken by Brandon Ratcliffe)
- Signed Garrity Statement of Rights for Officer Pratt and Officer Robbins



## Body-Worn Camera Notes

### Officer Eric Pratt (2T8)

#### Initial contact with Brian:

Officer Pratt told Brian they got a call about a male hitting a female and then getting in the vehicle and taking off. Brian replies, "I don't want to try and defend myself by saying anything here but I pushed her away she gets really worked up and when she does she swings and (unintelligible – something about hands) "so I...."

#### Initial contact with Gabby:

She said she's having a "very stressed morning" – says Brian is her fiancé - asked if he's a good guy "yeah" – She said she was really stressed trying to get work done. Said she was apologizing to him after she had thrown a bunch of stuff in the back of the van. She said she gets "so stressed out" and has "OCD" - says she sometimes has a mean attitude but she's not trying to be mean about straightening things up. She said she was apologizing but she "guess I said it in a mean tone" – She said Brian got frustrated with her and locked her out of the van and told her to go "take a breather," She said she didn't want to. She said she wanted to get going and said they were out of water. She said their goal was to "come here" and "refill with water"

Asked what happened after he locked her out and told her to go take a breather. She said he walked away to take his own breather but she wanted to sit in the car because all her stuff was in the car. She said she had been working on something in the car and that is where she wanted to be. Brian told her to just relax for a second but she didn't want to relax so she "got real mad." He asked what happened next and she said she told him to drive to get water because she was really thirsty.

He asks about a mark on her cheek and points out a mark on her left arm. He asks to see the other side of her face. He asks what happened. She said she wasn't sure what happened, stating it happened "really fast." She said she was just trying to get back in the car and said his "backpack" was what "got" her. He tells her two people reported that Brian hit her, saw Brian "punch" her. She said, "to be honest, I definitely hit him first." He asked where she hit Brian, she said she slapped him. He asked how many times and she said a "couple" – She said he kept telling her to "shut up." He asked what Brian's reaction was to that and she said after a pause "grab my arm so I wouldn't slap him." He confirms Brian just grabbed her and she said "yeah." He asked, did he hit you though? He emphasized them needing the truth of what happened. She said, "I guess but I hit him first." (as she is saying this she is very obviously becoming more physically emotional) – He asked where Brian hit her. She said (while demonstrating) that he "grabbed my face I guess" – She then goes on to say that he didn't hit me in the face (while demonstrating a punch to her other palm) "like he didn't punch me in the face" – She said again that he grabbed her by the face (demonstrating again) and says she can feel there is a cut (on her left cheek) stating when she touches it, "it burns"

Officer Pratt asks if he had been drinking and she replied stating that "we don't drink" – Officer Pratt asks what was with the driving as Officer Robbins saw the van hit the curb. She replied, "I hit him."

Officer Pratt says “while he was driving?” She confirms she was hitting him while he was driving but “not a lot but yeah” – She said it was only for a second and said she saw the police car and she demonstrated throwing a punch. She said it was when she saw the lights on in the police car, she hit him (demonstrating again by throwing a punch) and said “you’re so stupid.”

Officer Pratt asks if she is okay and asks if she takes any medication for anxiety or anything. She said no. She said she just does yoga. She confirms she has a lot of anxiety and has OCD. Officer Pratt asks if Brian usually has a lot of patience with her. She said, “yeah but I get, it just makes me upset I know he definitely gets frustrated with me a lot because I have a lot of anxiety and he definitely has anxiety too” Officer Pratt relates to her and gives an example of his current relationship compared with his prior relationship and how if two people both have a lot of anxiety, they can feed off each other and things “spiral” – he tells her he’s not trying to tell her how to live her life but told her to look at the situation she is currently in.

#### Second Contact with Brian

Officer Pratt asks Brian if he wants to stand in the shade. He confirms they haven’t been drinking which Brian agreed. Officer Pratt said after talking to Gabby, (initially they were worried about what kind of a guy Brian is) but now it’s “not so clear cut.” He points out the marks that were noticed on Brian’s neck and said there were marks on Gabby as well. Officer Pratt asks Brian to explain what happened to Officer Robbins, and he goes and looks into the cab of the van and walks back to where Brian is explaining what happened. He gets a drink from the female officer on the scene and takes it back to Gabby.

#### Second Contact with Gabby

Officer Pratt takes Gabby a Gatorade and asks if she prefers water. Gabby apologized and said she only drinks water and he goes and grabs her water. He is met up by the female Park Ranger who asks if Officer Pratt is concerned with the story. He said he wasn’t, said she seemed like a sweet girl with a lot of anxiety, and explains that from Gabby’s story, she is the primary aggressor. The female Park Ranger confirms the circumstances explained by Brian also shows Gabby is the primary aggressor. Officer Pratt said he would “love” to talk with the independent witnesses. He gives the water to Gabby and returns to Brian who is still speaking with officers.

#### Third Contact with Brian

He returns and is on his phone and appears to get the information from one of the independent witnesses and returns to his vehicle to make a phone call to witness [REDACTED]...

#### First Contact with Witness – [REDACTED]

The witness describes seeing them arguing “a bit” and something that caught his attention was they were possibly fighting over a phone. Believes it was her phone and he was trying to keep her from getting in the van. She said something like “why you being so mean?” He got into the driver's seat and she was also trying to get in through the same door. She hit him a few times, more like “play fighting” nothing like “slugs to the face” – He felt like something was “off” and had a “weird vibe” about it – she “forced” her way in the vehicle over his lap. They then drove away. He wasn’t confident in the “nature

of the argument” – said it was some sort of disagreement. Wasn’t sure why she went through the driver's door, thought that was strange. He noticed someone else was calling it in.

14:20 into video

Officer Pratt asked if he ever saw the male strike the female. The witness was hesitant and said he “maybe” saw a push or a shove but nothing like a “full on punch to the face or anything” Officer Pratt asked if the shove was an aggressive action or a defensive maneuver. The witness wasn’t sure, said it was a good question and he wasn’t entirely sure what was going on but said it appeared to him that Brian was trying to close off the passenger side of the vehicle and “close things up” – put a backpack or “something” on the back of the vehicle, “I'm not sure”, Brian was stepping in and she was out trying to get in – he said he didn’t see anything that was him kicking after her or hitting her or vice versa – he said it was kind of “light” and they were laughing and he wasn’t sure if they were just joking around but it got “more strange” as he got in the vehicle and about to drive off.

Officer Pratt said, “you did see her slapping him it sounds like” he said, “yes, my memory is he was in the driver's seat and had the driver door open and she was like kind of hitting him near the arm, or maybe in the face” with an open hand and was saying to let her in.

Officer Pratt thanks him for the independent story which helped them figure out what was going on. Officer Pratt asked about a written statement which the witness agrees to and states he would get it written down now before his memory fades. He reminded Officer Pratt he was just “casually observing” and something seemed “off” and talked about it being a “bad situation” – Officer Pratt makes arrangements for a statement and hangs up the phone.

#### Contact with Officer Robbins:

Officer Pratt explains the story to Officer Robbins stating the witness statement matches Gabby’s statement to include he never saw him hit her but saw him push her but didn’t know if it was in defense of what she was doing or as an aggressive action. Officer Pratt said she climbed over him to get into the vehicle as she was locked out. Officer Pratt explains that unless the male is claiming he is at fault, that the female is the primary aggressor in this situation. Officer Pratt explains that the law states in incidents of domestic violence that they “shall” arrest. Officer Pratt explains that doesn’t necessarily mean someone needs to go to jail, stating they could release with a citation with one of the stipulations being they can ensure the safety of the victim. Officer Pratt states the problem with that is they live in the same vehicle. Officer Pratt also points out the injury to Brian (victim).

#### Officer Robbins Statement:

Officer Robbins said he was getting conflicting stories on what happened when they hit the curb. Officer Robbins described what he first observed was the van cross the double yellow line when the officer was going 42 miles per hour and he was about two car lengths behind. Officer Robbins states he was “tapping” his “wail” (siren) to get their attention and said “they knew” he was behind them. Van merged into the right lane and “out of nowhere” went right into the curb. Brian told Officer Robbins that Gabby grabbed the wheel and turned it “real hard” where Gabby said she was hitting Brian in the arm. Officer Pratt states that the “truth” is usually somewhere in the middle and Brian may be scared to say she hit him for fear of her going to jail so it was easier to say she grabbed the wheel.

Officer Pratt tells Officer Robbins that they are going to have to charge her and states there could be a citation if there is an arrangement that could be made to separate them. Officer Pratt states they also need to explain to them the no-contact order that would be in place and also inform Brian how to waive the protective order at the Moab Police Department. Officer Pratt said they should go speak with Brian first regarding what they needed to do.

#### Fourth contact with Brian:

Officer Pratt asks Officer Robbins about getting pictures. Officer Pratt then explains to Brian discretion when it comes to their job and in Utah, they don't have discretion when it comes to domestic violence cases. Officer Pratt brings up the independent witness who validated the story and also brought up there being another witness who would also likely validate the story. Officer Pratt explains that even if Brian didn't want to pursue any charges, law enforcement doesn't have a choice. Officer Pratt talked about the challenges with their circumstance as they live together in a van, they're from Florida, and the difficulty in separating them. Officer Pratt explains they don't want to take her to jail because of her stature and his ability to defend himself but again explains that they can't discriminate because she's the suspect and a female – they can't treat it any different than if it was the other way around.

Officer Pratt asks Brian if he has any ideas on how to separate them and asks if he has any friends in the area. Brian asks, "can I go to jail?" Officer Pratt said no because "we don't have a charge for you." Brian points to Officer Robbins waistband and joked about taking his radio. Officer Pratt explains to Brian that he could go to the police department during business hours and fill out a waiver to drop the no contact order so they can be together. Officer Pratt explains that Gabby will have a court date online and from there, it's up to the prosecutor.

Brian said he didn't want to pursue anything stating Gabby was his fiancé, he loves her, and it was a "little squabble" – Brian states that he wanted a checklist of things to do and wanted to "get rid of this" - Brian talks about wanting to get rid of it completely and Officer Pratt explains the court process and the expectations of what may happen. Officer Pratt brings up again that officers had to follow the law but the prosecutor could still potentially dismiss the case. Officer Pratt restates again that the first court appearance must happen and Gabby would need to "play ball" with making sure she attends and talks about it being good for them since they are traveling and could do it online.

Brian said "me and her are a team" and apologized again for the situation. Officer Pratt confirms there would be an online court date. Officer Pratt again explains that there will be a no-contact order in place and until Brian went into the police department to sign the waiver, the no-contact order would be in place.

Officer Pratt explains what a no-contact order means and explains the process to waive it if he so chooses. Officer Pratt brings up the problem with what to do with her, stating they need to be able to separate them. They explain the option of having one of them getting a hotel room and them staying separated until Brian can go to the police department the following day to fill out the waiver. Officer Pratt asks if Brian has friends in the area where one of them could stay which Brian said they don't.

Officers explain the charge, the difference in booking her into jail and just releasing her with a citation, and talk about the potential charge of violating the no-contact order if she were to communicate with him before it is waived.

Brian asks if Gabby can take the van and if they would be able to drop him off somewhere. Officers ask about her license and Brian states she has one. Brian asks about being dropped off at Delicate Arch and officers explain to him the problem with that would be him having to walk clear back into town to sign the waiver the next day and having to do that before noon since everyone in the office leaves at noon on Fridays.

They talk about since Brian is determined to be the victim of a domestic violence assault, that they had somewhere that would take him in to stay the night at no charge. Officer Pratt walks away and speaks with Gabby again after getting some water.

#### Third Contact with Gabby:

Officer Pratt empathizes with Gabby stating he was going to speak to her frankly and states that he sees her like his own daughter who he has similar in age. Officer Pratt also says he is going to speak to her not so much like a suspect but a victim whose dealing with a lot of issues in her personal life. Officer Pratt talks about the actions of both of them, both of them contributing to the circumstances, and stating the actions were due to her inability to cope with her anxiety and other issues she is having. Officer Pratt states Gabby is a victim of her issues and he felt like she would have done better in the situation if she possessed the skills to be able to handle it better but was lacking in those skills. (31:27)

Officer Pratt states that based on what she said, the witness said, and Brian (despite trying his hardest to keep her out of trouble) that Brian has marks on him that the witness state was caused by her actions towards him. Officer Pratt explains the fact they can't discriminate against him because she is a smaller female and he could easily defend himself against her. Officer Pratt goes into discretion and what is and isn't allowed under Utah law. Officer Pratt specifically talks about the law and how officers don't have discretion. All they can do is determine who the primary aggressor is and that person must be charged.

Officer Pratt explains to Gabby that they are trying to get Brian a room for the night and that she would be able to take the van to avoid her going to jail, further explaining that Gabby wouldn't qualify for a room since she is the primary aggressor and suspect in this instance. Officer Pratt explains to Gabby that she would be getting a citation and that she would have a court date that she would need to attend online. Gabby becomes physically emotional and asks, "So I need to come back to Utah?!" Officer Pratt explains that she would be able to attend the hearing online. Gabby asks if she can just get a ticket for something else, I believe she says for "hitting the curb." Gabby is pleading with Officer Pratt stating they are "okay" – Officer Pratt explains that if he could he would just give them both warnings and tell them to stop hitting each other but that they don't have discretion. Officer Pratt stated normally someone would be going to jail but they are trying to work it out that she could take the van and Brian would go elsewhere. Gabby asked if it was only because someone said they saw something. Officer Pratt told Gabby there were two witnesses and one witness is confirmed to be consistent with what she said to happen as well as Brian. Gabby is crying and says, "I don't want to be separated." Gabby continues to get more emotional, begging for a driving ticket and that this is going to cause so much anxiety.

Officer Pratt states that the best thing he could do is call his supervisor to see if he is "missing something." Gabby is pleading, stating she will pay for any type of driving or parking ticket. Officer Pratt asks her to try and calm down and he was going to call a supervisor. Officer Pratt reiterated he didn't think there was anything he would be able to do but he would see if a supervisor would tell him

something he may be missing. Gabby continued crying stating she couldn't be alone and wouldn't be able to handle it. Officer Pratt walks back to his vehicle where he calls a supervisor.

#### Contact with Supervisor Assistant Chief Braydon Palmer:

Officer Pratt tells Assistant Chief Palmer that a tiny little 22yo girl slapped her fiancé multiple times and he has a mark on his jaw. Officer Pratt says the one witness statement was consistent with Gabby's statement as well as Brian's statement. Officer Pratt tells the story of Gabby getting "pissed off," he's trying to separate from her, she's not staying away from him, there are severe anxiety problems, he locks her out of the van telling her to go for a walk and cool off, she forced her way in the van, "clawing" her way past him to be with him, he's shoving her to try and keep her out of the van, "she's punching, slapping, everything" – she's 105 pounds "soaking wet", 22 years old, full of anxiety having a really tough time, "not making excuses, its written in the code we have a domestic assault here," he's not wanting to pursue it, very adamant against pursuing it, we don't have discretion on these things, give them a no contact, see if the safe haven place can give him a room, leave her with the van so we don't need to put her in jail, she's really struggling with not being alone without him and they want to be together, I told her there's not anything I can do, this is all written in statute, I said the last thing I can do is call a supervisor where this is such a minor, this was like a slap fight and injuries from like a fingernail, I just don't know if it's worth the whole domestic thing or not if it's going to get us in trouble if we don't do it this way.....(supervisor talking, can't hear)....well they don't want to but unless I get some kind of permission some other way, we have to separate ya.....(supervisor talking can't hear)....as far as the domestic assault charge, what do you think about that? .... (Supervisor talking can't hear) .... well, I mean.... (Supervisor talking can't hear) ....do the whole thing or not (he cut himself off) (supervisor talking can't hear) .... but is there a way of not doing something like this? I mean it's so minor.... (Supervisor talking can't hear) .... it's hard to say right? (Supervisor talking can't hear) .... I'm going to go re-read the statute and just see if it fits or if there's a way it doesn't fit and if I can find a way that it cause it really is..this..the spirit of the law is being lost on this one. It really is. So let me see what I can find and if nothing else then we'll have to separate them whether she likes it or not.... (supervisor talking can't hear)...Alright thanks...bye

#### Looking up Code – Second Conversation with Officer Robbins

Officer Pratt looks up code and says, "bodily injury means physical pain, illness, or any impairment of physical condition. So, let's see, he's not ill, he doesn't have an impairment of physical condition, and if he's not in pain...." He asks Officer Robbins, "how far do you want to go with this? You know why the domestic assault code is there. It's there to protect people. The reason why they don't give us discretion in these things is that too many times women who are at risk want to go back to their abuser, just wanted him to stop, and don't want to have to be separated, don't want him charged, don't want him to go to jail, and the treatment gets worse and worse and they end up being killed." "In no way, shape, or form, that I can perceive, does what happened here, a little slap fight between fiancé's who love each other and want to be together, can I perceive that this is going to digress into the situation where he's going to be a battered man, but then again I don't have a crystal ball."

He goes on to say he talked with the Assistant Chief to see if there's any way to go less than the full force domestic assault route and he says, "look, either go all the way or don't." Officer Pratt said he asks "under what circumstances can I not?" The only time I cannot is if it doesn't fit. If it fits then it's in the law and you have to do it.

Officer Pratt explains he went and looked at the code for assault. Officer Pratt talks about how they both “know” what assault is but talks about how valuable it is to look it up and read it word for word. Officer Pratt then reads the statute for assault. They start talking about the specific verbiage in the code, specifically about it meaning, “the intent to do bodily injury” – Officer Pratt then looked up the definition of bodily injury in Utah code and reads it again (which he did previously) – Officer Robbins points out that Brian had a “swollen right eye” - Officer Pratt tells Officer Robbins that the result didn’t matter, it was about the intent, and if she intended to cause him pain, illness, or impairment of physical condition.

Officer Robbins asks if the definition included “attempt AND intent” or “attempt OR intent” – Officer Pratt replies stating “when you're attempting to do something, you have to intend to do it.” Officer Pratt insinuates that intent is synonymous with attempt. Officer Pratt asks Officer Robbins, “what was her intent?” Officer Pratt tells Officer Robbins to speak with Gabby and ask her questions regarding the intent behind her actions, stating that whatever Gabby answers, will “seal her fate.” The officers then go to Gabby to speak with her further.

#### Fourth Contact with Gabby:

Officer Pratt tells Gabby he has a question for her and “how” she answered the question determined what happened next and further stating that she was the only one that could answer the question. Officer Pratt continues to tell her, “Think very hard before you answer the question” - Officer Pratt asks Gabby, “When you slapped him those times, were you attempting to cause him physical pain or physical impairment.” Gabby answers immediately, shaking her head side to side and stating, “no.” Officer Pratt asks Gabby, “what were you attempting to do? What was the reason behind the slapping and stuff? What were you attempting to accomplish by slapping him?” Gabby replies, “I was trying to get him to stop telling me to calm down.” Officer Pratt then says out loud, “Well it doesn’t sound like to me she attempted to injure him.” Officer Pratt then tells Officer Robbins, “it’s your call. It’s 100% your call. I support you either way.” Officer Pratt then walks away where Officer Robbins approaches him a moment later and is also joined by the female Park Ranger.

Officer Robbins states he doesn’t “entirely believe her.” Officer Robbins goes on to explain that Gabby admitted to striking Brian in the arm earlier which Brian also acknowledged. The female Park Ranger confirms that what she was told by Gabby was that Brian was looking at Gabby when Gabby struck him which was the reason why there were marks on Brian’s face that was closest to his window. The female Park Ranger said Gabby told her she wasn’t trying to hurt Brian but that Brian just wasn’t listening to her and it was her fault Brian hit the curb because she was distracting him. 47:15

Officer Pratt goes on to explain what assault is, defined in the codebook, and again brings up what the code states bodily injury means. Officer Pratt reminds the others he is recording and states society, judges, everyone can judge him for this. Officer Pratt states he is looking at a 110-pound female with her fiancé and they have no “means to be separated.” Officer Pratt states Brian doesn’t want to pursue it, she is not a threat to him more than slight abrasions from her fingernails. Officer Pratt states he doesn’t care if they use “the actual letter of the law to not charge. I also don’t care it literally makes perfect sense to go full-on domestic assault. Officer Pratt tells Officer Robbins it is his decision and states he would support him either way.

Officer Robbins states he is going to do a crime report on it, won't charge right now, send it off to the city attorney, and let them screen it for charges.

Officer Pratt tells him that if he does that and they “strongly disagree with his decision, and they throw a complete fit, you might hear about it in a very negative way.” Officer Pratt then suggests Officer Robbins to “make a decision yourself.”

The female Park Ranger states she would rather be “dinged for a decision I made than a decision I didn't make” Officer Pratt states, “especially if they think you were completely negligent in your decision” Officer Pratt tells Officer Robbins that he completely supports him in whatever decision he makes, even if they go as far as taking her to jail.

At this point, a call is coming through and Officer Pratt states he better “take this.” Officer Robbins states he will make the decision and states he is going to cite and go through the process. Officer Pratt asks him if he feels more comfortable taking the other call. Officer Robbins is hesitant either way and states it's basically 50/50. Officer Pratt tells Officer Robbins that he could also separate them for the night and take no action. Officer Pratt tells Officer Robbins that if they find each other again he still separated them and provided for Brian's safety. Officer Pratt tells him that if they find each other again then it's “on him.” The female Park Ranger states, “you can't babysit them all night.”

Officer Pratt tells Officer Robbins he could separate them and tell them to let it cool off until tomorrow. “If they don't let it cool off and we hear about it, we'll hear about it.” Officer Pratt says if there is continued fighting going on, “you already were mister nice guy, you already gave them a chance – what you can't do by law is separate someone and say if we hear from you again, we're going to arrest one of you.” Stating that if any of them really need help they may not call the police and you can't threaten them with that. Officer Pratt continues telling Officer Robbins to go “full, or nothing, or somewhere in-between and separate them” stating “and kind of give them a nod, the wink like hey stay separated, it's up to you”

Officer Pratt then tells Officer Robbins he is going to go handle the call that just came in. Officer Pratt tells Officer Robbins that he has “very capable help” with him and that he trusts him. Officer Pratt tells Officer Robbins to call if he has any problems. He gets in his vehicle and clears the call and states he is en route to the intoxicated male call.



## Officer Daniel Scott Robbins (2T9)

The video starts with the officer stating that the driver of the van was showing some “obscure driving” and “possibly intoxicated.” Stated he was going about 45mph and the speed limit in that area was 25mph. He then reported the van just hit the curb and stated the speed limit was actually 15mph.

### Initial contact with both occupants:

He asks Brian to place the van into park and to set the keys on the dash. He asks for their names and asks Gabby why she was crying. Gabby states they have been fighting this morning, stating there have been “personal issues.” Brian states it has been a “long day” and stated they were camping yesterday and apologized for hitting the curb. Gabby states, “I was distracting him from driving, I’m sorry.” He asks Gabby to step out of the van and asks Brian if he can set the keys on the hood of the car. Brian provides the keys to the officer.

### Initial contact alone with Gabby:

He notifies dispatch he has the female separated from the male. He asks Gabby what happened. Gabby is crying and states she has really bad OCD and was straightening up the van and apologizing to Brian for “being so mean because sometimes” she has OCD and sometimes she gets really frustrated. She stated she was apologizing to Brian for being in a bad mood. Gabby stated she had “so much work” she was doing on her computer this morning and the officer asks what she does for work. Gabby states she used to work at an organic juice bar as a nutritionist but quit her job to travel across the country and is trying to start a blog. She said she has been building her website and has been really stressed and stated that Brian “doesn’t really believe” that she can do “any of it” and that was upsetting. Gabby states they have been “fighting all morning” and Brian wouldn’t let her in the car before.

Officer Robbins asks why Brian wouldn’t let her in the van. Gabby said Brian told her she “needed to calm down.” Gabby goes on to say she is perfectly calm “all the time” and states Brian “really stresses” her out and said this has just been a “rough morning.” Officer Robbins tells Gabby that he is going to place her in the back of his car, stating that at this time she isn’t in any trouble and isn’t going to be in handcuffs. He tells her she will have air conditioning and allow her time to take a breath and relax a little bit and then he will return later on and talk to her. He then puts her in his patrol car and returns to the van.

### Initial contact alone with Brian (assisted by male Park Ranger):

Brian asks if he was just talking with his fiancé which he confirms. Officer Robbins asks Brian to step out of the van so they can talk. Officer Robbins asks Brian what was going on. Brian states that Gabby gets “really worked up sometimes” and he tries to “distance” himself from her. Brian stated he locked the car and walked away from her. Brian continues stated that what happened this morning was Gabby was trying to start up her own website/blog and said he gave her time but then started saying that they had a “nice morning” – Brian stated that she got “worked up” as they were trying to get their day going and go to Arches.

Officer Robbins asks Brian to tell him about the scratches that are on his face. Brian replies, “she had her cell phone in her hand and that’s why I was pushing her away.” Brian talks about locking the van and

walking away and suggesting they take a breather. Brian stated that was the only way to “calm down from it” and stated Gabby was getting “worked up.” Brian said Gabby had her phone and was trying to get the keys and that is when he was pushing her away. Brian said he knew he “shouldn’t push her” but stated he was just trying to push her away, stating again that they needed to “take a minute” and “step back and breathe” and then he pointed to the area near his right eye and said, “she got me with her phone.” Officer Robbins asks to look at Brian’s hand and points out a scratch on his left hand. Brian states, “that’s from a wire.”

Officer Robbins asks Brian about hitting the curb. Brian states while demonstrating, that hitting the curb was from Gabby grabbing and turning the wheel. Brian said Gabby said, “I can’t believe we’re getting pulled over” and grabbed the wheel. Officer Robbins asks about his speed and Brian states he knew he was going fast and said it was probably from the adrenaline of getting pulled over and Gabby grabbing the wheel and said he was still “shaken up” – Brian said if he “sped up” then he was “sorry about that.” Brian added if he was speeding “beforehand” he was also “sorry about that.” Officer Robbins stated it took him a little bit to catch up and Brian apologized again stating he was headed into the park to “get water” stating they have a six-gallon water container to fill up for their upcoming hike. Brian continued stating he was trying to keep everything “calm and quiet” because there was still “plenty of time to go” for their hike.

Officer Robbins asks Brian to sit on the curb after ensuring there were no weapons on him. Officer Robbins asks Brian for his ID to which he said it was in the van. Officer Robbins said that was okay and collected his name and date of birth. He then runs the information through dispatch. Officer Robbins then goes and stands next to Officer Pratt who is still interviewing Gabby.

The interaction while standing with Officer Pratt is already documented.

11:35

Officer Pratt walks away to speak with Brian and Officer Robbins continues the interview with Gabby. Officer Robbins states he heard Gabby say she was hitting Brian in the arm while they were driving. Officer Robbins asks Gabby if she grabbed the steering wheel at all. Gabby stated she did not “touch the steering wheel but only for like a second I just saw the lights come on” and demonstrated the punch she did to Brian while stating, “you’re an idiot.” Officer Robbins asks again if she grabbed the steering wheel at all and she shook her head side to side while stating “no, no, I didn’t touch the steering wheel at all.”

Officer Robbins states he is going to shut the door and asks Gabby if she had enough air or if she needed him to turn it up. Gabby asks Officer Robbins for water. Officer Robbins walks away and asks the female Park Ranger if she has any water and then walks over to Brian who is speaking with Officer Pratt and the male Park Ranger.

#### Second interaction with Brian:

Officer Robbins asks Brian to start at the beginning and tell him again what happened. Brian stated they have been (inaudible – unk) for the last week or so and stated the “flies” have been pretty “intense” and stated the flies have “definitely been getting to her” further stating that his feet are also dirty – he stated their “little squabble” started while they were hanging out at “the coffee shop” and when they got back to the van there was “some little dirt” at the back of the van. Brian stated he moved their food around and (interrupted by the female officer taking a drink to Gabby – they asked Brian if he needed

water and Brian stated he didn't like plastic bottles. He continues with the story) Brian stated there was a "little disagreement there" He continues stating this was at the beginning and added again that Gabby was getting a little worked up.

Officer Robbins asks what the disagreement was about. Brian then stated he wouldn't even call it a disagreement but stated again he had dirty feet and stated they were at the coffee shop "for so long" stating they were there from about 9 – 3 and stated that it was a few "little things" adding they were "relationship things" and stated to Officer Robbins that he didn't know if Officer Robbins was in a relationship but again stated it was just "little relationship things." Brian continues stating they weren't "physical" before the point Brian said to "let's just take a breather" and stated he would lock the van up and they would each go for a walk, about a block in different directions, and then come back to the van.

Brian stated she was "worked up" and had her phone in her hand as well as her keys – then added it wasn't the keys, it was her phone and her rings that were on her fingers. Brian stated he had the keys because he didn't want her to go anywhere. He said he didn't have his phone, then said he doesn't "really have a phone" and was worried about her leaving without him then he would be left on his own.

Brian continued stating that he said "let's just go for a walk" and stated Gabby was trying to get the keys from him and that is when he demonstrated pushing her away and stated that is "when she hit me." Brian stated he didn't get "really physical" but stated he was just trying to push her away and "not get hit." Brian said this is when he "got really loud" and stated that is probably when they drew "everyone's attention" was when he was yelling, "back up! Get away! Just give me a...."

Officer Robbins asked about the scratches near his eye and asked what caused that. Brian stated it was the "phone." Officer Robbins tried clarifying by stating that Brian pushed her and then she hit him. Brian corrected him and said Gabby had already jumped on him and was "swinging" when he pushed her and added that she had a lot of rings and nails which would have caused the injuries. The male Park Ranger points out there are scratches on the left side of his neck, on the left side of his nose, a scratch near the center of the face, and a bruise and bleeding on the right side of his head. Officer Robbins then asks Brian to pull up his right sleeve and notices further injury near his right bicep/tricep. Officer Robbins asks what the injury is from and Brian stated "I suppose fingernails, but I'm not complaining." Officer Robbins asks if it is bruised or tender and Brian states "no" and continues by stating, "I'm fine and I love Gabby. I hope she doesn't have too many complaints about me" (while pointing towards the direction she is at) – Brian added that he felt bad about getting so loud and stated he was just trying to get some distance. He said, "I was trying to make her calm down" and said he pointed out to her that "everyone's watching" – Officer Robbins then leaves to go talk with Officer Pratt but he is busy and he returns to Brian and said he has some more questions.

Officer Robbins asks Brian if he takes any medications. Brian stated he doesn't but said Gabby has told him in the past that he should take "Xanax or something like that" because he has "high anxiety." Officer Robbins asks if he is normally hyper. Brian asks if he seems like he is? Brian stated his heart rate jumped when he "saw the lights" – The male Park Ranger asks, and Officer Robbins asks, if Gabby takes any medications that he is aware of. Brian replies while laughing, "She's just crazy!" then immediately dismisses it and says he was just kidding. Brian stated Gabby doesn't take any medication he was aware of. Officer Robbins leaves Brian and walks back to Gabby.

Second Contact with Gabby:

Officer Robbins asks Gabby for her personal information and runs her through dispatch. (He misspells her last name) – and walks back to where Brian is.

#### Third Contact with Brian

While he is waiting to hear back from dispatch, there is small talk with Brian and the male Park Ranger about irrelevant stuff that isn't worth documenting. Officer Pratt returns to Officer Robbins and states he just spoke to a witness and they go off together to discuss what the witness stated.

#### Conversation between Officers

This information is already documented from the prior video observations. (20:54) – After speaking together, they both walk over to Brian and continue talking with him together, which is already documented. They are there together until 33:15 when Officer Robbins makes a phone call to try and get arrangements for Brian to have somewhere to stay.

#### Phone Call

Officer Robbins makes the phone call and returns to Brian and Officer Pratt.

#### Fourth Contact with Brian

Officer Robbins returns to Brian while Officer Pratt is now speaking with Gabby. He tells Brian that they are making arrangements for him to have a place to stay and Brian is obviously physically emotional about it and thankful for their help. Officer Robbins starts empathizing with Brian and brings up his own relationship and the anxiety between him and his wife. Brian adds that sometimes he just has to walk away. Officer Robbins states he isn't going to try and give him life advice as Brian has been on this earth "almost as long" as he has. Officer Robbins apologizes for everything that has happened to Brian and Gabby and Brian. Brian is thankful and asks if he can make himself a "little bag" of stuff if they are going to be taking him somewhere. The male Park Ranger assists Brian with this while Officer Robbins returns to Officer Pratt and the female Park Ranger. This information is already documented. They are together until 36:27 when he gets a phone call.

#### Second Phone Call

The phone call is with the person that they are using to help get a room for Brian. He provides the person Brian's information and a brief synopsis of what had occurred. He is on the phone and advises she will be getting charged with domestic assault and a protective order will be temporarily in place. He is on the phone call for a few minutes and then returns to the van to speak with Brian.

#### Fifth Contact with Brian

He explains that since he is a victim in this case, he asked about taking photographs of the injuries Brian sustained from the incident. The officer is taking photographs when the female Park Ranger walks up and asks about getting Gabby's cell phone. Brian gets the cell phone for the Park Ranger and then returns where more photographs are taken. He takes pictures of his face, his arm, hands, and neck. He then asks Brian to lift his shirt up so he can see if there are any further injuries. When he lifts his shirt up, it looks like there's a long red scratch or scar underneath his left pec but the officer doesn't take a picture of it. (43:40)

He explains to Brian he is still working on getting Brian a place to stay and it will be a bit longer before they can secure that. He explains that they will still have a few minutes that they need to cite Gabby and provide her with the information she will need. He leaves Brian to the male Park Ranger and then walks back and makes contact with the female Park Ranger.

The female Park Ranger stated the female was calling her parents to try and feel better. She said that Gabby doesn't want to have to spend a night without Brian and was struggling. The officer stated that she didn't have a choice in the matter and the female Park Ranger agreed and said the other officer went to call a supervisor. Officer Robbins returns to the vehicle where Officer Pratt is where they have a conversation about the code verbiage and this information is already documented in the notes above.

Conversation between two Officers: They speak until 48:46 and go back to Gabby.

#### Third Contact with Gabby

They return and speak with Gabby and this information is also already documented in the notes above. They are there until Officer Pratt leaves for another call at 54:34

#### Sixth Contact with Brian

Officer Robbins gets a picture of his driver's license and collects his phone number ( [REDACTED] ) – Brian shows the officer his phone that has the number (interesting whereas before he stated he “didn't really have a phone”) – Officer Robbins leaves and returns to Gabby.

#### Fourth Contact with Gabby

He collects Gabby's phone number ( [REDACTED] ) and asks for her ID which is still in the van. Gabby tells Officer Robbins where it is at and the female Park Ranger walks towards the van.

Officer Robbins tells Gabby he has decided not to cite Gabby for domestic violence assault, and that she isn't getting charged with anything. Officer Robbins tells Gabby that he does have to separate them tonight and wants them away from each other where they can relax. Officer Robbins tells her that she will be taking the van and that Brian is getting lined up with a hotel room. He tells them to stay away from each other. He said he wants them to have a chance to get away from each other, breathe, talk to their parents, etc. Female Park Ranger returns and Officer Robbins gets a picture of her ID. At 58:19 he gets a phone call and walks away.

#### Third phone call:

The phone call doesn't last long and it sounded like there was a place across from 7-11 that was mentioned (Bowens?) –

#### Fifth Contact with Gabby:

He returns and again tells Gabby that Brian has a hotel room for the night. He tells Gabby he has to keep them separated but states he can pass a message to him if she would like. He asks if Gabby wants him to tell Brian she loves him and she'll see him tomorrow. Gabby agrees and tells Officer Robbins to tell Brian not to forget a phone charger.

#### Seventh Contact with Brian:

Officer Robbins returns to Brian and tells him that he had a hotel room for him tonight. Brian is appreciative. Officer Robbins tells Brian that Gabby said she did not intend to hurt him when she was slapping at him so “technically speaking it does not fit the letter of the code” so he is not charging her with a domestic violence assault case. He tells Brian that he is releasing them both but didn’t want them seeing each other tonight. He tells Brian that Gabby agreed to it and he told Brian to take the opportunity to take some time for themselves tonight. Officer Robbins then tells Brian that Gabby said she loves him and to not forget a cell phone charger. Officer Robbins asks Brian to not have any communication with Gabby tonight, then says to “try” and not have any contact with each other tonight.

#### Sixth Contact with Gabby

He then asks Brian to stand by the Park Rangers truck as he was going to walk Gabby over to the van. Officer returns to Gabby and tells her to not communicate with Brian tonight “unless there is earth-shattering emergency news” – He said Brian is going to the hotel and he gives Gabby the keys to the van.

Gabby asks if it was going to be a “far drive” for her to get him in the morning. Officer tells her that he isn’t going to say where he is going and Gabby said that was fine. Gabby was just concerned as she doesn’t usually drive the van and she wanted to make sure it wasn’t too far. The officer is walking Gabby over to the van and stops her and tells her where she can go to get a list of places to go to shower if she is looking for a place to do that. He wishes Gabby well, reminds her to not communicate with Brian tonight, and leaves Gabby with the van.

#### Eighth Contact with Brian:

He returns to Brian and tells him to go ahead and jump in the back seat of his vehicle. Officer Robbins thanks the Park Rangers for the help. He gets in the vehicle and lets dispatch know he is taking the male to the Bowen Hotel.

He tells Brian that it was his request but is not “legally required” to “hold to it” that he asks them to not communicate tonight. He then has a conversation and talking about his own wife and her anxiety and what helps her and tried to help Gabby with some suggestions. Talked about his wife being on medication and stated that within a week his wife was considerably different and made her quality of life better. He asks how long Brian and Gabby have been together. Brian stated they have known each other since high school but said they have been together for three years (not sure I heard him say three but didn’t know the rest) –

The car ride they have small talk, talking about driving, places they’ve been, (Brian brings up Appalachian Trail), Brian said they were going to be heading to Oregon to visit one of her family members or friends – Brian asks about national parks to visit, where they talk about multiple parks in California, drops him off

## 911 Audio / Radio Traffic Notes

### 911 Audio:

Reporting Party wants to report a domestic dispute. The dispatcher asks what they were doing and the caller states, "we drove by and the gentleman was slapping the girl" – he said they stopped and the two "ran up and down the sidewalk" where "he proceeded to hit her, hopped in the car, and they drove off." The caller describes the vehicle with the license plate. The dispatcher asks for his name which he states is [REDACTED]. Dispatch asks for his phone number which is: [REDACTED]

Dispatch confirms the direction of travel.

### Radio Traffic Audio:

The dispatcher beeps the tone and alerts law enforcement about a male hitting a female and then leaving the area of the Moonflower and heading north on Main Street and provides the vehicle description.

2T8 (Officer Pratt) asks for the phone number of the reporting party which is relayed back to the officer

An officer (unk) states they spoke to another witness who stated there was a full-size backpack attached to the rear of the vehicle as well

2T8 (Officer Pratt) states he is clear the Moonflower and looking for the vehicle

2T9 (Officer Robbins) asks dispatch to run both occupants, both returning with dispatch not ever able to find driver license information (info on the female was incorrect as far as name spelling)

## Officer Interview Notes

### Assistant Chief Palmer – Interview Notes

The questions are in regards to your phone call conversation with Officer Pratt while he was on scene with the domestic violence incident between Gabby Petito and Brian Laundrie. There will also be questions regarding report approval process as well as any other knowledge you may have as it relates to this case.

**1. When you spoke with Officer Pratt while he was on this scene, did you record your conversation or was there anyone else around that heard the conversation?**

It was not recorded and if anybody was there, I don't know. Potentially my wife, she was the only person around. He stated he was actually home on paternity leave when he received the phone call.

**2. Officer Pratt called Assistant Chief Palmer and gave a brief synopsis of what happened and said he told Gabby there was nothing he could do as it was all written in statute.**

**Officer Pratt:** The last thing I can do is call a supervisor where this is such a minor, this was like a slap fight and injuries from like a fingernail, I just don't know if it's worth the whole domestic thing or not if it's going to get us in trouble if we don't do it this way.

Assistant Chief Palmer:

No, I don't. To that, I do not remember. I don't know if I really have much of a response to that. I'd imagine based on Officer Pratt's response on 3, there was, we probably had a brief conversation on the two parties' willingness obviously to cooperate and if there was interest in charges you know, or not. If they were willing to separate, I know that was part of our conversation.

After I received the synopsis, I think it's important to note that you know my initial is, ... Officer Pratt is a seasoned officer, he has more years of experience than even I do. Umm, I referred to him state statutes, look at the code, see what fits, umm, and then our policy as well.

**3. Officer Pratt: Well, they don't want to but unless I get some kind of permission some other way, we have to separate ya....**

Assistant Chief Palmer:

Probably would have said yes, they should be separated but that again I would refer to state statute and policy as far as making a determination. I've never been a supervisor that tells somebody do this or do that, especially when I'm not there... (can't understand) ...call me and give me a synopsis I'm probably just going to air on the side of policy and state law, right?



**4. Officer Pratt: As far as the domestic assault charge, what do you think about that?**

Assistant Chief Palmer:

Kind of the same thing, I'm not there. Review state law and policy and make a determination based on what you're seeing and what you think.

**5. Officer Pratt: Well, I mean...**

Assistant Chief Palmer:

I've did what I would of respond to (hard to understand)

**6. Officer Pratt: Do the whole thing or not...**

Assistant Chief Palmer:

Don't know what I would have responded.

**7. Officer Pratt: But is there a way of not doing something like this? I mean it's so minor.**

Assistant Chief Palmer:

I would imagine we did have a conversation about the injuries and that they were minor umm and that it sounded like a tough decision to make but that they're the ones on scene, I'm not.

**8. Officer Pratt: It's hard to say right?**

Assistant Chief Palmer:

?

**9. Officer Pratt: I'm going to go re-read the statute and just see if it fits or if there's a way it doesn't fit and if I can find a way that it - cause it really is..this..this..the spirit of the law is being lost on this one. It really is. So let me see what I can find and if nothing else then we'll have to separate them whether she likes it or not.**

Assistant Chief Palmer:

I said yep that's what I would do, re-read, review statute and policy and make a decision.

**10. I told him that Officer Pratt talks to Officer Robbins and he tells Officer Robbins that Assistant Chief Palmer told him that if it fits it fits, if it doesn't, it doesn't.**

Assistant Chief Palmer:

Right

**11. What is the report approval process with the Moab City Police Department?**

This situation so you have Officer Robbins who is on Field Training and Officer Pratt who had been a Field Training Officer. Ideally the Field Training Officer takes a look at their report before it's submitted, they go over it, the report is then submitted and comes to the first line supervisor umm which uhm you know generally is a Sergeant. We were in the middle of a promotional process (unk) a little bit different. From there the initial supervisor, the first line supervisor reviews the report, if corrections need to be made, they reject it back to the officer, if no corrections need to be made and they felt that the report was complete they would then approve it and it goes to our records. They do some reviewing there as well and then obviously if it's an active case it would go to whichever attorney it needed to go to if not then its closed or no action was taken on it then that's it.

**12. I asked what type of review records does on the reports**

Records reviews the reports for completeness as far as, are all the boxes filled out, and linking it to any other reports that they need to be.

**13. I asked if the highest up the reports are reviewed for content is with a sergeant.**

He confirmed this as accurate (FTO and/or first line supervisor which is a sergeant)

**14. Do officers have access to body-worn camera video when preparing case reports?**

Yes, we run Axon so if you're out and about you have access through the app. Axon has an App you can review it prior to it being uploaded to the server. Otherwise, after it's uploaded to the server, they would still have access.

**15. Are you aware if there is any body-worn camera footage of the contacts with the witness, [REDACTED]?**

Not that I'm aware of, there's not. And that would be the initial response to the Moonflower? I said yes, the initial response to the Moonflower and then the follow-up to get the statement. He said not that he was aware of.

**16. Did you ever see any of the photographs of the injuries or driver's licenses that were taken by Officer Robbins?**

I did not.

**17. Does Moab Police Department have victim's pamphlets to hand out for domestic violence cases?**

For domestic violence yes.

**18. Do you have anything that you would think was important to add?**

I don't think so. I think the body camera video shows kind of, you know, the gist of our conversation. Like I said, I'm on paternity leave and so I wasn't wholly (can't understand) but ultimately my recommendation was to review state statute and policy which is exactly what happened that they looked at the code and made a determination.

## Officer Daniel Robbins Interview Notes

### **1. How many years of law enforcement experience do you have and how long have you been with Moab City Police Department?**

5 months – FTO ended at the beginning of September – Probation lasts for a year

### **2. Did you have access to your body-worn camera and dispatch call information when preparing your report?**

Bodycam yes. I didn't have the 911 call or anything like that.

### **3. What about dispatch notes?**

I don't recall.

### **4. What system do you guys use?**

FatPot

### **5. So on FatPot, are you able to see the dispatch notes?**

Some, not all notes get posted. You know not all things are posted on there. We can't like click on a link and hear the 911 call or anything.

### **6. Did you review your body-worn camera prior to or during the time you were preparing your report?**

I want to say yes but I can't tell you yes for sure. I don't remember. I mean what, it's been three months now? Almost?

Report Questions

### **7. How many calls are you aware of that were made to dispatch regarding this incident?**

Just one.

### **8. How many witnesses are you aware of regarding this incident? Did you speak to any of them?**

One witness I was able to make contact with ( [REDACTED] – he wasn't sure last name). I later found out that the witness I thought was the 911 caller was not. And so, I'm going to say two.

**9. How were you notified about this incident? (Dispatch, online reporting system, etc.)**

Radio traffic.

**10. Do you remember the general information that came out?**

Umm, active domestic. Both parties in vehicle. Turned right off of 100 North onto Main Street, they were headed northbound. They had a license plate and vehicle description.

**11. In your report, you state that [REDACTED] observed Brian and Gabby arguing over a phone. Did you investigate this further by speaking with Brian or Gabby about it?**

No. What he saw if I recall correctly, that they were having a verbal dispute and he saw the aftermath that led up to them getting into the vehicle he wasn't sure exactly what was being said.

**12. In your report, you state [REDACTED] observed Gabby climbing into the van via the driver-side window. When, and to who, did [REDACTED] report this specific information?**

To me on the day that I got his written statement.

**13. The contact when you got the written statement, was that recorded?**

I really don't recall at the top of my head.

**14. There's a chance that it was though?**

I went on a long drive out to his house to go speak to him but I also know that I was there for a long time, I really don't recall.

**15. Would that be something there would still be access to if it was recorded?**

Yes

**16. As far as contacts you have, as part of your job, is it normally something you would do, or required to do is activate your body camera?**

That's something I normally do.

**17. You state [REDACTED] said, "he was not entirely sure what it is he had seen, but feared the worst." You collected a witness statement from [REDACTED] that explained a lot of what he said he observed. What exactly was [REDACTED] referring to when you put in your report, "he was not entirely sure what it is he had seen?"**

Something that does come to mind that he said is he was concerned about it being a human trafficking type of thing. He was really wishy washy about it. He wasn't sure if it was a couple of kids having a verbal argument if it were, you know it went from best-case scenario of the situation of course of somebody having a verbal argument or worst-case scenario so he was worried about it being worst-case scenario.

**18. I clarified that [REDACTED] wasn't sure about the "big picture" or circumstance was of the incident but was sure of what he actually saw physically.**

Yes

**19. In your report, you state Brian got into the van and "Gabrielle had gone into a manic state." What is your understanding of what that means and how do you know she did this?**

Manic means they are not in the right state of mind, aren't doing things that people would normally do like crawl in through the driver's window across their boyfriend and he said that she had been kind of in and out of those states throughout the last few days due to those arguments. The way he described it to me was that was the set of mind she was in when she climbed into the car.

**20. So as far as stating she went into a manic state, was that something that Brian actually said or is that something you concluded?**

I haven't sat down and watched my bodycam, I don't remember. I was also still on FTO and not very good at writing reports so I'm probably guilty of possibly putting speculation in there.

**21. In your report, you state, "Brian said Gabrielle, thinking he was going to leave her in Moab without a ride, went to slap him. As Gabrielle started to swing, Brian pushed her away to avoid the slap. As a result, Gabrielle off balance, but still caught Brian's face with some fingers causing some minor visible scratches." Do you recall what the actual information was that was provided to you by Brian?**

No.

**22. The reason I ask this, I reviewed the video in its entirety, three or four times and took notes as I was going through and it's the reason I asked the last question was I never heard him say anything about her being manic. As far as Gabrielle being scared that he was going to leave her in Moab, I haven't been able to find anything. I heard him say he was worried about her leaving him but I haven't seen...**

I might have mixed those up.

**23. As far as the act of how the scratches happened and about her starting to swing and Brian pushing her away and she being off balance and that's all things too I haven't heard. I got the injuries are there, there was swinging or whatever but as far as the story of how it happened, I haven't been able to see that that's ....**

I was trying to piece it together. Because their stories were all over the place as I'm sure you saw. They weren't exactly this event happened, this event happened, this event happened, this event happened, it was this event happened and then 20 minutes later this event happened and then 3 days ago this event happened. So, I was trying to piece everything together.

**24. In your report, you state, "I observed some small scratches to Brian's right arm and when I asked him about them, he supposed they must've happened when Gabrielle was trying to get his attention about me being behind them with my lights on. This, however, was not consistent with Gabrielle's statement, further suggesting her confused and emotional state." (16:06)**

**A) What exactly was not consistent with Gabrielle's statement?**

If I remember correctly, Brian said that she grabbed his arm, or she said that he grabbed his arm, anyways the conflicting stories where one said he was being hit in the shoulder and the other one said that his arm was grabbed and that's what caused them to swerve and hit the curb. Something along the lines of that at least.

**25. In your report you document that Gabby had told you she hit him in the arm and his statement was that she pulled on the steering wheel. When you asked Brian about the scratches, he said they must have happened when Gabrielle was trying to get his attention about you being behind him. Gabrielle also said that she was hitting him. So as far as not being consistent, it's really not consistent with what Brian's stating happened, not with what Gabby is saying happened.**

No response.

**26. You mention Gabby's "confused and emotional state." What else do you recall Gabby being confused about?**

It didn't seem that she understood why we were there or the way that things could appear from the outside. She was obviously very emotional crying, you know not.....wanting to talk to her mom on the

phone. She was on the phone with her mom for the majority of the conversations we were having. She just didn't seem fully coherent to the world; not like she was intoxicated or under the influence but her mind went into the black zone so to speak. You know like the black we have to fight back in law enforcement.

**27. You state in your report, "I do not believe the situation escalated to the level of a domestic assault as much as that of a mental health crisis."**

**A) Please explain how you reached this conclusion.**

With the information I had at hand and just since what I've learned since then, at the time it seemed like someone had gone into a panicked state and it was more emotional I don't know what's going on and overreaction to what they perceived directly in front of them. You know just because you have somebody with their hand up doing this doesn't mean they're attacking you but the way that it was being perceived was that they were being attacked. And I think that's what ultimately caused the breakdown that day with all of the other fights they had told me about over the last few days or weeks or whatever it was. With what happened that day I think that just kind of sent it over the edge for her. And you have to remember I'm going off of the information that I had that day. That's what it appeared to have been at the time.

**28. How would you quantify the two?**

I was looking at trying to fix the problem and figuring out what the underlying problem was. That day it didn't seem like it was an ongoing issue of assault but an ongoing mental health issue that had occurred and that's what caused the domestic.

**29. If this incident was more of a mental health crisis, why did you not get them in touch with mental health professionals?**

That day was very very busy. Calls were stacking up left and right and mistakes were made. It completely slipped my mind. I didn't even think about it. It was the stress of that situation, the stress of everything else that was going on, it wasn't until that I got off work that I went (put his palm up to his face, slapping)

Questions from Body-Worn Camera

**30. At any point in the time during your interactions with Gabby, did you ever notice any injuries to Gabby?**

Umm, if I remember right, she had a small scratch on one of her cheeks.



**31. Did you ask her how she got that?**

I don't remember. I know that I didn't spend much time talking to her. Officer Pratt spent the majority of the time talking to her while I was dealing with Brian.

**32. Did you ask Brian about the scratch on Gabby's cheek?**

Again, I don't remember. I do remember something about, I don't know who told it to me, I don't know when I found it out, I know that it was in that time frame of this event of course, one of them told me about Brian grabbing her face and that's what he used to push her back by.

**33. When you provided dispatch the names and dates of births of Brian and Gabby – From watching the bodycam, you only asked for 29's when you asked for that information. Does dispatch typically, if you only ask for 29's, will they let you know about 27 information?**

Only when it's requested

**34. The first one with Brian, you asked about 29 information. They got back to you and said they couldn't find anything and they couldn't find anybody with his name and date of birth. I wasn't sure if they automatically check driver license information as well by the way that they answered. With Gabby, when you collected her information, they came back over the radio and said negative on 29's and unable to locate a 27. With them not being able to find a 27, why didn't you verify the information?**

I'll be honest with you, I don't know. I could only speculate as to why, I can tell you this, the driving statuses weren't on my highest priority list.

**35. I offered my advice and said if they are unable to locate 27 information, you either didn't get the right information whether or not it's them lying to you or you misunderstanding it, not the right state, etc. If dispatch is unable to find 27 information and they say they have driver's licenses, then something is wrong. Especially if you're looking for warrants or protective orders, if you don't have the right information, you're not going to be able to find the information if it's there.**

I definitely learned a lot since that day. I'm not going to lie to you.

**36. I'm guessing you didn't catch when you were collecting her information, and you read back some of the letters and you read it back wrong and she didn't hear you read it back wrong do you remember that you collected the last name of Petico rather than Petito?**

I don't remember that but I can tell you this, that the earpiece I had at the time was garbage I couldn't understand everything and it was really hard to talk to somebody and listen to that cause it's required to

pay attention to it. It's very possible that I got the wrong information and sent that across and that could have been the problems behind the 27 29 discrepancies.

**37. You took several pictures during this incident, most of which were of Brian and then of both of their driver's licenses.**

**A) Why did you not take any pictures of Gabby's injuries?**

I don't know. Again, like I said, Officer Pratt was taking the majority of the conversation with Petito and I just made an assumption that he did that.

**38. Why did you not upload the photos with the report?**

That one to this day I still don't know.

**39. You don't know why they weren't uploaded?**

I could have sworn I did. I'm generally good about uploading pictures that I take and for whatever reason I missed.

**40. Where are the photos now?**

They're not on my phone. I looked for them and looked for them and looked for them.

**41. Are you aware of policy whether or not it says about using your personal cell phone to take photographs?**

I checked my personal cell phone too. I don't have them on there. I don't delete pictures on my cell phone.

**42. So you're issued a department cell phone?**

Yes

**43. That's the one you used to take pictures with?**

Yes

**44. While checking for injuries on Brian, there appeared to be a large scratch or scar underneath his left pectoral. Did you notice this mark, and if so, what was it?**

If I had seen it, I would have addressed it right then and there.

**45. Gabby spent the majority of her time inside your patrol vehicle. Is there video and audio of Gabby in your back seat?**

We don't have in-vehicle video or sound so the only video audio that would have occurred would have been on bodycam.

**46. What about dashcam?**

Shook his head left to right, indicating no.

**47. You don't have the dashcam? So, you don't have video of the driving pattern?**

No, we don't have dashcams.

**48. You tell Gabby that you have to separate her and Brian. Please explain the legal authority you have to separate someone if you don't believe a domestic violence assault had taken place.**

Well, I originally was going to arrest her for domestic violence assault and I told them that I wanted to separate them so they could cool off and, I mean me personally if I get into a combative situation with anybody, outside of work, my first instinct is to just walk away. Because if I'm fighting with somebody it means that I care so I'm not going to fight with my wife or my parents or family members or friends so it's easier for me to walk away, cool off, and regather my thoughts. And then sit down and have a conversation instead of being at each other's throats yelling and screaming not getting the basic point of what the argument is about through.

My wife has severe anxiety, she takes medication for it. But the medication doesn't protect her from bad days, it just reduces the number of bad days. And there are times that I fight with her that I can't, I can't reason with her in any shape or form. So, I have to take a step back, give myself a minute to cool off, give her a minute to cool off, and after some time we can go back and we can have that conversation. It kind of eliminates that lack of reasonableness that she can come to sometimes.

And, because they were telling me it had been building up for days or weeks or whatever it was and they had been on the road for days, weeks, months, whatever it was, I can get how frustrating it can be to be living with somebody so close and then you have arguments, arguments, arguments, and then you have nowhere to go. I've got a living room I can go sit and watch TV. I've got a car I can go for a drive and go watch a movie. I've got these things that they didn't have access to so I told them I wanted them to separate and avoid contact with each other so they had somewhere to go. That's what I was trying to do I was trying to create that option for them. Him in the hotel, her in the van, them not together. You

don't have to go somewhere to get that cool off time, you just have to separate and that's what I was trying to create for them.

**49. Is there any legal authority you have to separate someone if you don't believe a domestic violence assault occurred?**

I don't recall.

**50. That's not really something to recall. Do you have the legal authority to separate somebody when you don't believe a domestic violence assault occurred?**

I can't answer that, because I don't know. I can't, I don't know off the top of my head right now.

**51. So if there's a verbal argument between cohabitants, nothing physical, no crime, can you, do you have the legal authority to make them separate?**

Like I said, I'd have to sit down and look that up because I don't know off the top of my head.

**52. You tell Brian that Gabby didn't "intend" to hurt him when she was hitting him so "technically speaking it does not fit the letter of the code." Please explain how you reached this conclusion.**

I was speaking to Officer Pratt and he was showing me the code and, in the code, it says with the intent to cause harm and going off that and the direction I was.... not instructed to take but another avenue I was given as an option in that scenario, I went with that one because she said that she didn't have the intent to harm him. And with very limited information I had at the time there was no sense of deceit from her. She wasn't trying to lie to us or anything like that. There weren't any signs of there being lies.

**53. Did you look at the code or are you just going off what you were told?**

Eric showed me the code

**54. So is that the code for assault or the code for bodily injury? Do you remember because you guys did talk about both?**

I don't remember

**55. Have you had any assault charges since this time?**

Yes

**56. Have you read the code since?**

Oh, I was answering your question if I knew which one we were looking at, at that time. I don't remember what I was looking at, at that time. But assault does say with the intent to cause bodily injury.

**57. At this time I read Officer Robbins the code for assault. After reading him the code, I asked if anywhere in the code it said intent?**

It might have been somewhere else I'm not sure. He brought it up on his computer in his car.

**58. So you haven't looked at it since that incident? You haven't read the assault code?**

I have, I just handled an assault call a couple weeks ago. But I've been avoiding the news and stuff like that and putting it far from my mind because I don't want it to dictate how I make my decisions for the future but I still want to learn from the decisions of that day.

**59. At the time of this incident, you were clearly under the impression that assault, the definition was an intent to cause bodily injury. Is that actually how you felt then?**

Ya

**60. The decision you made that day, did you make that decision to benefit yourself or to benefit anybody else? You made your decision based on what?**

What was best for the situation, sometimes it's handcuffs, sometimes it's having an ear for them to listen, you know to give them to listen, and sometimes it's no action at all depending on the situation obviously. I thought that day I was doing the next right thing for that situation.

**61. Are you aware of Utah State Code, duties to arrest?**

Yes

**62. When a peace officer responds to a DV call and has probable cause to believe an act of domestic violence has been committed, a peace officer shall arrest without a warrant or issue a citation to any person that the officer has probable cause to believe has committed an act of domestic violence. At the time of this incident, do you believe you followed Utah State Code?**

At the time, I did.

**63. Are you aware of anywhere in your policy or Utah State Code to not make an arrest if it is in fact a mental health issue or if that is the cause of an issue? Are you aware of anywhere that tells you, you don't have to make an arrest because of that?**

At the time of that event, I was still on FTO. Officer Pratt was my FTO, so I was still following instructions that were bestowed upon me. I hate to make it sound like I'm throwing him under the bus because I'm not, I'm not. I made the decision that day not him. But I was going off the information that I had available at the time.

**64. When you and Officer Pratt, after reading through the statute and talking about whatever Gabby's answer will "seal her fate," based on her intent, how would you describe the questioning of Gabby regarding her intent? Do you remember?**

Vaguely

**65. You didn't really say anything but you were there. Do you remember the questions asked or the manner in which they were asked?**

No, I don't. I just remember her being asked about the intent and her denying the intent to hurt him.

**66. How does the report approval process work?**

It goes to the Sergeant, which was Assistant Chief Palmer at the time. He reviews it and then he sends it off to our admins, and then I'm not sure where it goes from there.

**67. Did you FTO review it at all?**

Yes

**68. Was there any corrections made prior to sending it up?**

I'm sure that there were, I mean I still make corrections on mine before I submit them. I also remember that it was sent back to me from Assistant Chief Palmer because of wordings and certain things, he wanted me to fix the wording on it.

**69. How many call numbers are there?**

Full time there are 11, part-time there are 2, and animal control and victim advocate have call signs

**70. Was there any follow-up done with Moonflower? Do they have any video surveillance that would have caught any of the incident?**

I didn't do any of that follow-up, no.

**71. As far as the original 911 caller, did you reach out to him at all?**

No, I didn't, the day of the event I didn't know that our 911 caller was different from [REDACTED], or [REDACTED], I thought he was our 911 caller. It wasn't until later that I learned that the 911 caller was different.

**72. How did you learn that?**

Another officer, I think it was Officer Pratt that told me that the 911 caller was not [REDACTED]

**73. On FatPot it shows you the reporting party typically, phone number, and name?**

Sometimes, if we call out and clear 10-8, they also clear the call so that eliminates all that information off of our screens.

**74. While you're still on it, you can look at it and see who the caller was and their phone number though, I imagine? Do you remember if you looked at it and seen that it said...?**

I didn't look at the caller information I was.... the whole time I looked at that screen I was looking at the license plate number because I saw a vehicle.... when the call came across the radio, I started heading that direction and just as I got towards the north bridge, I saw a van that kind of fit that description from a distance. And so, I just scrolled through it to find the license plate number and license plate state so that I could catch up to the vehicle and confirm or deny whether or not it was the vehicle involved. That's the only time I remember looking at the call comments. I also remember getting on the radio asking them to confirm it while I was trying to find it.

**75. So you don't ever recall seeing at the very top of it the name [REDACTED] and the phone number?**

I wasn't looking for it.

**76. Is there anything else you can think of that would be important to note that I haven't asked about?**

One of the main things about this call was I only had 2 ½ months experience at the time, I think it was just shy of 2 ½ months, I was still on FTO, and I had a lot still to learn, I have a lot still to learn today and I know that I made mistakes that day and I believe I haven't made those same mistakes since. I have

learned from this whole ordeal how something as simple and yet as complicated as a possible domestic violence can blow up into a double-bodied national worldwide event. I have gotten better at my report writings. You shouldn't have had so many questions about my report, I know that and that's exactly what I would have thought when I read my report from your perspective, why are there so many questions unanswered in this. And there are discrepancies between body cam and my report and I recognize that too. And these are the things that are not what occur as severe as this anymore.

**77. When you're on FTO, are you always driving your own vehicle?**

For the first couple weeks I was in a passenger seat. When I completed EVO because my academy didn't put me through EVO, they said it was on the department's responsibility. I switched FTO's from Assistant Chief Palmer to Monte, uh, Sergeant Reisenhoover, and he threw me in the driver's seat but he drove in the passenger seat. That went on for a while and as time went on Sergeant Reisenhoover then said you drive your vehicle; I'll respond to your calls and you respond to my calls. Basically team.

**78. What if you get called to two different calls?**

It never happened so I really don't know I truly believe it would depend on the severity of the call itself. If there was something as, an officer information about a traffic collision inside of a parking lot and minor damage no injuries, I mean I was sent on those myself because it was just filling out people's information and making sure that an exchange occurred.

**79. When did you say your start date was?**

5/31 of this year



## Officer Eric Pratt Interview Notes

### **1. How many years of law enforcement experience do you have and how long have you been with Moab City Police Department?**

16 years total - ? with Moab (email Braydon)

### **2. Did you have access to your body-worn camera video and dispatch call information when preparing your report?**

I had access to the body-worn camera footage. Did not have access to the 911 audio, has to request that, and sometimes it takes "weeks" – Said they have the dispatch notes at the time of the call unless you "copy and paste the notes" into a word document, which he didn't do. Said Moab uses FatPot and GCSO uses Spillman. Due to the two different software's being utilized, once the call is closed out, they are no longer able to see the notes associated with the call.

### **3. Did you review your body-worn camera video prior to or during the time you were preparing your report?**

He doesn't recall, states there is a log that would show whether or not he reviewed it. He stated it was "pretty common" for him to review his body camera footage

### **4. How many calls are you aware of that were made to dispatch regarding this incident?**

I'm only aware of one

### **5. How were you notified about this incident? (Dispatch, online reporting system, etc.)**

Dispatch broadcast information on the radios, making it so everyone could hear.

Questions from the written report

### **6. When speaking with [REDACTED] at the Moonflower Co-Op, did you have your body camera activated?**

No, I did not have it activated at the Moonflower. Not that I recall, if I did then it would be uploaded but I don't think it was, could have been, but I don't think it was

### **7. Did [REDACTED] report anything to you while you were with him at the Moonflower that's different than when you talked to him on the phone?**

No, he didn't tell me anything at the Moonflower, I went to the Moonflower to find the reporting party that actually called. When I got there, there was no one there. He stated that is why he didn't start his

body camera – he was walking back to his car and a guy yelled out at him asking if he was there for the “domestic” – Officer said he was getting in his vehicle at this point and he asked the guy ( ) if he was the one that called the incident in. said he wasn’t but saw what happened. He asked for his name and phone number so he could call him later to get a statement from him. He told what was most important right now was to describe the white van and ask if there was anything that stuck out. Officer Pratt stated that “white vans” are extremely common in Moab and wanted information he could put out over the radio to help narrow down the search. told Pratt that the van had a backpack attached to the back of the van. Officer Pratt relayed that information to dispatch to assist in the search. Pratt said at this time, Officer Robbins stated he had located a vehicle matching the description with a Florida plate so Pratt didn’t have time to obtain ’s statement. Pratt told he would call him later for a statement and responded to the location where Officer Robbins had the vehicle stopped.

Officer Pratt went on to explain he thought was going to have a story consistent with that of the individual who called 911 and stated he “assumed, incorrectly, that I was going to have two statements from two different witnesses that are pretty similar and that’s what I was going off of when I ended up on that stop.” Pratt stated that typically when you have two independent witnesses to an incident, the stories are “usually pretty similar.”

**8. In your report you stated, “It wasn’t clear, but I believe it was reported the male had been observed to have assaulted the female.” Can you explain what wasn’t clear and why it wasn’t clear?**

Officer Pratt asked, “do you know if that statement is referring to whether or not the caller had not made that clear or whether or not, it was, whether or not generally it wasn’t clear because I had two conflicting witnesses?” I told him that was up to him to answer and I showed his report to him and pointed out where the statement was made. “The only thing I can say about the way that was written is it has to be .... After...I wrote this report after the incident was completed and by the time the incident was completed, I knew I had one person saying the opposite of another person and those are my two independent witnesses so to me that’s why I would have written it wasn’t clear.”

Officer Pratt went on to explain that when he writes a report, he writes it with the thought in mind he is writing it for someone who wasn’t there and didn’t see anything. He tries to make it so anyone who is reading it can understand “kind of what happened.” Officer Pratt said by the time he was writing this report, “it still was not clear because I have one caller that called in and said one thing and I have another person that made a report over the phone that said the opposite. So, it isn’t clear at the time I wrote the report.”

I clarified with Officer Pratt that the statement wasn’t specific to the 911 reporting party. Officer Pratt brought up it had been two months since the incident and stated that after he read the report, that is what he believes he meant by it. He said at the time the report was written, it “still wasn’t clear to me, because I had two witnesses saying opposite things. So, therefore, I don’t think it could be clear to the reader.”

**9. While talking with Gabby, she reported to you that Brian grabbed her face which caused a scratch to the left side of her face. In your report, you state, "No one reported that the male struck the female." After being notified by dispatch of the reported incident as well as Gabby telling you what happened, how did you come to the conclusion in your report that nobody reported Brian struck Gabby?**

Officer Pratt explained that the people he spoke to were Brian, Gabby, and an independent witness. Officer Pratt stated, "none of them reported that." Officer Pratt explained that since he couldn't go back and listen to the dispatch audio (has to be formally requested and takes time), he was out with them for an hour, dispatched to an urgent call of someone "drunk and laying in traffic," and many more calls after this, by the time he was able to write his report in the middle of the night he recalls having three consistent stories, none of which was that Brian hit Gabby but rather they were all saying Gabby was hitting Brian.

Officer Pratt stated by that time he was started to question himself on if he even heard the audio from dispatch correctly. He was wondering if he heard it wrong or if they dispatched it wrong based on the statements he received during the call. Officer Pratt added that he's been "pre-programmed to hear a dude's hitting a woman," so with all those factors it made him second guess if he was recalling the dispatched information correctly.

Brian said the one thing he knew for sure was out of the three people he talked to, none of them reported Brian hitting Gabby. Officer Pratt then explained that they all said Brian grabbed Gabby's face. Brian said that Brian, Gabby, and [REDACTED]'s statements were "strangely consistent." (I don't recall [REDACTED] or Brian stating this)

I told Officer Pratt that I didn't recall them all stating Brian had grabbed Gabby's face. Officer Pratt went through what he could recall with Brian's statement. Officer Pratt recalled Brian stating he was pushing Gabby back when she was hitting him with the cell phone.... he then said, "It seems to me he said it but to be honest with you I haven't watched that bodycam footage since September 11<sup>th</sup> when I was called by North Port Police and wanted information on it." He went and looked for the report to refresh his memory and he couldn't see his supplemental report. He didn't know why his report wasn't coming up when he did the search query. At that time, he thought maybe he hadn't done a supplemental report. Officer Pratt said he actually watched the bodycam footage on September 11, so he could do a supplemental report.

Officer Pratt said he did a supplemental report after watching the bodycam footage and the next day he was asked by Sgt. Neumeier and Adair why he had two supplemental reports on this case. Officer Pratt said he told them he thought he had written one but when he went to read it to refresh his memory and answer questions for North Port Police, he didn't see it there. He said he was told that there were two supplemental reports by him, one from the day it happened and the one he typed up after watching bodycam footage.

Officer Pratt said he told them they could either keep them both or if they are only going to keep one of them, they should keep the original as that was written while things were fresher on his mind. They deleted the newer report he typed up and kept the original. Officer Pratt said that was the last time he watched the bodycam footage. Officer Pratt said again he really thought Brian had mentioned grabbing Gabby's face but he could be wrong. He said he does know Brian admitted to pushing Gabby. He said he

remembers this specifically because it was important for him to find out when Brian pushed Gabby, further explaining that if someone is hitting you and you push them, it's "self-defense," however, if you push someone and then they hit you, then it's not self-defense.

I asked Officer Pratt about his statement again that nobody reported that the male hit the female despite the statements of Brian grabbing her face and causing a scratch. I asked Officer Pratt if he took that literally and didn't consider someone grabbing a face a "strike" or a "hit." Officer Pratt confirmed that he didn't consider someone grabbing a face as a hit or a strike. He gave examples of, a hit being a hit, a slap being a slap, etc.

Officer Pratt explained that he believed it was very important when we interview people, stating that "maybe we could have done better at this," to figure out what kind of contact was made and gave examples of: open hand, closed hand, with a weapon, punch, slap, grab, etc. He explained the importance of it as it relates to injuries that are caused and observed. He further explained the importance of this information as it relates to what they're doing or not doing (arrest, no arrest).

Officer Pratt said that although he doesn't consider a grab of the face a "strike," he stated that it could be an assault. Officer Pratt said it depended on what was going on. Officer Pratt then went on to explain the definition of assault, stating it was "an attempt with unlawful force or violence to do bodily injury to somebody." Regarding the scratch on Gabby's face, Officer Pratt said, "if that scratch was a result of a face grab that was intended to cause, with unlawful intent, to cause bodily injury so yes for me I think the definition between a punch, slap and a face grab are important but they're also important based on what's going on when any of those things happen. That's my opinion...."

**10. Gabby explained to you that Brian hit her and described it through demonstration (because you asked, but did he hit you, did he punch you, and she said yes but then she described it as the squeeze).**

Officer Pratt said as he recalls it, Gabby never actually said "yes," but instead she said, "Well, I definitely hit him first." (THERE ARE TWO DIFFERENT TIMES IN THE VIDEO, THE FIRST TIME THAT IS HOW SHE REPLIES – THE SECOND TIME SHE SAID, I GUESS I GUESS BUT I HIT HIM FIRST 5:30-ISH IN VIDEO)

Officer Pratt said that is what he recalls and to him, it still means that he (Brian) did hit her. Officer Pratt said he's not trying to get too much into the details but thinks it's important that if she did say yes that he doesn't recall it, even after watching the video since then. He repeated again that he only recalls Gabby saying, "Well, I definitely hit him first," and said, "tomato / tamoto it implies he hit her fine."

**11. Gabby described it through demonstration of Brian grabbing her face and squeezing. Why wasn't there any follow-up with Brian regarding this statement of Brian grabbing Gabby's face?**

Officer Pratt stated that he really thought there had been. Pratt said he didn't know there wasn't. He went on to explain the follow-up that had occurred with the witness and said he didn't know all the things Officer Robbins said to Brian, wasn't there for the majority of the interaction between Officer Robbins and Brian. Officer Pratt said he did tell Officer Robbins that Gabby reported Brian grabbing her

face and that “he did go off and talk to Brian” – “I shouldn’t make these assumptions but I assumed that he addressed it and it was corroborated and may have, should have, talked to Brian more about that.”

“One issue that I have with this situation is, you know people say you know these cops they tried, they were there for an hour on the side of the road. Some of these calls require more than that...and this was one of those calls where I wish we had more time. I wish I hadn’t been called away. I wish I didn’t feel like I had to rush at all; but I’m out alone in a town of 5,000 with an annual increase of 3-5 million tourists and I have a rookie that I have to watch after too and I get called to a drunk guy laying in the road and there’s a lot I wish would have happened differently like one other guy on duty, I could have stayed and helped more with this call and gone over some stuff and not felt rushed. If I didn’t talk to Brian about that or it wasn’t followed up with Brian, that should have happened. For sure. I guess I assumed it had, I didn’t know it hadn’t.

**12. In your report you put, “this incident was more accurately categorized as a mental/emotional health ‘break’ than a domestic assault.” Please explain how you reached this conclusion.**

Officer Pratt explained they both claimed to suffer from mental health issues. Officer Pratt said he never found out if they were “clinically diagnosed” or “self-diagnosed” but said there was evidence of such that he believed after interacting with both of them. Officer Pratt went on to explain that he has numerous kids of his own and said that for many years he has interacted with all types of people on the spectrum from drug addicts to professionals, and said he can tell when he is dealing with someone who suffers from some type of illness.

Officer Pratt said he isn’t a doctor but said that Gabby was CLEARLY suffering. Officer Pratt said Gabby was anxious so he would say she had anxiety; Gabby didn’t want to be separated from Brian so there may have been some co-dependency issues. Officer Pratt said Gabby “wasn’t a calm person whose collected, of sound mind, who knows themselves, and knows what they’re doing.”

Again, admitting to not being a doctor, Officer Pratt said he observed what he believed were mental health issues with Brian from the very beginning, “some of the things he was saying, the way he was talking and acting, I saw the dynamics of their relationship, and I saw some things that.... you know I never, I’ll be 100% honest, I didn’t, if there were all these red flags that he was going to murder Gabby I didn’t see those. I saw the same red flags I see every time I get called to a relationship issue. They don’t call us there because their doing great and want the police to come over and see how great they’re doing, they call us because something is devolved and then there’s all these red flags, and if you do this job long enough, ‘hey there’s that red flag again.’ And what I saw with Gabby and Brian was another unhealthy relationship. Now usually that doesn’t end in a murder. So, if someone out there says you should have seen he was going to kill her, great, tell them come make \$25/hour to do this for me.”

Officer Pratt said he saw mental health issues on both sides and, “if it was not an assault, which I decided it wasn’t, then what else could it, then what could I call it? They say they’re mentally unsound. It wasn’t an assault. If it was an assault she would have had to be arrested. But there’s elements to the offense of assault and you have to meet those. Just like when you tell a Judge, hey, I’ve met these elements, courts not adjourned because the cops said it. Now the Judge has to make sure the elements

are really met. Well, it starts with the cop. So, one of the elements for the offense of assault, is an attempt with unlawful force or violence, to do bodily injury to another.”

Officer Pratt continued stating that is why they asked Gabby, “what was your attempt, what were you intending to do?” Officer Pratt said some people may think he is stupid because “duh! There was injury, so what do you think? He had redness all over him. He had scratches all over him. There’s injury there so of course, of course it was an assault.” (20:58)

Officer Pratt provided a scenario of him taking a photograph while backing up on the sidewalk and backing into someone else who falls off the curb and into the gutter. The person who falls skins their knee and has injuries. Officer Pratt asked, “Is that an assault? Is there an attempt with unlawful force or violence to do injury to you or was I careless or made a mistake or maybe you weren’t looking, like this is just an accident.” Officer Pratt further explains that if he is “negligent enough” then maybe there could be some liability if through that negligence it caused injury to another person.

Officer Pratt said he wanted to find out from Gabby her intentions because, “he’s bigger, he’s stronger, he’s older, he clearly has influence over her mentality that looked unsavory to me and all I could see from Gabby is she wanted to gain and try to maintain some equality in this relationship that I don’t think she, that I think she knew she didn’t have. And when someone smaller and more frail is trying to get an equal setting at the table with somebody who has all the power and dynamics are kind of in their favor, cause he’s mentally messing with her, hanging her backpack outside saying you need to go take a walk and saying weird things to us like what if I touch your radio, like he’s just, he was a weird not healthy dude, and that was clear and she clearly was needing to be with him. And at the same time, it’s clear to me she smacked the crap out of him. So, what’s going on here. Is she abusive to Brian? He killed her! Who’s the abuser? If you mentally and emotionally abuse somebody, can I charge you? If you physically abuse somebody, can I charge you? Yes, clearly physical abuse I can charge you.

What I didn’t want to see happen to Gabby and unfortunately maybe something far worse did happen, and maybe the same thing would have happened and maybe somet.... I don’t know. What I didn’t want to see that day was her take all of the criminal responsibility for this incident upon herself at 22 years old. Maybe she wants to go get a state certification somewhere, get a license for her job. Maybe she just doesn’t want to have a criminal record. Maybe she wants to go hunting. Maybe...I just didn’t want a 22-year-old girl who I felt like was trying to just...all she wanted to do was have an equal....I think she wanted to gain equality in that relationship with Brian and have some way to be...to have the power and dynamics more even and, and as a guy, guys our size we think well you can’t slap people and do that...Ya well we’ve never been a 110 pound female with a...I just...what was her intent was up in the air for me, let’s put it this way.

What was her intent? If Brian says I hit her and I wasn’t trying to hurt her I’m sorry. We see the power and dynamics there, it’s not believable. But when someone that size, who’s in that situation, whose slapping her boyfriend, says, ‘I just wanted him to stop telling me to calm down.’ It actually sounded reasonable to me. Now that can be crazy and that’s probably the biggest thing people are going to say is that’s bullshit. It just sounded kind of reasonable that she wanted him to stop behaving the way he was behaving towards her and it wasn’t like she really thought she was going to do him bodily injury to any significant extent or really hard he’s a lot bigger and stronger! To me, I believed her. She said I just wanted him to stop telling me to calm down. And in other words, I think she wanted to have some equality in that relationship and I don’t think she had the tools in her toolbox to figure out how to do

that in any other way than just start slapping him. Not okay, could she go to jail, sure. Could I make the case that she assaulted him? Absolutely. Could it go to court and a Judge could do something crazy and say I don't think she really assaulted him like I did? Cause that's what I did. I said I don't think she assaulted him because I don't think she had the intent behind it to do bodily injury to him. I think she wanted to modify his behavior and she doesn't have the tools in her toolbox to do it.

So, it seemed reasonable when she said that is what she wanted. So, one of the elements of the offense is missing! So, we don't have an assault so what do we have? Well, they hand-fed me they both have mental issues. So that's why I said we had a mental health crisis. I followed the evidence and if it wasn't assault, it must be a mental health issue. That's what I looked at it like and maybe it was wrong but I didn't want Gabby to suffer the whole weight of this and another thing I'll say, it did cross my mind that when he bailed her out the next day like he said he was going to, when he comes down to the PD and signs away the little paperwork that says they can't hang out anymore, umm it didn't occur to me at the time that he's gon.... cause he mentioned in the video, I remember he said, um and I didn't hear him say this to Robbins but I got the impression, and we found out later it's true, they didn't have a lot of money. So, if he's going to go bail her out, is he not going to have more control over her now? 'Now we're out of money', blame it on her because 'I had to bail you out'...you know, all it's going to do is put the power and dynamics more on him, in his favor where he's like, 'now we have to come back to court or video court, now we don't have the money because I had to bail you out. Oh, we're in another fight, go ahead and call the cops! How did that go for you last time? They hauled you off cause I'm too cute. Cause I said crisscross apple sauce, so they didn't arrest me.'

You know as grown men we laugh about how absurd that it would be to think for him that he got away with it for being cute. He didn't get away with anything for being cute. We saw his stupid bullshit. He got away with what he got away with on August 12<sup>th</sup> here because I couldn't charge him with a straight face. No Judge, if I wrote my PC statement correctly, would sign off on his incarceration on that day. I would have to omit things from my report or put the entire purpose for the arrest on the caller that drove by. I would have to disregard the physical evidence, I would have to disregard his statement, Gabby's statement, and another independent person's statement, to put him in jail. For a scuff on her face that would not have been visible the next day when everyone I talked to claimed that it was a face grab while she was wailing on him with a phone in her hand. It's not assault.

If you reverse roles and a man is actually hitting her, a woman, and she grabs his face and leaves a fingernail mark and she's as beat up as he was, and I took HER to jail, and tried to book her in, and the Judge says 'well she's all beat up' – 'well ya but she scuffed this dudes face, she grabbed his chin while he was hitting her.' It's absurd. I'm sorry, if it's good for the dude it's good for the girl. That's the way society wants us to play this domestic game. They want us to treat men and women the same well guess what, reverse the roles and tell me I should take Gabby to jail if she had all the injuries on her Brian had and if all he had was a scuff from when she grabbed his face while he was hitting her. I'm sorry, I can't put him in jail, so I didn't. I'd have to lie or omit something to convince a Judge to sign that PC statement. The only person that could have gone to jail was Gabby; I didn't think it was right, you know, I will die on this hill if it was wrong for me to not arrest her, I still wouldn't have arrested her. Sorry. Brian was as much responsible, or more, for what happened that day. She is at a disadvantage in every way: emotionally, mentally, physically, and yes she slapped him he probably deserved every slap he got.

28:18

If she should have gone to jail and that's what should have happened, kick me out of the police department, cool. I'll go back to being a drywaller where the worst thing I can do is mess up a joint or something on a wall. You know, I don't care. I wouldn't have done it any different. I gave Daniel the opportunity to make those decisions. I kind of steered him the way I thought was right and if he would have arrested her, I would have been fine with it. But I like that he didn't arrest her. Even knowing now that she was murdered later, if it had been the next day or a few days later or still in Moab okay, I would feel really weird like maybe it really could have changed something. But I don't know, 18 days later, 500 miles away, after he disengaged with her for six days to go back to Florida, I just don't think that charging her would have done anything but make the last few weeks of her life more miserable with this guy as he punished her more before he killed her anyway. That's what I think, I don't know, maybe by us taking her she would have 'oh I'm breaking up with him' – maybe that would have been the end of it. I can't guess today any better than I could have guessed that day. I still don't think that she should have got those charges and I didn't want her to. 29:40

**13. Your report states, "No charges were filed and no one wished for charges to be filed or for the separation to take place, although that was at minimum what Officer Robbins required in lieu of making a case against Gabby for domestic assault."**

**A) Do you believe a domestic violence assault took place during this incident?**

I believe that my position as a po on the front line of anything that ends up in court there's a basic whether or not we have discretion on something like this, we are expected to use our common sense and figure out just basically whether or not there's a charge to be supported and in that way we kind of screen that stuff. To answer your question, one cop will go to that call and say this is absolutely an assault and another cop will go to that call and because he has a different point of view, he might say it's not and then our duty is to document and to support with reasoning, logic, and hopefully the law backing us because we all read the same code, why we chose to do the arrest or not do the arrest. And the better you are at that, usually the better cop you are. But everyone makes mistakes or reads something wrong or you know you might send 100 cops to that call and they all say she should be arrested for example and then you send 100 and 80 of them think she shouldn't have. I do not know the answer to that.

I know that I had determined that one of the elements for assault was missing. That was for her to use unlawful force or violence, attempt to use unlawful force or violence to cause bodily injury to Brian. When we talk about to attempt something, implicit with attempt is intent. You can't attempt something with no intent to do it. So obviously intent is part of assault which is what we talked about earlier. For me, one of the elements was missing. And so, I looked at it and I don't think we have an assault here.

Now, another cop could look at that and say I don't believe Gabby. I think she wanted to cause him bodily injury and that's why she hit him. Now, this is an opinion because nobody can get in Gabby's head and find out what her intent was. That's why we spend so much time in court, way more time than I have on the side of the road, they have entire days of trials spent nothing more than just establishing intent on a crime. I don't have special expert witnesses on the side of the road, I don't have five days of my trial with these people to figure out who to charge. I got like less than an hour apparently. So, they trust me after 16 years to figure it out and I took my 16 years of experience and said I believed Gabby



based on the totality of the circumstances and based on what she appears physically capable of and based on what I saw him doing and act the way he was acting that I don't think she assaulted him. I think she didn't assault him because part of assault is an attempt, with unlawful force or violence to cause bodily injury to him. The result was some bodily injury to him, that was the result. What was the intent? She said to me, I wanted him to stop telling me to call down. And I just believe her. I believe her based on everything I saw. So no, I don't think we had assault.

**B) In cases of domestic violence, if the victim doesn't want charges to be filed, in what circumstances can you honor those wishes?**

If we have something that has been called and supported by code as domestic assault, we do not have the discretion to not file the charge. There is a "shall" attached. Doesn't necessarily have to be custody, but has to be that or citation.

**C) How can Officer Robbins lawfully require a separation to take place "in lieu of making a case against Gabby for domestic assault?"**

He can't. He can't. If you're not going to charge them you can't. He required it, he didn't say by law, they didn't ask. As far as I know, you can't require someone to separate. He feels like if they gave any indication, they weren't going to follow that advice, then Officer Robbins would have made the other case for the safety of both of them.

And obviously we found out you know ultimately for her safety but we do have to consider his safety, he was the one that was marked up. So, at that time, without the hindsight of him murdering her, as we assume is what happened, you know we were worried for both of their safety. Just because Brian was unsavory, I didn't necessarily like his vibe, doesn't mean we don't look out for his safety. She could have caused an accident. She was apparently hitting or pulling on his arm while he was driving such that he hit the curb if we believe what she said and he said which may or may not be true but I don't have five days of court to figure that out. Based on the evidence on his arm, on his right arm which was on her side, with the scratches and the redness, it looks like someone was going to town on that arm and he did hit a curb so what we call this is physical evidence lining up with our observations, that's the best we can go off of, so even for his safety.

**13. At the conclusion of your report, you put "EOS. EMP." What does this mean?**

End of Supplemental. Eric M. Pratt.

Questions from Body-worn Camera

**14. Prior to responding to the scene, you ask dispatch for the phone number of the reporting party. Dispatch gives you his number (REDACTED). While on scene, you tell Park Ranger Mellissa Hulls that you would "love to talk with the independent witnesses," before calling REDACTED. Why didn't you call the reporting party, REDACTED?**

I would have called REDACTED. I got called to another call and that was the next thing I would have been doing. The point where I got called away where I would have if Robbins had not called him or if I didn't

think he was going to for example, if I believed that wasn't going to happen and I wasn't getting called away, then I would have called him but by the time that it was time to call we had spoken with Gabby, spoken with Brian, spoken with an independent witness and we see the physical evidence and everything was lining up and the problem we have is by saying okay well if only we had just called that first guy, okay well what do we have then? We still have a guy who said he was driving by so I assume he's also paying attention to the car in front of him, traffic, and the red light, and this and that.

So comparing that with the guy who said he saw the whole thing, on foot there, and then we have Gabby's and Brian's statements and then we actually have physical evidence, I don't think if he would have said anything...if he had repeated everything he said to dispatch to me, it does not line up with physical evidence, it doesn't line up with another independent witness who has no reason to lie, it doesn't line up with what Brian or Gabby said, and don't forget I told both of them what I thought was true at the time but what I tried to use as leverage, was I have two witnesses that are going to say you hit her so give me something, cause usually if they can give me a little something then I can start pulling on the sweater and unraveling. I was trying to get Brian to give me something. He didn't give me anything.

I go to Gabby; I think she's going to cover for Brian. I said hey, we have two independent witnesses, I said this because I thought my witness would line up with what I thought this guy told us. I thought we were going to have two. And her response was, well I definitely hit him first. At the end of everything, her statement was like Brian's was like my witnesses so if I had talked to the first witness, who by the way that's why I went to the Moonflower to talk to, that's the first place I went, I didn't know I was going to find anyone. I went there to talk to the guy. That's the first thought I had was to talk to him.

I didn't know my greenie was going to find the van so quick. My point is, ya he should have been talked to. And I don't know if it was on video or on a text or on a (can't understand), or later, but while I had been called to another call or before I left the scene or sometime while it was still relevant, while they were still in town, I told....and I'm not putting the blame on my trainee, it's not his fault, I said get the reporting party's statement. I had already called [REDACTED]. I already spoke to [REDACTED]. And I told [REDACTED] we're going to get a written statement from him and I made the arrangements. I told Robbins we're going to do that.

Well, I didn't understand but I do remember watching my video after finding out that he hadn't got the...because I read his report, I had to approve it so I read his report like hey, this is great great great, where's the reporting parties' statement I told you to get. He said I got it. I said well, where is it. He said it's right there. And he was referring to [REDACTED]'s statement. So, I don't know what he told you but that night he told me that he thought [REDACTED] was the reporting party. Now I did watch the bodycam footage at one point where I already knew he hadn't got that and I wondered if I miscommunicated with my rookie. And so, I was careful to listen for the part where I, and I did say to my rookie, I made it clear at least once and probably more than once, that we had TWO witnesses and I even remember that I told him, well I watched the video when I did, that I told him that [REDACTED] was someone I found at the Moonflower.

It was very evident that if my rookie had paid attention, he should have known there was two, that these two are not one. And he was also was the one at the end of everything, I'm on to the next call he has his call up and it shows [REDACTED] not [REDACTED] and a different phone number and also, I'm sure he was monitoring traffic. I did ask if we had the number for the reporting party because I wanted that

information on the van like so what happened, I went to the Moonflower looking for him, couldn't find him, walked around and everyone acted like nothing had happened over there. I thought they had gotten into a fight at a different grocery store because no one was there, there was so many people, no one rushed up to me, I thought I was at the wrong place. It was like, if a dramatic event went down, nobody here seems to even register it, like I was surprised. I was walking back to my car, I had asked for that phone number because I couldn't find the RP, I was getting back, up to my door, getting into my car, after that radio traffic was when [REDACTED] came and said "hey, are you here because of that domestic?" And that's the first time I was like good, at least I'm at the right spot. Cause I walked up and down the front of that grocery store and nobody was even concerned, no one offered to talk to me, no one seemed to care that I was there, it was weird for whatever it is said happened, no one, when I got there no one seemed to even expect police would respond. It was very weird, I thought we had the wrong location.

So that's why I asked for that number, I don't know if my greenie rookie, if Robbins would have heard it cause at that point maybe he was, I don't know for sure I couldn't tell you the video should, he probably had eyes on the van he thought it was, he was probably following the van so he was probably trying to give information and probably not hearing that I don't know, you'd probably have to ask him and maybe you already did how it came to be that he thought, this is what he told me I don't know what he told you, he thought the night that I asked about his report about not having the original callers statement in it, he told me he thought that the guy whose name and number I gave him, [REDACTED], was the caller.

Could it have been avoided? Sure. Could I have done stuff to make sure that happened earlier? I was pretty tied up with other calls most the night but I'm sure could have taken a minute. I'm sure I could have. I thought it was handled, he's new, the buck stops at the FTO and I know that. It was not done; it should have been done. Even as I sit here and tell you it would not have changed the outcome if I still have three other witnesses, physical evidence, and observations all going one way and a guy who said he was driving by and saw something different. What I assume, even to this day, is he drove by at the time he saw Brian grab Gabby's face and it probably looked like, if he's behind Gabby it might have looked like a slap, it might have looked like a punch. He probably saw something that looked like her head move as Brian grabbed her face. I can't know, I don't know, I never talked with the guy. I wish, I should have. There's no way I can tell you this investigation should have had an end of report at the end of it without having talked to the guy who called. There's not an excuse for it, I can explain it, I can't excuse it.

I can't imagine what he could have said, especially if it was what he told dispatch, that could have changed the decision that was made. Now maybe if we didn't have that other independent witness, sure. It wasn't going to be enough.

**15. Once you found out he hadn't been contacted, you guys still have never reached out to him? There's still no statement from [REDACTED]?**

No, I could be wrong and I know you could find this out. The night I approved Robbins' report was either that night or if we were too slammed because there was not an arrest made, he might have done it the next night. If it was the next night, I believe that he probably hadn't been contacted, the decision to not contact him was probably because the assumption that Gabby and Brian were gone and out of town and

would be very difficult to re-find to change anything. Also, because I don't think that we felt like anything he said, especially if he just repeated to us that he saw what he saw, would have changed our decision anyway. But ultimately, at some point, I did reach out to a supervisor and asked if we should call him to get a statement from him and it was like, the events over. They're all gone. And the question was posed to me, "Eric would it have changed the decision you made" and I said, "no, absolutely not." It wouldn't have changed what we did because we had our observations, physical evidence, and we have two statements plus another independent statement and the guy told dispatch he was just driving by. That's not going to be enough probable cause to change the outcome of that decision.

**16. Who was it (supervisor) that you asked about that? (Calling [REDACTED])**

I think it was Chief Edge but it was much later because it was before the media frenzy like when North Port called. Eric said he told Chief that North Port was calling and it may be something they need to find out. I think the Chief told me to hold off. Hold off on it, would it have changed anything? Eric said based on the facts, he didn't see how the statement made to dispatch by [REDACTED] could have changed anything.

Why should a statement by a guy driving by who called dispatch get more weight than the guy who said face to face to a cop, who saw everything and was not driving by, why is one of those statements heavier than the other. Well maybe it's not but then you have the physical evidence, even if they cancel each other out, you still have the physical evidence and you still have these other statements and our observations so no, unfortunately, you know this is one of those really tough tough things about being a cop. We don't always get it right and even when we get it right sometimes it looks like we got it wrong and sometimes we got it right but we should have done something a little different. Sometimes you don't know that and sometimes you never find out if you should have.

We get paid really not a lot of money to really make some crappy situations turn out like to be, uhm to the public, perfect. I'm not making excuses but come on.

**17. [REDACTED] told you that he thought Brian and Gabby were fighting over a phone. Now I understand from watching video, your time spent was primarily with Gabby. Do you recall if that aspect of fighting over the phone was talked about with Brian or Gabby?**

I made an assumption that it looked to the witness like they were fighting over a phone. I made this assumption that when Brian told us that she was hitting him with a phone in her hand that from the perspective of [REDACTED] that it must have looked like they were fighting over a phone because she was hitting him with a phone in her hand. I should have probably clarified with everyone what was the fight over but from what I heard and understood the fight was not over a phone. From Gabby's own mouth and Brian's own mouth, they were telling me the fight was, and they were telling Officer Robbins, the fight was over basically Brian not respecting their mutual space in that van and maybe some hurtful things he was saying about her attempts to make a career for herself the way she wanted to and maybe doubting it. When [REDACTED] said they looked like they were maybe fighting over a phone I already heard from both of them of what they were fighting over and if he thinks they were fighting over a phone maybe it's because she had a phone in her hand while she was hitting him, she had a phone in her hand. So, I guess we could have gone over those details more and try to figure out the phone thing but it felt

like Brian and Gabby were saying the same thing. They were separated immediately. Eric said they didn't have time to formulate a story.

They were saying the same thing. Brian got out of the van and said hey you know my feet were dirty and this and that, she said you know I just cleaned up the van and he's in there making a mess. It doesn't sound like a phone is involved. Why should a guy watching someone hit someone else with a phone say it might have been over a phone, I don't know. I guess we could have said hey was the fight over the phone? I don't know if it would have changed. The motivation for the fight is kind of irrelevant like did someone assault someone? Does someone need to go to jail? I know there's scenarios we can dream up where the reason for the fight initiating can be really important so maybe that's something to go over but again, how much time do you spend when you're the only person on duty – for all intents and purposes, there's only one of us on duty. I'm required to go to every call the guys on. So how much time do you spend on a call? You know I work 10 hours I gave 1/10<sup>th</sup> of my day to one couple and I have many other calls. The other calls that are going on, a guy laying in traffic that it's important to him that I come drag him out of traffic. ALL these calls are important. If I had my way, I'd spend as much time as I needed on every call to make sure every call worked out right but they want us to (begins snapping fingers repeatedly) and we don't have the staff. I'm not blaming the department, but we don't have the staff. (50:31)

**18. You explain to Officer Robbins how valuable it is to read the state code “word for word.” You have the statute for assault pulled up on your laptop and read it to Officer Robbins: “an attempt, with unlawful force or violence, to do bodily injury to another.”**

**A) What website did you use to access this information?**

The Utah Legislature website.

**B) Did you believe at that time that you read the entire definition of assault to Officer Robbins?**

I believed I had and I also believe that when I got to bodily injury I went and looked up the state's definition of bodily injury to further expand on what the code is talking about. I hope I didn't miss a single word. Your question makes me wonder but ya I thought I read him the whole statute.

**19. You explain to Officer Robbins how important words are in the code, especially in the court system. You talked about there having to be the “intent to do bodily injury,” and further explain that “attempt” is implicit with “intent.” You looked up the definition of bodily injury and conclude that if Gabby didn't “intend” to cause Brian pain, illness, or impairment of physical condition, then she didn't commit an assault as defined in the code.**

**A) What is your understanding of the various culpabilities as it relates to various crimes under Utah State Law? (Intentionally, Knowingly, Recklessly, Criminal Negligence)**

Some offenses, if you're going to be found guilty, require intent and some of them don't. I'm not a lawyer obviously or I wouldn't be doing this job but generally as officers, we go to the codebook and we

try and figure out if what the legislature wrote that, from the wording in there, is one of the elements of this offense intent. From my understanding, there's certain crimes you don't even have to prove intent. There are some statutes that explicitly say there doesn't have to be intent.

He gave the example of a 27-year-old guy who went on a date with a girl who showed him his ID as proof she was 18. They wound up having sex and "the state doesn't care" – You could even have done your due diligence to check her ID, it could have looked real, intent doesn't matter in that crime. You're going to jail and you're being charged with that.

When you look up the code for assault, at least what I read, and if there's more that I didn't read, what I read to Robbins was an attempt, with unlawful force or violence...he then goes on to explain the allegory of shooting a basketball through a hoop. It seemed to me when you use the word attempt that intent is implicit in that so I made the determination on the side of the road on this incident that part of an assault is intent and that's why I gave the example earlier (bumping into someone and causing them injury)

What I read, led me to believe based on my experience that part of assaulting someone requires an intent to cause them the bodily injury. If you're attempting to do this then I see it as – and of course there could be case law, I'm not a lawyer, there's all kinds of reasons I could be wrong but you know they don't require me to go to law school to be a cop. You're required to have a high school diploma or a GED and fog up a mirror. So, what I read tells me, before they train you and everything else, that code to me said, the way I read it, she had to have some intention to be guilty of the assault and of course domestic violence is not an offense, domestic violence is an enhancement on the crime of assault. So, first thing assault, then we can figure out if their domestic partners and see if it needs to be enhanced.

I walked away from that and I feel to this day Gabby didn't, I take her at her word, she did not, it was not her intention, it was not her intent. It may have been the result but it wasn't her, it wasn't the motivating fact behind her movements. And so that's why I say hey, I don't think we have an assault here. Pushing an envelope sure, riding an edge, for real ya.

## **20) At that time and still today you consider attempt and intent to be synonymous?**

I don't know syn.... they are different words. I'll give you that but I don't, to this day I still believe that if you attempt to do something there must be implicit in that intent. Now if someone tells me I'm wrong in that or they show me the case law or they got the lawyer that says that they're not, that will be news to me today that it would have been then. Of course, if that were to come to my attention, I would adjust my future interactions because I have to follow-up, I understand that.

### **B) What is the culpability required for the crime of assault?**

My understanding is, to commit the crime of assault, you have to have intention and you have to have bodily injury and it has to be unlawful. You have to unlawful force or violence – those are the elements, so I need all of them. I need the attempt, I need it to be unlawful, force or violence used, and then I need the result to be bodily injury. And I think I need all three of those. I thought that then and I think that now.

One of the reasons I don't get bored in this job is I learn stuff new every day. Usually, it's in court when a defense attorney schools me. Sometimes it's situations like this.

**\*At this time, I explained to Officer Pratt the four culpabilities and their levels. I also read Officer Pratt the assault code in full.**

That does change things. I'm not going to say I haven't read the assault code many times throughout my career and I'm sure I read that before. You know that second part, the or part, it has to be addressed. I would have to actually take time to read it and digest it like I did on the side of the road with the first part that I read and probably I got sidetracked with bodily injury and went off to read that definition and neglected to scroll down. And if I did that's a mistake and it may have changed our decisions but I can't say that even here now until I read it and really think about it for a few minutes because I do take the act of putting people in handcuffs and taking their freedom and giving them charges very seriously and I usually spend a little bit of time reading up on it first and then trying to figure out if that's going to fly. So yes, that second part you said I would admit that could have changed what we decided to do but I would still have to look it over and think about it.

**21) You told Assistant Chief Palmer that you were going to, "go re-read the statute and just see if it fits or if there's a way it doesn't fit." After this, you determine that an assault didn't occur depending on Gabby's intent. You tell Officer Robbins that how Gabby answers the questions will "seal her fate."**

**A) Some may say you deliberately coached Gabby in your questioning regarding intent that would allow the investigating officer to avoid making an arrest, either by citation or custody. Do you recall the manner in which you questioned Gabby?**

If I recall, I told her to not answer quickly and to think about it and it was important and it would determine what would happen next. I think that's a fair thing to tell somebody. I think that's a very fair thing to tell them. And some would say that's coaching but that's assuming that a 22-year-old girl knew what answer I wanted her to give me. I don't recall trying to get her to tell me one way or another. I do recall telling her to think about it because it's important. And I think that's a fair thing to tell somebody.

**B) Did you deliberately coach Gabby in her responses to your questions regarding intent?**

No, no. I had no idea what she was going to say. I hoped...so I ran K9 for a while and when I was running K9 one of the things they taught us was you could cue your dog and you don't know you're doing it because dogs will pick up on stuff that you do right before they find something every time. Because they read your body language really really well because that's what animals do. I'll be honest with ya, you know as you put it that way this is the first time it's entered my mind that maybe something I said coached her. And I could see why people might think that. I truly did not know what she was going to say next. I was afraid that she was going to say something that was going to make her go to jail. I didn't want her to go to jail. But I would have taken her to jail if she had said the other thing and I don't consider giving someone fair warning to think about their answer because it's an important question to be coaching. Some people could see it that way, I guess. I don't think at the time that I was coaching her at all but I still think it's important that she understands, not just (snaps finger) to shoot out an answer. I think she should think about it.

If I'm asking her questions, I want an honest answer. She needs to think about her motives. Most people don't know themselves that well. Especially that young. I want her to think, what was your motivation. Like why, that's why I repeated it like three times. I wanted her to tell me like for real, what was it. And I think she gave me a really honest answer. I think she gave me an honest answer. And I don't know how honest her answer would have been if I hadn't had her prepare herself for that question.

Maybe I coached her into giving me an honest answer cause that's what I was wanting. That's what I wanted and honestly that's haunted me. Her saying, I just wanted him to stop telling me to calm down. She's little, I have daughters, I can imagine them in these situations. I think she; I can totally see one of my daughters just wanting someone to stop telling them to calm down. I believe what she said. I believed it then, I still do. So hopefully the coaching I gave her was coaching to do some real self-reflection and give me the truth and not .....how could she know what answer I wanted from her? I don't know, maybe it was that easy for her, maybe I gave it to her that easy. I don't know, that's not what I was trying to do. I can tell you that. I think she gave me an honest answer. If she had given me an answer that I didn't think was honest, I would have said no. I just really believed her. I really believed her.

**\*\*At this point, I pointed out that he did just that when she blamed the backpack for causing her injuries. He pointed out there were witnesses that saw Brian hit her.**

Response:

The biggest problem with that backpack thing that didn't get addressed in that video, is the mark on her arm was bruised. It's not from that day. It was clearly prior; it wasn't involved in this incident. And the thing about her face is I don't know if you can see it on bodycam, the scratch to her face, the fingernail scratch was not significant, it was not deep. It was completely consistent with someone grabbing someone's face and if they hadn't cut their nails then you can have a scuff. I truly don't think that in a day that you would still see it. I don't think so, maybe two days whatever. But the bruise, had it been like a fresh thing, we might have to push that a little more but whatever lie that he or she or anyone says about to protect Brian or whatever, the bruise was not from that day. It was days ago. (1:04:08)

**22) In speaking with Officer Robbins regarding what to do, you tell Officer Robbins that you support him in whatever decision he makes, "even if they go as far as taking her to jail." If you didn't believe the incident rose to the level of assault based on how you interpreted Utah State Code, why would you be okay with and support Officer Robbins if he decided to take her to jail?**

Because it wasn't my job to make that decision. He was FTO, stage 3, last few weeks of his training, my job was to go there and make sure I observe what he's going to do, be there as a resource for him, and he's supposed to be free to make his decisions at that point. As long as it's not something like absurd, like taking Brian to jail would have been absurd, I'm sorry, unless there are laws for being a shitty boyfriend and gaslighting and taking advantage of people mentally and emotionally for your own reasons, which there's no law against it.

So yes, I would have intervened at a point where maybe.... uhh, you know I'll give him credit maybe he could have convinced me that whatever happened back there rose to some kind of disorderly conduct and maybe Brian needed a ticket for that. But that's an infraction so it's still not going to land him in jail.



Even if he said hey, I think it's important for Brian to get a citation too, he could have talked me into it, sure. I don't think he has enough time and experience to go these places yet. That's fine but it wasn't like I was hell-bent on not charging Brian. I would have loved to. I saw him as a problem. I really did but just because I don't call him out and amp him up, that's not my job. I'm supposed to de-escalate. I'm not going to say, hey man you think it's cute saying crisscross apple sauce, it's not my job to rile him up. Get him all wound up and turn him loose to the world. That's not my job. I'm not 22, I'm 39. I've dealt with people like this my whole career. I used to work at the prison for three years, I know these kinds of guys.

Brian didn't get away with anything for being cute and Brian showed more red flags than a Chinese communist rally going on that he was a shitty boyfriend. I couldn't charge him. The fingernail thing, the way it was described by [REDACTED] and Gabby even if I didn't clarify it with him, that's not something I can arrest him for unless I lie on my PC statement or omit important facts, the only person I could arrest was Gabby. And the reason to answer your question on why I support you in whatever you do is because it's not my decision at that point in his training. I'm supposed to let him decide and in the end of my shift I go and write a report about what I think of his decision. That's the full effect that I'm supposed to have on him at that point is to go write I disagreed or agreed or whatever as long as whatever he did wasn't insane. That's where he's at in FTO. You know, he's supposed to make the decision. That's where he was and my job is to show up and be a resource and let him bounce things off me and be present and I didn't like that I had to even leave him.

**23. If you don't feel like the assault meets the code, and if he were to take her to jail you would be supportive of that, and if you felt like that was violating her rights, you would have stopped that?**

Officer Pratt brought up the prior scenario he talked about sending 100 cops to a call and 80 of them making one decision while the 20 made a different decision. He brought up again pushing the envelope and comparing this scenario as being on a razor's edge and in this type of situation, you have to accept that some people might not see things the same way you do.

The world can think whatever they want about policing. This is a gray area sometimes and you have to live in a gray area. I wouldn't have done what officer so and so did but I can see why he did it. That guy might have arrested someone and you didn't agree with it and it goes to court and the Judge and jury and everyone agreed with that officer and found him guilty and you can still disagree. And in some cases, you could have arrested the other guy and convince a Judge and jury to go with you on your side. Well, who was right? Well, it's not that easy and I accept that. So, would I feel right about arresting Gabby? No. No not at all. Could I see many other cops arresting her? Sure. Could I see other ones not arresting her? Sure. I have to be grown up enough to say I don't always get what I want and, in this case, I would support my trainee in disagreeing with me and making an opposite call because I think it could have been substantiated. Sure, I think he could have totally written his report that substantiated his decisions so how could I not support him?

What I can support is another officer making a different decision than me and then substantiating it well enough to have done what they did that I don't agree with. What I can't support is if they do something that cannot be backed or substantiated. If he chose to arrest her, he could totally justify that. Sure. Would I have done it? No. And I hope that my report makes it clear why but you know obviously it's you know, it's not like I wrote a report believing that it was going to be an international uproar or I probably

would have made it 5, 10, 15, maybe I would have made a book out of it, the report, because your supervisor says, hey don't write a novel on these things....man, maybe something like this sometimes it should have been...clearly, there's a lot of questions about what happened that my report does not sufficiently explain or we wouldn't even be, you wouldn't be, you would be like hey tell Pratt he doesn't need to come in I read the report all questions are answered. You know what I mean?

**24) You told Officer Robbins to go “full, or nothing, or somewhere in-between and separate them.” You further added, “kind of give them a nod, the wink like hey stay separated, it’s up to you.” What did you mean by this statement?**

I told him to tell her that? I told Robbins to tell Gabby and Brian to give them a wink and stay separated? Was I telling him to tell them that it's up to them or was I telling him that it's up to him? Cause I don't remember this. I could see myself telling him that it's up to him. But I could not see me telling him to go tell people they have to separate like hey you guys don't really have to. Now I can see me telling him he can frame it...

Here's the real problem we touched on this. If you're not charging somebody, you don't have authority by law to separate them. So, if this is a domestic assault, we have to go all the way and you have to separate them and you have to charge them, one of them. If you're doing that, then you have to. If you're doing nothing, like you're not charging anybody but you're separating them, what Robbins needs to understand is, that's not like something that we can enforce. However, if he can tell that they're not going to separate and it's important to him that they separate, at that point I would have charged Gabby. If I got the impression that the separation wasn't going to work like from the get-go that this is bullshit, they are not going to separate, I would have arrested Gabby, for sure. They needed to be separated. They had to. I can't imagine I was giving him permission to tell them they don't have to but if he says it, I'm amazed I'll go watch it. But I may have told him hey it's up to him, like how you handle it, whether you, you know separate them or don't separate them – well I don't think not separating them was ever on the table but whether you charge them or don't charge on of them – if you charge a domestic assault, you have to do a no-contact order. That's it. If you decide it's a domestic assault, you have to separate them.

If I could see that, maybe I could give some insight into it. I'm racking my brain to imagine that I'd ever tell Robbins that he could tell them they don't really have to separate. Maybe it was because Gabby was so upset about separating and I didn't feel that she was a threat to Brian's safety at all.

**\*\*At this point I pulled up the video so Officer Pratt could observe his statements\*\***

I can't go back in my mind and know what I was thinking there but I can tell you this, I did not believe for a second that Gabby was a threat to Brian's safety. And I think obviously history now shows he was a threat to her safety. (1:15:49)

If the more vulnerable weaker person was the one at threat like Brian would beat Gabby, or I was afraid Brian was going to beat Gabby that night, it is important ..... (Starts going off on the phrase “what is it to you” but I don't know where that came from)

I know my mindset at the time was she could hit him all she wants, he's, if he doesn't have enough sense...look, if he doesn't want to get hit by his girlfriend and he doesn't have the sense to take the separation as time not to get hit by her, he's a grown-ass man, she's not a real physical threat to him and now we can see that clearly opposite. I thought he was an emotional threat to her, I thought he was a mental threat to her, I didn't know he was a physical threat to her. I really didn't. I thought as much as she might hit him or slap him, there's only so much 105, 110 pounds can do to a guy whose 165 or whatever, 5 inches taller. She doesn't have the physical strength to be a threat to him based on my observations that day. It's not like there was a gun or knife involved or something where I thought she was going to be a threat to him and it's like what is it to him if Brian decides to, behind our backs, go reunite with the girls whose slapping him. She's not a threat to him so why should we as other grown men care so much if he's not got the sense to stay away.

Now when I said give the wink or the nod, I'm only speculating because I don't know what I was thinking but it's either like hey you can go pick up your girlfriend because she's not a threat to you but you can't say that, you can't tell them you can, you know, the truth is you can't tell him he can't. It's not illegal, if you're not charging her, then you don't have a lawful right to issue a no-contact. So, if you want to say it in a way that makes it kind of obvious that you two can get out of here cause she's not going to be able to hurt him...that's the only thing I can think of but I definitely, I definitely can't get back in my mind from two months ago now and tell you exactly what was going through my mind. I might have been thinking more about the next call I'm going on, just trying to get out of there at that point. But I don't like what I said, no. I definitely don't like it, I definitely think that the mindset I was in based on that whole conversation I saw was just reminding him and myself and everyone there, if they end up back together, she's not going to hurt him. It's not like a dude hurting a woman like what we know happened later. But I must add, more than half a month later.

Without the ability to have hindsight, Brian just seemed like this really, I hate to say it now, it's going to sound horrible, but he seemed like a mental and emotional bully. He just didn't seem like a physical...he didn't seem physical. He just, he didn't. And I clearly missed that huge red flag. If that was a big red flag the whole world could see, if he hadn't killed her, and they released this bodycam to the world and said what do you think of Officer Pratt's decision, I wonder what they would be saying. I wonder if it would be like, clearly, he's going to kill her soon. Or if they would say he's a mama's boy and she should have gone to jail.

I mean we're all doing this with like the fact in our mind that we know what happened later. So, it's really convoluted and hard to tell you like anything other than what I thought at the time which was if I missed a big red flag that he was a murderer, then yes I missed it. I didn't feel like she was a threat to him and I didn't care if he ended up with a girl that was slapping him. Cause I didn't feel like she was a threat BY him. I guess I missed that one. It was one red flag that I did miss that was there that he was going to murder her. For sure I missed that one. Or I could tell ya, if I would have known he was going to murder her, I would have taken vacation to follow them, because I care about people, to the point where he was going to mur..., and I would have intervened and citizens arrested him in Wyoming! I would have taken my own time; I would have missed my family to go do that. I'm desperately fucked over that she got killed. I really am. I would have done anything to stop it if I would have known that was coming.

That time right there I can tell you I thought it was silly that anyone would take her seriously as a threat to him and “we need to protect him” – And turns out I was right about that, I just didn’t see him as the threat he ended up being. I saw him as an emotional guy, an emotional, mental threat to her. I did not, I didn’t see him, I thought he was like a mama’s boy. Maybe he was a mama’s boy, he went home to mama. Maybe he was a mama’s boy, maybe I’m right about that. But I didn’t know he was, I didn’t think that guy had it in him, I mean he wouldn’t even take a plastic water bottle. He’s drinking out of; I didn’t know but later I learned he’s drinking out of melons. That he did pull over on me, I did not know he was going...do we even know at that time if he knew he was going to murder her? Did he even know. I mean, who knew? That sounds like an awful excuse for what I said but that’s all I can come up with for what I just watched.

**25. Did you ever see any of the photos that Officer Robbins took?**

No, I didn’t see them, I don’t think I ever saw them. If I did it would have been on, after he uploaded them, it should be on the audit log. I don’t recall looking at them, I might of.

**\*I told him there are no photos and that was one of the issues\* Officer Pratt asks, “There’s no footage of him taking pictures? I reply and say there is footage of Officer Robbins taking pictures but the pictures were never uploaded and they are now gone.**

Officer Robbins stated he doesn’t know anything about that but did state that he had a similar issue a couple months prior where he took a bunch of photos on his work phone. He said he used the software that’s approved that is on the work phone to take photos, the software is from Taser, he said he took video from video surveillance on his work phone and met with one of the people involved in the case (it was a hit and run) and pulled it up on his work phone to show the individual and the video was gone. He stated he had bodycam footage of him recording the video on his work phone and it just disappeared. He said it’s only happened once and it was around the same time that this incident took place. He said he knew he recorded video and he used the software he is supposed to use to upload the video/photos and a couple hours later he met with the individual to show him the video and it was gone. He can’t explain it and doesn’t know if it’s a software issue, or a bug that happened, but there’s proof he took it, and proof of him trying to pull it up and it was gone.

**26. Officer Pratt called Assistant Chief Palmer and gave a brief synopsis of what happened and said he told Gabby there was nothing he could do as it was all written in statute.**

**Officer Pratt: “the last thing I can do is call a supervisor where this is such a minor, this was like a slap fight and injuries from like a fingernail, I just don’t know if it’s worth the whole domestic thing or not if it’s going to get us in trouble if we don’t do it this way.”**

Ya I do remember and I think he’s a good supervisor for the way he answered. From what I recall he pretty much reflects what I responded to, he was like listen, either its domestic and you do the whole thing or it’s not a domestic and it’s not. But I think he was basically saying I’m not there and I don’t have all the facts you have, that’s what you’re there doing, so if it’s a domestic, do a domestic. If it’s not, then don’t. And I think that’s pretty much where he left it. Which it sounds like really solid, sound advice.

**27. Is there anything else you would think is important to know or add or anything I haven't asked about?**

I've spent a lot of time going long on answers and kind of wandering into territory that I guess helpful or not answered some other questions or maybe it was too much to say but I just, anyone who hears the results of this case, your investigation, whether it goes the way, one way or it goes another way, that there's always going to be some people that are unhappy with and that's a tough position for you to be in. I know I don't know you umm but I'm very comfortable based on...these were tough questions. They were tough questions, I had to think a lot and some of them I wasn't ready for and I actually can't even tell you that I know what I meant, like for the video back here. I know I envy the position you're in, I thank you for doing it. Whatever you decide, whatever your findings are, I can tell from just the time, the things, the questions you've come up with you're intelligent, you're smart, you're going to do what you think is right and I accept it 100%.

One thing that I want you to know, and anyone else who gets the findings to know is I would do anything to change the fact that Brian killed Gabby. I'd do anything I could. I really would. I accept that if something wasn't done right, I accept it and if it resulted in.... even if it wouldn't have changed the outcome but it wasn't done right or even if it would have, I don't think anyone can know that. I accept it. I want anyone, anyone involved in this case or reading a transcript down the line or hearing this, or whoever a parent or anyone, I'm not skirting this. It is what it is. I accept responsibility for it but I don't want anyone to think that I did not care.

I have daughters, and I do want anyone involved to know that I talked to Gabby and I treated Gabby as much like I could, fatherly, the way I would want another cop to interact with my daughter, even if he got it wrong. I do care. I am devastated about it and I'm sorry if the wrong decision was made but, and I'm not trying to defend myself in saying this, I don't believe it would have done anything to change her murder except for Brian making the choice not to murder her but that's Brian's responsibility. My responsibility is that I do what I'm supposed to do. And just like Brian needing to take his responsibility, I'll take my responsibility with whatever the findings are, I accept it. But don't let anyone think I didn't care. I, I still, it's been a r.... I don't even want to complain because I mean she's dead. Her parents are suffering forever. I'm tiny in all this. But it is really tough and I cared that day and I still care. That's what I wanted everyone to know is I do care. And it's, I don't know how this is going to end for me. Like I'm not talking about my job, I mean like emotionally. It's, it's not easy. And I don't think the public gets that we.... I don't know if they know we care. I don't know if they know. It sucks. It's more of a comment than anything else but just so you know man.

## Additional Attached Exhibits

The following printed forms will be attached following this page:

- Moab City Police Department Case Report #2021-001108
- [REDACTED] Written Statement
- Dispatch Incident Log
- GRAMA Request for Dispatch Information
- Emailed Communications
- Signed Garrity Statement of Rights for Officer Pratt and Officer Robbins