

Deposition Transcript

Case Number: 25-cv-01073-W-DDL

Date: February 10, 2026

In the matter of:

ERIC TALLAKSEN v ALEXANDER SMITH, et al.

Alexander Smith

**CERTIFIED
COPY**

Reported by:
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ALEXANDER SMITH
FEBRUARY 10, 2026

JOB NO. 2392534

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ERIC TALLAKSEN,

Plaintiff,

vs.

Case No.

ALEXANDER SMITH, an

25-cv-01073-W-DDL

individual; and ESTEBAN

HERNANDEZ, an individual,

Defendants.

_____ /

VIDEOTAPED DEPOSITION OF ALEXANDER SMITH

CONTAINS CONFIDENTIAL TESTIMONY

PAGES 21 TO 24

Taken at San Diego, California

Tuesday, February 10, 2026

Reported by Kathleen Shelburne, CSR

Certificate No. 7227

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FEBRUARY 10, 2026

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ERIC TALLAKSEN,
Plaintiff,
vs. Case No.
25-cv-01073-W-DDL
ALEXANDER SMITH, an individual;
and ESTEBAN HERNANDEZ,
an individual,
Defendants.
_____/

On Tuesday, February 10, 2026, commencing at the
hour of 9:30 a.m., at 501 West Broadway, Suite 730,
in the City of San Diego, County of San Diego, State
of California, before me, Kathleen Shelburne,
Certified Shorthand Reporter in and for the State of
California, personally appeared:

ALEXANDER SMITH,
called by the Plaintiff, who, being by me first duly
sworn, was thereupon examined as a witness in said
cause.

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I N D E X

DEPOSITION OF: ALEXANDER SMITH

February 10, 2026

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TRANSCRIPT MARKED AT THE REQUEST OF COUNSEL

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A P P E A R A N C E S

1
2
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20
21 ALSO PRESENT: Pamela Nozot, Paralegal
22 Oliver Calderon, Videographer
23
24
25

ALEXANDER SMITH
FEBRUARY 10, 2026

JOB NO. 2392534

1 SAN DIEGO, CALIFORNIA; FEBRUARY 10, 2026; 9:35 A.M.

2

3 THE VIDEOGRAPHER: Good morning. We are on
4 the record at 9:32 a.m., Pacific Time, on February
5 10, 2026, to begin the deposition of Officer
6 Alexander Smith in the matter of Eric Tallaksen
7 versus Alexander Smith, et al.

8 This case is venued in United States
9 District Court, Southern District of California.
10 The Case Number is 25-cv-01073-W-DDL.

11 This deposition is taking place at Stitt Vu
12 Trial Lawyers, APC, 501 West Broadway, Suite 730,
13 San Diego, CA 92101.

14 The legal videographer is Oliver Calderon,
15 here on behalf of Steno. And the court reporter is
16 Kat Shelburne, also here on behalf of Steno.

17 Would counsel please identify yourselves
18 and state whom you represent.

19 MR. STITT: Good morning, Officer Smith.
20 My name is Ryan Stitt. I'm Eric Tallaksen's lawyer.

21 MR. SHEPHERD: Deputy Attorney General
22 Jamie Shepherd for the defendants Alexander Smith
23 and Esteban Hernandez.

24 THE VIDEOGRAPHER: Thank you, Counsel.
25 Would the reporter please swear in the

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1 witness.

2

3

ALEXANDER SMITH,

4

Called as a witness on behalf of the

5

Plaintiff, having been first duly sworn, was

6

examined and testified as follows:

7

8

EXAMINATION

9

10 BY MR. STITT:

11

Q. Good morning, Officer Smith. Have you ever

12

been deposed before?

13

A. Yes.

14

Q. Okay. How many times?

15

A. Civilly, once.

16

Q. Okay. I want to go through some just

17

general rules for the deposition with you to start,

18

and it's important to me that we understand what the

19

rules are.

20

I know this is a somewhat informal setting.

21

We're not in court. But essentially the same rules

22

apply. You've been sworn to tell the truth. You're

23

under oath.

24

If I ask you a question that you don't know

25

the answer to, please say, "I don't know," "I don't

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1 recall," "I'm not sure," something to that effect.

2 If you answer the question, we all assume
3 that you understood the question and are answering
4 it based on the best recollection that you have.

5 Do you understand that and agree to it?

6 A. Yes.

7 Q. Okay. It's important that you answer
8 verbally. I know that you'll probably do a good job
9 of that, but we'll all try to remind you.

10 And if I do something that's nonverbal as
11 well, please remind me. You know, if we shake our
12 head or nod, those are things that Kat is not able
13 to write down, and then they don't make it into the
14 record as clearly as we would like.

15 It's important that you wait for the
16 questions to finish before answering so we don't
17 talk over each other. I'll also try to be very
18 cautious about interrupting you so that it's easy
19 for the record to be clear.

20 Please take your time. There's no rush for
21 us to get through this today. We'll get through it
22 when we get through it.

23 If you need to take a break, please do.
24 I'm sure that we'll take several breaks, and it's
25 totally fine if you ask to take a break because it's

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1 a good time for you to stretch your legs, get a
2 drink of water or coffee, whatever you need.

3 If you do request to take a break, my
4 request is that you finish answering the question
5 that's pending.

6 So, for example, if I ask you a question
7 and before you answer the question, you ask to take
8 a break, I'll insist on you finishing your answer to
9 the pending question before taking the break?

10 Do you understand that?

11 A. Yes.

12 Q. Okay. With respect to objections, your
13 attorney can make objections to questions that I
14 ask, but typically you're still required to answer
15 at a deposition unless your attorney instructs you
16 not to ask or answer the question.

17 Do you understand that?

18 A. Yes.

19 MR. STITT: Mr. Shepherd, with respect to
20 objections today, yesterday I felt that some of the
21 objections were long-winded and somewhat
22 time-consuming. I think we're going to run into
23 time constraints today. And my request is that you
24 simply note objections by the Federal Rule of
25 Evidence, and that way they can be lodged in the

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1 record for your client and done in a way that's I
2 think a lot more streamlined than a long-speaking
3 objection that's just going to take, you know, just
4 going to extend things I think longer than it needs
5 to be.

6 So that's my request. If you're able to
7 comply with that, I would appreciate it.

8 I don't have any more introductory
9 instructions, but if you feel at some point that you
10 don't understand the rules or the question that I'm
11 asking, please say so.

12 It's important to me that you understand
13 the question and what's going on the document you're
14 reviewing. If there's ever any concern or question,
15 in your mind, please speak up.

16 Q. Officer Smith, tell me when you started
17 working for California Highway Patrol.

18 A. That would have been the year of 2019.

19 Q. And why did you become a Highway Patrol
20 officer?

21 A. I wanted to become a California Highway
22 Patrol officer.

23 Q. But why?

24 A. I wanted to become an officer.

25 Q. But why Highway Patrol?

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1 MR. SHEPHERD: Asked and answered.

2 THE WITNESS: I wanted to become an
3 officer.

4 BY MR. STITT:

5 Q. Why, in particular, the California Highway
6 Patrol instead of the Los Angeles Police Department
7 or the fire department?

8 MR. SHEPHERD: Asked and answered.

9 THE WITNESS: I wanted to become a
10 California Highway Patrol officer.

11 BY MR. STITT:

12 Q. You don't know why, in particular, you
13 wanted to become a California Highway Patrol officer
14 instead of another law enforcement officer?

15 MR. SHEPHERD: Mischaracterization of
16 earlier testimony. Harassing. Oppressive.

17 MR. STITT: Mr. Shepherd, did you
18 understand my instruction at the beginning of the
19 deposition with respect to the numbers for the Rules
20 of Evidence?

21 MR. SHEPHERD: I am not a witness at this
22 deposition.

23 MR. STITT: Are you not able to use the
24 rules of evidence to object, so that we can do this
25 a little bit faster?

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1 MR. SHEPHERD: I'm not here to answer your
2 questions.

3 BY MR. STITT:

4 Q. Okay. Officer Smith, can you tell us why,
5 in particular, you chose the California Highway
6 Patrol over a different law enforcement
7 organization?

8 MR. SHEPHERD: Objection. Asked and
9 answered. Harassing and oppressive.

10 THE WITNESS: I specifically wanted to
11 become a California Highway Patrol officer.

12 BY MR. STITT:

13 Q. Why, specifically?

14 MR. SHEPHERD: Objection. Asked and
15 answered. Harassing and oppressive.

16 THE WITNESS: It is something I wanted to
17 do.

18 BY MR. STITT:

19 Q. Why?

20 MR. SHEPHERD: Objection. Harassing and
21 oppressive. Asked and answered.

22 THE WITNESS: I don't have any other
23 reasons for you other than I wanted to become an
24 officer, and that's why I pursued becoming an
25 officer.

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1 BY MR. STITT:

2 Q. Did you go to college?

3 A. Yes.

4 Q. Where?

5 A. Palomar Community College.

6 Q. When did you graduate?

7 A. I did not graduate.

8 Q. Did you go directly from Palomar Community
9 College to the California Highway Patrol?

10 A. I went through their backgrounds process,
11 yes.

12 Q. But did you work, you know, did you have a
13 career professionally before you started with
14 Highway Patrol?

15 A. Can you define a professional career for
16 me?

17 Q. I guess what -- can you just generally
18 describe what your work history was briefly before
19 you joined Highway Patrol?

20 A. Yes. I was a lifeguard at Legoland
21 California, and then I was a security officer and
22 supervisor at Disneyland, California.

23 Q. How long did you work at Disneyland as a
24 security guard?

25 A. Approximately two to three years.

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1 Q. And you didn't work for any other law
2 enforcement organizations then before joining
3 California Highway Patrol, Correct?

4 A. I did not.

5 Q. Did you apply to other law enforcement
6 organizations?

7 A. No.

8 Q. You just applied to be a Highway Patrol
9 officer?

10 A. Yes.

11 Q. Why did you choose to apply just to the
12 California Highway Patrol instead of any other law
13 enforcement organization?

14 MR. SHEPHERD: Objection. Asked and
15 answered. Harassing and oppressive.

16 THE WITNESS: I did not have any intent to
17 apply for another agency.

18 BY MR. STITT:

19 Q. Can you offer any reason for why that is?

20 MR. SHEPHERD: Objection. Asked and
21 answered. Harassing and oppressive.

22 THE WITNESS: I don't have a reason to give
23 you other than I wanted to become a California
24 Highway Patrol officer.

25 ///

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1 BY MR. STITT:

2 Q. In your mind, when you applied, what did it
3 mean to be a California Highway Patrol officer?

4 A. A peace officer employed by the California
5 Highway Patrol.

6 Q. Must have been important to you, though.
7 You wanted to become a Highway Patrol officer. What
8 appealed to you about the position?

9 MR. SHEPHERD: Objection. Asked and
10 answered. Harassing and oppressive.

11 THE WITNESS: As I stated, I wanted to
12 become a California Highway Patrol officer.

13 BY MR. STITT:

14 Q. There's nothing that stood out to you about
15 being a Highway Patrol officer in particular that
16 was appealing to you when you applied?

17 MR. SHEPHERD: Objection. Harassing and
18 oppressive. Asked and answered.

19 THE WITNESS: As I stated, I wanted to
20 apply for the California Highway Patrol. I did not
21 want to apply for other agencies.

22 BY MR. STITT:

23 Q. We're going to be here for a couple days,
24 guys, if we can't get a straight answer to some of
25 these questions.

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1 This is not a difficult question. I'm just
2 asking you why -- why did you like Highway Patrol
3 over any other law enforcement organization you
4 could have applied to? What -- what did you like
5 about the organization that made you want to become
6 a part of it?

7 MR. SHEPHERD: Objection. Asked and
8 answered. Harassing and oppressive.

9 You only have seven hours.

10 MR. STITT: And we're going to run out the
11 clock, I guess, so here we go.

12 MR. SHEPHERD: We're good.

13 THE WITNESS: As I stated already, I had no
14 intent of applying for any other agency. I only
15 applied for the California Highway Patrol, and
16 that's what I wanted to do.

17 BY MR. STITT:

18 Q. Did you feel that you were not qualified to
19 work for another agency?

20 A. No.

21 Q. Did you think that the location for other
22 agencies would not have worked with your life at
23 that time?

24 A. No.

25 Q. What led you then to only apply to one

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1 agency?

2 MR. SHEPHERD: Objection. Asked and
3 answered. Harassing and oppressive.

4 THE WITNESS: As I stated, I wanted to
5 become a California Highway Patrol officer. That
6 was the only agency I applied to.

7 BY MR. STITT:

8 Q. Do you have family or friends that are
9 California Highway Patrol officers or that were at
10 the time you applied?

11 A. Yes.

12 Q. Who?

13 A. At the time that I applied?

14 Q. Yeah.

15 A. My father-in-law.

16 Q. And had he been a California Highway Patrol
17 officer for a long time?

18 A. Yes.

19 Q. And did he speak favorably about the job?

20 A. For himself, yes.

21 Q. Is that, in part, why you chose to apply to
22 be a California Highway Patrol officer as well?

23 A. Can't speak on if that truly affected my
24 decision. He never pushed it upon me.

25 Q. But for you, in making your own decision,

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1 was it appealing to you to be a Highway Patrol
2 officer based on what you saw with your father and
3 mom?

4 MR. SHEPHERD: Objection. Asked and
5 answered. Harassing and oppressive.

6 THE WITNESS: Yes, the California Highway
7 Patrol was appealing.

8 BY MR. STITT:

9 Q. What is your current rank with the Highway
10 Patrol?

11 A. Officer.

12 Q. Okay. I noticed that you have a mark on
13 your sleeve. Does that designate a different rank
14 within the Highway Patrol officer -- or California
15 Highway Patrol, excuse me.

16 A. No, it does not signify a different rank.

17 Q. Okay. So you, today, you hold the same
18 rank that you did at the time of Mr. Tallaksen's
19 incident; is that right?

20 A. Yes.

21 Q. What would the next rank up be? Would it
22 be sergeant?

23 A. Yes, it would.

24 Q. Okay. So there's no, like, Officer First
25 Class, or something like that, like we would see in

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1 the Navy or some other organization?

2 A. Correct. There's not a different class.

3 (END OF NONCONFIDENTIAL TESTIMONY.)

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ALEXANDER SMITH
FEBRUARY 10, 2026

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1 (NONCONFIDENTIAL TESTIMONY RESUMES.)

2

3 BY MR. STITT:

4 Q. Okay. I believe you've been deposed
5 civilly once before. Can you tell me about that,
6 please.

7 A. Yes.

8 Q. When did it happen?

9 A. The case occurred either 2019 or early
10 2020.

11 Q. And what was it about?

12 A. It was a traffic collision.

13 Q. And why were you deposed?

14 A. Both of the parties involved were
15 attempting to file a lawsuit against each other.

16 Q. Okay. So you weren't a subject of the
17 lawsuit. You were just a witness?

18 A. Correct.

19 Q. And were you the Highway Patrol officer who
20 showed up on scene and investigated who was at
21 fault?

22 A. Yes.

23 Q. And so the two people in the car accident
24 sued each other, and then you're called in to talk
25 about what you saw as just a witness?

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1 A. Yes.

2 Q. Were there any allegations of misconduct
3 against you in that case?

4 A. No.

5 Q. You're just purely a witness?

6 A. Yes.

7 Q. What's your disciplinary history with the
8 California Highway Patrol?

9 A. Kind of a vague question. I don't know how
10 to answer that.

11 Q. Have you been disciplined before?

12 A. Yes.

13 Q. For what?

14 A. Various policies.

15 Q. Can you please be specific and tell me all
16 the different times you've been disciplined.

17 A. I've been disciplined with a Memorandum of
18 Direction to review policy after a patrol vehicle
19 collision.

20 Q. Roughly when was that?

21 A. That would have been 2020 and 2023.

22 Q. So twice?

23 A. And 2024.

24 Q. Four times, is that right -- I'm sorry,
25 three times. I skipped one, I believe.

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1 A. Three times, yes, for that.

2 Q. Have you been disciplined for other matters
3 during your time at CHP?

4 A. Yes.

5 Q. Please describe those.

6 A. I had a Memorandum of Direction to review
7 policy after -- for violating policy for beat
8 accountability.

9 Q. What is beat accountability?

10 A. Essentially checking my designated beat
11 while on patrol.

12 Q. And what year was that?

13 A. To the best of my knowledge, approximately
14 2021.

15 Q. Were you disciplined other times?

16 A. Yes.

17 Q. Please describe those.

18 A. Would have been a Memorandum of Direction
19 to review policy after being rude and discourteous.

20 Q. When was that?

21 A. That would have been either 2023 or 2024.
22 I'm not entirely sure.

23 Q. So just one time, but in 2023 or 2024?

24 A. Correct.

25 Q. Okay. When you say there's a -- I got

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1 ahead of myself. Let me start again.

2 Are there other instances during your time
3 at CHP that you were disciplined?

4 A. To the best of my knowledge, no.

5 Q. So just to recap, to make sure that I -- I
6 have it straight.

7 There were three memorandums of -- do you
8 call them accountability or --

9 A. Memorandum of Direction.

10 Q. -- Memorandum of Direction, thank you --
11 related to decision making and accidents. There
12 were three starting in 2020, 2023 and then 2024.
13 There was one for beat accountability in
14 approximately 2021 and one for being rude and
15 discourteous in 2023 or 2024.

16 Is that a fair summary?

17 A. Correct.

18 Q. Okay. That's in total five, I think; is
19 that right?

20 A. Yes.

21 Q. When there's a memorandum of
22 accountability, what does that mean, practically?
23 Do you get a written piece of paper, or is there a
24 report? What does that look like?

25 MR. SHEPHERD: Objection. Compound.

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1 Misstates prior testimony.

2 Go ahead.

3 THE WITNESS: I'm not sure what a
4 memorandum of accountability is.

5 BY MR. STITT:

6 Q. What are the memorandums again for --
7 they're called for these disciplinary actions?

8 A. It's a Memorandum of Direction.

9 Q. What do the Memorandums of Direction look
10 like?

11 A. It is a piece of paper presented by a
12 supervisor with orders to review policy or another
13 action.

14 Q. Who -- who creates them?

15 A. That would be my management.

16 Q. So how -- how -- like, who would decide
17 whether to investigate whether to create one? Like,
18 is there a complaint? Does Another officer refer
19 to -- like, how does the process get started, if you
20 know?

21 A. I'm not entirely sure on that process, as
22 I'm not a supervisor, so I'm not familiar with the
23 disciplinary policies.

24 Q. Well, to the best of your understanding,
25 how did the -- how did these memorandums get

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1 started?

2 A. They're not all the same memorandum of
3 directions.

4 Q. Right.

5 A. So they're different scenarios, different
6 situations.

7 Q. Well, let's talk about the rude and
8 discourteous one. Do you know how that process
9 began?

10 A. Yes.

11 MR. SHEPHERD: Objection. Relevance.

12 Go ahead.

13 THE WITNESS: Yes.

14 BY MR. STITT:

15 Q. Please tell me about it.

16 A. I believe a formal complaint was filed by
17 the citizen.

18 Q. Do you know what the complaint alleged?

19 MR. SHEPHERD: Objection. Relevance.

20 Go ahead.

21 THE WITNESS: Yes.

22 BY MR. STITT:

23 Q. What did it allege?

24 A. It alleged that I used profanity.

25 Q. Can you be more specific?

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1 MR. SHEPHERD: Objection. Relevance.

2 Go ahead.

3 THE WITNESS: Can you -- can you be more
4 specific with your request? What are you asking me
5 to be specific about?

6 BY MR. STITT:

7 Q. First, thank you for asking me to clarify.
8 It's sometimes hard with the three of us doing this.
9 We're going to be doing this for a while today, so
10 please do that, if you don't understand.

11 I'm asking you to provide as much detail as
12 you recall about what the complaint was.

13 So they, for example, complained that you
14 said X or did Y, and I'm asking you to tell me what
15 detail you recall about what the allegation was.

16 A. The allegation was that I used multiple
17 instances of profane language, specifically the word
18 "fuck," and that I also falsified documents.

19 Q. And that you falsified documents. Do you
20 know what documents they alleged you falsified?

21 MR. SHEPHERD: Objection. Relevance.

22 Go ahead.

23 THE WITNESS: Yes.

24 BY MR. STITT:

25 Q. What are they?

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1 A. It was a Department of Motor Vehicles
2 Driver Safety Form 427.

3 Q. I don't know what the forms are. Can you
4 tell me generally what that is.

5 MR. SHEPHERD: Objection. Relevance.

6 THE WITNESS: Yes, I can.

7 BY MR. STITT:

8 Q. What is it?

9 A. It is a Driver Priority Reevaluation Form.

10 Q. Can you help me understand what -- what
11 that form would be used for?

12 MR. SHEPHERD: Objection. Relevance.

13 THE WITNESS: It refers drivers to the DMV
14 to be essentially investigated by the DMV to
15 determine if it is appropriate to suspend or revoke
16 their license.

17 BY MR. STITT:

18 Q. Okay. And the complainant alleged that you
19 falsified information on that form. Is that the
20 allegation?

21 MR. SHEPHERD: Objection. Relevance.

22 THE WITNESS: Yes.

23 BY MR. STITT:

24 Q. Was that sustained?

25 MR. SHEPHERD: Objection. Relevance.

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1 THE WITNESS: No.

2 BY MR. STITT:

3 Q. In the Memorandum of Direction that you
4 receive -- received, excuse me, for this complaint,
5 does it go through basically each of the allegations
6 and say whether they're sustained or not, and then
7 direct you, I guess, to refer to certain policies?
8 Is that basically what the memorandum does?

9 MR. SHEPHERD: Objection. Relevance.

10 THE WITNESS: The complaint procedure will
11 go over the allegations and whether they're
12 sustained or not.

13 The Memorandum of Direction only deals with
14 the policy violation and directs the officer to
15 review policy unless there's another action
16 warranted.

17 BY MR. STITT:

18 Q. Okay. So the complaint procedure then is
19 separate from the Memorandum of Direction?

20 A. Yes.

21 Q. And do you -- do you know if there was a
22 complaint investigation for the rude and
23 discourteous complaint that you received?

24 A. Yes.

25 MR. SHEPHERD: Objection. Relevance.

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1 BY MR. STITT:

2 Q. What of the allegations were sustained?

3 MR. SHEPHERD: Objection. Relevance.

4 BY MR. STITT:

5 Q. To the best of your memory.

6 A. It was one complaint for both allegations.

7 The allegation of rude and discourteous was
8 sustained.

9 Q. And what was the -- what allegations were
10 not sustained?

11 MR. SHEPHERD: Objection. Relevance.

12 THE WITNESS: The falsifying documents.

13 BY MR. STITT:

14 Q. Is it the same general complaint in the
15 memorandum procedure for the four other memorandums
16 of discretion that you received?

17 MR. SHEPHERD: Objection. Relevance.
18 Mischaracterization of earlier testimony.

19 THE WITNESS: I'm not sure what memorandum
20 you just referred to.

21 BY MR. STITT:

22 Q. Well, you have four others. You have the
23 beat accountability and then three accident ones.

24 And I'm trying to understand if there's
25 like a complaint evaluation that was done, you know,

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1 where it finds violations sustained or denied, and
2 then a separate Memorandum of Direction.

3 Is it that same sort of two-part process
4 for each of these prior issues as well?

5 MR. SHEPHERD: Objection. Relevance.

6 THE WITNESS: No, because not all of them
7 stem from complaints.

8 BY MR. STITT:

9 Q. Yeah. So what about the beat
10 accountability one? We could talk about that one
11 next. What -- tell me about that issue.

12 MR. SHEPHERD: Objection. Relevance.
13 Calls for narration or lengthy explanation.

14 THE WITNESS: It is a very lengthy
15 explanation for that Memorandum of Direction and
16 that incident in itself.

17 BY MR. STITT:

18 Q. Can you provide the CliffsNotes?

19 MR. SHEPHERD: Objection. Relevance.

20 THE WITNESS: Yes, I can attempt to
21 summarize.

22 I was on routine patrol that night with a
23 partner on graveyard shift.

24 We made several traffic stops and responded
25 to multiple calls that night.

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1 During one of the traffic stops I made, a
2 vehicle was seen in the video from my patrol vehicle
3 dash camera on the right shoulder with its hazard
4 lights on on the freeway. That was roughly around
5 midnight.

6 I went through the rest of my shift without
7 being able to check that area of my beat due to the
8 calls and stops that were made.

9 It was later found by another officer that
10 the occupant of that vehicle seen on the video had
11 suffered a lethal gunshot to the head, which was
12 self-inflicted.

13 BY MR. STITT:

14 Q. Were you on duty with Officer Morrison in
15 the graveyard shift?

16 MR. SHEPHERD: Objection. Relevance.

17 THE WITNESS: You're a little vague with
18 that. I've been on duty with him, but I don't know
19 what you're referring to.

20 BY MR. STITT:

21 Q. For this incident, you said during the
22 graveyard shift you saw the hazard lights, you
23 responded.

24 Were you -- were you patrolling with
25 Officer Morrison for this incident?

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1 A. No.

2 Q. I think the two of you have been on the
3 graveyard shift together; is that right?

4 MR. SHEPHERD: Objection. Relevance.

5 Go ahead.

6 THE WITNESS: We have worked on a graveyard
7 shift together.

8 BY MR. STITT:

9 Q. During this time frame I think, right?

10 MR. SHEPHERD: Objection. Relevance.

11 THE WITNESS: Can you --

12 BY MR. STITT:

13 Q. During 2021?

14 A. He may have been assigned to graveyard
15 shift, but I was never assigned as his partner.

16 Q. But with respect to this incident, was he
17 also responding with you, or was he just not part of
18 it at all?

19 MR. SHEPHERD: Objection. Relevance.

20 THE WITNESS: He was not part of it at all.

21 BY MR. STITT:

22 Q. Okay. So based on your, you know, based on
23 your description of the incident, I'm not sure what
24 the Memorandum of Direction instructed you to do
25 differently. Like what -- what were you supposed to

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1 improve on moving forward?

2 MR. SHEPHERD: Objection. Relevance.

3 THE WITNESS: It is a very contradictory
4 Memorandum of Direction, as my commander at the time
5 also stated in the MOD, short for Memorandum of
6 Direction, that my actions had no effect on the
7 outcome of the incident, and there was nothing that
8 I could have done differently to prevent it.

9 However, I was directed to review policy
10 for beat accountability; specifically, if I am
11 unable to check my beat, to have a partner check my
12 beat.

13 BY MR. STITT:

14 Q. It was a self-inflicted gunshot wound?

15 MR. SHEPHERD: Objection. Relevance.

16 THE WITNESS: Yes.

17 BY MR. STITT:

18 Q. Seems hard for me to understand what
19 checking your beat could have done to be different.

20 Is that part of your contention with the
21 Memorandum of Direction?

22 MR. SHEPHERD: Objection. Relevance.

23 THE WITNESS: As I stated, the MOD itself
24 is somewhat contradictory because my commander did
25 state that there was nothing I could have done to

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1 change the outcome.

2 BY MR. STITT:

3 Q. With respect to the other three that relate
4 to -- I'm sorry. Let me start again.

5 For the beat accountability Memorandum of
6 Direction, was there also any sort of, like,
7 complaint evaluation, or any sort of review of your,
8 you know, your conduct that led them to either, you
9 know, find there was a violation and then triggered
10 the MOD?

11 MR. SHEPHERD: Objection. Relevance.

12 THE WITNESS: No, there was no complaint.

13 BY MR. STITT:

14 Q. So I guess I just don't understand how they
15 created the MOD if there's no complaint. Like,
16 who -- who -- who started that process?

17 MR. SHEPHERD: Objection. Relevance.

18 THE WITNESS: It would have had to have
19 been a supervisor or upper management while
20 reviewing the investigation that led to the death of
21 the occupant of the vehicle on the shoulder.

22 BY MR. STITT:

23 Q. And to the best of your understanding,
24 then, there's not an evaluation of what policies you
25 followed and violated. There was just simply the

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1 MOD that came to you. Is that your understanding?

2 MR. SHEPHERD: Objection. Relevance.

3 THE WITNESS: To my knowledge, I received
4 the MOD. That was the only information I received
5 about the event.

6 MR. STITT: Sorry. Our lights are motion
7 sensitive. When we sit for too long, it says that
8 it's time.

9 Q. There's three others related to traffic
10 accidents, as I understand it, from 2020, 2023,
11 2024. Can you briefly describe those.

12 MR. SHEPHERD: Objection. Relevance.
13 Calls for a narration or lengthy explanation.

14 Go ahead.

15 THE WITNESS: Yes, I can.

16 BY MR. STITT:

17 Q. Please do.

18 A. Those were all following patrol vehicle
19 collisions where I was determined to be at fault for
20 the collision.

21 Q. Were you chasing someone or what was
22 happening?

23 MR. SHEPHERD: Objection. Relevance.

24 THE WITNESS: Not all of them are the same
25 scenario.

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1 BY MR. STITT:

2 Q. Okay. The Memorandums of Direction, what
3 do they tell you to do differently or tell you to
4 do?

5 MR. SHEPHERD: Objection. Relevance.

6 THE WITNESS: Those specific MODs directed
7 me to review emergency vehicle operations policies.

8 BY MR. STITT:

9 Q. Is that -- I haven't reviewed that policy,
10 but I imagine it's with respect to car chases and
11 things like that.

12 Is that a fair characterization?

13 MR. SHEPHERD: Objection. Relevance.

14 THE WITNESS: No, that is not a fair
15 characterization.

16 BY MR. STITT:

17 Q. What's it about then?

18 MR. SHEPHERD: Objection. Relevance.

19 THE WITNESS: Anytime we operate a patrol
20 vehicle, we are operating an emergency vehicle.

21 BY MR. STITT:

22 Q. So it's just regular vehicle operation up
23 to and including the chases?

24 MR. SHEPHERD: Objection. Relevance.

25 THE WITNESS: Yes.

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1 BY MR. STITT:

2 Q. Okay. So it's quite broad?

3 A. Yes.

4 Q. Do you have a copy of the Memorandums of
5 Direction?

6 MR. SHEPHERD: Objection. Relevance.

7 THE WITNESS: No.

8 BY MR. STITT:

9 Q. Who does?

10 MR. SHEPHERD: Objection. Relevance.

11 THE WITNESS: My area office would have it
12 if it's still on file.

13 BY MR. STITT:

14 Q. How long are they kept on file?

15 MR. SHEPHERD: Objection. Relevance.

16 THE WITNESS: To the best of my knowledge,
17 three years.

18 BY MR. STITT:

19 Q. Okay. So even if -- so if it's three
20 years, then the rude and discourteous Memorandum of
21 Direction should be available because that was 2023,
22 2024; is that right?

23 MR. SHEPHERD: Objection. Relevance.

24 THE WITNESS: Yes.

25 ///

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1 BY MR. STITT:

2 Q. The beat accountability Memorandum of
3 Direction was 2021, so that potentially was
4 destroyed because it's outside three years, right?

5 MR. SHEPHERD: Objection. Relevance.

6 THE WITNESS: Yes.

7 BY MR. STITT:

8 Q. And two of the Memorandums of Direction
9 related to accidents in 2023 and 2024 would be
10 within the three years, while the first in 2020
11 would not; is that correct?

12 MR. SHEPHERD: Objection. Relevance.

13 THE WITNESS: Yes.

14 BY MR. STITT:

15 Q. Do you remember -- do you remember
16 reviewing written discovery requests in this case?

17 A. Yes.

18 Q. I'm sure you were contacted by your lawyer
19 to review them, and I do not want to ask you about
20 your conversations with your lawyer. Okay?

21 So did you receive our written discovery
22 requests?

23 A. Yes.

24 Q. Did you review them?

25 A. Yes.

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1 Q. I've received -- here's a copy of -- I only
2 have two copies. Here you go.

3 These are Requests for Production, and if
4 you turn to the last page, it's signed by you.

5 Actually, I don't have a verification
6 signed by you. Did you review these -- oh, do you
7 have it there? I just don't have it here.

8 When did you sign that?

9 A. It appears I signed this on January 7th of
10 2026.

11 Q. Do you remember reviewing these responses
12 before you signed it?

13 A. Yes.

14 Q. Did you understand that these responses are
15 formal, you know, under oath sworn responses in this
16 civil case?

17 A. Yes.

18 Q. Do you understand that these responses,
19 it's important that they're accurate?

20 A. Yes.

21 Q. Did you have enough time to review your
22 responses before you signed it?

23 A. Yes. Yes.

24 Q. Did you feel like there was any reason why
25 you shouldn't have signed the verification?

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1 A. No.

2 Q. Okay. Can you turn to question 18, please.

3 It's on page -- Page 2, I think.

4 Do you see question 18?

5 A. Yes.

6 Q. It says all of your disciplinary records.

7 And your response lists a series of legal
8 objections.

9 And in the last paragraph it says you've
10 conducted a diligent search and a reasonable inquiry
11 in an effort to locate the responsive documents, and
12 they're not in your custody and control.

13 Tell me about the search that you did to
14 get these disciplinary records that we've been
15 talking about today.

16 MR. SHEPHERD: Objection. These responses
17 were prepared with the assistance of counsel, and we
18 stand upon our objection. The document speaks for
19 itself.

20 To the extent that the question asks about
21 a confidential attorney-client communications, I'm
22 instructing my client not to answer.

23 BY MR. STITT:

24 Q. I don't want to ask you about your
25 conversations with your lawyer. And if that is your

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1 answer, then just say it's related to a conversation
2 with my lawyer, and I respectfully don't want to
3 answer. And that's okay, but I don't know, which is
4 why I'm asking you.

5 So tell me what you did to look for these
6 documents, if anything?

7 MR. SHEPHERD: Objection.

8 Under the attorney-client privilege, I'm
9 instructing my client not to answer.

10 BY MR. STITT:

11 Q. You don't have possession of the documents?

12 MR. SHEPHERD: Objection. Attorney-client
13 privilege.

14 MR. STITT: That's not a privileged
15 question.

16 Q. You -- it's not asking -- I'm not asking
17 for your conversation with the lawyer. I'm asking
18 if you have custody of them. I think that you said
19 they're with your office, but I want to clearly see
20 if you have a copy, too.

21 Do you have a copy of the memorandums, any
22 of the Memorandums of Direction that we've talked
23 about today?

24 MR. SHEPHERD: Objection. Asked and
25 answered.

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1 THE WITNESS: No.

2 BY MR. STITT:

3 Q. To the best of your knowledge, any copies,
4 if they exist, would be with your office; is that
5 correct?

6 MR. SHEPHERD: Objection. Asked and
7 answered.

8 THE WITNESS: Yes.

9 BY MR. STITT:

10 Q. Did you request a copy from your office in
11 response to these discovery requests?

12 MR. SHEPHERD: Objection. Attorney-client
13 privilege.

14 BY MR. STITT:

15 Q. Let's go through line five and six on
16 Page 3.

17 It says responding party -- that's you --
18 has conducted a diligent search and a reasonable
19 inquiry in an effort to locate the documents.

20 Do you see that?

21 A. Yes, I see it.

22 Q. Setting aside your conversations with your
23 lawyers, can you tell me what you did, if anything,
24 to conduct a diligent search to look for these
25 documents?

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1 MR. SHEPHERD: Objection. Attorney-client
2 privilege.

3 BY MR. STITT:

4 Q. Are you asserting privilege to not answer
5 this question?

6 MR. SHEPHERD: Yes, this is --

7 MR. STITT: I'd --

8 MR. SHEPHERD: -- a protected
9 attorney-client communications.

10 MR. STITT: I'd like to hear him say -- I
11 understand you're making the objection.

12 Q. But are you agreeing with your lawyer's
13 objection that the answer involves something related
14 to your attorney, and you're respectfully not
15 answering? Is that what you're doing?

16 A. Yes.

17 Q. Okay. Let me see it again. Sorry.

18 Do you recall who the supervisor was that
19 signed the MOD related to the rude and discourteous
20 allegation in 2023 or 2024?

21 MR. SHEPHERD: Objection. Relevance.

22 THE WITNESS: I do not recall who actually
23 signed the MOD.

24 BY MR. STITT:

25 Q. Do you recall who your supervisor was at

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1 the time?

2 MR. SHEPHERD: Objection. Relevance.

3 THE WITNESS: You have to clarify. At the
4 time of the event or at the time that I was
5 disciplined?

6 BY MR. STITT:

7 Q. I don't know. I mean, who would be your
8 best guess for who the supervisor was that might
9 have signed it? I understand that it's a guess.

10 MR. SHEPHERD: Objection. Speculation.

11 BY MR. STITT:

12 Q. Please go ahead.

13 A. To the best of my knowledge, I do know that
14 Sergeant Cruz was involved.

15 Q. Okay. There is a Sergeant Cruz who
16 interviewed Mr. Tallaksen in this incident when
17 Mr. Tallaksen called the station. Do you know if
18 that's the same Sergeant Cruz?

19 MR. SHEPHERD: Objection. Speculation.
20 Relevance.

21 Go ahead.

22 THE WITNESS: I don't know one hundred
23 percent for a fact; however, there was only one
24 Sergeant Cruz working at our area at that time.

25 ///

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1 BY MR. STITT:

2 Q. What's Sergeant Cruz's first name, if you
3 know?

4 MR. SHEPHERD: Objection. Relevance.

5 THE WITNESS: I know his first initial is
6 "J."

7 BY MR. STITT:

8 Q. "J," I think he -- there's a Cruz -- let's
9 take a look here.

10 A. Or I might be incorrect. It could be an
11 "F" or a "J."

12 Q. I understand that you're speculating and
13 doing your best to remember. I'm not holding you to
14 it.

15 It could be an "F"?

16 A. Correct.

17 Q. All right. Were you at the same area of
18 operation until 2023 and 2024 that you were at the
19 time of Mr. Tallaksen's incident?

20 MR. SHEPHERD: Objection. Vague as to
21 "area of operation." Relevance.

22 MR. STITT: I'll rephrase.

23 Q. Were you at the same station?

24 A. Yes.

25 Q. And what station is that?

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1 A. The Oceanside area.

2 Q. Okay. To the best of your understanding,
3 the F crew is working at the Oceanside area CHP
4 station would be the same from 2023 to in 2025 when
5 Mr. Tallaksen's incident occurred; is that right?

6 MR. SHEPHERD: Objection. Relevance.

7 THE WITNESS: Yes.

8 BY MR. STITT:

9 Q. We've talked about your disciplinary
10 history with respect to these other incidents, but
11 I'd like to more specifically ask if anyone's ever
12 made a use of force allegation against you apart
13 from this case?

14 A. An allegation, yes.

15 Q. Okay. Tell me about that.

16 MR. SHEPHERD: Objection. Vague.

17 BY MR. STITT:

18 Q. Please describe it for me.

19 A. I don't know the exact time frame other
20 than I was assigned to the Oceanside area office,
21 possibly within the last two years. The allegation
22 was a misuse of pointing a firearm at a person. The
23 allegation was not sustained.

24 Q. You would say roughly in the last two
25 years?

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1 A. Correct.

2 Q. Is that 2023, 2024, because we're just in
3 2026 now, or do you think it was maybe a little bit
4 further back? Could you --

5 A. 2024 or late 2023.

6 Q. Okay. Can you briefly describe the
7 circumstances of the allegation?

8 A. I was responding in an emergency response
9 to an officer who requested backup immediately with
10 two combative subjects. I arrived on scene. One
11 subject was seen hiding an object to the side of
12 him. I did not know what the object was, and I did
13 not know his intent. So I did draw my primary
14 firearm.

15 Once the subject showed me his hands and
16 dropped a cell phone, and I noticed he did not carry
17 any other weapons, I immediately transitioned to a
18 TASER.

19 Q. And the allegation that was not sustained
20 is that you essentially drew your firearm when you
21 should not have?

22 MR. SHEPHERD: Objection.
23 Mischaracterization of earlier testimony.

24 BY MR. STITT:

25 Q. Is that -- that's the allegation that was

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1 not sustained, is that -- do I have that right?

2 A. Could you repeat what you're stating the
3 allegation was.

4 Q. The allegation was that you drew your
5 firearm when you should not have, that that was
6 using too much force by just drawing your firearm
7 under those circumstances. It was reviewed and not
8 sustained.

9 MR. SHEPHERD: Objection.
10 Mischaracterization of earlier testimony as to too
11 much use of force.

12 THE WITNESS: The allegation was that I
13 inappropriately pointed a firearm at a person who
14 was not sustained.

15 BY MR. STITT:

16 Q. Okay. Just -- you didn't touch the person.
17 That wasn't the allegation. It was just the drawing
18 of the firearm was the allegation. And then, of
19 course, it wasn't sustained.

20 Do I have that right?

21 A. Correct.

22 Q. Okay. Are there any other allegations of
23 use of force that have been made against you?

24 A. Not to my knowledge.

25 Q. Have you been a witness to any other

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1 officer's excessive use of force when you've been an
2 officer?

3 MR. SHEPHERD: Objection. Relevance.

4 THE WITNESS: No.

5 BY MR. STITT:

6 Q. So you've never been interviewed as part of
7 an excessive force investigation as it relates to a
8 separate officer, sir?

9 MR. SHEPHERD: Objection. Relevance.

10 THE WITNESS: No.

11 BY MR. STITT:

12 Q. Have you received previous complaints about
13 hurting anyone with handcuffs?

14 MR. SHEPHERD: Objection. Vague as to
15 hurting someone with handcuffs. Vague as to
16 complaints.

17 Go ahead.

18 THE WITNESS: Can you clarify what you're
19 defining a complaint as?

20 BY MR. STITT:

21 Q. I mean, I'm defining it broadly.

22 So based on your discovery responses, I
23 think that you say that many people have complained
24 to you that the handcuffs hurt, but I'm not sure if
25 anyone's made a formal complaint about handcuffs

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1 besides Mr. Tallaksen.

2 So maybe we could kind of separate those up
3 and then talk about all of them individually. Would
4 that work for you? Does that make sense to you?

5 A. You want to separate the formal complaints
6 from informal?

7 Q. Yes. So let's start with formal.

8 Has anyone besides Mr. Tallaksen made a
9 formal complaint against you for hurting them with
10 handcuffs?

11 MR. SHEPHERD: Objection. Vague as to
12 "formal complaint."

13 Do you mean a civil complaint filed in
14 court?

15 BY MR. STITT:

16 Q. I mean a complaint to your supervisor or an
17 internal complaint with CHP. It doesn't have to be
18 in court.

19 A. To the best of my knowledge, I'm really not
20 sure, because formal complaint to me is different
21 than just complaining to my supervisor.

22 Q. Well, let's start with has anyone
23 complained to your supervisor or internally at CHP,
24 to the best of your knowledge, saying that you hurt
25 them with handcuffs besides Mr. Tallaksen?

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1 MR. SHEPHERD: Objection. Vague.
2 Relevance.

3 Go ahead.

4 THE WITNESS: Your question is a little
5 confusing because you're also including the term
6 internally --

7 MR. STITT: Yeah.

8 THE WITNESS: -- so those are kind of
9 separate to me. I don't really want to answer that
10 with those grouped together.

11 BY MR. STITT:

12 Q. Could you provide just a more complete
13 answer, in your own words?

14 I think you understand what I'm trying to
15 ask you, but I don't know the terminology, and so I
16 don't want to put words in your mouth. Can you help
17 me by answering this question?

18 MR. SHEPHERD: Objection. That's
19 inappropriate to tell the witness that you think he
20 understands what you're saying.

21 MR. STITT: Right.

22 Q. What are the different types of ways people
23 can complain about being hurt by handcuffs?

24 Let's list them all, and we'll go through
25 them all.

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1 MR. SHEPHERD: Objection. Relevance.

2 BY MR. STITT:

3 Q. Let's start.

4 A. I don't know all of the ways that someone
5 could complain. I would imagine there are hundreds
6 of ways that someone could complain.

7 Q. It's going to be a long day, I guess.

8 So let's start with one. Internally at
9 CHP, how could someone complain that you hurt them
10 with handcuffs?

11 MR. SHEPHERD: Objection. Vague as to
12 "internally at CHP."

13 THE WITNESS: I'm not sure what you mean
14 "internally."

15 Are you saying that a supervisor is going
16 to complain against me handcuffing a different
17 person?

18 BY MR. STITT:

19 Q. Sure. Another officer could complain. Is
20 that one way?

21 A. I'm sure it is.

22 Q. Okay. Has another officer ever filed a
23 complaint or raised a complaint against you saying
24 that you hurt someone with handcuffs, to the best of
25 your knowledge?

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1 MR. SHEPHERD: Objection. Relevance.

2 THE WITNESS: No.

3 BY MR. STITT:

4 Q. Could someone file a -- what I would
5 characterize as a more formal complaint, like what
6 Mr. Tallaksen did here?

7 CHP has a form for this, a civilian's
8 complaint form. Are you generally familiar with
9 that form?

10 A. Yes.

11 Q. Has anyone filed a civilian's complaint
12 form against you saying that you hurt them with
13 handcuffs, setting Mr. Tallaksen aside?

14 MR. SHEPHERD: Objection. Relevance.

15 THE WITNESS: No.

16 BY MR. STITT:

17 Q. What complaints have you received or that
18 you know about that allege that you hurt someone
19 with handcuffs?

20 MR. SHEPHERD: Objection. Relevance.

21 THE WITNESS: To the best of my knowledge,
22 verbal complaints at the time of the incident,
23 either to me, another officer or supervisor, that
24 the handcuffs are uncomfortable.

25 ///

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1 BY MR. STITT:

2 Q. Setting verbal complaints at the time of
3 the incident aside, to the best of your knowledge,
4 has anyone raised a written complaint alleging that
5 you hurt them with handcuffs, setting Mr. Tallaksen
6 aside?

7 MR. SHEPHERD: Objection. Relevance.

8 THE WITNESS: No.

9 BY MR. STITT:

10 Q. I know that there are many different kinds
11 of complaints that we talked about.

12 Is there any other kind of complaint that
13 you know about that was raised against you related
14 to hurting someone with handcuffs, setting
15 Mr. Tallaksen aside and setting the verbal
16 complaints aside?

17 MR. SHEPHERD: Objection. Relevance.

18 THE WITNESS: To the best of my knowledge,
19 no.

20 BY MR. STITT:

21 Q. Okay. So tell me generally about the
22 verbal complaints.

23 MR. SHEPHERD: Objection. Calls for
24 narration. Go ahead. And relevance.

25 THE WITNESS: Handcuffs are not designed to

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1 be comfortable.

2 MR. STITT: Right.

3 THE WITNESS: Many people, as soon as the
4 handcuffs are placed on them, will complain in an
5 attempt to get out of the handcuffs.

6 BY MR. STITT:

7 Q. What are you taught to do if someone
8 complains about the handcuffs hurting?

9 A. I mean, there's many things that we can do.

10 We can check the handcuffs if we have
11 reason to believe there's anything wrong with them.
12 We can simply take their remarks into consideration.
13 Given, like I said, many people complain about
14 handcuffs. They are not designed to be comfortable.

15 Q. Do you think that what people often are
16 complaining about is they just don't like being
17 handcuffed to begin with, not that the cuffs
18 actually are hurting them?

19 MR. SHEPHERD: Objection. Calls for
20 speculation.

21 THE WITNESS: I don't know what people
22 actually think.

23 BY MR. STITT:

24 Q. Well, I mean, if someone tells you as a law
25 enforcement officer that they've been injured, would

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1 you provide medical aid?

2 A. If I had reason to believe they were
3 injured, yes.

4 Q. Okay. And you're trained to provide
5 medical aid as part of your training, right?

6 MR. SHEPHERD: Objection. Assumes facts.

7 THE WITNESS: As long as the scene is safe,
8 yes.

9 BY MR. STITT:

10 Q. I mean, that's an important part of being a
11 police officer is helping people who have been
12 injured; is that true?

13 MR. SHEPHERD: Objection. Assumes facts.

14 THE WITNESS: It is an important part, yes.

15 BY MR. STITT:

16 Q. One that I'm sure you take seriously?

17 MR. SHEPHERD: Is that a question?

18 MR. STITT: It is.

19 THE WITNESS: You're asking if I take that
20 seriously?

21 MR. STITT: I am.

22 THE WITNESS: Yes.

23 BY MR. STITT:

24 Q. And so when you receive verbal complaints
25 about the handcuffs hurting, what medical assistance

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1 do you provide?

2 A. As I stated earlier, it has to be taken
3 into the totality of the circumstances if I
4 reasonably believe the person is injured.

5 Q. And so --

6 MR. SHEPHERD: Also, objection as to
7 "medical assistance."

8 BY MR. STITT:

9 Q. If you think that the person is just
10 faking, then you don't believe that they've actually
11 been injured; is that right?

12 MR. SHEPHERD: Objection.
13 Mischaracterization of testimony.

14 Go ahead.

15 THE WITNESS: I have to have reason to
16 believe they're injured before I provide any sort of
17 medical care.

18 BY MR. STITT:

19 Q. And when you receive verbal complaints
20 about the handcuffs hurting, do you find those
21 verbal complaints sufficient to believe that you
22 need to provide medical aid?

23 MR. SHEPHERD: Objection. Vague as to
24 "complaints."

25 Are you talking about one or which

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1 complaints are you're referring to?

2 BY MR. STITT:

3 Q. Can you single out any complaints, setting
4 Mr. Tallaksen's case aside, where someone verbally
5 complained to you about the handcuffs hurting and
6 you provided medical assistance?

7 A. No, I can't single anything out right now.

8 Q. Do you recall ever providing medical
9 assistance in your career as a CHP officer to
10 someone solely complaining about the handcuffs being
11 uncomfortable or hurting them?

12 A. No.

13 MR. SHEPHERD: Objection. Relevance.

14 BY MR. STITT:

15 Q. In all of the verbal complaints that you've
16 received about the handcuffs hurting from people
17 that you've handcuffed, to the best of your
18 knowledge, has anyone ever been injured?

19 MR. SHEPHERD: Objection. Relevance.

20 THE WITNESS: No.

21 BY MR. STITT:

22 Q. I'm specifically asking, though, injured
23 from the handcuffs, so let me ask you that again so
24 it's more clear.

25 In all of the verbal complaints you've

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1 received as a CHP officer from people that you've
2 handcuffed, that the handcuffs had hurt them
3 somehow, have you known any of those complaints to
4 be true and that the person, in fact, was hurt from
5 the handcuffs?

6 MR. SHEPHERD: Objection. Compound.
7 Relevance. Vague as to time.

8 THE WITNESS: I can't really give you an
9 accurate answer on that, because, you know, if
10 somebody's complaining that they hurt, and you're
11 categorizing that as an injury, then sure, many
12 people have been injured.

13 But other than that, I don't know how to
14 answer you.

15 BY MR. STITT:

16 Q. I guess I'm referring to lasting injury.
17 Injury that's more than just in that specific
18 moment, like that they've seriously been injured
19 from the handcuffs and have some sort of lasting,
20 ongoing injury.

21 To the best of your knowledge, has anyone
22 suffered an injury like that from the handcuffs that
23 you've put on them?

24 MR. SHEPHERD: Objection. Relevance.
25 Compound. Vague as to time. Vague as to injury.

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1 Do you mean emotional injury, physical
2 injury?

3 BY MR. STITT:

4 Q. Physical.

5 A. To the best of my knowledge, no.

6 MR. STITT: We've been going for a little
7 over an hour now. I think it's a good time to take
8 a break and then -- so we can go off the record.

9 THE VIDEOGRAPHER: We're going off the
10 record. The time is 10:37 a.m.

11 (Recess taken.)

12 THE VIDEOGRAPHER: We are We back on the
13 record. The time is 10:53 a.m.

14 BY MR. STITT:

15 Q. Officer Smith, I want to briefly backtrack,
16 and I failed to clearly direct the court reporter to
17 mark the transcript when we were talking about this
18 before, and I just want to briefly fix that problem.

19 I previously asked you about your responses
20 to Requests for Production 18 that we reviewed.

21 Do you generally recall those questions?

22 A. Yes.

23 Q. I asked you if you had reviewed it. If
24 you -- what -- and about the diligent search for the
25 records that you made. Do you recall those

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1 questions?

2 A. Yes.

3 Q. I asked you where the records would be. To
4 those questions, with respect to your Response to
5 Request for Production 18, you invoked your right to
6 counsel, at counsel's instruction; is that correct?

7 A. Yes.

8 MR. STITT: Okay. I would request that the
9 court reporter mark this section of the transcript,
10 and we'll address the discovery dispute moving
11 forward.

12 Is there any objection from you to doing it
13 in this summary fashion, just relating back to the
14 questions I already asked?

15 MR. SHEPHERD: No.

16 MR. STITT: Okay. So you don't feel like I
17 need to reask the questions again, and then mark it
18 at that time. You're clear about what the nature of
19 the dispute is?

20 MR. SHEPHERD: Yes, we're clear.

21 MR. STITT: Okay.

22 Q. Officer Smith, I wanted to briefly ask you
23 if you've testified in court before?

24 A. Yes.

25 Q. Do you recall about how many times?

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1 A. I don't recall how many times.

2 Q. Could you provide an approximate number of
3 times you've testified, like at a trial with a jury?

4 A. More than 10 times.

5 Q. Really? That's, to me, seems like a lot,
6 given the number of years you've been a CHP officer.

7 What sort of cases have you testified in?

8 A. DUI cases, vehicular manslaughter.

9 Q. Okay. At the time of Mr. Tallaksen's
10 complaints in May of 2024, I believe you were a
11 patrol officer; is that right?

12 A. Yes.

13 Q. As a patrol officer, you're regularly
14 patrolling the highways in the Oceanside area for
15 traffic violations; is that accurate?

16 A. Yes.

17 Q. The particular area where you were on the
18 76 near Gird Road, where you pulled over the SUV,
19 where Mr. Tallaksen then biked up, how commonly did
20 you patrol that area?

21 A. It was extremely common for me to patrol
22 that area.

23 Q. At the time and before the incident with
24 Mr. Tallaksen?

25 A. Yes.

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1 Q. So not just after, but you were familiar
2 with it at the time of the incident we're talking
3 about today?

4 A. Yes.

5 Q. In a given day, about how many people would
6 you typically pull over?

7 MR. SHEPHERD: Vague as to time.

8 BY MR. STITT:

9 Q. In a given shift, a rough approximation?

10 A. Every shift is different, so I can't really
11 approximate that.

12 Q. Can you offer just a rough estimate for the
13 number of people you would pull over on a shift,
14 maybe a range?

15 MR. SHEPHERD: Vague as to time.

16 Are you referring to now or at the time of
17 the incident?

18 MR. STITT: Good question.

19 Q. At about the time of the incident.

20 A. I don't know because, quite frankly, every
21 shift is different. We are not like a regular
22 police department. We don't respond to house calls,
23 and we don't have traffic-enforcement-only officers.

24 We do traffic enforcement and we respond to
25 calls. So any day could be different. We could

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1 have zero calls and make all enforcement stops. And
2 conversely, we could be responding to calls all day.

3 Q. That's a fair answer.

4 Would you agree, though, that making
5 traffic stops was a core part of your duties as a
6 patrol officer at the time of the incident?

7 MR. SHEPHERD: Objection. Vague as to
8 "core part."

9 Go ahead.

10 BY MR. STITT:

11 Q. Is a major part of your job description.

12 MR. SHEPHERD: Same objection.

13 Go ahead.

14 THE WITNESS: It is -- it is a major part
15 of what I do, yes.

16 BY MR. STITT:

17 Q. At the time of the incident as well?

18 A. Yes.

19 Q. So you would agree that you had made many
20 stops, many traffic stops at the time and before the
21 incident occurred?

22 MR. SHEPHERD: Objection. Compound.

23 Go ahead.

24 THE WITNESS: I've made many stops, yes.

25 ///

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1 BY MR. STITT:

2 Q. Have you ever had a traffic stop where a
3 third party interfered in a way even remotely
4 similar to what happened with Mr. Tallaksen
5 previously?

6 A. Yes.

7 Q. Tell me about that.

8 A. I don't know specifics because there have
9 been many different times.

10 Q. Well, can you pick one and describe it for
11 me.

12 A. Again, I can't pick one specific incident
13 because I don't have an independent recollection of
14 all the details of said specific incident.

15 Q. Well, who interfered?

16 A. I don't know.

17 Q. Well, I'm asking about when a third party
18 interfered while a stop was ongoing.

19 Is there, during your time as a CHP officer
20 and all the stops you've made, is there an instance
21 that stands out to you as somewhat similar?

22 A. I've had multiple instances where a third
23 party, unknown to either me or the party involved in
24 the stop, has come up and interfered in one way or
25 another, yes.

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1 Q. How -- Provide some descriptions of how
2 they've interfered.

3 MR. SHEPHERD: Objection. Vague.

4 THE WITNESS: I've had some, like I said,
5 third parties come up to either traffic stops or
6 collision investigation scenes, yell obscenities,
7 attempt to get into the faces of myself or other
8 officers, film the scene, many different things.

9 BY MR. STITT:

10 Q. Have you ever arrested any of the
11 third-party interveners that you can recall?

12 MR. SHEPHERD: Objection. Relevance.

13 Go ahead.

14 THE WITNESS: I can't recall at this time.

15 BY MR. STITT:

16 Q. So none that you can recall; is that what
17 you're saying?

18 MR. SHEPHERD: Objection. Asked and
19 answered.

20 Go ahead.

21 THE WITNESS: Yes, I'm saying I can't
22 recall anybody specifically that I arrested for
23 that.

24 BY MR. STITT:

25 Q. And the same question for detained because

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1 I know that there's a distinction about the
2 difference between arrest and detained.

3 Do you recall detaining any of the
4 third-party interveners?

5 MR. SHEPHERD: Objection. Relevance.

6 THE WITNESS: I don't personally recall,
7 but it is possible.

8 BY MR. STITT:

9 Q. The people that yelled at you when they
10 intervened, did you detain them?

11 MR. SHEPHERD: Objection. Asked and
12 answered.

13 THE WITNESS: For yelling, solely yelling,
14 no, they wouldn't have been detained for that.

15 BY MR. STITT:

16 Q. So it's your understanding that you can
17 yell at the police, and that's not something that
18 you could detain someone for, solely yelling?

19 MR. SHEPHERD: Objection.
20 Mischaracterization of testimony. Relevance.

21 THE WITNESS: Depending on what they're
22 yelling, as long as it's not a hate crime or being
23 disruptive to the scene or surroundings, then no,
24 solely yelling at a police officer is not grounds to
25 detain or arrest.

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1 BY MR. STITT:

2 Q. In your time as a CHP officer, have you
3 responded to any accidents where cyclists were
4 injured?

5 A. Yes.

6 Q. Can you describe some of those.

7 MR. SHEPHERD: Objection. Relevance.
8 Go ahead.

9 THE WITNESS: I don't recall all of them.
10 I've been on for a while. I've taken many
11 collisions. I can tell you I've taken vehicle
12 versus bicycle collisions in the past, yes.

13 BY MR. STITT:

14 Q. Have some of the cyclists been seriously
15 injured?

16 A. I don't personally recall.

17 Q. What training have you received as a
18 California Highway Patrol officer on cyclist safety,
19 specifically cyclist safety?

20 MR. SHEPHERD: Objection. Relevance.
21 Go ahead.

22 THE WITNESS: It would be the California
23 Vehicle Code and as it pertains to bicycle laws.

24 BY MR. STITT:

25 Q. But what -- I mean, did you receive

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1 training on cyclist safety vehicle law -- I guess
2 cyclist safety rules in California?

3 MR. SHEPHERD: Objection. Asked and
4 answered. Relevance.

5 THE WITNESS: When I went to the CHP
6 Academy, as part of the POST certified academy
7 training, we were taught the California Vehicle
8 Code, which includes multiple bicycle laws.

9 BY MR. STITT:

10 Q. Outside of the academy, have you received
11 any ongoing training through CHP as it relates to
12 cyclist safety?

13 MR. SHEPHERD: Objection. Relevance.

14 THE WITNESS: No specific training.

15 MR. STITT: I'd like to turn your attention
16 back to the Requests for Production.

17 I'd like to admit that as Exhibit 1. We
18 could have done that earlier, but we'll get it now.

19 (Exhibit 1 was marked for
20 identification by the
21 Certified Court Reporter.)

22 MR. STITT: And which is the number that
23 we're talking about, Pam? The cyclist safety that
24 we talked about earlier. Oh, it's five. Okay. Oh,
25 I'm just looking at the responses. It's in the

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1 first set. Do you have the first set? Oh, perfect.
2 I don't it on my computer.

3 Q. All right. So I think it's number five,
4 Officer Smith. Can you take a look at this.

5 MR. STITT: Yeah, this is Exhibit 2. This
6 will be Officer Smith's Responses to Requests for
7 Production. They're different responses.

8 (Exhibit 2 was marked for
9 identification by the
10 Certified Court Reporter.)

11 BY MR. STITT:

12 Q. So question five asks you to provide
13 training manuals, policies, procedures, documents
14 and presentations and information related to cyclist
15 safety during your employment with California
16 Highway Patrol.

17 And the answer provides records at CHP
18 Bates 226, training materials, in parentheses.

19 Do you see that?

20 A. Yes.

21 Q. Did you review the training materials
22 before they were produced?

23 A. To the best of my knowledge, this is how I
24 responded.

25 Q. Right, but did you review what's marked as

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1 CHP Bates 226?

2 MR. SHEPHERD: Objection. Attorney-Client
3 privilege.

4 BY MR. STITT:

5 Q. Are you able to tell me -- are you invoking
6 privilege for that question, sir?

7 A. Yes.

8 Q. Are you able to tell me which training
9 materials, presentations and policies contained
10 within CHP Bates 226 relate to cyclist safety?

11 A. Off the top of my head, no.

12 Q. Did you review these training materials
13 before they were produced?

14 MR. SHEPHERD: Objection. Attorney-client
15 privilege.

16 BY MR. STITT:

17 Q. And you're not answering that question,
18 correct?

19 A. I believe that's the same exact question
20 you asked earlier.

21 Q. I think it is, too. But you're invoking as
22 to attorney-client privilege again, just to be
23 clear?

24 A. Yes.

25 Q. Have you reviewed CHP Bates 226 materials

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1 since they were produced in preparation for your
2 testimony today?

3 MR. SHEPHERD: Objection. Attorney-client
4 privilege.

5 BY MR. STITT:

6 Q. And you respectfully invoke privilege at
7 your Counsel's direction?

8 A. Yes.

9 Q. If I were to show you CHP Bates 226 and all
10 the files produced in that folder right now, would
11 you be able to identify which ones relate to cyclist
12 safety?

13 MR. SHEPHERD: It's hundreds of pages.

14 MR. STITT: I agree.

15 MR. SHEPHERD: Some of them include videos.

16 MR. STITT: None of them include cyclist
17 safety. Can you proffer which ones do, and we could
18 cut through this?

19 MR. SHEPHERD: I'm not testifying today.

20 MR. STITT: So you're not able to -- would
21 you -- let's go through each file.

22 Can you put it up. Yeah, let's just do the
23 file explorer. We'll take the screenshot that we
24 talked about. Well, there's more than just this on
25 there.

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1 Q. So we're going to go through all of these
2 different files, and I'll ask you if you've reviewed
3 them.

4 MR. SHEPHERD: I'm invoking the
5 attorney-client privilege for this entire line of
6 questioning.

7 MR. STITT: So I'll proffer that I'm going
8 to ask your client for each training policy,
9 procedure, video and presentation that we received
10 in Bates 226, which is a folder that I would like to
11 know which ones he's reviewed and which ones relate
12 to cyclist safety.

13 And you're invoking privilege for each and
14 every one of those questions as it relates to this?

15 MR. SHEPHERD: Yes. I'm also going to
16 assert a relevance objection.

17 BY MR. STITT:

18 Q. Officer Smith, your attorney obviously has
19 directed you to or suggested that you invoke
20 privilege for these questions.

21 Do you understand the questions that I'm
22 seeking to ask, and are you invoking privilege for
23 your responses?

24 MR. SHEPHERD: Objection. Compound.

25 ///

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1 BY MR. STITT:

2 Q. For the first part, do you understand the
3 questions that I'm looking to ask?

4 A. Yes.

5 Q. And are you invoking privilege for your
6 responses?

7 A. Yes.

8 Q. Would it help you at all in making your
9 decision about whether to invoke privilege if we
10 went through each individual file here, or do you --
11 do you understand what's happening, and you're
12 invoking privilege for all of them?

13 MR. SHEPHERD: Objection. Compound. Also
14 harassing asking my client to second guess the
15 invocation of attorney-client privilege.

16 MR. STITT: I just want to avoid a
17 circumstance, Mr. Shepherd, in the future, when
18 you've asserted a blanket privilege for all these
19 questions, you come to court and say, "Well,
20 Mr. Stitt didn't ask each and every one of these
21 questions, and so we don't know what they were going
22 to be about."

23 And so if there's any ambiguity about the
24 invocation of privilege, I want to address it now,
25 and then we'll just move forward.

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1 Q. So, Officer Smith, do you understand -- you
2 already said you understand all the questions that
3 I'd like to ask in this area.

4 Would it help you in any way to decide
5 whether to invoke privilege or not if we went
6 through each file?

7 A. No.

8 MR. STITT: Okay. I'd like to mark this
9 section as well, Kat. Thank you.

10 Q. Officer Smith, I received your training
11 history log during your employment with CHP, and I
12 reviewed it.

13 The training log that I've received is
14 just a list of the classes. It doesn't really
15 provide that much detail about each class, just sort
16 of a title.

17 None of the titles say that they're about
18 cyclist safety clearly.

19 Can you recall a training after the academy
20 while you were at CHP that specifically addressed
21 cyclist safety?

22 MR. SHEPHERD: Objection. Asked and
23 answered. Relevance.

24 THE WITNESS: I believe you did ask this
25 question earlier, but no.

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1 BY MR. STITT:

2 Q. Okay. For training, are you POST certified
3 as a law enforcement officer in California?

4 A. Yes.

5 Q. Is it your understanding that that's a core
6 part of the training for becoming a CHP officer is
7 the POST certification?

8 A. Yes.

9 Q. Did you receive training through your post
10 certification on handcuffing?

11 A. Yes.

12 Q. As well as during your time at CHP?

13 A. Yes.

14 Q. Is it your understanding that if handcuffs
15 are not properly applied to someone's wrists that
16 they can cause injury?

17 A. It's possible, yes.

18 Q. That's why it's important to do it
19 properly, because if properly applied, it should not
20 cause injury. Is that your understanding?

21 MR. SHEPHERD: Objection. Argumentative.
22 Go ahead.

23 THE WITNESS: It's a confusing question.
24 Could you clarify it?

25 ///

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1 BY MR. STITT:

2 Q. If handcuffs are properly or correctly
3 placed on someone's wrists in accordance with the
4 policy, is it your understanding that that should
5 not cause injury to the person?

6 MR. SHEPHERD: Objection. Compound.

7 THE WITNESS: It's my understanding that
8 it's not intended to cause injury.

9 BY MR. STITT:

10 Q. But the intent is not what I'm asking
11 about.

12 If the procedure is correctly followed,
13 should the person receive injury?

14 A. It's still possible for them to be injured
15 even if the cuffs are properly applied.

16 Q. How would that happen there?

17 MR. STITT: Objection. Calls for
18 speculation. Calls for medical expert testimony.

19 THE WITNESS: Exponentially, there are
20 thousands, if not more than that, ways that someone
21 could hurt themselves with handcuffs properly
22 applied to them.

23 BY MR. STITT:

24 Q. We talked earlier about your experience as
25 an officer, and you said that you had handcuffed

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1 many people, but to the best of your knowledge, no
2 one had been injured from the handcuffs or suffered
3 lasting injury from the handcuffs; is that right?

4 MR. SHEPHERD: Objection.
5 Mischaracterization of earlier testimony.

6 THE WITNESS: To my knowledge, no one's
7 been majorly injured, as you have classified it
8 solely because of the handcuffs.

9 BY MR. STITT:

10 Q. I would like to transition to talk just
11 generally about your duties as a patrol officer.

12 When you stop a car for a vehicle
13 violation, I believe that you call that car the
14 violator vehicle. Is that the right term to use?

15 A. It can be used, yeah.

16 Q. Okay. So let's -- so when you pull a
17 violator vehicle over, I'd like to talk to you about
18 your process for how you safely exit your patrol
19 car.

20 So in this scenario, you witness the
21 violator vehicle violate a -- they're speeding, or
22 there's some other traffic infraction that you
23 observe. You initiate your emergency lights. The
24 violator vehicle pulls over, and you stop behind
25 them.

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1 In this hypothetical, how do you safely
2 exit your patrol vehicle? What do you do
3 specifically?

4 MR. SHEPHERD: Objection. Incomplete
5 hypothetical. Calls for narration or lengthy
6 explanation. Calls for speculation. Compound.

7 Go ahead.

8 THE WITNESS: I can't give you an accurate
9 answer because the example you gave is extremely
10 vague. I don't know what time of day it is. I
11 don't know what freeway I'm on. I don't know if I'm
12 in my area. I don't know if I'm in a different
13 area. I don't know if I'm in my State. I don't
14 know if I've crossed the State line. There's too
15 many variables.

16 BY MR. STITT:

17 Q. Okay. So let's -- I guess I'd just like to
18 talk to you, I guess, in general about the danger
19 that passing traffic poses when you're exiting your
20 car.

21 So if you pull a violator vehicle over
22 during the day on a busy road like the 76, what
23 steps do you take personally to safely exit your
24 vehicle to avoid oncoming traffic?

25 MR. SHEPHERD: Objection. Incomplete

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1 hypothetical. Compound. Calls for speculation or
2 conjecture. Calls for narration or lengthy
3 explanation. Relevance.

4 THE WITNESS: I guess I would avoid
5 oncoming traffic by not stopping next to the divider
6 with oncoming traffic approaching the left side of
7 my vehicle.

8 BY MR. STITT:

9 Q. Well, let's transition to using the stop
10 with Mr. Tallaksen as our hypothetical, and maybe
11 that could help address some of the questions that
12 you have.

13 So you pulled a SUV over with a trailer; is
14 that right?

15 A. Are you asking about a hypothetical
16 situation, or are we now talking about the incident
17 at hand?

18 Q. I'd like to talk about the incident at hand
19 and what you did to safely exit your car when you
20 stopped the violator vehicle.

21 So the violator vehicle -- you activated
22 your emergency lights. The violator vehicle pulled
23 over.

24 How did you safely exit your car on the
25 76 to then walk up to talk to the violator vehicle?

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1 MR. SHEPHERD: Objection. Relevance.

2 Go ahead.

3 THE WITNESS: Check my mirror for traffic
4 coming behind me. Once safe to do so, exited my
5 Patrol vehicle, walked around the backside of my
6 vehicle, made a passenger-side approach on the
7 violator vehicle.

8 BY MR. STITT:

9 Q. Now, you parked behind the violator
10 vehicle, obviously, right?

11 A. Yes.

12 Q. Why did you walk away from the violator
13 vehicle to go behind the back of your squad car
14 after you exited your car?

15 A. It's common practice with our department to
16 walk around the backside of our vehicle and make a
17 passenger-side approach. One, to avoid standing
18 between the patrol vehicle and the violator vehicle
19 to avoid entry if a collision happens to the rear of
20 the patrol vehicle. And two, to make a
21 passenger-side approach safely, opposed to being on
22 the driver's side of the violator vehicle next to
23 traffic.

24 MR. SHEPHERD: Also, objection. Relevance.

25 ///

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1 BY MR. STITT:

2 Q. But why not just walk quickly in between
3 the vehicles and you're moving straight towards the
4 violator vehicle. Why go on -- why go behind your
5 car?

6 MR. SHEPHERD: Objection. Compound. Asked
7 and answered. Relevance. Argumentative.

8 Go ahead.

9 THE WITNESS: As I stated before already,
10 injury can occur and has occurred to officers and
11 violators standing between the violator vehicle and
12 the patrol vehicle, no matter the amount of time
13 they were standing or walking between.

14 BY MR. STITT:

15 Q. Do you also find that it's safer to face
16 oncoming traffic as you walk behind your vehicle
17 than to have oncoming traffic coming from behind you
18 if you had chosen to just walk forward in between
19 the cars?

20 MR. SHEPHERD: Objection. Relevance.
21 Compound. Incomplete hypothetical. Calls for
22 speculation.

23 THE WITNESS: Your questions are a little
24 confusing because you're using the term "oncoming
25 traffic." I view that as traffic approaching the

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1 front of my vehicle in the opposite direction, so --
2 BY MR. STITT:

3 Q. Okay. What should we call traffic coming
4 from behind you?

5 A. Approaching traffic.

6 Q. Approaching traffic.

7 So is it safer, in your experience, to face
8 the approaching traffic and walk to the back of your
9 car because you can see it coming instead of walking
10 forward towards the violator vehicle, which would
11 have the approaching traffic coming from behind you?

12 Is that another reason why you go behind
13 the car?

14 MR. SHEPHERD: Objection. Compound.
15 Relevance. Calls for speculation. Argumentative.

16 THE WITNESS: It could be one of the
17 reasons, depending on the stop.

18 BY MR. STITT:

19 Q. In this particular stop, when you pulled
20 over the violator vehicle, the SUV and the trailer,
21 was that one of the factors that you considered in
22 walking behind your car?

23 MR. SHEPHERD: Objection. Relevance.

24 THE WITNESS: As I stated, I wouldn't have
25 walked in front of my car, so I chose to walk behind

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1 my car as I'm trained.

2 BY MR. STITT:

3 Q. And you're able to view the approaching
4 traffic as you're walking to the back of your car,
5 right?

6 MR. SHEPHERD: Objection. Relevance.

7 THE WITNESS: I have the ability, yes.

8 BY MR. STITT:

9 Q. But you're facing it. It's coming towards
10 you at that point, correct?

11 MR. SHEPHERD: Objection. Relevance.

12 THE WITNESS: Correct.

13 BY MR. STITT:

14 Q. And if the approaching traffic were to
15 swerve, you would be better positioned to try to get
16 out of the way because you could at least see it
17 coming more clearly. Is that fair?

18 MR. SHEPHERD: Objection. Relevance.

19 Incomplete hypothetical. Calls for speculation.

20 Compound.

21 Go ahead.

22 THE WITNESS: It is a fair assumption.

23 BY MR. STITT:

24 Q. Approaching traffic is a significant danger
25 for patrol officers, is it not?

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1 MR. SHEPHERD: Objection. Relevance.

2 THE WITNESS: Yes.

3 BY MR. STITT:

4 Q. And that danger would apply to pedestrians
5 on the side of the roadway as well?

6 MR. SHEPHERD: Objection. Relevance.

7 THE WITNESS: That could apply to anyone,
8 yes.

9 BY MR. STITT:

10 Q. The violator vehicle that's been pulled
11 over, there's danger to that violator vehicle as
12 well?

13 MR. SHEPHERD: Objection. Relevance.

14 THE WITNESS: It's possible.

15 BY MR. STITT:

16 Q. And to cyclists on the roadway?

17 MR. SHEPHERD: Objection. Relevance.

18 THE WITNESS: It's possible.

19 BY MR. STITT:

20 Q. One of the factors that your policy directs
21 you to consider is the general public's safety when
22 conducting enforcement stops; is that correct?

23 MR. SHEPHERD: Objection. Assumes facts
24 not in evidence.

25 THE WITNESS: Without --

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1 MR. SHEPHERD: Go ahead.

2 THE WITNESS: -- without compromising
3 officer safety, yes.

4 BY MR. STITT:

5 Q. And who would you include to be part of the
6 general public during an enforcement stop?

7 MR. SHEPHERD: Objection. Relevance.

8 THE WITNESS: Anyone that's -- that's a
9 vague question, but any -- anybody.

10 BY MR. STITT:

11 Q. Pedestrians, cyclists, oncoming traffic,
12 anyone present generally in the area; is that
13 correct?

14 THE WITNESS: Yes.

15 MR. SHEPHERD: Objection. Relevance.

16 BY MR. STITT:

17 Q. Is using -- is handcuffing someone and
18 detaining them using force, in your view?

19 A. No.

20 Q. Well, even if someone's detained, are they
21 free to leave?

22 A. No.

23 Q. And when you handcuff someone, you take
24 their hands behind their back, right?

25 A. If I'm securing their hands behind them,

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1 yes.

2 Q. And you're moving their arms, you're
3 touching them, you're restraining them; is that
4 right?

5 MR. SHEPHERD: Objection. Compound.

6 THE WITNESS: I'm placing them in
7 handcuffs.

8 BY MR. STITT:

9 Q. And someone that you've detained in
10 handcuffs is not free to leave?

11 A. Yes.

12 Q. And you don't believe that's using force?

13 A. No.

14 Q. What would you characterize to be using
15 force?

16 A. Any force to overcome active resistance.

17 Q. So there has to be active resistance?

18 A. Yes.

19 Q. What is active resistance, generally?

20 A. An example would be actively pulling away
21 or running away from a peace officer or lawful
22 orders.

23 Q. Fighting?

24 A. Was that a question?

25 Q. Yeah, like fighting, striking you. They're

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1 really -- they're physically putting up a fight in
2 some way?

3 A. Yes.

4 Q. Or physically trying to escape?

5 A. Yes.

6 Q. Are words active resistance?

7 A. No.

8 Q. Would you characterize that as passive
9 resistance, potentially?

10 A. Yes.

11 Q. So if someone says, "I'm not doing that,"
12 to a request, that would be passive resistance, not
13 active resistance, in your view?

14 A. Yes.

15 Q. But if that person squared up, took a
16 fighting stance and pushed you, that would
17 transition into active resistance, right?

18 A. No, that would transition to assaultive or
19 combative.

20 Q. Which would be actively resisting, right?

21 A. It is a form of resistance, yes.

22 Q. Okay. Can you take me through your -- the
23 weapons you carried with you on the date of this
24 incident.

25 I'm sure you had a firearm, right?

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1 A. Yes.

2 Q. Did you have a TASER?

3 MR. SHEPHERD: Hold on. Objection. Vague
4 as to "weapons."

5 But go ahead.

6 THE WITNESS: Yes, I had a TASER.

7 BY MR. STITT:

8 Q. What other less deadly -- I would
9 characterize them as weapons did you carry on the
10 date of the incident? Firearm, TASER, what else?

11 A. Well, firearm would be a deadly weapon.

12 Q. Right.

13 A. So you're asking specifically less than
14 lethal?

15 Q. Setting aside the firearm and the TASER,
16 what else -- what other weapons did you carry on the
17 date of the incident?

18 A. Weapons in general that I carried would
19 have been a personal knife, a KA-BAR knife, a rapid
20 collapsible baton, and then I guess you could
21 consider hands as personal weapons.

22 Q. Right.

23 I noticed one thing in the front of your
24 belt today. I don't know what it is. Could you
25 tell me what's sticking out from your belt buckle?

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1 You have, like, something stuck in underneath your
2 belt.

3 A. Yes.

4 MR. SHEPHERD: Objection. Relevance.
5 Vague.

6 THE WITNESS: Yes, as I stated, a KA-BAR
7 knife.

8 BY MR. STITT:

9 Q. Oh, is that where you keep the knife, right
10 in front, in the middle?

11 A. Yes.

12 Q. Did you have that knife or a similar one
13 with you at the date of the incident?

14 A. Yes.

15 Q. Besides the knife, baton, TASER and
16 firearm, and your hands, did you have any other
17 weapons with you at the time of the incident?

18 A. I do have a rifle and shotgun in my patrol
19 vehicle.

20 Q. At the time of the incident, on your
21 person, did you have any other weapons?

22 A. No.

23 (Exhibit 3 was marked for
24 identification by the
25 Certified Court Reporter.)

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1 BY MR. STITT:

2 Q. I'm showing you what's been marked -- what
3 we marked as Plaintiff's Exhibit 3 for the
4 deposition, which is your, I believe, your
5 investigation report in this case.

6 Do you recognize that?

7 MR. SHEPHERD: Wait. Are we using an
8 exhibit from a prior deposition?

9 MR. STITT: Simply something that I printed
10 and I didn't mark up.

11 MR. SHEPHERD: Are we going to identify
12 this as an exhibit in this deposition?

13 MR. STITT: Yeah, I said identify it as
14 Exhibit 3. We're at 3 now. We did the first two
15 RFPs --

16 MR. SHEPHERD: Okay. All right.

17 MR. STITT: -- for 1 and 2. We're at 3.

18 MR. SHEPHERD: I understand now.

19 MR. STITT: Okay.

20 MR. SHEPHERD: Thank you for the
21 clarification.

22 MR. STITT: I'm just trying to save the
23 paper.

24 THE WITNESS: Yes, I do recognize it.

25 BY MR. STITT:

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1 Q. And that's your report, obviously, right?

2 A. Yes.

3 Q. Did you write any other reports in this
4 case?

5 A. To my knowledge, no.

6 Q. Did you e-mail with anyone about this case?

7 MR. SHEPHERD: Objection. Insofar as it
8 infringes on the attorney-client privilege.

9 MR. STITT: Good question. Or good
10 clarification.

11 Q. Setting aside your communications with your
12 lawyer or lawyers, have you e-mailed with anyone
13 about this case?

14 A. To my knowledge, no. And if I did, it
15 would only be a supervisor, and it would not have
16 discussed details of the case, only informing them
17 of any upcoming trial dates.

18 Q. Well, before we filed the lawsuit last
19 year, do you recall e-mailing with anyone at CHP
20 about this incident? Setting aside any lawyers.

21 A. I don't personally recall.

22 Q. I mean, there was a use-of-force
23 investigation by Officer Kind.

24 Do you know that?

25 MR. SHEPHERD: Objection. Assumes facts.

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1 And vague as to "use-of-force investigation."

2 Go ahead.

3 THE WITNESS: To my knowledge, I'm not
4 aware of a use-of-force report that was conducted by
5 him.

6 BY MR. STITT:

7 Q. Well, Officer Kind interviewed you based on
8 Mr. Tallaksen's complaints.

9 Do you recall that?

10 A. Yes.

11 Q. Did you communicate with Sergeant Kind over
12 e-mail related to his investigation?

13 A. To my personal recollection, no.

14 Q. Did you exchange text messages with anyone
15 related to this investigation? Setting aside your
16 lawyers, yes. With whom?

17 A. It would have been Officer Hernandez,
18 Officer Morrison and Sergeant Kind.

19 Q. And what did those text messages say?

20 A. It simply referred to deposition dates and
21 the involvement in the incident. No details about
22 the incident.

23 Q. Can you describe more what you mean about
24 the involvement of the incident? You mean, their
25 involvement?

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1 A. Just the fact that they are involved and
2 they're going to be deposed.

3 Q. Oh, okay.

4 So it sounds like all of the text messages
5 that you're referencing started after the lawsuit
6 was filed; is that right?

7 A. To my knowledge, yes.

8 Q. After the incident with Mr. Tallaksen, you
9 didn't exchange messages with Officer Hernandez or
10 anyone else talking about what happened?

11 A. I don't recall.

12 Q. Do you recall talking to any other officers
13 about what happened?

14 A. Just Officer Morrison, Officer Hernandez
15 and Sergeant Kind.

16 Q. How do you feel about what happened during
17 the incident?

18 MR. SHEPHERD: Objection. Vague. Calls
19 for a narration, or lengthy explanation. Relevance.

20 Go ahead, if you understand the question.

21 THE WITNESS: I don't have any personal
22 feelings about the incident. I'm a witness to the
23 incident, at the end of the day, and I just provide
24 facts of the circumstances.

25 BY MR. STITT:

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1 Q. Do you feel like Mr. Tallaksen's complaint
2 was justified?

3 MR. SHEPHERD: Objection. Relevance.

4 THE WITNESS: It's subjective to him if he
5 feels like it's justified to him.

6 Again, I'm just a witness in this incident.
7 When I'm wearing this uniform, I don't have any
8 personal beliefs regarding the incident.

9 BY MR. STITT:

10 Q. So you don't have a view or an opinion of
11 whether Mr. Tallaksen's complaint was justified or
12 not?

13 MR. SHEPHERD: Objection. Asked and
14 answered. And relevance.

15 THE WITNESS: As I said, he's entitled --
16 entitled to his own personal judgment. I don't have
17 any personal beliefs on this incident.

18 BY MR. STITT:

19 Q. Was there anything that you wish you would
20 have done differently?

21 MR. SHEPHERD: Objection. Relevance.

22 THE WITNESS: No.

23 BY MR. STITT:

24 Q. And have you reviewed your body-cam footage
25 in preparation for today?

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1 A. Yes.

2 Q. And your report?

3 A. Yes.

4 Q. What else have you reviewed in preparation
5 for today?

6 A. As I stated, the report, policy manuals,
7 and the body-camera footage.

8 Q. You've also had time to think about the
9 incident. A long time has happened since the
10 incident. Have you reflected during this period and
11 thought about what you could have done differently?

12 MR. SHEPHERD: Objection. Relevance.

13 THE WITNESS: No.

14 BY MR. STITT:

15 Q. Why not?

16 MR. SHEPHERD: Objection. Relevance.

17 THE WITNESS: I still have a job to do, so
18 I continue doing my job. Whatever the outcome of
19 this incident is, isn't really relevant to me as a
20 witness. I write the report, submit the report, and
21 what happens after that is up to the parties
22 involved after.

23 BY MR. STITT:

24 Q. Respectfully, your position in this case is
25 different. I mean, you're the lead defendant in

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1 this case. You don't have a view about whether your
2 conduct was justified?

3 MR. SHEPHERD: Objection. Relevance.
4 Asked and answered.

5 THE WITNESS: I'm A little confused with
6 your questioning, because now you shifted from my
7 involvement with the case that I investigated to now
8 me being involved as the lead defendant, as you
9 said.

10 BY MR. STITT:

11 Q. Well, you've been -- I mean, you've been
12 sued for using excessive force against
13 Mr. Tallaksen, and I'm asking you how you feel about
14 that?

15 MR. SHEPHERD: Objection. Relevance.
16 Asked and answered.

17 THE WITNESS: As I stated before,
18 Mr. Tallaksen is entitled to use his rights and
19 privileges. I'm a witness in this matter. I don't
20 have any personal belief.

21 BY MR. STITT:

22 Q. What about professional beliefs?

23 MR. SHEPHERD: Objection. Vague as to
24 "professional beliefs." Relevance. Asked an
25 answer.

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1 THE WITNESS: As it pertains to
2 professional beliefs, like I said, I'm a witness in
3 this matter. I provide the facts of the
4 circumstances for the report, and that's what I did.

5 BY MR. STITT:

6 Q. Have you received any discipline related to
7 Mr. Tallaksen's complaint?

8 A. No.

9 Q. I know we talked about it already, but
10 let's shift back to your initial stop with the
11 violator vehicle in this case and then sort of start
12 going through it.

13 After stopping the violator vehicle, you
14 then made a passenger-side approach. So let's pick
15 up there. Okay?

16 At this point, you were alone. There were
17 no other officers backing you up; is that right?

18 A. Yes.

19 Q. And as you approached the violator vehicle,
20 you saw that there was one occupant in the car?

21 A. Is that a question?

22 Q. It is. Is that correct?

23 A. Yes.

24 Q. And the passenger in the violator vehicle
25 rolled down the passenger-side window; is that

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1 correct?

2 A. Yes.

3 Q. You did not observe any weapons?

4 A. No, I did not.

5 MR. SHEPHERD: Objection. Vague as to
6 time.

7 BY MR. STITT:

8 Q. When you first approached the violator
9 vehicle, would you characterize the stop as routine?

10 A. I don't characterize any stops as routine.
11 They're all dynamic.

12 Q. When you approached the violator vehicle,
13 did you believe that you were in immediate danger?

14 A. Potentially.

15 Q. Immediate danger?

16 A. Potentially, yes.

17 Q. From whom?

18 A. From the violator inside the vehicle that I
19 was stopping.

20 Q. And after greeting the violator vehicle and
21 explaining why you pulled him over, did you still
22 believe that you were in immediate danger?

23 A. Potentially.

24 Q. I'd like to turn your attention to the
25 use-of-force policy. We'll get it. Just a minute.

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1 Yeah. So I'm sure it's been marked as -- that's I
2 think -- which one is that?

3 MR. SHEPHERD: Chapter 3.

4 MR. STITT: That's Chapter 3. This is the
5 use of force, so it's different.

6 So I'm going to mark this as Plaintiff's
7 Exhibit 4, and it's another confidential exhibit.

8 (Exhibit 4 was marked for
9 identification by the Certified
10 Court Reporter and deemed confidential
11 pursuant to the Protective Order.)

12 BY MR. STITT:

13 Q. Do you see the policy that I've handed you?

14 A. Yes.

15 Q. Are you familiar with it?

16 A. Yes.

17 Q. Did you review it before?

18 MR. SHEPHERD: Objection. Relevance.

19 Go ahead.

20 BY MR. STITT:

21 Q. Did you review it before today's
22 deposition?

23 A. Yes.

24 Q. Okay. So I'd like you to turn to Page 4.

25 So it's 1, dash, 4.

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1 Does this policy generally discuss using
2 force?

3 MR. SHEPHERD: Objection. Relevance.

4 THE WITNESS: Yes, it does.

5 BY MR. STITT:

6 Q. And on Page 1, dash, 4, in the middle,
7 Subsection F, there's a definition of immediate.

8 Do you see that?

9 A. Yes.

10 Q. What is that definition?

11 A. It says, "Present at once, without delay,
12 not deferred by any interval of time."

13 Q. Using this definition of "immediate," when
14 you were standing next to the violator vehicle and
15 talking to the violator vehicle's driver, did you
16 believe you were in immediate danger of physical
17 injury?

18 MR. SHEPHERD: Objection. Relevance.

19 THE WITNESS: In the context of the
20 use-of-force manual, no, not under this definition.
21 But the potential for danger exists.

22 BY MR. STITT:

23 Q. I understand. The potential for danger
24 that you're referencing is potential future danger;
25 is that correct?

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1 MR. SHEPHERD: Objection. Relevance.

2 THE WITNESS: It could be, yes.

3 BY MR. STITT:

4 Q. You agree that there was no immediate
5 danger as defined in the manual?

6 MR. SHEPHERD: Objection. Relevance.

7 THE WITNESS: I did not observe any
8 immediate danger to myself in that moment.

9 MR. STITT: Pam, for Exhibit 5, can we pull
10 up the MVARs, please.

11 (Exhibit 5 was marked for
12 identification by the
13 Certified Court Reporter.)

14 BY MR. STITT:

15 Q. We have the video from your MVARs. Did you
16 review that before coming here today?

17 A. Yes.

18 Q. Okay. Is this your MVARs? We're looking
19 at Exhibit 5.

20 A. Yes.

21 MR. STITT: Okay. So let's fast forward
22 until right when he approaches the car. Perfect,
23 right here is great. So we've frozen -- oh, go back
24 a little bit, sorry. Yeah -- oh, forward.

25 Let's watch here from 1 minute and 20

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1 seconds maybe. This is fine. Just hit play.

2 So we'll start at 1:33 -- 1:23.

3 (MVARs is played.)

4 BY MR. STITT:

5 Q. So at this point, you've pulled over the
6 violator vehicle; is that right?

7 A. Yes.

8 Q. You're going to exit your vehicle and go
9 behind it to then come by and make a passenger-side
10 approach. Is that what's happening?

11 A. Yes, I will exit my patrol vehicle and go
12 behind my vehicle.

13 (MVARs is played.)

14 MR. STITT: We stopped it at a minute -- or
15 1 minute and 45 seconds.

16 Q. This is you in the video?

17 A. Yes.

18 Q. This is your MVARs from the incident?

19 A. Yes.

20 Q. You're standing here speaking to the
21 violator; is that right?

22 A. Yes.

23 Q. At this point during the stop, you seem
24 comfortable and not threatened.

25 Is that a fair characterization for how you

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1 felt at that time?

2 MR. SHEPHERD: Objection. Relevance.

3 THE WITNESS: You're stating that's how I
4 appear to you.

5 MR. STITT: Yeah.

6 THE WITNESS: That's subjective, sure.

7 BY MR. STITT:

8 Q. But do you agree with that characterization
9 of how you felt at this point during the stop?

10 A. I did not feel comfortable.

11 Q. You placed your arms on the window frame of
12 the violator vehicle?

13 MR. SHEPHERD: Objection. Relevance.

14 THE WITNESS: Yes.

15 BY MR. STITT:

16 Q. With your hands inside?

17 A. Yes.

18 Q. Your training instructs you not to do that
19 because it can place you in danger during the stop;
20 is that correct?

21 MR. SHEPHERD: Objection. Relevance.

22 THE WITNESS: To my knowledge, it directs
23 us not to reach inside of the vehicle. I was not
24 reaching. I simply placed my arms on top of the
25 windowsill.

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1 (Exhibit 6 was marked for
2 identification by the Certified
3 Court Reporter and deemed confidential
4 pursuant to the Protective Order.)

5 BY MR. STITT:

6 Q. Okay. So marked as Exhibit 6 will be
7 Chapter 3, Enforcement Stops, that's in front of
8 you.

9 Could you -- are you familiar with that
10 policy?

11 A. Yes.

12 Q. Could you please turn to Chapter 3, Page 8,
13 there's a photo of a patrol car, and then below it,
14 a highlighted section that says, "Officer Safety
15 Considerations."

16 Do you see that?

17 A. Yes.

18 Q. Subsection 1 instructs that an officer
19 should never place their hands upon, reach into, or
20 place any part of their body in or near the window
21 of the vehicle where an occupant could reach the
22 officer.

23 Do you see that?

24 A. Yes.

25 Q. Why did you place your hands on the window

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1 frame of the violator's vehicle?

2 MR. SHEPHERD: Objection. Relevance.

3 THE WITNESS: I'm allowed to. The policy
4 you're referring to is a should, not a shall.

5 BY MR. STITT:

6 Q. When a policy says that something should be
7 done, how do you interpret that as an officer?

8 A. It may be done.

9 Q. But if something should be done, is it the
10 best practice that it be done?

11 MR. SHEPHERD: Objection. Argumentative.

12 THE WITNESS: I can't say whether it is or
13 is not.

14 BY MR. STITT:

15 Q. So you interpret "should" as "may"; is that
16 right?

17 MR. SHEPHERD: Objection.

18 Mischaracterization of prior testimony.

19 THE WITNESS: No, I don't interpret it as
20 "may." However, the possibility that I may do what
21 it's saying or not saying is there.

22 BY MR. STITT:

23 Q. It means it's up to your best judgment. Is
24 that what that means?

25 A. Yes.

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1 Q. Do you do your best to follow the policy
2 suggestions that say something should be done?

3 A. To the best of my knowledge, if it's
4 feasible.

5 Q. Let's look at this photo from the MVARs.
6 Did you have to put your arms in the car
7 window?

8 MR. SHEPHERD: Objection. Relevance.

9 THE WITNESS: No, I did not.

10 BY MR. STITT:

11 Q. Why did you choose to do so?

12 MR. SHEPHERD: Objection. Relevance.

13 THE WITNESS: I chose a more familiar
14 approach with the violator, so I could have a
15 conversation with him and that I could also hear him
16 better.

17 BY MR. STITT:

18 Q. By being closer to him, you could hear him
19 better; is that right?

20 MR. SHEPHERD: Objection. Relevance.

21 THE WITNESS: Yes.

22 BY MR. STITT:

23 Q. Is that an approach that you would have
24 taken if you observed a weapon in the car?

25 MR. SHEPHERD: Objection. Relevance. And

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1 incomplete hypothetical. Calls for speculation.

2 THE WITNESS: Depending on the
3 circumstances, most likely not.

4 BY MR. STITT:

5 Q. Is that an approach that you would have
6 taken if you perceived the violator vehicle to
7 present an imminent danger to you?

8 MR. SHEPHERD: Objection. Relevance.
9 Calls for speculation.

10 THE WITNESS: I mean, if the vehicle is
11 posing an imminent danger to me, I'm probably not
12 going to approach it.

13 BY MR. STITT:

14 Q. Right. You would have drawn a weapon, I
15 imagine?

16 MR. SHEPHERD: Objection. Calls for
17 speculation. Relevance.

18 THE WITNESS: Depending on the
19 circumstance, possibly.

20 BY MR. STITT:

21 Q. Okay. I know that you said that no stop is
22 routine, and that they're all dynamic. But at this
23 point, during your interaction with the violator
24 vehicle, is this a fairly normal traffic stop for
25 you?

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1 MR. SHEPHERD: Objection. Relevance.

2 THE WITNESS: There's no abnormalities at
3 this point.

4 BY MR. STITT:

5 Q. This is something that you've done many
6 times as a patrol officer through this point?

7 MR. SHEPHERD: Objection. Relevance.

8 THE WITNESS: Can you define "this"?

9 BY MR. STITT:

10 Q. This type of stop and how it's progressing
11 is the type of interaction you've had with a
12 violator vehicle on a regular basis during your job
13 as a patrol officer?

14 A. Yes.

15 Q. Is there -- let me ask it a different way.

16 How does the audio recording work with your
17 MVARs? Because we can hear you talking at the car
18 on the MVARs, but we can't hear Mr. Tallaksen when
19 he's in the back of your car.

20 Do you know how that works or why that is?

21 A. This would have been before we transitioned
22 to departmentally-issued body cameras.

23 So at this time, I was wearing a wireless
24 microphone on my belt, which is where the audio
25 comes from this video.

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1 The audio inside the cabin, to my
2 knowledge, does not activate until the cabin camera
3 activates.

4 Q. Do you know if the cabin camera activated
5 during this incident at all?

6 A. To my knowledge, I'm not sure.

7 Q. Well, have you looked?

8 A. I did not see any footage recorded by the
9 cabin camera on the evidence site that maintains our
10 videos.

11 Q. Okay. And I certainly haven't seen it at
12 all in the case. I guess I'm trying to understand
13 is if it -- if it might exist. Is there anywhere
14 that you haven't looked that it could be?

15 MR. SHEPHERD: Objection. Calls for
16 speculation.

17 THE WITNESS: No, I would safely say that
18 it does not exist, because as of today, when I
19 looked up the evidence on our website that maintains
20 our MVARs footage, there was only the footage for
21 the patrol vehicle main camera.

22 BY MR. STITT:

23 Q. Okay. And so you have a microphone on your
24 belt, and so that's why we're able to clearly hear
25 you, but not anything like really from inside the

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1 car?

2 A. Yes.

3 Q. Okay. I'd like to talk with you about
4 enforcement stops in Chapter 3, and we'll go to
5 Page 5 -- oh, excuse me, Page 4.

6 So initiating the stop is the section in
7 the middle of Page 4. Did you review this before
8 your testimony today?

9 A. Yes.

10 Q. Had you reviewed it before initiating the
11 stop with the violator vehicle?

12 A. Yes.

13 Q. So you were familiar with this policy at
14 the time you stopped the violator vehicle?

15 A. Yes.

16 Q. So looking down at Subsection 6, do you see
17 that at the -- near the bottom of Page 4?

18 A. Yes.

19 Q. It says that you should stop your patrol
20 vehicle behind the violator's vehicle well off the
21 roadway. Do you see that?

22 A. Yes.

23 Q. Did you park your vehicle well off the
24 roadway when you stopped behind the violator
25 vehicle?

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1 MR. SHEPHERD: Objection. Relevance.

2 THE WITNESS: Yes.

3 BY MR. STITT:

4 Q. Well off the roadway?

5 MR. SHEPHERD: Objection. Relevance.

6 Asked and answered.

7 THE WITNESS: Yes.

8 BY MR. STITT:

9 Q. Okay. The next section directs that you
10 should offset the patrol vehicle slightly to the
11 left of the violators vehicle.

12 Do you see that section?

13 A. Yes.

14 Q. Did you offset your vehicle to the left of
15 the violator vehicle?

16 MR. SHEPHERD: Objection. Relevance.

17 THE WITNESS: To my knowledge, no.

18 BY MR. STITT:

19 Q. Why not?

20 A. It wasn't safe to do so.

21 Q. Why not?

22 MR. SHEPHERD: Objection. Relevance.

23 Asked and answered.

24 THE WITNESS: It would have put my patrol
25 vehicle in the active lane of travel.

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1 BY MR. STITT:

2 Q. Is that because the violator vehicle did
3 not pull over far enough to the right to allow you
4 to then offset to the left?

5 MR. SHEPHERD: Objection. Relevance.

6 THE WITNESS: No.

7 BY MR. STITT:

8 Q. Then help me understand why you didn't
9 offset to the left? I don't understand.

10 A. If I would have offset to the left, using
11 this image right here from the patrol vehicle
12 camera, you can see that there's a solid white fog
13 line.

14 Q. Right.

15 A. If I offset to the left, I will be in an
16 active lane of travel, placing myself in danger.

17 Q. From the approaching traffic?

18 A. Yes.

19 Q. Could the violator vehicle have pulled over
20 further to the right?

21 MR. SHEPHERD: Objection. Relevance.
22 Calls for speculation.

23 THE WITNESS: I'm sure it's possible.

24 BY MR. STITT:

25 Q. Well, let's look at this picture. Was

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1 there an obstruction preventing it from pulling over
2 further to the right?

3 MR. SHEPHERD: Objection. Relevance.

4 THE WITNESS: Yes.

5 BY MR. STITT:

6 Q. What obstruction?

7 A. There's uneven terrain. The vegetated area
8 to the right side is not maintained for vehicle use.
9 And there are several signs and drainage ditches
10 along that portion of the highway.

11 Q. I don't see any drainage ditches in this
12 photo, do you?

13 MR. SHEPHERD: Objection. Relevance.

14 THE WITNESS: No.

15 BY MR. STITT:

16 Q. So were those drainage ditches in another
17 part of the road?

18 MR. SHEPHERD: Objection. Relevance.

19 THE WITNESS: It's possible.

20 BY MR. STITT:

21 Q. Right where this car pulled over, what
22 obstructions, if any, prevented the violator vehicle
23 from pulling over more to the right?

24 MR. SHEPHERD: Objection. Relevance.

25 THE WITNESS: Uneven terrain. And, like I

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1 said, the vegetated area is not maintained for
2 vehicle use.

3 BY MR. STITT:

4 Q. You're standing to the right of the
5 violator vehicle; is that right?

6 MR. SHEPHERD: Objection. Relevance.

7 THE WITNESS: If you're looking at it from
8 behind the vehicle, yes.

9 BY MR. STITT:

10 Q. Well, in this picture we're looking at the
11 MVARs at minute, 1:45. You're standing to the right
12 of the violator vehicle; is that right?

13 MR. SHEPHERD: Objection. Relevance.

14 THE WITNESS: Yes.

15 BY MR. STITT:

16 Q. How much space was there in between the
17 violator vehicle and the edge of the roadway?

18 MR. SHEPHERD: Objection. Relevance.

19 THE WITNESS: Which side are you talking
20 about?

21 BY MR. STITT:

22 Q. On the side you're standing.

23 A. Well, the vehicle is not on the roadway.

24 Q. Between the violator vehicle and the edge
25 of the asphalt on the right side, how much

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1 additional space is there?

2 A. Approximately two-to-three feet.

3 Q. What obstruction exists, if any, during
4 the -- in those two-to-three feet that would have
5 prevented the violator vehicle from pulling over
6 further to the right?

7 MR. SHEPHERD: Objection. Relevance.

8 Asked and answered.

9 THE WITNESS: I don't know.

10 BY MR. STITT:

11 Q. Look at the video or the photo. Could you
12 identify any obstruction on this photo that would
13 have prevented the violator vehicle from pulling
14 two-to-three feet over further to the right on the
15 pavement?

16 MR. SHEPHERD: Objection. Relevance.

17 Asked and answered. Harassing.

18 THE WITNESS: From this photo, you can't
19 see. However, you also can't see in front of the
20 vehicle, so...

21 BY MR. STITT:

22 Q. But you were standing there, and I'm asking
23 you, as a witness, to identify all the obstructions
24 that were present in that two-to-three feet of
25 additional asphalt to the right of the violator

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1 vehicle that would have prevented the violator
2 vehicle from pulling over further to the right.

3 Can you identify any obstruction that would
4 have prevented that?

5 MR. SHEPHERD: Objection. Relevance.
6 Asked and answered.

7 THE WITNESS: No physical obstructions.
8 BY MR. STITT:

9 Q. Are there non-physical obstructions?

10 MR. SHEPHERD: Objection. Relevance.

11 THE WITNESS: Not a non-physical
12 obstruction, per se, but I would not direct the
13 driver of that vehicle to move over further.

14 BY MR. STITT:

15 Q. Why not?

16 MR. SHEPHERD: Objection. Relevance.

17 THE WITNESS: Any stop could be a potential
18 DUI stop. If I'm going to provide a safe location
19 for field sobriety tests, I need even ground, not
20 just for myself, for my safety, but for the violator
21 so he has a fair, even ground to perform those field
22 sobriety tests on.

23 BY MR. STITT:

24 Q. Where would you have performed a field
25 sobriety test in this photo, as we're looking?

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1 MR. SHEPHERD: Objection. Relevance.
2 Calls for speculation.

3 THE WITNESS: In this photo, I would have
4 had the violator probably stand for some of the
5 stationary field sobriety tests to the right side of
6 the front of my patrol vehicle.

7 And then I would have had him probably do
8 some of the moving sobriety tests on the flat, even
9 ground in front, to the right of my patrol vehicle,
10 so that he's not between his vehicle and my patrol
11 vehicle.

12 MR. STITT: Can you pull up the body cam at
13 a minute, three, please.

14 Q. So we're going to transition to your
15 body-cam footage, which will be -- are we at
16 Exhibit 6? I think we are, Exhibit 6. And we're
17 going to fast forward to a minute, three.

18 And you look back at the cars, as you're
19 standing next to the violator vehicle. Perfect.

20 MR. SHEPHERD: I think we're at Exhibit 7.

21 MR. STITT: This is Exhibit 7. Thank you.
22 Thank you.

23 (Exhibit 7 was marked for
24 identification by the
25 Certified Court Reporter.)

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1 BY MR. STITT:

2 Q. Do you recognize this?

3 A. Yes.

4 Q. Is this your body-camera footage?

5 A. Yes.

6 Q. Are you standing next to the violator
7 vehicle?

8 A. Yes.

9 Q. We're looking back towards your squad car,
10 right?

11 A. Yes.

12 Q. Your patrol car is the first car, right,
13 the first squad car that we see?

14 A. Yes.

15 Q. Officer Hernandez arrives and he is parked
16 behind you?

17 A. Yes.

18 Q. And Officer Hernandez is in the hat, and
19 he's the other officer present?

20 A. Yes.

21 Q. And Mr. Tallaksen is on the bike?

22 A. Yes.

23 Q. So if you were going to do a field sobriety
24 test of the violator vehicle, I believe that you
25 said that you would have that person stand to the

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1 front and to the right of your patrol car; is that
2 right?

3 MR. SHEPHERD: Objection. Relevance.

4 THE WITNESS: Yes.

5 BY MR. STITT:

6 Q. To the front and to the right of your
7 patrol car would be in the grass; is that correct?

8 MR. SHEPHERD: Objection. Relevance.

9 THE WITNESS: As I stated, for the
10 stationary, I'd probably have them stand off of the
11 pavement.

12 And then for the moving test, I would have
13 them use the pavement to the front and right of my
14 patrol vehicle.

15 BY MR. STITT:

16 Q. What pavement is there to the front and
17 right of your patrol vehicle?

18 MR. SHEPHERD: Objection. Relevance.

19 THE WITNESS: I see plenty of pavement to
20 use right there because the trailer is not as wide
21 as the violator vehicle itself. That would not
22 place the subject between my vehicle and the trailer
23 or his vehicle.

24 BY MR. STITT:

25 Q. So you would do the standing portion

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1 parallel to the trailer and on the aspect fault; is
2 that correct?

3 MR. SHEPHERD: Objection. Relevance.

4 THE WITNESS: No, that's not correct.
5 That's not what I said.

6 BY MR. STITT:

7 Q. I don't understand. I'm sorry. Can you
8 just help describe where you would do it again?

9 A. So I said I would do the stationary
10 psychophysical field sobriety tests off of the
11 pavement to the front and right of my patrol
12 vehicle.

13 And I would do the mobile psychophysical
14 field sobriety tests in front to the right of my
15 patrol vehicle on the pavement.

16 Q. You parked all your vehicle all the way to
17 the edge of the asphalt roadway on the right side;
18 is that correct?

19 A. Correct.

20 Q. Why did you pull over that far?

21 A. So that I could safely exit the driver's
22 side of my vehicle.

23 Q. And that gave you more space with the
24 approaching traffic to exit your vehicle safely?

25 A. Yes.

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1 Q. Is it also safer for approaching traffic
2 for a vehicle to pull over further to the right?

3 MR. SHEPHERD: Objection. Relevance.

4 THE WITNESS: It's not really safer unless
5 the person's already driving on the shoulder.

6 BY MR. STITT:

7 Q. So in keeping the general public safe
8 during an enforcement stop, you don't believe that
9 pulling over further to the right when there is
10 space to do so is safer?

11 MR. SHEPHERD: Objection. Relevance.
12 Mischaracterization of prior testimony. And vague
13 as to "general public."

14 THE WITNESS: It's safer for the officer.

15 BY MR. STITT:

16 Q. What about the general public?

17 A. In the instance that you just described,
18 the general public is also required to slow down or
19 move over for stopped emergency vehicles.

20 BY MR. STITT:

21 Q. I mean, in practice. Do people always do
22 that, though?

23 MR. SHEPHERD: Objection. Relevance.

24 THE WITNESS: I don't know, because I don't
25 watch all the people that pass my patrol vehicle.

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1 BY MR. STITT:

2 Q. Enforcement stops, in the section of the
3 Enforcement Stop policy that we've reviewed, states
4 that you should offset your car to the left of the
5 violator's vehicle.

6 If the violator here had pulled over as far
7 as you did off the roadway or to the edge of the
8 roadway, would you have been able to offset to the
9 left?

10 MR. SHEPHERD: Objection. Relevance.
11 Speculation. Compound.

12 THE WITNESS: I don't know, but most likely
13 not.

14 BY MR. STITT:

15 Q. Why not?

16 MR. SHEPHERD: Objection. Relevance.

17 THE WITNESS: I still don't want to place
18 myself in greater danger being closer to traffic.

19 BY MR. STITT:

20 Q. Turning to the next page, Page 5, at the
21 very top, Subsection 8, it says if a violator fails
22 to park far enough off the pavement, the officer
23 should direct them to do so via the PA system.

24 Do you see that portion of the policy?

25 A. Yes.

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1 Q. Did you direct the violator vehicle with
2 your PA system to pull over further?

3 MR. SHEPHERD: Objection. Relevance.

4 THE WITNESS: No.

5 BY MR. STITT:

6 Q. Why not?

7 MR. SHEPHERD: Objection. Relevance.

8 THE WITNESS: He did what he was lawfully
9 required to. He pulled off the main travel portion
10 of the roadway. It was safe to make a traffic stop
11 there.

12 BY MR. STITT:

13 Q. At any point during your interaction with
14 the violator vehicle, did you suspect the violator
15 of suspicion of DUI?

16 MR. SHEPHERD: Objection. Relevance.

17 THE WITNESS: No, I did not make a
18 determination to suspect he was driving under the
19 influence.

20 BY MR. STITT:

21 Q. So Mr. Tallaksen pulls up on his bike in
22 between your car and the violator vehicle trailer.
23 We see that at minute, three of your body-cam
24 footage.

25 What did Mr. Tallaksen want?

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1 MR. SHEPHERD: Objection. Speculation.

2 BY MR. STITT:

3 Q. What did you understand him to want?

4 A. By the time it was brought to my attention,
5 he was demanding that we move our patrol vehicles
6 and the violator vehicle over.

7 Q. So your patrol vehicle is further over, as
8 well as the violator vehicle over?

9 A. To my understanding.

10 Q. You didn't think he just wanted the
11 violator vehicle moved over, so he could safely go
12 by?

13 MR. SHEPHERD: Objection. Calls for
14 speculation.

15 THE WITNESS: No, and I don't see why it
16 would be relevant.

17 BY MR. STITT:

18 Q. Why what would be relevant? Sorry.

19 A. If he wanted either both vehicles to be
20 moved or just the violator vehicle.

21 Q. Why would that not be relevant?

22 A. It's just not relevant to the situation.
23 Whether I move two cars or one car, it's not
24 feasible.

25 Q. You weren't going to move any cars?

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1 A. No.

2 Q. No matter what?

3 MR. STITT: Objection. Asked and answered.

4 THE WITNESS: I already answered, "No."

5 BY MR. STITT:

6 Q. So you understood Mr. Tallaksen to be
7 asking that you move all three cars further to the
8 right, but if he had asked that you just move one
9 car, for example, you wouldn't have entertained that
10 request either?

11 MR. SHEPHERD: Objection. Compound. Calls
12 for speculation. Mischaracterization of earlier
13 testimony.

14 THE WITNESS: Can you reask the question?

15 BY MR. STITT:

16 Q. I think that -- I'm trying to understand
17 what you thought he was asking for. And I believe
18 that you've said that you thought Mr. Tallaksen
19 wanted all three cars to be moved further to the
20 right so he could safely pass.

21 Is that a fair characterization of your
22 Testimony?

23 A. Yes.

24 Q. If Mr. Tallaksen had asked you to just move
25 one car instead of all three cars, would you have

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1 agreed?

2 MR. SHEPHERD: Objection. Speculation.
3 Relevance.

4 THE WITNESS: No.

5 BY MR. STITT:

6 Q. And why not?

7 MR. SHEPHERD: Objection. Relevance.

8 THE WITNESS: I did not place Mr. Tallaksen
9 In a place of danger as he placed himself, and I'm
10 not going to follow orders of a citizen to
11 compromise my safety on a traffic stop.

12 BY MR. STITT:

13 Q. You didn't like that he stopped here and
14 directed you to pull the car over further, did you?

15 MR. SHEPHERD: Objection. Relevance.
16 Vague as to what the deponent likes. Argumentative.
17 Go ahead.

18 THE WITNESS: As I stated, I don't have any
19 personal beliefs. What I like or don't like doesn't
20 matter in this case. My safety on the traffic stop
21 was compromised and my attention was divided from
22 the traffic stop I was on.

23 MR. STITT: Would the court reporter
24 request for the next break? How are you doing?

25 THE COURT REPORTER: I'm fine, thanks.

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1 MR. STITT: You're okay? Are you guys okay
2 continuing on?

3 THE WITNESS: Yeah, I'm doing good.

4 MR. SHEPHERD: Let's continue.

5 MR. STITT: Okay.

6 Q. In your view, did you follow the
7 enforcement stop policy for pulling over the
8 violator car sufficiently far off the road during
9 this stop?

10 MR. SHEPHERD: Objection. Relevance.
11 Compound. Vague as to "sufficiently."

12 THE WITNESS: Yes. I followed policy, as
13 it's also not all inclusive.

14 BY MR. STITT:

15 Q. What does that mean, it's not all
16 inclusive?

17 MR. SHEPHERD: Objection. Relevance.

18 THE WITNESS: Not all traffic stops are the
19 same. They're all dynamic events. The policy is
20 there as a guideline, but certain circumstances and
21 situations may require deviations.

22 BY MR. STITT:

23 Q. Okay. We've reviewed the policy again
24 today, and we've looked at some of the video
25 footage.

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1 Do you believe that you appropriately
2 followed the policy during this interaction?

3 MR. SHEPHERD: Objection. Asked and
4 answered. Relevance.

5 THE WITNESS: Yes.

6 BY MR. STITT:

7 Q. So that means if this were to happen again
8 during an enforcement stop, you would do the same
9 thing because you follow the policy then, and you
10 would follow the policy again in the future; is that
11 right?

12 MR. SHEPHERD: Objection. It calls for
13 speculation. Compound. Incomplete hypothetical.

14 THE WITNESS: If you're asking if I would
15 change anything that I did, I already answered you
16 earlier, and I said, "No."

17 BY MR. STITT:

18 Q. Okay. And reviewing the policy and
19 discussing it further hasn't changed that previous
20 answer; is that right?

21 MR. SHEPHERD: Objection. Relevance.
22 Asked and answered. Harassing.

23 THE WITNESS: Correct.

24 BY MR. STITT:

25 Q. Let's watch the body-cam footage. We're

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1 starting at minute, three, and I'm actually going to
2 rewind it just a second more because you can hear
3 Mr. Tallaksen already talking, so let's -- there we
4 go. Maybe a little bit more.

5 Let's start here at 2 minutes and 40
6 seconds.

7 (The video is played.)

8 MR. STITT: We've stopped at three minutes
9 and five seconds.

10 Q. Mr. Tallaksen pointed forward saying that
11 he wanted to get safely over there. Did you see
12 that in the video?

13 A. Yes.

14 Q. Was he pointing to get safely past the
15 violator vehicle? Is that where he was pointing?

16 A. Yes.

17 Q. Did you understand that he wanted to safely
18 pass the violator vehicle?

19 A. Yes.

20 Q. At what point did he ask you to move your
21 CHP vehicle and Officer Hernandez's CHP vehicle?

22 A. In this video, there is no point. I was
23 recalling earlier, based off of my knowledge at the
24 time, and that there was shouting before this
25 incident.

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1 Q. Okay. So in just watching this video so
2 far, you agree that Mr. Tallaksen was asking to get
3 around the violator vehicle and continue past the
4 violator vehicle? That's what he was seeking?

5 A. Yes.

6 MR. STITT: Okay. We can go forward.

7 (The video is played.)

8 MR. STITT: Go ahead and pause. So we
9 stopped it at 3:20 or 3:21.

10 Q. And we see during this clip that we just
11 watched Officer Hernandez Talking to Mr. Tallaksen?

12 A. Yes.

13 Q. Officer Hernandez is standing essentially
14 right next to Mr. Tallaksen, only a few feet away;
15 is that right?

16 A. Yes.

17 Q. And he is pointing forward towards the
18 violator vehicle as he's talking to Mr. Tallaksen?

19 A. Yes.

20 Q. From your perspective, as you approached
21 Mr. Tallaksen, did you see any weapons?

22 A. No, I did not see any weapons myself.

23 Q. When you're working with another officer,
24 your training also directs you to look at how other
25 officers are interpreting potential threats; is that

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1 correct?

2 MR. SHEPHERD: Objection. Assumes facts.

3 THE WITNESS: It can, yes.

4 BY MR. STITT:

5 Q. And so if Officer Hernandez, for example,
6 had drawn a weapon or responded in a particular way,
7 that could indicate to you that he perceived Mr.
8 Tallaksen as a threat. Is that possible?

9 MR. SHEPHERD: Calls for speculation.
10 Relevance.

11 THE WITNESS: It is possible, yes.

12 BY MR. STITT:

13 Q. And so, as you're approaching here, are you
14 looking at Mr. Tallaksen, but also to see how
15 Officer Hernandez is interacting with him?

16 MR. SHEPHERD: Objection. Relevance.

17 THE WITNESS: Yes.

18 BY MR. STITT:

19 Q. And did it appear to you that Officer
20 Hernandez perceived Mr. Tallaksen as an active
21 threat?

22 A. I didn't see him responding in any way that
23 it would have appeared that he's in an active,
24 immediate threat of danger. But the potential
25 exists.

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1 Q. I understand the future potential. But as
2 you're approaching here, you did not believe, based
3 on what you could see, that Officer Hernandez
4 perceived Mr. Tallaksen as an immediate threat of
5 injury?

6 A. I can't testify to what Officer Hernandez
7 feels or believes.

8 Q. But how you thought. I'm asking about your
9 perception as you're walking towards Mr. Tallaksen
10 here.

11 A. Are you asking if I perceive a threat?

12 Q. Yeah. Did you perceive a threat?

13 A. Yes.

14 Q. An active threat?

15 A. An active threat, yes.

16 Q. Of what?

17 A. To be specific, Mr. Tallaksen has
18 interjected himself into a lawful traffic stop
19 location in an unsafe spot for himself and officers.
20 He's acting extremely angry towards officers. He's
21 making furtive movements behind his back when he
22 reached for his cell phone, and he's refusing
23 commands to go along and move away from the area.

24 Q. He's wearing cyclist clothing; is that
25 right?

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1 A. Yes.

2 Q. It's formfitting?

3 A. Is that a question?

4 Q. It is. Is it formfitting?

5 A. It would appear so.

6 Q. Did you observe any weapons?

7 A. No.

8 Q. You were able to see his hands clearly?

9 A. Until he reached behind his back, yes.

10 Q. He reached behind his back and had obtained
11 a cell phone already before you arrived; is that
12 right?

13 A. He reaches as I'm looking back towards him.

14 Q. Right. Already in this video, as we've
15 watched, he's already obtained the cell phone,
16 right?

17 A. So to clarify, he reaches for the cell
18 phone while I'm at the violator vehicle looking back
19 at him. I see him furtively reach for his cell
20 phone while he's already in an argumentative state
21 with another officer.

22 Q. When Mr. Tallaksen reached for his cell
23 phone, Officer Hernandez was standing next to him;
24 is that right?

25 A. Yes.

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1 Q. Officer Hernandez would be able to see
2 Mr. Tallaksen's hand as he's standing to the side
3 from his vantage point; is that correct?

4 MR. SHEPHERD: Objection. Calls for
5 speculation.

6 THE WITNESS: It's possible, yes.

7 BY MR. STITT:

8 Q. Officer Hernandez was in a cover position
9 during this enforcement stop; is that correct?

10 A. Yes.

11 Q. He is standing to the side of Mr. Tallaksen
12 and he's able to observe behind Mr. Tallaksen and
13 also able to clearly observe you; is that correct?

14 A. Yes.

15 Q. Besides Mr. Tallaksen taking his phone out,
16 did you notice any other furtive movements?

17 A. No.

18 Q. When Mr. Tallaksen reached for his phone
19 and made his furtive movement, did you instruct him
20 to show you his hands?

21 A. No.

22 Q. Did you draw any weapons?

23 A. No.

24 Q. Did Officer Smith [sic] order him to show
25 him his hands, that you overheard?

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1 A. As I stated, no, I didn't.

2 MR. SHEPHERD: And you said, "Officer
3 Smith."

4 BY MR. STITT:

5 Q. Oh, I meant Officer -- thank you -- did you
6 hear Officer Smith -- Officer Hernandez, order
7 Mr. Tallaksen to show him his hands?

8 A. I did not hear Officer Hernandez give him
9 an order to show his hands.

10 Q. If a suspect makes a furtive movement to
11 potentially obtain a weapon, are you trained to
12 order the subject to show you his hands?

13 A. If feasible.

14 Q. Would it have been feasible here to order
15 Mr. Tallaksen to show you his hands?

16 A. No.

17 Q. Why?

18 A. He already showed me his hands after he
19 grabbed the cell phone.

20 Q. He did it so fast you weren't able to say
21 anything. Is that what you mean?

22 A. Yes.

23 Q. At this point, using the definition of
24 immediate that we reviewed in the use-of-force
25 policy earlier, did Mr. Tallaksen present an

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1 immediate threat of physical injury to you?

2 A. No, but he presented an imminent threat.

3 Q. Let's go to the policy. There it is.

4 So let's revert back to the use-of-force
5 policy, and it's Page 4 for the definitions.

6 You said that he posed an imminent threat?

7 A. Yes, I did.

8 Q. Okay. But you do not believe that he
9 presented an immediate threat?

10 A. Correct.

11 Q. The definition of immanent in the policy
12 says that the person has the present ability,
13 opportunity and apparent intent to immediately cause
14 death or serious bodily injury to the peace officer
15 or another person.

16 What did you observe about Mr. Tallaksen's
17 intent to immediately cause death or serious injury
18 to a peace officer or another person?

19 A. As I stated earlier, he purposely placed
20 himself in a place of danger to confront officers on
21 a lawful traffic stop. He's yelling at officers and
22 he's disobeying commands to leave the area.

23 Q. And that, to you, presented him as
24 intending to immediately cause death or serious
25 bodily injury to you or another person?

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1 MR. SHEPHERD: Objection.

2 Mischaracterization of earlier testimony as to
3 immediate as opposed to imminent.

4 BY MR. STITT:

5 Q. Let's go through the definition for
6 imminent, because I know it's -- so, at the very
7 middle of this definition, it says, "The apparent
8 intent to immediately cause death or serious injury
9 to a peace officer or another person."

10 Do you see that?

11 A. Yes.

12 Q. Okay. So you believed at this point that
13 Mr. Tallaksen intended to immediately cause death or
14 serious bodily injury to you or another person?

15 A. He had the potential to.

16 Q. But it doesn't say, "potential," sir. It
17 says "intent."

18 MR. SHEPHERD: Objection. That is not what
19 it says. It says, "present ability, opportunity and
20 apparent intent."

21 BY MR. STITT:

22 Q. Right. And so I'm asking about his
23 apparent intent to immediately cause death or
24 serious injury to you or officers.

25 At this point, you believed that was his

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1 intention?

2 MR. SHEPHERD: Objection. This is
3 harassing. You're not using the entire definition
4 of the phrase. You're selectively cherry picking
5 it.

6 BY MR. STITT:

7 Q. Can you please answer the question?

8 A. It is apparent to me because, as I stated,
9 he is disobeying lawful orders to leave the area,
10 and he has purposely interjected himself in a place
11 of danger to confront officers. I'm not going to
12 turn my back to him on the traffic stop and allow
13 him to hurt myself.

14 Q. So you believed that you couldn't turn your
15 back on Mr. Tallaksen at this point because his
16 intention was to harm officers or a member of the
17 public?

18 MR. SHEPHERD: Objection.
19 Mischaracterization of earlier testimony.

20 THE WITNESS: As I stated, it was apparent.

21 I don't know what his actual intentions
22 were at the time, and it doesn't matter what I found
23 out his intentions were after the fact. Reviewing
24 this at the time, we have someone, like I said, he
25 has interjected himself on a lawful traffic stop,

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1 placing himself in a place of danger, yelling at
2 officers, disobeying lawful commands.

3 That is not a person I feel safe turning my
4 back to on a traffic stop.

5 MR. STITT: Okay. We can go forward and
6 we'll watch a little bit.

7 Pam, could you rewind just a little? It
8 takes a little bit for the audio to click in. Ca we
9 go back like 10. There we go.

10 So we'll start at 3:11, and then the audio
11 will click back in.

12 (The video is played.)

13 BY MR. STITT:

14 Q. What choice did you give Mr. Tallaksen
15 before detaining him?

16 A. He could go on about his day.

17 Q. Or be detained?

18 A. (Nods head.)

19 Q. What did you mean by go about your day?

20 THE COURT REPORTER: Was that a yes?

21 THE WITNESS: To clarify, yes, that was a
22 yes.

23 BY MR. STITT:

24 Q. What did you mean by go about your day?
25 What did that mean to you?

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1 A. He had the option of continuing on either
2 side of the vehicle. I wasn't telling him to go on
3 any specific side or he could step to the side. It
4 was up to him.

5 Q. So you would have been fine if he stepped
6 to the side and waited?

7 A. If he would have calmed down, stepped to
8 the side, further away from the patrol vehicles on
9 the traffic stop, yes.

10 Q. That would be off to the grass, I imagine,
11 further to the right; is that right?

12 A. Yes.

13 Q. Or he could have passed to the right of the
14 violator vehicle?

15 A. Yes, as he did later.

16 Q. Or he could have gone out into traffic on
17 the left side of the violator vehicle?

18 A. That, or he could have stayed within the
19 fog line as the other rider did.

20 Q. Do you believe that you clearly presented
21 those options to Mr. Tallaksen before detaining him?

22 A. I believe I gave him clear instructions
23 that he needed to leave or he would be detained.

24 Q. Well, as I understand it, one of the
25 options, I guess, as you present it today, would be

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1 to wait adjacent to your patrol vehicle. That's not
2 leaving, is it?

3 A. It's leaving the immediate area.

4 Q. And do you believe that you clearly
5 communicated that to him before detaining him?

6 A. Yes. In layman's terms as well.

7 Q. Now, I thought, you know, just a minute
8 ago, Officer Smith, you told me that you believed
9 Mr. Tallaksen had the apparent intent to immediately
10 cause death or serious injury to a police officer,
11 and that you would not turn your back to him.

12 Do you remember that question and giving
13 that answer?

14 A. Yes.

15 Q. If Mr. Tallaksen stepped to the side of
16 your patrol vehicle and waited for the conclusion of
17 the stop, would you have had to turn your back to
18 him when you walked back to the violator vehicle?

19 A. No, not necessarily.

20 Q. How would you have done it? Would you have
21 backpedaled back to the violator vehicle, so that
22 you were always facing Mr. Tallaksen in front of
23 you? How would that have worked?

24 A. I have a cover officer.

25 MR. SHEPHERD: I'm sorry. Objection.

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1 Argumentative. Harassing. Compound.

2 Please go ahead.

3 THE WITNESS: I have a cover officer there
4 as well.

5 BY MR. STITT:

6 Q. So you would have been comfortable turning
7 your back to Mr. Tallaksen and returning to the
8 violator vehicle because Officer Hernandez was
9 present?

10 A. It's possible.

11 Q. Officer Hernandez was present the entire
12 time Mr. Tallaksen was there, correct?

13 A. Yes.

14 Q. He arrived on scene before Mr. Tallaksen
15 pulled up, correct?

16 A. Yes.

17 Q. But when you approached Mr. Tallaksen, he
18 had the apparent intent, in your view, to inflict
19 serious injury on an officer, right?

20 MR. SHEPHERD: Objection. Asked and
21 answered.

22 And I don't believe there's any reason to
23 raise your voice.

24 THE WITNESS: Yes, it was apparent.

25 ///

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1 BY MR. STITT:

2 Q. And you would have been comfortable turning
3 your back to someone who had the apparent intent to
4 harm you?

5 MR. SHEPHERD: Objection. Argumentative.
6 Asked and answered.

7 THE WITNESS: As I stated in his state that
8 he was at, placing himself in a place of danger,
9 purposely interjecting on a lawful traffic stop,
10 yelling and being angry at officers, I'm not going
11 to turn my back to that person.

12 If he would have calmed down, politely
13 stepped to the side and waited for us, I would have
14 been fine with him staying there.

15 But as I stated, he is in a state where he
16 is yelling at officers. He has, again, purposely
17 interjected himself on a lawful stop in a place that
18 places him in danger.

19 BY MR. STITT:

20 Q. You never offered Mr. Tallaksen the option
21 to wait for the stop to be concluded; is that
22 correct?

23 MR. SHEPHERD: Objection. Asked and
24 answered.

25 THE WITNESS: That is correct. And nor do

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1 I have to.

2 BY MR. STITT:

3 Q. If you didn't offer him the option to wait
4 to the side if he calmed down for you to conclude
5 your stop, how could you reasonably expect him to
6 have done that based on what you had directed him to
7 do?

8 MR. SHEPHERD: Objection. Calls for
9 speculation.

10 THE WITNESS: Well, he already made the
11 intent to pass two patrol vehicles with emergency
12 lights on the shoulder and place himself in a place
13 of danger. So if he wanted to make the decision to
14 move out of danger, that would have been up to him.

15 BY MR. STITT:

16 Q. So you're saying that as you approached
17 Mr. Tallaksen and you ordered him to move along or
18 be detained, that you would have not detained him if
19 he said, you know what, I'm just going to step
20 further into your traffic stop and wait on the side
21 of the road, you would have been okay with that
22 option?

23 MR. SHEPHERD: Objection. Calls for
24 speculation.

25 THE WITNESS: I never told him to go

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1 further into my traffic stop.

2 BY MR. STITT:

3 Q. Well, if he stepped further to the right
4 onto the grass, wouldn't he be further into your
5 traffic stop?

6 MR. SHEPHERD: Objection. Argumentative.

7 THE WITNESS: Clearly not. He'd be further
8 away from the stop.

9 BY MR. STITT:

10 Q. If he walked to the right here and waited
11 in the grass while you were conducting your traffic
12 stop with the violator vehicle, you would have been
13 okay with that solution?

14 A. He would have been physically further away
15 from the traffic stop, yes.

16 Q. But you didn't present that option to him
17 before detaining him, correct?

18 A. Correct. Nor do I have to.

19 Q. And Mr. Tallaksen yelled about wanting to
20 safely pass the violator vehicle; is that right?

21 A. Yes.

22 Q. Did you understand that his concern as a
23 cyclist was approaching traffic?

24 MR. SHEPHERD: Objection. Speculation.

25 THE WITNESS: I don't know what his

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1 personal concerns are.

2 BY MR. STITT:

3 Q. I'm asking what you perceived the danger to
4 be that he was complaining about. Was it the
5 traffic?

6 A. I perceived that he placed himself in a
7 place of danger. He could have waited the whole
8 time.

9 Q. So he could have waited, and you would have
10 been fine with it?

11 A. If he would have waited behind both patrol
12 vehicles, never approached, sure, I would have been
13 fine with that.

14 Q. And you would have been fine if he had
15 biked on the inside of the violator vehicle to get
16 by as well?

17 A. You're going to have to clarify the inside
18 of the vehicle.

19 Q. To the right side of the violator vehicle.
20 You would have been okay with that as well?

21 A. If he would have rode past on either side
22 of the vehicle and not obstructed me or Officer
23 Hernandez, that would have been fine.

24 Q. When you approached Mr. Tallaksen here in
25 the body-cam footage before you detained him, you

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1 did not say that he could pass on the passenger side
2 of the violator vehicle, did you?

3 A. No. Nor do I have to.

4 Q. And you instructed him to pass on the left
5 side of the violator vehicle or be detained; is that
6 correct?

7 A. No, that is not correct.

8 Q. What did you instruct him to do?

9 A. I instructed him to go about his day. It
10 was up to interpretation what he wanted to do, but
11 he needed to leave the area.

12 Q. All right.

13 MR. STITT: We've been going for a while.
14 I think that it's a good time to take a break. And
15 if it's okay with everyone, I suggest a 10-minute
16 break, unless anyone needs longer.

17 THE VIDEOGRAPHER: We're going off the
18 record. The time is 12:28 p.m.

19 (Recess taken.)

20 THE VIDEOGRAPHER: We are back on the
21 record. The time is 12:41 p.m.

22 BY MR. STITT:

23 Q. Officer Smith, I'd like to turn your
24 attention to your report that we previously marked.

25 Can you turn to page 3 of 6. The top

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1 paragraph of your report includes the substance
2 about your interaction with Mr. Tallaksen.

3 Is that just a fair generalization of this
4 portion of the report?

5 A. Yes.

6 Q. I would like to talk with you about some
7 sections of it. Would you like to reread it, or
8 should we just dive right in?

9 A. We can dive in, and if I need to recollect,
10 I'll let you know.

11 Q. So starting in the middle, it said,
12 "Officer Hernandez approached Tallaksen and advised
13 him that Tallaksen had made his point and ordered
14 Tallaksen to continue moving past our location,
15 simultaneously waving Tallaksen to move forward"; is
16 that correct?

17 A. Yes.

18 Q. So you understood that Officer Hernandez
19 had ordered Mr. Tallaksen to move forward and leave
20 the area; is that correct?

21 A. Yes.

22 Q. If Mr. Tallaksen had stayed and waited for
23 the stop to conclude, he would have not complied
24 with Officer Hernandez's order to move forward; is
25 that correct?

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1 A. Yes, if he would have stayed there like he
2 did, he would have been violating the order.

3 Q. But one of the options you presented
4 earlier was that Mr. Tallaksen could have moved to
5 the right further from your patrol car and waited
6 for the stop to conclude. And that also would have
7 violated Officer Hernandez's order to move forward;
8 is that correct?

9 A. It was a potential possibility.

10 Q. But you would have interpreted that as
11 violating Officer Hernandez's order, right?

12 A. No.

13 Q. You would have interpreted Mr. Tallaksen as
14 staying in the general vicinity of your traffic stop
15 and moving further off the roadway and waiting for
16 you to conclude your stop as moving forward?

17 MR. SHEPHERD: Objection.
18 Mischaracterization of earlier testimony.
19 Argumentative. Also, asked and answered.

20 The witness has testified that Tallaksen
21 could have calmed down.

22 THE WITNESS: He was ordered to move away
23 from the area.

24 BY MR. STITT:

25 Q. Mr. Tallaksen requested that you watch for

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1 him; is that right?

2 A. It was a request, yes.

3 Q. What did you understand that request to be?

4 A. I don't know what that request was. And it
5 wasn't feasible.

6 Q. It wasn't -- well, if you don't know what
7 it was, how do you know it wasn't feasible?

8 A. He was given an order to leave the area.
9 I'm not going to do anything else for him.

10 Q. Did you think he wanted you to watch for
11 traffic?

12 A. It's a possibility, but, as I stated
13 earlier, I never placed him in the place of danger.
14 He interjected and placed himself in a
15 place of danger.

16 Q. At the conclusion of this paragraph we're
17 discussing, on Page 3, it states, I guess -- oh,
18 there's lines. Mr. Tallaksen responded, and then
19 Line 20, it says, in quotes, "No, I'm not. You're
20 making me go into traffic," exclamation point, end
21 quotation.

22 You advised Mr. Tallaksen he could either
23 leave now, or he would be arrested; is that correct?

24 A. Yes.

25 Q. Mr. Tallaksen was complaining about having

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1 to go into traffic; is that right?

2 A. He stated that I was making him go out into
3 traffic.

4 Q. Right. And did you understand that to be
5 the nature of his complaint?

6 A. Yeah. I mean, if that's a complaint, then
7 yes.

8 Q. Okay. Could you have watched for traffic
9 as it was approaching to help him safely pass the
10 violator vehicle?

11 A. I don't know, because that's not what I
12 did.

13 Q. I'm asking if you could have?

14 MR. SHEPHERD: Objection. Speculation.

15 THE WITNESS: Anything's possible.

16 BY MR. STITT:

17 Q. What prevented you from doing that?

18 A. It wasn't something I was willing to do.

19 Q. Why?

20 A. Again, as I stated, Mr. Tallaksen decided
21 to place himself in a position of danger and
22 interjected himself on a stop that was already
23 lawfully made.

24 No officer, myself or Officer Hernandez
25 included, ordered Mr. Tallaksen to pass two patrol

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1 vehicles and stop in the middle of the traffic stop,
2 requiring our attention to be brought to him.

3 If he wanted to wait behind the patrol
4 vehicles and request assistance until the traffic
5 stop was concluded, that would have been fine.

6 But I'm not going to go out of my way to
7 take someone who's already interjected himself into
8 a place of danger to watch out for them.

9 Q. So as a police officer, you don't think
10 part of your general duties to the public are to go
11 out of your way to keep members of the public safe?

12 A. That's not what I said, and that's not what
13 I believe.

14 Q. So you believe as a peace officer, you
15 should go out of your way to keep members of the
16 public safe?

17 A. Without compromising my own safety.

18 Q. And -- but you weren't willing to go out of
19 your way to help Mr. Tallaksen leave your stop?

20 A. Again, as I stated, he's the one that chose
21 to interject himself on the stop.

22 Q. Okay. But in looking back at this now and
23 sitting here today, do you wish that you would have
24 looked out for him to help him safely pass the
25 violator vehicle?

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1 No.

2 MR. SHEPHERD: Objection. Relevance.

3 THE WITNESS: No.

4 BY MR. STITT:

5 Q. Why not?

6 MR. SHEPHERD: Objection. Relevance.

7 THE WITNESS: He was given his option to
8 leave the area or be detained.

9 BY MR. STITT:

10 Q. You've received training in de-escalation;
11 is that right?

12 A. Yes.

13 Q. As part of your use-of-force training?

14 A. Yes.

15 Q. Can you generally tell me what
16 de-escalation is?

17 A. It can be officer demeanor or officer
18 presence and speech to help prevent a use of force
19 or help, essentially using the word itself,
20 de-escalate a situation.

21 Q. What de-escalation techniques did you use
22 in your interaction with Mr. Tallaksen?

23 A. I ordered him to leave or be detained.

24 Q. Did you consider clarifying that the order
25 would have let him pass on the passenger side of the

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1 violator vehicle?

2 A. No.

3 Q. Did you clarify -- or, excuse me, did you
4 consider clarifying your order that it would have --
5 you would have allowed him to wait for the stop to
6 conclude?

7 A. No.

8 Q. Do you think that those are appropriate
9 de-escalation techniques that could have been used
10 in this case?

11 A. There was no use of force in this case, so
12 de-escalation techniques weren't required.

13 Q. So because you didn't use any force, you
14 weren't required to use any de-escalation
15 techniques. Is that your understanding?

16 MR. SHEPHERD: Objection. Asked and
17 answered.

18 THE WITNESS: As I stated, there was no use
19 of force in this incident, so there was no need for
20 de-escalation. And he was already not listening to
21 Officer Hernandez's commands.

22 BY MR. STITT:

23 Q. Okay. So, just so that I'm sure I
24 understand, the de-escalation techniques that you've
25 received training on only pertain to the use of

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1 force. They don't pertain to your general
2 interactions with people if no force is being used.

3 Is that -- do I understand that correctly?

4 MR. SHEPHERD: Objection. Compound.

5 THE WITNESS: No. I can use de-escalation
6 techniques, if feasible, but however, as I just
7 stated, he was already defying orders from Officer
8 Hernandez.

9 BY MR. STITT:

10 Q. Okay. So it wasn't feasible?

11 A. To my belief, no.

12 Q. But possible?

13 A. As I stated, anything's possible.

14 Q. You told Mr. Tallaksen that he would be
15 detained because he was, you know, obstructing and
16 impeding your traffic stop.

17 I believe that the Penal Code is 148; is
18 that right?

19 A. Yes.

20 Q. Is 148 an offense that has an element of
21 serious bodily injury?

22 A. To my knowledge, no.

23 Q. Is it a non-violent offense, to your
24 knowledge?

25 A. Yes.

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1 Q. Is it a misdemeanor?

2 A. Yes.

3 Q. Are you required by law to handcuff someone
4 when citing them for 148?

5 A. No.

6 Q. But you chose to handcuff Mr. Tallaksen
7 here?

8 A. Yes.

9 Q. Did Mr. Tallaksen actively resist arrest?

10 A. Not actively.

11 Q. Did Mr. Tallaksen passively resist arrest?

12 A. Yes.

13 Q. How?

14 A. Shouting multiple times when I warned him
15 that he could be detained, that no, he was not going
16 to, and then also once handcuffs were placed on him,
17 he was furtively moving, not in an assaultive way
18 towards me, but he was moving away from me with the
19 handcuffs on.

20 Q. So Mr. Tallaksen passively resisted arrest
21 verbally, and he moved his hands when in the
22 handcuffs; is that correct?

23 A. Yes.

24 Q. Is there any other way, that you can think
25 of, that he passively resisted arrest?

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1 A. To my knowledge right now, no.

2 Q. In your report, when you handcuffed
3 Mr. Tallaksen, he yelled out in pain, saying that
4 the handcuffs hurt; is that right?

5 A. Yes. He made it apparent that he was in
6 some sort of pain or something was uncomfortable to
7 him.

8 Q. But specifically, you understood that his
9 handcuffs were hurting him; is that right?

10 A. He made it apparent that he was hurting or
11 made sounds that were apparent of pain.

12 Q. I guess I'm just trying to make sure that
13 you understood that to be him complaining about the
14 handcuffs. That's what you understood at the time?

15 A. Yes.

16 Q. And you went back and adjusted the
17 handcuffs before placing him in your patrol car?

18 A. Yes.

19 Q. Did you adjust both sides or just one side?

20 A. I don't recall, but policy is to adjust and
21 double lock the handcuffs. So even if I didn't
22 physically adjust one of the sides, I would have
23 made sure that it was appropriately locked before
24 double locking it.

25 Q. But you don't remember exactly what you did

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1 with the handcuffs, sitting here today, do you?

2 A. I do recall adjusting and double locking
3 the handcuffs.

4 Q. So you do re- -- which side did you adjust?

5 A. It was -- if I'm facing his back, it would
6 have been his right side.

7 Q. So that would be his right wrist; is that
8 correct?

9 A. Yes.

10 Q. So you remember adjusting the right wrist,
11 but you don't recall if you adjusted the left wrist;
12 is that accurate?

13 A. I made sure that both were appropriately
14 locked before double locking the handcuffs.

15 Q. Well, you adjusted one side at least. Did
16 you adjust both sides?

17 MR. SHEPHERD: Objection. Asked and
18 answered.

19 THE WITNESS: As I stated, I adjusted the
20 right side, and I made sure both were double locked
21 and properly fitted.

22 BY MR. STITT:

23 Q. And you're sure that you double locked both
24 handcuffs?

25 MR. SHEPHERD: Objection. Argumentative

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1 and harassing.

2 THE WITNESS: Yes, both were double locked.

3 BY MR. STITT:

4 Q. If handcuffs are not double locked, they
5 could continue to get tighter; is that right?

6 A. Yes.

7 Q. And if you did not double lock the
8 handcuffs on Mr. Tallaksen before placing him in the
9 back of your squad car, his handcuffs could have
10 continued to get tighter after you left the squad
11 car, correct?

12 MR. SHEPHERD: Objection. Calls for
13 speculation.

14 THE WITNESS: In a hypothetical, if I did
15 not double lock a handcuff, it is possible that it
16 could keep tightening depending on what the prisoner
17 does.

18 BY MR. STITT:

19 Q. Now, when you put Mr. Tallaksen in the back
20 of your squad car, his hands were handcuffed behind
21 his back?

22 A. Yes.

23 Q. And he was seated in your car and you
24 buckled him in, right?

25 A. Yes.

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1 Q. So his hands were behind his back, and he
2 was leaning back on his hands sitting in your car
3 seat; is that correct?

4 A. Yes.

5 Q. If your handcuffs were not double locked on
6 him, and he leans back on his hands, seated in the
7 back of the car, could that have caused the
8 handcuffs to click tighter?

9 MR. SHEPHERD: Objection. Calls for
10 speculation. Incomplete hypothetical.

11 THE WITNESS: In a hypothetical situation
12 that the handcuff was not double locked, it is
13 possible.

14 BY MR. STITT:

15 Q. Is it your understanding from your training
16 that if the handcuffs get too tight on a subject's
17 wrists, that that tightness could cause injury?

18 A. It is possible, yes.

19 Q. Eventually, you took the handcuffs off, or
20 the handcuffs were taken off of Mr. Tallaksen in the
21 back of your car, and you were standing basically by
22 the front-passenger side of your car speaking to
23 him. Do you generally recall that?

24 A. Yes.

25 Q. You had a clear view of Mr. Tallaksen's

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1 wrists at that point. Do you recall looking at his
2 wrists?

3 A. I recall them being in plain view, yes.

4 Q. Do you recall seeing any marks from the
5 handcuffs on his wrists?

6 A. No.

7 Q. Would you expect to see any marks on a
8 subject's wrists from the handcuffs being too tight?

9 A. It's possible.

10 Q. I mean, would that be normal, in your
11 experience?

12 A. It's possible to see marks even if they're
13 not too tight.

14 Q. But you don't recall seeing any marks on
15 Mr. Tallaksen's wrists?

16 A. Correct.

17 Q. When Mr. Tallaksen was in the back of your
18 patrol car, before Officer Hernandez and Morrison
19 removed his handcuffs, you overheard him yelling in
20 pain; is that correct?

21 A. I overheard him complain of pain. I
22 wouldn't classify I heard him yelling.

23 Q. But you understood he was in the back of
24 your patrol car complaining of pain; is that right?

25 A. Yes.

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1 Q. You did not go directly over to try and
2 assist him, did you?

3 A. No, because, as I stated, the handcuffs
4 were already adjusted and double locked by me.
5 There was no reason to believe that they were in any
6 way causing him legitimate harm.

7 Q. So you perceived his complaints of pain
8 when in the back of your patrol car to be
9 illegitimate claims of pain?

10 A. No. It's possible he felt pain, but I did
11 not find any reason to believe that there was a
12 legitimate injury caused by me or anything that
13 required immediate medical attention from me.

14 Q. If someone complains of being injured to
15 you, a subject, you could call the fire department
16 or a medic; is that correct?

17 A. Yes.

18 Q. You did not do that here?

19 A. Me, personally? No, I did not.

20 Q. And, I mean, when Officer Morrison called
21 for the fire department to come, I mean,
22 Mr. Tallaksen, but -- let me start again.

23 By the time Officer Morrison arrived and
24 called the fire department, Mr. Tallaksen had been
25 complaining to you of pain in his wrists, both

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1 before going into the car and after he was in the
2 car, right?

3 A. I stepped away from the car shortly after
4 placing him in there. But yes, he did make a
5 complaint of pain.

6 Q. And you did not contact the fire
7 department?

8 A. No.

9 Q. And that's because you didn't believe that
10 he really was injured from the handcuffs, right?

11 MR. SHEPHERD: Objection.

12 Mischaracterization of earlier testimony.

13 THE WITNESS: As I stated earlier, I had no
14 reason to believe medical attention was immediately
15 necessary for myself or others.

16 MR. STITT: Let's pull up the body-cam
17 footage, and we can just go through that.

18 So -- no, this is great -- so we're
19 starting at 3 minutes and 41 seconds, and then we
20 can hopefully watch just a couple sections and move
21 through this.

22 (The video is played.)

23 MR. SHEPHERD: We stopped at 4 minutes and
24 7 seconds.

25 Q. Mr. Tallaksen, at this point, is accusing

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1 you of tweaking his wrists; is that right?

2 A. He's accusing me, yes.

3 Q. And you deny that you did not tweak his
4 wrists, is my understanding. Is that your belief?

5 A. Yes.

6 (The video is played.)

7 MR. STITT: We've stopped it at 4 minutes
8 and 28 seconds.

9 Q. Mr. Tallaksen yelled, "There you go," or
10 "There he goes again."

11 Did you hear him saying that?

12 A. Yes.

13 Q. Do you understand that he was complaining
14 that you tweaked his wrist again?

15 A. No, I didn't understand what he was
16 complaining of other than me adjusting the cuff.

17 Q. But you -- did you tweak his wrist again?
18 I understand you're denying it. I'm just trying to
19 ask you that clearly.

20 You deny tweaking his wrist again?

21 A. Yes, I deny that.

22 Q. Okay.

23 (The video is played.)

24 BY MR. STITT:

25 Q. You said all Mr. Tallaksen needed to do was

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1 to keep riding his bike, correct?

2 A. Correct.

3 Q. If he had waited further to the right for
4 you to conclude your stop, he would not have
5 continued to keep riding his bike?

6 A. He also would not have been in the middle
7 of the traffic stop.

8 Q. Okay.

9 (The video is played.)

10 BY MR. STITT:

11 Q. Mr. Tallaksen, again, is accusing you of
12 tweaking his wrists.

13 You did -- your testimony is you did not do
14 that, right?

15 A. Correct.

16 Q. You said that he was moving around some in
17 your response. What did you mean by that?

18 A. Explaining that the pain caused to him was
19 a result of him moving his own wrist in the
20 handcuffs, not from me twisting his wrists or doing
21 anything else.

22 Q. And that would be in the right wrist that
23 you readjusted; is that correct?

24 A. Correct.

25 Q. So if he had injury to his left wrist, how

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1 would you explain that?

2 MR. SHEPHERD: Objection. Calls for
3 speculation.

4 THE WITNESS: I wouldn't explain it because
5 I didn't do anything that I believe would cause
6 injury to his left wrist.

7 Q. Okay.

8 (The video is played.)

9 BY MR. STITT:

10 Q. Mr. Tallaksen complained about the way you
11 buckled him in with the seat belt on this clip; is
12 that right?

13 A. If he's complaining of that, yeah.

14 Q. In the clip we just watched -- we just
15 stopped at 6 minutes and 22 seconds of the body-cam
16 footage, he complained about how you buckled his
17 seatbelt in.

18 A. I thought he said he liked it.

19 Q. Okay. Well, let's go back and watch that
20 portion again, and we could go back a little bit.

21 MR. STITT: All right. We'll start at
22 6:02.

23 (The video is played.)

24 BY MR. STITT:

25 Q. You understood Mr. Tallaksen to be saying

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1 he, in fact, liked the way you buckled him in?

2 That's how you interpreted his statement?

3 A. Well, his verbatim statement was he liked
4 how that seatbelt was placed over his hands. So how
5 he likes it or doesn't like it, doesn't matter. I'm
6 going to secure him in my patrol vehicle, so he
7 can't move about the back cabin.

8 Q. But I'm asking you how you interpreted
9 Mr. Tallaksen's statement about the seatbelt?

10 A. I didn't interpret it.

11 MR. SHEPHERD: Objection. Asked and
12 answered.

13 THE WITNESS: Like I said, whether he liked
14 it or not, didn't matter to me.

15 I'm going to secure him in a way that he's
16 not going to, one, cause harm to himself in the back
17 of the cabin, two, cause damage to State property in
18 the back of the cabin.

19 BY MR. STITT:

20 Q. Did you understand his statement about how
21 you buckled him in to be a complaint about it?

22 A. I understand that he was upset about
23 everything going on, so am I surprised that he said
24 something like that? No.

25 Q. Did you check the seatbelt after he

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1 complained about it?

2 A. No. He's properly secured by the seatbelt.
3 And there were -- there was another officer on scene
4 at that point when I walked away.

5 Q. But he complained about the seatbelt. And
6 you did not see fit to check it; is that right?

7 A. Correct. Just because someone in my
8 custody complains of me placing them into custody
9 doesn't mean I'm going to make adjustments for them.

10 (The video is played.)

11 BY MR. STITT:

12 Q. Why didn't you complete your traffic stop
13 at this point? Why did you let the violator vehicle
14 off with a warning?

15 A. Because I believed I had already detained
16 him for a reasonable amount of time. I wasn't going
17 to continue to impede his ability to go about his
18 day simply because somebody else decided to
19 interject themselves on the stop.

20 Q. I'm not sure I totally follow.

21 So you -- you wanted -- you believed that
22 the violator vehicle had been detained for long
23 enough already, and that you could no longer proceed
24 with your stop with the violator vehicle because of
25 the length of time?

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1 A. I -- yeah, I believed that it was not
2 appropriate to keep him there any longer.

3 Q. But you could have?

4 MR. SHEPHERD: Objection. Relevance.

5 THE WITNESS: It's possible.

6 BY MR. STITT:

7 Q. You had Mr. Tallaksen secured in the back
8 of your car, right?

9 A. Yes.

10 Q. You had backup officer on scene already?

11 A. Yes.

12 Q. It would have been safe for you, as an
13 officer, to finish your stop with the violator
14 vehicle; is that correct?

15 MR. SHEPHERD: Objection. Argumentative.
16 Relevance.

17 Go ahead.

18 THE WITNESS: I did finish my traffic stop
19 with the violator.

20 BY MR. STITT:

21 Q. It would have been safe for you to -- you
22 complained after leaving Mr. Tallaksen in the back
23 of the car that now you have to let the violator
24 vehicle go with a warning, right?

25 MR. SHEPHERD: Objection.

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1 Mischaracterization.

2 Go ahead.

3 THE WITNESS: I'm not sure I follow where
4 you're saying I complained about that.

5 MR. STITT: Let's watch the last 15
6 seconds.

7 (The video is played.)

8 BY MR. STITT:

9 Q. You said that Mr. Tallaksen was playing
10 games, right?

11 A. Not that I recollect. And it was kind of
12 hard to hear there.

13 But going back to your original question
14 about complaining about giving a warning to the
15 other driver wasn't a complaint. It was a general
16 statement that now that driver is going to get a
17 warning.

18 Q. If Mr. Tallaksen had not arrived, would you
19 have given the driver a warning?

20 MR. SHEPHERD: Objection. Speculation.
21 Relevance.

22 THE WITNESS: I don't know. At this time,
23 my discretion was to give that driver a warning.

24 BY MR. STITT:

25 Q. If Mr. Tallaksen had not intervened in your

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1 stop, what do you think you would have done?

2 MR. SHEPHERD: Objection. Speculation.
3 Relevance.

4 THE WITNESS: I don't know.

5 BY MR. STITT:

6 Q. About how long did Mr. Tallaksen delay your
7 stop?

8 A. I would have to refer how long the incident
9 with him lasted.

10 Q. Can you provide your best estimate?

11 A. I don't know without referring to the
12 actual start time and the end time of the incident.

13 Q. Would you say that it's five minutes or
14 less?

15 A. I don't know. Again, as I said, I would
16 have to refer to the start time of the incident and
17 the end time of the incident.

18 Q. All right. So Here we're at 6 minutes and
19 30 seconds on your camera footage, right, and you're
20 walking to give the violator vehicle a warning; is
21 that correct?

22 A. Yes.

23 MR. STITT: Okay. So, Pam, can we fast
24 forward to just where Mr. Tallaksen shows up, and
25 we'll look at the time. Yeah -- yeah, go back.

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1 Q. So here we're at three minutes; is that
2 correct?

3 A. Yes.

4 Q. Mr. Tallaksen has recently arrived in the
5 stop?

6 A. Yes.

7 Q. You're facing the violator vehicle when
8 Mr. Tallaksen arrives, and you can hear him in the
9 background a little bit.

10 So is it fair to say that Mr. Tallaksen
11 arrived roughly 15 seconds before this,
12 approximately?

13 A. Yes.

14 Q. Okay. So that's approximately 2 minutes
15 and 45 seconds?

16 A. Yes.

17 Q. And by 6 minutes and 30 seconds, you're
18 walking to the violator vehicle to issue them a
19 warning?

20 A. Yes.

21 Q. So Mr. Tallaksen delayed your traffic stop
22 for less than five minutes?

23 A. In that sense, yes.

24 Q. How long does an average traffic stop take?

25 MR. SHEPHERD: Objection. Vague as to

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1 time. Relevance.

2 THE WITNESS: I don't see anything as an
3 average traffic stop. And they're all dynamic. It
4 depends on multiple factors how long it could take.

5 BY MR. STITT:

6 Q. And in your view, a traffic stop taking
7 approximately five minutes longer means that you're
8 no longer able to continue with the stop if you
9 wanted to write the violator a ticket?

10 MR. SHEPHERD: Objection.
11 Mischaracterization of earlier testimony, especially
12 as to five minutes longer.

13 THE WITNESS: As I stated earlier, at that
14 time, my discretion was to give the driver a
15 warning. I can't testify to whether I would have
16 done something differently if Mr. Tallaksen showed
17 up or not, because that's a hypothetical.

18 What I can tell you is that there's no
19 definite time that Mr. Tallaksen has to delay me for
20 him to be obstructing my traffic stop.

21 MR. STITT: Let's go back to 6:30 and let's
22 fast forward through his conversation. Honestly,
23 let's just start at 6:30 and watch it. I feel like
24 this is too hard. That's fine.

25 Q. So we're starting back at 6 minutes and 46

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1 seconds. You're adjusting Mr. Tallaksen's bike.

2 Do you generally recall this?

3 A. Yes.

4 Q. Okay.

5 (The video is played.)

6 BY MR. STITT:

7 Q. Mr. Tallaksen's friend biked back towards
8 the violator vehicle, and you could see him as you
9 approached the violator vehicle; is that right?

10 A. Yes.

11 Q. He was roughly 10 feet in front of the
12 violator vehicle at this point. Is that a fair
13 approximation?

14 A. Yes.

15 Q. Did you feel that he was interfering with
16 your continued stop with the violator vehicle?

17 A. No.

18 Q. Why not?

19 A. He's not yelling. He's not making
20 unreasonable demands, and he's not standing
21 specifically between my patrol vehicle and the
22 violator vehicle. He is outside the scope of the
23 stop.

24 Q. Okay.

25 (The video is played.)

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1 BY MR. STITT:

2 Q. In talking with Mr. Tallaksen's cyclist
3 friend, you said that you got Mr. Tallaksen's point.

4 Can you describe what you meant by that?

5 A. To clarify, I stated that I got both of
6 their points, not just Mr. Tallaksen's, because he
7 was generally referring to both of them.

8 Q. What's the point?

9 A. That they're concerned about their safety
10 and passing vehicles on the shoulder.

11 Q. I'm confused because I thought that when I
12 asked you before what Mr. Tallaksen was yelling
13 about, you said that you weren't sure what the
14 danger was?

15 MR. SHEPHERD: Objection. Argumentative.

16 THE WITNESS: As I stated, we're talking to
17 his friend now, and he's talking about in general
18 what his concern is, not what Mr. Tallaksen was
19 actually concerned with.

20 And if you listen to him, he actually says
21 that he doesn't even know what Mr. Tallaksen said.

22 BY MR. STITT:

23 Q. Right. But you -- you do. You were there
24 for both conversations, right?

25 A. I was.

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1 Q. When Mr. Tallaksen pulled his bike over and
2 yelled for help to safely pass, he was asking for
3 help to avoid oncoming traffic.

4 Is that what you understood him to be
5 asking for help with?

6 MR. SHEPHERD: Objection. Relevance.
7 Asked and answered.

8 THE WITNESS: No. And he wasn't asking for
9 help, as you're stating.

10 He interjected himself into a traffic stop
11 and was making demands to officers. That's not
12 asking for help, and --

13 BY MR. STITT:

14 Q. What was he demanding help with?
15 Mr. Tallaksen, what did you understand him to demand
16 help with?

17 MR. SHEPHERD: Objection. Relevance. And
18 asked and answered.

19 THE WITNESS: And I politely request you
20 don't interrupt me again. Thank you.

21 So please reask your question.

22 BY MR. STITT:

23 Q. What did Mr. Tallaksen demand help with
24 before you handcuffed him?

25 MR. SHEPHERD: Same objections.

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1 THE WITNESS: Before I handcuffed him?

2 BY MR. STITT:

3 Q. Yeah.

4 A. It's a vague timeframe. So what are you
5 asking specifically?

6 MR. STITT: Let's go back. Let's start at
7 three, and we'll watch it again, and we'll talk
8 about it. Okay. So we're starting at three minutes
9 here on the body cam.

10 (The video is played.)

11 MR. STITT: Can you pause.

12 Q. We can overhear someone say, "You've made
13 your point."

14 Do you recall if that was you or Officer
15 Smith to Mr. Tallaksen -- Officer Hernandez?

16 A. That was Officer Hernandez.

17 Q. What point did you understand Mr. Tallaksen
18 to be making at this point in your interaction with
19 him?

20 A. That he was upset that the vehicles were on
21 the shoulder and he wanted to go by.

22 Q. Was Mr. Tallaksen concerned about going by
23 safely with traffic?

24 A. It would appear so.

25 Q. In your report on Page 3, you wrote that

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1 Mr. Tallaksen refused to move, asking Officer
2 Hernandez several times if he was going to, quote,
3 "watch for him," end quote.

4 Was Mr. Tallaksen asking for you to watch
5 for oncoming traffic for him to pass the violator
6 vehicle?

7 MR. SHEPHERD: Objection. Calls for
8 speculation. Asked and answered.

9 THE WITNESS: Unknown. Verbatim, he was
10 asking to watch for him.

11 BY MR. STITT:

12 Q. Right. What did you understand him to be
13 asking help with?

14 MR. SHEPHERD: Objection. Relevance.

15 THE WITNESS: I understood he was making an
16 unreasonable demand for us to take our attention
17 away from a traffic stop because he decided to pass
18 two patrol vehicles and stop where he stopped.

19 BY MR. STITT:

20 Q. How did you know that the demand was
21 unreasonable if you didn't understand it?

22 MR. SHEPHERD: Objection. Relevance.
23 Argumentative.

24 THE WITNESS: As I stated, he already,
25 without me even witnessing it, with me looking to

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1 the left and seeing him stopped where he stopped, it
2 is easy to tell he made the decision to pass the two
3 patrol vehicles and stop where he did, and then
4 demand help from us. It's not reasonable to do.

5 BY MR. STITT:

6 Q. Officer Smith, I'm not asking that
7 question.

8 Are you able to answer the question that
9 I've asked you?

10 A. Reask the question, please.

11 Q. What did you understand Mr. Tallaksen to be
12 asking for help with, to watch for him? What did
13 that mean to you?

14 MR. SHEPHERD: Objection. Asked and
15 answered. Relevance.

16 THE WITNESS: I've already answered the
17 question multiple times.

18 MR. STITT: Let's try again. I,
19 respectfully, don't think that your answers have
20 been clear.

21 Q. What did Mr. Tallaksen want help watching
22 for?

23 MR. SHEPHERD: Objection. Relevance.
24 Asked and answered.

25 THE WITNESS: I don't know if he wanted me

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1 to watch traffic around him. I don't know if he
2 wanted me to step into the traffic lane and place
3 myself in danger for his benefit. I do not know
4 what he meant by "watch for me," other than that's
5 what he said.

6 BY MR. STITT:

7 Q. Did you understand his general concern to
8 be safety with passing traffic?

9 MR. SHEPHERD: Objection. Relevance.
10 Speculation.

11 Go ahead.

12 THE WITNESS: I understood he was upset
13 with wanting the vehicle to move over.

14 BY MR. STITT:

15 Q. But did you understand his general concern
16 was safety with passing traffic?

17 A. No.

18 Q. You didn't understand that Mr. Tallaksen
19 was concerned about being hit by a car if he biked
20 past the violator vehicle?

21 A. Correct. Because he already made the
22 decision to pass two patrol vehicles on the
23 shoulder.

24 Q. Is Officer Hernandez's patrol vehicle
25 pulled over further to the right than the violator

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1 vehicle?

2 A. Sure.

3 Q. Is that a yes?

4 A. Yes.

5 Q. Is your patrol vehicle pulled over further
6 to the right than the violator vehicle?

7 MR. SHEPHERD: Objection. Relevance.

8 THE WITNESS: Yes.

9 BY MR. STITT:

10 Q. Does that mean there would be more space to
11 pass between the fog line and Officer Hernandez's
12 vehicle and your vehicle than there would be to pass
13 the violator vehicle?

14 A. Yes.

15 MR. SHEPHERD: Also, objection. Relevance.

16 BY MR. STITT:

17 Q. But even though there was more space
18 between the fog line and the two patrol cars, you
19 still didn't understand that Mr. Tallaksen was
20 requesting help to safely pass the violator vehicle
21 with approaching traffic?

22 MR. SHEPHERD: Objection. Relevance.

23 Asked and answered.

24 THE WITNESS: No, because I didn't
25 understand why someone would see all three vehicles

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1 stopped on the shoulder where they were and make the
2 deliberate decision to pass two marked patrol
3 vehicles with emergency lights, stop between the
4 emergency vehicles and the stop vehicle, and then
5 demand help in a very aggressive way. That's where
6 I don't understand his concern for help, because he
7 already placed himself deliberately in a place of
8 danger.

9 BY MR. STITT:

10 Q. If you did not understand what
11 Mr. Tallaksen was concerned with, why did you not
12 ask him?

13 MR. SHEPHERD: Objection. Speculation.
14 Relevance.

15 THE WITNESS: So, as I stated, I didn't
16 understand how he could be concerned with his safety
17 when he already made the unsafe decision to stop
18 there.

19 BY MR. STITT:

20 Q. Oh, so you understood what he was concerned
21 about. You just didn't think it was reasonable. Is
22 that what you're saying?

23 A. Can you rephrase your question?

24 Q. You understood that Mr. Tallaksen was
25 worried about being hit by traffic if he passed the

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1 violator vehicle, and you just interpreted that as
2 unreasonable because he'd already passed two patrol
3 cars. Is that fair?

4 MR. SHEPHERD: Objection.
5 Mischaracterization of testimony. Relevance.

6 THE WITNESS: As I stated, he already made
7 the decision to pass those two patrol vehicles, and
8 he made the decision to stop between a patrol
9 vehicle and a stopped vehicle without even knowing
10 what the reason was for the vehicle being stopped.
11 So I don't understand his concern why he would
12 demand help when he placed himself in that position.

13 BY MR. STITT:

14 Q. And you didn't want to ask him to clarify
15 what was going on to see if you could help and
16 resolve the situation?

17 MR. SHEPHERD: Objection. Relevance.
18 Mischaracterization of prior testimony.
19 Speculation.

20 Go ahead.

21 THE WITNESS: No, nor do I have to. He's
22 already impeding the stop by placing himself there.

23 BY MR. STITT:

24 Q. Do you think that it would have been
25 consistent with your de-escalation training to try

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1 to better understand what Mr. Tallaksen's complaint
2 was?

3 MR. SHEPHERD: Objection. Relevance.

4 THE WITNESS: No. Based off my training
5 and experience, I did what was necessary.

6 BY MR. STITT:

7 Q. So without understanding what
8 Mr. Tallaksen's complaint was, you ordered him to
9 move on?

10 A. No.

11 MR. SHEPHERD: Objection. Relevance.

12 BY MR. STITT:

13 Q. You did not, or you did understand what his
14 complaint was?

15 MR. SHEPHERD: Objection. Relevance.

16 THE WITNESS: We keep going back and forth
17 on this.

18 I told you, I understand that his concern
19 is for safety as a cyclist, as you said. Okay?

20 But what I don't understand is why he's
21 going to demand help from officers on a lawful stop
22 already, when he sees that they're already outside
23 of their patrol vehicles. He sees both patrol
24 vehicles and a vehicle in his intended path, and he
25 decided to stop where he is and then demand help.

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1 That's where I don't understand why his
2 concern is safety at that point.

3 BY MR. STITT:

4 Q. Do you think it could have helped
5 de-escalate the situation if you would have asked
6 him why?

7 A. No.

8 Q. Why not?

9 A. Officer -- sorry, Mr. Tallaksen was already
10 belligerently angry at that point.

11 MR. STITT: Let's go back to the
12 conversation with Don. That's great. No, let's go
13 forward one -- or that's great. Just -- we'll start
14 at 8:19 -- 8:39. Yes, quick start.

15 (The video is played.)

16 MR. STITT: Let's fast forward to when he
17 goes up to see Mr. Tallaksen. I think there's kind
18 of a long delay here where he calls the supervisor.
19 We start with -- we fast forward to 13:10.

20 (The video is played.)

21 BY MR. STITT:

22 Q. You can see Officer Hernandez adjusting the
23 cuffs here and Mr. Tallaksen yelling; is that
24 correct?

25 A. I can see him remove the cuffs and then

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1 Tallaksen yell, yes.

2 Q. Okay.

3 (The video is played.)

4 BY MR. STITT:

5 Q. Okay. Mr. Tallaksen complied with your
6 order to sit down; is that right?

7 A. Yes.

8 Q. From the time that Mr. Tallaksen was
9 handcuffed until the time he left on his bike, did
10 he comply with your orders?

11 A. Yes.

12 (The video is played.)

13 MR. STITT: Can you pause it.

14 Q. Okay. You're able to observe Mr. Tallaksen
15 clearly where you're standing here; is that fair to
16 say?

17 A. Yes.

18 Q. You can see his hands, right?

19 A. Yes.

20 Q. And this goes on for approximately another
21 five minutes, we'll say. And you were able to see
22 his hands during that time as well; is that a fair
23 characterization?

24 A. Yes, they were in plain view.

25 Q. You did not observe any visible injuries on

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1 either wrist; is that correct?

2 A. Correct.

3 Q. It's well lit, right?

4 A. Yes.

5 Q. Middle of the day?

6 A. Yes.

7 Q. Is there any reason why you think you would

8 not have been able to see visible injuries on his

9 wrists if, in fact, they were present?

10 MR. SHEPHERD: Objection. Compound.

11 Vague. And calls for speculation.

12 THE WITNESS: No. No reason that I can

13 think of, and he didn't make it apparent to me.

14 BY MR. STITT:

15 Q. Mr. Tallaksen then goes on during this part

16 of the conversation with you to state that he is

17 going to file a complaint against you; is that

18 correct?

19 A. Yes.

20 Q. In your report, your police report, you

21 characterized that as extortion; is that right?

22 A. No.

23 Q. Let's go to your report. It's still in

24 front of you. And that would be Page 6 of 6, at the

25 top. This is the second charge that you suspect

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1 Mr. Tallaksen of, which is attempted extortion of a
2 peace officer; is that right?

3 A. Yes, attempted extortion.

4 Q. Oh, okay. So you believe that he attempted
5 to extort you?

6 A. Yes.

7 Q. Have you ever cited another subject for
8 attempted extortion of a peace officer?

9 A. No.

10 Q. Did Mr. Tallaksen's statement that he would
11 file a complaint against you influence your decision
12 for how to treat him in his case in any way?

13 A. No, other than recommending the charge
14 because of the way he presented that information to
15 the.

16 Q. You wrote him a citation during this
17 incident and gave him a copy of it when he left.

18 Do you recall that?

19 A. Yes.

20 Q. You did not include attempted extortion of
21 a peace officer on that citation, did you?

22 A. No, I did not.

23 Q. You wrote your report several days after
24 this incident; is that right?

25 Looks like it was signed on the first page

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1 on June 2nd. Do you see that? That's when it's
2 signed by your sergeant. Do you know when you
3 created the report?

4 A. I would have created the report the day of.

5 Q. Okay. And so when did you make the
6 decision to include attempted extortion of a peace
7 officer as one of the chargeable offenses?

8 A. After reviewing the case.

9 Q. What changed your view from citing him just
10 for obstruction when he was present to later
11 deciding to include attempted extortion of a peace
12 officer?

13 A. I had the opportunity to sit down and
14 review body-camera footage and listen to the audio,
15 to listen to him carefully and determine if what he
16 actually said implied attempted extortion.

17 Q. Okay. To the best of your knowledge, was
18 Mr. Tallaksen ever charged with attempted extortion
19 of a peace officer?

20 A. I do not know.

21 Q. Did you ever talk with the district
22 attorney or anyone else about the requested charge?

23 A. No.

24 Q. Do you know why it wasn't pursued?

25 A. Yes.

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1 Q. Why?

2 A. The DA's office missed a filing date.

3 Q. What does that mean?

4 A. So the DA's office did not file the report
5 in a timely manner on their end.

6 Q. Their report or your report? I don't
7 understand. Sorry.

8 A. My report was submitted to my office --

9 Q. Right.

10 A. -- approved by my sergeant, filed by
11 clerical and the court officer to the court.

12 And the court, for whatever reason,
13 unbeknownst to me, did not file the charges on their
14 end within a certain amount of time.

15 Q. How did you learn that that was the reason
16 the charges weren't presented?

17 A. I received a CRE. I do apologize, I don't
18 know what CRE stands for, off the top of my head,
19 but it's a common letter that the DA's office will
20 send out if they don't recommend charges.

21 Q. And it explained why charges weren't
22 recommended?

23 A. Yes.

24 Q. And the timing of the report was the only
25 reason?

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1 A. The timing of the DA's office in filing the
2 charges was the reason.

3 Q. No other reason was offered?

4 A. Correct.

5 Q. Sergeant Kind interviewed you about this
6 case. Do you recall your interview with him?

7 A. Yes.

8 Q. Was it on the phone or in person?

9 A. It was in person.

10 Q. Where did it take place?

11 A. It took place at the CHP Oceanside area
12 office in the sergeant's room.

13 Q. And do you remember how many interviews you
14 had with Sergeant Kind?

15 A. To the best of my knowledge, one.

16 Q. All right. What do you remember Sergeant
17 Kind asking you?

18 A. He asked me details of the incident, where
19 the incident took place. That's what he asked.

20 Q. What did you tell Sergeant Kind, to the
21 best of your memory, about how you handcuffed
22 Mr. Tallaksen?

23 A. I informed him that I handcuffed him
24 without using any force, and that, as I stated
25 before, Mr. Tallaksen twisted his right hand around

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1 himself, causing it to catch and require me to
2 adjust the right cuff.

3 Q. Do you remember telling him anything else
4 about how you applied handcuffs to Mr. Tallaksen?

5 A. Other than Mr. Tallaksen being on a bicycle
6 at the time of me handcuffing him, nothing, to the
7 best of my knowledge.

8 MR. SHEPHERD: What time should I advise
9 Sergeant Kind for his deposition?

10 MR. STITT: I propose that we do 3 o'clock,
11 but we could also try to start maybe at 2:45 and
12 that would give the court reporter and the
13 videographer a bit of a break. Let's try 2:45, now
14 that I think about it out loud.

15 MR. SHEPHERD: I have to leave by 4:40 at
16 the latest.

17 MR. STITT: I mean, I'll do my best, but
18 I'm not sure. We started at 9:30 at your request.

19 MR. SHEPHERD: We arrived at 9 o'clock.
20 You weren't ready.

21 MR. STITT: When we calendared the
22 deposition, Mr. Shepherd, you requested to start no
23 earlier than 9:30, so your train from Los Angeles
24 could arrive in the morning. That's why we started
25 at 9:30 and ordered everything to start at 9:30.

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1 Q. So, Officer, I'm handing you a copy of what
2 are called Requests for Admission. There's a
3 verification from you on the last page. And please
4 take a moment to familiarize yourself with this.
5 And I have some questions for you.

6 Have you had a chance to take a look at
7 this?

8 A. Yes.

9 Q. Did you review these before they were
10 submitted?

11 A. Yes.

12 Q. Were you able to review all of them?

13 A. Yes.

14 Q. And do you understand that you swore that
15 these answers were true and correct to the best of
16 your knowledge?

17 A. Yes.

18 Q. Are there any answers that you would like
19 to change?

20 A. No.

21 Q. Okay. I'd like to start with question
22 Number 2.

23 The question is, admit that Mr. Tallaksen
24 did not resist arrest on the date of the incident.

25 And the answer given was to deny.

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1 I previously asked you if Mr. Tallaksen
2 actively resisted arrest, and you agreed that he did
3 not.

4 Is that the distinction that you relied on
5 in denying the answer, the difference between active
6 and passive resistance?

7 A. He did passively resist.

8 Q. But not actively?

9 A. Correct.

10 Q. Okay. Going to Number 4, the question was
11 to admit that Mr. Tallaksen did not pose an
12 immediate threat to you.

13 And you denied it.

14 Turning back to our -- the use-of-force
15 policy that we reviewed previously on Page 4, I
16 believe that your testimony was that Mr. Tallaksen
17 imposed an imminent threat to you, but not an
18 immediate threat; is that correct?

19 A. The potential for an immediate threat was
20 there.

21 Q. This question does not ask about a
22 potential for an immediate threat, does it?

23 MR. SHEPHERD: Objection. The question
24 also doesn't define immediate, doesn't tie it to the
25 policy. And the word imminent in the policy uses

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1 the word immediate in its definition.

2 BY MR. STITT:

3 Q. Well, let's go through it with the policy
4 in mind and looking at the definition of immediate
5 in the California Highway Patrol use-of-force
6 policy, did Mr. Tallaksen pose an immediate threat
7 to you?

8 MR. SHEPHERD: Objection. Relevance.
9 Asked and answered.

10 THE WITNESS: I don't know if I can answer
11 that question because the questions on here didn't
12 include that clarification.

13 BY MR. STITT:

14 Q. Including that clarification now. I'm just
15 making sure that I understand your answers. Using
16 the definition of immediate from the policy, I
17 believe that your testimony is that Mr. Tallaksen
18 did not pose an immediate threat of physical injury
19 to you.

20 Is that a correct interpretation of your
21 testimony as it is today?

22 MR. SHEPHERD: Objection. Relevance.
23 Asked and answered. Mischaracterization of prior
24 testimony.

25 THE WITNESS: I don't know what you believe

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1 or don't believe and what relevance that has on
2 this, but if you want to reask the question.

3 BY MR. STITT:

4 Q. Do you believe that Mr. Tallaksen posed an
5 immediate threat to you during the incident?

6 MR. SHEPHERD: Objection. Asked and
7 answered. Relevance.

8 THE WITNESS: There's a potential for
9 immediate threat.

10 BY MR. STITT:

11 Q. Is that using the definition in the
12 use-of-force policy?

13 MR. SHEPHERD: Objection. Harassing.
14 Relevance. Asked and answered.

15 THE WITNESS: As I stated, the potential
16 for an immediate threat was there with
17 Mr. Tallaksan [sic] -- Tallaksen. My apologies.

18 BY MR. STITT:

19 Q. An immediate threat must be present at once
20 and without delay.

21 Did Mr. Tallaksen present a threat to you
22 that was present at once and without delay?

23 MR. SHEPHERD: Objection. Relevance.
24 Asked and answered.

25 THE WITNESS: Yes.

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1 BY MR. STITT:

2 Q. And was that threat the future threat of
3 harm?

4 MR. SHEPHERD: Objection. Relevance.
5 Asked and answered.

6 THE WITNESS: When he showed up, I did not
7 know his intent, and it required my immediate
8 attention.

9 BY MR. STITT:

10 Q. Five asks if -- you to admit that
11 Mr. Tallaksen did not pose an immediate threat to
12 Officer Hernandez.

13 And you deny -- the answer was to deny.

14 Do you stand by that answer?

15 A. Yes.

16 Q. Using the definition of immediate from the
17 use-of-force policy, you stand by that answer?

18 MR. SHEPHERD: Objection. That is not what
19 was asked in the Request for Admission. It is an
20 improper and harassing question.

21 THE WITNESS: I don't believe that was
22 clarified in the question earlier. I understand
23 you're trying to clarify it now, but based off the
24 information earlier, again, he had the potential to
25 provide an immediate threat, and it required both

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1 mine and Officer Hernandez's immediate attention.

2 BY MR. STITT:

3 Q. How did you define "immediate" when you
4 answered these questions?

5 MR. SHEPHERD: Objection. Attorney-client
6 privilege.

7 I'm instructing my client not to answer.

8 BY MR. STITT:

9 Q. Officer Smith, Request for Admission four,
10 five and six ask if Mr. Tallaksen posed an immediate
11 threat to various people in the community.

12 Do you see those questions generally?

13 A. Yes.

14 Q. Can you tell me how you defined
15 "immediate," in your mind, when you answered these
16 questions?

17 MR. SHEPHERD: Objection. Attorney-client
18 privilege.

19 I'm instructing my client not to answer.

20 BY MR. STITT:

21 Q. And are you not answering based on
22 privilege?

23 A. Correct.

24 MR. STITT: Okay. I'd like to mark this
25 section of the deposition as well, please.

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1 Q. Would your answers to questions four, five
2 and six change if you use the definition of
3 immediate from the use-of-force policy?

4 MR. SHEPHERD: Objection. That's
5 harassing. It is irrelevant. It's asked and
6 answered.

7 THE WITNESS: No, I don't think my answer
8 would change.

9 BY MR. STITT:

10 Q. For all three?

11 A. Correct.

12 Q. Question seven, admit that there was
13 sufficient space on the roadway shoulder to safely
14 have the truck pull over further to avoid
15 obstructing the bike lane.

16 The definitions for these included the SUV
17 and trailer as defined as the truck. You used that
18 in your report as well, but we're talking about the
19 violator vehicle.

20 Do you understand this question?

21 A. Yes.

22 Q. Okay. And the answer was to deny.

23 But today, I believe that you testified
24 there was additional space to the right of the
25 violator vehicle that was unobstructed that it could

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1 have pulled over further to the right. Is that
2 accurate?

3 A. No, it is not accurate.

4 Q. So there was not sufficient space on the
5 roadway for the violator vehicle to have pulled over
6 further to the right?

7 MR. SHEPHERD: Objection. Relevance.
8 Asked and answered.

9 THE WITNESS: Correct.

10 BY MR. STITT:

11 Q. But there was more asphalt to the right.
12 Are you just not defining that as roadway? Is that
13 how you read this?

14 MR. SHEPHERD: Objection. Argumentative.
15 Irrelevant. Asked and answered.

16 THE WITNESS: There's no more room and no
17 way for the vehicle to pull over more safely to the
18 right.

19 BY MR. STITT:

20 Q. You pulled over safely further to the
21 right. Did you do that safely?

22 MR. SHEPHERD: Objection. Argumentative.
23 Irrelevant. Asked and answered.

24 THE WITNESS: You're asking about the
25 violator vehicle?

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1 BY MR. STITT:

2 Q. Right. I guess, in your vehicle, you
3 pulled over further to the right than the violator
4 vehicle; is that correct?

5 A. That is correct.

6 Q. Why could the violator vehicle not pull
7 over further to the right?

8 MR. SHEPHERD: Objection. Speculation.
9 Asked and answered. Relevance.

10 THE WITNESS: He's not required to do so.

11 BY MR. STITT:

12 Q. That's not what I asked.

13 A. There's no way for me to move him safely.

14 Q. It's also not what I asked.

15 A. Reask your question.

16 Q. Admit that there was sufficient space on
17 the roadway shoulder to safely have the violator
18 vehicle pull over further.

19 MR. SHEPHERD: Objection. Relevance.
20 Asked and answered. Harassing and abusive.

21 THE WITNESS: Also not the full question
22 That was on admission number seven.

23 BY MR. STITT:

24 Q. Did you understand my question?

25 A. I understood your question.

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1 Q. Can you answer the question?

2 A. No. There was not space sufficient to move
3 over safely.

4 Q. Why would it have been unsafe for the
5 violator vehicle to move over further to the right?

6 MR. SHEPHERD: Objection. Asked and
7 answered. Relevance.

8 THE WITNESS: I'm not going to get out of
9 my vehicle, approach the other vehicle, and then
10 request him to move while I'm outside of his vehicle
11 standing next to it.

12 BY MR. STITT:

13 Q. If you used your PA system and instructed
14 the violator vehicle to pull over further to the
15 right, could the violator vehicle have safely done
16 that?

17 MR. SHEPHERD: Objection. Speculation.
18 Irrelevant.

19 THE WITNESS: I don't know because I didn't
20 do that, and he didn't do that, and I would not have
21 done that.

22 BY MR. STITT:

23 Q. That's not my question.

24 A. I answered your question.

25 Q. I don't believe you have.

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1 Was there any obstruction to the right of
2 the violator vehicle that prevented it from pulling
3 over further to the right while still on the
4 pavement?

5 MR. SHEPHERD: Objection. Asked and
6 answered. Relevance.

7 THE WITNESS: It's also a different
8 question than you asked previously, but, no, there
9 was no physical obstruction.

10 BY MR. STITT:

11 Q. So there was sufficient space on the
12 pavement to the right of the violator vehicle that
13 it could have used to pull over further to the
14 right?

15 MR. SHEPHERD: Objection. Asked and
16 answered. Relevance. Mischaracterization of prior
17 testimony.

18 THE WITNESS: Could have used, possibly,
19 yes.

20 BY MR. STITT:

21 Q. So let's look at question seven, admit that
22 there was sufficient space on the roadway shoulder
23 to safely have the truck pull over further to avoid
24 obstructing the bike lane.

25 And you denied.

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1 Can you explain your answer, please.

2 A. For starters, there's not sufficient space
3 for me to have him move over safely because I'm not
4 going to make that order to him to move over after
5 he's legally stopped.

6 Second, there is no bike lane.

7 Q. So with respect to eight, asking about if
8 the truck was obstructing the bike lane, there was
9 no bike lane?

10 A. Correct.

11 Q. Question nine, admit that you told
12 Mr. Tallaksen to continue his path on the day of the
13 incident.

14 And you denied.

15 I understand your order to be clear that he
16 needs to move along. Is that different, in your
17 mind, than continue on his path?

18 A. Yes.

19 Q. Okay. Number 11, goes from Page 3 to
20 Page 4. I don't know if you can see that. It
21 starts at the very bottom.

22 It says, admit that none of the crimes you
23 believed Mr. Tallaksen committed involved the
24 infliction of serious physical harm.

25 And you denied.

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1 Can you tell me what crimes you believed
2 Mr. Tallaksen committed that do involve serious
3 physical harm?

4 A. Again, as I stated earlier, I don't know
5 what his intent is showing up to where he decided to
6 show up and become verbally hostile towards peace
7 officers on a stop. So I don't know if he's going
8 to commit serious physical harm to me or another
9 officer.

10 Q. What crimes did you suspect Mr. Tallaksen
11 of committing that day?

12 MR. SHEPHERD: Belated objection as to
13 relevance to the prior question and objection to
14 relevance now.

15 BY MR. STITT:

16 Q. What crimes did you believe Mr. Tallaksen
17 committed during his interaction with you?

18 A. What crimes did I believe he committed?

19 Q. Yeah.

20 A. Attempted extortion and obstructing a peace
21 officer.

22 Q. We already talked about obstruction being a
23 non-violent offense. Do you recall that?

24 A. Yes.

25 Q. Is attempted extortion of a peace officer a

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1 violent offense?

2 A. No.

3 Q. So would you admit that none of the crimes
4 you suspected that Mr. Tallaksen committed involved
5 the infliction of serious physical harm?

6 MR. SHEPHERD: Objection. Relevance.

7 Asked and answered.

8 THE WITNESS: So as I stated, I charged him
9 with 148 and attempted extortion.

10 I don't know what his intent was, or what
11 other crimes he could have committed.

12 BY MR. STITT:

13 Q. I -- respectfully, that's not the question.

14 Admit that none of the crimes you believe
15 Mr. Tallaksen committed involved the infliction of
16 serious physical harm.

17 I believe that the answer to that is that
18 you admit that that's true. Do you agree with that?

19 MR. SHEPHERD: Objection. Relevance.

20 Asked and answered. Harassing. Abusive.

21 You just don't like the answer you got.

22 THE WITNESS: I can't answer the way you
23 asked because in your question you put an answer in
24 there for me.

25 ///

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1 BY MR. STITT:

2 Q. Admit that none of the crimes you believe
3 Mr. Tallaksen committed involved the infliction of
4 serious physical harm.

5 Do you admit or deny that?

6 MR. SHEPHERD: Objection. Relevance.

7 Asked and answered.

8 BY MR. STITT:

9 Q. Can you please answer the question.

10 MR. SHEPHERD: Objection. Relevance.

11 Asked and answered.

12 BY MR. STITT:

13 Q. Can you please answer the question.

14 MR. SHEPHERD: Same objections.

15 THE WITNESS: Am I required to answer?

16 MR. SHEPHERD: You're more than welcome to
17 refer to your Request for Admission. They are
18 judicial pleadings.

19 THE WITNESS: As my response for Request
20 for Admission states: Deny.

21 BY MR. STITT:

22 Q. What crime did you suspect Mr. Tallaksen of
23 committing that involved serious infliction of
24 physical harm?

25 MR. SHEPHERD: Objection. Relevance.

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1 Asked and answered.

2 THE WITNESS: The obstruction of a peace
3 officer is the potential to provide infliction of
4 harm.

5 BY MR. STITT:

6 Q. You agreed earlier that obstruction was a
7 nonviolent offense, but now you're saying it
8 involves the potential infliction of serious
9 physical harm. How do you explain that?

10 MR. SHEPHERD: Objection. Relevance.

11 Asked and answered.

12 THE WITNESS: As I stated earlier, I don't
13 know what Mr. Tallaksen's intent is when he shows up
14 and is defying orders and is obstructing the traffic
15 stop.

16 BY MR. STITT:

17 Q. Besides obstruction, which you agree is a
18 nonviolent offense, do you believe that
19 Mr. Tallaksen committed any other offense that
20 involved infliction of serious physical harm?

21 MR. SHEPHERD: Objection. It is abusive to
22 raise the tone of your voice at my client. It is
23 irrelevant. And it has been asked and answered.

24 BY MR. STITT:

25 Q. Please answer.

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1 A. I would have to defer you to my previous
2 answers.

3 Q. Apart from obstruction, which you
4 previously agreed was a nonviolent offense, do you
5 believe that Mr. Tallaksen committed any other
6 offense that involved the significant infliction of
7 harm?

8 MR. SHEPHERD: Objection. Asked and
9 answered. Relevance.

10 THE WITNESS: Other than obstruction, no.

11 BY MR. STITT:

12 Q. I have the same question for Number 12.

13 The question is, admit that none of the
14 crimes you believe Mr. Tallaksen committed involved
15 the threatened infliction of serious physical harm.

16 The answer given was to deny.

17 Is the only crime you suspected
18 Mr. Tallaksen of committing that involved the
19 threatened infliction of serious physical harm,
20 obstruction?

21 MR. SHEPHERD: Objection. Relevance.

22 THE WITNESS: No. The attempted extortion
23 could also lead to threatened serious physical harm
24 to me later.

25 ///

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1 BY MR. STITT:

2 Q. So both attempted extortion and obstruction
3 involved the threatened infliction of serious
4 physical harm?

5 A. Correct.

6 Q. Number 16 says, admit that you did not
7 adjust the handcuffs on Mr. Tallaksen after hearing
8 him complain while in the back of the squad car.

9 And you denied.

10 We've watched the video. Officer Hernandez
11 removes the cuffs and places them in front of
12 Mr. Tallaksen. I don't see you adjusting the cuffs.

13 Did you mean in your answer that Officer
14 Hernandez adjusted the cuffs, or could you explain
15 this for me?

16 MR. SHEPHERD: Objection. The definition
17 of "you" included Officer Hernandez in its
18 definition, so --

19 BY MR. STITT:

20 Q. Okay. But is that how you interpreted your
21 answer? I'm asking you to just clarify your answer
22 so I understand it.

23 MR. SHEPHERD: Objection. How Officer
24 Smith interpreted his response is subject to the
25 attorney-client privilege.

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1 BY MR. STITT:

2 Q. You're not able to clarify and explain your
3 answer to Number 16 without invoking privilege; is
4 that right?

5 MR. SHEPHERD: Objection. Attorney-client
6 privilege.

7 THE WITNESS: As stated, the definition of
8 "you" included myself and Officer Hernandez.

9 BY MR. STITT:

10 Q. Okay. But I'm asking you to explain to me
11 what you meant when you -- when you wrote this.

12 And as I understand it, your counsel is
13 directing you not to answer.

14 MR. STITT: Mr. Shepherd, am I
15 understanding this correctly?

16 MR. SHEPHERD: We've laid our objection.

17 MR. STITT: Well, did I understand it
18 correctly?

19 MR. SHEPHERD: Yes, attorney-client
20 privilege.

21 MR. STITT: So your client won't answer how
22 he interprets "you" in Number 16?

23 MR. SHEPHERD: Why don't you read the
24 definition aloud? You wrote it.

25 MR. STITT: You seem to know it so well,

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1 what would be the point?

2 Q. Did you adjust Mr. Tallaksen's handcuffs
3 after he complained that they hurt in the back of
4 your squad car?

5 A. Are you asking if I personally adjusted
6 them?

7 Q. You, Officer Smith.

8 A. No.

9 Q. So when you answered Number 16, the
10 question, admit that you did not adjust the
11 handcuffs on Mr. Tallaksen after hearing him
12 complain while he was in the back of the car, you
13 understand your answer to be that Officer Hernandez
14 did, not you personally.

15 Is that a fair understanding of this
16 answer?

17 MR. SHEPHERD: Objection. Relevance.
18 Asked and answered. Violate of the attorney-client
19 privilege.

20 MR. STITT: I'm asking your client how he
21 understands the answer. That's not a request for
22 how he's talked to you about it.

23 Q. How do you understand this answer?

24 MR. SHEPHERD: Same objections.

25 MR. STITT: Are you instructing him not to

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1 answer?

2 MR. SHEPHERD: I've laid our objections
3 out.

4 MR. STITT: Okay. But with respect to this
5 question, you're invoking privilege and instructing
6 him not to answer?

7 MR. SHEPHERD: It's been asked and
8 answered.

9 MR. STITT: But are you asserting privilege
10 and directing your client not to answer?

11 MR. SHEPHERD: Yes.

12 MR. STITT: Okay.

13 Q. We're turning to 19, the question was admit
14 that you expected plaintiff to bike into State
15 Route 76 traffic when asked to continue his route.

16 And you denied.

17 We talked before about what you meant about
18 move along with your day, and it was his choice for
19 how to respond.

20 Do you recall those questions and those
21 answers generally?

22 A. Yes.

23 Q. Is that what you were thinking when you
24 denied this; that it was his choice to move around
25 along with his day, and he didn't have to bike in

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1 any particular direction on the 76?

2 MR. SHEPHERD: Objection. Relevance.

3 Asked and answered. Attorney-client privilege.

4 BY MR. STITT:

5 Q. Is that what you understood when you
6 answered in this way? Is that what you were trying
7 to say?

8 MR. SHEPHERD: Same objections.

9 MR. STITT: You're instructing him not to
10 answer?

11 MR. SHEPHERD: The question impermissibly
12 violates the attorney-client privilege.

13 MR. STITT: Asking him to answer questions
14 about his sworn statements on written discovery does
15 not implicate privilege, Mr. Shepherd.

16 So I'm asking him to explain his answer in
17 his understanding.

18 MR. SHEPHERD: The answer is deny. What
19 more needs to be explained?

20 MR. STITT: Are you instructing your client
21 not to answer based on privilege?

22 MR. SHEPHERD: Yes.

23 BY MR. STITT:

24 Q. Is that your decision as well, sir, not to
25 answer based on privilege?

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1 A. Yes.

2 MR. STITT: Okay. Can we please mark that
3 as well.

4 Let's do the RFPs. Yeah, we have two
5 already -- which is the one, though, the
6 supplemental with the policy that just came? Thank
7 you. I think we're at 8.

8 MS. NOZOT: Yes, this would have been 8,
9 so --

10 MR. STITT: I'd like to admit the Request
11 for Admission as 8.

12 (Exhibit 8 was marked for
13 identification by the
14 Certified Court Reporter.)

15 MR. STITT: And so now we're at 9 for the
16 Amended Request for Production.

17 (Exhibit 9 was marked for
18 identification by the
19 Certified Court Reporter.)

20 BY MR. STITT:

21 Q. I handed you this Amended Request for
22 Production. It's signed by you on January 23rd of
23 this year.

24 Do you recall signing this?

25 A. Yes.

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1 Q. Okay. Accompanied with this Request for
2 Production were the handcuff instructions for the
3 handcuffs that you used to handcuff Mr. Tallaksen.

4 Do you remember that?

5 A. Yes.

6 Q. How did you find the instructions for your
7 cuffs? Like, where were they?

8 A. It's a common model of handcuffs, so it has
9 general instructions that accompany all of them.

10 Q. Well, let me be more specific.

11 You previously submitted answers to our
12 requests for documents and said you -- in those
13 responses that you weren't able to find any
14 responsive documents after looking, and then those
15 responses were amended.

16 And I'm trying to understand how you
17 found -- how you found the documents. When you
18 looked, you couldn't find them, and then you found
19 them.

20 Can you tell me how that happened?

21 MR. SHEPHERD: Objection. This line of
22 inquiry violates the attorney-client privilege.

23 MR. STITT: So in asking the witness about
24 what he did to search for records responsive to the
25 request previously violates privilege?

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1 MR. SHEPHERD: Yes.

2 MR. STITT: And asking the witness why this
3 was amended violates privilege?

4 MR. SHEPHERD: Yes.

5 MR. STITT: And you're instructing the
6 witness not to answer any questions about where he
7 obtained the policy information and how, you know,
8 how it was produced; is that correct?

9 MR. SHEPHERD: Correct.

10 MR. STITT: We'll mark this as well.

11 Q. Officer Smith, I assume you're not
12 answering these questions again on advice of
13 counsel; is that right?

14 A. Yes.

15 Q. Officer Smith, did you review Sergeant
16 Kind's report that he created investigating whether
17 you appropriately used force or not with respect to
18 Mr. Tallaksen's investigation -- or a complaint, I
19 should say. Did you review that packet of
20 information and reports that he compiled?

21 A. Yes.

22 Q. Okay. And he includes a report of his
23 interview with you.

24 And he writes, "While Officer Smith was
25 talking to the driver of the Jeep on the passenger

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1 side, he noticed a cyclist pass on the driver's side
2 of the Jeep. When he noticed this, Officer Smith
3 did not hear anything that would cause him to
4 believe that the cyclist put himself in a dangerous
5 situation," in parentheses, "tires screeching, car
6 horns honking, et cetera," end parentheses, period.

7 Did you need -- I mean, did you hear any
8 tires screeching or car horns honking when the first
9 cyclist passed the violator vehicle?

10 A. No.

11 Q. Do you believe that the 76 roadway is
12 dangerous for cyclists if they're in the car lane,
13 even if you don't hear tires screeching or horns
14 honking?

15 MR. SHEPHERD: Objection. Relevance.

16 THE WITNESS: Can you reask the question?
17 That was a long question, so I just want to make
18 sure I answer it correctly.

19 MR. STITT: I appreciate you doing that,
20 especially at the end of the day, too. Let me try
21 again.

22 Q. So is the Highway 76 a dangerous road to
23 bike on if a cyclist is in the traffic lane, even if
24 you don't hear horns honking and tires screeching?

25 A. Not inherently so.

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1 Q. What'S the speed limit in that area?

2 A. 55 miles per hour.

3 Q. So biking in a traffic lane and not all the
4 way on the curb of the road in a lane where traffic
5 is passing at 55 miles an hour isn't inherently
6 dangerous, in your view?

7 MR. SHEPHERD: Objection. Relevance.
8 Assumes facts. Hypothetical.

9 Go ahead.

10 THE WITNESS: No, it's a shared roadway.
11 There's no designated bike lane.

12 BY MR. STITT:

13 Q. Does there need to be a bike lane in order
14 for the road to be dangerous for cyclists?

15 MR. SHEPHERD: Objection. Relevance.

16 THE WITNESS: No.

17 BY MR. STITT:

18 Q. If a cyclist is biking on the roadway,
19 either on the fog line or into the car lane on the
20 76 in this area, would you view that as dangerous?

21 MR. SHEPHERD: Objection. Relevance.

22 THE WITNESS: No, they're allowed to do so.

23 BY MR. STITT:

24 Q. That's not the question. I'm asking about
25 the danger. Do you view that as dangerous?

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1 A. No.

2 MR. SHEPHERD: Objection. Relevance.

3 THE WITNESS: No.

4 BY MR. STITT:

5 Q. Do you bike yourself?

6 MR. SHEPHERD: Objection. Relevance.

7 THE WITNESS: I've ridden a bicycle, yes.

8 BY MR. STITT:

9 Q. Do you bike regularly?

10 MR. SHEPHERD: Objection. Relevance.

11 THE WITNESS: No.

12 BY MR. STITT:

13 Q. Have you ever biked on a road like the 76
14 before?

15 MR. SHEPHERD: Objection. Relevance.

16 THE WITNESS: Yes.

17 BY MR. STITT:

18 Q. Did you feel that it was dangerous?

19 MR. SHEPHERD: Objection. Relevance.

20 THE WITNESS: No.

21 BY MR. STITT:

22 Q. Did you bike in the lane of traffic, or did
23 you stay as far to the right as you possibly could
24 while biking?

25 MR. SHEPHERD: Objection. Compound.

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1 Relevance.

2 THE WITNESS: To answer the first part of
3 the question, yes, I did ride in the traffic lane at
4 times, and yes, I tried to stay to the right.

5 BY MR. STITT:

6 Q. Did you generally view it as safer the
7 further to the right you could stay while on your
8 bike?

9 MR. SHEPHERD: Objection. Vague as to
10 time. Relevance.

11 THE WITNESS: Yes.

12 MR. STITT: I'd like to take a five-minute
13 break and go off the record.

14 THE VIDEOGRAPHER: We're going off the
15 record. The time is 2:18 p.m.

16 (Recess taken.)

17 THE VIDEOGRAPHER: We're back on the
18 record. The time is 2:30 p.m.

19 BY MR. STITT:

20 Q. Officer Smith, we're back on the record and
21 I want to -- I want to ask you if you would like to
22 change any of the answers you've given during your
23 deposition today?

24 A. No.

25 Q. At the beginning of your deposition, I

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1 asked you if you would have done anything
2 differently during your interaction with
3 Mr. Tallaksen or the incident that day, and you
4 answered that no, you would not have done anything
5 differently.

6 Do you recall that question?

7 A. Yes.

8 Q. Sitting here now at the end of your
9 deposition, having watched the video again and
10 talked at length about the policies and what
11 happened, is there anything that you believe that
12 you would have done differently that day?

13 MR. SHEPHERD: Objection. Relevance.

14 THE WITNESS: No.

15 BY MR. STITT:

16 Q. Do you wish that you would have done
17 anything differently that day?

18 MR. SHEPHERD: Objection. Relevance.

19 THE WITNESS: No.

20 BY MR. STITT:

21 Q. Do you believe that you did anything wrong
22 during your interaction with Mr. Tallaksen?

23 MR. SHEPHERD: Objection. Relevance.

24 THE WITNESS: No.

25 ///

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1 BY MR. STITT:

2 Q. If you learned that Mr. Tallaksen suffered
3 serious neurologic injury to both wrists that the
4 doctors say is related to how he was handcuffed when
5 you handcuffed him, would that change your view of
6 what happened that day?

7 MR. SHEPHERD: Objection. Relevance.
8 Assumes facts not in evidence. Calls for
9 speculation.

10 THE WITNESS: No.

11 BY MR. STITT:

12 Q. Why not?

13 MR. SHEPHERD: Objection. Relevance.

14 THE WITNESS: For starters, I haven't
15 received any factual information that he was harmed
16 as a direct result of this event.

17 And two, none of what I did was intended to
18 harm him or any way a direct potential to harm him.

19 BY MR. STITT:

20 Q. So even if you learned that he was harmed
21 from the handcuffs, not just in the right wrist, but
22 in both wrists, that wouldn't change your view about
23 how you conducted yourself that day?

24 MR. SHEPHERD: Objection. Asked and
25 answered. Relevance.

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1 THE WITNESS: As I stated, no.

2 MR. STITT: Okay. I don't have any further
3 questions.

4 Mr. Shepherd?

5 MR. SHEPHERD: No questions from the State.

6 MR. STITT: Very well.

7 THE VIDEOGRAPHER: We're going off the
8 record. The time is 2:33 p.m. This concludes
9 today's testimony.

10

11 (The deposition was concluded at 2:33 p.m.)

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DEPOSITION ERRATA SHEET

DEPOSITION OF: Alexander Smith

CASE NAME: Tallaksen vs. Smith and Hernandez

DATE: February 10, 2026

REASON CODES: 1. To clarify the record.

2. To conform to the facts.

3. To correct transcription errors.

Page _____ Line _____ Reason Code _____

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Deponent's Signature

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Deponent's Signature

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DECLARATION UNDER PENALTY OF PERJURY

I, ALEXANDER SMITH, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct; that I have read my deposition and have made the necessary corrections, additions, or changes to my answers that I deem necessary.

Executed on this _____ day of _____, 2026,

at _____, _____.

(City)

(State)

ALEXANDER SMITH

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1 STATE OF CALIFORNIA

2 COUNTY OF SAN DIEGO

3 I, Kathleen Shelburne, Certified
4 Shorthand Reporter, No. 7227, in and for the State
5 of California, do hereby certify that the deponent
6 was by me first duly sworn to testify to the truth,
7 and that the foregoing testimony was reported by me
8 in shorthand, and was thereafter transcribed with
9 computer-aided transcription; that the foregoing is
10 a true, correct and complete record of said
11 proceedings.

12 I further certify that I am not in any way
13 interested in the outcome of the cause in said
14 caption.

15 The dismantling, unsealing, or unbinding of
16 the original transcript will render the reporter's
17 certificate null and void.

18 _____ Reading and Signing was requested.

19 _____ Reading and Signing was waived.

20 X Reading and Signing was not requested.

21 In witness whereof, I have hereunto set
22 my hand this 9th day of March, 2026.

23 *Kathleen Shelburne*
24 Kathleen Shelburne

25 Kathleen Shelburne, CSR NO. 7227

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