MEMORANDUM REGARDING FACTS AND FOURTH AMENDMENT ISSUES

SUMMARY

Police entered the Lanuto home without a warrant, without consent, and without exigent circumstances, and Mr. Lanuto's closing the door of his house was constitutionally justified. The anonymous 911 call on which the police based their conduct utterly failed the constitutional test for reliability and never alleged any criminal activity or danger to any person. Police therefore were not justified in conducting an "investigation" but only a "field inquiry." As such, police were constitutionally prohibited from demanding entry into the house, and Mr. Lanuto was within his constitutional rights in refusing consent and even in closing the door of his house to police. The police officer placing his foot in the doorway to block the closing door, rather than providing a basis for Mr. Lanuto's arrest, violated Mr. Lanuto's Fourth Amendment rights as an unconsented and unwarranted search and seizure and police conduct beyond the permissible field inquiry. Therefore, an administrative dismissal of the charges against the Lanutos is proper.

STATEMENT OF FACTS

On July 1, 2008, at approximately 6:00 p.m., Alfred Lanuto ("Al") received a phone call at work from his teenage son, Marco Lanuto ("Marco"). Marco was calling from their home at 275 Canterbury Drive, Ramsey, New Jersey, to inform Al that Marco's mother and Al's wife, Domenica Lanuto ("Nella"), had lost consciousness. Nella had a history of unexplained fainting episodes, which was a cause of great concern to the Lanuto family. Al returned home to care for his wife. When he arrived, she had regained consciousness and was recovering in the family home.

Within an hour, the Ramsey Police Dispatch received a 911 call from an anonymous female caller. The recorded portions of the phone call follow:[1]

Caller: Yeah, I'd like to place an anonymous phone call. I think there's a need for some intervention at two seventy— [interruption in audio track].

[Tab 2 at track 11.]

Dispatcher: OK. What's the problem there, ma'am?
Caller: I . . . I'm assuming maybe some sense of . . . um, just a disturbance--whether it's outside or inside of the house, I'm not really sure.
Dispatcher: What kind of disturbance, though, ma'am?
Caller: I can't tell you any more. Thank you. [Hangs up.]

[Tab 2 at track 4.]

[1] The audio recording of the 911 call as provided by the Ramsey Police department is divided into two audio tracks and is apparently incomplete. See Tab 2. The two segments are compiled here to reconstruct the call to the extent possible given their incompleteness.

The police dispatcher was unable to reconnect with the caller. Ramsey Police were dispatched to the Lanuto home to respond to what the Dispatcher described to officers as "some kind of disturbance." (Tab 2 at track 1.) In response to officers' request for more information, the dispatcher replied that the caller "would not go into detail . . . . She would not give me any information and hung up the phone." (Tab 2 at track 1.)

Two police cruisers arrived at the Lanuto home at 7:05:04 p.m. (Ramsey Police Department videotape.)[2] Police reports indicate that officers saw Marco walk from the front yard into the home as they pulled up. (Tab 4 at 1.) As the two officers exited their vehicles and walked slowly to the house, one officer said to another, "Brad, you know this guy, don't you?" (Tab 3 at 3:9–10.)[3] At 7:05:22 p.m., as the officers approached the home, Al opened the front door, walked into the front yard to meet them, and asked: "What happened?" (Tab 3 at 3:13.) While one officer stopped to speak with Al (Tab 3 at 3:18–23), another officer walked past Al and directly into the Lanuto home. Inside the front door of the split-level house is a stairway landing, where portions of the videotaped dialog can be heard reverberating inside the home. As the one officer entered the home uninvited, Al broke off his conversation with the other officer to follow the intruding officer into the house and to protest the intrusion. The officer outside followed Al in, ordering him to stay outside his house:

> Officer: I don't know. Someone called and said—Stay here, sir. Sir.
> Al: No, no, I don't want to stay outside. This is my home.
> Officer: Sir, sir, sir.
> Al: Hey, this is my home.
> [Tab 3 at 3:22–4:5.]

Here the officers first clearly articulate why they are there and what they are seeking, and Al and Nella first assure them that nothing untoward is occurring. This dialog echoes on the audio portion of the videotape, because it occurred inside the house:[4]

> Officer: The police were called on a 911 and we're going to find out what's going on.
> Al: There's nothing going on.
> Nella: I was talking to my mother.
> [Tab 3 at 4:7–12.]

Over the course of the next minute or more, all the parties stated and restated their positions: the police demanded consent to enter the home or, alternatively, that Al leave the house and speak with them outside; Al refused consent to enter the home, refused to leave the

---

[2] The only contemporaneous documentation of the episode consists of a single videotape from one of the police cruisers involved, although that videotape shows that at least three other police vehicles to be parked outside the Lanuto home. Further limiting the scope of the contemporaneous documentation, the video shows only the side yard of the Lanuto home and none of the actors involved during the key events; therefore, the value of the videotape lies solely in its audio portion.

[3] Throughout this memorandum, the format "A:B–C" refers to transcript page A at lines B through C.

[4] Frank Piazza, an audio expert, is prepared to certify that the audio recording indicates that this portion and other portions of the dialog occurred inside the Lanuto house. This is significant because it indicates that police were inside the house without consent.

house, and insisted that he need not answer questions; Nella stated that she was speaking to her mother on the phone outside in Italian; both Al and Nella stated that nothing untoward had occurred; and police demanded entry into the home or for Al to leave the house. All this dialog occurred on the landing inside the front door of the house.

Officer: Then come outside and talk to us.
Nella: Why are you in my house?
Al: I have no reason to come outside.
Officer: Yes, you do [inaudible] that everyone's okay in this home.
Nella: We're one, two, three. Everybody's fine.
. . .
You see everybody's fine.
Al: There's nothing to figure out.
Officer: Then come out and speak to us.
[Tab 3 at 7:1–18.]

The dialog became strained as the officer refused to accept the assurances of the Lanutos, including son Marco, and to demand that Al consent to search the house or exit the house himself. This dialog occurred while the officer was inside the house:

Al: Marco, who's here? Marco, tell this officer who's here.
Marco: Just the three of us.
. . .
Officer: Well, come outside and talk to us.
Al: I don't have to come outside.
Officer: Yes, you do, sir. You need to speak to us.
Al: Actually, I don't.
Officer: Sir, you need to speak to us. We didn't come here—show up at your house just to come speak to you.
[Tab 3 at 9:3–16.]

This last line of dialog was the first admission that this was not an inquiry, but an investigation. Officers would later use the term "investigation" numerous times before they arrested Al. At this stage, the two sides were clearly at an impasse:

Officer: So now we're going to find out what it is.
Al: No. You have no reason—I do not accept this intrusion.
Nella: I just got done telling you nothing's wrong.
Officer: I do this every day.
Al: I do not accept this intrusion. You can do this ten times a day. You ain't doing it here.
Officer: Well, then we're not going to leave here until we find out.
[Tab 3 at 10:3–15.]

At 7:07:54 p.m., after the officer continually interrupted Al while he was trying to speak with his wife and son, Al first raised his voice, over the course of three lines of transcript dialog. (Tab 3 at 11:11–13.)

To this point, the exchange had occurred between the Lanuto family and one officer standing on the landing inside the front door of the house, with a second officer standing in the doorway. At this point, a third officer approached the home, as seen on the video. Now the officer standing in the doorway spoke for the first significant time: "Sir, you're the only one acting like a lunatic." (Tab 3 at 12:14–15.) The third officer said something to the second officer, who responded: "Yeah. Sir, you're the only one acting like a lunatic. We're trying to talk calmly to you." (Tab 3 at 12:20–22.)

At 7:08:50 p.m., as the second officer took over the conversation, the voices on the recording lose their echo, indicating that Al had stepped outside the home, into his front yard, and was surrounded by at least three police officers. (Tab 3 at 13:20.) Speaking to Al, the officer gave a backward version of the incident thus far in the presence of the new police officer, using the fact that Al had just raised his voice momentarily as retroactive justification for the initial intrusion and continuing interrogation: "We got here and you started yelling and screaming at us. There could have been a disturbance because you're all agitated." (Tab 3 at 14:13–15.) It is noteworthy that the officer failed to mention that Al had become agitated only by the officers' behavior, not by anything that occurred before they arrived. The first officer loudly indicated that the fact that Marco had been outside the house when police arrived was suspicious:

> Officer: I got your son walking up in the middle of the street and then—
> Al: Stop. Lower your voice.
> Officer: No. You lower your voice.
> [Tab 3 at 14:17–22.]

Despite the fact that Al had complied with one of the officers' alternative demands—to come out of the house onto the lawn—police continued to press him for consent to search the house:

> Officer: We got a call—why don't you let us search the house?
> Al: I can't prove a negative. There's nothing going on here.
> [Tab 3 at 16:20–23.]

Despite the fact that Nella had been engaged in the earlier dialog with officers inside the house, assured officers that nothing was wrong, offered the explanation that she had a loud phone conversation with her mother outdoors, and that she had earlier passed out, officers then claimed an inability to speak with her as justification for demanding entry into the house again:

> Al: No. You saw my wife. There's no reason she—
> Officer: No, that doesn't matter because you don't let us speak to your wife.
> Al: My wife—
> Officer: Let her speak for herself.
> Al: I resent the innuendo and the accusation.
> [Tab 3 at 17:5–13.]

At 7:10:35 p.m., five minutes into the confrontation, the second officer, who had been standing by during the initial intrusion into the house, became agitated and berated Al over a page or more of dialog, including: "Say something did happen, we come here, you're not letting us in and you killed your wife." (Tab 3 at 18:24–19:2.) This officer posed this inflammatory suggestion despite the fact that he had seen and heard from Nella. The officer continued, and the audio indicates that the officer was slapping his hands together to emphasis the statement "It's our job to investigate what the disturbance was." (Tab 3 at 19:6–7.) Here again police used the term "investigate" to describe their initial response to the anonymous call.

This officer also misstated for the second time Al's initial greeting to officers, turning upside-down the Catch-22 situation in which police had placed him:

> Officer: If there's no disturbance and you're not agitated, you come out and say, "Oh, there's no problem. My wife passed out." . . . We're like, "Okay, that's why we got called." . . . No, instead, we come here, you get in our face, start yelling at us—
>
> Al: Stop this. Stop this.
>
> Officer: Oh sure, now you say to talk.
>
> [Tab 3 at 19:7–18.]

Then the officer made another demand: Although Al had complied with officers' demand that he leave the house, they then demanded that she leave the house as well. (Tab 3 at 20:12–14.)

At this point a supervisory officer arrived on the scene, and officers gave him a skewed version of events:

> Supervisor: You guys all right?
> Officer: We don't know. We don't know what's going on. He started to get all agitated.
> . . .
> Supervisor: What happened? What happened?
> Officer: He comes out of the house and [inaudible] getting in our face and yelling.
> [Tab 3 at 21:4–13.]

It is unclear whether, by this statement, the officer was referring to Al's initial greeting ("What happened?") or to Al's eventual compliance with officers' demands that he exit his house. The supervisor then approached Al, and the following exchange ensued:

> Supervisor: Wait a minute. Listen—
> Al: Hey. Don't you—don't you put your finger in my face. . . . Get away from here.
> [Tab 3 at 22:15–18.]

At this point Al disengaged from the police officers who surrounded him and re-entered his home. On the audio recording, Al's voice can be heard echoing inside the house at the following:

> Al: My lawyer will [inaudible]. Unbelievable police [inaudible]. Get out of here. . . . I just said, get out of here. My wife is sick. Get out of here.
> Officer: You're the only one causing a disturbance. Someone called 911.
> [Tab 3 at 23:7–12.]

Over the next few seconds, Al re-entered his house and closed the front door behind him. A police officer inserted his foot into the doorway to block the front door from closing. Officer Rork's report describes the scene this way:[5]

> Mrs. Lanuto appeared at the front door carrying a cell phone. Mr. Lanuto walked back into the residence and she handed the phone to Mr. Lanuto who continued to argue loudly with the officers on scene. I was standing at the top step of the outside landing when Mr. Lanuto attempted to slam the front door as we were trying to enter the residence. The door slammed into my right foot and leg and blocked the door from closing [sic]. Det Huth #119 who had arrived on scene assisted me in opening the front door. Det. Huth advised Mr. Lanuto that he was being placed under arrest for obstructing a lawful investigation.
>
> [Tab 5 at 1.]

The incident was captured by the videotape in the following exchange:

> Officer: You're the only one causing a disturbance. Someone called 911.
> Nella: How dare anyone call 911.
> Officer: As soon as we leave [inaudible]
> (Simultaneous yelling, unable to transcribe.)
> Officer: Go sit down.
> Nella: (screaming) Al, Al, Al.
> Officer: Hey, Al?
> Officer: Step up, step up.
> Officer: You're going to jail.
> Officer: You're going to jail.
> (screaming.)
> Officers: Ma'am, relax. Ma'am, relax.
> Nella: (screaming, crying, inaudible.)
> Officer: Ma'am—

[5] Although Patrolman Rothenburger's report refers to "Ptlm. Rork's and Det. Huth's follow-up reports referenc[ing] the arrest of Mr. Lanuto" (Tab 4 at 2), the discovery material provided by the Ramsey Police Department does not include a report by Detective Huth.

Officer: [inaudible] his hands. Let's go.
Officer: Get back. Get back.
Nella: No. (screaming)
Officer: Hands behind your back. You're under arrest.
[Tab 3 at 23:13–24:18.]

On the videotape, four minutes after the arrest, an officer also gave this account of Al's behavior immediately preceding the arrest:

Officer: He did not tell us to come in. He got in front of us. He blocked the door.
[Tab 3 at 35:16–18.]

Police used the contact between the officer's foot and the swinging front door as the basis to arrest Al for aggravated assault on a police officer, N.J.S.A. 2C:12-1, and resisting arrest, N.J.S.A. 2C:29-2A(3). (Tab 6.) As the transcript makes clear, police had not ordered Al not to re-enter the home. Likewise, Al had not consented to their entry into the home. Officer Rork admits in his report that officers "were trying to enter the residence" (Tab 5 at 1) and yet provides no justification for either action. The confused sentence "The door slammed into my right foot and leg and blocked the door from closing" (Tab 5 at 1) actually means that Rork blocked the door from closing by inserting his right foot into it as it was being closed.

In the aftermath of the arrest, Nella followed police as they searched the house. During this search, an officer followed Nella throughout the house and attempted to rational the arrest. The officer used the term "investigation" at least five times, making clear that police had never intended a mere field inquiry. (Tab 3 at 25:21–22; 33:8–10; 34:4–5; 34:15–16.) The officer also continued to harangue Nella to explain the anonymous call:

Officer: Was there someone . . . a neighbor who made the call that heard something. What did they hear? Explain it. Explain what they heard.
[Tab 3 at 36:20–23.]

In response, Nella told the officer the same explanation that she had offered seconds after they first arrived at the house: She had been talking on the phone to her mother-in-law. (Tab 3 at 37:1–2; see also Tab 3 at 4:11–12.) Later, Nella was also arrested for obstruction, N.J.S.A. 2C:12-1. (Tab 7.)

LEGAL BACKGROUND

The Fourth Amendment of the U.S. Constitution guarantees the right of individuals to be free from "unreasonable searches and seizures" of their houses. U.S. CONST. amend. IV. The sanctity of the private home has been found to be the greatest singular purpose of the Fourth Amendment. Miller v. United States, 357 U.S. 301, 78 S. Ct. 1190, 2 L. Ed. 2d 1332 (1958); United States v. U.S. Dist. Court, 407 U.S. 297, 313, 92 S. Ct. 2125, 2135, 32 L. Ed. 2d 752 (1972); United States v. Martinez-Fuerte, 428 U.S. 543, 96 S. Ct. 3074, 49 L. Ed. 2d 1116 (1976). Any governmental search of a house must be authorized by a judicial warrant founded upon probable cause. U.S. CONST. amend. IV; N.J. CONST., art. 1 ¶ 7.

The existence of exigent circumstances, in which the facts supporting probable cause arise unexpectedly and swiftly, may excuse police officers in conducting a warrantless search. State v. Cooke, 163 N.J. 657 (2000). Such a warrantless search is valid only if the delay in obtaining a warrant would give rise to a unjustified risk of destruction of evidence, State v. Hutchins, 116 N.J. 457, 464 (1989); the escape of an armed felon, id.; or imminent danger to human life, State v. Frankel, 179 N.J. 586 (2004). Nevertheless, the presence of exigent circumstances does not displace the need for probable cause. State v. Novembrino, 200 N.J. Super. 229, 237 (App. Div. 1985), aff'd, 105 N.J. 95 (1987). The search must still be founded upon not merely minimal probable cause but rather "a clear showing of probable cause." State v. Lewis, 116 N.J. 477, 486–87 (1989) (quoting Dorman v. United States, 435 F.2d 385 (D.C. Cir. 1970)); see also State v. Speid, 255 N.J. Super. 398, 402 (Law Div. 1992).

Whether an informant's tip provides police with probable cause is assessed using a "totality of the circumstances" test. State v. Novembrino, 105 N.J. 95, 122 (1987) (adopting the holding of Illinois v. Gates, 462 U.S. 213, 103 S. Ct. 2317 (1983)). The test is whether the facts give rise to a "fair probability" that criminal activity is taking place. Id. The inquiry incorporates the two-prong Aguilar/Spinelli test for the veracity and basis of knowledge of a police informant. See State v. Smith, 155 N.J. 83 (1998). The first prong requires that police establish the informant's truthfulness, usually satisfied by a past record of truthful tips. See id. at 93. The second prong requires that the tip be sufficiently specific and detailed to demonstrate that the informant has a basis of knowledge of the alleged activity. Id. As a general rule, "[a]n anonymous tip, standing alone, is rarely sufficient to establish a reasonable articulable suspicion of criminal activity"—an even lower standard than probable cause. State v. Rodriguez, 172 N.J. 117, 127 (2002). Merely to provide police with the lesser standard of a reasonable suspicion, the anonymous 911 call "must convey an unmistakable sense that the caller has witnessed an ongoing offense that implicates a risk of imminent death or serious injury to a particular person . . . or to the public at large." State v. Golotta, 178 N.J. 205, 221–22 (2003).

Because of the presumption against the legitimacy of governmental intrusion into the home without a judicial warrant, private citizens are excused from accepting warrantless governmental intrusion without protest. United States v. Prescott, 581 F.2d 1343, 1350 (9th Cir. 1978). When police rely on exigent circumstances to demand entry into the home, "the occupant can act on that presumption and refuse admission. . . . He is not required to surrender his Fourth Amendment protection on the say so of the officer. The Amendment gives him a Constitutional right to refuse to consent to entry and search." Ibid. (citing Camara v. Mun. Court, 387 U.S. 523, 528–29, 87 S. Ct. 1727, 1730–31, 18 L. Ed. 2d 930 (1967)). The Supreme Court of New Jersey has emphasized that "[t]he assertion of that constitutional right, which protects the most basic privacy interests of our citizenry, is not probative of wrongdoing and cannot be justification for the warrantless entry into a home." State v. Frankel, 179 N.J. 586, 611 (2004); see also State v. Rice, 251 N.J. Super. 136, 140–41 (App. Div. 1991) (recognizing the "anomaly inherent in allowing the assertion of a constitutional right to provide the basis for abrogation of that right"). Thus a homeowner's closing and locking his door in response to a police demand for entry is "the absolute minimum he could do to effect his denial to police entry." State v. Berlow, 284 N.J. Super. 356, 364 (Law Div. 1995). That the citizen may "slam[] the door while police [a]re standing at the threshold is not functionally significant." Id. at n.2.

When police have less than probable cause, their encounters with citizens occur at two distinct constitutional levels: the field inquiry, without any grounds or suspicion, and investigatory detention, justified by a "reasonable suspicion of criminal activity." State v. Rodriguez, 172 N.J. 117, 126–27 (2002); see also Florida v. Royer, 460 U.S. 491, 497–99, 103 S. Ct. 1319, 1324–25, 75 L. Ed. 2d 229, 236–37 (1983); State v. Maryland, 167 N.J. 471, 482–84, 486–87 (2001); State v. Alexander, 191 N.J. Super. 573, 576 (App. Div. 1983), certif. denied, 96 N.J. 267 (1984). The Supreme Court of the United States has characterized field inquiries as "[b]rief, non-intrusive encounters . . . on the street or in parked cars [that] implicate none of the privacy or security concerns engendered [even] by discretionary police checks of moving vehicles." Delaware v. Prouse, 440 U.S. 648, 99 S. Ct. 1391, 59 L. Ed. 2d 660 (1979). The Court has likewise described the field inquiry as "merely approaching an individual on the street or another public place, . . . asking him if he is willing to answer some questions, [and] . . . putting questions to him if the person is willing to listen." Florida, supra, 460 U.S. at 497. A citizen's cooperation with a field inquiry is entirely at the citizen's discretion. See State v. Hickman, 335 N.J. Super. 623 (App. Div. 2000). "While most citizens will respond to a police request, that fact that people do so . . . hardly eliminates the consensual nature of the response." Id. at 635.

A single encounter between police and a citizen "may escalate from 'inquiry' to 'stop' to 'arrest' so that the criteria for each category must be applied as the situation shades from one category to another." Alexander, supra, 191 N.J. Super. at 577. A field inquiry becomes an investigatory detention when a reasonable person in the same circumstances would believe he was not free to leave. Terry v. Ohio, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968); State v. Citarella, 154 N.J. 272, 280 (1998); State v. Tucker, 136 N.J. 158, 164 (1994); State v. Davis, 104 N.J. 490, 498 (1986); State v. Sirianni, 347 N.J. Super. 382, 388 (App. Div. 2002). Whether police ask "authoritative questions that presuppose criminal activity or are otherwise indicative of criminal suspicion" may be considered as part of this determination. Sirianni, supra, 347 N.J. Super. at 389 (citing State v. Costa, 327 N.J. Super. 22, 31 (App. Div. 1999) (finding the question "What are you doing?" sufficiently indicative of suspicion to convert a field inquiry to an investigative detention)). The Supreme Court of New Jersey has defined the line between the field inquiry and the investigative detention:

> The critical inquiry would be whether the policeman, although perhaps making inquiries which a private citizen would not be expected to make, has otherwise conducted himself in a manner consistent with what would be viewed as a nonoffensive contact if it occurred between two ordinary citizens. Thus, an officer would not be deemed to have seized another if his questions were put in a conversational manner, if he did not make demands or issue orders, and if his questions were not overbearing or harassing in nature.
>
> [Davis, supra, 104 N.J. at 497 n.6 (quotation marks and citations omitted).]

The classification of a particular encounter requires balancing "the seriousness of the criminal activity under investigation, the degree of police intrusion, and the extent of the citizen's consent, if any, to that intrusion." Rodriguez, supra, 336 N.J. Super. at 559; see also Sirianni, supra, 347 N.J. Super. at 390; Alexander, supra, 191 N.J. Super. at 576–77.

DISCUSSION

The police presence at the Lanuto home began as a field inquiry, because police had no constitutional justification for a more intrusive inquiry. The entire basis of the police activity consisted of an anonymous 911 call alleging a "disturbance" and the possible need for an "intervention" at the Lanuto address. The anonymous call utterly fails the Gates "totality of the circumstances" test, including the veracity and basis-of-knowledge prongs. As an anonymous person, the caller had no history of proven trustworthiness with the Ramsey Police. The caller provided no factual details that would indicate firsthand familiarity with any activity taking place at the Lanuto home. The single factual detail the caller provided was the Lanutos' street address, which is public knowledge and without value for purposes of the Gates test. The caller did not claim to have witnessed any "disturbance." Indeed, the caller could not say whether the alleged disturbance had occurred inside or outside the home. Far from "convey[ing] an unmistakable sense that the caller ha[d] witnessed an ongoing offense that implicate[d] a risk of imminent death or serious injury" so as to justify a reasonable suspicion, the caller made no allegation whatsoever of criminal activity or danger to human life. The terms "disturbance" and "intervention" are so vague as to be meaningless in the context of determining reasonable suspicion or probable cause, and do not justify any police activity beyond a field inquiry.

In the course of a field inquiry at the Lanuto home, the police were strictly circumscribed in their authority and the Lanutos were entirely within their rights not to cooperate with the police. Indeed, because field inquiries generally occur as encounters between police and citizens in a public space—on the street or on public roads—the Fourth Amendment concern for the family home looms especially large in the context of this inquiry. Here, police were authorized only to conduct a non-intrusive encounter, including asking Al if he was willing to answer questions and, if Al consented, posing those questions. To remain within the bounds of acceptable field inquiry behavior, the police questioning must have remained non-offensive and conversational, and could not become demanding, overbearing, or harassing. Throughout the field inquiry, the Lanuto family was free to end the conversation and refuse further cooperation. Invoking that constitutional right was not indicative of wrongdoing, and could not be used by police as justification for conducting a more intrusive investigation. Indeed, during the field inquiry Al was within his rights to close and even slam his front door as police stood at the threshold of his home.

The police conduct escalated from a field inquiry to an investigative detention without constitutional justification. The field inquiry became an investigative detention when the police conduct passed beyond the scope of permissible field inquiry behavior and a reasonable person in the Lanutos' situation would have felt his movement was restricted. Here, that escalation occurred within the first seconds of the encounter. When one officer brushed past Al into the house and the other officer ordered Al to "stay here" (Tab 3 at 3:22–23), those words indicated that Al was not free to disengage from one officer to speak to another—or even to move. When police stated, "we're going to find out exactly what's going on" (Tab 3 at 4:7–8), the conduct passed from inoffensive questions to demands indicating the officers' suspicion. When police posed the choice between two alternatives to Al—"You want to talk out in public, then we'll talk outside, or we're going to come inside. You make that choice" (Tab 3 at 4:21–23; see also 5:22–24, 6:6–7, 6:14–15)—their conduct was overbearing and beyond the scope of inoffensive conduct between ordinary citizens. Police behavior became harassing as they refused to accept the family's assurances that no disturbance had occurred and pressed for entry

into the home or for Al to exit it, including the repeated demand to "come outside and speak to us . . . You need to speak to us." (Tab 3 at 9:7–15). The fact that the officers never intended to conduct a mere field inquiry is clear from the statement, "[w]e didn't come here [to] your house just to come speak to you." (Tab 3 at 9:15–16). Such examples of police conduct outside the scope of their constitutional authority continued throughout the encounter, culminating in the alleged closing of the Lanuto front door against an officer's foot.

The officer's placing his foot in the doorway of the Lanuto home was an unauthorized entry into the Lanuto home. At no time did police have a reasonable suspicion, let alone probable cause to believe, that criminal activity or danger to human life was present at the Lanuto home. Indeed, police saw that at least three members of the Lanuto family were uninjured and plainly protesting that nothing untoward had occurred. The family's refusal to consent to police entry into the home itself could not provide further justification for entry or suspicion. Entry without a warrant was therefore without basis in reasonable suspicion of emergency need or probable cause to believe that criminal activity had taken place. By placing his foot within the doorway, the officer engaged in the classic example of offensive conduct between members of the general public: the door-to-door salesman stopping a door being closed by a private citizen who wishes to end the conversation. Such entry without a warrant was far beyond the officer's authority. Al was excused in protesting the unconsented intrusion, including closing the door as the officers stood at the threshold.

CONCLUSION

The anonymous 911 call provided police with no constitutional basis for anything more than a field inquiry at the Lanuto house. In conducting that field inquiry, police were authorized only to ask Al to answer questions and, if he consented, to do so without becoming overbearing or indicating suspicion of criminal activity. Al had the right to end the field inquiry at any time, including by closing the door as the police stood at the threshold of the house. Police quickly crossed the line from permissible field inquiry to unjustified investigative detention, and continued throughout the encounter to behave in a way that violated the Lanutos' Fourth Amendment rights. No evidence existed to provide police with a reasonable belief that an emergency had occurred at the house. Therefore, the police officer placing his foot in the doorway of the Lanuto house was an unconsitutional entry into the home.

Transcripts of
Pertinent Telephone Calls Received by the
Ramsey Police Dispatcher

Call #1 (track #1)

Dispatcher: 147145.

Officer #1: 45.

Dispatcher: Respond at 275 Canterbury Drive. We received a anonymous call from a female party that there was some kind of disturbance at that residence. She would not go into detail and hung up the phone. I cannot reach her on the callback.

Officer #2: 42. 275 Canterbury?

Dispatcher: Affirmative.

Officer #3: You said the anonymous caller was still in the residence or neighbor's?

Dispatcher: It was a female caller. She would not give me any information and hung up the phone. I could not get her on the callback either.

Officer #3: Alright 10-4 if you could just help us out. Keep trying to get someone back. Call her right now.

Dispatcher: 10-4.

[End]

Call #3 (track #4. Track #3 is blank.)

Dispatcher: OK. What's the problem there, ma'am?

Female caller: I...I'm assuming maybe some sense of...Um, there's a disturbance whether it's outside or inside of the house I'm really not sure.

Dispatcher: What kind of disturbance though, ma'am?

Female caller: I really can't tell you any more. Thank you. [Hangs up.]

Call #10 (track #11)

Dispatcher: Ramsey Police.

Unidentified Woman: Yeah, I'd like to place an anonymous phone call. I think there's a need for some intervention at two seventy-f—

[Call cuts off.]

Call #15 (track #16)

Dispatcher: 149 Keystar heading up, uh, 275 Canterbury.

Officer: Yup. I'm already almost there.

[Incoherent yelling in background]

Officer: Ramsey, who is this for? Can you try to get a—call the complaint back and find out what the deal is?

Dispatcher: I had no number, uh, on the stancel screen, 45. Uh, she hung up the phone as soon as she gave me the address. Wouldn't give me any further information.

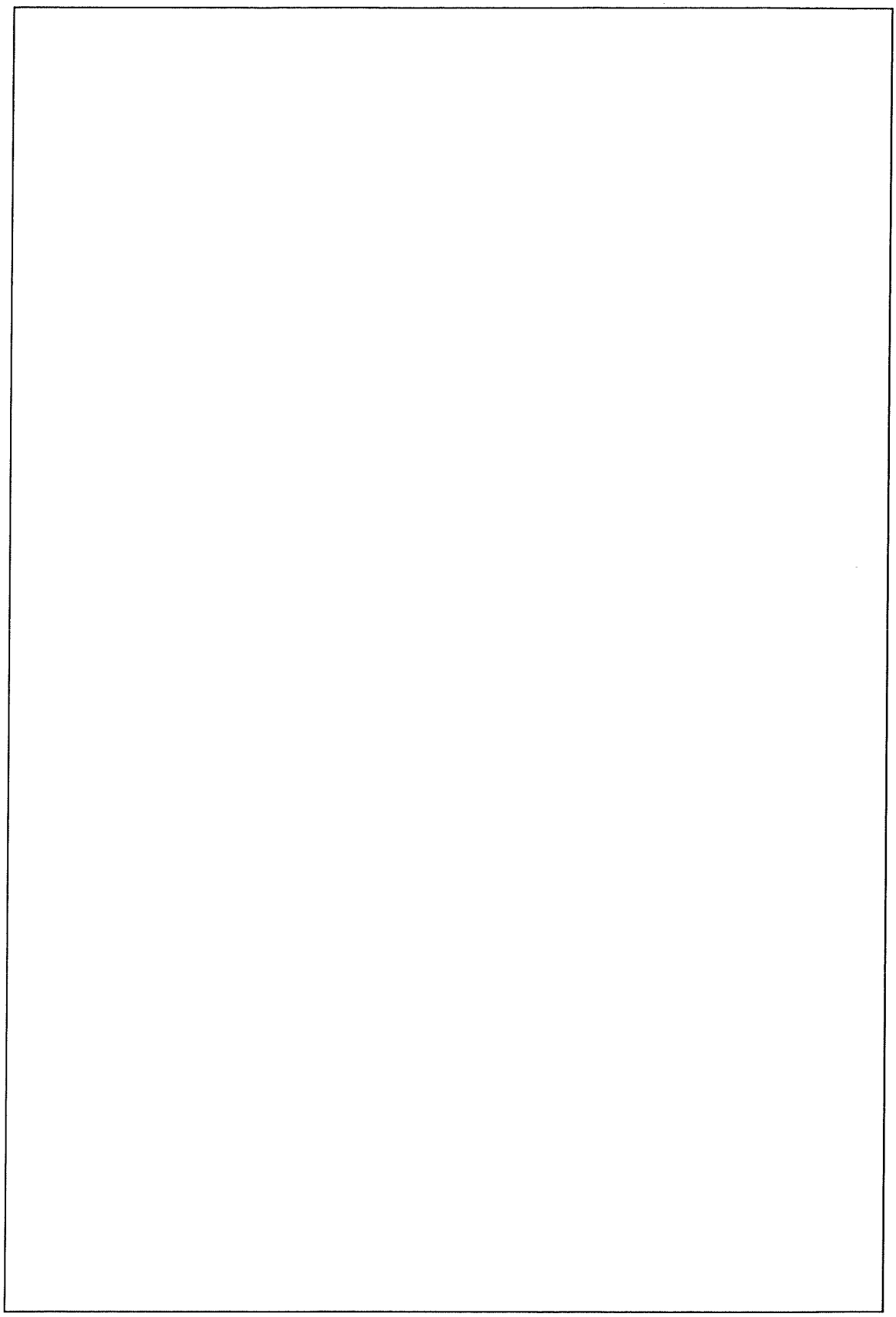
[End]

IN THE MATTER OF :
:
STATE OF NEW JERSEY :
:
Plaintiff, :
:
v. :
:
AL LANUTO :
Defendant. :
.....

TRANSCRIPT of the video recording

DATE: July 1, 2008

BRITTANY TRANSCRIPTION
120 Washington Street
Morristown, New Jersey 07960
973-285-9690
britt.transcription@verizon.net



POLICE OFFICER: One on the left (Inaudible).

POLICE OFFICER: 923 (Inaudible) something else to do, (Inaudible).

POLICE OFFICER: How about when he moved to (Inaudible). Send a man to 61 923 (Inaudible).

POLICE OFFICER: Five Ramsey out.

POLICE OFFICER: Brad, you know this guy, don't you?

POLICE OFFICER: Yeah.

POLICE OFFICER: Can I talk?

MR. LANUTO: What happened?

POLICE OFFICER: (Inaudible) with that.

MR. LANUTO: What are you talking about?

POLICE OFFICER: Someone called about some kind of disturbance going on (Inaudible).

MRS. LANUTO: Me?

MR. LANUTO: Who called?

POLICE OFFICER: I don't know someone called and said -- stay here sir. Sir.

MR. LANUTO: No, no, I don't want to stay outside, this is my home.

POLICE OFFICER: Sir, sir, sir

INSIDE ENTRYWAY AND/OR AT DOORWAY 1:37

(on the last "sir" cop turns head away from facing toward cop with microphone) at this point you can hear both mr lanuto and cop arguing in the entryway -- (Inaudible).

MR. LANUTO: Hey, this is my home.

POLICE OFFICER: Sir, sir, hang on. The police were called on a 911 and we're going to find out exactly what's going on.

MR. LANUTO: There's nothing going on here.

MRS. LANUTO: I was talking to my mother --

POLICE OFFICER: We're going to discuss that right now.

MR. LANUTO: No, we're -- no, you can just -- no, you're not coming in --

POLICE OFFICER: Well, you both come outside then.

MR. LANUTO: You're not coming into my home.

POLICE OFFICER: You want to talk out in public, then we'll talk outside, or we're going to come inside. You make that choice.

MRS. LANUTO: Yeah, honey. I don't know (Inaudible) no reason to call (Inaudible).

MR. LANUTO: Wait a second --

MRS. LANUTO: (Inaudible) me to --

MR. LANUTO: You have no reason to be here.

POLICE OFFICER: Yes, we do. We have a (Inaudible) reason to be here.

MRS. LANUTO: Who called?

POLICE OFFICER: All right?

POLICE OFFICER: Someone called that there's a disturbance going --

MR. LANUTO: Put your finger down.

POLICE OFFICER: Sir? Sir?

MR. LANUTO: Don't be disrespectful to me.

POLICE OFFICER: Come outside and --

MR. LANUTO: No, no, no, I'm not coming outside. You have no reason --

POLICE OFFICER: Sir. Sir --

POLICE OFFICER: We have the --

POLICE OFFICER: Either we come inside to discuss it or you come outside, you make that choice.

MR. LANUTO: What's your problem?

POLICE OFFICER: Someone called and said there was a disturbance.

MRS. LANUTO: You better call Mr. Amato. Call Mr. Amato.

POLICE OFFICER: So, we come inside to discuss it or you come outside.

MRS. LANUTO: What disturbance, I was talking to my mother. (Inaudible).

POLICE OFFICER: Wait a second. What's Amato?

MRS. LANUTO: Call your -- call your office.

POLICE OFFICER: Would you like to come outside and speak with us, or inside.

MR. LANUTO: No. No. You're not coming inside. You have --

POLICE OFFICER: We're with the police department.

MR. LANUTO: I don't care.

POLICE OFFICER: We were summoned here for a disturbance.

MR. LANUTO: You have no reason to enter my home and you're not going to.

POLICE OFFICER: Then come outside and talk to us.

MRS. LANUTO: Why are you in my house?

MR. LANUTO: I have no reason to come outside.

POLICE OFFICER: Yes, you do (Inaudible) that everyone's okay in this home.

MRS. LANUTO: We're one, two, three, everybody's fine.

POLICE OFFICER: We're not going to be (Inaudible).

MR. LANUTO: (Inaudible). You see everybody's fine.

MRS. LANUTO: There's nothing to figure out.

POLICE OFFICER: Then come out and speak to us. I need both of you to --

MR. LANUTO: No.

MRS. LANUTO: No, there's no reason

for you to --

POLICE OFFICER: Ramsey, who was the caller? Could you try to get a --

MRS. LANUTO: We live here. What's going on.

POLICE OFFICER: -- can you call me back and find out what the (Inaudible).

MRS. LANUTO: I was only talking to my mother.

MR. LANUTO: Listen --

POLICE OFFICER: It doesn't matter.

MR. LANUTO: You have no reason to be here --

POLICE OFFICER: Yes, we do. I don't come here just for the heck of it, sir.

MR. LANUTO: Well it sounds that way.

MRS. LANUTO: Well, who called? Who do I know who would call? How do I know that it isn't --

MR. LANUTO: Everyone in this house is fine.

POLICE OFFICER: Speak to us like a gentleman --

MRS. LANUTO: I'm right here.

POLICE OFFICER: -- and not (Inaudible).

MR. LANUTO: I am a gentleman, but I don't appreciate this intrusion.

MRS. LANUTO: He's an attorney.

MR. LANUTO: Marco, who's here? Marco, tell this officer who's here.

MARCO: Just the three of us.

POLICE OFFICER: Again, stop. No.

POLICE OFFICER: Well, come outside and talk to us.

MR. LANUTO: I don't have to come outside.

POLICE OFFICER: Yes, you do, sir. You need to speak to us.

MR. LANUTO: Actually, I don't.

POLICE OFFICER: Sir, you need to speak to us. We didn't come here -- show up at your house just to come speak to you.

MR. LANUTO: I don't have to speak to you.

POLICE OFFICER: We were called here because 911 is saying there's a disturbance and

MRS. LANUTO: Well, then, I don't know what you're --

POLICE OFFICER: Something's going on. Unknown if it's verbal or physical.

MRS. LANUTO: Are you kidding me?

POLICE OFFICER: So now we're going to find out what it is.

MR. LANUTO: No. You have no -- I do not accept this intrusion --

MRS. LANUTO: I just got done telling you there's nothing wrong.

POLICE OFFICER: I do this every day.

MR. LANUTO: I do not accept this intrusion. You can do this 10 times a day. You're not doing it here

POLICE OFFICER: Well, then we're not going to leave here until we find out.

MRS. LANUTO: Did you come when I passed out?

MR. LANUTO: Nella, Nella, why don't you sit up here? Nella, why don't you sit down?

MRS. LANUTO: Did you come when I passed out?

MR. LANUTO: My wife passed out. Again, about an hour ago.

POLICE OFFICER: Yeah. Yeah.

POLICE OFFICER: Well, then that's why someone called.

MR. LANUTO: Yeah. My wife passed out, and she doesn't need this additional agitation right now.

POLICE OFFICER: Well, come -- come outside and talk to us.

MR. LANUTO: Wait, stop. Marco --

POLICE OFFICER: (Inaudible).

MR. LANUTO: Stop. No, no, no, this is my house, let me talk to my wife and son. Now be quiet.

POLICE OFFICER: Sir, I'm not (Inaudible).

MR. LANUTO: Marco, have Mommy sit down.

MRS. LANUTO: He was worried about me.

MR. LANUTO: Have Mommy sit down.

POLICE OFFICER: Let's figure it out then.

MR. LANUTO: You have no reason to be here.

POLICE OFFICER: Go outside and speak to us.

(PHONE RINGING)

MR. LANUTO: Hello?

POLICE OFFICER: Maybe there's a -- the fact that your wife passed out is the reason why someone called.

MRS. LANUTO: This is my home.

MR. LANUTO: (ON PHONE) We're being -- Alex, we're, being invaded. Call the county police, state police, somebody. We're being invaded by Ramsey policemen. They're in our house. I don't understand these lunatics.

POLICE OFFICER: Sir, you're the only one acting like a lunatic.

MRS. LANUTO: Who would call I was talking to my mother.

POLICE OFFICER: You (Inaudible) with him?

POLICE OFFICER: Yeah. Sir, you're

the only one acting like a lunatic. We're trying to talk to you calmly.

MR. LANUTO: What are you doing here?

POLICE OFFICER: We're trying to talk to you calmly. If you come out and speak to us we can resolve this. We can resolve this, sir. You're not acting -- you're not acting at all reasonably. We got called here for --

MRS. LANUTO: He's very (Inaudible).

MR. LANUTO: I wouldn't --

POLICE OFFICER: If there's no problem, you come out and talk to us (Inaudible).

MR. LANUTO: You tell me what the problem is.

POLICE OFFICER: We're trying to figure that out. That's exactly what we're trying to do. We're trying to figure out what the problem is, why we were called here. (Inaudible).

POLICE OFFICER:

___ OUTSIDE___ 4:48

Wasn't have (Inaudible) problem then.

MR. LANUTO: Stop.

POLICE OFFICER: I mean, that's all you have to do. Someone called saying there's a disturbance at 275 Canterbury. We responded here. We're obligated to investigate a 911 call of some --

MR. LANUTO: Okay.

POLICE OFFICER: -- kind of -- some kind of disturbance.

MR. LANUTO: Okay.

POLICE OFFICER: We come here and you're screaming and yelling. Do you understand that?

MR. LANUTO: Do you see any disturbance?

POLICE OFFICER: No, we just got here.

POLICE OFFICER: You won't speak to us.

POLICE OFFICER: We got here and you started yelling and screaming at us. There could have been a disturbance because you're agitated.

MR. LANUTO: I am.

POLICE OFFICER: I got your son walking up in the middle of the street and then --

MR. LANUTO: Stop. Lower your

voice.

POLICE OFFICER: No, you lower your voice.

MR. LANUTO: No, no, no, this is my house.

POLICE OFFICER: That doesn't matter. You're (Inaudible) --

MR. LANUTO: Have respect for people's homes.

POLICE OFFICER: Have respect for the three of us. I've been here enough --

MR. LANUTO: Don't point your finger at me.

POLICE OFFICER: No, I paid for --

POLICE OFFICER: Sir, you --

MR. LANUTO: Get your finger out of my face.

POLICE OFFICER: No. (Inaudible) what happened, sir.

POLICE OFFICER: We came here --

MR. LANUTO: You stand by that conduct? If I put my finger in your face, that's okay (Inaudible)?

POLICE OFFICER: That's exactly

what you did since we got here.

POLICE OFFICER: Sir, we came in here (Inaudible) --

MR. LANUTO: You do not respect --

POLICE OFFICER: The four or five times I've been here --

MR. LANUTO: Right. And you haven't caught anybody anyway. But that's okay, we'll leave that alone.

POLICE OFFICER: Excuse me.

MR. LANUTO: Yeah, excuse you.

POLICE OFFICER: You think it's my job to be your personal security guard over here?

MR. LANUTO: No, it is your job to protect us and make sure people aren't harassed.

(Simultaneous conversations, unable to transcribe).

MR. LANUTO: Don't yell at me.

POLICE OFFICER: You know, what? Stop this. And relax. And relax.

MR. LANUTO: Don't tell me to relax. Now what's your problem? Why are you here? You tell me --

POLICE OFFICER: I told you why.

We got a call -- why don't you let us search the house?

MR. LANUTO: I can't prove a negative. There's nothing going on here.

POLICE OFFICER: Why don't you --

POLICE OFFICER: We come here and you're --

POLICE OFFICER: (Inaudible) deputy that's what we do for a living, sir.

MR. LANUTO: No. You saw my wife, there's no reason she --

POLICE OFFICER: No, that doesn't matter because you don't let us speak to your wife.

MR. LANUTO: My wife --

POLICE OFFICER: Let her speak for herself.

MR. LANUTO: -- I resent the innuendo and the accusation. My wife passed out an hour ago. I (Inaudible).

POLICE OFFICER: Maybe that's the reason why --

(Simultaneous conversations, unable to transcribe).

MR. LANUTO: (Inaudible) I'm upset.

POLICE OFFICER: Maybe that's the reason why we got called.

MR. LANUTO: And I'm not going to let you agitate her any further. If you know the history you know that my wife passes out every couple of weeks and we keep hospitalizing her.

POLICE OFFICER: So let us speak to your son then. We can't just speak to one party in the house. All right? There's a disturbance. We don't know if you're the reason for the disturbance or not.

MR. LANUTO: There's no disturbance here.

POLICE OFFICER: There's a disturbance, we get here and you start yelling and screaming --

POLICE OFFICER: We need to speak to someone else in the household.

MR. LANUTO: I don't need you showing up here --

POLICE OFFICER: We're trying to figure out what's going on.

MR. LANUTO: -- when my wife --

POLICE OFFICER: We have a call --

sir, sir, it's our obligation when we have a call.

MR. LANUTO: -- passed out.

POLICE OFFICER: Something you don't understand.

POLICE OFFICER: Okay. Say, something did happen, we come here, you're not letting us in and you killed your wife. What are we going to do, go oh, well, we can't do anything. Sorry. Sorry. You understand what I'm saying?

MR. LANUTO: Yeah.

POLICE OFFICER: It's our job to investigate what the disturbance was. If there's no disturbance and you're not agitated, you come out and say, oh, there's no problem my wife passed out and --

MR. LANUTO: I am agitated my wife keeps passing out.

POLICE OFFICER: -- and we're like we're like, okay. That's why we got called. That's -- somebody called. No, instead, we come here, you get in our face, start yelling at us --

MR. LANUTO: Stop this. Stop this.

POLICE OFFICER: Oh, sure, now you say to talk --

MR. LANUTO: No, no, no, no.

POLICE OFFICER: It's all on video. Everything's on video, sir.

MR. LANUTO: Stop it. Yeah, that's great. I'm glad you got it on video.

POLICE OFFICER: Everything's on video. And you were highly agitated as soon as we got here.

MR. LANUTO: Sure.

POLICE OFFICER: We came here, just trying to figure out what happened, and you start yelling and screaming at us.

MR. LANUTO: I have lots of reasons for agitation.

POLICE OFFICER: Okay. Here's what we have to do --

MR. LANUTO: My wife is ill.

POLICE OFFICER: -- sir, why don't you come over here, have your wife come out, we'll speak to her separately.

MR. LANUTO: No.

POLICE OFFICER: We have to. I mean, we're not -- we have to.

POLICE OFFICER: I'm not leaving until I know that everyone in this house is safe. So

let us speak to --

POLICE OFFICER: And we get here, your son's running in the house --

MRS. LANUTO: It's dad. It's dad.

MR. LANUTO: What happened?

POLICE OFFICER: Can we speak to your son then?

MR. LANUTO: Dad? (Inaudible)

POLICE OFFICER: We don't know -- we don't know what's going on. He started to get all agitated.

MRS. LANUTO: (Inaudible).

POLICE OFFICER: (Inaudible) that thing, right?

POLICE OFFICER: Yeah. He's --

POLICE OFFICER: He comes out of the house and (Inaudible) speaking -- getting in our face and yelling.

POLICE OFFICER: What did you guys get called about? A disturbance?

POLICE OFFICER: Some kind of 911 call of a disturbance in the house.

POLICE OFFICER: Okay. --

_____ INSIDE_____ 7:44

(Inaudible) to come out --

MR. LANUTO: Nella, would you tell -- would you tell these guys your fine.

MRS. LANUTO: Of course, I'm fine.

MR. LANUTO: Okay.

MRS. LANUTO: Who the hell would call the police? I'm on the phone talking to my mother --

POLICE OFFICER: I don't know (Inaudible).

MARCO: What's going on (Inaudible)?

MRS. LANUTO: I was talking to my mother.

MR. LANUTO: She's not up for it. Nella, sit down.

MRS. LANUTO: I can't handle this.

MR. LANUTO: MY father is sick. He just talked with (Inaudible) at the hospital. Listen --

POLICE OFFICER: Wait a minute. Listen --

MR. LANUTO: Hey. Don't you -- don't you put your finger in my face. You stuck your finger in my face. Shut up. Get away from here.

(Simultaneous conversations, unable to transcribe).

MRS. LANUTO: Stop.

POLICE OFFICER: We got a 911 call.

MR. LANUTO: No, we don't need you here.

MRS. LANUTO: Stop it. Stop it.

MARCO: Ma? Ma?

POLICE OFFICER: Who called?

MRS. LANUTO: Call your lawyer now.

SPEAKER: Al? Al?

MR. LANUTO: My lawyer will (Inaudible). Unbelievable, police (Inaudible). Get out of here.

MRS. LANUTO: (Crying, Inaudible).

MR. LANUTO: I just said get out of here. My wife is sick, get out of here.

POLICE OFFICER: You're the only one causing a disturbance. Someone called 911 --

MRS. LANUTO: How dare anyone call 911?

POLICE OFFICER: As soon as we leave (Inaudible).

(Simultaneous yelling, unable to transcribe).

POLICE OFFICER: Go sit down.

MRS. LANUTO: (Screaming). Al. Al. Al.

SPEAKER: Hey, Al?

POLICE OFFICER: Step up. Step up.

POLICE OFFICER: You're going to jail.

POLICE OFFICER: You're going to jail.

(SCREAMING).

POLICE OFFICERS: Ma'am, relax. Ma'am, relax.

MRS. LANUTO: (Screaming, crying, Inaudible).

POLICE OFFICER: Ma'am --

POLICE OFFICER: (Inaudible) his hands. Let's go.

POLICE OFFICER: Get back. Get back.

MRS. LANUTO: No (screaming).

POLICE OFFICER: Hands behind your back. You're under arrest.

MR. LANUTO: (Inaudible) the police.

MRS. LANUTO: What are you doing? What are you doing? (Inaudible).

POLICE OFFICER: You can't treat the police like that. We're here on a 911 call. You can't do that to the police. You don't get to do that.

POLICE OFFICER: (Inaudible) stop.

MRS. LANUTO: Help me. Please, my husband didn't do anything.

POLICE OFFICER: You don't get to do that. We're here --

MRS. LANUTO: (Inaudible).

MARCO: My mom just fainted an hour ago, she cannot deal with this. Understand me? Understand me?

POLICE OFFICER: That's right. Tell your mom (Inaudible).

MARCO: My dad didn't do anything wrong.

POLICE OFFICER: Well, he did. He

did. Now he -- if he were 100 percent calm -- we cannot --

MRS. LANUTO: He was very upset about his dad.

POLICE OFFICER: Ma'am? We have to investigate.

MRS. LANUTO: Talk to me --

POLICE OFFICER: We would like to, he would not --

MRS. LANUTO: He doesn't (Inaudible) me.

POLICE OFFICER: He did.

MRS. LANUTO: (Inaudible) my husband? I don't know --

POLICE OFFICER: Someone called --

MRS. LANUTO: (Inaudible) my house.

POLICE OFFICER: Ma'am?

MRS. LANUTO: What are you taking my husband for?

MARCO: He didn't do anything wrong.

MRS. LANUTO: He did nothing.

POLICE OFFICER: Ma'am?

MRS. LANUTO: This is brutality at

it's best.

POLICE OFFICER: Ma'am, your husband's -- your husband's going to be brought down to the police station.

MRS. LANUTO: For what? He didn't do anything.

POLICE OFFICER: He's under arrest at this time.

MRS. LANUTO: For what?

MARCO: What did he do?

POLICE OFFICER: Okay? Well, I wasn't in the doorway. I was on the (Inaudible) --

MRS. LANUTO: No, he said, my wife fainted. He didn't do anything.

POLICE OFFICER: -- for a disturbance. Okay? (Inaudible) a disturbance. You want to come down and speak to the police?

MRS. LANUTO: He didn't do anything.

POLICE OFFICER: Come down to the police station.

MRS. LANUTO: He did not do anything. He did nothing. You're lying.

___OUTSIDE___ 9:56

He wants to talk to you. Why don't you talk to me.

POLICE OFFICER: How do you know these guys, (Inaudible)?

POLICE OFFICER: We (Inaudible) neighbor.

POLICE OFFICER: (Inaudible).

POLICE OFFICER: I don't know why.

POLICE OFFICER: We -- we -- we came investigate a disturbance that occurred.

POLICE OFFICER: Did you (Inaudible)?

POLICE OFFICER: Did you check the house?

POLICE OFFICER: No. I couldn't get in the house.

POLICE OFFICER: We couldn't. He was yelling and --

POLICE OFFICER: He kicked the door in my face.

POLICE OFFICER: You've got to check the house.

POLICE OFFICER: I know.

POLICE OFFICER: She should go too.

POLICE OFFICER: He was kicking the

door in my face.

POLICE OFFICER: We did --

POLICE OFFICER: She should go too.

POLICE OFFICER: No --

POLICE OFFICER: Brian, did you (inaudible) talk to him?

MRS. LANUTO: He wanted to take me inside. I'm not allowed to get upset.

POLICE OFFICER: This is not --

MRS. LANUTO: You were all in my house helping me out.

POLICE OFFICER: No, none of us were in your house because you wouldn't --

MRS. LANUTO: What did he do?

POLICE OFFICER: Ma'am?

MRS. LANUTO: He tried to talk to you, you were yelling with your fingers in his face.

POLICE OFFICER: He was trying to talk.

MRS. LANUTO: I want my phone, my phone. Can my husband have his phone?

POLICE OFFICER: You just took --

MRS. LANUTO: Why can't my husband have his phone?

POLICE OFFICER: Then I'll hold on to it, he's under arrest.

MRS. LANUTO: For what? What did my husband do?

POLICE OFFICER: You can't do that to the police.

MRS. LANUTO: You can't come into my house?

POLICE OFFICER: We got a 911 call.

POLICE OFFICER: Okay. Okay. Listen. Hey. Hey. Hey.

MRS. LANUTO: He came outside to talk to you.

POLICE OFFICER: Hey. Hey, I'm the boss, talk to me.

MRS. LANUTO: Don't give me hey, I know who you are.

POLICE OFFICER: All right? Well they're going to go in your house and investigate to make sure nothing is wrong.

MRS. LANUTO: Nothing is wrong. Please come in.

POLICE OFFICER: Well, that's what we were trying to do.

POLICE OFFICER: Ma'am, we wouldn't be here.

MRS. LANUTO: You told him to go outside, not to go in.

POLICE OFFICER: Go (Inaudible).

POLICE OFFICER: Yeah, to separate -- to speak to you separately.

MRS. LANUTO: (Inaudible) go outside. (Inaudible).

POLICE OFFICER: No, no, no.

MRS. LANUTO: Who's they? (Inaudible).

POLICE OFFICER: Hey --

POLICE OFFICER: I'm (Inaudible).

POLICE OFFICER: (Inaudible) talk to me.

POLICE OFFICER: I have the camera and everything.

MRS. LANUTO: You can come inside, but you told him to go outside.

POLICE OFFICER: So why didn't you come with us then?

MRS. LANUTO: -- to go outside, Nothing happened.

POLICE OFFICER: Then come with us so we can verify.

MRS. LANUTO: What is there to verify?

POLICE OFFICER: We got a call --

POLICE OFFICER: (Inaudible).

MRS. LANUTO: My husband's an attorney. I think he understands --

POLICE OFFICER: I tried to explain to your husband.

MRS. LANUTO: Yes, he

___INSIDE___ 11:38

does. He said leave my wife out of it, I can't get upset.

POLICE OFFICER: We can't.

POLICE OFFICER: We can't.

MRS. LANUTO: Talk to me. I'm right here. Please, talk to me.

POLICE OFFICER: We got a call -- ma'am? Ma'am, take a deep breath. Take a deep breath.

MRS. LANUTO: Don't (Inaudible) something's going on with my father-in-law.

POLICE OFFICER: I understand that. But here. Deep breath. Calm down. We have a call.

MRS. LANUTO: Okay.

POLICE OFFICER: There was a disturbance at this address.

MRS. LANUTO: Okay, what disturbance?

POLICE OFFICER: Some kind of dispute, disturbance, we didn't know if you were going to be hurt. We come here --

MRS. LANUTO: Yes, he's very upset by you --

POLICE OFFICER: You're husband's very agitated. We wanted to --

MRS. LANUTO: He is agitated. Nothing to do with me.

POLICE OFFICER: We tried to speak to him --

MRS. LANUTO: Yes.

POLICE OFFICER: -- he was not letting us continue our investigation. If you let us continue our investigation --

MRS. LANUTO: (Inaudible) come in.

POLICE OFFICER: -- he didn't. He

MRS. LANUTO: He wanted me to sit. He was just trying to protect me from getting upset.

POLICE OFFICER: Ma'am, lower your voice. He wasn't. He was very agitated.

MRS. LANUTO: He was trying to protect me because he knows that I have something called (Inaudible) all the time.

POLICE OFFICER: Okay, we get calls like this, and we do the domestic.

MRS. LANUTO: I understand.

POLICE OFFICER: Do you understand what I'm saying?

MRS. LANUTO: My father (Inaudible).

POLICE OFFICER: We have to investigate.

MRS. LANUTO: That's a (Inaudible) bathroom.

POLICE OFFICER: That's one of the things when we get calls like this --

MRS. LANUTO: (Inaudible) I'm right (Inaudible).

POLICE OFFICER: Ma'am? Ma'am?

MRS. LANUTO: Why are you here? You're the one that causes a problem.

POLICE OFFICER: We're trying to investigate.

POLICE OFFICER: I'm asking --

MRS. LANUTO: You have an attitude problem.

POLICE OFFICER: Ma'am? Ma'am? I'm explaining it to you. We got a call of a disturbance.

MRS. LANUTO: Well, what did my husband do?

POLICE OFFICER: Ma'am? Ma'am? Ma'am, let me speak. I'm telling you why we're here. Okay? Just listen and let me speak.

MRS. LANUTO: Why is he under arrest? He didn't do anything.

POLICE OFFICER: Ma'am? We got a call for a disturbance at this address. We came here.

MRS. LANUTO: Okay.

POLICE OFFICER: Your husband --

MRS. LANUTO: He didn't want you to come in because --

POLICE OFFICER: -- we have to -- MRS. LANUTO: -- come in, come outside. POLICE OFFICER: He did not tell us to come in. He got in front of us, he blocked the door. MRS. LANUTO: Because he wanted to protect me. POLICE OFFICER: Ma'am? Ma'am? I'll explain to you what happened. MRS. LANUTO: Look, we were outside. POLICE OFFICER: Okay? I understand that. MRS. LANUTO: We were outside -- POLICE OFFICER: Ma'am? I'm telling you why we're here. MRS. LANUTO: We were talking. POLICE OFFICER: I'm telling you why we're here. MRS. LANUTO: Okay. So, you're not asking me any questions. POLICE OFFICER: I'm trying to, you're not letting me.

MRS. LANUTO: Go ahead.

POLICE OFFICER: Okay? We got a call for a disturbance.

MRS. LANUTO: Okay.

POLICE OFFICER: Was there some kind of disturbance in here?

MRS. LANUTO: No. Let me --

POLICE OFFICER: Was there someone -- was someone, a neighbor who made the call that heard something. What did they hear? Explain it. Explain what they were hearing.

MRS. LANUTO: Okay. Let me tell you what happened. I was on the phone with my mother-in-law.

POLICE OFFICER: Okay.

MRS. LANUTO: She was very, very upset. This is after I fainted. I said how are you coming home?

POLICE OFFICER: Were you yelling on the phone?

MRS. LANUTO: I said, mama, what happened? She said that dad -- my father-in-law is in the hospital --

POLICE OFFICER: Okay.

MRS. LANUTO: -- he's been gravely ill. I got really, really upset, I said mama (Inaudible) is coming here. He's coming with us.

POLICE OFFICER: Right.

MRS. LANUTO: -- he's coming -- he's talking to me. Why didn't he ask me questions before?

POLICE OFFICER: We tried to. We weren't allowed to.

MRS. LANUTO: My husband did nothing but try to keep me --

POLICE OFFICER: We didn't -- you know what? We've --

MRS. LANUTO: You know what? I'm coming too.

___OUTSIDE___ 13:56

You're not going to have a very (Inaudible).

POLICE OFFICER: They have to go in. People lie. They say everything's all right, when in fact it's not. It happens (Inaudible) it's the law. All right?

MRS. LANUTO: Who are you talking to (Inaudible)?

POLICE OFFICER: What is that, the phone?

POLICE OFFICER: Fucking neighborhood (Inaudible) fucking where he -- where he came.

POLICE OFFICER: Really?

MRS. LANUTO: You know what? Now I'm calling Lou D'Arminio.

POLICE OFFICER: Ma'am? Ma'am? He's going to stay under arrest.

POLICE OFFICER: Get us out of here.

POLICE OFFICER: Yes, sir?

MR. LANUTO: These are hurting me.

POLICE OFFICER: All right. We'll be inside in a second. I'll take them off.

145 Ramsey.

DISPATCH: 59.

POLICE OFFICER: Transporting one adult male under arrest from this location, headquarters, 6053.

POLICE OFFICER: (Inaudible).

POLICE OFFICER: The home has been secured. If you could get a phone listing for

(Inaudible) Johnson and let him know that there was two open doors we had to secure. That everything appeared in order. (Inaudible) tell them to pull that tape and (Inaudible) secure.

POLICE OFFICER: Yeah, Department.

DISPATCH: (Inaudible).

POLICE OFFICER: Okay. (Inaudible) 6088 (Inaudible).

DISPATCH: (Inaudible).

POLICE OFFICER: I've got 10-6 with that. 145, in. I'll be out in 2400, 6054 on the mileage. Can you just open the side port.

DISPATCH: Okay.

- - -

(End of video recording).

- - -

C E R T I F I C A T E

I, Paula Brokaw, do hereby certify that the foregoing is a true and accurate transcript of the taped proceedings as transcribed by me on the date hereinbefore set forth, to the best of my ability.

Dated: September 7, 2008

Paula Brokaw
Agency Typist

RAMSEY POLICE DEPARTMENT
25 NORTH CENTRAL AVE.
RAMSEY, NEW JERSEY 07446
201-327-2400 VOICE
201-327-6217 FAX

Police Report

1 C.A.D. #	2 Crim	Non/Crim	3 Juveniles Involved		4 Post	5 Weather	8 Statute
2008-6937	☒	☐	☐	NJ0024800	1	Clear	2C;12-1B(5)(A)

6 Type of Report				9	10 DOB	11 Sex	12 Ra
☒ Incident	☐ Ambulance	☐ D.W.I.	☐ Victim ☒ Complainant				
☐ Investigation	☐ Fire	☐ Other	Patrolman Rothenburger #147				

13 Event	14 Address
☐ General Case ☒ Assault ☐ Stolen Veh. ☐ Recov. Veh. ☐ Robbery ☐ Domestic Violence ☐ Burglary ☐ Theft	Ramsey Police Department

Date and Time		15 Military Time	16 Mo/Day/Yr	Day	17 S/S # (Optional)	18 Home Phone	19 Bus. Phone
	Occurred:	1914	7/1/2008	Tu			201-327-2400
	Reported:	20 Military Time: 1914	21 Mo/Day/Yr: 7/1/2008		22 Cell Phone / Pager	Reserved	

23 Event Location	24 Reported By ☐ Same as Above	25 DOB	26 Sex	27 Ra
275 Canterbury Drive Ramsey, NJ 07446	Anonymous Caller			

28 Com	29 Res	30 Sch.	31 Code	32 Code	33 Damage Value	34 Address
☐	☒	☐				

35 Tools / Weapons	36 S/S # (Optional)	37 Home Phone	38 Bus. Phone

39 M.O.	40 Cell Phone / Pager	Reserved
Physical Interference with Governmental Investigation		

41 Veh #	42 Yr	43 Make	44 Model	45 Color	46 Reg	47 State	48 V.I.N.
49 Veh #	50 Yr	51 Make	52 Model	53 Color	54 Reg	55 State	56 V.I.N.

57 Burg / Theft Values (Round to whole number)	58 Currency	59 Jewelry	60 Furs	61 Clothing	62 Vehicle(s)	63 Misc	64 Total Value of Theft
65 Recovery Values (Round to whole number)	66 Currency	67 Jewelry	68 Furs	69 Clothing	70 Vehicle(s)	71 Misc	72 Total Value of Recovery

Code: (A) Arrest (I) Injured (M) Missing (P) Police (S) Suspect (V) Victim (C) Complainant (D) Defendant (W) Witness (O) Other

Code	73 Name	74 Address / Dept.	75 Phone	76 Sex	77 Race	78 DOB
A	Domenica Lanuto	275 Canterbury Drive Ramsey, NJ 07446	201-289-7670	F	W	6/4/61
A	79 Name: Alfred Lanuto	80 Address / Dept.: 275 Canterbury Drive Ramsey, NJ 07446	81 Phone: 201-327-2400	82 Sex: M	83 Race: W	84 DOB: 6/18/59
P	85 Name: Ptlm. Rork #149	86 Address / Dept.: Ramsey Police Department	87 Phone: 201-327-2400	88 Sex	89 Race	90 DOB
P	91 Name: Det. Huth #119	92 Address / Dept.: Ramsey Police Department	93 Phone: 201-327-2400	94 Sex	95 Race	96 DOB

97 Narrative

P	Sgt. Riedel #107	Ramsey Police Department	201-327-2400
P	Ptlm. Fiore #145	Ramsey Police Department	201-327-2400

Patrolman Rothenburger #147, Ramsey Police Department

On Tuesday, July 1, 2008 at 1914 hours Ptlm. Fiore and I were detailed to 275 Canterbury Drive on a report of a unknown disturbance. Communications advised that an anonymous caller was reporting a disturbance at the residence and it was undetermined to be either physical or verbal. Communications attempted to call back the reporting person however was unsuccessful in making contact with the anonymous caller.

Upon my arrival, I noted what appeared to be a juvenile male making his way towards the front entrance of the residence. I exited my vehicle and approached the residence. Ptlm. Fiore arrived on scene.

98 NCIC #	99 NCIC Cancellation #	100 Evidence YES ☒ NO ☐	101 Requires Follow-up ☐

102 CDR 1 (Summons #)	103 CDR 2 (Warrant #)	104 FBI #	105 SBI #	106 CBI #
2008-0248-00141-142				

Officer's Signature	Officer #	108 Report Completion Date	109 Signature & ID of Reviewing Supervisor	110 Date
	147	7/1/2008		7/2/08

RAMSEY POLICE DEPARTMENT
25 NORTH CENTRAL AVE.
RAMSEY, NEW JERSEY 07446
201-327-2400 VOICE
201-327-6217 FAX

Police Report

CAD # 2008-6937

Before we could reach the front door a male party, later identified as Alfred Lanuto, exited the residence and immediately asked what we were doing at his home. Ptlm. Fiore and I attempted to advise Mr. Lanuto the reason we were summoned to his residence, however Lanuto elevated his voice and became verbally combative.

I requested that Lanuto speak with Ptlm. Fiore while I speak with his wife to ensure that she was not hurt or injured. Lanuto blocked my path to the front door and stated, "this is my home your not going anywhere". Mr. Lanuto's aggressive position made me believe that possibly his wife or another party was hurt within the residence. After several attempts, Mr. Lanuto still would not allow us to speak to his wife or anyone else within the residence. Ptlm. Rork arrived on scene.

I continued to advised Mr. Lanuto that it is our obligation as police officers to investigate all calls that we are dispatched to. I advised him that we were dispatched to his home for an unknown disturbance. I explained to him that I needed to speak to another resident of the home to ensure that everyone was safe. Mr. Lanuto continued to interrupt the officer's explanation and maintained his aggressiveness. His loud boisterous tone was starting to become an disturbance within the community.

In attempt to reason with Mr. Lanuto, I asked him if he would come outside with his wife and son so we could make sure they were safe. Mr. Lanuto refused to cooperate with any of our requests to resolve the matter. He stated, " that his wife is sick and that she passed out an hour ago". He stated that our presence was not helping the situation. Det. Huth arrived on scene.

See Ptlm. Rork's and Det. Huth's follow-up reports reference the arrest of Mr. Lanuto.

While Ptlm. Rork, Det. Huth and I were attempting to effect a lawful arrest of Mr. Lanuto, his wife Domenica reached out and grabbed her husband by the shoulders in attempt to refrain us from performing our duty. She was continuously trying to pull her husband back inside the residence. At this point, Mrs. Lanuto had her fingers interlocked around her husbands waist area. I stopped assisting Ptlm. Rork and Det. Huth with Mr. Lanuto who was resisting arrest, and attempted to dislodge Mrs, Lanuto from her husband. Mrs. Lunato let go with her left arm and reached out towards my direction and pushed me away from her. Det. Huth and Ptlm. Rork were able to gain control of Mr. Lanuto and escorted him from the residence, where he was subsequently placed under arrest and placed in the rear of vehicle #405.

The arrest of Mr. Lanuto seemed to calm all parties that were involved and enabled the patrol officers to speak with the other parties involved. After search of the home and speaking with Mrs. Lanuto, it was deemed that there has been tremendous amount of stress within the home which might have caused today's earlier disturbance.

During the search of the home, Det. Huth noted a open razor blade at the threshold of the doorway. This weapon was within arms reach of the defendant the entire time. The weapon was secured in Ptlm. Fiore's vehicle and placed into evidence for safe keeping.

Based on the information gathered at this scene reference Mrs. Lanuto's medical condition she was not arrested. We were advised earlier that she had passed out and was possibly taking medication.

At headquarters I typed two complaint summons charging Mrs. Lanuto with Assault on a police officer, 2C:12-1B(5)(A) S# 0248-2008-142 and Obstruction 2C:29-1(1)(A) S# 2008-0248-141. She has been given a court date of July 3, 2008 at 6:30 P.M. at the Ramsey Municipal Court.

Evidence: (1) in car mobile vision VHS tape from vehicle #405 and (1) razor blade for safe keeping.

At the completion of this report, Mr. Lanuto has not been processed or served her complaints.

CLOSED YES ☐ NO ☒	ACTIVE ☐ INACTIVE ☐	ARREST YES ☒ NO ☐
CDR - 1 2008-0248-141/142	CDR - 2	EXCEPTIONAL CLOSURE YES ☐ NO ☐
OFFICER'S SIGNATURE	OFFICER # 147	REVIEWED BY 5107

RAMSEY POLICE DEPARTMENT
25 NORTH CENTRAL AVE.
RAMSEY, NEW JERSEY 07446
201-327-2400 VOICE
201-327-6217 FAX

Follow-up Report

Case # 2008-6937

Incident Type Obstruction/Assault

Case Update # 1

Date of Update 7/1/08

On Tuesday, July 1, 2008 at 1914 hours, Ptlm. Rothenburger #147 and Ptlm. Fiore #145 were dispatched to 275 Canterbury Drive Ramsey NJ 07446 for an anonymously reported possible disturbance. Ptlm. Rothenburger and Ptlm. Fiore arrived and were met by Alfred Lanuto, the homeowner. It was apparent that Mr. Lanuto was disruptive and I arrived on scene shortly thereafter. Upon arrival, Mr. Lanuto was standing in the front doorway and was arguing loudly with Ptlm. Rothenburger and Ptlm. Fiore. They were able to convince him to step out of the residence. Mr. Lanuto refused to cooperate and would not allow any of us to enter and check the residence. Mr. Lanuto was explained numerous times of our authority and of the call in regards to the possible disturbance. Mr. Lanuto stated numerous times that we did not have the authority to enter his residence. He stated that his wife passes out on a regular basis and that she had passed out approximately one hour prior to our arrival. Mr. Lanuto continually denied that any disturbance had occurred but refused to allow us to check the residence.

Mrs. Domenica Lanuto appeared at the front door carrying a cell phone. Mr. Lanuto walked back into the residence and she handed the phone to Mr. Lanuto who continued to argue loudly with the officers on scene. I was standing at the top step of the outside landing when Mr. Lanuto attempted to slam the front door as we were trying to enter the residence. The door slammed into my right foot and leg and blocked the door from closing. Det. Huth #119 who had arrived on scene assisted me in opening the front door. Det. Huth advised Mr. Lanuto that he was being placed under arrest for obstructing a lawful investigation. Mr. Lanuto resisted our attempts to handcuff him and remove him from the residence. Mrs. Lanuto attempted to obstruct us from arresting her husband by grabbing a hold of her husband and attempting to push Ptlm. Rothenburger off. Mr. Lanuto was escorted to the rear of vehicle #405 where he was searched prior to transport.

Mr. Lanuto was transported to the Ramsey Police Department where he was processed per department policy and procedure (fingerprinted and photographed).

Mr. Lanuto was charged with Aggravated Assault on a Police Officer (2C:12-1B(5)(A)) and Resisting Arrest by Force (2C:2A(3)(A)) on Summons# S-2008-0248-000139. Mr. Lanuto was charged with Obstructing a Lawful Investigation on Summons# S-2008-0248-000140. Mr. Lanuto was provided with a Ramsey Municipal Court date of July 3, 2008 at 1830 hours.

Mr. Lanuto was released on his own recognizance at 2112 hours.

CLOSED YES ☒ NO ☐	ACTIVE ☐ INACTIVE ☒	ARREST YES ☒ NO ☐
CDR - 1	CDR - 2	EXCEPTIONAL CLOSURE YES ☐ NO ☒
OFFICER'S SIGNATURE	OFFICER # 149	APPROVED BY