

How do we know that video footage is missing from Temores' MAV video?

Palo alto Police Officer Manuel Temores as well as fellow Officer April Wagner have asserted that video footage is missing from Temores' own MAV video.

Palo Alto Police Officer Manuel Temores' testimony during
December 1, 2008 the Preliminary Examination.

14 A. Correct.

15 Q. Now, you tasered him twice?

16 A. Yes.

17 Q. Okay. And the first time you tasered him was when in
18 the sequence of events?

19 A. It was when the defendant was on the ground actively
20 fighting with -- I believe it was either Officer Burger,
21 Agent Wagner.

22 Q. Okay. At the point where he's on the ground with
23 either -- well, is there a time -- are these two separate
24 incidences where -- you're referring to where he's on the
25 ground with Officer Burger on one incident and Officer
26 Wagner on another incident?

27 A. Yes.

28 Q. Which incident was first?

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1 A. It was the defendant pushing Officer Burger down
2 towards the van; that was the first time. Second time was
3 when Officer Burger somehow wrestled the defendant to the
4 ground after he had gotten up from the sidewalk, and the
5 third was when Agent Wagner was attempting to handcuff the
6 defendant, but the defendant was fighting with her as well.

Palo Alto Police Officer April Wagner's statement from the Police Report
written on March 15, 2008, the day of the incident.

4 Temores attempted to grab the arms of Ciampi. Ciampi resisted buy tensing and beginning to
5 dart away from the van, toward the fence by the sidewalk.

6
7 I observed Chiampi lunge toward Ofc. Burger and saw Ciampi swinging his fists towards Ofc.
8 Burger's head. I jumped near the suspect (about 1 yard away from where I was standing) trying
9 to grab one of his arms from striking Ofc. Burger. Ofc. Temores also attempted to control the
10 suspect when all three officers and the suspect fell to the ground on the sidewalk. I believe a
11 taser activation may have occurred sometime during this altercation, because I heard verbally
12 and by sound that a taser had been fired and saw the metal wire in the air. I heard Ofc. Burger
13 say that he did not hit the suspect. The suspect continued to physically swing and fight our
14 attempts to control. It did not appear that the taser had any effect on the suspect, because he still
15 swung and pulled away from my grip.

16
17 The suspect got up off the ground and I attempted to gain control with another officer by holding
18 him against the fence (by the sidewalk). At this time, the suspect hit the side of my head and
19 face with either his head or elbow, as he was violently trying to get away from by grip. During
20 this time I believe a second taser was deployed, because I heard Ofc. Temores say he was going
21 to try the taser again and I heard the taser sound, and felt the activation through my body. I
22 stepped back from the suspect, who went onto the ground on his hands and knees. It did not
23 appear that the suspect had received the full current of the taser because at no time did he appear
24 unable to control his actions. The suspect said that was enough and he did not want to get "tazed"
25 anymore. The susnct was taken into custody by Ofc. Burger.





Both Palo Alto Police Officers April Wagner and Manuel Temores have stated in their official capacity under penalty of perjury that Ciampi got up off the ground prior to going down to the ground a second time all prior to being hand-cuffed.

There is no video footage in Temores' MAV video that depicts Ciampi going down to the ground two separate times and or getting up off the ground prior to being hand-cuffed.

Palo Alto Police Officers April Wagner and Manuel Temores are asserting that the video footage of Ciampi going down to the ground the first time and then getting up off the ground before going down to the ground a second time is missing from Temores' MAV video.

Palo Alto Police Officer Manuel Temores' statement from the Police Report
written on March 15, 2008, the day of the incident.

16 As soon as Ciampi heard "Get the f--- out of the van," he jumped out of the van
17 to exit the van. Ciampi did not listen to Officer Burger and instead started calling
18 someone on a cell phone.

19
20 Fearing for not knowing if a weapon was near Ciampi and his uncooperativeness, I took
21 my Taser (serial #X00-292417) out of its holster and activated it. I pointed my Taser,
22 with red laser dot sight, at Ciampi's chest. Officer Burger and I ordered Ciampi out of
23 the van. Ciampi was sitting on his bottom with his knees to his chest near the back of
24 the van's interior. He told us he was not coming out and was calling his lawyer.

25
26 Officer Burger and I backed up a few feet to gain some distance. Ciampi did not come
27 out of the van despite both Officer Burger and I were pointing Tasers at him. We
28 approached the van and Officer Burger attempted to grab Ciampi with his right hand to
29 pull him out of the van. Ciampi pulled away from Officer Burger and started to come out
30 of the van.

The taser camera will automatically start recording at most 1.5 seconds after the taser gun is activated, (the safety placed in the armed position). According to Officer Temores' statement from the police report, he was recording Ciampi while Ciampi was in the back of the van.

There is no video footage on Temores' taser video that recorded Ciampi while Ciampi was in the back of the van's interior.

CONCLUSION: Temores is asserting that the video footage of Ciampi in the back of the van is missing from his taser video.

Palo Alto Police Officer Kelly Burger's testimony during
December 4, 2008 the Preliminary Examination.

10 Q. Okay. So did you put it back -- at what point did you
11 put it back in your holster?

12 A. When I began to pull the defendant from the vehicle.

13 Q. Okay. And then you took it out again when he was up
14 against the fence?

15 A. I believe so, yes.

16 Q. What position was he in up against the fence?

17 A. At what time?

18 Q. When you pulled your taser out.

19 A. He was against the fence facing me.

20 Q. And at that point, you pulled out your taser and you
21 fired?

22 A. Yes.

23 Q. Did you announce that you were going to fire?

24 A. I believe I did.

25 Q. What did you say? What were the words?

26 A. I can't recall the exact words, but it might have been
27 along the lines of, um, "Taser, taser, taser."

28 Q. Okay. Did you hear any of the other officers mention

6 A. No.

7 Q. Okay. And you tased -- you shot the taser the first
8 time; right, and it went over the fence?

9 A. That's not true.

10 Q. Okay. How many times did you fire projectiles in the
11 direction of Mr. Ciampi?

12 A. Once.

94

1 Q. What position was Mr. Ciampi in when you fired the
2 taser?

3 A. He was standing facing me.

4 Q. Okay. Where was Officer Temores at that time when Mr.
5 Ciampi was standing there facing you?

6 A. I don't remember. He was in the area.

7 Q. Well, could you estimate how far away he was from you?

8 A. No, I can't.

9 Q. Okay. Can you estimate how far Officer Wagner was away
10 from you?

11 A. No.

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It has already been established that Burger falsely stated under penalty of perjury that he placed his taser gun back in his holster and drew it a second time. Burger's had his taser gun in his hand the entire time from the moment he first drew his taser gun up to and beyond the moment he fired his taser gun. Exhibit

The Frame by Frame sequence of Burger's Taser video, (Left to Right), prior to Burger firing his taser gun recording the image of Ciampi.



Ciampi's left rear pocket of his shorts facing toward Burger

Ciampi's left elbow and back as seen facing toward Burger.



Video starts a new file as the taser gun fires at this frame.

Taser gun heard firing at this frame.



Ciampi's back is facing toward Burger and Burger's taser gun in this frame.

Ciampi's back must be toward Burger in this frame 1/10th of second later.



1/10th of second later Ciampi's back still toward Burger.

1/10th of second later Ciampi's back still toward Burger.



3/10th of second later Ciampi's back still toward Burger.

CONCLUSION: Ciampi is never seen facing Burger when Burger fires his taser gun at Ciampi, thus, the video footage of Burger is missing.



CONCLUSION: After Burger fires his taser gun, Ciampi backs up into the fence. Ciampi was not up against the fence as Burger testified to when he fired his Taser gun according to Burger's taser video indicating that video footage is missing.

Page 17 of Burger's MAV Transcript, Burger states that Ciampi was against the fence when Burger fired his taser gun.

- 1 B: That doesn't look, that looks like That one went straight into the fence. My shit
2 would have been more at an angle.
- 3 P: So you were here
- 4 B: I was right in this area.
- 5 B: He was back, he was back against the fence when I tasered him
6 So it could have been.
- 7 P: And Manny was down here?

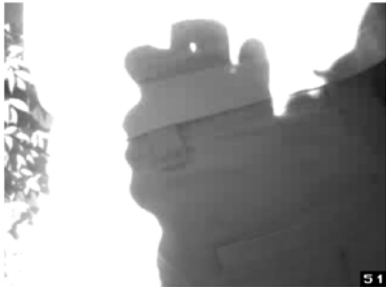
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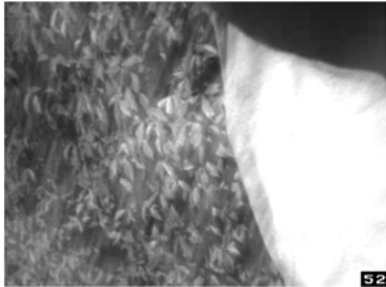
At the 10:35:25 mark of Temores' MAV recording Ofc. Burger is pointing to where Ciampi was when he fired his taser gun, however, that does not match up with the video when Ofc. Burger fired his taser gun.

10:35:25
15-03-08









Taser gun fires at
this point as
illuminated taser
wire visible.





CONCLUSION: At no time is Ciampi up against the fence facing Ofc. Burger when Officer Burger pulls his taser gun and fires it at Ciampi. The actual video footage of Ofc. Burger pulling his taser gun and firing his taser gun is missing from Temores' MAV video.