

In the Matter Of:

IAN CUYPERS vs SUPERIOR POLICE DEPARTMENT OFFICER JUSTIN TAYLOR

TAYLOR GAARD

October 03, 2025



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IAN CUYPERS vs SUPERIOR POLICE DEPARTMENT OFFICER JUSTIN TAYLOR
GAARD, TAYLOR on 10/03/2025

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1 APPEARANCES:

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10 On behalf of Plaintiffs;

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19

20 On behalf of Defendants.

21

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23

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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 Taylor Gaard 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 October 3, 2025. The time is

9 now 10:02 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 and remote

14 conduct of the proceedings, I shall now swear

15 the witness.

16 (No response.)

17 Hearing none,

18 (Witness sworn.)

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1 I N D E X

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3 TAYLOR GAARD	
4 Examination By Attorney Snyder	5
5	
6	
7 E X H I B I T S	
8 NUMBER	DESCRIPTION IDENTIFICATION
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10 Exhibit No. 2	DAAT Flow Chart 17
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12 Exhibit No. 4	Taser Warnings/Instructions 27
13 Exhibit No. 5	Gaard Taser Certification 29
14 Exhibit No. 6	Taser Training Ver. 22 31
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16 Exhibit No. 8	Gaard BWC Video 47
17 Exhibit No. 9	Booking Sheet 51
18 Exhibit No. 10	Taylor Dash Cam Video 53
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20 Exhibit No. 12	Text Messages (Amanda/Vern) 62
21 Exhibit No. 13	Brown BWC Video 82
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23 Exhibit No. 15	Text Messages (Mama Steph) 120
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1 WHEREUPON:

2 TAYLOR GAARD,

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, Ms. Gaard. My name is

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

10 plaintiff, Ian Cuypers, in this case.

11 Have you given a deposition previously?

12 A. No.

13 Q. Okay. So what we're going to be doing

14 here today is I'm going to be asking you a

15 series of questions which you will be answering

16 under oath. We have a court reporter here,

17 Tracy, who you've met already, who's going to be

18 writing down everything that we say. So I'm

19 going to ask that you try to answer verbally. A

20 nod of the head or a shake won't show up in the

21 transcript. All right?

22 A. Okay.

23 Q. And I'm also going to ask for the

24 benefit of Tracy that we try not to interrupt

Page 6

1 each other. I'm going to ask that you try to
 2 let me finish my question before you begin your
 3 answer, and I'll do the same for you, I'll try
 4 to let you finish your answer before I begin my
 5 next question.
 6 Does that sound fair?
 7 A. Yup.
 8 Q. Okay. If you don't understand one of
 9 my questions, please ask me to clarify. I'm
 10 happy to do so. If you do answer a question, I
 11 will assume you understood it. Okay?
 12 A. Okay.
 13 Q. All right. And if you need to take a
 14 break at any point, just let us know. We can do
 15 that. I would just ask that if there's a
 16 question pending you answer the question before
 17 we go on the break versus after.
 18 Does that sound good?
 19 A. Yes.
 20 Q. All right. And where are you
 21 physically located today?
 22 A. My home in Baudette (ph), Minnesota.
 23 Q. And is anyone else in the room with
 24 you?

Page 7

1 A. No. I do have dogs here, just so you
 2 know. But other than that, no.
 3 Q. No problem.
 4 So since we're on Zoom, if anybody
 5 enters the room at any point other than your
 6 dogs, if any human beings enter the room, just
 7 let us know, and we will just pause until
 8 they're gone.
 9 Does that sound good?
 10 A. Sounds good.
 11 Q. Is there anything that would affect
 12 your ability to answer my questions truthfully
 13 and completely today?
 14 A. No.
 15 Q. Are you on any medications that would
 16 affect your ability to answer my questions
 17 truthfully and completely today?
 18 A. No.
 19 Q. Did you meet with anyone to prepare for
 20 your deposition today?
 21 A. Just had, like, a phone call with our
 22 attorneys.
 23 Q. And is that Ms. Zellner?
 24 A. Yes.

Page 8

1 Q. Okay. And how many times did you speak
 2 on the phone with Ms. Zellner?
 3 A. One.
 4 Q. When was that?
 5 A. Last week.
 6 Q. And how long was the call?
 7 A. Maybe close to an hour.
 8 Q. Was anyone else present?
 9 A. My husband was in the house, but he
 10 wasn't in the same room with me.
 11 Q. Did you review any documents to prepare
 12 for your deposition?
 13 A. Yes. I reviewed my police report and
 14 then the documents from the previous court case
 15 for the civil charges.
 16 Q. Okay. When you say the documents from
 17 the previous case, are you referring to the
 18 transcript from testimony?
 19 A. Yes.
 20 Q. Anything else that you reviewed from
 21 the previous case?
 22 A. My body cam footage.
 23 Q. Did you review any other footage other
 24 than yours?

Page 9

1 A. No.
 2 Q. I'm going to pull up an exhibit. And
 3 throughout the deposition, I'm going to be
 4 sharing exhibits with you on my screen.
 5 And just let me know when you see it.
 6 Can you see my screen?
 7 A. Yes.
 8 Q. Great.
 9 I'm marking this as Exhibit 1.
 10 (Whereupon, Gaard Deposition
 11 Exhibit No. 1 was identified
 12 for the record.)
 13 BY ATTORNEY SNYDER:
 14 Q. And is this the police report that
 15 you -- that you reviewed when you prepared for
 16 the deposition last week?
 17 A. Yes.
 18 Q. And this is the report that you
 19 prepared related to the incident in this case?
 20 A. Yes.
 21 Q. Okay. And this is a two-page document.
 22 And for the record, this is Bates stamped 489 to
 23 490, and this is Officer Gaard's incident
 24 report.

<p style="text-align: right;">Page 10</p> <p>1 And if I scroll down to the second</p> <p>2 page, this is your name and badge number at the</p> <p>3 bottom?</p> <p>4 A. Correct.</p> <p>5 Q. Okay. And when you prepare reports as</p> <p>6 a police officer, you were trained that you</p> <p>7 should include all the relevant details from an</p> <p>8 incident in your report, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And that's important because you may</p> <p>11 need to use the report later to refresh your</p> <p>12 memory?</p> <p>13 A. Yes.</p> <p>14 Q. Is there anything in this report that's</p> <p>15 inaccurate?</p> <p>16 A. Not to my knowledge, no.</p> <p>17 Q. And you reviewed it last week, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Did you review the complaint that was</p> <p>20 filed in the lawsuit in this case?</p> <p>21 A. No.</p> <p>22 Q. Did you review any policies in</p> <p>23 preparation for the deposition?</p> <p>24 A. From the police department?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. From where?</p> <p>2 A. University of Minnesota Duluth.</p> <p>3 Q. And what year did you receive those</p> <p>4 degrees?</p> <p>5 A. 2019.</p> <p>6 Q. And what were your degrees in?</p> <p>7 A. Criminology and psychology.</p> <p>8 Q. Did you receive any additional</p> <p>9 schooling beyond your bachelor's degrees?</p> <p>10 A. I went to the police academy at</p> <p>11 Chippewa Valley Technical College in Eau Claire,</p> <p>12 Wisconsin.</p> <p>13 Q. Anything else?</p> <p>14 A. Nope.</p> <p>15 Q. And am I correct that you're no longer</p> <p>16 employed with the Superior Police Department?</p> <p>17 A. That's correct.</p> <p>18 Q. And in total, you were with the</p> <p>19 Superior Police Department for approximately</p> <p>20 three years and six months?</p> <p>21 A. Yes.</p> <p>22 Q. And you were hired on July 30th of 2021?</p> <p>23 A. Mm-hmm. Yes.</p> <p>24 Q. And you resigned on January 24th, 2025?</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. Yeah.</p> <p>2 A. No.</p> <p>3 Q. Other than what you've already told me,</p> <p>4 is there anything else that you reviewed to</p> <p>5 prepare for your deposition today?</p> <p>6 A. No.</p> <p>7 Q. What is your current age?</p> <p>8 A. 28.</p> <p>9 Q. And what is your current height and</p> <p>10 weight?</p> <p>11 A. 5, 7; 170ish pounds.</p> <p>12 Q. Is that the same height and weight that</p> <p>13 you were in February of 2024, approximately?</p> <p>14 A. No. I'm -- I just had a baby. I'm,</p> <p>15 like, 20 pounds heavier than I was back then.</p> <p>16 So I was roughly 150 pounds back then.</p> <p>17 Q. Congratulations on the baby.</p> <p>18 A. Thank you.</p> <p>19 Q. And you answered my follow-up question,</p> <p>20 which is that you were 20 pounds lighter last</p> <p>21 February; right?</p> <p>22 A. Yes.</p> <p>23 Q. And how far did you go in school?</p> <p>24 A. I received two bachelor's degrees.</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Correct.</p> <p>2 Q. Why did you resign?</p> <p>3 A. It's a very long story. But long story</p> <p>4 short, I was stalked and assaulted by one of my</p> <p>5 coworkers. And after roughly a nine-month</p> <p>6 investigation into that, our police chief</p> <p>7 decided to keep that coworker employed. And so</p> <p>8 I resigned for safety concerns that were</p> <p>9 presented by this coworker's therapist.</p> <p>10 Q. The coworker in question, were they a</p> <p>11 defendant in this case?</p> <p>12 A. No.</p> <p>13 Q. What rank were you at the time of your</p> <p>14 resignation?</p> <p>15 A. Officer.</p> <p>16 Q. I'm sorry. I think I missed the first</p> <p>17 part. Did you say "officer"?</p> <p>18 A. I said officer. But yes, patrol</p> <p>19 officer; yes.</p> <p>20 Q. And was that your same rank the entire</p> <p>21 time you were with the department?</p> <p>22 A. Yes.</p> <p>23 Q. What is the name of the coworker that</p> <p>24 you had the interaction with that you were just</p>

Page 14

1 describing?
2 A. Hillary Peterson.
3 If -- Yeah. Okay.
4 Q. Do you have a complaint or a lawsuit
5 against the Superior Police Department or the
6 City related to that incident?
7 A. No.
8 Q. Have you had any employment since
9 leaving the SPD?
10 A. No.
11 Q. And am I correct that for at least part
12 of your time with the SPD, you were a field
13 training officer?
14 A. Yes.
15 Q. How long were you a field training
16 officer?
17 A. When did I go -- Maybe six months,
18 roughly.
19 Q. And as part of your duties as a field
20 training officer, you supervised officers in
21 training during their probationary period;
22 correct?
23 A. During their field training period,
24 yes. Not the entire probationary period.

Page 15

1 Q. Did you ever supervise Officer Justin
2 Taylor?
3 A. He was not one of my probationary
4 officers that I was assigned to train, no.
5 Q. Have you ever been disciplined or
6 suspended at any job?
7 A. No.
8 Q. Have you ever been terminated from any
9 job?
10 A. No.
11 Q. Other than anything related to this
12 incident, did you have any citizen complaints
13 filed against you while you were with SPD?
14 A. Not that I know of. Generally, if
15 there was a citizen complaint, our sergeants
16 would investigate it, and then we would only
17 know whether or not there was a complaint if the
18 sergeant had questions about it or wanted to
19 know more information from the officer. So I
20 don't know if I did or not. I was never
21 approached.
22 Q. You were never made aware of any
23 complaints made against you; is that right?
24 A. Yes.

Page 16

1 Q. Were you ever suspended?
2 A. No.
3 Q. Ever reprimanded?
4 A. No.
5 Q. Other than this one, have any lawsuits
6 been filed against you?
7 A. No.
8 Q. And after you joined the Superior
9 Police Department, you attended the academy;
10 correct?
11 A. Yes.
12 Q. And you also received field training
13 after the academy?
14 A. Yes.
15 Q. And you've had additional on-the-job
16 training since you finished your field training?
17 A. Yes.
18 Q. In all of the various forms of training
19 that we just discussed, did you receive training
20 on the difference between active and passive
21 resistance?
22 A. Yes.
23 Q. Okay. I'm pulling up an exhibit. And
24 I'm marking this as Exhibit 2.

Page 17

1 (Whereupon, Gaard Deposition
2 Exhibit No. 2 was identified
3 for the record.)
4 BY ATTORNEY SNYDER:
5 Q. And it's a document entitled -- Bates
6 stamped 1809 to 1810.
7 Have you seen this document before,
8 Ms. Gaard?
9 A. Yes, I have.
10 Q. When have you seen this before?
11 A. Several times throughout my career,
12 starting in the academy.
13 Q. Did you receive training on this
14 document?
15 A. Yes.
16 Q. And I'm going to scroll to the second
17 page of this document. And in this yellow box
18 where my cursor is, do you see that there's a
19 definition of passive resistance which states
20 "Non-threatening and" -- I think that's a typo.
21 I think it's supposed to say "noncompliant"; it
22 says "non-complaint."
23 But it says "Passive resistance:
24 Non-threatening and [non-compliant] behavior."

<p style="text-align: right;">Page 18</p> <p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And below it, there's a definition of</p> <p>4 active resistance which states "Behavior which</p> <p>5 physically counteracts an officer's control</p> <p>6 efforts and which creates risk of bodily harm to</p> <p>7 the officer, subject, and/or other person."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And you received training on these</p> <p>11 definitions, correct?</p> <p>12 A. Yes.</p> <p>13 Q. And do you agree with these</p> <p>14 definitions?</p> <p>15 A. Yes.</p> <p>16 Q. While you were with the Superior Police</p> <p>17 Department, you received training on Superior</p> <p>18 Police Department policies?</p> <p>19 A. Yes.</p> <p>20 Q. And that included the SPD policy on the</p> <p>21 use of tasers, correct?</p> <p>22 A. Yes.</p> <p>23 Q. All right. I'm sharing my screen with</p> <p>24 you. And I'm putting up what I'm going to mark</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Okay. And at the bottom of this</p> <p>2 document, it's dated December 12th, 2023;</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. So this would be the version that was</p> <p>6 in place in February 2024 as far as you know,</p> <p>7 right?</p> <p>8 A. Yes.</p> <p>9 Q. And you're not aware of any intervening</p> <p>10 policy?</p> <p>11 A. No.</p> <p>12 Q. Okay. On page 2 of this document,</p> <p>13 there's a section that states -- that's titled</p> <p>14 Verbal and Visual Warnings. And it states "A</p> <p>15 verbal warning of the intended use of the ECD</p> <p>16 should precede its application unless it would</p> <p>17 otherwise endanger the safety of officers or</p> <p>18 when it is not practicable due to the</p> <p>19 circumstances."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. So it was your understanding in</p> <p>23 February of 2024 that a verbal warning should</p> <p>24 precede the use of a taser, correct?</p>
<p style="text-align: right;">Page 19</p> <p>1 as Exhibit 3, which is a Superior Police</p> <p>2 Department policy, Policy No. 304 entitled</p> <p>3 Electronic Control Device, and it's Bates</p> <p>4 stamped 1743 to 1749.</p> <p>5 (Whereupon, Gaard Deposition</p> <p>6 Exhibit No. 3 was identified</p> <p>7 for the record.)</p> <p>8 BY ATTORNEY SNYDER:</p> <p>9 Q. Do you recognize this document?</p> <p>10 A. Yes.</p> <p>11 Q. And this is the Superior Police</p> <p>12 Department policy on these electronic control</p> <p>13 devices that you were trained on, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Oh, and if we have any kind of audio</p> <p>16 hiccups throughout, just let me know. We have,</p> <p>17 in a few of the other depositions, some folks</p> <p>18 have had some trouble hearing me at points. So</p> <p>19 just let me know if that happens, and I'll make</p> <p>20 sure to repeat my question.</p> <p>21 A. Okay.</p> <p>22 Q. And the phrase "electronic control</p> <p>23 device" means taser, essentially; right?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Yes.</p> <p>2 Q. And this also says "The purpose of the</p> <p>3 warning is to: (A) provide the individual with</p> <p>4 a reasonable opportunity to voluntarily comply."</p> <p>5 Correct?</p> <p>6 A. Correct.</p> <p>7 Q. And so it was your understanding in</p> <p>8 February of 2024 that the purpose, or one of the</p> <p>9 purposes of the verbal warning, was to give the</p> <p>10 individual the reasonable opportunity to</p> <p>11 voluntarily comply; correct?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. And I've scrolled down a little</p> <p>14 bit to the section titled Application of the</p> <p>15 ECD.</p> <p>16 And just so the record is clear, the</p> <p>17 abbreviation ECD stands for electronic control</p> <p>18 device, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Which, as we discussed, means taser;</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. So this states "The ECD may be used</p> <p>24 when the circumstances reasonably perceived by</p>

Page 22

1 the officer at the time indicate that such
 2 application reasonably appears necessary to
 3 control a person who (A) is violent or is
 4 physically resisting, or (B) has demonstrated by
 5 words or action an intention to be violent or to
 6 physically resist and reasonably appears to
 7 present the potential to harm officers,
 8 themself, or others."
 9 Do you see where it says that?
 10 A. Yes.
 11 Q. And so it was your understanding in
 12 February of 2024 that a taser could be
 13 appropriately used when a person was violent or
 14 physically resisting, or had demonstrated by
 15 words or actions an intention to be violent or
 16 physically resist and reasonably appeared to
 17 present the potential to harm officers,
 18 themselves, or others; correct?
 19 A. Yes.
 20 Q. And this document also states that
 21 "Mere flight from a pursuing officer without
 22 additional circumstances or factors is not good
 23 cause for the use of the ECD to apprehend an
 24 individual."

Page 23

1 Correct?
 2 A. Correct.
 3 Q. And so it was your understanding in
 4 February of 2024 that mere flight from a
 5 pursuing officer without additional
 6 circumstances or factors did not justify the use
 7 of a taser, correct?
 8 A. Correct.
 9 ATTORNEY ZELLNER: Object to form.
 10 BY ATTORNEY SNYDER:
 11 Q. Okay. And this policy does not
 12 authorize the use of a taser in response to
 13 passive resistance, correct?
 14 ATTORNEY ZELLNER: Object to form.
 15 THE WITNESS: Correct.
 16 BY ATTORNEY SNYDER:
 17 Q. Sorry. I didn't hear your answer.
 18 Could you repeat your answer?
 19 A. I thought Ms. Zellner was saying
 20 something.
 21 Q. No problem.
 22 Unless she instructs you not to answer
 23 after she makes an objection, you can still
 24 answer the question. Okay?

Page 24

1 A. Okay. I'm sorry. I forgot your
 2 question now.
 3 Q. No problem.
 4 The question was, this policy does not
 5 authorize the use of a taser in response to
 6 passive resistance, correct?
 7 ATTORNEY ZELLNER: Object to form.
 8 You can answer.
 9 THE WITNESS: Yes. That's correct.
 10 BY ATTORNEY SNYDER:
 11 Q. Okay. And so in February of 2024, it
 12 was your understanding that the use of a taser
 13 was not appropriate in response to passive
 14 resistance; correct?
 15 ATTORNEY ZELLNER: Object to form.
 16 THE WITNESS: It was not appropriate in
 17 response to passive resistance, but it was
 18 appropriate in response to the threat of active
 19 resistance.
 20 BY ATTORNEY SNYDER:
 21 Q. Okay. So just to make sure I
 22 understand your answer, in 2024, it was your
 23 understanding that the use of a taser was not
 24 appropriate in response to passive resistance;

Page 25

1 right?
 2 A. That's correct.
 3 Q. Okay. And this policy also does not
 4 authorize use of a taser in response to
 5 noncompliance with officers' commands, correct?
 6 ATTORNEY ZELLNER: Object to form.
 7 THE WITNESS: I guess I don't know where it
 8 says that.
 9 BY ATTORNEY SNYDER:
 10 Q. If you need to take a minute, why don't
 11 you read this entire section that says
 12 Application of the ECD, and then let me know
 13 when you're finished.
 14 A. Okay.
 15 Q. Okay. So based on what you just read,
 16 this policy does not authorize the use of a
 17 taser in response to noncompliance with
 18 officers' commands; correct?
 19 ATTORNEY ZELLNER: Object to form.
 20 THE WITNESS: It specifically does not say
 21 that, no. So correct.
 22 BY ATTORNEY SNYDER:
 23 Q. Thank you.
 24 And so in February 2024, it was your

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1 understanding that the use of a taser was not
 2 appropriate in response to noncompliance with
 3 officers' commands, correct?
 4 ATTORNEY ZELLNER: Object to form.
 5 THE WITNESS: I guess I'm having trouble with
 6 the way the question is worded. If you could
 7 clarify just a little bit.
 8 BY ATTORNEY SNYDER:
 9 Q. Yeah. So you just testified that this
 10 policy does not specifically state that it's
 11 appropriate to use a taser in response to
 12 noncompliance with officers' commands. Do you
 13 remember that testimony?
 14 A. Yes.
 15 Q. So I'm just confirming that that was
 16 your understanding in February 2024, that it was
 17 not appropriate to use a taser in response to
 18 noncompliance with an officer's commands.
 19 A. No. At that time, that was not my
 20 understanding.
 21 Q. Are you saying that it was your
 22 understanding that you could use a taser in
 23 response to noncompliance with an officer's
 24 commands?

Page 27

1 A. No. The noncompliance with officer's
 2 commands is what led me to believe that there
 3 was the threat of active resistance. So
 4 specifically, I guess, according to the policy,
 5 no, I was not under the understanding that I
 6 could use it solely for not listening to officer
 7 commands. But that wasn't the only factor, I
 8 guess.
 9 Q. And to be clear, at this point, I'm
 10 just asking about your understanding of these
 11 policies generally. And we're going to have an
 12 opportunity to talk about the specific incident
 13 a little bit later on. Okay?
 14 A. Okay.
 15 Q. I'm sharing my screen with you, and I'm
 16 showing what I'm going to mark as Exhibit 4.
 17 (Whereupon, Gaard Deposition
 18 Exhibit No. 4 was identified
 19 for the record.)
 20 BY ATTORNEY SNYDER:
 21 Q. This is a document titled Taser
 22 Handheld Energy Weapon Warnings, Instructions
 23 and Information: Law Enforcement. And it's
 24 Bates stamped 583 to 590.

Page 28

1 Have you seen this document before,
 2 Ms. Gaard?
 3 A. Yes.
 4 Q. Okay. And you received training on
 5 this document, correct?
 6 A. Yes.
 7 Q. And on page 1 of the document, and I'm
 8 going to zoom in a little bit on this box that
 9 says "Warning."
 10 And it states that tasers can cause
 11 death or serious injury, correct?
 12 A. Correct.
 13 Q. You would consider a weapon that can
 14 cause death or serious injury a significant use
 15 of force, correct?
 16 ATTORNEY ZELLNER: Object to form.
 17 THE WITNESS: Correct.
 18 BY ATTORNEY SNYDER:
 19 Q. And I'm scrolling down to page 2 of
 20 this document. And it's states in bold here,
 21 "When practicable, avoid using an energy weapon
 22 on a person in the following circumstances
 23 unless the situation justifies an increased
 24 risk."

Page 29

1 And the second bullet point under that
 2 says "Could fall on a sharp object or hard
 3 surface."
 4 Correct?
 5 A. Correct.
 6 Q. And you would consider a concrete
 7 street to be a hard surface, correct?
 8 A. Yes.
 9 Q. On page 3 of this document, next to
 10 "Physiologic and metabolic changes," it states
 11 that "Energy weapon can cause physiologic or
 12 metabolic changes that may increase the risk of
 13 death or serious injury for some particularly
 14 susceptible individuals. These include changes
 15 in blood chemistry, blood pressure, respiration,
 16 heart rate and rhythm, and adrenaline and stress
 17 hormones, among others."
 18 Do you see that?
 19 A. Yes.
 20 Q. Okay. I am showing you my screen, and
 21 I'm marking this as Exhibit 5.
 22 (Whereupon, Gaard Deposition
 23 Exhibit No. 5 was identified
 24 for the record.)

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1 BY ATTORNEY SNYDER:
 2 Q. This is a document titled TASER
 3 Conducted Energy Weapons, Part 2: TASER 7
 4 Certification Test. And above that, it states
 5 Version 22. And it's Bates stamped 1705 to
 6 1708.
 7 And this is your name at the top of
 8 this document, correct?
 9 A. Correct. That's my maiden name.
 10 Q. That was going to be my next question.
 11 Thank you.
 12 And so just for the record, Taylor
 13 Wendt is your maiden name; correct?
 14 A. Yes. Yes.
 15 Q. Okay. And this document indicates that
 16 you received training on the use of tasers on
 17 June 7th, 2022; correct?
 18 A. Yes.
 19 Q. And that training was through AXON
 20 Academy?
 21 A. Yes.
 22 Q. And you received training on Version 22
 23 of the AXON Academy training?
 24 A. Yes.

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1 Q. Okay. I am sharing my screen with you
 2 again, and I am marking this as Exhibit 6.
 3 (Whereupon, Gaard Deposition
 4 Exhibit No. 6 was identified
 5 for the record.)
 6 BY ATTORNEY SNYDER:
 7 Q. This is a slide deck titled AXON Taser
 8 Training Department Conducted Energy Weapon User
 9 Course Version 22. And it's Bates stamped PL
 10 Cuypers 546 through 759.
 11 And this is Version 22 of the AXON
 12 taser training, correct?
 13 A. Correct.
 14 Q. And this is the version you received
 15 training on in June of 2022, right?
 16 A. It must be. I guess I don't recall.
 17 Q. Okay. I'm going to page 114 of the
 18 document, which is Bates stamped PL Cuypers 659.
 19 Have you seen this slide before?
 20 A. I'm sure I have.
 21 Q. Okay. And you received training on
 22 this slide as part of your training on
 23 Version 22, correct?
 24 A. Correct.

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1 Q. So if this slide states -- And again,
 2 so that the record is clear, the abbreviation
 3 CEW, what does that stand for?
 4 A. Conducted energy weapon.
 5 Q. And that's another word for taser,
 6 right?
 7 A. Yes. This specific document is on a
 8 taser that we were not currently using.
 9 Q. Do you recall receiving training,
 10 though, on this information, even if you had a
 11 different model of taser?
 12 THE COURT REPORTER: I'm sorry, Nora. I lost
 13 your audio there for a moment. I need you to
 14 repeat that question.
 15 ATTORNEY SNYDER: No problem.
 16 BY ATTORNEY SNYDER:
 17 Q. Did you receive training on this
 18 information that's on this slide, even if it was
 19 for a different model of taser?
 20 A. Probably, yeah.
 21 Q. All right. And do you see that this
 22 slide states that "CEW should not be used on
 23 individuals who are: 1, passively resisting and
 24 are not an immediate threat or flight risk"?

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1 Do you see that?
 2 A. Yes.
 3 Q. Okay. And so it was your understanding
 4 in February of 2024, that it was not appropriate
 5 to use tasers on individuals who were passively
 6 civil resisting and who are not an immediate
 7 threat or flight risk, correct?
 8 ATTORNEY ZELLNER: Object to form.
 9 THE WITNESS: Yes.
 10 BY ATTORNEY SNYDER:
 11 Q. All right. And I've gone to page 131
 12 of the pdf, which is Bates stamped PL Cuypers
 13 676. And this document states that -- And we
 14 have a lot of these abbreviations in here, so I
 15 just want to make this easier for folks reading
 16 this transcript.
 17 "NMI," does that stand for
 18 neuromuscular incapacitation?
 19 A. Yes.
 20 Q. And is that the effect on a body when a
 21 person is tased?
 22 A. Yes.
 23 Q. And this states that "NMI frequently
 24 causes subjects to fall. Falls are often

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1 uncontrolled, and subjects are often unable to
 2 protect or catch themselves. Falls, even from
 3 ground level, can cause serious injuries or
 4 death, especially on a hard surface."
 5 Correct?
 6 A. Correct.
 7 Q. And so it was your understanding in
 8 February of 2024 that a taser could cause a
 9 subject to fall in an uncontrolled way, and that
 10 falls, even from ground level, can cause serious
 11 injuries or death, especially on a hard surface;
 12 correct?
 13 ATTORNEY ZELLNER: Object to form.
 14 THE WITNESS: Correct.
 15 BY ATTORNEY SNYDER:
 16 Q. Okay. And I'm showing you my screen
 17 again, and I'm marking this as Exhibit 7, which
 18 is a document titled Taser Conducted Energy
 19 Weapons Part 1 User Certification Test Answer
 20 Key from AXON Academy, and it's Bates stamped
 21 1691 to 1699.
 22 (Whereupon, Gaard Deposition
 23 Exhibit No. 7 was identified
 24 for the record.)

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1 BY ATTORNEY SNYDER:
 2 Q. So this appears to be the
 3 certification -- the answer key for the
 4 certification test for Version 22 of the AXON
 5 Academy taser training, correct?
 6 A. Yes.
 7 Q. And so this reflects material that was
 8 trained as part of Version 22 of the AXON
 9 Academy taser training, correct?
 10 A. Yes.
 11 Q. Okay. And on page 1 of this document,
 12 Question No. 2, the answer that is starred here
 13 is "All of the above."
 14 And it indicates -- The question
 15 indicates "In considering the use of a CEW, (A),
 16 do not use for verbal defiance," and, (B), do
 17 not use for belligerence; correct?
 18 A. Correct.
 19 Q. Okay. And so it was your understanding
 20 in February 2024 that a taser should not be used
 21 in response to verbal defiance, correct?
 22 A. Correct.
 23 Q. And it was also your understanding in
 24 February 2024 that a taser should not be used in

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1 response to belligerence, correct?
 2 A. Yes.
 3 Q. Okay. I'm going to page 2 of this
 4 document, Question No. 13.
 5 And the answer key indicates that the
 6 answer is once again "All of the above."
 7 And the question states "When
 8 reasonable, smart use considerations include
 9 (A), use the minimum force necessary to
 10 accomplish lawful objectives; (B), use force
 11 only on those actively resisting or higher;
 12 (C), give a verbal warning before the use of
 13 force; [and] (D), give subject a reasonable
 14 opportunity to comply before force is used or
 15 repeated."
 16 Correct?
 17 A. Correct.
 18 Q. And so it was your understanding in
 19 February of 2024 that you should use only the
 20 minimum force necessary to accomplish lawful
 21 objectives, correct?
 22 A. Correct.
 23 Q. And it was your understanding in
 24 February of 2024 that it was appropriate to use

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1 a taser only on those actively resisting or
 2 higher, correct?
 3 A. Correct.
 4 Q. And passive resistance, as we
 5 discussed, is not actively resisting or higher;
 6 correct?
 7 A. Correct.
 8 Q. So it was your understanding in
 9 February of 2024 that it was not appropriate to
 10 use tasers on a passively resisting suspect,
 11 correct?
 12 A. Correct.
 13 Q. During your training, did you receive
 14 training on pointing firearms at suspects?
 15 A. Yes.
 16 Q. And am I correct that in law
 17 enforcement, that's referred to as providing
 18 lethal cover?
 19 A. Yes.
 20 Q. What were you trained on when it is
 21 appropriate to draw your firearm to provide
 22 lethal cover?
 23 A. There are a variety of different
 24 situations in which we would provide lethal

Page 38

1 cover. I guess -- How specific do you want me
2 to be? There are a lot of different instances
3 where that should happen.

4 Q. Yeah. I'm not asking you to list all
5 the instances where it's appropriate. I'm
6 asking more for if you were given any general
7 guidance on, like, the types of circumstances
8 that justify the use of lethal cover.

9 A. Yes. So generally, I guess, the times
10 that we would use lethal cover is when we are in
11 a situation that could be very dangerous and we
12 are unsure whether somebody has weapons and an
13 intent to harm us, the public, themselves,
14 anything like that.

15 Q. Okay. And as an SPD officer, traffic
16 stops were a fairly normal part of your job;
17 correct?

18 A. Yes.

19 Q. And many times during a traffic stop,
20 you don't even issue a citation; correct?

21 A. Correct.

22 Q. Often you let someone off with a verbal
23 warning, right?

24 A. Yes.

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1 Q. Sometimes you do issue a citation,
2 though; right?

3 A. Sometimes, yeah.

4 Q. But fair to say that the majority of
5 traffic stops don't end in arrest, correct?

6 A. The majority of my traffic stops
7 didn't.

8 Q. And the majority of traffic offenses
9 are minor offenses not necessitating an arrest,
10 correct?

11 A. Correct.

12 Q. Are you aware that Officer Justin
13 Taylor resigned on September 5th, 2024?

14 A. Yes.

15 Q. And did you know that he was told that
16 he could either resign or be terminated?

17 A. I don't know what happened in that
18 meeting.

19 Q. Did you ever have any conversations
20 with anyone about his resignation?

21 A. Not that I can recall.

22 Q. Did you ever talk to Officer Taylor
23 about his resignation?

24 A. No.

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1 Q. Do you have any idea about why he was
2 forced to resign?

3 A. I don't know.

4 Q. When you responded to the -- Well,
5 actually, let me just say this first.

6 You responded to a traffic stop
7 involving Ian Cuyppers on February 28, 2024;
8 correct?

9 A. Yes.

10 Q. Okay. And when you responded to that
11 traffic stop, you had no prior knowledge of
12 Mr. Cuyppers; correct?

13 A. Correct.

14 Q. You had never met him before, right?

15 A. No.

16 Q. You had never arrested him before?

17 A. No.

18 Q. You didn't know anything about whether
19 he had a criminal history, right?

20 A. Correct.

21 Q. And certainly no information that he
22 had a violent criminal history, right?

23 A. Right.

24 Q. And you had no information that he

Page 41

1 owned any guns?

2 A. No.

3 Q. And you had no information that he was
4 armed that day, correct?

5 A. Correct.

6 Q. On February 28, 2024, did you know that
7 it was only Officer Taylor's second shift on his
8 own without a field training officer?

9 A. Yes.

10 Q. And Officer Taylor initiated the
11 traffic stop in this case, right?

12 A. Right.

13 Q. And he called for backup, and you
14 responded?

15 A. Yes.

16 Q. When you responded to the -- When you
17 arrived on the scene in response to the call for
18 backup, what information did you have about the
19 traffic stop?

20 A. The location and that Officer Taylor
21 was seeing furtive movements that caused concern
22 for him.

23 Q. So did you know the reason for the
24 stop?

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1 A. No.

2 Q. Did you ask Officer Taylor the reason

3 for the stop?

4 A. No. I made the assumption that the

5 reason was going the wrong way down a one-way

6 based on where they were when I approached the

7 stop, because they were both facing the wrong

8 direction.

9 Q. And going the wrong way on a one-way,

10 that's one of those minor traffic offenses that

11 we talked about that usually doesn't end in

12 arrest; correct?

13 A. Yes.

14 Q. And you were -- You had a trainee with

15 you that night, Officer Jason Moen; correct?

16 A. Correct.

17 Q. So you both responded to the call for

18 backup?

19 A. Yes.

20 Q. And Sergeant Brown also responded,

21 correct?

22 A. Yes.

23 Q. And an Officer Dylan Crist also

24 responded?

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1 A. Yes.

2 Q. And so that was five officers in total,

3 correct?

4 A. Yes.

5 When you're training somebody, you're

6 technically supposed to consider yourselves as

7 one unit. And for those purposes, we considered

8 it to be four. But to a layperson, that's five

9 uniforms; yes.

10 Q. Technicality aside about the status of

11 his training, there were five --

12 A. Yes.

13 Q. -- bodies there in SPD uniforms; right?

14 A. Yes.

15 Q. And they all -- They all had firearms,

16 right?

17 When you're a trainee, you still get a

18 firearm; right?

19 A. Yes.

20 Q. Okay. And they all had tasers as well?

21 A. I would assume so. That's a part of

22 our uniform, so ...

23 Q. And you all -- After Officer Taylor

24 called for backup, you all arrived in minutes;

Page 44

1 right?

2 It was very fast, right?

3 A. Yes.

4 Q. And that's because -- I mean, for you

5 at least, you and Officer Moen just happened to

6 be right around the corner; correct?

7 A. We were across the street, yeah.

8 Q. And when you arrived on the scene of

9 the traffic stop, you drew your

10 department-issued firearm; correct?

11 A. Yes.

12 Q. And that was before Mr. Cuypers had

13 gotten out of the vehicle, correct?

14 A. Yes.

15 Q. And Officer Taylor hadn't given him any

16 commands yet at that point; correct?

17 A. When I -- As I was arriving, I heard

18 Officer Taylor yelling to the driver to display

19 his hands. So as I was coming up behind Officer

20 Taylor, he was yelling for the driver to show

21 his hands. And that's when I drew my firearm.

22 Q. Okay. And did you point it at the

23 vehicle?

24 A. Yes.

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1 Q. And did you continue pointing it at

2 Mr. Cuypers after he got out of the vehicle?

3 A. I believe I had my firearm remain on

4 the vehicle because Officer Taylor had his

5 pointed at the driver. So I kept mine on the

6 vehicle in case there were passengers that we

7 couldn't see.

8 Q. Okay. And when Mr. Cuypers first got

9 out of the vehicle, he was standing directly

10 next to the driver's side; correct?

11 A. Yes.

12 Q. So if you were pointing at the vehicle,

13 you were pointing in the general vicinity of

14 Mr. Cuypers; correct?

15 A. Yes.

16 Q. And you also saw, as you mentioned,

17 Officer Taylor had his firearm out and pointed

18 at Mr. Cuypers; correct?

19 ATTORNEY ZELLNER: Object to form.

20 THE WITNESS: Yes.

21 BY ATTORNEY SNYDER:

22 Q. Do you recall at some point telling

23 Officer Taylor, "Go over there with Brown. Go

24 less lethal"?

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1 A. I was not telling Officer Taylor that.
2 I was telling Officer Crist that.
3 Q. Okay.
4 A. I knew Sergeant Brown also had lethal
5 coverage, so I wanted there to be a less lethal
6 option with him. That's just kind of standard
7 for how we would run high-risk traffic stops.
8 Q. Understood.
9 Sometimes it's hard to tell who's
10 talking to who based on where the cameras are.
11 A. That's right.
12 Q. When you saw Officer Taylor point
13 his -- with his firearm drawn providing lethal
14 coverage on the driver, you were standing a few
15 feet away from him at that point; correct?
16 A. Yes.
17 Q. And he could hear you, right?
18 A. I guess I don't -- I don't know if he
19 could hear me or not. I would assume so.
20 Q. You didn't have any reason to think he
21 couldn't hear you while you were standing a few
22 feet away from him, right?
23 A. Right.
24 Q. And you were coaching Officer Taylor

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1 throughout this traffic stop, right?
2 ATTORNEY ZELLNER: Object to form.
3 THE WITNESS: I don't remember, I guess,
4 specifically coaching him step by step through
5 it; no.
6 BY ATTORNEY SNYDER:
7 Q. Okay. I'm going to pull up what I'm
8 going to -- Well, before I do so, you were
9 wearing a body worn camera during this incident;
10 correct?
11 A. Yes.
12 Q. And it was activated the whole time?
13 A. Yes.
14 Q. Okay. I'm going to pull up what I'm
15 going to mark as Exhibit 8.
16 (Whereupon, Gaard Deposition
17 Exhibit No. 8 was identified
18 for the record.)
19 ATTORNEY SNYDER: And this is your --
20 Ms. Gaard's body worn camera video. It's Bates
21 stamped 460. And I'm just going to get it to
22 the right spot before I share my screen with
23 you.
24 It takes a little fussing sometimes to

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1 get it to the right spot. So there's going to
2 be some pauses throughout the dep while I'm
3 doing this. So bear with me.
4 BY ATTORNEY SNYDER:
5 Q. Okay. Are you seeing my screen,
6 Ms. Gaard?
7 A. Yes.
8 Q. Okay. And for the record, I'm starting
9 the video at 57 seconds on the video player,
10 which is 22:17:56 on the clock.
11 (Whereupon, a video was
12 displayed.)
13 BY ATTORNEY SNYDER:
14 Q. Okay. I've stopped the video at
15 1 minute and 53 seconds on the video player,
16 which is 22:18:22 on the clock.
17 And we heard your voice on that video,
18 correct?
19 A. Yes.
20 Q. And we heard you giving Officer Taylor
21 several instructions throughout that video,
22 correct?
23 A. Yes.
24 Q. We heard you tell him to walk

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1 Mr. Cuyppers backwards towards the sound of his
2 voice, right?
3 A. Yes.
4 Q. And we heard you tell him to tell
5 Mr. Cuyppers when he wanted him to stop, right?
6 A. Yes.
7 Q. Okay. So does this refresh your
8 recollection as to whether you were coaching
9 Officer Taylor throughout the stop a little bit?
10 A. Yes, it does.
11 Q. All right. And you also saw that
12 Sergeant Brown had his gun drawn, correct?
13 A. I think so, yes.
14 Q. And you saw him point his firearm at
15 Mr. Cuyppers, correct?
16 ATTORNEY ZELLNER: Object to form.
17 THE WITNESS: Yes. In the vicinity. I guess
18 I can't speak to where he was pointing his
19 firearm; but yes.
20 BY ATTORNEY SNYDER:
21 Q. Okay. And you were standing a few feet
22 away from him when you saw that, correct?
23 A. Correct.
24 Q. And when you arrived at the scene of

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1 the traffic stop, you only observed one
 2 individual, the driver, inside the vehicle;
 3 right?
 4 A. Yes.
 5 Q. And there was no information at that
 6 time that suggested there was anyone else in the
 7 car, right?
 8 A. We couldn't be sure because the view
 9 was obstructed. We just assume that there are
 10 more people until proven otherwise.
 11 Q. Okay. But based on the information you
 12 had, you know, leaving the uncertainty aside,
 13 you didn't have any information that suggested
 14 there was someone else in the vehicle; right?
 15 ATTORNEY ZELLNER: Object to form.
 16 THE WITNESS: Right.
 17 BY ATTORNEY SNYDER:
 18 Q. And Officer Taylor ordered Mr. Cuypers
 19 out of the vehicle, and he complied; correct?
 20 A. Correct.
 21 Q. And once he got out of the car, you saw
 22 that he was not a big guy; right?
 23 ATTORNEY ZELLNER: Object to form.
 24 THE WITNESS: He was average size, yeah.

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1 BY ATTORNEY SNYDER:
 2 Q. Okay. His height is about 5, 7; right?
 3 A. I guess so. Yeah.
 4 Q. Okay. I think this will help.
 5 I'm going to show you the booking
 6 sheet, and I'm going to mark it as Exhibit 9.
 7 (Whereupon, Gaard Deposition
 8 Exhibit No. 9 was identified
 9 for the record.)
 10 BY ATTORNEY SNYDER:
 11 Q. And it is Bates stamped 80 to 81.
 12 And this is a document, this is a
 13 booking sheet from the Superior Police
 14 Department for Ia Cuypers dated February 28, 2024,
 15 which is the date of the relevant incident.
 16 And do you see on this booking sheet
 17 where it states Height: 5 foot, 7 inches?
 18 A. Yes.
 19 Q. And weight: 140 pounds?
 20 A. Yes.
 21 Q. And you don't have any reason to
 22 disagree with what's on the booking sheet,
 23 correct?
 24 A. Correct.

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1 Q. Officer Taylor testified that when
 2 Mr. Cuypers got out of the vehicle, he seemed
 3 confused, nervous, and anxious.
 4 Do you agree with that assessment?
 5 ATTORNEY ZELLNER: Object to form.
 6 THE WITNESS: I wouldn't agree. To me, he
 7 seemed like somebody who just wasn't listening
 8 to what we were saying.
 9 BY ATTORNEY SNYDER:
 10 Q. Okay. But he was never -- In terms of
 11 his demeanor, he was not -- Well, let me just
 12 ask this. He never made any verbal threats,
 13 correct?
 14 A. Correct.
 15 Q. And he complied with many of the
 16 officers' orders, right?
 17 ATTORNEY ZELLNER: Object to form.
 18 THE WITNESS: He complied with some of them.
 19 BY ATTORNEY SNYDER:
 20 Q. Okay. Officer Taylor ordered him to
 21 open the car door with his left hand, and he
 22 tried to do that; right?
 23 A. Yes.
 24 Q. But the door was locked, right?

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1 A. Right.
 2 Q. And so Officer Taylor told him to
 3 unlock it, and he did that; right?
 4 A. Yes.
 5 Q. And Officer Taylor told him to get out
 6 of the car, and he did that; right?
 7 A. Yes.
 8 Q. And Officer Taylor told him to walk
 9 backwards towards him, and he did that; right?
 10 A. After more than one command, yes.
 11 Q. Okay. And Officer Taylor told him to
 12 slow down at some point, and he did that; right?
 13 A. I don't remember. I remember him
 14 telling him to slow down. I don't remember what
 15 Mr. Cuypers did.
 16 Q. Okay. I think it will be helpful at
 17 this point to watch the video.
 18 Okay. I'm marking this as Exhibit 10.
 19 (Whereupon, Gaard Deposition
 20 Exhibit No. 10 was identified
 21 for the record.)
 22 BY ATTORNEY SNYDER:
 23 Q. And this is the dash cam from Officer
 24 Taylor's squad vehicle, and it's Bates stamped 449.

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1 All right. Are you seeing my screen?
 2 A. Yes.
 3 Q. Okay. And for the record, I'm starting
 4 the video at 2:17 on the video player, which is
 5 22:17:28 on the clock.
 6 (Whereupon, a video was
 7 displayed.)
 8 BY ATTORNEY SNYDER:
 9 Q. All right. I've stopped the video at
 10 4:30 on the video player, which is 22:19:41 on
 11 the clock.
 12 And does that refresh your recollection
 13 as to the fact that Mr. Cuypers backed towards
 14 you when he was told to do so?
 15 A. Yes.
 16 Q. And he backed towards you when he was
 17 told to do so after being told that once,
 18 correct?
 19 A. Yes.
 20 Q. Okay. And does that also refresh your
 21 recollection that Mr. Cuypers slowed down when
 22 he was told to do so?
 23 A. Yes.
 24 Q. And he also stopped when he was told to

Page 55

1 do so, correct?
 2 A. Yes.
 3 Q. And his hands were up the entire time,
 4 correct?
 5 A. Yes.
 6 Q. Okay. Including when he was tased,
 7 right?
 8 A. Yes.
 9 Q. And when he was tased, his hands were
 10 maybe a couple of inches from his head; right?
 11 A. Yeah. Yes.
 12 Q. And there was nothing in his hands,
 13 right?
 14 A. Right.
 15 Q. He wasn't holding a gun?
 16 A. No.
 17 Q. He wasn't holding a knife, right?
 18 A. Right.
 19 Q. And you didn't see any -- anything on
 20 his person to suggest that he was armed,
 21 correct?
 22 A. From what I could see, there was
 23 nothing in his waistband on the back of his
 24 person. I never saw the front of him.

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1 Q. Okay. And from what you saw, you
 2 didn't see any bulges that could be a weapon;
 3 correct?
 4 A. Correct.
 5 Q. He never reached for his waistband,
 6 correct?
 7 A. Correct.
 8 Q. And he never lunged at the officers,
 9 correct?
 10 A. Correct.
 11 Q. He never got in a fighting stance?
 12 A. No.
 13 Q. So he never made any threatening
 14 movements, right?
 15 ATTORNEY ZELLNER: Object to form.
 16 THE WITNESS: No. No threatening movements,
 17 no.
 18 BY ATTORNEY SNYDER:
 19 Q. And there was never a point where you
 20 were unable to see his hands, right?
 21 A. No.
 22 Q. So did you believe that one 5 foot 7,
 23 140-pound unarmed guy on his own posed a threat
 24 to five armed cops?

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1 ATTORNEY ZELLNER: Object to form.
 2 THE WITNESS: I didn't know that he was
 3 unarmed at that time.
 4 BY ATTORNEY SNYDER:
 5 Q. Okay. But you didn't have any
 6 information to suggest that he was armed, right?
 7 ATTORNEY ZELLNER: Object to form.
 8 BY ATTORNEY SNYDER:
 9 Q. As we just discussed. Right?
 10 A. I had no information to suggest either
 11 way.
 12 Q. Right. And any time you deal with a
 13 member of the public, there's a possibility that
 14 they could be armed, right?
 15 A. Right.
 16 Q. People have the right to own guns
 17 and -- you know, in this country in general,
 18 with certain restrictions; right?
 19 A. Right.
 20 Q. So that's always a possibility when you
 21 interact with anyone, right?
 22 A. Right.
 23 Q. All right. Mr. Cuypers didn't give any
 24 signs that he was having a mental health

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1 episode, did he?
 2 A. No.
 3 Q. And he didn't show any signs that he
 4 was intoxicated, right?
 5 A. I mean, based on the interaction, I --
 6 there was no way for me to know whether or not
 7 he was intoxicated.
 8 Q. Okay. But you didn't observe anything
 9 that suggested that he was, right?
 10 A. No, not specifically. No.
 11 Q. And you didn't observe anything that
 12 suggested that he was on drugs, right?
 13 A. Other than some, like, erratic behavior
 14 kind of, no.
 15 Q. Okay. What erratic behavior did you
 16 observe that suggested to you that he was on
 17 drugs?
 18 A. In my experience, people who are kind
 19 of constantly moving, not -- or, like,
 20 continually -- What is the word I'm looking
 21 for -- continually, I guess, going against what
 22 we're saying as far as moving his hand off of
 23 his head and turning and looking at us, things
 24 like that, there have been drugs in the person's

Page 59

1 system before. But not always.
 2 Q. Okay. During the traffic stop, before
 3 you tased Mr. Cuypers, did you think that he was
 4 on drugs?
 5 A. I didn't know.
 6 Q. But you didn't order a blood test to
 7 find out if he was on drugs later, right?
 8 A. No.
 9 Q. And you didn't suggest to Officer
 10 Taylor that he order any tests to find out if he
 11 was on drugs, right?
 12 A. Right.
 13 Q. And he was never charged with driving
 14 while under the influence of drugs, right?
 15 A. Right.
 16 Q. And after he was tased, you and the
 17 officers had multiple conversations about why he
 18 was pulled over, and nobody mentioned anything
 19 about thinking he was on drugs; right?
 20 A. I don't believe so, no.
 21 Q. You don't remember any such
 22 conversations, right?
 23 A. No.
 24 Q. Did Mr. Cuypers say -- Or let me ask

Page 60

1 you like this. Mr. Cuypers did not say or do
 2 anything to suggest that he was suicidal, right?
 3 A. Right.
 4 Q. He didn't say or do anything to suggest
 5 that he wanted to commit suicide by cop, right?
 6 A. Right.
 7 ATTORNEY SNYDER: I think now might be a good
 8 time for a break.
 9 (Whereupon, a short break was
 10 taken.)
 11 BY ATTORNEY SNYDER:
 12 Q. Okay. Ms. Gaard, I'm going to share my
 13 screen again, and I'm going to mark this as
 14 Exhibit 11.
 15 (Whereupon, Gaard Deposition
 16 Exhibit No. 11 was identified
 17 for the record.)
 18 BY ATTORNEY SNYDER:
 19 Q. Can you see my screen?
 20 A. Yes.
 21 Q. And for the record, this is a document
 22 titled Response to Resistance, and it's Bates
 23 stamped 90 through 97.
 24 Do you recognize this document?

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1 A. Yes.
 2 Q. And this is your name under Employee
 3 Completing the Form, correct?
 4 A. Yes.
 5 Q. And is this -- Is this a Superior
 6 Police Department use of force report related to
 7 this incident?
 8 A. Yes.
 9 Q. And so you prepared this report because
 10 force was used in this instance; this isn't
 11 something that's prepared after every traffic
 12 stop, right?
 13 A. Right.
 14 Q. Okay. And the date of the incident is
 15 on here, but I was not able to find a date
 16 regarding when this report was prepared anywhere
 17 on here. Do you agree with that?
 18 I can scroll through it more slowly if
 19 you need me to.
 20 A. Yeah. I guess I don't remember where
 21 it would be.
 22 Q. And it's not here on the top, and it's
 23 not -- I'll just quickly go through.
 24 A. Yeah. I don't see one.

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1 Q. And it's not at the bottom. At the
2 bottom, we have a date from Paul Winterscheidt.
3 And Paul Winterscheidt is the Chief of the
4 Superior Police Department, correct?
5 A. Correct.
6 Q. And we have a date on here from when he
7 reviewed the Use of Force Report, which is
8 August 12th, 2024; correct?
9 A. Correct.
10 Q. And he found the use of force to be
11 consistent with the U.S. Constitution, Wisconsin
12 law, department policy, and officer training;
13 correct?
14 A. Yes.
15 Q. But other than that, there's no date on
16 here regarding when you prepared it; correct?
17 A. Correct.
18 Q. Do you recall when you prepared it?
19 A. I don't remember what day I did it.
20 Q. And I'm pulling up another exhibit,
21 which is going to be Exhibit 12.
22 (Whereupon, Gaard Deposition
23 Exhibit No. 12 was identified
24 for the record.)

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1 BY ATTORNEY SNYDER:
2 Q. All right. And I'm showing you a
3 document which is Bates stamped 470 to 471.
4 These are text message -- screenshots of text
5 messages from you that were produced to us in
6 discovery in this case.
7 Do you recognize this screenshot on the
8 first page?
9 A. Yes.
10 Q. And this is from someone called Amanda?
11 A. Yes.
12 Q. Last initial M, correct?
13 A. Correct.
14 Q. What's Amanda's full name?
15 A. Her last name is Mondell (ph).
16 Q. And is Amanda -- Who is Amanda? Is she
17 with the SPD?
18 A. Yes. She's an officer with the PD.
19 Q. What's her position with the PD?
20 A. She's a school resource officer now.
21 At the time, she was a patrol officer.
22 Q. And she is texting a link to the
23 YouTube video that was posted regarding this
24 incident, correct?

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1 A. Correct.
2 Q. And it says "We are getting a LOT of
3 calls about this video that's going viral"?
4 A. Yes.
5 Q. Okay. And your response -- Your
6 response is in blue, correct?
7 A. Correct.
8 Q. And you said that's -- "So that's why
9 Bill just asked me for UOF report right when I
10 get back. So I'm gonna get an internal now."
11 And Amanda responded, "Who knows ...
12 but yes that's probably why."
13 And you responded, "Welp, I was gonna
14 do one, but then wasn't at work. I mean it was
15 justified, but that's sucks."
16 Do you agree with that?
17 A. Yes.
18 Q. Okay. Who's Bill?
19 A. Bill was the patrol captain at the
20 time. He's -- He decided that wasn't for him,
21 and he's a sergeant now.
22 Q. Okay. And UOF, that abbreviation
23 stands for Use of Force; correct?
24 A. Yes.

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1 Q. So the patrol captain -- Sorry. What's
2 Bill's last name?
3 A. Lear
4 Q. So Captain Lear asked you to prepare a
5 Use of Force Report after the video went viral
6 on YouTube, correct?
7 A. Correct.
8 Q. And you said "I'm going to get an
9 internal now."
10 What's an internal?
11 A. An internal investigation.
12 Q. So the incident wasn't investigated
13 internally prior to the YouTube video going
14 viral; is that correct?
15 A. No. That's not correct.
16 Every use of force is immediately
17 reviewed by a DAAT, or a Defense and Arrest
18 Tactics instructor. And it was immediately
19 reviewed, I believe that same night, or maybe
20 the night after. There was actually a DAAT
21 instructor who was working on my crew, so I
22 believe he reviewed it during that same
23 workweek.
24 So it was, quote, unquote,

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1 investigated, I guess. It was review as per
2 department policy. But I didn't know if this
3 would result in any type of internal
4 investigation which is separate from that.
5 **Q. But the review that was conducted**
6 **immediately by a DAAT instructor per policy, was**
7 **that review documented anywhere?**
8 A. I have no idea what their procedures
9 are or how that all works. I just know that
10 it's reviewed by a DAAT instructor.
11 **Q. What was the name of the DAAT**
12 **instructor who reviewed the use of force in this**
13 **case?**
14 A. I don't know if he's for sure the one
15 that did it, but the one that was on my crew was
16 Ron Custer. He's a patrol officer.
17 **Q. Okay. When you say he reviewed it,**
18 **what does that entail?**
19 A. Essentially, they watch the body cam
20 footage and -- of like everybody that was there,
21 or dash cam or whatever, and review the incident
22 to determine whether or not the use of force was
23 justified.
24 **Q. And do they also speak to the officers**

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1 **involved, or do they just look at the body cam?**
2 A. Sometimes they speak to the officers
3 involved if there are questions regarding, like,
4 decision making. But again, I don't -- I don't
5 know their procedures when it comes to reviewing
6 use of force incidents.
7 **Q. Did Mr. Custer talk to you about the**
8 **use of force in this incident?**
9 A. No DAAT instructor talked to me about it.
10 Again, I don't know -- I don't know if
11 he's the one that reviewed it or if somebody
12 else did. But I believe it was reviewed
13 quickly.
14 **Q. What was your basis for -- Sorry if you**
15 **explained this earlier, but why did you give me**
16 **his name earlier? What was your basis for**
17 **thinking he was the one?**
18 A. He was on my crew at the time of the
19 incident. And so if I'm remembering correctly,
20 I want to say he reviewed it within that week.
21 But I didn't actually see him review it. I
22 don't know if he actually did it. He had just
23 made a comment in passing that he could be the
24 one to do it because he was already working, and

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1 it wouldn't have to be, like, assigned because
2 he was already there to do it.
3 **Q. Did anyone ever tell you the outcome of**
4 **that review?**
5 A. Other than Chief Winterscheidt, no.
6 **Q. What did Chief Winterscheidt tell you?**
7 A. He -- Other than the -- I mean, he told
8 me the same as the comments on the Use of Force
9 Report, that it was justified and within policy.
10 **Q. And when did he tell you that?**
11 A. When I returned to work. I don't
12 remember the exact day that I returned to work.
13 **Q. When you say "returned," where did you**
14 **go? Were you on some kind of leave or**
15 **something?**
16 A. So I was -- I went on my honeymoon for
17 a couple of weeks. But other than that, I was
18 not at work for a period of time because of the
19 safety concerns that were presented by the
20 therapist about my coworker at that time. So my
21 husband and I actually went and stayed at, like,
22 an undisclosed location, like, safe house type
23 of situation for a few weeks. And I went on my
24 honeymoon. And when I returned from my

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1 honeymoon, we were still not sure of the dangers
2 that could be posed by this person. And so I
3 didn't return to work immediately for that
4 reason.
5 **Q. I see.**
6 **So the period -- the combined period**
7 **that you were away from work between the**
8 **honeymoon and the time off for your safety**
9 **concerns, how long was that?**
10 A. Honestly, I don't know exactly how long
11 it was. A couple of months maybe.
12 **Q. And did it -- Did that period off, did**
13 **that start immediately after this incident?**
14 A. Not immediately, no.
15 **Q. How soon after?**
16 A. It was in March. I don't remember the
17 exact date. Maybe, like -- Maybe, like, a week
18 or two after, a week after. I don't remember.
19 **Q. Okay. So in the week or two between**
20 **the incident and when your leave started, you**
21 **did not prepare a Use of Force Report in that**
22 **time; is that correct?**
23 A. Correct.
24 **Q. Okay. And the conversation that you**

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1 described with Chief Winterscheidt, you said
 2 that was when you returned from your leave?
 3 A. Yes.
 4 Q. Was that conversation in person?
 5 A. Yes.
 6 Q. What else did you talk about during
 7 that conversation?
 8 A. That's it.
 9 Q. Is the name of the psychologist you
 10 referenced Craig Childs?
 11 A. No.
 12 ATTORNEY SNYDER: Kiley, I don't think we've
 13 received the documents, if any, related to the
 14 DAAT instructor review that occurred immediately
 15 after that Officer Gaard is requesting. And I
 16 know we asked for those and we followed up. So
 17 can you just confirm that we have all of the
 18 documents if they exist.
 19 ATTORNEY ZELLNER: Yes.
 20 ATTORNEY SNYDER: Thank you.
 21 BY ATTORNEY SNYDER:
 22 Q. I'm going to scroll down to the second
 23 page of this document, which is a text between
 24 you and someone named Vern.

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1 Who's Vern?
 2 A. He was a police officer at SPD, but he
 3 was retired.
 4 Q. He was retired at the time of the
 5 incident, or at the time of the text message, or
 6 both?
 7 A. Both.
 8 Q. Okay. And he also sent you a link to
 9 the YouTube video, correct?
 10 A. Correct.
 11 Q. And the date on this message is
 12 March 28, 2024?
 13 A. Yes.
 14 Q. Okay. Does that help refresh your
 15 recollection as to when the YouTube video was
 16 posted?
 17 A. Yes.
 18 Q. Okay. Because this -- These texts with
 19 Amanda had the dates cut off. But would it be
 20 your understanding that this text with Amanda
 21 would have been sent around the same time the
 22 YouTube video was posted?
 23 A. It was probably a few days before, yes.
 24 Q. Okay. But it was generally in the

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1 vicinity of March 28th that you received this
 2 message about the YouTube video, right?
 3 A. Yes.
 4 Q. Okay. Going back to the Use of Force
 5 Report, based on the information that we have,
 6 it seems like this was prepared approximately a
 7 month after the incident which occurred on
 8 February 28th; correct?
 9 A. Correct. I do remember that the text
 10 messages from Amanda were the same day that I
 11 was meant to return to work that night. And so
 12 it would have been done that night. I don't
 13 remember the day exactly; but yes, about a
 14 month.
 15 Q. Okay. So you prepared this report the
 16 same day that you received that text from
 17 Amanda?
 18 A. I think so. Either that day or the day
 19 after, yes.
 20 Q. Okay. Do you still have those text
 21 messages from Amanda in your phone?
 22 A. Probably.
 23 Q. Okay. During our next break, I'm going
 24 to ask if you can just go look. Because the

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1 screenshots have the dates cut off, but you
 2 should be able to see it on your phone.
 3 A. I'll have to check because, because of
 4 this whole thing with the -- my previous
 5 coworker, I was advised by the same therapist to
 6 get a new phone in case it was, like, tapped or
 7 bugged or whatever. So I will look. But I
 8 can't guarantee that they're still there.
 9 Q. Okay. Do you still have your old
 10 phone?
 11 A. No.
 12 Q. Okay.
 13 A. It was wiped.
 14 Q. Okay. In that case, if you're not
 15 confident that it's on there and you can find it
 16 quickly, instead of doing it in the break, why
 17 don't you do it after the deposition and then
 18 let Kiley know the date, and she'll let me know.
 19 Does that sound okay?
 20 A. Yup.
 21 ATTORNEY SNYDER: Does that sound okay with
 22 you, Kiley?
 23 ATTORNEY ZELLNER: Yes.
 24 ATTORNEY SNYDER: Okay.

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1 THE WITNESS: I should be able to also tell
2 you if you want the exact day that we went to,
3 like, this safe house, because it was a cabin
4 that's owned by one of my husband's coworkers.
5 And I think he still has that communication of
6 when we went out there to stay, if you want it.
7 BY ATTORNEY SNYDER:
8 Q. I think that's -- Yeah. I mean, if
9 it's easy for you to get it, why don't you just
10 get it and send it to Kiley as well?
11 A. Okay.
12 Q. So returning to Exhibit 11, which is
13 the Use of Force Report, I'm scrolling to page 3
14 of the document in the pdf, which is Bates
15 stamped 92. And on this page, under Charges, it
16 says "Charges: Not compliant."
17 Correct?
18 A. Correct.
19 Q. And Details say "Passive resistance and
20 threat of resistance to law enforcement officer
21 commands in attempt to detain," correct?
22 ATTORNEY ZELLNER: Object to form.
23 THE WITNESS: Correct.
24

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1 BY ATTORNEY SNYDER:
2 Q. And just to clarify, LEO, that is an
3 abbreviation for law enforcement officer; right?
4 A. Right.
5 Q. Scrolling to the fourth page of this
6 document, which is Bates stamped 93, this
7 document states -- this page states "Resistance
8 type: Passive resistance."
9 Correct?
10 A. Correct.
11 Q. And the Event Subtype is "Failed to
12 comply"?
13 A. Correct.
14 Q. And the details say "Subject failed to
15 comply with Officer Taylor's lawful command to
16 face away from officers and place his hands on
17 top of his head," correct?
18 A. Correct.
19 Q. Okay. And I've scrolled down to page 5
20 of this document, which is Bates stamped 94.
21 And this says "Resistance type: Threat of
22 active resistance."
23 Correct?
24 A. Correct.

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1 Q. And the event is again "Failed to
2 comply," correct?
3 A. Correct.
4 Q. And the details say "Subject refused to
5 follow lawful commands and continually target
6 glanced at officers. Subject was advised that
7 if he did not comply, he would be tased."
8 Correct?
9 A. Correct.
10 Q. Okay. What do you mean by the phrase
11 "target glanced"?
12 A. So that's a phrase used by law
13 enforcement basically to describe when a subject
14 is continually looking in our direction or at
15 us, and it's generally believed that it's done
16 to gauge our location, how close we are to them,
17 how many of us there are, if we've moved, any of
18 that. And generally that's done by subjects who
19 are either preparing to actively resist or fight
20 with us or gauge, like, I guess, we say a,
21 quote, unquote, exit strategy, meaning, like,
22 where are we so that they can gauge where they
23 need to go in order to escape custody.
24 Q. So in terms of the physical movements

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1 that someone makes that you're considering to be
2 target glancing, if I'm understanding your
3 testimony right, the physical movements that
4 you're talking about is continually looking in
5 the direction of officers?
6 A. Right.
7 Q. Okay. Anything else?
8 A. For target glancing, no.
9 Q. All right. I'm going to go back to
10 Exhibit 8, which is your body cam video. I'm
11 going to play video from your body worn camera.
12 And as we go through it, I want you to tell me
13 to stop any time that you see something that you
14 consider to be target glancing. Okay?
15 A. Okay.
16 Q. And for the record, I'm starting the
17 video at 1:13 on the video player, which is
18 22:18:12 on the clock.
19 (Whereupon, a video was
20 displayed.)
21 THE WITNESS: Stop.
22 BY ATTORNEY SNYDER:
23 Q. All right. I've stopped the video at
24 1:26 on the video player, which is 22:18:26 on

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1 the clock. So are you telling me that what we
 2 just saw you consider to be target glancing?
 3 A. Yes, him turning back to look at
 4 officers' position.
 5 Q. And at this point, this is a few
 6 seconds after Mr. Cuypers stepped out of the
 7 vehicle, correct?
 8 A. Correct.
 9 Q. And he was, I would guess, maybe 20 to
 10 25 feet away from the vehicle at that point?
 11 A. Correct.
 12 Q. All right. Let's continue watching.
 13 And if you can say "stop" again if you see
 14 something else that you consider to be target
 15 glancing.
 16 (Whereupon, a video was
 17 displayed.)
 18 THE WITNESS: Stop for a second.
 19 BY ATTORNEY SNYDER:
 20 Q. Sure.
 21 A. The video for me is pretty choppy and,
 22 like, a little pixillated. I'm not sure ...
 23 ATTORNEY SNYDER: Let's go off the record for
 24 a sec.

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1 (Whereupon, a discussion was had
 2 off the record.)
 3 BY ATTORNEY SNYDER;
 4 Q. Also for the record, I'm starting the
 5 video again at 1 minute, 13 seconds, which is
 6 22:18:13 on the clock. And Ms. Gaard has
 7 trouble-shooted her internet connectivity issues
 8 at this point, so hopefully we'll be able to see
 9 the video a little bit clearer.
 10 And you don't need to stop me for this
 11 first one because we already talked about this
 12 one. So let me know the next time after this
 13 one that you see it.
 14 A. Okay.
 15 (Whereupon, a video was
 16 displayed.)
 17 THE WITNESS: Stop right there.
 18 BY ATTORNEY SNYDER:
 19 Q. Okay. I've stopped the video player at
 20 2:06 on the video player, which is 22:19:05 on
 21 the clock.
 22 Just so I'm clear, you're saying that
 23 in the second before I stopped, that was
 24 something that you considered to be target

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1 glancing?
 2 A. When he looked over at Officer Taylor,
 3 yes.
 4 Q. Okay. Can you describe in as much
 5 detail as you can his movements that you
 6 considered to be target glancing?
 7 A. Just the -- The, again, looking at
 8 officers' locations is what we look for, just
 9 the fact that the subject is appearing to try to
 10 gauge where we are, how far away we are, how
 11 many of us there are.
 12 Q. In terms of his physical movements,
 13 what you're saying it is is that slight turn to
 14 the right?
 15 A. It's when he turns to look at officers'
 16 locations after he's been told not to do so.
 17 Q. All right. I'm going to continue
 18 playing the video, and tell me to stop if you
 19 see another example.
 20 (Whereupon, a video was
 21 displayed.)
 22 THE WITNESS: Right there.
 23 BY ATTORNEY SNYDER:
 24 Q. I've stopped the video at 2:42 on the

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1 player, which is 22:19:41 on the clock. And
 2 this is right after Mr. Cuypers had been tased.
 3 And so are you telling me that you saw
 4 target glancing in that?
 5 A. Yes, right before he was tased, right
 6 after I gave the warning, the taser warning.
 7 Q. Okay. I'm going to back it up ten
 8 seconds, because I'm not totally sure I saw it.
 9 So I'm going to back it up again; and if you can
 10 try to say "stop" as it's happening or right
 11 before. We'll just give it a shot.
 12 A. Okay.
 13 Q. I'm backing the video up ten seconds to
 14 2 minutes and 32 seconds, which is going to be
 15 22:19:28 on the clock.
 16 (Whereupon, a video was
 17 displayed.)
 18 THE WITNESS: Right there. But my hands are
 19 covering my camera.
 20 BY ATTORNEY SNYDER:
 21 Q. Okay. I've stopped at 2:42 again,
 22 which is 22:19:41 on the clock, which is the
 23 moment Mr. Cuypers is being tased.
 24 All right. I'm going to pull up a

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1 different body cam, and we'll see if we can see
2 it a little bit more clearly on that one.
3 I'm going to mark this as Exhibit 13.
4 (Whereupon, Gaard Deposition
5 Exhibit No. 13 was identified
6 for the record.)
7 BY ATTORNEY SNYDER:
8 Q. And this is Sergeant Brown's body worn
9 camera video, which is Bates stamped 456.
10 Bear with me for a moment while I get
11 it to the right spot.
12 Okay. I'm -- Are you seeing my screen?
13 A. Yes.
14 Q. Okay. And I'm going to start the video
15 at 2:07 on the video player, which is 22:19:04
16 on the clock.
17 (Whereupon, a video was
18 displayed.)
19 THE WITNESS: You can stop it.
20 So because of his location and where
21 the other officers are on scene, every time he
22 looks slightly to one side or the other, he's
23 looking at my partners. Because Officer Crist
24 is off to his left, and Officer Taylor and

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1 Officer Moen -- well, Officer Moen was probably
2 up with me at this point, but Officer Taylor is
3 right off to his right. They're nearly parallel
4 with each other. So each time he looks left or
5 right, to me, he's gauging my partners'
6 locations.
7 BY ATTORNEY SNYDER:
8 Q. Okay. But in terms of the physical
9 movements that you're describing, you're
10 describing -- What are you describing?
11 A. That he's gauging my partners'
12 locations after Sergeant Brown told him to do
13 nothing but look forward.
14 Q. Okay. But to be clear, you don't know
15 what was in his head; right?
16 So you don't know what his intention
17 was, right?
18 A. Right.
19 Q. So I'm not asking you about what you
20 perceived his intention to have been. I'm
21 asking what physically you observed.
22 Do you understand my question?
23 A. Yes.
24 I observed him looking back and forth

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1 towards where my partners were located.
2 Q. And to be clear, Mr. Cuyppers is
3 standing where he's standing because the
4 officers directed him to stand there; right?
5 A. Yes.
6 Q. And the movements that you're
7 describing, he's not physically turning his body
8 around; right? It's just, like, a slight turn
9 of his head; right?
10 ATTORNEY ZELLNER: Object to form.
11 THE WITNESS: Right.
12 BY ATTORNEY SNYDER:
13 Q. Okay. And nobody told -- People told
14 him to face forward, but they didn't tell him he
15 couldn't slightly move his head; right?
16 ATTORNEY ZELLNER: Object to form.
17 THE WITNESS: Sergeant Brown told him to just
18 look forward, yes.
19 BY ATTORNEY SNYDER:
20 Q. Okay. All right. I'm going to back it
21 up again. And again I want you to tell me to
22 stop every time you see something you consider
23 to be target glancing.
24 A. All right.

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1 Q. Okay. I'm backing it up to -- Hold on.
2 I'm starting the video at 2:07 on the
3 video player, which is 22:19:05 on the clock.
4 And again, I want you to tell me any time you
5 see something.
6 A. Okay.
7 (Whereupon, a video was
8 displayed.)
9 THE WITNESS: Right there.
10 BY ATTORNEY SNYDER:
11 Q. Okay. So I've stopped it 2:12 on the
12 video player, which is 22:19:09 on the clock.
13 And it's your testimony that that's a
14 target glance?
15 A. It's a little bit laggy for me, so it's
16 probably, like, a second or two before that.
17 Q. Okay. Let's back it up. I'm going to
18 back it up ten seconds. And it's starting at
19 2:02 on the player, which is 22:18:59 on the
20 clock.
21 (Whereupon, a video was
22 displayed.)
23 THE WITNESS: Right there.
24

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1 BY ATTORNEY SNYDER:
2 Q. Okay. So I've stopped it at 2:08 on
3 the video player, which is 22:19:05 on the
4 clock.
5 And you're saying that a second before
6 that, that was something you considered to be a
7 target glance; right?
8 A. Yes.
9 Q. And that, to me, I would describe that
10 as just a turn of the head, not a turn of the
11 body; correct?
12 ATTORNEY ZELLNER: Object to form.
13 THE WITNESS: Correct.
14 BY ATTORNEY SNYDER:
15 Q. Okay. All right. I'm going to
16 continue playing it, and tell me to stop when
17 you see another one.
18 (Whereupon, a video was
19 displayed.)
20 THE WITNESS: Stop.
21 BY ATTORNEY SNYDER:
22 Q. Okay. I stopped it at 2:11, which is
23 22:19:08 on the clock.
24 And again, that was a slight turn of

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1 the head; correct?
2 ATTORNEY ZELLNER: Object to form.
3 THE WITNESS: Correct.
4 (Whereupon, a video was
5 displayed.)
6 THE WITNESS: Right there.
7 BY ATTORNEY SNYDER:
8 Q. Okay. I've stopped it at 2:25 on the
9 video player, which is 22:19:22 on the clock.
10 And that's your -- It's your testimony
11 that that's a target glance?
12 A. Yes.
13 Q. Okay. And can you describe to me what
14 indicates to you that that's a target glance in
15 terms of the physical movements that you're
16 observing?
17 A. He's turning his head to look at my
18 partners' locations.
19 Q. Okay. But again, you don't know why
20 he's turning his head; right?
21 A. Exactly.
22 Q. Okay. So what you're observing is a
23 turn of the head, right?
24 A. Yes.

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1 Q. Okay. All right. I'm going to
2 continue playing it, and let me know if you see
3 another one.
4 (Whereupon, a video was
5 displayed.)
6 THE WITNESS: Right there.
7 BY ATTORNEY SNYDER:
8 Q. Okay. I've stopped the video player at
9 2:39 on the video player, which is 22:19:36 on
10 the clock.
11 And it's your testimony that that's a
12 target glance?
13 A. Yes.
14 Q. And can you describe what about the
15 physical movements indicate to you that that's a
16 target glance?
17 A. Officer Crist is off to his left, and
18 he's completely turned facing him.
19 Q. Okay. Let me know if you see another
20 one.
21 (Whereupon, a video was
22 displayed.)
23 THE WITNESS: Right there.
24

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1 BY ATTORNEY SNYDER:
2 Q. Okay. I mean, it's at the point where
3 he's on the ground being tased. So when you say
4 "right there," what --
5 A. Again, it's kind of laggy to me. So
6 right there, after I gave the warning and
7 Sergeant Brown gave another command, he turned
8 to look towards us, towards Sergeant Brown.
9 Q. So let's see if we can do it again.
10 I'm starting it at 2:36 on the video
11 player, which is 22:19:33 on the clock.
12 (Whereupon, a video was
13 displayed.)
14 BY ATTORNEY SNYDER:
15 Q. Okay. So this is the one we just
16 talked about, right? I've paused the video at
17 2:39.
18 A. Right.
19 Q. This is the one we just talked about
20 where it's your belief he was turning to look at
21 Officer Crist, right?
22 A. Yes.
23 (Whereupon, a video was
24 displayed.)

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1 THE WITNESS: Right there.
 2 BY ATTORNEY SNYDER:
 3 Q. Okay. I've stopped it at 2:43 on the
 4 video player, which is 22:19:40 on the clock.
 5 Did you perceive that to be a separate
 6 motion from the one we just talked about where
 7 you thought he was turning to look at Officer
 8 Crist?
 9 A. Yes.
 10 Q. Okay. And what about -- What's your
 11 basis for that?
 12 A. He was looking at Officer Crist. And
 13 then as soon as Sergeant Brown gave another
 14 command, he turned his head further to look back
 15 at our location where we were standing.
 16 Q. And I think after this, it's just the
 17 taser. But I'm just going to press play so we
 18 can make sure there's no other ones that you
 19 contend are target glancing.
 20 (Whereupon, a video was
 21 displayed.)
 22 BY ATTORNEY SNYDER:
 23 Q. So I've stopped it at 2:45 on the
 24 player, which is 22:19:42.

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1 And at this point, Mr. Cuypers has been
 2 tased.
 3 And to be clear, when, you know, you
 4 see someone, a subject looking at an officer,
 5 you don't know that that's a target glance;
 6 right?
 7 A. A target glance is just something that
 8 law enforcement uses to describe people looking
 9 back at us. We don't know -- We never know
 10 someone's intentions.
 11 Q. Okay.
 12 Sorry. Finish your answer.
 13 A. It was just that -- A target glance is
 14 just something that we use to describe people
 15 looking back at us specifically after being told
 16 not to with the belief that they could be doing
 17 that to gauge our locations, distance, number,
 18 et cetera.
 19 Q. Okay. But to be clear, you don't know
 20 that that's the reason why somebody looks at you
 21 when they look at you; because you're not inside
 22 their head, right?
 23 A. Right.
 24 Q. And you agree that someone could turn

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1 around and face an officer, even in defiance of
 2 an order not to do that, and not have the intent
 3 to harm the officer; right?
 4 A. Right.
 5 Q. Okay. I mean, there are multiple
 6 different reasons why someone might look at you;
 7 right?
 8 A. Right.
 9 Q. Another possibility for why someone
 10 would make the movements that you've described
 11 is that they're trying to find out what's going
 12 on, right?
 13 ATTORNEY ZELLNER: Object to form.
 14 THE WITNESS: That could be, yeah.
 15 BY ATTORNEY SNYDER:
 16 Q. And you heard Mr. Cuypers ask multiple
 17 times what was going on, right?
 18 A. Right.
 19 Q. Okay. I'm going back to Exhibit 11,
 20 which is the Use of Force Report.
 21 So again, we discussed this page 5,
 22 which mentions the target glancing. And again,
 23 it's categorized as "Resistance type: Threat of
 24 active resistance." Correct?

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1 A. Correct.
 2 Q. And I'm now scrolling down to page 6 of
 3 this document, which is Bates stamped 95. And
 4 the resistance type is again threat of active
 5 resistance; correct?
 6 A. Correct.
 7 Q. And the event subtype is "Failed to
 8 comply," again; correct?
 9 A. Correct.
 10 Q. And you stated "I advised subject that
 11 he would be tased if he did not comply with
 12 officers' lawful commands, and subject again
 13 refused to comply," correct?
 14 A. Correct.
 15 Q. And I think that was the last page that
 16 had a category.
 17 So just to recap, we looked at this
 18 document, we have Resistance Type here on
 19 page 5, "threat of active resistance" -- or,
 20 sorry, that was page 6.
 21 On page 5, threat of active resistance;
 22 and on page 4, passive resistance. Correct?
 23 A. Correct.
 24 Q. Okay. So you would agree that based on

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1 what's in your report, Mr. Cuypers never
2 actively resisted?
3 A. Correct.
4 Q. So the threat of active resistance is
5 not the same as active resistance, correct?
6 A. Correct.
7 Q. And when you say "threat of active
8 resistance," that means you're worried he might
9 start actively resisting, not that he is
10 actively resisting; right?
11 A. Right.
12 Q. And as we discussed previously with the
13 DAAT continuum, noncompliance is not active
14 resistance; correct?
15 ATTORNEY ZELLNER: Object to form.
16 THE WITNESS: Correct.
17 BY ATTORNEY SNYDER:
18 Q. And have we discussed everything, every
19 physical movement that Mr. Cuypers made that you
20 thought constituted a threat of active
21 resistance; or is there something else?
22 A. We discussed target glancing; we didn't
23 discuss the movement of his hands.
24 Q. Okay. What about the movement of his

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1 hands constituted a threat of active resistance
2 in your opinion?
3 A. In my experience, somebody who refuses
4 to keep their hands where we tell them to is
5 someone who is, A, not complying with what we're
6 saying; and, B, when we see that, it tells us
7 that they could be thinking about, like,
8 assaultive behavior or some other form of active
9 resistance like fighting with us or something
10 like that.
11 Q. Okay. Because he took his hands a few
12 inches off his head?
13 A. I mean, at one point, they were down
14 below his shoulders.
15 Q. Okay. But when they were down below
16 his shoulders, you could still see his hands;
17 right?
18 A. Yes.
19 Q. And as we discussed, he never reached
20 for anything; right?
21 A. Right.
22 Q. Is there anything else in terms of the
23 physical movements that you observed that
24 indicated to you a threat of active resistance?

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1 A. No. Just the target glancing, the
2 removing his hands from his head, and the way he
3 turned his body towards Officer Crist.
4 Q. Okay. And Mr. Cuypers never ran,
5 right?
6 A. Right.
7 Q. And he never gave any indication that
8 he would try to flee, correct?
9 ATTORNEY ZELLNER: Object to form.
10 THE WITNESS: He didn't say anything, no.
11 BY ATTORNEY SNYDER:
12 Q. And when you say he didn't say
13 anything, I mean, did he do anything that
14 indicated that he would try to flee?
15 A. Other than the target glancing, no.
16 Q. Okay. And as we discussed, it's not
17 appropriate under SPD policy to use a taser
18 solely based on the fact that a suspect is
19 fleeing; correct?
20 A. There was another part to that line.
21 Q. Okay. Do you disagree --
22 A. Correct. Yes. Simply fleeing does not
23 constitute a taser, correct.
24 Q. Right.

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1 So even if you thought Mr. Cuypers was
2 going to try to flee, that wouldn't have been a
3 justification for use of the taser; correct?
4 A. Correct.
5 Q. Okay. I'm going to go back to
6 Exhibit 8, which is your body worn camera video.
7 All right. I'm starting the video at
8 5:37 on the video player, which is 22:22:36 on
9 the clock.
10 (Whereupon, a video was
11 displayed.)
12 BY ATTORNEY SNYDER:
13 Q. I've stopped the video at 5:52 on the
14 video player, which is 22:22:52 on the clock.
15 And we just heard a conversation
16 between you and Mr. Cuypers after he had been
17 tased, correct?
18 A. Yes.
19 Q. And you told Mr. Cuypers that he was in
20 this position because he wasn't following
21 commands, correct?
22 A. Correct.
23 Q. You did not tell Mr. Cuypers that he
24 was in this position because you thought he was

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1 going to attack you, correct?
 2 A. Correct.
 3 Q. And you did not tell Mr. Cuypers he was
 4 in this position because he was target glancing,
 5 correct?
 6 A. Correct.
 7 Q. And you did not tell Mr. Cuypers that
 8 he was in this position because you thought he
 9 was going to run, correct?
 10 A. Yes.
 11 Q. Okay. Going back to the video. This
 12 is still Exhibit 8.
 13 Okay. And I am starting the video at
 14 2:30 on the video player, which is 22:19:29 on
 15 the clock.
 16 (Whereupon, a video was
 17 displayed.)
 18 BY ATTORNEY SNYDER:
 19 Q. I've stopped the video at 2:44 on the
 20 video player, which is 22:19:44 on the clock.
 21 And we just -- We just observed -- We heard you
 22 make the warning about the taser. You said, "Do
 23 it now, or you're going to get tased," right?
 24 A. Yes.

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1 Q. And by my count, about two seconds
 2 later, you tased him. Does that sound right to
 3 you?
 4 A. Yes.
 5 Q. All right. I'm pulling up another
 6 video, which I'm going to mark as Exhibit 14.
 7 (Whereupon, Gaard Deposition
 8 Exhibit No. 14 was identified
 9 for the record.)
 10 BY ATTORNEY SNYDER:
 11 Q. This is the body worn camera video that
 12 Officer Taylor was wearing. And it's Bates
 13 stamped 451.
 14 Okay. I'm starting the video player at
 15 16 minutes on the video player, which is
 16 22:31:12 on the clock.
 17 (Whereupon, a video was
 18 displayed.)
 19 BY ATTORNEY SNYDER:
 20 Q. Okay. I've stopped the video at 16:12
 21 on the video player, which is 22:31:24 on the
 22 clock.
 23 And we just heard a conversation
 24 between you and Officer Taylor, correct?

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1 A. Yes.
 2 Q. Okay. And that was you who said, "So
 3 what are your charges," correct? That was you?
 4 A. Yes.
 5 Q. And this was after you tased Ian,
 6 correct?
 7 Or Mr. Cuypers. Sorry.
 8 A. Yes.
 9 Q. So based on the conversation that we
 10 just saw in this video, at the time that you
 11 tased him, you didn't know what he had done to
 12 warrant arrest; correct? You didn't know what
 13 the charges were?
 14 A. I didn't know the reason for the stop.
 15 I knew what I would have charged him with as far
 16 as with resisting. But it's pretty common
 17 practice at SPD for field training officers to
 18 ask officers who are still on probation what
 19 their charges are rather than just saying what
 20 the charges would be as a way -- it's sort of
 21 like a post field training training method to
 22 get newer officers to think critically. So it's
 23 pretty common practice for me to ask newer
 24 officers what they were charging somebody with,

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1 or what their plan was with a call, regardless
 2 of the call.
 3 Q. But you agreed that Mr. Cuypers should
 4 be charged with resisting, correct?
 5 A. Correct.
 6 Q. And when Officer Taylor asked,
 7 "Resisting," you nodded and said "Yes."
 8 Right?
 9 A. Right.
 10 Q. I'm going to play another clip from
 11 this video.
 12 (Whereupon, a video was
 13 displayed.)
 14 ATTORNEY SNYDER: All right. I didn't
 15 realize I was still screen sharing. I'm just
 16 setting up the clip at this point.
 17 BY ATTORNEY SNYDER:
 18 Q. Okay. I'm starting the video, and this
 19 is still Exhibit 14, Officer Taylor's body cam,
 20 I'm starting the video at 17:07 on the video
 21 player, which is 22:22:19 on the clock.
 22 (Whereupon, a video was
 23 displayed.)
 24

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1 BY ATTORNEY SNYDER:
 2 Q. Okay. I've stopped the video at 17:32
 3 on the video player, which is 22:22:44 on the
 4 clock.
 5 And again that was a conversation
 6 between you and Officer Taylor, correct?
 7 A. Correct.
 8 Q. And once again he said, "Resisting?"
 9 And you nodded and said, "Yep."
 10 Correct?
 11 A. Correct.
 12 Q. And he said, "I probably should cite
 13 him for going the wrong way," and you said,
 14 "Yeah. Whatever you observed, your reasoning
 15 for the stop, I would cite him for that too just
 16 because we obviously pulled him out because of
 17 all the furtive movements and, you know, he's
 18 acting weird. And the resisting came in because
 19 he wasn't following commands."
 20 Correct? Did you hear yourself say
 21 that?
 22 A. Yes.
 23 Q. And so you told Officer Taylor that the
 24 resisting came in because he wasn't following

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1 commands, correct?
 2 A. Correct.
 3 ATTORNEY SNYDER: Kiley, I just got a text
 4 from my co-counsel that we got the documents.
 5 So I think we should just take five and see if I
 6 can quickly skim them.
 7 (Whereupon, a discussion was had
 8 off the record.)
 9 (Whereupon, a short break was
 10 taken.)
 11 BY ATTORNEY SNYDER:
 12 Q. All right. Mr. Gaard, throughout this
 13 traffic stop, there were multiple officers
 14 giving orders; correct?
 15 A. Correct.
 16 Q. Officer Taylor gave some orders,
 17 Sergeant Brown gave some orders, and you also
 18 gave some orders; correct?
 19 A. Correct.
 20 Q. And Sergeant Moen also gave orders at
 21 certain points?
 22 A. Officer Moen, correct.
 23 Q. Thank you. Officer Moen.
 24 You agree?

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1 A. Yes.
 2 Q. And sometimes they were giving orders
 3 at the same time, right? Like, talking over
 4 each other?
 5 ATTORNEY ZELLNER: Object to form.
 6 THE WITNESS: Yes.
 7 BY ATTORNEY SNYDER:
 8 Q. Were you trained that only one officer
 9 should give orders at a time?
 10 A. Yes.
 11 Q. And that's because it can be confusing
 12 when there are multiple officers giving orders,
 13 correct?
 14 A. Correct.
 15 Q. And Mr. Cuypers did seem confused,
 16 right?
 17 ATTORNEY ZELLNER: Object to form.
 18 THE WITNESS: To me he just seemed like he
 19 wasn't following commands.
 20 BY ATTORNEY SNYDER:
 21 Q. Okay. During the traffic stop, he was
 22 asking if there were guns on him; right?
 23 A. Right.
 24 Q. And no one ever gave him any

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1 information about why there were five cops and
 2 three guns on him, right?
 3 A. Right.
 4 Q. After he was tased, did you hear him
 5 say "I'm going to die here, aren't I? Am I
 6 going to die"?
 7 A. Yes.
 8 Q. Okay. He sounded scared, right?
 9 ATTORNEY ZELLNER: Object to form.
 10 THE WITNESS: He could have been. I don't --
 11 I don't know how he was feeling.
 12 BY ATTORNEY SNYDER:
 13 Q. Okay. But based on the statements that
 14 he was making, not how he was feeling, but based
 15 on the outward statements that he was making, he
 16 seemed scared; right? If he was asking whether
 17 he was going to die?
 18 ATTORNEY ZELLNER: Object to form.
 19 THE WITNESS: He could have been.
 20 BY ATTORNEY SNYDER:
 21 Q. Okay. And immediately -- Actually, I'm
 22 just going to play the clip. I think it will be
 23 helpful.
 24 I'm going back to Exhibit 8, which is

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1 your body worn camera video.
 2 Okay. I'm sharing the video with you,
 3 and I'm starting it at 3:30 on the video player,
 4 which is 22:20:30 on the clock.
 5 (Whereupon, a video was
 6 displayed.)
 7 BY ATTORNEY SNYDER:
 8 Q. All right. I've stopped the video at
 9 3 minutes and 41 seconds on the video player,
 10 which is 22:20:40 on the clock.
 11 And did you hear Mr. Cuypers screaming,
 12 "What did I do? What did I do"?
 13 A. Yes.
 14 Q. And that was moments after he was
 15 tased, correct?
 16 A. Yes.
 17 Q. And he sounded confused, right, asking
 18 what did he do?
 19 ATTORNEY ZELLNER: Object to form.
 20 THE WITNESS: He sounds just like he was
 21 asking what he did like people ask us that all
 22 the time.
 23 BY ATTORNEY SNYDER:
 24 Q. Okay.

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1 A. Even if they knew what they did.
 2 Q. And he was kind of screaming and crying
 3 a bit, right?
 4 A. Yes.
 5 Q. He sounded scared, right?
 6 ATTORNEY ZELLNER: Object to form.
 7 THE WITNESS: He -- I didn't know -- To be
 8 honest, in that moment, I thought that maybe he
 9 was in pain, which is why I offered medical
 10 attention.
 11 BY ATTORNEY SNYDER:
 12 Q. Okay. I'll play another video clip.
 13 So this is still Exhibit 8, and I'm
 14 starting the video at 5:38 on the video player,
 15 which is 22:22:37 on the clock.
 16 (Whereupon, a video was
 17 displayed.)
 18 BY ATTORNEY SNYDER:
 19 Q. Okay. I've stopped the video at 6:06
 20 on the video player, which is 22:23:06 on the
 21 clock.
 22 And in that video clip, we witnessed
 23 the conversation between you and Mr. Cuypers;
 24 correct?

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1 A. Yes.
 2 Q. And, you know, as we've discussed when
 3 we watched this clip previously, you told
 4 Mr. Cuypers that he was in this position because
 5 he wasn't following commands; correct?
 6 A. Yes.
 7 Q. And he says, "I pulled over right away,
 8 and a bunch of cops showed up," correct?
 9 A. Yes.
 10 Q. And he said, "I followed all your
 11 commands. I swear."
 12 Correct?
 13 A. Yes.
 14 Q. And he asked twice, "What didn't I do,"
 15 correct?
 16 A. Yes.
 17 Q. And nobody answered him, right, at that
 18 time?
 19 A. Right.
 20 Q. You said, "We can discuss that in a
 21 little bit," right?
 22 ATTORNEY ZELLNER: Object to form.
 23 THE WITNESS: No. Officer Taylor said that.
 24

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1 BY ATTORNEY SNYDER:
 2 Q. Thank you. Yes, he did.
 3 Would you agree that when Mr. Cuypers
 4 was asking what commands he didn't follow, he
 5 sounded confused about what he didn't do?
 6 ATTORNEY ZELLNER: Object to form.
 7 THE WITNESS: No. He just sounded, like,
 8 kind of argumentative, like he was saying that
 9 he followed the commands. But he didn't.
 10 BY ATTORNEY SNYDER:
 11 Q. Okay. But you didn't tell him which
 12 ones, right?
 13 A. Right.
 14 Q. And as we discussed, he followed many
 15 of the commands; right?
 16 ATTORNEY ZELLNER: Object to form.
 17 THE WITNESS: He followed some, but not all;
 18 yes.
 19 BY ATTORNEY SNYDER:
 20 Q. Okay. I'm showing you another clip.
 21 This is still Exhibit 8. And I'm starting the
 22 video at 6:43 on the video player, which is
 23 22:23:42 on the clock.
 24

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1 (Whereupon, a video was
2 displayed.)
3 BY ATTORNEY SNYDER:
4 Q. Okay. I've stopped it at 6:47 on the
5 video player, which is 22:23:46 on the clock.
6 And did you hear Mr. Cuypers say, "I
7 mean, it's a lot of commands all at once"?
8 A. I couldn't really understand what he
9 was saying.
10 Q. Okay. I'm going to play it again and
11 see if that helps. And if you still can't hear
12 it, that's fine.
13 All right. I'm starting the video at
14 6:41 on the video player to watch that same clip
15 that we just watched a second time.
16 (Whereupon, a video was
17 displayed.)
18 BY ATTORNEY SNYDER:
19 Q. All right. I stopped it at 6:46 on the
20 video player.
21 Did you hear him say, "I mean, that's a
22 lot of commands all at once"?
23 A. Yeah. I heard "It's a lot of
24 commands." I heard that.

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1 Q. Okay. All right. I'm going to play
2 another clip from this same video. I'm starting
3 the video at 7:06 on the video player, which is
4 22:24:06 on the clock.
5 (Whereupon, a video was
6 displayed.)
7 BY ATTORNEY SNYDER:
8 Q. All right. I stopped the player at
9 7:17 on the video player, which is 22:24:16 on
10 the clock.
11 And did you hear Mr. Cuypers say, "So
12 am I under arrest"?
13 A. Yes.
14 Q. And you responded at this point, "You
15 are not free to leave. You can talk to my
16 partner more about that in a second."
17 Correct?
18 A. Yes.
19 Q. And Officer Taylor said, "Yes. He is
20 under arrest," correct?
21 A. Correct.
22 Q. So at this point, you didn't know
23 whether he was under arrest; correct?
24 A. No. The reason I answered that way was

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1 because I was not the primary officer on the
2 call, and it was not my place to speak to
3 whether or not somebody is under arrest to the
4 subject. So I just didn't answer yes or no
5 because that was a decision for Officer Taylor.
6 Q. Okay. So at that point, you didn't
7 know whether he was under arrest, right, because
8 it was up to Officer Taylor, and he hadn't told
9 you yet; right?
10 A. Yes.
11 Q. During the traffic stop, on the videos
12 that we just watched, we heard Mr. Cuypers ask
13 multiple times what's going on and what's
14 happening, correct?
15 A. Correct.
16 Q. And just prior to getting tased, he
17 said, "Can I please get an explanation?"
18 Correct?
19 A. Correct.
20 Q. And would you agree that based on those
21 questions, it seemed like he did not know what
22 was happening?
23 ATTORNEY ZELLNER: Object to form.
24 THE WITNESS: That's possible. But in my

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1 experience, I've also gotten several of those
2 questions from people who were not complying in
3 an effort to essentially buy themselves time to
4 figure out what they're going to do next. So he
5 could have been confused. He could have been,
6 you know, thinking how he was going to flee. He
7 could have been thinking how he was going to
8 resist us. There's really no way to know
9 what was going through his head.
10 BY ATTORNEY SNYDER:
11 Q. Okay. But one possibility was that he
12 was confused, correct?
13 A. It's possible.
14 Q. Okay. And he asked if there were guns
15 on him, right?
16 A. Yes.
17 Q. And he said, "I feel like I'm being
18 assaulted," right?
19 A. I guess. I don't know.
20 Q. Okay. I'm going to pull up the video.
21 I'm going to go through these so that
22 you know the things I'm looking for.
23 Did you hear him say, "I really do not
24 feel like I'm being treated well"?

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1 A. I think so. Maybe while Sergeant Brown
2 was giving commands.
3 Q. Did you hear him say, "I'm a fucking
4 citizen"?
5 A. No.
6 Q. Okay. All right. I'm going to pull up
7 Exhibit 13, which is Sergeant Brown's body cam.
8 All right. And I'm starting the video
9 at 1:57 on the video player, which is 22:18:54
10 on the clock.
11 (Whereupon, a video was
12 displayed.)
13 BY ATTORNEY SNYDER:
14 Q. Okay. I've stopped it at 2:02 on the
15 video player.
16 Did you hear Mr. Cuypers say, "I feel
17 like I'm being assaulted"?
18 A. I heard him say something. Again, it's
19 kind of hard for me to understand what he's
20 saying.
21 Q. Okay.
22 A. But that's what it sounded like, yeah.
23 Q. Okay. I'm continuing the video on from
24 2:02.

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1 (Whereupon, a video was
2 displayed.)
3 BY ATTORNEY SNYDER:
4 Q. Okay. I've stopped the video at 2:29.
5 Did you hear Mr. Cuypers say, "I really
6 do not feel like I'm being treated well"?
7 A. Yes.
8 Q. And I'm continuing on the video from
9 there.
10 (Whereupon, a video was
11 displayed.)
12 BY ATTORNEY SNYDER:
13 Q. Okay. I've stopped the video at
14 2 minutes and 41 seconds.
15 Did you hear after he said, "Can I get
16 an explanation," he said, "I'm a fucking
17 citizen"?
18 A. I think so, yeah.
19 Q. Okay. Do you think that Mr. Cuypers's,
20 what was in your view failure to comply with
21 certain commands, did you think that that
22 inconvenienced the officers that night?
23 A. Yes.
24 Q. Did you think it did anything more than

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1 inconvenience them?
2 A. It put us in a position to be unsure of
3 whether or not this person was dangerous.
4 Q. Okay. And how did that lack of
5 certainty as to whether or not he was -- Well,
6 let me ask this. As we discussed, any time you
7 interact with a member of the public, you can't
8 be sure if they're dangerous; right?
9 A. Right.
10 Q. Because anybody can have a weapon,
11 right?
12 A. Exactly.
13 Q. Okay. So how did Mr. Cuypers's
14 supposed failure to follow certain orders amount
15 to more than an inconvenience?
16 A. Due to the inherent danger that, you
17 know, traffic stops can hold, you know, we don't
18 know -- like you said, we don't know somebody's
19 intentions. We don't know whether or not
20 someone is armed. We don't know what or who
21 else could be in the vehicle. There are several
22 unknowns when it comes to traffic stops. So
23 somebody's failure to comply with our commands
24 tells us that this could be potentially a more

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1 dangerous situation than just an uneventful
2 traffic stop.
3 Q. Anything else?
4 A. No.
5 Q. And you and the other officers were
6 ultimately able to arrest Mr. Cuypers, correct?
7 A. Correct.
8 Q. Your ability to arrest him was not
9 impeded, correct?
10 A. Not after the use of force.
11 Q. But even before the use of force, I
12 mean, you could have handcuffed him without
13 forcing him down to his knee; right?
14 ATTORNEY ZELLNER: Object to form.
15 THE WITNESS: Potentially. But we didn't
16 know that at the time.
17 BY ATTORNEY SNYDER:
18 Q. Yeah. But you've handcuffed people who
19 were not down on their knees before, right?
20 A. Right.
21 Q. And you've handcuffed people who
22 haven't interlaced their hands over their head
23 before, right?
24 A. Correct.

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1 Q. And he never did anything to physically
2 prevent any officer from putting handcuffs on
3 him, right?
4 A. Correct.
5 Q. No one was disciplined as a result of
6 this traffic stop, correct?
7 A. Correct.
8 Q. Other than the conversations we've
9 already talked about, did you have any
10 conversations with anyone else about this
11 incident?
12 A. No.
13 Q. Okay. Did you have any
14 conversations -- Other than the conversations
15 you had on the day of the incident, did you have
16 any conversations about this incident with
17 Justin Taylor?
18 A. I don't think so, no.
19 Q. What about Sergeant Brown?
20 A. No.
21 Q. Okay. Other than the conversation that
22 you had -- the conversation that you told us
23 about that you had with Chief Winterscheidt, did
24 you have any other conversations with him?

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1 A. No.
2 Q. What about with Officer Jason Moen?
3 A. No. I mean, I don't -- We probably had
4 conversations for, like, training purposes
5 directly following the traffic stop just because
6 that was common practice. After every call, you
7 know, I would sort of let my trainee debrief the
8 call. But I don't -- Other than that, no. And
9 I don't even remember what that conversation
10 entailed.
11 Q. Okay. Do you remember anything that
12 you told him about in that conversation?
13 A. I remember, like, walking through step
14 by step the different types of resistance and
15 how, like, certain movements and things depicted
16 the threat of active resistance. Other than
17 that, I don't -- I don't think we talked much
18 about it.
19 Q. Okay. Do you remember anything that he
20 said to you?
21 A. No.
22 Q. Did you receive any additional training
23 as a result of this incident?
24 A. No.

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1 Q. I'm going to pull up an exhibit that's
2 going to be Exhibit 15. Okay. I'm marking this
3 as Exhibit 15, and these are text messages from
4 you that we received in discovery in this case.
5 And this document is Bates stamped 2141 to 2142.
6 (Whereupon, Gaard Deposition
7 Exhibit No. 15 was identified
8 for the record.)
9 BY ATTORNEY SNYDER:
10 Q. Do you recognize these text messages?
11 A. Yes.
12 Q. And these are messages between you and
13 someone called Mama Steph, correct?
14 A. Yes.
15 Q. Who is Mama Steph? Is that your
16 mother?
17 A. My mom.
18 Q. Okay. And you texted her the link to
19 the YouTube video, correct?
20 A. Yes.
21 Q. So we don't have the date on these text
22 messages; but this would have been around the
23 same time as those other text messages that we
24 looked at, most likely; correct?

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1 A. Probably, yeah.
2 Q. March 28th, 2024, around that time?
3 A. Yes.
4 Q. Okay. And you shared the link to the
5 YouTube video. And your mom responded "You were
6 well within your right. It was spun."
7 Correct?
8 A. Correct.
9 Q. Okay. When you said "Well," were you
10 asking your mother's opinion on the video?
11 A. No. I could see how it would look that
12 way, but I was actually asking her if the
13 message had gone through. Because before that,
14 it had failed to send to her, and that was all
15 that that was. Like, she had called me and said
16 it had not come through or whatever and said she
17 would text me when she got it, and she didn't.
18 So I just followed up, like, a half an hour
19 later or something?
20 Q. I see.
21 Did you have a previous conversation
22 about the video via text, or was that on the
23 phone?
24 A. It was on the phone. She called me

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1 because somebody in our home town had seen it,
 2 and she wanted to know what was going on.
 3 Q. Okay. Other than this text message
 4 with your mom and the texts we looked at earlier
 5 with Amanda and Vern, did you have any other
 6 conversations via text with anyone about this
 7 incident?
 8 A. No.
 9 Q. What about, about this lawsuit?
 10 A. No.
 11 Q. Okay. Did anyone, any of the people in
 12 your life who reached out to you after they saw
 13 the video, did any of those people ever tell you
 14 that they had a problem with any of the police
 15 conduct that they saw on that video?
 16 A. No.
 17 Q. Okay. And you testified at the trial
 18 on Mr. Cuyper's tickets arising from this
 19 incident, correct?
 20 A. Yes.
 21 Q. Other than your attorney, did you ever
 22 have any conversations with anyone about that
 23 trial?
 24 A. No.

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1 Q. Okay. Since this lawsuit has been
 2 filed, have you had any conversations with
 3 Justin Taylor about this incident or the
 4 lawsuit?
 5 A. No.
 6 Q. What about with Sergeant Brown?
 7 A. No.
 8 Q. Paul Winterscheidt?
 9 A. No.
 10 Q. Jason Moen?
 11 A. No.
 12 Q. Dylan Crist?
 13 A. No.
 14 Q. Is your husband a police officer?
 15 A. No.
 16 ATTORNEY SNYDER: All right. I'm going to
 17 take five and look over my notes, and then I
 18 think we're close to done.
 19 (Whereupon, a short break was
 20 taken.)
 21 BY ATTORNEY SNYDER:
 22 Q. Just a couple of questions, and then
 23 we'll get you out of here.
 24 In his deposition, Justin Taylor

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1 testified that the use of the taser was not
 2 appropriate in this case. Do you agree with
 3 him?
 4 ATTORNEY ZELLNER: Object to form.
 5 THE WITNESS: No. I don't agree.
 6 BY ATTORNEY SNYDER:
 7 Q. Do you think that Officer Taylor should
 8 have done anything differently in this traffic
 9 stop?
 10 A. No. I mean, it's really difficult to
 11 speak to another officer's actions and what is
 12 going through their heads in any given incident.
 13 Q. Leaving aside what was in his head,
 14 based on what you observed about his conduct
 15 throughout this traffic stop, do you think he
 16 should have done anything differently.
 17 A. No.
 18 Q. Okay. Do you think that Sergeant Brown
 19 should have done anything differently?
 20 A. No.
 21 Q. Do you think that you should have done
 22 anything differently?
 23 A. No.
 24 Q. Okay. Do you have any regrets about

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1 how this traffic stop unfolded?
 2 A. I mean, as a police officer, I never
 3 went to work hoping to use force on anybody.
 4 But I still believe that that was the result of
 5 Mr. Cuyper's actions, so I don't regret
 6 anything. I don't like that it got to that
 7 point, but that was -- that was the result of
 8 actions by the subject. So ...
 9 ATTORNEY SNYDER: Okay. I have no further
 10 questions.
 11 ATTORNEY ZELLNER: I don't have any questions
 12 for the witness.
 13 (Off the record at 12:52 p.m. CST.)
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IAN CUYPERS vs SUPERIOR POLICE DEPARTMENT OFFICER JUSTIN TAYLOR
GAARD, TAYLOR on 10/03/2025

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 22, 2025, there appeared before me via
 7 Zoom videoconference TAYLOR GAARD, 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 JUSTIN TAYLOR, et al., are the
 13 Defendants.
 14 I further certify that the said TAYLOR
 15 GAARD 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 1st day of
 9 November 2025.
 10 
 11 _____
 12 TRACY JONES, CSR, RPR, CLR
 13 IL Lic. No. 084-004553
 14 OR Lic. No. 20-0474
 15 WA Lic. No. 20122032
 16 NCRA RPR No. 72907
 17
 18
 19
 20
 21
 22
 23
 24

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