

In the Matter Of:

IAN CUYPERS vs SUPERIOR POLICE DEPARTMENT OFFICER JUSTIN TAYLOR

MATTHEW BROWN

September 24, 2025



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IAN CUYPERS vs SUPERIOR POLICE DEPARTMENT OFFICER JUSTIN TAYLOR
 BROWN, MATTHEW on 09/24/2025

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1 APPEARANCES:

2 PEOPLE'S LAW OFFICE, by

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10 On behalf of Plaintiffs;

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19

20 On behalf of Defendants.

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Page 4

1 THE COURT REPORTER: Good morning. This is

2 Tracy Jones, Illinois CSR No. 084-004553

3 appearing remotely today for the Zoom deposition

4 of Matthew Brown taken in the matter of Cuypers

5 v. Taylor, et al., pending in the United States

6 District Court for the Western District of

7 Wisconsin, case No. 24-CV-743.

8 Today is September 24, 2025. The time

9 is 9:02 a.m. Central Time.

10 Counsels' appearances will be noted in

11 the stenographic record.

12 Unless there is any objection to the

13 remote administration of the oath or remote

14 conduct of the proceedings, I shall now swear

15 the witness.

16 (No response.)

17 THE COURT REPORTER: Hearing none,

18 (Witness sworn.)

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Page 3

1 I N D E X

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| 2 WITNESS | EXAMINATION |
| 3 MATTHEW BROWN | |
| 4 Examination By Attorney Snyder | 5 |
| 5 | |
| 6 | |
| 7 E X H I B I T S | |
| 8 NUMBER | DESCRIPTION IDENTIFICATION |
| 9 Exhibit No. 1 | SPD Use of Force Policy 16 |
| 10 Exhibit No. 2 | DAAT Flow Chart 19 |
| 11 Exhibit No. 3 | Brown Performance Eval 29 |
| 12 Exhibit No. 4 | Doc. Of Performance 31 |
| 13 Exhibit No. 5 | Taylor PIP 39 |
| 14 Exhibit No. 6 | Taylor Dash Video 68 |
| 15 Exhibit No. 7 | Brown BWC Video 76 |
| 16 Exhibit No. 8 | Taylor BWC Video 89 |
| 17 Exhibit No. 9 | Police Report 103 |
| 18 Exhibit No. 10 | Booking Sheet 110 |
| 19 Exhibit No. 11 | Gaard BWC Video 123 |
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| 23 | |
| 24 | |

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1 WHEREUPON:

2 MATTHEW BROWN,

3 called as a witness herein, having been first

4 duly sworn, was examined and testified as

5 follows:

6 EXAMINATION

7 BY ATTORNEY SNYDER:

8 Q. Good morning, Sergeant Brown. My name

9 is Nora Snyder, and I'm one of the attorneys for

10 the plaintiff, Ian Cuypers, in this case.

11 Have you given a deposition previously?

12 A. One time.

13 Q. Okay. And when was that?

14 A. I don't know the date. I think it was

15 talked about in discovery. It was for a woman

16 who I guess had gotten frostbite on part of her

17 hand or a finger, and I had momentarily been on

18 scene with the call.

19 Q. Okay. Was that the Paradis v. Nichols

20 case?

21 A. Yes.

22 Q. And that case was dismissed at summary

23 judgement, right?

24 A. My understanding is yes, that's the

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|--|---|
| <p style="text-align: right;">Page 6</p> <p>1 matter --</p> <p>2 Q. After you gave a deposition?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So it sounds like it might have</p> <p>5 been a few years, so I'm going to go over some</p> <p>6 ground rules for our proceeding today?</p> <p>7 So you understand I'm going to be</p> <p>8 asking you a series of questions which you'll be</p> <p>9 answering under oath?</p> <p>10 A. I do.</p> <p>11 Q. So you've met Tracy. She's our court</p> <p>12 reporter. She's going to be writing down</p> <p>13 everything we both say. So as a result, we want</p> <p>14 to make sure that you answer questions verbally.</p> <p>15 A nod or a shake of the head won't end up in the</p> <p>16 transcript. Okay?</p> <p>17 A. Okay.</p> <p>18 Q. And for Tracy's benefit, I'm also going</p> <p>19 to ask that we try not to interrupt each other</p> <p>20 today. I'm going to ask that you try to let me</p> <p>21 finish my question before you start your answer,</p> <p>22 and I'll try to do the same, try to let you</p> <p>23 finish your answer before I begin my next</p> <p>24 question. Okay?</p> | <p style="text-align: right;">Page 8</p> <p>1 we'll just pause until they're gone. All right?</p> <p>2 A. Okay.</p> <p>3 Q. Is there anything that would affect</p> <p>4 your ability to answer my questions truthfully</p> <p>5 and completely today?</p> <p>6 A. No.</p> <p>7 Q. Are you on any medications that would</p> <p>8 affect your ability to answer my questions</p> <p>9 truthfully and completely today?</p> <p>10 A. No.</p> <p>11 Q. Okay. Did you meet with anyone prior</p> <p>12 to your deposition to prepare?</p> <p>13 A. Attorney Zellner via Zoom.</p> <p>14 Q. And how many times did you meet?</p> <p>15 A. Just once.</p> <p>16 Q. When did you meet?</p> <p>17 A. I believe it was September 18th. It</p> <p>18 was just this last week.</p> <p>19 Q. And how long was that meeting?</p> <p>20 A. Approximately half hour, 45 minutes or so.</p> <p>21 Q. Was anyone else present during that</p> <p>22 meeting?</p> <p>23 A. Not on my end at least.</p> <p>24 Q. Did you see anyone else present on</p> |
| <p style="text-align: right;">Page 7</p> <p>1 A. Okay.</p> <p>2 Q. If you don't understand one of my</p> <p>3 questions, please ask me to clarify. I'm happy</p> <p>4 to do so. If you do answer a question, I'll</p> <p>5 assume you understood it. All right?</p> <p>6 A. All right.</p> <p>7 Q. And if you need to take a break at any</p> <p>8 time today, just let me know. The only thing</p> <p>9 I'll ask is that if there's a question pending</p> <p>10 that you answer the question before we go on</p> <p>11 break. Okay?</p> <p>12 A. Okay.</p> <p>13 Q. And where are you physically located</p> <p>14 today?</p> <p>15 A. Right now I'm in my office at 1316</p> <p>16 North 14th Street, Superior Police Department in</p> <p>17 Superior, Wisconsin.</p> <p>18 Q. And is anyone else in your office with</p> <p>19 you?</p> <p>20 A. No.</p> <p>21 Q. Okay. So just because we're on Zoom</p> <p>22 today and we can't totally see your environment,</p> <p>23 if you could just please let us know if anybody</p> <p>24 else enters the room during the deposition, and</p> | <p style="text-align: right;">Page 9</p> <p>1 Ms. Zellner's end?</p> <p>2 A. No, I didn't.</p> <p>3 Q. Did you review any documents to prepare</p> <p>4 for your deposition today?</p> <p>5 A. Yes, I did.</p> <p>6 Q. What documents did you review?</p> <p>7 A. I reviewed my report from this incident</p> <p>8 and also my body cam footage from this incident.</p> <p>9 Q. Did you review your testimony from</p> <p>10 Mr. Cuyppers's trial?</p> <p>11 A. No, I did not.</p> <p>12 Q. Did you review the legal complaint that</p> <p>13 was filed in this case?</p> <p>14 A. No, I did not.</p> <p>15 Q. Other than your body worn camera video,</p> <p>16 did you review any other videos from this</p> <p>17 incident?</p> <p>18 A. No, I did not.</p> <p>19 Q. Did you review any policies, SPD</p> <p>20 policies with regard to this incident?</p> <p>21 Let me just ask it again, because I</p> <p>22 think I said that wrong.</p> <p>23 Did you review any SPD policies to</p> <p>24 prepare for your deposition?</p> |

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| <p style="text-align: right;">Page 10</p> <p>1 A. I don't think so, no.</p> <p>2 Q. Other than what we've talked about, is</p> <p>3 there anything else that you did to prepare for</p> <p>4 your deposition?</p> <p>5 A. I went to bed early last night.</p> <p>6 Q. Lucky you.</p> <p>7 Sergeant Brown, what is your current</p> <p>8 age?</p> <p>9 A. Making me do math.</p> <p>10 40. I turn 41 in January.</p> <p>11 Q. Okay. Starting with the tough</p> <p>12 questions. And what is your current height and</p> <p>13 weight?</p> <p>14 A. I think I'm shrinking, height wise.</p> <p>15 Roughly 6, 1 and a half, and about 195 pounds.</p> <p>16 Q. And was that approximately your same</p> <p>17 height and weight in February of 2024?</p> <p>18 A. Yes.</p> <p>19 Q. How far did you go in school?</p> <p>20 A. I have a bachelor's of political</p> <p>21 science from the University of Minnesota Duluth.</p> <p>22 Q. And what was your bachelor's in?</p> <p>23 A. Political science.</p> <p>24 Q. And what year did you get that degree?</p> | <p style="text-align: right;">Page 12</p> <p>1 that stands out to me.</p> <p>2 Q. Okay. So is that approximately</p> <p>3 12 years, or a little bit more than that?</p> <p>4 A. Yeah, about 12 and a half years.</p> <p>5 Q. Okay. And you currently hold the rank</p> <p>6 of sergeant; is that right?</p> <p>7 A. Correct.</p> <p>8 Q. And when did you achieve the rank of</p> <p>9 sergeant?</p> <p>10 A. This month is my five-year anniversary,</p> <p>11 so September of 2020.</p> <p>12 Q. Have you ever been disciplined or</p> <p>13 suspended at any job?</p> <p>14 A. I've never been suspended. And I think</p> <p>15 I have a letter in my file for having had an</p> <p>16 issue backing into poles with squad cars,</p> <p>17 honestly. That's all I can think of.</p> <p>18 Q. Other than that driving issue, you</p> <p>19 haven't had any other disciplinary complaints</p> <p>20 against you while at the SPD?</p> <p>21 A. Not that I can think of off the top of</p> <p>22 my head, no.</p> <p>23 Q. Have you ever been terminated from any</p> <p>24 job?</p> |
| <p style="text-align: right;">Page 11</p> <p>1 A. 2008, I think.</p> <p>2 Q. Do you have any other formal education</p> <p>3 beyond your bachelor's degree?</p> <p>4 A. I went to Fond du Lac Tribal and</p> <p>5 Community College and didn't finish but still</p> <p>6 attended their program for a criminal justice</p> <p>7 degree.</p> <p>8 Q. Okay. And how far did you go in that</p> <p>9 program?</p> <p>10 A. Pretty much right up until the very</p> <p>11 end. I didn't complete it because it was going</p> <p>12 to require that I quit my then job to finish and</p> <p>13 not have another job lined up.</p> <p>14 Q. Okay. And was that a master's degree</p> <p>15 that you were working on or something else?</p> <p>16 A. No. It was a two-year associate's</p> <p>17 degree.</p> <p>18 Q. And I'm assuming based on your current</p> <p>19 location that you're still currently employed</p> <p>20 with the Superior Police Department?</p> <p>21 A. Yes.</p> <p>22 Q. And how long have you been at the</p> <p>23 Superior Police Department?</p> <p>24 A. I think, May of 2013. That's the date</p> | <p style="text-align: right;">Page 13</p> <p>1 A. Nope. Not that I can think of.</p> <p>2 Q. Other than any complaint related to</p> <p>3 this incident, the Ian Cuypers incident, have</p> <p>4 you had any citizen complaints filed against</p> <p>5 you?</p> <p>6 A. I have to be honest, I'm sure there at</p> <p>7 some point had been a citizen complaint filed</p> <p>8 against me like, just to clarify, where a</p> <p>9 citizen had what they believed was an issue and</p> <p>10 raised it with the Department.</p> <p>11 Q. Do you remember any specific</p> <p>12 complaints?</p> <p>13 A. I honestly can't.</p> <p>14 Q. Other than the Paradis v. Nichols</p> <p>15 lawsuit that we talked about, and this lawsuit,</p> <p>16 have you had any other lawsuits filed against</p> <p>17 you?</p> <p>18 A. Personally or professionally?</p> <p>19 Q. Either.</p> <p>20 A. Personally, yes, I have.</p> <p>21 Q. Okay. And what was the -- What type of</p> <p>22 lawsuit was that?</p> <p>23 A. My former father-in-law was trying to</p> <p>24 get items back that were mine such as a</p> |

Page 14

1 lawnmower, ladders, et cetera. It was a
 2 small -- What would they call that, small --
 3 Q. Small claims, something like that?
 4 A. There we go. Thank you.
 5 Q. Other than that small claims case,
 6 any -- and the one we talked about, any other
 7 lawsuits that have been filed against you?
 8 A. Not that I can think of other than a
 9 divorce proceeding.
 10 Q. I'll spare you talking about your
 11 divorce proceeding.
 12 After you joined the SPD, you attended
 13 the academy, correct?
 14 A. Correct.
 15 Q. And how long was that?
 16 A. 13 or 14 weeks at that point in time.
 17 Q. And after the academy, did you also
 18 receive field training when you were first
 19 joining the SPD?
 20 A. I did, yes.
 21 Q. And in the little over 12 years that
 22 you've been with the SPD, have you received
 23 on-the-job training?
 24 A. Yes, I have.

Page 15

1 Q. Countless hours of training, right?
 2 A. Yeah. It's pretty well documented by
 3 the State, but "countless" is a pretty good way
 4 to summarize it.
 5 Q. All right. During all of the training
 6 that we just discussed, did you receive training
 7 on pointing firearms at suspects?
 8 A. I have received firearms training, yes.
 9 Q. And am I correct that in law
 10 enforcement, when you -- there's a concept
 11 called lethal cover in which you point a firearm
 12 at a suspect? Is that right?
 13 A. I've heard of a concept of lethal
 14 cover, and it's my understanding that that
 15 doesn't always equate to a firearm being
 16 directly pointed at somebody. There's also
 17 what's called low ready, which is where a
 18 firearm isn't directly pointed at somebody, but
 19 it's positioned readily able to be pointed at
 20 somebody if necessary.
 21 Q. And where do you point your firearm
 22 when it's in low ready?
 23 A. It's generally at the ground.
 24 Q. What were you trained regarding when

Page 16

1 it's appropriate to draw your firearm to provide
 2 lethal cover?
 3 A. When we can articulate that there's a
 4 risk to either our own personal safety to the
 5 extent of possibility of death or great bodily
 6 harm, or to another person.
 7 Q. All right. I'm going to pull up an
 8 exhibit. And throughout this deposition, I'm
 9 going to be doing that, and I'm going to be
 10 sharing my screen with you.
 11 Give me one moment, and then I'm going
 12 to ask you to let me know when you're seeing my
 13 screen.
 14 Are you seeing my screen?
 15 A. I see your screen.
 16 Q. And have you seen this document before?
 17 A. Yes, a long time ago. This is not the
 18 current one.
 19 Q. Agreed. I'm going to state for the
 20 record I'm marking this as Exhibit 1.
 21 (Whereupon, Brown Deposition
 22 Exhibit No. 1 was identified
 23 for the record.)
 24

Page 17

1 BY ATTORNEY SNYDER:
 2 Q. And this is a Superior Police
 3 Department General Order with the subject line
 4 Use of Force dated September 24th, 2013. And
 5 it's Bates stamped 1787 to 1797.
 6 And I'm going to scroll down to page 7
 7 of this document, which is Bates stamped 1793,
 8 the section with Roman numeral IV, Use of
 9 Firearms.
 10 Do you see the letter (B) here? Would
 11 you just read that paragraph silently to
 12 yourself, and let me know when you're done.
 13 A. I've read it silently to myself. I'm
 14 done.
 15 Q. Thank you.
 16 And you would agree that that says
 17 "Officers may ready and/or draw department
 18 authorized firearms when they have reasonable
 19 suspicion to believe that the use of deadly
 20 force may be necessary. Officers need not be
 21 under attack, but only be reasonably
 22 apprehensive that the situation may lead to
 23 circumstances outlined in the use of deadly
 24 force section of this order."

Page 18

1 Is that what this says?

2 A. Correct.

3 Q. Okay. And is that consistent with your

4 training regarding when it's appropriate to draw

5 your firearm?

6 A. I have been trained in this specific

7 section at a point in time when it was current,

8 correct.

9 Q. Has the policy regarding when it's

10 appropriate to draw your firearm changed since

11 this policy was current?

12 A. We have a much more updated use of

13 force policy that's managed through Lexipol.

14 Q. And are you aware of any substantive

15 changes between that policy and this one

16 regarding when it's appropriate to draw your

17 department-issued firearm?

18 A. I'm not able to recall, no.

19 Q. Have you received training on the

20 difference between active and passive

21 resistance?

22 A. Yes.

23 Q. Okay. I'm going to pull up another

24 exhibit.

Page 19

1 Okay. Are you seeing my screen?

2 A. Yes, I am.

3 Q. And have you seen this before?

4 A. Yes, I have.

5 Q. Okay. And I'm marking this as

6 Exhibit 2.

7 (Whereupon, Brown Deposition

8 Exhibit No. 2 was identified

9 for the record.)

10 BY ATTORNEY SNYDER:

11 Q. And this is a document titled Defense

12 and Arrest Tactics, and it's Bates stamped 1809

13 to 1810.

14 And when have you seen this before, in

15 what context?

16 A. I believe I saw it at the academy.

17 And, then, it's a pretty living document that is

18 used for our yearly training with that and is

19 available on our Useful Forms drive for officers

20 to utilize when report writing.

21 Q. All right. And I'm scrolling to the

22 second page of this document. And do you see

23 this yellow block which states "Passive

24 Resistance"?

Page 20

1 A. I see it.

2 Q. And it says -- There's actually what I

3 think is a typo on here. You would read this,

4 is it supposed to say "non-threatening and non-

5 compliant behavior"?

6 A. That's how I interpret it, yes.

7 Q. Yeah. Non "non-complaint behavior."

8 A. Correct.

9 Q. And the box right below that that says

10 "Active Resistance," it says "Behavior which

11 physically counteracts an officer's control

12 efforts and which creates risk of bodily harm to

13 the officer, subject, and/or other person."

14 Correct?

15 A. Correct.

16 Q. And so you received training on these

17 definitions, correct?

18 A. Yes.

19 Q. And do you agree with these

20 definitions?

21 A. I agree that they're the ones that I've

22 been trained in, yes.

23 Q. As a sergeant with the SPD, part of

24 your duties including supervising patrol

Page 21

1 officers during shifts, right?

2 A. Yes.

3 Q. All right. So does that mean that when

4 you're on the scene, you're the highest ranking

5 officer?

6 A. As a general rule of thumb. There are

7 certain instances where I am not.

8 Q. What would the instances be when you're

9 not the highest ranking officer on the scene?

10 A. The primary example that I can think of

11 is when we have a situation where there's, like,

12 an Emergency Response Team call out to a

13 barricaded subject, and we're transitioning from

14 officers on scene to what would generally be

15 considered a tactical command situation. And

16 then a patrol officer who also happens to be an

17 Emergency Response Team member does have the

18 ability to make decisions above me.

19 Q. Other than the situation that you just

20 described, is there any other situation in which

21 you would not be the highest ranking officer on

22 a shift?

23 A. Not that I can think of off the top of

24 my head.

Page 22

1 Q. Okay. So that means that you are
 2 empowered to direct how the other officers
 3 should respond to a situation, correct?
 4 A. Correct.
 5 Q. And you can also override other
 6 officers' decisions, right?
 7 A. Correct.
 8 Q. Okay. And you testified at the -- at
 9 Mr. Ian Cuypers's trial on the resisting and
 10 obstructing an officer tickets in this case,
 11 right?
 12 A. Yes.
 13 Q. Okay. And at trial, you testified that
 14 a main component of your duties as sergeant
 15 included having an idea of what's going on call
 16 wise, what's going on on the street, where
 17 officers are, what they're dealing with, and
 18 what kind of resources they need.
 19 Do you still agree with that testimony?
 20 A. Yes. I agree with that testimony.
 21 Q. So it's part of your job to know what's
 22 going on during a call; do I have that right?
 23 A. I might not be able to know every
 24 single detail because I can't be in multiple

Page 23

1 places at the same time, but I try my hardest to
 2 at least have a basic idea of which officers are
 3 dealing with which calls.
 4 Q. And how do you -- How do you ensure
 5 that you have a basic idea of what's going on
 6 during a shift?
 7 A. We always have our radios on. I always
 8 have my phone on me so that I can take phone
 9 calls from officers, and I try to keep my
 10 computer open with our -- what's called the CAD,
 11 which is what shows the active calls and the
 12 addresses that they're at with just little basic
 13 bits of information, so that even as I'm doing
 14 all of the other duties that get assigned to me
 15 that generally take away from my ability to
 16 manage what's going on on the street, I still
 17 have that idea of what's going on as best as
 18 possible.
 19 Q. And you said CAD. What was that
 20 acronym?
 21 A. I don't know. I just know it's called
 22 CAD. It's our, like, incident management
 23 software that the Communications Center uses
 24 for -- it's the same one that our reports are

Page 24

1 done in. It shows what active calls that are up
 2 and which offices are on duty.
 3 Q. So does information get entered into
 4 that system while an incident is in progress, or
 5 is it only after the fact that the information
 6 gets entered into that system?
 7 A. I think we currently have the ability
 8 for information to be entered into it, but
 9 that's a more recent ability with a newer update
 10 that we've gotten.
 11 Q. And when was that newer update
 12 implemented?
 13 A. I have no idea. I would have to say
 14 roughly a year ago or something like that.
 15 Q. Okay. Do you have any sense of if it
 16 was implemented before or after the Ian Cuypers
 17 incident that we're here to talk about today
 18 that was in February 2024?
 19 A. I would imagine it was after that, but
 20 I can't -- I'm not in charge of updating that
 21 software. It's actually the County of Douglas
 22 that takes care of that, their Emergency
 23 Management Operations Center.
 24 Q. Understood.

Page 25

1 And what kind of information gets
 2 entered into that system?
 3 A. We have reports that are entered in,
 4 officers' locations. We have, on a specific
 5 call, Dispatch can add their own comments of
 6 what the initial 911 call was. They're able to
 7 add what we would call a vehicle return or a
 8 person check return where it shows their
 9 driver's license entry or identification entry.
 10 I mean, the reports are done in the same thing.
 11 It's kind of a work flow program, I would also
 12 label it, because when they generate that
 13 incident number when they take a 911 call, or if
 14 there's something self-initiated, it kind of
 15 creates a folder, per se, which, until that
 16 folder is then -- ultimately the disposition is
 17 to Records or to the District Attorney's Office,
 18 it's kind of passed through the system in the
 19 same software.
 20 Q. Okay. So when you said that the
 21 information that can be included in that system
 22 can include a vehicle or a person check return,
 23 is that something that Dispatch would enter into
 24 that system as soon as they run the vehicle

Page 26

1 check?

2 A. We hope for that. It doesn't always

3 happen that way. They're not always -- It kind

4 of depends on the dispatcher whether it does or

5 not.

6 Q. Okay. So just so I'm understanding, if

7 everything happens the way you hope it happens,

8 an officer could still be in the middle of a

9 traffic stop, and the information that Dispatch

10 got from running the plate would already be

11 uploaded into that system while the traffic stop

12 is still in progress. Do I have that right?

13 A. In my ideal world, yes, that would be

14 how that would happen.

15 Q. And you can assess that system from the

16 computer in your car; is that right?

17 A. Yes.

18 Q. And so you as the sergeant could see

19 anything that any of your officers entered into

20 that system in kind of a live way? As soon as

21 they entered it, you would have access to it on

22 your computer as well; is that right?

23 A. As long as the networks are working and

24 I'm in a position to do it, like not driving, et

Page 27

1 cetera.

2 Q. If an officer calls for backup, is that

3 something that's entered into that system?

4 A. It would be entered in in the form of

5 the additional officers getting assigned by

6 Dispatch.

7 Q. And other than the -- Other than noting

8 what additional officers have been assigned,

9 would any information that the officer provided

10 when he called for backup be entered into that

11 system; or is it just the fact of other -- Like,

12 would the reason why he was calling for backup

13 be entered into there or just the fact that

14 backup was sent?

15 A. It really depends on if the officer put

16 it over the radio or not. If they didn't put

17 over the radio why they needed backup, it's not

18 going to be in the system. And even if they put

19 it over the radio, it would still rely on

20 Dispatch manually typing in into their Comments

21 section why the person requested backup.

22 Q. But that's something that Dispatch can

23 do if they choose to?

24 A. They have the capability, yes.

Page 28

1 Q. But they're not required to; is that

2 right?

3 A. I don't know what they're required to

4 do. Again, it's a completely separate division

5 with different training, and I don't have their

6 requirements.

7 Q. Got it. Not your area. Understood.

8 Okay. I'm going to pull up another

9 exhibit.

10 Okay. Are you seeing my screen?

11 A. Yes, I am.

12 Q. Okay. And have you seen this before?

13 A. It looks like an annual evaluation form

14 for me.

15 Q. Yes, it is.

16 Sorry. Go ahead.

17 A. Which means that I probably have; and

18 if it's on record, it means that I probably

19 signed it as well.

20 Q. You anticipated my next question.

21 I'm scrolling down to the bottom. And

22 is that your signature on the line that says

23 Employee Signature here?

24 A. It appears to be, yes.

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1 Q. And it's dated December 2nd, 2021?

2 A. Correct.

3 Q. So for the record, I'm marking this as

4 Exhibit 3.

5 (Whereupon, Brown Deposition

6 Exhibit No. 3 was identified

7 for the record.)

8 BY ATTORNEY SNYDER:

9 Q. And this is an annual evaluation form

10 from the Superior Police Department dated

11 December 1st, 2021. And it's an evaluation of

12 Sergeant Matt Brown.

13 All right. And for the record, this is

14 Bates stamped 2153 through 2155. And I'm on the

15 first page of this document, which is Bates

16 stamped 2153.

17 In the category that's titled Decision

18 Making and Problem Solving, you've been given

19 a 3, correct?

20 A. Correct.

21 Q. And that's 3 out of 5?

22 A. Correct.

23 Q. With 5 being the highest?

24 A. Correct.

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1 Q. Okay. And in the Comments section, it
 2 says "Sergeant Brown demonstrates excellent
 3 decision making and problem solving skills.
 4 Sergeant Brown's score in this category is
 5 reduced from a rating of 5 because of a single
 6 incident during this evaluation period where
 7 improper development, supervision, and execution
 8 of a planned arrest did not meet performance
 9 standards."
 10 Do you remember that arrest?
 11 A. It doesn't specifically say, and I'm
 12 not going to lie. I honestly don't know which
 13 arrest that one is talking about.
 14 Q. Do you remember receiving this
 15 feedback?
 16 A. I've had one of these each year, and
 17 we've now moved to a triannual. I honestly
 18 don't remember this specific annual eval.
 19 Q. Okay. So you can't tell us any
 20 additional information about this arrest or why
 21 it resulted in this feedback?
 22 A. I wish that Captain Winterscheidt would
 23 have put a little bit more information in there
 24 so that I could. I honestly don't.

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1 Q. So was it Captain Winterscheidt who
 2 writes these?
 3 A. I believe he was a captain at this
 4 point in time. The signature area would
 5 hopefully say.
 6 Q. I have -- I can't read these
 7 signatures. Can you tell if one of these
 8 signatures is Chief Winterscheidt's?
 9 A. I think they're both his signature, to
 10 be honest.
 11 Q. Under Evaluator and Division Commander?
 12 A. Correct.
 13 Q. Okay. Are you seeing my screen?
 14 A. Yes.
 15 Q. Okay. And for the record, I'm marking
 16 this as Exhibit 4.
 17 (Whereupon, Brown Deposition
 18 Exhibit No. 4 was identified
 19 for the record.)
 20 BY ATTORNEY SNYDER:
 21 Q. And that is a document titled
 22 Documentation of Performance addressed to
 23 Matthew Brown dated September 29th, 2018, and
 24 it's Bates stamped 2183.

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1 Sergeant, have you seen this document
 2 before?
 3 A. This is the first time I've thought of
 4 this incident in a long time. So if it was
 5 issued to me, then I believe I've seen it.
 6 Q. Okay. And this -- This is titled
 7 Documentation of Performance, but this is
 8 essentially a commendation, right? This is
 9 saying, like, you did a good job?
 10 A. That's usually what documentations of
 11 performance are, yes.
 12 Q. Got it.
 13 So that's kind of your department
 14 jargon for commendation?
 15 A. Correct.
 16 Q. Okay. And actually it sounds like you
 17 haven't seen this in a while. So why don't I
 18 give you a second to read it before I ask you
 19 any questions about it.
 20 A. Okay. I've had a chance to read what's
 21 visible to me.
 22 Q. Okay. Specifically what's been shown
 23 to you is the whole document except for the name
 24 at the bottom, which says Sergeant Jon McKinnon.

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1 So this commendation was related to an
 2 incident in which you deployed a taser to subdue
 3 a man who was having a mental health episode,
 4 right?
 5 A. That's what it appears to say, yes.
 6 Q. And do you remember this one, this
 7 incident?
 8 A. Very vaguely.
 9 Q. Okay. Under Details, it says "Officers
 10 Marchiori, Brown and Jago" -- I apologize if I
 11 pronounced those wrong -- "arrived first and
 12 formulated a plan before entering the store."
 13 Correct?
 14 A. That's what it says, yes.
 15 Q. And under Supervisors Comments, it says
 16 "The officers worked like seasoned professionals
 17 as they formulated a very well thought-out plan
 18 and executed it with perfection," right?
 19 A. That's what it says, correct.
 20 Q. Okay. And based on this document, the
 21 information that you had going into this
 22 situation was that a man in a Walmart was
 23 throwing things and threatening to kill staff
 24 members, right?

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1 A. That's what the document says. I
 2 don't -- I haven't had a chance to read the
 3 reports from this, and this is a summary by a
 4 supervisor from other officers' reports.

5 Q. Okay. Do you have any reason to
 6 dispute the contents of this report?

7 A. My only concern is that it generally
 8 greatly condenses things and leaves details out
 9 or moves details around because it's trying to
 10 be shrunk to one page usually.

11 Q. Other than summarizing, do you have any
 12 reason to think there's anything in here that's
 13 inaccurate?

14 A. I would hope not, no.

15 Q. Okay. And to confirm, you had time to
 16 make a plan before you entered this situation,
 17 right?

18 A. That's what this says, correct.

19 Q. I know this is a few years ago, but do
 20 you have any memory of how long that took?

21 A. Well, seven years is, for me, quite a
 22 while, so I just -- I didn't know I would need
 23 to be prepared for this incident.

24 Q. Well, that's okay. We're asking you

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1 based on what you remember as you sit here
 2 today. So you can just tell me what you
 3 remember.

4 Am I right that it's important to
 5 communicate with your fellow officers and make a
 6 plan before entering a potentially dangerous
 7 situation?

8 ATTORNEY ZELLNER: Object to form.

9 THE WITNESS: If we have the opportunity,
 10 it's a helpful tool.

11 BY ATTORNEY SNYDER:

12 Q. Okay. And in this case, you were
 13 commended for doing that, right?

14 A. It appears so, correct.

15 Q. And according to this, the man who was
 16 tased in this incident was having a psychotic
 17 episode; right?

18 A. That's what this says, correct.

19 Q. And he was experiencing excited
 20 delirium?

21 A. That's what this says, correct.

22 Q. What's excited delirium?

23 A. It's my understanding that excited
 24 delirium is a term that we don't use anymore in

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1 law enforcement. It was a term that earlier in
 2 my career was used to describe an essentially
 3 unknown caused, often drug-induced behavior that
 4 required swift medical intervention after any
 5 contact to make sure that the suspect or the
 6 subject was okay.

7 Q. Great.

8 And this document also said that this
 9 man displayed a thousand-mile stare. What's
 10 that?

11 A. A thousand-mile stare, from my training
 12 and experience, is one where the gaze is
 13 unfixed, it's usually not fixed on a specific
 14 thing, it's looking, for example, past officers
 15 or staring off into the distance and doesn't
 16 change with response to stimuli such as people
 17 talking to them.

18 Q. And as a law enforcement officer, if
 19 you observed someone exhibiting a thousand-mile
 20 stare, what does that indicate to you?

21 A. I think it depends on the situation.
 22 If it's somebody who's just received bad news
 23 about a loved one, it would tell me that they're
 24 probably thinking about -- you know, starting to

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1 begin processing their trauma or the shock, or
 2 being in disbelief. If it's somebody who is
 3 under the influence of certain chemicals, it's
 4 probably going to be for a completely different
 5 reason. So it's context based.

6 Q. Okay. What did the man do to warrant
 7 use of the taser in this case?

8 A. I -- Honestly, because all I have to
 9 work with is this document, it doesn't cover
 10 why, you know, all the details, and I don't know
 11 the answer to that. I don't recall.

12 Q. Okay. Part of your duties as a
 13 sergeant includes supervision of officers,
 14 correct?

15 A. Correct.

16 Q. And that includes probationary
 17 officers?

18 A. Correct.

19 Q. And you -- Did you supervise Officer
 20 Justin Taylor?

21 A. Yes, I did.

22 Q. Okay. What was your impression of his
 23 job performance?

24 A. I think initially, I mean, he was still

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1 in his probationary year, so we kind of see
 2 elevated rates of traffic stops a lot of times.
 3 That's really all I can remember with regards to
 4 him specifically.
 5 We've had quite a few officers. We've
 6 essentially had what we call a changing of the
 7 guard happening over the last few years, at
 8 least that's been the name that I've heard it
 9 coined. And it's a large amount of officers
 10 that were hired at the same time many years ago
 11 retiring, so we've had quite the influx of new
 12 officers in the last five years or so. It makes
 13 it kind of hard for me to remember some of the
 14 details.
 15 **Q. Okay. And when you said that you**
 16 **observed elevated rates of traffic stops, did**
 17 **you mean that he was conducting a higher number**
 18 **of traffic stops than average?**
 19 A. What I mean is that new officers, as
 20 compared to officers at the end of their career,
 21 are probably a little bit more excited about
 22 being police officers and instead of sitting in
 23 the squad room are out patrolling their areas
 24 more appropriately, and as a result of that are

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1 seeing more infractions and are making more
 2 contacts with the public.
 3 **Q. Okay. Did you ever tell him he needed**
 4 **to make more traffic stops?**
 5 A. I can't recall specifically if that was
 6 the case or not. I could have.
 7 **Q. Are you aware of any other supervisors**
 8 **telling him he needed to make more traffic**
 9 **stops?**
 10 A. Not off the top of my head right now,
 11 no.
 12 **Q. Okay. I'm sharing my screen with you.**
 13 **And are you seeing it?**
 14 A. I am.
 15 **Q. Okay. So I'm going to mark this as**
 16 **Exhibit 5.**
 17 (Whereupon, Brown Deposition
 18 Exhibit No. 5 was identified
 19 for the record.)
 20 BY ATTORNEY SNYDER:
 21 **Q. And this is a document titled**
 22 **Performance Improvement Plan addressed to**
 23 **Probationary Officer Justin Taylor, and it's**
 24 **Bates stamped 122 to 125.**

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1 **Have you seen this document before?**
 2 A. Yes, I have.
 3 **Q. Okay. And I'm going to scroll down to**
 4 **the last page of this document. And that's your**
 5 **signature, right?**
 6 A. I would assume so, yes.
 7 **Q. Okay. The date on the signature is**
 8 **January 25th, 2024?**
 9 A. Yes.
 10 **Q. Okay. And on the top, going back to**
 11 **the first page, at the top of this document, it**
 12 **says from Sergeant Matthew Brown and Sergeant**
 13 **Nicholas Eastman. And Sergeant Matthew Brown,**
 14 **that's you; right?**
 15 A. Correct.
 16 **Q. And the subject line is "Extension of**
 17 **Training - Step 3"?**
 18 A. Yes.
 19 **Q. Okay. So this was a Performance**
 20 **Improvement Plan that you and Sergeant Eastman**
 21 **prepared and gave to Officer Taylor, correct?**
 22 A. Correct.
 23 **Q. And it indicates that you decided to**
 24 **extend Officer Taylor's Step 3 probationary**

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1 **period by eight shifts; is that correct?**
 2 A. That's what it says, yes. Correct.
 3 **Q. Okay. And the first sentence here**
 4 **under where it says "Date," says "As discussed**
 5 **during our meeting."**
 6 **Did you meet with Officer Taylor to**
 7 **discuss this Performance Improvement Plan?**
 8 A. I would imagine that it would have
 9 been, yeah, Sergeant Eastman and I who met with
 10 him since we all three signed it.
 11 **Q. Do you have any memory of that meeting?**
 12 A. I honestly don't.
 13 **Q. Do you remember giving him any advice**
 14 **in that meeting?**
 15 A. Anything that would be on here would
 16 be -- or any advice I would have given him would
 17 have been on this form.
 18 **Q. All right. And this -- Sorry. Finish**
 19 **your answer.**
 20 A. I mean, all of the training
 21 documentation is going to contain the notes of
 22 any meetings that we had.
 23 ATTORNEY SNYDER: Okay. Kiley, those are the
 24 documents that we discussed yesterday that

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1 you're working on getting. Right?

2 ATTORNEY ZELLNER: Correct.

3 BY ATTORNEY SNYDER:

4 Q. All right. And this document indicates

5 that you and Sergeant Eastman identified

6 deficiencies in Officer Taylor's performance in

7 these four categories that are listed up here,

8 right?

9 A. Correct. That's what it says.

10 Q. Okay. And those categories are

11 Directed Patrol Strategies and Self-Initiated

12 Field Activity? That's one of them?

13 A. Correct.

14 Q. And one of them is Patrol Tactics/Field

15 Investigations/Officer Safety?

16 A. Correct.

17 Q. And one of them is Information

18 Processing/Case Building and Report Writing?

19 A. Correct.

20 Q. And one of them is Problem Solving and

21 Decision Making?

22 A. Correct.

23 Q. And paragraph 10 here also says "You

24 will meet with either Sergeant Eastman or

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1 Sergeant Brown following after each four day

2 work periods you are assigned an FTO."

3 Did you participate in those meetings

4 after each four-day work period?

5 A. I honestly don't recall. If they fell

6 on my work days, then I very likely did. If

7 they fell on Sergeant Eastman's work days, then

8 they more than likely would have been with him.

9 Q. Okay. So safe to assume you can't tell

10 us anything specific about what you discussed in

11 those meetings if you were involved in them?

12 A. If we created documentation that's in

13 the training documentation from those, then

14 that's where that information would be. I don't

15 recall any of these meetings.

16 Q. All right. And I'm scrolling to the

17 second page of this document. And I'm under the

18 category that says No. 5, Directed Patrol

19 Strategies/Self-Initiated Field Activity.

20 And in this section, it says

21 "Meets standards: No," this section includes

22 "Fails to observe and detect suspicious persons,

23 places, events, circumstances, or activities

24 requiring law enforcement action. Avoids taking

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1 action. Not a self-starter."

2 Do you see where it says those things?

3 A. I see where that's the definition of

4 "Meets standards: No."

5 Q. Okay. So -- When you say that's the

6 definition, are you saying that this is kind of

7 like a generic block of text, and it's not

8 specifically directed at Officer Taylor?

9 A. Correct. From what I can see from

10 these, these are specific categories from what

11 we call the specific -- Specific Evaluation

12 Guidelines, the SEGs. And it's ten categories

13 that roughly encompass law enforcement and

14 across those categories give a definition of

15 what would be considered meeting standards,

16 which is the "Meets standards: Yes," and

17 behavior and actions that wouldn't be meeting

18 standards, or "Meets standards: No."

19 Q. Do you know which parts of this

20 definition applied to Officer Taylor?

21 A. I don't. I'm sorry.

22 Q. Was this feedback based on any specific

23 incident involving Officer Taylor?

24 A. Again, it's going to be documented in

Page 45

1 our training documentation and past meetings

2 with him what led up to this is what I'm

3 guessing.

4 Q. Did you do anything to ensure that

5 Officer Taylor's performance improved in these

6 categories where it was identified that he had

7 deficiencies?

8 A. I would imagine that over the course of

9 the meetings that are outlined in this document,

10 that we saw improvement; otherwise, it would not

11 have -- Generally, if we don't see the

12 improvements, and if the goals aren't met as

13 agreed on in this, then they don't continue on

14 with training. So I would imagine that's what

15 training documentation reflects.

16 Q. Okay. When you say that's what you

17 would imagine, you don't have any specific

18 memory of observing any specific improvement; is

19 that right?

20 A. That's correct. I don't have any

21 specific memories.

22 Q. Did you ever become aware of an

23 incident in which Officer Taylor received

24 criticism from a supervisor because of the way

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1 he parked his car when responding to a silent
 2 alarm that was tripped at a bank?
 3 A. I honestly don't ...
 4 Q. So that wasn't you, I take it?
 5 A. It could have been. I don't know. I
 6 just honestly don't recall it.
 7 Q. Do you have any memory of any other
 8 specific incidents in which Officer Taylor
 9 displayed performance issues?
 10 A. The only one that I can honestly recall
 11 off the top of my head right now without having
 12 reviewed training documentation is one of the
 13 things that's required of officers for the
 14 remainder of their probationary year once they
 15 finish being side by side with the training
 16 officer is that they still have to keep a daily
 17 log essentially of all of the calls that they go
 18 to, all of the stuff that they're doing,
 19 basically. And if I'm recalling correctly, that
 20 essentially was ignored or forgotten quite
 21 grossly by Officer Taylor at some point during
 22 his probationary year.
 23 Q. Okay. How did you become aware of that
 24 issue?

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1 A. I want to say my cohort with the FTO
 2 program, Sergeant Eastman, is the one who made
 3 us aware of it.
 4 Q. Okay. Officer Taylor resigned on
 5 September 5th, 2024, right?
 6 A. I don't remember the terms of his
 7 separation, whether he resigned or if he was let
 8 go, or the specific date, to be honest.
 9 Q. Okay. But you know that he's no longer
 10 with the department, right?
 11 A. Correct. I know he's no longer with
 12 the department.
 13 Q. And your sense is that his departure
 14 was not voluntary?
 15 ATTORNEY ZELLNER: Object to form.
 16 BY ATTORNEY SNYDER:
 17 Q. You can answer.
 18 A. It -- My impression is that if he
 19 resigned, it was heavily influenced by the lack
 20 of having kept up with the responsibilities of
 21 the FTO program and wanting to avoid having a
 22 termination on his record.
 23 Q. Yeah. So he was told that he could
 24 resign or be terminated, correct?

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1 ATTORNEY ZELLNER: Object to form.
 2 THE WITNESS: I honestly don't remember.
 3 BY ATTORNEY SNYDER:
 4 Q. Did you -- Were you consulted about
 5 that decision as one of his supervisors?
 6 A. I'm sure I was. I just -- Again,
 7 that's a big part of why I rely on documentation
 8 is to, you know, document it so that I'm not
 9 remembering, because I can't remember all of our
 10 specific conversations regarding this.
 11 Q. Do you know the reason why he was given
 12 the opportunity to resign?
 13 A. I don't.
 14 Q. Was it related to the issue that you
 15 were just describing with him failing to keep
 16 the daily logs that were required on probation?
 17 ATTORNEY ZELLNER: Object to form.
 18 THE WITNESS: Honestly, what I remember of it
 19 is I remember that being a major component of
 20 it. And there may have been other factors that
 21 I just simply don't recall right now.
 22 BY ATTORNEY SNYDER:
 23 Q. Okay. And just to make sure I'm
 24 understanding your testimony, if you were to see

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1 documentation related to this -- what happened
 2 here, that would refresh your memory?
 3 ATTORNEY ZELLNER: Object to form.
 4 THE WITNESS: It likely would.
 5 ATTORNEY SNYDER: Can we go off the record
 6 for a second.
 7 (Whereupon, a short break was
 8 taken.)
 9 ATTORNEY SNYDER: So while we were on the
 10 break, Counsel and I discussed that there are
 11 documents that we're waiting on that we haven't
 12 received yet and that are impacting our ability
 13 to have a productive deposition with this
 14 witness. And I let Ms. Zellner know that after
 15 we get those documents and review them, we may
 16 need to call this witness back for additional
 17 questioning. And Ms. Gaard [sic] agreed that
 18 that's something that we will address and
 19 consider after we have had a chance to review
 20 the documents.
 21 Did I accurately represent our
 22 conversation, Kiley?
 23 ATTORNEY ZELLNER: Yeah. I would just state
 24 that those are documents related to the training

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1 and termination of Officer Justin Taylor; and
 2 it's my agreement that once those documents are
 3 produced, we will have a discussion as to
 4 whether or not that will necessitate bringing
 5 this witness back for additional deposition.
 6 (Whereupon, a discussion was had
 7 off the record.)
 8 BY ATTORNEY SNYDER:
 9 Q. All right. Okay. Sergeant, I'm
 10 putting Exhibit 5 back on my screen, which is
 11 Officer Taylor's Performance Improvement Plan.
 12 And we had talked about Section 5 and
 13 some of the things that are in here. One of the
 14 things it says is "Fails to observe and detect
 15 suspicious persons, places, events,
 16 circumstances, or activities requiring law
 17 enforcement action. Avoids taking action. Not
 18 a self-starter."
 19 Do you have any reason to believe that
 20 that doesn't apply to Officer Taylor?
 21 A. The only reason I would have to believe
 22 that that doesn't is because like I had
 23 previously said, this is a descriptor of all of
 24 the behavior that would be considered "Meets

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1 standards: Yes," and "Meets standards: No."
 2 And I don't know which specific parts of these
 3 were specifically referenced in the meeting, so
 4 I don't know -- I don't know which -- if that
 5 specifically applied to him.
 6 Q. Right. So because you don't know and
 7 you don't have any memory of which of these
 8 things applied to him, you don't have any memory
 9 that this didn't apply to him; right?
 10 A. Correct.
 11 Q. You don't remember one way or the
 12 other, right?
 13 A. Correct.
 14 Q. And No. 6 under Patrol Tactics, in the
 15 section that says "Meets standards: No" on
 16 page 3, some of the things included in this
 17 section state "Fails to safely execute field
 18 operations by exposing self and others to
 19 unnecessary dangers."
 20 Do you see that in there?
 21 A. I do.
 22 Q. And it also says "Does not promptly
 23 request backup assistance when required."
 24 Do you see that?

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1 A. I see that.
 2 Q. It says "Use of force continuum is not
 3 compliant with department standards."
 4 Do you see that?
 5 A. I see that.
 6 Q. And it says "Fails to control the
 7 movements of others through clearly articulated
 8 verbal and nonverbal commands."
 9 Do you see that?
 10 A. I see that.
 11 Q. It says "Voice tone, inflection, and
 12 choice of words and actions fail to secure
 13 compliance to directions and deescalate the
 14 situation."
 15 Do you see that as well?
 16 A. I see that.
 17 Q. And it says "FTO must continually
 18 exercise discretionary overrides to neutralize
 19 threats."
 20 Do you see that too?
 21 A. I see that.
 22 Q. Do you have any reason to believe that
 23 any of that does not apply to Officer Taylor?
 24 A. It's the same answer as before. I

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1 don't know which specific parts of these were
 2 meant to, in this meeting, reflect Officer
 3 Taylor's behavior, whether it was that he failed
 4 to protect a crime scene or failed to conduct a
 5 comprehensive and orderly crime scene search or
 6 which component it was.
 7 Q. So to clarify, you don't have any
 8 information that any of this did not apply to
 9 Taylor, right, because you don't know one or the
 10 other; is that correct?
 11 A. I don't know one way or the other as we
 12 sit here right now. I just don't recall.
 13 Q. And under No. 8, Information
 14 Processing, Case Building, and Reporting, in the
 15 section that says "Meets standards: No," it
 16 says "Notes and reports are inaccurate for
 17 information and facts."
 18 Do you see where it says that?
 19 A. I see it.
 20 Q. And is your answer the same, that you
 21 don't have any information to say that this did
 22 not apply to Officer Taylor; right?
 23 A. Correct. I just don't recall.
 24 Q. And in Section 9, Problem Solving and

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1 Decision Making, in the section for "Meets
 2 standards: No," it says "Fails to identify and
 3 examine multiple options for problem resolution.
 4 Hesitates or fails to take action."
 5 That's included in there, right?
 6 A. I see it, yes.
 7 Q. And it also says "Arrives on location
 8 with a preconceived solution to resolve
 9 situations without fully defining the problem."
 10 Do you see that?
 11 A. I see that.
 12 Q. And it says "Fails to utilize problem
 13 solving and decision making components or
 14 consider [alternatives] for resolving
 15 situations."
 16 Do you see that as well?
 17 A. I see where it says "or consider
 18 alternative options for resolving situations,"
 19 yes.
 20 Q. Thank you for the correction.
 21 And, again, you don't have any
 22 information to suggest that any of this did not
 23 apply to Officer Taylor, right?
 24 A. Correct. I just don't recall.

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1 Q. All right. Sergeant, during your work
 2 as a police officer making -- Well, maybe I
 3 should ask it like this. For a normal patrol
 4 officer, making traffic stops is a normal part
 5 of their job; right?
 6 A. Correct.
 7 Q. Do you still make traffic stops as a
 8 sergeant? Do you still initiate them?
 9 A. Yes, I do.
 10 Q. Okay. And you also supervise other
 11 officers during them sometimes?
 12 A. Yes.
 13 Q. Okay. And my understanding is that
 14 there are three main categories of traffic stops
 15 within the SPD's framework and training; is that
 16 right?
 17 A. I would have to be pointed to a
 18 specific policy or procedure that referenced
 19 that.
 20 Q. Okay. Well, let me --
 21 A. I have to pause. I just had someone
 22 come in.
 23 Q. No problem. Thank you for letting us
 24 know.

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1 (Brief pause.)
 2 BY ATTORNEY SNYDER:
 3 Q. Maybe I'll ask it like this, and you'll
 4 have a better sense of what I'm talking about.
 5 So in your testimony at Mr. Cuypers's
 6 trial, you testified that there's kind of a
 7 normal -- a category of normal traffic stops
 8 where an officer observes a violation, pulls
 9 someone over, makes contact with the driver, has
 10 a conversation with the driver about the problem
 11 they observed, and either lets them go or issues
 12 a citation.
 13 Does that refresh your memory as to
 14 what I'm talking about in terms of the
 15 categories?
 16 A. That might have been my interpretation
 17 of how I perceived three different categories of
 18 stops. But that sounds like one that I would
 19 agree with, yes.
 20 Q. Okay. And in a normal traffic stop,
 21 the way in which you make contact with the
 22 driver is you just walk up to the vehicle and
 23 have a conversation with them through the
 24 driver's side window; correct?

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1 A. If we have no other reason to believe
 2 that we need to do things differently, then that
 3 would be how I generally, whether it's the
 4 driver or the passenger window, make contact
 5 with them.
 6 Q. Understood.
 7 And a second type of traffic stop is
 8 when you approach the vehicle, see something
 9 that warrants additional investigation, and then
 10 return to your car, call for backup, and then
 11 continue with the traffic stop once a second
 12 officer has arrived; correct?
 13 A. That would be, to me, a fair
 14 assessment; yes.
 15 Q. Okay. So that's kind of a mid level
 16 traffic stop, right?
 17 ATTORNEY ZELLNER: Object to form.
 18 THE WITNESS: Yes, in my interpretation.
 19 BY ATTORNEY SNYDER:
 20 Q. Okay. And so when an officer who
 21 initiates a traffic stop calls for backup, that
 22 doesn't -- Well, hang on. Let me ask a
 23 different question first.
 24 The third category is a high-risk

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1 **traffic stop, right?**
 2 ATTORNEY ZELLNER: Object to form.
 3 THE WITNESS: That would be where instead of
 4 making contact, something's going on right from
 5 the get-go that makes me want to use a different
 6 option for making contact with that vehicle.
 7 BY ATTORNEY SNYDER:
 8 **Q. Okay. And that category of traffic**
 9 **stop you refer to as a high-risk traffic stop,**
 10 **correct?**
 11 A. That's what -- the tool that I would
 12 use in that situation to make that contact.
 13 **Q. Okay. But just to clarify, if an**
 14 **officer initiates a traffic stop and calls for**
 15 **backup, that doesn't necessarily mean that**
 16 **they're initiating a high-risk traffic stop;**
 17 **right?**
 18 A. Correct. It doesn't necessarily mean
 19 that. They could still decide to do that; that
 20 could still be something that happens, but it
 21 doesn't necessarily mean that.
 22 **Q. Right. Because they could be**
 23 **initiating the mid level stop that we just**
 24 **talked about, right?**

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1 A. Correct.
 2 **Q. Okay. Is it standard operating**
 3 **procedure during a high-risk traffic stop for**
 4 **officers to draw their firearms to provide**
 5 **lethal cover?**
 6 ATTORNEY ZELLNER: Object to form.
 7 THE WITNESS: I believe the procedure, if
 8 it's available in Lexipol, would outline that.
 9 BY ATTORNEY SNYDER:
 10 **Q. Okay. I'm asking about what you know,**
 11 **though, not what the procedure says.**
 12 **So based on your training and**
 13 **experience and your knowledge as a sergeant of**
 14 **12 years with the Superior Police Department, is**
 15 **it standard for officers to draw their firearms**
 16 **to provide lethal cover during a high-risk**
 17 **traffic stop?**
 18 ATTORNEY ZELLNER: Object to form.
 19 THE WITNESS: That is my experience, correct.
 20 BY ATTORNEY SNYDER:
 21 **Q. So every time something is treated as a**
 22 **high-risk traffic stop, officers provide lethal**
 23 **cover; is that right?**
 24 ATTORNEY ZELLNER: Object to form.

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1 THE WITNESS: I can't speak for every single
 2 high-risk traffic stop.
 3 BY ATTORNEY SNYDER:
 4 **Q. Is it possible to conduct a high-risk**
 5 **traffic stop without officers providing lethal**
 6 **cover?**
 7 A. Again, I don't -- I'm not comfortable
 8 speculating to that. I don't know that I've
 9 ever done that, and I can't think of a situation
 10 that would warrant that. But I'm sure there's a
 11 possibility and somehow.
 12 **Q. Once you've initiated a high-risk**
 13 **traffic stop, can you deescalate the situation**
 14 **without detaining the person; or is that the**
 15 **only way for a high-risk traffic stop to**
 16 **resolve?**
 17 ATTORNEY ZELLNER: Object to form.
 18 THE WITNESS: So much of it is driven by the
 19 behavior of the occupants of the vehicle.
 20 BY ATTORNEY SNYDER:
 21 **Q. Okay. So depending on the behavior of**
 22 **the occupants, it is possible to deescalate a**
 23 **high-risk traffic stop; is that what you're**
 24 **saying?**

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1 A. I'm sorry. I misunderstood.
 2 I can't think of a high-risk traffic
 3 stop where we began as a high-risk traffic stop
 4 and just stopped doing a high-risk traffic stop
 5 halfway through.
 6 **Q. Okay. But is that something that -- Is**
 7 **it something that's possible to do, and you just**
 8 **haven't done one? Or is it kind of prohibited**
 9 **by your policies and training?**
 10 ATTORNEY ZELLNER: Object to form.
 11 THE WITNESS: I have never trained a
 12 high-risk traffic stop that stops being a
 13 high-risk traffic stop halfway through without
 14 concluding the general training that we have
 15 done for them.
 16 BY ATTORNEY SNYDER:
 17 **Q. Sergeant, do you remember the traffic**
 18 **stop involving Ian Cuypers that occurred on**
 19 **February 28, 2024?**
 20 A. With having had a chance to review the
 21 report and my body cam footage, I have a decent
 22 recollection of it.
 23 **Q. Prior to reviewing the report and your**
 24 **body cam footage, did you have any independent**

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1 **memory of this incident?**
 2 A. I mean, yes. Some. I can point out
 3 the specific things I remembered at certain
 4 points in time versus afterwards.
 5 Q. Okay. When you responded to the
 6 traffic stop involving Ian Cuypers on
 7 February 28, 2024, you had no prior knowledge of
 8 Mr. Cuypers; correct?
 9 A. As far as I can recall, yeah, I didn't
 10 know who he was.
 11 Q. Okay. You had never met him before,
 12 right?
 13 A. Yeah. As far as I recall, I had never
 14 met him before.
 15 Q. And you don't recall ever arresting him
 16 before, right?
 17 A. I don't recall ever arresting him
 18 before.
 19 Q. And you didn't -- At that time, you
 20 didn't know anything about whether he had a
 21 criminal history; right?
 22 A. Correct. At the time of making the
 23 stop, I didn't know who he was in the car or
 24 anything.

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1 Q. And you had no information that he
 2 owned any guns, right?
 3 A. I had no information that he owned any
 4 guns or that he didn't own any guns.
 5 Q. And you were the supervising sergeant
 6 for the shift on February 28, 2024, when this
 7 traffic stop occurred; right?
 8 A. I would have been at least one of them.
 9 We may have had another one working that night.
 10 That, I don't recall.
 11 Q. Okay. And that was the 6:00 a.m. to
 12 6:00 a.m. shift that you were working, right?
 13 A. I think I would have probably been the
 14 afternoon sergeant at that point. I don't -- I
 15 can't -- I mean, without checking the actual
 16 schedule, I can't confirm. But I believe by
 17 that point that I was working the 12:00 p.m. to
 18 12:00 a.m. standard shift.
 19 Q. Got it. Okay.
 20 And as the supervising sergeant, you
 21 were either the highest or one of the highest
 22 ranking officers in the field during that shift
 23 depending on whether there was another sergeant
 24 out there that day, right?

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1 A. Correct.
 2 Q. Okay. And during that shift, did you
 3 know all of the other -- did you know all of the
 4 other patrol officers who were working during
 5 that shift? Like, had you worked with them
 6 before?
 7 A. I think that's a pretty accurate
 8 statement for most of the shifts that I work.
 9 Q. Okay.
 10 A. We're not a super large department.
 11 Q. You anticipated my next question.
 12 You're not a super big department, so
 13 it's safe to say you all knew each other; right?
 14 A. I at least knew their names and basic
 15 stuff about them at a bare minimum.
 16 Q. Okay. Would the basic stuff about them
 17 that you knew include their level of experience?
 18 A. Yeah. I think that's a fair
 19 statement --
 20 Q. Okay.
 21 A. -- based off of the total length of
 22 time on the job, some people might have had
 23 military experience that I was at least aware of
 24 them having been in the Army or something

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1 before, or maybe having some prior law
 2 enforcement experience.
 3 Q. And so you would have known that it was
 4 only Officer Taylor's second shift on his own
 5 without a field training officer, right?
 6 A. I probably would have been aware of
 7 that, yes.
 8 Q. Okay. And Officer Jason Moen was also
 9 working that shift. Do you remember that?
 10 A. Yes. I remember seeing him in the
 11 video when I reviewed it.
 12 Q. Okay. And he was a trainee at that
 13 time?
 14 A. I honestly don't remember if he was a
 15 trainee or if he was off of field training at
 16 that point.
 17 Q. If he was on his shift with Officer
 18 Gaard, would that indicate to you that he was
 19 still in training and that she was his field
 20 training officer?
 21 A. My timelines, like I said previously,
 22 we've had something like 24 officers, which is a
 23 large part of our Patrol Division, who have gone
 24 through field training in, like, the last five

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1 years. So some of the timelines are a little
 2 difficult for me to remember who was training
 3 who and what their experience level specifically
 4 was or what day and where they were on field
 5 training.
 6 **Q. Did you know how long Officer Taylor**
 7 **Gaard had been on the force at that time?**
 8 A. I probably did at that point in time,
 9 roughly.
 10 **Q. And how long had she been on the force**
 11 **at that point in time?**
 12 A. I'm sorry. At that point in time, I
 13 probably could have recalled that. I can't now.
 14 Considering she no longer works here, I don't
 15 even remember when she specifically left.
 16 **Q. Okay. Did you know Officer Dylan**
 17 **Crist, who also responded to this traffic stop?**
 18 A. Yes.
 19 **Q. Okay. And how long had he been an**
 20 **officer in February of 2024?**
 21 A. At least as of now, I don't know. I
 22 can find that information out for you, but I
 23 can't right now recall it.
 24 **Q. And it was Officer Taylor who initiated**

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1 **this traffic stop, right?**
 2 A. I believe so, yes.
 3 **Q. And the first time you became aware**
 4 **that he had initiated a traffic stop was when**
 5 **you heard his call for backup, right?**
 6 A. I believe so, yes. And I may have seen
 7 it on that same CAD that you had put. But just
 8 because an officer was on a traffic stop doesn't
 9 mean I would automatically go to it right away.
 10 So I'm saying there's a possibility I was aware
 11 he was starting a traffic stop based on it being
 12 on that CAD software.
 13 **Q. Do you have any memory of seeing**
 14 **anything about this traffic stop on that CAD?**
 15 A. I don't. I'm just pointing it out as a
 16 possibility. I think it's a fair possibility
 17 that when I generally have that screen up that I
 18 can see that on there.
 19 **Q. Understood. Just wanted to clarify.**
 20 **All right. I'm going to pull up a**
 21 **video. And I'm going to be doing this**
 22 **throughout the dep, and it's just going to take**
 23 **me a second to find the right clip from time to**
 24 **time. So just bear with me.**

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1 (Whereupon, a discussion was had
 2 off the record.)
 3 BY ATTORNEY SNYDER:
 4 **Q. Okay. Are you seeing my screen,**
 5 **Sergeant?**
 6 A. Yes, I am.
 7 **Q. Okay. And I think I did it properly so**
 8 **that you'll be able to hear the audio. But if**
 9 **for some reason you can't hear it, just stop me**
 10 **and let me know, and we'll troubleshoot. Okay?**
 11 A. Okay.
 12 **Q. So I'm going to play a clip starting**
 13 **at -- And for the record, this is Officer**
 14 **Taylor's dash cam video, which is Bates stamped**
 15 **449. And I'm marking this as Exhibit 6.**
 16 (Whereupon, Brown Deposition
 17 Exhibit No. 6 was identified
 18 for the record.)
 19 BY ATTORNEY SNYDER:
 20 **Q. And I'm going to play a clip starting**
 21 **at 1:16 on the video player, which is 22:16:28**
 22 **on the clock.**
 23 (Whereupon a video was
 24 displayed.)

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1 THE WITNESS: The last transmission was a
 2 little harder for me to hear.
 3 BY ATTORNEY SNYDER:
 4 **Q. Do you want me to play it again?**
 5 A. Sure.
 6 **Q. Okay. Give me one second.**
 7 **All right. Playing the same clip**
 8 **again.**
 9 (Whereupon a video was
 10 displayed.)
 11 BY ATTORNEY SNYDER:
 12 **Q. Were you able to hear that okay?**
 13 A. Better, yes.
 14 **Q. Okay. And that was a recording of**
 15 **Taylor -- Officer Taylor's call on the radio for**
 16 **backup, right?**
 17 A. That's what it sounded to be, yes.
 18 **Q. And then we also heard Dispatch**
 19 **respond, and then two other officers respond;**
 20 **right?**
 21 A. Yes.
 22 **Q. Okay. And when he called for backup,**
 23 **Officer Taylor said, "There's a lot of furtive**
 24 **movement. I'll take a second. Hold the plate."**

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1 Right?
 2 A. Yes.
 3 Q. And then I heard Dispatch say, "519,
 4 can you head that way," right?
 5 A. That's what I heard too.
 6 Q. And then an officer said, "I copy."
 7 Did you hear that?
 8 A. I did.
 9 Q. Could you tell, was that you, or was
 10 that a different officer?
 11 A. I think that was 519 confirming for
 12 Dispatch that he heard their transmission and
 13 would be responding there.
 14 Q. Okay. And 519 is Officer Crist, right?
 15 A. Correct.
 16 Q. Okay. And then another officer said
 17 "55 Superior, we're right here at 1604. We'll
 18 be out there with him."
 19 Is that what you heard?
 20 A. I couldn't tell if it was me saying
 21 "65 Superior" or if it was 55, which I believe
 22 is Moen. So that was the part I was having
 23 difficulty understanding.
 24 Q. Understood. Okay.

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1 We can listen to it one more time. I'm
 2 just going to back it up ten seconds.
 3 (Whereupon a video was
 4 displayed.)
 5 BY ATTORNEY SNYDER:
 6 Q. I heard "55 Superior, we're right here
 7 at 1604. We'll be out there with him."
 8 Is that what you heard?
 9 A. Yes. That's sounds like what I heard.
 10 Q. Okay. So that would have been Officer
 11 Moen, right?
 12 A. Yes. I believe so.
 13 Q. Okay. So I don't think we heard your
 14 voice on the radio at all, right?
 15 A. The part that -- It sounds like Officer
 16 Crist speaking when he said that, so that's why
 17 I'm still confused with that specific radio
 18 transmission. Officer Crist wears cochlear
 19 implants and has kind of a unique speech
 20 pattern, and that's what that sounds like to me.
 21 So I can't confirm if that's 555 or if it's 519
 22 responding to that, and there's -- sometimes
 23 words are missed when he's speaking.
 24 Q. Got it.

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1 Either way, though, it was either
 2 Officer Crist or Officer Moen and not you,
 3 right? We didn't hear your voice in there?
 4 A. I believe so. Correct.
 5 Q. Okay. And that was everything that
 6 Officer Taylor said when he called for backup,
 7 right?
 8 A. I would assume so, if that's what the
 9 video shows.
 10 Q. All right. And you didn't receive any
 11 additional information from Dispatch, right?
 12 A. It would hopefully be covered in the
 13 video if there were other radio transmissions.
 14 And I don't recall any off the top of my head,
 15 no.
 16 Q. Because any information that you got
 17 from Dispatch would have been communicated on
 18 the radio, right?
 19 A. We would have heard it just like we did
 20 now.
 21 Q. Right. Okay.
 22 And when he called for backup, Officer
 23 Taylor asked for a second; right?
 24 A. Correct. That's the general

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1 terminology that officers used, or that they use
 2 when they're saying, "I would like at least
 3 another squad here."
 4 Q. So that means they want a second
 5 officer, right?
 6 A. At a minimum, correct.
 7 Q. All right. And Dispatch asked Officer
 8 Crist to respond, right, when they said "519"?
 9 A. Correct.
 10 Q. Why did you also respond?
 11 A. I don't recall. I don't think -- I
 12 don't know specifically where I was, but I don't
 13 think I was that far away. And if I'm out
 14 patrolling, and especially if an officer asks
 15 for another officer, it generally means that
 16 there's something that they've seen or noticed,
 17 or at a minimum something going on that they're
 18 hoping to have a backup officer to help with.
 19 So it can't hurt if I also drop in, and I could
 20 at a minimum just watch, or I may end up
 21 participating.
 22 Q. Okay. Did your decision to respond
 23 have anything to do with you feeling like you
 24 needed to be there to supervise a junior officer

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1 like Officer Taylor?

2 A. I don't recall what my specific
3 decisionmaking was to respond to that call. I
4 can't recall if there were other stops of other
5 officers or other calls that I assisted with
6 that night too.

7 Q. Who decided that this traffic stop of
8 Ian Cuypers should be treated as a high-risk
9 traffic stop?

10 A. I believe Officer Taylor was the
11 initial officer to make that decision.

12 Q. And how is it he communicated that he
13 had made that decision to you?

14 A. I don't recall if it was over the radio
15 or when I arrived if he was articulating it to
16 other officers. I want to say that there's
17 something in the video that tells whether that
18 was over the radio or whether it was
19 communicated in person.

20 Q. Okay. Do you have any independent
21 memory of him communicating anything to you
22 about deciding to treat this as a high-risk
23 traffic stop?

24 A. I don't.

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1 Q. Are you aware that Officer Taylor
2 testified that he did not decide that it should
3 be treated as a high-risk traffic stop?

4 A. I haven't spoken with Officer Taylor in
5 longer than I can remember, so no, I haven't
6 been told that by him, and I don't know what his
7 deposition said.

8 Q. Okay. According to Officer Taylor, his
9 supervisors made that decision when they arrived
10 on the scene. But your testimony is that it
11 wasn't you that made that decision; is that
12 right?

13 A. That's as best as I can recall.

14 Q. Okay. So we're going to listen to the
15 videos to see if we can shine any light on this
16 situation. First I'm going to play the dash cam
17 video again.

18 Actually, I'm going to put up a
19 different video. And for the record, I don't
20 think I ever stated this when I stopped the
21 video previously, it was at 1:37 on the video
22 player, which is 22:16:48 on the clock.

23 Okay. And I'm sharing my screen with
24 you, and I'm putting up what I'm going to mark

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1 as Exhibit 7.

2 (Whereupon, Brown Deposition
3 Exhibit No. 7 was identified
4 for the record.)

5 BY ATTORNEY SNYDER:

6 Q. And this is the body worn camera that
7 you were wearing during the incident. And it's
8 Bates stamped 456.

9 And I'm going to play a clip starting
10 at 17 seconds on the player, which is 22:17:15
11 on the camera. And then when I'm done, I'll ask
12 you a couple of questions about it.

13 (Whereupon a video was
14 displayed.)

15 BY ATTORNEY SNYDER:

16 Q. Were you able to hear that okay?

17 A. Yes.

18 Q. All right. And for the record, I've
19 stopped the video at 34 seconds on the video
20 player, which is 22:17:31 on the clock.

21 And the clip that we just watched
22 depicted you arriving on the scene of the
23 traffic stop in your car, right?

24 A. Correct.

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1 Q. And you parked, and you stepped out of
2 the car in that clip that we just watched?

3 A. Correct.

4 Q. And a few seconds after you got out of
5 your car, we heard you yell, "Put your hands
6 where we can see them," correct?

7 A. Correct.

8 Q. And by my count, that was about five or
9 six seconds after you got out of the car. Does
10 that sound about right to you?

11 A. Yes.

12 Q. So when you yell, "Put your hands where
13 we can see them," at that point, you're treating
14 this as a high-risk traffic stop; right?

15 A. Honestly, it's not necessarily
16 something that gets yelled specifically for a
17 high-risk traffic stop. And I don't recall. I
18 don't remember what the initial exact thought
19 basis was for yelling that other than it's a
20 pretty generic safety thing for us to ask a
21 driver to do during a traffic stop if we can't
22 see their hands.

23 Q. Okay. If it's not a high-risk traffic
24 stop, you approach the car and talk to the

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1 driver in the car; right?

2 A. Generally.

3 ATTORNEY ZELLNER: Object to form.

4 BY ATTORNEY SNYDER:

5 Q. I'm sorry. I didn't hear your answer,

6 Sergeant.

7 A. Generally, yes.

8 Q. Okay. So in this case, you're not

9 approaching the car, right? It looks like your

10 car is, I don't know, maybe 30 feet back from

11 Mr. Cuypers's car; correct?

12 A. Correct.

13 Q. And so does that indicate to you that

14 this is a high-risk traffic stop at this point?

15 ATTORNEY ZELLNER: Object to form.

16 THE WITNESS: I honestly don't recall what my

17 exact thought process was and at what point it

18 indicated to me that it was a high-risk traffic

19 stop.

20 BY ATTORNEY SNYDER:

21 Q. Okay. I'm not -- To clarify my

22 question, I'm not asking about your thought

23 process. I'm asking you, observing the tactics

24 on this video where you're yelling commands at

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1 the car from about 30 feet back as opposed to

2 approaching the car to have a conversation with

3 the driver, are those tactics indicative to you

4 of a high-risk traffic stop?

5 A. Not specifically.

6 You had brought up three different

7 types of traffic stops that I mentioned in my

8 testimony. Another option is when we call a

9 driver out of the car in a non high-risk

10 fashion, or approaching a car, kind of that

11 intermediary. There's kind of a couple of

12 different options. Approaching with a couple of

13 officers. And in all of the above I would want

14 to be knowing where the driver's hands were.

15 Q. Okay. But you're not approaching with

16 a couple officers in this video, right?

17 ATTORNEY ZELLNER: Object to form.

18 THE WITNESS: So far what I've seen, I'm not

19 approaching with other officers.

20 BY ATTORNEY SNYDER:

21 Q. Okay. And when you prepared for your

22 deposition last week, you watched the video of

23 the entire incident; right?

24 A. I did not watch the entire video with

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1 Attorney Zellner, no.

2 Q. Did you watch in between the point that

3 we've seen up until the point where Mr. Cuypers

4 got tased?

5 A. I have seen roughly that video,

6 correct.

7 Q. Okay. And at any point during that

8 video, did multiple officers approach the car?

9 A. No.

10 Q. So was this a high-risk traffic stop or

11 wasn't it?

12 A. It ultimately turned into being a

13 high-risk traffic stop.

14 Q. At what point did it turn into a

15 high-risk traffic stop?

16 A. I don't have -- I don't recall.

17 Q. Okay. Why don't we watch the rest of

18 your body cam video up until the point where

19 Mr. Cuypers gets tased, and afterwards I'm going

20 to ask you at what point this turned into a

21 high-risk traffic stop. Okay? So pay special

22 attention to that.

23 And actually, while we're watching, if

24 you think you notice a point where it happens,

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1 you can tell me to stop. Okay?

2 This is the same video we were just

3 watching. And I'm going to back it up. I'm

4 going to start it at 24 seconds on the video

5 player, which is 23:17:22 on the clock.

6 (Whereupon a video was

7 displayed.)

8 THE WITNESS: Stop.

9 (Video display continuing.)

10 THE WITNESS: Ms. Snyder, can you hear me?

11 BY ATTORNEY SNYDER:

12 Q. Yes, I can.

13 A. Sorry. I had told you where we had

14 reached a point where it's clear to me that it's

15 a high-risk traffic stop.

16 Q. Okay. I'm sorry. I couldn't hear you

17 over the audio from this video.

18 Sp what was that point?

19 A. It appears to be about ten seconds

20 before this. And Officer Taylor is on the

21 opposite side of the squad car, at least from

22 what I can tell, beginning to give the verbal

23 commands consistent with the start of a

24 high-risk traffic stop.

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1 Q. Okay. So when Officer Taylor began to
2 give those commands, that's the point at which
3 this became a high-risk traffic stop?
4 ATTORNEY ZELLNER: Object to form.
5 THE WITNESS: I don't know if it's when he
6 makes the stop that you would argue that that's
7 the start of the high-risk traffic stop. That's
8 the point at which I see training consistent
9 with how we do a high-risk traffic stop
10 beginning in this video.
11 Q. Okay. I'm going to back it up
12 20 seconds from where it just ended, and we can
13 mark that point again.
14 So now I'm starting it at 28 seconds on
15 the player.
16 (Whereupon a video was
17 displayed.)
18 BY ATTORNEY SNYDER:
19 Q. Okay. So I've stopped the video at 52
20 seconds on the video player, which is 22:17:50
21 on the clock.
22 So if I'm understanding you correctly,
23 when we hear Officer Taylor say, "Driver, with
24 your left hand, reach down and open the door,"

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1 at that point, this is a high-risk traffic stop;
2 right?
3 A. I would agree, yes.
4 Q. Okay. Did Officer Taylor ever
5 communicate that decision to you?
6 A. I honestly don't recall.
7 Q. Okay.
8 A. And again, like, discussing the radio
9 transmissions and stuff, I would imagine that
10 any of that would be captured in video.
11 Q. Okay. And just one point so that it's
12 clear on the record. In this clip that we
13 watched, when you first got out of the car,
14 there was a couple seconds there where the audio
15 hadn't activated on your body cam; right?
16 A. Are you talking about from, like, 000
17 to where the audio starts?
18 Q. Yeah. Maybe we should just clarify for
19 the record.
20 The way your body cams work is that
21 once you started -- Well, why don't you just
22 explain it to me. There's a reason we don't
23 hear audio for the first 30 seconds of your body
24 cam, right? Do you want to just put that on the

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1 record so it's clear?
2 A. Yes, I can.
3 It's my understanding that the way that
4 the Axon body worn cameras work is they always
5 have a 30-second, like, previous video buffer so
6 that when they are activated, whether by an
7 officer or sergeant specifically activating the
8 unit or by getting in proximity of other units
9 that are activated, it then activates the body
10 worn camera and its 30-second buffer. But that
11 30-second buffer is only for video and not for
12 audio.
13 Q. Right.
14 A. I don't know if it's 30 specifically or
15 25 seconds or what that specific buffer is, but
16 roughly 30 is what I believe it is.
17 Q. Okay. At the beginning of the clip
18 when you were getting out of the car, there was
19 a few seconds where we didn't have audio yet.
20 Do you remember that?
21 A. Yes.
22 Q. Okay. So I'm going to show you another
23 video and see if we can clarify what was that
24 audio that we missed. But it's a little bit

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1 hard to hear, so that's why I started with the
2 first one that was kind of at the scene for us.
3 So I'm going back to Exhibit 6, which
4 is Officer Taylor's dash cam.
5 All right. I'm showing you, I've got
6 Exhibit 6 up on my screen. And I'm starting at
7 2:04 on the video player, which is 22:17:16 on
8 the clock. And I'm going to, just to help us,
9 I'm going to give you some context ahead of time
10 so you know what you're listening for, because
11 it's really hard to hear.
12 So we're going to see your car drive
13 up. And then after you park, there's going to
14 be, like, a very brief snippet of audio. But
15 you're not right next to the dash cam, so it's
16 really hard to hear. So I just wanted to help
17 you as much as I can. And we can play it
18 multiple times if we need to.
19 (Whereupon a video was
20 displayed.)
21 BY ATTORNEY SNYDER:
22 Q. I've stopped the video at 2:14 on the
23 video player, which is 22:17:25 on the clock.
24 And did you hear your voice say

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1 something on that video?
 2 A. No, I didn't.
 3 Q. Okay. Let me play it again.
 4 I've backed up ten seconds, so this
 5 will be 2:04.
 6 (Whereupon a video was
 7 displayed.)
 8 BY ATTORNEY SNYDER:
 9 Q. Did you hear that?
 10 A. Ma'am, I didn't hear that. I can't
 11 hear it.
 12 Q. Okay. I'm going to play it one more
 13 time just to see if you can hear it. But if you
 14 can't, then you can't.
 15 (Whereupon a video was
 16 displayed.)
 17 BY ATTORNEY SNYDER:
 18 Q. All right. Did you catch that?
 19 A. I'm sorry. I can't. I'm sorry.
 20 Q. Okay. So I heard your voice say, "All
 21 right. What's going on?"
 22 Does that sound familiar? Like, does
 23 that refresh your recollection at all as to
 24 anything that you might have said when you first

Page 87

1 stepped out of the car?
 2 A. I think that would be a pretty
 3 reasonable thing to ask.
 4 Q. Okay. And that was -- You would agree
 5 that was your car driving up to the scene there?
 6 A. Yes. It appears to be.
 7 Q. Okay. And the voice that I heard, it
 8 was slightly after you parked; right?
 9 A. Yes. It seems to be in time proximity
 10 to that.
 11 Q. Okay. So do you think that that was
 12 you?
 13 A. I think that was likely me.
 14 Q. Okay. All right. And then I'm going
 15 to play just a little bit more of this video
 16 so -- All right.
 17 So I've got it started at 2:13 on the
 18 video player, which is 22:17:25 on the clock.
 19 (Whereupon a video was
 20 displayed.)
 21 BY ATTORNEY SNYDER:
 22 Q. Okay. I've stopped it at 2:19 on the
 23 video player, which is 22:17:33 on the clock.
 24 And could you hear your voice on that clip?

Page 88

1 A. Yes.
 2 Q. And you're saying, "Put your hands
 3 where we can see them," correct?
 4 A. Correct.
 5 Q. Which is the same thing we heard you
 6 say in your body cam video, right?
 7 A. Yes.
 8 Q. So based on that, we can kind of line
 9 up where the two videos overlap, correct?
 10 A. Correct.
 11 Q. And we didn't hear you say anything
 12 else before you said, "Put your hands where we
 13 can see them," right?
 14 A. Other than what you said you could hear
 15 me saying, "What's going on," or something to
 16 that effect.
 17 Q. Right. Other than that, we didn't hear
 18 anything else; right?
 19 A. Correct.
 20 Q. All right. I'm going to put up another
 21 video, and I'm going to mark this one as
 22 Exhibit 8.
 23
 24

Page 89

1 (Whereupon, Brown Deposition
 2 Exhibit No. 8 was identified
 3 for the record.)
 4 BY ATTORNEY SNYDER:
 5 Q. This is Officer Taylor's body worn
 6 camera video, and it's Bates stamped 451.
 7 (Whereupon a video was
 8 displayed.)
 9 BY ATTORNEY SNYDER:
 10 Q. Okay. I've stopped the video at 2:18
 11 on the video player, which is 22:17:31 on the
 12 clock.
 13 And in that clip, did you hear Officer
 14 Taylor telling someone, "They were digging
 15 around a lot in the passenger's side, in the
 16 center console, and everywhere else"? Did you
 17 hear that?
 18 A. Yes, I did.
 19 Q. Okay. And then we heard you yelling,
 20 "Put your hands where we can see them," right?
 21 A. Correct.
 22 Q. And I think we heard you yelling that
 23 even before he had finished his sentence,
 24 correct?

Page 90

1 A. It sounded so, correct.

2 **Q. Okay. So he was talking to you, right?**

3 A. It would make sense. In the last

4 video, it showed me opening the front door of

5 his car. And it was my understanding his

6 positioning was on the other side with the door

7 open, or at least near the front passenger

8 window.

9 **Q. Okay. And that seemed to be his answer**

10 **to the question that I heard, "All right.**

11 **What's going on."**

12 **Right?**

13 A. Correct.

14 **Q. All right. And I'm going to play a few**

15 **more seconds of this video starting at 2:18.**

16 (Whereupon a video was

17 displayed.)

18 BY ATTORNEY SNYDER:

19 **Q. And so this is the moment where we**

20 **agreed at this point it's a high-risk traffic**

21 **stop?**

22 ATTORNEY ZELLNER: Object to form.

23 THE WITNESS: Yes.

24

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1 BY ATTORNEY SNYDER:

2 **Q. And we didn't hear Officer Taylor**

3 **communicate to anyone that he was deciding to**

4 **treat this as a high-risk traffic stop, right?**

5 A. I, in these videos, haven't heard him

6 communicating that specifically, as far as I can

7 see so far.

8 **Q. And as far as we can tell on the video,**

9 **you and he never had a conversation about**

10 **whether this should be treated as a high-risk**

11 **traffic stop, right?**

12 A. So far on the video, I'm not seeing

13 anything that would reflect that other than

14 it --

15 **Q. And you don't have -- Sorry. Are you**

16 **finished?**

17 A. Yes. I'm finished.

18 **Q. And you don't have any independent**

19 **memory of a conversation about whether this**

20 **should be treated as a high-risk traffic stop,**

21 **right?**

22 A. I have no independent memory of it

23 right now.

24 **Q. When you say "right now," is there**

Page 92

1 **something that would refresh your recollection?**

2 A. No. I just mean at this point almost

3 two years later, I just don't independently

4 recall it.

5 **Q. And based on what you say in the video,**

6 **there's no point at which the two of you could**

7 **have had a conversation about whether this**

8 **should be treated as a high-risk traffic stop,**

9 **right?**

10 ATTORNEY ZELLNER: Object to form.

11 THE WITNESS: I have to defer to the

12 officer's judgment. They're allowed to make a

13 high-risk traffic stop without supervisory

14 approval based off of what they've seen.

15 BY ATTORNEY SNYDER:

16 **Q. Okay. That wasn't my question, though.**

17 **My question was, based on what we've**

18 **seen on the video, there's no point at which you**

19 **and Officer Taylor had a conversation about**

20 **whether this should be treated as a high-risk**

21 **traffic stop, right?**

22 ATTORNEY ZELLNER: Object to form.

23 THE WITNESS: I can't see specifically as

24 sitting right here where we would have had that

Page 93

1 conversation.

2 BY ATTORNEY SNYDER:

3 **Q. So the answer is no, right?**

4 A. No. The answer is -- The answer is no.

5 **Q. And so when you arrived on the scene of**

6 **this traffic stop, the information that you had**

7 **going into it was based on the information**

8 **provided in Officer Taylor's call for backup and**

9 **that exchange that we just heard you have with**

10 **Officer Taylor; right?**

11 A. As best as I can tell, correct, unless

12 there was some other radio transmission that's

13 not shown here that reflects more.

14 **Q. Okay. And there is no reason there**

15 **would be another radio transmission that wasn't**

16 **shown here, right?**

17 ATTORNEY ZELLNER: Object to form.

18 THE WITNESS: The reason I'm only speculating

19 that there's a possible of that is the fact that

20 like my body camera has missing audio based off

21 of the way it records, and I just don't know if

22 that's the case with the other body cams or if

23 it's -- I'm just saying, I haven't heard all of

24 the other video feeds from the other officers,

Page 94

1 so I don't know.

2 BY ATTORNEY SNYDER:

3 Q. Okay. But we heard in Officer Taylor's

4 dash cam video the radio traffic in between when

5 he called for backup and when you arrived at the

6 scene, right?

7 A. Correct. Correct. Yes.

8 Q. Is there any reason why there would be

9 radio traffic that wouldn't be broadcast to

10 Officer Taylor --

11 A. No. I'm sorry for that. I can't think

12 of a reason why.

13 Q. Okay. So there wouldn't be any other

14 information that had been broadcast on the

15 radio, right?

16 ATTORNEY ZELLNER: Object to form.

17 THE WITNESS: I don't believe so, no.

18 BY ATTORNEY SNYDER:

19 Q. Okay. And when you arrived on this

20 traffic stop, Officer Taylor hadn't told you why

21 he pulled Mr. Cuypers over; right?

22 A. Yeah. From this exchange that we've

23 seen, it doesn't appear so, no.

24 Q. And he didn't tell you whether

Page 95

1 Mr. Cuypers pulled over right away when he

2 pulled him over, right?

3 A. I don't believe so. From the exchange

4 we just saw, none of that information was

5 relayed.

6 Q. It would have been helpful for Officer

7 Taylor to give you more information, right?

8 A. The first part of that broke up. I'm

9 sorry.

10 Q. No problem. Thank you for letting me

11 know. And please continue letting me know if we

12 have issues with audio. We had some

13 intermittently on Monday, so just keep doing

14 what you just did. Thank you.

15 My question, it would have been helpful

16 for Officer Taylor to give you more information,

17 right?

18 ATTORNEY ZELLNER: Object to form.

19 THE WITNESS: I think more information is

20 always helpful. It helps to create a better

21 picture of things.

22 BY ATTORNEY SNYDER:

23 Q. And when he called for backup, you

24 heard Officer Taylor say, "Hold the plate,"

Page 96

1 right?

2 A. Correct.

3 Q. And in law enforcement jargon, my

4 understanding, and you can correct me if I'm

5 wrong, but my understanding is when he says,

6 "Hold the plate," he's saying he doesn't want

7 Dispatch to give him their return on the license

8 plate yet; right?

9 A. Correct.

10 Q. Okay. It would have been helpful to

11 have that information, right?

12 ATTORNEY ZELLNER: Object to form.

13 THE WITNESS: It completely depends. Really

14 the only helpful piece of information that I can

15 think of in an immediate situation with wanting

16 that plate is whether it's a stolen vehicle or

17 not. And that would be -- Aside from that, the

18 info would be whether the plate matches the car,

19 whether the registration is current, and, you

20 know, at least the name of the driver.

21 BY ATTORNEY SNYDER:

22 Q. And if you have the name of the driver,

23 you can look up their criminal history; correct?

24 A. Now that you say that, I should back

Page 97

1 up.

2 The name of the registered owner. We

3 have no way of confirming who the driver of the

4 vehicle is until we actually verify their

5 identity. So we would get the name of the

6 registered owner of the vehicle.

7 Q. Okay. Officer Taylor never indicated

8 that he had any information to suggest that this

9 vehicle had been stolen, right?

10 A. I never heard him say anything about a

11 stolen vehicle.

12 Q. Okay. So the name of the registered

13 owner of the vehicle would give you a pretty

14 good sense, even if not 100 percent certain, it

15 would give you a good guess as to who the driver

16 of the vehicle was; correct?

17 ATTORNEY ZELLNER: Object to form.

18 THE WITNESS: I'm not comfortable agreeing

19 with that because especially since COVID, there

20 seems to be a change in a lot of behaviors that

21 we're seeing where a lot of cars aren't being

22 registered and updated currently. So I don't

23 know the name of the driver who is driving that

24 vehicle until I've actually identified who they

Page 98

1 are.

2 BY ATTORNEY SNYDER:

3 Q. And the way you identify who the driver

4 of a vehicle is is to ask them, right? Ask them

5 to show you their ID?

6 A. Generally, it's for them to show us

7 their ID -- hopefully it's a driver's license

8 and not just an ID -- and, in some cases, to get

9 their information from them verbally and then

10 confirm their identity via the DOT computer

11 system.

12 Q. And on that computer system, you're

13 able to look up people's criminal histories;

14 right?

15 A. We can. It generally takes a little

16 bit, and it's quite a few pages of information

17 to sift through. And it's the same situation

18 our Dispatch is able to do it, but generally,

19 it's -- even if there's nothing in there, it's

20 many, many, many pages of paper of all the

21 different agencies that are reporting back in.

22 Whether they have information or not, it still

23 takes up space on the paper.

24 Q. And that's something that you can

Page 99

1 access from the computer in your squad vehicles,

2 right?

3 A. It is. I'm not proficient in doing so.

4 I generally do that through our Dispatch because

5 it's a quicker process for me and takes less of

6 my attention from what I'm dealing with.

7 Q. Okay. And at the point we just stopped

8 the video where we agree that it's now a

9 high-risk traffic stop, before that point, we

10 didn't hear you make a plan; right?

11 A. Correct. I don't recall myself making

12 a plan.

13 Q. And you didn't communicate any plan to

14 your fellow officers, right?

15 A. Correct.

16 Q. And after Officer Taylor called for

17 backup, multiple other officers arrived on the

18 scene of the traffic stop; right?

19 A. Yes.

20 Q. And I believe it was first you and then

21 Officers Jason Moen and Taylor Gaard, and then

22 Officer Dylan Crist. Does that sound right?

23 A. Yes. I don't remember the specific

24 order, but it seemed as though there people

Page 100

1 showing up roughly congruent in time to when I

2 was showing up.

3 Q. Right. Officers Moen and Gaard arrived

4 pretty much at the same time as you did, right?

5 A. That would make sense with what ends

6 up -- my memory that I do have of the video.

7 Q. And Officer Crist arrived a little bit

8 after that, right?

9 A. That would make sense, yes.

10 Q. And you were all there pretty much

11 within minutes of Officer Taylor calling for

12 backup, right?

13 A. Pretty much, yes.

14 Q. So all together, that was five cops

15 total; right?

16 A. Yes.

17 Q. And all of you were armed with your

18 department-issued firearms, right?

19 A. I would hope so. They shouldn't be

20 patrolling without that.

21 Q. Right.

22 And you also all had your tasers,

23 right?

24 A. I again would hope so. I didn't do an

Page 101

1 equipment check of every officer. It's not

2 required of me.

3 Q. Okay. And you pulled your gun at some

4 point during this traffic stop, right?

5 A. Yeah. I have recollection of me

6 holding it at generally, at least one of the

7 times, a low ready position.

8 Q. Okay. And when you say "low ready," I

9 think we talked about this earlier, but can you

10 just remind me where you were pointing the gun

11 when you were holding it at a low ready

12 position?

13 A. Yeah. It's out of my holster. I have

14 it generally up higher on my chest ready to push

15 out in front of me if I need to. The barrel is

16 usually aimed somewhere on the ground ready to

17 be brought up on a target if need be.

18 Q. And is that how you are trained to hold

19 your weapon during a high-risk traffic stop?

20 ATTORNEY ZELLNER: Object to form.

21 THE WITNESS: I don't recall the specifics of

22 where the barrel needs to be pointed. I don't

23 know that they absolutely prescribe that. It's

24 a position that I feel comfortable with because

Page 102

1 I can still see everything I need to see and
 2 have it there basically on target in a split
 3 second should it need be.
 4 BY ATTORNEY SNYDER:
 5 Q. Okay. So it's not consistent with --
 6 Well, let me just ask it like this. Would it be
 7 consistent with your training for an officer to
 8 point their weapon at a suspect while they're
 9 providing lethal cover during a high-risk
 10 traffic stop?
 11 A. I would say yes.
 12 Q. Did you pull your gun on Mr. Cuypers
 13 before he had gotten out of his vehicle?
 14 A. I don't recall if it was before or
 15 after or if it was both times, like, before and
 16 then after.
 17 I seem to recall having at least
 18 lowered it at one point, or reholstering it to
 19 transition to something else and then moving
 20 back to it, but I don't recall specifically.
 21 Q. Okay. But you definitely recall
 22 that -- At some point you had your gun
 23 unholstered while Mr. Cuypers was out of the
 24 car, right?

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1 A. Correct.
 2 Q. I'm going to pull up your body cam
 3 video again, and you can tell me -- Well, first
 4 of all, let me ask a clarifying question. When
 5 you say you think you may have switched it to
 6 something else, what did you mean?
 7 A. Whether I just put it away. Because
 8 part of a high-risk traffic stop is that you
 9 need people to be in a handcuffing position.
 10 And I may have been transitioning to move it to
 11 that and then recognized that it was too early
 12 and brought it back to a firearm out of the
 13 holster.
 14 Q. I see.
 15 So you're not saying you switched to a
 16 taser at any point, right?
 17 A. I don't recall.
 18 Q. Okay. I don't think you did. So we
 19 don't need to watch the video to show that since
 20 that's not what you were saying.
 21 Did you see Officer Gaard unholster her
 22 firearm at some point during this traffic stop?
 23 A. I don't recall. I would imagine it
 24 would be captured on video if she did or not.

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1 Q. Okay. Did you see Officer Taylor
 2 unholster his firearm at some point during this
 3 traffic stop?
 4 A. I don't recall if I saw him actually
 5 unholster it or if he had it out unholstered. I
 6 just -- I don't recall seeing him in my memory
 7 with anything in his hands or whether he did or
 8 not.
 9 Q. Okay. So you didn't see him with his
 10 gun drawn?
 11 A. I don't recall.
 12 Q. Mr. Cuypers appeared to be the lone
 13 occupant of his vehicle, right?
 14 A. After we were able to effectively
 15 detain him and then go up and challenge
 16 verbally -- or, excuse me, let me back up --
 17 verbally challenge the vehicle and then move up
 18 and be sure that no one was in the vehicle, yes,
 19 we were able to determine that there was no one
 20 else in the vehicle.
 21 Q. Okay. I'm going to pull up an exhibit
 22 that I'm going to mark as Exhibit 9.
 23
 24

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1 (Whereupon, Brown Deposition
 2 Exhibit No. 9 was identified
 3 for the record.)
 4 BY ATTORNEY SNYDER:
 5 Q. Okay. Are you seeing my screen, sir?
 6 A. Yes. I can see it.
 7 Q. Okay. And do you recognize this
 8 document?
 9 A. Yes.
 10 Q. Okay. And this is the police report
 11 that you prepared related to the incident that
 12 we're discussing, right?
 13 A. It appears to be.
 14 Q. Okay. And at the bottom -- And for the
 15 record it's Bates stamped 484. And this is your
 16 name and badge number at the bottom of the page,
 17 correct?
 18 A. Yes. Correct.
 19 Q. And also the date on here is
 20 February 29th, 2024, correct?
 21 A. Correct.
 22 Q. And that's the day after this traffic
 23 stop, right?
 24 A. Correct.

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1 Q. And it looks like you prepared this
2 report at about 10:39 p.m., the day after,
3 right?
4 A. 8:39 p.m.
5 Q. Thank you. I'm really bad at that.
6 Thanks for the correction.
7 Okay. And you reviewed this report in
8 preparation for your deposition today, right?
9 A. Yes. I had a chance to see it.
10 Q. Okay. And so I'm looking at the third
11 paragraph of your report. And the -- Well, I
12 guess first, I should ask you, when you reviewed
13 this report, is there anything inaccurate in it?
14 A. I wouldn't believe there to be anything
15 inaccurate in it.
16 Q. Okay. And it's important for your
17 police reports to include all of the relevant
18 information related to an incident, right?
19 A. Yes. Generally, if you're doing a
20 supplemental narrative, it's generally not used
21 as the primary summary of the incident. I'm
22 trying to think of examples. Like, if someone
23 is arrested for drug paraphernalia and having
24 possession of drugs, my summary report, if I

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1 didn't make the arrest, wouldn't include all the
2 information on testing and stuff because I
3 wouldn't have done that.
4 Q. Okay. But your reports are often used
5 to refresh your recollection about an incident,
6 you know, when you need to later for trial and
7 things like that; right?
8 A. Correct.
9 Q. So it's important that they are
10 thorough and accurate, right?
11 A. Correct.
12 Q. All right. So I'm looking at the third
13 paragraph of this report which states "Officer
14 Taylor began giving loud, clear verbal commands
15 to the driver, who appeared to be the lone
16 occupant of the vehicle."
17 Do you see where it says that?
18 A. I do.
19 Q. Okay. And so does this refresh your
20 recollection as to whether Mr. Cuypers appeared
21 to be the lone occupant of the vehicle at the
22 time that Officer Taylor began giving loud,
23 clear verbal commands?
24 A. It does.

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1 Q. And you're not disputing what's in your
2 report, right?
3 A. No. He appeared to be, and it wasn't
4 confirmed until after we were able to approach
5 the vehicle that that was the case.
6 Q. Understood.
7 But at that time, you had no reason to
8 believe that there was anyone else in the car,
9 right?
10 A. He appeared to be the lone occupant of
11 the vehicle.
12 Q. Right. So there was no reason to
13 believe there was someone else in the car at
14 that point, right?
15 ATTORNEY ZELLNER: Objection to form.
16 THE WITNESS: We treat every call when we're
17 doing the high-risk traffic stop as if there's
18 other occupants in the vehicle, even if we only
19 visibly can see one person.
20 So he appeared to be the lone occupant
21 of the vehicle, and we were able to confirm
22 later on that he was the only occupant of the
23 vehicle.
24

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1 BY ATTORNEY SNYDER:
2 Q. Okay. When Officer Taylor ordered
3 Mr. Cuypers to get out of the vehicle, he
4 complied; right?
5 A. I believe generally, yes.
6 Q. And once he got out of the car, you
7 could see that Mr. Cuypers was not a big person,
8 right?
9 ATTORNEY ZELLNER: Object to form.
10 THE WITNESS: He did not appear to be
11 morbidly obese or otherwise, you know, a very
12 large person, no.
13 BY ATTORNEY SNYDER:
14 Q. Right. He wasn't like an Arnold
15 Schwarzenegger body builder type, right?
16 A. Correct.
17 Q. He was about 5, 7; does that sound
18 accurate?
19 A. I would have to review his DOT return
20 to see his height and stuff. I don't recall it
21 at all, like, officially the number.
22 Q. Okay. So I'm showing you what I'm
23 marking as Exhibit 10, which is a Superior
24 Police Department document that appears to be

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1 documenting the booking information for Ian
 2 Cuypers. And it's Bates stamped 80 to 81.
 3 (Whereupon, Brown Deposition
 4 Exhibit No. 10 was identified
 5 for the record.)
 6 BY ATTORNEY SNYDER:
 7 Q. And do you see here where it states
 8 that Mr. Cuypers's height was 5 foot 7?
 9 A. I do.
 10 Q. And do you see where it says his weight
 11 was 140?
 12 A. Yes.
 13 Q. Do you have any reason to dispute
 14 what's on the booking sheet?
 15 A. I don't.
 16 Q. When Mr. Cuypers got out of the car,
 17 can you describe his demeanor for me?
 18 A. I guess my recollection of his demeanor
 19 was that we were having a difficult time getting
 20 him to do the specific task and stay doing the
 21 specific task that we were directing him to do.
 22 Q. Okay. Officer Taylor testified that he
 23 seemed confused nervous and anxious. Do you
 24 agree with that assessment?

Page 111

1 A. From the video that I was able to
 2 review and I recall, there was a point where he
 3 wanted us to explain what was going on. But my
 4 general recollection is just him not doing what
 5 we were telling him to do.
 6 Q. Okay. And when he asked you to explain
 7 what was going on, nobody answered him; right?
 8 A. I don't recall.
 9 Q. Well, okay. Let's pull up Exhibit 6,
 10 which is the dash cam video.
 11 (Whereupon, a discussion was had
 12 off the record.)
 13 (Whereupon, a short break was
 14 taken.)
 15 BY ATTORNEY SNYDER:
 16 Q. Mr. Brown, before we went on the break,
 17 I was about to show you a clip from Exhibit 6,
 18 which is Officer Taylor's dash cam. And I'm
 19 starting the video at 2:16 on the player, which
 20 is 22:17:28 on the clock.
 21 (Whereupon a video was
 22 displayed.)
 23 BY ATTORNEY SNYDER:
 24 Q. Okay. I've stopped the video at 4:32

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1 on the video player, which is 22:19:43 on the
 2 clock.
 3 So do you agree, or does that refresh
 4 your recollection as to the fact that no one
 5 answered Mr. Cuypers's questions about what was
 6 going on?
 7 A. Correct.
 8 Q. Okay. And Mr. Cuypers complied with
 9 many of the officers' orders, right?
 10 A. My interpretation from watching that,
 11 most of them, he didn't.
 12 Q. Okay. Well, let's take them one by
 13 one.
 14 He tried to open the car door with his
 15 left hand when Officer Taylor told him to,
 16 right?
 17 A. Yes. I saw that.
 18 Q. And the car was unlocked when Officer
 19 Taylor told him to unlock it, and he did that;
 20 right?
 21 A. I heard something about unlocking it.
 22 Q. I mean, he must have unlocked the car
 23 to get out of the car, right?
 24 A. Yes.

Page 113

1 Q. Okay. And he got out of the car when
 2 he was told to do so, right?
 3 A. Correct.
 4 Q. And he backed towards you when he was
 5 told to do so, right?
 6 A. Correct.
 7 Q. Okay. He slowed down when he was told
 8 to do so?
 9 A. We just glitched.
 10 Q. Okay. Thank you for letting me know.
 11 My question was, he slowed down when he
 12 was told to do so; right?
 13 A. Yes.
 14 Q. And he stopped when he was told to do
 15 so, right?
 16 A. Ultimately, yes.
 17 Q. And he put his hands up when he was
 18 told to do so, right?
 19 A. Yes.
 20 Q. He never brought his hands down?
 21 A. I didn't see them go down past his
 22 waistline, no.
 23 Q. Did they go down past his upper chest?
 24 A. I don't recall how far they went down

Page 114

1 when he threw the bandana off.
 2 Q. Okay. Other than when he threw the
 3 bandana off, did you see his hands go below his
 4 chest?
 5 A. Not that I could see, no.
 6 Q. Was there anything threatening about
 7 him throwing the bandana off his head?
 8 ATTORNEY ZELLNER: Object to form.
 9 THE WITNESS: We had just finished telling
 10 him not to do anything except put his hands on
 11 his head.
 12 BY ATTORNEY SNYDER:
 13 Q. Okay. But on its own, taking a bandana
 14 off your head doesn't pose a danger to any of
 15 the officers; right?
 16 A. Correct.
 17 Q. Okay. And his hands were up when he
 18 was tased, right?
 19 A. I believe so.
 20 Q. And his hands were a couple inches from
 21 his head, right?
 22 A. They were up. I don't -- A couple
 23 inches, a foot from his head.
 24 Q. Okay. At trial, you were asked:

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1 QUESTION: Even when he took it off his
 2 head, at that point, when he's close to
 3 you, it's still near his head, right?
 4 And you answered:
 5 ANSWER: Generally speaking, yes.
 6 Do you agree with that testimony, that
 7 generally speaking, his hands were near his
 8 head?
 9 A. Yes.
 10 Q. Okay. And there was nothing in his
 11 hands, right?
 12 A. Other than when he threw the bandana,
 13 no, not that I could see.
 14 Q. Okay. He wasn't holding a gun, right?
 15 A. No.
 16 Q. He wasn't holding a knife?
 17 A. No.
 18 Q. And you didn't see any suspicious
 19 bulges that could be a weapon, right?
 20 A. That, I don't recall.
 21 Q. You don't recall whether you did; or
 22 you did?
 23 A. I don't recall whether I did or didn't.
 24 Q. Okay. So you have no recollection of

Page 116

1 observing any bulges that could be a weapon,
 2 right?
 3 A. Correct. I have no recollection of
 4 that.
 5 Q. Okay. And he never reached for his
 6 waistband, right, as we discussed?
 7 A. Correct.
 8 Q. He never made any move to grab a
 9 weapon, right?
 10 A. Correct.
 11 Q. He never lunged at the officers?
 12 A. Correct.
 13 Q. He never got in a fighting stance?
 14 A. Correct.
 15 Q. And there was never a point where you
 16 were unable to see his hands, right?
 17 ATTORNEY ZELLNER: Object to form.
 18 THE WITNESS: Correct.
 19 BY ATTORNEY SNYDER:
 20 Q. Did you believe that one 5 foot 7,
 21 140-pound unarmed man on his own posed a threat
 22 to five armed cops?
 23 ATTORNEY ZELLNER: Object to form.
 24 THE WITNESS: Until we confirmed that he

Page 117

1 doesn't have a weapon, I believe that he could
 2 be a threat still.
 3 BY ATTORNEY SNYDER:
 4 Q. Okay. And he didn't give any signs
 5 that he was having a mental health episode, did
 6 he?
 7 A. I don't believe so.
 8 Q. He didn't seem to be experiencing
 9 excited delirium, which we talked about earlier;
 10 right?
 11 A. Correct.
 12 Q. He wasn't having a psychotic episode?
 13 A. I don't believe so.
 14 Q. He didn't display a thousand-mile
 15 stare?
 16 A. I don't believe so.
 17 Q. And he didn't show any signs that he
 18 was intoxicated, right?
 19 A. No, not that I directly observed or
 20 thought to myself.
 21 Q. He didn't show any signs that he was on
 22 drugs, right?
 23 A. No.
 24 Q. Okay. He didn't do or say anything to

Page 118

1 suggest he was suicidal, right?

2 A. No. He made no mentions of being

3 suicidal.

4 Q. And he didn't make any indications that

5 he wanted to commit suicide by cop?

6 A. No. He didn't say anything about

7 wanting to commit suicide by cop.

8 Q. Okay. If I'm understanding you right,

9 what you're saying is that he didn't follow some

10 of your orders; is that right?

11 A. He didn't follow several of our

12 directions.

13 Q. Okay. And the directions that you're

14 talking about were the directions to face away

15 from the officers, right? That was one of them?

16 A. Correct. Multiple times.

17 Q. And one of them was to keep his hands

18 on his head with his fingers interlaced; that

19 was one of them, right?

20 A. Correct.

21 Q. And one of them was to go down on his

22 left knee, right?

23 A. Correct. Again, multiple times, I

24 believe, from what we just saw.

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1 Q. And he didn't immediately go down to

2 his left knee in response to those orders,

3 right?

4 A. It was long enough that we had to

5 repeat it two or three times.

6 Q. Okay. So what you just described, him

7 not following orders, that's noncompliance;

8 right?

9 ATTORNEY ZELLNER: Object to form.

10 THE WITNESS: Correct.

11 BY ATTORNEY SNYDER:

12 Q. And under the DAAT continuum that we

13 looked at earlier, noncompliance is passive

14 resistance; right?

15 A. My interpretation of the situation was

16 that it was physical behaviors that, given the

17 concerns from what we had reportedly to me

18 witnessed -- or witnessed by Officer Taylor, up

19 until we confirm that there's no possibility of

20 a firearm, that there's a possibility of a

21 firearm.

22 Q. Okay. But as we discussed, you didn't

23 have any reason to think that he did have a

24 firearm, right? You're describing a possibility

Page 120

1 that he could have a firearm, right, not that

2 you knew he had a firearm or had some reason to

3 know that; right?

4 A. I didn't have any specific knowledge

5 that directly said that he had a firearm. The

6 basis was made off of very strange behavior and

7 what is called furtive movements as reported by

8 Officer Taylor.

9 Q. Okay. You didn't see the furtive

10 movements, right?

11 A. No. I did not see the furtive

12 movements. I wasn't there at that time.

13 Q. So the only information you had about

14 the movements were those brief interactions that

15 we watched earlier in which you received

16 information from Officer Taylor, right?

17 ATTORNEY ZELLNER: Object to form.

18 THE WITNESS: Correct.

19 BY ATTORNEY SNYDER:

20 Q. Okay. Any time you interact with a

21 member of the public, there's a possibility that

22 they could be armed; right?

23 A. Correct.

24 Q. And like we said earlier, according to

Page 121

1 the DAAT Use of Force Continuum, noncompliance

2 is passive resistance; right?

3 ATTORNEY ZELLNER: Object to form.

4 THE WITNESS: The noncompliance and not

5 following our directions in this case I

6 interpreted as physical actions which did not

7 follow our directions, which falls under the

8 active resistance or its threat.

9 BY ATTORNEY SNYDER:

10 Q. Okay.

11 A. He kept looking away from us; he didn't

12 get down on his knee. Physical actions that did

13 not do what we were telling him to do.

14 Q. Other than the three orders that we

15 discussed, were there any others that you claim

16 he didn't follow?

17 A. I don't think so.

18 Q. And how did him doing those things --

19 Well, strike that.

20 Mr. Cuypers never indicated that he

21 would try to flee, right?

22 A. No. He never said anything to me that

23 made me believe that he was going to be running.

24 THE WITNESS: Just a heads up. I may be

Page 122

1 having an interruption in a second. It's about
 2 time for the 12:00 o'clock sergeant to get here;
 3 so it might happen, and then I'll have to advise
 4 him that I'm in here still.
 5 ATTORNEY SNYDER: That's okay. Do you want
 6 to take a brief break so you can have that
 7 conversation?
 8 THE WITNESS: I don't know if he's here or
 9 not. I thought I heard his voice, but I don't
 10 know.
 11 BY ATTORNEY SNYDER:
 12 Q. Okay. Before she tased him, Officer
 13 Gaard warned Mr. Cuypers that she was going to
 14 tase him if he did not follow your instructions
 15 to get down on his left knee, correct?
 16 A. Yeah. That's what I recall from the
 17 video, yes.
 18 Q. Okay. And you were able to hear that
 19 warning, right?
 20 A. I would assume so. In the video, I
 21 could hear it.
 22 Q. Okay. And she was standing a couple of
 23 feet away from you when she said it, right?
 24 A. I don't know exactly where she was

Page 123

1 standing. I would have to see her body cam to
 2 be able to determine exactly where that is.
 3 Q. Okay. Let's pull up her body cam.
 4 All right. So this is going to be
 5 Exhibit 11.
 6 (Whereupon, Brown Deposition
 7 Exhibit No. 11 was identified
 8 for the record.)
 9 BY ATTORNEY SNYDER:
 10 Q. And this is Officer Gaard's body worn
 11 camera, and it's Bates stamped 460.
 12 All right. So I'm starting the video
 13 at 1:54 on the video player, which is 22:18:54
 14 on the clock.
 15 (Whereupon a video was
 16 displayed.)
 17 BY ATTORNEY SNYDER:
 18 Q. All right. I've stopped the video at
 19 2:44 on the video player, which is 22:19:43 on
 20 the clock.
 21 And does seeing that video refresh your
 22 recollection as to where Officer Gaard was
 23 standing when she tased Mr. Cuypers?
 24 A. It does.

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1 Q. And would you agree that she was
 2 standing a couple of feet away from you?
 3 A. Yes.
 4 Q. Did you see Officer Gaard had her taser
 5 out before she fired it?
 6 A. I don't recall.
 7 Q. Did you see her say something about
 8 having nonlethal coverage?
 9 A. Again, I don't recall.
 10 Q. Okay. Did you see the laser pointers
 11 on Mr. Cuypers's back?
 12 A. Yes. That, I saw.
 13 Q. And as we discussed, you were the
 14 highest ranking officer on the scene there;
 15 right?
 16 A. Yes.
 17 Q. Which means you were the highest in the
 18 chain of command?
 19 ATTORNEY ZELLNER: Object to form.
 20 THE WITNESS: Yes.
 21 BY ATTORNEY SNYDER:
 22 Q. And so the other officers who were
 23 there had to follow your orders, right?
 24 ATTORNEY ZELLNER: Object to form.

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1 THE WITNESS: Yes.
 2 BY ATTORNEY SNYDER:
 3 Q. And you did not take any steps to
 4 deescalate this situation, right?
 5 ATTORNEY ZELLNER: Object to form.
 6 THE WITNESS: This is a deescalation. The
 7 entire goal of this is to safely detain someone,
 8 ensure that there is no handgun or any other
 9 weapons, figure out the reason for the furtive
 10 movements, and then move on with the initial
 11 basis for the stop.
 12 BY ATTORNEY SNYDER:
 13 Q. Okay. But he was asking what was going
 14 on before he got tased, right? We already
 15 talked about that, right?
 16 A. Yes.
 17 Q. And you didn't answer his questions?
 18 A. No. I did not answer his questions.
 19 Q. Are you trained that dialogue is an
 20 important deescalation tool?
 21 ATTORNEY ZELLNER: Object to form.
 22 THE WITNESS: In certain situations, it's a
 23 very effective tool.
 24

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1 BY ATTORNEY SNYDER:

2 Q. Do you think Officer Taylor

3 unreasonably escalated this situation?

4 ATTORNEY ZELLNER: Object to form.

5 THE WITNESS: I'm not Officer Taylor. I

6 wasn't standing in her exact position.

7 BY ATTORNEY SNYDER:

8 Q. Just to clarify, I'm talking about

9 Officer Justin Taylor, who initiated the stop.

10 A. I'm sorry.

11 Q. I know her first name is Taylor, so

12 that can be a little confusing. So just to

13 clarify.

14 Please finish your answer.

15 A. Would you be willing, just because of

16 that, could you please repeat your question.

17 Q. No problem.

18 ATTORNEY SNYDER: Tracy, would you mind

19 reading it back.

20 (Whereupon, the record was

21 partially read as requested.)

22 ATTORNEY ZELLNER: Same objection.

23 ATTORNEY SNYDER: And that was "unreasonably

24 escalated." I think Tracy had a little bit of

Page 127

1 cold symptoms there.

2 THE WITNESS: No. I don't think so.

3 BY ATTORNEY SNYDER:

4 Q. Okay. I'm pulling up your body cam

5 again, which is Exhibit 7. And I'm going to

6 show you a clip from after Mr. Cuypers was

7 tased. And I'm starting this video at 3:53 on

8 the video player, which is 22:20:50 on the

9 clock.

10 (Whereupon a video was

11 displayed.)

12 BY ATTORNEY SNYDER:

13 Q. Okay. And I've stopped it at 3:58 on

14 the video player, which is 22:20:55 on the

15 clock.

16 And was that your voice that we just

17 heard?

18 A. It sounded -- Again, I'm having

19 difficulty hearing the audio through how this is

20 all going.

21 Q. Okay. Do you want me to play it again?

22 A. Yes, please. I have my computer

23 speakers maxed out and my hearing aid maxed out.

24 Q. No problem. I'm happy to play it again

Page 128

1 any time we need to. Just let me know, please.

2 All right playing the same video clip

3 again.

4 (Whereupon a video was

5 displayed.)

6 BY ATTORNEY SNYDER:

7 Q. Okay. Were you able to hear that that

8 time?

9 A. Yep.

10 Q. And was that your voice that we just

11 heard?

12 A. Yes.

13 Q. And was that you saying, "I've got a

14 code taser. Just kind of figuring things out

15 here"?

16 A. Correct.

17 Q. Okay. So what did you mean by that?

18 A. A code taser is a -- Dispatch will

19 usually time stamp it. We were talking earlier

20 about their ability to add comments in the CAD

21 or whatever for posterity. And traditionally,

22 we've put that in there so that we have a rough

23 timeframe of when it was deployed.

24 And the "figuring stuff out," we're

Page 129

1 still figuring stuff out. We still haven't

2 confirmed that the car doesn't have another

3 person in it, and figuring out what was the

4 basis for all this.

5 Q. Okay. I'm going to play another clip

6 from Exhibit 7. And this clip I'm starting at

7 5:46 on the video player, which is 22:22:43 on

8 the clock.

9 (Whereupon a video was

10 displayed.)

11 BY ATTORNEY SNYDER:

12 Q. All right. I've stopped it at 6:18 on

13 the video player, which is 22:23:15 on the clock.

14 And that was your voice again, right?

15 A. Yes.

16 Q. And, sorry, were you able to hear that

17 one?

18 A. Yes. That one didn't have the same

19 radio traffic in the background and beeps and

20 bonks and stuff.

21 Q. Okay. So that's you making a plan for

22 how you're going to approach the empty vehicle,

23 right?

24 A. How we're going to approach the vehicle

Page 130

1 and confirm that it's empty, correct.

2 Q. Okay. And at this point, did you think

3 there was a possibility that there was a

4 dangerous passenger inside that vehicle?

5 A. I don't recall exactly what I was

6 thinking. But if it's -- Until it's confirmed,

7 it's a possibility.

8 THE WITNESS: I'm sorry. One second.

9 ATTORNEY SNYDER: No problem. Let us know

10 when you're ready to go.

11 Why don't we just take a five-minute

12 break.

13 (Whereupon, a short break was

14 taken.)

15 BY ATTORNEY SNYDER:

16 Q. Okay. I'm going to pull up another

17 video clip. So this is Exhibit 7 again, which

18 is your body worn camera video. And I'm going

19 to play a clip starting at 4:13 on the video

20 player, which is 22:21:10.

21 (Whereupon a video was

22 displayed.)

23 BY ATTORNEY SNYDER:

24 Q. All right. And I've stopped it at 4:28

Page 131

1 on the video player, which is 22:21:16 -- or :26

2 on the clock.

3 And in that video clip, we heard your

4 voice telling Officer Crist, "No. One person

5 commands."

6 Right?

7 A. Yeah. Me telling somebody that.

8 Q. Sure. Yeah. In this video, we can't

9 tell who it is. But you're telling one of the

10 other officers who are under your command that

11 only one of you should be giving commands,

12 right?

13 A. Yeah. At that point in time.

14 Q. Okay. Why did you give them that

15 instruction?

16 A. Well, we had just gotten done coming up

17 with the coordination of how we were going to

18 approach that vehicle. And it makes it clearer

19 if only one person is speaking at a time,

20 ideally. It's not always the reality, but it's

21 what we try to do.

22 Q. Yeah. Because it can be confusing if

23 multiple officers are giving commands at the

24 same time, right?

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1 A. Especially if they're speaking at the

2 exact same time and overriding each other.

3 Q. But when you say that only one officer

4 should be commanding, is what you mean that they

5 shouldn't be talking over each other; or that

6 throughout the interaction, only one person

7 should be giving commands?

8 A. Right then and there, I meant for me to

9 be giving commands to the vehicle and just me to

10 do it with the hope of preventing people from

11 talking over each other.

12 Q. Right. So you didn't want, like, him

13 giving a command, and you giving a command, and

14 then going back and forth; right?

15 A. I didn't want us talking over each

16 other at the same time.

17 Q. Okay. In between when Mr. Cuypers was

18 pulled over and when he was tased, there were

19 multiple officers giving orders; correct?

20 A. Correct.

21 Q. At some point, you gave orders; Officer

22 Taylor gave orders; Officer Gaard also gave

23 orders, right?

24 A. Correct.

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1 Q. And Officer Moen also joined in on the

2 orders at some point, right?

3 A. I don't recall Officer Moen's part, but

4 I do recall from the video I've seen so far

5 Officer Taylor and Officer Gaard.

6 Q. Okay. I'm going to pull up Exhibit 11,

7 which is Officer Gaard's body worn camera. I'm

8 going to share my video with you, and I'm

9 starting it at 1 minute and 29 seconds on the

10 video player, which is 22:18:28 on the clock.

11 (Whereupon a video was

12 displayed.)

13 BY ATTORNEY SNYDER:

14 Q. Okay. And I stopped it at 1:35 on the

15 video player, which is 22:18:35 on the clock.

16 So would you agree that we just heard

17 Officer Moen and Officer Taylor giving commands

18 at the same time?

19 A. I heard one of them giving commands. I

20 couldn't hear the other one if they were talking

21 to the other officer or giving a command.

22 Q. Okay. We can watch it again.

23 All right. Playing the same video clip

24 back again.

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1 (Whereupon a video was
 2 displayed.)
 3 BY ATTORNEY SNYDER:
 4 Q. Okay. And did you hear both Officer
 5 Taylor and Officer Moen say "Face away from us"?
 6 A. Yes. That time, I did hear that.
 7 Q. And they were talking over each other,
 8 right?
 9 A. They both spoke at the same time, yes.
 10 Q. Right.
 11 And so between you, Officer Taylor,
 12 Officer Gaard, and Officer Moen, that's four
 13 total officers who were giving orders during
 14 this traffic stop; right?
 15 A. It appears so, yes.
 16 Q. And before Mr. Cuypers was tased, you
 17 never instructed your officers that only one
 18 person should issue commands; right?
 19 A. Correct. I think at one point, I
 20 dictated that I would be giving the commands.
 21 Q. Right. At one point, you took over
 22 from Officer Taylor; right?
 23 A. Correct.
 24 Q. But even after you had done that,

Page 135

1 Officer Gaard issued a command; right?
 2 A. Yes.
 3 Q. So you still weren't the only officer
 4 giving commands, right?
 5 A. Correct.
 6 Q. Okay. I'm going to go back to
 7 Exhibit 7, which is your body worn camera.
 8 Okay. I'm sharing my screen with you,
 9 and I'm starting Exhibit 7 at 10:51 on the video
 10 player, which is 22:27:48 on the clock.
 11 (Whereupon a video was
 12 displayed.)
 13 BY ATTORNEY SNYDER:
 14 Q. All right. I stopped the player at
 15 11 minutes on the video player, which is
 16 22:27:57 on the clock.
 17 And that was your voice we just heard,
 18 right?
 19 A. Yes.
 20 Q. And we heard you say "Is he
 21 DoorDashing"?
 22 A. Yes.
 23 Q. Yes? Okay.
 24 And then I heard what I think was you

Page 136

1 saying "Goddamit." Is that what you heard?
 2 A. "Goddamit" or "goldangit" or something
 3 like that.
 4 Q. Why did you say that?
 5 A. Because I think that was when we
 6 realized that a lot of this -- this could have
 7 all been prevented had he not done the furtive
 8 movements, and it's just based around that
 9 behavior that led to this. And so it stinks.
 10 Q. Okay. So you said "goddamit" because
 11 you realized that one of your officers just
 12 tased an innocent DoorDash driver, right?
 13 A. No. I said "goldangit" because I was
 14 frustrated that all of this behavior from this
 15 individual didn't have -- you know, there wasn't
 16 a pound of meth. It basically came out of
 17 nowhere.
 18 Q. All right. I'm showing you another
 19 clip from Exhibit 7. And I'm starting it at
 20 12:25 on the video player, which is 22:29:22 on
 21 the clock.
 22 (Whereupon a video was
 23 displayed.)
 24

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1 BY ATTORNEY SNYDER:
 2 Q. All right. I've stopped it at 12:55 on
 3 the video player, which is 22:29:52 on the
 4 clock.
 5 And we just heard Officer Taylor
 6 explaining to you why he pulled Mr. Cuypers
 7 over, right?
 8 A. Correct.
 9 Q. And that's the first time you had any
 10 information about why Mr. Cuypers had been
 11 pulled over?
 12 A. From what we've seen, yeah, that's the
 13 first he's able to give me the full explanation
 14 for what he saw.
 15 Q. Okay. Did you previously have any
 16 explanation for why he had been pulled over?
 17 A. I'm sorry, no. Part of that
 18 conversation I thought was the him digging
 19 around part. So this was the first I'd heard
 20 any of the actual basis for even making the
 21 contact.
 22 Q. Right.
 23 And you said, "Just so we're on the
 24 same page," right?

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1 A. Yeah. "Get me up to speed just so
2 we're on the same page."
3 Q. But you didn't ask him to get you on
4 the same page before the traffic stop, right?
5 A. When would I have had -- I didn't have
6 an opportunity before the traffic stop.
7 Q. You're right. It's a bad question.
8 Let me clarify.
9 You didn't ask him to get you on the
10 same page when you arrived at the traffic stop,
11 right, when you first arrived?
12 A. No, I did not.
13 Q. All right. I'm sharing my screen with
14 you, and we're still on Exhibit 7. And I'm
15 playing a clip starting at 13:50 on the video
16 player, which is 22:30:47 on the clock. And
17 this is the clip from your body worn camera
18 video.
19 (Whereupon a video was
20 displayed.)
21 BY ATTORNEY SNYDER:
22 Q. All right. And I stopped the video at
23 14:37 on the video player, which is 22:31:34 on
24 the clock.

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1 And we just saw you going into Officer
2 Taylor's car and doing something on his
3 computer, right?
4 A. Yes.
5 Q. What were you doing on the computer?
6 A. It looks -- I couldn't see any of the
7 actual specific text, but it looked like that
8 was that CAD software. And it looks like I was
9 clicking between the tabs on that. And then it
10 appears, I recognized the logo for the Wisconsin
11 Circuit Court Access Portal on a website getting
12 brought up.
13 Q. Okay. And why would you have been
14 going to the Wisconsin Circuit Court Access
15 Portal?
16 A. Usually, if I'm going on the Wisconsin
17 Circuit Court Access Portal, it's because I'm
18 looking to see very quickly a very not full
19 criminal history I'm trying to see what
20 contacts, if any, somebody has had specifically
21 in the state of Wisconsin. It's only for
22 Wisconsin.
23 Q. Okay. So that was you most likely
24 looking up Mr. Cuypers's criminal history in the

Page 140

1 state of Wisconsin; is that right?
2 A. Correct.
3 Q. And that's about how long it generally
4 takes to do that?
5 A. Yeah. It can be quick; it can take
6 longer if there's people with similar names,
7 et cetera.
8 Q. Do you remember if there was anyone
9 with a similar name as Ian Cuypers?
10 A. I don't recall, but it's a more unique
11 name.
12 Q. Yeah.
13 All right. At Mr. Cuypers's trial, you
14 testified to the following; you said:
15 ANSWER: I wear hearing aids, and it
16 greatly influences how I view certain
17 situations. So I was kind of hoping that
18 by taking a different approach with me
19 being in a different location, a
20 different voice giving louder, different
21 commands, that I might get a different
22 response.
23 Do you remember that testimony?
24 A. I do.

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1 Q. Okay. What did you mean when you said
2 that your hearing aids influence how you view
3 certain situations?
4 A. I think primarily, just like what we've
5 seen here today, sometimes it can make it harder
6 to hear things. And so it shapes if maybe
7 somebody, at a minimum, can't hear what I'm
8 saying. So if an officer is standing on the
9 opposite side of a car yelling across to another
10 side of a car, maybe me being directly behind
11 the car where that driver is, I'll get a
12 different response.
13 Q. Okay. So if I'm understanding you
14 right, you're saying that if a suspect was hard
15 of hearing like you are, they might not follow
16 an officer's command because they couldn't hear
17 it; right?
18 A. Correct.
19 Q. And in that situation, it would not be
20 because they were intentionally disobeying;
21 right?
22 A. If it was because they couldn't hear
23 it, it would -- I guess it wouldn't be because
24 of intentionality.

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1 Q. Okay. And a person who fails to follow
2 an officer's commands because they couldn't hear
3 them would not be guilty of obstructing an
4 officer, right?
5 A. I don't believe -- As long as we could
6 show that -- If we could show that it was for
7 other than the hearing, that they were, you
8 know, lying or something, then you would have
9 the intentionality.
10 Q. But if they didn't follow the commands
11 because of their disability, then you wouldn't
12 have the intentionality to support finding them
13 guilty of obstructing an officer; right?
14 A. It would probably play into how it
15 all -- whether it's found to be intentional or
16 not.
17 Q. All right. I'm going to go to
18 Exhibit 8, which is Officer Taylor's body worn
19 camera video.
20 All right. And I'm starting the video
21 at 23:41 on the video player, which is 22:38:53
22 on the clock.
23 (Whereupon a video was
24 displayed.)

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1 BY ATTORNEY SNYDER:
2 Q. Okay. I've stopped it at 24:26 on the
3 video player, which is 22:39:38 on the clock.
4 And that was a conversation between you
5 and Officer Taylor in the jail sally port area,
6 right?
7 A. Correct.
8 Q. And we heard you say, "My gut feeling
9 is how he interprets the world might be a little
10 different than how we do," right?
11 A. Yeah. That was my gut feeling.
12 Q. And you told -- Yeah.
13 What did you mean when you said "the
14 way he interprets the world might be a little
15 different than how we do"?
16 A. When he was expecting us to give
17 explanations and asking for explanations, I just
18 mean that different people have different
19 approaches and different bases on listening to
20 directions. I mean, I think it was a pretty
21 open-ended different way that he interprets the
22 world. I think we all interpret the world very
23 differently.
24 Q. Okay. And you seemed to think that was

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1 relevant here in the question of whether he
2 should be charged criminally or whether he
3 should get a civil forfeiture ticket, right?
4 A. Along with his lack of criminal
5 history.
6 Q. Right.
7 And so I'm clarifying. What was the
8 way in which you thought he interpreted the
9 world differently? Like, specifically, what did
10 you think was his interpretation versus yours?
11 A. I don't have -- Does the conversation
12 continue? That might jog my memory. Does it
13 discuss it further?
14 Q. The conversation continues, but there's
15 not really a discussion about this piece.
16 That's why I'm asking you here now.
17 A. Okay. I simply don't recall. I just
18 don't.
19 Q. Okay. So do you think that Mr. Cuypers
20 might have had a learning disability?
21 A. I have no -- I'm not a medical
22 professional. I can't make that determination.
23 Q. Okay. So you're aware that Officer
24 Taylor issued Mr. Cuypers a ticket for resisting

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1 or obstructing an officer, right?
2 A. Yes.
3 Q. And you agreed with his charging
4 decision, right?
5 A. I did. I felt that it was the
6 appropriate use of officer discretion.
7 Q. Okay. Would you be surprised to learn
8 that Mr. Cuypers does in fact have a learning
9 disability?
10 A. I believe it's the first I've heard of
11 it.
12 Q. Okay. And are you surprised by it?
13 A. I guess I don't know how to answer that
14 question. There's a lot of information that
15 I've learned since this incident occurred and
16 the time that we're at right now. And surprised
17 at that time or surprised now?
18 Q. Surprised now. Are you surprised?
19 A. I think, no.
20 Q. And why aren't you surprised?
21 A. I don't know that I can put it into
22 words. I can't articulate it. I'm sorry.
23 Q. Can you do your best?
24 A. I'm honestly drawing a complete blank.

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1 I'm not able to describe that further. I'm
 2 sorry.
 3 Q. I'm going to play us another clip from
 4 the video. I'll get it set up.
 5 Okay. This is still Exhibit 6, Officer
 6 Taylor's body cam. And I'm playing a clip
 7 starting at 27:27 on the video player, which is
 8 22:42:40 on the clock.
 9 (Whereupon a video was
 10 displayed.)
 11 BY ATTORNEY SNYDER:
 12 Q. Okay. I've stopped the clip at 27:44
 13 on the video player, which is 22:42:57 on the
 14 clock.
 15 And in that conversation, we heard
 16 Officer Taylor saying that he was going to cite
 17 Mr. Cuypers for driving the wrong way on a
 18 one-way because that's the reason he pulled him
 19 over, and City ordinance resist/obstruct.
 20 You heard him say that?
 21 A. Yes. That part I heard.
 22 Q. And then there was a little bit more
 23 back and forth, and then you said, "I support
 24 that." Right?

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1 A. Yes.
 2 Q. Okay. Did you get the impression that
 3 Officer Taylor was asking for your input on what
 4 to charge him with?
 5 A. I don't recall. I honestly don't. I
 6 don't recall what led to us having that
 7 conversation. Obviously I left the scene and
 8 went to the jail sally port, but I don't know
 9 what precipitated or preceded that.
 10 Q. Okay. Is it atypical for you to return
 11 to the jail sally port during a shift -- or
 12 maybe I shouldn't say return -- but to go, to go
 13 there during a shift?
 14 A. No. And I don't think it's -- You
 15 know, we communicate with each other. We give
 16 each other input, and I give input to officers
 17 all the time. Again, I see that as part of my
 18 role, something that comes from having more
 19 experience. And I am older than, I think,
 20 Officer Taylor. I think he was much younger; I
 21 don't know exactly what age. But different
 22 world views and different experience levels.
 23 Q. And you as a more experienced officer
 24 are willing to provide guidance to the more

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1 junior officers like Officer Taylor, right?
 2 That's what you're saying?
 3 A. Yes.
 4 Q. And in this case, you gave him some
 5 guidance by encouraging him not to pursue
 6 criminal charges because Mr. Cuypers had no
 7 criminal record, right?
 8 A. Yeah.
 9 Q. And he listened to you, right?
 10 A. Yes.
 11 Q. And he gave him a City ordinance ticket
 12 instead?
 13 A. Correct.
 14 Q. Did you think Mr. Cuypers had
 15 deliberately disobeyed orders?
 16 A. While we were on scene, I did believe
 17 so, yes.
 18 Q. Okay. What evidence did you have to
 19 support that he deliberately disobeyed orders?
 20 A. Well, from what we saw in video
 21 footage, he was communicating back with us. He
 22 was following some directions, but then not
 23 following others. And to me, that indicates a
 24 challenging, "I'm not going to do it."

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1 Q. Other than what you just described, did
 2 you have any evidence that he was challenging
 3 you or deciding not to do it?
 4 A. It's kind of hard to get into his brain
 5 and, you know, confirm he's specifically not
 6 doing it. But when he repeatedly does something
 7 after we're giving the directions to please only
 8 do this, just do this, and we have to repeat not
 9 doing it, the conclusion I draw is intentionality.
 10 Q. As we discussed, there were multiple
 11 officers giving orders throughout this
 12 interaction leading up to Mr. Cuypers being
 13 tased, right?
 14 A. At different points in time, yes.
 15 Q. And we discussed that that can be
 16 confusing, right?
 17 A. It does have the potential. It doesn't
 18 mean necessarily that it is.
 19 Q. Okay. Mr. Cuypers seemed confused,
 20 right?
 21 ATTORNEY ZELLNER: Object to form.
 22 THE WITNESS: My interpretation is that he
 23 wanted us to do it on his terms, which was the
 24 asking the questions, you know, wanting us to

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1 explain it. And it's something that I've
2 encountered before.
3 BY ATTORNEY SNYDER:
4 Q. Before he was tased, Mr. Cuypers was
5 asking if there were guns on him, right?
6 A. From the clip that you played, I think
7 there was something about lasers on him. That's
8 what I heard.
9 Q. Yeah. He asked about the lasers, and
10 he also asked if there were guns on him.
11 Do you want me to show it again?
12 A. Sure.
13 Q. I think I'm actually going to use your
14 body worn camera video. I think before we did
15 the dash cam. But it can give us another angle.
16 So this is Exhibit 7. All right. I'm
17 starting the video at 1:56 on the video player,
18 which is 22:18:53 on the clock.
19 (Whereupon a video was
20 displayed.)
21 BY ATTORNEY SNYDER:
22 Q. Okay. So I'm pausing the video at
23 3 minutes and 29 on the player, which is
24 22:19:26 on the clock.

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1 Do you hear Mr. Cuypers ask if there
2 were guns on him?
3 A. Yes. There I did.
4 Q. Okay. And he seems scared, right?
5 ATTORNEY ZELLNER: Object to form.
6 THE WITNESS: I'm not Mr. Cuypers. I can't
7 confer to his attitude.
8 BY ATTORNEY SNYDER:
9 Q. Yeah. But based on the objective
10 manifestations of what he's saying, asking if
11 there's guns on him, that sounds like he's
12 scared; right?
13 ATTORNEY ZELLNER: Object to form.
14 THE WITNESS: I would agree that if somebody
15 was asking that that they're possibly scared.
16 BY ATTORNEY SNYDER:
17 Q. I'm going to go forward a little bit in
18 the video.
19 All right. This is still Exhibit 7,
20 which is your body worn camera video. And this
21 is after Mr. Cuypers was tased. And I'm going
22 to start the video at 2 minutes 51 seconds on
23 the video player, which is 22:19:48 on the
24 clock.

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1 (Whereupon a video was
2 displayed.)
3 BY ATTORNEY SNYDER:
4 Q. Okay. I've stopped it at 2 minutes and
5 57 seconds on the video player, which is
6 22:19:54 on the clock.
7 Did you hear Mr. Cuypers say, "I'm
8 going to die here, aren't I? Am I going to
9 die?"
10 A. No. That, I couldn't hear that.
11 Q. Okay. Let's listen to it again.
12 (Whereupon a video was
13 displayed.)
14 BY ATTORNEY SNYDER:
15 Q. Okay. I've stopped it.
16 Did you hear him say that this time?
17 A. It kind of sounds like that, yes.
18 Q. Okay. And it might not be the best
19 video for you to be able to hear because there's
20 a lot of cross talk in that one. So that's
21 okay.
22 If we assume that that's what he said,
23 "I'm going to die here, aren't I? Am I going to
24 die," that sounds like someone who's scared;

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1 right?
2 ATTORNEY ZELLNER: Object to form.
3 THE WITNESS: Yeah. I don't think most
4 people just say that.
5 BY ATTORNEY SNYDER:
6 Q. Right. Unless they're scared, right?
7 ATTORNEY ZELLNER: Object to form.
8 THE WITNESS: Correct.
9 BY ATTORNEY SNYDER:
10 Q. Okay. All right. And I've gone ahead
11 a little bit on your video, and I'm playing it
12 at 3 minutes and 31 seconds on the video player,
13 which is 22:20:28 on the clock.
14 (Whereupon a video was
15 displayed.)
16 BY ATTORNEY SNYDER:
17 Q. And I've stopped at 3 minutes and 43
18 seconds on the video player, which is 23:20:40
19 on the clock.
20 Could you hear Mr. Cuypers screaming,
21 "What did I do? What did I do?"
22 A. Yes.
23 Q. So he sounds confused, right?
24 ATTORNEY ZELLNER: Object to form.

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1 THE WITNESS: He seems to be upset.
 2 BY ATTORNEY SNYDER:
 3 Q. And he seems like he doesn't know what
 4 he did, right?
 5 A. Well, he's specifically asking, "What
 6 did I do?"
 7 Q. Right. Which is consistent with
 8 someone who didn't know what he did, right?
 9 ATTORNEY ZELLNER: Object to form.
 10 THE WITNESS: Right.
 11 BY ATTORNEY SNYDER:
 12 Q. And I think we've been over this a
 13 couple of times, but just to make sure I'm
 14 clear, during the incident, Mr. Cuypers asked
 15 multiple times what's going on and what's
 16 happening, questions like that; right?
 17 A. Correct.
 18 Q. And just prior to getting tased, he
 19 asked, "Could I please get an explanation,"
 20 right?
 21 A. Correct.
 22 Q. Would you agree that based on those
 23 questions, it seems like he didn't know what was
 24 happening?

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1 ATTORNEY ZELLNER: Object to form.
 2 THE WITNESS: I think he -- exactly what he
 3 was asking, he wanted an explanation right then.
 4 BY ATTORNEY SNYDER:
 5 Q. Okay. Because he didn't know what was
 6 happening, right? That's why he wanted an
 7 explanation?
 8 ATTORNEY ZELLNER: Object to form.
 9 THE WITNESS: Or he wanted to debate it with
 10 us. I don't know. I've encountered that quite
 11 often.
 12 BY ATTORNEY SNYDER:
 13 Q. Okay. Did you hear him say, "I feel
 14 like I'm being assaulted"?
 15 A. I don't recall that.
 16 Q. Did you hear him say, "I really do not
 17 feel like I'm being treated well"?
 18 A. I don't recall that one.
 19 Q. Did you hear him say, "I'm a fucking
 20 citizen"?
 21 A. I don't recall that one.
 22 Q. Okay. We can watch it one more time
 23 and see if you can notice any of those.
 24 All right. I'm starting it at 3:43 on

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1 the player, which is 22:18:53 on the clock.
 2 (Whereupon a video was
 3 displayed.)
 4 BY ATTORNEY SNYDER:
 5 Q. Okay. Did you hear him there?
 6 I stopped it at 2:03.
 7 Did you hear him just there say, "I
 8 feel like I'm being assaulted"?
 9 A. Yes. That I heard.
 10 (Whereupon, a discussion was had
 11 off the record.)
 12 (Whereupon a video was
 13 displayed.)
 14 BY ATTORNEY SNYDER:
 15 Q. Okay. I stopped it at 2:29 on the
 16 video player, which is 22:19:26 on the clock.
 17 Did you hear him there say, "I really
 18 do not feel like I'm being treated well"?
 19 A. Yes.
 20 Q. Okay.
 21 (Whereupon a video was
 22 displayed.)
 23 BY ATTORNEY SNYDER:
 24 Q. All right. And I've stopped it at 2:41

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1 on the video player, which is 22:19:38 on the
 2 clock.
 3 And in that one, did you hear him say,
 4 "I'm a fucking citizen"?
 5 A. Can you just replay that last part
 6 where he says that.
 7 Q. Yeah. I've backed it up ten seconds,
 8 so we're starting at 2:41.
 9 (Whereupon a video was
 10 displayed.)
 11 BY ATTORNEY SNYDER:
 12 Q. Okay. I've stopped it at 2:41 again.
 13 Did you hear, "I'm a fucking citizen"?
 14 A. Yes.
 15 Q. Okay. It seems like he didn't
 16 understand why he was being arrested at
 17 gunpoint, right?
 18 ATTORNEY ZELLNER: Object to form.
 19 THE WITNESS: That's what his words are
 20 saying, yes.
 21 BY ATTORNEY SNYDER:
 22 Q. Are you aware that under Wisconsin law,
 23 that action justifying an arrest for obstruction
 24 cannot simply inconvenience the official; the

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1 **action must make a difference in an official's**
 2 **ability to perform an official act?**
 3 A. I don't know where you're reading that
 4 from.
 5 Q. I'm reading it from my outline for this
 6 deposition.
 7 **Have you heard of that law before?**
 8 ATTORNEY ZELLNER: Object to form.
 9 THE WITNESS: No. I haven't specifically
 10 heard what you just read to me.
 11 BY ATTORNEY SNYDER:
 12 Q. Okay. Are you aware of the fact that
 13 under Wisconsin law, an action can't simply
 14 inconvenience an official in order to support an
 15 obstruction charge?
 16 ATTORNEY ZELLNER: Object to form.
 17 THE WITNESS: No. I mean, I'm being aware of
 18 that now.
 19 BY ATTORNEY SNYDER:
 20 Q. You never heard that before?
 21 A. No.
 22 Q. Okay. How did Mr. Cuypers -- Yeah.
 23 How did Mr. Cuypers's supposed failure
 24 to follow certain commands amount to more than

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1 **an inconvenience?**
 2 A. I think it's more than inconvenient
 3 when somebody makes a dramatic action upon
 4 getting stopped that most people don't, and most
 5 people tend to do the opposite of, that leads us
 6 to think based off of what we get trained that
 7 they possibly have a firearm. And when they
 8 continue to not follow the directions as we're
 9 telling them, just to get to the point where we
 10 can confirm that they don't have a firearm, that
 11 it's beyond a mild inconvenience.
 12 Q. Okay. And when you say "dramatic
 13 action," you're referring to reaching to the
 14 passenger's side of the vehicle?
 15 A. I think Officer Taylor said lunging for
 16 the center console and opposite side of the
 17 vehicle. I don't recall the exact specifics,
 18 but ...
 19 Q. But you and the other officers were
 20 ultimately able to arrest him, right?
 21 A. We were ultimately able to do so, yes.
 22 Q. Your ability to arrest him was not
 23 impeded, right?
 24 ATTORNEY ZELLNER: Object to form.

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1 THE WITNESS: We were able to safely take him
 2 into custody and determine that he didn't have a
 3 firearm or other weapon on his person.
 4 BY ATTORNEY SNYDER:
 5 Q. Okay. And you could have handcuffed
 6 him without forcing him down to his knee, right?
 7 ATTORNEY ZELLNER: Object to form.
 8 THE WITNESS: I was going off of what we --
 9 of decentralizing and doing it in a way that's
 10 controlled where it's harder for them to have
 11 lunge capacity in case -- you know, I don't know
 12 if he's got a firearm in his shirt, in his
 13 waistband or what until we actually have
 14 handcuffs on him and have a chance to frisk him.
 15 BY ATTORNEY SNYDER:
 16 Q. Okay. But you've handcuffed people who
 17 were not down on their knees before, right?
 18 A. Correct.
 19 Q. Including people who you thought might
 20 be armed, right?
 21 A. I'm sure that I have; correct.
 22 Q. And also people who you knew were
 23 armed, right?
 24 A. I can't recall specifics.

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1 Q. Okay. You've handcuffed people who
 2 didn't have their fingers interlaced over their
 3 heads before, right?
 4 A. Correct.
 5 Q. Including people who you thought might
 6 be armed?
 7 A. Correct.
 8 Q. And including people who you knew were
 9 armed, right?
 10 A. Again, I can't recall a specific time
 11 of somebody who I knew was armed who I didn't
 12 direct them to interlace their fingers while I
 13 was arresting them.
 14 Q. But did you ever put handcuffs on
 15 someone who you knew was armed who wasn't
 16 listening to your commands to interlace their
 17 fingers over their head?
 18 A. I honestly can't recall a specific
 19 instance of that.
 20 Q. Okay. I'm pulling up Exhibit 8, which
 21 is Officer Taylor's body worn camera video.
 22 All right. I'm showing you my screen.
 23 And I'm playing you a clip of Exhibit 8 starting
 24 at 26:06 on the video player, which is 22:41:19

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1 on the clock.
 2 (Whereupon a video was
 3 displayed.)
 4 BY ATTORNEY SNYDER:
 5 Q. All right. And I've stopped it at
 6 26:14 on the video player, which is 22:41:26 on
 7 the clock.
 8 And that's another clip from your
 9 conversation with Officer Taylor in the jail
 10 sally port, right?
 11 A. Mm-hmm.
 12 Q. And we heard you say, "My own gut on
 13 this is this is not somebody that we need to
 14 hold accountable."
 15 A. Correct.
 16 Q. Okay. What did you mean by that?
 17 A. Referring him to the criminal justice
 18 system for an actual criminal offense. By doing
 19 the ordinance, it keeps him from having to be
 20 referred to the DA's office for an actual
 21 criminal charge.
 22 Q. Okay. Why did you not want to do that?
 23 A. Again, after checking in CAD, and at
 24 least on that not seeing a history, what it led

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1 me to believe is that his decision making was
 2 poor decision making but that this was somebody
 3 who did just that, they did poor decision
 4 making. And ultimately it was their decision
 5 making that led us to believe that there was
 6 potential for them to have that firearm. And
 7 it's just basically a situation that stinks.
 8 Q. Okay. No one was disciplined as a
 9 result of this traffic stop, right?
 10 A. Not that I'm aware of.
 11 Q. So you didn't discipline anybody,
 12 right?
 13 A. No, I didn't.
 14 Q. And you assured Officer Taylor that he
 15 did everything right, right?
 16 A. I believe so, yes.
 17 Q. Do you stand by that assessment?
 18 A. Yes, I do.
 19 Q. Okay. Other than the conversations
 20 we've already talked about on the night of the
 21 incident, did you have any conversations with
 22 anyone else about this incident?
 23 A. I honestly don't recall. I'm sure I
 24 did at the station, you know, just thinking of

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1 it in terms of general calls that we go on and
 2 the conversations that happen.
 3 Q. Okay. Who did you talk to about this?
 4 A. I don't have specifics. I honestly
 5 don't know. Just when I answered that question,
 6 I'm saying that it's very likely that I did.
 7 Q. But you don't have any specific memory
 8 of any conversations; is that what you're
 9 saying?
 10 A. I don't.
 11 Q. Okay. After the day of the incident,
 12 did you ever talk about this incident with
 13 Officer Gaard?
 14 A. Like I just said, I don't have specific
 15 memories of these, and that I likely did talk to
 16 people.
 17 Q. Okay. Did you ever talk to Chief
 18 Winterscheidt about it?
 19 A. Again, I haven't -- Like, I'm sure I
 20 did. I don't remember if we did or any
 21 specifics.
 22 Q. Did you have any conversations about
 23 Mr. Cuypers's trial other than with your
 24 attorneys?

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1 A. We did attorney prep for the trial, and
 2 that was, I want to say Starr Bowers was there.
 3 She was not an attorney. And at least Officer
 4 Gaard was there.
 5 Q. Okay. Who is Starr Bowers?
 6 A. She works with the City Attorney, Frog
 7 Prell.
 8 Q. Okay. Is she --
 9 A. I don't know what her official title
 10 is, if she's a paralegal or what her position
 11 is.
 12 Q. Okay. Other than those conversations
 13 to prep for your testimony, did you have any
 14 other conversations about the trial?
 15 A. If I did, I don't recall specifics of
 16 who, what, where, when, or any of that. I just
 17 don't.
 18 Q. Okay. Did you have any other
 19 conversations with anyone about the ticket for
 20 resisting and obstructing?
 21 A. I have to give the same answer, I just
 22 don't recall.
 23 Q. Okay. Are you aware that video of this
 24 incident was posted on YouTube?

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1 A. Yes. That, I am.

2 **Q. When did you first learn that?**

3 A. You know, I honestly don't know. I

4 would assume it was pretty soon after it was

5 posted to the internet.

6 **Q. Okay. Do you recall receiving an**

7 **e-mail from Chief Winterscheidt to the whole SPD**

8 **about the YouTube video?**

9 A. I don't. But if we did, then I'm sure

10 I read it and I got it. I just don't recall it.

11 **Q. Did you have any other conversations**

12 **with anyone about the video?**

13 A. Same answer. I just don't recall if I

14 did or, if so, with who or what about.

15 **Q. Since this lawsuit was filed, have you**

16 **spoken to Officer Gaard about this lawsuit or**

17 **this incident.**

18 **It was filed last October if that's**

19 **helpful.**

20 A. I'm just trying to remember.

21 I met her daughter briefly once, and it

22 was mainly focused on meeting her newborn

23 daughter. In that situation, I honestly doubt

24 it. But I don't recall if we at other points

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1 had conversation about it.

2 I haven't talked to her in a long time.

3 **Q. What about Officer Taylor, did you have**

4 **any conversations with him after the lawsuit was**

5 **filed about the lawsuit or the incident?**

6 A. I don't recall if we did or not. I

7 suspect that we didn't because he wasn't working

8 here, I don't think. But I just -- Again, I

9 don't recall specifically if I did or did not.

10 **Q. Okay. Did you have any conversations**

11 **with Chief Winterscheidt after the lawsuit was**

12 **filed about the lawsuit or the incident?**

13 A. Again, I just -- I don't remember. I

14 don't know if I did or did not or, if we did,

15 what it was about.

16 **Q. Okay. Same question for Officer Jason**

17 **Moen.**

18 A. Same answer. I just -- I don't.

19 **Q. And is your answer the same for Officer**

20 **Dylan Crist?**

21 A. Yes. My answer is the same for Officer

22 Dylan Crist.

23 ATTORNEY SNYDER: Okay. Why don't we take a

24 five-minute break. I'm going to take a look at

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1 my notes, and I think we're close to finishing

2 up here.

3 (Whereupon, a short break was

4 taken.)

5 BY ATTORNEY SNYDER:

6 **Q. Just a couple more questions, Sergeant.**

7 **In your experience, individuals often**

8 **keep their insurance paperwork in their glove**

9 **box, right?**

10 A. Glove box, center console, phone,

11 visor. I've seen it all over.

12 **Q. And do you have any regrets about how**

13 **this traffic stop unfolded?**

14 ATTORNEY ZELLNER: Object to form.

15 THE WITNESS: I just wish Mr. Cuyppers

16 wouldn't have lunged and done that and that he

17 would have simply done what we asked him to do.

18 I think that would have changed this completely.

19 BY ATTORNEY SNYDER:

20 **Q. Okay. But you testified he didn't**

21 **lunge, right?**

22 ATTORNEY ZELLNER: Object to form.

23 BY ATTORNEY SNYDER:

24 **Q. Oh, I'm sorry. You mean the furtive**

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1 **movements, not during -- When he got tased;**

2 **that's what you're saying?**

3 A. I'm talking about the initial

4 observations by Officer Taylor at the beginning

5 of the stop.

6 **Q. I see. Sorry. I was confused there?**

7 ATTORNEY SNYDER: I have nothing further.

8 ATTORNEY ZELLNER: I don't have any

9 questions.

10 (Off the record at 1:05 p.m. CST.)

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IAN CUYPERS vs SUPERIOR POLICE DEPARTMENT OFFICER JUSTIN TAYLOR
BROWN, MATTHEW on 09/24/2025

1 STATE OF ILLINOIS)
 2) SS:
 3 COUNTY OF K A N E)
 4 I, TRACY JONES, a NCRA Registered
 5 Professional Reporter, do hereby certify that on
 6 September 24, 2025, there appeared before me via
 7 Zoom videoconference MATTHEW BROWN, in a cause
 8 now pending and undetermined in the United
 9 States District Court for the Western District
 10 of Wisconsin wherein IAN CUYPERS is the
 11 Plaintiff, and SUPERIOR POLICE DEPARTMENT
 12 OFFICER MATTHEW BROWN, et al., are the
 13 Defendants.
 14 I further certify that the said MATTHEW
 15 BROWN was first duly sworn to testify the truth,
 16 the whole truth and nothing but the truth in the
 17 cause aforesaid; that the testimony then given
 18 by said witness was reported stenographically by
 19 me and afterwards reduced to typewriting by
 20 Computer-Aided Transcription, and the foregoing
 21 is a true and correct transcript of the
 22 testimony so given by said witness as aforesaid.
 23 I further certify that the taking of this
 24 deposition was pursuant to notice and that there

1 were present at the deposition the attorneys
 2 hereinbefore mentioned.
 3 I further certify that I am not counsel
 4 for nor in any way related to the parties to
 5 this suit, nor am I in any way interested in the
 6 outcome thereof.
 7 IN TESTIMONY WHEREOF: I have hereunto
 8 set my hand and affix my seal this 29th day of
 9 October 2025.
 10
 11 
 12
 13 TRACY JONES, CSR, RPR, CLR
 14 IL Lic. No. 084-004553
 15 OR Lic. No. 20-0474
 16 WA Lic. No. 20122032
 17 NCRA RPR No. 72907
 18
 19
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 21
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 23
 24

IAN CUYPERS vs SUPERIOR POLICE DEPARTMENT OFFICER JUSTIN TAYLOR
 BROWN, MATTHEW on 09/24/2025

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