IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION

KENT MAYNARD, JR.,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 24-cv-03612
	)	
THE CITY OF CHICAGO, a municipal corporation, and Chicago Police Officer CARMEN MOSTEK (Star 8664),	)	District Judge Elaine E. Bucklo
	)	Magistrate Judge Young B. Kim
	)	
Defendants.	)	

CITY OF CHICAGO'S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

NOW COMES Defendant the City of Chicago ("City"), by and through one of its attorneys, Simerdeep Kaur, Assistant Corporation Counsel for the City, and for its Memorandum of Law in support of its Motion for Summary Judgment, pursuant to Local Rule 56.1(a), states as follows:

INTRODUCTION

The City has no place in this lawsuit. At its core this lawsuit arises from a brief, tragic encounter between two neighbors and their dogs. The mere fact that Defendant Mostek is a police officer does not mean that in the seconds when she discharged her firearm, she was acting as one. The premise that a police officer is always within the scope of employment – at every hour, in every personal circumstance – is unworkable. Scope of employment turns on what the employee does at the moment of the act and what they do not, not post-incident paperwork or internal procedures. No matter what followed hours later, those events cannot transform a private act into police action. Accordingly, the City is entitled to summary judgment.

STATEMENT OF UNDISPUTED MATERIAL FACTS

On April 21, 2024, Defendant Carmen Mostek was employed by the Chicago Police Department (CPD), but she was on a regular day off and not on duty. UMF ¶¶ 8-9. At the time of the incident, she was walking her personal dog, Buddy, near her residence, dressed in plain clothes, and carrying her own Sig Sauer firearm, which was not a CPD-issued or qualified weapon. UMF ¶¶ 11, 14-15, 32. Plaintiff Kent Maynard lived in the same neighborhood and owned a pit bull mix, Aggie. UMF ¶¶ 10-11. The dogs had shown "mutual distrust" in prior encounters, and Mostek testified that she had experienced prior negative interactions with Plaintiff's dog, including occasions where it ran at her with an open mouth. UMF ¶¶ 12-13.

Plaintiff's dog escaped from his apartment and ran toward Mostek and her corgi, initiating a fight in which Plaintiff's dog was on top of hers. UMF ¶¶ 16-18. Within seconds of the fight starting, Mostek discharged her personal firearm, killing Plaintiff's dog while Plaintiff was in close proximity. UMF ¶¶ 22, 24. Plaintiff shouted, "you shot her," and Mostek immediately responded, "it was attacking my dog." UMF ¶ 23. Mostek then fled the scene. UMF ¶ 25.

In her 911 call moments later, Mostek again explained, "there was a dog attacking my dog and I had to shoot it," clarifying to the operator, "it was attacking my dog." UMF ¶¶ 25-26. At no time during the incident did Mostek identify herself as a police officer, reference her employment with CPD, or attempt to secure the scene. UMF ¶¶ 30-34. Instead, she immediately retreated into her residence. UMF ¶ 25. During the incident, Mostek was not wearing her CPD unform or any CPD clothing nor did she show Plaintiff her police star or badge. UMF ¶ 32-34. Prior to discharging her firearm in Plaintiff's direction, Mostek did not tell Plaintiff to step back, give any other order, nor did she issue any warning that she was going to discharge her firearm. UMF ¶¶ 29, 35.

Following the shooting, the actual police response was carried out by on-duty CPD personnel. UMF ¶ 40. Officer Nicholas Pronek was dispatched as the preliminary investigator and secured the

scene, preserved evidence, interviewed witnesses, and documented the incident. UMF ¶¶ 41-42. Supervising Sergeants Hoyin To and James Butler also responded, established a perimeter, ensured proper notifications were made, and directed the investigation. UMF ¶¶ 43-48.

CPD's general orders apply to all sworn members, whether on or off duty, but those directives are for internal discipline and do not determine whether an officer acted within the legal scope of employment. UMF ¶ 49. For example, General Order 03-06 requires that after a firearm discharge, the officer must remain on scene, secure the area, request medical aid if needed, and cooperate with supervisors. UMF ¶ 51.

In addition, CPD requires members to complete a Tactical Response Report ("TRR") following a reportable use of force. UMF ¶54. The TRR is a standardized, post-incident form that documents the officer's own account of why they used force. UMF ¶¶ 54-55. It is intended as an administrative tool for internal review of compliance with CPD rules as CPD does not investigate issues of scope of employment. UMF ¶¶50, 59. In filling out the TRR, Defendant Mostek checked "no" to the box which asked "did the subject commit an assault or battery against the involved member performing a police function" and checked "defense of self," "overcome resistance or aggression," and "defense of dog/pet" for the box for reason for response. UMF ¶ 61.

LEGAL STANDARD

"[T]he plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." *Celotex Corp. v. Catrett*, 477 U.S. 317, 322, 106 S.Ct. 2548 (1986). At the summary judgment stage, facts must be viewed in the light most favorable to the nonmoving party only if there is a "genuine" dispute as to those facts. Fed. Rule Civ. Proc. 56(c). As we have emphasized, "[w]hen the moving party has carried its burden under Rule 56(c), its opponent must do more than simply

show that there is some metaphysical doubt as to the material facts .. Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no 'genuine issue for trial.' " *Matsushita Elec. Industrial Co. v. Zenith Radio Corp.,* 475 U.S. 574, 586–587, 106 S.Ct. 1348, 89 L.Ed.2d 538 (1986) (footnote omitted). "[T]he mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no *genuine* issue of *material* fact." *Anderson v. Liberty Lobby, Inc.,* 477 U.S. 242, 247–248, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986).

LEGAL ARGUMENT

I. THE CLAIMS AGAINST THE CITY MUST BE DISMISSED IF MOSTEK PREVAILS ON SUMMARY JUDGMENT.

The City is a party to this lawsuit for purposes of *respondeat superior* (Count VIII) and indemnification under Section 10/9-102 of the Tort Immunity Act, 745 ILCS 10/9-102 (Count IX) only. UMF ¶ 7. These claims "are derivative liability claims that depend on [Plaintiff] prevailing against at least one of the individual defendants," *i.e.* against Mostek. *Moran v. Calumet City*, 54 F.4th 483, 500 (7th Cir. 2022) (citing *Beaman v. Freesmeyer*, 183 N.E.3d 767, 794 (Ill. 2021)) (holding "[b]ecause the individual defendants are entitled to summary judgment in their favor, the claims [for *respondeat superior* and indemnity] against Calumet City must fail as well."); *see also Bruno v. Wells-Armstrong*, 93 F.4th 1049, 1056 (7th Cir. 2024) ("As to indemnification, because the City need only indemnify its employees if those employees are found liable, the indemnification claim fails if the employees are not liable.") (cleaned up). Here, at the same time the City is moving for summary judgment on the claims against it, Mostek is moving for summary judgment on the claims against her, to wit, Counts I (Section 1983 excessive force), IV (state law willful and wanton misconduct), V (state law assault), and VII (state law intentional infliction of emotional distress). UMF ¶ 6.[1] Thus, if this Court grants summary judgment

[1] Mostek also moves for summary judgment on the state law defamation claim in Count VI. However, the City need not address Count VI for defamation because the Court previously ruled on the City's Motion to Dismiss

in favor of Mostek on Counts I, IV, V, and VII, then this Court should also grant summary judgment in favor of the City on Counts VIII and IX. *See Bruno*, 93 F.4th at 1056; *Moran*, 54 F.4th at 500.

II. THE INDEMNIFICATION AND *RESPONDEAT SUPERIOR* CLAIMS FAILS AS A MATTER OF LAW BECAUSE MOSTEK WAS NOT ACTING WITHIN THE SCOPE OF HER EMPLOYMENT FOR THE CITY.

A. Scope of employment is a legal question.

Where the essential facts are undisputed, the issue of whether an employee was acting within the scope of employment presents a question of law. *Snodgrass v. Jones*, 957 F.2d 482, 484 (7th Cir. 1994); *Pyne v. Witmer*, 129 Ill. 2d 351, 359 (1989) (if no reasonable person could conclude from the evidence that an employee was acting within the scope of employment, a court should hold as a matter of law that the employee was not so acting).

The threshold issue is clear: scope of employment is a question for this Court to decide, and it must be decided under Illinois law. *See Jones v. Patrick & Assocs. Detective Agency, Inc.*, 442 F.3d 533, 535 (7th Cir. 2006) (rejecting argument that a jury should decide scope of employment because "that question is governed by [Illinois] state law") (cleaned up). The Illinois Supreme Court has expressly held that "Illinois courts look to the Second Restatement of Agency (the Restatement) for guidance in determining whether an employee's acts are within the scope of employment." *Adames v. Sheahan*, 909 N.E.2d 742, 755 (Ill. 2009) (cleaned up). And the Seventh Circuit has emphasized that federal courts must apply state law "as we believe the highest court of the state would apply it if the case were now before that tribunal." *RCBA Nutraceuticals, LLC v. ProAmpac Holdings, Inc.*, 108 F.4th 997, 1000 (7th Cir. 2024) (cleaned up). Therefore, it is not for Plaintiff, for Mostek, or even for the City to dictate whether Mostek acted within the scope of her employment. That determination rests exclusively with this Court, standing in the shoes of the Illinois Supreme Court. *See People ex rel. Billings v. Bissell*, 19 Ill.

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the FAC that "any claim seeking to hold the City liable for Mostek's alleged defamation is dismissed." UMF ¶ 7.

229, 231 (1857) ("To the judiciary is confided the power and the duty of interpreting the laws … whenever they are judicially presented for consideration.").

Illinois law also makes it clear that the burden rests with Plaintiff: "it is *plaintiff's* burden to show the contemporaneous relationship between the tortious act and the scope of employment." *Adames*, 909 N.E.2d at 755 (cleaned up)(emphasis added). Tracing this rule from *Adames* back through Illinois Supreme Court cases further shows what this language means: "the relation [of master and servant] must exist at the time and in respect to the particular transaction out of which the injury arose." *Johanson v. Wm. Johnston Printing Co.*, 104 N.E. 1046, 1047 (Ill. 1914).

These points matter because Plaintiff has argued, and will likely continue to argue, that scope of employment has already been established (i) through alleged "admissions" by Mostek or the City, and (ii) through post-incident facts such as the referral to COPA, Mostek's COPA statement, and the completion of a Case Report and TRR. *See* Pl.'s Resp. to City's Motion to Dismiss, Doc. 37 at 4–6, 11–12. But those arguments collapse under Illinois law. They do not fare much better under logic: a plaintiff or employee cannot be the decider on scope, lest every employee be liable for any act of an employee when someone is looking for the deep pocket or to avoid paying out of their own. And post-incident paperwork cannot retroactively create scope where none existed at the time of the act. In short, Plaintiff cannot avoid his burden. The scope question is a legal question for this Court, and it must be answered by applying Illinois law to the contemporaneous facts of the Incident—not by relying on post-incident documents or purported "admissions."

B. Mostek was not acting within the scope of her employment.

The pertinent question to answer for both claims against the City is: was Mostek acting within the scope of employment for the City when she shot and killed Plaintiff's dog? Under Illinois law, the answer is no.

Under *respondeat superior,* an employer is vicariously liable for its employee's acts "when those acts are committed within the scope of employment." *Fuery v. City of Chi.*, No. 07 C 5428, 2014 WL 1228718, at *6 (N.D. Ill. Mar. 25, 2014) (Bucklo, J.) (cleaned up). Indemnification based on section 9-102 of the Tort Immunity Act, Doc. 22 at pp. 42–43, which provides, in pertinent part, a local public entity is "directed to pay any tort judgment … for compensatory damages … for which it or an employee while acting within the scope of his employment is liable[.]" 745 ILCS 10/9-102.[2] "The scope of employment analysis is the same for purposes of *respondeat superior* liability … and indemnification … under the Tort Immunity Act, 745 ILCS § 10/9–102." *Fuery*, 2014 WL 1228718, at *6 (cleaned up). The Seventh Circuit most recently explained Illinois law on scope of employment as follows:

> Under Illinois law, there are three necessary criteria for an employee's action to be within the scope of his employment. First, the relevant conduct must be of the kind that the employee was employed to perform. Second, the conduct must have occurred substantially within the time and space limits authorized by the employment. And third, the conduct must have been motivated, at least in part, by a purpose to serve the employer. Because all three criteria must be met, failure to establish any one of them is sufficient to place conduct outside the scope of employment.

Elston v. Cnty. of Kane, 948 F.3d 884, 887 (7th Cir. 2020) (Barrett, J.) (cleaned up). Moreover, "courts must consider all the surrounding circumstances when considering whether an employee's conduct satisfies the criteria." *Powell v. City of Chi.*, 197 N.E.3d 219, 223 (citing *Bagent v. Blessing Care Corp.*, 862 N.E.2d 985, 992 (Ill. 2007)). A "plaintiff has the burden of showing the contemporaneous relationship between the tortious act and the scope of employment." *Bagent*, 862 N.E.2d at 992 (cleaned up). Here, Plaintiff cannot meet his burden of showing that Mostek's conduct satisfies the first, second, and third criteria of the scope of employment test.

[2] The City is a "local public entity." *See* 745 ILCS 10/1-206 (defining as "municipality"); Doc. 22 at ¶ 10.

1. *Mostek's conduct was not the kind that she was employed to perform.*

In considering if Mostek's actions were actions that Defendant is employed to perform as a CPD police officer, the Court may account for whether the act is commonly done by employees; the time, place, and purpose of the act; whether the employer has reason to expect such acts will be done; the similarity in quality of the act performed to the act authorized; and whether the employer furnished to the employee the instrumentality by which the harm was done. *Powell*, 197 N.E.3d at 223–24.

Police officers are employed to enforce the laws, investigate crimes, and preserve the peace. *See* 65 ILCS 5/11-1-2(a); *Powell*, 197 N.E.3d at 224. But Illinois courts have consistently held that the "always on duty" principle does not transform every off-duty act into a police function. *Karas v. Snell*, 142 N.E.2d 46, 56–57 (Ill. 1957); *People v. Brewer*, 116 N.E.3d 367, 376 (Ill. App. Ct. 2018). "Being considered 'on duty' at all hours … does not result in all of [an officer's] acts being deemed to have been taken in the performance of his duties." *Brewer*, 116 N.E.3d at 376 (*quoting Banks v. City of Chicago*, 297 N.E.2d 343, 349 (Ill. App. Ct. 1973)). Although departmental regulations might require a police officer to consider himself always on duty, this does not render every act of a police officer at any time a "performance of his duties as policeman." *Karas v. Snell,* 11 Ill.2d 233, 251, 142 N.E.2d 46, 57 (Ill.1957); *see also Wolf v. Liberis,* 153 Ill.App.3d 488,494, 505 N.E.2d 1202, 1207 (Ill.App. 1 Dist.1987) ("rule defining police officers as being 'on-duty' at all times serves purposes of internal discipline" and "does not support a conclusion that all of the acts of a police officer are therefore within the scope of his employment").

"Liability will not be imposed on the municipality when the conduct of the off-duty police officer is so reckless and outrageous that it is deemed to be outside the scope of employment." *Wolf* 505 N.E.2d at 1026. In *Wolf*, the Illinois Appellate Court held that an off-duty officer's conduct outside the scope of his employment notwithstanding the fact that the officer announced, "I'm on the job" and reached for his wallet. *Id.* The court reasoned that the fact that the officer let his intoxicated

fiancée leave the scene of an accident and then left the scene himself shows that he off-duty officer "rendered no police service during the initial accident nor did he act in any way to preserve the well-being of the community." *Id.* at 1027.Here, the undisputed facts similarly show that, at the time Mostek shot and killed Plaintiff's dog she was not taking police action. On April 21, 2024, Mostek had a regular day off, walking her personal dog in the neighborhood where she lived, she was wearing plain clothes, and carrying a personal firearm not qualified by the CPD. UMF ¶¶ 14-15, 32-33. When Plaintiff's dog escaped and attacked her corgi, she fired her personal weapon, later admitting to Plaintiff and to 911 that she shot "because it was attacking my dog." UMF ¶¶ 16, 23, 26. Mostek shot the dog while it was close proximity to Plaintiff and while Plaintiff was partially laying on top of the dog. UMF ¶ 22. Nothing about this conduct resembles police action, rather, it reflects a split second decision Mostek made to protect her own dog. If Mostek was truly acting in her role as a police officer to protect Plaintiff, her first response would not have been to fire the weapon inches away from his head. An officer would have engaged in action to enforce the law or keep the peace, such as ordering Plaintiff to move way, directing him to control his dog, or otherwise created space before taking the action Mostek took. Mostek did not of these things. UMF ¶¶ 29, 35. This type of r personal conduct is precisely the type of "outrageous conduct" that should be deemed outside the scope of conduct. *See Wolf* 505 N.E.2d at 1026.

To further reiterate the fact that Mostek was not acting as a police officer at the time she shot the dog, the undisputed facts show that Mostek: was not in uniform and did not show a badge, did not announce that she was discharging her weapon before she did so, she never identified herself as an officer, never issued any orders, never attempted to secure or investigate the scene, and immediately retreated into her residence. UMF ¶¶ 25, 29-36. That retreat is particularly telling. CPD's policies and directives apply to all department members, at all times as assessment with policies and directives are used by CPD for internal discipline. UMF ¶¶ 49-50. As such, an officer who is on duty or off duty is

expected to remain on the scene, secure evidence, protect bystanders, and await investigators. UMF ¶ 51. An officer taking police action would have done just that. Mostek instead abandoned the scene, leaving behind an unsecured firearm discharge scene in a residential area with civilians present. These are not the acts of someone performing the duties for which the City employs police officers.

A "plaintiff has the burden of showing the contemporaneous relationship between the tortious act and the scope of employment." *Bagent*, 862 N.E.2d at 992 (cleaned up). Plaintiff undoubtedly will attempt to retroactively apply post-incident documents or admissions to create where no scope existed in the seconds that Mostek shot the dog. But the undisputed evidence establishes the opposite: the TRR is a standardized administrative form required of all members after a reportable use of force. UMF ¶ 54. The TRR's purpose is administrative - to create a record for internal review of compliance with CPD's own orders, UMF ¶ 59, as such, its completion does not reflect a contemporaneous determination that the act was a police duty. Its purpose is limited. The fact that Mostek completed a TRR does not confer authority upon her. *See Wolf,* 505 N.E.2d at 1206 ("The law is well-settled in Illinois that an agent cannot confer power himself, and his agency or authority cannot be established by showing what he said or did."). Critically, here, the TRR is based entirely on the officer's own self-report and the narrative is the officer's words. UMF ¶ 55. And, notably, Mostek did not report herself as engaging in a "police function" in the TRR. UMF ¶ 61. At most, the directive governing TRRs specifies when a member must complete one; it says nothing about the legal significance of doing so. A post-incident administrative requirement cannot transform a personal, off-duty shooting into official police conduct.

Indeed, the contrast is stark here. The real police action in this incident was not taken by Mostek, but the on-duty officers who responded after the shooting. Officer Pronek, dispatched as the preliminary investigator, followed CPD protocol by securing the scene, preserving evidence, interviewing witnesses, and documenting the incident. UMF ¶¶ 40-42. Supervising Sergeants To and

Butler established a perimeter, ensured proper notifications, and directed the investigation in accordance with CPD's firearm-discharge procedures. UMF ¶¶ 43–48. Their actions exemplify what it means to act as police officers carrying out the City's law enforcement functions. Mostek, by contrast, did none of these things. She never identified herself as CPD, never secured the scene, and instead fled to her apartment immediately after firing her personal weapon. UMF ¶¶ 30-31, 38-39.

This case is far afield from the type of conduct officers are employed to perform. Mostek was not enforcing a law, de-escalating a public disturbance, or investigating a crime. She was protecting her own pet during a private dispute. The City does not employ officers to fire unqualified personal weapons in defense of their own property while off-duty. Because Plaintiff cannot establish the first Restatement criterion, the scope of employment claim fails as a matter of law.

2. *Mostek's actions do not fall within the "authorized time and space limits" of her City employment.*

The City is also entitled to summary judgment because Plaintiff cannot show that Mostek was acting "substantially within the time and space limits" authorized by CPD. See, *e.g.*, *Elston v.* 948 F.3d at 887-88)(holding that off-duty Kane County Sheriff's deputy was not within the time and space limits of his employment during an attack in DuPage County); *Carr v. City of Chicago*, 2020 WL 5076660 at *5 (N.D.Ill. August 26, 2020)(holding that an officer off-duty, outside jurisdiction, and not responding to any emergency was not within the scope of employment); *Anderson v. Moussa*, 250 F. Supp. 3d 344, 348 (ND. Ill. 2017) (stating the fact that an officer was off-duty "cuts against" the argument that an officer was acting within space and time limits for a police department). In *Rivera v. City of Chicago*, the district court held that the officer's conduct fell outside time and space limits because he was "off-duty on the date in question." No. 03 C 1863, 2005 WL 2739180 at *6 (N. D. Ill. Oct. 24, 2005). In *Rivera*, an officer arrived at plaintiff's home, identified himself as an officer, entered and searched plaintiff's home, and detained her. *Id.* When analyzing the second requirement for scope, the court reasoned that the officer was off-duty, generally not assigned to patrol (the officer worked

at the non-emergency call center), and was not responding to an emergency in plaintiff's home. *Id.* Similarly, here, the undisputed facts show that Mostek was off-duty and not responding to an emergency situation that would have necessitated Mostek to take police action to ensure pubic safety. UMF ¶¶ 9, 36-37. Further, Mostek was not carrying a weapon that was authorized by CPD – instead, she had her own personal firearm on hand. UMF ¶ 15. Because Plaintiff cannot establish the second Restatement criterion, the scope of employment claim fails as a matter of law.

3. Mostek's actions were not to serve her employer.

The City is also entitled to summary judgment because Plaintiff cannot show Mostek's conduct was caused or motivated, at least in part, by a purpose to serve her employer, the City. The Seventh Circuit has characterized the third criterion "as whether the employee's motive, or at least *a* motive, in committing the tort was to serve his employer," and "while a mixed motive may be enough to create liability, an employee who acts purely in his own personal interest cannot create liability for his employer." *Elston*, 948 F.3d at 888 (cleaned up).

Where the record is clear that the tortious conduct is not conducted to the role of a police officer and is instead motivated by personal concerns, the conduct falls outside the scope of employment. *See Garcia v. City of Chicago*, No. 01 C 8945, 2003 WL 1715621, at *11 (N.D. Ill. Mar. 20, 2003). In *Garcia*, an officer assaulted a friend that was previously involved in the officer's romantic interest and the court held that, despite the officer declaring himself a cope and showing the victim a badge and gun, the assault was committed outside the scope of employment. *Id.* The Court reasoned that the officer committed the assault solely for his own, personal benefit. *Id.*

Similarly, here, the undisputed facts show that Mostek's motivation was entirely personal. Immediately after discharging her weapon, Plaintiff shouted, "you shot her," to which Mostek replied, "it was attacking my dog." UMF ¶ 23. In her 911 call, she reiterated that "there was a dog attacking my dog and I had to shoot it," clarifying that "it was attacking my dog" when asked whether anyone

was attacking her. UMF ¶¶ 25-26. What the undisputed facts show is that: Mostek and Plaintiff were neighbors before the incident occurred, the two dogs had a "mutual distrust" of one another, and Mostek had, at least, two prior negative interactions with Plaintiff's dog. UMF ¶¶ 10-13. This was not a split-second decision Mostek made to protect the public. Plaintiff himself does not even believe that. UMF ¶ 28. What Mostek saw on April 21, 2024, her "little child getting destroyed" by an extremely aggressive Pitbull. UMF ¶ 19. These statements by Mostek are declarations of her motive. Her priority was her personal corgi, Buddy. She never identified herself as a police officer, never issued any orders to Plaintiff to control his dog or get out of the way, never acted to protect bystanders, and never sought to preserve the peace.

Even more critically, here, under either party's version of events, Mostek's conduct cannot be within scope. Plaintiff describes this incident as a minor scuffle between dogs where the dogs were already separated and under his control, UMF 21, meaning that were would have been no basis for Mostek to shoot Plaintiff's dog. Under Mostek's version of events, she invokes self-defense, defense of Plaintiff, and defense of her dog. UMF 27. However, on the issue of self-defense, the video shows that the shot was taken after any potential threat to Mostek passed because it was taken when Aggie was solely focused on Buddy. Further, while protection of Plaintiff may on its face be a valid reason, Plaintiff disclaimed any need for protection and shooting and shooting the dog before issuing any orders does not match up with any intent to protect Plaintiff. Plaintiff was not a small child who was so clearly at risk of serious bodily harm that would necessitate shooting to kill Aggie.

Moreover, Mostek did not follow the responsibilities outlined in CPD's general orders that would have required her stay on scene or contact Streets and Sanitation for animal removal. UMF ¶ 51, 53. Mostek's choices reflect self-protection and personal loyalty to her dog, not service to the City. As the Seventh Circuit put it, conduct that "did not advance any valid goal of [the] employer" falls outside the scope of employment. *Elston*, 948 F.3d at 888. That is precisely this case. During the

incident and the immediate aftermath, Mostek admits to Plaintiff and to 911 that she shot Aggie because it was attacking her dog. UMF ¶ 26. Even if Plaintiff characterizes Mostek's actions as motivated by a public interest, "not every action motivated by notions of the public interest will count as furthering a government employer's purpose." *Elston*, 948 F.3d at 888; *see also* *Klingler v. City of Chicago*, 2017 WL 4742192, at *5 (N.D. Ill. 2017) (rejecting the notion that a police officer acted within the scope of his employment because he had a general duty to "protect people who are at risk of harm regardless of where she is or what he is doing at the time")

Because Plaintiff cannot establish the third Restatement criterion, the scope of employment claim fails as a matter of law.

CONCLUSION

This lawsuit arises from a personal dispute between neighbors, not from police action. Illinois law requires Plaintiff to prove that Mostek's conduct was within the scope of her employment. The undisputed facts show otherwise: she was off duty, carrying a personal firearm, acting to protect her own dog, fled the scene, and motivated solely by personal concerns. She acted as any private citizen would have acted – not like a police officer.

For these reasons, the City of Chicago respectfully requests that this Court grant summary judgment in its favor on Counts VIII and IX.

Dated: September 15, 2025.

Respectfully Submitted,

THE CITY OF CHICAGO

By: /s/ Simerdeep Kaur
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION

KENT MAYNARD, JR.,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 24-cv-03612
	)	
THE CITY OF CHICAGO, a municipal corporation, and Chicago Police Officer CARMEN MOSTEK (Star 8664),	)	District Judge Elaine E. Bucklo
	)	
	)	Magistrate Judge Young B. Kim
	)	
Defendants.	)	

CITY OF CHICAGO'S RULE 56.1(a)
STATEMENT OF UNDISPUTED MATERIAL FACTS

NOW COMES Defendant The City of Chicago ("City"), by and through one of its attorneys, Simerdeep Kaur, Assistant Corporation Counsel for the City, and for its Statement of Undisputed Material Facts, pursuant to Federal Rule of Civil Procedure 56 Local Rule 56.1(a), states as follows:

I. VENUE AND JURISDICTION

1. Plaintiff filed this action for money damages pursuant to 42 U.S.C. § 1983. Defendant City's Answer and Affirmative Defenses to Plaintiff's Second Amended Complaint, Docket No. 62, attached hereto as Exhibit A.

2. Jurisdiction for Plaintiff's claims is premised on 28 U.S.C. §§ 1331, 1343, and 1367, and venue is proper in this Court pursuant to 28 U.S.C. § 1391 as the alleged events giving rise to the claims asserted by Plaintiffs occurred within this district. Ex. A.

II. PARTIES AND CLAIMS

3. Plaintiff resides within the jurisdiction of this Court at all relevant times. Ex. A at ¶ 7.

4. The City of Chicago is an Illinois municipal corporation. Ex. A at ¶ 10.

5. At the time of the incident giving rise to this lawsuit, Defendant Carmen Mostek was an off-duty police officer employed by the City of Chicago's police department (the "Department"). Ex. A at ¶ 28.

6. Against Defendant Carmen Mostek, Plaintiff's brings a federal claim of Excessive Force (Count I) and state law claims of Willful and Wanton Conduct (Count IV), Assault (Count V), Defamation (Count VI), and Intentional Infliction of Emotional Distress (Count VII). Ex. A at pp. 55-62.

7. Plaintiff's remaining claims against the City are *respondeat superior* (Count VIII) and Indemnification (Count IX). The Court previously dismissed the *Monell* claim and "any claim seeking to hold the City liable for Motek's alleged defamation." *See* Dkt. No. 49, Memorandum and Opinion of City's 12(b)(6) Motion, attached hereto as Exhibit B.

III. FACTS

8. On April 21, 2024, Defendant Mostek was employed by the City of Chicago Police Department. Ex. A at ¶¶ 8-9.

9. On April 21, 2024, Defendant Mostek had a "regular day off," meaning that she was off duty. *See* April 21, 2024, Watch Sheet, FCRL 003473-003475, attached hereto as Exhibit C.

10. Plaintiff Kent Maynard and Defendant Mostek were neighbors at the time of the incident and had been neighbors since October 2023. Carmen Mostek Deposition, attached hereto as Exhibit D, at 165:12-20; Kent Maynard Deposition, attached hereto as Exhibit E, at 140:15-141:6.

11. Defendant Mostek has a corgi, named Buddy, and Plaintiff had an American Pitbull terrier/mix, named Aggie. Ex. D at 29:10-14; Ex. E 244:1-4.

12. Prior to the incident giving rise to this lawsuit, the two dogs had brief interactions and Plaintiff testified that the dogs "showed a mutual distrust" of each other. Ex. E. at 129:13-130:22.

13. Defendant Mostek testified that prior to the incident of April 21, 2024, she had two negative interactions with Plaintiff's dog, including an instance where Mostek saw Plaintiff's dog attempt to bite through a screen door and an instance where Plaintiff's dog ran at her and her dog with an open mouth. Ex. D. at 40-41.

14. On April 21, 2024, while off-duty, Defendant Mostek was walking her dog in the neighborhood where she lived. Ex. D at 29:10-20.

15. During the walk, Defendant Mostek was carrying a Sig Sauer Model 9365, which was not qualified by the Department and is not the weapon that Defendant Mostek carries while she is on duty. Ex. D at 26:11-26; 175:8-21.

16. While Defendant Mostek was walking her dog in her neighborhood and walking past Plaintiff's apartment, Plaintiff's dog escaped from his apartment. Ex. E at p. 211-212.

17. Plaintiff's dog ran out of Plaintiff's apartment and ran in the direction of Defendant Mostek and her dog. Ex. E at 212:19-213:4.

18. The dogs got into a scuffle with Plaintiff's dog on top of Defendant Mostek's dog. Ex. E 216:4- 217:22; Ex. D at 29: 10- 32:16.

19. Defendant Mostek testified that "Aggie was extremely aggressive and extremely dangerous. She was trying to kill my dog that I love so much. I've had my dog for about four, four and a half years.· It's like seeing my little -- my little child get destroyed.· I don't want to see him get mauled to death, and that's what would have happened if I didn't take action.· He had no control of his dog.· The dog was still moving. His dog was able to escape him in the first place." Ex. D at 31:13-21.

20. Defendant Mostek testified that she shot Plaintiff's dog, in part, because Plaintiff could not get control of his dog. Ex. D at 18:3-9:5.

21. Plaintiff testified that when Mostek shot Aggie, he already had Aggie under control. Ex. E. at 270:24-272:5; 325:1-10..

22. Plaintiff was partially laying on top of his dog, Aggie, and Plaintiff's head was in close proximity to Aggie when Defendant Mostek shot and killed Aggie. Ex. E at pp. 15-18; Ex. D. at 39:6-12.

23. A ring camera video captured the moments immediately after the shooting where Plaintiff yelled "you shot her," and Defendant Mostek replied, "it was attacking my dog." *See* Exhibit F, Ring Camera Video; Ex. D at 53:2-11.

24. The shooting happened within seconds of the dogs fighting. Ex. F.

25. Immediately after the shooting, Defendant Mostek left the scene when she ran into her apartment building to call 911 state that she was an off-duty police officer who go into a shooting. Ex. D. at 54:5-16; 130-31; 137.

26. Specifically, Defendant Mostek state that "there was a dog attacking my dog and I had to shoot it," Defendant Mostek clarifies "it was a Pitbull that was attacking my corgi and my neighbor is freaking out," and when the 911 operator asks for clarification to determine if anyone was attacking Defendant Mostek she states that "it was attacking my dog." *See* Exhibit O, Defendant Mostek's 911 Call, FCRL001764.

27. Post-incident, during interviews with the Civilian Office of Police Accountability, Defendant Mostek also stated that she shot Plaintiff's dog in "defense of myself, defense of Kent, and defense of my dog," however, this explanation is not included in the tactical response report (TRR) that Mostek completed after the incident. Ex. D. at 53:12-54:4.

28. In describing this incident, Plaintiff testified that "I'm not the one who fired a shot to break up a dog fight endangering a human life," and that "she [Defendant Mostek] had no right to fire a gun in – under the circumstances and in the way she did because she almost f****** killed me. What message do we take from that? Her dog's life is more important and more valuable than mine." Ex. E. at 21:3-5; 32:5-33:5.

29. Defendant Mostek discharged her firearm without any verbal warning that she was about to discharge a weapon. Ex. E 56:6-20.

30. During the incident, Defendant Mostek did not identify herself a police officer to Plaintiff. Ex. E at 367:11-368:8.

31. During the incident, Defendant Mostek did not identify herself as an employee of the Chicago Police Department or for the City of Chicago to Plaintiff. Ex. E at 368:9-20.

32. During the incident, Defendant Mostek was not wearing her CPD uniform. Ex. E at 374:5-8.

33. During the incident, Defendant Mostek was not wearing any clothing with City or CPD insignia on it. Ex. E at 374:13-375:16.

34. During the incident, Defendant Mostek did not show Plaintiff, her police star or police badge. Ex. E at 369:7-13.

35. Defendant Mostek did not order Plaintiff to control his dog or step away, or make any orders at all. Ex. F; Ex. D at 29:10-32:16.

36. Defendant Mostek did not testify that there was a crime being committed prior to taking the shot. Ex. D. at 29:10-32:16.

37. Plaintiff testified that the only potential crime that was committed was Defendant Mostek taking the shot and endangering his life. Ex. E. at 385:1-21.

38. Defendant Mostek did not remain on the scene of where the shooting occurred. Ex. E at 389:1-8; Ex. D at 32.

39. Defendant Mostek did not attempt to secure the scene. Ex. E at 389:1-8.

Post-Incident Police Response

40. Officer Nicholas Pronek was dispatched to the scene after the shooting and was the preliminary investigator for CPD. *See* Nicholas Pronek's Deposition, attached hereto as Exhibit G, at 38:6-24; 45:13-16.

41. Officer Pronek testified that as the preliminary investigator, his responsibilities included determining whether any person on scene required medical attention, securing and preserving the scene, locating and securing evidence such as shell casing, locating and interviewing witnesses, and writing the case report. Ex. G at 45:13-23; 52:10-6.

42. Upon arrival, Officer Pronek followed the chain of command and notified his sergeants of the situation, did a Crime Prevention and Information Center (CPIC) notification, and notified a detective of the shooting incident. Ex. G at 160:8-21.

43. Sergeant Hoyin To was one of the responding supervising sergeants on scene the day of the incident. *See* Sergeant Hoyin To's Deposition, attached hereto as Exhibit H, at 18:24-19:1.

44. Sergeant Hoyin To's responsibility on scene was to determine if there was any request for medical services, to secure the scene, set the perimeter and preserve the evidence. Ex. H at 18:15-19:19.

45. Sergeant Hoyin To further explained that for firearm-discharge incidents, CPD procedure required him to secure the scene, establish a perimeter, preserve the evidence, and make all required notifications, including to his lieutenant regarding the involvement of an off-duty officer. Ex. H at 20:4-16; 34-36; 52-63.

46. Sgt. Butler was another of the responding supervising sergeants on scene of the day of the incident. *See* Sergeant James Butler's Deposition, attached hereto as Exhibit I, Sgt. Butler at 22:19-22.

47. Sgt. Butler's obligation as a responding, supervising officer was to make sure that all of the proper notifications were made and the incident was properly documented. Ex. I at 23:25-24:23.

48. Sgt. Butler directed the notification of the detective division, the evidence technician, talked to Officer Pronek on scene and directed him to locate any shell casings on scene, and then talked to Defendant Mostek. Ex. I. at 53:12-15; 34:25-37:7.

Department's General Orders

49. CPD policies and directives apply to all department members, at all times, regardless of whether they are on-duty or off-duty. All sworn department members are expected to comport themselves in a manner consistent with department rules, including rules regarding use of force, firearm discharge, and post-incident responsibilities *See* Declaration of Lieutenant Robert Flores, attached hereto as Exhibit J, at ¶¶ 5-6.

50. CPD's investigations assess compliance with those directives and are for internal discipline, not whether or not an officer acted within the legal scope of employment. Ex. J at ¶¶ 11-12.

51. General Order 03-06 titled Firearm Discharge and Officer-Involved Death Incident Response and Investigation, requires that following any firearm discharge, the involved member must remain on scene, protect and secure the scene until supervisory personnel arrive, request medical attention for the injured, holster and secure their firearm, and cooperate with the supervisory investigation. Ex. J at ¶ 6; *see also* General Order 3-06 – Firearm Discharge and Officer-Involved Death and Incident Repose and Investigation, attached hereto as Exhibit K, at FCRL002266-002267.

52. Defendant Mostek's actions of leaving the scene immediately after discharging a firearm are more akin to the actions of a civilian, as opposed to an on or off duty department members. Ex. J at ¶ 7.

53. Special Order 04-12 titled Incidents Involving Animals, informs department members of the procedures related to enforcing laws relating to animals, outlines procedures for the inventory of animals, and delineates the notifications required when handling animal-related incidents. Ex. J at ¶ 8-9; *See also* Special Order 04-12 titled Incidents Involving Animals, attached hereto as Exhibit L, at FCRL002378;002382.

54. A Tactical Response Report ("TRR") is a standardized CPD form used to document, investigate, and evaluate reportable use of force of incidents. *See* Declaration of Assistant Director Thomas Stoyias, attached hereto as Exhibit M, at ¶ 4.

55. The TRR is a post-incident document completed by the individual department member to explain, in their own words, what force the department member used and why.

56. CPD supervisor's only reviews the TRR, which is completed by the department member, to ensure sufficiency and completeness. Ex. M. at ¶¶ 5-6.

57. The TRR is intended to be a summary of the events, not a complete factual account of everything that occurred. Ex. D. at pp. 19-20; 24-25.

58. Under section III of G03-02-02, sworn department members **must** complete a TRR when they are in performance of their duties and engage in a reportable use of force, including a Level 2 reportable use of force such as a firearm discharge solely to destroy/deter an animal. Ex. M. at ¶ 8.

59. The TRR is often used as a part of internal reviews or investigations to determine whether the Department member's actions complied with CPD's general orders, special orders, rules, and regulations. Ex. M. at ¶ 6.

60. The completion of the TRR is an administrative step taken after the incident. Ex. M. at ¶ 5.

61. In filling out the TRR, Defendant Mostek checked "no" to the box which asked "did the subject commit an assault or battery against the involved member performing a police function" and checked "defense of self," "overcome resistance or aggression," and "defense of dog/pet" for the box for reason for response. *See* TRR, attached hereto as Exhibit O.

62. Plaintiff admits that the question of whether Defendant Mostek was performing a police function is a legal question. Ex E. at 392:17-393:12; 395:2-8.

Dated: September 15, 2025.

Respectfully Submitted,

THE CITY OF CHICAGO

By: /s/ Simerdeep Kaur
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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION

KENT MAYNARD, JR.,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 24-cv-03612
	)	
THE CITY OF CHICAGO, a municipal corporation, and Chicago Police Officer CARMEN MOSTEK (Star 8664),	)	District Judge Elaine E. Bucklo
	)	Magistrate Judge Young B. Kim
	)	
Defendants.	)	

DEFENDANT CITY'S ANSWER TO FIRST AMENDED COMPLAINT AT LAW, AFFRIMATIVE DEFENSES, AND JURY DEMAND

Defendant City of Chicago, ("Defendant City"), by and through one of its attorneys, Simerdeep Kaur, Assistant Corporation Counsel for the City of Chicago, submits its Answer, Affirmative Defenses, and Jury Demand to Plaintiff's First Amended Complaint, and states as follows:

NATURE OF THE CASE

1. Plaintiff brings this civil rights action to recover damages under 42 U.S.C. §1983.

ANSWER: Defendant City admits the allegations contained within this paragraph.

2. The City of Chicago and Carmen Mostek violated Plaintiff's Fourth Amendment right to be secure in his person and property by using and/or promoting through deliberately indifferent acts, omissions, and policies the use of excessive and deadly force.

ANSWER: Defendant City denies the allegations contained within this paragraph.

3. Plaintiff also seeks relief for state law claims, as set forth hereinbelow.

ANSWER: Defendant City admits the allegations contained within this paragraph.

JURISDICTION AND VENUE

4. This Court has jurisdiction over federal questions pursuant to 28 U.S.C. §1331 and

jurisdiction over civil rights cases pursuant to 28 U.S.C. §1343.

ANSWER: Defendant City admits the allegations contained within this paragraph.

5. This Court also has supplemental jurisdiction over state law claims pursuant to 28 U.S.C. §1367.

ANSWER: Defendant City admits the allegations contained within this paragraph.

6. Venue is proper in this District under Title 28 of the United States Code, §1931(b) because all incidents, events, and occurrences giving rise to this action occurred in the Northern District of Illinois, Eastern Division, and all parties reside in this District.

ANSWER: Defendant City admits the allegations contained within this paragraph.

PARTIES

7. Plaintiff is a natural person who was, at times relevant hereto, a citizen of Illinois, residing in Chicago's Bridgeport neighborhood at 522 W. 29th Street #2, Chicago, IL 60602.

ANSWER: Defendant City admits, upon information and belief, the allegations contained within this paragraph.

8. Defendant Chicago Police Department ("CPD") Officer Carmen Mostek (Star 8664) ("Mostek") is a natural person who was, at times relevant hereto, a citizen of Illinois residing in Chicago's Bridgeport neighborhood next door to Plaintiff at 520 W. 29th Street #2, Chicago, IL 60602.

ANSWER: Defendant City admits, upon information and belief, the allegations contained within this paragraph. Defendant City denies that Defendant Mostek was acting within the scope of her employment as a Chicago Police Officer at the times relevant to this Amended Complaint.

9. Mostek is sued in her individual capacity and as an agent of the City of Chicago.

ANSWER: Defendant City admits that Defendant Mostek is being sued in her individual capacity and that Plaintiff is purporting to sue her as an agent of the City of Chicago. Defendant City denies that Defendant Mostek was acting as an agent of City of Chicago.

10. Defendant City of Chicago is a municipality duly incorporated under the laws of the State of Illinois and the employer of Chicago Police Officer Mostek.

ANSWER: Defendant City admits the allegations contained within this paragraph.

ALLEGATIONS OF FACT

11. Plaintiff and Mostek have lived within a one-block radius of each other in Bridgeport for years and became next-door neighbors on West 29th Street in the Bridgeport neighborhood last October 2023.

ANSWER: Defendant City lacks knowledge sufficient to admit or deny the allegations contained within this paragraph.

12. Before April 22, 2024, Plaintiff, a 68-year-old semi-retired man, lived with his dog Agatha, known as "Aggie," in the rear unit of the two-unit, one-story home next door to Mostek at 522 West 29th Street.

ANSWER: Defendant City lacks knowledge sufficient to admit or deny Plaintiff's age and employment status and admits the remainder of the allegations contained within this paragraph.

13. From February 2021 until April 2024, Plaintiff kept Aggie, a "rescue" dog, as a house pet.

ANSWER: Defendant City admits that the Plaintiff adopted a dog named "Demi" from Chicago Animal Care and Control on February 23, 2021. Defendant City further admits, upon information and belief, that Plaintiff had this adopted dog until April 2024. Defendant City lacks knowledge sufficient to admit or deny the remaining allegations contained within this paragraph.

14. As such, Aggie was never a guard dog confined to an outside yard and never trained or encouraged to be aggressive or intimidating.

ANSWER: Defendant City lacks knowledge sufficient to admit or deny the allegations contained within this paragraph.

15. As with most rescue dogs, Aggie is a mixed-breed dog.

ANSWER: Defendant City admits, upon information and belief, that Aggie is a mixed-breed dog. Defendant City lacks knowledge sufficient to admit or deny the remaining allegations contained within this paragraph.

16. Here is a true and correct photograph of Aggie as she appeared at times pertinent to the instant complaint:



ANSWER: Defendant City lacks knowledge sufficient to admit or deny the allegations contained within this paragraph.

17. Since October 2023, as next-door neighbors, Mostek and Plaintiff occasionally encountered each other with their respective dogs, as Mostek occasionally walked her dog, a "Corgi," in a fenced backyard behind Plaintiff's apartment.

ANSWER: Defendant City lacks knowledge sufficient to admit or deny the allegations contained within this paragraph.

18. Defendant Mostek and Plaintiff saw that Aggie seemed to perceive the Corgi's presence

in the backyard as an intrusion into Aggie's territory.

ANSWER: Defendant City lacks knowledge sufficient to admit or deny the allegations contained within this paragraph.

19. A first attempt to introduce the two dogs to each other to establish comity did not succeed, so it was continued to an unspecified future date.

ANSWER: Defendant City lacks knowledge sufficient to admit or deny the allegations contained within this paragraph.

20. On that and other occasions, Plaintiff and Mostek made the sort of small talk that neighbors often do.

ANSWER: Defendant City lacks knowledge sufficient to admit or deny the allegations contained within this paragraph.

21. As a result of these casual interactions, Plaintiff knew that Mostek was a police officer with the CPD months before April 2024.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

22. In any event, at all times pertinent hereto, the two dogs and their respective owners were neighbors, not strangers.

ANSWER: Defendant City lacks knowledge sufficient to admit or deny the allegations contained within this paragraph.

MAN'S BEST FRIEND

23. Aggie was Plaintiff's constant companion and best friend.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

24. Plaintiff walked Aggie throughout Bridgeport between 26th Street and 35th Street two

or three times a day, every day, covering at least three miles.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

25. During that time, Bridgeport residents (and their dogs) between 26th Street and 35th Street became accustomed to seeing Aggie and Plaintiff walking together, and the two made many fast friends.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

26. Aggie's affectionate and outgoing nature was a potent ice-breaker.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

27. Aggie frequently visited her favorite human and canine friends, particularly her two favorite dog friends, Dexter and Patrick, who lived with their respective families on Parnell south of 31st Street.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

A SHOOTING ON A SUNDAY MORNING

28. At approximately 11:29 a.m. on Sunday, April 21, 2024, Mostek, off-duty and armed with her holstered service weapon, was walking her Corgi east on 29th Street, just west of Normal Avenue and the entrance to her second-floor apartment overlooking the northwest corner of 29th Street and Normal Avenue ("the Corner").

ANSWER: Defendant City denies that the weapon was a "service" weapon. Defendant City admits, upon information and belief, the remaining allegations contained within this paragraph.

29. At 11:30 a.m., as Mostek and her Corgi passed in front of Plaintiff's residence at 522

W 29th Street, Aggie slipped between Plaintiff's legs, exited the home, and ran south toward 29th Street with Plaintiff in hot pursuit. *See* video at https://youtu.be/kfaernDUgCU.

ANSWER: Defendant City admits, upon information and belief, that at approximately 11:30 a.m. Defendant Mostek and Corgi passed in front of Plaintiff's residence. Defendant City admits that around the same time Aggie exited Plaintiff's home and ran south toward 29th street. Defendant City lacks knowledge sufficient to admit or deny the remaining allegations contained within this paragraph.

30. At 29th Street, Aggie turned left and headed east for the Corner.

ANSWER: Defendant City admits, upon information and belief, the allegations contained within this paragraph.

31. The entrance to Plaintiff's apartment is approximately eighty feet from the Corner.



ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

32. Aggie traversed the eighty feet from her door to the Corner in seconds.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

33. By contrast, it took Plaintiff about ten seconds to arrive.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

34. Less than ten seconds later, Aggie was lying dead in a pool of blood after Mostek "had" to shoot her.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

35. After shooting Aggie, Mostek ran from the scene and cloistered herself in her apartment.

ANSWER: Defendant City admits that Defendant Mostek left the scene after the shooting, but denies, upon information and belief, that the remaining allegations are an accurate representation of the events as they occurred and therefore denies them.

MOSTEK'S 911 CALL

36. After Mostek and her uninjured dog ran up to Mostek's apartment, she immediately called 911.

ANSWER: Defendant City denies, upon information and belief, that Defendant Mostek's dog was uninjured, but admits the remaining allegations contained within this paragraph.

37. The recorded call can be heard at https://soundcloud.com/ipra-455127423/log- 2024-0003540-911-call-1.

ANSWER: Defendant City admits the allegations contained within this paragraph.

38. Mostek told the 911 operator, "I'm an off-duty PO . . . there was a dog attacking my dog, and I had to shoot it."

ANSWER: Defendant City admits that Defendant Mostek informed the 911 operator that was an off-duty police officer and had to shoot a dog that was attacking her dog. However, Defendant City denies that the allegations contained this paragraph are a complete and accurate representation of the entire 911 phone call and therefore denies the remaining allegations contained in this paragraph.

39. As a police officer, Mostek must have known it was critical immediately to emphasize the distinction between an "off-duty PO" and private citizen because she knew that if she were a private citizen, she could be taken into custody, interrogated, and subject to prosecution for reckless conduct under 720 ILCS 5/12-5, a Class 4 Misdemeanor punishable by up to a year in prison.

ANSWER: Defendant City lacks knowledge sufficient to admit or deny the allegations contained within this paragraph..

40. As a police officer, Mostek understood that she needed to emphasize two ideas to avoid any negative consequences from shooting Aggie: first, Mostek discharged her service weapon "under color of law" as a sworn peace officer, and second, the actions she took under color of law were also legal, objectively reasonable and in conformity with all applicable laws and regulations.

ANSWER: Defendant City lacks knowledge sufficient to admit or deny the allegations regarding what Defendant Mostek "understood." Defendant City denies the remaining allegations contained within this paragraph.

41. Mostek told the 911 operator her neighbor "was freaking out" and said "he needed help calming down," without mentioning that "the neighbor" had been in the line of fire when Aggie was shot.

ANSWER: Defendant City admits that Defendant Mostek informed the 911 operator that her neighbor "was freaking out" and "needed help calming down," but denies the remaining allegations in this paragraph as they are not a complete and accurate representation of the events as they occurred

42. When Mostek spoke to the fire department about an ambulance for "the neighbor,"

she told them she was "an off-duty who got into a shooting."

ANSWER: Defendant City lacks knowledge sufficient to admit or deny the allegations contained within this paragraph.

43. Mostek did not say that she chose to shoot Aggie.

ANSWER: Defendant City admits the allegations contained within this paragraph.

44. Because she was a sworn peace officer, sworn to keep the peace, Mostek "had" to shoot Aggie because Mostek had sworn to exercise her lawful authority to keep the peace, even if that meant using deadly force.

ANSWER: Defendant City denies that Defendant Mostek was acting under color of law or within the scope of her employment at all times relevant. Defendant City denies that this paragraph contains a complete and accurate statement of the law and facts and therefore the remaining allegations contained within this paragraph.

45. In sum, Mostek's conduct after the shooting was intended to promote two conclusions: first, that whatever Mostek had done was done under color of law, in her capacity as "an off-duty PO," and second, that Mostek's use of deadly force was objectively reasonable, a narrative that was incorporated into subsequent CPD reports, and reported by the news media.

ANSWER: Defendant City denies that Defendant Mostek's actions were taken under color of law or within the scope of her employment. Defendant City lacks knowledge sufficient to admit or deny the remaining allegations contained within this paragraph.

THE ONE-INTERVIEW INVESTIGATION

46. Many police officers responded to the scene after the shooting, dutifully putting crime scene tape around Aggies' body where she lay in a pool of blood at the Corner and aggressively shouting orders to those standing by.

ANSWER: Defendant City admits that several police officers responded to the scene. Defendant

denies that the remaining allegations are a correct characterization of the events as they occurred, and thus, denies the remaining allegations.

47. Before arriving, there had been reports that a man was shot instead of a dog because Plaintiff had been just inches from Aggie when the shot was fired.

ANSWER: Defendant City lack information or knowledge sufficient to admit or deny the allegations contained within this paragraph.

48. After learning that no human being was shot, the CPD officers limited their "investigation" to one interview of one person: Mostek, whom they visited privately in her apartment, away from public view.

ANSWER: Defendant City denies the allegations contained within this paragraph.

49. Based on this one interview, the "investigation" confirmed that Mostek had acted under color of law and adopted the narrative that she used objectively reasonable force when she fired her gun.

ANSWER: Defendant City denies the allegations contained within this paragraph.

OFFICER PRONEK'S OFFICIAL INCIDENT REPORT

50. An official Case Incident Report was signed by Officer Nicholas Pronek, in his capacity as the "Reporting Officer" of record, and stated that he was first to arrive on the scene at 11:36 am, or about five minutes after Mostek's 911 call, and interviewed Mostek. See Exhibit 1.

ANSWER: Defendant City admits the allegations contained within this paragraph.

51. Pronek's Incident Report contains the following Narrative:

> ev#05414 In summary, R/o responded to person shot at the above location. Upon arrival ***R/o was informed that a dog was shot and not a person***. After securing the scene R/o ***spoke with the caller, [V] MOSTEK, CARMEN, off duty police officer,*** who stated to R/o that she was walking her leashed dog on 29th street and Normal
>
> when a pitbull, that escaped from her neighbors [sic] yard, ran up to her dog and started to bite its neck. [V] MOSTEK, CARMEN recalled hearing someone yell "Ag[g]ie, Ag[g]ie!" while her dog was being attacked. At that point [V] MOSTEK, CARMEN attempted to get the pitbull

> off of her dog fearing that her dog would suffer great or deadly harm with negative results. While struggling with the pitbull, her neighbor and owner of the pitbull, attempted to help with negative results and at that point [V] MOSTEK, ***CARMEN drew her service weapon*** and fired one shot striking the pitbull in the head ***stopping the attack***. While conducting and [sic] investigation R/o approached the neighbor who refused to give R/o any of his information at the time. A second attempt to get the neighbors information[1] resulted in the neighbor stating "I don't have to give you and [sic] of my information and you can call me "[redacted]." Ambulance on scene and medical attention was denied by all parties. E.T arrived on scene at 1315 hours. The pitbull was released to its owner to dispose of the remains. BWC recorded event ..... Date: 21- APR-2024, Time: 13:15

ANSWER: Defendant City admits that the allegations contained within this paragraph reflect the language that is contained within the narrative portion of the original case report. Defendant City denies the language is emphasized as it is emphasized within the allegations contained within this paragraph. Defendant City further denies that Defendant Mostek was using a "service weapon."

52. Pronek's narrative identifies "the caller" as "MOSTEK, CARMEN, off duty police officer," not a private citizen going about purely private matters. *Id.*

ANSWER: Defendant City admits that the narrative of the original case incident reports identifies Defendant Mostek as an off duty police officer but denies the remaining allegations contained within this paragraph.

53. Pronek states that Mostek "drew her service weapon" and used deadly force "to stop[] the attack" thus nullifying a threat to herself, her dog, and the general public.

ANSWER: Defendant City admits that the case incident report states that Mostek "drew her service weapon and fired one shot striking the pitbull in the head," but denies the remaining allegations contained within this paragraph, including that Defendant Mostek was using a "service weapon."

54. As such, the official Incident Report describes Mostek's conduct as undertaken by an "off-duty PO," i.e. under pretense of lawful authority and objectively reasonable to keep the peace.

ANSWER: Defendant City denies the characterization of events as they are contained within this

paragraph and thus, denies the allegations contained within this paragraph.

THE NEWS MEDIA DISSEMINATES THE OFFICIAL STORY

55. The evening of April 21, 2024, various media outlets echoed the official line – promulgated by Mostek and Pronek -- that the Incident was a justified use of deadly force by an off-duty police officer acting reasonably to stop a deadly attack.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

56. The following is typical of the media coverage:

> CHICAGO (WLS) -- An off-duty Chicago police officer fatally shot a dog Sunday on the South Side. The shooting happened in the 500 block of West 29th Street, in the Bridgeport neighborhood, Chicago police said. A 30-year-old woman was walking her dog on a leash when an unleashed pit bull dog left a yard. The pit bull began to bite the neck of the woman's dog, police said. The owners of the two dogs were unable to separate them. ***The woman produced a firearm and shot the pit bull to stop the attack, police said***. A source told ABC7 the 30-year-old woman was an off-duty Chicago police officer. The remains of the pit bull were returned to the owner. No citations were issued, Chicago police said. No further information was immediately available.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

CAPTAIN POPPISH'S TACTICAL RESPONSE REPORT

57. Six days later, on April 27, 2024, a "Tactical Response Report" ("TRR") was signed by Captain Michael Poppish regarding the Incident. See Exhibit 2.

ANSWER: Defendant City admits the allegations contained within this paragraph.

58. The TRR seems to rely heavily on the narrative in Pronek's Incident Report, falling in line with the notion that Mostek was "an off-duty PO" acting under pretense of law who used reasonable force to stop a vicious attack.

ANSWER: Defendant City denies the allegations contained within this paragraph.

59. The TRR recites an attack "near [the] dog's neck with biting and mauling aggressively and at a fast speed."

ANSWER: Defendant City admits the allegations contained within this paragraph.

60. The "subject" (Aggie) was an appropriate object of deadly force because of a "physical attack" involving "mouth/teeth/spit," "grab/hold/restrain," and "us[ing] force likely to cause death or great bodily harm."

ANSWER: Defendant City denies that the allegations contained within this paragraph are an appropriate and accurate characterization of the TRR report, and, thus denies the allegations contained within this paragraph.

61. The type of "activity" that prompted Mostek's use of deadly force was "ambush – no warning."

ANSWER: Defendant City admits the allegations contained within this paragraph and avers that the "other – describe in narrative" is also listed under the subject's "type of activity" portion of the TRR.

62. Significantly, the TRR refers to Mostek as an "involved member ***performing a police function***," reflecting the fact that neutralizing an ambush involving force likely to cause death or great bodily harm commenced with no warning is an act closely related to a police officer's official duties and squarely within the scope of her employment.

ANSWER: Defendant City denies the allegations contained within this paragraph.

63. The variously stated reasons in the TRR for Mostek's "response" are "Defense of Self," "Overcome Resistance or Aggression," and "defense of dog/pet," subject to Mostek's conclusion that "[she] was [] ***forced*** to shoot Aggy [sic] in order to save [her] dog Buddy and ***prevent injury to [her]self***."

ANSWER: Defendant City admits that the TRR states that Defendant Mostek's "reason for response" states "defense of self," "overcome resistance or aggression," "other defense of dog/ pet," but denies

the remaining allegations contained within this paragraph as they are an incomplete and inaccurate characterization of the TRR.

64. Significantly, the Incident Commander reports that "BASED ON THE PRELIMINARY INFORMATION THAT I HAVE REVIEWED AND THAT WAS AVAILABLE AT THE TIME OF THIS REPORT, [MOSTEK'S] USE OF FORCE RESPONSE APPEARS TO BE IN COMPLIANCE WITH DEPARTMENT POLICY AND DIRECTIVES."

ANSWER: Defendant City denies that the allegations contained within this paragraph are a complete and accurate recitation of the incident commander notes as they are contained within the TRR and, thus, denies the allegations contained within this paragraph.

65. The TRR's "investigation comments" conclude, "[i]t was determined that [Mostek] be placed in the Traumatic Incident Stress Management Program after checking on her wellbeing."

ANSWER: Defendant City admits the allegations contained within this paragraph.

66. As such, CPD took responsibility for the psychological trauma that Mostek suffered in the Incident, presumably because the trauma was suffered while Mostek was performing her official duties as a peace officer (*i.e.* acting under color of law), and using objectively reasonable force.

ANSWER: Defendant City denies the allegations contained within this paragraph.

THE "INVESTIGATION" IN NAME ONLY[1]

67. The TRR reported that "R/SGT [(Pronek)] RESPONDED TO THE SCENE. R/SGT WAS UNABLE TO IDENTIFY ANY WITNESSES ON SCENE."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

1 The allegations contained in this section pertain to Plaintiff's Monell claim, which was dismissed by this Court on November 4, 2024 (Dkt. 49). The City therefore makes no response to these allegations. The City denies any wrongful or illegal conduct.

68. By contrast, before the multiple responding officers had left the scene, Plaintiff had openly collected contact information for multiple eyewitnesses who expressed a willingness to talk, and by the time the TRR was written, COPA had already identified and interviewed at least three eyewitnesses.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

69. Following their time-honored tradition, the officers responding to the Incident did not ask any civilian what had occurred.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

70. Instead of conducting an investigation, they set the stage for a coverup that would permit CPD officers to control the narrative, just as they did in the infamous case of Laquan McDonald.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

71. To preserve their willful ignorance of Mostek's conduct, no CPD officer asked if anyone had seen what happened; conducted an interview or took down contact information from the multiple witnesses who were present and expressed a willingness to talk; or asked the Plaintiff who was easily identified, what had happened.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this

paragraph.

72. As in the case of Laquan McDonald, Mostek and her fellow members seem to have assumed CPD could control the narrative because there was no video record of what had actually transpired on the Corner.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

AFTER MOSTEK AND THE CPD REPORTED THAT HER USE OF DEADLY FORCE WAS REASONABLE, A VIDEO SURFACES

73. Not long after the cover-up seemed complete, a surveillance video came to light. See https://vimeo.com/949971398, "the Video."

ANSWER: Defendant City admits that the video contained within this paragraph is a surveillance video of the incident but denies the remaining allegations contained within this paragraph.

74. The Video shows Mostek acting openly and under color of law because, since 1945, it has been clear that "under color of law" does not mean "lawfully" or "not in violation of law," but rather that an act was committed under "the pretense of lawful authority," whether lawful or not.

ANSWER: Defendant City denies the allegations contained within this paragraph.

75. The Video shows that Mostek's description of the Incident – which was incorporated into CPD's official reports of the Incident -- is a lie.

ANSWER: The City denies that these allegations completely and accurately reflect the incident in question and therefore denies the allegations contained in this paragraph.

76. It is beyond dispute that Mostek's sudden and explosive use of deadly force, start- to-finish in less than a minute, was not only objectively unreasonable but also rash, reckless, indifferent to human life, heartless, and depraved.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

77. The Video shows the west side of Normal Avenue and begins seconds after Aggie arrives at the Corner.

ANSWER: Defendant City admits that the video shows the west side of Normal Avenue but lacks knowledge sufficient to admit or deny the remainder of this paragraph

78. There, Aggie encounters Mostek's Corgi, and a skirmish ensues, which Mostek observes without attempting to separate the dogs.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the events as they occurred and therefore denies them.

79. Indeed, the Video shows that Mostek did not at any time try to separate the dogs.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the events as they occurred and therefore denies them.

80. Instead, no more than one or two seconds after the dogs first engaged, Mostek drew her service weapon.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the events as they occurred and therefore denies them.

81. Approximately three seconds into the Video, Plaintiff arrived on the scene, running from his apartment.

ANSWER: Defendant City admits the allegations contained within this paragraph.

82. By then, unbeknownst to Plaintiff, Mostek was brandishing her service weapon and moving closer to Aggie to get a better shot at her.

ANSWER: Defendant denies the allegations contained within this paragraph.

83. A second or two later, Plaintiff and Mostek converged at a point just west of the two

dogs in the street, just east of the curb.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the events as they occurred and therefore denies them.

84. Plaintiff was approaching Aggie to immobilize her; Mostek was moving closer to shoot her.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

85. As Plaintiff seemed about to reach down and grab Aggie, Mostek shouldered him to the right, away from his dog.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

86. Mostek continued to push her right shoulder against Plaintiff as he attempted to reach Aggie.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

87. The Video shows Mostek continuing to exert pressure against Plaintiff until he falls to the pavement.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the events as they occurred and therefore denies them.

88. By this time, the Video had shown the two dogs closely engaged for about three seconds.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the events as they occurred and therefore denies them.

89. The Video shows that while falling to the pavement, Plaintiff nonetheless managed to

throw himself on top of Aggie and wrap his arms around her, pulling her to his chest.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the events as they occurred and therefore denies them.

90. As such, the only part of Aggie's anatomy that was not covered by Plaintiff's body was her head, which was just inches from Plaintiff's head, as the two lay in the street at Mostek's feet, side-by-side.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the events as they occurred and therefore denies them.

91. By this time, as the Video shows, Mostek's dog had disengaged and was uninjured and moving away from where Plaintiff and Aggie lay on the pavement.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the events as they occurred and therefore denies them.

92. Mostek, in an unstable position after pushing Plaintiff to the ground, lurched forward, out of balance, and then seemed to be stepping back, still struggling to regain her balance.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the events as they occurred and therefore denies them.

93. While still moving and out of balance, Mostek, holding her pistol loosely in one hand, fired one shot at the place where Aggie and Plaintiff were lying side by side on the ground.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the events as they occurred and therefore denies them.

94. The bullet struck Aggie in her left ear, just inches from Plaintiff's face.

ANSWER: Defendant City admits that the bullet struck Aggie in her head below her left ear but lacks knowledge or information sufficient to admit or deny the remaining allegations contained within this paragraph.

95. The bullet killed Aggie instantly.

ANSWER: Upon information and belief, Defendant City admit the allegations contained within this paragraph.

96. After the shot rang out, Plaintiff felt Aggie go limp beneath him and looked down and saw her eyes were lifeless and that blood was draining from her mouth.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

97. Plaintiff, enveloped in the smoke from Mostek's gun, looked up toward the curb, where he saw Mostek standing, holding the pistol still pointed down at him, her uninjured dog behind and to the right of her on the sidewalk.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

98. As the video shows, Plaintiff asked, in shock and disbelief, "Did you just shoot my dog?" to which Mostek calmly and matter-of-factly replied, "She attacked my dog."

ANSWER: Defendant City admits that Plaintiff asked "Did you just shoot my dog?" and Defendant Mostek stated "She attacked my dog," but lacks knowledge or information sufficient to admit or deny the remaining allegations contained within this paragraph.

99. Those were the only words that Mostek uttered before she turned, walked, picked up her dog's leash from the sidewalk, and then ran north on Normal Avenue towards the entrance of her apartment, the Corgi running beside her.

ANSWER: Defendant City admits the allegations contained within this paragraph.

100. Seconds after the shooting, an eyewitness in a second-floor apartment on the south side of 29th Street placed a 911 call to report that Mostek had shot a man who was lying on the ground. Available at https://soundcloud.com/ipra-455127423/log-2024-0003540-911-

call2?utm_source=www.chicagocopa.org&utm_campaign=wtshare&utm_medium=widget&utm_content=https 253A 252F 252Fsoundcloud.com 252Fipra-455127423 252Flog-2024-_0003540-911-call2.

ANSWER: Defendant City admits that the link referenced withing the allegations contained within this paragraph is a recording of a 911 call made to OEMC after the incident occurred.

101. That is because Plaintiff and Aggie were so close together when Mostek fired that the shot that killed Aggie appeared to be intended for Plaintiff.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

102. In any event, here is a true and accurate photograph of Aggie shortly after Mostek shot her:



ANSWER: Upon information and belief, Defendant City admits the allegations contained within this paragraph.

103. Whatever her motivation, the Video showed that Mostek brutally killed Aggie by discharging her service weapon on a public sidewalk in a densely populated residential neighborhood about midday on a sunny Sunday *while pointing the gun at Plaintiff*, who was lying on the ground, in the line of fire, holding Aggie, at a time when Aggie was no threat to Mostek, her dog, or anyone else.

ANSWER: Defendant City denies the allegations contained within this paragraph.

104. While staggering out of control and out of balance, Mostek discharged her service weapon, and the bullet she fired missed Plaintiff's face by a matter of inches.

ANSWER: Defendant City denies the allegations contained within this paragraph.

105. Mostek seemed to have fixated on shooting Aggie the instant the skirmish began when she unholstered her weapon.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

106. Thereafter, Mostek did not let anything—not even Plaintiff's presence in the line of fire—deter her from that course of action.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

107. As such, Mostek's first and only response to the dogfight was to unholster her service weapon and use deadly force – even when it jeopardized a human life.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

108. Regardless of where she intended to shoot, Mostek fired a round that could have very easily killed Plaintiff directly or by ricochet – at a time when there was no threat to Mostek, her dog,

or anyone else.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

109. The Video showed that actions taken by Mostek under color of law were unlawful in that they were objectively unreasonable and failed to conform with the written policies, practices, and procedures of the CPD, which promote de-escalation and the use of deadly force as a last resort, with due regard for the sanctity of life.

ANSWER: Defendant City denies the allegations contained within this paragraph.

110. Instead, Mostek's conduct followed the real (as distinct from the written) CPD policies, practices, and procedures, the ones that embrace excessive force and treating people "as animals or subhuman."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

111. CPD requires an investigation and report whenever a member discharges a firearm.

ANSWER: Defendant City admits the allegations contained within this paragraph.

112. Following the time-honored customs and practices that CPD officers have always used to hide their misconduct, Carmen fabricated a clichéd story about a vicious pit bull running at large that was in the process of killing her dog, its jaws locked around her dog's neck, forcing her heroically to intervene and save her dog's life.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

113. The Video showed that this was a lie.

ANSWER: Defendant City denies the allegations contained within this paragraph.

114. For example, the Video did not show Mostek and Plaintiff trying to pull Aggie off of

Mostek's dog as it was being bitten in the neck, just a "split moment" from death.

ANSWER: Defendant City lacks knowledge and information sufficient to admit or deny the allegations contained within this paragraph..

115. Indeed, Mostek's dog suffered not so much as a scratch in the Incident.

ANSWER: Defendant City denies the allegations contained within this paragraph.

116. The Video showed a brutal and senseless killing of a dog, ***and very nearly of Plaintiff***, carried out by an "off-duty PO" who assumed the role of judge, jury, and executioner to kill a dog less than one minute after it exited its home.

ANSWER: Defendant City denies the allegations contained within this paragraph.

MOSTEK PROVIDED A FALSE NARRATIVE FOR THE INCIDENT REPORT

117. It is a violation of CPD policies and the law to submit a false report to the police.

ANSWER: Defendant City admits allegations contained within this paragraph.

118. In Mostek's story, Mostek's use of deadly force was justified as necessary and reasonable – but the Video made it clear that her use of deadly force was, in fact, not needed to protect anything at all and had put Plaintiff's life – a human being's life -- in grave peril.

ANSWER: Defendant City denies allegations contained within this paragraph.

119. Officer Pronek and Captain Poppish passively and unquestioningly accepted Mostek's false narrative without any attempt to verify its accuracy.

ANSWER: Defendant City denies the allegations contained within this paragraph.

120. CPD did not identify or interview a single witness other than Mostek.

ANSWER: Defendant City denies the allegations contained within this paragraph

121. Even a cursory investigation by CPD would have revealed that which the Video showed: Mostek shot a house pet as it was held in her owner's arms, not a pit bull that was mauling a dog.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the events as they occurred and therefore denies them.

122. Even if it were true (it is not), Mostek's exculpatory narrative would not justify her conduct as a matter of law because there is no license to use deadly force against a human being to protect a dog.

ANSWER: Defendant City denies the allegations contained within this paragraph.

123. The Video shows that in shooting Aggie in cold blood, Mostek showed complete disregard for the sanctity of human life and used grossly disproportionate force against Plaintiff when neither he nor Aggie presented any threat to Mostek – or her dog.

ANSWER: Defendant City denies the allegations contained within this paragraph.

124. Before her unreasonable use of excessive force, Mostek did not seek to de-escalate the situation.

ANSWER: Defendant City denies the allegations contained within this paragraph.

125. She did not direct Plaintiff to step away from Aggie, nor did she warn Plaintiff, as she held her pistol pointed at him, that she was about to fire.

ANSWER: Defendant City lacks information or knowledge sufficient to admit or deny the allegations contained within this paragraph.

THE COVER-UP IS STILL ONGOING AS CPD STONEWALLS FOIA REQUESTS AND FAILS TO CORRECT THE INCIDENT REPORT

126. CPD has not amended or modified the obviously inaccurate reports of the Incident, nor has it responded to FOIA requests served on them and now weeks past due.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

127. As far as the official CPD record is concerned, the Video does not exist.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count

II), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

128. The Video has had no impact on CPD because it came as no surprise that Mostek used excessive force as part of a widespread practice promoted, tolerated, and condoned by a culture of over-aggressive policing in the Chicago Police Department that has persisted for years because of the deliberate indifference of senior policymakers.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

129. Mostek's brutal overreaction in conformity with CPD's unwritten policy on excessive force placed Plaintiff's life in jeopardy and deprived Plaintiff of security in his person and property without due process of law.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

130. Mostek and the responding officers, purportedly on the scene to investigate what happened, automatically engaged in a cover-up in accordance with CPD's well-established pattern and practice of allowing CPD officers to engage in deadly misconduct with impunity.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), therefore, the City makes no answer to the allegations contained within this paragraph.

131. Mostek's conduct on April 21, 2024, shows that even though neither she nor her dog was subject to any imminent threat of harm, she was unwilling or unable to determine a necessary, reasonable, and proportional use of deadly force.

ANSWER: Defendant City denies the allegations contained within this paragraph.

132. The instant action is necessary to redress Mostek's outrageous conduct, carried out under pretense of the lawful authority conferred on a peace officer because, long after a Department of Justice report lambasting CPD, CPD has still not made a good-faith effort to investigate and enforce

its written rules for using deadly force and cannot be relied upon to do so.

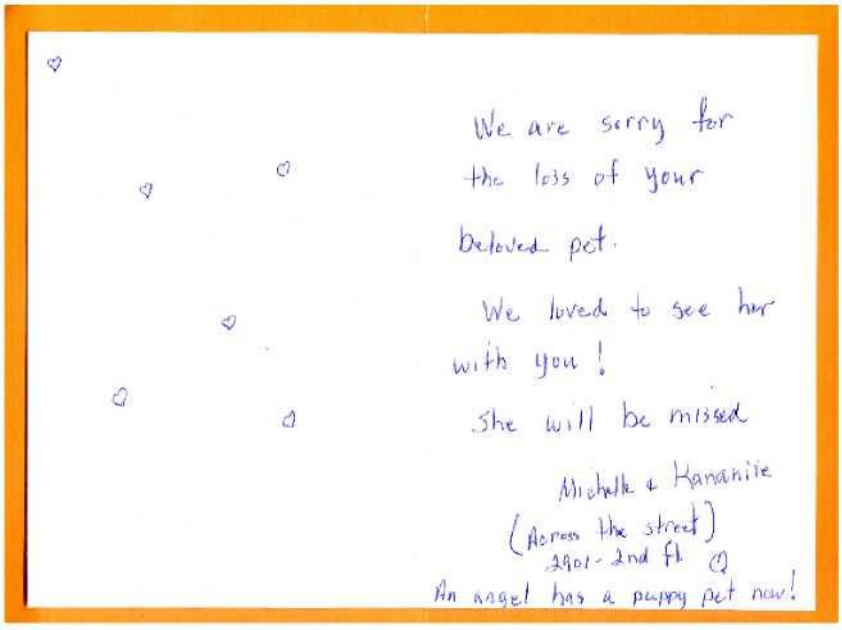
ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph

MOSTEK ORCHESTRATED A CAMPAIGN OF HARASSMENT AND INTIMIDATION AGAINST PLAINTIFF AND OTHER NEIGHBORS TO PROCURE THEIR SILENCE

133. In the days after the incident, some of the many people Aggie had befriended on her daily walks showered Plaintiff with condolences.

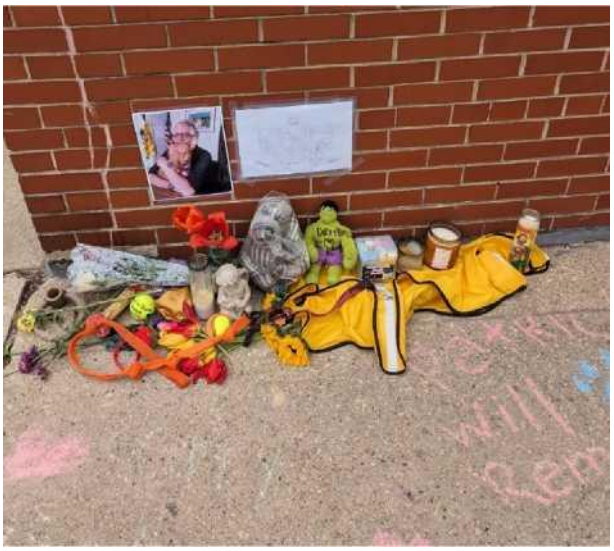
ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

134. One such condolence that is representative of many others is as follows:



ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

135. The neighborhood also spontaneously created a memorial to Aggie, including, among other things, Aggie's collar and leash, thus:



ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

136. Within 48 hours, someone took the memorial down during the night.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

137. On information and belief, that "someone" was Mostek, who threw many of the objects in the memorial into the garbage cans behind her apartment.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

138. Aggie's friends in the community immediately rebuilt the memorial to look like this:



ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

139. Within a day, the memorial was again taken down, with all the objects and messages thrown in a garbage can behind Mostek's apartment.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

140. Significantly, Plaintiff's apartment and Carmen's next-door apartment share a common owner.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the allegations contained within this paragraph.

141. In the week after the shooting, Plaintiff heard rumors that Carmen was "working the phones" to dispel -- by telling lies and slandering Plaintiff -- the appearance that she was a trigger-happy sociopath who presented a clear and present danger to the community.

ANSWER: On November 4, 2024, this Court held that any claim seeking to hold the City liable for Mostek's alleged defamation is dismissed, (Dkt. 49), thus, the City make no answer to the allegations contained within this paragraph.

142. On Sunday, April 28, 2024, one week from the date of Aggie's execution, Plaintiff was advised that, because of false and defamatory statements made by Mostek, his Landlord was giving him two weeks to quit his apartment.

ANSWER: On November 4, 2024, this Court held that any claim seeking to hold the City liable for Mostek's alleged defamation is dismissed, (Dkt. 49), thus, Defendant City make no answer to the allegations contained within this paragraph.

143. On information and belief, Mostek told Landlord that Mostek had killed Aggie because she was a vicious pit bull and a danger to the community and that Plaintiff was an irresponsible scofflaw who could not be trusted to ensure that his dog did not harm others.

ANSWER: On November 4, 2024, this Court held that any claim seeking to hold the City liable for Mostek's alleged defamation is dismissed, (Dkt. 49), thus, the City make no answer to the allegations contained within this paragraph.

144. Based on Mostek's lies, Landlord purported orally to terminate Plaintiff's leasehold such that he, a 68-year-old man, is now subject to mid-term eviction if Mostek's lies are given full effect.

ANSWER: On November 4, 2024, this Court held that any claim seeking to hold the City liable for Mostek's alleged defamation is dismissed, (Dkt. 49), thus, the City make no answer to the allegations contained within this paragraph.

145. Mostek's first wrongful act was the excessive use of deadly force that endangered a Plaintiff's life without any justification.

ANSWER: Defendant City denies the allegations contained within this paragraph.

146. Mostek's second wrongful act was making a false police report based on a story that she knew was false.

ANSWER: Defendant City lacks knowledge or information sufficient to admit or deny the

allegations contained within this paragraph.

147. Mostek's third wrongful act was the orchestration of a campaign to harass, intimidate, and defame Plaintiff into silence and force him out of his home.

ANSWER: On November 4, 2024, this Court held that any claim seeking to hold the City liable for Mostek's alleged defamation is dismissed, (Dkt. 49), thus, the City make no answer to the allegations contained within this paragraph.

CPD'S CONDUCT FOLLOWED A LONG-ESTABLISHED PATTERN: EXPLOIT THE CODE OF SILENCE TO LIE AND HIDE THE TRUTH

148. Since 2019, CPD has been operating under a court-imposed consent decree because of its stubbornly persistent pattern and practice of using excessive force.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, the City makes no answer to the allegations contained within this paragraph.

149. This widespread pattern and practice is not due to a lack of written policies: CPD has strict written rules about using deadly force.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, the City makes no answer to the allegations contained within this paragraph.

150. However, written rules have no impact unless they are respected and followed in practice.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, the City makes no answer to the allegations contained within this paragraph.

151. CPD disregards its written rules and follows a custom and practice of brutality and excessive force anchored in the notion that CPD officers are above the law and protected by a code of silence.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, the City makes no answer to the allegations contained within this paragraph.

152. Given the CPD's longstanding pattern and practice of over-aggressive and violent responses to civilian encounters, even in the absence of any crime, it is not surprising that the CPD officers who responded to Aggie's execution did not want to learn the truth about what happened.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, the City makes no answer to the allegations contained within this paragraph.

MOSTEK'S USE OF DEADLY FORCE VIOLATED CPD'S WRITTEN POLICIES

153. Chicago Police Department General Order G03-02 ("the General Order") governs the use of deadly force by police officers in the field.

ANSWER: Defendant City admits the allegations contained within this paragraph.

154. General Order Article II, sections A. and B., state as follows:

> A. Sanctity of Human Life. The Department's highest priority is the sanctity of human life. In all aspects of their conduct, Department members will act with the foremost regard for the preservation of human life and the safety of all persons involved.
> B. Public Cooperation. A strong partnership with the public is essential for effective law enforcement. Inappropriate or excessive uses of force damage that partnership and diminish the public trust that is a cornerstone of policing in a free society.

ANSWER: Defendant City admits that the allegations contained within this paragraph quotes portions of Chicago Police Department's General Order G03-02 (the "General Order").

155. Article III of the General Order provides that police officers may only use force that is objectively reasonable, necessary, and proportional in order to ensure the safety of a member or third person, stop an attack, make an arrest, control a subject, or prevent escape.

ANSWER: Defendant City denies that the allegations contained within this paragraph properly quotes the General Order, and, therefore denies the allegations contained within this paragraph.

156. Factors that may be considered in determining whether force was objectively reasonable include whether the subject poses an imminent threat to the officer or others, the risk of harm, the level of threat or resistance presented by the subject, and the subject's proximity or access

to weapons.

ANSWER: Defendant City admits that the allegations contained within this paragraph lists some of the determining factors for use of force that are listed in the General Order.

157. Article III B 4 provides that police will use de-escalation techniques to prevent or reduce the need for force when it is safe and feasible to do so "based on the totality of the circumstances[, including] continually assessing the situation and modifying the use of force as circumstances change and in ways that are consistent with officer safety."

ANSWER: The City admits that the allegations contained within this paragraph contains language included in the General Order, but denies the language is listed in subsection B 4.

158. Article III B 5 states, "[t]he use of excessive force, unwarranted physical force, or unprofessional conduct by a Department member is prohibited and will not be tolerated" and that "Force used as punishment or retaliation is prohibited."

ANSWER: The City admits that the allegations contained within this paragraph contains language included in the General Order, but denies the language is listed in subsection B 5.

159. According to the General Order, deadly force includes both pointing and discharging a firearm in the direction of a person.

ANSWER: Defendant City admits that the General Order includes "firing a firearm in the direction of a person to be arrested" as one of the definitions of deadly force and denies the remaining allegations contained within this paragraph.

160. An "imminent threat" must exist to justify using deadly force.

ANSWER: Defendant City denies that the allegations contained within this paragraph are an accurate characterization of the General Order, and, therefore, denies the allegations contained within this paragraph.

161. An "imminent threat" exists when it is objectively reasonable to believe three conjunctive elements, namely: the subject's actions are immediately likely to cause death or great bodily harm to the member or others unless action is taken, and the subject has the means or instruments to cause death or great bodily harm, and the subject has the opportunity and ability to cause death or great bodily harm.

ANSWER: Defendant City admits the allegations contained within this paragraph.

162. The General Order, distilled to its essence, provides that deadly force is a last resort that can only be used directly to address an imminent threat ***to a human being, not a dog***.

ANSWER: Defendant City denies the allegations contained within this paragraph.

163. Imagined threats of imminent harm to a dog are not included in the definition of "imminent threat."

ANSWER: Defendant City denies that the allegations contained within this paragraph is a proper characterization of the General Order, and, therefore, denies the allegations.

164. Significantly, the General Order does not permit using deadly force against a human being to nullify a threat of harm to a dog, even if that had occurred here (it did not; Mostek's dog was unharmed).

ANSWER: Defendant City denies that the allegations contained within this paragraph is a proper characterization of the General Order, and, therefore, denies the allegations.

165. Article Five of the Rules and Regulations of the Chicago Police Department sets forth various prohibited acts, including:

> Rule 8: Disrespect to or maltreatment of any person *while on or off duty*.
>
> Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
> COMMENT: Rules 8 and 9 ***prohibit the use of any excessive force by any membe***r. ***These rules prohibit all brutality***, and physical or verbal maltreatment of any citizen *while on or off duty*, including any unjustified altercation of any kind.

Rule 15: Making a false report, written or oral;
Rule 38: ***Unlawful or unnecessary use or display of a weapon***;

ANSWER: Defendant City admits the allegations contained as it relates to Rule 8, Rule 9, and Rule 38. Defendant City clarifies that the rule listed as Rule 15 is actually Rule 14 and denies that any of the language in any of the rules is emphasized as it is within the allegations contained in this paragraph.

166. As stated, the foregoing written rules are observed only in the breach.

ANSWER: Defendant City denies the allegations contained within this paragraph.

167. In violation of CPD's written policies and applicable law, Mostek and other police officers routinely apply their customary use of excessive force without fear of being held to account because violations are routinely covered up or explained away, especially where the police have executed the only witness who can reveal the truth.

ANSWER: Defendant City denies the allegations contained within this paragraph.

THE CITY IS RESPONSIBLE FOR MOSTEK'S USE OF EXCESSIVE FORCE BECAUSE SHE ACTED IN CONFORMITY WITH THE CPD'S WIDESPREAD AND WELL-ESTABLISHED CULTURE OF EXCESSIVE FORCE AND ITS CODE OF SILENCE

168. At all times pertinent hereto, Mostek was acting under color of state law and within the scope of her employment with the City of Chicago as a sworn police officer and is sued here in her individual capacity and as an agent of the City of Chicago.

ANSWER: Defendant City denies that Defendant Mostek was acting under color of state law and within the scope of employment with the City of Chicago. Defendant City admits that Plaintiff purports to sue Defendant Mostek in her individual capacity and as an agent of the City.

169. While a peace officer is expected to protect persons and property, using deadly force that jeopardizes human life is not permitted to protect a dog.

ANSWER: The City denies that this paragraph contains a complete and accurate statement of the law and the facts and therefore denies the allegations contained in this paragraph.

170. Chicago is responsible for CPD's written and customary policies, practices, and customs, including those applicable to the use of deadly force.

ANSWER: The allegations contained within this paragraph are a vague and inaccurate statement of the organization of the City's written and customary policies, practices, and customs and, therefore, the City denies the allegations contained within this paragraph.

171. The City is also responsible for enforcing its written policies, practices, and customs in the field.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's Monell claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

172. As alleged with particularity herein, Defendants violated rights secured to Plaintiff by the due process Clause of the Fourth Amendment to the United States Constitution by promoting a culture that promotes violence over de-escalation.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

173. Plaintiff has been damaged and will continue to be damaged by Defendants' actions and is entitled to monetary damages.

ANSWER: Defendant City denies the allegations contained within this paragraph.

174. The instant suit seeks relief for Defendants' violation of the due process Clause of the Fourth Amendment to the United States Constitution, which violation is actionable under 42 U.S.C.A. §1983.

ANSWER: Defendant City admits that Plaintiff seeks relief for alleged violations of his Fourth Amendment right, but denies any wrongdoing.

175. Defendants are "persons" under 42 U.S. C. A. §1983.

ANSWER: Defendant City admits the allegations contained within this paragraph.

176. Defendants acted "under color of state law" for purposes of 42 U.S.C.A. §1983.

ANSWER: Defendant City denies the allegations contained within this paragraph.

177. Mostek drew and fired her City-issued service firearm because, as an "off-duty PO," "she had to."

ANSWER: Defendant City denies the allegations contained within this paragraph.

178. The CPD custom and practice of shooting first and asking questions later was the moving force behind Mostek's conduct.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

179. Defendants acted with deliberate indifference to Plaintiff's right to be secure in his person and property because policymakers' tacit endorsement of excessive violence has caused shocking incidents of excessive force and will foreseeably continue to endanger lives.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, the City makes no answer to the allegations contained within this paragraph.

CPD HAS A LONG AND STUBBORN PATTERN AND PRACTICE OF EXCESSIVE DEADLY FORCE

180. In December 2015, after Laquan McDonald was gunned down by a police officer who claimed to be reasonably exercising deadly force, the U.S. Attorney General launched a broad civil rights investigation into CPD's corrupt policing practices.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

181. In January 2017, the U.S. Department of Justice (DOJ) released the results of its investigation, finding a longstanding, pervasive "pattern or practice" of civil rights abuses by the CPD, including excessive use of deadly force. *See* Exhibit 3, *passim*.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

182. The DOJ report concluded, in sum and substance, that Chicago police use excessive force and often treat people "as animals or subhuman." Id.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

183. In August 2017, the Office of the Illinois Attorney General (OAG) sued the City of Chicago in federal court, seeking a Consent Decree to address the DOJ's findings and recommendations.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

184. Judge Dow presided over the OAG suit against Chicago.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

185. In that proceeding, OAG negotiated a Consent Decree with the City.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this

paragraph.

186. In March 2018, the Parties to the Consent Decree—the OAG and the City—also entered into a Memorandum of Agreement with certain community organizations committed to monitoring, enforcing, and educating the community about the Consent Decree.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

187. The OAG and the City sought proposals for an Independent Monitoring Team for the Consent Decree ("IMT").

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

188. Judge Dow approved and signed the Consent Decree on January 31, 2019.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

189. An independent monitor was named on March 1, 2019, the effective date of the Consent Decree.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

. **CPD CONTINUES UNCONSTITUTIONALLY TO USE DEADLY FORCE DESPITE THE DOJ INVESTIGATION, THE OAG SUIT, THE CONSENT DECREE, THE IMT, AND THE PATF**

190. Even after the establishment of the IMT and the so-called Police Accountability Task

Force ("PATF"), the pattern and practice of hyper-aggressive policing has been perpetuated by cover-ups whenever necessary to protect a fellow officer from scrutiny and consequences. *See Id.*

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

191. Mostek used excessive and unconstitutional force on April 21, 2024, because she knew that such conduct was condoned by CPD's most senior policymakers, knew that she would never be called to account for her conduct, and knew that her fellow officers could be relied upon to accept and parrot whatever exculpatory nonsense she fed them.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

192. Mostek was following CPD's longstanding policy and practice of encouraging officers to point guns at community members without justification when she pointed her gun at the Plaintiff and fired.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

193. In disregard of written policies, Chicago police officers routinely point their guns at people at the first instance of uncertainty rather than as a last resort.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

194. According to CPD's own data, Chicago police officers point guns at people an average

of nearly ten times a day.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

195. Police officers pointed their guns at over 3,500 adults ***and children*** in 2022.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

196. According to CPD's own data, CPD documented uses of gun-related force have risen significantly over the past several years.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

197. From 2022 to 2023, CPD officers were on track to increase instances of gun pointing by 19%.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

198. From 2022 to 2021, there was also a 22 % increase.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

199. Mostek's conduct on April 21, 2024, directly results from CPD's failure to enforce its

written policies on using deadly force.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

200. CPD has failed to comply with the existing Consent Decree requirements for curbing the excessive use of guns.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

201. CPD has failed to promulgate policies, procedures, and practices sufficient to prevent officers from unreasonably and unlawfully pointing guns at community members.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

202. CPD, as a matter of pattern and practice, relies upon overly aggressive tactics that unnecessarily escalate encounters with individuals, increase tensions, and lead to excessive force.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

203. In encounters with individuals that begin consensually, or in cases in which officers stop individuals purportedly for low-level violations, officers repeatedly use the most intrusive forms of police response possible-including guns.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count

II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

204. They do so even where, as here, individuals do not present a threat to the officers or other bystanders.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

205. Even where some use of force may be justified, CPD officers, as a matter of practice and despite written regulations, use a higher level of force than is objectively reasonable.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

206. The DOJ observed this trend of escalation in shootings, finding CPD officers regularly engaged in "unnecessarily escalating confrontations," which resulted in "avoidable uses of force and resulting harm, including deaths."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

207. PATF similarly found "many examples of CPD encounters with citizens in routine situations that have gone tragically wrong."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

208. The Task Force acknowledged widespread reports from Chicagoans that officers

approach routine situations with over-aggressiveness and hostility.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

209. The Consent Decree contains several provisions crafted to end CPD's unlawful use of excessive force and violence.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

210. However, CPD has failed to comply with the Consent Decree.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

211. Paragraph 153 provides that CPD's use of force policies must comply with relevant law and require "officers apply de-escalation techniques to prevent or reduce the need for force whenever safe and feasible."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

212. CPD does not comply with this provision because it has not completed related training.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

213. Paragraph 155 provides that CPD policy should "reduce the circumstances in which using force is necessary, and to ensure accountability when CPD officers use force that is not objectively reasonable, necessary, and proportional under the totality of the circumstances."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

214. CPD has failed to comply with this provision and, indeed, perpetuates the code of silence to hide its disregard for its written rules.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

215. Paragraph 156 provides that CPD's policies, training, supervision, and accountability systems will ensure, among other things, that CPD officers "act at all times in a manner consistent with the sanctity of human life; act at all times with a high degree of ethics, professionalism, and respect for the public; use de-escalation techniques to prevent or reduce the need for force whenever safe and feasible."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

216. CPD has not complied with this provision because its policies related to "training, supervision, and accountability" systems remained incomplete.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

217. The IMT states, "We urge the CPD to pay additional attention to its Use of Force supervision and accountability requirements and systems."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

218. The IMT further documents that "the current implementation of systems does not promote supervision and accountability."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

219. Paragraph 161 provides that "CPD officers must use de-escalation techniques to prevent or reduce the need for force whenever safe and feasible."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

220. The IMT notes, "public perception of the CPD's de-escalation skills is heading in the wrong direction. In response to the question, 'Over the past 12 months, how good of a job do you think the Chicago Police in your neighborhood are doing on . . . de-escalating tense situations,' a higher percentage of respondents in 2022 as compared to 2020 answered 'very poor' or 'poor' (21.8 to 18.9), and a lower percentage answered 'good' or 'very good' (39.9 to 49)."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

221. Paragraph 192 states, "A designated unit at the CPD headquarters level will routinely

review and audit documentation and information collected from all investigatory stop and arrest occurrences in which a CPD officer pointed a firearm at a person in the course of effecting a seizure."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

222. CPD has failed to comply with this provision because it has failed sufficiently to staff the use of force review unit. As a result, CPD officers' uses of force are not promptly reviewed.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

223. As a result of the foregoing failures related to escalatory conduct and the use of force, hundreds of people experience unlawful violence and other forms of misconduct at the hands of CPD officers *despite the Consent Decree's existence.*

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

224. In 2021, the Civilian Office of Policy Accountability ("COPA") sustained 732 allegations that CPD officers engaged in a range of misconduct, including excessive force and unnecessarily displaying a weapon.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

225. In 2022, COPA sustained 905 allegations against CPD officers.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

226. In 2023, COPA sustained 758 allegations.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

227. These findings show the stubborn persistence of CPD's tradition of unlawful violence.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

228. The foregoing failures are the direct cause of Mostek's misconduct because, among other things, Mostek's hair-trigger use of a firearm was consistent with the real, as distinct from the written guidelines and policies followed by the City and CPD.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

229. Notwithstanding its written regulations, CPD maintains a policy, practice, and custom of encouraging officers to use excessive force.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

230. When Mostek subjected Plaintiff to unreasonable and unlawful violence, she did so in conformity with the CPD's real policies, not the words on a sheet of paper.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

CPD SYSTEMATICALLY FAILS TO HOLD ACCOUNTABLE OFFICERS WHO LIE OR REMAIN SILENT ABOUT POLICE MISCONDUCT, INCLUDING ESPECIALLY THE RAMPANT USE OF EXCESSIVE FORCE.

231. CPD has maintained a widespread practice of failing to discipline and hold accountable Chicago police officers who lie or remain silent about police misconduct -- including discriminatory policing, excessive force, and Fourth Amendment violations.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

232. CPD trains its officers to disregard written rules and follow a "code of silence" in their policing, a practice that significantly hampers investigations and discipline.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

233. One officer testified to being told repeatedly at the academy that "[W]e do not break the code of silence. Blue is Blue. You stick together. If something occurs on the street that you don't think is proper, you go with the flow. And after that situation, if you have an issue with that officer or what happened, you can confront them. If you don't feel comfortable working with them anymore, you can go to the watch commander and request a new partner. But you never break the code of silence."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

234. In *the case of Obrycka v. City of Chicago 07-CV-2372 (N.D. Ill.) a federal jury's verdict in February 2007 revealed the City's 'widespread custom and/or practice of failing to investigate and/or discipline its officers and/or code of silence.' This has had a profound impact on the community.*

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

235. In a 2015 speech, Mayor Emanuel acknowledged that CPD uses a "code of silence" to conceal abuses and wrongdoing.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

236. The City's longstanding deliberate indifference to the rights of citizens to be free from police brutality is also apparent in the April 2016 PATF-issued report with "recommendations for reform." *See* Exhibit 4.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

237. PATF reported that the code of silence is "institutionalized and reinforced by CPD rules and policies that are also baked into the labor agreements between the various police unions and the City."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

238. The DOJ investigation confirmed that a code of silence pervades CPD

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

239. One CPD sergeant informed DOJ investigators that "if someone comes forward as a whistleblower in the Department, they are dead on the street."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

240. As the DOJ found, the code of silence extends to sergeants and other supervisors who, as they did in the instant case, take affirmative actions to cover up their subordinates' misconduct, thereby betraying the trust placed in them.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

241. The DOJ determined the code is "strong enough to incite officers to lie even when they have little to lose by telling the truth." This is because "officers do not believe there is much to lose by lying."

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

242. Given the systematic lack of discipline, CPD officers are allowed to amass dozens of complaints without any consequences.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

243. Although several Consent Decree provisions aim to eliminate the code of silence and improve officer accountability, CPD has failed to comply with most of these terms. Indeed, the City has failed to reach preliminary compliance with the vast majority of accountability provisions.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

244. Recently, there has been much concern about whether instances of police violence will interfere with the Democratic Convention. *See* Exhibit 5.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

245. CPD's long and sad history of failed reform relates directly to Mostek's actions.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

246. CPD maintains a policy, practice, and custom of failing to discipline, supervise, monitor, and control its officers, including Mostek.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

247. Consequently, the City allows its officers to believe they can abuse and violate

individuals' rights without consequence.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

248. These policies, practices, and customs are the same as those that allowed Jason Van Dyke and multiple fellow officers to believe they could cover up Van Dyke's actions in the McDonald case and, more recently, to violate Dexter Reed's rights with impunity.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

249. The culture of excess force shows no signs of abating. *See* Exhibit 6.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

250. The taxpayers of the City continue to pay huge sums to settle claims against violent police, while the police seem to suffer no consequences for their misconduct. *See* Exhibit 7.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

251. As such, the City of Chicago is responsible for i) the violent and unconstitutional acts of Mostek alleged herein, committed, ironically, in a grotesquely distorted attempt to keep the peace; ii) the cover-up in the context of the code of silence; and iii) the campaign of harassment, defamation, and witness intimidation that followed.

ANSWER: On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to the allegations contained within this paragraph.

COUNT I
VIOLATION OF FOURTH AMENDMENT
EXCESSIVE USE OF FORCE
(AGAINST OFFICER MOSTEK)

252. Plaintiff incorporates the allegations set forth in the preceding paragraphs as though stated herein.

ANSWER: Defendant City incorporates and restates its answers to the preceding paragraphs as though stated herein.

253. At all relevant times, Plaintiff had a constitutional right to be free from excessive force under the Fourth Amendment to the United States Constitution.

ANSWER: Defendant City admits the allegations contained within this paragraph.

254. Defendant Officer Mostek violated Plaintiff's Fourth Amendment rights when acting under color of law (i.e., acting as a PO), she recklessly and unreasonably fired her gun at Plaintiff without legal justification.

ANSWER: Defendant City denies the allegations contained within this paragraph.

255. Police officers are prohibited from discharging firearms at community members unless objectively reasonable under the totality of the circumstances.

ANSWER: Defendant City admits the allegations contained within this paragraph.

256. At the moment Mostek first pointed her gun at Plaintiff, no reasonable officer could have considered Plaintiff (or his dog) a threat.

ANSWER: Defendant City denies, upon information and belief, the allegations contained within this paragraph.

257. As such, Mostek's conduct under color of law was objectively unreasonable and violated Plaintiff's civil rights.

ANSWER: Defendant City denies the allegations contained within this paragraph.

COUNT II
42 U.S.C. §1983 *MONELL*
PATTERN AND PRACTICE OF USING EXCESS FORCE
(AGAINST CITY OF CHICAGO)

On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to Count II.

COUNT III
42 U.S.C. §1983 – *MONELL*
FAILURE TO TRAIN, SUPERVISE AND DISCIPLINE
(AGAINST CITY OF CHICAGO)

On November 4, 2024, this Court dismissed Plaintiff's *Monell* claims (Count I and Count II), (Dkt. 49), therefore, Defendant City makes no answer to Count III.

COUNT IV
WILLFUL AND WANTON MISCONDUCT
(AGAINST MOSEK)

287. Plaintiff incorporates by reference all preceding paragraphs.

ANSWER: Defendant City incorporates and restates its answers to the preceding paragraphs as though stated herein

288. As set forth herein, there is abundant evidence that Mostek was acting under color of law when she followed the CPD policy of excessive force.

ANSWER: Defendant City denies the allegations contained within this paragraph.

289. That same evidence is conclusive as to scope of employment.

ANSWER: Defendant City denies the allegations contained within this paragraph.

290. The fact that Mostek's conduct violated the written policies of the CPD does not change the fact that, as the "investigation" confirmed***, she was doing exactly what the CPD expects***

from its officers.

ANSWER: Defendant City denies the allegations contained within this paragraph.

291. Mostek's discharge of a firearm is an act commonly done by police officer employees; the time, place, and purpose of Mostek's act (to kill an allegedly vicious dog) are not aberrant in any way, given the steady drumbeat of reports of excessive violence, CPD had many reasons to expect that its officers would draw their weapons to stop a dogfight and shoot without regard for life; Mostek's act was similar to the authorized use of a firearm – except that it occurred less one minute after the problem arose and put a human being in danger of being shot in the face, with the pistol that CPD furnished to Mostek.

ANSWER: Defendant City denies the allegations contained within this paragraph.

292. Mostek was responding, she said, to a perceived emergency, which is not materially different from a 911 call.

ANSWER: Defendant City denies the allegations contained within this paragraph.

293. The fact that Mostek, while trying to do her job, did so badly does not mean her employer is immunized from liability based on the notion that any wrongful act is necessarily outside the scope of employment.

ANSWER: Defendant City denies the allegations contained within this paragraph.

294. Mostek took action to stop an assault or "ambush without warning" that involved the use of deadly force (a crime).

ANSWER: Defendant City denies the allegations contained within this paragraph.

295. Acting to stop a crime in progress, Mostek acted within the scope of her employment.

ANSWER: Defendant City denies the allegations contained within this paragraph.

296. The City of Chicago and its agent, Officer Carmen Mostek (Star 8664), engaged in

willful and wanton misconduct.

ANSWER: Defendant City denies the allegations contained within this paragraph.

297. Mostek pointed her gun at Plaintiff and discharged it, causing the bullet to strike inches from Plaintiff's head.

ANSWER: Defendant City denies the allegations contained within this paragraph.

298. Defendants, at all relevant times, owed Plaintiff a duty not to act in a manner that Defendant knew or should have known would cause damages to Plaintiff's physical and emotional well-being.

ANSWER: Defendant City denies that the allegations contained within this paragraph are a complete and accurate statement of the law and therefore denies them.

299. Defendant's acts were willful, wanton, and deliberately indifferent to the safety of Plaintiff's life.

ANSWER: Defendant City denies the allegations contained within this paragraph.

300. As a direct and proximate result of willful and wanton conduct by the City of Chicago and its Agent, Chicago Police Department Officer Carmen Mostek, Plaintiff suffered grievous harm and emotional distress.

ANSWER: Defendant City denies the allegations contained within this paragraph.

301. Defendant's acts constitute willful and wanton misconduct committed under circumstances exhibiting a reckless disregard for the safety of others.

ANSWER: Defendant City denies the allegations contained within this paragraph.

COUNT V
ASSAULT
(AGAINST MOSTEK)

302. Plaintiff incorporates by reference all preceding paragraphs.

ANSWER: Defendant City incorporates and restates its answers to the preceding paragraphs as though stated herein.

303. The City of Chicago and its agents, the Chicago Police Department, and Officer Carmen Mostek, Star No. 8664, engaged in willful and wanton misconduct.

ANSWER: Defendant City denies the allegations contained within this paragraph.

304. As alleged above, Chicago Police Department Officer Mostek, acting under color of law within the scope of her employment, engaged in offensive conduct and thereby placed Plaintiff in fear of imminent threat to his life, safety, and security without justification.

ANSWER: Defendant City denies the allegations contained within this paragraph.

305. Mostek's actions were undertaken intentionally, willfully and wantonly, or recklessly.

ANSWER: Defendant City denies the allegations contained within this paragraph.

306. The misconduct described in this Count was objectively unreasonable and was undertaken with intentional disregard for Plaintiff's rights.

ANSWER: Defendant City denies the allegations contained within this paragraph.

307. Mostek's exculpatory fiction is meritless on its face: There is no qualified privilege to threaten a human being with imminent death or serious harm to protect a dog – especially when no dog or person is under threat.

ANSWER: Defendant City denies the allegations contained within this paragraph.

308. As a result of the misconduct of Mostek, Plaintiff suffered pain and injury, including emotional anguish, fear, anxiety, and loss of life and liberty.

ANSWER: Defendant City denies the allegations contained within this paragraph.

COUNT VI
DEFAMATION
(AGAINST MOSTEK)

On November 4, 2024, this Court held that any claim seeking to hold the City liable for Mostek's alleged defamation is dismissed, (Dkt. 49), thus, Defendant City makes no answer to the allegations contained within Count VI.

COUNT VII
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(AGAINST MOSTEK)

317. Plaintiff incorporates by reference all preceding paragraphs.

ANSWER: Defendant City incorporates and restates its answers to the preceding paragraphs as though stated herein.

318. Mostek pointed and discharged a gun at Plaintiff.

ANSWER: Defendant City denies the allegations contained within this paragraph.

319. The shot Mostek fired killed Plaintiff's dog, but it could have just as easily killed Plaintiff.

ANSWER: Defendant City lacks knowledge and information sufficient to admit or deny the allegations contained within this paragraph.

320. Plaintiff lost a beloved pet and came within inches of losing his life.

ANSWER: Defendant City denies the allegations contained within this paragraph.

321. Mostek's conduct was extreme and outrageous.

ANSWER: Defendant City denies the allegations contained within this paragraph.

322. Mostek intended to cause or recklessly disregarded the probability of causing emotional distress to Plaintiff.

ANSWER: Defendant City denies the allegations contained within this paragraph.

323. Plaintiff suffered and continues to suffer severe emotional distress because Mostek's conduct at once killed a beloved companion and placed him in fear of being shot in the face and killed.

ANSWER: Defendant City denies the allegations contained within this paragraph.

324. Mostek's outrageous and excessive use of deadly force proximately caused Plaintiff's emotional distress.

ANSWER: Defendant City denies the allegations contained within this paragraph.

COUNT VIII
RESPONDEAT SUPERIOR
(AGAINST CITY OF CHICAGO)

325. Plaintiff incorporates by reference all preceding paragraphs.

ANSWER: Defendant City incorporates and restates its answers to the preceding paragraphs as though stated herein.

326. At all times relevant hereto, the City of Chicago was the employer of Officer Mostek.

ANSWER: Defendant City admits the allegations contained within this paragraph.

327. At all times relevant, Officer Mostek was, as she sought to keep the peace, acting under color of law and in the scope of her employment by the City of Chicago.

ANSWER: Defendant City denies the allegations contained within this paragraph.

328. The City of Chicago is vicariously liable for the acts and omissions of Chicago Police Department Officer Mostek.

ANSWER: Defendant City denies the allegations contained within this paragraph.

COUNT IX
INDEMNIFICATION UNDER 745 ILCS 10/9-102
(AGAINST CITY OF CHICAGO)

329. Plaintiff incorporates by reference all preceding paragraphs.

ANSWER: Defendant City incorporates and restates its answers to the preceding paragraphs as though stated herein.

330. At all times relevant hereto, the City of Chicago has been the employer of Chicago

Police Department Officer Mostek.

ANSWER: Defendant City admits the allegations contained within this paragraph.

331. Mostek was acting in the course and scope of her employment by the City of Chicago and acting under the color of law when she used her City-issued firearm to prevent property damage.

ANSWER: Defendant City denies the allegations contained within this paragraph.

332. Pursuant to 745 ILCS 10/9-102, the City Of Chicago is liable for any judgment for compensatory damages, attorneys' fees, and costs for the acts and omissions of Chicago Police Department Officers, including Officer Mostek.

ANSWER: Defendant City admits that under certain circumstances and to the extent provided by law, it can be liable for judgment for compensatory damages for conduct done by employees within the scope of their employment. Defendant City denies the remaining allegations contained within this paragraph.

JURY DEMAND

Defendant City demands trial by jury on all claims and all issues.

AFFIRMATIVE DEFENSES

1. Defendant City is not liable to Plaintiffs for any federal claim for which its employees or agents are not liable to Plaintiff. *See City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986).

2. Defendant City cannot be held liable for punitive or exemplary damages in any Section 1983 action brought against it directly or indirectly by the injured party or a third party. *City of Newport et al. v. Fact Concerts, Inc.*, 435 U.S. 247 (1981).

3. Defendant City is not liable for any agent or employee of Defendant City who was acting outside the scope of their employment. 745 ILCS 10/2-109.

4. As to any state law claims made by Plaintiff, Defendant City is not liable to the extent that the decision as to what action to take with regard to Plaintiff was a discretionary decision for which Defendant City and its employees are immune from liability. 745 ILCS 10/2-201.

5. To the extent any employee or agent of Defendant City was acting within the scope of his or her employment, that employee or agent is not liable for his or her acts or omissions in the execution or enforcement of the law, unless such act or omission constitutes willful and wanton conduct. 745 ILCS 10/2-202.

6. Defendant City is not liable to Plaintiff for any state law claims for which its employees or agents are not liable to Plaintiff. 745 ILCS 10/2-109.

7. As to Plaintiff's state law claims, Defendant City is not liable to pay attorney's fees as "the law in Illinois clearly is that absent a statute or contractual agreement 'attorney fees and the ordinary expenses and burdens of litigation are not allowable to the successful party.'" *See Kerns v. Engelke*, 76 Ill.2d 154, 166 (1979) (citations omitted).

8. Indemnification is not a cause of action, but a theory of recovery. The indemnification provision does not create direct liability on the part of the City or its employees, but creates liability on the City to indemnify after a judgment has been recovered against an employee. See *Arnolt v. City of Highland Park*, 52 Ill. 2d 27 (1972); *Glover v. City of Chicago*, 106 Ill. App. 3d 1066, 107 (1982).

9. To the extent any injuries or damages claimed by Plaintiff were proximately caused, in whole or in part, by any willful and wanton conduct on the part of the Plaintiff, any verdict or judgment obtained by Plaintiff based on any finding of "reckless" willful and wanton behavior, as opposed to "intentional" willful and wanton behavior, must be reduced by application of the principles of comparative fault, by an amount commensurate with the degree of fault attributed to Plaintiff's decedent by the jury in this case. *See Poole v. City of Rolling Meadows,* 167 Ill.2d 41 (1995).

10. Defendant City is not liable for any 42 U.S.C §1983 claims where its employee was not acting under the color of law. *Pickrel v. City of Springfield*, Ill., 45 F.3d 1115, 1118 (7th Cir.1995); *Wilson v. Price*, 624 F.3d 389, 392 (7th Cir. 2010).

11. To the extent Plaintiff failed to mitigate any of his claimed injuries or damages, any verdict or judgment obtained by Plaintiff must be reduced by application of the principle that Plaintiff had a duty to mitigate his claimed injuries and damages, commensurate with the degree of failure to mitigate attributed to Plaintiff by the jury in this case

Respectfully submitted,

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EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Kent Maynard, Jr. Plaintiff, v. THE CITY OF CHICAGO, a municipal corporation, and Chicago Police Officer CARMEN MOSTEK (Star 8664) Defendants.	)	No. 24 C 3612

Memorandum Opinion and Order

On April 21, 2024, as plaintiff Kent Maynard, Jr., opened the front door to his Chicago apartment, his dog Aggie slipped past his legs and ran down the sidewalk, with plaintiff in hot pursuit. Seconds later, Aggie lay dead, shot in the head by plaintiff's neighbor, defendant Carmen Mostek, an off-duty Chicago Police Officer who was walking her own dog down the same block. Mostek called 911 to report the incident, identifying herself as an off-duty police officer. She told the 911 operator, "there was a dog attacking my dog, and I had to shoot it," and she requested an ambulance for plaintiff, who she said was "freaking out" and "need[ed] help calming down." Am. Compl., ECF 22 at ¶¶ 38, 41.

Officer Nicholas Pronek responded to the scene and spoke with Mostek. According to his police report,

> while struggling with the pitbull, [Mostek's] neighbor and owner of the pitbull, attempted to help with negative results and at that point, [Mostek] drew her service weapon and fired one shot striking the pitbull in the head stopping the attack.

ECF 22-1 at 2. The following week, a Tactical Response Investigation Report was completed in conjunction with the incident. Captain Michael Poppish reviewed the report and concluded based on the information provided that Mostek's use of force "complied with department policy and directives." ECF 22-2 at 3. Plaintiff claims, however, that these reports were based on Mostek's false account of the incident, and that the Chicago Police Department's "investigation" was a sham.

Aggie's fatal encounter with Mostek was captured on video by a residential surveillance camera. Plaintiff describes the footage at length in his complaint, and he also filed the recording in conjunction with his response the City's motion. The video opens abruptly, with Aggie lunging toward Mostek's dog and beginning to bite and wrestle with it on the sidewalk at the corner of South Normal Avenue and West 29th Street. Mostek, standing a few steps north of the corner on Normal Avenue, quickly approaches the corner, just as plaintiff comes into view, running eastbound on 29th Street toward the tangle of dogs at the corner. Plaintiff and Mostek converge on the dogs, and plaintiff appears to kick once at them before falling to the ground next to them. Meanwhile, Mostek stumbles forward toward the dogs and then back, but she remains

upright. As Mostek regains her balance, her own dog trots off northbound on Normal, followed by Mostek. Mostek and her dog quickly enter their home, while plaintiff remains on the ground over Aggie's lifeless body. The entire incident lasts fewer than ten seconds, and the remainder of the video shows various individuals approaching the scene and interacting with plaintiff, who rises from the ground and gesticulates in evident grief and distress.

It is not possible to ascertain from the video the precise moment at which Mostek pulled the trigger. According to plaintiff, by the time Mostek fired, Aggie was no longer a threat, as plaintiff had thrown himself on top of her and pulled her to his chest, while Mostek's dog trotted off unharmed. Plaintiff states: "While still moving and out of balance, Mostek, holding her pistol loosely in one hand, fired one shot at the place where Aggie and Plaintiff were lying side by side on the ground," fatally striking the dog in the ear and missing plaintiff's head by just inches.

In this action, plaintiff sues Mostek pursuant to 42 U.S.C. § 1983, claiming that she deprived him of his Fourth Amendment rights under color of state law by using excessive force in shooting Aggie. He also asserts various state claims against Mostek. Against the City, plaintiff asserts § 1983 claims pursuant to *Monell v. N.Y.C. Dept. of Soc. Servs.*, 436 U.S. 658 (1978), for policies, practices, and customs that he attributes to the City

and claims caused the deprivation of his constitutional rights. He also asserts state claims against the City for *respondeat superior* and indemnification. According to plaintiff, the Chicago Police Department ("CPD") "automatically engaged in a cover-up in accordance with CPD's well-established pattern and practice of allowing CPD officers to engage in deadly misconduct with impunity." Am. Compl., ECF 22 at ¶ 130.

In total, plaintiff asserts nine claims: (I) a § 1983 claim against Mostek for excessive force; (II) a *Monell* claim against the City for excessive force; (III) a *Monell* claim against the City for failure to train, supervise, and discipline its officers; (IV) a state law claim against Mostek for willful and wanton misconduct; (V) assault against Mostek; (VI) defamation against Mostek; (VII) intentional infliction of emotional distress against Mostek; (VIII) *respondeat superior* against the City; and (IX) indemnification against the City under 745 ILCS 10/1-102 (the "Tort Immunity Act"). The City has moved to dismiss the claims against it. For the reasons that follow, I grant the motion as to the *Monell* claims and deny it as to the state claims.

I.

A motion to dismiss tests the sufficiency of the complaint, not the merits of the plaintiff's case. *Gibson v. City of Chicago*, 910 F.2d 1510, 1520 (7th Cir. 1990). To survive dismissal, a complaint must allege "enough facts to state a claim to relief

that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Facial plausibility exists "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.*

Section 1983 "provides a civil remedy against any 'person' who violates a plaintiff's federal civil rights while acting under color of state law." *Thomas v. Neenah Joint Sch. Dist.*, 74 F.4th 521, 523 (7th Cir. 2023). Although municipalities are "person[s]" who may be sued under § 1983, they are liable only for their own violations of federal law; they may not be held vicariously liable for the constitutional torts of their employees. *Dean v. Wexford Health Sources, Inc.*, 18 F. 4th 214, 235 (7th Cir. 2021) (citing *Monell*, 436 U.S. at 691–94 (2018)). Accordingly, to survive the City's motion, plaintiff's allegations must suggest plausibly that: "(1) [he] was deprived of a constitutional right; (2) the deprivation can be traced to some municipal action (i.e., 'a policy or custom'), such that the challenged conduct is properly attributable to the municipality itself; (3) the policy or custom demonstrates municipal fault, i.e., deliberate indifference; and (4) the municipal action was the moving force behind the federal-rights violation." *Thomas*, 74 F.4th at 524 (internal quotation

marks and citations omitted).

The City argues that plaintiff's *Monell* claim fails at each prong, but the overarching theme of its motion is that when Mostek shot Aggie, she was acting as a private citizen, not as a police officer.[1] Indeed, both sides devote the bulk of their arguments to this issue, presumably because if Mostek was acting in her private capacity, plaintiff's constitutional claims against both defendants fail at the outset because any claim under § 1983 requires him to establish "that the alleged deprivation was committed under color of state law." *Spiegel v. McClintic*, 916 F.3d 611, 616 (7th Cir. 2019). Having closely examined plaintiff's allegations and the additional materials appropriately before me,[2]

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[1] As for whether plaintiff otherwise suffered the deprivation of a constitutional right, "[e]very circuit that has considered the issue has held that the killing of a companion dog constitutes a 'seizure' within the meaning of the Fourth Amendment." *Viilo v. Eyre*, 547 F.3d 707, 710 (7th Cir. 2008). So unless Aggie's killing was reasonable under the circumstances, Mostek's alleged actions—if under color of state law—support plaintiff's Fourth Amendment claim. *See id.* ("[T]he use of deadly force against a household pet is reasonable only if the pet poses an immediate danger and the use of force is unavoidable.").

[2] *See Citizens Ins. Co. of Am. v. Wynndalco Enters., LLC*, 70 F.4th 987, 995 (7th Cir. 2023); *Bogie v. Rosenberg*, 705 F.3d 603, 608-09 (7th Cir. 2013). To the extent both parties rely on these materials in support of their arguments, I view them, as I must, in the light most favorable to plaintiff. *See Esco v. City of Chicago*, 107 F.4th 673, 679 (7th Cir. 2024). As to the additional materials attached to defendant's reply that plaintiff moves to strike, the City offers those materials largely in support of its under-color-of-law and scope-of-employment issues, on which I rule in plaintiff's favor. At all events, I did not rely on those materials in reaching my conclusion here. I deny plaintiff's motion to strike for these reasons.

as well as relevant cases from within and outside this circuit, I conclude that this is not a matter I can decide on the record as it currently stands.

It is true that Mostek was off duty when she shot Aggie, but all agree that a police officer's off-duty status "does not resolve the question of whether he or she acted under color of state law." *Gibson* 910 F.2d at 1517 (citation omitted). Indeed, "no bright line distinguishes a police officer's personal pursuits from actions taken under color of state law," *Coles v. City of Chicago*, 361 F. Supp. 2d 740, 748 (N.D. Ill. 2005), and the Seventh Circuit has emphasized "the necessity of a rigorous fact-bound inquiry," *DiDonato v. Panatera*, 24 F.4th 1156, 1160 (7th Cir. 2022).

Whether an officer was acting under color of state law "turn[s] largely on the nature of the specific acts" the officer performed. *Id.* On the one hand, "acts of officers in the ambit of their personal pursuits are plainly excluded" from the scope of § 1983. *Coles v. City of Chicago*, 361 F. Supp. 2d 740, 748 (N.D. Ill. 2005) (quoting *Screws v. United States*, 325 U.S. 91, 111 (1945)). On the other, "[a]cts of officers who undertake to perform their official duties are included whether they hew to the line of their authority or overstep it." *Id.* 748 (quoting *Screws*, 325 U.S. at 111) (additional citations omitted).

By the City's lights, "Mostek was acting in self-defense, in defense of her property, and defending Plaintiff from his dog."

Reply, ECF 40 at 8. The City argues that "[t]hese are not actions that only a police officer is authorized to take." *Id.* The City further observes that plaintiff does not allege that Mostek was wearing a uniform or was engaged in police activities prior to the incident. The City underscores that Mostek was defending herself and her own dog and insists that "[a]ny steps Mostek took after the shooting are indistinguishable from those of private actors who would act in a similar way to protect their property." Mot., ECF 33 at 7. But that's not really true. When Mostek called 911 moments after the incident—something a private citizen may or may not have done under the circumstances—she immediately identified herself as an off-duty police officer. Am. Compl. at ¶ 38. Mostek then reiterated her police status when she spoke to the fire department about an ambulance for plaintiff, describing herself as "an off-duty who got into a shooting." *Id.* at ¶ 40. Plaintiff asserts that Mostek emphasized her status as a police officer precisely to clothe her actions in a cloak of authority, and I agree that that is a plausible interpretation of these facts.

Recently, a court in the Eastern District of Michigan declined to grant summary judgment in favor of an off-duty police officer who allegedly violated the Fourth Amendment when he fatally shot the plaintiffs' dog. *Parkes v. Wynne*, No. 20-12650, 2024 WL 4373757, at *4 (E.D. Mich. Sept. 30, 2024). The court concluded that the evidence was sufficient to raise a reasonable inference

that the officer was acting under color of state law, pointing to indications that he "sought to use his status as a law enforcement officer 'advantageously' to justify his actions." *Parkes v. Wynne*, No. 20-12650, 2024 WL 4373757, at *4 (E.D. Mich. Sept. 30, 2024). The court explained:

> [M]oments after the second shot was fired, [Officer] Wynne had already identified himself to others as a law enforcement officer. Although Wynne testified that he informed the Oak Park Police Department via 911 that he was a law enforcement officer for the purpose of establishing his authority to carry a gun, it is unclear whether he also announced his status to lend the "indicia of authority" to his actions as bystanders began to gather following Astro's shooting.

Id., 2024 WL 4373757, at *4. Similarly here, a reasonable inference is that Mostek repeatedly identified herself as a police officer to establish her authority to shoot Aggie in her capacity as a peace officer. That she may also have been "motivated by personal interests" does not foreclose the inference that she acted under color of state law. *McGlenn v. Madison Metro.* Sch. Dist., No. 21-CV-683-JDP, 2024 WL 3169814, at *6 (W.D. Wis. June 25, 2024) (observing that the defendant cited "no Supreme Court or Seventh Circuit cases holding or implying that a public employee cannot act under color of law if his conduct is unauthorized or if he is motivated by personal interests.").

Indeed, that is precisely the position Mostek has taken in this litigation. In answer to the Amended Complaint, Mostek purports to admit that "[a]t all times pertinent hereto, Mostek

was acting under color of state law and within the scope of her employment with the City of Chicago as a sworn police officer[.]" Answer, ECF 35 at ¶ 168. To be sure, Mostek's "admission" is not conclusive as to the legal question whether she was acting under color of state law. *See Chavez v. Guerrero*, 465 F. Supp. 2d 864, 869 (N.D. Ill. 2006) ("[w]hether a defendant acted under color of state law is a question of law for the court"). Nevertheless, the City's insistence that its officer was behaving in a purely personal capacity is in obvious tension with the officer's own view of her conduct. At a minimum, this tension suggests that further factual development is necessary.[3]

Moreover, there is evidence that the CPD likewise considered Mostek to have been engaged in police work when she shot Aggie. The very first line of the Original Case Incident Report describes the incident as "Non-Criminal – Destruction of Animal by Police." ECF 22-1 at 1. The narrative portion of that document states that

[3] For example, although neither party's submissions raise the issue explicitly, several of the cases they cite refer to the CPD's "general regulation that requires an officer to be on duty twenty-four hours a day for purposes of responding to emergencies." *Gibson v. City of Chicago*, 910 F.2d 1510, 1517 (7th Cir. 1990); *see also* Coles v. City of Chicago, 361 F. Supp. 2d 740, 742–43 (N.D. Ill. 2005) ("[t]he General Orders of the Chicago Police Department require an off-duty officer to take some action when he observes a crime being committed."). Whether these regulations had any bearing on Mostek's conduct is a factual matter that cannot be determined on the present record.

Mostek was an "off duty police officer" who, in response to Aggie's attack, "drew her service weapon and fired one shot striking the pitbull in the head stopping the attack." *Id.* at 2. And the Tactical Response Report prepared after the incident contains further indicia that Mostek was engaged in police work when she responded to Aggie's attack. The form—which contains a number of boxes that can be checked to indicate the circumstances surrounding an officer's use of force—reflects checked boxes indicating that Mostek responded to a "physical attack without weapon" that amounted to an "ambush," involving "mouth/teeth/spit" and "grab/hold/restrain," and that the subject, i.e., Aggie, "used force likely to cause death or great bodily harm." ECF 22-2 at 1. The report also specifies—again through a checked box—that Mostek discharged her weapon "only to destroy/deter an animal." *Id.* The very fact that Mostek's conduct could be memorialized neatly and succinctly by choosing among standard options available on a pre-printed CPD form itself suggests, contrary to the City's insistence that "Mostek's alleged behavior ha[d] nothing to do with the type of work Mostek is paid to do as a CPD police officer," Mot., ECF 33 at 19, that her actions fell within the realm of routine police work.

For the reasons explained above, I cannot conclude as a matter of law that Mostek was acting in her personal capacity as a private citizen and not under color of state law. But plaintiff's *Monell*

claim requires more to survive dismissal: plaintiff must also allege plausibly that a policy, practice, or custom of the City proximately caused the constitutional injury he claims. It is here that his claim falters. In particular, he fails to allege plausibly that municipal action was the "moving force" behind the constitutional deprivation he alleges.

"Three types of municipal action support *Monell* liability: (1) an express policy that causes a constitutional deprivation when enforced; (2) a widespread practice that is so permanent and well-settled that it constitutes a custom or practice[4]; or (3) an allegation that the constitutional injury was caused by a person with final policymaking authority." *Thomas v. Neenah Joint Sch. Dist.*, 74 F.4th 521, 524 (7th Cir. 2023) (quoting *Spiegel*, 916 F.3d at 617 (quotation marks omitted)). Although the Amended Complaint once asserts that Mostek was following an "express" policy, it also states that "Mostek's use of deadly force violated CPD's written policies," Am. Compl. at 18, and that Mostek "used

[4] This awkward, yet often repeated, description of a "widespread practice" so well-settled as to constitute a "practice" is distilled from the Court's recognition, in *Adickes v. S. H. Kress & Co.*, 398 U.S. 144, 167–68 (1970), that the state can act not only through its express policies, but also through practices that are "so permanent and well settled as to constitute a 'custom or usage' with the force of law." (citation omitted). Tracing the modern formulation of this type of state action to its roots reveals that the important point is not how the state action is characterized, but rather whether the action is carried out so consistently that it can be deemed to have "the force of law."

excessive force as part of a widespread practice promoted, tolerated, and condoned by a culture of over-aggressive policing in the Chicago Police Department." *Id.* at ¶ 128. Indeed, his opposition to defendant's motion makes clear that his claims rest not on any express policy, but rather on the CPD's alleged *failure* to adhere to its express policies, and instead to embrace a culture of excessive force. *See* Resp., ECF 37 at 8 (arguing that CPD's "written policies regarding excessive use of force are honored only in the breach," and asserting "a widespread practice of excessive use of force that is so permanent and well-settled as to constitute a custom or usage.").

Plaintiff variously characterizes the customs and practices he challenges as:

- a "pattern and practice [that] relies upon overly aggressive tactics that unnecessarily escalate encounters with individuals, increase tensions, and lead to excessive force";
- a "longstanding policy and practice of encouraging officers to point guns at community members without justification";
- a "custom and practice of shooting first and asking questions later";
- a "longstanding pattern and practice of over-aggressive and violent responses to civilian encounters, even in the absence of any crime";
- a "custom and practice of brutality and excessive force anchored in the notion that CPD officers are above the law and protected by a code of silence";

- a "pattern and practice of allowing CPD officers to engage in deadly misconduct with impunity"; and

- policies, practices, and procedures "that embrace excessive force and treat[] people 'as animals or subhuman.'"

Am. Compl., ECF 22, at ¶¶ 202, 192, 178, 152, 151, 130, 110. Plaintiff claims that these widespread customs and practices were the "moving force" behind the deprivation of his constitutional rights because they cause officers, including Mostek, "to believe they can abuse and violate individuals' rights without consequence." *Id.* at ¶ 247. But the level of generality at which he describes the challenged practices does not suggest a "direct causal link between the challenged municipal action and the violation of his constitutional rights." *First Midwest Bank Guardian of Est. of LaPorta v. City of Chicago*, 988 F.3d 978, 987 (7th Cir. 2021) (internal quotation marks and citation omitted).

In *First Midwest Bank*, the Seventh Circuit examined the distinction the Supreme Court drew in *Board of County Commissioners of Bryan County, Oklahoma v. Brown* 520 U.S. 397 (1997), between a claim alleging that "a municipality takes action or directs an employee to take action that facially violates a federal right," and one in which "the plaintiff alleges that the municipality has not directly injured him but instead that it caused an employee to do so." *Id.* at 405. Because plaintiff's claim falls into the latter category, "rigorous standards of culpability and causation must be

applied to ensure that the municipality is not held liable solely for the actions of its employee." *Id.* This means that plaintiff must plead and ultimately prove "deliberate indifference," on the City's part, i.e., that it was obvious that the widespread practices plaintiff identifies would lead to the constitutional violation he suffered and that the City "consciously disregarded those consequences." *First Midwest Bank*, 988 F.3d at 987. "This is a high bar," *id.*, and plaintiff's allegations do not satisfy it.

As factual support for his excessive force claim, plaintiff points to several high-profile cases of police violence in Chicago from the past decade and to the United States Department of Justice's 2017 report, Investigation of the Chicago Police Department. It is true that the DOJ "found that CPD officers engage in a pattern or practice of using force, including deadly force, that is unreasonable." Am. Compl., Exh. 3, ECF 22-3 at 5. But nothing in the report suggests "'a prior pattern of similar constitutional violations' to those he suffered," *Cosby v. Rodriquez*, 711 F. Supp. 3d 983, 1010 (N.D. Ill. 2024) (quoting *Fields v. City of Chicago*, 981 F.3d 534, 562 (7th Cir. 2020)), nor does plaintiff point to anything in the report that would have made it so obvious to the City that its widespread practices would cause the kind of injury he suffered that the City can be deemed to have exhibited deliberate indifference.

Cosby and *Fields* offer an instructive contrast, illustrating

the kinds of factual allegations that, unlike those here, plausibly suggest a "direct causal link" between the municipal practice challenged and the constitutional injury alleged. In *Cosby*, the plaintiff was a nineteen-year-old Black man arrested during a Black Lives Matter protest in the summer of 2020 for spraying a Chicago Police officer with a toy water gun. He alleged that officers threw him to the ground, then

> held him down even after he went limp; that they restrained him with zip-tie handcuffs and refused to loosen them when he complained of pain; that they repeatedly hit him over the head with a baton while he lay prone; that, when he asked if he could retrieve his lost shoe, an officer replied, "fuck you"; and that, once at the station, he was denied access to a restroom, food, and water for many hours.

Cosby, 711 F. Supp. 3d at 1005. The complaint also alleged "numerous instances of these behaviors, both before and during 2020, which together plausibly establish[ed] 'a prior pattern of similar constitutional violations' to those he suffered." *Id.* at 1010 (quoting *Fields*, 981 F.3d at 562). Specifically, the plaintiff alleged that "officers have responded with violence or aggression to protests for decades," *id.* at 991, and he cited specific examples of such violence from demonstrations held in 2003, 2011, and 2016, in which officers reportedly "pushed, attacked, and used batons to beat protesters." *Id.* at 991.

In *Fields*, the plaintiff claimed that Chicago Police officers violated his *Brady* rights by withholding exculpatory evidence that

was contained in a "street file," i.e., a "police file[] withheld from the state's attorney and defense counsel and therefore unavailable as a source of exculpatory information for a prosecutor deciding whether to charge or a defense attorney." *Fields*, 981 F.3d at 542 (citing *Jones v. City of Chicago*, 856 F.2d 985, 995 (7th Cir. 1988)). The plaintiff sought to hold the City liable for the *Brady* violation under *Monell*, alleging that its widespread practice of maintaining street files resulted in a "systemic underproduction of exculpatory materials." *Id.* at 562. The City was aware of this practice, the plaintiff claimed, from prior litigation and its own subsequent internal investigation, and it was further aware that the practice "led to harm in some cases." *Id.*[5]

Plaintiff, too, cites prior litigation and related investigations, but the factual circumstances and constitutional injuries at issue in those cases are similar to his only at the very highest level of generality. Take, for example, plaintiff's reference to CPD Officer Jason Van Dyke's fatal shooting of Laquan McDonald in October of 2014. Investigation into that tragedy, and Van Dyke's subsequent conviction for second-degree murder, may

[5] I am mindful that *Fields* addressed the evidence required to prevail on a *Monell* claim in the context of a post-trial motion, not the sufficiency of the plaintiff's *Monell* allegations. Nevertheless, it illustrates the kind of concrete and specific practice that a jury could reasonably conclude was the "moving force" behind the violation the plaintiff alleged.

well have put the City on notice of the risk that its officers would fire their weapons at retreating suspects, and that they would provide false accounts of the circumstances surrounding their use of force. *See* DOJ Rep., ECF 22-3 at 25-26, 57-58. But nothing about that case suggests that the City knew and disregarded the risk that its officers would unreasonably shoot a pet dog.[6]

Plaintiff's *Monell* allegations are more like those the court found insufficient in *Mikolon v. City of Chicago*, No. 14 CV 1852, 2014 WL 7005257, at *4 (N.D. Ill. Dec. 11, 2014). In *Mikolon*, the plaintiff claimed that Chicago Police officers subjected him to an unconstitutional search, and that the City was liable for the violation because it "encouraged the types of constitutional injuries that plaintiffs purportedly sustained in this case by maintaining, protecting, or accepting" policies and practices including a "code of silence... whereby officers remain silent or give false and misleading information during official investigations to cover up unconstitutional and criminal misconduct," a "failure to adequately investigate and substantiate

[6] Plaintiff tries to characterize Mostek's conduct in a way that more closely resembles Van Dykes's by emphasizing the proximity of his own head to Aggie's and alleging that she "pointed her gun at [him] and fired." Am. Compl., ECF 22 at ¶ 192. But plaintiff does not contend, nor does anything in the record suggest, that Mostek was aiming at or intending to shoot plaintiff. Her actions cannot reasonably be compared to Officer Van Dyke's.

allegations of unconstitutional and criminal misconduct by police officers," and a failure to discipline officers who engage in unconstitutional conduct. *Id.*

The court held that these allegations failed to state a viable *Monell* claim, explaining that *Monell*'s proximate cause requirement meant that plaintiffs "must plead enough facts to plausibly suggest a direct causal link between the purported municipal policy and the alleged constitutional deprivation." *Mikolon*, 2014 WL 7005257, at *4 (citations and internal quotation marks omitted). It concluded that "[v]ague allegations that the City failed to train its law-enforcement officers in avoiding unconstitutional and criminal misconduct, or that the City failed to investigate allegations of (or discipline its officers as to) the same, do not satisfy this requirement." *Id.* (citations and internal quotation marks omitted). Plaintiff's *Monell* allegations are similarly inadequate.

This leaves plaintiff's state claims for *respondeat superior* and indemnification, both of which turn on the issue of whether the Amended Complaint adequately alleges that Mostek was acting within the scope of her employment at the time of her allegedly unlawful conduct. *See Fuery v. City of Chicago*, No. 07 C 5428, 2014 WL 1228718, at *6 (N.D. Ill. Mar. 25, 2014) ("[t]he scope of employment analysis is the same for purposes of *respondeat superior* liability...and indemnification...under the Tort Immunity Act, 745

ILCS § 10/9-102.").

> Under Illinois law, there are three necessary criteria for an employee's action to be within the scope of his employment. First, the relevant conduct must be of the kind that the employee was employed to perform. Second, the conduct must have occurred substantially within the time and space limits authorized by the employment. And third, the conduct must have been motivated, at least in part, by a purpose to serve the employer.

Elston v. Cnty. of Kane, 948 F.3d 884, 887 (7th Cir. 2020). Although the "two elements of 'under color' and 'scope of employment' should not be confused," *id.*, *Coles v. City of Chicago*, 361 F. Supp. 2d 740, 746 (N.D. Ill. 2005), many of the facts discussed above in conjunction with the former issue are relevant as well to the latter.

For example, the City contends that plaintiff has not pled the first element—that Mostek's actions were of the kind she was employed to perform—but as noted above, the pre-printed Tactical Response form used to summarize and analyze an officer's use of force contains several boxes corresponding to the actions Mostek took, and, indeed, the Case Incident Report characterizes the incident as "Non-Criminal – Destruction of Animal by Police." ECF 22-1 at 1. These facts are sufficient to raise an inference that Mostek's actions were of the kind she was employed to perform.

As for whether Mostek's actions were at least partially motivated by a purpose to serve her employer, when all inferences from the record are drawn in plaintiff's favor, Mostek's statements

in the record and her "admission" that she was acting within the scope of her employment can be construed as reflecting her subjective belief that she was acting as a Chicago Police officer throughout the events in question. That is sufficient at this stage. *See Lyons v. Adams*, 257 F. Supp. 2d 1125, 1140 (N.D. Ill. 2003) (noting "the importance of the defendant's subjective intent to the scope of employment issue under Illinois law.").

The City's final arguments are that it cannot be held liable either for punitive damages or for indemnification or *respondeat superior* based on plaintiff's defamation claim against Mostek. Because plaintiff offers no response to these arguments, I dismiss these claims for the reasons the City articulates.

III.

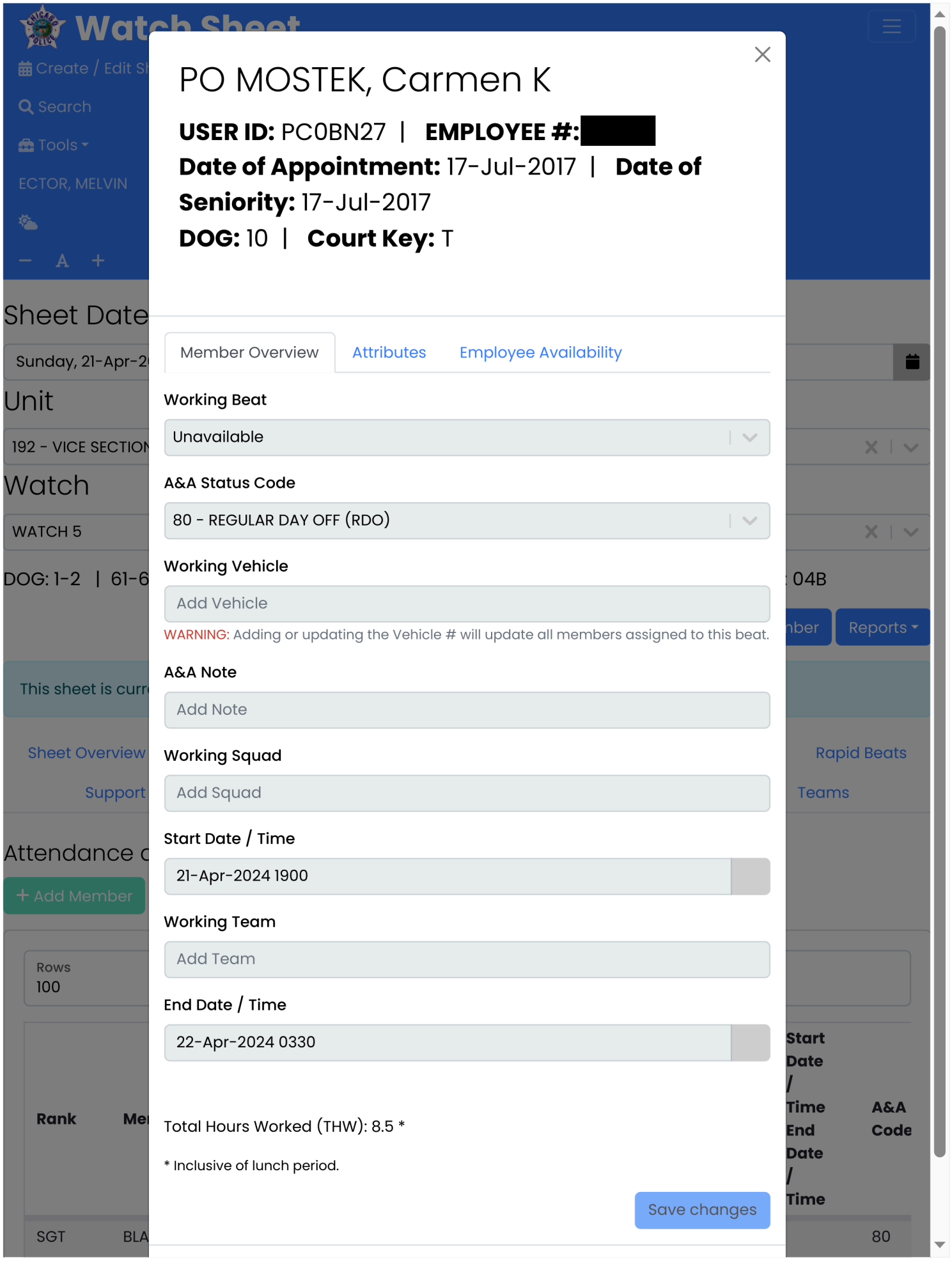
For the foregoing reasons, defendant's motion to dismiss is granted as to plaintiff's *Monell* claims (Counts II and III of the Amended Complaint) and his prayer for punitive damages against the City. In addition, any claim seeking to hold the City liable for Mostek's alleged defamation is dismissed. The City's motion is otherwise denied.

ENTER ORDER:

Elaine E. Bucklo
United States District Judge

Dated: November 4, 2024

EXHIBIT


Watch Sheet
Create / Edit Sh
Search
Tools
ECTOR, MELVIN
Sheet Date
Sunday, 21-Apr-2
Unit
192 - VICE SECTION
Watch
WATCH 5
DOG: 1-2 | 61-6
04B
Reports
This sheet is curr
Sheet Overview
Rapid Beats
Support
Teams
Attendance c
+ Add Member
Rows
100
Rank
Start Date / Time
End Date / Time
A&A Code
SGT
BLA
80
PO MOSTEK, Carmen K
USER ID: PC0BN27 | EMPLOYEE #: [redacted]
Date of Appointment: 17-Jul-2017 | Date of Seniority: 17-Jul-2017
DOG: 10 | Court Key: T
Member Overview
Attributes
Employee Availability
Working Beat
Unavailable
A&A Status Code
80 - REGULAR DAY OFF (RDO)
Working Vehicle
Add Vehicle
WARNING: Adding or updating the Vehicle # will update all members assigned to this beat.
A&A Note
Add Note
Working Squad
Add Squad
Start Date / Time
21-Apr-2024 1900
Working Team
Add Team
End Date / Time
22-Apr-2024 0330
Total Hours Worked (THW): 8.5 *
* Inclusive of lunch period.
Save changes

Rank	Me	Start Date / Time End Date / Time	A&A Code
	STA		
SGT	MA STA		80
SGT	WA STA		80
DET	CH STA		80
PO	BRY STA		80
PO	CU STA		80
PO	IGL STA		80
PO	KHA STA		84
PO	LAY STA		80
PO	LIBR STA		80
PO	MO STA		80
PO	MU STA		80
PO	NIE STA		80
PO	ROD STA		80

PO MOSTEK, Carmen K

USER ID: PC0BN27 | **EMPLOYEE #:** [redacted]
Date of Appointment: 17-Jul-2017 | **Date of Seniority:** 17-Jul-2017
DOG: 10 | **Court Key:** T

Member Overview | Attributes | Employee Availability

Working Beat

Unavailable

A&A Status Code

80 - REGULAR DAY OFF (RDO)

Working Vehicle

WARNING: Adding or updating the Vehicle # will update all members assigned to this beat.

A&A Note

Working Squad

Start Date / Time

Working Team

End Date / Time

Total Hours Worked (THW): 8.5 *

* Inclusive of lunch period.

PO MOSTEK, Carmen K

USER ID: PC0BN27 | **EMPLOYEE #:** [redacted]
Date of Appointment: 17-Jul-2017 | **Date of Seniority:** 17-Jul-2017
DOG: 10 | **Court Key:** T

Member Overview | Attributes | Employee Availability

Working Beat

Unavailable

A&A Status Code

80 - REGULAR DAY OFF (RDO)

Working Vehicle

WARNING: Adding or updating the Vehicle # will update all members assigned to this beat.

A&A Note

Working Squad

Start Date / Time

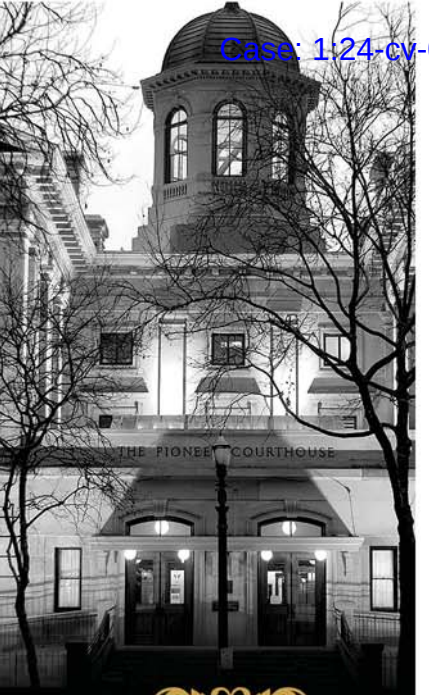
Working Team

End Date / Time

Total Hours Worked (THW): 8.5 *

* Inclusive of lunch period.

Exhibit D



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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

KENT MAYNARD JR,

Plaintiff,

v. Case No.: 24-cv-03612

THE CITY OF CHICAGO, a municipal corporation,

Chicago Police Officer CARMEN MOSTEK (Star 8664);

Defendants.

VIDEOTAPED DEPOSITION OF

CARMEN MOSTEK

TAKEN ON

THURSDAY, APRIL 3, 2025

9:17 A.M.

DENA A. BENDER

225 WEST WASHINGTON STREET, SUITE 1300

CHICAGO, ILLINOIS 60606

APPEARANCES

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Also present:
KENT MAYNARD, PLAINTIFF

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VIDEOTAPED DEPOSITION OF
CARMEN MOSTEK
TAKEN ON
THURSDAY, APRIL 3, 2025
9:17 A.M.

THE VIDEOGRAPHER: We are on the record. He time is 9:17 a.m. The date is April 3rd, 2025. This is the beginning of the deposition of Carmen Mostek; case caption's: Maynard v. Chicago.

Will counsel introduce yourselves and state whom you represent.

MR. BENAK: James D. Benak, the plaintiff. With -- with me is me is Mr. Maynard, the plaintiff.

MR. BECK: Gregory Beck for Carmen Mostek.

MR. THOMPSON: James Thompson for Carmen Mostek.

MR. GARANT: Raymond Garant for Carmen Mostek.

MS. MOORE: Marion Moore for the City of Chicago.

MS. KAUR: Simerdeep Kaur for the City of Chicago.

THE VIDEOGRAPHER: Okay. The court reporter will now swear in the witness.

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THE REPORTER: Okay. I'm your court reporter for today, and I just have a quick statement to make for the record. I would like everyone to please speak loudly, slowly, and clearly so that I can make an accurate transcript today. Please do not talk over one another because I can only report one person at a time.

I will be administering an affirmation for any testimony given. I will like to -- I would like to stipulate for the record that the affirmation and the testimony will be administered and reported by a professional digital reporter. The testimony will be transcribed and certified.

Mr. Benak, do you agree to move forward?

MR. BENAK: Yes.

THE REPORTER: Mr. Beck, do you agree to move forward?

MR. BECK: Yes.

THE REPORTER: Mr. Thompson, do you agree to move forward?

MR. THOMPSON: Yes.

THE REPORTER: Mr. Garant, do you agree to move forward?

MR. GARANT: Yes.

THE REPORTER: Ms. Moore, do you agree to

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move forward?

MS. MOORE: Yes.

THE REPORTER: Ms. Kaur, do you agree to move forward?

MS. KAUR: Yes.

THE REPORTER: Ms. Mostek, please raise your right hand. Do you affirm under penalty of perjury that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

THE DEPONENT: Yes.

THE REPORTER: You may proceed.

CARMEN MOSTEK, having been first duly affirmed to tell the truth, was examined and testified as follows:

EXAMINATION

BY MR. BENAK:

Q. Good morning, Officer Mostek. Have you ever had your deposition taken before?

A. No.

Q. Okay. I introduced myself in the elevator. I'm Jim Benak. I represent the plaintiff, Mr. Maynard.

Just some ground rules for depositions. They're pretty straightforward. I'll ask you some

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questions to which I expect answers.
If you don't understand my question, if I'm not speaking loudly enough, I'm not enunciating, or you don't understand the grammatical nature of the question, ask me. I'll rephrase it so that we have a clear understanding because what goes down on the paper is what's going to be the record, and we want to make sure we understand each other. Is that fair?
A. Yes.
Q. Okay. Can you agree to do that?
A. Yes.
Q. Okay. Your attorney, during this deposition, may make objections, and unless he instructs you not to answer, he can make the objection and then answer the question. Okay? Understood?
A. Mm-hmm.
THE REPORTER: I'm sorry. Was that a yes?
THE DEPONENT: Yes.
BY MR. BENAK:
Q. Oh, that's the other thing. Nods of the head, winks, whatever you use for body language won't work on the record. We have a written record, so you have to answer verbally. So if it's a yes or

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a no or whatever you're going to say, say it out loud so the court reporter can get it.
A. Okay.
Q. Sound fair?
A. Yes.
Q. Because a clear record is good for both of us. Okay?
So I want to do a little background on you. So you graduated from Indiana State University?
A. Yes.
Q. And your background is in -- or your degree was in criminology; is that right?
A. Yes.
Q. Okay. And it was -- was it 2017 you graduated?
A. 2015.
Q. 2015?
A. Mm-hmm.
Q. Okay. Did you graduate in four years?
A. Yes.
Q. Okay. What did you do between the time you graduated and the time you went to work for the police department?
A. I worked at a car dealership for financial

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customer service.
Q. So you were doing background checks on -- on people seeking to get credit to buy a car or something like that?
A. I did a mix of different tasks: Answering phone calls, doing cash receipts and down payments for pre-owned or new cars, car appraisals, service, service report closeouts.
Q. Did you do that the entire time between when you graduated and when you worked -- went to work for CPD?
A. So to be able to be hired with CPD, the process is kind of long. It could take about two years. So in the meantime, that's what I was doing.
Q. Did you apply to -- to CPD immediately on your graduation from Indiana State University?
A. I had to wait for the test to open up to apply.
Q. For what to open up?
A. The test.
Q. What does that mean?
A. The application only has a certain time frame when I applied to apply, and then you have to take the test.
Q. So you have a window?

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A. Yes.
Q. And you were waiting for the window --
A. Mm-hmm.
Q. -- and you did the test? And how long was it between the time you took -- or made the application and the time you were hired?
A. I don't know the exact time frame, but if I were to give an estimate, maybe about two to two and a half years.
Q. Okay. Were there any delays in your application at all?
A. No delays.
Q. So it was normal?
A. Yes.
Q. Far as you know?
A. Mm-hmm. Yes, it was normal.
Q. Had you always wanted to be a police officer?
A. It wasn't just a police officer. I knew I wanted to be some sort of law enforcement.
Q. Okay. And that goes back to when? When you were a child or when you were in college or --
A. Probably about eighth grade.
Q. Okay.
A. Yeah.

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Q. Now, in this case, there have been charges filed by COPA against you, correct?
MS. MOORE: Object to the form.
BY MR. BENAK:
Q. You understand that, correct? You can answer.
A. I'm not aware of charges, but they -- they made some allegations.
Q. Okay. Well, they call it misconduct, correct?
A. I'm not sure what they call it.
Q. Okay. Well, we'll have a document here --
A. Okay.
Q. -- and we can just talk about that. I just wanted to know preliminarily what the status of the COPA investigation with respect to you is.
MS. MOORE: Objection. Foundation.
BY MR. BENAK:
Q. You can answer.
A. I'm sorry. What was the question?
Q. The status of the investigation. I'll frame it a little bit differently. Have you been notified by COPA of any change in the status of their investigation as to you?
A. I believe I got one notification that it's

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still being continued.
Q. And that's it?
A. Mm-hmm. Yes.
Q. So as far as you know, from COPA --
A. Sorry.
Q. -- the investigation that they started is still being continued?
A. Yes.
MR. BENAK: Will you mark that Mostek 1.
(WHEREUPON, Exhibit 1 was marked for identification.)
MR. BENAK: Can you pass these down there, please.
THE REPORTER: Exhibit 1 marked.
BY MR. BENAK:
Q. Officer Mostek, you've been handed what's been marked by the court reporter as Mostek Exhibit 1. It's called a Notification of Charges/Allegations, and it's Bates stamped FCRL_002241 through 2244.
Now, just before you do anything else, I'll just say that these Bates stamps are Bates stamps that pertain either to a document production that came from your lawyers or from the City lawyers. Okay? Just for clarification. So that's

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how we've identified it.
I would like you to look at the document and tell me if you've ever seen that before.
A. Nope.
Q. Now, you were interviewed by COPA when you gave them a statement, correct?
A. Correct.
Q. Did they show you this document when they -- when they asked you for their statement?
A. Which page?
Q. Any of it. I want -- look at all the -- all four pages and make sure that we're talking about the same thing here.
A. No, I've never seen this document.
Q. Any of it?
A. Correct.
Q. Okay. So there are two parts to this, and you've said that -- I want to make sure I'm clear on this -- COPA didn't show you this when you gave your statement to COPA?
A. Correct.
Q. Okay.
A. Mm-hmm.
Q. So I'd like you to take a look at the first page of that. There are two parts, as I said.

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The first part is what's called a Complainant Section, and you see where on Line 1 the complainant is named Kent Maynard, which is Mr. Maynard, who's the plaintiff here sitting next to me.
The allegations are that on April 20- -- on or about April 21, 2024, at approximately 11:30 a.m., at or near 510 West 29th Street, Chicago, Illinois 60616, that Police Officer Carmen Mostek committed misconduct through the following acts or omissions, by:
Discharging a firearm without justification, failing to take precautions to minimize the risk that people other than the target would be struck when discharging a firearm at Kent Maynard's dog while Kent Maynard was in close -- close proximity to his dog.
Did they read that to you at your statement?
A. No, not to my recollection.
Q. Okay. Well, we'll take a look at the transcript. Maybe we'll refresh your recollection. Go to the second page, if you would please. That's -- this is at Bates Number FCRL_002242. This is a complaint by the Civilian Office of Police Accountability. That's COPA, as you understand it,

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correct?
A. Yes.
Q. Okay. This allegation is a little different. There are five -- five allegations. And it reads as follows: It is alleged that on or about April 21, 2024, at approximately 11:31 a.m., at or near 510 West 29th Street, Chicago, Illinois, 60616, that Police Officer Carmen Mostek committed misconduct through the following acts or omissions, by:
Providing a false, misleading, inaccurate, and/or incomplete report by telling Sergeant James Butler that it was necessary to shoot Kent Maynard's dog because Kent Maynard could not control his dog.
Did I read that correctly, Officer?
A. Yes.
Q. What -- how do you respond to that allegation? In other words, do you deny that or do you agree with it?
A. Well, there's one part that I disagree with and there's one part that I agree with.
Q. Well, tell me what that is, please.
A. So the first -- the first half, I do not agree with, where it's saying I'm providing a false, misleading, inaccurate report, but I agree that I

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could have completed it more.
And I also agree that I did shoot Kent Maynard's dog because Kent Maynard could not control his dog. That is part of the reason why I did shoot his dog.
Q. Anything else to add to that?
A. No.
Q. Okay. The second allegation is: Providing a false, misleading, inaccurate, and/or incomplete statement in a tactical response report by reporting that she shot Kent Maynard's dog in self-defense.
Did I read that correctly?
A. Yes.
Q. What's your response to that?
MS. MOORE: Object to the extent it's compound.
BY MR. BENAK:
Q. You can answer.
A. I do not agree with: False, misleading, or inaccurate. In the beginning of my TRR, it says: Not all facts are contained herein. It's a summary of events, not a verbatim account, so that I could put more information in there, but since I've included that statement --

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Q. So you think that -- I'm just trying to understand. Your -- your response was that the report was incomplete and you feel that you could have included -- included additional information, but did not?
MS. MOORE: Objection. Mischaracterizes her testimony.
BY MR. BENAK:
Q. I'm just trying to understand. Is that what you're saying?
A. I'm saying that what I see -- as in fully processing everything, I would have put more information in the TRR.
Q. So I want to make sure I understand you. So you say it was incomplete and you could have included additional information?
MS. MOORE: Same objection.
THE DEPONENT: Well, it is a summary of events and not all facts are contained herein, but after processing everything, which may have taken me two or three days afterwards, I would have included more in the TRR.
BY MR. BENAK:
Q. Okay. So the TRR, tactical response report -- and I just want to make clear that we're

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understanding each other -- was at the time it was made, incomplete. Is that your testimony?
MS. MOORE: Same objection.
MR. THOMPSON: I'm just gonna object to the term "incomplete."
BY MR. BENAK:
Q. You can answer, Officer.
A. I'm a little confused.
Q. Well --
THE DEPONENT: If you object to the term "incomplete," then is it --
BY MR. BENAK:
Q. You can answer the question if you --
A. Oh.
Q. -- understand it.
MR. THOMPSON: We may make objections.
THE DEPONENT: Uh-huh.
MR. THOMPSON: After the objection, then you can go ahead and answer the question. Okay? Okay?
THE DEPONENT: Okay. So the TRR is fine?
BY MR. BENAK:
Q. I'm sorry?
A. I don't exactly know how to answer.
Q. Okay. Well, let me make it clear.

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A. Can you just describe --
Q. Let me make it more clear. I -- I want to understand your testimony, and the way I understand it -- and correct me if I'm wrong -- is that at the time the tactical response report was completed, in your view, it was incomplete; is that correct?
MS. MOORE: Objection. Form.
MR. THOMPSON: Same.
THE DEPONENT: No.
BY MR. BENAK:
Q. That's not right?
A. I --
Q. Look -- you can't look at your lawyers, Officer. I'm asking the questions and I want an answer to it.
So is it your testimony that the time -- at the time the tactical response report was made, it was incomplete? Is that your testimony?
A. I'm sorry. I'm just confused when people object to the word "incomplete" and then --
Q. Well, how do you understand the word "incomplete"? Because you're the one who said that it wasn't complete and could be added to after it was made. So I'm asking you, was it incomplete at the time it was made?

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MS. MOORE: Objection. Form.
MR. THOMPSON: Same.
THE DEPONENT: I'm honestly confused.
BY MR. BENAK:
Q. Okay.
MR. BECK: Can we take a break and go off the record for just a minute?
MR. BENAK: Yeah.
THE REPORTER: Please stand by. Please stand by. We're still on the record.
THE VIDEOGRAPHER: The time is 9:33 a.m. and we are off the record.
(WHEREUPON, a recess was held.)
THE VIDEOGRAPHER: The time is 9:38 a.m. and we are on the record.
MR. BENAK: Are we ready to proceed, Counsel?
MR. THOMPSON: We are. Thank you.
MR. BENAK: Well, I think you know I have to do this. For purposes of the record, I have to object to the coaching of the witness. Okay? I'm just -- and as I said when you took a break, if this is going to happen all day, it's gonna take a long time.
MR. THOMPSON: Fair enough.

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MR. BENAK: All right.
BY MR. BENAK:
Q. So, Officer -- and can I call you Officer Mostek?
A. Mm-hmm.
Q. By the way, you're still employed by CPD, correct?
A. Yes.
Q. Okay. So when we left off, I was asking you a question about one of the allegations made by COPA, and that allegation was pertaining to the incomplete statement in the tactical response report.
My question was, is it your testimony that at the time the tactical response report was filed, it was incomplete?
MS. MOORE: Object to the form.
THE DEPONENT: No, it was not incomplete at the time because it was just a summary of events, but further down the line, I would have included more.
BY MR. BENAK:
Q. All right. So that I can understand this, you're telling us that the document was complete at the time, but you were going to later add additional

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facts to it?
MS. MOORE: Object to the form.
THE DEPONENT: I couldn't add additional facts afterwards, but when I processed everything that happened and after going to COPA, recognizing that I should have included others' actions, then I would have included that in the report if I knew to include that at the time.
BY MR. BENAK:
Q. Okay. So let's go to the next one: Providing a false, misleading, inaccurate, and/or incomplete statement in a tactical response report by failing to report that Kent Maynard was holding his dog when Officer Mostek shot the dog.
How do you respond to that allegation?
A. I deny the allegation.
Q. What part of it? In total or a -- a particular part?
A. I didn't know that I was supposed to include Kent Maynard's actions because the TRR is -- is formed in a way where I'm describing what action I'm taking against the subject, and the subject in the TRR at the time was Aggie.
Q. Okay. So the -- the next one is: Failing to remain on the scene of a firearm discharge, in

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violation of General Order G03-06. How do you respond to that?
A. I believe these were exigent circumstances and I was trying to de-escalate the situation, but I called right away. The scene was my -- my residence.
Q. So you don't -- you don't deny that you left the scene, but you thought it was exigent circumstances. Is that your testimony?
A. Correct.
Q. Okay. Finally: Failing to qualify annually with her auxiliary firearm, a Sig Sauer, Model P365, Serial Number 66A424041, as required by Uniform and Property Order U04-02. How do you respond to that?
A. I accept that.
Q. Okay. So at the time of this incident, you were not qualified with your Sig Sauer, Model P365; is that correct?
A. Correct.
Q. So let's go back to the prior allegations, prior page Bates numbered FCRL_002241. The first allegation is: Discharging a firearm without justification. How do you respond to that?
A. I deny that.

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Q. You think you were justified in using your firearm under those circumstances?
A. Yes.
Q. Failing to take precautions to minimize the risk that people other than the target would be struck when discharging a firearm at Kent Maynard's dog while Kent Maynard was in close proximity to his dog, how do you respond to that?
A. I deny it because I didn't have ample time. It was needed quickly.
Q. Okay. Let's back up a little bit. First, I neglected to do one of the niceties of taking depositions. Could you state and spell your name, please, for the record.
A. My full name?
Q. Yes.
A. Carmen, C-a-r-m-e-n.
Last name Mostek, M-o-s-t-e-k.
Q. Okay. And I asked you whether you were still employed by the Chicago Police Department. You answered yes. What capacity are you employed in?
A. Full-duty status.
Q. Are you on patrol status at the time right now?

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A. I'm in a unit.
Q. And what do you do? What are your duties now?
A. Prostitution investigations and sex trafficking investigations.
Q. Okay. Do you have a beat?
A. Yes.
Q. And what's that beat?
A. 6372.
Q. Are you performing the same duties you performed before the investigation was launched?
A. Yes.
Q. Okay. You still carry a firearm?
A. Yes.
Q. You still carry a backup firearm?
MS. MOORE: Object to the form.
BY MR. BENAK:
Q. Let me ask it a different way. Do you carry a firearm when you're off duty?
A. Yes.
Q. Is it still the same firearm, the P365?
A. Yes.
Q. Let's back up a little bit further. Do you recall the incident on April 21, 2024, the one that's been described in the notification of charges

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and allegations?
A. Yes.
Q. And tell us in your own words what that incident entailed. What happened?
A. It was a shooting with a dog. Mm-hmm.
Q. That's it. That's how you would describe it?
A. Well, there's a lot to describe. Do you want me to start from -- from the beginning to --
Q. Yeah. I'd like to hear your recitation of events.
A. Okay. It started Sunday morning, April 21st. I was walking my dog. His name's Buddy. He's -- he's a Corgi, so he's short; about 30 pounds.
I was walking him on a leash throughout the neighborhood, and when I was walking eastbound on 29th Street -- and then when I passed Kent's residence at 522 West 29th, I heard: Aggie, no, Aggie, no, with the neighbor yelling at his dog. So at that point, I knew something was going on.
And then when I got to the corner of 29th and Normal, I turn to look westbound, and I see Aggie running full speed at me and my dog, and I knew this was not going to be a good situation because I know Aggie to be aggressive and it was --

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she was running at full speed, beelining it.

So I turned to walk northbound on Normal to avoid Aggie's aggression, but there wasn't that much I could do because it was so fast to try to run into my garage.

And then Aggie latched on to my -- my dog's neck, open -- with an open jaw around my dog's neck and started twirling my dog around and completely over-dominating my dog to the point where it just flushed my dog into the street. And the dog was -- Aggie was on top of my dog, and Aggie was moving really fast and biting my dog's neck at a very fast speed.

And I see Kent run in my right peripheral, and I see Kent -- I see Kent try to grab his dog, but when he grabbed it, it was around the lower leg area, the stomach area of his dog, Aggie. And when he grabbed his dog, he made a movement like this with his head. He got small in his face, and I knew this -- this grab wasn't going to control Aggie at all as she's moving and that her jaws are still on my dog's neck. I wanted to give him a moment to see if he could gain control of his dog.

And all this that I'm describing to you, I had a lot of adrenaline and everything slowed down

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and I was able to see everything crystal clear and all these movements that I noted, slowed down. I had heightened -- heightened awareness.

And I was afraid to -- to reach in because I don't want to get mauled or disfigured. I don't want to die either because the dog's jaws are just biting my dog's neck. And Ken's face is right there, too, and he's getting small, showing me that he's afraid of his own dog. Also, if he wasn't, he would have grabbed control of his dog's neck area, but he didn't go near his dog's neck area, and I was afraid -- afraid to reach in.

Aggie was extremely aggressive and extremely dangerous. She was trying to kill my dog that I love so much. I've had my dog for about four, four and a half years. It's like seeing my little -- my little child get destroyed. I don't want to see him get mauled to death, and that's what would have happened if I didn't take action. He had no control of his dog. The dog was still moving. His dog was able to escape him in the first place.

So I saw Kent lying on the right side of Aggie, which would be the north -- the south side of Aggie. Aggie's facing more east and west. My dog's underneath Aggie with Aggie's jaws around my dog's

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neck. I see Kent out of the line of fire. The pit bull's head is facing -- well, Aggie's head is facing northbound, and I take the clear shot.

And then after I did the shot, Aggie's head went in a parallel direction as Kent, and then I saw Kent extend his -- his head and neck and hug his dog after that happened. And then my dog -- my dog was set free after -- after the discharge.

And then I went inside and called because I didn't want to remain on scene because Kent was very upset and I didn't want to further upset the situation.

And I called the police right when I was going into the garage. And I even asked 911, If you want me to go outside, but they said remain there until officers come on scene.

Q. Is that it?

A. What's the --

Q. The description of the incident.

A. I'm sure there could be more added if you have questions --

Q. Okay. Well, we may have some questions.

A. -- but that's the overall summary.

Q. But as you sit here today, that's your best recollection of events?

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A. Yes.

Q. Have you reviewed any videotape of the incident?

A. Yes.

Q. What videotape did you review?

A. I saw two Ring camera footages.

Q. And when was the last time you looked at those Ring camera footages?

A. During a deposition prep.

Q. Okay. You don't have to tell me what was said. When was the last time you had this deposition prep?

A. I would have to check my calendar for the exact date, but about a week or two.

Q. Okay. How long did you spend with your lawyers?

A. Well, there was two different deposition preps, so --

Q. And how long did each of them last?

A. The first one, about three or four hours. The second one, about two -- a little over two, two to three.

Q. And were these preps held with these two lawyers that are present here defending you today?

A. Yes. And he was there for one of them

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too.
Q. Okay. All three? Mr. Garant as well?
A. Mm-hmm.
THE REPORTER: I'm sorry. Is that a yes?
THE DEPONENT: Yes.
THE REPORTER: Thank you.
BY MR. BENAK:
Q. When you reviewed the videotape -- the surveillance Ring camera tape that you just described, do you think that your statement that you've just given us today, your description of the incident, is consistent with that videotape?
A. It doesn't capture my point of view and the video is not the best quality. It captures a summary, I believe, like an overview of it, but it doesn't have my perception and it doesn't have exact audio and sound synced.
Q. Okay. Just a couple of questions. In your description of the event that you just gave now, you didn't tell us when you dropped the leash from your dog from your hand. When did you do that in the series of events?
A. In the series of events, I cannot recollect when I dropped the leash.
Q. Let me ask a different question. Do you

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deny that the videotape from the Ring camera accurately depicts, as best as can be done with that kind of a camera, the event? In other words, do you dispute that the camera captured the event?
A. I believe it captured the event, but not from my point of view.
Q. How far away was Kent when you discharged your firearm?
A. Anywhere from -- oh, Kent? Because I was asked how far Aggie was but not how far Kent was.
Q. Well, the question is: How far away was Kent when you discharged your firearm? From the barrel of the gun to his face, how far was it?
A. About four feet.
Q. How far away was your dog from Kent's dog at the time you discharged your firearm?
A. About one foot.
Q. So the dogs were separated when you discharged your firearm?
A. No, they were not separated.
Q. It's your testimony that the dogs were engaged at the time you discharged your firearm?
A. Yes.
Q. Do you know that there's testimony that the dogs were two feet apart at the time you

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discharged your firearm?
A. There was testimony of --
Q. Yes, of a witness. Did you know that?
A. No, I didn't.
Q. Did you know that there were witnesses to the incident other than you and Mr. Maynard?
A. I have no reason to -- to doubt that.
Q. As a matter of fact --
A. There's a lot of people that walk around.
Q. Well, as a matter of fact, when you came out the door to talk to the -- talk to Officer Pronek shortly after the event -- the incident, you saw people on the street, did you not?
A. I'm not sure which officer is Officer Pronek, but I do remember seeing a crowd of people start coming around the scene.
Q. Well, let me refresh your recollection. You came downstairs to answer questions from the police department. The -- one officer approached you. I'll just --
A. Mm-hmm.
Q. -- let you know that's Officer Pronek. You showed him your ID.
A. Yeah.
Q. And on the street at that time, there were

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a number of people. Did you see those people?
A. Not everyone, but one lady tried to come up and -- and say something to me, but she was told to --
Q. Okay. But you did see that there were a number of people on the street?
A. I saw that there were some people on the street.
Q. Any guess how many those -- how many people were on the street?
A. No. I wasn't trying to go out there and look around much.
Q. Did you think that possibly those people were witnesses?
A. Some of them could be witnesses.
Q. Did you know whether or not they gave any statements?
A. No, I'm not sure.
Q. Let me go back to the -- I think I asked this question a little earlier. At what point in the series of events did you drop your dog's leash?
A. It was at some point during the -- the incident, but I can't recall exactly when I dropped the leash. It was sometime before I unholstered because I couldn't have had my leash while

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unholstering.
Q. Right.
A. Mm-hmm.
Q. So you dropped the leash, and then you drew your gun, correct?
A. I don't know if it's right before, if the -- if -- all the tussling, and if that's what caused the leash to come out of my hands or if I dropped it. I can't -- my -- my focus was more on Buddy and Aggie at that time.
Q. Well, let's -- let's just clarify that. At the time the dogs were engaged, you didn't have your dog's leash in your hand, did you?
A. I can't remember if I did.
Q. Well, we'll refresh your recollection later on.
A. Okay.
Q. So I just want to get the sequence correct, though. At some point in time, you dropped your dog's leash and you drew your pistol, correct?
A. Correct.
Q. Okay. And in the series of events, you're not sure exactly when that happened?
A. Correct.
Q. Okay. Do you know where Kent was when you drew your gun?
A. Yes.
Q. Where was he?
A. He was on the right side, which would be the -- the south side.
Q. Okay. Now, when you gave a statement to Officer -- or, excuse me, to Sergeant Butler, you told Sergeant Butler: Kent Maynard was close. And so what are you saying? How close was he, as you recall today sitting here?
A. As I recall sitting here today, about four feet.
Q. How far was the line of fire of your pistol from his face?
A. About four feet.
Q. It was four feet from the line of fire of your pistol?
A. That's my best estimate.
Q. That's your testimony today?
A. Yes.
Q. And that's after you reviewed the videotape from the surveillance Ring camera?
A. Well, that would have been my testimony from my point of view, from my viewpoint from the incident.

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Q. Okay. So is it your testimony that -- well, it is your testimony. You said that -- that Aggie was an aggressive animal?
A. Yes.
Q. And how do you know that?
A. I've had some prior experiences with Aggie.
Q. And what -- describe those experiences for us, please.
A. Okay. There's a couple different ones. I do have this area above my garage where I can stand -- stand out on. Sometimes I go out there to -- to read or hang out and sometimes to play fetch with my dog.
And I saw Aggie bite through the screen door of Kent's residence in -- in his backyard area, bite through the screen, jump over the lower plastic part of the door, and start running around and jumping up onto the wall with the hair on -- on her back standing up and like growling, and like I just could tell that it wanted to attack me or Buddy.
Q. Oh, you -- you could tell?
A. Mm-hmm. With its growling, sneering, jumping up, it wasn't gonna be friendly.
So I saw it bite through the screen door

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twice. And then there was another instance in the garage where I opened up one of the doors to go to the backyard and Aggie was on the other side and ran at me and my dog full speed with an open mouth and then I had to kick it back -- kick Aggie back and close the door really quick.
And there was another time I was in the garage by myself and I was getting out of the car to go into my back door and I hear Aggie start attacking the door and low growling and just jumping up and clawing at the door and seemed like she was trying to break the door down and cause my adrenaline to -- to spike. And it was just scary, and then I went inside.
There was another time I was walking my dog and Kent had Aggie on a harness leash, and his dog was trying to run at my dog and was -- was growling and was -- was doing some biting -- biting motions and Kent had to hold it back. And he's like, Maybe we can get the dogs to be friends someday. Some -- something along the lines of that. But I said, I don't think so.
And that was -- that was about the experiences I had.
Q. Other than the event you described that

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Kent was present, were there witnesses to any of these other events that you described?
A. I'm not sure if anyone else --
Q. So as far as you know --
A. -- saw.
Q. -- you're the only one that saw those things happen that you've just described, except the incident with Kent?
A. A couple people, later on, told me that they saw Aggie bite at a couple people.
Q. Oh, really? And who were those people?
A. One of them was Sandy. She's a neighbor that lives west of me. And there's another man named John.
Q. You don't know their last names?
A. No. His name's Frank.
Q. Well, John or Frank, have you disclosed the names of those people to your lawyers?
A. Yes.
Q. Okay. Have they disclosed, as far as you know, those names to us?
A. I'm not sure.
Q. Do you know what -- the addresses of these people?
A. I know that they live on 29th Street on

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the same block.
Q. Do you have any idea what Aggie's reputation is amongst other dog owners in the area?
A. No, I'm not sure.
Q. Do you know that after her death, there were two memorials built right outside your -- your building -- your home -- your house to her? You understand that?
A. Okay. I saw one of the memorials.
Q. Okay. Did you know that the memorial was torn down and then rebuilt?
A. No, I didn't.
Q. Okay.
A. The first one, no. I only saw one of them.
Q. Did you know who built those memorials?
A. I don't know who, but I'm assuming. Well, I can't make assumptions.
Q. So I want to make sure I understand your testimony. So you're telling us today that you destroyed an aggressive dog; is that correct?
MS. MOORE: Object to the form.
BY MR. BENAK:
Q. You understand my question? I think that's your testimony. If it's not your testimony,

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then tell me it's not. But from what I understand you're telling me, you're telling me you destroyed an aggressive dog; is that correct?
A. Yes.
Q. Okay. And you told that to the COPA investigators, did you not?
A. I don't know if I used the exact word "destroyed," but I described that I killed the dog, Aggie.
Q. Well, killing is destruction, isn't it?
A. Yeah.
Q. Okay. And when you killed this aggressive dog -- when you destroyed this aggressive animal, you were acting as a police officer, were you not?
A. Yes.
Q. And you thought it was your responsibility to destroy the aggressive animal?
MS. MOORE: Object to the -- this is a delayed objection -- legal conclusion and form of the question.
BY MR. BENAK:
Q. Well, I'm not asking for a legal analysis Officer Mostek. I'm asking you, in your mind, did you believe you were destroying an aggressive animal?

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A. Yes.
Q. And in your mind, did you believe you were acting as a police officer to protect the public safety?
MS. MOORE: Object to the form.
THE DEPONENT: Well, I know with my job, I'm always considered a police officer even when I'm off duty and that I still have obligations to fulfill during certain events that occur when I'm even off duty. For instance, if I see a crime happening, I have to call 911 or engage to stop the crime.
So I knew I had obligations to fulfill. I knew I had to call 911, tell them I'm an off-duty police officer. And I haven't had CCL training, but I've only had training with what I'm supposed to do as an officer.
BY MR. BENAK:
Q. We'll get to the training, but back to the question. In your mind, did you think you were fulfilling your obligations to protect public safety when you destroyed Aggie?
MS. MOORE: Same objection, and asked and answered.
MR. BENAK: Well, I don't think I got an

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answer to it, Counsel, so I'm entitled to ask it again.
BY MR. BENAK:
Q. Do you understand my question?
A. Yes. Mm-hmm.
Q. Okay. Did you understand in your own mind that you were protecting the public safety when you destroyed Aggie?
A. Yes.
MS. MOORE: Same objections.
BY MR. BENAK:
Q. Did we get an answer to that, Officer?
A. Yes. Mm-hmm.
Q. Your answer is yes?
A. Mm-hmm.
Q. You're gonna have -- you have to speak up. You have to speak up.
A. Yes.
Q. Okay. Now, during the time after the incident, when you were asked questions by COPA in particular, was there any time during that question -- that session of question and answer or any time during this whole incident -- or post incident when you were -- filled out the tactical response -- tactical response report, when you were questioned

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by -- when you were questioned by COPA or anyone in connection with this incident, did anyone ever ask you if you were acting as a civilian?
A. No.
MS. MOORE: Object to the form.
BY MR. BENAK:
Q. Do you understand my question? As a civilian as opposed to a police officer.
A. No one asked me that.
Q. Did anybody treat you in any way other than as a police officer?
MS. MOORE: Objection. Foundation.
BY MR. BENAK:
Q. Arising out of this incident.
MS. MOORE: Same objection. Form.
THE DEPONENT: No.
BY MR. BENAK:
Q. Okay. Has anyone, other than the City of Chicago, told you that you were not acting as a police officer at the time?
MS. MOORE: Object to the form of the question.
THE DEPONENT: Has anyone told me I was not acting as a police officer?
BY MR. BENAK:

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Q. Let me ask -- let me ask the question a little differently. You filed a grievance in this case against the City of Chicago, correct?
A. Yes.
Q. And that grievance is that you are not being indemnified wholly for your actions in this case, correct?
A. Indemnified?
Q. You want me to show you the grievance report? Because we can do that. Maybe that's the easier way to do it. I think this is only one page.
MR. BENAK: Counsel, if you'd hand it down.
Is this 2?
(WHEREUPON, Exhibit 2 was marked for identification.)
THE REPORTER: Exhibit 2 marked.
MR. BENAK: Jeez, we're just moving along, aren't we?
BY MR. BENAK:
Q. So, Officer, you've been handed what's been marked by the court reporter as Mostek Exhibit 2. That's titled Grievance Report, and the FCRL Bates number is -- is deleted from this, but I can find it.

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But for the time being, just tell me whether or not you've seen that document before.
A. Yes.
Q. And when did you see it?
A. The 21st of November '24.
Q. This is, in fact, a grievance that you filed, is it not?
A. Correct.
Q. And let's just look at the grievance language. You've said: Police officers are considered on duty at all times despite being off duty. G/O was faced with a dangerous situation where G/O was forced to take action consistent with an on-duty officer would have done. G/O was using an approved weapon.
G/O became subject of a civil suit, Number 24-cv-03612, and G/O cooperated with the employer and with the corporation counsel.
The ACC further attempted to ask if G/O was willing to pitch in her own money to settle the lawsuit. One G/O -- once G/O answered the negative, G/O was notified that the City was no longer indemnifying G/O. G/O seeks to be made whole of money damages, Article 22.
Did I read that correctly?

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A. Yes.
Q. And "G/O," I'm assuming was you?
A. Yes.
Q. What does "G/O" stand for in this context? Grieving officer?
A. Grieving officer.
Q. Okay.
A. Grievance officer.
Q. So now you understand my question better? What I'm asking you -- has anybody, other than the City of Chicago, told you that you were not acting as a police officer under these circumstances?
MS. MOORE: Objection. Form of the question.
THE DEPONENT: There was a part of the allegations that I received in the mail that was saying that the City wasn't gonna represent me on certain aspects of the lawsuit.
BY MR. BENAK:
Q. Okay. But I go back to my -- my first question, and that is: Has any party, any person, anybody, other than the corporation counsel and the City of Chicago, told you that they believed you were not operating as a police officer in this circumstance?

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MS. MOORE: Objection. Form. Foundation.
THE DEPONENT: Told me?
BY MR. BENAK:
Q. Yes.
A. No.
Q. How many people do you suppose within the CPD you've talked to about this particular incident?
A. How many people?
Q. Yes.
A. Various -- various -- well, there's multiple people. So all the on-scene people. I've given a statement. Whoever captured me on camera giving a statement to the sergeant on scene. All my bosses at work, I had to notify them. My family.
Q. Well, let's leave your family out of it for the time being.
A. Okay.
Q. Let's just talk about people within the organization of the police department and the city. Okay?
A. Okay.
Q. Who else?
A. Well, various other officers know about it, too, like at work in my unit, or they've seen it on the news and asked, Hey, hope you're doing okay

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or --
Q. Okay. Of all of those people that you've talked to within the CPD -- either you've talked to in a conversation or they've just made comments to you, has anyone, other than the City of Chicago, told you that you were not acting as a police officer under these circumstances?
MS. MOORE: Objection. Form of the question.
THE DEPONENT: No.
BY MR. BENAK:
Q. I want to go back to the aggressive dog issue. No, I don't. Let's leave that where it is. You can set that aside, Officer.
A. Okay.
MR. THOMPSON: Jim, just so I don't forget. For the -- for the exhibit that's gonna become part of the -- the record, can we have the address and phone number redacted?
MR. BENAK: Sure.
MR. THOMPSON: Okay.
MR. BENAK: That's fine.
MR. THOMPSON: Thank you.
MR. BENAK: I'm surprised that wasn't done. Everything else has been redacted.

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BY MR. BENAK:
Q. Do you recall the first thing you said after you destroyed Aggie? The first words out of your mouth after you shot your gun into her head, what did you say right after that?
A. I don't remember the exact words, but it was something along the lines of, It was attacking my dog.
Q. Okay. "It," meaning Aggie was attacking your dog?
A. Mm-hmm. Yes.
Q. And that was your justification for firing into her head?
A. There's more -- more reasons why I discharged than just that alone.
Q. Well, what are the reasons then?
A. Defense of myself, defense of Kent, and defense of my dog.
Q. Okay. That's what you told COPA, correct?
A. Yes.
Q. Some of that, however, isn't included in the TRR, correct?
A. Sorry. What was that?
Q. The TRR doesn't include those facts that you just mentioned, that you were defending

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yourself, you were defending your dog -- well, you did say the dog, but you didn't say anything about defending Kent, correct?

A. Correct.

Q. Okay. So you left the scene, and we'll see on the videotape how you left the scene. I won't characterize it. The videotape can speak for itself.

You left the scene and you went to your apartment and you called 911. What was the first thing you said when the 911 operator answered the phone?

A. I described that I was an off-duty PO and that I got into a shooting and I gave them my address and told them I went inside and --

MR. BENAK: Where are we, 3?

THE REPORTER: Mm-hmm.

(WHEREUPON, Exhibit 3 was marked for identification.)

THE REPORTER: Exhibit 3 marked.

BY MR. BENAK:

Q. Officer Mostek, you've been handed what's been marked by the court reporter as Mostek Exhibit 3. For the record, this is entitled Original Case Incident Report, and it is in -- Bates numbered 001

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-- FCRL_001751 and 1752. Have you ever seen that document before?

A. The case report?

Q. Yes.

A. Yes.

Q. When was you -- when -- when did you last see this report?

A. I can't recall when I last saw it. I do -- I did print -- I do have a printed copy of it.

Q. Okay. You can set that aside for a minute. I have a couple of preliminary questions I want to make before -- or want to ask before we get to that.

The firearm that you used -- I'm gonna go back and cover some ground here. The firearm that you used, the Sig Sauer P365, was that fully loaded at the time? You know what I mean by "fully loaded"?

A. Yes. So I usually don't put -- so it's 10 plus one, but I usually put nine plus one because the mag slips out with -- with 10 rounds.

Q. So you might jam that second shot or lose the mag if you fully load it?

A. Correct.

Q. So you normally carry the mag partially

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loaded?

A. Mm-hmm.

THE REPORTER: Was that a yes?

THE DEPONENT: Yes.

BY MR. BENAK:

Q. Or partially full?

A. Yes.

Q. But you had one round in the chamber, correct?

A. Correct.

Q. And, of course, you have since been qualified. Even though you weren't qualified at the time, you've since been re-qualified on that firearm, correct?

A. Correct.

Q. And what's the -- what's the requirement for qualification? What do you have to do?

A. Qualify every year.

Q. Right. Correct. But when you qualify, what do you do?

A. You take the State of Illinois firearm's test. I'm not sure what exactly the test is titled, but you take the -- the test to pass the state requirements.

Q. And is there a -- is there a requirement

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that you should put so many rounds through a target at a certain range?

A. Yes.

Q. And what are those requirements?

A. I don't know the exact test format, but there's some at the seven yard, 15-yard mark, and -- I know there's three different -- three different distances. I don't know the exact distances.

Q. In any event, you qualified, but not until this incident was over, correct?

A. I qualified in August 2022, was the last time I qualified with the off-duty, and then also I qualified with it after the incident.

Q. But you weren't qualified at the time you drew your weapon and fired it in this case, correct?

A. Correct.

MS. MOORE: Objection.

BY MR. BENAK:

Q. Right. You qualified in May -- the following May of 2024, after this incident, correct?

A. Correct. I wasn't in the year-scope time frame that it was supposed to be in.

Q. What's your duty weapon?

A. What type of -- what type of --

Q. Yeah.

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A. -- weapon it is? It's a Glock 17.
Q. Have you ever unholstered your weapon in an on-duty capacity?
A. Unholstered it?
Q. Unholstered. Have you ever pulled your weapon in an on-duty circumstance?
A. Yes.
Q. When?
A. During -- during high-threat, dangerous circumstances or when someone has had a gun.
Q. You ever discharged your weapon in an on-duty capacity?
A. No.
Q. Have you ever discharged your weapon in any case, other than the one at issue here?
A. Just at the firing range. That's it.
Q. But on duty or off duty, this is the only time you've discharged your weapon, other than on a range?
A. Correct.
Q. Do you know the difference in the -- the so-called trigger pull between the Glock 17 and the P365?
A. (No audible response.)
Q. Do you know what I'm talking about?

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A. Yes. I would say that there's not too much of a difference.
Q. Okay. Do you know the poundage, the technical aspects?
A. No, I do not.
Q. But in your -- in your mind, the trigger pull, the resistance is about the same between the two weapons?
A. Yes. They're about -- they're similar.
Q. And both are striker-fired?
A. Yes.
Q. You have to register that weapon with the Chicago Police Department, don't you?
A. Yes.
Q. Okay. And, in fact, you're not allowed to carry that weapon unless -- unless you've registered it with the Chicago Police Department; isn't that correct?
MS. MOORE: Object to the form. Vague.
BY MR. BENAK:
Q. You know what I'm -- you know what I'm asking?
A. Well, when I went to -- I know it's up to department standards and I believe I qualified with it and I'm not sure 100 percent if it's registered

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with this the City of Chicago.
Q. Let's just take -- take a look at the RDS here.
MR. BENAK: Mark that, please. Counsel.
(WHEREUPON, Exhibit 4 was marked for identification.)
THE REPORTER: Exhibit 4 marked.
BY MR. BENAK:
Q. Officer, you've been handed what's been marked by the court reporter as Mostek Deposition Number 4 -- Exhibit 4. Have you ever seen that before?
A. This -- this order?
Q. Yes.
A. Yes, I may have seen it.
Q. Okay. Are you required to review all orders that pertain to your ownership of firearms from time to time? Let me ask you a different way. Is the knowledge of this order required as part of your training?
A. We do have access to all the general orders. There is an extensive amount of general orders, but we're expected to complete our E-learning every month, which can review some of the

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-- some of the orders.
Q. Okay. I'd like to direct your attention to page 6 of this general order, Officer.
MS. MOORE: Object to the characterization.
MR. BENAK: I'm sorry. Whose characterization, Counsel?
MS. MOORE: Yours, calling it a general order.
MR. BENAK: Oh, I'm sorry.
BY MR. BENAK:
Q. Whatever it's called, let's take a look at this. This is the Uniform and Property Order U04-02. Okay? Are we clear on this?
A. Okay.
Q. Okay. So turn to page six of 13. Are you with me?
A. Yes.
Q. So look at the top of the page. I think it's Roman II [sic], A, Department Firearm Registration, Sub 1: All firearms owned by a sworn member must be registered per order of the superintendent. It is the responsibility of the sworn member owning or possessing a firearm to comply with these provisions.

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Did I read that correctly?
A. Yes.
Q. And have you registered your firearm with the superintendent?
A. I believe that the paperwork would go up to him, but I don't think officers would speak directly to the superintendent.
Q. I understand that, but you believe you're -- you've complied with this Sub Paragraph 1 by registering your weapon or doing whatever you had to do to register?
A. I cannot remember if I registered that weapon or not?
Q. Let me ask it a different way. Do you think you're entitled to carry a firearm without registering it within the CPD?
MS. MOORE: Objection. Form.
THE DEPONENT: Yes, I believed we were supposed to register the firearms.
BY MR. BENAK:
Q. I was kind of asking the other side of that question. Do you believe you're entitled to own and carry a firearm without registering it with the CPD?
A. I think that means you can own it, but to

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use it and carry it, you have to register it.
Q. So as long -- as far as your understanding goes, the weapon you were carrying at the time, the P365, had been registered with the superintendent with the CPD?
A. I thought it was registered.
Q. Okay. That's your understanding?
A. Yes.
Q. And it's your understanding also that you couldn't carry it as a police officer without having it being registered, correct?
MS. MOORE: Object to the form of the question.
THE DEPONENT: Correct.
BY MR. BENAK:
Q. Okay. So the fact that you had a firearm concealed on your person on the date of the incident is by the grace of the superintendent of the Chicago Police Department; isn't that correct?
MS. MOORE: Objection. Form. Calls for a legal conclusion.
BY MR. BENAK:
Q. Is that your understanding?
A. By the grace of him?
Q. Well, I asked it in kind of a flippant

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way. I'm sorry.
A. It's okay.
Q. My -- my point is that your authorization to carry this weapon during the time of the incident --
A. Mm-hmm.
Q. -- was authorized by the Chicago Police Department; is that correct?
MS. MOORE: Objection. Form. Foundation.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. Okay. Thank you. You have any other firearms, other than the P365 and the Glock 17?
A. No, those are the only two.
Q. You talked a little bit earlier about -- in your grievance specifically about off-duty police officers being on duty for purposes of responding to emergencies. Is that your testimony?
A. Yes.
MR. BENAK: Can you mark that?
Counsel.
(WHEREUPON, Exhibit 5 was marked for identification.)
THE REPORTER: Exhibit 5 marked.
BY MR. BENAK:

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Q. Have you ever seen this -- for the record, this is Rules and Regulations of the Chicago Police Department. The FCRL number's been cut off, but this is a document that's been produced in discovery. Have you ever seen this document before, Officer?
A. Yes. Mm-hmm.
Q. And when have you seen it?
A. Well, we were -- we were given a rules and regulations handbook at some point during the academy, I believe.
Q. And within this document, there's a requirement, is there not, that Chicago police officers respond to emergencies even that they are off duty?
MS. MOORE: Object to the form.
THE DEPONENT: Which -- which part does it say it that in?
BY MR. BENAK:
Q. Well, I'm trying to find it.
A. Oh.
Q. Is it your understanding that within this document there's authority for and responsibility of Chicago police officers to respond to emergencies when they're off duty?

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A. Yes, I'm aware of that.
Q. We'll find that a little bit later. You can set that aside for now.
A. Okay.
Q. Let's go back to this original case report that you had in front of you a few minutes ago. You said you'd seen that document before?
A. Yes.
Q. And I may have asked this, but can you tell me the circumstances under which you saw that document?
A. At some point after the incident.
Q. And what were the circumstances? I know -- understand it was after the incident, but, for instance, who was there when you saw this document?
A. I believe I printed it days or maybe even a week or two after just to keep it for my records.
Q. So review that briefly, familiarize yourself with it, and then tell me if you had any part in preparing this original case incident report.
A. I didn't help complete the case.
Q. Take a look, if you will, please --
A. Okay.
Q. -- at page two, which is Bates numbered

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FCRL_001752.
A. Mm-hmm.
Q. You with me?
A. Yes.
Q. Okay. I'd like you to read that narrative to yourself. You don't have to read it out loud, but please read it and familiarize yourself with it, and then I'll have you some questions -- have some questions for you.
A. Okay. I read it.
Q. I think we talked a little bit earlier about the officers and the identity of the officers. Do you know who Officer Pronek is?
A. He was an officer on scene.
Q. Okay. Was he one of the officers that you gave your recitation or your story to?
A. And you're telling me that he's the one that approached me at first where I showed my ID? I believe I told him a brief -- a brief summary of what happened.
Q. Well, didn't he come up to your apartment and question you?
A. I'm not sure if he's the one that came up. I'm not sure which officer is which.
Q. Okay. Aside from that, can you tell me

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whether -- you told your story to someone, right? First --
A. Mm-hmm.
Q. -- you told it to some officer and then you told it again to Sergeant Butler, correct?
A. Yeah. I may have said the story to a couple different officers.
Q. Okay. You do remember the story that you told to Sergeant Butler, correct?
A. Not word for word.
Q. Well, let me ask it a different way. You may not know who Officer Pronek is, but you certainly know -- or Sergeant Butler, correct?
A. Yes, I know Sergeant Butler.
Q. Okay. And you recall that he came to your apartment and you gave him a recitation, a narrative of the events, correct?
A. It was a brief -- brief summary.
Q. Okay.
A. Yeah.
Q. And before that, there was at least one other officer you talked to about the event; isn't that correct?
A. I believe so.
Q. Okay.

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A. Mm-hmm.
Q. So now back to the narrative. Is this narrative consistent with what you told both the officer and Sergeant Butler?
A. No.
Q. Okay. How is it inconsistent with either? Let's start with the officer first. How is this statement inconsistent with what you told the officer, the first narrative you gave?
A. The order seems to be wrong because I said, Aggie, no, Aggie, no, and then I saw the dog running towards me and my dog. I attempted to get out of the line of direction, and that's -- that's all I could really do to try because I was in fear for myself and didn't want to grab the pit bull.
Q. Okay.
A. So I never grabbed the pit bull.
Q. There's no statement in this report about the location of Kent Maynard at the time you discharged your weapon, is there?
A. No, there's not.
Q. Okay. Do you remember telling the officer who interviewed you the first time, the first one you gave the statement to, that you told him that Kent Maynard was holding his dog when you shot the

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dog?
A. I would have to review the body cameras to recollect my memory. I do remember mentioning Kent was close.
Q. But you don't know whether that was to Sergeant Butler or Sergeant Pronek -- or Officer Pronek?
A. Correct.
Q. Okay. Well, in any event, there's no statement in here about when -- where Kent Maynard was when you discharged your firearm, correct?
A. Correct.
Q. Okay. Did you review this before it was submitted as the original case incident report?
A. No.
Q. Now, I noticed that you mentioned here that this -- that Aggie was a pit bull, correct?
A. Correct.
Q. How do you know that?
A. Because I've seen pit bulls and know -- know their -- what their breed looks like, and I believe that Aggie was either pit bull or part pit bull.
Q. Okay. Do you know how many dogs people own are part pit bull, Officer?

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A. No.
Q. Okay. So the chances that Kent Maynard having decided to give a home to a stray has a pretty high likelihood that he's going to get a part pit-bull breed; isn't that right?
MS. MOORE: Objection. Foundation.
BY MR. BENAK:
Q. Let me ask the question differently. Did you know that this dog was a stray that Kent Maynard had given a home to?
A. I didn't know it was a stray. He told me his -- his son picked it up.
Q. Well, not a stray, but he'd adopted it from a -- from a home. You understood that?
A. Well, I'm not sure where he got his dog from.
Q. Okay. And you're not sure that it was a pit bull either, but you said that in this statement, correct?
A. Yeah. It looks like a pit bull.
Q. Okay. You didn't say it looked --
A. So the best of my knowledge --
Q. -- like a pit bull. You said it was a pit bull in this statement.
A. Mm-hmm.

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Q. Okay.
THE REPORTER: I'm sorry. Was that a yes?
THE DEPONENT: Yes.
BY MR. BENAK:
Q. You can set that aside.
MR. BENAK: Mark this. We at 5?
THE REPORTER: This is 6.
MR. BENAK: 6.
(WHEREUPON, Exhibit 6 was marked for identification.)
THE REPORTER: Exhibit 6 marked.
BY MR. BENAK:
Q. Officer Mostek, you've been handed what's been marked as Mostek Deposition Exhibit 6 by the court reporter. This is -- to identify it, it's a Tactical Response Report by the Chicago Police Department. And the Bates numbers have been cut off, but it's been produced by the City to us.
I'd like you to take a look at that and tell me if you've ever seen it before.
A. Yes, I've seen my TRR.
Q. What -- what is it?
A. A tactical response report.
Q. Of this incident, correct?
A. Of this incident.

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Q. Okay. When did you first see this?
A. When I was filling it out that day. Well, I didn't see -- I only saw the portion I filled out. That day, I didn't see the -- the following lieutenant's or the following approvals by -- by other sergeants.
MR. BENAK: Just so -- Counsel for the City, Ms. Moore and Simer, I just -- I want to make sure that we've got this right.
This is a document that we've used, at least part of it, in previous depositions, and I've asked you to admit that it is the entire and complete record of the tactical response report. You've objected to that.
I just want to make sure we've got the whole report here. I think that the version I used was missing the last two pages. I believe I've got them here. I just want you to tell me that this is the full and complete -- you can tell me later, but I just need to know that this is the right one.
MS. MOORE: Okay. Without having Bates numbers and without comparing the two, I cannot say, but like right here -- obviously we can confirm it later -- it does appear that the one we are looking at right now at this deposition is the complete and

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we believe that the one that was attached to the RTAs was not.

MR. BENAK: Okay. Well, if you could confirm that for me, I'd appreciate it. Thank you.

BY MR. BENAK:

Q. Now, in this report, you were in -- you are identified as the involved member; isn't that correct?

A. Yes.

Q. Meaning the involved member of the police force, correct?

A. Yes.

Q. Now, I'd like you to take a look at page two, the narrative at the top of the page. You see where I am?

A. Yes.

Q. Is that the narrative that you completed?

A. Yes.

Q. Okay. Did Officer -- or, excuse me. Did Sergeant Butler write this or did you write this?

A. I wrote this.

Q. Okay. Did you have a copy of the form in front of you when you did it?

A. It's on a computer screen.

Q. Okay. All right. I want you to read the

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first paragraph, which is the introductory paragraph to your narrative included within that box. Please read that to yourself. You don't need to read it out loud. I'm going to do that.

Have you finished reading the introduction --

A. Yes.

Q. -- Officer?

A. Yes.

Q. Well, just -- let me just read the last part of it: The involved member will not complete the narrative section for any firearm discharge incidents.

Did I read that correctly?

A. Yes.

Q. Did you read that before you completed the narrative?

A. No.

Q. Did you see that particular restriction on the screen at the time you typed in the narrative?

MS. MOORE: Object to the form.

BY MR. BENAK:

Q. Well, let me ask it differently. When you completed this, you said you were doing it on a computer. Did you see the -- the -- the

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introduction to the narrative before you began typing?

A. I saw that there was an introduction to the narrative, but I didn't read it.

Q. Okay. Looking at it now, you understand, do you not, that you were not supposed to complete the narrative section?

A. Correct.

Q. Okay.

MS. MOORE: Object to the form of the question.

BY MR. BENAK:

Q. But you did, did you not?

MS. MOORE: Same objection.

THE DEPONENT: Correct.

BY MR. BENAK:

Q. Did you have any discussions with Sergeant Butler before you filled this in?

A. No.

Q. You know, we've been going about an hour and 15. You want to take a short break?

A. Sure.

Q. Okay.

THE VIDEOGRAPHER: Stand by. The time is 10:44 a.m.

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(WHEREUPON, a recess was held.)

THE VIDEOGRAPHER: The time is 10:53 a.m. and we are on the record.

BY MR. BENAK:

Q. Officer Mostek, when we left off, we were discussing Mostek Exhibit 6, which is the tactical response report. You recall the testimony you gave on that so far?

A. Yes.

Q. Okay. You have to speak up, Officer.

A. Okay.

Q. Thank you. And you've read the recitation -- the narrative to yourself now and you're familiar with it?

A. Yes.

Q. Is this consistent with what you told Sergeant Butler when he interviewed you in your apartment?

A. It did -- when he interviewed me in my apartment, I didn't tell him all this information.

Q. What part of it --

A. It was this --

Q. What part of it is in addition to what you told him?

A. I would need to see the body camera to --

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to remember exactly what I told Butler, but I know it was brief and this is more extensive.

Q. Well, one thing you told Sergeant Butler is that -- and I'm quoting this -- "The neighbor was close." You recall making that statement to Sergeant Butler?

A. Yes. I remember saying that Aggie was close -- I mean, the neighbor was close.

Q. But that doesn't appear in this narrative, does it?

A. No, it does not.

Q. Okay. Nor does it reflect, the narrative, that the plaintiff was anywhere near his dog, does it?

A. I didn't know at the time that I was supposed to include Kent's actions because this was the first instance I've ever been involved in with a firearm and a dog.

Q. Well, you knew, did you not, from your training that the proximity of a human to the firing of a weapon is an important consideration in whether or not you've used excessive or reasonable force in an instant? Don't you know that?

A. If he was -- since he was not in my line of fire, I didn't know I had to defend against it.

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Q. So your interpretation of the use of a firearm is that you're entitled to fire a weapon if the -- if a human is not in the line of fire. Is that your understanding?

MS. MOORE: Object to the form.

THE DEPONENT: You should always make sure you have a -- a clear shot, no one's in the line of fire.

BY MR. BENAK:

Q. Okay. But is that your determination of when you've used force that would put another person in danger?

MS. MOORE: Same objection.

THE DEPONENT: If they're --

BY MR. BENAK:

Q. Do you understand the question?

A. If they're not in the line of fire, is that what you're asking?

Q. Yeah. Is your definition that you can -- you can fire a weapon in the vicinity of a human as long as it's not -- that person is not in the line of fire? Is that your understanding?

A. If it's necessary and there's exigent circumstances and it needs to happen immediately and as long as they're not in the line of fire, then

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yes.

Q. Okay. So you have to make a decision whether it's exigent circumstances first and then you have to --

A. Mm-hmm.

Q. -- decide whether or not the person's in the line of fire. So in this case, you made the decision that it was exigent circumstances and he wasn't so close that it put him in danger; is that right? That your testimony?

MS. MOORE: Object to the form.

THE DEPONENT: I believe there wasn't time.

BY MR. BENAK:

Q. Okay. Well, is that an exigent circumstance? So when you don't have time to make a decision, the fact that a human may be close by, there's no consideration so long as he's not in the line of fire. Is that your testimony?

A. Someone other than Kent is close by, are you asking or --

Q. Kent. In this case, I'm talking about Kent.

A. Well, in this awful case, where it was an awful situation, I made the best decision I could

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have out of a horrible situation.

Q. So I want to get back to the line of fire issue. So your determination whether or not you use reasonable force is dependent on whether he was in the line of fire?

MS. MOORE: Object to the form of the question.

MR. BECK: Join.

BY MR. BENAK:

Q. Do you understand my question?

A. I'm sorry. You said if he's --

Q. Sure.

A. -- in the line of fire?

Q. Well, I'm just trying to recite your testimony so I'm clear that I understand you. Okay?

A. Mm-hmm.

Q. So you've testified that he was not in the line of fire and that justified you using the force you used here, which was shooting his dog, correct?

MS. MOORE: Object to the form of the question.

THE DEPONENT: Correct. And there was also other reasons why I decided to shoot.

BY MR. BENAK:

Q. Well, I'm just talking about the line of

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fire right now.
A. Mm-hmm.
Q. So as long as he's not in the line of fire and you have a reason to fire, that you can do that?
A. If it's an immediate need, then yes.
Q. So as long as he's outside the line of fire, there's no risk to a human involved. Is that your testimony?
A. It's possible.
Q. What's possible?
A. Anything is possible.
Q. Well, that's not what we're talking -- we're not talking about anything. We're talking about a human being. You've testified that he was four feet away --
A. Mm-hmm.
Q. -- from the firearm when you discharged it. We'll make a determination whether that's consistent with the tape.
But what I'm asking you is, is it your testimony that you're entitled use deadly force as long as persons in the -- in the vicinity are not in the line of fire? That's my question.
A. Yes.
Q. Okay. Now tell me what the line of fire

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is.
A. Having a clear -- clear shot with safe direction.
Q. Okay. Clear shot from what range?
A. In the city, you know, the smaller range, the better because there's other people around in the city.
Q. So when you took this shot and it -- let me go back to your training. You've been trained consistently throughout your career on a couple of things. You've been trained on the use of force, correct?
A. Yes.
Q. And you've been trained on discharge of a firearm, correct?
A. Correct.
Q. And did anybody train you on what it means to be in the line of fire?
MS. MOORE: Objection. Form. Vague.
THE DEPONENT: Well, when we're at the range, they don't want anyone to step past the line, so we all have safety precautions to take to make sure no one's in the line of fire.
BY MR. BENAK:
Q. I understand that. We'll talk about the

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range a little bit more. I'm talking about the real circumstance in this case. Is it your understanding that because he was not in the line of fire, you were justified in using your firearm?
A. In accumulation with everything else, then yes, because if he was in the line of fire, I wouldn't have been able to do that.
Q. Okay. Tell me what the line of fire means.
A. The line of fire is your safe direction, making sure that nothing is behind your target, that you have a clear pathway.
Q. Okay. Clear pathway by what? An inch?
A. An inch would be too small.
Q. Okay. Who makes that determination, whether it's an inch or a foot?
A. I don't think anyone makes that determination, but a reasonable officer would want more space than an inch.
Q. Okay. So you really can't tell me what the line of fire means as you sit here today, do you?
MR. BECK: Objection. Argumentative.
MR. THOMPSON: Join.
BY MR. BENAK:

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Q. I just want to know, Officer, what do you mean by line of fire? What defines it? One inch? One foot? Two feet?
MR. BECK: Asked and answered.
BY MR. BENAK:
Q. A millimeter? What is it?
A. Having a clear pathway where you know that it's not going to go right or left from your target and just having a clear direction and that no one else would get hurt behind your target.
Q. What do they teach you in training -- firearm training about the stance when you're shooting at a target?
A. I've also had more training. So with the carbine training, we shoot --
Q. Well, let's not talk about the carbine. We're talking about pistols here. What's your pistol stance that you've been trained to assume before you fire at a target?
A. Well, our pistol goes along with our carbine trainings and --
Q. Well, separate them out, if you can, for me.
A. -- it's extra training.
Q. I want you to separate them out. I don't

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want to talk about the carbine training. I'm asking you a specific question with respect to pistol training.

A. Mm-hmm.

Q. Okay. What's the stance for shooting at the range? And I'm talking about a pistol.

A. The normal stance is a still stance, but I've had multiple trainings with walking and changing directions and getting down or shooting behind cover and moving around while shooting. So I've had that training.

Q. Okay. And in any of those circumstances, were you -- were you taught that shooting off balance or without a stable platform under you is appropriate?

A. They want you to have control of -- of your -- of your walking and moving.

Q. Right. To have a stable --

A. They don't want you to fall over and shoot.

Q. Correct. They want you to have a stable platform under your feet, correct?

A. A stable platform? If that's -- that's where you are, then, yes, that would be the best circumstance.

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Q. Did they teach you to shoot off balance, Officer Mostek?

A. No, not off balance where you're gonna fall.

Q. Matter of fact, it's prohibited, is it not, in your training to shoot a firearm when you're off balance?

A. I don't think we discussed that at our firearms training.

Q. Well, is there any part of your firearms training that justifies shooting a weapon when you're off balance?

A. We never went over that, so I would assume that they would want us to have as best of -- of balance as we possibly can.

Q. Right. I mean, you don't have to imagine much to think of a situation where firing a weapon off balance could result in a terrible accident; isn't that right?

A. Right.

Q. Okay. And so when you're shooting a weapon and there's another person who you think is not in the line of fire, if you're off balance, that person could be in the line of fire in a heartbeat, couldn't he?

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MS. MOORE: Objection. Calls for speculation.

MR. THOMPSON: Join.

MR. BECK: Join.

THE DEPONENT: So I didn't fall, and if I were to lose my balance, I would be going forward, not to the side where Kent was. I still would have had a clear line of fire.

BY MR. BENAK:

Q. Well, I don't think that answers my question. You can imagine shooting a firearm off balance where a person who was not in the line of fire suddenly became in the line of fire; isn't that correct?

MS. MOORE: Objection. Form.

THE DEPONENT: It's -- it could be possible, yeah.

BY MR. BENAK:

Q. Now there's nothing in this narrative -- back to the TRR. There's nothing in this narrative about when you dropped your leash that your dog was on, is there?

A. No.

Q. Nor is there anything in this narrative about when you drew your weapon, correct?

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A. Correct.

Q. Nor is there anything in this narrative about when you decided that you were going to shoot Aggie, is there?

A. This narrative is a brief summary, as I stated in the beginning.

Q. Understand. I'm just asking a specific question. That is not included in this narrative, is it? You've already established that you think this is a summary or an overview or something.

A. Mm-hmm.

Q. But I'm just asking you whether or not that's in the narrative, where you were when you decided to draw your weapon.

A. Mm-hmm.

THE REPORTER: I'm sorry. Is that a yes?

THE DEPONENT: Well, when I said, I was then forced to shoot Aggie -- when I said, When I was then forced to, that means drawing my weapon and discharging it.

BY MR. BENAK:

Q. Okay. And there's nothing in here that tells anyone who's reading this narrative when, in the course of events, you pulled your weapon, is there?

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A. Well, this -- this whole narrative is in the course of events from beginning to end. Everything's in -- in order.

Q. All right. Let's put it in context then. You know from your training that use of force -- use of deadly force is a last resort, do you not?

A. Yes.

Q. Okay. Where in this narrative does it establish that what you did was a last resort?

A. I didn't describe, saying that it was a last resort.

Q. No, you didn't describe anything like that and you didn't describe the circumstances that would lead one to conclude that it was a last resort.

And, as a matter of fact, isn't it true that you dropped the leash from your dog and you pulled your weapon out when the dogs were still a long ways away and Kent Maynard was falling to the ground?

MR. BECK: Objection.

MS. MOORE: Objection. Argumentative.

BY MR. BENAK:

Q. I just want to know what makes you think that drawing your weapon and discharging it in the head of this dog while he was being held by the

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owner was the last resort because that doesn't appear in the narrative, Officer, so tell me now.

A. Because I saw Kent's hold was not going to separate the dogs. He had no control of the dogs and I saw that. And I was too afraid to get on top of the pit bull because I don't want to get mauled, I don't want to get bit in the neck, or I don't want to get disfigured.

So I was too afraid to reach in, and I didn't want my -- my dog to die and I didn't want this dog, that's in full kill mode, to turn around and start biting Kent's face, too, since his face is -- since he's holding the dog.

So out of a horrible situation, I did what's -- what was best. It could have turned out really horrible.

Q. Okay. Well, I want to ask you about why you dropped the leash.

A. Okay.

Q. Why did you drop the leash when the leash could have provided an opportunity for you to separate the dogs? Explain that, please.

MS. MOORE: Objection. Form.

THE DEPONENT: It was -- I don't remember dropping the leash. If I -- since the camera shows

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I did --

BY MR. BENAK:

Q. Well, you just testified earlier that you must have dropped the leash. Otherwise you wouldn't have been able to unholster your weapon.

A. Yes, that's true.

Q. Okay. So --

A. I'm just saying that without reviewing the video or assuming -- since I would have had to drop the leash to unholster my weapon, I don't exactly remember when I dropped the leash and at what point.

Q. Well, let's just get this straight. Dropping the leash was a precursor. It was something you had to have done before you pulled your weapon, right?

A. Yes.

Q. You've already testified to that?

A. Yeah, that's true.

Q. Okay. Now let's talk about the last resort. Instead of pulling the dogs away with the leash, you decided to drop the leash and pull your weapon; isn't that correct?

A. I'm not sure if I dropped the leash --

Q. Well, I thought you just testified --

A. -- moments before.

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Q. -- that you must have dropped the leash --

A. Yeah, but I'm not sure --

Q. -- to unholster your weapon?

A. -- at what time I dropped the leash before I unholstered a weapon.

Q. Okay. Well, you'll agree, will you not, that having the leash in your hand might have provided one opportunity for you to separate the dogs?

A. Even if I had my leash in my hands, it wouldn't have -- it wouldn't have made a difference because the pit bull's jaws were indented in my Corgi's neck and it would have followed my Corgi wherever I would have pulled it, and if --

Q. But you don't know that because you didn't pull back on the leash.

A. Oh, it's --

Q. You just dropped it.

A. It's bigger than my dog. It's stronger than my dog. Even if I were to be able to pull, the -- the dog's neck would still -- the dog's teeth would still be around my dog's neck or attacking the dog. It was very fast also.

Q. Well, let me ask it a different way. Did you make any attempt to use the leash to separate

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the dogs?
A. From what I remember, the only attempt I did was to get out of the dog's -- the -- the dog's beelining, running path. When the dog was running westbound, I used my leash to pull -- pull my dog to go northbound on Normal.
Q. Well, we're gonna look at the tape, Officer, and we're gonna go through the time and the events, and then we'll see if that refreshes your recollection.
Before we get there, I'd like to ask a couple of preliminary questions. So the report that's reflected in the narrative -- excuse me. The narrative that's reflected in the tactical response report, this is pretty consistent with what got released in the media that day; isn't that right?
A. I'm not sure if the media used my narrative or the case report's narrative. I'm not sure what the media relies on to do --
Q. Well, in any event, the media didn't report any of the facts that we've just been talking about. They didn't report that Kent Maynard was close. They didn't report that, as you say, he was not in the line of fire.
A. Mm-hmm.

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Q. You say he was within four feet. You dropped the leash. You pulled your weapon. None of that's reflected in what the media reported, is it?
A. No.
Q. And you paid attention to the media results, didn't you? The reports from the media, you paid attention to them, correct?
A. Yeah. I watched a couple media.
Q. As a matter of fact, you collected some comments to the media reports, did you not?
A. I received some comments.
Q. Well -- and you kept them. You kept them on your phone, correct?
A. Well, they were on my phone.
Q. Well, I have them.
A. I didn't delete them.
Q. They've been turned over in discovery.
A. Mm-hmm.
Q. So you followed the media reports that were issued just after this narrative, the media reports that said what the narrative said, as we've discussed, right? You followed those?
A. I don't have a Twitter, so I don't follow that on Twitter.
Q. Okay. Well, let me -- let me --

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A. No.
Q. -- put it a different way. You collected those comments, whatever they were, on your phone, did you not?
A. I didn't delete them, correct.
Q. Okay. Well --
A. So they were on my phone.
Q. Just hang on a second. You just got done telling me that you didn't collect them, but somehow they ended up on your phone, and then you said you didn't delete them. I'm just wondering. How did they get on your phone?
A. Well, as in collecting, do you mean like to store?
Q. Well, you had them on your phone. You had them organized in a way that reflected a series of responses to these media reports. How did they get there?
A. I received them.
Q. From whom?
A. Butler.
Q. Ah. What else did you receive from Sergeant Butler?
A. Whatever I produced in the -- in the discovery process. It could be other conversations.

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Q. We'll -- we'll go through some of those and we'll figure out whether or not that's all you discussed with Sergeant Butler, but for now --
A. Mm-hmm.
Q. -- we're just talking about these responses. Why did you keep those responses about the media reports that Sergeant Butler sent you?
A. I was told not to delete anything.
Q. So you kept them simply because this case was filed and you were told not to delete stuff from your phone?
A. Yes.
Q. Okay. Why did you have positive responses -- excuse me. Why did you have responses from the media reports on your phone? Why did Sergeant Butler send those to you?
A. I'm not sure why he sent them to me. Do you want me to make an assumption or --
Q. No. No.
A. Okay.
Q. I just want to know if he told you why he was sending those to you.
A. No, he didn't.
Q. And when were you told that you should not delete anything from your phone?

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MR. BECK: I'm gonna object and instruct her not to answer anymore on this line of questioning.
BY MR. BENAK:
Q. Well --
MR. BECK: Due to the attorney-client privilege.
BY MR. BENAK:
Q. At some point in time, you -- you stopped collecting -- or deleting things from your phone, right? When was that?
A. I don't remember the exact date. It was sometime after the -- the incident, after it was filed.
Q. You remember those comments, though, did you not -- do you not? The comments from the media reports. We can go over it --
A. I've read it --
Q. -- if you want --
A. -- once.
Q. -- but just tell me generally what you remember about those report -- those comments to the reports?
A. How people were commenting on it?
Q. Yes.

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A. I guess they were saying how they -- how they felt about the situation and how they felt about pit bulls.
Q. Yeah. And as a matter of fact, all of those comments were complimentary or approved of your behavior; isn't that true?
A. Seemed to be so, yes.
Q. And that was based on -- excuse me. Let's rephrase it.
That was before the surveillance video came to light, isn't it?
A. I believe so. Mm-hmm.
Q. So as of this date, the date that the media report came out, and all these favorable comments -- or comments favorable and approving of your conduct came out, that's what you wanted, wasn't it? To have good media for this. And that's what Mr. -- or Sergeant Butler wanted too, isn't it?
MS. MOORE: Objection. Form.
THE DEPONENT: No. It's out of my control what the media says.
BY MR. BENAK:
Q. Oh, but it was true that the media reported exactly what you put in the narrative; isn't that true?

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A. I don't know what the media sees or who they talk to to base their story off of, but no.
Q. Well, they sure wouldn't have had anything else to go on but the tactical response report that deleted any or omitted any information about what -- where Kent Maynard was, when you drew your pistol, when you dropped the leash on your dog. None of that's in there. How would you expect the media to have it?
A. When I --
MS. MOORE: Object to the form of the question.
THE DEPONENT: When I was filling this form out, I was not thinking about media at the time.
BY MR. BENAK:
Q. No. Nor were you thinking about the fact that there was a surveillance camera that contradicted much of what you said; isn't that true?
MS. MOORE: Objection. Form.
THE DEPONENT: I expect there to be cameras everywhere. We're in the city of Chicago. I expect there to be cameras on every block. I'm very used to being on camera. I carry a camera with me every day. So to think that this wouldn't be on

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camera didn't -- I thought it would be on camera.
BY MR. BENAK:
Q. You did. I want to just make sure I understand. It was your expectation, when you were writing this report, that there was a surveillance camera video of the incident. When you were writing this report, that's what you thought?
A. Well, I assumed there's gonna be some camera footage of it, yes.
Q. Okay. So notwithstanding that you assumed there would be video footage somewhere, you made that report and deleted the facts that we've talked about?
MS. MOORE: Object to the form.
MR. BECK: Objection. Form.
BY MR. BENAK:
Q. You understand my question?
MR. THOMPSON: Object to the word "deleted."
THE DEPONENT: I didn't delete anything.
BY MR. BENAK:
Q. You're omit -- you omitted it.
A. I just didn't know I was supposed to include Kent's actions.
And I -- after this horrific, traumatic

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incident, I was in a state of shock and not processing things all clearly and I was kind of in a mental fog. My adrenaline was up. My mouth was dry. I'm not processing completely yet.

That's -- that's the reason why Kent's actions aren't -- aren't in here, and I didn't know I was supposed to include them.

Q. Well, that's convenient, since all of those things would go toward the use of excessive force and those are the things that are left out of the report. How do you explain that convenient fact?

MS. MOORE: Objection. Form of the question.

THE DEPONENT: I didn't think this was going to be excessive force, so I didn't think that I needed to defend myself in that way.

BY MR. BENAK:

Q. Well, you certainly didn't put anything in there that would lead anybody to conclude that there was excessive force; isn't that true?

A. I mean, I still don't believe it's excessive force, even including the descriptions of Kent.

Q. Okay. We've got FCRL_002060, which has

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been produced by the Chicago Police Department -- excuse me -- by the City of Chicago. Let's take a look at this, and you can tell me whether or not this refreshes your recollection.

THE VIDEOGRAPHER: Excuse me. Before you take that, do you want me to reframe it so you can see it?

MR. BENAK: Yeah. Would you, please, so we can see the video too.

MS. MOORE: Is -- and is this gonna be an exhibit or no?

MR. BENAK: Yes. It has to be a virtual exhibit because I don't have a paper copy.

MS. MOORE: So we're at Exhibit 7?

THE REPORTER: That would be 7, yes.

(WHEREUPON, Exhibit 7 was marked for identification.)

MS. MOORE: And then what was the FCRL? Sorry. I --

MR. BENAK: That's okay. Hang on a second. FCRL_002060. I have three here, so there's gonna be a couple more.

Have you got it reframed?

THE VIDEOGRAPHER: Yes.

BY MR. BENAK:

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Q. You'll direct your attention to the screen, Officer.

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. Let's start from the very beginning. We have a slow motion of this, but I'd like to show it in normal speed first, and then we'll --

MS. KAUR: Can you make it so it fits the whole --

MR. BENAK: Sure.

MS. KAUR: That green button to the left.

MR. BENAK: Yep, I'll get it. Hang on.

MS. KAUR: Thank you.

MR. BENAK: Can you see it now?

MS. KAUR: Yes.

MR. BENAK: You okay?

MS. KAUR: Yes. Thank you.

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. So I'm gonna stop it right there. Now we're gonna go back, and I want to -- I want you to tell me when, in relation to the event here -- the time line, so to speak -- you remember pulling your

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weapon out. Okay? So here we go.

In this frame, it appears that you have your hand -- you've dropped the leash, right? You no longer have the dog on your leash, correct?

A. I cannot tell from --

Q. Okay.

A. -- the quality of this video.

Q. Well, I don't see a hand down there by your dog. Your right hand is in your pocket or unholstering your weapon and your left hand is not holding a leash, as far as I can see. So let's go forward a little bit.

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. So at this point, you have your weapon out, do you not?

A. No. My -- my weapon's not out yet. And I cannot tell if I dropped the leash --

Q. Okay.

A. -- or not.

Q. You're telling me that at this point, you still have your weapon holstered?

A. Correct.

Q. Okay. But you don't have the leash and

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the dog -- your dog's leash in your hands, do you?
A. I cannot tell. The quality is too poor.
Q. Well, we'll play it in slow motion and I think you'll be able to see it.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. Now, you see this frame where Kent Maynard is not just close, but you've actually come into contact with him, have you not?
A. I don't remember coming into contact with him. I --
Q. So this doesn't refresh your recollection about the events?
A. It shows Kent kicking his -- his dog.
Q. Right. And he's -- he's in the process of going to the ground.
A. Mm-hmm.
Q. Okay?
(WHEREUPON, a portion of a video was played.)
THE REPORTER: I'm sorry. Is that a yes? Ms. Mostek?
THE DEPONENT: No. He goes to the ground after he kicks his dog. Right there.

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BY MR. BENAK:
Q. Okay. Right now, he appears as if he's lurching or leaning toward his dog --
A. Mm-hmm. Yes.
Q. -- and you're in the way. Isn't that what this appears from this tape?
A. No.
Q. Okay.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. Now he's on the ground and you've shot.
A. Mm-hmm.
Q. And how far away do you think he was?
A. Kent's from the dogs --
Q. No. From your pistol at the time you discharged the weapon.
(WHEREUPON, a portion of a video was played.)
THE DEPONENT: About four feet.
BY MR. BENAK:
Q. Think he's four feet away right there?
A. Yeah, about four feet.
(WHEREUPON, a portion of a video was played.)

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BY MR. BENAK:
Q. Right there is when you discharge the firearm; isn't that true? Are you telling me he's four feet away at that point?
A. So the video is a little bit different than my own point of view. It's just a little bit poor -- poor quality, so it's a little hard to tell exactly when, but I know after I back up, that's right after I -- I discharged.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. Right there. You're actually closer than that. He's actually closer to you than that at the time you discharge your firearm; isn't that correct?
(WHEREUPON, a portion of a video was played.)
THE DEPONENT: The thing is, he is more --
(WHEREUPON, a portion of a video was played.)
THE DEPONENT: -- northbound and he also had his head tucked and he --
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:

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Q. Right there, you pushed him out of the way.
A. I never pushed him.
Q. Okay.
(WHEREUPON, a portion of a video was played.)
MR. BECK: Put on the record that Mr. Maynard's laughing to the responses of the witness.
MR. MAYNARD: No, no. There's not -- that's not on the record. I'm not laughing.
BY MR. BENAK:
Q. All right. Let's show this in slow motion.
MS. KAUR: Is this Exhibit 8?
MR. BENAK: Okay. This is -- let me make sure I --
MS. KAUR: Is this Exhibit 8? Sorry.
MR. BENAK: This is --
THE DEPONENT: And it's hard to tell because --
MR. THOMPSON: There's no question pending.
MS. MOORE: Hold on.
MR. BECK: There's no question pending.
MS. MOORE: I just want to make it -- this

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is a different video --
MR. BENAK: Yes, it is.
MS. MOORE: -- from mine? Okay.
MR. BENAK: This is the same event, but it's in a slowed-down video mode, slow motion.
MS. MOORE: Okay. Is it a new exhibit?
MR. BENAK: Yes, it is. FCRL_002063.
(WHEREUPON, Exhibit 8 was marked for identification.)
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. Do you have the dog's leash in your hand in that frame, Officer?
A. I can't tell. It's too poor quality.
Q. What are you doing with your right hand in that frame?
A. I'm not -- I'm not sure.
Q. Well, you've got an impending, as you described it, dog fight --
A. Mm-hmm.
Q. -- and instead of having one hand on the leash, you've got your hand in your pocket, drawing -- is there any reason you'd have your hand on that side of your body, other than to draw a pistol?

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A. It could be to hold it in there so it doesn't fall out, but I didn't make the distinction until I actually pulled it out that I --
Q. So -- and I want to make sure I understand your testimony. So you're -- you're trying to secure your weapon instead of draw it in this frame. Is that what you're telling us?
A. Yes, because I didn't -- right when I unholstered was at the point where I wanted to use it -- or I was forced to use it.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. So you don't have the leash in your hand and you've got your -- your right hand on your hip. And so that I make sure that I understand you, you said you were securing your firearm. So did you have your hand on your firearm in the frame when you said you were securing it?
MR. BECK: I'm gonna object. You said is there a reason why she would be doing that. You're testifying and you're assuming facts in your question.
MR. BENAK: Okay.
MR. BECK: So I just object to that.

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MR. BENAK: Assuming facts not in evidence. I'll accept that.
BY MR. BENAK:
Q. Proceed, Officer. So what I want to know is at what point in time you took your hand off the weapon and decided to draw it instead of secure it. Let's just play this through.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. And while you've got that thought in mind, why are you stepping in front of Mr. Maynard here?
A. I was stepping towards the dogs.
Q. And you collided with Mr. Maynard, did you not?
A. It appears that he collided into me and kicks his dog.
Q. Well, right here, it looks like you've got your shoulder in his chest. Is that an accurate depiction of what -- what had happened at that time?
A. I don't remember.
Q. You don't remember?
A. No.
Q. Okay.
(WHEREUPON, a portion of a video was

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played.)
BY MR. BENAK:
Q. And in this frame, he goes to the ground and he's with his dog, right? He's going onto the dog.
A. Mm-hmm.
Q. Now, when do you -- in this frame, I want you to tell me to stop when you've discharged your firearm.
A. Unholstering it right there.
Q. Okay. So at this point in time, you -- you're telling us that Kent Maynard is four feet away from the barrel of your gun?
A. Yes, about four feet away.
MR. GARANT: Can you go full screen, please?
THE DEPONENT: It's very hard to see in this video because --
MR. THOMPSON: There's no question pending.
THE DEPONENT: -- every movement, every -- everything gets blurry.
BY MR. BENAK:
Q. Yeah. I just want to know your testimony. So your testimony is that at this point in time,

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when you discharge your weapon, two things, first, Kent Maynard is four feet away from you. Is that your testimony?
A. You said from me?
Q. And I'm talking -- when I say "away from you," I'm talking about the muzzle of the gun.
A. Mm-hmm.
Q. Is he four feet away from the muzzle of the gun at this frame when you discharged your firearm?
A. I'm unholstering at this -- at this time.
Q. You haven't unholstered it yet in this frame?
A. I'm in the process of unholstering it.
Q. Okay. I thought you said that's when he -- when the firearm was discharged. Have you fired it yet in this frame?
A. I can't tell.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. How about this frame?
A. It is unholstered in this frame.
Q. I'm interested in knowing when you fired it. You still haven't fired it in this frame?

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(WHEREUPON, a portion of a video was played.)
THE DEPONENT: Right -- you went past it.
BY MR. BENAK:
Q. All right. Well, let's back it up.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. Have you discharged your firearm here yet?
A. No. I haven't unholstered it yet.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. Have you unholstered it yet?
A. No. Now I'm unholstering it. That's when I -- that's when I'm taking it out. And that's right before I go back is right before I did the discharge.
Q. Okay. We'll -- - we'll compare this with the tape with the sound. Is that all you have to say? Well, let -- let me just ask a couple more questions.
So how far away was your dog from Kent's dog when you discharged the firearm? Because I want to make sure I've got this clear.

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(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. So you haven't discharged it there. You say you haven't discharged it there. You say it's right -- right there. Where is your dog at the time you shoot Aggie?
A. My dog is still attached to Aggie's mouth.
Q. Okay. I want to make sure that you understand we have eyewitness testimony that says your dog was two feet away at the time the shot was fired.
A. Okay. That's --
Q. Do you know that there's testimony to that effect?
A. No. But that's false.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. So you discharge your firearm. You're saying that that's the frame when you discharged the firearm?
A. It's hard to say the exact frame because --
Q. Well, I --

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A. -- my point was different, but this is a good -- this is the best I could see --
Q. Best you could recollect.
A. -- for a frame.
Q. Well, it's -- well, it's important to be as precise as possible because we're talking about inches here, you know, not feet or yards. So this is when you think you discharged the firearm?
A. The moment I stepped back was right after I discharged it.
Q. I'm sorry?
A. The moment I stepped back, so --
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. So there? The moment you stepped --
A. No. No.
Q. Right there?
A. Because I'm stepping back before I unholster too.
Q. You don't have your firearm in your hand there?
A. No. I haven't unholstered it yet.
(WHEREUPON, a portion of a video was played.)

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THE DEPONENT: Because I have to reach across to unholster, so when I'm reaching across, that's -- right there is when I'm unholstering, and then that's when I have the weapon out and -- you went --

Q. Okay. So --

A. You went past it again.

Q. --- when you fired the weapon then -- let's go back.

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. So at this point in time -- so you haven't unholstered your weapon yet?

A. Correct.

Q. Okay. And you still haven't unholstered it?

A. Correct. When I reach across is when I'm unholstering it.

Q. And there, you're unholstering it right there?

A. Yes.

Q. Okay. And where is your dog at that point in time?

A. Underneath Aggie?

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Q. Really? What's this little brown blob right here at your feet?

A. It's -- it's so blurry that it's --

Q. You can't tell, right?

A. -- either Aggie or -- or Buddy underneath.

Q. Okay.

A. But Aggie was on top.

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. Then when do you fire the gun? We're still playing this. Is it right there?

A. Tiny bit forward.

(WHEREUPON, a portion of a video was played.)

THE DEPONENT: I mean backwards.

BY MR. BENAK:

Q. Backward?

A. Yeah.

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. You tell me when to stop.

A. Stop.

Q. That's when you fired your pistol?

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A. Mm-hmm.

THE REPORTER: I'm sorry. Is that a yes?

THE DEPONENT: Yes.

BY MR. BENAK:

Q. Is that a stance that your training recommends for using a firearm?

A. They recommend us -- a staple stance or --

Q. So this --

A. -- or slow walking.

Q. This is not a recommended stance, is it, Officer?

A. When we're on the shooting range, we usually don't shoot in that stance.

Q. Understood. But it's not a recommended stance for even a combat or self-protection discharge, is it?

MS. MOORE: Object to the form.

THE DEPONENT: (No audible response.)

BY MR. BENAK:

Q. Officer?

A. They recommend making sure you have control and walking, but if circumstances need be and you need to walk faster or possibly run and shoot, then as long as you have an accurate shot -- safe -- safe shot --

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Q. Okay. So if your testimony -- is your testimony that this was a safe shot? This circumstance, this stance, this distance with a person in that proximity, this is all safe?

MS. MOORE: Object to the form.

THE DEPONENT: Yes. I was making the best out of the worst situation.

BY MR. BENAK:

Q. Okay. Now let's play this a little --

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. Well, let's stop it right there because I want to make sure --

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. Okay. It's right there. So where's your dog right in this frame? Can you see him?

A. It's all very blurry, but I just know my dog was underneath Aggie.

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. All right. What's that little light blob

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right at your feet there? That's your dog, isn't it?
A. Yeah. That was my dog being released.
Q. Okay. Let's back it up a little bit.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. Because you say you fire right here. Where's that little white blob?
MS. MOORE: Objection. Asked and answered.
MR. BENAK: No, I don't think so, Counsel.
BY MR. BENAK:
Q. Where is that white blob at this point in time when you say you fired your pistol?
A. I know it was underneath Aggie.
Q. You telling me that this frame discloses that your dog was underneath Aggie at the time you pulled the trigger?
A. Yes.
Q. That's your testimony?
A. Yes.
Q. Okay.
(WHEREUPON, a portion of a video was played.)

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BY MR. BENAK:
Q. There it is here. I don't see him emerging from outside -- or underneath Aggie. I see him in the same place, and now he's trotting away.
All right. Let's play the sound -- or the -- the videotape with audio.
MS. MOORE: Just object -- I just object to the lack of question there. Commentary.
THE REPORTER: Will this be an exhibit?
BY MR. BENAK:
Q. Well, this one doesn't have the audio. This is another slo-mo.
MR. BENAK: Yeah. Yeah, I'm gonna -- I'm just trying to find it right now. I'll get it to you. Okay.
THE REPORTER: Okay. Just wanted --
BY MR. BENAK:
Q. Okay. This is FCRL_002070. This happens very quickly, Officer, so pay attention from the very outset here. So this is the same scene, just from a different angle, correct?
A. Correct.
Q. Okay. Now, do you see your stance?
A. Yes.
Q. You see where you are in relation to Kent?

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You see where your dog is?
A. It's very hard to depict.
Q. Okay. Well, just look at your -- -
A. Can't see the dogs.
Q. Your just look at your stance. Okay? Just focus on your stance --
A. Uh-huh.
Q. -- because this is when the firearm discharge occurs, right here.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. Now, if you look at when the discharge occurs, it's before you step back. That's when the sound report comes through, not now. Before you even step back.
A. Yes, that's what I said. I shot and then stepped back.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. No, you told us that your shot was fired after you stepped back.
A. So I stepped back while unholstering, and then during the discharge, I stepped forward. Right

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after the discharge, I stepped back again.
Q. Okay. Well, let's just see when the discharge occurs.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. Right there.
A. Mm-hmm.
Q. That's when the sound reaches the camera microphone. That's the position you're in. How far away are you from Kent Maynard right there?
A. So the sound in the audio is not completely synced with my actions.
Q. Oh, really? That's your testimony, that the sound that -- that this camera took is not synced with the video?
A. Correct.
Q. Oh. Okay. I find that to be a little far-fetched, but do you have any evidence that supports what you just said, that this camera is not synced with its own audio?
A. Tim Grace had a case that he recommended where the Ring cameras are just not -- not properly synced all the time, especially if it doesn't happen --

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Q. Okay. Well, let's just --
A. -- right in front of the Ring camera.
Q. Let's just look what happens to you when the firearm discharge occurs.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. You step back.
A. Yeah, but it's just a --
Q. You literally step back.
A. It's a little off with the sound.
Q. Okay. So I asked you earlier in your testimony if you had any reason to believe that the Ring cameras were not an accurate depiction of what happened.
You've just told me that you've changed your mind, that actually it's not an accurate depiction, that the audio is not synced with the camera. That's your testimony.
MS. MOORE: Object to the form.
MR. THOMPSON: I'm gonna object to the form of that question. It misstates her prior testimony.
BY MR. BENAK:
Q. Is it your testimony --

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MR. BENAK: I'm sorry, Counsel. Finish your objection.
MR. THOMPSON: I said it misstates her prior testimony. The testimony was relative to the depiction of the video. It didn't include any discussion about her answer relative to audio.
MS. MOORE: Can I actually -- I don't know if it's clear for the record that we're watching actually a different video than we were just before, so if we can just put on FCRL number of this one.
MR. BENAK: We'll make sure -- I thought I got it in. It's FCRL_002070, and we've made it Exhibit 9, right?
(WHEREUPON, Exhibit 9 was marked for identification.)
BY MR. BENAK:
Q. So it's your testimony, after watching this with sound -- with audio, that this camera is not depicting the event as it actually occurred. Is that your testimony?
A. It's depicting part of the event, but it's bad quality and the -- the audio isn't completely synced.
Q. All right. I want to make sure I understand. This -- this video is not depicting the event as accurate because, in your opinion, the sound is not synced with the camera; is that correct?
A. It's depicting a little bit of the situation, but not in its entire -- entirely and it's not as clear as my point of view.
Q. Okay. Well, I want to --
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. -- make sure we get this right. So I want to know --
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. I want to know when it's not synced. Is it not synced right here? That's the very beginning of the video. Are you telling me the sound is not synced with the video at this point in the surveillance camera footage? A simple yes or no.
A. So the Ring cameras pick up sound and then they start recording, I believe.
Q. Well, this is recording before the -- before the gun is fired.
A. Okay.

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(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. Here we go. Now, is it your testimony that that shot was not fired in the sequence it's depicted on the video?
A. It's close, but I don't think it's exact.
Q. Well, how far off is it?
A. (No audible response.)
Q. Let's back it up.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. You tell me -- you tell me when you think this shot was fired.
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. Not there? Not there? Further down the video?
(WHEREUPON, a portion of a video was played.)
BY MR. BENAK:
Q. Here? Shot was fired here?
A. Pretty much, yeah.

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Q. Okay. So that's your testimony. I just want to make sure I get that straight.

I want to go back to this briefly.

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. Now, you said you didn't run away. Are you saying that this is not a run from the scene?

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. Are you testifying that the Ring camera inaccurately captured the event of your running away from the scene?

A. I de-escalated and went behind closed doors and called the police.

Q. How did you de-escalate?

A. Because he was very irate, and I didn't want to wait around and irritate him more, and I -- I don't know if he's -- I don't know what he's gonna do. I don't know him very well. But I wanted to de-escalate the situation.

Q. So you know that in a firearm discharge, the rules provide that you're supposed to remain on the scene, Officer?

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A. Well, the -- it's right outside my residence and I wanted to be in a safe spot --

Q. So in your --

A. -- for officers to get on scene.

Q. Is it your testimony that you did remain on the scene, you just ran away from the corner and into your apartment? Is that your testimony?

A. Yes.

Q. Now, there was a different -- we talked about the media reporting prior to the surveillance camera being -- footage being disclosed. Here's a report that occurred after the footage was disclosed. Tell me whether or not you've ever seen this before. And this is FCRL_002248.

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. Before we go any further, the video -- the surveillance camera video wasn't disclosed in the earlier reports; isn't that correct, Officer?

A. I'm sorry. What was that?

Q. The video that we just watched, the surveillance video -- the Ring camera video was not included in any of the earlier reports; isn't that correct?

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A. Correct.

Q. Okay.

(WHEREUPON, a portion of a video was played.)

BY MR. BENAK:

Q. Now, that report includes some things that weren't in the previous reports, correct, Officer?

A. Correct.

Q. And it includes some things that weren't included in your narrative; isn't that correct?

A. Correct.

Q. One of those events -- or one of those facts is that Kent Maynard was on top of his dog and holding his dog when the shot was fired. Do you understand that from that eyewitness that just testified -- or just gave a statement?

A. I -- Kent was not on top of his dog. He was next to his dog on the right side, which would be to the south side of the dog. He was holding -- holding the dog. That was not gonna control the dog.

And that eyewitness was even saying, Get off my dog, get off my dog -- which I -- she's saying I said that, which is -- I never said that. So that kind of ruins her credibility a little bit.

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I never said, Get off my dog, get off my dog, so --

Q. So --

A. And thank goodness her three-year-old didn't get attacked.

Q. Or shot. So who is Crystal Lopez?

A. She's -- she's a neighbor that lives to the east.

Q. Why was there a search done for Crystal Lopez by someone? One of the -- one of those searches comes up on Thomson Reuters and the other one comes up on what appears to be a police search.

Do you know anybody that would have initiated a search of Crystal Lopez to find out who she was, what her record was, and whether or not she'd ever encountered police?

A. Nope.

Q. You didn't do that?

A. No.

Q. Who do you think would have done that?

A. I'm not sure.

Q. Okay. Because it ends up in the records of the Chicago Police Department and the City, and you don't know who did it?

A. No, I'm not sure.

Q. Any reason you can think of that anybody

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would be looking at Crystal Lopez at or about the time of this incident?
A. I'm not sure.
MR. BENAK: Counsel, can we take a break here?
MR. BECK: Sure.
MR. BENAK: Thanks.
THE VIDEOGRAPHER: Okay. Please stand by. The time is 11:52 a.m. We are off the record.
(WHEREUPON, a recess was held.)
THE VIDEOGRAPHER: The time is 12:02 p.m., and we are on the record.
MR. BENAK: For the record, when we left off, we were reviewing a video, and that Bates number is FCRL_002248, and we've marked that as virtual Exhibit 10.
(WHEREUPON, Exhibit 10 was marked for identification.)
THE REPORTER: And, if you would, please make the statement about Mr. Garant.
MR. BECK: Yeah. Mr. Garant left the deposition. He's not coming back. He was so appalled by the lines of questioning that were being asked. I'm joking.
MR. BENAK: Just mark that one. Okay?

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(WHEREUPON, Exhibit 11 was marked for identification.)
THE REPORTER: Exhibit 11, marked.
MR. BENAK: Counsel.
BY MR. BENAK:
Q. Officer Mostek, you've been handed what's been marked as Deposition Exhibit 11. This is -- for the record, it's Firearm Discharge and Officer-Involved Death Incident Response Investigation -- and Investigation, and it is a document produced by the City.
And I'd like you -- to direct your attention, if you will, please, to page six of 19, and we're looking at Roman IV, B, 3, please.
A. Roman VI?
Q. Yes, Roman VI, Subparagraph B, Subparagraph 3.
A. Okay.
Q. So this is the duty of an involved member in a firearm discharge or officer-involved death incident. So we've got a firearm discharge incident at issue. Have you seen this document before?
A. The general order?
Q. Yes.
A. Yes, I've seen it.

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Q. You're familiar with -- generally, you're familiar with the obligations set out in this general order?
A. Yes. Mm-hmm.
Q. They apply to all police officers; isn't that correct?
A. Yes.
Q. And they applied to you at the time you were -- of the incident, when you were acting off duty as a police officer?
MS. MOORE: Objection. Form. Foundation.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. Okay. So three 3 says: Remain -- well, let me -- let me back up so we get it all straight.
Involved Member: The members involved in a firearm discharge or an officer-involved death incident, if physically capable, will:
Subparagraph 3: Remain on the scene, if not injured, and report to a field supervisor from the district of occurrence upon his or her arrival.
Did I read that correctly?
A. Yes.
Q. And if I understand your -- your testimony, you remained on the scene notwithstanding

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that you ran into your apartment; is that correct?
A. The scene was right outside my residence, and just wanted to be at a safe spot in order to de-escalate.
Q. Okay. So the scene is not your apartment. The scene is outside your apartment; is that correct?
A. I guess that's open to speculation.
Q. Well, you just said that your -- the scene was outside your apartment and you went into your apartment, so which is it? Is the scene your apartment or is the scene outside your apartment?
A. The scene is outside my apartment.
Q. Okay. And you left the scene, then, did you not?
A. Yes.
Q. Okay. And that's in direct contravention of this rule that applies to all police officers, including you -- including you when you were off duty. You can set that aside for a minute.
MS. MOORE: Just object to the form.
BY MR. BENAK:
Q. We'll come back to that in a minute.
So, Officer Mostek, what is your understanding of when you're entitled to use deadly

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force?
A. Deadly force? When someone is about to -- well, someone or something is about to kill or cause great bodily harm and they have the means to do that, the instruments to do that, and -- the means, the instruments, and the time. I don't remember the exact wordage in the general orders, but it's along those lines.
Q. Well, isn't part of the order that pertains to use of force, that deadly force is only to be used as a last resort? Do you understand that's true?
A. Yes.
Q. Okay. So is it your testimony today that the force you used in discharging your firearm into Aggie's head was the last resort?
A. Yes. At the time, yes.
Q. We established that there were at least two interviews that occurred just after the incident here.
One was with a -- an officer who you can't identify. We went over the initial report that, again, went to some officer. The record shows it was Pronek, but you don't recall?
And the second statement you gave was to

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Sergeant Butler, correct?
A. The second officer?
Q. The second statement you gave on the scene was to Sergeant Butler; isn't that correct?
A. There may have been another statement or -- or two made before.
Q. Well, I just want to understand what we're --
A. Because I think I talked to multiple officers.
Q. Let's be clear what we're talking about when I say a "statement." What you recalled and stated to the officers who are investigating the incident, that's what I mean by "statement." Are you and I on the same page now?
A. When I'm talking to the officers?
Q. No. What I'm asking you is -- I'm trying to clarify the language here so there's no misunderstanding. When I say you gave a statement, what I mean is you've given a narrative that describes the incident. Okay? How many of those statements did you give to police officers at the scene?
A. To the best of my recollection, three.
Q. Okay. We have Sergeant Butler. We have

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Officer Pronek. Who else?
A. I believe there was an oriental-looking male that I may have spoke to.
Q. A sergeant or an officer?
A. An officer.
Q. Okay. Is that Officer Zao?
A. Perhaps.
Q. Okay. Was he in your apartment or at the door of your apartment when you gave him the statement?
A. I believe so.
Q. So between those three, those are the persons -- those are the officers and the sergeant to whom you gave your narrative event -- of events?
A. If I spoke to any other officers on body camera?
Q. Well, let's distinguish between --
A. That's to the best of my recollection.
Q. Okay. Let's just distinguish between speaking to officers and giving what you know is a statement for official purposes for the event. Okay?
A. Okay.
Q. Loose talk among the officers is not what I'm asking. Okay?

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A. Okay.
Q. If I get to that point, I'll ask you whether there were talk -- whether there was talk or discussion about something other than your statement of events. So for right now, set aside Officer Zao.
A. Mm-hmm.
Q. So you gave two statements, one to Officer Pronek and one to Sergeant Butler, correct?
A. And I believe Zao, yeah.
Q. Okay. What did you -- what did you say to Zao, anyway?
A. I would have to see the body camera.
Q. Okay. Did you consider what you were telling Zao to be a statement?
A. I considered it to be part of the case.
Q. Okay.
A. Yeah. Everything on body camera is susceptible to be on the case narrative.
Q. Do you know whether or not any of the officers that were on the scene, including Officer Zao, contributed anything to the preliminary investigative report or to the tactical response report?
A. Not to my report. I'm not sure how they handled their case report.

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Q. Well, we talked about the fact that there were witnesses. You expected the people in the street might have included witnesses.
A. Mm-hmm.
Q. And you don't know what any of those witnesses said to any of the officers, correct?
A. Correct.
Q. You don't know whether any of the officers talked to any of those people, do you?
A. Correct.
Q. You don't -- in fact, you don't know whether Officer Butler talked to any of the witnesses do you?
A. No, I don't know.
Q. Or Officer Zao, correct?
A. Correct.
Q. Or Officer -- or Sergeant To? Did you meet Sergeant To, by the way, in the course of this investigation?
A. I'm not sure who that is.
Q. Okay. In any event, with all the discussions you had, did you hear anything from the officers or the sergeants involved about witness statements?
A. No.

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Q. So as far as you knew, there were no other witnesses to this?
A. That actually saw the event or were coming forward to give --
Q. I'm asking a different question, Officer. From what you were told from Officer Pronek, Officer Zao, and Sergeant Butler, and whoever else you talked to, none of them told you that they had taken witness statements, did they?
A. Correct. Mm-hmm.
Q. So when you wrote this --
A. Well, we didn't even talk about -- that wasn't brought up with me anyways.
Q. Okay.
A. I don't --
Q. So they never told you that there were witnesses or no witnesses?
A. Correct.
Q. Didn't even come up?
A. No, it didn't come up.
Q. Okay. So when you wrote your response -- the narrative to the tactical response report --
A. Mm-hmm.
Q. -- you didn't think there were any other witnesses that were gonna contradict or add to that

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statement, did you?
A. I thought there would be at least one or two people that saw it.
Q. But you weren't told that by any of the officers or Sergeant Butler?
A. Correct.
Q. And, as a matter of fact, when you were interviewed by Sergeant Butler, he -- you asked him, you know -- or he told you, That's okay, you're fine. Remember that -- you're totally fine. Remember that statement he made to you?
A. I would need to see the -- the body camera.
Q. Okay. Well, we can play the body camera if we need to. But --
A. Okay.
Q. -- any reason to disagree with my statement that he told you, You're totally fine?
A. No reason.
Q. Okay. You don't recall one way or the other?
A. If it's on body camera, then I believe that's what he said.
Q. So when Sergeant Butler came to your residence, he took your statement. Then he said,

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You're totally fine. Then he left. But then he came back. Do you recall that?
A. I believe I spoke to him twice.
Q. Right.
A. Yeah.
Q. So let's focus on the second time.
A. Okay.
Q. What did you and he talk about?
A. I think I -- while I was processing everything that was going on, I forgot to tell him something.
Q. What was it you forgot to tell him?
A. That I was also in fear for myself.
Q. Okay. That statement didn't make it into the technical response report, did it?
A. In the report, I -- I did describe along the lines of --
Q. Well, let's -- let's get --
A. -- me having defense of myself.
Q. So this tactical response report narrative was given after you talked to Sergeant Butler; isn't that right?
A. Yes, because this was at the station and that statement was on scene.
Q. Okay. So the statement you made to

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Sergeant Butler didn't make it into this narrative, did it?
A. I said: And prevent injury to myself, on the TRR.
Q. So that's what you told Sergeant Butler, that you were afraid for injury to yourself?
A. That's what I'm trying to describe or relay.
Q. Okay. So I want to get the sequence of events right. So Sergeant Butler comes to you. He interviews you. You don't say anything about --
(Siren interruption.)
BY MR. BENAK:
Q. It's one of your buddies out there.
So Sergeant Butler comes to you and he interviews you, and you don't say anything about being afraid for your own safety or your own life, correct?
A. Not at first because I'm still processing everything and I'm in a state of shock.
Q. Well, I -- I didn't ask you --
A. A lot of adrenaline.
Q. -- your state of mind. I asked you whether or not you said that to him the first time he interviewed you.

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A. Oh. First time, I don't believe I mentioned everything possible.
Q. So while you were in the apartment and Officer Zao was there, you told him you wanted to talk to Officer Butler again because you'd recalled something else you wanted to tell him; isn't that right?
A. Yes.
Q. And then Officer Butler came back --
A. Mm-hmm.
Q. -- and you had a conversation off the body camera, right?
A. I'm -- I'm not sure if it was on or off.
Q. Well, I'll just tell you it was off.
A. Okay.
Q. Okay. That's what the body cam reveals.
A. Okay.
Q. And you had a discussion with him when the camera was off. What did you tell him?
A. Well, I wanted to speak with him again and mention that I was also fearful for myself, and preventing injury to myself correlates with that. So when I'm in fear of something, it's also out of fear to being injured or to be -- be mauled or bitten.

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Q. And did you consider that to be an important fact in the -- in the investigation?
A. In this preliminary investigation?
Q. In the investigation just in general. Would that fact be important in the investigation?
A. Yeah. That's why I mentioned it at COPA, and with the ASAs --
Q. Mm-hmm.
A. -- I mentioned a lot more details.
Q. Well, I'll just convey to you what Sergeant Butler told us. He told us he turned off his camera because the investigation was over, and yet in this private conversation off camera you had with him, you continued your narrative of the investigation; isn't that right?
MS. MOORE: Object to the form of that question.
THE DEPONENT: I'm not sure his reasonings for turning off his camera.
BY MR. BENAK:
Q. But does that seem right to you, that in your mind, the investigation was still ongoing and yet he'd turned his body-worn camera off?
MS. MOORE: Same objections.
BY MR. BENAK:

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Q. Does that seem right?
MS. MOORE: Same objections.
THE DEPONENT: I'm not sure when -- I thought the whole investigation would be over after all the reports are done and after the detectives do their follow up, but in reference to body cameras, once this -- they go off the body cameras more when the scene's secure --
BY MR. BENAK:
Q. Let me ask the question --
A. -- but --
Q. -- differently because it's apparently not clear to you.
Sergeant Butler said in his testimony that the body-worn camera was turned off -- his body-worn camera -- because the investigation, in his mind, was over. Was the investigation over in your mind, Officer Mostek, at that time?
MS. MOORE: Object to the form of the question and the characterization of the testimony.
THE DEPONENT: No.
BY MR. BENAK:
Q. Okay. So you still had important facts to tell him when he came up the stairs?
A. Yes.

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Q. And those important facts were, as you said, that you were afraid for your safety?
A. I was in fear -- fear of getting injured and --
THE REPORTER: I'm sorry. Can you speak louder?
THE DEPONENT: Yeah. I was scared, scared of Aggie and fearful for getting injured.
BY MR. BENAK:
Q. So that's all you talked about with Sergeant Butler the second time he came up the stairs?
A. The exact verbiage, I can't remember, but -- but it was along the lines of I was in fear of getting hurt myself also.
Q. So let's just go back to the time of the incident and the time that he came up to talk to you the first time.
A. Mm-hmm.
Q. You've just discharged your firearm and you can't recall all the facts and all the reasons why immediately afterwards. You have to think about it for a while and have him come back up and tell him again?
A. Immediately afterwards, when my adrenaline

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is pumped up, a lot of air's not going to my brain, and I can't process everything fully until I calm down.
So it's -- after a traumatic event, it's hard to process everything right afterwards, especially when you're in a state of shock and you have mixed emotions and --
Q. So you were -- you were so shocked by this that the very event that caused you to discharge your firearm escaped your mind the first time you talked to him?
MR. THOMPSON: Object to the form of the question.
THE DEPONENT: The first time I talked to --
MR. BENAK: Can you read the question back, please?
THE REPORTER: Please stand by.
(WHEREUPON, the record was played.)
THE DEPONENT: Well, who's "him"?
BY MR. BENAK:
Q. I'm sorry?
A. Who is "him"? The first time I talked to who?
Q. Butler.

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A. Butler? I probably assumed he already knew that I was in a shooting.
Q. That he was what?
A. I guess I assumed he already knew that I was in a shooting and I discharged my firearm.
Q. Correct. But your testimony is you were so shocked that you couldn't bring to mind the very reasons you discharged your firearm. That's what you just testified to. You said you had to think about it --
A. Okay.
Q. -- and then you told him afterwards, in a second meeting. Isn't that what you testified to?
A. I knew the main -- I knew the reasons why. It's just hard to put it in words right after a traumatic event. It's hard to think slowly and process everything to the full extent.
Q. Well, your testimony is that that was the driving force behind you pulling the trigger. You thought you were in grave danger --
A. Mm-hmm.
Q. -- and yet you didn't convey that to Officer Butler the first time you talked to him. All you said is that you were afraid for your dog, not that you were afraid for your life.

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You testified to COPA that you were afraid for Mr. Maynard's life. That never came up in your conversation with Butler --
A. Mm-hmm.
Q. -- right after the fact.
A. Correct.
Q. So the things that drove you to pull the trigger suddenly escaped your mind when you went upstairs and talked to Officer Butler?
A. It didn't escape my mind. I just didn't say everything possible to explain everything. I didn't include all details.
Q. Yeah. You left off the best part, didn't you, Officer.
MR. BECK: Objection.
MR. THOMPSON: Join.
MR. BECK: Can we take a break for one second?
MR. BENAK: Sure.
MR. BECK: Okay.
THE VIDEOGRAPHER: Stand by. The time is 12:22 p.m. We are on the record.
(WHEREUPON, a recess was held.)
THE VIDEOGRAPHER: The time is 12:25 p.m., and we are on the record.

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BY MR. BENAK:
Q. Taking you back to the point in time when you gave Sergeant Butler your statement. That's what we've been talking about for a while, and I want you to bring that to mind, Officer.
A. Mm-hmm.
Q. What did you think --
THE REPORTER: I'm sorry. You said, Mm-hmm?
THE DEPONENT: Sorry. I don't think he was finished with his question.
BY MR. BENAK:
Q. I just wanted to make sure you had the incident in mind.
A. Okay.
Q. When -- when Sergeant Butler said, You're totally fine, what'd you think that meant?
A. Like -- I don't want to speculate on what he meant.
Q. I'm not asking you what he meant. I'm asking you what you understood he meant.
A. I'm fine? That everything was gonna be okay.
Q. Right.
A. Just trying to comfort -- comfort me.

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Q. Yeah. When he's -- when you say, Everything is gonna be okay, do you mean to say by that that you were going to escape -- escape scrutiny for this event?
A. No.
MS. MOORE: Objection. Form.
BY MR. BENAK:
Q. Well, isn't that at least one way you could have taken Sergeant Butler's comment, You're all -- You're totally all right, that you weren't going to be scrutinized for this conduct?
MS. MOORE: Same objection.
THE DEPONENT: It's possible someone could have taken it like that.
BY MR. BENAK:
Q. As a matter of fact, after this, you and Sergeant Butler corresponded by text message, didn't you?
A. Yes.
Q. And you corresponded by text message not immediately after you made this statement, but after the surveillance video came out; isn't that correct?
A. I'm not sure. I wasn't trying to compare.
Q. Well, one of the things you said in the text chain -- and we can pull it up if we need to -- was that COPA had started an investigation.
And another thing you said was that FOP said this guy -- and I mean, this guy sitting right next to me -- is a jagoff. Do you remember saying that in the text messages?
A. Yes. And I apologize about --
Q. Well, it -- it kind of betrays your belief in what the CPD says is the sanctity of human life. You remember reading all that in the rules? That's at the beginning of every rule, the sanctity of human life and human dignity.
Do you think that that's consistent with the rules and the spirit of the CPD, to call somebody a jagoff just because you don't agree with what they said?
A victim of a dog shooting is a jagoff?
MS. MOORE: Just object to the form of the question.
BY MR. BENAK:
Q. Is that -- what was your mindset? That's a better question. What was your mindset when you repeated that in a text message to Sergeant Butler?
A. I believe the sanctity of a human life is extremely valuable. I've even saved a life before, and it's amazing.

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At the time, I was just angry with Kent. I felt like he was attacking me and just trying to make me seem like a villain and not taking any accountability, and I -- I said that out of anger.
Q. You understand that judgment is part of being a police officer?
A. Yes.
Q. And you understand good judgment is part of being a police officer?
A. Yes.
Q. And do you think that calling somebody a jagoff is consistent with good judgment and good character as required by the Chicago Police Department?
A. I regret saying it. I am sorry for calling him that, and I do think we should speak nicely of others.
Q. Well, as you testified, you were under a lot of stress --
A. Mm-hmm.
Q. -- and that gives us a -- a window into your mind ---
A. Mm-hmm.
Q. -- as to how you operate under stress. People whom you've just nearly shot are all of a

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sudden jagoffs because you're under stress. Do you think that's consistent with the behavior of a Chicago Police Department officer?

MS. MOORE: Object to the form.

THE DEPONENT: He wasn't nearly shot.

BY MR. BENAK:

Q. Okay. All right. Kent?

MR. BECK: Okay. For the record, Mr. Maynard is laughing at the witness's comments.

BY MR. BENAK:

Q. So let's -- we're back at the -- at the time of the incident, when you gave the statement to Sergeant Butler. And your testimony was that you didn't know of any other witnesses that had given any statements to Chicago Police Department officers or sergeants at that time, correct?

A. I'm not sure who they would have spoke to.

Q. But you don't know of any?

A. Correct.

Q. Okay. And you didn't know of any at that time?

A. Correct.

Q. And Sergeant Butler then told you that you were totally fine, which conceivably meant that he hadn't talked to anybody that would contradict your

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testimony or contradict your statement; isn't that right?

A. I'm not -- I'm not sure.

Q. Well, if they had somebody that was gonna contradict your statement, would you think that Sergeant Butler would say, You're totally fine?

A. I mean, everyone's gonna have different opinions, but there is one truth at the end of it.

Q. Well, when he said, You're totally fine, you must have understood that that meant that he hadn't talked to anybody that would contest your version of events.

A. I didn't think of that --

Q. Okay.

A. -- at that time that he said that.

Q. Well, that is, as you said before, one possible interpretation of that statement, isn't it?

A. Someone could have contradictory things to say, but I know what happened and --

Q. Well, for instance, if somebody had said, Well, Kent Maynard was holding his dog --

A. Mm-hmm.

Q. -- when Officer Mostek shot the dog, do you think that Officer -- excuse me -- Sergeant Butler would say, You're totally fine?

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A. I'm not sure what Sergeant Butler would say.

Q. But he didn't tell you that what he had heard from you was inconsistent with what he'd heard from witnesses?

A. I'm not sure what he heard from witnesses.

Q. No, I'm not asking you that. He didn't tell you that what you said was inconsistent with what witnesses said, did he?

A. No. Uh-uh.

Q. So when you did this narrative in the TRR, it was your assumption there would be no testimony that would contradict that; isn't that true?

A. I wasn't thinking of that at the time.

Q. Well, let's go back to the point in time when you pulled the trigger.

A. Mm-hmm.

Q. Did you think that when you pulled that trigger, that there would be officers who would testify against you?

A. If -- I'm not sure.

Q. Well, did you think that the investigation would go, as Sergeant Butler said, totally fine even though you shot some dog while his owner was holding it? Did you have that in mind? Did you think about

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that when you pulled the trigger, that it was never gonna be disclosed to anyone?

MS. MOORE: Objection. Form.

THE DEPONENT: There's nothing to hide, so I gave COPA my statement. I explained it a lot more in detail. I went and explained in better detail to the ASAs. If they wanted me to describe more of what happened, then that's fine. I wasn't trying to make sure it's hidden.

BY MR. BENAK:

Q. Well, is that why you told Sergeant Butler in your texts that you hope the investigation would be squashed?

A. Well, every officer hopes --

Q. Because, after all, there's only one truth, right?

A. -- the complaint would be squashed because it's stressful --

Q. Well, that's what you said, isn't it?

A. -- to go through all this.

Q. Didn't you say, I hope it's squashed? Didn't you say that in the text message to Sergeant Butler?

A. Yeah, I said that.

Q. Well, if there's only one truth, what does

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it matter whether it's squashed or not? I don't understand your testimony, Officer. Maybe you can explain how it should be squashed if there's only one truth.

A. I -- it's out of my control if something goes further into investigation or if it gets handled. I guess I was just venting to Butler, and --

MR. BENAK: Where's that second comment I had on that? Bear with me, Counsel. It's just gonna take me about 30 seconds to find this.

Well, I apologize. I don't have a hard copy of this one, but we're gonna make it a -- a digital exhibit. This is Exhibit -- where are we, 12?

And it is captioned: Firearm Discharge and Officer Involved-Death Incident Response and Investigation; General Order: G03-06. FCRL_228.

THE REPORTER: Is this --

MR. BECK: I think you already made this an exhibit --

MS. MOORE: Yeah.

MR. BECK: -- as Exhibit 11.

MR. BENAK: Did we already put that in?

MR. BECK: Yeah.

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MS. MOORE: Yeah.

THE REPORTER: Yeah.

MR. BENAK: Okay. I gave it to you guys, and I didn't keep one for myself.

MS. MOORE: Do you want one back?

MR. BENAK: No, no, no. I've got it. I've got it right here. It's at the bottom of this -- bottom of the stack. Thank you for pointing that out.

BY MR. BENAK:

Q. So we're at -- here, get my thoughts. So we're at Exhibit 11, and I'd like to turn your attention to page 3 of 19, top of the page. And I think that is under Policy 3, and then at the top of page 3, Subparagraph G. You see where I am, Officer?

A. (No audible response.)

Q. You see where I am?

A. Page 3.

Q. Page 3.

A. G?

Q. G.

A. Okay.

Q. I'll read it into the record: The Department strictly prohibits its members from

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engaging in any form of retaliation, intimidation, or coercion against department members or members of the public for reporting alleged misconduct or for supporting, assisting in, or cooperating with any complaint or misconduct investigation, including the investigation of firearm discharge and officer death incident, consistent with the department directive titled: Prohibition of Retaliation.

Did I read that correctly?

A. Yes.

Q. What do you understand that prohibition to be? What does that mean, in other words?

A. That if someone reports misconduct on an officer, that that officer can't be retaliatory against the reporting officer for speaking out for misconduct.

Q. Right, including intimidation of witnesses or victims, correct?

A. Correct.

Q. Yeah. Do you know Kent Maynard's landlord, Officer?

A. Yes.

Q. You have discussions with Kent Maynard's landlord about his lease?

A. It was in regards to him staying there,

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yeah.

Q. And you actually were trying to assist his landlord in having him evicted, weren't you?

A. So the first time I spoke to her on the call, she was very upset that the original tenant subletted to Kent behind her back, and she wanted him out.

Q. Okay.

A. I didn't tell her to kick her -- kick him out or, Hey, get this guy out of here. She wanted him out.

Q. So you're saying that she -- she contacted you because she was interested in evicting Kent Maynard and the only way she could figure out how to do that was to contact the police officer who just shot her -- his dog?

A. Well, the first time I called her, I was telling her about an incident, Hey, there was an incident outside of the residence. It had to do with me and the neighbor.

Q. Are you talking about the incident of the dog shooting?

A. Yes. I had to tell her --

Q. And so you called her about the dog shooting.

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And what did you --
A. Yes.
Q. -- talk to her about?
A. And then after that, she was very upset that Aaron, the original tenant, was subletting to Kent behind the landlord's back. And the landlord said she didn't know about that and it was very upsetting to her. She felt like Aaron betrayed her trust and she wanted him out and --
Q. What did that have to do -- what did that --
A. -- she was like, I just want him out.
Q. What did all of that have to do with the dog shooting?
A. Because she was upset that Aaron subletted behind her back and she found out about it because --
Q. But what does that have to do with the dog shooting? I still don't make -- I still don't have the connection, Officer. Tell me how that's connected to the dog shooting.
A. I think she would have wanted to know if there was a pit bull there, and it had to do with more of the fact that she found out that Kent was staying there from the shooting incident.

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Q. Yeah. Kent had a pit bull. Who told her that?
A. I may have told her.
Q. Yeah, you told her that because you wanted him out; isn't that true?
A. I didn't care. If -- if he wanted to stay there, that's fine. It's not my call. She's the landlord.
Q. Want us to pull up the text messages? Because they don't agree with you. We can have your testimony here direct from your mouth or I can pull up the text messages and we can show you what you told her.
A. That's -- that's fine. We can pull up the -- the text messages. But she told me first, saying she wants him out.
Q. Yeah. And that only happened after the dog shooting? She never wanted him out before?
A. She didn't know about him staying there before the shooting.
Q. And she didn't know about him having a pit bull, did she?
A. No.
Q. Okay. And you told her about that. You told her he had a pit bull and you told her -- gave her some advice on how to get him evicted, didn't you?

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A. Yes.
Q. Okay. You think that was appropriate to engage in a conversation with the landlord about evicting a tenant who was the victim of this dog shooting in light of this prohibition against intimidation we've just discussed?
A. Well, she was -- she was asking me, How do I get him out? On the phone, she's like, I want him out. I wasn't thinking at the time of -- of how the -- how Kent's going to take this or if --
Q. So, in your mind, that wasn't intimidation prohibited by the paragraph that we've just discussed?
A. My mind, no.
Q. Okay. So you know that there was a -- a neighbor of yours who contacted COPA and said that they were concerned about you having a gun?
A. No, I'm not aware. I don't think COPA is allowed to -- to share everything, all their investigations.
Q. Well, let's just take -- let's just take a look at what we have here.
A. Okay.

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Q. So direct your attention to the screen, if you will, please, Officer?
MR. BENAK: Jeez, I got to get this little one off of there. So let's have this virtual exhibit -- what are we, 12?
THE REPORTER: 12.
MR. BENAK: Okay.
(WHEREUPON, Exhibit 12 was marked for identification.)
BY MR. BENAK:
Q. I'd like you to read this. It's not that long, so take your time. I'd like you to read the whole thing, please.
MR. BECK: Are you expecting her to do that, follow along with the e-mail --
BY MR. BENAK:
Q. Oh, sorry. Am I --
A. Yeah, it's -- it keeps moving. Okay.
Q. I neglected to -- I mean, I'm not thinking about it being -- you're reading with me. I've read it before, so sorry. Let's make it big so we can get the whole thing on here. There we go.
A. Okay. I read it.
Q. So did you know that there were memorials to

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Aggie erected just outside your building?
A. So when I came back around, let's see, Tuesday after the incident -- it was either Tuesday or Wednesday that I came back. I saw that there was one memorial up.
Q. And did you look at the memorial?
A. Yeah, I looked at it --
Q. Okay.
A. -- briefly.
Q. Were you surprised to see that so many people in the neighborhood were so attached to this vicious dog?
A. I wasn't really surprised. I was --
Q. Well, certainly the memorial -- it conflicts with your conclusion that this dog was aggressive and dangerous, doesn't it?
A. Well, I'm not sure.
Q. Okay. Well, there wasn't anything in the memorial that said, I'm glad you're dead, Aggie, was there?
A. No, there wasn't.
Q. So as this letter states, the memorial was up and then it was down. Do you know anything about the circumstances under which the memorial was taken down?

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A. No, I do not.
Q. Who's Pete?
A. Pete's my downstairs neighbor.
Q. Okay. You remember having a conversation on text with Pete where he offered to take the memorial down if you wanted?
A. Yeah, he asked me.
Q. Do you think he took the memorial down?
A. I'm not sure.
Q. Did you take it down?
A. No, I did not.
Q. Okay. So then there was a second memorial that went up, and that one came down too. You know how that happened?
A. No.
Q. Okay. Do you know what the second memorial stood for? You know what -- any of the statements made in the second memorial?
A. It was about Aggie.
Q. Right. And there was nothing in there that said, Boy, we're sure glad you're dead, Aggie, because you're a mean dog. Nothing like that, was there?
A. No.
Q. Okay. And these were statements made by

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children, right? Did you understand it when you looked at that memorial that there were children who had participated in constructing that memorial?
A. Can we get some clarification when the first one was set up? Because I was out of town for a few days after --
Q. I'm not sure we --
A. -- that was set up.
Q. I'm not sure we have --
A. Because I don't even think I saw the first one set up.
Q. Okay. Well, I'm not sure we have the dates on when they were constructed. We just know they were taken down.
A. Okay.
Q. Okay? So we know there was at least one. You were out of town. You went to Wisconsin, apparently, to take your dog to a vet in Wisconsin, right?
A. Yes.
Q. Apparently you had to take it to Wisconsin because there are no vets here in town that can treat it?
MR. THOMPSON: Objection. Argumentative.
BY MR. BENAK:

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Q. You don't even have to answer that.
So this statement from this person, amplified and added to in her statement to COPA, is that she thinks you saw her talking in front of your door about the time she brought her -- had dropped her children off at school, talking with a neighbor, and when the subject of the dog came up, somebody inside your door slammed the door. Was that you?
A. No. And I never heard someone talking outside my door, as I live on the second floor. So even if someone were to be talking outside of my doors, I wouldn't have heard them anyways.
Q. Well, it was a door that you had egress and -- entrance and exit to, right? That was the only way in and out at that point?
A. Yeah. True.
Q. Okay. Who else is in that apartment on the first floor that would use that door?
A. On the first floor? That's Pete. I'm on the second floor.
Q. Okay. Anybody else that goes in and out of that door?
A. No.
Q. So you don't know anything about the fact that a neighbor was talking about the dog shooting

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right in front of your apartment door and all of a sudden the door slammed? You don't know anything about that?

A. Nothing.

Q. Okay. So the last statement here: I'm concerned for my safety and the safety of my child and dog. Please, at a minimum, take her gun and her FOID so that we don't have to be afraid she will harm us too.

Did I read that correctly?

A. Yes. Yes.

Q. Is that a correct statement that she made? At the very least, it betrays a lack of confidence in a neighbor who was supposed to be a friend of the community. They're afraid of you, Officer Mostek. That's what this statement says. Why would they be afraid of you?

A. I'm not sure.

Q. Okay. I don't have anything else.

MR. BECK: Just a couple minutes. Stay there. Officer, stay there.

THE VIDEOGRAPHER: Should I take us off the record?

MR. BENAK: Yeah.

MS. MOORE: Yeah.

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THE VIDEOGRAPHER: Okay. Stand by. The time is 12:52 p.m., and we are off the record.

(WHEREUPON, a recess was held.)

THE VIDEOGRAPHER: The time is 12:57 p.m., and we are on the record.

EXAMINATION

BY MS. MOORE:

Q. Okay. I'm Marion. I represent the City in the case. I just have a couple questions for you. Just a few follow-ups.

At the beginning of the deposition, we were talking about the weapon that was used in the incident, and I believe you referred to it as your off-duty weapon; is that right?

A. Yes.

Q. What does that mean?

A. It means the gun that I don't carry while I'm on duty.

Q. So you carry a different weapon when you're on duty, then?

A. Yes.

Q. And I believe we were talking about how at that -- at the time of this incident, the off-duty, you hadn't qualified for yet in this time frame; is that right?

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A. Well, I qualified it before but not in the year time frame before.

Q. So it was up for re-qualification?

A. Yes, it was up re.

Q. But you're on-duty, I assume you had -- that was qualified?

A. Yes.

Q. And the -- the on-duty -- did you ever carry the off-duty when you were on duty?

A. No.

Q. Okay. And they're -- it's two separate things, right?

A. Mm-hmm.

Q. The off-duty and the on-duty weapon?

A. Yes.

Q. Okay. All right. I think this was clear, but you didn't have any involvement in writing the case report, right?

A. Correct.

Q. Okay. There were some questions about statements you had given while on scene, and I think you said you had given three -- what we we're kind of calling at this deposition -- statements to officers. Does that -- do you remember that?

A. Yes.

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Q. Okay. And we clarified one was this initial officer who we -- you were told was Officer Pronek and then the other was -- was Sergeant Butler and then the third was an -- an Asian officer?

A. Yes, but I might have spoken to the Asian officer before Butler.

Q. Okay. I guess what I'm trying to lock down is -- or clarify, you didn't know that person's name, correct?

A. Correct.

Q. So it could have been Officer Zao, as we've been talking about, or it could have been Sergeant To?

A. Correct.

Q. Okay. You don't know one way or another?

A. Correct.

Q. Okay. Then you were asked about these statements in the second talk with Sergeant Butler about being in fear for your own safety and injuries?

A. Yes.

Q. And those statements, you were told were not on the -- on any body-worn camera video. Do you remember that? You had -- you didn't know whether or not they were on body-worn?

A. Correct.
Q. Those statements, though, did make it into the TRR, right?
A. Yes.
Q. Okay. And that's the TRR that Sergeant Butler reviewed?
A. Yes.
Q. Okay. Okay. So the last thing that I want to go through -- Exhibit 6 -- is the TRR. Now, the first page of the TRR, you filled all of this out, right?
A. Yes.
Q. So you are the one who actually did the check marks that we see on this first page of Exhibit 6?
A. Yes.
Q. And then you also are who filled out the narrative section at the top of the second page, right?
A. Yes.
Q. So all of that was -- was you completing those sections of this report?
A. Yes.
Q. And you -- you completed that basically that day, shortly after the incident?

A. Yes.
Q. Okay. And then the rest of the TRR, that's what other people fill out, right?
A. Yes.
Q. Okay. All right. That's all I have.
MR. BECK: We don't have anything.
MR. BENAK: I don't need anything else.
THE VIDEOGRAPHER: Thank you, everybody.
MS. MOORE: Thanks, everyone.
MR. BENAK: Thanks.
THE REPORTER: Okay.
THE VIDEOGRAPHER: And this will be the end of the deposition of Carmen Mostek. The court reporter will now take your orders for the transcript and then I'll take orders for the video.
MS. MOORE: Okay.
THE REPORTER: Mr. Benak, you're ordering the original; is that correct?
MR. BENAK: Correct.
THE REPORTER: Okay. Mr. Beck, will you take a copy?
MR. BECK: Yes, please.
THE REPORTER: And then, Mr. Thompson, a separate copy?
MR. THOMPSON: Yes.

THE REPORTER: Okay. And then, Ms. Moore, will you --
MR. BECK: He doesn't --
THE REPORTER: Oh.
MR. BECK: He doesn't want one.
MR. THOMPSON: Sorry.
THE REPORTER: Okay. You don't need a copy, Mr. Thompson?
MR. THOMPSON: No.
THE REPORTER: Perfect.
And then, Ms. Moore, would you like a copy?
MS. MOORE: I don't.
THE REPORTER: No?
And then, Ms. Kaur, would you like a copy?
MS. KAUR: No.
THE REPORTER: No? All right. Thank you.
THE VIDEOGRAPHER: Okay. I'm gonna take orders for the video. Do you need a copy of the video?
MR. BENAK: Yes.
THE VIDEOGRAPHER: Okay. And, Counsel?
MR. BECK: Yes, please.
THE VIDEOGRAPHER: Counsel Thompson?
MR. THOMPSON: No, thanks.

THE VIDEOGRAPHER: Ms. Moore?
MS. MOORE: (No audible response.)
MR. BECK: And then we will reserve signature.
MR. THOMPSON: All right. We're off the record now.
THE VIDEOGRAPHER: The time is 1:02 p.m. We are off the record.
(WHEREUPON, the deposition of CARMEN MOSTEK was concluded at 1:02 p.m.)

CERTIFICATE

I, the undersigned Tim Baron, am a videographer on behalf of NAEGELI Deposition & Trial. I do hereby certify that I have accurately made the video recording of the deposition of Carmen Mostek, in the above captioned matter on the 3rd day of April, 2025 taken at the location of Chicago, IL.

No alterations, additions, or deletions were made thereto.

I further certify that I am not related to any of these parties in the matter and I have no financial interest in the outcome of this matter.

Timothy Baron

Tim Baron

CERTIFICATE

I, Sylvia I. Palacios, do hereby certify that I reported all proceedings adduced in the foregoing matter and that the foregoing transcript pages constitutes a full, true and accurate record of said proceedings to the best of my ability.

I further certify that I am neither related to counsel or any party to the proceedings nor have any interest in the outcome of the proceedings.

IN WITNESS HEREOF, I have hereunto set my hand this 25th day of April, 2025.

Sylvia I. Palacios #1001877

CORRECTION SHEET

Deposition of: Carmen Mostek Date: 04/03/25
Regarding: Maynard vs. The City of Chicago, et al
Reporter: Palacios/Bickford

Please make all corrections, changes or clarifications to your testimony on this sheet, showing page and line number. If there are no changes, write "none" across the page. Sign this sheet and the line provided.

Page	Line	Reason for Change

Signature: _____
Carmen Mostek

Date: 04/03/2025 Assignment #: 83946
Deponent: Carmen Mostek
Case: KENT MAYNARD Jr. vs CITY OF CHICAGO, et al

ATTORNEY - TRANSCRIPT ENCLOSED:
signature of your client is required. Please have your client make any corrections necessary. Sign the Correction Sheet where indicated. Forward a COPY of the executed Correction Sheet directly to the attorney(s) listed below. (The Address(es) can be found on the Appearance page of the deposition.) Also, send a COPY of the executed Correction Sheet to our corporation.

C C:Naegeli Deposition and Trial

DECLARATION

Deposition of: Carmen Mostek Date: 04/03/2025
Regarding: KENT MAYNARD Jr. vs CITY OF CHICAGO, et al
Reporter: Sylvia I. Palacios

_____

I declare under penalty of perjury the following to be true:

I have read my deposition and the same is true and accurate save and except for any corrections as made by me on the Correction Sheet herein.

Signed at _____, _____
on the _____ day of _____, 20____.

Signature: _____
Carmen Mostek

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EXHIBIT E

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KENT MAYNARD, JR.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 24 CV 3612
	)	
THE CITY OF CHICAGO, a municipal corporation; the CHICAGO POLICE DEPARTMENT, as AGENT of the City of Chicago; and CHICAGO POLICE OFFICER CARMEN MOSTEK (Star 8664),	)	Judge Elaine E. Bucklo
	)	Magistrate Judge Young B. Kim
	)	
Defendants.	)	

The video deposition of KENT MAYNARD, JR., called by the Defendants for examination, taken pursuant to notice and pursuant to the Federal Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Donna Wadlington Shavers, a Certified Shorthand Reporter, taken at 2 North LaSalle Street, Suite 420, on the 17th day of April, 2025, commencing at the hour of 10:17 a.m.

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Also present:
Peter Van Winkle, Legal Video Specialist

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(Exhibits 8 and 14 were retained.)

THE VIDEOGRAPHER: All right. We are now on the video record in the matter of Kent Maynard versus City of Chicago, et al., pending in the United States District Court for the Northern District of Illinois, Eastern Division, Case No. 24 CV 3612.

Today's date is April 17, 2025, and the time is now 10:17 a.m.

This is the video-recorded deposition of Kent Maynard. We are located at City of Chicago offices, 2 North LaSalle Street.

My name is Peter Van Winkle, legal video specialist. The court reporter is Donna Shavers with DCM Court Reporting.

For the record, will counsel please introduce themselves and whom they represent?

MR. BECK: Gregory Beck, Carmen Mostek.

MR. THOMPSON: James Thompson, Carmen Mostek.

MR. BENAK: James D. Benak for the Plaintiff.

THE VIDEOGRAPHER: Thank you. Will

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the court reporter please swear in the witness.
(Witness duly sworn.)
KENT MAYNARD, JR.,
called as a witness herein, having been first duly sworn, was examined and testified as follows:
DIRECT EXAMINATION
BY MR. BECK:
Q. Mr. Maynard, I apologize if I -- I know you're an attorney, so I'm going to ask some questions that you probably think are silly, but I'm a creature of habit. So I apologize, okay?
A. I believe that no question is silly. The answer may be but the question is not silly.
Q. Okay. You understand you are under oath?
A. I do.
Q. Do you understand that you are sworn to tell the truth?
A. I do.
Q. Do you understand that your answers have the same effect as if we were in a courtroom with a judge and a jury?

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A. Well, I think we might -- we might be able to discuss that because I'm not sure that's literally true, but I understand that I'm under oath and that it's my obligation to tell the truth.
Q. If you do not understand one of my question, will you let me know?
A. I absolutely will.
Q. And if you answer one of my questions, can we assume that you understood the question?
A. I will not answer a question that I do not understand.
Q. Perfect.
So on April 21st, 2024, I believe you were involved in an altercation outside your home with Carmen Mostek, yes?
A. An altercation.
Q. Well, what word you like to use?
A. On April 21st, 2024, Carmen Mostek shot my dog in the head while I was holding her against my chest, as I was lying on the ground at the corner of Normal and 29th Street, which technically is not in front of my home. If you define that as an altercation, then the answer

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to your question is yes.
Q. I will refer to it as the shooting. Is that -- I'm just trying to find a term that we can agree on for a short end so that we understand what we're talking about.
So how about, you know, whenever I use the term "the shooting," I'm referring to the shooting on April 21st, 2024 in which Carmen took the life of your dog. Do we understand each other?
A. Yes, with one caveat. It wasn't just she took the life of my dog, she very nearly took the life of the dog's owner.
Q. I understand. But --
A. And we can call that the shooting or we can call it the incident, whichever you prefer.
Q. Okay. Let's call it the incident then, okay?
Do have a clear memory of the incident?
A. I guess that would depend on what you're going to ask me.
Q. Well, tell us what -- tell us what

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happened and include everything you think is important.
A. Well, I can't say that -- I mean, I'm not going to intentionally provide you with extraneous detail, but I can't say that if I omit something that it somehow is unimportant. I don't mean to say that, but I can tell you in general terms what I recall, as I sit here right now. But to suggest that because I might omit something it's not important I think would be a mistake and something that I would not agree to.
Q. Understood.
When I say do you have a clear memory, do you have a clear memory of the circumstances leading up to the shooting and then what was happening during the shooting itself?
A. Well, again, the circumstances leading up to the shooting, we could define that in different ways. Your client suggests that the lead up to the shooting began weeks before the shooting.
She claims that my dog was aggressive and displaying aggression and

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viciousness towards her dog. She claims that she observed my dog chew through a screen door, not once but twice. She includes those things in the lead up. I dispute them.

Do you want me to start with those things, or do you want me to start with the things that occurred on the day of?

Q. The day of.

A. Okay. April 21st, 2024 was a Sunday. It was approximately a year ago, so it was spring. It was a sunny day. It was a warm day. I had been out walking my dog earlier, and I had then gone home. I was in my apartment.

I can't remember precisely what it was that prompted me to go out on the -- go out the main entrance, the front entrance of my apartment, the apartment which is at 522 West 29th Street. But I went out there -- I think I went out there because I thought maybe there had been a delivery from Amazon, or I don't recall exactly. But I just remember that I -- and, in fact, there is a video from a Blink or a Ring camera which shows me going out on the stoop, and we have actually produced that to you.

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I go out on the stoop, I look, I go back in. And before I close the door securely and lock it, you can see the door open again and that's when Aggie runs out. And after seeing her run out, and you can see this in the video, to some extent what I tell you I think is subject to the video because it's really the best evidence of what happened precisely.

But my recollection is consistent with what the video shows, and that is that I immediately pursued -- and when I refer to Aggie, that's the dog that was shot. I immediately pursued Aggie. I ran as fast as I could, and she ran through this gangway up to the sidewalk and took a left towards the sidewalk or the corner at 29th and Normal.

And I ran along that same path as quickly as I could, and as I rounded I could see on the corner that there were two dogs. One of those dogs was Aggie. They were sort of a blur. They were blurred, if you will.

And I made a beeline running east to get to the dogs and to separate them to the extent that they were conjoined. And what I

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remember -- and there is also a video which is available and which I think is, perhaps, not only consistent with what I recall, but it's, perhaps, better evidence than my description of events.

But in any case, as I approached the corner and the two dogs, it was a very strange thing to me that as I was getting near the dogs there was Carmen Mostek, who -- I knew who Carmen was because she was my neighbor, and I had had a few conversations with her, nothing extensive.

But nothing -- there was no animus. I mean, there were -- we exchanged pleasantries. I wasn't aware of any -- any issues with her. But suddenly I found that she stepped in front of me and as I was trying to get to my dog in particular. And not only did she step in front of me but -- and I didn't -- it surprised me because, you know, I was trying to get to the dogs because I was trying to separate the dogs.

It was as though she was trying to prevent me. It was like back in high

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school football, someone trying to block you. She put her right shoulder, as I recall, and this is consistent with what I see and can see in the video.

Q. But do you remember this at the time of the incident as -- so you recall this, you are not just reflecting on what the video shows, in your opinion?

A. I recall being very much taken aback by the fact that I had this obstacle between me and the dogs when I was trying to nullify any negative impact at all of this incident. I recall being really puzzled that this person was putting her body against mine and not just putting her shoulder into me but leaning.

And if you look at the video, and I remember this, that I could feel that she was pressing against me. And you can see her body is inclined at an angle, and she's doing what looks like, you know, a block, almost a football like block against me. And at that point I kind of rotated around her and as -- and then I was falling to the ground because I also tried to put my leg in between the dogs.

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You know, one of the rules in -- if you own a dog and the dogs are fighting, you generally don't want to put your hand in the middle. You try to use something else, usually your foot if you can. You are not kicking the dogs. What you're trying to do is interpose something other than your hand, which can be bitten, between the dogs. So it was a very strange thing. It was bizarre. And I remember being puzzled, but all this was happening very fast.

And so I -- she literally used enough force to push me to the ground because there was no way I could keep my balance as she was doing this, and you can see I'm kind of rotating. And as I rotate I'm falling, and I fall to the ground, but I managed to grab my dog. I'm on my right side. My head is closer to the east. My feet are closer to the west.

I have Aggie not by her stomach, not by her hind legs, I have her around the chest, okay, or her neck. I can't remember precisely which at this point. But I know that I had her, and I had secured her, and I had

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pulled her in close to my chest. And I know that she was on her right side too on the pavement at the corner of 29th Street and Normal.

And as I held her there against my chest with her head literally -- if it was more than a couple of inches from my head, my face, my eyes, then I would have been -- I would be surprised because I had pulled her into my chest. I was holding her. I was on -- and I was on my right side, and I remember thinking okay, you know, now -- now we can, you know.

If you take your dog to a dog park and they make -- two dogs mix it up, the owners separate the dogs. They examine the dogs. If one of the dogs is injured, then what do you do? You say, oh, I'm so sorry. Here, I will pay -- here's my card. I will pay for any veterinary bill if indeed that's necessary. Usually it isn't. You know, dogs -- it sounds like the end of the world when dogs are tussling, but generally they don't do anything to each other because they are primates, and

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they are establishing pecking orders in their social groups. At least that's my experience.

Q. I have a dog too, and so I -- I don't want us to be at odds here. I understand how much your dog meant to you, and I couldn't imagine that happening, and I understand what you're saying. So continue, I apologize.

A. So I thought, you know, the usual, this is the usual series of events. The dogs are tussling, the dogs gets separated. The owners examine their dogs, neither dog is injured and we all reenlist.

Instead, as I'm lying on the ground holding my dog and, you know, unable really to move because I have got her pulled into me and my -- and as -- after Ms. Mostek gave me this -- you know, this body slam blocking move that knocked me to the ground and my legs were kind of elevated because I had been trying to, you know, stabilize my position.

And I remember that what I could see at that point was the blueness of the sky on this beautiful Sunday morning. And there was this enormous bang. I mean, it was like a

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bang, okay. I don't know if you can appreciate just how violent a gun discharge is when it's about a foot at the very most from your face. And I remember thinking that must be -- I can't -- I was puzzled at first.

I thought, well, what was that? I mean, I thought that must be something going on a couple blocks away was my first thought because I've got my dog. I'm lying on the ground. I am a human being. And I remember looking down at some point thinking -- this, again, all this happened in seconds. Then I looked down and, you know, my dog was right beneath me.

And so I looked down and my dog, her snout is pointing in a sort of northeastern direction, and her eye then -- she's on her right side just as I am, and I remember just lifting up a little and looking at her -- at her -- what was her left eye and seeing that it was open and completely still. And at that point I realized that she'd been shot. And I remember thinking, well, where was she shot because it wasn't immediately obvious.

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There was a great deal of blood. She was beginning to bleed out.

But I started looking for an entrance wound thinking -- then all of a sudden I changed -- I started thinking, well, we got to get her to a vet. We got to figure out, and I started looking for an entrance wound and I couldn't find one. And that's -- I don't recall precisely how I figured this out. I just could -- on her right side, the only place where she could have got -- had an entrance wound I couldn't find one, but I remember at some point realizing that it looked like it had gone -- the bullet had gone right in her left ear.

And I -- after looking at that and looking at her and trying to -- it was clear to me then that she was -- she was quite dead. And I remember at that point very distinctly that I remember look -- turning and looking at Carmen Mostek who was standing approximately where Mr. Benak is, maybe even closer, standing there --

Q. So about five feet?

A. That's -- I don't think that's five

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feet, but it was very close.

Q. Okay.

A. It was three feet. And she wasn't stationary, or perhaps at some point she was. She stopped moving, but I do recall turning and saying to her -- and I said to her, and I remember the tone of voice I used. I said, oh, you didn't just shoot my dog because I couldn't -- I couldn't believe it. I simply -- it did not enter in my head how completely pointless and stupid it was.

There was no threat to her ever. Her dog wasn't anywhere near us. My dog was in my arms, and the gun goes off, and then I see my dog is dead. So I said, oh, you didn't just shoot my dog. Like -- and that's when she shouts at me. She says she attacked my dog. And at that point she -- as I recall, she had -- she was assessing what had happened after she fired her weapon. I think she holstered it and turned around.

And as I recall she began walking north towards the entrance of her home, which is a kind of garage door on the east side

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of the building at 524 West 29th. And she walked a few steps. Then she reached down and she picked up her dog's leash because her dog was in another county by then. And then she started running.

And I can't give you -- it's in the video, and the video is much better evidence than my recollection, but at that point I was -- I remember -- I think what I said was -- I think I said you fucking idiot. You just killed my dog you fucking idiot. And she didn't say a word. She just kind of continued running, and then she got to the door, and she went in with her dog. And the dog, by the way, was trotting along with her. And I was left there on the street with my dog in a puddle of blood.

And I will admit I was very upset. I understand that Ms. Mostek and Sergeant Butler think I made a fool of myself that day because I was upset. Yeah.

My father was a colonel in the Air Force. I'm descended from Scottish Border Reivers. When we get upset some -- and, you

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know, we might make fools of ourselves, but if we care about our dogs, I don't -- you know, I'm not the one who fired a shot to break up a dog fight endangering a human life. You want to talk about foolishness.

So that was it. She disappeared in that door, and she didn't come back out, and I was left with this dog. My neighbor, who's a wonderful guy, brought a blanket to put over the dog and gave me a hug. I guess I was making a fool of myself because I was upset. Other people came by and they asked questions. Someone said something about call the police. I said, she is a cop.

And one of the first things I realized as I was shouting and making a fool of myself was that not only did she shoot my dog, but she came very, very, very close to shooting me.

So what happened that day, I can stop there or I can continue and tell you about all the hordes of police who descended on the scene, most of them standing around. One of them was on the -- on the call and was supposed

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to be investigating.

My neighbor in the front unit at 522 West 29th Street, who is a wonderful guy, brought me a clipboard and a piece of paper because he understood that I would want to write down witnesses.

And in a matter of 20 minutes, I had -- I just walked around and I asked people did anyone -- did you see anything with your own eyes? And I had a collection of at least, I think it was -- it was produced in discovery. I can't say. There were at least three or four people on there, their names, their addresses, their phone numbers.

Then some friends of mine came, and they knew that I was very upset. At some point I was standing out, and I was talking to some of the bystanders. I had been collecting witnesses names and so on. And there was sort of a gaggle of officers all just sort of standing, doing nothing of any consequence right on the corner. And I remember -- I knew my neighbor was a cop.

And at some point I couldn't

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resist. I went over and I said look -- and you can see this in the video. If I misquote myself, shame on me. But I went over to them and I looked at them and I said, you know, I know you guys have got a tough job. I know. And I'll be candid and honest with you and say that I can sympathize. I think the Chicago police are in an impossible situation. You pull someone over for a taillight violation and you don't know if the guy is gonna pull a gun on you or not because we are swimming in an ocean of guns in our society generally. And who gets to really worry about it, they do.

So I have a -- I have a real respect for -- and I don't have an animus against Chicago police generally as a default value. But I was very concerned when I heard she was a cop. I went over and I said, I know you guys have got a tough job, and I know she's a cop, but I don't think you want to give her a pass on this one because, I said, and there was Zhao and I can't think of his Hispanic last name. I apologize. I -- there was -- it was Zhao and there were two others, and there

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were --

Anyway, the bottom line is I said to them, and you can see it on the body-worn camera anyway, I just said, look, there is something fundamentally wrong with this. I was holding the dog when she shot it. And I thought they might take notice of that.

At some point I think Officer Pronek came up and he wanted my ID, this fetish about IDs. And to the extent that he wanted me to give a statement, the only thing I was going to tell him or anyone else was I was holding the fucking dog when she shot it. That's all you need to know.

But because he didn't get my ID and I didn't tell him my last name, even though there were people standing around and he knew exactly where I lived, and he could have asked Carmen, but he claims that because I didn't give him my last name that he could just disregard me as though I was a complete non-fucking-entity.

So what happened next. I was at the corner all day watching the police come

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and go, watching at one point Sergeant To yelling at somebody for going through the tape, which I took exception to because he asked one of the other officers if he could, and so he and I had a little exchange.

Q. I apologize for interrupting. You took exception to what?

A. Sergeant To berated one of the bystanders who apparently invaded the sacred space defined by the tape which meant abso-fucking-lutely nothing. Nothing. It was stupid, and they talked about securing the scene. Oh, once I secure the scene, I've done my fucking job. I don't have to ask if there are any witnesses. I don't have to interview any witnesses. I don't have to quote the guy who just told me that he was holding the dog when she shot the dog in the head because he didn't give me his last name. I told them my first name.

And I wasn't going to give them a statement because, you know something, I didn't want to give him a statement. I didn't want to give him an opportunity to take whatever

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I said and twist it. So I said nothing other than I was holding the dog. So that meant that they just kind of elided that and it went into -- they went up and they did their investigation which was to interview one person, Carmen Mostek, hmm, Carmen Mostek.

Do you suppose she had any sort of bias? Was she a reliable witness? Would you want to mix whatever she said with what somebody else said like me, or maybe one of the other witnesses or the woman across the street who saw everything and called 911 and was convinced that I was the one who had been shot because we were so close together on the ground? No. No problem. Talk to Carmen. Let Carmen tell us everything that happened, everything that was important.

And so Carmen then very masterfully concocted a narrative which was that this vicious Pit Bull got out of its yard. Well, now that sends a real signal, okay. It's a Pit Bull. It lives outside. It's kept as a guard dog so it's vicious. It's not socialized.

My dog never spent five

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minutes outside unsupervised. She was never off leash. This was probably the only time in the entire time I had her that she ever was off leash, and by the way, this whole incident occurred, she ran out of that front door and 11 seconds later she was lying dead. 11 seconds.

So, you know, when you start to thinking about, well, what about the duty to deescalate, or what about the duty once you make a decision that you may have to use deadly force to consider who else might be in the line of fire, or reconsider your decision based on an evolving -- sort of evolving universe of facts. Because deadly force, once that bullet has left the muzzle of that gun, you can't call it back. There are lot of important things that you do before you fire a gun. 11 seconds.

That's one way I calculated it. It's probably less. And it was -- the dogs were engaged about three seconds, and the first thing she did when she saw them engage was take her gun out of the holster. Never tried -- she dropped the leash. She's so concerned about my dog being off leash that she left her dog off

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leash. And then she tried to prevent me from getting to the dogs.

I'm sorry. You don't want to me to speculate, but it seems like the only way I can connect the dots is that she decided she was going to shoot that dog and nothing was gonna stop her. And not even the fact that I was there and holding her that she -- the dog was no threat to her or anything else, including her dog, that wasn't going to stop her either.

So she concocted this story about this vicious Pit Bull. Didn't say a word about where I was except that she did at some point say to Sergeant Butler, well, he was close. And Sergeant Butler, of course, immediately said what do you mean close, how close? Was he within anywhere potentially where he could have been injured? I'm concerned. We need to run this down. We should -- you know, we're here to serve and protect.

The only problem is he didn't say anything like that. He didn't say anything like that. You know what he said? He said, you're good. You're good. And everybody on

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scene, and all the guys in blue, they all just seamlessly and without anybody having to say anything to anybody else, they all fell in line. That's what happened. The vicious Pit Bull got out of the yard and was running loose and was attacking this poor little Corgi and had its jaws around the little Corgi's neck, and the Corgi was, in 11 seconds, on the verge of dying immediately.

So I had to heroically step up because the owner couldn't do anything about it, the same owner that I pushed to the side and pushed to the ground. And even then he was able to do something about it, but no, not in her narrative. No. In the narrative I'm completely hapless. I think she said some crazy way she put it like --

Q. I mean, you do agree that your dog attacked her dog?

A. What does attack mean to you?

Q. Ran after it, attacked it?

A. You say you have a dog.

Q. Yes.

A. Has your dog ever mixed it up with

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another dog? Do you call that an attack?
Q. I'm not -- I'm not pushing any blame right now. I'm saying your dog -- do you agree that your dog was the one who initiated a physical confrontation?
A. I'm agreeing that the two dogs were tussling.
Q. So you're not --
A. And I'm agreeing that her dog wasn't injured.
Q. Okay.
A. At all. And they have some goofy vet report, and she -- you can see in the body-worn camera in her apartment the dog is running around, everything is fine. Nobody could observe anything.
Q. Right. And I'm not -- and I'm not trying to --
A. So her dog wasn't hurt.
Q. I'm not trying to say that at all. I'm just trying -- you would agree that your dog ran after her dog and tried to bite it?
A. No.
Q. You do not agree with that?

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A. I would agree that my dog ran out of my house and ran down and then the dogs were engaged, yes. But I'm not calling it an attack. And I'm not saying that her dog was injured, it wasn't.
Q. Okay. Well --
A. And I'm also not willing to say that, you know, this case, this whole business about what her motive --
Look, it doesn't matter if there were dogs involved. Carmen Mostek stood over me -- forget -- let's pretend there are no dogs at all. She stood over me as I lay helpless in the fucking street, extended her right hand with a pistol -- and it wasn't a 22 caliber, it was a 9 millimeter or something that was fairly substantial -- extended it towards me and discharged it.
Q. You saw her extend it towards you?
A. Did I see -- I saw that she -- when I looked up she was standing like this over me with a gun in her right hand and she fired it. And the place it actually hit was inches from my face.

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So, what I know is that whether there were dogs -- whether they attacked, whether her dog was about to die, which is completely ludicrous or not, doesn't matter. She had no right to fire a gun in -- under the circumstances and in the way she did because she almost fucking killed me.
And I would have been lucky if she killed me because otherwise I have got no jaw, or I've got no eye, or I've got no left prefrontal lobes. You know, this is where mathematics lives, this is where Mozart lives. Okay. So I'm a drooling idiot the rest of my life trying to relearn how to speak and walk because Carmen Mostek -- what? What was this? What was this?
She sees her dog and mine and then within three seconds or right away she has made this decision that she cannot undue to shoot my dog. And when she's justifying this in her narrative she makes it sound like, oh, I was protecting my dog and wasn't that a wonderful thing. No. You --
What message do we take from

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that? Her dog's life is more important and more valuable than mine. And you know what, I reject that. I reject that premise. Her dog's life is not more important than mine. I'm a human being. So I don't give a fuck about her dog.
She had no right to do what she did. She is a disgrace. She's a malignantly narcissistic sociopath. She shows no empathy for me or for -- she executed my dog in a manner which shows that there is something fundamentally and organically wrong with this human being. She's missing something. She's missing those parts of the brain which create empathy, which prevent us from doing things which are stupid and harmful to other people to help save a dog.
Q. Are you finished or would you like to continue?
A. So that night I watched the news, and I was struggling with this. I just lost a really good dog, and I'm very partial to dogs. I've always said that if I want to be a better human being, I try to be more like my dog, okay.
And I was so angry when I saw

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what was being said about me, the irresponsible owner who keeps a vicious Pit Bull in a yard locked up as a guard dog. And everybody, oh, yeah, Pit Bull, oh, sure.

This was a rescue dog that was like a week away from being euthanized, and everybody -- everybody loved her. And so they were pushing her on me because they loved her, they thought she was wonderful.

And you know what, I was with a friend of mine and I said, Alex, what's wrong with this dog? And he looked at me and said, I don't know. Doesn't seem like there is anything wrong with this dog to me. So we took her home, and she was a really good dog. Everybody freaking loved this dog.

Every day I would walk her, at least two times a day, and I would walk all over Bridgeport, usually sometimes five, six miles a day. And every -- and everybody remembered us and everybody -- maybe they don't like me but they liked her.

So I got to know everybody and I -- I got to know their names. And even to

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this way I walk down Parnell and I say hello to Howard, and then I go farther south, and there's Tom and Heidi, and people I never would have met without walking this dog.

And it was good for me. It was -- it was -- got me out of my head. It got me outside. It got me fresh air. It got me exercise and it got me really connected with the community. And she -- all of a sudden she's gone and the apartment was so silent because I otherwise live alone.

So I was really upset because it was a further violation. Carmen had sent me a big message that day. Her message was your life doesn't mean shit. You don't mean shit. I can shoot your dog and almost shoot you for no reason at all. And then I've got 20 bishops that will stand behind me and they will all repeat the lie that I tell. That's what I learned that night, and I was furious. And I will tell you something, you can -- I can take hits and I was -- I took a big hit that day, okay.

Q. What do you mean by that?

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A. My girlfriend didn't want to leave me alone that night. She refused to leave. I was so distraught, okay. I was upset. I was a fool, to use Sergeant Butler's terminology, because I was upset. I have feelings. I care about dogs. I care about people and I care about the fact that my life was almost ended for no fucking reason at all, okay. I care about those things.

And what I got that day was this message from Carmen that you're not important. Your life isn't important. Your life isn't worth more than -- it's actually worth less than my dog's life. I can do whatever the fuck I want. And then I just run off. I don't even show my face.

And you know what she said? She said that it was -- she was afraid of what I might do. It's like she's the one with the fucking gun. I wasn't making any -- I called her a fucking idiot, yes, but I did not make any overt physical threats to her. I never have. And she's my neighbor.

So that night after watching

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the news I was furious --

THE VIDEOGRAPHER: Sorry, your microphone fell off.

THE WITNESS: I was furious. And, you know, I can tell you after this incident Carmen looked at me and so she said, oh, I'm so sorry. I don't know what came over me.

BY MR. BECK:

Q. When did that happen?

A. It didn't. That's the whole point. What if she had looked at me and said I'm so sorry, oh, my God, what have I done? You know, I don't know what happened. It was the heat of the moment. I'm so sorry. That didn't happen.

What happened was that the lie, the lie began and I was angry and I'm a lawyer. And I -- at that point I had a decision to make. I either -- you say -- when I say I took a hit, I took a hit. It's a -- the violence of the day, I lost my dog and I got this message that said you don't mean shit. Your life is nothing. And some random idiot can just snuff your ass out, and nothing's gonna happen. That was the message.

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And you know what, I took a hit. I was a fool, according to Butler, yeah, I was a fool. I was upset. I don't remember if I was crying but maybe I was. But I'm not a fucking victim. If somebody hits me, I hit back. And I'm not hitting back to hurt them, I'm hitting back because the universe is now out of joint. Something -- something bad has happened. Now it's up to me to make sure that this wrong is righted.

And then I immediately started to think about, well, I'm gonna -- I'm not gonna take this lying down. So I started drafting a complaint, and there was a complaint on file within ten days of the incident. Never threatened her. Never have. Saw her in the grocery store the other day, smiled at her. Why? I don't know. It wasn't an ironic smile. It's my nature. I saw her, I recognized her, I smiled and I said to myself that's very strange.

But then I said to myself, why would I invest energy in hating her? I don't. To this day I don't. I hate what she did. I can't explain it. I couldn't sleep that night

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because I was thinking about how -- how viciously and how malignantly and how callously she exterminated my dog and almost killed me. And I kept thinking, you know, I'm lying here and now I don't have a dog. And she's right next door.

And I will confess, she says she's afraid of me. I started to think, you know, I really don't want her to come in here and exterminate me. I don't want her to come in here and finish the job. So at some point I got an FOID card because I just didn't want to suffer the further indignity of letting her finish the job; okay.

The other thing that happened was, while I'm going through this whole process of grieving, and it was a grieving process, I sublet the space I was living in and my sublessor contacts me and says, you know --

First of all, he tells me that Carmen has been playing dialing for dollars, you know. She's calling everybody because she is working like this PR thing about how everything --

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Q. This is Erin who is saying this?

A. Yes, this would be Erin.

Q. Okay.

A. And Erin explained to me that Carmen apparently has been calling everybody in the neighborhood and telling her that oh, my God, this guy is horrible and what the hell is he -- you know, you shouldn't even be in that unit because, you know, because, Erin, you sublet to him and it's like what are you -- you know, I had no idea that Erin had any restrictions on subletting. I had been in there for a few months. Everything was open and aboveboard.

But Carmen decided that it wasn't enough just to lie about what happened, and lie about whose fault it was, and lie about the ultimate stupidity of what she herself had done, she would go the next step.

There was a woman down the street who put flowers on the corner because everybody knew this dog. It wasn't me. So someone put flowers and then someone put a candle. Then Michelle across the street, who was the 911 caller, has a granddaughter she's

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raising as her own. She's like 12 years old and she made a drawing of Aggie with angel's wings and brought it to me, knocked on the door. I mean, you know, these people in the neighborhood --

I started to say, you know, this was the worst thing and the best thing in the sense that all of a sudden I realized how connected I was to my community, how many people knew this dog and how many people cared about her. There were children, you know, all around. And so there were these memorials that were made, you know, and they put chalk drawings and candles.

And I will confess to you that I didn't initiate this, but I did contribute. I took her leash and her collar and put it out there. The collar was covered with blood.

And then on two occasions everything disappeared. It happened a third time too. And everything went -- you know, all you had to do is go and look at the garbage can and there -- almost everything was in the garbage.

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That was upsetting because here we were all trying to get back to equilibrium. It wasn't just me, it was the community and lots of people were upset. They were upset because of this act of violence in our midst on a beautiful spring morning in April, that there was this loud bang and everybody was upset, like what the hell is going on.

So that was the memorial thing. Then all of a sudden my sublessor calls me and he says, you know, the landlady is upset, you know, because Carmen had been calling her and texting her and advising her that I should be summarily evicted from my tenancy, my leasehold. So I'm -- here I am, I'm upset as hell. I will admit it. I'm a fool. And now I've got to think about whether I'm moving or not. It just added a whole new layer of stress.

I didn't do anything to retaliate against Carmen. I still haven't and I'm not going to. Anything I do is by -- I'm just telling my story, trust in the system. I've been a lawyer for more than 30 years. I

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always tell my clients just tell the truth, have faith in the system.

So some friends of mine, after Aggie was gone -- I was very conditioned. First thing every morning, get up, take the dog for her morning walk. So when she was gone, it was very, very hard for me because I was so conditioned to take her for her morning walk. So I couldn't just sit there and be depressed.

So I get up and I go on the walk alone. And one of the things we always did, Aggie and I, she had these two friends south on Parnell, Tom and Heidi who you're gonna, I guess, talk to. They have a wonderful dog named Dexter and she -- Dexter was one of her two best friends, two best boyfriends. Then farther south there was another dog named Patrick. You're going to talk to them too I think. So --

Q. What types of dogs were those?

A. You know --

Q. Just a mixed breed or whatever?

A. Yeah. Well, Dexter is beautiful. He's an Irish Setter or I forget. But he's the

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coolest dog ever. I used to kid -- used to tell Aggie, you know, like, Aggie, he's my favorite, just joking.

But anyway, so I would still go down and see, especially Brandon and Stacy Woods who have Patrick, and -- because I used to go and visit them. They have two daughters and I was practically a part of the family. I knew their mother-in-law lived with them. And here I was showing up, you know, by myself but, I mean, I just couldn't sit there. I had to keep moving.

And it's -- so I guess it was I don't remember how many days after this, but all of a sudden I'm at the Woods' house and, you know, they have Patrick and usually there are other people with other dogs, and suddenly there was this little black mixed breed dog. And I was like, Brandon, what's the story with this dog? And he's like, oh, we're just -- we're fostering this dog.

And after a couple days, I was seeing this dog. I'm like so how long you gonna keep this dog? And he's like, he looks at me

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and finally was like, look, Kent, I'm not gonna lie to you anymore. We got together and went out and got this dog for you. We saw, you know, how distraught you were and it looked kind of silly for you to be walking around alone, walking a dog that you didn't have. So we got this dog for you, don't feel any pressure. You can take her home now if you want. And I started thinking oh, shit, you know. All the stuff that's been going on, you know, and I don't think I did that day.

But then they kind of pressed me a little bit, so I think it was the next day I took her home just to see how she might fit in, and she was great. She's a rescue dog. So rescue dogs, they are so grateful. You know, this is a dog that had been a stray for awhile, so they are so grateful, you know. You're -- you give them a modicum of affection, and you feed them, and you walk them, and they just think that they are in heaven.

But then that -- after I brought her home, I think that first time, I got a phone call from Erin. He's like, you know,

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Kent, I just heard from the landlady. She said she's over the moon. Someone told her that you went and got another Pit Bull. Mind you, neither of these dogs were Pit Bulls. I mean, they were both mixed breeds. They are both rescue dogs. I didn't ask for a Pit Bull. I didn't specifically want a Pit Bull. I'm not into vicious, aggressive dogs. This was a dog that needed a home that was a week away from being euthanized. That's all I knew, okay. That's Aggie.

The other one they had gotten and this was relatively -- it's like a smaller dog, like 30 pounds. And so then I got -- he tells me, he says, look, the landlady now says that she's so upset and angry with you for having another Pit Bull that somebody had reported to her. I guess I kind of wonder who that might have been. You've got two days to get out.

Now, at the time I remember thinking it's a good thing I'm a lawyer and I've done some eviction work occasionally as sort of a favor to people because it's not my primary

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line of business. It's a good thing I know that you can't kick somebody out even if you own the premises in two days or two weeks. But if I had been a layperson and hadn't known better, I think it would have been a really -- it was a cruel blow to begin with, but it would have been even more cruel.

So at this point what happened that day? Well, there was a red herring. We get to talk about dogs but really it isn't about dogs. There was a shooting. I know I'm not gonna live forever but I'll be goddamned if I'm gonna die because of some random idiot who doesn't know how to make proper decisions about when and if to use deadly force and then lies about it. Not just lies about it in official reports, which is a felony, but lies about it in a way which is repeated to the media. So it's a further violation of my personal space and sovereignty as a human being, my dignity as a human being.

And then she goes about playing dialing for dollars with everybody in that area trying to tell them that I am a bad

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person. And then she gets the landlady to agree not once but twice to kick me out of where I live.

At this point I think you might ask, well, gee, Kent, you didn't retaliate against her but, you know, some people might say, cynics might say you had a motive to. I mean, what more is she gonna do to me? Only thing I can think of is that she would actually shoot me or get someone else to do it. Now I have a dog. At least I'll have early warning if someone is coming in at night.

Q. Is it the same dog from before?

A. I kept that dog. After the landlady saw the dog and after someone -- I don't even remember exactly how we defused that. But I think what happened was then the video came out and all of sudden everyone could see what actually happened, including the landlady. And maybe, just maybe, after seeing the video, she got the idea that have I hitched my wagon to the wrong star here? You know, maybe, just maybe, this old geezer dude is the victim, not her and not her -- her dog who was not injured.

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I'm so sorry. I don't know what came over me. It was muscle memory. What can I do to help you? I love dogs too. Look, I'm a dog owner. I'm so sorry, Kent. I'm your neighbor. I love dogs just like you. Only problem is none of those words were ever spoken. I got just the opposite. I got you're nobody. Your life is nothing. I can do whatever I want with you.

And you know what? You know why I'm here? I'm here to tell you, I'm here to tell her that she's wrong. You know, the irony is if you are gonna shoot somebody almost in the head in order to shoot the dog they're holding in their arms, you probably don't want to pick a lawyer. You probably want to pick somebody maybe like a -- forgive me, like someone who -- illegal immigrants usually are very afraid to use legal process because they are afraid. They think, oh, my God, I'm going to be deported.

I don't have that problem. So I'll be goddamned if I'm going to sit here and pretend like your client has a right to do what she did to treat me like a piece of fucking meat

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because I'm not a piece of meat and my dog wasn't either.

Q. From -- I know I don't know you, but from the little I have interacted with you during this case, I mean, I appreciate you. I think you're a good guy, and so I am terribly sorry about this, and I honestly am.

A. Thank you. That's the second person who said something to me like that.

The day of the incident -- just so we're clear, I do not dislike police officers. I sympathize. Every time I see them I go out of my way. Who -- it's 2:00 in the morning and somebody's trying to break in your house, who you gonna call?

Q. Right.

A. Even now having seen what I've seen, I don't believe there is something fundamentally wrong with all police officers, but there is something fundamentally fucked up about this one. And, you know, there is a guy, an ex-cop across the street, and you -- we've disclosed his name to you, and as he's walking across the street talking to his fellow officers even

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though he is retired, he's like I don't know what the fuck is wrong with her. He thinks she's crazy. Hearsay.

Q. You're talking about John right now?

A. Yeah, Alyinovich. And he's a straight shooter, you know. He's retired now. All he does is walk. He has weights in both hands and he walks like 10 miles a day. He lost like a hundred pounds and now he is just -- you know.

Q. So it's your position that -- what you take issue with is that Carmen fired her weapon after the dogs had already been separated and while you were in the immediate vicinity?

A. No.

Q. Okay. While you were inches from your dog's head?

A. I take exception with Carmen Mostek making an unlawful, unreasonable, unjustified use of deadly force.

Q. And that --

A. And then trying to cover it up and -- by lying about it and then -- and then conducting a campaign of witness harassment by trying to get me kicked out of the place where I

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lived.

Q. So I just -- all right. Let's focus on the --

A. Those things are -- there's a bunch of things that I could say.

Q. I understand. Now, let's start with just the initial unjustified use of force. You believe it was unjustified because the dogs had already been separated and then you -- and you were in harm's way, fair?

I'm not trying to catch you on anything here. I'm just trying to clarify.

A. I would say that of the factors that I could list I would include those. I might phrase them slightly differently, but I think those things could be added to bucket, yeah. But there are other things that could be added to the bucket like the fact that she filed a false police report and then didn't correct it when the video came out.

And then had the gall in a deposition to sit there looking at the video and objected, oh, the sound is out of sync. She just pulled that out of who knows where.

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Q. I -- and we are going to get to all these other topics. I just want to go through thing by thing. And you know -- you know as well as I do, I just want to have a clean record. You have a long narrative, and you are going to tell your story plenty of times throughout this. I just want to know, your issue with the force is the fact that the dogs had already been separated and that you were in danger?

A. This guy I've known for 20 years. I knew him back at Jenner & Block. This is a guy who takes care of those questions that you're asking me. I'm not going to express a legal opinion here today. I'm just here to tell you facts. I am a percipient witness. I'm telling you what I saw.

I'm also giving you some of my opinions, yes. But the fact is elements of our claim or the various claims, you know, a lawyer who represents himself in a case that's as emotional as this one is for me has a fool for a client. He's the one who gets to make those decisions, not me. I'm very careful not to --

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and I'm sure --

Q. Well, what is it you're upset about then with respect to the shooting only? You're upset because the dogs had been separated and you were in danger, fair?

A. No.

Q. So what were you upset about then?

A. There is a whole series of things --

Q. With regards to the shooting --

A. It's the gift that keeps on giving.

Q. I'm not talking about after the shooting, sir. I'm talking about the shooting.

A. But it's all of a piece, sir. There is a three-minute scuffle with two dogs ending in the death of one of those two dogs by a bullet striking her in her left ear literally an inch or two from my face. Then there is the blue code of honor, the blue wall, that sets up almost immediately and silently and without anybody having to go and say, okay, I'm gonna say this and you're gonna say that. No, everybody.

So they just -- the simple thing to do is just let her tell the story and

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we'll all just say yeah, that's what happened, and that's what they did. I'm upset about that. I'm upset about the fact that no one gave a shit about -- because guess what, who else was sending me that message that I don't mean shit, that my life doesn't mean shit. The people who didn't bother to investigate.

And you know what, you want to know what really upsets me about all this right now is the fact that it's almost a year to the day and what has happened to Carmen. Has she been sanctioned? Does she still have her gun? Is she still walking around? What -- what better proof would you need to demonstrate that this person should not be carrying around a gun than what she did?

I can't think of a better laboratory experiment to demonstrate that she's completely incapable, cognitively incapable, of the -- of handling the responsibilities of making decisions about deadly force than this incident. And the good thing is I survived by the grace of God and probably -- I mean, it could have been a ricochet. It could have been

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a through and through. It could have been a direct shot. I'm lucky. But how many of these trials, if we had to flip this coin more than once, I don't think the odds are with me here.

Q. What do you mean?

A. I mean she's off balance. Look at the video. She's got the gun in one hand. She's standing over me. I'm on the fucking ground. I can't even move. I've got the dog against me. I don't have use of my hands because I'm holding the dog, and she's like this. (Indicating.) And you just look at the video and she reaches down then when she discharges the gun it's like she's all -- she's all in motion. Everything is all, like, flying around.

She's not planted, assume a stance, deescalate, look who might be in the line of fire, give them a fair warning so they can get out if it's necessary to use deadly force. No, it's just all -- (inaudible sound). She is like a -- one of those -- those dolls they put in front of car washes. It's a fucking joke. It's a disgrace. Just look at the body language that this woman has as she's firing a

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gun inches from a human being's head.

You want to know what I'm upset about? It's a whole fucking list. And if you want to give me two little bits and say is that it, no, that's not it. It's a whole bunch of shit.

Q. I'm not trying to say that that's all you're angry about. I'm just talking about the act of the shooting itself.

The dogs were separated, she was off balance and she was firing a gun right near you. You felt like you were in danger, so you feel like the shooting was wrong.

A. I feel like the shooting was idiotic and wrong.

Q. Okay.

A. Inexcusable.

Q. Was Aggie the first dog that you owned?

A. No.

Q. Tell me about your history of dog ownership.

A. My family moved to Paris when I was 11 months old. We had collies when we lived in

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Paris. When we moved back I was about six years old, we had to give them up.

Q. Why did you have to give them up?

A. I guess it was a question of getting them through U.S. Customs or some shit. But I still remember that. My sister and I were very upset because we loved the -- we always had family dogs. After that we had a -- we had a Dachshund my father got when we lived -- we lived in Tennessee for a while. He was in the Air Force.

Q. Where in Tennessee?

A. A little town called Smyrna right near Murfreesboro. There used to be an Air Force base not far from there. It's not there anymore.

So we had dogs when I was growing up always. You know, and a lot of them were strays. When I was living in Hyde Park, there was a stray running around, and I think she was a Belgian Shepherd, but I just took her home and I couldn't find any -- any leads and so I just kept her. And --

Q. That was after you were divorced?

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A. No, I was in college then.

Q. Oh, okay.

A. So, she was a good dog and then my dad took her.

Q. And then you lived in Winnetka -- so you were married, right, and you had five kids?

A. I lived in Winnetka from -- I'm trying to remember the year. Was it 2000 -- I think it was the year -- was it 2000 -- I can't -- 2002, 2003. We lived on Foxdale Avenue in Winnetka.

Q. I had a friend who lived on Foxdale.

A. Yeah, Foxdale is --

Q. Do you know the Stefaniks? Do you know the Stefaniks, Mark Stefanik? His mother died, unfortunately.

A. Yeah, I don't recall because I'm afraid that it's been a while now.

Q. Yeah. But -- so yeah, you're there and you guys had, like, a family dog, right?

A. We had five -- we had five kids and we lived on Foxdale. We built a new house. We had a dog named George who was a Labradoodle.

Q. My dog's name is George.

A. Yeah, and George lived about 11 years.

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It was a funny thing. When he died it was like he was the most popular member of the family. Dogs have a very peculiar importance in human lives.

Q. I mean, I have three kids and I --

A. Kids --

Q. No, but I'm like -- and then I have my dog and I'm like --

A. It's part of the family.

Q. -- you're the OG. You're the original kid, yeah.

A. The remarkable thing about dogs is, I mean, you know, again, I'm a fool. When I see on Facebook that someone says my father or my mother died, I always send condolences and I feel badly. But when they say -- when they say that one of their dogs has died, it's a deeper pain usually.

And the reason isn't because we don't love our parents, it's -- the reason is because by the time our parents die, if they die of natural causes, they're usually institutionalized. They're not part of our daily lives, and if they are they can't interact

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the same way a dog does.

Dogs are part of our daily routines, and this dog was very much a part of my daily routine.

So when George died my daughter in particular, my youngest daughter Katherine, was -- I told -- I remember telling her it's gonna be okay. And she tried -- she tried to go to school but they called her -- they called us about an hour later, said she's inconsolable. She -- her whole life she -- George had always been there.

So I am a dog lover. I do think that dogs are -- they teach us to live in the moment. They don't carry grudges. Yes, it appears occasionally that they are fighting but -- an interesting thing about dogs is they're pack animals, so their fights are usually to establish pecking order within -- within the pack. They don't fight to kill.

And so that's why I say, you know, I would take Aggie to the dog park and sometimes there would be really aggressive dogs there that the owners couldn't control.

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Sometimes there would be, like, fisticuffs. It would sound like World War III but, you know, you separate the dogs. You look at the two dogs, and I never once saw a situation where -- where my dog or any other dog was actually injured. I mean, it looks like the end of the freaking world but dogs -- in some sense they are almost, I think, smarter than human beings because they can establish their pecking order without an intention to kill.

Q. So your dog did -- and I'm not trying to place any blame here.

But you're bringing the dog to the dog park and she'd get into scuffles biting with the other dogs?

A. No, no, no.

Q. I know nobody gets injured but --

A. What I am saying is generally that this would happen at the dog park. I don't recall necessarily that something would happen with her, but, you know, that it was a very common thing.

Q. Right.

A. The park I'm talking about I believe

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is -- I'm trying to remember. What's one block east of State Street?

Q. Is that Dearborn?

A. No, what's the street one block north/south, what's the street one block east of State? Wabash.

MR. BENAK: Is it Wabash?

THE WITNESS: Yes, it's a dog park on Wabash.

BY MR. BECK:

Q. Is that --

A. Yeah.

Q. Go ahead.

A. No, I'm just going to say I'm not -- I don't think dogs are more important than people. I just -- I just have had lots of dogs and I find them to be very -- you know, they are noble creatures.

Q. Right.

Was Aggie the first dog you had after you got divorced? I guess was Aggie -- other than the dog you had in college, have you ever had any other dogs that you were tasked with taking care of by yourself?

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A. Well, you know, I would always get these dogs when we had -- when all our kids were at home, the five kids. And, you know, I would end up taking care of them.

Q. So it wasn't like -- it wasn't your wife, it was mainly you?

A. No, not my wife. The thing is the kids would always swear that they would take care of them, but then, you know, which is fine.

I used to commute, you know, because the family home was then in Pennsylvania, so I would be going between Chicago and Pennsylvania like every other week and I would -- what I would do is I would -- when they wanted another dog, I would look and see what farm -- they were all farms between here, you know, 90-94.

And so I would see that there is a farm here, a farm here along the way. And, you know, the farmer's wife maybe or the farmer, you know, he's breeding Labradoodles or Goldendoodles because they always wanted doodles. And so I would just call them up and see what they had, and, you know, if they had

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advertised, and then it was really easy. I just get off and drive through some cornfields in the dark of the night. And, you know, we got --

Actually, we had George and then we had another dog Gracie and Gracie I got that way, farm in the middle of nowhere. They invited me in, you know, and it's quite an adventure.

Q. So then you adopt Aggie in 2022, right?

A. Yes. What happened was -- I'm still not divorced, unfortunately.

Q. I apologize for miss -- and, again, nothing here is meant to -- I'm not the type of person who is ever going to try to say something offensive to you. So I apologize.

A. I know that. Greg, listen, forgive me. I'm upset obviously about some of these things. But I have no animus towards you or to Mr. Thompson either. I mean, both of you have been, for the record, have been gentlemen in every way. I have no complaints about you or Mr. Thompson.

Q. So you are not divorced?

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A. I am still not divorced. You know, it's just a mess. It's just a mess. I mean, there's a lot of unfortunate facts that could be but have no relevance to this proceeding.

Q. So I'm going to ask about that in a little bit, but I just -- I just want to kind of stay -- and maybe it's just because I'm not a good enough lawyer to improvise on the fly, but I kind of want to go through certain things.

A. Sure.

Q. And just I don't want to, you know, take the whole day. And I'm -- I'm not criticizing you giving too long of answers. I just want to kind of go through the adoption first and then we can talk about some of the family life.

So you adopt Aggie in 2022, right, or sometime around then?

A. You know, I don't think it was 2022. I think it was -- maybe it was. I don't know. I mean, maybe it's in -- if it's in -- whatever it says in our answer to interrogatories. Was it 2022?

Q. I think it -- I'm not trying to, like,

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catch you --

A. No, no, no. I know.

Q. -- and create inconsistencies.

A. And I am not trying to -- I'm not trying to --

Q. Yeah, I think it was 2022.

A. Okay. All I know is that I had a therapist and I was living alone.

Q. You know what, it actually -- sorry. I think it was 2021 actually.

A. Yeah, I think it was.

Q. Okay.

A. It was right -- because COVID hit 2020 and I -- during 2020 after COVID really got -- because see -- 20 -- I left -- I left Pennsylvania with no intention of returning after 2018. During 2019 I was working fiendishly on all these, like, political corruption matters that, you know, it was a whole new thing for me. I was in federal court. I sued ComEd. I sued, you know, Senator Sandoval. I sued SafeSpeed, you know. And, you know, ultimately everything -- you know, I couldn't say that I was an expert in pleading

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RICO, but then I don't really know many people who are.

But I was working really hard in 2019 but I -- my practice wasn't doing well. And then in the spring of 2020 COVID hit, so things were, you know -- things were sort of iffy and then COVID hit and then it just -- that was the -- it was just like okay, fine.

Q. What do you mean okay, fine?

A. Well, I mean, you know, nothing was moving. My clients weren't doing anything. It was just a real quiet time, and so, you know, at some point you just have to kind of go with the flow.

But what I did do was say, well, if I'm going to have some time and I'm not gonna be working 24 hours a day, you know, so I had some deferred maintenance on myself. I wasn't well physically. I wasn't well mentally, as well as I should be. And so I started to get -- I got some counseling, and I got some help, and I made a bunch of changes and I started to work on my health.

And one of the things I did

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was I got this wonderful therapist, who I still talk to once a week. And he -- he was tired of hearing me complain about the solitude of my existence, and he said, why don't you get a dog? And that's what I did.

Q. So your therapist recommends that you get a dog?

A. Yeah.

Q. You then go to the shelter. Describe that process.

A. Well, you have to apply. I mean, ironically, if you want to have a child, nobody asks if you -- you know, anything about whether you can handle that responsibility or whether you have a realistic idea of the burdens that you are going to undergo. But if you want to adopt a dog, you jolly well better have a pretty good idea of what you're getting into because nobody is gonna, you know, gonna give you one, and that's a good thing.

Q. So when you went to -- so you go to the -- to the -- to the, what is it, the shelter that you go to or where do you go for this?

A. I think I just went online and there

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was a number of places --
Q. Okay.
A. -- and I ended up -- yeah.
Q. Do you --
A. I ended up applying and then I went with a friend. And they -- they didn't really want to show us many dogs because I now realize that they had decided that this was a really good dog, and they knew that she had very limited time. And so they were kind of hoping that they could put her -- you know, put her out front.
Q. So this was a kill shelter then?
A. Yeah.
Q. There's -- you know, there's no kill and kill.
A. Yeah. No, this was definitely a kill shelter.
Q. Okay. So you go there. Do you look at different dogs or do you just look at Aggie and it's basically like here's the one you are going to get?
A. They showed us three dogs.
Q. Okay.

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A. They all looked alike. You know, I kind of joked with them. I said, so what's the deal here? You know, it looks like -- these all look like they're pittie mixes and they are like, you know, candidly, if we get a, you know, a German shepherd they get shunted out to Hinsdale in seconds, you know, because those are nice, suburban dogs, right. But there is a lot of prejudice against any sort of pittie mixes, and those are the ones that are harder to place. This is what they told me.
Q. So --
A. But the thing is, and I never had anything -- you know, I wasn't looking for a Pit Bull, but they just thought that she was the sweetest thing and sure enough she was.
Q. She was a Pit Bull Terrier?
A. She was a mix. I don't know. You've got the wrong guy. I mean, I never did the DNA thing. All I know is that -- that she was -- you know, people would say what kind of dog is she, and I would say she's a Malaysian Truffle Hound, and that's just because, you know, people want a name, and they accept it just because it

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sounds like something. And I would say no, no, no, I am just kidding. There are no truffles in Malaysia.
Q. Did you know anything about, like, Aggie's history or anything like that when you adopted the dog?
A. No, because they don't have a whole lot. They can't tell you when exactly she was born. They just have an experience because there's -- you know, the thing is they, you know, they do a lot of vetting and a lot of, you know, sort of hands-on stuff and they told me that this was -- it was clear that they were very partial to her and they were very glad when I got her.
Q. Did she have a chip?
A. I think she had a chip, yeah.
Q. Did you have any concerns when you were adopting a dog about, you know, I don't want a violent dog, like, or would this --
A. Yeah, absolutely. I didn't want a violent dog but I -- no one was telling me that I was getting a violent dog.
Q. Right.

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So when you got Aggie in the initial days, you didn't have any concern about her being violent or wild or hyper-aggressive or anything?
A. Well, no. Of course I have a concern. Do I -- did I -- did I observe anything to suggest that I should have that concern --
Q. Right.
A. -- no.
Q. Okay.
A. But, I mean, obviously, you know, all dogs are descended from wolves, you know, and I -- you know, I keep my dog on a leash. I may think that the dog is great and lovely and wonderful, but they're somewhat unpredictable, all dogs. So, you know, I'm always suspicious of people who think that dogs are people.
Q. Well, and it's like even if your dog is perfect and nice and it's not on leash, someone else's dog might be super violent and --
A. Right.
Q. -- and you're just -- you're encouraging something to happen then, you know what I mean?

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A. Right. You know, dogs unfortunately are not entirely predictable, but then people aren't either. So I got her. I didn't have any reason to think that there was something untoward about her. But anyway.

MR. BECK: I'm going to hand you what I labeled Exhibit 1, which is the adoption papers.

THE WITNESS: Okay.

(WHEREUPON, Maynard Deposition Exhibit No. 1 was marked for identification.)

BY MR. BECK:

Q. So if you look in the lower right-hand corner, there is an FCRL number. Do you see that?

A. Yep.

Q. So on Page 1644 there is a signature near the middle of the page. Do you see that?

A. Middle of the page?

Q. Signature of adopter.

A. Yeah.

Q. Is that your signature?

A. You know what, I suspect it is. I

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don't know. It doesn't really look like my signature, but I wouldn't dispute it. I mean, I -- I don't know. It doesn't look like my signature but I don't -- I mean, I have no reason to think it is -- I have no reason to think that I didn't see this or accept it.

Q. Yeah. You're not claiming that somebody else --

A. No.

Q. -- did that, right?

A. No, no.

Q. So in the lower right-hand corner, there are some initials. Are those yours?

A. That looks like me, yeah.

Q. Okay. If you go to Page 1647 at the bottom, there is a signature. Do you see that?

A. Yeah.

Q. Is that your signature?

A. Yeah, that's definitely. Yeah, that's me. I recognize that.

Q. If you go to 1649.

A. Okay.

Q. There is an electronic signature with your name on it.

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A. Yeah. That's definitely me.

Q. Okay. All right. You can put that away.

A. All right. Yeah, they called her Demi.

Q. So tell me about life with her. Did she have any medical conditions?

A. No.

Q. No, not -- did you have to bring her to the vet for anything --

A. Well, you know --

Q. -- other than normal like stuff?

A. Yeah, the routine vaccinations but she was a very healthy dog.

Q. What type of food did you feed her?

A. I'd get her, you know, the lamb and rice premium kibble, and I'd give her, you know, occasionally she would get treats.

Q. I actually worked at a pet supply store when I was studying for the LSAT, and then my essay to get into law school was about my experience there, so...

A. The experience --

Q. About my experience working at a pet

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supply store.

A. Oh, my goodness.

Q. So you walked her, what, a couple times a week -- or a couple times a day, I mean?

A. Oh, yeah. No. We -- you know, the thing is that was early in my process of trying to get back to being -- I mean, I'm very healthy. Right now I'm very healthy, boringly healthy.

But at the time that I first got Aggie, I had some -- I was overweight. I drank daily, which was not a good thing to do. Because a lot of times, even though, you know, I wasn't a falling down habitual drunkard, but I drank daily, and that had to stop, and it did. I had been -- had a habit of vaping. That had to stop. I had some serious --

Q. Tobacco or marijuana?

A. No, it was -- I don't even remember. It was just -- but whatever it was, it was doing me a lot of harm.

Q. Was it something other than those two or --

A. You know, I had a habit of vaping, and

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it had to stop and it did.

And so having Aggie was a good thing because it forced me to get up and move around, and it also -- you know, I -- during this process of -- I had been in a very dark place, and I refer to this as a sort of a process of recovery.

I think that one way that people recover is what I call the miracle of small things. And the miracle of small things means that you -- you get to a place where you can appreciate very simple things, things that don't cost money, that don't have big lights attached to it.

Q. Things like gratitude journals which make you realize all the little things, yeah.

A. Little things. The way a child says hello to you when you are walking your dog or the way the sun looks when it's setting. It doesn't -- you don't have to live in Palm Springs to be happy. You have everything you need wherever you are, if you are willing to open up your eyes.

Q. So when you adopted Aggie, was there a

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period of time in the initial aftermath of that that you went about socializing her, like actually making an intentional effort to socialize her with other dogs?

A. Yeah. I think you're gonna -- if you talk to Stacy Woods and Brandon Woods, they are going to say that they had a dog that was very shy, Patrick, and Aggie was I think shy as well, and the two of them were probably the -- you know, Patrick was her first love as it were. I think, you know, whatever her history was suggested that she might have been less inclined to be trusting.

Q. Aggie that is?

A. I think that's right. I think Aggie, if you talk to the Woods, they will tell you that -- that she seemed distrustful of other dogs. And so we -- the Woods and I made a concerted effort to get the two of them to kind of develop a sense of comfort.

Q. When they say that she was distrustful of dogs, did they say how that manifested itself or why they believed that to begin with?

A. Who's they?

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Q. The -- Stacy, the Woods. They said -- so they said that Aggie was distrustful?

A. No, no, no. What I -- I think what happened was I used to walk Aggie and -- by their house. They lived on the corner of Wallace and 29th Street and, you know, they had their dog outside. And initially I would -- we would try and get them -- you know, get them together and they -- they didn't seem terribly excited about that, okay. I mean, they seemed like they were not happy about the idea of being close to each other.

Q. Like standing rigid or growling or what?

A. I don't recall exactly. I mean, there may have been some growling or there -- I just -- there was just a sense of discomfort, and we all recognized it, and we said okay, and we just kind of worked through it. And the two of them then became like the best -- I mean, we -- I used to joke that Patrick was her first love and then Dexter was -- she was too much -- too much woman for just one -- one dog. That she had -- she had Patrick and she also had

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Dexter.

Q. So you say you worked through it. What did that involve?

A. It just involved like being with the dogs when they were together and letting them kind of get to a point where they trusted each other. And it happened --

Q. So you would --

A. -- it happened relatively fast.

Q. So was it like you would walk your dog by their house so there's a gate between them a bunch of times, and then you went to the next step of having them in the same enclosed space together but you're holding each other's leashes, and then eventually you let go of the leash. I guess I'm just wondering was there a -- was there a gradual process which -- and what that process was, I guess.

A. I -- I think it would be fair to say there was a gradual process. I don't recall specifically what all the steps were. It really was just because I was -- I was -- the Woods lived a block away from me, and then they moved farther south on Parnell and then I continued to

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go and visit them because the two dogs were such good friends and they would play.

So, you know, I don't recall but it -- all I know is that we were -- it took time for the two of the dogs to recognize that they were -- neither was a threat to the other.

Q. And was that like a month or --

A. I don't recall.

Q. Okay.

A. I mean, actually the Woods may have a better recollection of that than I do.

But it started while they were living at the corner of and Wallace and 29th, and then by the time they moved south on Parnell, they're like 3300 south, they were fast friends. And, in fact, now -- the dog I have now, this dog that the Woods went out and bought and gave to me because they were concerned about my mental health, that dog's name is Sonya and I was just at the Woods' house yesterday with Sonya, and Sonya now plays with Patrick the same way that Aggie did.

Q. So with Aggie you mentioned her temperament was a little distrustful. Was she,

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like, territorial with other dogs? Did you observe that at all?

A. I don't know. I don't know that I would say that. I would just say that I -- when I got her she had been a stray. There was some history there, just like this dog I have now. If I'm scolding her she cringes in a way that suggests that somebody has probably beaten her in the past.

Q. Did that happen with Aggie?

A. No, I don't think Aggie was -- was beaten. Aggie was very -- very fond of people generally, so I don't think any human being did anything to her. Unfortunately that's not true of Sonya, the dog I have now. I think that some human probably did beat her.

Q. So Aggie was distrustful of dogs not people?

A. I think it was fair to say that initially Aggie showed some distrust of other dogs.

But I'm going to suggest that while I admire your surgical precision in this line of questioning, I'm just going to insist

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that whether Aggie was vicious or not has absolutely no bearing on whether it was reasonable for Carmen Mostek to fire a shot one handed off balance at a space which included my head on the 21st of April of 2024 at about 11:30 in the morning. And I reject the notion that this case is about any dog, whether it be Aggie or the dog I have now. It's not about a dog, it's about an officer who endangered a human life for whatever reason in a way which made no fucking sense.

So I'm happy to talk about Sonya or Aggie. They are both good dogs, but I cannot abide with this notion that any of this has anything to do with whether it was reasonable for your client to do what she did.

Q. Did Aggie ever wear a muzzle?

A. No, and that's another thing. She made up all this shit about chewing through screen doors. And the muzzle was something called a gentle leader, and I don't know if you have seen it. Go on Amazon. She was a puller. She is an aggressively physical dog. I mean, she was a strong dog, and so she was a puller.

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And so there is this thing called a gentle leader which --

Q. Is that like a harness around the body or around the --

A. It goes around the -- I don't know. I didn't use it that much because it -- but it's not -- it looks like -- it has a strap that goes like this, but it's not -- she's never had a muzzle, never. And there was --

Q. The gentle leader though --

A. I mean, I could go on Amazon right now and I could show you precisely what I got but it was for -- it was to get her to stop pulling.

Q. Okay. Did it control whether or not she could open her mouth?

A. No, and there was never a need for that. That's what I'm trying to tell you.

Q. How much did she weigh?

A. I think 45 pounds maybe.

Q. And she was strong you said?

A. Yes, she was a strong dog but then so is the one I have now.

Q. Now -- so you've mentioned that at first she was distrustful of dogs. Is it fair

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-- so I understand that she got along with a lot of people in the neighborhood and a lot of dogs. Would it be fair to say that there were some dogs she just did not take to and this distrust remained even after you had her for a period of time?

A. No, I don't think it would be fair to say that. I think -- I will say this, that the dog in question, this Corgi, there was a period of time when her owner would take the dog into the -- the way the houses --

There is a separation between the structure in which Carmen Mostek lives and where I'm living. And there is sort of a gated area in the back. And there is a door where -- which opens onto the garage where, I guess, Carmen Mostek keeps her car.

So she used to, for reasons known only to her, she used to bring her dog and take him through that door and use that as a sort of a pooping area. And I think my dog took exception to that. That's -- that's something that I think happened, that my dog didn't appreciate the fact that the backyard smelled

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like and looked like it was some other dog's pooping area.

And at some point, I'm not sure if Carmen stopped that or not, because the alternative for her apparently was just let the dog out a rooftop area which doesn't look like it's a very appropriate place for a dog to be pooping and peeing, but that's her problem not mine.

I mean, I never saw -- no one in the neighborhood has ever seen her because she works odd hours, and if she walks her dog, it's at some odd hour, apparently, because you never see her.

Q. Did anyone else in the building complex that you lived in have a dog other than Carmen?

A. At the time there was a guy named Johnson in the front unit, and he didn't have a dog. In fact, he was in the process of getting married and moving out, so he was almost never there.

Q. So Carmen was the only resident who had a dog that shared a communal space with your

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dog?

A. Well, no, because there was no communal space that was shared. I mean, that -- that was just something that -- I don't -- I don't know. Maybe she talked to the landlady and then maybe -- maybe the -- maybe I interfered with that. I don't know. It certainly wasn't my intent and she never said anything to me about it.

Q. Yeah, I'm not -- I'm just --

The area right outside of your spot near the garage which is, you know, both of you. When I say share it's not technically a communal space, but you guys would use it and your and her dog were the only ones that would use it, yes?

A. I don't know about that. All I know is that at some -- I'm speculating as to why my dog might have not been real excited about -- because the other thing is that Corgi, when she let her out on this, like, second floor thing, my dog might be in the backyard and looking up and then the two of them would bark at each other.

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Dogs, you know, sometimes will bark through doors. If they hear something on the other side of the door, they bark. That's their natural instinct. It doesn't mean that they are vicious. It doesn't mean that they are trying to rip something to shreds. If my dog had wanted to kill that Corgi, I mean, we wouldn't be here. This would be a different case.

Q. If you didn't get there -- so you got there pretty quickly. If you didn't get there quickly, do you think there was any potential for --

A. What I'm telling you is my dog didn't want to kill the Corgi.

THE COURT REPORTER: You have to wait until he finishes.

THE WITNESS: Yeah, I'm sorry.

BY MR. BECK:

Q. So if you did not get to your dog as quick as you did, do you think there was potential for that -- for your dog to have hurt the Corgi?

A. No, no, because my dog never hurt any

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other dog, period.
Q. You mentioned that your dog was distrustful of the Woods' dog initially. Did you have any other experiences with other dogs in the area where you had to gradually socialize them or --
A. No.
Q. -- where she continued to be distrustful of them?
A. No, because -- and that's why I mentioned this business about the pooping area because I didn't observe anything like that with respect to any other dogs ever.
Q. Did she --
A. And the only time I saw her seem to have an animus towards any dog was this -- I think the territorial thing about why are you coming into my backyard and pooping. That may be a doggy thing.
Q. Did -- so there is the Woods' dog. What other dogs did your dog interact with on a regular basis?
A. Well, you're gonna talk to the -- to Heidi and Tom and they have their -- they have

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two dogs. One of them is Dexter and the other one is called Freya, and she used to love to play with both of them. And I would go there and they would run around the backyard. Dexter and Aggie were great friends. And then Patrick is the other -- those were the two -- those were her two best friends, but there were all these other dogs along the way, and she knew them too. But the only time I saw her seem to be -- and I don't -- and I think, you know, what we have to understand with dogs is that they don't -- they are not trying to hurt each other but they are trying to say, hey, there are boundaries. They look like they are trying to hurt each other, but they are setting boundaries. They are pack animals. That's the way I look at it. They are not -- they are not homicidal. They are establishing hierarchies.
Q. So with Tom and Heidi's two dogs, was it similar to the Woods' where you needed to gradually socialize them?
A. No.
Q. So Aggie got along with Tom and Heidi's --

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A. Right away.
Q. -- dog right away?
A. Yeah.
Q. Were there any incidents ever, and I understand they got along, but were there any physical incidents that you observed between Aggie and the Woods' dog?
A. Physical? I don't understand.
Q. Like scuffles.
A. With Patrick?
Q. Yeah.
A. No. Never.
Q. What about with Dex and Freya?
A. No, no, no, no, no. They were -- they were -- they -- they were friends. They were -- dogs have friends. I mean, you might hear them -- they -- sometimes when they are playing, it sounds like they are fighting, you know.
Q. Yeah. And, I mean, I know there is play fighting, but I also can recognize when it's real fighting.
A. Well, if it's real fighting and the intention is to kill, that's a serious freaking thing, okay.

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Q. I'm not even talking about intention to kill. You can tell -- would you agree that you can see -- dogs play fight and then there is real fighting and you can tell the difference?
A. I don't know. I'm not a dog expert. All I know is that in all of my experience with dogs, sometimes it sounds like the end of the world, and all you do is separate them. And you examine the two dogs, and you look for any kind of wounds or sequela, and in this case there weren't any.
Q. I get it.
A. And her dog was completely uninjured. So if there were some justification based on injury to her dog or viciousness or whatever it is you are trying to get at, it would not have existed at the time she fired the shot because we know -- we got her dog at a vet within 24 hours who couldn't find anything. I mean, the dog had zero injuries.
Q. I'm just asking, and I understand, you know, it's typical for dogs to get in kerfuffles and, you know, you look, thank God no one is injured and we're good. And if something

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happens, then you take care of it, you two, and you move on.

I'm wondering whether or not your dog had any things like that, not whether or not they were injured, but whether or not your dog had any sort of kerfuffles that you observed with Dex or Freya.

A. No.

Q. What about with the Woods' dog Patrick?

A. No.

Q. Did you see her have any kerfuffles with any dogs at the dog park?

A. I didn't go to the dog park, not with her.

Q. The one on --

A. I went --

Q. -- Wabash?

A. I went for a while and then I just stopped going because it wasn't just -- you know, there were lots of people there, and lots of people couldn't control their dogs. And they would show up with these huge, I don't even know what they were, mastiffs or something, and they

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were not good dog owners and then there would be -- a lot of times the owners would be almost in fisticuffs. This didn't involve me, but I didn't want any part of it after a while.

Q. Did you feel like --

A. Have you been to -- have you been to the dog park, the one I'm talking about?

Q. I don't think I have. There is one that I would go to on Sheffield, like Sheffield and Diversey, but I know what you're talking about. I mean, yeah, it can be a scary spot sometimes.

A. People -- people -- especially people who do not understand dogs and think that dogs are an extension of themselves and therefore human, and they take it very personally when -- you know, experienced dog owners will understand. First of all, you don't interpret everything that looks like death to be what it seems, not with dogs. And so it's the same old pattern.

If the dog -- if your dog seems to be mixing it up with another dog, you separate the dogs. You don't use your hand, if

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you can avoid it. You put your foot in there, if you have to, separate the dogs and then examine them. And nine times out of ten, or 99 times out of a hundred there is -- there is nothing. It's just -- they are just trying to say I'm higher in the hierarchy than you are. That's it. It's not about death.

Q. I get it.

Did you ever have to do that with Aggie?

A. No.

Q. Not one time at the dog park or while you were walking?

A. Not one time did I, what, have to --

Q. Have to get in there and separate her from a mixup with another dog?

A. Listen, I don't recall independently, as I am sitting here today under oath trying to answer your questions, but would it surprise me if I had done it once or twice, no. Especially that dog park because there were a lot of people, as I said, people who did not have control of their dogs. And that's kind of why I stopped going because there were a lot of people

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who were -- you know, they were fighting with each other. It was not just the dogs. It was the people who are coming in contact with each other and I -- it was unpleasant.

Q. Do you have any -- does anything come to mind about your relationship with any person there getting into any sort of thing with them as a result of your dogs?

A. No, but I did meet a lot of very nice people there. I will admit that. I would sit and talk with different people while the dogs were playing.

Q. So I understand you're saying, you know, you wouldn't be surprised if -- if this had happened once or twice. Is there an incident that you can recall, as you sit here, where the dogs or where Aggie and another dog got into an altercation where you had to separate them?

A. Where I specifically recall that?

Q. Yeah.

A. No. But as I say, it's such a common occurrence that, you know, I mean, it wouldn't be something that would -- I would typically

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remember. It's not somebody running into the park with their hair on fire saying, you know, I'm the Prince of Wales. That I would remember. But something that's routine in a dog park like dogs got to go -- you know, it happens all the time.

The unfortunate thing about that dog park is when it happens some of the owners don't understand that it's not generally -- I mean, it's not a life-and-death thing. It's not a big deal. You just separate them and make sure that they are okay, and they almost always are.

Q. So there are a lot of owners at that dog park that would overreact in response to something like that?

A. There was at least -- there was at least -- there was some number of them that was more than one and less than infinity that made it unpleasant to go there. Because, you know, you're dealing with people who are -- you know, they think Muffie is, you know, their child and Muffie is --

Q. The only difference is they just

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didn't have a gun? Like, do you think would I -- and I'm not trying to make light of it.

When I say they didn't have a gun, are they having the sort of reaction that you believe Carmen did but they just didn't have a gun to carry out what they were worried about or what?

A. Mr. Beck, I'm really sorry. I can't explain to you and even understand what -- when you say what Carmen did. Because here she is, she is a dog owner, she talks about how much -- how much concern she had to protect her dog because she loves her dog. But what she did was --

Q. I already regret asking that question, so...

A. Well, no. But I mean how -- how can it make any sense? If I'm a dog owner and I love my dog, I love my dog so much that I'm gonna kill yours to protect mine. It's like who better than a dog owner who loves their dog to understand what it would do to another person to kill -- that's why I say that she's a malignantly narcissistic sociopath because she

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doesn't have any empathy.

Q. How many -- so you say between one and infinity. I mean, can you be a little more specific about people that were overprotective of their dogs during altercations at the dog park?

A. I haven't gone. I mean, literally, it's been years now.

Q. When did you stop going?

A. You know, I would have to -- you know, I don't have a car anymore, okay. So when I had -- when I go -- when I went I had a car, and I haven't had a car now for a couple years.

Q. When did you stop having a car?

A. That's what I mean. It's been -- I think it's been a couple years, but I could probably -- if you want I could probably -- you want to give me a supplemental interrogatory, I could probably come up with it within a matter of a few months.

Q. Yeah, I don't.

A. But it's been a while.

Q. Did you -- so you --

Did you have a car when this

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incident happened?

A. Which incident?

Q. The shooting of Aggie.

A. No, I don't think so. No, because when my friends showed up that day they put her body in the back of -- I think it was Brandon Woods' car to take her to be cremated.

So, yeah, I couldn't have driven her to be -- to the cremation place because I didn't have a car then. So that was last April. So it's been more than a year that I haven't had a car. I just don't need one.

Q. Did you have a car during COVID?

A. I think I did but it just sat on the street, which is why I just got rid of it.

Q. So you're saying you don't have a car. Is it like you don't have a car because you got into trouble for drinking and driving --

A. No.

Q. -- or you just didn't need it?

A. No, no, no. Excuse me, no. I -- that's --

Q. I'm not trying to imply that. I'm just asking. I'm just exploring.

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A. No, you didn't imply it. You asked me and I am telling you no.

Q. Okay.

A. I do not drink and drive. I did not drink and drive. I haven't had a drop of alcohol since the year -- I don't even know what the year is now, 2021, something like that.

Q. Good for you. Congratulations.

So between one and infinity, are we talking like a single digit number or a double digit number of owners that had extreme reactions at the dog park?

A. I -- Mr. Beck, seriously, I mean, I can't. I mean, I have a vague recollection that there were times, you know, you would be sitting there talking to somebody and then you hear this -- (inaudible sound). And it might not be my dog, but there would be, you know, friction between one or two dogs there.

And sometimes because people didn't have any control over their dogs and didn't seem to have any interest in controlling their dogs, and didn't have them on leashes, and, you know, weren't paying attention, and,

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you know, then everybody would be upset, right. People get upset. That sound of dogs fighting upsets people. I understand that. It talks right to the hippocampus.

Q. Did this ever happen while you were walking Aggie? So did you ever --

A. No, no.

Q. Anything like that happen --

A. No, no.

Q. -- on the sidewalk or --

A. No, no, no, no.

Q. Did anything like that happen anywhere other than that dog park?

A. Well, what I'm saying -- I'm not sure that it even happened -- I mean, I'm sure -- what I'm saying is it was a fairly routine thing at that dog park given the number of dogs that were running around loose and the general lack of -- and sophistication of many of the owners. Not necessarily saying it was -- it was Aggie, but that's kind of the problem with dog parks.

You really -- there almost should be some kind of a vetting process where you make people qualify to come in. You know,

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you have had obedience training, you can prove that your dog obeys and that your dog isn't some -- you know, and that you understand a little bit about how -- how it works. You know, you need to be the alpha with your dog. You can't be the beta.

Q. Because those other -- so you think there should be requirements because those dogs make it unsafe at the dog park, the ones that don't have obedience training, the ones that don't know how to act around other dogs?

A. I just think it was an unpleasant place to be where, you know, it was -- there was -- not necessarily involving my dog, but there were -- there was a kind of unfortunate propensity for these incidents, and then the owners would -- and people would -- I think there were incidents where people were, as I recall, there were, like, people yelling at each other or threatening to call the police. I mean, it was not a pleasant thing.

Q. Did the --

A. So I just said I don't need this anymore.

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Q. Did the police ever show up while you were there?

A. I don't think so. I don't recall the police ever actually coming, but, I mean, people would get very irate.

Well, you know, again, if someone thinks of their dog as an extension of themself, oh, I don't know, like maybe -- maybe that's one way to look at this case. I don't know. But if you think your dog is a piece of you, then maybe it has a tendency to color your judgment. I don't know.

I mean, if you have a four-year-old toddler who is being attacked by a dog, by all means. That dog is toast and there shouldn't be any doubt about that.

Q. Did you ever see -- did you ever witness any incidents where dogs attacked people?

A. No. Actually, I got attacked once.

Q. When did that happen?

A. I don't know. It was just some evening. I have a scar on my left leg, the shin. A Shiba Inu. And the weird thing is, the

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Shiba came over and bit me and I didn't even realize it at the time. That's -- and the woman had two Shibas and she had no control over either one.

That is what I mean. A lot of these people, they live in apartments. They don't really know how to take care of a dog. You know, they just -- the dogs are not -- are not properly cared for, they don't walk enough.

In Germany there are laws that require you to walk your dog a minimum of three times a day.

Q. You would walk Aggie three times a day?

A. Yeah.

Q. Did she go to obedience training?

A. Did I take her to obedience training?

Q. Yes.

A. No. No, I worked with her. I had a clicker, a clicker training thing.

Q. How long did -- so what type of work did you do with your dog?

A. Clicker training.

Q. What's that?

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A. Well, that's when you -- you know, when you get the desired response, you do the click and then you give her a treat.

Q. So you say, like, sit, she doesn't sit, you keep repeating until she does it --

A. It's a little click.

Q. Okay. So you would click it to get them to obey with the command, or you would click it after they have obeyed with the command?

A. Jeez, I don't even remember now. It was -- you know, I became an expert by watching a YouTube video.

Q. Yeah. How long did you --

A. And I watched -- I was a real expert because I watched two.

Q. How long did you do this type of training with her?

A. I don't know. I don't remember. I mean, the thing is Aggie and I were like -- she was like a -- like a shop project in junior high, except that I had had enough time to sand off all the rough edges. So she was this sort of figurine and I had a chance -- we're -- and

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just this sort of conviviality we had where we knew each other. We had routines. She knew who I was, I knew who she was, what she expected, what I expected. It was this sort of very frictionless coexistencia, I don't know, coexistence.

Q. So as you say, you know, you smoothed out all the rough edges. You would agree then that initially she had some behavioral issues which you worked on with her, and over some time some of those behavioral issues went away?

A. You know, when I got Aggie the first dog that she came in contact with when I had her was Patrick. And the first time she saw Patrick it was clear that she and Patrick were not going to be like, you know, laying down together and sort of woofing kumbaya. So the Woods saw the same thing, and I saw the same thing, and we decided that there was nothing to this, and that they should understand that they were -- they were not a threat to -- one to the other. And so we, as I said, we were trying to help them figure this out and they did.

And after that, I mean,

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Dexter, she didn't have to go through the same process with Dexter. She already had figured out that other dogs were --

Sonya is very interested in other dogs. She -- when she sees other dogs she cries, it's a kind of a yearning like where, you know, dogs see each other and then they cry because they want to socialize. She's not, you know, an aggressive dog, but I think sometimes people think she might be.

Q. So you mentioned how you guys had a routine, you and your dog. Was the clicker training part of that routine, or was this more just like something you needed to do initially, and then it stopped pretty quickly? Or was it like I wake up in the morning, I do my walk, I do my clicker training, I do blah, blah, blah?

A. No, no, no. I'm not that -- I'm not that routine. I mean, what I'm saying is that I remember I was trying to do some clicker training, but I'm afraid that I -- sometimes I pick something up. I play with it for a while and then I put it down.

There was really nothing

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urgent about clicker training. She and I had a shared set of mutual expectations, and there was no friction. There was no problem. She had come in contact with lots of people. I -- you won't find anybody in Bridgeport, except your client, who will say that she was aggressive or vicious or unreasonable or whatever it is that she's got on her mind today.

Q. So basically she didn't -- and she didn't require training, but that doesn't -- but you would still, you know, walk her on the leash just because dogs are unpredictable or something like that?

A. I walk her on a leash because it's respect for other people.

Q. Right, right.

A. They -- I know my dog isn't vicious but they don't. And so it's unfair for me to be walking down the sidewalk without a -- with a dog off leash.

And by the way, I mean, Bridgeport is a very Asian neighborhood, okay, and a lot of Asian people in my neighborhood are afraid of dogs. It may be a cultural thing

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where their experiences with pet dogs are not as sort of extreme as -- most of us grew up with dogs in our families. Some of us have dogs that are allowed to be in a room alone with a newborn baby, you know. I mean, we had five kids. I think our dogs -- we never once even imagined that they would hurt even an infant.

Q. Would you feel comfortable leaving Aggie alone with an infant?

A. Oh, yeah. Absolutely. I wouldn't have had her -- listen. My heart stopped for a dog, okay. You know what happens to a dog that shows any aggression towards a human being? They get put down, okay. I cannot have a dog that is aggressive or shows aggression or unpleasantness towards human beings.

Q. What would that look like, aggression or unpleasantness?

A. Well, if I -- if I have a dog -- I mean, you know, the old saw about every dog gets one bite, okay.

Q. Okay.

A. If you have a dog and, you know, let's suppose you have someone come over and they

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bring a child, and then somehow there is this incident where that dog bites that child, well, that's it. The dog is gone.

I can't have a dog that -- and I don't even need to do an investigation, okay. That's just my personal feeling. Because guess what, once I'm on notice that it's possible, I don't need to wait for a second bite. Some people say every dog gets one bite, the second one is fatal. I don't. When it comes to human beings, I completely understand.

Q. What if you are walking her and she's on leash, and she lunges at a person, but she can't bite them because she's on a leash, is that something that, you know, no more, you're gone?

A. Well, my dog lunges at -- I mean, lunged -- depending on how you defined it, my dog has this habit of -- I mean, she's -- she's -- she's kind of stupid really, the new one.

Q. But I'm talking about Aggie though.

A. Well, Aggie didn't do that. I mean, she wasn't somebody who -- she was very

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friendly, crazy friendly. She loved people, period, and there was never any aggression towards any human being.

And as I say, had there been -- I mean, you know, it's not my -- I'm not trying to make the world safer for dogs that are a threat to human beings.

Q. So like what -- and I understand, you know, fights between dogs happen.

What would it take for her to do to another dog for you to feel like it wasn't appropriate to keep her anymore? Or for it to raise a red flag or something has to be done?

A. Well, let's just say this. That to put me on notice that I had to think about something along -- you know, whether it was appropriate or not, there had to be some injury, okay. She would have to injure another dog. Never happened. Didn't happen in this instance. Never happened with anybody else. Never happened with Patrick or any of the other dogs, period, never. Not once. No injury. No penetration.

No -- you know, dogs -- I

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see -- my dog now plays with a cat. The cat weighs maybe, what, 10 pounds, and they manage to play, and it looks like they are gonna kill each other, but my dog is always able to sort of not go too far, not hurt the cat. And the cat chases the dog around.

Q. So if your dog bites another dog but doesn't injure it --

A. That's not a bite.

Q. Well --

A. I define bite as enough force to penetrate the skin. There has to be some sign that it occurred, otherwise -- (inaudible sound) -- what is that? That's a mouthing.

Q. So unless --

A. It looks -- it can look like they are biting, but dogs also, they are primates and they have the ability to play fight, as you said, just like my dog and my cat play fight now.

Q. So if there is a bite, but it doesn't penetrate skin, that is not something that requires a serious response in your opinion?

A. I didn't see any bites in this

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instance.

Q. I am not --

A. This is -- this is -- this is like you're asking -- I mean, I am not an expert on dog biting. I'm not an expert on the -- I can't testify about how much force, you know, Aggie had in her jaws.

What I can tell you is that I didn't observe any -- any biting in this instance. All I knew is that the dogs were conjoined and moving around, and that there was some sort of a scuffling, that this -- that I got there within seconds of this beginning, within three seconds. That I was actively and affirmatively prevented from directly reaching the dogs, including my dog, by your client for reasons that only she apparently understands.

Q. And I'm --

A. After she pushed me to the ground, I grabbed my dog and that was the end of any interaction between the dogs, period.

Q. So --

A. And that she shot me after the issue was moot, which is why I was so stunned. Not

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only was I stunned because she was threatening my life in a way which was completely asinine and inexcusable, but it had also occurred -- the timing was absolutely diseased, mentally diseased. The timing was absolutely absurd and ridiculous because there was --

First of all, if she -- if her justification is the threat to her dog, that's not justification, period, as a matter of law. You do not get to kill me to protect your dog. I'm sorry. I don't care how much you say you care about your dog.

But in this instance, even if that were a justification, it was not a justification here because by the time she got, you know, all noodly and was about to fire the gun one handed, you know, her little doggy was already trotting off indolently.

Q. I'm just trying to -- as a general proposition, you were talking about when, you know, it's -- at what line is it too much and you need to do something about the dog. And I was just trying to ask, you know, your dog bites another dog but there is no injuries, you don't

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consider that a bite so nothing needs to be done, fair?

A. Look, if my dog is conjoined with another dog in a way which looks like aggression on either -- on the part of either dog, then there is something you do right away which is what I did.

I ran as fast as my 69-year-old legs could get me, okay, to the place where the dogs were with the intention of separating the dogs. And I would have gone directly to them but for the fact that Carmen decided that she didn't want me to reach the dogs because, apparently, she had already decided that she wanted to shoot my dog for reasons known only to her.

Q. I understand that.

A. And if she can come up with an explanation for why she would not want me to reach me the dogs, I would love to hear it --

Q. I under --

A. -- because I still don't understand.

Q. I understand --

A. So --

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Q. -- you would want to separate the dogs --

A. -- the triggering event is the fact that there are two dogs that are, call it whatever you like, you know, they're conjoined, and my attitude is that is -- then I have a duty to do what? Not to pull out a gun and start shooting. Just separate the fucking dogs. That's what everybody knows and everybody does. And even the idiots at the -- at the dog park know that.

Q. So --

A. You separate the dogs, and you don't drop a dog's leash if you can use the leash to kind of help separate the two dogs.

Q. So --

A. And you certainly don't elbow someone out of the way who is trying to achieve that result.

Q. If your dog bites a kid, you're getting rid of your dog, yes?

A. In -- grosso modo, I mean, if you're saying if my dog bit a kid and not just in sort of an accident let's say or --

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Q. Yeah.

A. -- if there was an injury, a noticeable injury, yeah, that dog is gone.

Q. And if your dog bites another dog, you're gonna run in there and split them up immediately, yes?

A. Not if my dogs bites another. If the two dogs are engaged in a way which suggests that it was a possibility of injury --

Q. What I'm getting at though is if your dog bit another dog, you wouldn't feel the need to get rid of the dog, you would separate the two and so long as there is no injury you would just move on?

A. If my grandmother were a bicycle, she would roll down the street.

Q. So is that a yes?

A. That's -- you're asking me to speculate on speculation, on speculation. If my dog bit another dog -- (inaudible sound) --

Q. You're talking about your dog biting a child you would get rid of the dog. I'm asking if your dog bit another dog whether or not that rises to the level of you getting rid of your dog or taking some sort of action?

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A. I don't know. I know there is a bright line rule that applies to human beings. I don't know if I have the same bright line rule applying to dogs.

Q. Right. And you just -- you just go, you want to split them apart. And then -- and then there is no injuries, you move on. You know, I get that.

A. What I'm saying is that's the usual way that sensible people who are not mentally ill and organically deficient and lack empathy and are, frankly, cognitively challenged and incapable of making the nuanced decisions that you need to make when you're carrying a weapon that can kill, okay. Those are the kinds of decisions that sensible people can and do make, but wasn't -- that decision, unfortunately, wasn't made in this instance, much to my chagrin.

And had it only been my dog, I don't think I would be nearly as upset, but the fact that I almost died in this incident really pisses me off. And the fact that no one has done jack shit about this in the year since it happened to protect other people, is she gonna have to shoot somebody else before CPD gets its head out of its ass? That's what I want to know.

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Q. What if there is an injury to the other dog, do you think something needs to be done then with the dog that injured the other one?

A. I don't know.

MR. BENAK: Counselor, are we gonna take these hypotheticals all day? This is -- this is -- I mean, I have let him talk and testify but --

THE WITNESS: I'm trying.

MR. BENAK: -- I think -- just settle down.

I think these hypotheticals have gone far enough. Just ask him a direct question about facts that exist instead of asking him to speculate. He's gone along so far, and I've let him do it, but I think we ought to wrap that up.

THE VIDEOGRAPHER: Counsel, could we

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take a short break soon?
MR. BECK: Yes, sure. How long do you want to take a break for?
THE VIDEOGRAPHER: Just for file size reasons, like a minute.
MR. BECK: Okay. Do you guys want to -- does anyone need to use the restroom?
THE WITNESS: I'm okay if it's a minute. Let's just stay where we are.
MR. BENAK: I got to take a break.
THE VIDEOGRAPHER: Off the record at 12:21 p.m.
(WHEREUPON, a brief recess was held.)
THE VIDEOGRAPHER: We are back on the record at 12:37 p.m.
BY MR. BECK:
Q. So, Kent, I still have a lot to go through.
A. Okay.
Q. And I don't want to like, you know, suggest that you limit your answers, but to the extent we can just stay on topic and move through the stuff, I'd appreciate because

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there's -- we haven't gotten very far yet, okay. Just let me know when you're ready to --
A. I'm ready.
Q. Okay. Can you put your cell phone down, please?
A. Uh-huh.
Q. So Carmen Mostek said she had a few encounters with your dog before the incident which were frightening. She says on two occasions she was outside above the garage with her dog, Aggie bit through the screen door of your home, jumped out the door and ran into the backyard pouncing at the wall. She says that you saw this happen. Did you see this happen?
A. It did not happen.
Q. Okay. So has your dog ever bit through the screen door of your house?
A. No, she has never bit through a screen door.
Q. On another occasion she said that she opened the side door to the garage, Aggie came at her and that she had to kick Aggie back and shut the door to the garage. She says you were in the backyard when this happened. Did you see

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this happen?
A. No, not aware that it happened. And, frankly, if it had happened it would have been nice if she had told me because I think that's something I would like to know. I mean, especially given my no tolerance policy about aggression towards human beings, if I had been told about that, it would have been a very, very sad day for my dog because I can't tolerate that. I cannot have a dog that's attacking human beings, period.
Q. Another time she says she was walking her dog on the sidewalk on 29th Street. You had your dog on a harness and started running at her and her dog, and you had to, you know, use both arms to restrain your dog and that you said something like maybe they will get along some day. Do you remember this incident?
A. I remember making a comment to her about, you know, at some point maybe they will be friends, you know, because it was obvious that they were not friends, on that one occasion which I cannot recall independently right now. But she, you know -- the fact

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this I don't think that that was an unrealistic expectation if we had, you know, been willing to work -- work on it. The same -- you know, dogs can -- dogs can be encouraged to get along with other dogs. I know that because I've seen it happen.
Q. So you acknowledge that your dog did not appear to get along with Carmen Mostek's dog, yes?
A. And it's something I traced to the poop issue.
Q. And what type -- I mean, did you ever see your dog attack her dog?
A. No.
Q. Did they ever get in any sort of scuffles that you saw?
A. No, no.
Q. How did you know they weren't getting -- didn't get along then?
A. Well, I mean, they -- it's true that when her dog was running around on the roof looking down on this poop space that this dog had once used, I mean, I -- the two dogs would bark at each other. It wasn't just one way. I

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mean, the notion somehow that it was all one way is just completely false.

Q. Okay.

A. But they didn't seem to have warm and fuzzies for each other. Not that I would say that it was sort of off the charts the other way either.

Q. Whenever you would walk your dog, did you ever have to restrain Aggie from going at Buddy?

A. No. Again, I never saw her. I mean, you know, she might as well be a vampire. You never see her. You never saw her. And when she walked her dog -- in fact, I think that's what -- basically, I don't think she really did walk her dog very much. That day was the only time I ever saw her actually walking her dog. Usually I think she just put the dog out on the back roof area, and I think the other thing she would do is release the dog into the pooping area because it was enclosed which must have been very convenient for her because she apparently didn't want to walk her dog. So that's the only thing I can surmise.

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Q. Does your apartment overlook the pooping area?

A. It's the -- it's -- if you walk out my back door from the kitchen, you go down some steps and there is a small, like, a garden, okay. On the right that's a door. That door goes into -- that opens into this garage area where Carmen keeps her car.

Q. So what I'm getting at is would your dog be in a window seeing this happen and start barking or --

A. Seeing what happen?

Q. Her dog pooping in the -- the green space?

A. I don't -- I don't recall exactly. I think she -- dogs are funny. They can sense when other dogs are around generally. I don't know how they do it, if they smell them or what, but I think there is a window in the kitchen that maybe -- I don't know. I'm -- I'm -- you know, this was not a huge deal.

Q. Yeah.

Did you have a window in your apartment that overlooked the green space in

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back?

A. Yes, in the kitchen. There are actually two windows but only one that might have been accessible to Aggie.

But, I mean, I wouldn't say that the two of these -- these two dogs were best of friends, they weren't clearly, which is why I was very anxious to separate them. Because if there was any possibility that they were, in fact, injuring each other, I did not want that.

Q. So when you -- it seems like you have a memory of two incidents. There was the one where there is the pooping in the green space and your dog took issue with that, and then the one where they are on the roof where they are barking at each other. Is there anything else that comes to mind?

A. No. And those are really very sort of a generalized --

Q. I understand that.

A. It's not a specific -- I can't --

Q. So this could have just been something that happened frequently. She would be in the

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window barking at Carmen's dog while the dog is in the green space or when they are both outside they would bark at each other. That was a common occurrence?

A. You know, you're asking me about something that -- I mean, this was -- this was -- how do I say this? I don't recall these things and if I -- if they happened I don't think I would recall them because they are not significant in my view. I mean, dogs growl and might, you know, bark at each other all the time, and it doesn't mean shit to a tree.

Q. So you say you traced your dog's issue with Buddy back to the pooping in the green space. What is it about that that you remember then?

A. If I had to surmise -- first of all, her dog never was out, okay, never was visible, never was being walked. And so there was never much of an opportunity for the two -- the two dogs to get used to each other and socialize, that's No. 1.

No. 2, I never really saw them together. I mean, I don't recall this time when

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I supposedly -- but, you know, again, I mean, these -- this is a big nothing burger to me.

I mean, I don't recall any of this. It wasn't significant. If she had wanted to cooperate and the two of us -- like getting them on short leashes and trying to get them to figure out that, hey, this is an okay dog, knock it off, that would have been fine with me.

Q. So are you saying that she's lying about those incidents or you just don't recall them?

A. She's lying about chewing through a screen door.

Q. What about the other ones?

A. Did I say maybe they will be friends some time? They -- I thought that they were -- they both -- they showed a kind of mutual distrust on that occasion. That's all I remember. And I said that to her because I really -- hope springs eternal. I didn't think there was anything insurmountable about this, and she is my freaking neighbor.

Q. Right.

A. And I had nothing against her or her

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dog. So I said, you know, maybe they will be friends one day. And so, you know, did she make that up? No, I remember that.

But actually what she leaves out is there was -- the only time I remember talking to her for more than 30 seconds, she -- in her garage space there was a big wall, and I do these art projects, for lack of a better term, that are large format cloth and I do --

Anyway, there was a space in her garage and I asked her, I said, would you mind terribly if I went and I hung some of these -- these projects that I do? And she was very gracious and she said, no, not at all. And I said, well, you know, I -- you know, I don't mean to intrude on your space and da-da-da, but she was very, very kind about it.

Q. So other than the --

A. She might remember that.

Q. And that's my understanding is you guys didn't have any issues with each other before this.

A. Well, why would I?

Q. Right.

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A. I mean, there was nothing and the dogs, I mean, it was sort of routine crap that -- you know, it wasn't like --

Q. So they had routine altercations. The only thing that you can definitively say she's lying about is the one where your dog bit through the screen door?

A. I don't use the word "lie." What I'm telling you is my dog never bit through a screen. Now, there was a screen door and my dog did jump through the space where that screen would be. She did. She didn't chew her way through.

Q. Oh, so she -- so there was a screen there and she jumped through it?

A. She jumped through it.

Q. Okay. Tell me about that incident.

A. She jumped through.

Q. Was there a dog in the green space that she was trying to get at, or did she run out onto the sidewalk?

A. I honestly don't recall. I just remember that she wanted to get in the backyard and she jumped through. And now, mind you, this

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is a -- there is no chewing involved in this.

The screen has a bead, okay. There is a kind of a frame and then there is a -- sort of a latex bead that holds it in place. If you go and you punch it, it's designed to give way. It's not -- it's relatively trivial and that's designed so the screen doesn't get compromised. It's one of these plastic-type screens, okay.

Q. It's not like one of those ones that, like, you'll see the plastic hanging down and the dog walks through it and then it comes up and comes back down. I mean, it's not a dog door, right?

A. No, no, no, no, no, no. Absolutely not. And, in fact, you know, I was disappointed because I had to put the stupid screen back in place.

Q. Did that happen more than once?

A. I don't recall. I don't think so. I know it happened at least once. Now, how she --

First of all, for her to say that she saw her chewing, there is no chewing involved. That's absolutely a fabrication and a

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way of embellishing facts and to try and suggest something that just isn't true.

Q. And that might be -- that might be me also just misremembering, you know, the circumstances, so...

A. But even if it happened, she wouldn't have been in a position to observe it based on the configuration of the two properties. But anyway, yeah.

Q. So do you know a Frank Alyinovich?

So there is John. Do you know his -- it's either his uncle or his dad?

A. I think -- I think Frank is his uncle. Everybody knows everybody, okay. John is the former cop who lives across the street.

Q. So Frank said --

A. Frank is the guy who owns the big unit where Michelle and her grand -- I can never pronounce her name correctly. She has a Hawaiian name.

Q. So Frank says he had a few encounters with your dog also that were frightening.

A. Yeah, she mentioned that and I have no idea.

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Q. So you don't --

A. No.

Q. But you are not -- you are not claiming that he's lying about this are you?

A. I don't use the term "lie." I mean, people can misstate facts without intending to do so. They can be mistaken.

Q. So he --

A. But Frank -- Frank, I have no recollection of -- I mean, where he was personally feeling threatened?

Q. So he says your dog bit his dog and --

A. Frank doesn't have a dog.

Q. Well, then it was John -- he saw you bite a dog, I don't know, something like that. I guess I'm wondering do you -- I understand you not remembering it happened, but is it possible that he's telling the truth, or are you saying that he's definitely lying about this?

A. If you're saying that -- that Frank said that he saw my dog Aggie bite another dog, I can tell you that I didn't see that, and that I have no knowledge of that, and that Frank never said anything to me about that. I know

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who Frank is. He lives actually on my side of the street a little bit farther west. And I know John. Not well but I -- you know, the two of them.

Q. But if he says this he would -- I understand you didn't see it, but you wouldn't dispute that, would you?

A. Well, yes, to the extent that I couldn't confirm it.

Q. Okay.

A. I'm not saying it didn't happen. It's not consistent with anything that I saw. I didn't see anything, nor was I told anything about it. And, you know, Frank, I always say hello to Frank.

Q. Yeah. I --

A. I call Frank the mayor of Bridgeport.

Q. Can you think of any reason why Frank would lie? I know you don't like the word "lie." Can you think of any reason he would knowingly misrepresent facts?

A. Well, I mean, all I'm telling you is that I didn't see this.

Q. Okay.

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A. I don't know what he's talking about. I don't know when it occurred. I don't know what dog we are talking about. So to the extent that Frank is referring to my dog biting an unspecified dog on an unspecified occasion at an unspecified location with unspecified results that were never reported to me then or even more recently, then I can only say I don't have a clue what the fuck anyone is talking about because it's all unspecified. So how can I respond to that?

I'm sorry if he thinks he saw my dog bite another dog. What happened? Did -- was -- when did it happen? What dog was it? I don't know anything about this, and I certainly didn't see it.

Q. So Sandra Miller says she had a few experiences with your dog as well. Can you talk about those?

A. I have -- you know, could you be a little more vague?

Q. Well, I don't understand what happened. I just know that your dog either bit at her or another dog, and it seemed like you

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understood what I was talking about at first.
A. Well, that's a big distinction.
Q. I understand that. But I'm asking can you --
A. She doesn't have a dog.
THE COURT REPORTER: One at a time, please.
BY MR. BECK:
Q. So it's either her or another dog, and I'm asking you to enlighten me because it seems like you -- if I ask you is there an experience that Sandra --
Sandra Miller says she had an experience that was a little frightening. Does anything come to mind?
A. No, and I know Sandy. And after this happened, you know, she said to me, you know, gosh, there's a bunch of us who feel like this was really wrong. You know, I'm not going to talk to Sandy about it. I see her all the time. I give Sandy cookies. I give -- you know, she gives me -- she gives me stuff. You know, we're just neighbors. We -- you know, and she gives my dog treats, okay. I don't have a clue what

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she's talking about.
You know, the other thing that your client did was -- said that Donna who lives in the front unit who is Sandy's older sister, you know, well, she said that Kent was weird. And it was like then the question was, well, why is Kent weird? Well, because he stays up late. Hello. I mean what the -- you know, this is all part of the same campaign of character assassination. Like I'm weird because I stay up late.
Q. So if Sandra says that you -- your dog acted aggressively toward either a person or a dog --
A. When?
Q. -- on two occasions -- I -- I'm just -- I don't know the exact timeframe.
A. Well, I don't either and so how can I respond?
Q. I'm asking --
A. I can just tell you that I don't know about any of that.
Q. Do you -- so as you sit here you cannot recall a single incident in which your

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dog acted aggressively in the presence of Sandra Miller?
A. That's exactly right. I hardly ever see her.
Q. Can you think of a reason why she would lie about --
A. No.
Q. -- the behavior?
A. No. I don't -- I don't think anyone is acting out of malice, except your client, in trying to silence me and intimidate me into silence.
Q. So --
A. That's malice.
Q. So you know Carmen because she's your neighbor, yeah?
A. I know Carmen because she lives nextdoor and because I saw her occasionally walking her dog. I did see her walking her dog occasionally, very occasionally. And there was an occasion when I asked her about whether I could use the space in the garage for some artwork.
Q. So did you meet her at the end of 2023

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or could you -- can you remember at all?
A. I don't remember. I moved into the space in November of '23 -- I mean October of '23. And there was -- you know, there was no -- you know, it was -- I was -- everything was open and notorious.
I mean, I wasn't trying to hide from anybody. Everyone could see me moving my stuff in, and I had no idea that -- that the guy who was subletting to me was apparently -- had done so without telling his landlady. I didn't know that. I found out later and much to my chagrin.
Q. So your relationship with her before this incident was cordial and essentially just hello, how are you doing type of stuff?
A. Absolutely. She's a neighbor. She lives in the community. She has a dog. You know, I'm a fool who says when -- I have a policy. When I walk my dog in the morning, everybody who I see on the sidewalk I say good morning to, everybody. And at first all the little -- a lot of the Asian women, they were concerned. Now they say hello to me. Sometimes

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they would ignore me. Now they say hello to me and they smile and I smile back. That's part of the miracle of small things. I say hello. I try to treat other people with respect. And it's only when they treat me like a piece of meat that they can do anything they want with do I get irate and I push back.

Q. How long have you known Brandon Woods?

A. I don't know, four years or something. I mean, I think I really got to know him after I -- after I got Aggie because I -- it was kind of like through the dogs. But I -- his daughter -- his daughter would -- when I was walking the dog, she would sometimes be out in their backyard sort of looking out over their fence. She is a really sweet child.

Q. So you consider Brandon a friend, yes?

A. I consider which?

Q. You consider Brandon a friend?

A. Oh, he's totally biased in my favor. He's a friend of mine and he was crazy about the dog. He had the dog in his home. If I went to New York for a weekend or something, they were the ones who were anxious to have her, not doing

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me a favor, they were glad. And Aggie would sleep in his bed.

Q. Does the same go for Stacy Woods and Danielle Woods?

A. Well, that's -- Stacy is his wife and Danielle is his mother, and she lived in the basement.

Q. So they all -- they all love you and loved your dog?

A. They know me. If they love me that's great. I certainly -- I certainly can say that I have a great deal of affection for that family and for their two daughters.

Q. Same go for Tom Carmichael and Heidi Brady?

A. Yes, absolutely.

Q. They are close friends?

A. They are -- yeah, and they are totally biased in my favor.

Q. Howard Tse, the same?

A. He used to come with me. We used to go down to Hyde Park to the Point and for different outings with Aggie, and he would remember those things.

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Q. He would be biased in your favor as well?

A. Totally. In fact, I don't even know why you're talking to him because you know what he's going to tell you.

Q. Crystal Lopez?

A. She lives across the street. I don't know them very well. They moved in before this occurred but I -- I don't -- I don't really know them that well. I -- well, I did say one thing to them on one of my walks. I saw them, and I said something to her husband, and I said, you know -- because before they moved in there was an old guy there who had a dog that never got anywhere outside the sort of gated -- this fenced area in the front of the house. And it was a dark house, and it was a sad house, and there was no activity. And I was so glad when they moved in because they have children. They are a family.

Q. When is the last time you spoke with Crystal?

A. I didn't speak with Crystal. I actually said this to her husband. I saw him

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and I said I'm so -- I just want you to know how -- what a pleasure it is to have you here. If you need anything let me know. I said it's great to see life in this home. That's what I said to him.

Q. So it's not like you talk with her regularly?

A. No. In fact, to be honest with you, I haven't -- I don't think I've ever spoken to her. I just said that to her husband because it was a pleasure to have them, a family, a young family with children.

Q. What about Catherine Cox?

A. She's -- she and I were an item. She was my girlfriend. She was my girlfriend when this happened. She was with me the day it happened. She stayed with me and she didn't want to leave the day it happened because she was concerned about me and my state of mind. You can talk to her if you like. I have no problem with that. She's a very special woman, very special, kind person.

Q. Are you still together?

A. No, not as an item. But -- and she

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also did send an email, I think we produced it, or she could produce it, where she was taking exception with the initial reports in the media, that they did a cut and paste on the bullshit that was in the police report about the vicious Pit Bull locking its jaws on her dog.

Q. So when did you meet Crystal?

A. I never met Crystal.

Q. All right. Excuse me, Catherine Cox.

A. Catherine Cox, I don't even recall the date, but we had been together a year or two. I can't recall.

Q. You had been together for a year or two?

A. We were. We were. At the time this happened we were still.

Q. Were you living together?

A. No, no, no. She had her own apartment.

Q. Was it nearby?

A. She lives in the -- she lived in the South Loop. Now I think she's got a place in Bridge -- in Bridgeport.

Q. How did you guys meet?

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A. On Bumble.

Q. So you guys meet on Bumble. You start seeing each other regularly. Would you see each other daily or --

A. Pretty much.

Q. And you would talk -- you would talk every day then too?

A. Yeah, we were -- we were --

Q. You were pretty hot and heavy?

A. Well, I wouldn't say hot and heavy. You know, I'm going to be 70 in July.

Q. Yeah. But you guys -- you guys had a -- you had a serious --

A. Let the record reflect that the court reporter is looking at me and laughing.

Q. Let the record reflect that I'm laughing at him too.

A. Okay.

Q. So it was a serious --

A. How about you, Jim?

MR. BENAK: No.

THE WITNESS: You want to get in on this?

MR. BENAK: No.

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BY MR. BECK:

Q. So it was a serious relationship?

A. Yeah. I mean, she's a serious person.

Q. Did you love her?

A. Absolutely. I still do.

Q. When did that relationship end? I understand you're still friends, but when did it end romantically?

A. I used to kid her because she went to Vassar. I had friends who went to Vassar. When did what?

Q. When did that romantic relationship end?

A. Not long after this event occurred.

Q. Like what are we talking about, days, months?

A. Well, it was a thing where she -- I was really upset and it was -- I was really shaken up, and so it was kind of like I was in -- I don't know. It just shook me to the core, and so I was really kind of just not -- I couldn't be with people for awhile. I was -- it was almost like any -- if there was any disorder -- sort of disorder or loud noises

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or -- I couldn't -- I didn't like being around children or, you know, for awhile because I was feeling -- I guess you'd say hypervigilant about -- you know, I was irritable. And I don't think she really understood quite how bad it was that I was going through this.

And then when my friends got me Sonya, the new dog, she made this comment that kind of pissed me off and I just kind of like didn't see her after that. And the comment was something like, well, I'm -- you know, I'm glad you found something to love, you know, and that seemed kind of snarky to me because, you know, it wasn't me. I didn't get the dog, my friends did. And I was just trying to get through this, and I just didn't appreciate this notion that she was being jealous of the dog.

Q. So that -- that comment basically ended the relationship?

A. It kind of ended my enthusiasm, and then I just never really found it again after that because it just seemed like, you know -- my attitude was, you know, like I'm -- look, I'm trying to get myself back to normal, okay. Cut

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me some fucking slack. And, you know, it just -- that just really wasn't -- it just kind of really made me angry and it made me feel like, you know -- I don't know.

Q. So I know you were married. How long were you -- well, you're still married. How long were --

A. Legally. I haven't -- I have been separated since December 1st of 2018. And for a long time my wife was refusing to accept service. Most of the time she's not even available, so I don't know where she is. She is touring Europe with her new paramour, which is fine with me. I just wish they would get married so she'd release me.

Q. When were you married?

A. I was married on July 3rd, 1995.

Q. So --

A. In Erie, Pennsylvania.

Q. -- 23 years?

A. You do the math.

Q. Tell me about your marriage. Was it a happy one?

A. No, it was horrible and toxic. I love

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my children. I was -- it was a horrible, horrible, horrible destructive relationship, but I didn't want to lose my kids.

Q. So was this just sort of years and years of friction, or was there a particular event that broke the camel's back or something like that?

A. No, it was years and years of -- we had incompatible operating systems. She was -- she was -- she had a different way of looking at things.

Q. When is the last time you --

So it's fair to say then that your split was not amicable?

A. Our split was a split. I just came to Chicago as I always did, except this time I had no intention of ever going back.

Q. Well, I thought you lived in Winnetka with her though?

A. We did, and then we moved to Pennsylvania in, like, 2013 because that's where she was from, and she wanted to be there when her father died so she would get her fair share of the spoils of war.

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Q. Okay. And then when you split --

A. She was very focused on money always.

Q. When you -- when you split did she get the kids?

A. No, there was nothing like that. All the kids -- within a short period --

Well, I just stayed in Chicago, and then the kids just sort of gradually all went off, and Charlie went to Cornell, and Anna went to Vanderbilt, and Trip went to Santa Clara, and Katherine is now the last one, and she's at Vanderbilt, and nobody was in the home anymore.

Q. So when they would come home, you know, for a holiday or summer, would they stay with your wife or with you?

A. There was no place they could stay with me, and my finances were in a shambles, you know, I mean, for lots of reasons which you don't really want to know here. A lot of -- most of which had to do with the way my wife conducted herself in various ways.

Q. What do you mean?

A. There were -- there were surprise

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balances on -- there was surprise debts incurred during the time of our marriage. Things I knew nothing about until after they had already come into existence.

Generally they were, for example, credit card solicitations that were sent to me at our home. She would intercept those, accept them in my name, sign them for me, secrete everything, all the correspondence, and max them out. And then I would find out about them later if I were -- what happened was I had applied for a loan, and they'd say, well, you've got a lot of debt, and I would say no, I don't. And they'd say, well, look at this and all the stuff --

Q. What are we talking about a lot?

A. Couple hundred thousand dollars. That was in the first instance. The second time it was almost -- it was about the same.

Q. What was that, just the same sort of circumstances?

MR. BENAK: Counsel, are we going to do his divorce proceeding here or are we gonna talk about the case at hand?

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THE WITNESS: Yeah, I really --
MR. BENAK: I just don't understand -- I just don't understand the line of questioning.
MR. BECK: Well, that's okay.
THE WITNESS: It was a toxic relationship. We didn't -- we -- there was a lot of friction in the home. I would -- I would have preferred to leave but I thought that I was doing the right thing.
In fact, my daughter told me that if I left things would get worse. So I thought okay, I'll stay. But it probably would have been better to have left because the children may say they want you to stay, but you don't -- you're not gonna get any credit for that. Eventually they are just going to -- it's better to -- it's just better to leave.
BY MR. BECK:
Q. Did you have to provide her money or anything financially?
A. I paid her support payments every month.
Q. What's that? What amount -- what amount is that?

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A. You know, I'm sorry, but we're so far afield at this point. I mean, my wife isn't involved in this case. My wife doesn't even like dogs, okay. She has nothing to do with any of this. And what I pay her as a result of an order that was entered here in Illinois to support an order that was entered in Erie County, Pennsylvania, I mean --
Q. We would just move along a lot faster if you just answer the question.
A. Yeah, and I could probably also do a lot of things that I just don't feel comfortable doing that -- you know, if you want to go before a judge on a motion to compel and to explain to the judge why you need to know what my monthly support payments are to my wife, then God bless you. Knock yourself out.
I want to preserve some dignity and some privacy here today. I'm not going to talk about my sex life, and I am not going to necessarily go into the financial details of what my wife was getting from me.
Q. So you're refusing to answer my question?

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A. I'm telling you that it's completely fricking irrelevant, and if you want to try to explain to a judge why you need it, God bless you. Go for it.
Q. Are you refusing to answer my question?
A. I'm not going to repeat my answer again.
Q. Is there a reason you don't want to answer my question?
All right. So you have five children. Do you contribute financially to their well-being?
A. Yes.
Q. Do any of them have any chronic medical conditions?
MR. BENAK: Counsel --
THE WITNESS: Yeah, I --
MR. BENAK: -- I don't think you're using your time very well --
THE WITNESS: Yeah.
MR. BENAK: -- and I just don't think this has any relevance.
THE WITNESS: Yeah, I mean, you

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know --
MR. BECK: Well, you're talking -- you're claiming severe emotional distress. I am entitled to inquire about things that could be contributing to his emotional distress. So I understand you don't see the relevance --
THE WITNESS: Okay.
MR. BECK: -- but I'm going to ask the questions.
THE WITNESS: All right. So the answer to that is one -- that my eldest son has a serious medical condition. He was diagnosed with borderline personality disorder, which we used to call schizophrenia. He's got an IQ in the high 150s, but he also had the unfortunate affliction of hearing voices, malignant voices, voices that told him to do things that were very destructive to himself.
BY MR. BECK:
Q. When did --
A. After he graduated from Cornell, he went to live with his mother in Pennsylvania. At that point he had spent some time with me in Chicago and we were making a project out of

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trying to figure out how to make lemonade out of lemons. We talked about what's the meaning and the philosophy of schizophrenia, what does it mean that every generation has a certain percentage of people who have this affliction. Would there be religious ideology in the world without this affliction? Is it a complete curse or can we figure out how to make a meaningful life for him despite the fact that he hears these voices? What can we do, Charlie, to give you a life that isn't just being doped up and warehoused?

And we were not -- he and I were working on that, and we were going to all these different professionals, and we went to some quack in Highland Park who did give us some advice which was stupid but we were desperate. And then he went back to Pennsylvania and -- and he's a very vulnerable person, and he was a very spiritual person, and at the time he was obsessed with this idea of making himself pure, spiritually pure.

So understanding his vulnerability, my wife had a discussion with him

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and told him that I was a drug addict, and I don't know what the other things were, but she told him things that were resonating with him. She knew what to say to him to make him mistrustful of me so that we always had this relationship that was very close. After that he would text me occasionally, but he wouldn't talk to me, and my wife always told me that I shouldn't go near him because it was bad for his mental health.

Q. So when did you stop -- when did things change with Charlie?

A. When did that occur that he ghosted me?

Q. Yes.

A. I could give you the date. It was before this event occurred.

Q. When was --

A. It was long before this event occurred. And then it was this unfortunate sort of a log jam. It was kind of an open wound, but nothing -- you know, that I learned to live with.

Q. Was it 2018 or was it before then?

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A. It was after.

Q. So it was after the split?

A. I think it was after. I don't know. I would have to find out but -- but -- but I can tell you that -- that in the run up to the incident that we're talking about, this was not a factor, that whatever happened with Charlie was already kind of in a state of -- there was nothing I could do about it. It was just something I had to live with. I couldn't undo it. I was told I shouldn't go near him. I shouldn't try and talk to him. He didn't want to talk to me. That's what my wife said. And --

Q. Is that kind of where things stand right now between you and him?

A. No. On July 27th of last year, after this incident occurred, and while I was still processing it, Charlie threw himself in front of a car.

Q. I'm sorry. I am so sorry.

A. And he was wearing nothing but boxer shorts, so he was a John Doe. And then he was in the medical examiner's office, and suddenly

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my wife said that this -- my son who I couldn't see while he was alive was somebody who I should see while he was dead because she didn't want to have to identify the body, and so I was the one who had to go and identify him.

But this occurred after the incident with your client, and it was really just a -- you know, just one more thing to add to the list of things that I was going to have to deal with, but it certainly isn't -- I can't say that emotional distress that I attribute to your client treating me like a piece of meat occurred -- you know, the timing is all off because my son died in July, not on or around the 21st of April.

Q. So you have four other children?

A. Yes.

Q. What are their names?

A. Katherine, Nicholas, Kent Maynard III. That was my wife's idea. I have never called him that. I call him Trip. And Anna, and there was Charlie.

Q. And I apologize for asking. There is nothing malignant here. I'm just -- I'm just

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trying to do my job, and I appreciate you trying to answer my questions.

Katherine, how is your relationship with her?

A. It's okay. My wife said to me before I left that if I ever did leave her that I would die alone and I would never see my children again. And, you know, she's -- I didn't believe her. I didn't think that she could have that kind of influence over the children, but I think I was probably wrong.

Q. So since the split your relationship with Katherine has been fractured would you say?

A. It's -- it's sporadic. I hear from her now and then. You know, she's a young woman. She's at Vanderbilt. She is very pretty. She has a very active social life. She's head of her sorority and she is getting straight A's. My daughter -- my two daughters are super achievers and --

Q. But there is -- you know, there is living her own life and being active and just kind of taking your parents for granted, all kids do that, and then there is, you know, there

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is issues between the kid and the parent. Would you say that there are issues between you and Katherine?

A. No.

Q. What about you and Nicholas?

A. Nicholas I have not seen in some time.

Q. When is the last time you saw him?

A. It's been at Charlie's memorial service which was last August.

Q. So August of 2024?

A. Yeah.

Q. Is that the last time you saw Katherine?

A. No. Actually I don't recall because Katherine travels a lot too. She's always jetting off to different places.

Q. So when is the last time you saw Katherine?

A. Last year, I guess.

Q. When is the last time you spoke with her?

A. Well, we text. I don't know if -- your children aren't old enough, but eventually you're going to discover that you don't talk

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anymore. Everything is texting.

Q. Do you text frequently or is that --

A. Not as frequently as I would like, but I do text with her.

Q. What about Nicholas, when is the last -- is the last time you spoke with Nicholas --

A. Nicholas and I -- Nicholas is -- he and I have never really been all that bonded, so I can't say that I, you know, I have a sort of fluid relationship.

Trip and I talk a lot. Although this whole thing with Charlie, what was left of the family -- I mean, the stress and the horror of what happened took what was left and made it much more tenuous.

Q. When was the last time you saw Trip?

A. Well, Trip is living in Oregon, and Trip doesn't travel that much and I live in Chicago. So it's been at least a year I think. It was the holidays over a year ago.

Q. When was the last -- and you speak with him frequently though you said?

A. No. Trip's -- Trip's upset with me

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because -- there was something very strange that happened when Charlie died. My -- my wife and her father are very creative in the way they -- the way they manipulate others. So what happened was my father-in-law, who is extremely wealthy and has this wonderful mansion overlooking Presque Isle Bay, agreed that he would have -- because he's in the hotel business and he has a -- he owns the biggest resort on the eastern seaboard for PGA, whatever. I mean, he's a very wealthy man.

And he said that he would do the memorial service, which he could do with one phone call, but there was only one -- sort of one condition, and that was that Charlie's father, me, that I not be permitted, not be invited or told about the memorial service or permitted to attend. So there was a whole kerfuffle about whether that was a good idea or not.

Q. And his animosity towards you was the result of his daughter's fabrications?

A. You're asking me to get into his head. He -- he is who he is, you know. God bless him.

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I mean, you know, he is who he is. I can't tell you how he thinks the way he does.

I find it -- I found it a little bit alarming to think that someone would take a position that says I'll host this memorial service for Charles Elliot Maynard on one condition, that his father not be permitted to attend.

Q. Yeah. That's despicable.

A. So, unfortunately, that -- that -- my daughter Anna seemed to think that that was okay, and I will -- that kind of drove a wedge between the two of us. Charlie was gone obviously. Nicholas really didn't care, but Trip also seemed to think initially that I should go, and then decided I shouldn't go. And when I did go, he resented it.

So that left Katherine. And so Katherine and I still talk, but -- well, text but not all that much. Everyone has been kind of sleepwalking since Charlie died. Everyone loved Charlie very much, and it just made it very hard to be a family still.

And the -- my ex-wife, or my

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wife I guess legally, is -- you know, they have problems with her now. She's got some, you know, new paramour, and they're always jetting around, and they seem to feel that's inappropriate or something. I don't. I mean, God bless her. I hope she's happy. I got nothing. I mean, how do I benefit from her being miserable? But the kids are all, you know, they are all upset.

Q. So correct me if I'm wrong, but it sounds like Kent is the one who became upset with you after the memorial, but the other kids had some issues with you before that?

A. Charlie certainly did because of this talk that he had with my wife. The others, you know, to varying degrees. I mean, you know, they were not happy when I left. They -- I think they felt that -- I don't know what they thought. You know, I think Nicholas blamed everything on me I suppose. I don't know. You would have to ask them.

Q. You're currently self-employed, yes?

A. Yes. I still practice law.

Q. And you have been self-employed since

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2005?

A. Yes.

Q. What type of law do you practice?

A. Some general commercial litigation. For a long time it was mostly real estate.

Q. What type of clients do you represent?

A. I used to do all of Marc Realty's outside litigation, mostly pretty much acted as their general counsel for them. That was a big client that -- that's when I went on my own because they wanted me to take on all their work, and I couldn't get it through the conflicts process at the law firm where I was a partner. They didn't really -- they weren't excited about that as a client. They thought there were conflict issues.

Q. When you went out on your own, did you have anyone work with you?

A. I had a number of associates over the years, yes.

Q. How many? And I'm not talking about cumulative. Like in a given year would you have one associate, two associates?

A. I think at one year I had, I think,

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three associates at the most. It was either two or three.

Q. And was your income from year to year pretty consistent?

A. No, it varied. It varied because, you know, I was a small firm.

Q. So some years it would be good, some years it wouldn't be good?

A. I had some good years. I mean, it was good enough to live in Winnetka in a two-and-a-half million-dollar house, but the problem is it was -- you know, it was very difficult with five kids. And I think my wife had come from a family that had -- you know, kind of a nouveau riche thing, you know. They thought money was very important, and so she was very anxious to kind of show the world how much money she could spend.

Q. Do you have -- is it 1040s I think? Do you have 1040 forms documenting your income from those years?

A. I don't know. I mean, I'm sure that they exist somewhere.

Q. Do you have an accountant?

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A. Do I have an accountant now?
Q. I'm just wondering if there is any documentation of your income.
A. Well, yeah. I mean, come on, we live in the United States of America. We can't fart without a record being created somewhere, right, and that would probably include income, don't you think? Right? I mean, I think we can go to the IRS and we could probably -- if you want to subpoena my records, I -- I'm sure you could get them. I mean, to the extent they exist. I think they keep them indefinitely.
Q. I am just asking because you said in your interrogatories that your practice has been affected as a result of this incident and that you have lost business because of this incident. Does that sound right or no?
A. This incident has been a blight, generally, on my existence. I would like nothing more than to roll the tape back and make this whole thing go away. It has -- every time I have had to sit in a deposition and listen to somebody say things they have said, it has been very difficult for me, especially the last

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deposition.
It -- to the extent that that is a dead weight on my soul, yes, it has had an effect on my -- because I find that as a lawyer if I'm struggling to kind of process bullshit, horrible bullshit, it really upsets me. I'm old fashioned, but if I observe people misstating facts, it upsets me and makes me angry.
Q. So are there any, like, specific business opportunities that you can think of that you believe were lost as a result of this?
A. This particular incident?
Q. Yeah.
A. No.
Q. Have you ever been fired from a job?
A. No.
Q. Have you ever had an ARDC complaint filed against you?
A. No.
Q. So you live at 52020 -- 522 West 29th Street, yes?
A. Yes.
Q. And you have lived there since 2023?
A. I guess that's -- I think that's about

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right. I mean, I lived half a block away from there before.
Q. That was 2840 South Normal?
A. Yeah, yeah, yeah.
Q. So at 522 West 29th, has anyone ever lived with you there?
A. No.
Q. How did you come to live there? Like, how did you become aware of the vacancy and all that?
A. Because, you know, Aggie and I would walk through the neighborhood, and we would go by the garage at -- in the building where Carmen lives, and there is this really nice guy, Erin Edmister, who had a garage there. And it was kind of like the ultimate man cave, and he is a very creative, very interesting guy in a lot of different ways, and we used to stop and chat. And Aggie loved him, would just go crazy and jump all over him. I don't know. She has her certain favorites, right.
So, you know, we got to know each other. We'd talk over a period of time, and at some point he had not only the garage,

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but he also had this first unit in the back of the home that's next door. It was kind of a package deal; he'd lease the two together. And he didn't need the apartment anymore, and it had just been sitting there empty for -- forever, and for some reason he hadn't really done anything about it. And then he said, well, you know, what if -- would you be interested? And I said, well, I don't know. And so we talked about it, and over a period of weeks, if not months, we discussed it and he said, well, okay, why don't you move in in October and so I did.
Q. Did you have to sign any documents?
A. You know, he -- it was sort of a handshake. We just agreed on what the monthly rent was.
Q. And what was that?
A. I think it was like 800-something or 800 a month. It was very reasonable.
Q. Is that why you -- so you lived right nearby. I mean, is the reason you moved into 522 simply because the rent was better?
A. No. I was frustrated with the place I was living. I had originally gone there when I

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was just commuting to Chicago and I was living basically in Pennsylvania. But, I mean, the finances were -- were challenging because my wife was very fond of spending money and there was nothing I could do to get her to stop. And it was -- it was -- in some sense it was kind of like an addiction really.

And so I got a room share in the building on Normal. There were three bedrooms in an apartment, and I had roommates, you know, and they were great guys. I mean, I had -- the problem is then when they moved out you didn't know who was coming in, and so it was really kind of a -- it was stressful. It was too fluid.

And then I -- so then I moved up to the third floor, had a unit by myself, but the problem is that the landlord had very sort of creative and unique ideas about maintenance. So there were issues with the building that were very -- and I think I might have mentioned it to Erin at some point, and so he said, well, what about this, and I said great, fine.

Q. And I assume Erin knew that you were

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moving into the unit with a dog, right?

A. Yeah. Oh, yeah, he knew because he knew about Aggie.

Q. Yeah, because you would walk --

A. Everybody knew about Aggie because we were always together.

Q. Did you speak to the landlord at all before you moved in?

A. No, because as far as -- I relied on him. He was the -- he had a leasehold, and he was subletting to me and -- yeah.

Q. You mentioned that you did some residential -- or you did -- did you say you did real estate law at one point in your --

A. Marc Realty had a lot -- is a real estate company. They are sort of the kings of Grade -- of Grade C I guess you would say.

Q. Did you ever do, like, property -- like disputes between landlords and tenants?

A. Absolutely.

Q. Okay. So was it a common thing for contracts between landlords and tenants to forbid subletting apartments?

A. Come on, Greg. It's boilerplate.

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Yeah. I mean, did I think this at the time? No. Should I have gone and insisted that he give me a copy of his lease and see if there was a prohibition against subletting? Yeah, I probably should have. Okay, you got me. But --

Q. I want the record to reflect that I just got --

A. You just got me.

Q. I'm joking.

A. But I don't -- I just don't see how that changes the quality of mercy as not strained, you know. It falleth like the --

Q. Now, some -- some contracts forbid certain types of dogs, right?

A. Yeah, I don't -- I can't speak to that.

Q. Okay.

A. And I don't think that that's actually the case here. I don't know.

Q. Okay. When you moved out to Winnetka -- so you owned the house, right?

A. We built it. We owned a house then it was -- it was -- the house on Foxdale, 849 Foxdale. We bought it and I knew it was in bad

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shape, but my wife insisted that was where she wanted to live. So we moved in and of course it was a nightmare for me because I was constantly trying to deal with. It was just basically falling down around -- it was sort of a farmhouse that had been built and then they just kept adding on to it.

Q. Did you sell it then?

A. We tore it down and we built a new house.

Q. Because when you moved out of Winnetka, did you sell anything at any point?

A. Yeah, we sold the house we built.

Q. Okay. Did -- and you and your wife still had a relationship at that point, so it's going to you jointly, the money?

A. I don't understand your question.

Q. I don't think I understand it myself, actually. I'll move on.

So the property at 522 West 29th Street, how many rooms are in there?

A. In my unit?

Q. Yeah.

A. There's a bedroom, a living room, a

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bathroom, a kitchen, an office and a storage area which is kind of like a pantry.

Q. Was there a part of the property where you would keep Aggie isolated to --

A. No.

Q. -- or did she have free roam of the house?

A. No, no, no. Aggie was like -- Aggie slept in the bed. And it wasn't just on the bed. Aggie would wait and you had to lift up the covers. She would go under the covers.

Q. Yeah.

A. Yeah. And then she would come up against you and then that's where she slept.

Q. Now, you mentioned that you had financial difficulties since, I don't know, 2018 or did they begin before that?

A. I don't -- I didn't testify I had financial difficulties. I was married to a woman who believed that money was very important, who believed that spending money was very important, who believed that she was entitled to spend large amounts of money, who believed that at some point she would inherit a

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lot of money. That -- that this -- so any -- any -- any decision she might be making about her finances were just timing issue that she -- she had a kind of a lacuna during these certain years before she might inherit money. And so she was trying -- always I think trying to figure out how to maximize current consumption subject to this notion that she might some day get money because her father might eventually die.

Q. So when you moved out in 2018 --

A. So there was a constant --

Q. -- is that when you became aware of all these -- all these expenses that she had been incurring?

A. I learned about the -- the first slug of surprise debt when I applied for a loan to buy the house that she insisted on buying in Pennsylvania, in Fairview, Pennsylvania.

Q. And when was that?

A. It was around 2013, I think, 2014.

Q. And then while you were still living with her in Pennsylvania you became aware of other surprise debts?

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A. Right. Well, there was a big credit card fraud that she did that I didn't know about. She forged my name on a claim that she processed through Chubb, and I didn't even know about it. And then she got the indemnity check, forged my name on that, secreted the funds, applied them to whatever she wanted to apply them to, I suppose. I don't know. It was always about current consumption.

The problem is that there was this grinding financial pressure that never -- it was unrelenting. When you're married to someone who has this addiction to spending and you're the only one who is writing checks, it gets old.

Q. So the fraud for the loan thing, was there any sort of proceeding that took place as a result of this or any sort of -- I guess I don't know how that would --

A. You know what happened?

Q. What?

A. I had to make a decision whether I was going to -- people -- lots of people said to me how can you stay with this person? How can you

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stay with somebody who deceives you like this and, you know, impersonates you to take on debts which, you know -- I'm not a conspicuous consumption kind of guy, okay. I believe that people live within their means.

And people said to me how can you stay with her? And the answer was the same always, I don't want to lose my children and so I stayed. And either I forgave her and stayed or I just, what, what do I do at that point? I guess I could get divorced, you know. I don't know. But I didn't. I stayed.

Q. Was there any sort of legal implications with the fraud? Like, did anything come about it, from it?

A. What I did was I forgave her. What's interesting is she never even really admitted that she gaslighted me and she tried to tell me that I had said that she should do that, which is not true. And then what I did was when we -- we -- I couldn't get a loan to buy the house in Pennsylvania.

So we -- but we paid cash for it using the proceeds from the sale of the house

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in Winnetka. And then after the fact, having fee title in my name, I went to a bank and I said look, I want very loan -- very low loan to value ratio here. We just paid $800,000 for this house. It's on four rolling acres. It's spitting distance of Lake Erie. It's a beautiful house. There is a picnic house in the back, which is a split level with two bedrooms, blah, blah, blah, blah. And so just lend me enough to pay off these -- all this credit card debt that I found out about.

And they looked at it and they said, yeah, we will do that because it was a $400,000 loan, very -- that's a conservative loan to value ratio. They're willing to do it, and they did it on a fixed rate with, you know -- and so I got those proceeds. And I was very pleased when they said not only do we -- will we lend you the money to do this, but we insist that you do this. And I said God bless you because I can't live with the amount of toxic credit card debt that she racked up was insane.

And it had been secreted.

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What she had done during those years was insist that I give her money. I could never figure out why she needed it because I paid all the bills.

Q. So when you say that there was fraud, you're just saying she -- she forged your signature for these things. These companies didn't, like, come after her. You're just saying that she incurred debt by forging your signature that you didn't know about?

A. I --

Q. Or was there some sort of like a -- some sort of thing -- excuse the lack of -- I just don't have a good vocabulary. But is there some sort of, you know, thing that came about it from her doing that?

A. When I married my wife, I had perfect credit. I had had a career in commercial banking, and there is no way I could have been a commercial banker with all the kind of bullshit that, you know, she was doing. I had substantial retirement accounts and retirement money saved up just through the normal course. And --

Q. So your credit went to shit?

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A. So what she -- what happened was she -- I was constantly getting bombarded with these solicitations in the mail, you know, people offering me credit cards. And she would receive them. Her credit stunk. Mine was fine. So he would sign me up, and as far as anybody knew, they were dealing with me.

The cards would arrive in the mail. She would secrete the card. And then any statements arrive in the mail. I wasn't always -- I was -- sometimes I was in Chicago, so it was easy for her to do this.

Q. So these are -- these are debts that are overdue and not getting paid?

A. Well, no, because then she would come down -- you know, she would come to my office -- my home office and she would insist on -- you know, I had to give her -- and they were fairly substantial amounts of money, and I never understood why.

And finally I just said, you know what, that's crazy. If you can't tell me what you need this for, I don't care. She'd say I was controlling her. I'd say I just want to

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know. What is this? And finally I said -- on one occasion I said no, and then she did default that month on -- on one of these accounts that I didn't know about.

Q. So the account that defaulted was in your name though?

A. Absolutely. Everything was in my name because her -- nobody was offering her credit.

Q. And did anything -- what happened as a result of that?

A. Well, when I applied for the loan to buy the place in Pennsylvania, they said no because I was over leveraged, and not only over leveraged I was over leveraged with toxic credit card debt. I never carried credit card balances month to month ever until I married my wife, and then everything went to hell.

Q. Do you have any money saved away currently?

A. Un-unh. No, I do not. All the balances in all the retirement accounts were used to defray current consumption at a time when I was begging my wife, you know, please, you know. But see, her value system is

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different than mine.
Q. Are you currently in debt or have you paid it all off?
A. I am in a Chapter 13 bankruptcy pending in the Western District of Pennsylvania, which is the only sensible way for me to find a jurisprudential space to adjudicate all these claims, okay, to resolve all these issues.
My wife and her father have both filed substantial claims in that proceeding. They want -- I think it's a total of about half a million dollars from me, you know.
Q. And that's currently pending?
A. Yeah.
Q. Have you been a plaintiff or a defendant in any other legal proceedings?
A. There was a -- I was named as a defendant in a malpractice action by -- I'm trying to remember who it was. It's so long ago now. I was a co-defendant with -- I can't even remember the name of the firm, a big firm which has since been absorbed into one of the mega firms in the world. I can't even remember. But

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that was settled long ago.
It involved -- the allegation was this monster firm with, you know, 10,000 lawyers said that they were relying on me to prepare a case for trial, that I was the only one who was responsible for that.
Q. So was it the client claiming that he got inadequate representation and then the firm is pointing the finger at you?
A. You know, I don't even remember. I mean, it was -- I had insurance. I turned it over. They handled it. It went away.
Q. So it settled?
A. Yeah.
Q. Did you give any testimony in that case?
A. As I recall I think I was deposed.
Q. Okay. And was that here in Illinois or what was --
A. Oh, yeah. I'm trying to -- I think it was in state court.
Q. So it would have been -- it would have been the Daley Center then?
A. It was in -- I think it was in state

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court.
Q. Any other lawsuits?
A. Other than the divorce proceeding, the Chapter 13, not that I recall.
Q. Now, I'm -- so you wear glasses I see. Do you wear contacts also or just glasses?
A. No contacts.
Q. So have you ever worn contacts or no?
A. I might have. I think when I lived in Argentina I might have worn them once or twice or a few times. I don't know.
Q. Are you near or farsighted?
A. I'm nearsighted.
Q. What strength glasses do you have?
A. I don't know. At this point they're bifocals.
Q. When did you start -- what do you mean by that, I guess? What's the difference between bifocals and glasses?
A. You're too young to know.
Q. I am too young to know.
A. Well, you're lucky. We'll leave it at that.
Q. What does that mean?

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A. I don't know. I mean, you know, it's a different type of lens. When you get older your -- you have different issues, you know.
Q. When did you start wearing glasses?
A. When I was in high school.
Q. And you have needed to increase the strength I imagine throughout the years?
A. I don't think so. Not really.
Q. If you took your glasses off now, would I be a blur?
A. Not a complete blur. I mean, you know, there's a reason I use corrective lenses, but I can see you. I can see Donna.
Q. Would you be able to see how many fingers I'm holding up?
A. Why don't you go ahead and hold up some fingers and I'll tell you.
Q. I won't change them right away.
A. Three.
Q. Yeah, okay.
Can you read stop signs when you're driving?
A. Yeah, because I don't drive without corrective lenses.

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Q. Oh, because you don't drive actually. Okay.
A. Well, to the extent that I were to drive, and I have even -- just because I don't own a car doesn't mean I don't drive, but I mean, I use -- I don't drive without glasses.
Q. Right.
So you -- so you wouldn't drive without glasses, essentially? Not essentially, you wouldn't drive without glasses?
A. I think it would be irresponsible.
Q. Right.
Do you wear a hearing aid?
A. I don't. I have some, but I don't usually wear them.
Q. So when did you start noticing issues with your hearing?
A. I don't know. A couple years ago maybe. But I mean, I'm not -- I don't have them on now. I don't wear them all the time. I have them, but I don't know that I really desperately need them. I can use them I suppose.
Q. Were you wearing one during the incident?

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A. I don't recall. I don't know.
Q. Were you wearing glasses during the incident?
A. Oh, yeah, I'm sure I was, and I could probably be even surer by looking at that video I told you about.
Q. Do you have any chronic medical conditions?
A. No.
Q. Have you had any major surgeries?
A. No.
Q. Any surgeries major or minor in the five years leading up to the incident?
A. No.
Q. Did you have any hospitalizations in the five years leading up to the incident?
A. I think I may have been admitted for walking pneumonia. They -- you know, they put me in a room. They put me -- hooked me up to an IV with some penicillin and then they kicked me out the next -- that next morning.
I used to have a habit of working myself into a state of complete exhaustion and then sometimes I would get sick.

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So I would kind of work myself into pneumonia and then -- but this was only once in the last five years.
Q. Okay. Any hospitalizations since the incident?
A. No.
Q. Any surgeries or things like that since the incident?
A. No.
Q. So you began seeing a psychiatrist in 2021 or was it 2018?
A. Well, no. I mean, the -- that which might be pertinent to this instance -- instance, I actually was -- I saw a psychiatrist in Erie. I was thinking about this, but I think frankly I remembered that I had a psychiatrist in Erie because they're the only ones who can prescribe, generally, psychoactive medication. So I wouldn't say that that's when -- I had a psychiatrist previously.
Q. When did you start seeing a psychiatrist?
A. I don't even recall.
Q. Did you have --

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A. You know, there was -- the prescription that I got from her was just sort of a garden variety serotonin -- selective serotonin uptake inhibitor kind of thing, you know.
Q. Like deal with depression?
A. Yes, because I have a history of depression.
Q. So you were seeing a psychiatrist in Pennsylvania for a number of years before you leave Pennsylvania?
A. And a therapist.
Q. And a therapist too?
A. Yeah.
Q. Was that to help -- were you seeing a couples therapist or just your own?
A. No, just -- it was just for me.
We had gone to couples therapy with my wife, but she never wanted to do it. She always said that -- that everything was my fault so why should she go.
Q. So you moved here in 2018. Do you begin seeing a psychiatrist and therapist right when you move here?

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A. No, I didn't move here. I just --
Q. You came back here?
A. I returned to Chicago as I would have in any case, but this was different because I had come to the conclusion that I -- that if I stayed in Erie, even intermittently, that it would -- that would be not good. That would be very bad. It was very damaging to me personally.
Q. So you come back to Chicago with no intention of going back to Erie?
A. Right.
Q. Do you begin seeing a psychiatrist and therapist right when you get here?
A. I don't recall the timing. Well, I first -- I came back in the beginning of '19. I didn't really go -- I don't think I was seeing a therapist or a psychiatrist. I was just working, trying to right the ship in 2019. Then COVID hit and then I decided that what I really needed to do was some long, postponed routine maintenance, self-care for myself, physically and mentally.
Q. Did you, like, check into a --

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A. No. I didn't check in anywhere. I got a -- not a psychiatrist actually. I got a therapist, and the -- one of the first things the therapist said to me was that -- he said, so you're depressed, and I said yes. And he said, well, and you drink, and I said yes. And he said, you know that alcohol is a depressant, and I said ahh. So that was his way of saying if you are depressed, you don't drink. That was one of the first things that he said to me. And so I stopped drinking.
And he said, oh, and by the way, while you stopped drinking you may want to think about having a support group so that you don't relapse. And it turns out that this therapist had had a problem with drinking and he joined AA. So he said, you know, what about this, and he said here's a -- I remember this. We were having a meeting, and he said, there is a group that is going to start a meeting in five minutes. Here's the URL. I logged in and I still attend that same group every day.
Q. So when did you starting going to AA?
A. I don't know but I could tell you. I

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think it was --
Q. Was that during 2020 or 2021?
A. 2021, something like that.
Q. Have you had any relapses since?
A. No, no, no. No alcohol, no drugs.
Q. Were you -- did you abuse drugs before 2021?
A. No. I mean, you know, everybody's smoked weed.
Q. Did you ever take cocaine or --
A. No, no.
Q. -- or pills or anything like that?
A. No, no, no, no.
Q. Did you ever have an issue with prescription drugs?
A. No, no, no, no.
Q. So you begin seeing Michael -- is it Michael Swiatkowski? How do you pronounce it?
A. Swiatkowski. He was the psychiatrist and he was the one who -- he would prescribe the antidepressants, which by the way I chose not to take and do not take anymore. At one point we talked about --
Q. Is that against his advice, or did

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he -- there's no longer a prescription for it?
A. No. What happened was I wasn't against his advice. I just decided that I didn't need them.
Q. But he did recommend that you use them?
A. Well, we talked about it but obviously every recommendation is based on a particular context. And I'm not shy about being directly involved in making decisions about my own care. So at some point I just stopped taking the antidepressants.
Q. When was that?
A. I don't know. Maybe a year ago, something like that. I would have to check. And I don't recall exactly what -- I think it's Abilify. I don't even -- there's different kinds.
Q. So you began seeing him in 2021. Is it -- was there a particular, like, event that made you want to go see him or --
A. Well, my therapist -- I think he may have -- we may have discussed it, and we may have talked about medication and whether that

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might be helpful. Because, initially, when I first began this process of recovery, I was in a very -- I describe -- the metaphor I used is it was like being in the bottom of a well, you know.

I'm not sure if you can understand what being in a toxic relationship really means. When you get a steady stream every day of messages which are very negative, and after a while -- and you think that you can resist it, that, you know, somehow you just don't pay attention to it, but what you discover is it seeps in and it becomes debilitating.

Q. Did you suffer any issues with work as a result of your drinking?

A. Absolutely. It's very -- it's very difficult to have -- I always had very robust self-confidence. I was I would say more than self-confident. I was very cocky. By the time I left at the end of 2018 I was -- I was not a very self-confident person at all, and, in fact, I had developed this kind of almost an agoraphobia where I was grateful when the phone didn't ring.

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I used to love to talk to clients. I am back to that now. I have clients and I consider them my friends. I take calls from clients 24/7 because I like -- I like people. I love people.

Q. So in terms of your employment, it's better now than it's been in years?

A. Yeah, because I have recovered back to where I was before I was in this -- in this well. And, you know, the first thing that Andrew said was alcohol is a depressant. AA can be a great thing and it is; a brotherhood or a sisterhood.

But he also -- he also was I think the one who pointed -- suggested that maybe I should talk to a psychiatrist but he -- he did a lot of -- he gave me a lot of really good advice.

Q. How many times would you see him -- well -- so you began to see him in 2021. Have you seen him at a consistent frequency?

A. At least every week, if not -- I think there was a period of time when I -- my finances were really messed up and there may have been a

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period where I saw him every other week for a while. But Andrew has been like the architect of my -- my exit from the well and my recovery, the fact that I'm now basically the person I was before; that I like to see the phone ring. I like to talk to my clients. I have people seeking me out now. I have -- everything is sort of returning to normal in a way that, you know, when -- if you are afraid of your own shadow and you're miserable, it's difficult to function.

Q. So did he arrive at any sort of diagnosis that he shared with you other than depression?

A. Who is he?

Q. Michael.

A. Swiatkowski?

Q. Yeah.

A. I went to him because -- because we wanted to talk about -- I think it was Andrew who suggested that I talk to him because -- whether medication might be helpful. What he did was he -- he -- and you'd have to talk to him. I don't really want to speak for him. I

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mean, but what we did was we talked about what might be helpful, and that was this -- I think it was an Abilify thing.

Q. So he --

THE VIDEOGRAPHER: I'm sorry. Your microphone is rubbing up against something.

THE WITNESS: I am so sorry.

THE VIDEOGRAPHER: That's all right.

BY MR. BECK:

Q. So he prescribed Abilify or some sort of --

A. Some antidepressant.

Q. -- antidepressant?

Did he prescribe anything else for you?

A. Later I actually suggested that -- that, you know -- and I -- perhaps I'm afflicted with too much curiosity about things in general, but I -- I was concerned that sometimes I had mood swings. And so we talked about lithium, a very low dose of lithium. And so at some point, and you would see in the records, and if you talk to him, he would tell you, he wrote a prescription for 150 milligrams of lithium

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carbonate. And so I started taking that, and the reason for that is what they do is they give lithium to people who have extreme bipolar, but the doses are huge comparatively. This was a very small dose.

Q. Have you ever been diagnosed with bipolar disease?

A. No, no. No, no, no. No, what I'm telling you is that this is a drug that is used in bipolar, but what it does generally in a slower or lower -- and this is my understanding, and I'm not an expert. You can talk to the expert on this. But it tends to be, as they say, a mood stabilizer.

Q. So when did he prescribe that?

A. I don't even recall.

Q. Do you continue to take that?

A. I take it every other day now, and the reason is because, you know, even though it's nothing but a naturally occurring -- it's actually a metal, and it occurs in water supplies.

So my theory was that it's probably likely that the people that I'm

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descended from have water supplies over eons that contained a certain amount of -- and, in fact, what they have done is they have studied populations, and looked at their water supplies, and looked at the amount of lithium in what they -- naturally occurring lithium in the water they drink and they calculate in R squared. They run a regression analyses on they're sort of heuristic for mental health. And they find that a certain trace amount of lithium is actually helpful.

Q. Do you have any other medications that you are prescribed?

A. Nothing.

Q. Or have been prescribed?

A. Nothing. I have no diabetes, no diagnosed heart condition, nothing.

Q. So did your visitations with either your therapist or your psychiatrist increase after the incident or have they been steady since?

A. There was -- there was a period of time after the incident when I was struggling with righting the ship, so to speak. I don't

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recall if that was expressed as a function of frequency, but it was just -- it was just what I had to do.

Q. You were not diagnosed with any medication after the incident -- or any additional medication after the incident, were you?

A. I don't recall. I honestly don't recall. If he -- if he -- if anyone said that I should do -- I don't recall.

Q. How long was that sort of a topic that you focused on with these people?

A. I still talk about it.

Q. Okay. So I'm having trouble actually locating these people. Where is -- what is -- where is Michael's office?

A. Swiatkowski?

Q. Yeah.

A. Well, you know, it's funny you would say that because I was in touch with him and talking to him regularly, but, you know, psychiatrists you don't talk to every week.

Q. Right.

A. So maybe every few months. And when

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this subject of this litigation came up, he sort of disappeared. I think he's very anxious not to be involved in it.

Q. Yeah, that's what our process server is saying.

A. Yeah, yeah, yeah, yeah.

Q. So it seems like he's trying to evade service.

A. Yeah, yeah, yeah, yeah. And I apologize for that because I have had the same problem. And so I honestly don't know what we can say about him other than he does -- he seems to be very unexcited about being involved in this process.

Q. Do you know -- you don't know where he lives, do you?

A. I don't.

Q. Okay.

A. All I know is that he's a -- he went to U of C as an undergrad and I did too. And so, you know, that -- we sort of speak a common language, all of us who are afflicted with that.

Q. Do you have any documentation from your visits with him? Because that's another --

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I'm trying to subpoena the records.
A. Everything was online, and I don't know if he kept notes. I imagine he did. And I would have -- of course, I mean, it's --
Q. So there is no way you could facilitate service because he's not talking to you guys?
A. I can't. I've been trying to figure out what happened, and I feel badly because he and I had a very, very wonderful rapport, and I feel badly like maybe he just thought this was going to be so unpleasant.
Q. When did you stop seeing him?
A. Well, I only saw him online.
Q. Well, when did you stop seeing him online?
A. I can't even remember now. It's been months.
Q. Was it after the -- after you told him about the lawsuit?
A. Well, yeah. I mean, because the lawsuit was about -- it was certainly after. I mean, I'm sure I saw him or talked to him. Everything was online after the incident, but he

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has since disappeared.
Q. When you say since disappeared, like since I issued a subpoena or --
A. Well, I don't know when you -- I don't know when you issued a subpoena.
Q. Like a month ago.
A. Oh, no, it was before that I think.
Q. More than a month ago?
A. Yeah. I mean, I don't know. I just don't know what -- it's very strange. Because he was with a different practice, then he had a new practice, then it looked like it was his practice. He's a wonderful professional. I can't recommend him any more highly. He's enormously helpful and compassionate. So I don't doubt his competence. I just think that maybe he didn't want to be involved in the litigation.
Q. How are you getting the lithium still?
A. I take it every other day. I mean --
Q. How are you getting it prescribed?
A. I haven't had -- I mean, I have enough now. I mean, there was enough that, you know, it -- since -- since the time he disappeared or,

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you know, I haven't been in touch with him. I mean, I suppose at some point I will run out, but it's every other day. It's 150 milligrams, you know.
Q. How many -- how many pills were you prescribed?
A. It's just one, and I haven't really --
Q. I mean like did he give you a month's worth of --
A. I have -- I have enough to -- I'm sure I can look at it, but, I mean, I haven't had to go back to him. I mean, you know, and I can get -- I could go and get a different guy to prescribe it. But frankly, I mean, at one point I just stopped. I stopped taking the lithium too because I -- you know, I'm not a professional patient.
Q. When did you -- when did you stop taking the antidepressants?
A. When I -- when I -- I think it was after I came back. I went to -- I hadn't had a vacation in six years, and last November I went to Costa Rica for a week. And when -- after I cam back I said, you know, I don't need this

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anymore.
Q. So at the end of 2024?
A. Yeah.
MR. BECK: All right. I want to go back to the day of the altercation now. Maybe we could take like a five-minute break before you proceed.
MR. BENAK: Sure.
THE VIDEOGRAPHER: Off the record at 1:59 p.m.
(WHEREUPON, a brief recess was held.)
THE VIDEOGRAPHER: We are back on the record at 2:07 p.m.
BY MR. BECK:
Q. So going back to April 21st, 2024, do you remember whether or not you had a plan for the day or any sort of appointments or anything like that?
A. It was a Sunday. I don't think I had any -- I don't recall having any particular plans for the day.
Q. And this -- the incident happened, what, was it 11:00 a.m. or when was it, do you

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remember?
A. It was almost exactly 11:30 I think.
Q. Did you walk Aggie before 11:30 that day?
A. Oh, absolutely. In the morning.
Q. So you walked her one time. Did you walk her more than once or just once?
A. My habit was to walk her first thing in the morning. I have no reason to think I didn't do that on that beautiful Sunday morning.
Q. I imagine you fed her that morning as well?
A. She ate twice a day. Consistent with that habit I would have, but I can't say that I have an independent recollection of that, as I sit here today.
Q. Do you remember what you were doing at your home when she got loose?
A. I went out on the stoop on this sort of porch like area, and you can see it in the -- in the Blink camera. I looked around to see -- I think I was looking to see if there had been a delivery, an Amazon delivery. And then when I didn't see anything I went back in and the

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door -- you can see the door close and I -- but I hadn't turned the -- the lock, and that's when Aggie got out.
Q. So did Aggie -- describe how she got loose. Did she -- did she run into the door with her head to knock it open, or how did -- how did this all happen?
A. No, she just kind of went between my legs and slipped through the -- pushed -- you know, she didn't -- it wasn't -- the door wasn't latched. I mean, it didn't require much effort to open it.
Q. What I'm wondering is had you closed the door and then she opened it by using her body weight, or was it not latched yet or what happened?
A. The door -- if you look in the video which is going to be the easiest and best way for you to understand this viscerally, you see the door close and then you see the door open again and the dog run out, so...
Q. Do you remember why you opened the door a second time?
A. I didn't open the door. She -- the

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door wasn't completely shut and she ran between my legs and out.
Q. So when the door moves back open, that's a result of her body?
A. That's her. She opened -- she pushed it open, and it didn't require a lot of effort.
Q. And after she gets loose, you then run down the stairs, through the gangway, out on the sidewalk and towards her, yes?
A. That's exactly right.
Q. And are you running at a full sprint?
A. You know, we covered this earlier and I told you I ran as fast as I could being a -- at the time a 69-year-old man.
Q. What's going through your mind when she's running from you?
A. That I wanted to get to the corner and separate the dogs as quickly as I could.
Q. When -- when you ran down the stairs, did you believe that she was chasing another dog?
A. I don't know if I knew she was chasing another dog. I think I knew, and I don't recall precisely how I knew, but I think I saw Carmen

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go by with her dog earlier. Somehow I think I already knew that -- that Aggie was interested in getting to the corner because that's where the Corgi was.
Q. So when you went out the door the first time and looked, is that when you saw Carmen walking with her dog?
A. I don't recall.
Q. In any event, you -- as you sit here you seem to remember seeing her and you believed that your dog was chasing her dog when you ran after it?
A. Well, my concern was that to the extent that -- and, again, I don't recall precisely how I knew this or if I knew it, but I think I had some understanding -- I mean, I was very anxious to get to the corner as quickly as I could because, obviously, I didn't want any -- any negative consequences of an interaction between my dog and the neighbor's dog. I mean, she's my neighbor. So I was running as quickly as I could and I did, and as I was approaching the two dogs that's -- I think we went through that in detail earlier.

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Q. Were you worried that your dog was going to hurt her dog?

A. No. I was worried that the two dogs were conjoined and interacting in a way that I did not want to be negative for either her dog or mine, and I wanted to get there as quickly as I could and neutralize and moot any concern that there might be, whether valid or not.

Q. So you were concerned, as you ran down the sidewalk, that a dog, whether yours or hers, could be injured if you didn't get there quickly?

A. I guess. I mean, yeah, I suppose. I mean, the whole idea is to separate the dogs.

Q. So when you got out onto the sidewalk, do you see the dogs at the corner or do you have to get over to the corner first?

A. I don't recall. I just remember running towards the corner. The dogs were right at the corner in the gutter area, and I was trying to get to the dogs. And, again, if you look at the video, you can see this more clearly than I can express just verbally. And you'll also see Carmen step aside and block my direct

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path to the dogs, and then apply her shoulder to me until I fall.

Q. Is this something that -- the shoulder and blocking you, is this something that you believe happened after reviewing the video --

A. No.

Q. -- or did you believe it at the time?

A. No. I remember at the time it was just -- well, first of all, everything happened very quickly. And, you know, we heard Carmen talk about how her adrenaline was up and how -- how traumatic this was for her. It was kind of odd that she didn't think about how traumatic it might be to be on the receiving end. But it was -- I remembered at the time being absolutely gobsmacked and puzzled at the way -- why am I having trouble getting to these dogs? Why is this person in my way? It made no sense. Just as it made no sense to hear this loud bang three seconds later.

Q. When you --

A. So it wasn't that I -- but then I did see the video, and I -- when I watched the video, I remembered and it confirmed to me

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because at the time I remember thinking this can't be happening. Why would this woman be trying to prevent me from getting to the dogs?

Q. So when you arrived at the corner as you were trying to get to the dogs, what were they doing?

A. I don't even remember. I mean, you know, all I remember is I wanted to get to the dogs and separate them. I mean, there was kind of a blur moving around. That's -- you know, I mean, it wasn't like I could see anything in particular, and I certainly couldn't see my dog latched onto her dog's neck. That -- that -- that didn't happen.

Q. So you tried to put your leg in there to separate the two?

A. I remember that my instinct was always -- when you're trying to separate dogs, to try and use your extremities not your hands. Your hands are very delicate. You do not want to have damage to your hands. You put your leg in there, you have got -- you've got a shoe on your foot. You know, worst thing that happens is you've got a bite.

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Q. So you didn't want to put your hand in their because you were worried you were going to get bitten?

A. You never want to put your hand in between two dogs to separate them. To the extent that the dogs are biting each other you have a danger of an injury to your hand. You do not want to have an injury to your hand.

Q. After you go to the ground, you're -- are you on top of Aggie? Are you to the side of her? Describe where you are in relation to Aggie.

A. We went through this before. I was on my right side because after -- after Carmen, you know -- so I was rotating trying to kind of get around her, and as I fell I was able to gather her up and then pull her into my chest, which was -- my instinct was that this is the way to move this situation. I'll have control of her.

Q. How long -- so was that immediate once you went to the ground you were able to pull her towards you right away?

A. All this happened in approximately three seconds. So there couldn't have been a

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great deal of time spent doing I don't know what you're suggesting. Like, did I have to haul her in from some distance, no. I ended up on the ground. She was against my chest. That's where she was when she was shot.

Q. When you were pulling her towards your chest, did it -- I'm asking whether or not your dog was exerting any physical momentum against you, whether or not she was trying to --

A. I don't --

Q. -- get at something else while you were pulling her?

A. I don't recall. Was she resisting me? I don't believe so and I don't recall that she was. And the notion that she was trying to bite me is even more absurd.

Q. So when you were on the ground, you were focused on your dog or the dogs or what?

A. I just wanted to separate the dogs.

Q. Did you see where Carmen was?

A. I wasn't paying attention to Carmen at that point. I was paying attention to getting a hold of my dog.

Q. So you get a hold of your dog and then

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you hear a gunshot?

A. Yes.

Q. And then you look up and that's the first time you see Carmen with a gun?

A. I think so, yeah, because I was focused on my dog. And then I heard this loud bang and then I was stunned and trying to figure out what the hell had just happened.

Q. So you didn't see her pull the gun out and point it and fire it?

A. Well, she unholstered her weapon while I was running to the corner. So the first thing she does, if you look at the video, is un-holster her weapon, which is on her right hip. So did I see that, no, and you can tell that from the video.

I was focused on my dog and getting control of my dog, and I don't think that I was -- it never occurred to me that Carmen Mostek would be lurking, you know, four feet away or two feet away or one foot away with her gun pointed at -- you know, essentially at me because we were -- the two of us were so close together that you couldn't really point at

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one without pointing at the other.

So after the bang I was trying to figure out what had just happened, and I looked down and I saw that my dog was dead, and then I remember looking up and I said to her, oh, you didn't just shoot my dog.

Q. So I know you say you can see it in the video. I'm just asking about at the moment in time that this is all occurring, the first time you learned that her gun was unholstered was after she had fired a gunshot, fair?

A. I guess. I don't recall any -- being aware of it before. And I think if you look at the video, you will see that I come running and I'm focused on the dogs. And she -- she's sort of lurking over. She steps in front of me as I'm trying to get to them, and then as I'm laying on the ground, she steps up and shoots with one hand off balance.

Q. And when you heard the gunshot, you then search -- you search your dog's body because you didn't know where your dog had been shot initially, right?

A. I am haunted by the fact that I looked

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down at my dog and all I could see was that eye open and not moving. And at that point I realized that -- that looking for an entrance wound was probably going to be futile because she was quite dead.

Q. What I'm saying is when you -- when you heard the gunshot and then you looked at your dog, you initially did not know where your dog had been shot; is that a fair characterization?

A. I had -- my first -- I remember having the thought that well, quick, check and see where she's hit because, you know, maybe we can take her to the vet, and it will be okay. And then it was pretty clear, you know, that was not gonna happen.

Q. After you realized that your dog had been shot, did you move your dog at all?

A. No. No, the dog was dead.

Q. So the photographs that you took of your dog after the shooting represent the exact spot and the exact orientation of her body?

A. No. The photographs I took are the photographs I took, and I did not move her

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dog -- my dog.
Q. Did you change her orientation or --
A. I did not move my dog.
Q. So eventually police arrive on scene, but you did not want to cooperate with them?
A. I didn't -- I did not have -- listen, I am a lawyer. And for 30 years I have been telling people that nothing good can talk -- can come of talking to police; that it's like a game of cops and robbers and the police are basically trying to -- trying to, you know -- trying to -- trying to tag you with it. It's like a game of tag, and they want to tag you with something, so nothing good. And to the extent that you're innocent, you really don't want to talk to them. And so I have a policy --
Q. So you think --
A. -- of not talking to police, and the -- the vibe I got when these people were arriving on scene was not a particularly good one, especially when I realized that she -- that Carmen was doing -- had done this and that she's a cop, and next thing -- and I knew that this was all gonna be the code of silence. And so I

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was not going to give them a statement because I knew that it would be -- it was just gonna -- it would be -- it would be -- it would -- it would be shredded. It would be manipulated. It would be misstated, mischaracterized.
But there was one thing that I wanted them to know, and that was you're not gonna want to give your fellow cop a pass on this because she shot the dog while I was holding it. And I made that very clear. That's all I had for them, and that should have been enough to prevent what happened with respect to the bullshit that they published to the media.
MR. BECK: All right. I'm showing you Defendant's Exhibit 2, which is a group of pictures.
THE WITNESS: Okay.
(WHEREUPON, Maynard Deposition Exhibit No. 2 was marked for identification.)
BY MR. BECK:
Q. Does this picture -- so you've got how many pictures here?
A. I've got --

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Q. Three?
A. Three. These are pictures I think I took.
Q. Yeah.
Do these pictures accurately reflect the location and orientation of your dog when Carmen fired her weapon?
A. Well, the dog didn't move after she shot the dog.
Q. So your dog was like --
A. I -- no, no. The dog was dead. The dog did not move herself after she shot the dog, and I didn't move the dog, and to my knowledge no one else did. And this is consistent with what I remember about where the dog was.
I was lying -- you see, when I told you this in detail I was on -- she's on her right side. I was on my right side right next to her kind of like -- almost like spooning her.
Q. And your head was -- was it --
A. I said my head was --
Q. -- even with her head?
A. It was right within inches of her. You see where her eye is?

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Q. Yes.
A. Okay. When I -- after she shot I raised up a bit up and that's the first thing I saw was that eye that wasn't moving. The entry wound is in her ear.
Q. So would your -- would your head have been basically where that pool of blood is beyond her head near the -- you see the pool of blood right near the blue sheet?
A. Yes. But you see that next to her -- her head there is no pool of blood?
Q. Yeah. So I'm -- so you're -- you were down below that then, below the pool of blood or where?
A. Well, first of all, the pool of blood is a moving target. So you got to give me some context here.
Q. Yeah, I get it.
A. Where I was when the dog was actually shot has absolutely nothing to do with the pool of blood because the pool of blood is something that occurred after she was shot --
Q. Right.
A. -- and she began to bleed out. So I'm

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really having trouble --
Q. I'm just trying to understand where you -- was your -- were you --
Was your head basically where the pool of blood is now after the --
A. If my head was right next to hers, do you notice that there is a space with no blood in it?
Q. Yeah.
A. Okay.
Q. So it's -- and that's --
A. That would be the space right next to her head, right?
Q. Yes. So basically --
A. And that's where my head was.
Q. Okay.
A. There is no blood in the space between those two puddles, right?
Q. Okay. So your head was in the space between the two puddles of blood?
A. My head was right next to hers. I had her in my arms. I had pulled her up against my chest and her head was right here, okay.
Q. Yeah. So your --

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A. My head was right next to hers. The space in this photograph right next to her head does not have a puddle of blood, does it?
Q. Well, there appears to be a puddle of blood actually right on the other side of her head, and I am wondering was your head in between the two puddles of blood.
A. Again, my head was right next to hers when she was shot.
Q. Okay.
A. When she was shot there was no puddle of blood --
Q. I understand that.
A. -- anywhere. It occurred after the fact, and it was something that occurred over time. It didn't just appear magically. So I don't know where you're going with this, but my head, as I have said before, was right next to hers when she was shot.
Q. And then your arms are around her chest above her top set of arms or below her top set of arms? Her front legs.
A. I don't recall that.
Q. Okay.

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A. All I know is that I had my arms around her and I was holding her against my chest.
Q. And are you, like, leaning up or are you entirely on the ground on your side?
A. I was -- this was not a tableau where everyone was holding still. This was a constant sort of movement. I ran, I was blocked, I was falling, I reached out, I grabbed the dog, I pulled the dog in, I held the dog tightly against me to sort of make sure that there was no possibility of any further issues, and I heard a loud bang. I looked down, I saw the eye, I thought well, maybe she's not dead, I don't know. I thought about looking for an entrance wound.
During that time I suppose there was blood that was flowing out. You can see there's quite a bit. But, you know, it's a -- it's a process. It's a -- there is flow here. So I can't -- I can't give you a photograph.
Q. I understand.
When you grabbed your dog

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initially, where was Carmen's dog, to the best that you can tell me?
A. I don't recall that Carmen's dog was anywhere near. I don't recall that Carmen's dog was an issue. I just remember that I was grateful that I was able to get my dog, pull her in and that was the end of it, as far as I was concerned. Because I remember thinking, okay, this is now neutralized. Anybody who has any concern about what's going on with these two dogs should now stand down, and that's why I was so stunned when I heard this loud bang. It just didn't make any sense.
Q. I think you said -- initially said the loud bang, you thought it was some other thing in the neighborhood. You didn't know what it was initially, right?
A. I don't know why but I thought to myself it must be something two blocks away because it couldn't have happened here. No one would fire a shot under these circumstances with me in the line of fire. Unfortunately, I was wrong.
Q. When was the first time that you spoke

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with your attorney, Mr. Benak?
A. I don't recall.
Q. You guys are friends though, right? So my point is you didn't -- you weren't given his name, you knew of him before?
A. I practiced law with him once.
Q. How many times did you speak with him before he drafted the complaint that you filed in this case?
A. I don't understand your question.
Q. Who drafted the initial complaint?
A. We both did.
Q. How many drafts did you go through until you filed the complaint?
A. I don't know.
Q. How long or how many days had you been coordinating with Mr. Benak before you filed the complaint, to the best of your knowledge?
A. I don't know.
MR. BECK: I'm handing you Exhibit 3.
(WHEREUPON, Maynard Deposition Exhibit No. 3 was marked for identification.)

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BY MR. BECK:
Q. Do you recognize this document?
A. This looks like the initial complaint. Let me just look at the date it was filed. Yes.
Q. This is the complaint that you and your attorney drafted?
A. This is the complaint that was filed on May 3rd, 2024.
Q. Did you review this complaint to make sure that it contained the truth and nothing but the truth?
A. I reviewed the complaint to make sure that it was accurate and relatively, yeah, complete.
Q. And is it accurate and relatively complete?
A. I think so.
MR. BECK: I'm handing you Exhibit 4.
(WHEREUPON, Maynard Deposition Exhibit No. 4 was marked for identification.)
BY MR. BECK:
Q. Do you recognize this document?
A. Yes, this is the amended complaint.

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Q. And did you and your attorney draft the amended complaint together?
A. Well, he -- it's a -- the document speaks for itself. He signed it and I signed the verification. So I don't know what you want me to say.
Q. Does this contain the truth and nothing but the truth?
A. It's a complaint. It contains allegations. Sometimes you allege on information and belief. Sometimes you allege -- the truth and nothing but the truth is a different standard that applies in criminal trials.
Q. Well, when you allege on information and belief, you actually say on information and belief, don't you?
A. Yeah, but -- okay. So what's your problem then with this complaint?
Q. The factual allegations in this document, are they accurate?
A. I believe they are, yes.
Q. And you amend -- and you amended the complaint to add a count for defamation, yes?

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A. Yes.
Q. What was it that she said about you that was false?
A. Well, let's look at it this way. After this event I've got Erin Edmister telling me that he's called her and Pete, the guy who lives on the first floor in her building, and everyone in a, you know, 150-yard radius to bad mouth me, talk smack about me and to bolster her position because she's realized, apparently, that she did something really, really fucked up. And now she's working the phones and trying to cover it up as much as she can.
And so I get -- I get the blow back from Edmister about that, and then I've got my landlady saying I've got two weeks to move out, and she doesn't know me from Adam. I'm a person who pays my rent. I don't make noise. I don't get in trouble with anybody or anything, everybody loves me, I am friend of man.
Q. So --
A. Except people who try to shoot me in the face.
Q. So basically she said you had a Pit

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Bull that was dangerous which attacked her dog and that --

A. I don't know what she said. I didn't hear it. All I know is that my landlady said I had two weeks to move out, and then she said I had two days to move out.

Q. Well, you added a defamation claim saying that she spread lies about you --

A. Uh-huh.

Q. -- and I'm asking what those lies were.

A. That I kept a vicious Pit Bull in a yard. That I was responsible somehow for this terrible event that occurred. I mean, look, it's a -- it's a -- it's a complaint, okay.

After the shooting to cover up her misconduct and intimidate Plaintiff into silence, Mostek made multiple false statements about Plaintiff. She intentionally and maliciously sought to punish Plaintiff for --

Q. What were those false statements?

A. That the incident that was her fault was all my fault, okay.

Q. What other false statements?

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A. That I was -- that I was at fault and that I was a bad tenant and my landlady should kick my ass out because I was a bad tenant. That everybody in the neighborhood should know that this incident was my fault because I was a bad person, and my dog was a bad dog, okay.

Q. So your issue is that she said your dog was a bad dog, you were a bad person and that you should be kicked out of the -- out of the apartment?

MR. BENAK: I think that mischaracterizes his testimony, Counsel.

MR. BECK: Well, I mean, I'm not trying to. I am -- it's -- I am just trying --

BY MR. BECK:

Q. What were the false statements that she said about you?

MR. BENAK: I think he already told you three or four. But go ahead. Repeat them, Kent.

THE WITNESS: Well, let's see. I mean, you know, you produced some documents in discovery, you know, where Carmen is referring to me as a jagoff, how is that? Does that sound

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pretty good to you? Do you like being called a jagoff?

BY MR. BECK:

Q. Is that -- is that one of the false statements that you are claiming your defamation count is depending on?

A. Well, I mean, I don't know if you noticed in the documents you produced to us that she's quoting as someone in FOP referring to me as a total jagoff, and she's doing it in a communication to Sergeant James Butler who is sworn to serve and protect the citizens of the City of Chicago, and he thinks it's just fine.

Q. So your defamation count is --

A. He doesn't say --

Q. -- based on the fact that she's --

A. -- why are you calling Maynard a jagoff and why would you say that he made a fool of himself because he was upset because you shot his dog.

Q. So can you think of any other false statements that she said to you -- said about you?

A. I don't know. I don't know. You

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think -- maybe you think I'm a jagoff. Maybe I am. But I take exception to being called a jagoff.

Q. So --

A. And I consider it defamatory.

Q. Okay.

A. And I also think that when somebody talks to somebody's landlady who has never had a peep of protest about anything for months after month after month, and suddenly I've got to move out in two weeks or two days, I got to wonder maybe if there's a loathsome disease in there.

Q. So she --

A. Something -- something isn't right.

Q. So she called you a jagoff to a sergeant, and then she told the landlady that you were living there without -- or that the place was being subletted and that you had a dog, fair?

A. I don't know what she told her. How can I testify under oath as to what she said to somebody? I'm not her.

Q. Well, then how can you actually have a defamation count?

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A. Because it's a reasonable and natural consequence of a communication between her, which has been corroborated by -- by Mr. Edmister, that is there --
Q. What did she tell --
A. -- a reason why the landlady -- and by the way --
Q. Well, what did she say that was wrong?
A. -- you produced documents. You produced the communications between her and the landlady.
Q. She --
THE COURT REPORTER: One at a time.
BY MR. BECK:
Q. She told the landlady that Erin was subletting the apartment to you; is that --
A. I don't --
Q. -- true?
A. I don't know. I just told you I don't know. And so if you think that I can't allege a count for defamation because I don't know the exact words that she used --
Q. Well, I'm not asking for the exact words. What was the lie? What are the lies

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that she told?
A. That this --
Q. You're a jagoff, I get that. What else did she say?
A. This incident was all my fault.
Q. Okay. Were there any other lies that she told?
A. I don't know. I do know that the landlady gave me two weeks to move out and then gave me two days to move out.
Q. Did you --
A. And I'm -- maybe I am old fashioned, but that somehow seems like it might have something to do -- there might be a causal link there.
Q. Did you ever move out?
A. I -- because I'm a lawyer and I knew that it would not be possible to kick me out without --
Q. So the answer is no?
A. No, I have not moved out. And then I think what happened was, and I told you earlier, that when the surveillance video came out everyone looked at it and said holy shit,

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everything she said was a lie.
Q. Speaking of which, you looked at the surveillance video to see who destroyed your memorial too, right?
A. No.
Q. You didn't?
A. No.
Q. You didn't ask -- you didn't ask the neighbors to look at the surveillance video -- or the Ring video after your memorial was destroyed?
A. Ask who?
Q. The people who produced the Ring video in this case.
A. What people?
Q. Did you ask them -- what?
A. What people? Who?
Q. The people you spoke with.
A. What people I spoke with?
Q. Are you really playing stupid right now? You spoke with people and asked whether or not you can see -- whether or not they had video footage of the incident, yes?
A. I spoke with people? Who are you

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talking about?
Q. Neighbors.
A. I didn't -- I don't -- look, when you use the term "people," okay, you need to be a little bit more specific. What is it you want to know?
Q. Did you speak with a neighbor to see her Ring camera footage --
A. With the intent of finding out who did something to the memorial?
Q. Yes.
A. No.
Q. Now, you are aware that Carmen told your landlord that Erin had been subletting the apartment to you, right?
A. No. I am not aware of anything she said to the landlady. I am aware of pieces of paper that you produced in discovery which suggest that she said a lot of stuff and that the landlady then decided that I should leave. That's what I'm aware of. How can I testify what about she said?
Q. Great.
Was Erin subletting the

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apartment to you?
A. Erin sublet this apartment to me, yes.
Q. And did you have a dog that was part Pit Bull?
A. I had a dog. I can't testify that the dog was part Pit Bull. I have some belief that it was a pittie mix.
Q. Well, let's go back to Exhibit 1. Please pull Exhibit 1 back out.
A. Look, I'm not disputing. Every dog at this -- at this facility -- I just told you earlier. I said the nice, you know, suburban dogs, they all end up in Hinsdale in minutes.
Q. So if you look towards --
A. What's left are the pittie and pittie mixes.
Q. So --
A. Those are the ones that are about to be euthanized, and they wanted me to take this dog because they liked her and thought she was a good dog.
Q. So when you --
A. And you know what --
Q. So when you look before the signature

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of the adopter there is a -- there is a box that says breed. What is that breed?
A. You know what, this is a document that speaks for itself.
Q. I'm asking you a question. What is the breed?
A. I don't know. But you know what, I will stipulate that I can read the human -- the English language.
Q. Is there a reason you don't want to answer my question?
A. No. It's just stupid. It's -- you know, you can make the same argument. You have your document. Why do you need me to be -- act as your parrot? Okay. Charlie McCarthy. You've got the document, Counsel. You don't need me to read it for you.
Q. Well, I'm asking you, what does the breed say?
A. I don't know and I don't care.
Q. You can't --
A. Because this is stupid.
Q. You don't know what it is?
A. Where?

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Q. Below the signature of adopter there is a box that says breed, and I'm simply asking you what the breed is listed as.
A. AM Pit Bull Terrier/Mix.
Q. Thank you.
A. Isn't that completely consistent with everything that we have said all freaking day? We said she was a pittie mix.
Q. You know, and I apologize if my questions aren't up to your standard. I'm not as good of a lawyer as you, apparently. So just please bear with me and we will get through this a lot faster.
So the landlord never ended up evicting you. Was there any period of time during which you were not allowed to live there?
A. How would that happen?
Q. Is the answer to that no?
A. In the County of Cook, there is only one person who can physically remove someone from an apartment, and that guy -- he's got a badge. He's called the sheriff.
Q. We all know that you understand the law. Was there a period of time during --

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A. So the sheriff never came and never removed me physically.
Q. Okay. So was there ever a period of time during which you were never -- not allowed to live in that apartment?
A. Not that I would claim as damages, no.
Q. Now, you mentioned that someone from the community organized a memorial for your dog?
A. No, I did not. I said that one of the neighbors apparently, before anybody did anything, she -- she lives down the street -- she left some flowers on the -- on that spot. And then other people started adding things. And then eventually there were a lot of people who added a lot of things. And at some point I -- I added her collar and her leash and a photograph.
Q. When did you remove her collar?
A. I don't know. I never removed her collar. Someone took it and I never -- I haven't seen it since.
Q. I thought you just said you put her collar at the memorial?
A. What do you mean when did I remove her

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collar?
Q. From her.
A. Oh, you mean from her body when she was lying on the pavement dead?
Q. Yeah.
A. I don't know. I don't recall that detail. What, like I have a specific recollection of removing her collar the day that someone had shot her?
Q. I am asking you questions and you are acting like I am accusing you of things.
A. No, I am acting like it's a pretty stupid question.
Q. Okay. Do you remember when you removed her collar?
A. No.
Q. Was her collar on when she ran to the corner?
A. I believe so.
Q. Okay. Was that a stupid question?
A. Well, I don't know what it has to do with anything, frankly, but --
MR. BENAK: Kent, just answer the questions --

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THE WITNESS: All right.
MR. BENAK: -- and we will get out of here, okay?
THE WITNESS: Yeah, I'm sorry.
BY MR. BECK:
Q. Did you see the people put up the memorial?
A. No. I just told you it was apparently the woman down the street left some flowers and then other people left things. Ever day I would walk by and I would see there is more stuff there.
Q. At some point someone took the memorial down?
A. Not just once. I think it was twice or three times, and everything -- and then -- then I went and looked in the garbage because some of the things were gifts that people had given me, like little figurines of dogs and --
Q. Did you see who took the memorial down the first time?
A. I didn't see who took the memorial down ever. I have no idea who did it.
Q. After it was taken down the first

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time, someone put it back up?
A. It -- it was reconstructed after the first time it was taken down.
Q. Do you know who put it up the second time?
A. No.
Q. And then you say someone took it down a second time?
A. I think so, yeah.
Q. Was it put up a third time?
A. I think that's right.
Q. Do you know who put it up the third time?
A. No. It was like there were different people.
MR. BENAK: Kent, you have answered the question. Okay.
THE WITNESS: Yeah. I'm just getting sick of this shit.
BY MR. BECK:
Q. Do you know if there was something that spooked your dog before it ran outside?
A. No.
Q. Was she acting abnormal inside at all?

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A. No.
Q. Describe how she got through your legs, right? How were you standing?
A. I don't recall.
Q. But you're -- you remember the dog ran through your legs and nudged open the door and got outside that way?
A. I don't know if she ran through my legs. I presume that given the position of my position and her position that she might have run through my legs, or she could have just run around. I don't know. The point is she got through the door.
MR. BECK: All right. I'm going to play a video for you now. So I'm not going to use certain exhibits, so there is going to be just sort of a jump -- or what number are we on, I guess?
THE COURT REPORTER: 4.
MR. BECK: What exhibit are we on? This is Maynard Exhibit 8. I'm just going to leave it at that.

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(WHEREUPON, Maynard Deposition Exhibit No. 8 was marked for identification.)
THE VIDEOGRAPHER: Are you turning the TV on?
MR. BECK: Yes.
THE WITNESS: Do you want me to move the screen, Pete?
THE VIDEOGRAPHER: Do you want to go off the record?
MR. BECK: Yes, can we go off the record for a minute?
THE VIDEOGRAPHER: Off the record at 2:42 p.m.
(WHEREUPON, a discussion was held off the record.)
THE VIDEOGRAPHER: We are back on the record at 2:44 p.m.
BY MR. BECK:
Q. So, again, I understand that we should be on Exhibit 5 but I'm going to show you what is labeled as Exhibit 8 and then ask you some questions, okay?
A. Uh-huh.

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(WHEREUPON, video played.)
Q. All right. Let me back up. Now, I just paused it at 7 seconds. We see two blurs on the sidewalk, right?
A. Uh-huh.
THE COURT REPORTER: You have to answer.
THE WITNESS: Yes.
THE COURT REPORTER: Thank you.
BY MR. BECK:
Q. Can you tell which dog is yours?
THE VIDEOGRAPHER: I'm sorry, sir. If you could please put your microphone back on.
THE WITNESS: Oh, I'm so sorry. I'm messing -- all right. Here we go.
MR. BENAK: Can you designate the time on the videotape, Counsel?
MR. BECK: 7 -- I stopped it at 7 seconds and it's Exhibit 8.
THE WITNESS: 7 seconds, okay, into this. All right.
Yeah, this is -- this is Aggie and this is the Corgi.

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BY MR. BECK:
Q. So Aggie is on the right and the Corgi is on the left?
A. Yes. You can tell because the -- Aggie is slightly larger than the Corgi, and the Corgi has kind of got short legs.
Q. Okay. I'm going to continue playing it.
(WHEREUPON, video played.)
Now stopping it at 12 seconds. In that clip we see your dog pursuing her dog, would you agree?
A. Pursuing, I don't know. She -- she -- yes, she engages her.
Q. Her dog is running away from your dog, and your dog is running toward her dog?
MR. BENAK: Objection.
THE WITNESS: I don't think her dog is running anywhere. I don't see her dog running away. Go back.
MR. BECK: Okay.
(WHEREUPON, video played.)
BY MR. BECK:
Q. Would you agree that her dog is moving

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away from your dog, and your dog is moving towards her dog?
A. Yeah.
MR. BENAK: Objection, the tape speaks for itself. Go ahead.
THE WITNESS: Yeah, I think it -- you know --
THE VIDEOGRAPHER: Sir, your microphone.
THE WITNESS: I don't think that I can make it any clearer than it already is. I mean, I'm not in this picture here so I am relying on the video, and you can interpret it as you wish. I don't -- you know, I think that this speaks for itself.
BY MR. BECK:
Q. Do you agree that your dog is moving away from her dog or do you dispute that?
A. That my dog is moving away from her dog?
Q. Yeah.
A. I agree that the video seems to show these two dogs moving, yes.
Q. Do you agree that it seems to show

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your dog moving away from her dog, and her dog moving towards your dog?

A. I don't know. I just agree with whatever it shows.

Q. I'll play it again for you.

(WHEREUPON, video played.)

Do you agree that her dog is moving away from yours and yours is moving towards hers?

MR. BENAK: Same objection.

THE WITNESS: Yeah.

MR. BENAK: Go ahead and answer, Kent.

THE WITNESS: I just -- all I know is I'm looking at this and there is two dogs. I agree that it looks like my dog engages her -- her dog. I agree with that.

(WHEREUPON, video played.)

BY MR. BECK:

Q. I'm going to pause it at 21 seconds. Do you see the dark colored -- there's like a dark color and then a light color, right?

A. A what?

Q. So the two dogs appear to be intertwined. One of them is a darker shade and

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the other one is a lighter shade. Would you agree?

A. No. I don't know. I could see there's two shapes there. I am not sure what you're asking me here. What are you asking me? I see there's two shapes.

Q. Does the -- does the dark shape appear to be on top of the light shape?

A. I don't know. I mean, I see there's two dogs it looks like. I mean, we think they are dogs, right. And there is this dog that seems to be on its feet and then there is another dog beneath it.

Q. Do you know which dog is which?

A. Yes. I think the top -- this one is Aggie and I think that one is her Corgi. (Indicating.)

(WHEREUPON, video played.)

Q. Now, you're arriving on scene. When you -- when you got to your dog, did you -- do you remember where her dog was or do you just -- you just saw your dog at this point?

A. I have no idea what you're asking me.

Q. Did you see what the dogs were doing

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to each other as you approached them?

A. I'm -- this is me, right?

Q. Right.

A. I'm trying to get to these dogs. I don't know what I can see. All I know is that I -- I can see there's two dogs, or there is a -- at least my dog, I can certainly see her. And I'm going to get to this dog and I'm gonna -- gonna grab her.

Q. So you don't know what your dog is doing to the other dog at this point in time?

A. We're talking about literally like seconds here, and how would I be able to see, what, through my dog? I don't know. I don't know what you're saying.

I'm trying -- I'm trying to help you here but I can't. I'm just -- this is -- we are talking about a matter of seconds and I am running as fast as I can to get to my dog. There is my dog.

Q. Okay. So your dog could have been biting her dog right now, but you would not know?

A. Yeah, except that there was never any

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bite marks on the dog's neck.

Q. Is the answer to my question yes?

A. You know, I could be, you know, Santa Claus. Yeah, I suppose.

Q. You had -- so you would agree if there were any marks on her -- on the dog's neck that your dog was actually biting her dog?

A. No. I would agree that I was running to get my dog.

Q. But you just said your dog didn't bite her dog because there were no injuries to her dog. The converse of that then --

A. No.

Q. -- would you agree that your dog did bite her dog if there were any injuries?

A. No, no, no, because --

Q. Why is that?

A. -- that's post hoc, ergo propter hoc. It's a fallacy. There could have been other -- I mean, we have to be disciplined here.

I'm running. That's my dog. I'm trying to get my dog. I wasn't -- this was literally seconds. I'm running as fast as I can. I am not able to stop and focus and say

what is happening here because, first of all, it's all a moving -- it's a moving target.

Q. Right.

So you're running towards your dog, which is on top of her dog, and you're focused on splitting the two apart at this point, yes?

MR. BENAK: I'm going to object to lack of foundation.

THE WITNESS: Yeah.

MR. BENAK: The exhibit speaks for itself. Hang on, Kent. Let me object. Go ahead.

THE WITNESS: You know, it looks like her dog is below my dog. Yes, it does look like that, but I was running. I'm not a witness to this. I'm just telling you I was running. I wanted to grab my dog.

MR. BECK: Right.

THE WITNESS: I didn't see what was happening in any great detail.

(WHEREUPON, video played.)

BY MR. BECK:

Q. It's your testimony that right here at

about 39 seconds --

A. I'm trying to use my leg.

Q. You're trying to use your leg to separate the two?

A. And notice how this dog that you claim is beneath my dog being mauled to death has apparently gotten up and is moving away. And that's why there's a space where I can put my leg. So if this dog had locked onto this dog's neck, then why the heck is this dog moving up and away?

Q. Well, when you -- when you put your leg out to separate the dogs, the two dogs were engaged, yes?

A. There's a space here. There's daylight between the dogs, and here she is. She's already drawn her pistol. She has it in her right hand. She is holding it like this and she is now putting her shoulder into me. That's why I'm struggling to get around her to get to the dogs.

Q. So why are you trying to put your leg in between the two?

A. We went through this in detail

earlier. Because when -- my understanding is that the best practice when you are trying to separate dogs that may be fighting, you use whatever you can other than your hand.

And here I'm trying to get my foot in between them so that I don't get my hand injured if there -- if they are, in fact, biting each other. But there is daylight here. If this dog had locked onto this dog's neck, they would still be conjoined. Instead, I'm running -- I'm running around here and this dog is already up and moving away.

THE VIDEOGRAPHER: Mr. Benak?

MR. BENAK: Yes.

THE VIDEOGRAPHER: Could you please move back a little bit?

MR. BENAK: How's that?

THE VIDEOGRAPHER: Thank you.

MR. BECK: All right. We are done using the video.

MR. BENAK: By the way, my back might be my best side, sir.

THE WITNESS: You don't -- you don't want to show the incident when she pulled the

trigger?

MR. BECK: All right. I'm going to hand you --

MR. BENAK: Kent, just wait for a question, please.

THE VIDEOGRAPHER: Would you like to go --

MR. BECK: I guess should we put the thing back on there?

THE VIDEOGRAPHER: Yeah.

MR. BECK: Off the record.

THE VIDEOGRAPHER: Off the record at 2:53 p.m.

(WHEREUPON, a brief recess was held.)

THE VIDEOGRAPHER: We're back on the record at 2:54 p.m.

MR. BECK: I am handing you what has been marked as Defendant's Exhibit 10.

(WHEREUPON, Maynard Deposition Exhibit No. 10 was marked for identification.)

BY MR. BECK:

Q. This is a report that documents a

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phone conversation that you had with a COPA investigator. Please take a moment to read through the document and let me know when you're finished.

A. Okay.

Q. Is there anything in this report that is inaccurate?

A. I don't have time to read through everything. I'm not gonna do that. I mean, this document speaks for itself.

MR. BENAK: Just read through -- Kent, just read through it.

THE WITNESS: All right.

MR. BENAK: Take your time.

THE WITNESS: Do you have a pen?

No. I mean, could I borrow your pen?

MR. BENAK: Sure. Don't mark on the exhibit, Kent.

THE WITNESS: I'm not going to. I'm just -- well, some of these facts I can't -- I can't say are accurate or inaccurate because these are --

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BY MR. BECK:

Q. I understand. I'm just asking about stuff that you know is inaccurate.

MR. BENAK: Well, I think that's an unfair question, Counsel, and I'm going to object to it.

THE WITNESS: Yeah, I --

MR. BENAK: You can answer it the best you -- just read it first and then answer it as best you can.

THE WITNESS: Yeah, I don't have a -- I don't dispute any of the factual statements.

BY MR. BECK:

Q. Okay. I just want to go through a few of them and ask some follow-up questions.

Now, in the first paragraph the last sentence says "Maynard also stated he would not provide COPA with a recorded statement but wanted to speak informally with the present investigators." Did I read that correctly?

A. I think you did.

Q. Is that accurate?

A. I don't recall what I stated.

Q. Well, why is it that you didn't want

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to speak with COPA on the record?

A. I did speak with them on the record. They made this memorandum. They were entitled to take notes but I didn't want to have it -- I don't recall. This was a day after I think or within a day or two, and I was suspicious. I didn't really -- I didn't know who COPA was at the time. And it was only after I began talking to them that I realized that I felt I could trust them. Jeanne Goodwin kind of inspired confidence, quite frankly, and -- but initially I wasn't even willing to talk to them.

You can understand that I was --

MR. BENAK: Kent, just answer the question, please.

THE WITNESS: Okay, sorry.

BY MR. BECK:

Q. I'm just trying to locate this statement.

A. It's 10.

MR. BENAK: Yeah, I got it.

BY MR. BECK:

Q. All right. Well, it says in here "He

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was deeply upset about the media account of the incident in the media. He stated that he would provide COPA with his written response to the media account, as well as photographs of Aggie to dispute her depiction as an aggressive dog bred for violence."

Did anyone help you with the written response that you provided?

A. Well, there were -- I mean, there was a written response that I drafted almost immediately to preserve my recollection and that's been produced to you in discovery. And it takes one of the accounts and it responds to it line by line. That's what this is referring to.

Q. Yeah. Did anyone help you draft that response?

A. No.

Q. All right. It says, "There is a shared small yard common to both buildings that both dogs use. Officer Mostek's dog's scent seemed invasive to Aggie." Again, you're referring to the pooping in the yard --

A. Yeah.

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Q. -- is that what you're talking about there?
A. That was that backyard, yeah.
Q. "They socialized the dogs a few times together in the yard but they really did not take to each other." Again, we have covered this. This is just their body language and --
A. We tried. We tried. I know I tried.
Q. "Maynard stated that he immediately broke up the dog fight by diving into the street and grabbing his dog, therefore separating them." Did I read that correctly?
A. I think you read it correctly.
Q. What is it that led you to believe that the dog fight was over at that point in time?
A. You're asking me is this an accurate statement?
Q. I'm asking you --
A. You read it correctly. This is a report that was prepared by Jeanne Alyse Goodwin. Now you want to ask me if this is an accurate statement?
Q. No. I'm asking you what led you to

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believe that the -- that the -- that you had broken up the dog fight?
A. Based on what? Based on something that someone else said?
MR. BENAK: Before you answer that, Kent, can I ask you where you're reading from, Counsel?
MR. BECK: So if you go to the fourth paragraph. It's on Page 1, the bottom paragraph.
MR. BENAK: Okay.
MR. BECK: The third sentence.
MR. BENAK: Go ahead. Then ask your question if you still have a question after his response. I'm with you now.
BY MR. BECK:
Q. So it says, "Maynard stated that he immediately broke up the dog fight by diving into the street and grabbing his dog, therefore, separating them."
You know, we're -- this sentence says that you told the investigators that you immediately broke up the dog fight by diving into the street, grabbing your dog and

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separating them. What is it specifically that led you to believe that the dog fight was broken up? Was it just that -- the physical space between the two dogs?
A. This is a statement that Jeanne Goodwin made, but I will now assume that you are asking me to endorse or not the statement. Did I immediately break up the dog fight by diving into the street and grabbing my dog? The answer to that is yes --
Q. All right. So --
A. -- to the extent that I could do that, notwithstanding the fact that your client was trying to block me. Then did I separate the two dogs by doing that? The answer is yes. So yes. And if you look at the video that you were showing me, you can see that.
Q. So before you dove onto the -- your dog, your dog was engaged physically with Buddy?
A. We can see in the video that there -- the dogs are at various points in contact with each other. We see that I come on the scene, that I try to insert -- you can see some daylight between the dogs and you can see me

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trying to insert my leg in that space.
Q. And then you dove on --
A. And then you stopped the video.
Q. And then you dove onto the street, grabbed your dog, therefore, separating them. So your dogs were not separated until you went down into the street?
A. That's not --
MR. BENAK: Objection. That mischaracterizes the witness' testimony. Go ahead.
THE WITNESS: Yeah, I mean, this doesn't say the dogs were conjoined at all times before this occurred. It just says that -- that by -- that I separated the dogs when I did this -- this -- when I dove onto my dog. And that's -- you know, I mean, it is what it is. It says what it says and the video is what it is and it shows what it shows.
BY MR. BECK:
Q. Now, I don't want to have to do this, but you already said this is accurate. That includes the statements that are attributed to you in this report, right?

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So everything that -- every statement in this report that's attributed to you, you agree that you made those statements, or you don't at least know of any ones that you didn't make?

A. Okay. Then let's clarify. You asked me if these -- if I -- if I took exception with the factual averments in this -- in this report. And so I looked at those statements, which may or may not have been attributed to me, and I went through each one. And I did not have -- or did not dispute them.

Q. Okay.

A. Whether I said them or not, I do not have a present recollection, as I sit here today, of what precisely I said to them when they called on me, but I presume that I said this to them because that's how it ended up in the report, but that's a different matter.

I do not dispute with the fact that I jumped on my dog, I grabbed my dog, and that at that point the dogs were separated. That is something that I can see in the video.

Q. So did you see Buddy escape when you

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separated them or did you see -- where did Buddy go?

A. You know, I honestly don't know because I was focused on getting my dog, grabbing her, pulling her towards my chest. I was lying on my right side. I had just been pushed to the ground, and my main concern was to get a hold of my dog. My dog should not have been off leash. I concede that, and now I had her under control.

Where was Buddy? If you play the video, you'll get your answer, and you will get it in a source that's much more reliable because -- than some guy who is just trying to remember.

Q. I understand.

A. So show the video and you will see where Buddy is because he's running around --

Q. So --

A. -- and he's like five feet away by the time your client is there.

Q. So when Carmen fired her weapon, it's fair to say you did not know where Buddy was, correct?

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A. No. It's fair to say that I was focused on getting my dog, that I wasn't focused on where Buddy was. So whether I knew or didn't know is a matter of -- it was irrelevant to me. I was trying to get a hold of my dog.

Q. Did you know where Buddy was when she fired her weapon?

A. I had a general idea he was in the vicinity. He had been there. I just didn't know precisely. I mean, I couldn't say that he was two feet here or two feet there. All I know is that he wasn't in my dog's jaws.

Q. Now, if you go to -- I really should have marked where these statements are. It's incredible.

So on the second page, the second paragraph, midway through it says, "He described the shooting as retaliatory and unjustified because her dog was not injured and not a threat when she executed Aggie." Did I read that correctly?

A. I think you can read, yeah.

Q. Okay. And you are not disputing that you made that statement?

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A. Yes, I am disputing that I cannot recall specifically making that statement. Do I agree with what's being said here? Yeah, I guess I have no objection to it.

Q. So you say that the shooting was retaliatory. Retaliatory in what way?

A. Well, if there is no threat to her or her dog at the time she pulls the trigger, then what motive does she have?

Q. So what was she retaliating for?

A. Well, as you may recall in the video, she shouts you shot -- or she attacked my dog.

Q. So you're saying that she shot your dog as retaliation for your dog attacking her dog?

A. I think that at this time I said this to -- or apparently said this to COPA, that I was trying to understand why would -- why would she do this? And I couldn't come up with a reason, and so I thought, well, maybe it was retaliatory. I don't know because I don't live in her head.

Q. And you say "her dog was not injured." That was based on the fact that the dog --

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basically you watching the dog run away from the scene, yes?
A. It was based on the fact that the dog was not injured.
Q. And your belief that the dog was not injured was based on your observation of the dog running away from the scene?
A. It was based on the fact that her dog was not injured.
Q. Okay. Can you answer my question?
A. It was based on the fact that her dog was not injured. And if you look at all the body-worn camera and the dog is running around happily in the apartment, and this so-called veterinary report --
Q. So you hadn't viewed the --
A. -- which has a picture of the dog's ear and no wounds.
Q. And you were not privy to any of the body cam at the time you made this statement. You hadn't seen the Ring camera you hadn't seen the vet records.
A. Oh, you're asking how I would at this point on the day after the incident --

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Q. Yeah.
A. -- have said that her dog -- because her dog was not injured.
Q. Based on what? Why did you believe it was not injured?
A. Well, it wasn't based on the fact that, you know, she ran into her apartment and didn't come out again. And so I didn't examine her dog, but I did see the dog trot off very happily with her.
Q. So your belief that the dog was not injured was based on your observation of the dog trotting off after the incident?
A. At this time, yeah.
Q. Okay.
A. And the fact there was no blood anywhere or any sounds that might suggest that her dog had been in any distress.
(WHEREUPON, Maynard Deposition Exhibit No. 11 was marked for identification.)
BY MR. BECK:
Q. I am handing you Defendant's Exhibit 11, which is a report that documents a second

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phone conversation that you had with the COPA investigator. Same drill. Please read through it. Let me know when you're done.
A. Okay.
Q. Is there anything in this report that as you sit here today you know is inaccurate or you believe is inaccurate?
A. Well, you know, here's the problem. This is a report which says that I said certain things. That's one level. Then there is the substantive thing that I supposedly said. I can't testify as to what exactly I said on April 30th in a phone call because I don't have a present recollection of that independent.
Now, does this refresh my recollection? No, it doesn't. However, the substance of what I apparently said I do not disagree with. I don't have an objection to those things, which I am supposed to have said.
So if you ask me if I have an objection or I dispute anything, I can't -- I can't take a position one way or the other as to whether I said certain things just because I cannot recall. However, that which is

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attributed to me substantively I do not dispute.
Q. Okay. On the second paragraph it says, "Maynard stated that he is very upset and knows that the landlord, who may or may not have known of Maynard's existence as a tenant, must follow legal protocols to get him out." Did I read that accurately?
A. I'm going to stipulate that you can read, okay. You don't need to ask me that question. What is it you want to know?
MR. BENAK: Kent, don't be argumentative. Just answer his question, please.
THE WITNESS: Yes, I think you did.
BY MR. BECK:
Q. Okay. I'm wondering, did you -- did you know while you were living in that apartment that the landlord was unaware of your existence?
A. No, and that's not even what this says.
Q. I'm not saying --
A. I don't know what -- I had no contact with her.
Q. Did you believe that she did not

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know --
A. I had no belief one way or the other. I had no contact with her. I thought everything was perfectly fine and copasetic.
Q. So what led you to make the statement, assuming you did, that the landlord may or may not have known of your existence as a tenant?
MR. BENAK: Lack of foundation.
THE WITNESS: Yeah.
MR. BENAK: Go ahead and answer.
THE WITNESS: I didn't know. I didn't have any contact with her. I had assumed that Erin had told her about this, but apparently he didn't, but I didn't know one way or the other.
BY MR. BECK:
Q. Now, moving on to the next paragraph it says Maynard -- the first sentence, "Maynard further stated that he would check with 2855 and 2853 South Normal for video of the shrines being destroyed and share the recordings with COPA if he acquired any." Did I read that accurately?
A. I think you did.
Q. Do you remember checking with those properties for video of the shrine?

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A. No, I don't think I did.
Q. Is it -- do you remember you actually not checking with them or what is it?
A. I can't prove a negative. What I can tell you is I have no recollection of going and asking anybody for video surveillance that might be pertinent to who destroyed the shrine.
Q. Now, if you state --
A. And as I think about it now, I wish I had.
Q. Well, if you told a COPA investigator that you were going to go check with your neighbors for videos of the shrines being destroyed and share the recordings with COPA, is it fair to assume that you did check with the neighbors for videos?
A. No, no, no. It's not fair to assume that.
Q. Okay.
A. Because I just told you I don't recall doing that. I don't believe I did that, and I wish I had. Did you hear when I said that?
Q. Yeah, I did.
A. Yeah.

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Q. So you believe that the videos would have shown Carmen destroying the -- destroying the shrines?
A. I don't believe anything. I didn't go and check. I don't know who did it. I didn't say I knew that Carmen did it. In fact, I understand that maybe it was Pete who did it at her behest, that Pete was reaching out to her and saying do you want me to throw this stuff away, that Pete was offended by this.
Q. Well, you drafted a complaint in which you basically suggest that she threw --
A. Yeah, I did suggest it, but I didn't say that we knew, and I didn't say that she did.
Q. And you didn't take any effort to figure out whether or not she did?
A. Oh, I'm a bad guy. I'm so sorry. I was almost shot in the face and it's all my fault.
Q. The days following the incident you were pretty active on social media, yes?
A. What the hell does that mean?
Q. You posted multiple statements online about the incident?

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A. I posted statements online when I was concerned about her as a -- as a public safety hazard and I wanted people to know.
Q. You contacted news outlets and provided them with statements?
A. That's the most vague question. Who do you -- who are you talking about?
Q. Did you contact a news outlet and provide them with a written statement?
A. Could you be a little more vague?
Q. No.
A. Well, then I can't answer your question.
MR. BECK: All right. I will hand you what's --
THE WITNESS: Beautiful. Now we've got something to work with.
MR. BECK: -- Defendant's Exhibit 12.
(WHEREUPON, Maynard Deposition Exhibit No. 12 was marked for identification.)
BY MR. BECK:
Q. Now, if you turn to -- what is it, the third or the fourth page.

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A. Okay.
Q. So is this your initial statement that you submitted in response to the media coverage?
A. This is a matrix which I prepared responding point by point to this -- one of these sort of cut-and-paste media reports that was taken from the blotter that was parroting what -- what Carmen had said about the incident.
Q. So --
A. And so I wanted to make it clear. I went through each of these, and I did this in parts so that I could preserve my own recollection of events.
Q. So you typed up everything in the matrix that says statement and response, you typed that entire thing?
A. I prepared this. I prepared this document.
MR. BECK: Okay. All right. I'm handing you Defendant's Exhibit 13.
(WHEREUPON, Maynard Deposition Exhibit No. 13 was marked for identification.)

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BY MR. BECK:
Q. This is an undated response that you submitted to COPA, would you agree?
A. I believe that I -- this first matrix that I -- that you showed me I don't -- that's the -- I believe this may be a further iteration where I went back and I added detail. I don't know though. I would have to look.
Q. Okay. Take a moment to look.
A. Well, it's not dated but I'm --
Q. I will represent to you that you -- that you submitted this on, I believe, April 24th.
A. Okay.
Q. I'm not even worried about that. I'm just saying did you type up the statement and response --
A. I prepared this.
Q. -- and that second --
A. I prepared this.
Q. Yeah.
A. No one else prepared it.
Q. You created a petition for Aggie?
A. Yes, I did.

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Q. You called Carmen Mostek a sociopath?
A. I did and I still believe to this day that she is a sociopath and that she should not be carrying a gun.
Q. You said that she killed your dog for no reason?
A. That's also quite true. And if someone can explain to me what reason there was I would love to hear it.
Q. You said that nobody in the community should feel safe because of her?
A. That's also true. I don't feel safe because of her, and there are other people in the community who don't feel safe.
Q. You suggested that she might kill you in order to silence you?
A. I thought about that, and that's why I got an FOID card because I wasn't going to let her come into my apartment at night and exterminate me the way -- the cold and callous way that she exterminated my dog.
Q. You sent an email stating that you were afraid she would come into your home and hurt you?

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A. I was.
Q. You told all your friends that if anything happened to you it was Carmen who did it?
A. No. I told all my friends, are you kidding? What are you talking about?
Q. You told friends that if anything happened to you the breadcrumbs led to Carmen?
A. No. I told all my friends this, no. But I do believe, frankly, that --
Q. Did you tell anybody that if anything happened to you that the breadcrumbs would lead to Carmen?
A. I don't recall. I think that's a -- that's a reasonable thing to say after what I saw.
Q. You suggested that she removed the items from your memorial?
A. When you say "suggested," are you talking about an averment or are you -- I mean, it was pretty strange that everything disappeared in the way that it did. And if someone -- if someone else did it, they were acting at her behest.

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Q. You harassed a journalist and demanded that he change the tone of his story?
A. No. What are you talking about? Harassed a journalist?
Q. You emailed a journalist and you said any reasonable journalist --
A. Yeah, but that's just a cut and paste. And I said, you know what, real journalists don't do cut and paste where they just blindly parrot stuff. And that's not harassment. That's my -- me expressing my -- my First Amendment right to talk to the free press and tell them what I think about parroting where they just photocopy, cut and paste what the police tell them which isn't -- without -- without ever questioning anything.
Q. You told news outlets that she may have been under the influence of alcohol at the time of the shooting?
A. No.
Q. No?
A. No. That's actually what -- what Tom Carmichael was concerned about, and I think that they may have done toxicology tests. But no.

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And then there was a neighbor down the street who said that she'd witnessed her throwing out a lot of bottles and things.
I was trying to connect the dots after this occurred, and one of the things that occurred to me was that she might have been drunk.
Q. So you submitted those statements to COPA and to news outlets?
A. What statements?
Q. The statements we just went through with the two matrices?
A. No. No, we just went through them one by one. Why -- you can't -- you can't ask a bunch of -- about a bunch of questions and then say and then you submitted these. No, we are looking at what was submitted.
Q. So you're claiming --
A. We just looked at it.
Q. So you're claiming that those two statements, the statement that --
A. What statement?
Q. Defendant's Exhibits 12 and 13.
A. The matrix?

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Q. Yeah.
A. Yeah, I did. I submitted this to the media and said here's -- here's my response to what you reported point by point.
Q. And in that statement you said that she may have been under the influence of alcohol at the time of the shooting?
A. Right, maybe. And that is -- how can you take any exception with that? She may have been.
Q. Did she smell like alcohol?
A. I didn't get close enough to her to smell her breath, but I was trying desperately to understand how someone could do something this stupid and callous --
Q. Was this --
A. -- as what she did. And I -- and so really, I thought to myself if she could do this sober then she's really sick.
Q. Was her speech slurred?
A. So maybe she was drunk and we'll give her the benefit of the doubt.
Q. Was her speech slurred?
A. I didn't talk to her. All I heard was

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shout, she attacked my dog. That's what I heard.
Q. Was she staggering?
A. She certainly was staggering and off balance when she fired the shot one handed.
Q. Is that what led you to believe she was drunk?
A. I didn't believe she was drunk. I said she may or may not have been, which is kind of like saying it's a possibility which anybody would admit is true.
MR. BECK: All right. I am going to play for you Defendant's Exhibit 14 just briefly.
(WHEREUPON, Maynard Deposition Exhibit No. 14 was marked for identification.)
THE WITNESS: Is that a video?
MR. BECK: No, it's not a video.
THE WITNESS: Oh.
BY MR. BECK:
Q. All right. I'm playing Exhibit 14 for you.
(WHEREUPON, audio played.)

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MR. BENAK: Excuse me, Counsel. Do you have a Bates number for this or something?
MR. BECK: It's -- I don't off the -- I could figure it out quickly though.
THE WITNESS: This was produced in discovery?
MR. BECK: Yeah, it's part of the COPA file. It's an attachment. It says voice message from Kent Maynard.
MR. BENAK: Go ahead and play it. We can get the Bates number later.
MR. BECK: Yeah, we'll get it in a little bit.
MR. BENAK: Okay.
(WHEREUPON, audio played.)
THE WITNESS: I can't hear it. Can you turn it up?
BY MR. BECK:
Q. The main thing is, is that your voice? Can you hear it?
A. I can't tell and it doesn't sound like my voice because it sounds like it's a very poor recording, but I --
Q. I just don't want to go through the

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whole rigmarole of turning the video back on. So here, let me just play and you can tell me if it's your voice or not.
(WHEREUPON, audio played.)
Can you tell if that's your voice?
A. Wait, I'm trying to listen. Can you kick it back, please?
Q. Do you recognize your voice?
A. No, but I believe it -- I believe it is me. It's a shitty recording but it sounds like me. I mean, I believe I -- this is me talking.
Q. Do you want me to continue playing it?
A. Well, yeah.
(WHEREUPON, audio played.)
Q. So would you agree that that was you on that phone call?
MR. BENAK: I'm going to object. Lack of foundation. I think the recording isn't very clear.
But, Kent, you can answer it if you have a definitive --
THE WITNESS: I think that is me. I

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think it is me talking.
THE VIDEOGRAPHER: I'm sorry, your microphone.
MR. BENAK: I'm sorry, where did you lose me?
THE VIDEOGRAPHER: I'm not entirely sure.
MR. BENAK: Okay. Well, go ahead, Kent. You can answer.
THE VIDEOGRAPHER: Whenever you were dragging the microphone.
MR. BECK: Oh, I apologize.
BY MR. BECK:
Q. All right. So would you agree that that was you on that voicemail?
A. I think it was me, yeah, and that's where I'm calling and telling COPA about the fact that -- that Mostek is -- has -- is trying to, you know, harass me into silence by getting my -- her landlady, my landlady to kick me out.
MR. BECK: All right. I'm handing you Maynard Exhibit 15, which is a portion of the Chicago Municipal Code.

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(WHEREUPON, Maynard Deposition Exhibit No. 15 was marked for identification.)
THE WITNESS: Oh, God.
BY MR. BECK:
Q. Now, if you turn to the second page you will see there is a Section 7-12-020 definitions. Do you see that?
A. Uh-huh.
THE COURT REPORTER: Yes?
THE WITNESS: Yes.
BY MR. BECK:
Q. At the bottom of Page 2 it says, "Dangerous animal means an animal meeting any one of the following criteria: 1, any animal which bites, inflicts injury on, kills or otherwise attacks a human being or domestic animal without provocation on any public or private property; or 2, any animal which on more than one occasion, without provocation, chases or approaches any person in an apparent attitude of attack on any public property or in any place outside, or over the boundaries of its owner's property." Did I read that correctly?

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A. I guess so. I don't know. Why not?
Q. Do you understand that owners of dangerous animals are required to comply with strict requirements for maintaining that animal which were meant to protect the public?
A. Why don't you ask me the foundational question? My dog didn't do any of these things.
Q. I'm not asking you that. I'm saying as a lawyer are you familiar with the fact that owners of dangerous animals are required to take certain steps to protect the public from those animals?
A. I can read this just like you can, and I guess that's what it says, but I haven't studied this before.
MR. BENAK: You want to let me make my objection, Kent?
THE WITNESS: Please.
MR. BENAK: Assumes facts not in evidence. Go ahead.
BY MR. BECK:
Q. So -- well, we'll move on to the following page then.
All right. 7-12-050 on the

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following page.
A. Okay.
Q. Number -- so you go to Subsection C. It says, "In all cases where an animal is declared to be a dangerous animal and the animal is not euthanized, the executive director shall order the owner to comply with the following requirements," and then it lists a number of requirements.
A. Yeah.
Q. Do you see that?
A. I also see it says -- it says, "In all places where an animal is declared to be a dangerous animal."
Q. I understand that.
A. Well, what are you talking about, Counsel?
Q. So if you are --
A. When was there a declaration that any animal in this case --
Q. I am not asking that question right now.
A. No, but you need to establish that as a foundation because none of this means shit to

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a tree if you can't at least start with that.
Q. Would you agree --
A. That's the predicate for all this.
Q. Would you agree that if a dog is declared a dangerous animal, if you look at Subsection 2, "While off of the owner's property, a dangerous animal must be muzzled securely to prevent the possibility of biting, etc." Did I read that accurately?
MR. BENAK: You can answer that question, whether he read it accurately.
THE WITNESS: Oh, yeah, I think you probably did.
MR. BENAK: Okay.
THE WITNESS: I mean --
BY MR. BECK:
Q. Are you aware -- so -- and then there is a number of other conditions that come with a dog being declared a dangerous animal.
Are you aware that there are conditions on your maintenance of a dog if, in fact, that dog is declared a dangerous animal?
MR. BENAK: Assumes facts not in evidence. The document speaks for itself. The

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man is not a lawyer. He doesn't do work in this area of the law.
MR. BECK: Did you just say he is not a lawyer?
MR. BENAK: Not a lawyer that does -- that does work in this area --
THE WITNESS: I'm not -- I'm a --
MR. BENAK: Hang on a second, will you, please?
THE WITNESS: Yeah.
MR. BENAK: He doesn't do work in this area of law. You can't assume that he is familiar with any of these regulations. They are what they are. And by the way, there was no citation in this instance, and you might preface your questions with that predicate, Counsel.
BY MR. BECK:
Q. I'm just asking in cases where an animal is declared to be a dangerous animal --
THE WITNESS: Which doesn't apply here.
MR. BENAK: Kent, just wait. Go ahead.

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BY MR. BECK:
Q. -- the owner is required to comply with a number of requirements. I understand that your dog was not declared to be a dangerous animal. My question is, in cases where an animal is declared to be a dangerous animal, you would agree that the owner is required to comply with a number of requirements?
A. You mean is that what this piece of --
MR. BENAK: Would you wait?
Objection, lack of foundation. Again, he is not familiar with these provisions. They say what they say and the document speaks for itself. Now, go ahead and answer the best you can.
THE WITNESS: My response is to say that you have handed me some pieces of paper. I don't know if this is the most recent version of this ordinance or not. I don't know if it's been changed. I can see what this one -- this version seems to say, and I think you have read it accurately.
BY MR. BECK:
Q. Thank you.

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A. But can I draw any conclusions about this? I'm not a -- I'm not a witness as to legal conclusions that can or can't be drawn here. I am a percipient witness. And you know --
MR. BENAK: Enough.
THE WITNESS: Yeah.
THE VIDEOGRAPHER: Kent, could you please scoot a bit to your right, just physically?
THE WITNESS: I'm sorry.
THE VIDEOGRAPHER: Thank you.
BY MR. BECK:
Q. One of the requirements that comes along with an animal being declared dangerous is the animal must be muzzled. Another one, No. 3, you must display a sign on the premises that warns passersby of dangerous animals. No. 8, the dog could be barred permanently from the city limits.
I'm just asking you if, in cases where an animal is declared to be a dangerous animal, are those some of the requirements that can be imposed upon the owner?

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MR. BENAK: Objection, assumes facts not in evidence. The document speaks for itself. Lack of foundation. You can answer it, Kent.
THE WITNESS: Yeah, I can read. You can read. I mean, I don't know if this is the most current version of the ordinance. I don't know if that is the current state of the law. I know that this appears to be a copy of an ordinance that seems to say that, but I'm not an expert in this area.
BY MR. BECK:
Q. I understand.
A. I just don't have a knowledge that I would have independent of looking at a document, and this document I can't really rely on because I just don't know.
Q. If your dog was wearing a muzzle when the incident happened, do you think this would have occurred?
MR. BENAK: Assumes facts not in evidence, lack of foundation.
THE WITNESS: You know, I don't know. You know, this document you gave me --

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MR. BENAK: That's enough, Kent.
BY MR. BECK:
Q. Would you agree that if your dog had been declared a dangerous animal you would have been -- you would have been forced to comply with a number of requirements which could have or could have not prevented this incident from happening?
A. No.
MR. BECK: Wait a minute. Objection, incomplete hypothetical, assumes facts not in evidence, vague, argumentative and lack of foundation. Now you can answer.
THE WITNESS: No, I don't agree.
BY MR. BECK:
Q. What is it you don't agree with that statement?
A. Because I just -- I mean, all I've got is a piece of paper.
Q. Assuming that this is an accurate statement of law, I'm asking you if your dog had been declared a dangerous animal you would agree that there are a number of requirements you would have been forced to comply with which

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could have prevented this incident?
MR. BENAK: Objection, lack of foundation, assumes facts not in evidence, argumentative, document speaks for itself.
THE WITNESS: Yeah. How -- how -- how can you ask me to testify here today under oath about what would or would not have prevented this incident which included me being nearly shot in the face?
Because you want to focus on the dog, okay. I'm gonna insist that this is not a case about a dog being shot. It's a case about a human being almost being killed or shot in the head by your client.
Q. So --
A. So I don't want to talk about the dog anymore.
Q. So my question was -- so I asked if your dog had been declared dangerous, there are a number of requirements you would have been obligated to comply with, which could have prevented this incident from happening, and you said no, that's not true, and I'm asking you what is untrue about that?

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MR. BENAK: First --
THE WITNESS: I don't know if they could.
MR. BENAK: Would you hang on a second.
I am going to object to this as assuming facts not in evidence, the document speaks for itself, lack of foundation.
And, Counsel, if pigs had wings they could fly. So answer the question.
THE WITNESS: If pigs had wings they could fly.
BY MR. BECK:
Q. So the answer is yes?
MR. BENAK: I object to that. I don't even know what your question is at this point, Counsel.
THE WITNESS: Yeah.
MR. BENAK: You want to repeat -- why don't you read the question back or ask the question.
THE WITNESS: You know what --
MR. BENAK: Stop. Read the last question back.

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BY MR. BECK:
Q. Better yet, actually, what are you saying if pigs could fly in response to?
A. You want to know what might have prevented this incident?
Q. Yes.
A. And I could tell you precisely and with complete certainty. What would have prevented it is if your client hadn't behaved like a raving fucking lunatic savage idiot who could not stop this impulse she had to shoot my dog in the head, not even after I was two inches away from where that bullet was aimed.
Q. And I'm asking you --
A. That would have prevented everything. Nothing would have happened if your client had been able to somehow disengage from her insane impulse to shoot my dog.
Q. And --
A. And I still don't understand why she did it, and I don't know if she was drunk but I was thinking of this. I was trying to imagine how could a human being behave the way she did, and I was thinking God bless her, she must have

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been drunk.
MR. BENAK: All right. That's enough.
THE WITNESS: Because no sane --
MR. BENAK: Kent -- Kent, you answered the question.
BY MR. BECK:
Q. So you don't believe that you are at fault at all for this?
A. Am I -- I'm at fault for your client coming this close to shooting me in the face?
Q. If your dog had been --
A. I am not at fault for that. And to the extent that you think so, then we've got a real, real problem here.
Q. Are you threatening me?
A. We have a real, real problem here.
Q. What's that?
A. We have a problem because you can't get it through your head that this is not a case about a fucking dog.
MR. THOMPSON: Okay.
MR. BENAK: Kent, just answer the question.
MR. THOMPSON: We're going to take a

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break for a minute.
THE VIDEOGRAPHER: Off the record at 3:37 p.m.
(WHEREUPON, a brief recess was held.)
THE VIDEOGRAPHER: We are back on the record at 3:42 p.m.
BY MR. BECK:
Q. If you could flip now to the Subsection 7-12-090, "Owner's responsibility where animal has bitten another animal or person." Let me know when you're there.
A. Okay.
Q. And A, Subsection A, it says, "It shall be the duty and responsibility of the owner of any animal which has bitten any other domestic animal or person to, 1, notify the executive director of such bite within 24 hours of the bite." Did I read that accurately?
A. I guess so.
Q. Did you ever notify Animal Care and Control about any bites from your dog?
A. No, I did not.
Q. Now, are you claiming any physical

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injuries as a result of this incident? Like problems with your hearing or anything like that?
A. No.
Q. And emotional injuries, I guess going -- describe those. Or better yet, have they -- has your sadness and heartbreak for your dog dying manifested itself in any sort of symptom, like physical symptoms or anything like that?
A. Well, we already talked about some of them, and I think to some extent my frustration has been on full display here today, so much so that I can't do what I normally do which is control my emotions. I simply am so frustrated with the way this whole thing has been handled.
That -- the way that I was treated by Mostek when she shot my dog, and then the way she treated me afterwards by lying about what happened, lying about me, lying about my dog, lying to my landlord, trying to harass me into silence, destroying the memorial which was just there for people to try and grieve and cope with the sense of loss, not just me, and it went on and on.

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And then it got into the litigation sphere and we've -- here we are a year later. We are still not even finished with discovery. We had our motion practice. But the practice -- the practical reality here, the message has been yeah, no harm, no foul. You got shot almost, you got killed almost or reduced to a drooling vegetable almost, but, hey, what's the big deal?
Q. So is your primary --
A. And that is not a message which I'm comfortable with and which I comfortably live with day by day. And I told you that initially I had a PTSD-type response where I was very uncomfortable being around people, or any sort of loud noises made me very uncomfortable, any sort of entropy made me very uncomfortable because of what I had just been through.
I also think I told you that I was lying in my apartment at night thinking that this sociopathic, callous exterminator might decide that she wanted to come in and finish the job, and that was a disturbing thought.
Q. How long did these --

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Well, first off were you ever diagnosed with PTSD?
A. I wasn't diagnosed with anything specific. I simply had this as something that I was struggling to cope with, and to some extent I still am because every time I have to go to a deposition or deal with this case, it's just like a wound that gets ripped open.
I appreciate very much that you said you were sorry. To some extent that, ironically, is -- in some sense it's -- it's very comforting because Officer Zhao at the scene was the only one who said, you know, hey -- he said to me, he said a lot of us have dogs, I understand. He said I'm really sorry, and that meant a lot to me. But everybody else it's all been about, you know, circle the wagons, lawyer up and fuck you. And I -- you know, you can say fuck you to me, that's fine, but I am not a professional victim.
Q. So when you talk about the lying awake at night and the PTSD like response that you had, is this in relation to your dog being shot or the way it was handled afterward?

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A. It was both. It was sort of a continuing nightmare, and it continues to the present day because even here today no one is really focusing on the simple, salient, obvious fact that's undeniable and indefensible, and that is that this idiot shot her weapon at me while I was lying on the ground. Forget about whether there was a dog there or not.

You know, I have -- I had five kids. I've had a life. I'm a human being. I am entitled to a certain amount of dignity. I am not -- I should not be concerned about having my life snuffed out randomly for no reason at all by someone just because she doesn't really seem to understand how to carry out the responsibilities that she's sworn to carry out. And that hurts.

It does make you feel like the world is a colder and more hostile place when the people who are sworn to serve and protect are the danger, when the people who are supposed to be protecting the community are the ones who are randomly firing shots, and that's one reason why the community was so up in arms about this,

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and there's a lot on the social media that we didn't talk about today, but people are very upset about that.

And one of the things that hurts most is that nothing has happened to her. I don't -- I'm not asking that she be fired. I have no -- I just don't want her to carry a gun, and it shocks me -- what about the next time that she is unable cognitively to deal with the use of deadly force and someone gets killed? Whose blood is going to be on whose hands then?

Q. Are you claiming any expenses, like any psychiatry bills or anything like that?

A. I continue to do all those things that I was doing before. So was there an increment, no. I'm not saying that there was some spike.

Q. And so you can appreciate, I am just trying to zero out other forms of damages. Your debt -- and I don't say your only damages. I would be heartbroken if my dog died and if I were put in your situation.

I'm wondering if there is any sort of damage that you're claiming other than the distress associated with the shooting of

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your dog and how it was handled afterward?

A. You know, we're both lawyers and sometimes you hear in sort of cases where, you know, someone is in a car and some negligent act causes -- you know, someone strikes the car and it rolls over, and then all of a sudden the car is upside down and gasoline is inside the passenger compartment. And then it ignites and this person has, what, a minute and a half before they are probably completely dead, and so during that minute and a half they are suffering anguish which is indescribable and it's okay.

There's hedonic damages and there is damages that you can argue to a jury about the suffering. And I can tell you right now that in the moments after she shot my dog in the head I think that was probably very much like being in the passenger car being incinerated by that stupidity.

If you ask me another way, you know, because I went to business school and there is all kinds of valuation models. If you ask me what kind of money you would have to pay me to go through this again voluntarily, I can

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tell you that I don't think there is any amount of money. One reason being that I'm lucky that I'm alive, and that's why I'm so concerned about her as a public safety threat, and that's why I'm so angry and outraged.

She's still walking around, and that to me is just an expression that's consistent with what I have been telling you is the big fuck you I've been hearing from her and her colleagues and to some extent in these legal proceedings. Not you, Mr. Beck. Sometimes when people make mistakes they should step up and take responsibility.

Q. Do you have anything else to add onto that?

A. No, I think my lawyer will be upset with me if I gratuitously add anything.

MR. BENAK: Kent, he is asking you about your damages, okay. He's asking you about the elements of your damages. Are you done telling him about that?

THE WITNESS: Yeah, I think I am.

MR. BENAK: Okay.

MR. BECK: Can I have a couple

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minutes?
THE VIDEOGRAPHER: Off the record at 3:51 p.m.
(WHEREUPON, a brief recess was held.)
THE VIDEOGRAPHER: We are back on the record at 3:55 p.m.
MR. BECK: All right. I'm handing you what's been labeled as Defendant's Exhibit 6.
(WHEREUPON, Maynard Deposition Exhibit No. 6 was marked for identification.)
THE WITNESS: Uh-huh.
BY MR. BECK:
Q. Do you recognize this document?
A. Yep.
Q. And if you go to the last page, maybe it's the second to last page or the third to last page -- maybe I'm missing it, but I don't see a verification page from you on this.
A. It's right here on the last -- it says verification.
Q. Oh, okay. All right. So that's your signature verifying that everything in that

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document is accurate?
A. Yes, I think that's my signature. Yeah.
MR. BECK: Okay. I want to give you what's been marked as Defendant's Exhibit 5.
(WHEREUPON, Maynard Deposition Exhibit No. 5 was marked for identification.)
BY MR. BECK:
Q. During the course of -- do you recognize the document?
A. Uh-huh.
Q. During the course of this litigation, we sent a request to you and your attorney asking for documents, yes?
A. I believe you did, yeah.
Q. And this document contains responses to those requests, right?
A. Yes.
Q. Did you review this document to make sure that it was accurate before you responded?
A. Well, this was -- this was executed by my lawyer on my behalf. I don't recall specifically whether I reviewed it or not, but I

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trust and respect and rely I think very reasonably on my lawyer.
This is not an affidavit and it's not signed by me. It was tendered by my lawyer --
Q. I understand. If you want to take a --
A. I believe it to be true to the extent that he served it.
Q. Okay. Well, can you take a moment then and review it, and then I will ask you a couple questions.
A. Well, it's a 22-page -- 23-page document. You want me to read the whole thing or you want to direct me to what your concern is?
Q. I'm just asking you if there is anything in here that looks inaccurate.
A. You want to sit here and wait for me to review a 23-page document right now at 3:58 p.m.?
Q. Sure.
A. Well, we might as well take a break then, huh, because I can't read 23 pages and do

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a line edit --
Q. Putting this -- all right. So you understand that you and your attorney have an obligation to supplement your production of documents in response to these requests if anything new comes to light, yes?
A. I understand there is a general continuing obligation to supplement discovery as needed, yes.
Q. And it's your understanding that this document is an accurate representation of all the documents you have in -- that are responsive in this case?
A. I understand that it was executed by my lawyer on my behalf on the 24th of December -- the 20th day of December of 2024. I presume that as of that date this is -- it was accurate with respect to all the documents that were then in our possession or control; and therefore, that were required to be produced to you in discovery.
Q. That's --
A. I don't know how else to answer your question.

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MR. BECK: That's fine. I don't have any questions. I think Jim has a couple.

THE WITNESS: Go ahead.

BY MR. THOMPSON:

MR. THOMPSON: Okay. Late in the hour good afternoon, Mr. Maynard. I am here on behalf of Carmen Mostek also. But I would like to ask you some questions that I hope aren't repetitive or duplicative of what we have already been through this afternoon. Excuse me.

CROSS-EXAMINATION

BY MR. THOMPSON:

Q. I am going to make a representation to you, Mr. Maynard, that employees of the Chicago Police Department are required to reside in the City of Chicago. Can you accept that representation?

A. Yeah, I believe it to be true.

Q. Okay. And I'm going to make another representation to you that one of the reasons why the City of Chicago has that policy, particularly as it relates to Chicago police officers, is because their presence off duty residing in a neighborhood provides the

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community with safety and confidence in law enforcement. Can you accept that representation?

A. I don't -- I don't dispute it.

Q. Okay. Now, the incident happened on April 21st. Did I get that right?

A. April 21st, 2024.

Q. Thank you.

And approximately how long had you been residing in the neighborhood at that time?

A. Since -- well, the neighborhood which would include say --

Q. Let me strike that. Let me go back because this is going to be about Officer Mostek.

The residence where the incident -- on April 21st, 2024, that residence, how long had you been residing there, approximately?

A. Since October of the prior year, which would have been 2023, but I had been living in another -- in another apartment which was literally just across the alley from where

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Carmen Mostek lives.

Q. Okay. Fair enough.

At some point while you were residing on whatever that street address is, I apologize, Carmen Mostek was your neighbor and you became aware that she was a Chicago police officer, right?

A. Well, she was my neighbor even before. I was living at 28 -- or is it 2840 South Normal. If you look at it on Google Maps, you will see that for many years I was living just north of where Carmen Mostek lives, just across the alley. And then in October of 2023, I moved to the building -- the structure that's directly west of where Carmen Mostek lives at. She's at 520 I believe, 520 West 29th Street, and I was at 522.

Q. Okay. But you -- you learned that she was a Chicago police officer at some point while you were residing in the -- in the neighborhood. Would that be fair?

A. Yes, I think that's absolutely fair.

Q. Okay. And prior to the incident on April 21st, 2024, did your knowledge of her

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being a Chicago police officer living as a neighbor provide you with additional confidence about safety in the community where you were residing?

A. No.

Q. Okay. Did the fact -- did you know that there were other law enforcement officers from the Chicago Police Department that lived in that neighborhood?

A. There are lots of Chicago police officers living in Bridgeport. Lots of them.

Q. And does the fact that they're living in the neighborhood amongst you provide you with confidence about safety in the community?

A. I'm going to say no, not because I'm trying to be difficult or argumentive, but because it never really occurred to me that the fact that a police officer lives in the neighborhood makes the neighborhood safer -- safer. That thought never occurred to me. And to be honest with you, I -- no, it just wasn't something that I -- that I -- that ever occurred to me.

Q. Okay. Well, prior to the incident on

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April 21st, 2024, did you believe that if you needed any type of emergency police assistance you could, in fact, reach out to one of the individuals in the neighborhood that you knew to be Chicago police or law enforcement?

A. Well, the only person I knew in the neighborhood that I understood to be a police officer was Carmen Mostek. I didn't specifically know, I just know that there are lots of cops in Bridgeport. Everyone knows that. And I love Bridgeport. I -- I think Bridgeport is wonderful, but I never thought about reaching out to Carmen for anything.

Q. Okay. Well, let me -- let me ask you a question this way, Mr. Maynard. Did you ever -- were you under the belief that if you needed some type of immediate police assistance that Carmen Mostek was available to assist you?

A. I'm going to answer your question. I think you're being forthcoming and frank with me, so I am going to respond in kind.

My interactions with Carmen Mostek in all candor and sincerity suggested to me that -- that the lights were on but nobody

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was home. There was something very blank about her, about her affect. It was very flat, that she kind of seemed to have this very sort of almost other worldly like she's not all there. There is something fundamentally wrong and I was uncomfortable with that.

The one time I did have any discussion with her she was very kind and very gracious about letting me use a piece of space in the garage, and I had no reason to think that she was malicious, but I just thought there was something not quite right about her.

And I also thought the way she behaved about, you know, saying, well, I don't think the dogs will ever be friends, that sort of thing, or the fact that nobody ever saw her in the neighborhood. It was very strange. I mean, no one ever -- she didn't interact with anybody. No one really knew who she was. And John Alyinovich thinks that she's crazy, and, you know, she was just a -- I don't know. There was something not quite right there.

Q. Okay. But --

A. And that's the -- that's the candid,

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sincere, honest response to what I think was a candid, sincere question. I really did not want to have, you know, interactions with her because I thought there was something fundamentally missing.

Q. Okay. At the time of this incident when the dogs are engaged, Mr. Maynard, if there was a uniformed Chicago police officer present, would you have expected the Chicago police officer to assist?

A. No. Absolutely not. It was just a simple matter between me and another civilian where two dogs -- I mean, this is a dog fight for God's sake. All you do is separate the dogs. I mean, that's it. You don't need a cop to do that.

Hell, I mean, no offense to cops, but, you know, I mean, look, I'm almost 70 years old, but I'm pretty spry and so I can move around pretty quickly when I have to. You know, I don't -- I don't spend a lot of time sitting and I was able to get there very quickly, and I was able get at my dog, and notwithstanding the fact that I was pushed to the ground.

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I was able to get control of the dog and separate the dogs before this happened, and I don't need a cop to do that for me. And I certainly don't want to introduce the element of someone who has got a weapon. Because the worst thing about bringing a pistol to a dog fight is someone might actually use it, especially when nobody is getting hurt and no human being is being threatened, except the guy who happens to be holding the dog.

So, no. I mean, look, I have nothing against Chicago police. Like I said, I think their job is ridiculous and horrible. I think we need to start getting guns off the streets because it's not fair to send people out to uphold the law when we don't know. And half the time the criminals have guns that are -- that are more potent than anything the police officers have. It's horrible. It's unfair. And I think a lot of police crack under the pressure and understandably so.

Q. Uh-huh. Well, my question really wasn't about the outcome of the incident, Mr. Maynard. My question was about two citizens

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with dogs engaged in a -- what's called a dog fight or struggle or whatever, scrum, whatever you want to call it, and there is a uniformed Chicago police officer present. Would you expect the Chicago police officer to stop, see if everybody was okay, assist if they needed to in the situation?

A. No, no. I just don't. I don't see that -- I don't see that as a police function, and I wouldn't really want the police involved because, frankly, there was no need. I mean, they have got bigger fish to fry.

Q. Okay.

A. I don't think that we should expect the Chicago police to be doing absolutely everything, including breaking up dog fights.

Q. Okay.

You have listened to the audio recordings, particularly the 911 calls in this case, right, Mr. Maynard?

A. I have heard them. I have heard one of them at least. I heard the one from Michelle who lives across the street.

Q. Right.

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Well, did you hear the one that Officer Mostek made?

A. Yeah, I did.

Q. Okay. And you've listened to that numerous times throughout the course of the --

A. I've listened to --

Q. -- deps -- deposition, right?

A. I have listened to it more than once.

Q. Okay.

You would agree then that that initial phone call that Officer Mostek made to dispatch included a request for ambulance service for you, right, Mr. Maynard?

A. Yeah, she said bring an ambulance for the neighbor because he's having trouble calming down.

Q. Right.

But we're in agreement that in that first phone call that she makes she requests an ambulance for you to check on your well-being; is that fair?

Is that fair, Mr. Maynard?

A. No.

Q. Okay.

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A. And here's why --

Q. Well, I didn't ask why. Let me -- let me back up again.

Did an ambulance arrive on scene?

A. A fire truck did but they were under the impression that someone had been shot. That someone was me because they couldn't -- that person who reported this couldn't see any space between me and the dog --

Q. Was there --

A. -- which tells you how close we were.

Q. Was there medical personnel on scene that inquired about your health?

A. Mr. Thompson, let me answer your question this way. Yes. Okay --

Q. It's a yes or no question, Mr. Maynard.

A. Well, but I can't answer it that way.

Yes, your client was terribly concerned about my well-being. That's why she turn tail and ran off and didn't appear again. That's the first way she just expressed how much she cared about my condition. Then later when

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she was being given all these blandishments for her trauma --

Q. Mr. Maynard, I don't want to --

A. -- she -- she -- she --

Q. -- interrupt you, but that wasn't the question.

A. She talked about the trauma of this and how her adrenaline was up --

Q. Mr. Maynard --

A. -- but she never said a word about me.

Q. Mr. Maynard. Mr. Maynard. If we could just focus on my question, please.

A. Right, and my answer is --

Q. My question --

A. -- she did say something about an ambulance --

Q. That wasn't even -- that wasn't even my question. My question was, did emergency personnel, and I think you said Fire Department, did they inquire about your well-being on the scene?

A. I don't recall that. I remember that they showed up, but I don't recall that they actually inquired. I'm sure that they -- they

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must have because they were satisfied that I was not an extremist and they left.

Q. Okay. And you are in -- we are in agreement that on that initial emergency phone call Officer Mostek requested an ambulance specifically for you to check on your well-being; is that true?

A. Here's the problem.

Q. I'm not asking for a problem. I am not --

A. I know but you -- I can't answer it yes or no. The words came out of her mouth --

MR. BENAK: Kent, hang on a minute. First, I'm going to object, Counsel. I think the record speaks for itself. She said what she said on the video. It's going to get into evidence. Nobody disputes that.

THE WITNESS: Exactly. I don't dispute what she said.

MR. BENAK: That's your answer. Now be quiet, okay. Go ahead, Counsel.

BY MR. THOMPSON:

Q. Well, I appreciate that, but I just want this to be clear that you are aware that

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Officer Mostek on her first phone call requested medical services to the scene to check on your well-being; isn't that true, Mr. Maynard?

MR. BENAK: Kent, just yes or no.

THE WITNESS: Am I aware? I have heard the video -- I mean the tape. So I have heard the tape where it appears that she calls and she does ask for an ambulance for her neighbor, yes. I have heard that.

BY MR. THOMPSON:

Q. Okay. Okay.

Are you aware of the Chicago Police Department's prohibitions regarding officers speaking to witnesses or victims that are involved in a weapon discharge case?

A. Am I aware of them?

Q. Right.

A. You know, I'm not a -- I'm not here as a lawyer or an expert in the Municipal Code or the regulations of the Chicago Police Department. So what I'm aware of or not --

I mean, what you're asking me is, is it acceptable that she didn't try and talk to me because somehow there was a

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prohibition against her engaging with me? I don't know. That's, I think, an argument for you to make. I can't make it for you. I don't know that.

Q. Okay. That's fine. If you don't know that, that's fine, Mr. Maynard. You can just say that.

MR. THOMPSON: What number are we on?

(WHEREUPON, a discussion was held off the record.)

MR. THOMPSON: Exhibit 18 for the deposition today.

(WHEREUPON, Maynard Deposition Exhibit No. 18 was marked for identification.)

BY MR. THOMPSON:

Q. I'm going to represent to you, Mr. Maynard, that this is the response to the interrogatories that were propounded on Officer Mostek, okay. If you could just go to the end, which is Exhibit A, and I think it's marked Page 25, 26, 27, okay?

A. Uh-huh.

Q. These are specific questions now,

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Mr. Maynard.

A. Yes.

Q. With respect to those exhibits, the photographs, how did you come into possession of those photographs?

MR. BENAK: Mine isn't a very good clear copy.

THE WITNESS: Yeah, I don't have -- I don't -- I don't know.

MR. BENAK: Just set it down, okay, Kent. Mine isn't clear. Excuse me Counsel.

MR. THOMPSON: No, that's fine.

THE WITNESS: I think that we were -- they have to be produced by -- we didn't --

MR. BENAK: I know what they are now. Go ahead.

THE WITNESS: Well, I don't know. My counsel may know.

BY MR. THOMPSON:

Q. But here's what I -- here's what -- Mr. Maynard, these are really specific questions.

I'm under the impression that those photographs were sent to Ms. -- Officer

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Mostek to be responded to in the interrogatories prior to the City's production of documents. So I may -- so my question is really specific. Do you know how you came into possession of those?

A. It could have been COPA.

Q. Well, that's what I want to know. That's specifically what I want to know.

Did COPA give you those photographs?

A. You know, I don't think we are in -- it would be improper for me to defer to -- I don't -- I'm not concerned about a privilege issue here. I mean, I don't recall.

Q. This isn't -- this isn't --

A. I don't recall. I don't recall. I do not recall.

Q. Mr. Maynard, this -- okay. Let me start over, Mr. Maynard. This isn't a privilege issue --

A. Right.

Q. -- and I'm trying to be as frank and as direct as I can with you.

A. Right, but I don't recall.

Q. I don't believe that the photographs

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that are in Exhibit 18 that you sent to Officer Mostek were the result of a production response from the City. So I'm -- I am literally asking you did COPA provide you with those photographs?

A. My vague recollection, subject to confirmation because I would have to go back and look, is that at some point we received and we were anxious to receive and asked for specifically any evidence that -- that her dog had been injured because, you know, the justification for this incident was that the dog was being viciously mauled and was seconds away from expiring. And if that were true, then we would expect to see some serious injuries.

And we would want -- need to know whether -- why then she had not taken the dog the same day to the veterinarian, which is also true. She did not go on the 21st of April to have the dog treated. She says that she went to Wisconsin the day after or late on the 21st because she wanted to get out of town as it were for three days or something. And then while she was in Wisconsin, I believe the day or two after this incident, she took the dog to be examined,

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and there was a veterinarian's report that included some photographs.

And my recollection is that we received at some point from someone, and it may well have been COPA, if it wasn't the City, because there are only a limited universe of possibilities here. I believe we received a copy of a veterinarian's report, and there were some photographs. And I believe these were probably the photographs that were attached to that veterinarian's report. Now, we haven't subpoenaed directly to the veterinarian.

Q. Mr. Maynard --

A. But we could.

Q. Okay. I appreciate that answer. But what I'm driving at here is, to the best of your knowledge, those photographs weren't produced to you subject to a FOIA request, correct?

A. I don't know. I mean, the FOIA requests were what we were serving on COPA at the time.

Q. I -- I understand that.

A. Right.

Q. These aren't -- these aren't trick

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questions.

A. No, no, no.

Q. I'm just trying to explore your knowledge of how you came into possession of those photographs.

A. I think they were produced by COPA, and if they were produced by COPA, they would have -- again, all this is supposition and speculation.

Q. But I gotta -- you can appreciate this. I am going to walk through this, okay. Do you know whether you obtained those photographs through a FOIA request?

A. I don't recall.

Q. Do you know whether you obtained those photographs through a subpoena?

A. Again, I --

Q. It's okay, Mr. Maynard.

A. I don't believe it was a subpoena but, again, I mean, these are things which we could determine very readily by going and actually looking at the file.

Q. Okay.

A. So relying on my memory, I mean, you

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know --

Q. Do you know, Mr. Maynard, do you recall whether or not you personally requested those photographs from COPA?

A. I may have. I may have talked to Jim about it. I'm not -- I'm not saying I did or I didn't because that's all privileged, but bottom line is we got information from various sources. Initially, we were relying on FOIA requests to COPA as I recall.

Q. That's fine, Mr. Maynard. To the extent you know, that's what I'm trying to explore here so that I understand this, okay.

Were those photographs and maybe even the veterinarian report, were those provided to you because you requested them from COPA?

A. Well, I know I asked for them.

Q. Okay. Did COPA, based upon your request, provide you with those photographs?

A. Well, I know we received them. I don't know if they provided them to us based on a specific request that I made. I don't recall that I actually -- actually made it. I may have

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just discussed it with Jim. I do know that I wanted to see the evidence that pertained to what condition her dog was in since her defense, if you will, was based on the notion that her dog was being mauled to death and was seconds away from being killed at the time she fired the shot. And I was skeptical about that based on what I had seen.

Q. Right, and I understand that.

So you have a memory of this, Mr. Maynard, and that's why I'm asking you when you made that request did COPA, Jeanne Goodwin, did COPA respond to that request and give you that -- that information including those photographs?

A. I can't say. I just don't know. I mean, I -- if -- it could be if I go back and look in my -- in my email history of what came from Jeanne Goodwin that there is an email from her. I don't know. I could do that. I think that would be discoverable. That's not privileged. I would be willing to do that if I got a supplemental interrogatory or even -- even based on what you said.

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MR. BECK: I think you already did and I think there is an -- this is -- can we go off the record for one second?

THE VIDEOGRAPHER: Off the record at 4:22 p.m.

(WHEREUPON, a discussion was held off the record.)

THE VIDEOGRAPHER: We are back on the record at 4:23 p.m.

BY MR. THOMPSON:

Q. I'm going to try to go through this list quickly here, Mr. Maynard. If I understood -- if I understand this right, we're not claiming -- you're not claiming any damages for Aggie per se as it constitutes property damage; is that fair to say?

A. No, that's not fair to say. There is -- there is damage associated with the loss. I mean, dogs under common law were considered chattels. They have some value. The trend though is to place a value on dogs now that is much more like the value that you might place on a valued member of the family.

Q. Okay.

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A. And indeed, if you look at the recent trends in case law, the awards of damages for the loss of family pets, which happen to be dogs, can be substantial. So, yes, we are claiming.

Q. Okay. That was -- that -- I didn't mean to offend you by using the word property, so --

A. No, no, no. No offense. No offense.

Q. -- are we -- are we -- are you specifically claiming a dollar amount or a damage for Aggie itself?

A. I think I can only answer that question by saying I defer to my lawyer on questions about damages, and that's because I'm too close to this.

Q. Okay.

A. I'm way too close to this. This whole matter is way too emotional for me, and I need to rely on someone who is a steady hand on the tiller. I apologize for the rawness of my emotions about this here today, and I rely on Jim Benak because not only is he a good lawyer, but he -- but he's also familiar with what --

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you know, how these calculations should be carried out.

Q. All right. Let me just finish my list. Are you, in fact, claiming any type of loss of income as a result of this incident?

A. Not specific. No one fired me because my dog was shot or I was nearly shot.

Q. Okay. As you sit here today, is there any medical professional that has told you that you are going to require future mental health treatment?

A. In what timeframe?

Q. Well, as we sit here today moving forward, is there any medical professional that told you that you're going to need future mental --

A. When was this statement made? Like since -- you mean since the incident? Like, at any time on or after April 21st of 2023, did a medical professional tell me that as a result of the incident I was going to require ongoing treatment?

Q. I'm actually saying as we sit here today.

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A. As we sit here today has a medical professional told me I'm going to need future treatment? No, because I have been talking to everyone in this room, not to any medical professional. I mean, you know --

Q. No, what I'm saying to you -- what I'm saying to you, has -- are you -- well, let me strike this. Let me back up for a second.

Are you under the -- currently under the care of any medical professional related to this incident?

A. To the extent that your definition of medical professional includes my therapist Andrew Rintels, yes.

Q. Okay.

A. And to the extent that we disregard the fact that my psychiatrist seems to have disappeared we could include him too, I guess, because I didn't fire him or ghost him.

Q. Mr. Maynard, I'm just trying to go -- I'm just trying to go through damages here.

A. Okay.

Q. Let me try it this way. Is it -- is it your expectation based upon the care and

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treatment you've had to this point by any medical professional that you're going to require continuing or future medical care from today's date?

A. Yes.

Q. Okay. And do you know from which professional there is that expectation?

THE WITNESS: I need to consult with you for just one second, Jim.

MR. BENAK: There is a question pending. Answer it as best you can, Kent.

THE WITNESS: Well, I can't answer it because it suggests some privilege issues, and I would like to talk to you outside if I can.

MR. THOMPSON: Well --

MR. BENAK: Hang on a second. Not having to do with anything you and I have discussed, can you relate to --

THE WITNESS: I need -- I have --

MR. BENAK: We're not going to -- hang on a second.

THE WITNESS: I have an issue which I need to discuss with you. Just one second.

MR. BENAK: Can you give us a second?

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THE WITNESS: It will take literally 30 seconds.

THE VIDEOGRAPHER: You want me to go off the record?

MR. BENAK: We'll be right back.

THE VIDEOGRAPHER: Counsel?

MR. THOMPSON: What?

THE VIDEOGRAPHER: You want me to go off the record?

MR. THOMPSON: Whatever is easiest for everybody.

MR. BECK: Just stay on the record.

MR. BENAK: We'll be right back.

MR. THOMPSON: Let's just stay on, it's fine.

(WHEREUPON, a brief pause was taken and a discussion was held off the record.)

THE WITNESS: Okay. I'm sorry. I apologize, but the answer to your question --

MR. THOMPSON: Okay. Hold on.

MR. BENAK: Hang on a second.

(WHEREUPON, a discussion was held off the record.)

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THE WITNESS: I'm sorry. What was the question again?
BY MR. THOMPSON:
Q. Okay. I'm going to withdraw the question --
A. Okay.
Q. -- just so I can put this in context.
A. Okay.
MR. THOMPSON: Are we back on? Yeah, we're on. We're good, right? Okay.
BY MR. THOMPSON:
Q. I am going to try to put this in context, Mr. Maynard --
A. Okay.
Q. -- so that you and I are on the same page because I know you're a trial lawyer. There is going to be a verdict form and it's going to request damages, okay.
A. Right.
Q. So I'm just trying to understand --
A. I understand.
Q. -- what that jury verdict form potentially could look like, okay. So my last question was relative to as we sit here today do

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you have this expectation that you're going to be receiving future medical care, particularly mental health, as a result of this occurrence?
A. Yes.
Q. Okay. And my next question then was from what medical professional, as you sit here today, are you expecting to continue to receive medical care from?
A. Andrew Rintels, and then to the extent that -- that I cannot reestablish contact with Mr. -- Dr. Swiatkowski, then I think he needs to be replaced.
Q. My next question is have -- has any medical professional told you that your mental health injury is of a permanent nature that you are going to have, for instance, Mr. Maynard, for life that's not treatable?
MR. BENAK: I'm going to object to that term "permanent," Counsel. But with that objection, Kent, you can answer it as best you can.
THE WITNESS: Permanent, you mean like I'm going to be impaired until the day I die kind of thing?

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BY MR. THOMPSON:
Q. Right. If it's a permanent -- I'm -- Mr. Maynard, I'm going back to what's that jury verdict form going to look like.
A. I am going to say --
Q. So whether or not there is going to be a claim for damages for permanent injuries, that's what I'm trying to ascertain right now.
A. Yeah. We -- we -- I should say we solicited a report from the therapist Rintels. I haven't read it. That -- I'm leaving that to my lawyer. I am leaving that to Mr. Rintels -- or Dr. Rintels. I haven't seen a report from the psychiatrist, and I don't recall anyone making this predictive statement that, you know, this -- this will be a monkey on your back until the day you die.
So the answer to your question is I don't recall hearing that from anyone, but I don't recall anyone saying this should all clear up tomorrow. I can't -- it's a blank slate as it were.
Q. Okay.
MR. BECK: Has that report been

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produced?
MR. BENAK: Not yet. I have it. I was waiting for the Judge to enter the confidentiality provision or order. She has it. I expect to be able to get it to you guys by Friday.
THE WITNESS: And I should also -- in trying to be forthcoming with you --
MR. THOMPSON: Uh-huh.
MR. BENAK: Kent, have you answered the question?
THE WITNESS: All right. Okay.
MR. BENAK: Thank you.
THE WITNESS: All right.
BY MR. THOMPSON:
Q. All right. This is my last question, and I'm not trying to -- trying to -- I don't want to try your patience but I got a little confused, okay.
A. Not a problem. No problem.
Q. This is just a professional timeline for me, Mr. Maynard. That's it, okay.
What year were you licensed?
A. 1990.

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Q. '90. How many states are you licensed in?
A. Two. Illinois and Pennsylvania.
Q. Okay. Quick summary, get licensed, what professional job do we have?
A. I was licensed -- actually I was hired by Jenner and Block as an associate before I was sworn, I took an oath in 1990 in the fall.
Q. Okay. So Jenner and Block is the first spot, first place of employment?
A. Yeah, first place out of law school.
Q. Okay. And how long did you work for Jenner and Block?
A. Until I went off on my own in 2005 and set my own shop.
Q. Got it. Okay, 2005.
And I thought I heard -- well, when you --
When you went on your own in 2005, did you join another firm?
A. No, I started my own firm because I had a client.
Q. Was that Marc Real Estate?
A. That was Marc Realty, yeah.

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Q. Marc Realty. So when you did your conflict check, Marc Realty, whatever the issue was with Jenner and Block you went out on your own in 2005?
A. Yeah. Actually, come to think of it, I was at another firm that's no longer in existence as a partner before I went -- before I went on my own.
Q. Okay. What years?
A. But that was -- what was it? Meckler Bulger and Tilson.
Q. Uh-huh.
A. And I did that -- I don't even remember now, but I did that a couple years before I decided to go out on my own. And it was actually Meckler -- the Meckler firm that did not want to clear the conflicts to let me do the work for --
Q. Okay, that's where I got confused.
A. Yeah, no.
Q. Okay. So if we use law school is '90, approximately 2005 is when you went out on your own?
A. Yes.

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Q. Maybe for two years or some time before that you were at Meckler's office?
A. Yes, yes.
Q. And then you went out on your own in 2005?
A. Yes.
Q. Okay. And then since 2005 you have had your own private practice up until today's date?
A. Yes, yes.
Q. Okay. Has the -- because I got confused with this going back and forth from Pennsylvania. Was the 2000 -- your private practice, was that always in Illinois?
A. Yes.
Q. Okay. Okay.
A. Let's put it this way. I was licensed in Pennsylvania, but I never really did any work there.
Q. Okay. One second.
Simple question, again, Mr. Maynard, okay? You did your approximate timing from the time Aggie left the house until your dog was shot, and I think you said 11

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seconds, right?
A. Yes.
Q. Okay. Before your dog was shot I do recall you giving verbal commands to Aggie, right? You were saying Aggie, no, Aggie, no?
A. I didn't give a verbal command, I just yelled Aggie, no.
Q. Okay.
A. Because I was trying to get her to stop running from me. I was chasing her.
Q. Do you believe that you were ever in control of Aggie prior to her being shot?
A. Yeah, absolutely.
Q. Okay. Okay. I know things happened fast. The whole event happened fast, but do you have an estimate in that 11-second period of time when it was that you gained control over Aggie?
A. We would have to go through it on the video.
Q. I don't want to go through it on the video. As you sit here today based upon your recollection of seeing the video --
A. You know --

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Q. If you can't, then tell me you can't, but I just want to -- that's my question.

A. My understanding based on my prior examination of the -- of the artifacts is that I could -- I can -- I have the video that shows her running out of my apartment, okay.

Q. I've seen it.

A. Okay. And then I have the video which shows me arriving at the corner.

Q. Got it.

A. Okay. And then what I did was I calculated the precise -- I went out and I measured that precise distance. 35 feet to the sidewalk. Then from the sidewalk to the corner was another, I think, 40 feet. So I said okay, we've got 75 total feet, hypothetically now. These are approximate.

If a human being were walking 75 feet under -- at a normal pace, how long would that take? X number of seconds, okay. Now someone who is running or jogging, so I looked at those, and then I said, okay, I'm not a young guy, but I was running as fast as I could. So I said, okay, conservatively

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speaking, running as fast as I could, it could not have taken more than X number of seconds, which I don't recall right now, but this is something I shared with Jeanne Goodwin. I sent her an email and I had a diagram with arrows and I said, okay, the most --

Q. Mr. Maynard, I am not trying to interrupt you. I'm going to cede you that point. You did some math, you did some calculations --

A. Right.

Q. -- and to the best of --

A. And so what I'm --

Q. -- your calculations you think it was approximately 11 seconds. I am not going to hold you to 11 seconds.

A. Well, no, but what I'm trying to tell you is from soup to nuts, from her getting out of the front door of my apartment to the time she was lying dead in a pool of blood was no more than at the very most 15 seconds, but my calculation is it was probably about 11 seconds.

The number of seconds that transpired from the time that the dogs first

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engaged and your client fired was, in my calculation, looking at the artifacts, three seconds. In other words, when she first saw the dogs engaging, the first thing she did was disengage her weapon.

Q. Mr. Maynard, do you remember my question?

A. And it was three seconds later that she fired.

Q. Do you remember my question?

A. And so you are asking me -- well, fine, repeat the question.

Q. I'm sorry. But I asked you if you ever thought you had gained control of Aggie before --

A. Yes.

Q. -- she was shot, right?

A. Yes.

Q. And you said yes?

A. Yes.

Q. My follow-up question was for how long prior to her being shot do you believe you had control of Aggie?

A. You can look at the video. If it took

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three seconds from the time of doggy engagement to the time of being shot, and that was three seconds, I mean, it couldn't have been more than three seconds. Because, you know, it wasn't like there was a long period of time. It wasn't like I was lying there on the ground holding her and Mostek sauntered up and took the shot. She was already there. She had pushed me to the ground, and it was all one continuous motion.

If you look at the video, I would encourage you to look at the video and don't take my word for it because the best evidence on that point is gonna be the video, and it's gonna show that I had -- there was daylight between the dogs and I had control of my dog --

Q. Okay.

A. -- and that that -- it was after that point in time that she shot. Now, how -- exactly how long that was I don't know.

Q. Okay, fine. Okay, fine.

A. I mean, I can't quantify it, as I sit here right now.

Q. Okay. Thank you. If you can't, you

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can't.

But since you brought up the video, Mr. Maynard, if I understand your contention, the physical contact that occurred between you and Officer Mostek was not that of two dog owners colliding as they were going towards their dog, but you think that that contact from Officer Mostek was intentional?

A. Absolutely.

Q. Okay.

A. I have absolutely no doubt in my mind.

Q. Okay, that's fine. That's fine.

A. She was already holding her weapon.

Q. Mr. Maynard --

A. She was just angling for a better -- for a better shot --

Q. Okay, that's fine.

A. -- and then I was getting in the way. And then when I did get in the way, she decided that she would shoot anyway. No doubt in my mind, which is why I find this whole thing so upsetting.

MR. THOMPSON: Okay. That's all the questions I have for you, Mr. Maynard. I thank

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you. I appreciate your time.

MR. BUNN: Okay. Do I need a microphone?

THE VIDEOGRAPHER: Yes.

(WHEREUPON, a discussion was held off the record.)

MR. BUNN: So I am one of the attorneys for the Defendant City of Chicago.

CROSS-EXAMINATION

BY MR. BUNN:

Q. Do you recall we have talked about two videos, one showed you at your front door and your dog running out, and the second video shows you running to the shooting and the shooting itself. Do you remember those two videos?

A. Well, I guess if you want to call them separate videos. I don't know if they have been Bates stamped, but they are two --

Q. Sure.

So Paragraph 29 of your first amended complaint cites to a YouTube video that shows you opening your front door and your dog --

A. Okay.

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Q. -- running out the front.

A. Okay.

Q. Do you remember that?

A. Okay. We can call -- we can call that a video, a discrete video, although --

Q. Yeah.

So do you remember -- you opened your front door. Do you remember seeing Mostek on the sidewalk?

A. No.

Q. Do you remember hearing Mostek talking?

A. No.

Q. Has your dog Aggie, when obviously she was alive, did she ever push through your front door on her own at any other time besides that?

A. Never.

Q. That was the only time you remember her doing that?

A. Never. And was never off leash, not once ever.

Q. And then for the video that shows you running to the corner and the shooting itself, do you remember that that video also shows

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Mostek kind of jogging down the block to the side door of the building, and then going inside the side door?

A. I vividly remember that.

Q. So I just want to draw your attention to a particular period of time and questions about a period of time. The period starting from when your dog ran out your front door, which is on video, and going up to the point in time that Mostek went into the side door of her building after she fired the shot and closed the door behind her. Does that make sense that -- that period of time?

A. I understand what you're saying.

Q. So during that time period, you were aware that Mostek was a police officer with CPD, right?

A. Yes, we have talked about that.

Q. Okay. And during that time period Mostek was off duty, she was not on the clock as an officer; is that right?

A. How can you possibly imagine that I could testify to that fact? I had no idea whether she was -- she could have been in

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plainclothes.
Q. So your first amended complaint was verified by you, right?
A. Oh, and it says that she was off duty.
Q. Right.
A. Well, it turns out that in the fullness of time we discovered she was off duty, but at the time of the incident, I had no idea whether she was off duty or on duty.
Q. Okay. But now you know that --
A. How could I possibly know that?
Q. Now you know that she was off duty, right?
A. I know now that there is testimony in this case, in the record of this case, that she was off duty. Do I -- can I go -- have I gone to the CPD and verified that somehow, no, but I believe it to be true.
Q. Okay. So you are not disputing the point that she was off duty at the time of the incident?
A. I have no basis to affirm or dispute.
Q. Okay. Well, you're still making it unclear. You alleged in your verified complaint

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that she was off duty, so are you questioning that allegation or are you standing by it?
A. It's an allegation. It's subject to being proven. It's not an affidavit.
Q. You verified it --
A. Yes, I did --
Q. -- correct?
A. -- and I believe it to be true.
Q. Okay. So are you disputing that it is true?
A. I believe that she was off duty based on what I've been told. I don't -- I don't think that there has been a massive conspiracy here to lie to me about that. I think she was off duty, but I don't know because I have no -- I am not a percipient witness as to that.
Q. Yes or no.
Do you have any basis to dispute the fact that she was off duty at the time of the shooting?
A. I have nothing -- no basis to confirm or deny.
Q. So you have no basis to confirm or deny, meaning you don't know?

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A. Meaning I have no basis to confirm or deny.
Q. Okay. So then do you want to withdraw that allegation from your complaint that you verified?
A. No, it's an allegation which I believe to be true.
Q. Okay. So do you still believe it to be true?
A. I still believe it to be true.
Q. And are you going to question that allegation in this case?
A. I cannot tell you whether her work schedule made her on duty or off duty. I do know as a matter of hearsay and the lore of this case that she is -- supposedly she was off duty. I believe that to be true.
Q. You do admit that she was off duty at the time of the shooting, yes or no?
A. I don't -- no, I don't admit that. That's really -- you've got the wrong witness for that. You need to go to the CPD and ask her -- ask them --
Q. Okay. So then your allegation in

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Paragraph 28, you verified that you have personal knowledge of the facts alleged in the complaint, correct?
That's your verification, correct? Yes or no? I need an answer to the question.
A. What is your question?
Q. I just asked it.
A. Why don't you ask it again.
Q. You verified the facts in your complaint are true, correct?
A. I signed a verification, and there is a verification to the complaint.
Q. And what does that mean to you?
A. It means I signed a verification.
Q. What does that mean to you to sign a verification?
A. That I verified what -- that I verified whatever the verification says.
Q. So are you -- you're verifying everything that you wrote in this complaint, correct?
A. Well, they're -- the complaint contains allegations. I, in good faith, believe

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it to be true that she was off duty. I've told you that.
Q. Okay.
A. And how many times do you want me to --
Q. And yet -- well, you're refusing to acknowledge the fact that you're admitting in this case that she was off duty, right? You're not admitting that?
A. How can I be the --
Q. You just said you --
A. How can I be someone who admits that? You need to have CPD give you some kind of an affidavit from somebody who knows because I am not the CPD.
Q. Okay.
A. I don't determine who's on duty and who's off duty. So, yes, I believe she was off duty.
Q. Okay. So let's just wrap it up. Are you aware of any evidence that she was on duty at the time of the shooting?
A. No.
Q. Great.

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A. Or off duty. I just am told that she was off duty and I choose to believe that.
Q. Okay. So, again, are you aware of evidence that she was on duty? It's yes or no. I want a yes or no answer.
A. No, no.
Q. As you sit here today?
A. No, I'm not.
Q. The answer is no, right?
A. No.
Q. Okay. During that time period did you ever hear Mostek say that she was a police officer?
A. What time period?
Q. The time period that we just covered. You want me to go over it again?
A. Oh, the time from the time -- so from the time the dog ran out the door of my apartment to the time Mostek ran into the door of her place --
Q. Yes.
A. -- did I hear her say I am a police officer? No. The only thing I heard her say was --

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Q. I didn't ask what else she said. I just want to know --
A. I don't believe --
Q. -- did you hear her say she --
A. I don't I believe I heard her --
Q. -- was a police officer?
A. I don't believe I heard her say that, no.
Q. Okay. During that time period did you ever hear Mostek say that she worked for the Chicago Police Department?
A. Yeah, no. She didn't say I'm a police officer acting in the scope of my duty in spite of the fact that I am off duty. No, she didn't say any of those things.
Q. During that time period did you ever hear Mostek say that she worked for the City of Chicago?
A. No. No, not in the 11 seconds. No, we didn't have a chat about where she worked.
Q. During that time period did you ever see Mostek's police star or police badge for the Chicago Police Department?
A. Not in the period -- time period of

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the 11 seconds you defined, although she did have a star on, and she was displaying it to her colleagues in the doorway, and it's on one of the body-worn cameras. You can see it. She has the star here and she's -- and she's telling these --
Q. So that's not -- that's not what I'm asking. So during that time period, did you ever see her police star or police badge for the Chicago Police Department?
A. Did I see it in the 11 seconds, no. No, because I was focused on getting my dog and then trying to figure out why my dog was dead.
Q. During that time period are you claiming that she had her police star or police badge on her person?
A. Well, she certainly had it on her person when she was displaying it to her fellow officers as she stood in the doorway.
Q. That's not my question.
A. Well, that's my answer.
Q. During the time period, do you have evidence that she had her police star or police badge on her person?

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A. You know, you could look at the video and you would see that she was not displaying a badge.

Q. Sir, yes or no is the question. Answer the question.

MR. BENAK: Can you read the question back, please?

MR. BUNN: I don't -- I'll just repeat it.

MR. BENAK: Okay. That's fine.

BY MR. BUNN:

Q. During that time period, do you have any personal knowledge of whether Carmen Mostek had her CPD police star or police badge on her person?

A. No. I didn't -- I didn't -- no, I didn't ask her to show me her badge as she was shooting at me.

Q. That's not responsive to my question. So is the answer yes or no?

MR. BENAK: All right. I'm going to object to the question as being argumentative. Do you mean aside from the circumstantial evidence that she had it --

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MR. BUNN: How is that argumentative?

MR. BENAK: -- on aside from the --

BY MR. BUNN:

Q. Do you have personal knowledge --

MR. BENAK: All right.

BY MR. BUNN:

Q. -- of whether or not she had her badge on her person during this time period that we are discussing?

MR. BENAK: Aside from the fact that she displayed it later, that's circumstantial, Counsel.

MR. BUNN: I'm not talking about later. I'm talking about during this time period.

MR. BENAK: Okay.

MR. BUNN: It's very clear. There is no ambiguity.

BY MR. BUNN:

Q. During this time period are you aware of any evidence that she had her badge on her person?

MR. BENAK: I think it mischaracterizes the witness' testimony. He

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said that she displayed the badge later.

MR. BUNN: It's nothing about his testimony. It's a question.

MR. BENAK: Well --

MR. BUNN: It's a factual question.

MR. BENAK: And it's an unfair --

MR. BUNN: What is the answer to the question?

MR. BENAK: It's an unfair question, Counsel, and that's my objection. He's given you the circumstantial evidence.

MR. BUNN: Great.

BY MR. BUNN:

Q. What is your answer?

A. During the 11 seconds as you've defined, I do not recall focusing on Carmen Mostek's midsection in order to determine whether she was carrying her badge; a badge which I understood she had a right to carry because she was a Chicago police officer.

Q. So the answer is no, you have nothing -- you're not aware of anything to know for sure that she had her badge on her during that period of time, correct?

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A. I didn't know one way or the other. I knew she was a cop, and I knew that she just about shot me in the face. That was enough for me.

Q. So you didn't know one way or another, meaning you don't know for sure that she had her badge on her, correct?

A. That's right.

Q. Okay.

A. Yeah.

Q. During that time period did you see Mostek wearing a police uniform?

A. Was she wearing -- was she -- was she in uniform during the 11 seconds? You mean like did she change her clothes, like, in 11 seconds after she shot me?

Q. It's a really simple question. What's the answer?

A. Well, let me ask you a question.

MR. BENAK: No, Kent --

MR. BUNN: No, you don't answer --

MR. BENAK: -- just answer the question.

MR. BUNN: -- ask me any questions.

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MR. BENAK: Just answer the question.
THE WITNESS: I want to make sure I understand the question because it can't be that stupid.
MR. BENAK: No, you understand it. Was she wearing her uniform, yes or no?
THE WITNESS: No, she wasn't wearing her uniform.
MR. BENAK: Good.
BY MR. BUNN:
Q. During that time period --
A. That I saw.
Q. -- did you see Mostek wearing any clothing or insignia for the Chicago Police Department?
A. You mean now that we have established that I didn't see her in uniform, now you are asking if she's wearing any clothing?
Q. Yes, that's what I asked. So answer the question.
A. What do you mean clothing? She was wearing clothing.
Q. You know what clothing means, right?
A. Right. But what does -- what does

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that mean --
Q. Clothing or insignia for the Chicago Police Department.
A. You mean like a -- like a --
Q. Any symbols that said --
A. -- T-shirt that says CPD or something?
Q. -- CPD?
Sure. Anything that had insignia or symbols for CPD.
MR. BENAK: Just answer the question.
THE WITNESS: I don't think so.
BY MR. BUNN:
Q. Okay. During that time period did you see Mostek wearing any clothing or insignia for the City of Chicago?
A. I don't recall.
Q. During that time period did you see anything about Mostek's physical appearance that indicated she was a police officer?
A. Could you be a little more vague? I mean, what do you mean about her appearance that -- something about her appearance that would suggest to me that she was a cop? I already knew she was a cop. What --

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Q. Anything apart from you knowing that she worked for CPD, was there anything about her physical appearance was the question that I asked.
A. You mean like a tattoo --
Q. That showed --
A. -- that says I'm a cop? Or I mean, what -- what are we -- give me some help here. I don't know what you're talking about.
Q. You don't need help. I gave you the broadest possible thing.
Anything at all about her physical appearance during that time period, did anything at all show that she worked for CPD?
A. I don't recall in the 11 seconds that I was thinking about whether Carmen Mostek --
Q. During that time period did you see anything about Mostek's physical appearance that indicated that she was an employee of the Chicago Police Department or the City of Chicago?
A. I don't recall.
Q. Okay. During that time period are you claiming that a crime was being committed in

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Mostek's presence?
A. What -- the 11 seconds was there a crime being committed? Well, she certainly thinks so. She thinks that there was some assault going on which was -- she says -- she's testified, and I'm sure you're familiar with this, under oath she has testified that there was a vicious dog at large, that the dog was a threat to her person and was a threat to me --
Q. So are you saying that --
A. -- and was a threat -- and was a threat to her dog.
Q. -- a dog was committing a crime?
A. You want me to repeat before you interrupt me? She has testified --
Q. I just want you to answer the question.
A. You are -- you are asking about her state of mind, not mine, and she has testified --
Q. No, that's actually not what I asked. Let's go back again.
During that time period are you, you, Kent Maynard, claiming that a crime

was being committed in Mostek's presence?
A. Well, I think that there was a crime committed by Mostek during the 11 seconds, and it's called reckless endangerment.
Q. Okay.
A. And I think that --
Q. During the time -- you have answered the question.
A. -- there was also a crime committed --
Q. During that time period --
A. -- thereafter when she lied about it in the police report which is a felony.
Q. That's outside the scope of my question.
A. And then there was a further crime committed when the surveillance video came out and --
Q. Sir, you're -- you answered --
A. -- and she did not correct the record and withdraw --
Q. Now you're --
A. -- the false statements which were made in the police report.
Q. During that time period are you

claiming that there was some sort of emergency going on?
A. Well, apparently your -- Mostek thought so.
Q. No, that's not what I asked. I asked what you think.
A. Did I think --
Q. During that time period are you claiming that an emergency was going on?
A. Well, what do you consider an emergency, Counsel? What's an emergency?
Q. This is me asking you questions --
A. Yes, it is.
Q. -- not the other way around.
A. And I can't answer your question unless I understand what you mean by the term "emergency."
Q. How would you define an emergency?
A. I'm not asking the questions here today. You're the master of the questions, Counsel. You told me --
Q. I just asked you a question. So you need to answer the question.
A. I am not going to define your term for

you. I'm going to ask you to define your term because I can't answer your question as posed. It's my privilege to get a clear question from you.
Q. Something dangerous or dramatic going on. Are you claiming --
A. There was certainly something dramatic going on --
Q. Was there something dangerous --
A. -- and there was certainly something dangerous.
THE COURT REPORTER: Okay. It is 5:00 o'clock and it's late. I cannot --
BY MR. BUNN:
Q. Are you claiming that there was something dangerous happening?
A. Absolutely.
Q. And what was that?
A. Don't you think so?
Q. What was it?
A. Well, there were two dogs fighting and I didn't want anything -- any -- any damage to anybody, including the dogs.
THE COURT REPORTER: Okay. I'm not

getting what you're saying. Start over, please.
THE WITNESS: Okay.
BY MR. BUNN:
Q. So are you claiming that Mostek was responding to a crime that was being committed?
A. How do you define crime? Do they include misdemeanors?
Q. Sure.
A. Okay. Well, I think that -- that there are misdemeanors associated with animals that might be engaged in conduct that would be damaging to probably even other dogs --
Q. Are you saying that --
A. -- certainly to people.
Q. -- dogs can be charged with crimes?
A. It might not be the dog that's chargeable, but it would -- there might be a crime that arises out of conduct of a dog. You're asking me a broad question. I'm trying to give you a forthright and broad response. If you ask me a vague question, you're gonna get a vague response.
Was there something dangerous happening? Yeah, come on. How can you say

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there wasn't? I mean --
Q. Do you remember your testimony earlier when you said that there was no problem with the dogs, this was not --
A. No, I did --
Q. -- an emergency --
A. -- not say there was no problem with the dogs. I was in the -- I was running my ass off to get there so that I could separate them. I wouldn't have been running my ass off --
Q. You testified earlier --
A. -- if I thought there was no problem.
Q. Do you remember testifying earlier something to the effect of this was nothing that Mostek needed to shoot her gun. This was not a big deal. This was just a little tussle. There was no biting. Do you remember that testimony?
A. I did got give that testimony. Those words are coming out of your mouth not mine.
Q. Okay. So now -- now you're saying --
A. You're going to impinge me with your characterization of my testimony.
Q. Now you're saying that this was a dangerous situation, right?

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A. Danger -- again, you have this passion for asking questions with -- using terms that you do not define. A dangerous situation doesn't mean necessarily that there is absolute certainty that there is going to be harm resulting. It means that it could lead to something unpleasant, right.
Q. So what is --
A. Can we agree on that definition since you want me to define your terms for you?
Q. I don't need to define my terms. It's my questions.
A. Oh, you don't.
Q. No.
A. Well, then I don't need to answer the question --
Q. Okay.
A. -- because I am not going to answer a question --
Q. What is --
A. -- which is vague and ambiguous.
Q. -- the situation that you think Mostek was responding to?
A. She thought, apparently, that she was

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responding to an emergent situation in which her dog's life was being threatened. Now, whether she was being reasonable and honest about that is a different issue, but that's what she has testified to.
And furthermore, she's testified that she thought there was an emergent situation of danger, imminent danger, to myself and to her personally, all because of this one dog. And that's what she has said under oath repeatedly, and I believe, Counsel, that you were there.
Q. I'm not talking about what she said. I'm talking about what you are claiming.
A. So you're asking me what -- what I thought?
Q. Yes.
A. As if I were somehow evaluating whether there was some emergent -- the fact is I was in a hurry to get to the corner because I didn't want anyone to get hurt, any -- her dog, my dog. I didn't want anything bad to happen. To me, that's an emergency. That's included in the bucket that I would call emergencies.

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Q. And as you were running to the corner, do you think a crime was in the process of being committed?
MR. BENAK: Object to the form of the question, vague.
THE WITNESS: As I -- in the 11 seconds was I evaluating is there a crime being committed here? No, I just wanted to get to the dogs and separate them because I didn't want --
BY MR. BUNN:
Q. Okay. How about now after the fact? Do you believe a crime was being committed as you approached the scene?
MR. BENAK: Same objection.
THE WITNESS: I think that what happened on that corner constitutes the crime of reckless endangerment, that if Mostek hadn't been a police officer she would have been cuffed up and taken into custody and probably prosecuted for reckless endangerment. But because she was a police officer she got --
BY MR. BUNN:
Q. So you're just referring to --
A. -- she got the kid glove treatment.

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Q. -- that crime by Mostek, right?
A. She got a pass, and that's what I was trying to avoid when I told these guys standing around --
Q. Any other crimes apart from this crime -- you're referring to a crime --
A. Isn't that enough for you?
Q. -- by Mostek, right?
A. Isn't that enough for you? Isn't that a crime?
MR. BENAK: Same objection.
MR. BUNN: I'm asking the questions, not you, okay?
MR. BENAK: Same objection, vague.
BY MR. BUNN:
Q. So you're referring to a crime being committed by Mostek, correct?
MR. BENAK: Same objection, vague. Go ahead and answer, Kent.
THE WITNESS: Shall I say it for you again or would you read it back? I mean --
MR. BENAK: No, answer the --
MR. BUNN: A simple yes or no will suffice.

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MR. BENAK: Just answer the question so we -- well, a yes or no is not going to do it. The question is vague. Answer it the best you can.
MR. BUNN: No, it's not vague.
BY MR. BUNN:
Q. Are you referring in the answer you just gave to a crime that was being committed by Carmen Mostek, yes or no?
MR. BENAK: Same objection. Same objection.
THE WITNESS: I don't know how to answer your question. Why don't you ask a simple, declarative --
BY MR. BUNN:
Q. I just did ask a very simple question.
A. Well, try again.
Q. You just talked about a crime that was being committed, correct?
MR. BENAK: No, that's not what he said, Counsel. You said emergent. He said emergency. He has not said crime. You're misconstruing his answer.
MR. BUNN: Okay. Then I will ask the

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question again.
MR. BENAK: And therefore, I object.
THE WITNESS: Please.
BY MR. BUNN:
Q. As you sit here today, when you were running to the scene, running to the corner, do you believe a crime was being committed?
MR. BENAK: Same objection. Vague.
THE WITNESS: Well, let me -- let me -- let me answer the question this way.
I don't think that a crime was committed until the instant that the -- that that gun was discharged. And the -- when the gun was discharged it was a crime of -- the crime of reckless endangerment, which if a civilian had done that and didn't -- wasn't wearing blue they would have been --
BY MR. BUNN:
Q. Got it.
A. -- cuffed up.
Q. You answered the question.
Anything else besides what you just said?
A. Then let immediately thereafter --

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Q. No, just during the time period that we have been discussing. Anything else besides --
A. Exactly. Within the 11 seconds that her running from the scene, which is against every regulation in the book that is applicable to Chicago police officers, she ran from the scene. She didn't stay around to render aid.
Q. Okay. Sir, we are talking about crimes.
Do you contend that any other crimes besides what you just said was committed during the time period?
A. If you want a legal analysis, you know, give me a -- let me write a brief because this isn't factual. This is -- I'm not an expert. I'm not here as a legal expert. I'm here as a percipient witness. Ask me what I saw or I heard.
Q. So one of your answers --
A. Or if you want you could ask my opinions --
Q. -- to my questions --
A. -- but nobody likes my opinions, so --

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Q. Okay.
A. But don't ask me to give you -- don't ask me --
Q. Okay. Do you have a -- are you going to answer the question, yes or no?
A. No, because you're presenting me with a law school exam. You're saying with this set of facts what -- describe all the crimes that occurred. And you know what, that's not what I'm here for, Counsel. I am not here to give you a legal opinion about --
Q. So do you have an answer --
A. -- how to connect the dots.
Q. -- yes or no?
A. I have an answer, and the answer is I can't answer your question because I'm a percipient witness. I'm here --
Q. So you don't know?
A. -- to tell you what I saw.
Q. So you don't know? So you don't know? Is that it? Is your answer you don't know?
A. I --
MR. BENAK: I'm just gonna -- I'm gonna say lack of foundation. I mean, it's

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vague. You're asking -- you're asking him to define crime.
THE WITNESS: A legal opinion.
MR. BENAK: You know, it's -- just answer the question, Kent.
THE WITNESS: I cannot answer your question as posed.
BY MR. BUNN:
Q. Okay. Do you think that the dogs, the way that they were interacting, was an emergency situation?
A. Didn't we already just cover this?
Q. Again, I'm asking the questions and you answer the questions.
MR. BENAK: All right. You want me to -- you want me to instruct him not to answer --
MR. BUNN: So answer the question that I just asked you.
MR. BENAK: You want me to instruct him not to answer because it has been asked answered? I will make the objection one more time, asked and answered. Now answer the question. The next -- this is the last time he's going to answer it. Go ahead.

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THE WITNESS: I -- I was emergently running as fast as I could to the corner because I was concerned that I wanted to prevent any -- anybody, anything, anybody to suffer any negative consequences of any sort whatsoever, including the two dogs or anyone who might be there.
I was just trying to get there and make sure that everything was okay. And I was running because it was a situation where it was, as I say, time critical, which is another way of saying emergency, right. Since you want me to define, time critical, get there quickly, right. So yes, the two dogs, time critical, get there, separate the dogs, okay.
BY MR. BUNN:
Q. During that time period are you claiming that Mostek was performing actions that are similar to what a police officer performs in the course of their duty as a police officer?
A. Okay. Fuck this. I mean, that's -- listen. You want a legal opinion, get a lawyer. I'm not here to give you legal opinions. I'm not --

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Q. I'm not asking for a legal opinion.
A. I'm not going to write your brief for you.
Q. I'm asking you a question.
A. Uh-unh. I am not gonna -- look, you and I, we're both lawyers, right.
Q. Okay. Sir, let me --
A. I'm not here --
Q. I'm not playing this game. Are you going to answer the question, yes or no?
MR. BENAK: All right.
THE WITNESS: No.
MR. BENAK: Okay. I'm going to interpose an objection based on lack of foundation, and you can say you can't answer it.
THE WITNESS: I can't answer.
MR. BENAK: There you go.
THE WITNESS: I'm not here to give you legal opinions.
BY MR. BUNN:
Q. I don't care what you're here for.
A. You can make your arguments. They're legal arguments based on the facts that you get from me --

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Q. Great. During that time --
A. -- and you can take that and --
Q. -- period are you claiming that Mostek was acting as a police officer would?
MR. BENAK: Same objection, vague, lack of foundation.
THE WITNESS: I'm not going to write your brief for you, Counsel. I'm here to give you facts.
BY MR. BUNN:
Q. I need you to answer the question or not answer it.
A. No, I am not going to go down that road.
Q. I'm not playing these games, okay.
A. You are playing a big game.
Q. What is your answer?
A. The answer is --
MR. BENAK: Same --
THE WITNESS: -- your question is improper --
MR. BENAK: Same objection.
THE WITNESS: -- impertinent and frankly --

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BY MR. BUNN:
Q. So am I going to get an answer to the question or not?
A. No, you are not. And if you want to go before the judge and say I wanted counsel to give me legal opinions about the scope of her employment and whether she was acting as a good -- you know --
Q. What facts or evidence are you aware of to support the fact that she was acting within the scope of her employment?
MR. BENAK: Same objection.
THE WITNESS: Not going there. You go and you explain to the judge why I don't want to write your opinion -- your brief for you. You can argue these things.
BY MR. BUNN:
Q. So you're refusing to tell me what -- stop. Don't interrupt me.
A. I will give you facts.
Q. You're refusing to tell me what facts or evidence you are aware of, facts or evidence, not a legal opinion.
Are you telling me that you're

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not going to tell me what facts or evidence you are aware of to support a position you're taking in this case?
A. I'm taking? I didn't take any position about these issues. What are you talking about? You're asking me a question about whether --
Q. Are you going to answer the question of what facts or evidence you are aware of that support your position that she was acting in the scope of her employment?
MR. BENAK: Other than what she told the --
MR. BUNN: No, no, no. The question is not to you. The question is to the Plaintiff.
MR. BENAK: Well, I mean, we have had all sorts of evidence on this, Counsel.
BY MR. BUNN:
Q. What facts or evidence are you aware of?
MR. BENAK: You know, I am tired of this. This is argumentative. He has testified to it. We've had -- we've had numerous

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instances of what she said and why there is evidence to that effect.
MR. BUNN: No, no, no. Hold on. What do you mean he's testified to it? I'm asking the question now.
MR. BENAK: All right. Kent, answer it.
THE WITNESS: It's been the subject of briefs and motion practice.
BY MR. BUNN:
Q. But this isn't a brief. This is a deposition. I'm asking you a question about --
A. No, this is a brief.
Q. -- what facts or evidence you are aware of.
A. No. What you're doing is -- what you can do is --
Q. Are you going to answer the question, yes or no?
A. You're gonna interrupt me or let me answer your question? Generally --
Q. You're not answering it.
A. Well, maybe you think I'm not, but I'm trying to, and here's what I'm trying to tell

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you.
Q. I'm not playing -- just answer the question so we can be done, okay?
What facts or evidence are you aware of?
A. That's not what the question is. What facts am I aware of, that's not the question. What you want me to do --
Q. That is the question. I've literally asked it three times now.
A. No, no, no. You have taken this -- this -- construct --
Q. Sir -- sir, stop. Either you're going to answer the question or not.
A. You know what, I am about this far from walking out of here because I have had enough of this shit.
Q. Okay.
A. You have no idea --
Q. Okay. So you're not going to answer the question?
A. -- what a percipient witness is. You want facts from me --
Q. What facts --

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A. -- and then you take the facts and you weave --
Q. -- and evidence are you aware --
A. -- them with the law.
Q. -- of? Are you going to answer, yes or no, last chance?
A. What you have given -- you've given me a proposition and you want me to tell you what facts --
Q. Oh, my God.
A. -- support it. That's your job, Counsel, not mine. You can ask me the facts.
Q. I asked you what facts you are aware of. Do you understand what that phrase means?
MR. BENAK: Answer it if you can, Kent.
BY MR. BUNN:
Q. Do you understand? Do you understand what that means to be asked what facts you are aware of?
A. Oh, my God.
MR. BENAK: That's all right. Answer the question as best you can.
THE WITNESS: I understand that

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phrase, I guess, yeah.
BY MR. BUNN:
Q. Okay. So what facts are you aware of to support the notion that she was acting --
MR. BENAK: Just answer it.
BY MR. BUNN:
Q. -- within the scope of her employment?
MR. BENAK: Just answer it. You can repeat the brief form if you want.
THE WITNESS: Yeah, it was -- actually I think it's dealt with in the motion -- in the briefs on the motion to dismiss. My recollection, as I sit here today, with respect to the legal argument on this point was that -- there are number of things.
First of all, there is a presumption that CPD officers sworn to uphold the law are on duty 24/7, as Mostek herself said in her FOP grievance in which she points out that she was being asked to contribute to her defense, and objected to that, that the City was suggesting that she pony up cash of her own on the theory that she was on some frolicking detour of her own instead of trying to protect

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public safety.
Now, I may think that she was misguided in the way she carried out her duties that day, but I think it is I think within her purview, her wheelhouse, if you will, to at least express a belief that she thought she was doing her job, and she has done so repeatedly, numerous times. And she has said that she thought she was doing her job in upholding the public order and peace because the dog was a threat, as she said, not just to her dog but to her, her person, and to me she has now said.
So you're asking me to tell you what facts --
BY MR. BUNN:
Q. Are you done with your answer, yes or no?
A. No, and you're interrupting me. And you asked -- keep asking me to answer it, and so I would say what facts you say am I aware of.
I am aware of the fact that she has testified under oath numerous times that she thought she was doing her fucking job. And you may not like that response, you may not

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agree with it, but that's what she has testified to.

As far as I'm concerned, you asked about emergent. Well, as far as I'm concerned, it was an emergent situation because I didn't want anybody to get hurt, including the dogs, especially the dogs. I didn't think anyone else was in any danger. So, yes, there was something emergent going on.

Was there a crime? I do think that a crime was committed. It was the crime of -- what else -- I mean, what else can I tell you, you know? She thought, apparently, that she was doing God's work. I don't agree. I think she was misguided. I don't know if it was lack of training or the heat of the moment. I don't know. But apparently, at least when she started down the road, she thought it was the road of duty. Okay. Now can we move on?

Q. Are you done with your answer?

MR. BENAK: Yeah, you're done.

THE WITNESS: I'm done.

MR. BUNN: Okay. I have nothing else.

MR. BENAK: I do. I have a little

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follow-up.

MR. BECK: I need to call someone and tell them that I'm not going to be at this thing.

MR. BENAK: Okay. Take me 30 seconds. You want me to wait for you?

MR. BECK: Oh, okay.

MR. BENAK: I'll wait.

MR. BECK: Then let's go ahead.

MR. BENAK: 30 seconds.

MR. BECK: I thought it was going to be a lengthy thing.

MR. BENAK: No, no, no. This isn't going to be lengthy.

MR. BECK: Great.

CROSS-EXAMINATION

BY MR. BENAK:

Q. So are you -- Mr. Maynard, are you aware of the Tactical Response Report that was made in this case?

A. Yes.

Q. Did it establish that she was acting as a police officer at the time?

A. Everything in the record of this

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case --

Q. Were you -- were you --

A. -- suggested it.

Q. Were you present in any depositions of Sergeant Butler, Sergeant To -- Sergeant To, Officer Zhao and Officer --

A. Mostek.

Q. -- Mostek while Mostek and the other Officer Pronek, that all of them testified that she was acting as a police officer; are you aware of that fact?

A. Yes.

Q. Are you aware of any evidence in this case, any documentary or other evidence that's been disclosed at any of the depositions, any of the discovery in this case that indicates that she was not acting as a police officer?

A. No.

Q. Are those the bases for your allegation and your assertion that she was acting as an -- as a police officer, notwithstanding she was off duty?

A. Yes.

MR. BENAK: Thank you. I am done.

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THE VIDEOGRAPHER: If we could get orders on the record, please.

THE COURT REPORTER: Signature?

MR. BENAK: You want to waive signature or -- no, we better take the --

THE WITNESS: No, no, no.

MR. BENAK: -- signature. This has been too --

THE WITNESS: Yeah.

MR. BENAK: -- too convoluted. We want to have a signature.

THE WITNESS: Yeah.

MR. BECK: I want a copy with the exhibits.

THE VIDEOGRAPHER: Any videos at this time?

MR. BECK: Yes, please.

THE WITNESS: Do we need -- yeah, we'll take the video, Pete.

THE VIDEOGRAPHER: All right. This concludes the deposition. Off the record time is 5:12 p.m.

(WHEREUPON, the deposition concluded at 5:12 p.m.)

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KENT MAYNARD, JR.,)
)
Plaintiff,)
)
vs.) No. 24 CV 3612
)
THE CITY OF CHICAGO, a)
municipal corporation; the) Judge Elaine E.
CHICAGO POLICE DEPARTMENT,) Bucklo
as AGENT of the City of)
Chicago; and CHICAGO POLICE) Magistrate Judge
OFFICER CARMEN MOSTEK) Young B. Kim
(Star 8664),)
)
Defendants.)

I hereby certify that I have read the foregoing transcript of my deposition given on April 17, 2025, consisting of pages 1 through 405, inclusive, and I do again subscribe and make oath that the same is a true, correct and complete transcript of my deposition given as aforesaid, with corrections, if any, appearing on the attached correction sheet(s).

____ Correction sheet(s) attached.

_____
KENNETH MAYNARD, JR.
Subscribed and sworn to
before me this ____ day
of _____, 2025.

_____
Notary Public

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ERRATA SHEET
Examination of: Kent Maynard, Jr.
Date taken: 4-17-25

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ERRATA SHEET
Examination of: Kent Maynard, Jr.
Date taken: 4-17-25

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STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

I, DONNA WADLINGTON SHAVERS, a Certified Shorthand Reporter within the State of Illinois, do hereby certify that heretofore, to-wit, on the 17th day of April, 2025, personally appeared before me at 2 North LaSalle Street, Suite 420, in the City of Chicago, County of Cook and State of Illinois, KENT MAYNARD, JR., produced as a witness for examination in said cause.

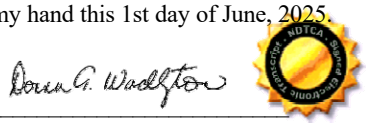
I further certify that the said witness, KENT MAYNARD, JR., was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid before the taking of the examination under oath; that the testimony was reduced to writing in the presence of said witness by means of machine shorthand and afterwards transcribed into typewriting, and that the foregoing is a true and correct transcript of the testimony given by said witness.

I further certify that I am

not counsel for nor in any way related to any of the parties to this suit, nor am I in any way interested in the outcome thereof.

I further certify that my certificate annexed hereto applies to the original and court-reporter produced copies of transcripts only. I assume no responsibility for the accuracy of any reproduced copies not made under my control or direction.

In testimony whereof, I have hereunto set my hand this 1st day of June, 2025.



DONNA WADLINGTON SHAVERS
CSR #084-002443

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EXHIBIT F

(FCRL 001983, Ring Video)

EXHIBIT G

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

KENT MAYNARD, JR,

Plaintiff,

v. Case No.: 24-cv-03612

THE CITY OF CHICAGO, a municipal corporation, and Chicago Police Officer CARMEN MOSTEK (Star 8664);

Defendants.

VIDEOTAPED DEPOSITION OF

OFFICER NICHOLAS PRONEK

TAKEN ON

TUESDAY, FEBRUARY 4, 2025

9:20 A.M.

DENA A. BENDER

225 WEST WASHINGTON STREET

CHICAGO, ILLINOIS 60606

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Also Present:
Kent Maynard, Plaintiff

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VIDEOTAPED DEPOSITION OF
OFFICER NICHOLAS PRONEK
TAKEN ON
TUESDAY, FEBRUARY 4, 2025
9:20 A.M.

THE VIDEOGRAPHER: We are on the record. The time is 9:20 a.m. The date is February 4th, 2025. This is the beginning of the deposition of Officer Nicholas Pronek. The case caption is Maynard versus Chicago.

Will counsel introduce yourselves and state who you represent.

MR. BENAK: James D. Benak on behalf of Plaintiff.

MS. KAUR: Simerdeep Kaur on behalf of the City of Chicago.

MS. MOORE: Good morning, everyone. Marion Moore, also on behalf of the City.

MR. BUNN: Matthew Bunn for the City.

MR. THOMPSON: Good morning. James Thompson on behalf of Carmen Mostek.

MR. BECK: Gregory Beck on behalf of Carmen Mostek.

THE VIDEOGRAPHER: Okay. The court

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reporter will now swear in the witness.

THE REPORTER: Okay. I'm your court reporter for today, and I just have a quick statement to make for the record. I would like everyone to please speak loudly, slowly, and clearly so I can make an accurate transcript today. Please do not talk over one another because I can only report one person at a time.

I will be administering an affirmation for any testimony given. I would like to stipulate for the record that the remote affirmation and the remote testimony will be administered and reported by a professional digital reporter. The testimony will be transcribed and certified.

Mr. Benak, do you agree to move forward?

MR. BENAK: Yes.

THE REPORTER: Ms. Kaur, do you agree to move forward?

MS. KAUR: Yes.

THE REPORTER: Mr. Beck, do you agree to move forward?

MR. BECK: Yes.

THE REPORTER: And Mr. Thompson, do you agree to move forward?

MR. THOMPSON: Yes.

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THE REPORTER: Thank you for choosing Naegeli Deposition and Trial.

Mr. Pronek, please raise your right hand. Do you affirm under penalty of perjury that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

THE DEPONENT: Yes.

THE REPORTER: You may proceed.

MS. KAUR: Sorry. Before we go forward, I just want to put on the record that the plaintiff, Mr. Kent Maynard, is present in person at this deposition.

THE REPORTER: Noted. You may proceed.

OFFICER NICHOLAS PRONEK, having been first duly affirmed to tell the truth, was examined, and testified as follows:

EXAMINATION

BY MR. BENAK:

Q. Good morning, Officer Pronek. My name is Jim Benak. I represent the plaintiff in this case. Are you familiar with the lawsuit that's been filed by Mr. Maynard against the City of Chicago and Carmen Mostek?

A. Yes.

Q. Have you reviewed the allegations of that

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complaint?

A. Yes.

Q. So in other words, you know what it's about?

A. Yes.

Q. Okay. Just a little bit of background, first, on the deposition procedure – your lawyers have probably already told you this – but this is a pretty simple, straightforward matter. First, have you ever been deposed before?

A. I might have years ago.

Q. You've – you've certainly given a sworn statement recently in this case, correct?

A. Yes.

Q. Okay. Well, a deposition is kind of like that. It's my asking you questions and then expecting a response. Your testimony is under oath, as you understand.

And just a couple of real simple matters. If you don't know the answer, just tell me you don't know the answer. If I'm not speaking clearly enough, ask me to rephrase the question or speak – enunciate better, or whatever you need to understand the question because I want to make sure you and I know what we're talking about when I get an answer

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from you, okay?
A. Yes.
Q. Is that acceptable?
A. (Nods head).
Q. Okay. Just state and spell your name, please, if you will.
A. Nicholas Pronek, P-r-o-n-e-k.
Q. Okay. And that's Nicholas with a c-h?
A. Yes.
Q. Okay. Where do you live, Mr. Pronek – Officer Pronek? I'm sorry.
MS. KAUR: Objection; form.
BY MR. BENAK:
Q. You know what? You live in the City of Chicago, correct?
A. Yes.
Q. Okay. And if we want to find your address, we can find it through your lawyers, right?
MS. KAUR: Objection; form.
MR. BENAK: I'm sorry, counsel. I just want to know where he lives.
MS. KAUR: Yeah. We're not going to disclose the personal information –
MR. BENAK: Okay.
MS. KAUR: – of police officers.

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MR. BENAK: So my question is: Can I get it through you if I need it?
MS. KAUR: You can talk to me if you need to talk to him, but we're not going to disclose his –
MR. BENAK: No, no. I just –
MS. KAUR: – personal information.
MR. BENAK: – need – I just need to know where he lives just for the record. I'm not interested in contacting him.
MS. KAUR: We're not going to disclose that information.
MR. BENAK: Okay. Well, I'll get it some other way then.
BY MR. BENAK:
Q. Okay. But you do live in the City of Chicago.
A. Yes.
Q. Okay. Give me a little bit of your background. Where did you graduate from high school?
A. That was Notre Dame High School.
Q. And do you have an advanced degree? Do you have a collage degree or any advanced degree?
A. College degree.

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Q. Do you? And where did you graduate from college?
A. Marian University.
Q. Where is that located?
A. Fond du Lac, Wisconsin.
Q. And what was your degree?
A. Criminal justice.
Q. Was that a four-year degree?
A. Yes.
Q. Okay. So it's – is it a bachelor's of science or bachelor's of arts?
A. Bachelor's of science.
Q. And when were – when did you graduate?
A. May 2002.
Q. Now, I understand you've been on the Force since 2002; am I correct in that?
A. Yes.
Q. Okay. Have you ever done any other employment other than with the Police Department?
A. No.
Q. Okay. So you came right out of college and went to work for CPD?
A. Yes.
Q. Okay. And when I say CPD, we know I'm talking about the Chicago Police Department?

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A. Yes.
Q. Okay. Tell me about your training at CPD.
MS. KAUR: Objection –
BY MR. BENAK:
Q. What –
MS. KAUR: – form.
BY MR. BENAK:
Q. What did you do to qualify yourself for the job?
MS. KAUR: Objection; form.
BY MR. BENAK:
Q. You can answer.
A. I went to the Academy six months.
Q. Okay. Anything else?
A. No. And then there's training that CPD also provides.
Q. Okay. Do you have regular training with CPD?
A. Yes.
Q. And what does that consist of?
A. Various aspects of what we deal with – how to deal with the public, how to deal with what's going on.
Q. Do you regular – regularly receive training on the policies and procedures of the

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Department?
MS. KAUR: Objection; form; vague.
BY MR. BENAK:
Q. Do you know what I mean?
A. No. Can you clarify that?
Q. Sure. The CPD has certain policies and rules that they follow in connection with enforcement of law; do they not?
A. Yes.
Q. Okay. Are you familiar with those?
A. I'm familiar with them.
Q. Okay. Do you receive regular updates or training with respect to those rules?
A. I can't answer that.
Q. Well, when was the last time that you were briefed on the rules and procedures of the Chicago Police Department?
MS. KAUR: Objection; form.
THE DEPONENT: We -- we read updates frequently.
BY MR. BENAK:
Q. Okay. Any formal like a meeting of any time --
A. No.
Q. -- of any kind?

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A. No.
Q. Do you receive firearms training?
A. Correct.
Q. Okay. And how frequently do you receive firearms training?
A. Once a year.
Q. And what does that consist of?
A. Going through the State qualification test.
Q. Okay. Does that -- well, let me just ask you an open-ended question. What does that comprise?
MS. KAUR: Objection; form; vague.
THE DEPONENT: It's State qualifications.
BY MR. BENAK:
Q. Okay.
A. It's firing from various yards.
Q. You're -- you're just talking about qualifying on your firearm, right?
A. Correct.
Q. Making sure you can hit the target as qualified -- as required by the Department?
A. Yes.
Q. And those are State qualifications, correct?

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A. Yes.
Q. And when was the last time that you qualified on your firearm?
A. Approximately, two weeks ago --
Q. Okay.
A. -- three weeks ago.
Q. And what's your -- what is your weapon? What -- what type of weapon do you use?
A. I use a 9-millimeter.
Q. Right. What -- who is the make and manufacturer?
A. SIG.
Q. Okay. And what model is that SIG?
A. A P228.
Q. As I recall, a SIG 228 is a hammer-fired weapon; is that correct?
A. Yes.
Q. Do you -- have you done any training on striker-fired weapons?
A. No.
Q. Are you familiar with the SIG Sauer P --
MR. BENAK: What was the weapon here, Kent?
MR. MAYNARD: I --
MR. BENAK: I'll find it.

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BY MR. BENAK:
Q. I'll withdraw the question. We'll come back to that in a minute.
Oh, now it is. Are you familiar with the SIG P365?
A. No.
Q. You never fired one?
A. No.
Q. Okay. Do you know that it's a striker-fired weapon?
A. I'm unaware of that.
Q. Okay. We may come back to the firearm stuff a little later, but let's move on here a little bit.
So in connection with your training, do you have any training, regular or otherwise, on conducting investigations?
MS. KAUR: Objection; form.
BY MR. BENAK:
Q. You know what I'm talking about. For instance, onsite investigations of a crime?
MS. KAUR: Same objection.
THE DEPONENT: Could you repeat that question?
BY MR. BENAK:

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Q. Sure. Have you had any – any training of onsite investigations of crime?
A. No.
Q. Excuse me?
A. No.
Q. Do you investigate – well, let me ask it a different way.
What's your experience with onsite investigations of crime?
A. I interview people that have knowledge of what might have taken place on a certain crime – for instance, that have taken place on the street or anywhere something was –
Q. How many times have you done that, would you say, just ballpark?
A. I don't have a number for that.
Q. Is it a regular part of your duties?
A. I am a preliminary investigator.
Q. And maybe this is a good time to talk about what's your – what your duties are. So just describe for me what you understand your duties for the CPD to be.
A. I am what they call a beat cop. I have a certain area that I patrol when I'm on duty. I answer calls that are dispatched to me. And when I

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go to those calls, I'm a preliminary investigator, and I get the little facts that I can in order to either write paper or do what I have to do to, you know, help out the situation.
MR. BENAK: Okay. Do we have the Notice of Deposition? Okay. Can you hand him that? That's been marked, right?
THE REPORTER: No. Nothing has been marked, sir –
MR. BENAK: Okay. Why don't you mark that Exhibit 1.
THE REPORTER: So this is my file.
MR. BENAK: Oh, okay.
THE REPORTER: I need yours, please.
MR. BENAK: Okay. Just mark that Exhibit 1.
THE REPORTER: Exhibit 1 marked.
(WHEREUPON, Exhibit 1 was marked for identification.)
MR. BENAK: Oops, there we go.
BY MR. BENAK:
Q. Officer Pronek, you've been handed by the court reporter – sorry – you've been handed by the court reporter what's been marked as Deposition Exhibit 1. Take a look at that if you haven't

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already, and tell me if you've ever seen that document before.
A. I have not seen this document before.
Q. Okay. Were you asked to bring anything with you to the deposition today, any documents or anything?
A. No.
Q. Take a look at Exhibit – I think it's marked as Exhibit 1 to the notice, Officer. I think – it's Exhibit A. Can you turn to Exhibit A of that exhibit – of that deposition notice?
MS. KAUR: I'm going to object to this to the extent that it gets into attorney-client.
BY MR. BENAK:
Q. I'm not – let – let me be clear here, Officer Pronek. I'm not asking you any questions about the communications you've had with your lawyer, okay? And I just want to be sure here that your lawyers – you know your lawyers are Ms. – are Simer and Ms. Moore?
A. Yes.
Q. Okay. So I'm not asking you to tell me anything you've talked to them about – about the case, okay? Are we understood on that?
A. Yes.

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Q. So if I ask a question that's kind of anomalous, and you may think I'm asking you about stuff you talked to them about, I'm not. And we should clarify that, okay?
A. Okay.
Q. So take a look at Exhibit A. Do you see that?
A. Yes.
Q. Now, it asks for all the documents. And mostly, what I'm interested in here are notes or text messages or voicemails that you may have made in connection with your investigation that's the center of the lawsuit.
Now, when I say the investigation – I want to make sure we're clear on this. When I say the investigation, you understand that that's the investigation you did on April 21, 2024 –
A. Yes.
Q. – of the incident that's at the center of the lawsuit that we talked about earlier.
A. Right.
Q. Okay. So did you make any notes during your investigation?
MS. KAUR: Objection; form.
BY MR. BENAK:

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Q. You know what I mean?
A. Notes?
Q. Yes.
A. Just – just my report.
Q. Well, let – let's be more specific. As you look at the body-worn camera footage from your investigation, it's clear that you're taking notes on a small pad. Do you do that in the ordinary course of your investigations?
A. Yes.
Q. Okay. And you did it in this investigation, correct?
A. Yes.
Q. Okay. Do you have those notes anywhere?
A. No.
Q. Okay. What do you do with the notes?
A. I – you know, I – I'm not sure what I did with those notes.
Q. What do you normally do with your notes?
A. After I complete an investigation, I either dispose of them or keep them in my locker.
Q. Okay. And you don't know where these particular notes are?
A. No.
Q. Okay. But you do acknowledge that you

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took note during this investigation.
A. Yes.
Q. Okay. What about text messages? Did you make any text messages in connection with this investigation?
A. No.
Q. Okay. What about voicemail? Did you leave any voicemail for anyone in connection with the investigation?
A. No.
Q. Did you receive any voicemail messages from anyone else to you about this investigation?
A. No.
Q. So we're going to – I want you to hold this thought for a few minutes. We're going to get into the tactical response report of this investigation. You know what that is; don't you?
A. I'm aware of what a tactical response report is.
Q. And are you familiar with the response report that took place in this case?
A. I had no part in the tactical response report.
Q. Okay. We'll get to that in a minute.
So if I ask you what documents you used in

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connection with the tactical response report, you would just say you had no part of it?
MS. KAUR: Objection; form; misstates prior testimony.
THE DEPONENT: I did not write a tactical response report.
BY MR. BENAK:
Q. Okay. Did you have any part of the tactical response report in connection with this case at all?
A. No.
Q. Do you know who did?
A. Those supervisors.
Q. The –
A. It's a supervisor role to do a tactical response report.
Q. Okay. Do they talk to you about it before –
A. No.
Q. – they do the report?
A. In this instance, I did not do a tactical response report, so I was not – I did not talk to anybody about one.
Q. Okay. We'll get into that a little bit later. But I'm a little puzzled, Officer, about

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where the information for the tactical response report came from if it did not come from you.
MS. KAUR: Objection; foundation.
BY MR. BENAK:
Q. Can you tell me where it came from?
A. You would have to talk to the – one of the supervisors that was on scene.
Q. And none of those supervisors on the scene asked you for your input for the tactical response report?
A. No.
Q. Okay. Let's go back to the firearms issue and the investigation issue, too. Have you any experience investigating police shootings?
A. No.
Q. So you've never investigated a police shooting?
A. No.
Q. And that would include any off-duty police shootings as well?
A. That's correct.
Q. Have you ever used your firearms in a – in the course of your duties as a police officer?
A. No.
Q. Have you ever drawn your weapon in

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connection with your duties as a police officer?
A. Yes.
MS. KAUR: Objection; form.
BY MR. BENAK:
Q. Okay. How many times?
A. I have no number to give you.
Q. Ballpark. More than 10?
A. I have no number to give you.
Q. You have no idea how many times you've drawn your weapon?
A. I've been on 23 years. I don't recall how many times.
Q. Okay. Well, I mean, do you normally draw it maybe once a year?
A. No.
Q. Okay. Less frequently than that?
A. Yes.
Q. Okay. So tell me about your – you said you were a beat cop, is how you described your work. And – and if I can kind of jump ahead, your beat is 915, 9-1-5?
A. That's correct.
Q. Okay. How long have you been on 915?
A. Ballpark, two or three years.
Q. And what were you – what beat was your

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beat before that?
A. I believe I was 914.
Q. Now, is the beat described in – in geographic terms? Or how – how do they – do you come up with the parameters of your beat?
A. I don't know how the parameters – I did not come up with the parameters. I don't know how the parameters came up.
Q. Do you understand it to be geographic?
A. Yes.
Q. Okay. So what do you – what – what was it – what were the geographic limits of your beat on this particular day, April 21, 2024?
A. My beat is 31st Street to 39th Street, the Dan Ryan to Morgan.
Q. Okay. And when an incident happens within those – within those – within that geography, are you the person that they call?
MS. KAUR: Objection; form; vague.
BY MR. BENAK:
Q. You understand what I mean?
A. Yes.
Q. Okay. And you're the person that normally would get the call for any incident in that geographic area.

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A. Yes.
Q. Okay. 914 – where was that?
A. 914? I believe that's the north side of 31st Street, north to Chinatown – excuse me – and then from Halsted to, I believe, the – the river, or to –
Q. Okay.
A. – Ryan.
Q. How often – or how long did you work that beat?
A. Maybe about one or two years.
Q. Okay. Is 914 contiguous with 915? In other words, do they –
A. Yes.
Q. – are to –
A. They're next to each other.
Q. Okay. So what are your – what are your job duties as a beat cop on 915?
A. To patrol my area, so to say, and my boundaries, and routine patrol.
Q. And as part of your routine patrol, do you respond to calls for incidents within your 915 beat?
A. Yes.
Q. Okay. What would you say the majority of your time on your 915 beat is spent? What do you

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do?
A. I patrol the area –
Q. Okay. So your –
A. – talk to the neighbors.
Q. In your cruiser?
A. Yes.
Q. And do you get out of your cruiser and interact with the public from time to time?
A. Yes.
Q. Okay. Do you have – do you know people within 915 that you talk to frequently?
A. Yeah. I mean, not by name, but I know – familiar with people's faces.
Q. Are there any businesses within that 915 beat?
A. Yes.
Q. Do you know the – the proprietors, or the people who work in those businesses?
A. I'm familiar with them.
Q. Okay. Do you have –
A. Majority of them.
Q. Okay. Are you on a first-name basis with any of those folks?
A. No.
Q. Are you on a first-name basis with any of

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the citizens within 915?
A. No.
Q. Before this incident, before April 21, 2024, did you know Officer Mostek?
A. No.
Q. And to be clear, I'm talking about Officer Carmen Mostek; you understand that?
A. Yes.
Q. Was the first time you met Officer Mostek on April 21, 2024?
A. Yes.
Q. Do you know anybody on the force named Carlos Mostek?
A. No.
Q. And when I say no, I'm – what I mean is not personally, but are you aware that there is an officer on the force named Carlos Mostek?
A. Not aware of that.
Q. So we referenced this earlier in your deposition. But you're the subject of disciplinary proceedings at the current time; is that correct?
A. I'm sorry?
Q. Are you subject to disciplinary proceedings at the current time?
A. No.

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MS. KAUR: Objection; form.
MR. BENAK: You –
MS. KAUR: Can you just wait one minute –
THE DEPONENT: Yeah –
MS. KAUR: – for me to get the objection –
THE DEPONENT: Yeah.
MS. KAUR: – out?
BY MR. BENAK:
Q. Have you ever been subject to disciplinary proceedings?
MS. KAUR: Objection; form.
THE DEPONENT: No.
BY MR. BENAK:
Q. Okay. You had your – you gave a statement to COPA in connection with the incidents – with the incident at the subject matter of this case; did you not?
A. Yes.
Q. What was the reason for your giving a statement?
MS. KAUR: Objection; foundation.
THE DEPONENT: My reason?
BY MR. BENAK:
Q. Yes.

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A. COPA wanted to interview me about the – about the incident.
Q. And they didn't tell you at that time that you were – that there were allegations against you?
A. They did inform me.
Q. Okay. And what do you understand those allegations to be part of? In other words, you're telling me you're part of a disciplinary proceeding. What was it that COPA was doing?
A. Alleging – alleging inadequate reporting.
Q. Was it part of a – of a disciplinary proceeding against you?
MS. KAUR: Objection – objection; form.
THE DEPONENT: That I can't answer.
BY MR. BENAK:
Q. Do you have your – the occasion of your statement given to COPA in mind, Officer? In other words, do you remember it?
A. Not verbatim.
Q. Okay. So I'm looking at the – your statement that you've given on – I'm looking at page 23, and I'm just going to read this into the record. This was at page 23, line 3.
Okay. And this is by Jeanne Goodwin, I respond – I – I – I – I think. No. I think

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that's accurate. By Ms. Goodwin. So the question is –
MS. KAUR: Counsel, do you have a copy of the statement?
MR. BENAK: Actually, this is the only thing I didn't bring a copy of. It's what you gave to us, so you should have a copy yourself.
MS. KAUR: Are you entering it into –
MR. BENAK: No. I'm just going to ask him a question that relates to his recollection.
BY MR. BENAK:
Q. So I'm going to read it. It says, "Officer, the allegation before you today, it is alleged that, on or about April 21st, 2024, at approximately 11:40 a.m., at or near the location of 510 West 29th Street, Chicago, Illinois, you committed misconduct through the following acts or omissions by failing to conduct an adequate and thorough investigation into Officer Mostek's firearm discharge. How do you respond?"
Your response was, "Deny."
Do you recall that question and that answer was made?
A. I don't recall.
Q. Okay. So I take from your testimony that

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this allegation never resulted in any discipline against you?
MS. KAUR: Objection; form; vague.
BY MR. BENAK:
Q. Do you understand the question, Officer?
A. Can you repeat that?
Q. Sure. I understand from your testimony that this allegation never resulted in disciplinary action against you?
MS. KAUR: Same objection.
THE DEPONENT: No.
BY MR. BENAK:
Q. Did it result in any other action against you?
A. I have not heard.
Q. Okay. Are you – are you at the present time on full-duty status with the CPD?
A. Yes.
Q. Was your duty status in any way changed as a result of this allegation?
A. No.
Q. Were there any – was there any result at all from this allegation?
MS. KAUR: Objection; form; vague.
THE DEPONENT: Can you explain that?

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BY MR. BENAK:
Q. Sure. I mean did this allegation result in – in any type of activity within the CPD as it relates to your duties?
A. No.
Q. Did you discuss this allegation with anyone other than your lawyers?
A. No.
Q. You didn't discuss it with your – and let – let me back up a minute. Who's your superior currently?
A. Explain superior.
Q. Yeah. Who do you report to?
A. I report to numerous people.
Q. Well, who's your sergeant?
A. I have numerous sergeants.
Q. Okay. Which one do you interact with most frequently?
A. I have numerous sergeants. Terry To is a sergeant.
Q. And Terry To was one of the officers on site at the time of this investigation; was he not?
A. Yes.
Q. Have you discussed with him any of these allegations?

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A. No.
Q. Did you discuss with him your findings in your investigation of the incident here?
MS. KAUR: Objection; form; vague – "findings."
BY MR. BENAK:
Q. Do you know what I mean, Officer?
A. No.
Q. Did you and – and Sergeant To –
A. No. I'm answering your question. No, I have not. I –
Q. You have not discussed anything –
A. No.
Q. – with Officer To. So just to make clear, you did have interactions with – with Sergeant – he is Sergeant, correct – Sergeant To?
A. Yes.
Q. Okay. You did have interactions with Sergeant To at the time of the investigation of this incident; isn't that correct?
A. If you're referring to on scene, yes.
Q. Yes. Okay. After the – after the investigation was closed at the scene on that day, did you talk to Sergeant To at all about the incident?

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A. No.
Q. Okay. I just want to make sure we close this up. Have you ever been disciplined at all with the CPD?
MS. KAUR: Objection; form; asked and answered.
THE DEPONENT: No.
BY MR. BENAK:
Q. Okay. Have you ever participated in any other disciplinary action by – against any other officer of CPD?
MS. KAUR: Objection; form; vague – "disciplinary action."
BY MR. BENAK:
Q. Do you know what I'm asking –
A. Can you explain that?
Q. – Officer? Sure. Have you ever been a witness, or have you ever contributed any evidence or any other data in any disciplinary proceeding of any officer of CPD?
MS. KAUR: Objection; form; vague – "proceeding."
THE DEPONENT: No.
BY MR. BENAK:
Q. Okay. What were your hours on the day in

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question that is April 21, 2024?
A. 0600 to 1500 hours.
Q. Okay. Was that normal for you at that time?
A. Yes.
Q. So you got this call at approximately 11:29 of the incident in question, correct?
A. Correct.
Q. Okay. What were you doing right at 11:29 as you got the call?
A. My – I was – I don't know. I was –
Q. Normal duties?
A. Normal duties.
Q. Anything out of the ordinary at the time?
A. No.
Q. Okay. And how did you get notified of the incident?
A. Radio dispatcher.
Q. Normal procedure?
A. Normal procedure.
Q. How was the incident described to you originally?
A. The incident came out of a call of a person shot.
Q. And when you arrived at the scene, you

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were informed that a person had been shot there.
A. Can you explain that -- say that again?
Q. Sure. I mean your knowledge at the time you arrived on the scene was that there had been a person shot, correct?
A. Correct.
Q. Okay.
A. That's –
Q. And when did you find out that it wasn't a person, that it was a dog that was shot?
A. As soon as I arrived on scene.
Q. Okay. And who told you that?
A. I discovered it.
Q. How did you discover it?
A. I saw a dog lying in the street. I might have also asked, and there was no person shot.
Q. Okay. Did the idea or the fact that it was a dog and not a person shot affect the way you approached the investigation?
MS. KAUR: Objection; form.
THE DEPONENT: No.
BY MR. BENAK:
Q. So you investigated the shooting of the dog just as you would investigate the shooting of a person?

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A. Yes.
Q. Is the issue of a firearm discharge something that makes this case not unique, but I mean – let me ask the question. That wasn't a very good question.
Do you investigate firearms discharges in the ordinary course of your duties?
A. Explain.
Q. Well, I mean, if a gun is shot and somebody calls the CPD and says there's shots fired at such-and-such a location, do you go to investigate that if it's on your beat?
A. Yes.
Q. Okay. And if it's a firearm discharge without any apparent injury, how do you investigate that?
MS. KAUR: Objection; form.
THE DEPONENT: I do a preliminary investigation. I'm – I talk – talk to people, look to see if there's a crime scene, look to see if there's evidence.
BY MR. BENAK:
Q. Okay. Is a –
A. Excuse me.
Q. Is a firearms discharge, whether it's by a

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police officer or a civilian, something that is ordinarily not allowed within the City of Chicago?
MS. KAUR: Objection; form; foundation.
BY MR. BENAK:
Q. You understand what I'm asking?
A. No.
Q. Okay. Firearm is discharged by itself. That's all you know. A gun has been shot. Is that something that would ordinarily be investigated by the CPD?
MS. KAUR: Objection; incomplete hypothetical; vague – "ordinarily investigated."
THE DEPONENT: Yes.
BY MR. BENAK:
Q. All right. You know what I'm asking?
A. Yes.
Q. Okay. And why does the CPD investigate firearms discharges?
MS. KAUR: Objection; form; foundation.
THE DEPONENT: There are laws stating.
BY MR. BENAK:
Q. Okay. You're not supposed to discharge a firearm in –
A. We're not supposed –
Q. – the City –

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A. – to do –
Q. – correct?
A. Correct.
Q. So the firearm – discharge of a firearm is, presumptively, unlawful –
MS. KAUR: Objection; form –
BY MR. BENAK:
Q. – correct?
MS. KAUR: – foundation.
THE DEPONENT: Essentially, yes.
BY MR. BENAK:
Q. Okay. And that would be true within Beat 915, your patrol, correct?
A. Correct.
Q. Now, what actions would you take – well, let me ask you a different question – the question in a different way.
Would it matter in your investigation whether the firearm's discharge was by a civilian or a police officer?
A. Could you repeat that?
Q. Sure. Does your – is your investigation different depending on whether it's a civilian who's discharged the firearm or a police officer?
A. No.

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Q. Okay. I want to go back and make sure we've closed a couple of these issues. Were you aware of the lawsuit that had been filed by Mr. Maynard at the time you gave your statement on July 12th, 2024, to COPA?
A. Was I aware of the lawsuit?
Q. Yes.
A. I – I mean, I didn't – didn't have knowledge of the lawsuit. I mean, no.
Q. Well, at the time you gave your statement to COPA, did you know that a lawsuit had been filed?
A. No.
Q. When did you first learn about the lawsuit?
A. A few weeks ago.
Q. Okay. At the time you learned of the lawsuit, had the City already contacted you as their lawyers?
MS. KAUR: I'm going to object to the extent this –
MR. BENAK: Let me –
MS. KAUR: – get into attorney-client.
MR. BENAK: Let me ask the question a different way, counsel.
BY MR. BENAK:

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Q. Were you aware of the lawsuit before the lawyers here first communicated with you?
A. No.
Q. Okay. Is it safe to say that everything you know about this lawsuit you got from your lawyers?
A. Yes.
Q. Okay. After you were – became aware of the lawsuit, did you talk to anybody but your lawyers about the allegations of the lawsuit?
A. No.
Q. Have you viewed or read any media coverage about the lawsuit?
A. No.
Q. I mean anything – anything on the news, you watching TV. You haven't seen anything on the news?
A. I stay away from watching the news.
Q. Okay. And well, do you read newspapers?
A. No.
Q. Okay. So I just want to make sure we're clear on this. Nothing in the media – nothing has been said in the media you have read about this lawsuit.
A. Nothing.

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Q. Okay. Let's go back to your arrival on the scene of the incident. And I want to make sure we're clear here. When I say the incident, I'm talking about the shooting on April 21, 2024, on or about 11:30. Are we clear on this?
A. Yes.
Q. Okay. Now, when you arrived on the scene, you said that you – I'll go back a little bit. Let me rephrase the question.
Your testimony is that you do preliminary investigations, correct?
A. Correct.
Q. Okay. And when you arrived on the scene at this time, did you understand your role was to do a preliminary investigation?
A. Yes.
Q. Okay. And what do you understand that to be?
A. Well, first – foremost, I have to make sure that there was nobody injured on scene and that I don't need to call an ambulance.
Second, I need to figure out what's going on.
Q. And did you do that in this case?
A. Yes.

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Q. Okay. And how did you figure out what was going on?
A. My observations, my – on scene and from hearing people speak.
Q. Did you talk to people on the scene?
A. People came up to me.
Q. How many?
A. I couldn't tell you.
Q. More than one?
A. Maybe, yeah.
Q. Well, you talked with Mr. Maynard about this; did you not?
A. Who's Mr. Maynard?
Q. Well, you see this gentleman sitting next to me?
A. Yes.
Q. Do you recognize him?
A. I recognize him.
Q. Okay. And he's one of the people – one of the persons you talked to on April 21 when you investigated this incident; isn't that correct?
A. Tried talking to.
Q. Okay. Well, you did get some information from him; did you not?
A. Very little.

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Q. Okay. And what do you understand that information to be that you got from Mr. Maynard?
A. He just gave me a name.
Q. And he told you other information about the incident; did he not?
A. I don't recall.
Q. Do you recall that he told you that he was on top of his dog, holding the dog at the time the dog was shot; do you recall that?
A. I don't recall.
Q. Well, we can do the videotape. But as you sit here today, you don't remember that, correct?
A. I – I don't recall.
Q. Okay. But if you had received information like that from Mr. Maynard, regardless of whether you recall today, would that have been important to you in your investigation?
A. Yes.
Q. Okay. Did you talk to anybody else that you can bring to mind right now – not names, but just people that gave you information at that time?
A. Yes.
Q. Who? Or what person?
A. I spoke with the other party that was involved.

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Q. Okay. Ms. Mostek – or Officer Mostek?
A. Yes.
Q. Okay. Did you talk to – let's – let's set her statements aside for the time being. While you were on the street, before you talked to Officer Mostek, did you talk to anybody else on the street about what had happened?
A. No.
Q. Did anybody come up to you and volunteer information about what had happened?
A. Yes.
Q. Do you recall – if you don't recall a name, do you recall a person who gave you that information?
A. No.
Q. Do you recall that there was a woman at the scene who told you that she had called 911?
A. I don't recall.
Q. Okay. Do you recall getting information corroborating Mr. Maynard's statement at the time of the incident?
MS. KAUR: Objection; form; vague.
THE DEPONENT: Excuse me. Could you repeat that?
BY MR. BENAK:

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Q. Sure. Let me make it – rephrase it a little bit differently.
Did anyone else at the scene tell you the same thing that Mr. Maynard had said, that he was on top of the dog when the dog was shot?
A. I don't recall.
Q. How many people do you suppose, at least as you can recall today, you talked to on the street about this incident?
A. How many people I talked to on scene?
Q. Right.
A. I don't recall how many people I talked to on scene.
Q. More than three?
A. I couldn't give you a number.
Q. No idea?
A. No.
Q. Let's ballpark it. Ten? Did you talk to 10 people?
A. No, I'm not going to ballpark it. I don't recall how many people –
Q. You don't recall anything about it.
A. I don't recall how many people I spoke to on scene.
Q. So during your investigation, did you

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understand that the rules of the CPD applied to your preliminary investigation?
A. Explain. Can you explain?
Q. Well, let me – let me back up.
There are rules for preliminary investigations that the CPD actually has in writing; aren't there?
MS. KAUR: Objection; form; "rules" – vague.
BY MR. BENAK:
Q. You can answer, Officer.
A. Oh, no. Yes, there are.
Q. Okay. And did you – did you think when you began your investigation that those rules applied to you in conducting your preliminary investigation in this case?
A. Yes.
Q. And you conducted yourself in accordance with those rules, as you understand them?
A. Best of my knowledge – knowledge.
Q. Well, I mean, do you always try to do that when you do a preliminary investigation – try to follow the rules?
A. Yeah.
Q. And you're familiar with the rules; aren't

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you?
A. (Nods head).
Q. Were you the officer responsible for the preliminary investigation in this case?
A. Yes.
Q. So if I could just put it in the vernacular, you took the lead on this investigation on the scene?
MS. KAUR: Objection; form; vague.
BY MR. BENAK:
Q. Does that make sense to you what I just said?
A. Yes. I was dispatched to the call.
Q. Okay. And you were the lead person on the scene doing the investigation?
MS. KAUR: Objection; form; vague – "lead," "investigation."
THE DEPONENT: Yes. I was the car.
BY MR. BENAK:
Q. Any other officer on the scene that had any authority to conduct an investigation without your knowledge?
MS. KAUR: Objection; form; foundation.
THE DEPONENT: Yes. There was other officers on the scene.

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BY MR. BENAK:
Q. Well, their – but their role was not as the primary investigator – investigator. That was your role, correct?
MS. KAUR: Objection; form; vague – "primary investigator."
BY MR. BENAK:
Q. Do you understand what I mean, Officer?
A. Yes. Yes.
Q. So you were on the lead. No one else was on the lead, right?
A. Well, anybody could ask questions. I'm just what they call the paper car. I have to –
Q. Okay.
A. – write the report.
Q. Okay.
A. Other officers can interview others other than myself.
Q. Do you recall whether that took place on this day?
A. I don't recall.
Q. If they had interviewed others, would you have been interested in what those others told to those officers?
A. Yeah. I mean –

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Q. And would you expect those officers to give you the information that they had obtained?
A. If they obtained the information, yes.
Q. For the other officers on the scene, were there any constraints on their gathering information?
MS. KAUR: Objection; foundation.
THE DEPONENT: I – I don't – I don't recall.
BY MR. BENAK:
Q. Okay. Well, let me just ask it at – as in the ordinary course. So when you're conducting a preliminary investigation when there are other people around, do those other officers have authority to interview witnesses even though you may be the primary investigator?
MS. KAUR: Objection; incomplete hypothetical.
THE DEPONENT: I won't answer for the other officers. So I – I can't say what – you know, what other – I can't say what other officers are thinking or doing on the scene.
BY MR. BENAK:
Q. I understand. But I – this is just a matter of protocol. Do these other officers have

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authority to talk to anybody they want to on the crime scene?
A. I can't answer for them.
Q. Well, I'm not asking you to answer for them. I'm just asking – asking you as a matter of protocol. When there are a number of officers on the scene, even though you're the primary investigator, do other officers have the authority to ask questions of anybody they think might be a witness?
MS. KAUR: I'm going to object. Mr. Pronek is not identified as a 30(b)(6) witness, so he could only testify to his personal knowledge and not on behalf of the City of Chicago.
BY MR. BENAK:
Q. I'm asking about your understanding of your job authority and your experience in the field. Do you understand my question? Do you have it in mind?
A. Yeah.
Q. Okay. And what would those officers' authority to be – excuse me. Let me ask – ask the question differently.
Are any of those officers on the scene at the same time you are authorized to ask witnesses

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questions?
A. I'm not answering for those officers. But yes.
Q. Okay. There would be nothing constraining them from talking to witnesses if they thought it was important.
A. Again, not answering –
MS. KAUR: Objection –
THE DEPONENT: Sorry.
MS. KAUR: – form –
MR. BENAK: Okay.
MS. KAUR: – calls for speculation.
BY MR. BENAK:
Q. You can answer –
MS. KAUR: You can answer.
BY MR. BENAK:
Q. – Officer.
A. Again, not answering for those officers, but if they wanted to, they could.
Q. Okay. Well, let me ask you a different way. If you showed up on the scene of an incident and you were not the lead investigator and you saw witnesses, would you feel free to ask them questions?
MS. KAUR: Objection; incomplete

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hypothetical.
THE DEPONENT: That's a hypothetical. I – I am not – I can't say if they would or wouldn't.
BY MR. BENAK:
Q. Well, I'm – I'm not really asking hypothetical. I'm just asking for your experience in the field.
In that case, if you showed up and you were not the primary investigator, would you feel free to ask questions of witnesses that you thought had important information?
A. I can't answer that.
Q. Why not?
A. I don't have an answer for that.
Q. But you – so you don't know whether you would do that or not?
Let me ask the question a little differently.
Understanding the rules as you do and as you must, is there any rule constricting officers on the scene, even though they're not the primary investigator, from asking questions of witnesses, as your understanding of the rules?
A. No.

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Q. Okay. You know Sergeant Butler; do you not? Sergeant Butler?
A. Yes.
Q. He was involved in this investigation; was he not?
A. Yes.
Q. Who was he in your line of reporting, if – if at all? Is he – let me ask the question differently.
Is he inside your line of reporting or outside?
A. He was a sergeant that day.
Q. Okay. Well, let me ask you a little bit about the hierarchy. So you said you had a number of sergeants and that you report to various sergeants in various cases. Were you – did you have a reporting relationship with Sergeant Butler in this case?
A. Yes.
Q. And what was that reporting relationship?
A. He was my supervisor.
Q. Okay. Do you report to him on other incidents in addition to the incident we're discussing here?
A. Are you asking has he been my sergeant

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before?
Q. Yes.
A. Yes.
Q. Okay. And have you worked with him on investigations before?
A. I can't think of any on the top of my head.
Q. Other than this incident we're discussing here?
A. Correct.
Q. How long have you known Sergeant Butler?
A. I – I don't have a number. Maybe one, two years.
Q. A couple of years; do you think?
A. Yeah.
Q. Okay.
A. Yeah.
Q. How many cases do you suppose you've worked on with him?
A. I don't – I don't recall. I don't have a number. I don't.
Q. More than five?
A. I can't say.
Q. Don't know at all?
A. Don't know at all.

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Q. Okay. Do you recall in the sequence of events when Sergeant Butler arrived on the scene?
A. Do I remember him arriving on scene?
Q. Well, that's one way to ask it, yes. Do you remember him arriving on the scene?
A. I remember seeing him there.
Q. Okay. Did he arrive right at the beginning, or did he arrive after some time had passed?
A. It might have been some time has passed.
Q. Were you the first one to talk to him when he arrived on the scene?
A. I can't say if I was or wasn't.
Q. Did you convey any information to him about what you had learned on the scene?
A. Yes.
Q. Okay. And what did you tell him?
A. I told him about the incident that just took place.
Q. Okay. Did you tell him that Mr. Maynard had told you that he was on top of his dog when the shot was fired?
A. I don't recall if I did or did not.
Q. Okay. Did you tell anybody on the scene that Mr. Maynard had told you that he was on top of

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the dog when the dog was shot?
A. I don't believe I do. I – I don't recall.
MR. BENAK: Okay. If you mark this, we're just at Exhibit 2, right?
THE REPORTER: Yes.
MR. BENAK: Okay.
THE REPORTER: Exhibit 2 marked.
(WHEREUPON, Exhibit 2 was marked for identification.)
MR. BENAK: If you could just – just hand it to him, yeah.
THE DEPONENT: Oh, sorry.
MR. BENAK: Thanks, M'lady.
You want to look at that? Well, I better get – yeah.
BY MR. BENAK:
Q. Officer Pronek, you've been handed what's been marked by the court reporter as Deposition Exhibit 2. Do you recognize that document?
A. Yes.
Q. And what is that document?
A. It's a general order.
Q. Okay. And what does that mean – general order?

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A. It's a summary of – is it – this incident's preliminary investigations.
Q. Okay. Are those the rules, as you understand them, that apply to your responsibility as a preliminary investigator?
MS. KAUR: Objection; form; vague – "rules."
BY MR. BENAK:
Q. Do you understand my question, Officer?
A. Yes.
Q. Okay. Do you understand these rules governed your behavior at that incident on April 21?
A. Yes. This –
Q. By the way, have you – have you read this document recently?
A. No.
Q. Okay. So I'd like you to turn to page – I think it's the – let's see – third page of the exhibit. It's Roman IV. Incident Scene Responsibilities. Do you see where I am?
A. Yes.
Q. Okay. And you understand that these are your responsibilities, correct?
A. Yes.
Q. Matter of fact, A says, "Upon arrival,

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Department members conducting the preliminary investigation will." Did I read that correctly?
A. Yes.
Q. So that would apply to you on April 21, correct?
A. Correct.
Q. Okay. And I'd like you to go down to 6. And I'm going to read this into the record. Locate, identify, and interview -- and this is in italics and underlined -- any witnesses, to obtain the incident information, including pertinent information on wanted persons, motor vehicles, or property taken in a specific crime, and when appropriate, send a flash message to alert other Department units. Did I read that correctly?
A. Yes.
Q. Okay. And let's just focus on the first part -- locate, identify, and interview any witnesses, to obtain incident information. Did you do that in this case, Officer?
A. To the best of my knowledge.
Q. So as you sit here today, based on your current recollection of the incident, it's your testimony that you interviewed any witnesses on the scene?

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MS. KAUR: Objection; form.
THE DEPONENT: I'm sorry?
BY MR. BENAK:
Q. As you sit here today with your current recollection of the incident, it's your testimony that you complied with IV.A.6 and that you interviewed any witnesses on the scene.
I'll caution you, Officer. We have the videotape, and you are under oath. So you can answer now.
A. I understand that.
Q. Okay.
A. I did the best of my ability on that job.
Q. Okay. So to the best of your ability, you interviewed any witnesses on the scene.
MS. KAUR: Objection; asked and answered.
BY MR. BENAK:
Q. I just want to clarify. Is that true?
A. I tried -- I tried to interview one witness, and that was it.
Q. Okay. And it's your testimony that you didn't interview any other witnesses than your attempted interview of Mr. Maynard. Is that your testimony today?
A. That's correct.

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Q. Okay. You can set that aside for now, Officer.
Now, we've talked about the notes that you made during the investigation. And you said you don't have those notes with you, and you don't know what you did with them. But do you recall whether you wrote down any names of people who might be witnesses in those notes?
A. I don't recall.
Q. Now, as you recall, we discussed earlier the -- the statement that you gave to COPA and the allegation made against you that you failed to interview witnesses on the scene. Your testimony, at least in that case, was that you denied that. Do you still deny it?
A. I'm sorry?
Q. Well, the statements you made to COPA was that you denied the allegation that you failed to interview witnesses; do you recall that?
MS. KAUR: Objection; form.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. Okay. Do you still deny that today?
MS. KAUR: Same objection.
THE DEPONENT: I have no answer.

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BY MR. BENAK:
Q. Well, either you recall what you said to COPA and you recall your denial, or you don't. I mean --
A. I don't -- I don't recall.
Q. You don't recall --
A. I don't --
Q. -- what you told COPA?
A. I don't recall.
Q. Well, I read it to you. Do you still deny the allegation?
A. No.
Q. You don't deny it?
MS. KAUR: Objection; form.
THE DEPONENT: Repeat your question.
BY MR. BENAK:
Q. Sure. Earlier in the deposition, I read to you a statement made by the COPA investigator and the statements you gave on July 12, 2024. And the allegation against you was that you failed to interview witnesses in this incident. And they asked you how you responded to that, and you say, "Deny." Do you still deny it?
MS. KAUR: I'm going to object to this line of questioning. Mr. Pronek was represented by

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counsel at the time of this COPA statement. And anything he said was in relation to that attorney-client relationship. I'm going to instruct him not to answer –

BY MR. BENAK:

Q. Well, you gave –

MS. KAUR: – question.

BY MR. BENAK:

Q. You gave a sworn statement to COPA; did you not, Officer? I'm just asking whether or not you still agree with the statement you made.

A. And I –

MS. KAUR: Same objection.

BY MR. BENAK:

Q. He has – she hasn't instructed you not to answer, Officer. So you can answer my question, and I'd ask that you please do that.

MS. KAUR: If you're going to ask him about the COPA statement, can you please show it to him? You're asking him questions about a COPA statement that he had another lawyer at, and he has not read the statement.

BY MR. BENAK:

Q. From your recollection, Officer, do you deny that you failed to interview witnesses at the

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incident?

MS. KAUR: I'm going to – I'm going to instruct him not to answer that question.

MR. BENAK: And why are you doing that?

MS. KAUR: I – if you want to ask him about his statement that he made to COPA, show him the statement. He was represented by other counsel at that time, and you're asking him questions while he was represented by the other counsel, who is not here. If you want to ask him about what he said, you can show him the statement.

MR. BENAK: Well, I'll just –

MS. KAUR: You want –

MR. BENAK: I'll just ask him based on his current recollection.

BY MR. BENAK:

Q. Do you deny that you failed to interview witnesses at the time of the incident?

Officer, do you have an answer to my question?

A. I will wait for my legal counsel let me know –

Q. Well –

A. – answer it.

Q. – she's made an objection, but you can

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answer even though she's made an objection unless she instructs you not to answer. And I'm asking you: Do you deny that you failed to interview witnesses at the time of the incident?

A. No.

Q. You don't deny that? I don't want to get caught in a double negative here, Officer.

MS. KAUR: Hold on. Can you take a break?

MR. BENAK: No, we can't. I have a question pending, and I want it answered before we take a break.

MR. MAYNARD: Just for the record, if counsel is going to make a statement –

MR. BENAK: No. Kent, no. Kent, no. Just be quiet.

MS. KAUR: Do you have a question pending?

MR. BENAK: Yes, I do.

MS. KAUR: Can you ask it again?

MR. BENAK: Sure. Would you read the question back, please.

THE REPORTER: Please stand by.

(WHEREUPON, the record was played back.)

BY MR. BENAK:

Q. Do you have that question in mind, Officer?

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MS. KAUR: I'm going to instruct him not to answer the question.

MR. BENAK: You're going to instruct him not to answer that question?

MS. KAUR: I – this question has been asked and answered. At this point –

MR. BENAK: No, it –

MS. KAUR: – you are badgering the witness –

MR. BENAK: It has not been answered. I dispute that.

MS. KAUR: You're –

MR. BENAK: And you can't instruct him not to answer on a – on an asked and answered objection anyway. He hasn't answered the question, and I'm asking now.

BY MR. BENAK:

Q. Officer, do you deny that you failed to interview witnesses at the time of the incident?

MS. KAUR: He has – he answered this question several times. You're now badgering him –

MR. BENAK: Do you want me to take this –

MS. KAUR: – and you're asking him –

MR. BENAK: – to Judge Bucklo? Because I will. This is –

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MS. KAUR: That's fine.
MR. BENAK: This is –
MS. KAUR: You can file a motion. You can file –
BY MR. BENAK:
Q. Officer, do you have an –
MS. KAUR: – a motion. I'm instructing him –
BY MR. BENAK:
Q. Do you have an answer –
MS. KAUR: – not to answer the question.
BY MR. BENAK:
Q. – for me, Officer?
MS. KAUR: I'm instructing him to not answer the question.
BY MR. BENAK:
Q. Officer, could you answer the question, or are you going to follow your lawyer's advice and not answer the question?
MS. KAUR: I'm instructing him to not answer the question. As I have told you, you're asking him about a statement that he made –
MR. BENAK: No.
MS. KAUR: – while he was represented by other counsel without showing him the statement.

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MR. BENAK: That's not what –
MS. KAUR: He has – I'm not done with my objection. He has answered this question several times. You're now badgering the witness. You are asking the question in a confusing way. I'm going to instruct him to not answer the question. You can file a motion.
BY MR. BENAK:
Q. Do you know whether or not you deny that you interviewed witnesses at the time of the incident, Officer Pronek?
MS. KAUR: Same –
BY MR. BENAK:
Q. You can answer that.
MR. BENAK: It's not the same question. It's not a question based on the statement in the record. It's a question based on his recollection.
BY MR. BENAK:
Q. As you sit here today, do you deny that you failed to interview witnesses at the time of the incident?
MS. KAUR: Objection; form.
BY MR. BENAK:
Q. You can answer.
THE DEPONENT: Answer?

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MS. MOORE: Answer –
MS. KAUR: You can answer –
BY MR. BENAK:
Q. Don't ask your lawyers, Officer Pronek.
MS. KAUR: – question.
BY MR. BENAK:
Q. This is my deposition. Please answer my question.
MS. KAUR: You can answer over the objection.
THE DEPONENT: Can you repeat that?
BY MR. BENAK:
Q. Sure. As you sit here today, based on your present recollection of events, do you deny that you failed to interview witnesses at the time of the incident?
A. That I failed to interview witnesses?
Q. Yes.
A. I interviewed – tried to interview one witness.
Q. Not my question. Were there any witnesses that you failed to interview?
MS. KAUR: Objection; form.
You can answer.
THE DEPONENT: There might have been

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people I didn't interview.
MR. BENAK: Okay.
MS. MOORE: All right. We'd like to take a break now.
MR. BENAK: Okay.
THE VIDEOGRAPHER: Please stand by.
MR. BENAK: Hey, can you see if we can get somebody –
THE REPORTER: I'm sorry. Please stand by.
MR. BENAK: All right. Well, it just seems –
THE VIDEOGRAPHER: The time is 10:25 a.m., and we are off the record.
(WHEREUPON, a recess was taken.)
THE VIDEOGRAPHER: Okay. The time is 10:37 a.m. We are on the record.
BY MR. BENAK:
Q. Officer Pronek, during the break, did you discuss this case with your counsel?
MS. KAUR: I'm going to object to the –
BY MR. BENAK:
Q. You can tell me whether you talked about it. I'm not going to ask you what you said. But did you?

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MS. KAUR: I'm just going to get the objection on the record.
Objection to the extent that this question gets into attorney-client privileged communications.
BY MR. BENAK:
Q. Did you discuss the case with your lawyers on the break, Officer?
A. We talked.
Q. Beg your pardon?
A. We talked.
Q. Okay. Before we leave Deposition Exhibit 2, preliminary investigation, I'd like you to turn, if you will, to page 4 of the preliminary investigation report, Bates marked – and – and I want to make sure we got this exhibit identified correctly. This is produced by the City of Chicago. This is FCRL 002374 through 2377.
Do you see those numbers down in the lower, right-hand corner, Officer?
A. Yes.
Q. Okay. I want you to turn to FCRL 002377.
A. Okay.
Q. At the top of the page is IV.D.8; do you see where I'm directing your attention?
A. Mm-hmm.

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Q. I'm going to read this –
THE REPORTER: I'm sorry. Was that a yes or a no?
THE DEPONENT: Yes.
THE REPORTER: Thank you.
BY MR. BENAK:
Q. Now, one thing we should make clear, Officer, nods of the heads, mm-hmm or hmm-mms won't come through on the record. So if you could vocally state your answer, that would be helpful, understood?
A. Understood.
Q. Thank you. So on number 8, I'll read this into the record. For firearms discharge incidents, comply with the incident response, reporting, and investigation procedures outlined in the Department directive titled "Firearms Discharge and Officer-Involved Death Incident Responses and Investigations." Did I read that correctly?
A. Yes.
Q. Okay. And then it says Note: The member response for the initial case report will report all factual information (witness, victim, offender, location) within the boxes on the case report. Did I read that correctly?

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A. Yes.
Q. Okay. Did you do that in this case?
A. To the best of my –
MS. KAUR: Objection; form.
BY MR. BENAK:
Q. Go ahead, Officer.
A. Yes. To the best of my knowledge, I – I – I wrote the report with the facts that were given to me on scene.
Q. Okay. You can set that aside for now, Officer.
MR. BENAK: I'll give you that – hand you that. Will you mark that, please. Just give everybody a copy. I've got three copies – or two copies in here.
THE REPORTER: Exhibit 3 marked.
(WHEREUPON, Exhibit 3 was marked for identification.)
THE REPORTER: Would you like me to hand this to –
MR. BENAK: Yes, please.
BY MR. BENAK:
Q. Officer Pronek, the court reporter has handed you what's been marked as Exhibit 3. Have you ever seen this document before?

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A. Yes.
Q. Let's identify it for the record. It is General Order G03-06 from the Chicago Police Department, Firearm Discharge and Officer-Involved Death Incident Response and Investigation. It's comprised of FCRL numbers 002208 through 2226.
Under what circumstances have you seen this document before?
A. It's a general order.
Q. Do you read general orders as they're submitted?
A. Not regularly. But I have read general orders before.
Q. So this is the Firearms Discharge and Officer-Involved Death Incident Report Response and Investigation that is referenced in Exhibit 2, correct? That's what we just – what we just read over?
In other words, paragraph 8 at the top of page 2377 of Exhibit 2, it says for firearms discharge, et cetera, et cetera, follow the procedures outlined in Firearms Discharge and Officer-Involved Death Incident Response and Investigation. That's the document you have in front of you, correct?

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A. What page are we on so I can read along –
Q. Well, this is –
A. – if you know?
Q. Sure. This is Exhibit 3.
A. Are we on the prelim investigations or firearms are you reading out of?
Q. We're on the – make sure I got the exhibit right. We're on Exhibit 2, Preliminary Investigations.
A. Okay.
Q. And I'm reading from the paragraph I read from before. And all we're trying to establish is –
A. Okay. Which paragraph was that so I can read along?
Q. We're at paragraph 8, sub 8, at the top of 2377.
A. Okay.
Q. Are you there?
A. The last page. Okay.
Q. If you need – if you ever need time to look at something, Officer, just ask me. I'll give you all the time you need.
A. Okay.
Q. So at paragraph 8, it refers you to

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Firearms Discharge and Officer-Involved Death Incident Response and Investigations. My only question is: Is this document that you now have in front of you, which is Exhibit 3, is that what's referenced in Exhibit 2?
MS. KAUR: Objection; form.
THE DEPONENT: Are you asking the firearms in this paragraph here, if it's referring to this general order?
BY MR. BENAK:
Q. The rule. Correct.
A. Okay. So there's a lot to read in this general order.
Q. Oh, you don't need to read it.
A. I –
Q. I'm just asking –
A. Yes.
Q. Is it your understanding that, in your preliminary investigation, if there are firearms discharged, that you're referred to the rules which are stated in Exhibit 3?
MS. KAUR: I'm going to object; form; foundation. And the deponent is not a 30(b)(6) witness.
BY MR. BENAK:

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Q. You – you with me, Officer?
A. Yes. I – I am with you. There are ways that we handle firearm discharges.
Q. Okay. Well, let me ask the question in a more specific way. For this particular firearms discharge, did you understand that your conduct was governed not just by the preliminary investigation report or response, which is Exhibit 2, but also the firearms discharge order G03-06, which is Exhibit 3?
A. I don't get what you're saying, if you can break that down.
Q. Okay. Well, you testified earlier that you understood that your obligations for a preliminary investigation were covered by General Order G04-01, which is Exhibit 2, and we've been over that –
A. Right.
Q. – right?
A. Right. Right.
Q. And as part of Exhibit 2, we have subparagraph d.IV.8, which is – d.IV.a.8, which is that language at the top of page 4 of the Exhibit 002377. Are you with me?
A. Okay. Yes.
Q. Okay. And it says for firearms discharge

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incidents – and this is a firearm discharge incident –
A. Right.
Q. – is it not? Okay. It says the procedures will be out – as outlined in the Department directive titled "Firearms Discharge and Officer-Involved Death Incident Response and Investigations" shall be complied with. I paraphrased there.
A. Right.
Q. But is that your understanding?
A. That is my understanding.
Q. Okay. So what's – what is Exhibit 3 is what you're bound by in a firearms discharge case?
MS. KAUR: Objection; form; vague – "bound."
THE DEPONENT: So a firearms discharge, a supervisor handles the said firearm.
BY MR. BENAK:
Q. Well, that's not quite my question. My question was really: When you're doing the preliminary investigation –
A. Right.
Q. – and there's a firearms discharge involved, are you governed by the rules G03-06,

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which is Exhibit 3?
MS. KAUR: Objection; asked and answered; and form; vague.
BY MR. BENAK:
Q. Do you understand my question?
A. You have to be a little bit more specific on what you're – what – what rules you're saying. What – what – which one? Because there is –
Q. Well, if –
A. – there is various –
Q. Understood.
A. – there's various. So –
Q. Understood.
A. – which ones are we talking about?
Q. We'll get to that.
A. Okay.
Q. But do you understand that this general order covers your conduct?
A. Yes. It's a general order.
Q. Okay. And it covers the conduct in this particular incident relating to the firearms discharge.
A. Correct. It's a firearms –
Q. Okay.
A. – discharge.

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Q. That wasn't so hard; was it?
A. Well.
Q. Okay. So let's go to IV.B.6.d. I'll find that for you and give you the page number, but that's where I'm going.
A. Excuse me. On which exhibit are we looking at now?
Q. IV.B – excuse me – IV.B.6.d.
MS. KAUR: So what – can you refer to the Bates number, please?
MR. BENAK: I'll give you the Bates number in just a second here.
I've got a – I'll just be clear here, counsel. I've got a bad, bad reference. I'm going to find it here. It'll just take me a minute.
BY MR. BENAK:
Q. You can set that aside for now, Officer. I'll find the reference a little later.
MR. BENAK: Can you mark this, please?
THE REPORTER: Exhibit 4 marked.
(WHEREUPON, Exhibit 4 was marked for identification.)
THE DEPONENT: Oh, thank you.
BY MR. BENAK:
Q. Officer Pronek, you've been handed by the court reporter what's been marked as Exhibit 4. Have you ever seen this document before?

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MS. KAUR: I'm going to object to the form. It's vague. Are you asking if he's seen this particular document or just a TRR?
MR. BENAK: No. I'm asking if he's seen this particular TRR.
THE DEPONENT: No, I have not.
BY MR. BENAK:
Q. Do you know that a tactical response report was filed in connection with this incident?
MS. KAUR: Objection; form.
THE DEPONENT: Yes. I know a TRR – that's what they're called – report had – was done.
BY MR. BENAK:
Q. Did you ever see the TRR before it was submitted?
A. No. It – it is not my TRR. So I did not look at it.
Q. I think we've touched on this earlier, but I want to make sure I understand. What's the – what's the purpose of a TRR, as you understand it?
A. The purpose of a TRR?
Q. Yes.

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A. Okay. It – aside from this report?
Q. Yeah. Just –
A. I'm not referencing this –
Q. – any TRR.
A. – report?
Q. Correct.
A. A TRR report is done when an officer is in a physical – in a physical altercation of any sort to diffuse a situation. And there are certain boxes on here that you have to check off, describing what the one – how the one party was acting and what actions you took as an officer in a certain situation – not this one, but in any situation that you have to do a TRR.
Q. And without beating this to death, you didn't have any part in the TRR for this incident, correct?
A. No, I did not.
Q. So other officers were involved in preparing this, correct?
A. TRRs are usually done by a supervisor, by the officer involved, and by a supervisor.
Q. Okay. Now, when you say by the officer involved, that wouldn't include you?
A. No, because I did not use – or do

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anything on this particular job to generate a TRR.
Q. No –
A. I – I wrote a report. When I wrote a report, that's all I write. I don't do a TRR because I was not in any physical altercation. Or did I use any means that are, you know, on this piece of paper while on the job? I just wrote a report.
Q. So you're not the subject of the TRR, correct?
A. I am not.
Q. Okay. I want you to turn to the second page of the report, 001785. And we're not going to bother reading this into the record. But I want you to take a minute for yourself, and I want you to read at the top of the page the narrative, okay? Read it to yourself, and then I'll have a question for you.
Are you finished reading that, Officer?
A. Yes.
Q. And the narrative that's described on FCRL 001785 at the top of the page, is that consistent with what Officer Mostek told you in your preliminary investigation?
A. I – I cannot comment. I did not write

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this TRR. So I'm not going to comment on another officer's own experience of what happened to her.
Q. I'm not asking you to do that. I'm asking you whether the narrative, as stated –
A. I –
Q. – is –
A. I will not –
Q. – consistent –
A. I can't – I cannot. She – Officer Mostek wrote what she accounted for. I am not going to read her words and make a comment on that. These are her words.
I wrote what was told to me. She writes what she does. I will not comment on another officer's report –
Q. I understand.
A. – let alone TRR report.
Q. I understand that. What I'm asking you is whether that narrative is consistent with what she told you.
A. Again, I will not comment on that.
Q. Why not? I don't understand that answer.
A. This is her own view.
Q. Understood.
A. Okay?

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Q. I understand –
A. She wrote this out.
Q. I understand.
A. I'm not going to read another officer's report where my name is not on it and comment on it. My name is not on this report. I will not comment on this report.
Q. I want to make sure I understand your response. My question is whether the narrative, as she stated it, is consistent with what she told you. That's a very simple question. It has nothing to do with –
A. And – and – and I –
Q. – putting words –
A. – I will – I will not comment on what – what she wrote down and what she told me and what I put in my report.
Q. Well, I'm not asking you to comment. I'm just asking you whether or not that's what you –
A. I –
Q. – understood.
A. Again, I will not – I will –
Q. All right. Well –
A. – I –
Q. – let me ask it a different way. Is this

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what she told you?
A. I will not comment on that.
MS. KAUR: Is – are you asking him on his memory, or is there a document you can show him to jog his memory?
MR. BENAK: Well, he hasn't brought any documents with him, so I don't have his report.
BY MR. BENAK:
Q. And I'm relying on your recollection of what she told you to determine whether or not you think what the narrative says is consistent with what you recall.
Are you telling me you're not going to answer that question?
MS. KAUR: I just want to put on the record that the case report was produced to you.
BY MR. BENAK:
Q. Are – are you going to –
A. What I put in the case report is what she told me. I will not comment on what she put in her own report.
Q. Okay. Well –
A. Okay?
Q. – we'll just play the videotape, and we'll get what she told you. And then you can

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comment on it at that time.
All right. You can set that aside.
Before we leave this exhibit, Officer, take a look at the -- kind of the lower third of this document. It says Member's Response.
A. Is that on the front page?
Q. Yes.
A. Okay.
Q. You see where I'm --
A. Yes.
Q. -- directing your attention?
A. Yes.
Q. Who's the member in this case?
MS. KAUR: Objection; foundation.
BY MR. BENAK:
Q. You can answer, Officer.
A. The member?
Q. Yes.
A. Would be Officer Mostek.
Q. Okay. Now you can set that aside.
MS. KAUR: I just want to put on the record that the case report Officer Mostek wrote was produced as FCRL 2 and 3 --
MR. BENAK: I'm sorry, counsel?
MS. KAUR: The case incident report that

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Officer Pronek produced was -- wrote was produced as FCRL 2 and 3. So you -- you should have it.
BY MR. BENAK:
Q. I want to go back to the firearm discharge general order, Officer Pronek, which is Exhibit 3.
A. Okay.
Q. And my problem is I can't read my own writing. It's not IV.D.4. It's VI.D.4. So I had it -- I had it -- or excuse me -- VI.B.6.d. Roman VI, capital B, 6. You with me? It's on page 002214.
A. 2214?
Q. Correct.
A. Okay.
Q. It's paragraph 6 there in the middle of the page --
A. Yes.
Q. -- do you see that?
A. Yes.
Q. Okay. I want you to focus your attention on the subparagraph D, if you will, please.
A. I'm sorry. You said --
Q. Subparagraph --
A. -- B?
Q. -- D --

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A. D. Okay.
Q. -- D.
A. Okay.
Q. And I'm going to read this into the record. The public safety -- this is the last part of the introductory paragraph -- the public safety investigation will consist of general safety questions concerning. And 6.d. says the identification and location of any victims, offenders, witnesses, or evidence. Did I read that correctly?
MS. KAUR: I'm going to object to the extent that this is a mischaracterization of -- of the document.
BY MR. BENAK:
Q. Did I read that correctly, Officer?
MS. KAUR: It's incomplete.
THE DEPONENT: Yeah. You -- you read that word for word.
BY MR. BENAK:
Q. Did you understand that that was part of your obligations and duties --
MS. KAUR: Same --
BY MR. BENAK:
Q. -- investigation of this incident?

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MS. KAUR: I'm going to just -- I'm going to have the same objections. This is a mischaracterization of the document. If you read the preceding paragraphs, you're reading from a portion of Immediate Responsibilities of the Involved Member, who is not Officer Pronek.
BY MR. BENAK:
Q. Do you have my question in mind, Officer?
MS. KAUR: And that will be a standing objection as -- as -- as this line of questioning continues.
BY MR. BENAK:
Q. Officer?
A. Yes. May I have one second to read this?
Q. Sure.
A. Okay. I'm sorry. Your question was now?
Q. Did you understand that IV.B.6.d, "the identification and location of any victim, offenders, witnesses, or evidence," was something that you were obligated to do?
MS. KAUR: Object --
THE DEPONENT: Oh.
MS. KAUR: Same objection.
BY MR. BENAK:
Q. Go ahead, Officer.

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A. Okay. When you're referring to 6.d. on this one –
Q. Yep.
A. – if you – I'm sorry. I lost my train of thought. What was your question again?
Q. My question was: Did you understand that you were under an obligation to identify and locate any victims, offenders, witnesses, or evidence?
A. Yes. I'm –
Q. Yes.
A. I am well aware of that.
Q. You can set that aside now, Officer.
A. But on that one, that's in regards to a supervisor, what you just read.
Q. Okay. So you didn't – you don't think that that – of – of what –
A. I did not say that. I'm just saying that the one that you read is for a supervisor –
Q. Right.
A. – to do.
Q. But you understand that's your obligation and duty as well.
MS. KAUR: Objection; form; misstates the testimony.
BY MR. BENAK:

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Q. Officer?
A. It is my duty to, yes, interview people on scene. It is – it is my – my duty to, as a preliminary officer, to get the information that I need.
Q. Okay. Now you can set this aside. Thank you.
MR. BENAK: Where are we? Exhibit 5 now?
THE REPORTER: Oh, you gave me two.
MR. BENAK: Did I give you two? Thanks.
THE DEPONENT: Thank you.
THE REPORTER: Exhibit 5 marked.
(WHEREUPON, Exhibit 5 was marked for identification.)
BY MR. BENAK:
Q. Officer Pronek, the court reporter has handed you what's been marked as Exhibit 5. Would you take a minute just to familiarize yourself with that document.
A. Okay.
Q. What is this document?
A. I do not know. I have no knowledge of what this document is.
Q. Okay. Have you ever seen it before?
A. No, I have not.

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Q. So this describes at Summary – well, let's go up. It describes at Incident: Weapons Discharge; gives the date, 21 April 24. And then it says a weapons discharge incident by an off-duty Department member occurred at – that's deleted.
A. Correct.
Q. The member discharged their weapon striking a dog. The animal is deceased. No injuries have been reported. COPA and IAD have been notified, et cetera. Did I read that correctly?
A. Yes.
Q. So when they talk about a weapons discharge incident by an off-duty Department member, do you understand that member to be Carmen Mostek in this case?
MS. KAUR: Objection; form; and foundation.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. Okay. And you had no part in preparing this document, correct?
A. No.
Q. You can set that aside.
MR. BENAK: So we're at Exhibit 6 now?
And I'm just going to give you all three,

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if you could pass them down.
THE REPORTER: Exhibit 6 marked.
(WHEREUPON, Exhibit 6 was marked for identification.)
THE DEPONENT: Oh, thank you.
BY MR. BENAK:
Q. You've been handed what's been marked as Exhibit 6 by the court reporter, Officer Pronek. I ask you to familiarize yourself with that, please.
Have you read it, Officer?
A. Yes.
Q. Okay. What is this?
A. This is the general offense case report that I generated.
Q. Okay. So this is what you wrote, correct?
A. Yes.
Q. Okay. So when we were talking earlier about your not having written the – the TRR narrative, you did, however, write this narrative, correct?
A. That's correct.
Q. Do you know what part this played in the TRR, which was Exhibit 4?
A. I'm sorry?
MS. KAUR: Objection; form.

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BY MR. BENAK:
Q. Do you know what part your report here, Original Case Incident Report, played in the final TRR?
MS. KAUR: Objection; form; foundation.
THE DEPONENT: No. I don't – I don't understand your question.
BY MR. BENAK:
Q. Yeah. That was a bad question.
A. Yeah.
Q. Sorry.
A. I mean –
Q. So would you ordinarily expect that the Original Case Incident Report would be used by your superiors to draft whatever further report that thought necessary?
MS. KAUR: Objection; foundation; and form.
THE DEPONENT: Yeah. Yes. Yes.
BY MR. BENAK:
Q. Okay.
A. There – there is – the – based on the report, not even the report – based on the incident itself –
Q. Okay.

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A. – supervisors and other officers know that a TRR has to be created.
Q. Right. And it has to be based on something.
A. Nature –
MS. KAUR: Objection; form.
BY MR. BENAK:
Q. Right.
A. Oh.
Q. And in this case, it was based on your original case report; was it not?
MS. KAUR: Objection; form; and foundation.
BY MR. BENAK:
Q. You can answer, Officer.
A. A TRR is another report that is done following the case report.
Q. So you expected, did you not, at the time you made this original case incident report that your superiors would rely on it in drafting their tactical response report; isn't that correct?
MS. KAUR: Objection; form; vague; calls for speculation; and foundation.
BY MR. BENAK:
Q. You can – you can answer, Officer.

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A. It is – it's almost common knowledge to know that you have to do a TRR on this incident. It's not based off of my report. TRRs and general case reports are two separate reports. They just fall together in one packet.
Q. Understood. But let me ask the question a little bit differently. Did you strive to be as accurate as you could in your depiction of the event and incident at issue?
MS. KAUR: Objection; form.
THE DEPONENT: Yes. With the –
MR. BENAK: And –
THE DEPONENT: – information that was given to me, I – if – I write a report based off the information that is given to me.
BY MR. BENAK:
Q. And that's important because your superiors would rely on your original case report in doing whatever they had to do about the incident.
MS. KAUR: Objection; asked and answered.
THE DEPONENT: What the supervisors do after I generate a case report is what they do. I –
BY MR. BENAK:
Q. But you want it to be accurate because

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they might have relied on it; isn't that correct?
MS. KAUR: Objection; asked and answered; and form.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. Okay. So at the top of this Original Case Incident Report – and I'm going to identify this for the record; it's FCRL 001751 and 1752 – is the IUCR. Do you see where I'm referencing at the very top on the left-hand side?
A. Yes.
Q. Okay. And what's an IUCR?
A. It's a UCR code, which is – I don't have the correct words for the letters. But a UCR code is basically four numbers that describe the job that is, you know, dispatched out that you're writing a report for.
Q. So this describes the incident, in other words.
A. That's correct.
Q. Okay. And in this case, it's – excuse me – it's described as 5061, which is the number reference, Non-Criminal - Destruction Of Animal By Police. Did I read that correctly?
A. Yes, you did.

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Q. Is that what you understand this event to have been?
MS. KAUR: Objection; form.
THE DEPONENT: That is the UCR that I was –
BY MR. BENAK:
Q. Well, do you think that –
A. – yeah.
Q. – accurately describes –
A. Yes. That – that's – that's the UCR that I was advised to go with.
Q. And who advised you to go with that?
A. My supervisors.
Q. Sergeant Butler?
A. Yes.
Q. And the police member here, of course, is Officer Carmen Mostek; isn't that correct?
A. That's correct.
Q. Okay. So when you say destruction of animal by police, it was Carmen Mostek, correct?
A. That's correct.
Q. Okay. I want you to turn to page 2 of your report, Officer. I don't see any reference to the statement made by Kent Maynard that he was on top of the dog when it was shot. Am I mistaken, or

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is that not in your report?
A. That's not in the report.
Q. Okay. Why not?
A. I attempted to speak with this gentleman over here twice about the incident, and he refused to talk to me twice about the incident.
Q. Well, he did give you a statement, did he not, that he was on top of the dog when it was shot?
MS. KAUR: Objection; form; vague – "statement."
THE DEPONENT: He refused to speak to me to give me an answer of what took place.
BY MR. BENAK:
Q. So you don't think that the statement that he was on top of the dog when the dog was shot is a description of the event?
A. It is a description of the event.
Q. Okay. Why didn't – why didn't it end up in your report?
A. I did not know who he was at the time.
Q. Well, you knew he was the owner of the dog, correct?
A. Not when I arrived on scene.
Q. No. But he informed you of that later.
A. That's correct.

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Q. And other witnesses informed you of that as well; did they not?
A. I don't –
MS. KAUR: Objection; form; vague – "witnesses."
THE DEPONENT: I don't recall any witnesses telling me that.
BY MR. BENAK:
Q. Okay. But there's no statement in your narrative, is there, that the owner of the dog stated. Nothing like that in here; is there?
A. I'm sorry. I'm just looking over this real quick.
Q. Take your time.
A. There is a statement in here – or not – now, let's not say statement, but here is a line in here that refers to this gentleman attempting to help with negative results.
Q. Is that the most that came out of your encounter with Mr. Maynard? That's what you – that's what you understood him to say?
A. I did not write verbatim what he said.
Q. Well, in fact, the statement that he was on top of the dog when it was shot doesn't appear anywhere in this narrative; does it, Officer?

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MS. KAUR: Objection; form; asked and answered.
THE DEPONENT: No.
BY MR. BENAK:
Q. Did you think it was not important in describing the incident?
MS. KAUR: Objection; form.
THE DEPONENT: I described the incident in the report.
BY MR. BENAK:
Q. Understood. But did you think it was not important to include the statement that the owner of the dog stated he was on top of the dog when it was shot?
A. I write a report based on the information that is given to me, and I write a brief summary of that report. And the other reports can be done by detectives or anybody higher up where they could submit a supplementary report with words of – like that were verbatim. I write a brief summary of what happened.
Q. And you expect that brief summary to be accurate; do you not?
MS. KAUR: Objection; form.
THE DEPONENT: At the time, this was the

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information that was given to me. And this is what the accurate information was.
BY MR. BENAK:
Q. But it's not the information you were given; is it, Officer? You were given information that the owner of the dog was on top of the dog when it was shot, which appears nowhere in your narrative; is that correct?
A. I attempted to speak with your client twice, and he refused to speak with me.
Q. Well, he didn't refuse completely. He told you that he was on top of the dog when it was shot; did he not?
MS. KAUR: Objection; form; asked and answered.
BY MR. BENAK:
Q. You can answer, Officer.
A. He stated that as I arrived on scene.
Q. Okay.
A. I did not know that he was the owner of the dog.
Q. Well, you found out later; did you not?
A. Much later.
Q. Yeah. But before you wrote this report. At the time you wrote the report, you knew that Kent

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Maynard was the owner of the dog, and he had told you he was on top of the dog when it was shot. And you didn't think it was important enough to put in this report?
MS. KAUR: Objection; form; compound.
THE DEPONENT: I wrote in the report the – the information that was given to me.
BY MR. BENAK:
Q. Well, but you didn't, Officer.
A. Oh, I put that he attempted to help.
Q. Right. But there's no information in here about him being on top of the dog when it was shot.
A. I did not write verbatim what he said to me.
Q. Okay. You didn't write it just not verbatim; you didn't write it at all.
MS. KAUR: Objection; form; asked and answered.
BY MR. BENAK:
Q. Correct?
A. No, I did not write that in the report.
MR. BENAK: Okay. You want to mark that, please.
Did I give you two?
THE REPORTER: Exhibit 7 marked.

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(WHEREUPON, Exhibit 7 was marked for identification.)
BY MR. BENAK:
Q. You've been handed what's been marked by the court reporter as Exhibit 7 – Exhibit – excuse me – Exhibit 7, Officer. Would you please familiarize yourself with that document.
A. Okay.
Q. For the record, this is what's entitled Chicago Police Department Case Supplementary Report. It bears Bates numbers FCRL 001812 and 1813.
So what is this, Officer?
A. This is a Case Supplementary Report.
Q. Okay. When it says supplementary, is it supplementary to the case incident report that we just discussed?
A. This is a report that is done after a report. This is – this is just the case summary of the incident, a supplementary report. I did not generate this.
Q. Okay. But it relates to the incident; does it not?
A. Yes.
Q. And the word "supplementary" means to me that it supplements the original report. Is that

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how you understand it?
A. Yes.
Q. So the IUCR code remains the same – Destruction Of Animal By Police, correct – 5061?
A. Correct.
Q. The description of the parties involved is the same, correct?
A. Correct.
Q. And then on the second page, it says Crime Code Summary. Again, it says 5061 - Non-Criminal - Destruction Of Animal By Police. Did I read that correctly?
A. Yes.
Q. And you understand that that accurately describes what happened in the incident, correct?
MS. KAUR: Objection; form.
THE DEPONENT: So this is the detective's supplementary report.
BY MR. BENAK:
Q. Okay.
A. So I did not –
Q. Okay.
A. – generate this; I did not write this.
Q. Understood. But my question is a little bit – it wasn't a very good question, so I

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apologize.
But looking at Crime Code Summary: 5061 - Non-Criminal - Destruction Of Animal By Police, it's your understanding that 5061 was the correct IUCR to use, right -- Non-Criminal - Destruction Of Animal By Police, correct?
MS. KAUR: Objection; form.
THE DEPONENT: That is the same UCR that was used on the case report that I generated.
BY MR. BENAK:
Q. That you used.
A. The case report that I generated, that's the same number.
Q. I guess what I'm trying to get at is the supplementary report doesn't change your report; does it?
MS. KAUR: Objection; form; vague.
THE DEPONENT: So this is a detective summary report on this. I don't know what the detectives follow up. I don't know what else the detective wrote on this.
BY MR. BENAK:
Q. That wasn't a very good question either. Let me rephrase it.
This is not inconsistent, nor does it

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conflict with, your original case summary report, correct?
A. No. The --
Q. Okay. You can set --
A. Repeat that question again.
Q. Sure. From your review of this, it's consistent with your original report; is it not?
A. Consistent with the UCR code.
Q. Okay. That's all I wanted to know.
A. Yeah.
Q. Thank you.
A. What other the -- of what else put in there, that's what he put in there. But the UCR codes are the same because he's writing a summary of what happened.
Q. Fair enough. You can set that aside.
THE REPORTER: Exhibit 8 has been marked.
(WHEREUPON, Exhibit 8 was marked for identification.)
BY MR. BENAK:
Q. You've been handed by the court reporter what's been marked as Exhibit 8, Officer. Can you tell me what that is?
A. From my knowledge, this is a piece of paper that was generated by the evidence technician

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on scene.
Q. Okay. Do you know who E.T. Paholke is?
A. No, I do not.
Q. Okay. And again, it describes "Non Criminal / Destruction of Animal By P.O." That's police officer?
A. That's correct.
Q. And again, that's the way you described the incident as well, correct?
A. That's correct.
Q. Okay. You can set that aside.
MR. BENAK: Here you go. Thank you.
THE REPORTER: Exhibit 9 has been marked.
(WHEREUPON, Exhibit 9 was marked for identification.)
BY MR. BENAK:
Q. So the court reporter has handed you what's been marked as Exhibit 9, Officer. It's called Incidents Involving Animals. And it's FCRL 002378 through 2384. Do you know what this is?
A. It's a special order.
Q. And what does that mean?
A. It's -- it's an order given out by the Department regarding animals -- incidents involving animals.

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Q. How does this rule relate to the incident in question, Officer Pronek, if at all?
MS. KAUR: Objection; form; vague -- "relate."
You can answer.
THE DEPONENT: What -- what was the question again?
BY MR. BENAK:
Q. Sure. How does this relate to the incident at issue here?
MS. KAUR: Same objection.
THE DEPONENT: It's how to handle an incident involving an animal.
BY MR. BENAK:
Q. Right. And you described this incident as a destruction of animal by police, correct?
MS. KAUR: Objection; form.
THE DEPONENT: That is what the UCR describes the incident as.
BY MR. BENAK:
Q. Do you understand that this special order, S04-12, had any bearing on what you did in your fulfilling your obligations in -- in investigating this incident?
MS. KAUR: Objection; form; vague.

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THE DEPONENT: I was not aware of that.
BY MR. BENAK:
Q. Okay. So have you ever read this rule, Officer?
A. I can't recall if I have or haven't.
Q. Well, take a look at page 2382, which is – I don't know – page 4 of the – of the exhibit. And I direct your attention to V.B. Dead or Destroyed Animals. You with me?
A. Yes.
Q. Okay. V.B. says, "When a Department member uses a firearm to destroy a seriously injured or dangerous animal, the member will follow the procedures consistent with the Department directive titled 'Firearms Discharge Incidents Involving Sworn Members.'" Did I read that correctly?
A. Yes.
Q. And this was, as you've described, a firearms discharge incident involving a sworn member; was it not?
A. That is correct.
Q. Okay. Did you look at the rule Firearms Discharge Incident Involving Sworn Members at any time in connection with your investigation here?
MS. KAUR: Objection; form; vague.

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THE DEPONENT: No, I did not.
BY MR. BENAK:
Q. Any reason for that?
A. I was just being advised by my supervisors on what to do.
Q. Okay. Anybody tell you to look at this particular rule, Firearms Discharge Incidents Involving Sworn Members?
A. No.
Q. It seems from the title, does it not, that it would involve, or at least apply to, this particular incident; isn't it – doesn't it?
A. Yes.
Q. I will tell you that I – you know, using vernacular, I clicked on that, and nothing comes up. And I Googled it, and I was unable to find that particular rule. I did find another rule, however, and we'll get to that soon.
I just wanted to establish that you had not read either this rule or the firearms discharge rule referenced therein, correct?
MS. KAUR: Objection; form; compound; vague.
BY MR. BENAK:
Q. Officer?

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A. Not – not recently.
Q. I'm sorry. Could you –
A. I – no, not – not recently have I read these rules.
Q. Well, did you read it in connection with your –
A. No.
Q. – investigation?
A. No, I did not.
THE REPORTER: Exhibit 10 has been marked.
(WHEREUPON, Exhibit 10 was marked for identification.)
BY MR. BENAK:
Q. You've been handed what's been marked as Exhibit –
MR. BENAK: Where are we now?
THE REPORTER: Exhibit 10.
BY MR. BENAK:
Q. – Exhibit 10. And it's called the Chicago Police Department Firearm Discharge Incidents - Authorized Use and Post-Discharge – Discharge Administrative Procedures, General Order G03-02-03. It's Bates-numbered FCRL 002367 through 2373.
What is this, Officer Pronek?

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A. It's a general order.
Q. And it's captioned Firearm Discharge Incidents - Authorized Use And Post-Discharge Administrative Proceedings – Procedures. So what does this apply to?
MS. KAUR: Objection; form –
MR. BENAK: Well, let me ask the question –
MS. KAUR: – and foundation.
MR. BENAK: – differently.
BY MR. BENAK:
Q. From the title, it applies to firearm discharge incidents. So would it apply in this case?
MS. KAUR: Objection; foundation.
THE DEPONENT: Yes. It's a firearm discharge.
BY MR. BENAK:
Q. Did you consult this rule when you were doing your investigation, Officer?
A. No.
Q. Set that aside for now. We're going to have questions on that later. But for right now, we're done with that.
My next question to you is this: We've

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been through a number of documents here, a number of rules. All the documents created for this case and all of the rules you've testified are applicable involve -- involve members; is that correct?
MS. KAUR: Objection; form; and foundation. He's not a 30(b)(6) witness.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. In other words, they involve actions taken by a police officer, correct?
MS. KAUR: Objection -- same -- same objection.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. Is there any document of which you're aware in this case that describes this as anything other than an action taken by a police officer?
A. Rephrase that.
Q. Sure. Is there any document of which you're aware that describes this incident as being anything other than an action taken by a police officer?
A. Are you referring to the UCR that I pulled?
Q. I'm referring to all the documents we've

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looked at. Let me ask the question differently.
Is there any document of which you're aware that refers to this as action taken by a civilian?
A. No.
Q. Okay. So it's clearly action taken by a member of the police force, correct?
MS. KAUR: Objection; form.
BY MR. BENAK:
Q. You can answer.
A. Correct.
Q. And there is no document of which you're aware that describes it in any other way, correct?
A. No.
Q. Okay. In your discussions with other people on the force, have they ever described this in any way other than an action taken by a police officer?
MS. KAUR: Objection; form.
THE DEPONENT: Are you referencing this case?
BY MR. BENAK:
Q. Yes, this case.
A. I have not discussed this case with anybody else.

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Q. Okay. Really wasn't my question. My question was --
A. Well.
Q. -- have you heard any statements by anybody --
A. No.
Q. -- ever made in this case that refers this as anything other than a police action?
A. No.
Q. Okay.
A. No.
Q. Had this been an action by a civilian, Officer Pronek, would you have investigated it differently?
MS. KAUR: Objection; form.
THE DEPONENT: I handle all -- I handle all my jobs the same.
BY MR. BENAK:
Q. But I think, as you testified previously, a discharge by -- of a firearm in the City of Chicago by a civilian is a criminal act, correct?
MS. KAUR: Objection; misstates prior testimony.
THE DEPONENT: Describe "discharge."
BY MR. BENAK:

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Q. Well, firing a weapon.
A. Describe "discharge."
Q. That's what I just said -- firing a weapon.
A. Well, I tell you that discharging your weapon freely is different than using your weapon when protecting yourself or somebody else.
Q. My question is: If this was simply a discharge of a firearm by a civilian in the City of Chicago, nothing else, just the discharge of a firearm, would it be investigated as a criminal matter?
MS. KAUR: Objection; foundation; incomplete hypothetical; and calls for a legal conclusion.
THE DEPONENT: Again, you're describing discharge. Discharge can be described different ways.
BY MR. BENAK:
Q. Let's leave that question aside for now.
MR. BENAK: We've been going at this for a while. I want to tee up the video. So why don't we take a break.
I don't plan to go to lunch here. I think we can work right through if that's okay with you

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folks. Okay. You want to work through, Officer?
MS. KAUR: How much –
MR. BENAK: Is that okay with counsel?
MS. MOORE: I guess it depends. Like –
MS. KAUR: Yeah. How –
MR. BENAK: I think we can be done by 1:00.
MS. MOORE: Oh.
MR. BENAK: I – I'm not – no, I'm not going to go that – you know, we're getting toward the end here.
MS. MOORE: Oh. Okay. Toward the end. That's fine.
MR. BENAK: Well Kent found this once. It's not going to be the same.
MS. MOORE: Yeah, no. Alright. I just – if it – if it was going to go all day, then I'd say we want a lunch. But you know –
MR. BENAK: No intent to do that.
Okay. So can we take like 15 minutes so I can get this queued up?
MS. KAUR: Yeah. Yeah.
MR. BENAK: Okay.
THE VIDEOGRAPHER: Okay. Please stand by. I'll take us off the record.

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The time is 11:36 a.m., and we are off the record.
(WHEREUPON, a recess was taken.)
THE VIDEOGRAPHER: The time is 11:52 a.m., and we are on the record.
BY MR. BENAK:
Q. Officer Pronek, are you prepared to continue your examination?
A. Yes.
Q. Okay. So who is Officer Zhao?
A. Officer Zhao was 914.
Q. Okay. So he's in the precinct adjacent to yours.
A. He is my co-worker, and he works Beat 914.
Q. He was there at the time of the investigation; was he not?
A. Yes, he was.
Q. Okay. We're going to play a part of the tape from Officer Zhao's body-worn camera.
MR. BENAK: And I'll represent to counsel it – it shows right at the top here. I guess it doesn't show because it doesn't show on the screen. This is FCRL 001806. And this is the body-worn camera of Officer Zhao. And I'm going to start this tape at 18 – excuse me – at 8:57 on the tape. On

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the body-worn camera, it's 11:44:24.
(WHEREUPON, a FCRL 001806 was played.)
MR. BENAK: There's not enough volume here. I thought this would come through on the screen. Hang on.
Can you get that on the screen?
MR. MAYNARD: I can try. Go back. Go back.
MR. BENAK: I will.
MR. MAYNARD: Go back –
MR. BENAK: Got the volume now?
MR. MAYNARD: I don't –
MR. BENAK: Okay. Now it's not coming through there. I'll – I'll fix the speakers. That's my fault.
There we go. Okay. Sorry for the glitch.
BY MR. BENAK:
Q. Okay. Let's go back. We'll start at 8:51. Do you recognize the scene, Officer?
A. Yes.
Q. Okay. This is the incident – the scene of the incident on April 21 –
A. Yes.
Q. – 2024, correct?
A. Yes. Whose body camera is this?

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Q. This is Zhao's –
A. Okay.
Q. – body camera. And again, this is at FCRL 001806. I'm starting at 8:51. And on the camera, it is 11:44:18. Okay.
(WHEREUPON, FCRL 001806 was played.)
BY MR. BENAK:
Q. I'm going to pause this here. Do you see the woman writing – I don't know what she's writing on – and handing it to Kent? Do you see where I'm looking, Officer?
A. Yes.
Q. Did you interview that person?
A. No. I don't recall her on the scene.
Q. Okay. I'm going to go on.
(WHEREUPON, FCRL 001806 was played.)
BY MR. BENAK:
Q. I'm going to freeze it right there. You see the – the people in the background? There's a man in a black jacket?
A. Yes.
Q. There's a woman in a white hoodie?
A. Yes.
Q. And there's another woman standing next to her?

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A. Yes.
Q. And this is 11:45:14 on the BWC and 9:48 on the tape. Did you interview any of those people?
A. No.
Q. Okay.
(WHEREUPON, FCRL 001806 was played.)
BY MR. BENAK:
Q. Okay. I'm going to stop it right there.
Did you – you -- you heard the witness. And I don't know what her name is, but she's the woman in the plaid jacket with the glasses, which is now on the right side of the screen at 10:47.
Did Zhao – Officer Zhao ever give you any information about her?
A. No. I do not recall him giving me information.
Q. Did you interview her?
A. No, I did not.
(WHEREUPON, FCRL 001806 was played.)
BY MR. BENAK:
Q. Who is the officer on the left side of the screen, Officer Pronek?
MS. KAUR: Can we identify the – the time for the record?
MR. BENAK: Yes. This is 11:13 on the

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tape, 11:46:39 on Zhao's body-worn camera.
BY MR. BENAK:
Q. Do you recognize that officer on the left side of the screen?
A. Yes.
Q. Who is that?
A. May I ask why? Why?
Q. Why?
A. Why?
Q. Okay. How do you spell that? Do you know?
A. No, no, no. I'm asking what – why –
Q. Why?
A. – why – why, like as in why?
Q. Okay.
A. Why – why do you need to know?
Q. And who's on first, right?
A. Yeah.
Q. Because I would like to know all the officers that were involved. We don't have all of their names.
A. It's Officer Jaimes.
Q. Jaimes? Okay. Did you talk to him about anything he learned during the investigation?
A. No.

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Q. Okay. We're going to stop that video right there.
Now we're pulling up FCRL 001750, body-worn camera. And I believe this is yours, Officer. The time is 11:33:38 at the beginning of the tape. I'm going to go forward a little bit on this.
We've got a few minutes of this to watch. So I just want to make sure I put it at the right place here.
Hang on just a second.
Yeah. Okay.
So we're at 7:42 on the tape, 11:41:20 on your body-worn camera.
Yeah, yeah, yeah.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. All right. I want to stop it there. This is your body-worn camera; is it not?
A. That's correct.
Q. Okay. And this is Mr. Maynard talking to you. I'm going to back it up to 6:59. We're going to play it again.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. To just kind of identify people, this is

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Officer Mostek in the doorway; is it not?
A. That's correct.
Q. Okay.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. All right. I want to stop it right there. The woman in the white hoodie, did you talk to her?
A. No.
Q. And you understood – at least we can hear this on the tape – that she's identified herself as a 911 caller?
A. Yes.
Q. And she also can – corroborates, does she not, Mr. Maynard's statement that he was on top of the dog?
A. Yes.
MS. KAUR: Objection; form.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. Okay. You're going up to talk to Officer Mostek right now, correct?
A. Yes. I – I found her name out once I got out there, yes.
Q. Okay. Is there any reason that Officer Mostek was not on the scene?

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MS. KAUR: Objection; form; vague –
BY MR. BENAK:
Q. That you know of.
MS. KAUR: – "on the scene."
THE DEPONENT: Reason why she wasn't on scene?
BY MR. BENAK:
Q. Yes.
A. She was in her apartment.
Q. I understand. But the scene of the shooting was on the street, correct?
A. That's correct.
Q. Okay. Any reason she wasn't at the scene?
A. She went up to her –
MS. KAUR: Object –
THE DEPONENT: – apartment –
MS. KAUR: Objection; form; calls for speculation.
BY MR. BENAK:
Q. Did she tell you any reason why she had gone to her apartment rather than remaining on the scene?
A. No.
Q. Did you think that was a little out of the ordinary, that the officer that had just fired a

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weapon would leave the scene?
A. No. You want to separate, and you – you want the scene to be secure. At the moment, I was just trying to get information, so I wasn't thinking if anything was out of the ordinary or weird.
Q. Okay.
A. I was just trying to get the basic facts of what just happened.
Q. Okay. You understand, of course, that leaving the scene of an incident is a criminal offense; is it not?
MS. KAUR: Objection; form; calls for a legal conclusion.
BY MR. BENAK:
Q. You can answer, Officer.
A. That it's – I'm sorry. I'm –
Q. Yeah. You understand, do you not, that leaving the scene of an incident is a criminal offense?
A. She didn't really leave the scene.
Q. So that's your –
A. She stayed in the –
Q. Okay. So your opinion is that, since she's in the area –
A. Well, I have no comment on –

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Q. – scene?
A. I have no comment on that.
Q. Okay.
A. I have no comment on that.
Q. But she's not on the scene – at – on the street –
A. No.
Q. – correct?
A. At this point, she is not a criminal.
Q. I didn't ask you whether she was a criminal. I asked you whether or not she was supposed to leave the scene of the incident.
A. No comment.
Q. Okay. So you can't answer, or you won't answer it?
A. So after the incident, she went into her apartment. We located her. So it was not like she was going to flee or anything. We located her. We located her. She was in her residence.
Q. How long did it take for you to figure out where she was?
A. A few minutes.
Q. Okay. As a matter of not criminal offenses, but as a matter of police procedure, an officer who has discharged his or her weapon should

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remain on the scene, correct?
MS. KAUR: Objection; foundation. Officer Pronek is not a 30(b)(6) witness.
BY MR. BENAK:
Q. You can answer, Officer.
A. Knowing where she was, she was on scene. She was just in a safe location.
Q. Why did she need to be in a safe location?
MS. KAUR: Objection; form.
THE DEPONENT: She was – she went up to her apartment afterwards.
BY MR. BENAK:
Q. Well, I know. But you said –
A. Right.
Q. – she was in a safe location. And I'm asking you: Why did she need to be in a safe location?
A. Well, she technically didn't have to be in a safe location. She was still in the area. She was still at her residence where it took place.
Q. Yeah. I'm just – I'm just asking you about your testimony. You said she was in a safe location. And my question is: Why did she need to be –
A. No.

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Q. – in a safe location?
A. She didn't have to be in a safe location.
Q. How many – and I may have asked you this before – but how many discharge of firearms investigations have you done?
A. None.
Q. Okay. So you're just kind of going on instinct here as to what you should do to locate the person who discharged her firearm?
A. I'm going on my past knowledge and experience of dealing with firearm discharges and reporting to calls of firearm discharges. I treat every scene like it's the last one. Everything is the same.
Q. Anything in your experience which informs your judgment as to whether or not she should have left the scene?
A. No.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. Okay. I want you to look at her, what she says. And you probably heard this when she talked to you.
(WHEREUPON, FCRL 001750 was played.)
MR. BENAK: I want to get where –

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(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. And when she's talking on the phone, I just want you to tell –
A. I – I can't hear you.
Q. Okay. We'll turn it off here.
All right. You're going to open the door – or she's going to open the door. And she's going to say something to you while she's talking on a phone. And I want to have you – I – I have a question for you about that, okay?
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. What did she just tell you? Did she just tell you that she had FOP on the phone?
A. Yeah.
Q. Okay. Is it ordinary in an investigation like this for the person who has discharged her firearm, the police officer who has discharged her firearm, to immediately call FOP?
MS. KAUR: Objection; form; vague; calls for speculation.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. How many times have you seen that happen?

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A. I don't have a number of how many times I've seen that happen. It's just protocol.
Q. Why is it protocol, Officer?
MS. KAUR: Objection; foundation.
THE DEPONENT: The Union represents us. Union is there for any legal representation.
BY MR. BENAK:
Q. Why would she need legal representation?
MS. KAUR: Objection; form.
THE DEPONENT: She just discharged her firearm.
BY MR. BENAK:
Q. Okay.
A. So to contact the FOP is protocol to have legal representation, a Union representation, there on scene with you.
Q. Okay. And how many times – I just want to make this clear – how many times have you seen an officer contact FOP in the middle of a preliminary investigation?
A. Never recall. I don't – I don't know.
Q. Ever?
A. I don't think I've – I can't say if I have or haven't. I don't –
Q. You don't –

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A. No.
Q. Let me ask you –
A. I don't – I don't – I don't remember ever seeing a police officer contact the Union in the middle of an investigation.
Q. Okay. That's what I wanted to know. Okay. Let's –
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. Okay. You tell – and this is – is this Zhao?
MR. MAYNARD: Terro To.
BY MR. BENAK:
Q. Oh, this is Terry To that you're talking to here? This is the Sergeant To?
A. Yes.
Q. Now, you just said on tape here that you've got the story. Did I relate that correctly?
A. Yes.
Q. Okay. And nowhere did she – did she mention that Kent Maynard was on top of his dog when she shot it, correct? Nowhere do you mention that you heard from Kent Maynard that he was on top of his dog when you shot it, correct?
A. Correct.

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Q. Did you not think that that was an important fact to ask her about?
A. I was just getting her side of the story. And what she told me is what she told me. If she wanted to tell me that, she should have told me that.
Q. Okay. So you took her explanation as being exactly what happened.
MS. KAUR: Objection; form.
BY MR. BENAK:
Q. You can answer, Officer.
A. Yes. What she told me is what I wrote.
Q. That's what you wrote in your case innocent – incident –
A. That –
Q. – report as well.
A. Yeah.
Q. Excuse me?
A. What she told me is what I generated in the report.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. Okay. This is really the end of this part of the video – body-worn camera that I want to talk about. But there are a couple of things I want to

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follow up on here. You saw her dog in the apartment, correct?
A. Yes.
Q. Did you notice anything wrong with the dog?
A. I did not examine the dog.
Q. But the dog was walking around, right?
A. I would say yes.
Q. Yeah. No apparent injury to the dog from what you could see?
A. I did not thoroughly examine the dog.
Q. See any blood on the dog? She showed you the dog. She said it's got mud on it. She didn't say blood, right?
A. I didn't pay attention.
Q. Okay.
A. I didn't thoroughly examine the dog –
Q. Okay.
A. – to see if there was any injuries.
Q. Was there anything that jumped out at you about the dog even though you didn't thoroughly examine it that would indicate to you that the dog was injured?
A. No. I was just focused on getting information from her.

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Q. Okay. I want to go to a different section of the tape now.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. Okay. So real quick, who was the officer in the car?
MS. KAUR: Can you identify the timestamp for –
MR. BENAK: Oh, sure.
MS. KAUR: – the record?
MR. BENAK: Sorry. This is 1548 on the tape, 11:49:26 on the body-worn camera.
BY MR. BENAK:
Q. Who is that in the car, Officer?
A. That is Sergeant Terry To.
Q. Okay.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. The same – excuse me – the same officer that came up the stairs when you were with Officer Mostek?
A. That's correct.
Q. Okay.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:

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Q. Who was – who was this gentleman, the officer you're approaching here?
MS. KAUR: And again, for the record, just the timestamp.
MR. BENAK: It is 1651 on the tape, 11:53 on the body-worn camera.
BY MR. BENAK:
Q. Who is this person on the right side of the screen?
A. That is Sergeant Butler.
Q. Okay.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. Did you ever tell Sergeant Butler what Kent told you, that he was on top of the dog when the dog was shot?
A. No, I did not.
Q. Okay.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. I'll move to another spot on the tape. Oh, by the way, this is a still shot of you at 1834 on the tape, 11:52:12, identifying a shell casing; is that correct?
A. Yes.

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Q. Okay. Do you know where the shell casing was in connection or -- or in relation to the shooting?
A. Right now, it's under that piece of paper.
Q. Right. But I mean in relation to the place where the shooting took place, do you know where it is? In other words, how far away was it?
A. Approximately, I would say maybe about five, six feet maybe.
Q. Okay.
A. I -- I'm -- I'm ballparking. I don't know for sure. I didn't --
Q. Okay.
A. -- measure it.
Q. As far as you know, nobody moved the shell casing before you got there?
A. As far as I know, nobody moved it.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. And so you actually do call FOP; do you not?
A. I'm sorry?
Q. You do call FOP; do you not? You have a conversation --
A. Yes.

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Q. -- with FOP --
A. Yes.
Q. -- on the scene?
A. Yes.
Q. Let's see if we can find that.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. Okay. We're at 2532 on the tape and 11:59:10 on the body-worn camera.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. So he asked you if there was anything out of the ordinary, and you said no. So you consider all of this to be just in the ordinary course of business -- a guy shoots a dog while the owner is on top of it?
MS. KAUR: Objection; form.
THE DEPONENT: No. What I think what he mean by out of the ordinary is this -- if this was a domestic or if there were drugs and alcohol involved. That's what he -- I'm assuming he meant by out of the ordinary.
MR. BENAK: Okay.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:

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Q. While we've still got this queued up, Sergeant Butler told you to call the FOP. Has your sergeant in any circumstances ever told you to call the FOP -- any sergeant any time?
A. Have they -- I'm sorry. Have -- has a sergeant ever told me to call the FOP?
Q. Right.
A. I'm sure in the past.
Q. Do you recall any incident as you sit here today when a sergeant has told you to call the FOP in the middle of an investigation?
A. No. I can't recall. But it's --
MR. BENAK: Counsel, if you want to give me a couple of minutes to wrap up a few last questions, we can be done here. I don't -- I don't have much more, maybe 15 more minutes. I just want to get it queued up.
MS. MOORE: Sure.
MR. BENAK: Okay. All right.
THE VIDEOGRAPHER: I'll take us off the record. Stand by. The time is 12:26 p.m. We are off the record.
(WHEREUPON, a recess was taken.)
THE VIDEOGRAPHER: The time is 12:42 p.m., and we are on the record.

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BY MR. BENAK:
Q. Are you prepared to continue your deposition, Officer Pronek?
A. Yes, sir.
Q. Okay. So we're still back here with your -- with your body cam -- body-worn camera. And this is FCRL 001750 at 1308 and 11:46:46 on the tape.
(WHEREUPON, FCRL 001750 was played.)
BY MR. BENAK:
Q. So you did recall Mr. Maynard's statement that he was over the dog, and you related that to your -- to Sergeant To, correct?
A. Yes.
Q. Okay. Do you know whether Sergeant To had any input into the tactical response -- tactical response report?
MS. KAUR: Objection; foundation.
THE REPORTER: I'm sorry. Can you repeat that?
MS. KAUR: Objection; foundation.
THE REPORTER: Thank you.
THE DEPONENT: I'm sorry. Did Officer --
BY MR. BENAK:
Q. Do you know whether Sergeant To had any input in the tactical response report?

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A. No, I do not.
Q. Okay. So far, we've got your -- Mr. Maynard's statement to you, your statement to Officer To. And I want to -- let me back up. Withdraw that question. Let's just put this in sequence.
So your statement to Sergeant To here is after your conversation with Officer Mostek; isn't that correct?
A. I believe it was.
Q. Okay. So you didn't bring it up in your conversation with Officer -- Officer Mostek, but you're telling Officer To here because, I suspect, you think it's important?
MS. KAUR: Objection; form.
BY MR. BENAK:
Q. You can answer. You can answer.
A. I was just giving Sergeant To a brief summary.
Q. Okay. Well, in that brief summary, you thought it was important enough to tell him that Kent Maynard told you he was over the dog, correct?
MS. KAUR: Objection; form.
BY MR. BENAK:
Q. You can answer.

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A. I -- at the time, I did not know the gentleman's name. I did not know that he was the owner of the dog. I'm just going off of what someone told me.
Q. Well, he told you he was the owner of the dog, and he told you he was no top of the dog when it was shot. You didn't say that to Ms. -- to Officer Mostek when you interviewed her, but you did say it later to Officer To right here, correct?
A. That's correct.
Q. Okay.
A. I tried to get more information from him.
Q. In your brief summary, the one thing that you said to him, to Officer -- or Sergeant To, was that Mr. Maynard told you that he was over the dog, correct?
A. That's correct.
Q. Make sure I got the right one. Hang on a second. Yeah, that's it.
THE REPORTER: Exhibit 11 has been marked.
(WHEREUPON, Exhibit 11 was marked for identification.)
BY MR. BENAK:
Q. Officer Pronek, the court reporter has handed you what's been marked as Exhibit 11, which

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for the record is Chicago Police Department De-Escalation, Response to Resistance, And Use Of Force, General Order -- Order G03-02, Bates-numbered FCRL 00280 through 2287.
Do you recognize this document?
A. It's a general order.
Q. Have you ever read it before?
A. Yes, I have.
Q. Have you read it recently?
A. I could not tell you the last time I wrote -- read it --
Q. Do you recall --
A. -- or went through it.
Q. Okay. Do you recall that, to the extent -- no. Let -- let me back up.
Is firing a sidearm a use of force, Officer Pronek?
A. Yes.
Q. Okay. So what's your understanding of deadly force, Officer Pronek?
A. Of deadly force?
Q. Yes.
A. Why -- rephrase that. I don't know what you're trying to get here --
Q. Well, let me --

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A. -- deadly force.
Q. -- just read it to you. So we've got -- turn to page 2283 of the exhibits you have in front of you, Exhibit 11. So paragraph IV. Use of Deadly Force -- do you see where I am?
A. Yes.
Q. So subparagraph A under IV states the definition as follows: Deadly force is any -- is force by any means that is likely to cause, correct, death or great bodily injury. It includes, but is not limited to: Number 1, firing a firearm in the direction of the person to be arrested. Did I read that correctly?
A. Yes.
Q. Would you also consider firing a firearm in the direction of a person on the ground within inches of his head to be use of deadly force?
MS. KAUR: Objection; form; foundation; calls for a legal conclusion.
BY MR. BENAK:
Q. Do you understand the question, Officer?
MS. KAUR: It's --
THE DEPONENT: So you have this a little mixed up here with --
BY MR. BENAK:

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Q. Okay. Well –
A. – deadly force.
Q. – clarify it for me.
A. I'll clarify it for you. Deadly force is when – this is pertaining to when an officer is involved in an altercation or an instance and has to use deadly force as a mean to de-escalate the situation, okay?
What Officer Mostek was doing, yes, was it deadly force, but it was also an attempt to get another dog off of her dog. So –
Q. So –
A. – I think the way that you phrased it was using deadly force like she's being attacked or she's shooting at somebody as deadly force. So there is two different ways to look at this.
Q. No. I think –
A. No, no, no, no –
Q. Go ahead.
A. The way – the way that you're looking at it is different. She's using this as a mean to de-escalate a situation because her dog was being attacked. The way that you phrased it was – or looking at this is that she's using just deadly force.

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Q. Well, we'll get to that question.
A. So –
Q. I understand – I understand your response. But you admit that it's deadly force, correct?
MS. KAUR: Objection; form; foundation.
THE DEPONENT: Yes, it is deadly force.
BY MR. BENAK:
Q. Now I want you to turn the page and go to "C. Last Resort. The use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person." Did I read that correctly?
A. Yes, you did.
Q. Did you understand that her shooting of the dog was a – was necessary to protect against an imminent threat to life or to prevent great bodily harm?
MS. KAUR: Objection; form.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. And how was that a threat to life or to present – prevent great bodily harm?
A. In this incidence, her dog was being attacked.

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Q. Well, I think this refers to the life of a human being; does it not?
A. Could you repeat that?
Q. Sure. Doesn't this C.1. apply to prevent great bodily harm to the member or another person, not to a dog; isn't that –
A. That's
Q. – correct?
A. That's what it says.
Q. Okay. Did you understand what happened in this incident with Officer Mostek discharging her firearm to kill a dog was something defined or understood by you as a last resort to prevent imminent harm to her?
MS. KAUR: Objection; form; and foundation.
THE DEPONENT: From my understanding, yes.
BY MR. BENAK:
Q. Did she tell you that she was being threatened by the dog? We can play the tape of Officer Mostek. But she said that she was protecting her dog, not herself.
A. Exactly. She was protecting her dog, not herself.

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Q. Right. So is that an unreasonable use of force in your understanding?
MS. KAUR: Objection; form; foundation.
BY MR. BENAK:
Q. You can answer, Officer.
A. Can you repeat the question?
Q. Sure. In your understanding, was her shooting of the dog while it was on top – while Kent Maynard was on top of the dog an unreasonable use of deadly force?
MS. KAUR: I'm going to object to that question –
MR. BENAK: You want to let the witness answer? This has been –
MS. KAUR: I'm going to get my –
MR. BENAK: – going on for a long time –
MS. KAUR: I'm going to get my –
MR. BENAK: – Simer.
MS. KAUR: – objection in. I have the right to do that, to get my objection in after your –
MR. BENAK: You don't have a right –
MS. KAUR: – your question.
MR. BENAK: – to obstruct my deposition.
MS. KAUR: I am going to get –

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MR. BENAK: Go ahead and –
MS. KAUR: – my objection –
MR. BENAK: Go ahead. Put your –
MS. KAUR: I'm going to –
MR. BENAK: Put your objection on the record.
MS. KAUR: – object as to foundation. You have not established that Officer Pronek is an officer that conducts investigations into the use of force by any officer during the course of this deposition.
BY MR. BENAK:
Q. Do you have the question in mind, Officer?
A. It is not my call on that. That's why you have supervisors and detectives to make that call. I am a preliminary investigator. I write a report. Detectives and higher-ups make that call.
Q. Okay. What I'm asking you, in your understanding, you're a police officer. You're subject to these rules just like your superiors are. Was it your understanding that Officer Mostek's shooting the dog while Mr. Maynard was on top of the dog, within inches of the line of fire, was an unreasonable use of force?
MS. KAUR: Same objection and calls for a

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legal conclusion.
THE DEPONENT: That's not my call to make that judgment.
BY MR. BENAK:
Q. I'm not – I'm not asking you whether it's your call. I'm asking you if, subject to the rules –
A. You're asking for my opinion on this. And I'm telling you my opinion is I do not have an opinion on it. That is not my call to make.
Q. Are you saying you're not subject to these rules?
A. Yes, I am subject to these rules because they're general orders.
Q. Okay. And so I'm asking you your understanding as a police officer, okay? Do you understand what I'm asking you – your understanding as a police officer?
A. Yes. I'm understanding –
Q. Okay.
A. – what you're saying.
Q. Okay. Is it your understanding that Ms. – or Officer Mostek used unreasonable force in shooting Kent Maynard's dog in the head, inches from Kent Maynard while he was holding the dog in his

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arms?
MS. KAUR: Same objection. Same – this is getting confusing.
BY MR. BENAK:
Q. You can answer.
A. That's not my call to make on that –
Q. I'm not asking your call.
A. Yes, you are.
Q. No –
A. You were just asking that.
Q. I am asking you if your – in your judgment.
A. In my judgment.
Q. Yes.
A. You want my opinion. You want –
Q. I don't –
A. – my opinion –
Q. I don't want your opinion. I want your judgment.
A. My judgment on this.
Q. I want your judgment as a police officer subject to –
A. She was –
Q. – rule.
A. – protecting her dog.

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Q. Okay. We're done with that.
MR. BENAK: You have anything else? Just give us a second.
THE VIDEOGRAPHER: Please stand by.
MR. BENAK: We'll be right – you can stay on the record.
Thank you, Officer. We're finished with our questioning.
CROSS EXAMINATION
BY MS. KAUR:
Q. Okay. Officer Pronek, I just have –
MS. KAUR: Do you guys have any follow-up?
MR. BECK: I –
MS. KAUR: Jim? No? Okay.
BY MS. KAUR:
Q. I just have a few follow-up questions for you. It should be relatively quick.
Okay. So during the course of this deposition, we have talked a lot about information you were given and not given on scene, right?
A. Correct.
Q. Okay. And the plaintiff in this case, Kent Maynard, he never gave you his personal contact information, correct?
A. That's correct.

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Q. And you asked for it multiple times on scene?
A. That's correct.
Q. Okay. He never walked you through the incident from the beginning to the end, correct?
A. That's correct.
Q. In fact, he only told you one portion of what happened that day, correct?
A. That's correct.
Q. And you did get Mostek's side of the story, correct?
A. Yes.
Q. Okay. And earlier you testified that – well, let me ask you this: What you included in your case report is what Officer Mostek told you, correct?
A. That's correct.
Q. And that's not saying that Mostek's word is gold. It's just that you are writing down what she is telling you, right?
A. That's right.
Q. Okay. And in your Original Case Incident Report, you have noted that both Mostek and Kent Unknown are victims, right?
A. Yes.

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Q. If – if Kent Maynard would have told you more, would you have included that information in your Original Case Incident Report?
A. Yes, I would have.
Q. During the course of this deposition we have also talked about the notes that you were taking while you were responding to the scene; do you recall that?
A. Yes.
Q. Okay. And I just want to confirm with you that the notes that you are writing down while you are on scene are all notes that go into your case incident report, right?
A. That's correct.
Q. Okay. So all the information on your notes is the basic stuff that goes into the report.
A. Yes.
Q. We talked a lot about this UCR that is on your Original Case Incident Report.
A. Yes.
Q. Originally, you had the UCR as non-criminal destruction of property, correct?
A. That's correct.
Q. And you changed that to the destruction of animal by police upon advice of your supervisor?

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A. Yes.
Q. And that would be Sergeant Butler?
A. That's correct.
Q. Another thing we've talked about today is your role and your duties for that day. You're not a detective; are you?
A. No, I'm not.
Q. Okay. And on this day, you were the responding officer, correct?
A. That's correct.
Q. Okay. And you refer to yourself as the paper car during this incident?
A. Yes.
Q. Okay. And when you got there, you notified your sergeants of what was happening?
A. Yes.
Q. You did a notification to CPEC (phonetic)?
A. Yes.
Q. Okay. You notified a detective of the incident?
A. Yes.
Q. Okay. And so it was your understanding that, with these notifications, if additional investigation needed to happen, it would have occurred.

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A. Yes.
Q. And your role that day was to get the ball rolling, correct?
A. That's correct.
Q. It was not to do the investigation from beginning to end.
A. That's correct.
MS. KAUR: That's all I have.
MR. BENAK: I have nothing.
MS. KAUR: Okay.
THE REPORTER: Before – yeah.
THE VIDEOGRAPHER: Please stand by. This is the end of the deposition of Officer Nicholas Pronek. The court reporter will now take orders for the transcript –
THE REPORTER: Mr. Benak, would you like the original?
MR. BENAK: Yes.
MR. BECK: And we reserve.
THE REPORTER: I'm sorry.
MR. BECK: We reserve signature.
MS. KAUR: He –
MR. BENAK: Well, I think –
THE REPORTER: Ms. –
MR. BENAK: – he gets to decide.

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THE REPORTER: Ms. Kaur, would you like a copy?
MS. KAUR: Yes. And then I'm just going to explain waiver.
Officer Pronek, this is the end of the deposition. You can either waive or reserve your signature. If you reserve your signature, which is what I'm going to recommend that you do, you just get a copy of the transcript before it's finalized to just take a look at it.
THE DEPONENT: Okay.
MS. KAUR: So we're going to reserve.
THE DEPONENT: Okay.
THE REPORTER: And you said yes on the copy?
MS. KAUR: Yes.
THE REPORTER: Mr. Beck, would you like a copy?
MR. BECK: The City had ordered a copy, right?
MS. KAUR: Yeah.
THE REPORTER: Okay, sir.
MR. BECK: Yeah. No, I don't.
THE REPORTER: Okay. And then I have Mr. Thompson –

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MR. THOMPSON: No, thank you.
THE REPORTER: I just have a few spellings. Do you want to go off the record first, Mr. Tim, before I get spellings?
THE VIDEOGRAPHER: Okay. Okay. Okay. All right.
Counsel, are you taking – ordering the video, right?
MR. BENAK: That's up to you.
MR. MAYNARD: Yes.
THE VIDEOGRAPHER: Yes. Okay.
Then counsel Kaur, would you like to – order of the video?
MS. KAUR: So we're going to – I'll circle back to you on that.
THE VIDEOGRAPHER: Okay.
MS. KAUR: I'll take your information, and I'll –
THE VIDEOGRAPHER: Okay. Sure.
MS. KAUR: – reach out to you.
THE VIDEOGRAPHER: And Moore – counsel Beck?
MR. BECK: No.
THE VIDEOGRAPHER: Counsel Bunn?
MR. BUNN: No.

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THE VIDEOGRAPHER: Counsel Thompson?
MR. THOMPSON: No, thank you.
THE VIDEOGRAPHER: Okay. All right. The time is 1:01 p.m. We are off the record.
(WHEREUPON, the deposition of OFFICER NICHOLAS PRONEK concluded at 1:01 p.m.)

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CERTIFICATE

I, the undersigned Tim Baron, am a videographer on behalf of NAEGELI Deposition & Trial. I do hereby certify that I have accurately made the video recording of the deposition of Nicholas Pronek, in the above captioned matter on the 4th day of February, 2025 taken at the location of Chicago, IL.

No alterations, additions, or deletions were made thereto.

I further certify that I am not related to any of these parties in the matter and I have no financial interest in the outcome of this matter.

Tim Baron

CERTIFICATE

I, Sylvia I. Palacios, do hereby certify that I reported all proceedings adduced in the foregoing matter and that the foregoing transcript pages constitutes a full, true and accurate record of said proceedings to the best of my ability.

I further certify that I am neither related to counsel or any party to the proceedings nor have any interest in the outcome of the proceedings.

IN WITNESS HEREOF, I have hereunto set my hand this 25th day of February, 2025.

Sylvia I. Palacios #1001877

CORRECTION SHEET

Deposition of: Nicholas Pronek Date: 02/04/25
Regarding: Maynard, Jr. vs. The City of Chicago
Reporter: Palacios/Willman

Please make all corrections, changes or clarifications to your testimony on this sheet, showing page and line number. If there are no changes, write "none" across the page. Sign this sheet and the line provided.

Page	Line	Reason for Change
____	____	_____
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Signature: _____
Nicholas Proneck

Date: 02/04/2025 Assignment #: 82010
Deponent: Nicolas Pronek
Case: KENT MAYNARD vs CITY OF CHICAGO

ATTORNEY - TRANSCRIPT ENCLOSED:
signature of your client is required. Please have your client make any corrections necessary. Sign the Correction Sheet where indicated. Forward a COPY of the executed Correction Sheet directly to the attorney(s) listed below. (The Address(es) can be found on the Appearance page of the deposition.) Also, send a COPY of the executed Correction Sheet to our corporation.

C C:Naegeli Deposition and Trial

DECLARATION

Deposition of: Nicolas Pronek Date: 02/04/2025
Regarding: KENT MAYNARD vs CITY OF CHICAGO
Reporter: Sylvia I. Palacios

I declare under penalty of perjury the following to be true:

I have read my deposition and the same is true and accurate save and except for any corrections as made by me on the Correction Sheet herein.

Signed at _____, _____
on the _____ day of _____, 20____.

Signature: _____
Nicolas Pronek

Exhibits

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EX003 FIREARM DISCHARGE AND OFFICER-INVOLVED DEATH INCIDENT RESPONSE AND INVESTIGATION OUTLINE 76:16, 17,24 78:4 79:4,21 80:9 81:13 82:1 91:5

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EXHIBIT H

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

KENT MAYNARD, JR.,

Plaintiff,

vs. Case No.: 24-cv-03612

THE CITY OF CHICAGO, a municipal corporation, and Chicago Police Officer CARMEN MOSTEK (Star 8664);

Defendants.

DEPOSITION OF

SERGEANT HOYIN TO

TAKEN ON
WEDNESDAY, MARCH 5, 2025
1:00 P.M.

225 WEST WASHINGTON STREET
CHICAGO, ILLINOIS 60606

APPEARANCES

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DEPOSITION OF
SERGEANT HOYIN TO
TAKEN ON
WEDNESDAY, MARCH 5, 2025
1:00 P.M.

THE REPORTER: We are on the record at 1:00 p.m.
Mr. To, please raise your right hand. Did I pronounce that correctly?
MR. TO: Yes.
THE REPORTER: Do you affirm under penalty of perjury that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?
MR. TO: Yes.
THE REPORTER: Will each attorney please state their names and whom they represent?
MR. BENAK: James D. Benak for the plaintiff Kent Maynard. And Mr. Maynard is with me.
MR. BUNN: Matthew Bunn for Defendant City of Chicago.
MS. KAUR: Simerdeep Kaur for Defendant City of Chicago.
MR. THOMPSON: James Thompson for Carmen

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Mostek.
MR. BECK: Gregory Beck for Carmen Mostek.
THE REPORTER: You may proceed.
SERGEANT HOYIN TO, having duly affirmed to tell the truth, was examined, and testified as follows:
EXAMINATION
BY MR. BENAK:
Q. Good afternoon, Sergeant To. Did you spell your name for the record?
MR. BENAK: Did you get his name spelled for the record?
THE REPORTER: I did not get it on the record, no.
BY MR. BENAK:
Q. Could you state your full name and spell it, please?
A. First name's going to be H-O-Y-I-N, Hoyin. Last name is To, spelled T-O.
Q. Have you had your deposition taken before, Sergeant?
A. No.
Q. If I call you "Sergeant" throughout this deposition will that be okay with you?
A. That's fine.
Q. So are you familiar with the case in which

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this deposition is being taken?
A. Yes.
Q. Okay. And how did you become familiar with that?
A. I have a preparation yesterday.
Q. I'm sorry?
A. I have a preparation yesterday.
Q. Okay.
A. Yeah.
Q. Do you know that this is a – in connection with a federal court lawsuit?
A. I didn't know about that.
Q. The lawsuit is on behalf of Mr. Maynard, who's sitting to my right, against Chicago Police Department and Carmen Mostek. Okay?
THE REPORTER: I'm sorry. Is that a yes? I need –
THE WITNESS: Yes.
THE REPORTER: Thank you.
BY MR. BENAK:
Q. Oh, that's the other thing. We have to speak up. You have to give your responses verbally. Shakes of the head won't come across on the record.
A. Got it.
Q. So what a deposition is about is pretty

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straightforward. I'll ask questions to which I expect answers from you.
If you don't understand my question, if I'm not enunciating or I'm not speaking loudly enough or I'm not clear in my question, tell me and I'll restate it so that you can answer it. Excuse me.
Because the idea here is to get a clear record and we have to understand each other. When I ask a question and you give an answer – both has to be understandable. Okay?
A. Understood.
Q. Who is representing you today, Sergeant?
A. I'm not –
Q. Do you see your lawyer sitting to your –
A. – representing – yeah, this is –
Q. – right?
A. – my lawyer.
Q. Okay. Have you talked to your lawyer about this deposition?
A. Yes, yesterday.
Q. And when did you do that?
A. Yesterday.
Q. How long?
A. It was about an hour and a half.

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Q. Okay. Have you talked to anybody else about your deposition other than your lawyers?
A. No.
Q. Was anybody else present in your conference with your lawyers when you talked about the case?
A. It was just three of us.
Q. Okay. Your two lawyers and yourself?
A. Two lawyer and myself.
Q. Okay. Do you recall the incident that took place on April 21, 2024, in the Bridgetown neighborhood where a dog was shot?
A. Yes.
Q. Okay. Do you have it in mind today as we're sitting here in the deposition?
A. Yes.
Q. Do you have a pretty good recollection of that?
A. Yes.
Q. Okay. We're going to play your body-worn camera as well so there will be a chance for you to refresh your recollection. Have you viewed your body-worn camera?
A. Yes.
Q. When did you do that?

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A. Yesterday.
Q. Have you viewed any other videos in connection with this case?
A. Not yesterday.
Q. Oh, at any time?
A. There was a video that I watched.
Q. Okay.
A. Yes.
Q. Do you recall what news media that was?
A. I forgot.
Q. Did that have a video of the dog being shot?
A. Yes.
Q. Okay. Have you seen the video of the dog being shot in any other place?
A. No.
Q. When you arrived at the scene of this incident what did you understand your role to be?
A. My role -- the first thing is to see if I can render any aid to an injured party. And then the second would be protect the crime scene -- to protect the scene.
Q. We'll come back to the crime scene. But I skipped over a couple of things that I want to get to. How long have you been on the Chicago police force?

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A. Nine years.
Q. And what were you doing before that?
A. I was a logistic operator.
Q. Where?
A. Bensonville.
Q. For what company?
A. For a company called A Logistic.
Q. How long were you doing that?
A. Total or for that company?
Q. Well, let's start for that company.
A. About one year.
Q. Okay. Did you do logistics before that?
A. Yes.
Q. Who did you do that with?
A. A company called Dynasty USA.
Q. Okay. And how long were you there?
A. About two year.
Q. Okay. And what did you do before that?
A. I was a graphic designer before that.
Q. And who'd you design for?
A. It was a company called GES.
Q. And what kind of --
THE REPORTER: GES -- I'm sorry?
THE WITNESS: GES.

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BY MR. BENAK:
Q. What kind of products do they make?
A. They do exhibition -- expos.
Q. And how long did you do that?
A. For six years.
Q. Okay. And what were you doing before that?
A. I was in school.
Q. Okay. What school?
A. UIC.
Q. Did you graduate?
A. Yes.
Q. And what was your degree in?
A. Got a bachelor degree in graphic design and industrial design.
Q. And did you attend high school here in Chicago?
A. Yes, I did.
Q. Where?
A. Bogan High School.
Q. And where is that located?
A. I think it's 79 and Pulaski.
Q. Okay. Were you born in the United States?
A. I wasn't.
Q. Okay. When did you come here?

A. 1989.
Q. When you started at the Chicago Police Department what was your introductory position?
A. When I just started it was –
Q. Yeah.
A. – probationary police officer.
Q. Okay. A patrol officer?
A. Patrol officer, yes.
Q. Okay. And where were you assigned at that time?
A. My first assignment in South Chicago.
Q. How long did you do that?
A. About four years.
Q. When you say "South Chicago" – whereabouts?
A. Around from 79th to 130 something street.
Q. Okay.
A. So border with Indiana.
Q. Between –
A. Between –
Q. On the Indiana border?
A. Yes.
Q. Okay.
A. And then –
Q. To where?

A. The east border is touching the lake. So all the way east. And the west – I don't recall how far west.
Q. And how long did you do that beat?
A. In that district?
Q. Yes.
A. For four years.
Q. Okay. And what did you do after that?
A. Then I got transferred to my current district.
Q. Okay. And what district is that?
A. Deering.
Q. Okay. And what was your position when you were first transferred?
A. A police officer.
Q. Okay. And what was your beat at that time?
A. My beat at that time would be 933 in the 32nd.
Q. Okay. When did you first – when were you first promoted to sergeant?
A. I was promoted September 1, 2023.
Q. Okay. And where was your first assignment as sergeant?
A. I'm sorry, can – what do you mean?

Q. When was your first assignment as a sergeant? Where was it?
A. In the 9th District in Deering.
Q. And is that where you are now still today?
A. Yes.
Q. Do you have jurisdiction over 914 and 915?
MR. BUNN: Object to form.
BY MR. BENAK:
Q. Do you know what I'm talking about?
A. Can you repeat that question –
Q. Sure.
A. – again?
Q. Do you have authority in the beats called 914 and 915?
MR. BUNN: Object to form.
MR. BENAK: Go ahead.
THE WITNESS: Yes.
BY MR. BENAK:
Q. So just so we get this clear, I didn't talk about this earlier. So when I ask a question, your counsel may object. Unless he instructs you not to answer, after he's finished objecting you can answer. Okay?
A. Got it.
Q. Okay. Thank you. Do you recall when you

arrived at the scene of the incident on April 21 that we've been talking about?
A. Yes.
Q. Okay. And what do you recall at the scene at the time you arrived?
A. I recall there was a – a couple people were standing in a corner of the street. And when I arrived on scene there was already officer on scene. And I talked to one of the officers to find out what happened.
Q. Okay. Which officer did you talk to?
A. I spoke to Officer Cortez. I spoke to him. And then I relocated myself to a residence on the second floor and talked to an off-duty officer.
Q. Okay. Let's go back to the very beginning when you first arrived to the scene. The first person you talked to was Officer Cortez?
A. I thought I talked to other officer, but Officer Cortez gave me the information of how it happened.
Q. We'll go back and – I don't want to try to trick you here. We'll show the videotape –
A. Okay.
Q. – so we can get it all. But I'm trying to understand what your state of mind was when you

arrived at the scene. And by that I mean what did you think your responsibilities were when you first arrived at the scene?
MR. BUNN: Objection, asked and answered.
MR. BENAK: Go ahead, Officer. You can answer.
THE WITNESS: My priority to see if there's anyone injured at that time. That's my priority.
BY MR. BENAK:
Q. Okay. But that's priorities generally. I mean, whenever you're doing an investigation that's a general priority?
A. That's correct.
Q. And my question was more specific. At this scene what did you think your responsibility was?
MR. BUNN: Objection, asked and answered twice.
MR. BENAK: Go ahead.
THE WITNESS: To control the scene, to set the perimeter, and preserve evidence.
BY MR. BENAK:
Q. Did you understand when you arrived at the scene that you were the supervising sergeant on the

scene?
A. Yes.
Q. And what responsibilities did you have as the supervising sergeant?
A. To direct officer on scene to secure the scene.
Q. Okay. Did you have responsibility for investigating the incident at that time?
A. To certain extents.
Q. And what –
A. Like if I have other priority, then I have to focus on other priority.
Q. Okay. But at that time when you first arrived at the scene as a supervising sergeant what did you understand your responsibilities were?
MR. BUNN: Objection, asked and answered.
THE WITNESS: First is to see if I need to request for medical services. Then to protect the scene.
BY MR. BENAK:
Q. Did you have any investigatory responsibilities?
MR. BUNN: Objection, asked and answered.
THE WITNESS: Do I have any?
MR. BENAK: At the time at this incident.

THE WITNESS: Only if to my capacity. If my capacity's full then I were not able to do that.
BY MR. BENAK:
Q. Okay. Was your capacity full at this time or did you have available capacity to conduct an investigation?
A. At that time I would have to find out what happened and make the proper notification to my supervisor and also protect the scene.
Q. Okay. Did you do that?
A. Yes, I did.
Q. Okay. And how did you do that?
A. I get the information from the officers and then I call my lieutenant to notify him that it involved off-duty officers. And then I set the perimeter to protect the scene.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. Okay. This is when you first arrived to the scene. Does this look familiar to you?
A. Yes.
Q. All right.
MR. BUNN: Can you identify this?
MR. BENAK: This is going to be Exhibit 1, or, excuse me, To Exhibit 1. This is FRCL000562.

And we're at 2:54 on the tape.
(WHEREUPON, Exhibit 1 was marked for identification.)
(WHEREUPON, the video was played.
MR. BENAK: And 11:43 – excuse me. 11:43:16 on the body-worn camera.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. I want to make sure we get –
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. – these people identified. So the two officers in the foreground – who are they?
A. The one on the left is Officer Heimes. The one on the right is Officer Zhao.
Q. Okay. Do you know both of those officers?
A. Yes.
Q. Did you know them at the time of the incident?
A. Yes.
Q. Had you worked with them before?
A. Yes.
Q. How many times do you suppose? Just a guess.
A. How many times? I would say more than 50

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times.
Q. Okay. So you know them pretty well; is that fair to say?
A. In terms of?
Q. That you know them well in terms of conducting investigations with them?
MR. BUNN: Object to form.
THE WITNESS: Do I know them well? I would say I know them. But I'm not sure well enough.
BY MR. BENAK:
Q. You've worked with them before –
A. Yes.
Q. Okay. So let's go forward a little bit here.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. Okay. Who is this officer approaching from the right?
A. This is Officer Cortez.
Q. Okay. And we're at 3:12 on the videotape and 11:43:26 on the body-worn camera. So let's just take a look at these people on the left side in the background. Do you know any of these people on the scene?

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A. No, I don't know them.
Q. Okay. Other than the officers?
A. Right.
Q. So were you ever informed at any time of the identity of any of these people in the background?
A. I wasn't notified.
Q. Were you ever informed specifically that the man in the white hoodie was Kent, the owner of the dog?
A. At that time?
Q. Yes.
A. No.
Q. Okay. were you ever during your investigation informed that he was the owner of the dog?
MR. BUNN: Object to form.
THE WITNESS: Yes.
BY MR. BENAK:
Q. Okay. And when did you learn that he was the owner of the dog?
A. When I was setting up the perimeter and he said he's the owner of the dog.
Q. Okay. Let's play some more of this.
(WHEREUPON, the video was played.)

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MR. BENAK: Now that we've got the people on the scene – at least the ones you know or identified – I want to go back to 2:59 on the tape. We're starting here at 2:45. I'll just play it forward.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. Did you hear what the man in the white hoodie said?
A. When you play the video, yes.
Q. Beg your pardon?
A. When you play the video, yes.
Q. Okay. And what did he say?
A. Can you play it again?
Q. Sure.
(WHEREUPON, the video was played.
BY MR. BENAK:
Q. Did you hear him say he had her in her arms – in his arms?
A. Yes.
Q. Okay.
(WHEREUPON, the video was played.)
MR. BENAK: Let's make sure we get it all on the record here, Officer.
(WHEREUPON, the video was played.

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MR. BENAK: Whoops. Too many buttons.
(WHEREUPON, the video was played.
BY MR. BENAK:
Q. Okay. He says, "Why would she shoot the dog" – did you hear that part?
A. Yes.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. "When I had her in my arms" – did you hear that part?
A. Yes.
Q. Do you recall hearing that when you were on the scene at the time?
A. I do not recall.
Q. Okay. Does this video refresh your recollection or you still don't recall whether you heard that at the time? You understand the distinction I'm making, Sergeant?
A. I do not recall hearing the statement –
Q. Okay.
A. – when I was on the scene.
Q. Okay.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. Now again focusing on these people in the

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background, did you ever discuss or did you ever talk to any of these people in the background?
A. I did not.
Q. So you don't know whether they were – and at the time you didn't know whether they were witnesses or not; correct?
A. I did not know.
Q. Did you think it was important to learn if they were witnesses?
MR. BUNN: Object to form.
THE WITNESS: I think, yes, that would be important.
BY MR. BENAK:
Q. Okay. But you didn't do it?
MR. BUNN: Objection. Asked and answered.
THE WITNESS: I did not do it, yes.
MR. BENAK: Let's play this.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. Okay. At this time after hearing this statement from Officer Cortez, did you have in mind that this was a use-of-deadly-force incident?
MR. BUNN: Objection, form.
BY MR. BENAK:
Q. Do you understand my question, Sergeant?

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A. Yes.
Q. Okay. Did you understand it was a use-of-deadly-force case?
MR. BUNN: Same objection.
THE WITNESS: Yes.
BY MR. BENAK:
Q. Did you think it was important to understand exactly where the persons involved in the case were at the time the shooting took place?
MR. BUNN: Object to form.
THE WITNESS: Yes.
BY MR. BENAK:
Q. Did you make any inquiry as to the persons involved and where they were when the weapon was discharged?
A. Yes, I spoke to them. I spoke to the person, yes.
Q. I'm sorry. Who did you talk to?
A. I talked to the off-duty officer.
Q. Did you talk to any of the other witnesses?
MR. BUNN: Objection, asked and answered.
THE WITNESS: I did not.
MR. BENAK: I want to move this forward to 4:11 if I can get there without too much trouble.

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We'll start at four minutes.
BY MR. BENAK:
Q. This is you going up the stairs to the apartment; correct?
A. Yes.
Q. Okay. Did you know at this time that it was Officer Mostek who was the officer who discharged her firearm?
A. I did not know.
Q. Were you familiar with Officer Mostek at this time?
A. No.
Q. You'd never met her before?
A. No.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. Okay. Who was the officer at the top of the stairs? You can't see his face. But do you know who that is?
A. By his voice it's Officer Pronek.
Q. Well, this is –
(WHEREUPON, the video was played.)
MR. BENAK: Let's just play it forward so we can get –
(WHEREUPON, the video was played.)

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BY MR. BENAK:
Q. Okay. You think that's Officer Pronek?
A. Yes.
Q. Okay. Did you hear him just say that he's got the story?
A. Can you say that again?
Q. Well, you asked him, "Do you have the story?"
A. Yes.
Q. And he responded, "I have the story."
A. Yes.
Q. Correct?
A. That's correct.
Q. Okay.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. Okay. So that's Officer Mostek's story?
MR. BUNN: Object to form.
THE WITNESS: Yes.
BY MR. BENAK:
Q. As you understood it?
A. Yes.
Q. Did you think since it was a discharge of weapons – of a weapon – that further inquiry needed to be made?

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A. I only had to identify who's the party involved and then make my notification.
Q. Okay. After this encounter with Officer Mostek and the discussion did you interview any witnesses onsite?
MR. BUNN: Objection. This is asked and answered four times now.
MR. BENAK: You can answer, Officer.
THE WITNESS: I did not.
MR. BENAK: Let's go to – 20:57 on the tape.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. Well, before we get too far, did you have a chance to observe the dog which is in the lower-left in this scene?
MR. BUNN: Object to form.
THE WITNESS: I saw the dog walking around, but I did not look at the dog in detail.
BY MR. BENAK:
Q. Okay. But to the extent that you could see her or to the extent that you looked at – excuse me, him – I think it's a male – did you see any injuries to the dog?
A. I did not look into the dog so I would say

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I don't know.
Q. I understand you weren't looking for injuries. I'm just asking in what you did see, did you see any injuries?
A. If I didn't look into it I would not see any injury because I didn't look at the dog.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. Okay. We're back at the scene. This is after you heard Officer Mostek's side of the story. Again we're with the same bunch of people. And I understand that you testified that you didn't ask them any questions.
And now my question is having heard Officer Mostek tell her side of the story, did you think at that time it was important to interview any witnesses?
A. It's important, but also I had other priority.
Q. Okay. At this time what was your other priority?
A. I had to notify my lieutenant.
Q. Did you do that?
A. Yes, I did.
Q. And what did you tell him?

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A. I give him the information of the off-duty officer that was involved and give him the rundown of the statement of the incident.
Q. And, as you testified earlier, you're investigating this now as a weapons discharge case; correct?
MR. BUNN: Object to the form. It misstates prior testimony.
THE WITNESS: I wasn't investigating it. I was protecting the crime scene and with the notification.
BY MR. BENAK:
Q. Okay. Well, let me ask the question a little bit differently. In your involvement at the scene you understood this was a discharged weapons case; is that correct?
MR. BUNN: Object to form.
THE WITNESS: Yes.
BY MR. BENAK:
Q. And you also understand that it was a use-of-deadly-force case; isn't that correct?
MR. BUNN: Object to form.
THE WITNESS: Yes.
BY MR. BENAK:
Q. And you also understand that it was a use

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of deadly force by a police officer case; isn't that correct?
MR. BUNN: Object to form. Calls for a legal conclusion.
THE WITNESS: Yes.
(WHEREUPON, the video was played.)
MR. BENAK: Let's see if we can scroll ahead here. Let's go to 6:40 on the tape.
(WHEREUPON, the video was played.)
MR. BENAK: 11:46:54 on the VWC.
BY MR. BENAK:
Q. And this is Officer Pronek; correct?
A. That's correct.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. Okay. You understood him to say that Kent was over the dog when this happened; correct?
A. Yes.
Q. Okay. When you heard that did you think that it was inconsistent with the story you had heard from Officer Mostek?
A. Well, no.
Q. Why not?
A. Because the dog can still attacking the other dog. Right?

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Q. Understood.
A. Yes.
Q. But Officer Mostek said nothing about Mr. Maynard being over his dog when the shot was fired; correct?
A. That's correct.
Q. And did you think that her statement was at very least incomplete?
MR. BUNN: Object to form.
THE WITNESS: So I'm going to restate at that time I wasn't investigating. I was making my notification to my lieutenant.
BY MR. BENAK:
Q. Understood. But in performing your duties as a sergeant on the scene you supervised the officers doing the investigation. Did you not think that Officer Mostek's statement, having not included that Mr. Maynard was over the dog when it was shot, was incomplete?
MR. BUNN: And object to form.
THE WITNESS: I'm going to restate again during that time I was not investigating. I was in the progress of making my notification.
BY MR. BENAK:
Q. Understood. So you just didn't think

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anything of it?
MR. BUNN: Object to form. Argumentative.
THE WITNESS: Do I have any thinking about it?
MR. BENAK: Yeah.
THE WITNESS: At that time I have to make my notification.
MR. BENAK: Okay.
THE WITNESS: Okay.
BY MR. BENAK:
Q. Okay. And so you just disregarded what Officer Pronek told you about Kent Maynard telling him he was over the dog?
MR. BUNN: I'm going to object to form. Argumentative, badgering the witness.
THE WITNESS: I'm going to restate at that time I wasn't investigating –
MR. BENAK: Okay.
THE WITNESS: I was just giving information to my lieutenant about what's going on and –
MR. BENAK: I –
THE WITNESS: – who was involved.
BY MR. BENAK:
Q. I understand. So my question is then did

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you consider the statement that Officer Pronek made to you that Kent Maynard told him he was over the dog was just irrelevant to your duties?
MR. BUNN: Object to form. Argumentative, badgering, asked and answered.
THE WITNESS: I'm going to restate it one more time. At that time I was in the progress of making notification to my lieutenant.
BY MR. BENAK:
Q. Okay. Am I badgering you, officer – or Sergeant To?
A. No. I just –
MR. BUNN: Object to the form of that question.
BY MR. BENAK:
Q. Do you think I'm badgering you? Do you feel like I'm badgering you?
A. I just want you to understand I have – I already just said at that time – and at that time I was not investigating.
Q. I understand. But you think it's fair –
A. I have a time limit to make my notification to my lieutenant so he can make the proper notification to the unit as well.
Q. Understand. But you recall our discussion

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at the very beginning? I'm asking you questions. Don't you think it's fair that I should get an answer to my questions, Sergeant?
A. I will repeat my answer –
MR. BUNN: Object to form. He answered the question.
BY MR. BENAK:
Q. Excuse me, sir?
A. I answered your question. I already answered your question.
Q. Okay. That's your answer. I just want to make sure –
A. Yes.
Q. – that I've got your complete answer?
A. Yes.
Q. Okay. You knew that Officer Pronek was what you commonly refer to as the paper car; isn't that correct?
A. Can you state it one more time?
Q. Paper car –
A. Louder, please.
Q. Was Pronek the paper car?
A. Yes.
Q. Okay. And what do you understand the paper car to be?

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A. My understanding is the officer who will complete the case report of the incident.
Q. So you knew that Officer Pronek was going to complete the preliminary investigative report in this case?
A. Yes.
Q. Did you tell any of the officers on the scene, including Officer Pronek, that the statement from Mr. Maynard that he was over the dog when it was shot should be included in the report?
A. I was not his direct supervisor of that day. So I did not approve the report.
Q. I didn't ask that question. The question I asked is did you tell anybody to include it in the report?
A. I did not tell anyone to include anything in the report because I wasn't the one who talked to -- directly to the owner of the dog. I did not speak to him about the incident.
It was the officer that spoke to him, got the information. So I cannot get hearsay information and tell the officer to put that information in the report because it was hearsay.
Q. How many investigations have you conducted in your career at CPD, Sergeant?

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A. Can you ask one more time? How many --
Q. Sure. How many investigations have you --
A. What type of -- what type? Just in general?
Q. Yeah, just in general. Let's start with that.
A. I would say over 50.
Q. Okay. How many investigations have you conducted in use of force -- use of deadly force incidents?
A. Can you be more specific?
Q. Sure. I mean, we understand -- you and I both understand what use of deadly force means. Right?
A. Is that between civilian or between -- just you got to ask more --
Q. Sure.
A. -- specifically.
Q. Well, use of deadly force by an officer -- how many of those investigations have you taken part in?
A. As a role as officer or as a role as a sergeant?
Q. Well, let's do both. How many in both roles?

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A. In both roles I have not.
Q. None?
A. None.
Q. Well, let's talk about investigations generally then -- all investigations. Any conduct that would be investigated by you, either as a patrol officer or as a sergeant, how many investigations have you done?
MR. BUNN: Objection, form. Asked and answered.
THE WITNESS: I would say over 50.
BY MR. BENAK:
Q. What does it mean to you, Sergeant, to corroborate witness statements? Do you understand the term "corroborate"?
A. If you can define to me it would be better.
Q. Sure. To ensure the witness statements are right -- to corroborate them. In other words, a witness gives you a statement, do you look for any other evidence to ensure that that statement has any truth?
A. Was that important?
Q. Well, is that what you normally do when you investigate?

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A. Yes.
Q. Did you do anything in this case to corroborate either Officer Mostek's story -- let's start with that. Did you do anything in this case to corroborate Officer Mostek's story?
MR. BUNN: Object to form.
THE WITNESS: I did not.
BY MR. BENAK:
Q. Did you do anything to corroborate what you heard that Kent Maynard had told Officer Pronek?
MR. BUNN: Object to form.
THE WITNESS: I did not.
BY MR. BENAK:
Q. Are you familiar with the Chicago Police Department rules and regulations concerning use of deadly force, Sergeant?
MR. BUNN: Object to form.
THE WITNESS: I would say I know where to look up for the reference.
BY MR. BENAK:
Q. You understand -- and we'll have the reference here for you to look at in a few minutes if you need to -- but you understand that the use of deadly force is only a last resort according to the rules and regulations of the Chicago Police

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Department?
A. Yes.
Q. Okay. Did you make any determination in this case whether the use of force was a last resort?
A. I cannot speak for any other person.
Q. Just you in your investigation. Did you do anything to convince yourself that this was – or, excuse me, let me rephrase the question because that's a bad question. Did you do anything to investigate the use of deadly force in this case?
A. I did not because I was not in a role to investigate.
Q. Did you review any other body-worn cameras in connection with your preparation for your deposition here today?
A. I did not.
Q. Did you ever review any body-worn cameras other than your own?
A. I did not.
Q. Why not?
A. I did not. There's no reason. I did not.
Q. So you indicated that you had looked at the footage – the camera feed from the Ring camera that you saw on the police – excuse me, on the news

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report; correct? Do you recall that testimony?
A. Yes.
Q. Okay. Was that consistent with what you understood had happened at the scene after your investigation?
A. Can I say it one more time? I did not conduct any investigation during the time.
Q. Well, let's just say that it –
A. I was just –
Q. Go ahead.
A. – again. I get information of the party involved. I make my notification. And I was there to protect the scene.
Q. Understood. You carry a sidearm, a duty pistol, Officer?
A. Yes.
Q. Okay. What model and make is your duty pistol?
A. My primary is a Glock 19.
Q. Okay. And what's your secondary?
A. I have a Glock 46.
Q. Is a Glock 46 a .9 millimeter?
A. Yes.
Q. Is that a concealable – I'm not familiar with the model. Is that a concealable model pistol?

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A. Yes.
Q. How many rounds does that have in it in the magazine?
A. I don't remember.
Q. So let's go back to the Glock 19 that you carry as your duty pistol. That's a striker-fire pistol; correct?
A. Yes.
Q. Do you carry it with a round in the chamber?
A. Yes.
Q. Are there any rules or any protocol by the CPD as to whether you should carry a pistol with a round in the chamber?
A. Any rule or –
Q. Any protocol at all –
A. Protocol –
Q. In other words – oh, go ahead.
A. For a pistol it has to be fully loaded.
Q. Meaning that you should have a round in the chamber?
A. Yes.
Q. Do you have a round in the chamber with your secondary pistol?
A. As of right now I do not have my secondary

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so –
Q. When you carry it do you carry it –
A. Yes.
Q. – with a round in the chamber?
A. Yes.
Q. Do you carry that weapon off-duty – your Glock 46?
A. I do not.
Q. Do you carry it concealed as a back-up weapon on – when you're on-duty?
A. Before but not currently.
Q. You don't carry two pistols today?
A. I do not.
Q. Is there any reason for that?
A. There's no reason.
Q. You understand that the rules and regulations of the Chicago Police Department require you to be on-duty 24 hours a day?
MR. BUNN: Object to form. Calls for a legal conclusion.
THE WITNESS: We're required to be on duty?
BY MR. BENAK:
Q. Requires you to be capable of responding to emergencies?

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A. Yes, yes.
Q. Okay. And it requires that you be able to respond to emergencies as a peace officer and police officer; correct?
MR. BUNN: Object to form. Calls for a legal conclusion.
THE WITNESS: That's correct.
MR. BENAK: Can we take about five minutes? I might be able to wrap up.
MR. BUNN: Sure.
THE REPORTER: Please stand by. The time is now 1:44 p.m. and we are off the record.
(WHEREUPON, a recess was taken.)
THE REPORTER: The time is now 1:51 p.m. and we are back on the record.
BY MR. BENAK:
Q. Are you prepared to continue your deposition testimony, Sergeant?
A. Yes.
Q. So let me make sure we get this up. I don't know what's going on here. There we go. So I'm going to play a videotape. You tell me whether you've seen this before, please, first and then we'll have some questions.
(WHEREUPON, the video was played.)

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BY MR. BENAK:
Q. Now this goes on for some time. But my question is have you seen this video?
A. To be honest, I don't remember if it's the same video that I watched.
Q. Okay.
MR. BUNN: Did you identify this?
MR. BENAK: Sure. This is FCRL002070. And that is the commencement of the tape through 14. Let's call this exhibit – where are we? Three?
THE REPORTER: We've only been on the one.
MR. BENAK: Okay.
THE REPORTER: So number two.
MR. BENAK: So this is number two.
(WHEREUPON, Exhibit 2 was marked for identification.)
BY MR. BENAK:
Q. And I'd like to show you another one. Whoops. Not that one – another one which is – yeah. I got it. This is a slow-motion of – you know, I want to get the fast-motion one up first and then we'll talk about the slow-motion. Okay. Have you ever seen this video before? This is FCRL002067. And this will be Exhibit 3.
(WHEREUPON, Exhibit 3 was marked for identification.)

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THE REPORTER: Okay.
MR. BENAK: And let's play this from the beginning.
MR. MAYNARD: He didn't answer the question –
MR. BENAK: I'll ask him.
BY MR. BENAK:
Q. This is from the beginning. Have you ever seen this video before from what you've seen so far?
A. The one I saw was black and white.
Q. Okay.
A. I don't think it was color.
Q. Okay. Well, have you ever seen the action depicted on this video and depicted on any other?
A. Because I only watched one time from the news.
Q. Okay. Well, let's just play this out.
A. I cannot say for sure that's the same video.
Q. Okay. Maybe this will reflect your – or refresh your recollection. I'm going to play it from the beginning.
(WHEREUPON, the video was played.)
BY MR. BENAK:

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Q. Does that refresh your recollection whether you've seen it before?
A. Yes.
Q. Okay. Now let's go back a couple of frames here. And we'll start at four seconds into this tape through seven seconds into the tape. It's unclear when the shot was fired here. But it is clear, is it not, that Mr. Maynard was indeed on top of his dog; isn't that what you see?
MR. BUNN: Object to form.
BY MR. BENAK:
Q. Sergeant?
A. On top or next to it.
Q. Well, on top or next to it. Right. Isn't that what you see?
A. Yes.
Q. Okay. And you've seen this scene – a videotape – either this one or another one in black and white. And my question is when you saw this did you think it was inconsistent with Officer Mostek's statement that she had given earlier?
MR. BUNN: Object to form.
THE WITNESS: To answer your question, to be honest, after I watched the news video I did not have any thoughts.

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BY MR. BENAK:
Q. Okay. No thoughts at all?
A. No.
Q. Did you – well, let me ask a different question then. Did you have any thought at all that Kent's statement that he was on top of the dog when the shot was fired is consistent with this video?
MR. BUNN: Object to form.
THE WITNESS: We handle a lot of case every single day. I did not have any thoughts after I watch a video. I just did not have any thoughts.
MR. BENAK: I want to play one more for you, Sergeant. This is a slow-motion. These have been all produced by your department, by the way, Officer – or Sergeant. This is FCRL002063. This is the same scene slowed down.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. Does it appear to you in this scene that Officer Mostek is pulling her pistol from her holster?
A. I could not tell.
Q. Okay. You see the figure approaching from the left of the building in the white hoodie?
A. Yes.

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Q. Does that appear to you to be Kent Maynard – the man who was on the scene?
A. Could be.
Q. Okay. Let's play it forward.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. Did you see Officer Mostek and Mr. Maynard or whoever that is are side-by-side – appear to be in contact with each other in this scene?
A. Yes.
(WHEREUPON, the video was played.)
BY MR. BENAK:
Q. A shot was fired somewhere in that vicinity of 1:06 on this tape. Does that look to you, in your experience as a police patrol officer and as a sergeant, that that was use of deadly force as a last resort?
MR. BUNN: Object to form. Calls for a legal conclusion.
MR. BENAK: You can answer.
THE WITNESS: I cannot say on behalf of another person of what they experienced at that time.
BY MR. BENAK:
Q. Okay. You understand that the use of

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force rules are that it's an objective judgment as to whether or not use of force was reasonable? And whether or not use of force was a last resort is an objective standard; do you know what that means?
A. Yes.
Q. Okay. So that we understand each other, an objective standard is one that a reasonable officer would conclude – would use to conclude, whereas a subjective standard would be looked at through the eyes of the officer discharging the weapon. Do we understand each other?
A. Yes.
MR. BUNN: Object to form.
MR. BENAK: Okay.
MR. BUNN: Calls for a legal conclusion.
MR. BECK: I think it's an – it's confronting of the circumstances facing the officer – an objective officer.
BY MR. BENAK:
Q. So using that standard, Sergeant, do you see this as an objectively reasonable use of deadly force?
MR. BUNN: Object to form. Calls for legal conclusion. He can give his opinion. But this is a personal opinion within his personal

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knowledge and experience.
THE WITNESS: I just can't give my opinion. I don't see what – I did not experience what she experienced at that time.
BY MR. BENAK:
Q. Okay. So you're –
A. I'm not the same. I didn't experience what she experienced at that time. I cannot –
Q. You understand that's using a subjective standard; don't you?
MR. BUNN: Object to form. Calls for a legal conclusion. Asked and answered.
BY MR. BENAK:
Q. And my question to you is using an objective standard as a sergeant with experience and using that objective standard, is this a use of force as a last resort?
MR. BUNN: Object to form. Calls for a legal conclusion, asked and answered. He can testify to his personal knowledge and experience.
THE WITNESS: I would not comment on that.
BY MR. BENAK:
Q. Today as you sit here, having reviewed these videotapes, do you think that the comment made by – or the witness statement made by Officer

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Mostek is incomplete?
MR. BUNN: Object to form.
THE WITNESS: It was not –
MR. BENAK: It wasn't –
THE WITNESS: – in summary. It was summarized of the incident.
BY MR. BENAK:
Q. Did you read that summary?
A. Not until yesterday.
Q. Okay. You understand that your name was used in that summary report; do you not?
A. My name was not in the report.
Q. Nowhere in any of these reports – the TRR or any other report did not include your name?
A. No.
Q. Okay. As the supervising sergeant at the scene, looking at this now, do you think that that statement that you heard Officer Mostek give was incomplete?
MR. BUNN: Object to form.
THE WITNESS: Can I explain to you?
MR. BENAK: Yes, please.
THE WITNESS: That's why I have to make a notification to inform the proper unit to do the investigation. That's why I have to notify my

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lieutenant – so he can make the proper notification to their unit. They conduct an investigation.
BY MR. BENAK:
Q. So the fact that this was incomplete is the reason you made the notification?
A. No. That's our protocol.
Q. Okay. Well, then I'm asking you a different question. And the question is having looked at this video – all three of them that we've looked at – do you believe today that Officer Mostek's statement that you heard her make is incomplete?
MR. BUNN: Object to form. Asked and answered.
THE WITNESS: Well, it's not incomplete.
BY MR. BENAK:
Q. Was it incomplete –
A. It was a summary. It was a summary that she told me.
Q. Right. And the summary left out the fact that Kent was on top of his dog when she shot it; didn't it?
MR. BUNN: Object to form.
THE WITNESS: Yes, she didn't mention it during the summary.

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BY MR. BENAK:
Q. So again, do you think this is incomplete in the report?
MR. BUNN: Object to form. Asked and answered four times now.
MR. BENAK: Well, I just doubt that, Counsel. He hasn't answered my question a single time. I've asked it four times and he hasn't –
MR. BUNN: He actually just answered –
MR. BENAK: – answered it a single time.
MR. BUNN: – it the last time you asked it.
MR. BENAK: I disagree with you. And I really resent you interrupting my questioning.
MR. BUNN: Okay.
BY MR. BENAK:
Q. Now, Officer – Sergeant –
MR. BUNN: Last chance.
BY MR. BENAK:
Q. – To –
A. Right.
Q. – having looked at this today and having recalled what Officer Mostek told you, and even assuming that it was summarized in the answer, and the answer didn't include Kent's statement, do you

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think that that statement – that report – was incomplete?
MR. BUNN: All the same objections to this line of questioning.
THE WITNESS: It was not included in her summary when she spoke to me.
BY MR. BENAK:
Q. Did you think it was important that it should be?
MR. BUNN: Same objections.
THE WITNESS: Do I think things are important? Yes, it was important.
MR. BENAK: Okay. We're done. Thank you. I appreciate it, Officer – Sergeant.
MR. THOMPSON: And no questions from us.
MR. BUNN: We'll go off the record for a couple minutes.
THE REPORTER: Okay. Please stand by. The time is now 2:05. We are off the record.
(WHEREUPON, a recess was taken.)
THE REPORTER: The time is now 2:07. We are back on the record.
MR. BUNN: The City has no questions.
So, Officer, if you want to review the transcript to make sure you think it was accurately

taking down everything you said, you can reserve signature or you can do what's called waive signature.

So it's up to you if you feel comfortable with the transcript or if you would like to review it to make sure it captured everything that you think you said accurately.

THE WITNESS: Yeah. How long it going to take for me to get that transcript?

MS. KAUR: We usually recommend that you reserve.

MR. BUNN: It could take a couple weeks but -- and then there's no --

MS. KAUR: We'll reserve.

MR. BUNN: There's no rush for you. So we'll reserve and we'll order a copy.

THE REPORTER: Okay. So, Mr. Benak, you're ordering the original; is that correct?

MR. BENAK: Yes.

THE REPORTER: All right. And you said --

MR. BENAK: Counsel, before you go, just want to make sure you have no more questions?

MS. KAUR: Yeah, I didn't have any questions.

MR. THOMPSON: I'm good. Thank you.

THE REPORTER: And then a copy for Mr. Bunn?

MR. BUNN: Yes.

THE REPORTER: Thank you. I just need it on the record. Thank you.

Okay. I don't have any spellings. All right. Perfect. The time is now 2:08 p.m. and we are off the record.

(WHEREUPON, the deposition of SERGEANT HOYIN TO was concluded at 2:08 p.m.)

CERTIFICATE

I, Sylvia Palacios, do hereby certify that I reported all proceedings adduced in the foregoing matter and that the foregoing transcript pages constitutes a full, true and accurate record of said proceedings to the best of my ability.

I further certify that I am neither related to counsel or any party to the proceedings nor have any interest in the outcome of the proceedings.

IN WITNESS HEREOF, I have hereunto set my hand this 4th day of April, 2025.

Sylvia Palacios

CORRECTION SHEET

Deposition of: Sgt. Hoyin To Date: 03/05/25
Regarding: Maynard Jr. vs. The City of Chicago
Reporter: Palacios/Trumble

Please make all corrections, changes or clarifications to your testimony on this sheet, showing page and line number.
If there are no changes, write "none" across the page. Sign this sheet and the line provided.

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Signature: _____
Sgt. Hoyin To

Date: 03/05/2025 Assignment #: 82994
Deponent: Sgt. Hoyin To
Case: KENT MAYNARD vs CITY OF CHICAGO

ATTORNEY - TRANSCRIPT ENCLOSED:
signature of your client is required. Please have your client make any corrections necessary. Sign the Correction Sheet where indicated. Forward a COPY of the executed Correction Sheet directly to the attorney(s) listed below. (The Address(es) can be found on the Appearance page of the deposition.) Also, send a COPY of the executed Correction Sheet to our corporation.

C C:Naegeli Deposition and Trial

DECLARATION

Deposition of: Sgt. Hoyin To Date: 03/05/2025
Regarding: KENT MAYNARD vs CITY OF CHICAGO
Reporter: Sylvia I. Palacios

I declare under penalty of perjury the following to be true:

I have read my deposition and the same is true and accurate save and except for any corrections as made by me on the Correction Sheet herein.

Signed at _____, _____
on the _____ day of _____, 20____.

Signature: _____
Sgt. Hoyin To

Exhibits

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EX002 COPY OF DI SC 47:15

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EXHIBIT I

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

KENT MAYNARD, JR,

Plaintiff,

vs. Case No. 24-cv-03612

THE CITY OF CHICAGO, a municipal corporation, and Chicago Police Officer CARMEN MOSTEK (Star 8664),

Defendants.

VIDEOTAPE DEPOSITION OF

SGT. JAMES E. BUTLER

TAKEN ON
FRIDAY, FEBRUARY 21, 2025
10:05 A.M.

225 WEST WASHINGTON STREET
CHICAGO, ILLINOIS 60606

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ALSO PRESENT:
Kent Maynard, Plaintiff

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VIDEOTAPED DEPOSITION OF
SGT. JAMES E. BUTLER
TAKEN ON
FRIDAY, FEBRUARY 21, 2025
10:05 A.M.

THE VIDEOGRAPHER: We are on the record. The time is 10:05 a.m. The date is February 21, 2025. This is the beginning of the deposition of Sergeant James Butler. The case caption is Maynard versus Chicago.

Will counsel introduce yourselves and state who you represent?

MR. BENAK: James D. Benak for the Plaintiff, and with me is Kent Maynard, the Plaintiff.

MS. MOORE: Good morning, everyone. Marion Moore on behalf of the City of Chicago, and I'm representing the deponent.

MS. KAUR: Good morning, Simerdeep Kaur on behalf of the City of Chicago.

MR. BUNN: Matthew Bunn for Defendant, City.

MR. THOMPSON: Good morning. James Thompson for Carmen Mostek.

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MR. BECK: Gregory Beck for Carmen Mostek.

THE VIDEOGRAPHER: Okay. The court reporter will now swear in the witness.

THE REPORTER: I'm your court reporter for today, and I just have a quick statement to make for the record.

You can put your hand down for a bit. I have a few ground rules.

I would like everyone to please speak loudly, slowly, and clearly so I can make an accurate transcript today.

Please do not talk over one another because I can only report one person at a time.

I'll be administering an affirmation for any testimony given. I would like to stipulate for the record that the affirmation and the testimony will be administered and reported by a professional digital reporter. The testimony will be transcribed and certified.

Mr. Benak, do you agree to move forward?

MR. BENAK: Yes.

THE REPORTER: Ms. Moore, do you agree to move forward?

MS. MOORE: Yes.

THE REPORTER: Mr. Thompson, do you agree

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to move forward?

MR. THOMPSON: Yes.

THE REPORTER: Mr. Beck, do you agree to move forward?

MR. BECK: Yes.

THE REPORTER: Thank you for choosing Naegeli Deposition and Trial.

Sergeant Butler, please raise your right hand.

Do you affirm under penalty of perjury that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

THE DEPONENT: Yes.

THE REPORTER: Okay. You may proceed.

JAMES BUTLER, having been first duly affirmed to tell the truth, was examined, and testified as follows:

EXAMINATION

BY MR. BENAK:

Q. Good morning, Sergeant Butler. My name is Jim Benak. I represent the Plaintiff, Kent Maynard, who's sitting next to me.

Are you familiar with the case in which this deposition is being taken?

A. Yes.

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Q. Okay. And how did you become familiar with it?

A. The notification from corporation counselor.

Q. Okay. And when did that happen?

A. First time I was notified, I don't recall the date, but --

Q. You may want to speak up a little.

A. I'm sorry. The first date, I don't recall what date it was, but it was a Note Appear after I was originally notified.

Q. Okay. Can you ballpark it? Was it May, June of last year, later than that?

A. I notification for the corporation counsel was this year, I believe, in last month.

Q. Okay. And that's the first time you became aware that there was a lawsuit pending?

A. No. Carmen Mostek told me that she was being sued. Yes.

Q. Carmen Mostek herself? Officer Mostek told you?

A. Yes.

Q. Okay. And when did she tell you that?

A. That would've been last year. I don't recall what date it was.

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Q. Do you recall how many conversations you had with Officer Mostek after the incident?
A. Maybe three or four.
Q. Okay. Well, we'll get into those a little bit later.
Why don't you tell us a little bit about your background, and what I'd like to start with is your high school education. Did you graduate from high school?
A. I did.
Q. Do you have a degree, postgraduate?
A. Associate's degree.
Q. Okay. Associate's degree from where?
A. Moraine Valley.
Q. Okay. Do you recall when that was awarded?
A. '89.
Q. And the subject matter?
A. Criminal justice.
Q. And what did you do after you were awarded your associate's degree in criminal justice?
A. I first became a police officer in the Village and Hoffman Estates that same year.
Q. Was there any gap between your graduation and the time you became a police officer?

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A. Yes.
Q. What did you do during that period of time?
A. I was working different part-time jobs.
Q. Did you always want to be a police officer? Was that your goal?
A. I did.
Q. And you started off at Hoffman Estates. How long were you there?
A. Two and a half years.
Q. What was your highest rank at Hoffman Estates?
A. Patrol officer.
Q. And then what did you do after that?
A. I got hired by the City of Chicago.
Q. Okay. Let's just make sure we've got some dates here. So it's two and a half years after your graduation in '89. Did I get that right?
A. Yes.
Q. Okay. So you're at about 1993 now?
A. '92.
Q. '92.
A. January '92, I was hired by the City of Chicago.
Q. Do you recall the exact date you were employed?

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A. 2 January '92.
Q. Very good. I would've remembered that too.
So tell me a little bit about your progress through the police department. How did you start out?
A. Started off as a patrolman in the Fourth District.
Q. Okay. And where is the Fourth District located?
A. South Chicago, 103rd and -- well, I don't know the exact numerical address for the district.
Q. Did your beat change throughout your first part as a patrol officer, your first part of your -- first part of your career with the CPD?
A. As far as?
Q. Your territory? When I say -- I may have the nomenclature wrong, so let's make sure we understand each other. When I say beat, I'm thinking of the area that you patrol as a patrol officer; is that correct?
A. Yes.
Q. Okay. So did your beat change while you were a patrol officer?

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A. Yes. Yes, it did.
Q. And how did it change?
A. From the Fourth District, I went to Englewood District on 61st and Racine.
Then from there, I went to the West Side, Harrison and Kedzie.
From there, I went to special operations.
After special operations, I went to the 22nd District, which is Morgan Park.
After Morgan Park, I went back to the West Side, which is the Eleventh District at Harrison and Kedzie.
I then went to the Sixth District, which is Gresham, as a field training officer prior to getting promoted to detective.
Q. And what was that date that you were promoted?
A. It was in 2004. I don't recall the exact date.
Q. Okay. Go ahead.
A. And then as a detective, I was assigned Area 2 for 11 years before being promoted to sergeant.
Q. And what is Area 2?
A. Area 2 is 111th and Ellis, Detective

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Division.
Q. Okay. I want to go back to your very first assignment that you related, which was Englewood. What did you do when you were assigned to Englewood?
A. That was my second.
Q. Was that your second?
A. Yes.
Q. I'm sorry. What did you do in Englewood?
A. I was a patrol officer.
Q. Was it a violent beat at that time?
A. Yes.
Q. Were you dealing with like crimes from gangs and gang bangers so to speak?
A. It was some of it, yes.
Q. Has it gotten worse since that time, or was it -- was that -- let me phrase the question differently.
Has that situation in Englewood gotten worse or better since you left?
MS. MOORE: Objection, form, foundation, calls for speculation.
BY MR. BENAK:
Q. You can answer.
A. I don't know. I mean I'm not keeping

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track of the numbers or the crime indexes from that district after I left, so I wouldn't know.
Q. Well, we may get back to that particular assignment as we go along today.
So first, a few ground rules. Have you had your deposition taken before?
A. I have.
Q. How many times?
A. Oh, I'd say about a dozen.
Q. A dozen?
A. Yes.
Q. Okay. What kinds of cases do you recall?
A. All of them were civil cases with traffic accidents, and one of them was a capital murder case.
Q. You ever had a 1983 case, meaning a case like this one?
A. I don't understand your question.
Q. Well, a 1983 case -- and your counsel could correct me if I'm wrong and I'm sure she will -- but that's a civil rights case under federal law in federal court.
Have you ever testified in a case that was in federal court?
A. No.

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Q. Okay. It's just some real quick ground rules about depositions. You've been deposed a dozen times, so you know the rules, I'm assuming, but let's make sure we've got them clear.
I will ask you questions, to which I expect you to give me answers.
If my question is at any time unclear for any reason, whether I'm not speaking loudly enough, whether I'm not enunciating properly, whether the grammar is such that you don't understand me, whether the terminology is such that you don't understand me, let me know and I will clarify the question so that you and I have an understanding. Is that agreeable?
A. Yes.
Q. Okay. Because what we want is a clear record with a clear question and a clear answer and we want to make sure we understand each other.
A. Yes.
Q. Okay.
MR. BENAK: You can mark this one. We'll just start with 1, and make this Butler Deposition 1 so we don't confuse it with the others.
THE REPORTER: Exhibit 1 marked.
(WHEREUPON, Exhibit 1 was marked for

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identification.)
BY MR. BENAK:
Q. So as we start this off, I want you to state your name for the record, state and spell it if you will please, and your current rank?
A. Sure. My name's James Butler, that's B-U-T-L-E-R. My rank is sergeant. My star number is 2578. You want my unit of assignment?
Q. Yes, please.
A. I'm currently assigned to unit 171, which is central detention.
Q. Now, I've seen your middle initial used from time to time. Do you have a middle initial?
A. I do, E.
Q. Now, I'll refer you to you throughout this deposition as sergeant if that's acceptable to you.
A. That's fine.
Q. You've handed -- you've been handed what's been marked by the court reporter as Deposition Butler Deposition Exhibit Number 1. Have you ever seen that document before, Sergeant?
A. I have not.
Q. You can set that aside.
Well, before you do that, let's take a look please. It's a short exhibit. There's Exhibit

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A on the very last page of the notice. Do you see Exhibit A there on page 3?
A. I do.
Q. Could you read that to yourself? It should just take a minute. Let me know when you're finished.
A. Okay.
Q. We have a couple of text messages that we've received from your counsel late yesterday. Do you have any other documents that would fall into the categories stated on Exhibit A that you haven't turned over to counsel?
A. I do not.
Q. So that we're clear here, Ms. Moore has identified herself as your lawyer. Is that what you understand, that she's your lawyer today?
A. Yes.
Q. One of the things that I want to clarify as we – before we get further down the road here is your lawyer may make objections, and that's perfectly acceptable. Unless she instructs you not to answer, I expect an answer to the question after she objects. She can object, and then you can answer.
If she instructs you not to answer, we'll

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have a discussion about that at that time, okay?
A. I understand.
Q. So did you talk to anybody about your deposition today other than your lawyers?
A. My lieutenant at work. I told him I was going to go give a deposition when I came in and got a car to take.
Q. Did you tell him anything else?
A. No.
Q. Okay. That was it? You're just going to a deposition?
A. Yes.
Q. Did he ask you what it was about?
A. He did not.
Q. And I assume you talked to your lawyers before you came here today?
A. I did.
Q. Is that correct? And when was that?
A. It was Wednesday.
Q. Of last week or this week?
A. It was a couple days ago, the 19th.
Q. Okay. How long did you talk to them?
A. About 40 minutes or so.
Q. Is that the only time you talked to your lawyers about this case?

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A. Yes, I talked to – I talked to them previously when you were trying to schedule dates for me to come in and talk to you.
Q. And you discussed at that time only dates?
A. Correct.
Q. You had another lawyer in the COPA investigation. Isn't that correct, Sergeant?
MS. MOORE: Object to the form.
You can answer.
THE DEPONENT: I did.
BY MR. BENAK:
Q. And who was that lawyer?
A. Andy –
Q. Dalkin?
A. Yes.
MR. BENAK: And that's D-A-L-K-I-N.
BY MR. BENAK:
Q. What's the status as you understand it, of the COPA investigation?
MS. MOORE: Objection, foundation, calls for speculation.
BY MR. BENAK:
Q. Just as you understand it.
A. My under – it's still pending.
Q. We'll talk a little bit about the COPA

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matter as we go forward here, but for now, let's just talk a little bit about any documents that you've reviewed. Have you reviewed any documents in preparation for your deposition?
A. I reviewed my COPA statement, and I looked at the TRR.
Q. Did those documents refresh your recollection at all of the incident?
A. Yes.
Q. Okay. And when did you last review those?
A. Those were on the 19th, February, a couple days ago.
Q. Any other documents other than those two?
A. Documents, no.
Q. Okay. Videotapes?
A. Yes.
Q. Okay. Which videotapes did you review?
A. My body-worn camera.
Q. Anybody else's?
A. No.
Q. Did you review at any time since the incident – and let's be clear about what we're talking about. The incident occurred on April 21, 2024; is that correct?
A. That's correct.

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Q. So you know what we're talking about, we're talking about April 21, 2024, approximately 11:30 a.m.
A. Yes.
Q. Okay. And that has to do with the lawsuit that's now been filed in federal court involving Mr. Maynard. Do you understand that?
A. Yes.
Q. Do you have a good recollection of the incident?
A. Yes.
Q. And your involvement in the incident was only after the incident happened, correct, as an investigator?
MS. MOORE: Objection, form.
BY MR. BENAK:
Q. Do you understand what I'm asking?
A. As a supervisor, yes.
Q. Supervisor. So let's make sure we're clear on this. You arrived as a supervisor and that was your role in the preliminary investigation?
A. Yes.
Q. And by preliminary investigation, do we both understand that that was something that was undertaken principally by Officer Pronek?

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MS. MOORE: Object to the form.
You can answer.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. And there were other officers on the scene as well, correct?
A. Yes.
Q. Okay. And we'll get to those officers' identities too.
So what I'd like for you to do is explain to me the relationship of those officers on the scene and your supervisory role.
MS. MOORE: Object to the form.
BY MR. BENAK:
Q. Do you know what I'm saying? In other words, those officers on the ground, were you their supervisor at the time?
A. Yes.
Q. And it was their obligation to report to you what they knew about the incident. Isn't that correct?
MS. MOORE: Object to the form.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. And what was your obligation as a

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supervisor?
A. To ensure that report or the incident was documented, that all notifications were made.
Q. Okay. When you say documented, what do you mean?
A. In a report.
Q. Okay. And what would that involve, making sure it was properly documented?
MS. MOORE: Object to the form.
BY MR. BENAK:
Q. I don't know what that means, Sergeant.
A. That there was a report initiated, taken.
Q. Is part of the documentation or your responsibility with respect to the documentation to ensure the documentation is accurate?
A. Yes.
Q. And did you do that in this case?
A. I did.
Q. Is part of the accuracy of the document to ensure that you have all the relevant information in the report?
MS. MOORE: Object to the form.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. And would part of that completeness be the

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inclusion of any witness testimony or statements on the site?
MS. MOORE: Object to the form.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. Did you do that? Did you ensure that all the witnesses that were onsite were interviewed and their statements kept?
A. Yes.
Q. Okay. And how did you do that?
A. By talking to Officer Pronek.
Q. Did you talk to anybody else?
A. I talked to a couple other officers, but Officer Pronek was the person that was conducting a preliminary investigation.
Q. Okay. We'll get back to that in just a second, but I want to clarify a term. What is a paper card?
A. Paper card is the card that's assigned to do the report for the incident and make the notifications.
Q. So in this case, paper card refers to Officer Pronek?
A. Yes.
Q. Other than Officer Pronek, and I don't

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want to repeat myself, but I think you testified that you didn't talk to any of the other officers on the scene?
MS. MOORE: Objection, misstates his testimony.
THE DEPONENT: I talked to other officers on the scene, yes.
BY MR. BENAK:
Q. Okay. Your body-worn camera indicates that you did. I guess my question was a little inartful. Let me phrase it a different way.
Did you ask any of the other officers on the scene if they had interviewed any witnesses?
A. I did not.
Q. Did you ask any of the officers on the scene whether or not they had identified any witnesses?
A. No.
Q. Did you – excuse me. You viewed your own body-worn camera of this event, correct?
A. I did.
Q. Make sure we're straight on this. As I understand your previous testimony, you didn't interview – or excuse me – you didn't view any other officer's body-worn camera; is that correct?

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A. That's correct.
Q. Is there any reason for that?
A. I don't know why, off view.
Q. There's no obligation on your part to interview – or excuse me – to review body-worn cameras of other officers on the scene?
MS. MOORE: Objection, form.
THE DEPONENT: Sometimes there is. In this case, no.
BY MR. BENAK:
Q. Okay. And why not this case?
A. I don't – I don't understand what – I can't think of any reason why I would watch all their body camera.
Q. Well, isn't it true that if there were a body-worn camera that described the event itself, in other words that captured the event, that you would want to review that, correct?
A. That captured the event, yes.
Q. And that would only be logical because that would give you information about the incident, whatever it was?
A. Correct.
Q. And the body-worn cameras of officers who are merely interviewing or conducting an

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investigation, those are after the event, correct?
A. Yes.
Q. And is that at least part of your logic for not wanting to review the body-worn cameras?
MS. MOORE: Object to the form of the question.
THE DEPONENT: There is – I've never had an incident where I would review unless they were involved in an incident regarding – if officers were involved – actually there when the incident happened, I would've reviewed theirs. But since it came afterward, there was no use for me to review the body-worn camera.
BY MR. BENAK:
Q. But the body-worn camera of an officer that captures the incident would be relevant. You would want to review that?
A. The incident itself, yes.
Q. What if there were a third-party video that captured the incident? Do you think that would be important?
MS. MOORE: Objection, form, calls for speculation.
BY MR. BENAK:
Q. Do you know what I'm asking?

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A. I do. You're talking about like the door cameras or –
Q. In this event, we know there was a ring capture – a Ring camera that captured the event, don't you, Sergeant?
A. I do.
Q. Okay. And you didn't review that as I understand it?
A. At COPA they played it for me, a portion of it.
Q. Was that the only time?
A. Yes.
Q. Okay. When did you first learn that there was a Ring camera that captured this incident?
A. I don't know the exact date, but when it was on the news, they played a portion of it on the news.
Q. So that was within a couple of weeks of the incident, was it not?
A. Correct.
Q. And did you think it was important at that time to review the actual Ring camera footage as opposed to just what you'd seen on the tv?
A. No.
Q. Why not?

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A. Because COPA was doing the investigation. COPA was the investigating portion of this, so I would assume that they would do that.
Q. You didn't think it was important to make your report accurate that you would review the body -- excuse me -- the Ring camera video?
MS. MOORE: Object to the form of the question.
BY MR. BENAK:
Q. Do you understand what I'm asking?
A. I do.
No, I don't.
Q. And why not?
A. Because I was not there to investigate the incident. I was just there to supervise it. I knew that COPA or the detectives would come out and beat it once and would conduct an investigation.
Q. Okay. You signed off on a report, a TRR or tactical response report regarding this incident. Did you not?
MS. MOORE: Object to the form.
THE DEPONENT: I did.
BY MR. BENAK:
Q. And that tactical response report, what significance does that have in the course of law

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enforcement generally?
MS. MOORE: Object to the form.
BY MR. BENAK:
Q. Why do you -- why do you make tactical response reports, Sergeant?
A. A tactical response report is used when there's a use of force incident.
Q. And why does the CPD want you complete tactical response reports under those circumstances?
MS. MOORE: Objection, foundation.
THE DEPONENT: So they could determine whether the use of force was appropriate or not.
BY MR. BENAK:
Q. And it's important, is it not, the tactical response report is accurate?
A. Yes.
Q. And complete?
A. Correct.
Q. And did you think after reviewing the Ring camera footage that there was nothing to be added to the tactical response report?
MS. MOORE: Object to the form.
THE DEPONENT: I do not.
BY MR. BENAK:
Q. You don't think -- you didn't think at

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that time that there was anything important to add from the Ring camera to your tactical response report?
MS. MOORE: Same objection, asked and answered.
THE DEPONENT: No.
BY MR. BENAK:
Q. Do you think that today?
MS. MOORE: Same objections.
THE DEPONENT: I do.
BY MR. BENAK:
Q. And why is that?
A. Because I'm not the one conducting the investigation. COPA would've been conducting the investigation.
Q. So you left it to them to make a correction to the TRR if a correction needed to be made?
MS. MOORE: Object to the form.
THE DEPONENT: After it was submitted and approved, I don't believe that COPA would make any changes. They might find discrepancies, but --
BY MR. BENAK:
Q. Well, I guess where I'm hung up, Sergeant, is that you've got a tactical response report which

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doesn't reflect that there was a third-party camera that had captured the incident. Am I correct so far?
A. You are.
Q. Okay. And the tactical response report is intended to be complete and accurate as you've testified?
MS. MOORE: Object to the form of the question.
BY MR. BENAK:
Q. Correct?
A. Yes.
Q. And is the tactical response report without the third-party evidence complete and accurate?
MS. MOORE: Object to the form.
THE DEPONENT: At the time, yes.
BY MR. BENAK:
Q. Okay. What about later?
A. I didn't conduct any follow-up investigations, so I had no idea there was a camera or anything such as that.
Q. And just so we're sure we're on the same page here, you don't believe that you had any responsibility as the supervising sergeant to change

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anything in the TRR after you'd seen the body-worn - - or excuse me – after you'd seen the video camera – the Ring camera footage?

MS. MOORE: Object to the form of the question.

THE DEPONENT: No.

BY MR. BENAK:

Q. Of course, we have the body-worn camera footage from your body-worn camera and others, Sergeant. But before we get to that, I'd like you to tell me what you recall today as we sit here. Now, I understand that you're refreshed -- your recollection has been refreshed by looking at the statement and looking at your body-worn camera.

As you sit here today, after having your recollection refreshed, what do you recall about the incident?

MS. MOORE: Object to the form of the question.

MR. BENAK: Let me ask it a different way.

BY MR. BENAK:

Q. The incident as described to you when you arrived as supervising sergeant?

MS. MOORE: Objection, form.

THE DEPONENT: I recall riding out over

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there after the incident happened. I had a brief conversation with Officer Pronek, told me what he knew.

BY MR. BENAK:

Q. Do you recall what he told you?

A. He told me that – I asked where the officer was. He said the officer's upstairs in her apartment. He told me that the dog owner was on scene and was there and was irate. He said he asked him for his name a couple times. He said he wouldn't give it to him. He said his name is Kent and that he's a lawyer and he knows how this stuff works or something to that effect.

Q. And then what?

A. Then after I talked to him, I went upstairs and talked to Officer Mostek.

Q. Did you at that time view the scene? In other words, when you talked to Officer Pronek, did you look around to see if there was anything going on?

A. I did.

Q. And what did you conclude?

A. I asked him there was if he located the casing, which at that time, I don't think he did. I observed a sheet over the dog.

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Q. And then what?

A. Then I went upstairs and talked to Officer Mostek.

Q. Okay. And what do you recall about that conversation?

A. I asked her how she was doing and asked her to tell me briefly what happened.

Q. What did she tell you?

A. She said that she was walking her dog and she said that the neighbor's dog Aggie came at her and her dog and then grabbed her dog by the neck.

Q. Is that all she told you?

A. Well, she shot the dog.

Q. Did she tell you anything about in that first encounter that she was in fear for her own life?

A. At that time, no.

Q. Did she tell you that later?

A. Yes.

Q. Okay. And when was that that she told you that?

A. That was when she was doing her TRR.

Q. Okay. Did you have any other conversations with her after that initial conversation where she said anything, up to and

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including this issue of fearing for her own safety?

A. No, I just told her what the process would be that she would've to come into the station and that BIA would be notified.

Q. So when you arrived on the scene and learned that this involved an off-duty police officer, did that change the way you approached the investigation or supervising the investigation?

A. Since it was an off-duty police officer, just the notifications that were made.

Q. Okay. And why did you make notifications?

A. Because there was an off-duty police officer.

Q. Was it your understanding that this off-duty police officer was subject to the rules and regulations of the CPD even though she was off duty?

MS. MOORE: Object to the form, foundation.

THE DEPONENT: The rules and regulation apply on or off duty.

BY MR. BENAK:

Q. So it was your understanding at this time when you arrived on the scene and you learned it was an off-duty police officer, that the rules and regulations of Chicago PD would apply?

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MS. MOORE: Same objections.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. And they would apply both to her behavior, her conduct in the incident, and your conduct in investigating or supervising the investigation of the incident, correct?
MS. MOORE: Objection form, foundation, not a 30(b)(6).
BY MR. BENAK:
Q. Do you understand what I asked?
A. Yes. Yes.
Q. Now I think you told COPA – and we can go back and check this if we need to – but I think when you talked to COPA, you said you knew there would be an investigation by COPA, did you not?
A. I did.
Q. And how did you know there would be an investigation by COPA?
A. Due to the weapons discharge.
Q. And COPA investigates every time there's a weapons discharge?
MS. MOORE: Objection, foundation.
You can go ahead and answer.
BY MR. BENAK:

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Q. In your experience?
A. My experience, unless it's a police – unless somebody was shot by the police, that would be IRT.
Q. And why does COPA investigate in the case of weapons discharges?
MS. MOORE: Objection, foundation.
THE DEPONENT: To determine if the rules and regulation and use of force was appropriate.
MR. BENAK: Give me just a minute. I've a document that I'm looking for and trying to find it. Give me a couple minutes here.
Mark this, please.
THE REPORTER: Exhibit 2 marked.
(WHEREUPON, Exhibit 2 was marked for identification.)
BY MR. BENAK:
Q. Sergeant Butler, would you please take a look at what the court reporter has marked as Exhibit Butler Exhibit 2, which consists of a document titled Preliminary Investigations, General Order G04-01, Bates marked FCRL 002374 through 2377. Take a look at that and then I'm going to ask some questions for you.
You don't have to read it in depth. I'm

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going to direct you to a particular place, okay?
A. Okay.
Q. The first question is do you recognize that document?
A. I do.
Q. Okay. Are you familiar with it?
A. Yes.
Q. Are you familiar with the rules and regulations laid out therein?
A. Yes.
Q. Okay. So what is this?
A. This is a general order for preliminary investigations.
Q. Okay. So I'd like you to turn your attention to page 3 of 4 of that document, and the place I'd like you to look is section four, IV A6. Are you with me?
A. I am.
Q. So this says – and I'll read this into the record, upon arrival, department members conducting the preliminary investigation will, number six says, locate, identify, and interview any witnesses to obtain the incident information including pertinent information on wanted persons, motor vehicles, or property taken in a specific

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crime. And when appropriate, send a flash message to alert other department units.
Did I read that correctly?
A. You did.
Q. Okay. Do you know whether or not that was done in this case?
A. As far as I know, yes.
Q. Okay. Did you ask whether or not it had been done in this case?
A. Ask that direct question, no. It is my understanding after talking to Officer Pronek that the only person that was on scene when this incident took place was the dog owner and Officer Mostek.
Q. So I want to be clear, you didn't ask Officer Pronek directly whether he had interviewed any witnesses. You didn't ask Officer Zhao the same question, nor did you ask Officer Cortez that question; is that correct?
MS. MOORE: Object to the form of the question.
THE DEPONENT: That's correct.
BY MR. BENAK:
Q. And you understand, do you not, from your recollection of events, that those three officers were on scene when you arrived?

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A. I am not sure if Officer Cortez was already on scene or not. I don't know if he was there. I know Officer Zhao was.
Q. You can set that aside.
THE REPORTER: Exhibit 3 marked.
(WHEREUPON, Exhibit 3 was marked for identification.)
BY MR. BENAK:
Q. Sergeant Butler, you've been handed by the court reporter a document marked as Butler Deposition Exhibit –
MR. BENAK: We're at 3 now, right?
THE REPORTER: Yes.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. Give me one second to get it. You might want to check that, Sergeant, and make sure there's no highlighting on that. Take a look at this page here.
A. I don't know if it's highlighted or if it's just the color.
MR. BENAK: That's my copy. That's why I couldn't find it. That's okay. Why don't you substitute and mark this one?
BY MR. BENAK:

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Q. Okay. Now we're on the right page, Sergeant. So you've been handed what's been marked as Exhibit 3 by the court reporter and that is entitled De-escalation Response to Resistance and Use of Force General Order G03-02, Bates number FCRL 002280 through 2284. What is that?
MS. MOORE: Objection, form.
THE DEPONENT: It's Chicago Police General Order 03-2, De-escalation Response to Resistance and Use of Force.
Q. Are you familiar with this particular order?
A. Yes.
Q. Okay. And how did you become familiar with it?
A. As far as?
Q. Well, let me ask the question in a different way.
Does this govern your responsibilities as a police officer both as – in your use of force and investigating use of force by other officers?
MS. MOORE: Object to the form of the question.
THE DEPONENT: Yes.
BY MR. BENAK:

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Q. Take a look if you will, please, at subparagraph – I guess it's section Roman three, use of force when authorized.
A. Okay.
Q. And paragraph 1 talks about force being objectively – B1 talks about force being objectively reasonable, correct?
A. Yes.
Q. Did you ask whether or not any of the officers had investigated whether the force in this case was objectively reasonable?
MS. MOORE: Object to the form of the question.
BY MR. BENAK:
Q. Do you understand my question?
A. I understand. I did not.
Q. When you interviewed Officer Mostek, did you have in mind the requirement that force be objectively reasonable?
MS. MOORE: Object to the form of the question.
BY MR. BENAK:
Q. Did you have that in mind when you interviewed her?
A. Yes.

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Q. Okay. When she said that Mr. Maynard was close, meaning the owner of the dog – I think the quote is the owner was close – did you ask her how close?
A. I did not.
Q. Did you not think that having a civilian in the area when a firearm was discharged by a police officer was important to investigate further?
MS. MOORE: Object to the form of the question.
BY MR. BENAK:
Q. Do you understand my question?
A. Yes.
Q. Okay. Did you think it was important enough? Excuse me? Did you think it not important that you determine how close he was?
MS. MOORE: Same objection, assumes facts.
THE DEPONENT: I'm not making any determination in what my responsibilities are, whether the use of force was appropriate or not.
BY MR. BENAK:
Q. Well, wouldn't it be helpful to understand exactly how close he was to determine whether the force was reasonable or not?
MS. MOORE: Same objections.

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THE DEPONENT: Yes.
BY MR. BENAK:
Q. Okay. For instance, if he was down the block, 100 feet away, whether or not force was excessive would be different than if he was three feet away, correct?
MS. MOORE: Objection, form, incomplete, hypothetical.
THE DEPONENT: It depends on the circumstances.
BY MR. BENAK:
Q. Well, let's put it a different way. If there is a danger imposed, a danger of loss or injury to Mr. Maynard by his proximity to the discharge of a weapon, wouldn't that be important in determining whether use of force was objective and reasonable?
MS. MOORE: Same objection.
THE DEPONENT: My conclusion would not make a determination under use of force whether it's appropriate or not.
BY MR. BENAK:
Q. Right. But it would make a difference to others who looked at your report, whether they've learned Mr. Maynard was three feet away or 30 feet

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away. Isn't that true?
MS. MOORE: Objection, form, foundation, incomplete hypothetical, calls for speculation.
BY MR. BENAK:
Q. Do you understand my question?
A. I understand. And the distance, no.
Q. So you didn't think the distance was important to investigate?
MS. MOORE: Same objections.
THE DEPONENT: No. She said he was close, and I didn't think it was appropriate or necessary to ask her to give me exact footage.
BY MR. BENAK:
Q. What if you learned that Mr. Maynard's head was two inches away from the path of the bullet? Would that make a difference?
MS. MOORE: Same objections.
THE DEPONENT: To my investigation, no.
BY MR. BENAK:
Q. Well, in ensuring the accuracy of the TRR, wouldn't it make sense to include the proximity of a civilian to the line of fire of a discharged weapon?
MS. MOORE: Objection, foundation, calls for speculation.
BY MR. BENAK:

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Q. In your experience?
A. In my experience, she said he was close so –
Q. So you didn't take it any further than that?
A. Correct.
Q. Turn your attention if you will please to the Bates number page 2284, which is page 4 of this exhibit. Excuse me. Page 5. It's the last page of the exhibit.
And I am looking at Roman three B – excuse me – Roman three C – I guess I'm on the wrong page. Hang on a second.
Roman four on page 3 of the exhibit, that's where we're going to start. Are you with me? It's called use of deadly force.
A. Yes.
Q. The definition is, "Deadly force is force by any means that is likely to cause death or great bodily harm." Did I read that correctly?
A. You did.
Q. Now, isn't the proximity to the civilian, in this case, Kent Maynard, relevant to whether the path of the bullet is likely to cause great death or bodily harm?

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MS. MOORE: Objection, form, foundation, incomplete hypothetical.
BY MR. BENAK:
Q. You can answer.
A. Can you repeat that?
Q. Sure. I'm focused on the part of the phrase that says, "Any means likely to cause death or great bodily harm." Are you with me?
A. I am.
Q. And if Mr. Maynard was three inches from the path of the bullet, isn't that a question or isn't that an indicator of whether he is likely or unlikely to cause death or great bodily harm?
MS. MOORE: Objection, form.
THE DEPONENT: The distance wouldn't matter. It'd be on the distance of the bullet.
BY MR. BENAK:
Q. So it's not more likely that he would've been shot three inches from the path of the bullet as opposed to 30 feet? Is that what you're telling me?
MS. MOORE: Same objection.
THE DEPONENT: It would – it would all depend. I mean there's a lot of variables.
BY MR. BENAK:

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Q. Yes, it would depend, wouldn't it? And you didn't ask Carmen Mostek, Officer Mostek, anything to determine whether or not it was likely that she would've harmed the civilian in this instance, did you?
MS. MOORE: Objection, asked and answered, form, argumentative.
BY MR. BENAK:
Q. You can answer.
A. I did not.
Q. Okay. You can set that – well, no, hang on just a second. I've got one more on this. So turn to the next page. And that is 4C at the top of page 2284. And I'm reading here from C that says "Last Resort." Are you with me?
A. I am.
Q. Okay. That paragraph reads as follows, "Last resort, the use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or prevent great bodily harm to the member or another person. Consistent with this requirement, a sworn department member may use deadly force only when such force is necessary to prevent death or great bodily harm from an imminent threat to pose to the

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sworn member or another person." Did I read that correctly?
A. You did.
Q. Did you ask Officer Mostek whether or not her use of deadly force was an absolute last resort?
A. No.
Q. Did you inquire as to whether or not she was in a position to suffer death or great bodily harm?
A. Did I ask her that question?
Q. Yes.
A. No.
Q. Did you ask her whether or not there was an imminent threat to life or present – excuse me - - to life or great bodily harm to her or another person?
A. I didn't ask her that, no.
Q. And we're clear here, are we not, that this discharge of a weapon was covered by these rules, was it not, Officer?
MS. MOORE: Object, form, foundation, not a 30(b)(6).
BY MR. BENAK:
Q. You can answer.
A. Yes.

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Q. You can set that aside.
MR. BENAK: We're at 5 or 4?
THE REPORTER: 4. Okay.
Exhibit 4 marked.
(WHEREUPON, Exhibit 4 was marked for identification.)
BY MR. BENAK:
Q. Sergeant, you've been handed what's been marked by the court reporter as Butler Exhibit 4. And for the record, this is tactical response report, Chicago Police Department TRR report number 2024-01861, FCRL number 001784 and 1785. What is this document?
A. Photocopied tactical response report that Officer Mostek completed for this incident.
MS. MOORE: I'm just going to object to the extent that this is not the full –
MR. BENAK: I'm sorry?
MS. MOORE: I object that this is not the full report.
BY MR. BENAK:
Q. So go to the bottom of page 2, Mr. Butler or Sergeant Butler. You are – excuse me – the reviewing supervisor, correct?
A. Yes.

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Q. So take a look at the top of that page, what's called I guess the notifications and narrative. What does that mean, notifications?
A. The notifications that were made.
Q. Okay. So that looks to me from the top of this document, this second page of this document to the immediate supervisor, district of occurrence and notifications, weapons discharged and deadly force, OEMC and CPIC. Are those the people who were notified of this or the entities that were notified?
A. Those were some of them, yes.
Q. Who else or what else was notified?
A. The detective division was notified, request for an evidence technician, they were notified.
Q. Did detectives ever show up at the incident scene?
A. They did not.
Q. Was there a reason for that?
MS. MOORE: Objection, foundation.
BY MR. BENAK:
Q. As far as you understand?
A. That is a non-criminal incident and they weren't going to come out and investigate it to my knowledge.

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Q. So that's the protocol?
A. Yes.
Q. Anybody else that was notified that doesn't appear here?
A. The watch operations lieutenant notified the captain, Captain Pappas, who arrived in the station later. I believe he was off that day. And then district deputy showed up in the station. Internal affairs was notified I think by the lieutenant, and then COPA was notified. I'm not sure if the captain notified COPA or if it was the watch operations lieutenant.
Q. Why was BIA notified?
A. In incidents involving a weapons discharge, Internal Affairs is notified to have the officer do a breathalyzer and urinalysis.
Q. Who prepared the narrative that appears in that box just below what we've been discussing?
A. That would've been Officer Mostek.
Q. Did you adopt his report verbatim?
MS. MOORE: Objection, form of the question.
BY MR. BENAK:
Q. Do you know what I'm asking?
A. I don't.

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Q. Well, did you change his report at all before you incorporate it into this TRR?
MS. MOORE: Objection, form, assumes facts.
THE DEPONENT: Who's his?
BY MR. BENAK:
Q. Pronek's.
A. Officer Pronek had nothing to do with the completion of this report.
Q. That's not what I was asking. He submitted a report to you, did he not?
A. He did.
Q. Okay. Did you take his report verbatim and adopt it and, in other words, cut and paste it into this report?
MS. MOORE: Objection, form.
THE DEPONENT: I didn't complete any narrative in this portion – in that portion of this.
BY MR. BENAK:
Q. Okay. We've got to get clear here.
So the narrative describes the incident, correct?
A. Yes.
Q. Okay. You signed off on this as being

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accurate; is that correct?
MS. MOORE: Objection, form.
BY MR. BENAK:
Q. I mean you wouldn't sign off on an inaccurate report, would you?
MS. MOORE: Same objection.
THE DEPONENT: That is correct.
BY MR. BENAK:
Q. Okay. And you signed off on it as being a complete report, did you not?
A. Yes.
Q. Now my question is when you made this narrative, and I'm assuming you made it?
MS. MOORE: Objection.
BY MR. BENAK:
Q. Maybe that's where our –
A. Officer Mostek completed the narrative portion of it.
Q. Okay. And that's where we're off the rails. So she reported the narrative – excuse me - - she made the narrative that appears in this report?
A. Correct.
Q. Did you add any facts at all to this narrative?

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MS. MOORE: Objection, form, assumes facts.
THE DEPONENT: I did not.
BY MR. BENAK:
Q. I see that there's no indication in this narrative that the owner of the dog that she shot was close as she described in your interview of her?
A. That's correct.
Q. Although she said that to you in your interview with her, you didn't include this in the report, correct?
MS. MOORE: Objection, form.
BY MR. BENAK:
Q. Correct?
A. That's correct. That's her words of the incident.
Q. Okay. Did you feel it was – did you feel it was your responsibility to make sure the report was accurate and consistent with what she had told you in your interview with her?
A. Yes.
Q. Okay. But you didn't think it was important to say that the owner was close?
MS. MOORE: Objection, form.
THE DEPONENT: No.

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BY MR. BENAK:
Q. So we're talking about, as we've discussed before, an incident that involved a discharge of a weapon that could involve – was likely to involve or could have been likely to involve harm to a civilian, and yet, you didn't think it was important to include that the civilian was present and close in this report?
MS. MOORE: Object to the form of the question.
THE DEPONENT: That portion of the narrative for the TRR is Officer Mostek's narrative for her use of force.
BY MR. BENAK:
Q. Understood. But you were the supervisor here. You were the one who signed off on it. And I'm asking you, in the case of the use of deadly force, you didn't think it was important to state that the owner was close?
MS. MOORE: Objection, asked and answered, form of the question, argumentative, assumes facts.
THE DEPONENT: I understand, and my answer is no.
MR. BENAK: We've been going at this for about an hour. It might be a good time for a break.

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Sergeant, is that okay with you?
THE DEPONENT: That's fine.
MR. BENAK: We'll finish up here within couple hours I think so it's not going to be – I don't think we need to take a lunch break just like last time unless you disagree.
MS. MOORE: I'd rather get it done.
MR. BENAK: Okay.
THE VIDEOGRAPHER: Please stand by.
The time is 11:04 a.m. and we are off the record.
(WHEREUPON, a recess was taken.)
THE VIDEOGRAPHER: The time is 11:23 a.m., and we are on the record.
BY MR. BENAK:
Q. Are you prepared to continue your deposition, Sergeant?
A. I am.
Q. During the break, did you talk to your counsel?
A. I did.
Q. Did you discuss the case?
MS. MOORE: Objection, form.
BY MR. BENAK:
Q. Did you?

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A. As far as she brought up a point that she wanted – said she was going to ask me.
Q. Okay. What was that?
MR. BENAK: I'm entitled – I'm entitled. He's under oath, and this is during the investigation or the interrogation. I'm entitled to know what he talked to you about.
MS. MOORE: I'm going to instruct him not to answer.
MR. BENAK: Okay.
MS. MOORE: Attorney-client privilege.
MS. MOORE: Okay. Fine. We'll take that up.
BY MR. BENAK:
Q. All right. Sorry, let's go.
So I want to make sure I understand your instructions to the officers on the scene at the time. So you told Officer Pronek to retrieve the casing, correct?
A. I told him to call up the evidence technician to see if they were going to come out, and if they weren't, that he would retrieve the casing.
Q. And you also told him that in your view, this was a destruction of animal by police type

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incident?
A. Yes.
Q. And of course, in that characterization you are – or in that description, you're characterizing Officer Pronek as a member of the CPD, correct?
A. Yes.
Q. Acting as a police officer, correct?
A. That's correct.
Q. And the last thing you did, I think, is you told Officer Pronek to call FOP, correct?
A. I did.
Q. Okay. Do you recall anything else that you instructed the people on the site – the officers on site to do?
A. Call the detective division, call ET, and I can't think of anything else.
Q. I would like to review your body-worn camera video with you, Sergeant, if we would -- you could, please. It's behind you there.
MR. BENAK: I'm going to ask the videographer to position him, if you can, so that you can both see him and see the screen. Can we try that?
THE VIDEOGRAPHER: I'm going to have to

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reset so –
MR. BENAK: Okay. Because we're going to have a couple of videos.
THE VIDEOGRAPHER: Okay. Let me take us off the record.
MR. BECK: Would it be helpful, Tim, if I gave you an HGMI cable with the same?
THE VIDEOGRAPHER: Sorry?
MR. BECK: I can give you an HGMI cable that's exactly the same feed.
THE VIDEOGRAPHER: Okay.
MR. BECK: Do you want that?
MR. BENAK: No, just let him do his job, can you, please?
Do whatever you have to do.
THE VIDEOGRAPHER: Right. Yeah, I think - -
MR. BECK: Okay.
THE VIDEOGRAPHER: Okay. All right. Please stand by.
The time is 11:26 a.m. We're off the record.
(WHEREUPON, a recess was taken.)
THE VIDEOGRAPHER: The time is 11:29 a.m., and we're on the record.

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BY MR. BENAK:
Q. So Sergeant Butler, when we took a break to reposition the camera here, I queued up your body-worn camera video on the date. Now, this is marked as FCRL 000442 in the discovery provided to us by the City.
On your camera, the first time we have here – I'm going to queue it up so we get to the meat of it – and I think that's about right here. So we're starting on the video feed at 1:56 on the body cam at 11:50:03. Is that correct from what you can see?
A. That's correct.
Q. Let's just play this and we might just play it all the way through since it's only about five minutes. I'll stop occasionally to ask you a question.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Now to be clear, you've just gotten out of your vehicle. Is this the first time you've arrived at the incident scene?

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A. Yes.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. All right. We're now at 2:19 on the tape, at 11:50:27 on the BWC. Who is this gentleman walking toward you?
A. It's Officer Pronek.
Q. Okay.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Now, he referred to 914. Do you know who that is in this case?
A. Not offhand. I believe he mentioned Officer Zhao. I believe that might be him.
Q. Okay. Very good. Thank you. Very helpful. Thank you.
MR. BENAK: Thanks. I got it.
Okay. Let's proceed.
(Plaintiff's body-worn camera footage was

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played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Just for clarity, what we've seen here at 3:36 on the tape is Corgi. Did you understand that was Officer Mostek's dog?
A. I did.
Q. Okay. Did you examine the dog closely at all?
A. I got close to the dog. I didn't see any injuries.
Q. Aat one point, you pick him up and carry him up the stairs, don't you?
A. Yes.
Q. At least a couple of stairs.
A. Yes.
Q. So you had a chance to take a look at him?
A. Correct.
Q. And did you see any injuries on the dog?
A. I did not.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)

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BY MR. BENAK:
Q. Did you see -- you seemed intent on telling her you had her camera on. Why was that?
MS. MOORE: Object to the form.
BY MR. BENAK:
Q. Why'd you tell her --
A. That's protocol.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. What did you mean by that, "You're totally fine"?
A. She was upset. I was just trying to calm her down.
Q. No other message you were trying to convey?
A. No.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Now, did you ask her how she knew the dog

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was a pit bull?
A. No.
Q. Okay. Did you later testify that you thought the dog was a pit bull?
A. When I saw it, yes.
Q. Okay. And how did you know it was a pit bull?
A. It looked like a pit bull.
Q. Okay. But you don't know that it was a mixed breed, for instance?
A. I wouldn't know that.
Q. Okay.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. And just to be clear, there we see Officer Zhao. So he is 914 as referred to earlier?
A. Yes.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:

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Q. To be clear, that's Officer Cortez on the right side?
A. That is.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. And there's the dog in the foreground, correct?
A. Yes.
Q. And do you recognize the man in the background with the camera?
A. Yes.
Q. He was identified to you as Kent Maynard?
A. Today he was, yes.
Q. But when you saw it at the time, you didn't know that he was the owner of the dog, or you --
A. I knew he was the owner of the dog. I didn't know his name.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)

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BY MR. BENAK:
Q. Sergeant, you walked right past him. You didn't feel any need to talk to him and ask him what happened?
A. No.
Q. Why not?
A. Because Officer Pronek indicated -- I know it was a few times he was out there yelling and swearing. He said that he refused to give his information other than he was Kent and wasn't going to say anything to the police.
Q. How many investigations have you done in your life, do you suppose, Sergeant?
MS. MOORE: Objection, form.
BY MR. BENAK:
Q. Go ahead.
A. Probably over 1,000.
Q. 1,000. How many witnesses do you suppose you've interviewed?
A. Thousands.
Q. Did Mr. Maynard look especially threatening to you at the time?
A. No.
Q. Was there anything stopping you from interviewing Kent Maynard at that time?

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A. No.
Q. You certainly didn't feel threatened by him, did you?
A. At that point, no, but he was highly agitated and yelling and swearing and –
Q. Understood. But at this time, at this a point in time when you passed him by, he wasn't agitated, was he?
A. He was. He was agitated the entire time I observed him.
Q. Well, let's just back up here.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. So there he is. He's got a camera. I don't see him making any threatening moves or gesticulating, do you?
MS. MOORE: Object to the form.
THE DEPONENT: No.
BY MR. BENAK:
Q. Do you see him doing anything agitated or threatening at that time?
A. No.

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(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. In your view, does he become agitated or threatening looking anytime in this video scene?
A. In this snapshot, no.
Q. Okay. Well, he's right there.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. What prevented you from talking to him at that time?
MS. MOORE: Objection, form.
THE DEPONENT: Nothing prevented me from talking to him.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. So here, you've turned your camera off,

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correct?
A. That's correct.
Q. Now, after you turned your camera off, you told Officer Pronek to call FOP, isn't that correct?
A. At one point. I don't know if it was initially, right after, but at one point, I did. Yes.
Q. Well, you told him that after you turned off your camera. Any reason for that?
MS. MOORE: Object to the form.
THE DEPONENT: To tell him to call FOP or turn that camera off.
BY MR. BENAK:
Q. No, when turn your camera off before you told him to call FOP.
MS. MOORE: Object to the form, assumes facts.
THE DEPONENT: No, the scene was secure, and at that time, you could go ahead and, per our procedure, to turn off your body-worn camera.
BY MR. BENAK:
Q. Okay. So why did you think it was important for Officer Pronek to call FOP?
A. From my experience in the time I've been on the job, any time there's an officer that

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discharges the weapon, FOP is always notified.
Q. We're going to play another video here, Sergeant. I believe if I've got the correct one queued up. This one is Officer Zhao's body-worn camera. I'm going to forward it to where he gets out of his car. This is right about here.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Now, I noticed the officers are standing clear of the door. Is that protocol?
MS. MOORE: Objection, form.
You can answer.
THE DEPONENT: I don't know. The door would be swinging open. If they stood in front of the door and the door opened, it would open into them.
BY MR. BENAK:
Q. Okay. So you –
A. I wasn't there. I don't know why they stood there.
(Plaintiff's body-worn camera footage was played.)

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(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Well, I want to stop it. I want to clear this up. When I look at it, they look like they're standing on the sides of the door to avoid a potential gunshot from inside. Would that be your understanding as well?
MS. MOORE: Objection, calls for speculation.
THE DEPONENT: I've never observed this. I don't know what they were thinking at the time.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Now, we can see in the background here that there are a number of people. We see Officer Cortez and Officer Pronek in the foreground. In the background, there are a number of people around the stop sign. Do you see where I am?
A. I do.
Q. And there's a gentleman right here off to the left with a baseball hat on. Do you see what

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I'm referring to?
A. I see that.
Q. Okay. Did that gentleman say anything to you or did you say anything to him?
A. If I'm not mistaken, he was the one who asked me about moving his car.
Q. Okay. Anything other than that that you asked him or he said to you?
A. No.
Q. Okay. I'm going to spin through some of this so we can get to the people in the background here. If I can get this right.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Okay. This is, again, Officer Zhao's body-worn camera. We have one, two, three, four individuals in the background, kind of approximate to the stop sign near the dog, the dead dog. And then we've got this gentleman we've already discussed.
Did you talk to any of those people at any time during your time on the scene?

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A. I did not.
Q. So we're going to go forward a little bit more now.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. And that's Officer Mostek, correct?
A. Correct.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. So did you hear –
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. – Officer Zhao, what he said in the background here? Listen carefully.
(Plaintiff's body-worn camera footage was played.)

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(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Make sure I capture that.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Okay. Did you hear that?
A. I can't – couldn't understand it.
Q. All right. Let's –
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Okay. Now, we have one, two, three, four, five, six persons, seven persons if you count the person across the street; is that correct? Did I count that correctly?
A. And the fire personnel, yes.
Q. Fire personnel. Okay.
(Plaintiff's body-worn camera footage was played.)

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(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Now, you see the lady in the white there, the hoodie, right in the foreground, the center?
A. With her arms crossed?
Q. Yes.
A. Yes.
Q. Did you see her at any time during your time on scene?
A. I don't recall if I did or not.
Q. Okay. Did you ask anybody on scene who it was that called 911?
A. No.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Who is this officer on the right?
A. Officer Jaimes.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)

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BY MR. BENAK:
Q. Okay. So we have one, two, three, four persons in proximity to Mr. Maynard, another person holding a dog off to the side, talking about the incident. Do you see that, Officer – Sergeant?
A. I do.
Q. Did I count those right?
A. Four people in close proximity, yes.
Q. Okay.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Did you hear the dialogue in the background? "In my 911 call, I said, they shot a man." Did you hear that?
A. I heard that.
Q. Okay. Did you know that the 911 call originally was for –
A. A person – a person shot.
Q. – a person shot?
A. Yes.
Q. Okay. Now, did that occur – or did it occur to you that did 911 call was for a person shot

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because of the close proximity of Mr. Maynard to the line of fire?
A. I don't know how that call came out.
Q. Did you know of the call before you arrived on the scene?
A. The call originally came out as a person shot.
Q. Did that make you think that possibly the person was in proximity to the line of fire after you learned it was a dog shot?
A. I mean, possibly that somebody could have mistaken that, yes.
Q. Okay. And that would've been because the person and the dog were in close proximity, don't you think?
A. Yes.
MS. MOORE: Objection, calls for speculation.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Now, you've just watched the last 10 or 15 seconds of this. Does this look like a man who is

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unapproachable in your judgment having conducted thousands of witness interviews?
A. No.
MS. MOORE: Objection, form.
BY MR. BENAK:
Q. So he looks not just unapproachable, he actually looks – he looks like a guy that's got his head screwed on straight, having just lost his dog, don't you think?
MS. MOORE: Same objection.
THE DEPONENT: Yes.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Who was the officer walking off the scene on the left? Do you know?
A. Officer – the one in the left-hand corner?
Q. On the left side, yes.
A. Officer Nunez.
Q. By the way, do you know all of these officers on site, Sergeant?
A. Yes.

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Q. Are they all under your supervision?
A. Yes.
Q. So in other words, you wouldn't have any problems talking to them about the case or asking them questions about the case?
A. That's correct.
Q. And as a matter of fact, they're obligated, are they not, to tell you what they know about the case? Isn't that correct, same rules?
MS. MOORE: Objection, form.
THE DEPONENT: That's correct.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Now, I'd like you to pay attention to this woman in the foreground center who's approaching the camera and listen.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Did you hear what she said there,

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Sergeant?
A. Most of it, yes.
Q. Yeah. Did you hear that she said my sergeant will reach -- he said my sergeant will reach out to you?
A. I believe that's what he said. Yes.
Q. Okay. Did that ever happen?
A. I had no idea that she came forward and was going to provide her information.
Q. And you didn't ask any of the officers involved whether or not information had been volunteered?
A. That's correct.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. I'm going to just scroll ahead here so that we don't spend a lot of time on this. I want to go through this again because this is what you've captured on your body-worn camera from a different perspective.
(Plaintiff's body-worn camera footage was played.)

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(Plaintiff's body-worn camera footage was stopped.)
MR. BENAK: If I can find it.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Okay. This is when you arrive at her apartment.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
MR. BENAK: And for the record, this is 11:52:01 on the body cam and 16:26 on the tape.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. So at this point, you walk down the stairs and the next thing you do, at least what's captured on your body-worn camera, is you get into your car and then you shut your camera off; is that correct?

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A. That is correct.
Q. And Officer Zhao remains on the scene here? Let me scroll ahead.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. So Officer Zhao goes back upstairs. Do you know why?
A. No.
Q. Did you tell them to go back upstairs?
A. I may have. I don't recall. I may have.
Q. Why did they want an officer with Officer Mostek at that time?
MS. MOORE: Objection, calls for speculation.
THE DEPONENT: Just a courtesy.
MR. BENAK: Okay.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. So Officer Zhao remains here, and I'm

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trying to find the queue and I'll find it in a second.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Okay. We're at 30:17 on the tape, 12:05:44 on the BWC.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Let me go back further so we make sure we capture the whole thing.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Okay. Now we're at 30:13 on the tape, 12:05:41 on the camera.
(Plaintiff's body-worn camera footage was played.)

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(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Did she tell you that, it's your first interview, that she was afraid the dog would bite and mangle her?
A. In my first interview, no.
Q. And you talked to her subsequently, though, that same day. Did she say it then?
A. When she documented her TRR, it was indicated, I guess.
Q. But in conversation with her on that day, did she tell you that at that time?
A. At that time, no.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. And he reminds her again that his camera's on, correct?
A. That's correct.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was

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stopped.)
BY MR. BENAK:
Q. Now, I'm going to scroll ahead to the time when you arrived again in Officer Mostek's apartment. This is all on Zhao's camera.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Okay. You're coming up the stairs right now. This is 42:05 on the record.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. This is you, correct, coming up the stairs on the right side?
A. It is.
Q. And you don't have your BWC on; is that correct?
A. That's correct.
Q. And what was the reason for that?
A. There was no need to have it on at that

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time.
Q. You didn't think you were continuing the investigation at all?
A. That's correct.
Q. Why did you decide to come back upstairs to talk to Officer Mostek?
A. To let her know she was going to have to go in the station and do a breathalyzer and urinalysis and complete a TRR.
Q. And you didn't talk about the incident at all when you came to see her this time?
A. I don't believe I did.
Q. Even though she wanted to tell you that she feared for her life and her safety, she didn't mention that to you in the second interview?
MS. MOORE: Object to the form.
THE DEPONENT: I didn't interview her this time.
BY MR. BENAK:
Q. Well, you talked to her. Let's not say it's an interview. Let's just talk – say it's a discussion.
A. Correct.
Q. Okay. So when you discussed this incident with her, she didn't mention that fear she had that

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she was going to be mangled by the dog?
MS. MOORE: Object to the form.
THE DEPONENT: She did not she.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Okay. What did that mean when you just gestured like that, Sergeant?
A. To turn off his body camera, that he doesn't need it on anymore. Once the scene is secured, you don't need the body camera.
Q. Okay. So you told him to turn it off?
A. Correct.
Q. Okay.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
MR. BENAK: Where are we now?
THE REPORTER: 5.
MR. BENAK: 5.
THE REPORTER: Are we done with the videos?

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MR. BENAK: Did we designate the videos as exhibits? Can we do that?
THE REPORTER: Okay.
MR. BENAK: Any objection, counsel? We'll designate these two videos as 5 and 6?
MS. MOORE: No objection.
MR. BENAK: Okay.
(WHEREUPON, Exhibit 5 and Exhibit 6 were marked for identification.)
MS. MOORE: But if we're done using them, can we redo the shot?
MR. BENAK: Sure.
MS. MOORE: We'll go off record.
THE VIDEOGRAPHER: Off the record so I can reset, find that.
MR. BENAK: Okay.
THE VIDEOGRAPHER: Let me do that.
Okay. The time is 12:05 p.m. We're off the record.
(WHEREUPON, a recess was taken.)
THE VIDEOGRAPHER: Time is 12:07 p.m. We're on the record.
THE REPORTER: Exhibit 7 marked.
(WHEREUPON, Exhibit 7 was marked for identification.)

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BY MR. BENAK:
Q. Sergeant, you've been handed by the court reporter what's been marked as Exhibit 7. Take a look at that document and tell me if you recognize it.
A. I don't.
Q. For the record, this is FCRL 00190. You've never seen this before?
A. Never saw this before. Correct.
Q. You can set it aside.
THE REPORTER: Exhibit 8 marked.
(WHEREUPON, Exhibit 8 was marked for identification.)
BY MR. BENAK:
Q. Sergeant, you've been handed what's been marked as Exhibit 8 by the court reporter. I'd ask you to take a look at that. For the record, it's firearm discharge and officer-involved death incident, response to investigation, general order G03-06, Bates number FCRL 002208 through 2225. Do you know what that is, Sergeant?
A. Yes.
Q. What is it?
A. It's Chicago Police General Order 03-06, firearm discharge and officer-involved death

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incident response and investigation.
Q. Are you familiar with that document?
A. Yes.
Q. Are you familiar with the rules set forth in that document?
A. Yes.
Q. Take a look at page 3 of 19 of this document and there's a Roman four on that page, investigative authority. Do you see where I am?
A. I do.
Q. Okay. 4B refers specifically to COPA. Do you see where I am?
A. I do.
Q. I'll read this into the record. "COPA, pursuant to the municipal code of Chicago, the Civilian Office of Police Accountability, will, one, conduct investigations into all incidents including those in which no allegation of misconduct is made in which a department member discharges a firearm in a manner that potentially could strike another individual." Did I read that correctly?
A. You did.
Q. Is that the reason that you knew COPA would be involved?
MS. MOORE: Objection, form.

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THE DEPONENT: No, I didn't know that. Anytime there's a weapon discharged, that COPA is notified.
BY MR. BENAK:
Q. Anytime?
A. I can't -- I can't think of anytime -- well, if they're at the range or -- in an incident like this would require a notification of COPA.
Q. Okay. But my question is why COPA got involved? This particular subsection addresses the discharge of a firearm in a manner that potentially could strike another individual. There's no other rule on when COPA gets involved with a firearm discharge.
In other words, I don't see anything that exempts discharges that could not potentially harm another individual. It simply says in a circumstance that would harm -- could potentially harm an individual.
MS. MOORE: Object.
BY MR. BENAK:
Q. Is that what you understood COPA's role to be here?
MS. MOORE: Objection, form, foundation, not a 30(b)(6).

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THE DEPONENT: Yes.
BY MR. BENAK:
Q. Okay. And in your experience, there's no other rule that applies to COPA's involvement in the discharge of a weapon, correct?
MS. MOORE: Same objections.
BY MR. BENAK:
Q. You can answer.
A. Yes.
Q. Yes, you are not aware?
A. I'm sorry?
Q. Yes, you are not aware of another rule?
A. I -- I don't know.
Q. Well, let me ask the question again. So we have this section in front of us here that pertains to COPA's involvement. All I'm asking is do you know of another rule involving COPA that commands them to investigate matters that do not --
A. Yes.
Q. -- potentially strike another individual?
A. Taser discharges.
Q. Okay. Anything else?
A. That's all I can think of.
Q. Okay. And why do they have investigations of taser discharges?

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MS. MOORE: Objection, foundation.
BY MR. BENAK:
Q. In your experience?
A. To justify if the use of force was appropriate.
Q. And taser discharges, as we all know, can be fatal as well, can they not?
A. They can, yes.
MR. BENAK: This isn't very helpful.
There we go. Okay. Got another video that we want to take a look at.
Do we want to reset now?
THE VIDEOGRAPHER: Okay. Please stand by.
MR. BENAK: Sure.
THE VIDEOGRAPHER: The time is 12:15 p.m. We're off the record.
(WHEREUPON, a recess was taken.)
THE VIDEOGRAPHER: The time is 12:14 p.m. We're on the record.
BY MR. BENAK:
Q. Sergeant, earlier, we discussed a Ring camera interview. Do you remember that line of discussion?
A. Yes.
Q. Okay. I am going to play this. Tell me

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whether or not you've ever seen this video before.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Have you ever seen that video before, Sergeant?
A. I saw a short clip on one of the news outlets that aired it, and then I saw a portion of this at COPA.
Q. Okay. Did you ever review or view the entire clip that we just showed?
A. No.
Q. Okay. Only the first part involving the shooting?
A. Yes.
Q. Okay. What I'd like to do is show you the same video slowed down, okay?
MR. BENAK: Now, before we go further, the last tape should be marked as a separate exhibit, okay? So we're going to call that Exhibit 9.
Is that where we are?
THE REPORTER: Yes.
MR. BENAK: Okay. So the videotape of the

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Ring camera is video nine or Exhibit 9.
(WHEREUPON, Exhibit 9 was marked for identification.)
MR. BENAK: This which I'm going to show is now Exhibit 10.
(WHEREUPON, Exhibit 10 was marked for identification.)
MR. BENAK: And by the way, Exhibit 9 is FCRL 001983. This video, which we are about to show, is FCRL 002056.
BY MR. BENAK:
Q. Now Sergeant, this is a slowed down version. This has been provided by your police department, your lawyers, showing the same event at a slower speed. Are you with me?
A. Yes.
Q. Okay. So right now, we see Officer Mostek and two objects that appear to be dogs in the foreground, correct? Or in the middle of the view.
MS. MOORE: Objection, form.
THE DEPONENT: I see a blurry image of Officer Mostek, and I see a blurred image of a fire hydrant. And one of those objects might be her dog. I just can't tell which one it is.
BY MR. BENAK:

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Q. Okay. Let's play it forward.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Okay. She doesn't appear to have her dog on a leash, does she, at that point?
MS. MOORE: Objection, form.
BY MR. BENAK:
Q. Can you tell?
A. I can't tell.
Q. Okay. Do you see a leash there? Let me ask it a different way. Do you see a leash in her hand?
A. It's very – I can't tell.
Q. Okay. Can you see where her hand is in relation to her body?
A. It looks like her right hand is on her hip maybe, and I can't see her left arm.
Q. Yeah, that's where she would normally carry a holster. Isn't that correct?
MS. MOORE: Objection, calls for speculation.
THE DEPONENT: I don't know where she

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carries her holster.
BY MR. BENAK:
Q. Okay. Well, you carry a firearm, don't you, Sergeant?
A. I do.
Q. Are you right-handed?
A. I am.
Q. And what hip do you carry your holster on?
A. On my right hip.
Q. So let's play this forward a little bit.
(Plaintiff's body-worn camera footage was played.)
BY MR. BENAK:
Q. Okay. Now we can see two objects moving, right?
A. Yes.
Q. Okay. Now you can see that Officer Mostek has her hand still on her right side, correct?
A. I can't see her right hand from this angle.
Q. Okay. So now we see a person approaching from around the building that's on Officer Mostek's right, correct?
A. Yes.
Q. Now, I want you to watch carefully to the

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interaction between the two persons in the video. They're clearly making contact, are they not?
MS. MOORE: Objection, form.
BY MR. BENAK:
Q. From what you can see in the video, Sergeant?
A. They're close. I can't tell from this if they're actually making physical contact with each other.
Q. Did Officer Mostek ever tell you in your interview with her that she was so close as to make physical contact with Kent Maynard?
A. No, she did not.
Q. Okay. Can you see any daylight between the persons in that frame, Sergeant?
A. It's just one blur.
Q. Now, what do you see there? Do you see Officer Mostek shouldering Kent Maynard aside?
MS. MOORE: Standing objection to the narration of the video.
MR. BENAK: Understood.
BY MR. BENAK:
Q. Sergeant, do you see what I'm saying? Where I'm pointing?
A. I can't see where you're pointing.

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Q. Well, what I'm asking you is in that frame, do you see Officer Mostek pushing Mr. Maynard aside?
A. I can't tell if she's actually pushing him.
Q. Well, here Officer or Sergeant, Officer Mostek is standing and Mr. Maynard is on the ground, correct? Or going to the ground?
A. Yes.
Q. Now, can you tell what Officer Mostek is doing here?
A. She's bent over, but that's all I can tell.
Q. Right. How far do you suppose she is away from Mr. Maynard at this point just based on your best guess?
A. Her hands would be inches. She's close. Within a couple feet.
Q. Can you tell when the shot is fired, Sergeant?
A. Did it already happen?
Q. I don't know. I'm just asking you if you can tell in the video when the shot was fired.
A. From what I saw, no.
Q. Okay. And here you see the one of the

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dogs running away, don't you? Right there?
A. I don't see any dog.
Q. Well, can you see that –
A. Oh, the blur. Okay. Now I see it.
Q. – fuzzy thing running away?
A. Yes.
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. So in her description of the incident, Officer Mostek never described Mr. Maynard as being on the ground with his dog, did she?
A. No.
Q. And she never told you that as you said that her hands seemed to be within two feet of Mr. Maynard. Isn't that right?
A. She said he was close.
Q. Well, two feet with a weapon in your hand is pretty close, isn't it, Sergeant?
MS. MOORE: Object to form.
BY MR. BENAK:
Q. Yeah, it's more than close as a matter?
A. It's close.
Q. Now, when he was at the corner of the building, he was close, but here on the ground

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within two feet of a pistol, he's more than close, isn't he, Mister or Sergeant?
MS. MOORE: Object to the form of the question, argumentative.
BY MR. BENAK:
Q. You can answer.
A. Yes.
Q. And then we can play the rest of this out.
(Plaintiff's body-worn camera footage was played.)
BY MR. BENAK:
Q. This is all slow speed, but her dog appears to be running off and she picks up the leash right there. She didn't have the leash in her hand before, did she? Because it seems like she picks it up right there; is that right?
A. Yes.
MR. BENAK: Okay. I think we can reposition it now.
THE VIDEOGRAPHER: Okay. Please stand. The time is 12:24 p.m. We're off the record.
(WHEREUPON, a recess was taken.)
THE VIDEOGRAPHER: The time is 12:26 p.m., and we are off – on the record.

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MR. BENAK: So for the record, the video we just watched, which was the slow-motion version of the Ring camera video, was marked FCRL 002056, and we've marked that as Exhibit 10.
THE REPORTER: Exhibit 11 marked.
(WHEREUPON, Exhibit 11 was marked for identification.)
BY MR. BENAK:
Q. Sergeant, you've had what's been marked as Exhibit 11 from the court reporter. It's a four-page exhibit. I'd like you to take a look at that and tell me what that is.
A. That's screenshots from text message.
Q. From your phone?
A. Yes.
Q. Okay. And these are screenshots of text messages between you and Officer Mostek, correct?
A. That's correct.
Q. And for the record, this doesn't bear a Bates stamp number because I was only provided this late yesterday. When did you first provide this to the City, Sergeant?
A. Wednesday when they asked me for it.
Q. Had you previously made any search on your phone or any of your electronic devices for

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communications relevant to this particular incident?
A. Other than Wednesday looking for this, no.
Q. Are you aware that there are any more or any other text messages other than this on your phone?
MS. MOORE: Object to the form.
BY MR. BENAK:
Q. Are you aware of any others?
A. With Officer Mostek?
Q. Yes.
A. There's one from last month when -- her condolences for my brother passing, but with this, this is the only ones that I'm aware of.
Q. Any discussion in the condolences about this particular incident, Sergeant?
A. No, she just wished me condolences on the passing of my brother.
Q. So I want to just go through this real quick. The first message in this thread appears to be from Carmen to you, correct?
A. Yes.
Q. And I'm going to read this into the record. "FOP called." That's the FOP that we've been discussing for a while, correct, Sergeant?
A. Yes.

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Q. "Neighbor complained to COPA." Neighbor, do you understand that to mean Mr. Maynard?
A. I don't know if she was talking about him or another neighbor.
Q. Okay. So at this point in time, you thought it was maybe somebody, but you didn't know whether it was Kent Maynard?
A. Correct.
Q. But it was one of her neighbors anyway?
A. That's right.
Q. "They said FYI, this guy is a complete jag off and maybe making up crazy exaggerated complaints." Now what did you understand she meant when she said that FOP called Mr. Maynard a jag off?
A. I --
MS. MOORE: Just object to the form.
You can go ahead and answer.
BY MR. BENAK:
Q. I mean you understood she was referring to Mr. Maynard when she said he was a complete jag off, didn't you?
MS. MOORE: Same objection.
THE DEPONENT: I didn't have any conversation with FOP, so I don't know what --
BY MR. BENAK:

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Q. Well, what I'm asking is she's relating to you a conversation she had with FOP?
A. Correct.
Q. And as you understand it, she's relating that FOP called Mr. Maynard a complete jag off, isn't that correct?
MS. MOORE: Object to the form.
THE DEPONENT: According to this text, yes.
BY MR. BENAK:
Q. Okay. That's the way you understood it?
A. Yes.
Q. Okay. "And may be making up crazy exaggerated complaints." Did you understand her to say that she didn't think that Mr. Maynard had a legitimate complaint with the department?
MS. MOORE: Object to the form.
BY MR. BENAK:
Q. Let me ask you a different --
A. I don't know what the nature of the complaints were.
Q. Let me -- that was a bad question, so let me ask it a different way.
Having reviewed everything you've reviewed here, do you think Mr. Maynard is making up

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completely crazy exaggerated complaints?
A. I haven't read his complaint. I don't know what complaint he made.
Q. Well, he's filed a federal lawsuit. You know that?
A. Correct.
Q. And you said that you had some familiarity with the lawsuit?
MS. MOORE: Object.
BY MR. BENAK:
Q. Correct?
A. Other than me being here --
THE REPORTER: I'm sorry, I didn't catch that. Did you object?
MS. MOORE: Form, yeah.
THE REPORTER: Thank you.
BY MR. BENAK:
Q. Let me ask it a different way then. Based on everything you've seen, if Mr. Maynard had a complaint that she used unreasonable force in killing his dog, would you say that's a crazy complaint?
MS. MOORE: Object to the form.
You can go ahead and answer.
THE DEPONENT: Yes.

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BY MR. BENAK:
Q. You think it's crazy?
A. If it was reasonable?
Q. Yeah. I'm asking you whether or not you think it's crazy that Kent Maynard thinks that Officer Mostek used unreasonable force having looked at everything you looked at today?
MS. MOORE: Same objection.
THE DEPONENT: Do I think he has a legitimate claim?
BY MR. BENAK:
Q. Yes.
A. You're asking me to determine whether –
Q. Well, I'm not. I'm asking you your understanding. Let's phrase it so we've got – we're going to track this message.
FOP said that he was making up crazy – what did they say? "May be making up crazy exaggerated complaints."
A. Complaints.
Q. Okay. Based on everything you've seen today, do you think that Mr. Maynard's complaint that she used unreasonable force in killing his dog is a crazy made up, exaggerated complaint?
MS. MOORE: Objection, form, foundation,

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calls for speculation, calls for legal conclusion.
Go ahead and answer.
THE DEPONENT: You asking – I don't know what – I didn't have any conversation with FOP. She never told me what the allegations were, the complaints were, so I don't know if they were exaggerated or not.
BY MR. BENAK:
Q. Well, I'm just going to ask you, do you think it was exaggerated for Mr. Maynard based on everything you've seen to claim that she used excessive force based on what you've seen?
A. Based on what I –
MS. MOORE: Same objections and asked and answered.
Go ahead.
BY MR. BENAK:
Q. Go ahead.
A. Do I think it's unreasonable?
Q. Did you think that the force that Carmen Mostek used – Officer Mostek used was unreasonable? That's the first question. And the second question is whether you think it's crazy for Mr. Maynard to make that claim?
MS. MOORE: Same objections I've already

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said, adding on compound and competency.
BY MR. BENAK:
Q. Do you have the question in mind?
A. You're asking me to make my determination on whether her use of force was justified or not?
Q. Well, let's make it simple. They've said it's a crazy exaggerated complaint, Sergeant, okay? And based on everything you've seen today, do you think it's a crazy exaggerated complaint for Mr. Maynard to think that she used excessive force?
MS. MOORE: Same objections.
THE DEPONENT: I don't know what the complaint that was made. I never read the complaint, so I don't know if any portions of it were exaggerated.
BY MR. BENAK:
Q. Okay. Well, let's just – let's just make it just –
A. I think he has – he has the right to make a complaint. As far as it being exaggerated, I'm unaware of any exaggeration because I never read the complaint or had any conversation.
Q. I want to make this real simple. You've watched all the videotapes. You've looked at the witness reviews by – excuse me, you've looked at

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the BWC body camera of Zhao. You've seen the witness that were around. You've heard Mr. Maynard's distress at his dog being killed, and you saw the video of how it happened.
And what I'm asking you is do you think a claim that Officer Mostek used excessive force is crazy and made up?
MS. MOORE: Same objections I've already asserted to this line of questioning and adding on that this has now been asked and answered a handful of times.
BY MR. BENAK:
Q. Officer or Sergeant, can you answer that, please?
A. Do I think that specific – making an allegation that the use of force was unnecessary? That was his complaint, is that being exaggerated?
Q. Yes.
A. Based on that, no.
Q. Now, you say, I believe following up, "I wouldn't worry about it. He's on body camera acting like a fool." That's your response to her – her message.
A. Yes.
Q. Okay. And on what do you base your

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statement that he's on body cam making himself look like a fool?
A. I would assume that he was on body camera because I know he was swearing a lot and yelling.
Q. So we watched the body camera from Officer Zhao's camera where Mr. Maynard approached Officer Zhao and complained that he had the dog in his hand when he was – when the dog was shot. Did you think that should be characterized as Mr. Maynard acting like a fool?
MS. MOORE: Objection, form, incomplete hypothetical.
THE DEPONENT: No.
BY MR. BENAK:
Q. What is it about what you knew about the case at this time that made you think that the jag off – by the way, this guy sitting right next to me – that that jag off was looking like a fool on the BWC? What part of the BWC did you see that made you say that?
MS. MOORE: Object to the form of the question.
THE DEPONENT: I didn't see any.
BY MR. BENAK:
Q. Then she says in response, "Okay. Thanks.

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Yeah, hopefully it gets squashed." What did you understand that to mean?
MS. MOORE: Objection, calls for speculation – to the extent it calls for speculation.
THE DEPONENT: I could only speculate to what – that it did – a COPA investigation doesn't do anything with it.
BY MR. BENAK:
Q. Well, getting squashed is a little bit different than being resolved, isn't it, Sergeant?
MS. MOORE: Objection, form.
THE DEPONENT: Yes.
BY MR. BENAK:
Q. Okay. And you're the recipient of this message and so you have an understanding of what she means when she says, "Hopefully it gets squashed." So you thought that meant what?
A. That COPA would determine that her use of force was fine.
Q. Right, because there was no evidence anywhere in the TRR or any report made in this case that had anything to do with how close Mr. Maynard was when the shot was fired. Isn't that right?
MS. MOORE: Object to the form of the

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question, incomplete.
THE DEPONENT: The exact distance, no.
BY MR. BENAK:
Q. Okay. So there was no basis on which COPA could make a determination that this was excessive force because they didn't know how close Mr. Maynard was; is that right?
MS. MOORE: Objection, form, foundation, assumes facts.
BY MR. BENAK:
Q. You can answer.
A. You're asking me to make a determination of what COPA's investigation revealed, which I'm not – I don't know.
Q. Well, based on what you know about COPA's investigation?
A. It's still pending.
Q. I understand that, but based on what you know from the reports that were made by the officers in the field, there was no evidence, no witness statement, no testimony by an officer before COPA filed its complaint that there was any issue of excessive force because there was nobody who commented on how close Mr. Maynard was. Isn't that right?

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MS. MOORE: Object to the form of the question, foundation, incomplete hypothetical, argumentative.
BY MR. BENAK:
Q. You can answer, Sergeant.
A. Whether or not – it would not have determined how far Mr. Maynard was from the dog, whether she used excessive force or not.
Q. I didn't quite understand your question.
A. You're asking me if –
Q. Can you repeat?
A. Yes. COPA is conducting the investigation. If she used excessive force, it wouldn't to determine whether how far Mr. Maynard was from Officer Mostek.
Q. But as far as you knew, there was no one who told COPA or no one who participated in the TRR that talked about how close Mr. Maynard was. Isn't that right?
A. I don't –
MS. MOORE: Objection, form.
THE DEPONENT: I don't know who COPA talked to.
BY MR. BENAK:
Q. I'm saying that from the people you do

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know. I'm not asking you to speculate whether or not there was any other witness. From the people you know who investigated this, there was no mention in the TRR of how close Mr. Maynard was, was there?
MS. MOORE: Objection, form, assumes facts.
Go ahead and answer.
THE DEPONENT: No.
BY MR. BENAK:
Q. So there was no basis on which – from what you know, no basis on which COPA could conclude that excessive force was used here. Isn't that true?
MS. MOORE: Objection, form, assumes facts, foundation, competency.
BY MR. BENAK:
Q. Based on your experience and your involvement in this case?
A. I knew that COPA would be coming out and doing a canvas and doing – it's their investigation. So I don't know who they talked to. I know that they would talk to Mr. Maynard and then everybody that was over there.
Q. Okay.
A. So I don't know what their investigation

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revealed.
Q. I understand that. Sit all of what COPA would do aside. I'm just talking about what you did, what your investigators did. Based on what you put in the TRR, there was no –
A. There was nothing indicating that – how close he was. That's correct.
Q. And wouldn't being close be an indication of whether or not the force was unreasonable, Sergeant?
MS. MOORE: Objection.
THE DEPONENT: No.
BY MR. BENAK:
Q. It wouldn't?
A. No.
Q. So you think that six inches is the same as 30 feet as far as excessive force is concerned?
MS. MOORE: Objection, form, calls for a legal conclusion, foundation, competency –
BY MR. BENAK:
Q. Your experience, Sergeant –
MS. MOORE: – asked and answered –
BY MR. BENAK:
Q. – that's all I'm asking for.
MS. MOORE: – argumentative.

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THE DEPONENT: It doesn't. The distance he was from Officer Mostek would not have determined. If there was nobody out there and she discharged her weapon with nobody out there, COPA can make a determination that the use of force was unreasonable.
BY MR. BENAK:
Q. It could, but in fact, there was another player here, wasn't there? Mr. Mayard was there.
A. There was and you keep asking me whether the distance plays. It doesn't in the use of force.
Q. I just want to make sure I understand your testimony. You're telling the court, because that's where this is going, that in your opinion, it doesn't matter whether he was 30 feet away or six inches away as to the issue of excessive force?
MS. MOORE: Objection.
By MR. BENAK:
Q. I just want to make sure I'm clear.
MS. MOORE: Objection, calls for a legal conclusion, foundation, competency –
MR. BENAK: I'm not asking for legal conclusion.
By the way, counsel, I'm asking for his experience.

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MS. MOORE: You're asking about excessive force, which is –
MR. BENAK: I am.
MS. MOORE: – a claim in this case and there are legal –
BY MR. BENAK:
Q. Based on your experience –
MR. BENAK: No, it's the rules.
BY MR. BENAK:
Q. The rules that govern your actions, Sergeant, both as an officer, as a sergeant, as a supervisor, you're telling the court that the issue of excessive force doesn't depend in any event on whether he's on the corner or whether he's on the ground within six inches of the pistol. Is that your testimony?
MS. MOORE: Same objections, argumentative, asked and answered.
Go ahead.
THE DEPONENT: It would – a lot of it – it all depends on her perception of what the threat was. I can't make that determination, but if COPA rules that the shooting was justified or use of excessive force, it doesn't play in what the distance were.

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BY MR. BENAK:
Q. So you understand that the question of excessive force is an objective standard, don't you, Sergeant? That's stated right in the rules.
A. Yes.
Q. And you can make that determination looking at what happened, but you've decided to testify here that it was up to her?
MS. MOORE: Objection, form, misstates his testimony.
THE DEPONENT: It's her perception of the threat. BY MR. BENAK:
Q. Okay. Why was it, do you suppose in your experience, Sergeant, that none of the officers on the scene came to you with witness statements?
MS. MOORE: Objection, calls for speculation.
BY MR. BENAK:
Q. I mean, we will ask them too, but you're the supervisor, so I want to know why do you suppose they didn't come to tell you?
MS. MOORE: Go ahead.
THE DEPONENT: The only one that I knew that was on scene when this incident happened was Officer Mostek and Mr. Maynard.

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BY MR. BENAK:
Q. Understood. But you had –
A. There's nobody else that indicated to me that there was other witnesses.
Q. Right. They didn't indicate to you?
A. Correct.
Q. Any idea why they didn't?
A. I couldn't say why they wouldn't.
Q. Well, for instance, we have the one woman who said that she wanted to help him out to make a statement, and Officer Zhao said the sergeant would be in touch. That never happened, did it?
A. I never –
MS. MOORE: Objection, calls for speculation.
By MR. BENAK:
Q. Go ahead.
A. I was never informed that there was somebody who wanted to tell what happened or had any other information.
Q. I understand, Sergeant. And we're beating around the bush here. My question is why do you suppose none of the officers came forward with the information they'd learned at the scene?
MS. MOORE: Objection, asked and answered.

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THE DEPONENT: I can't answer that.
BY MR. BENAK:
Q. No, you can't. Well, let's go on and take a look at Exhibit 11 one more time. So Officer Mostek says, "Hopefully it gets squashed."
Did you know that Officer Mostek was trying to convince Ken Maynard's landlord to evict him?
A. Was I aware that Officer Mostek was trying to get the landlord to evict him?
Q. Did you know that?
A. No.
Q. And then you closed by saying, "Let me know if you need anything." What did you mean?
A. That's what I close a lot of my text message.
MR. BENAK: Let's take a break and then I can wrap up. Just five minutes.
THE VIDEOGRAPHER: The time is 12:45 p.m. We're off the record.
(WHEREUPON, a recess was taken.)
THE VIDEOGRAPHER: The time is 12:54 p.m. We are on the record.
MR. BENAK: So hang on a second. We're playing a composite video that's comprised of video

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clips from different angles that are simultaneously synced. So this is exhibit which?
THE REPORTER: 12.
MR. BENAK: 12.
(WHEREUPON, Exhibit 12 was marked for identification.)
MR. BENAK: Go.
THE REPORTER: Is there a Bates number?
MR. BENAK: No, this is –
(Plaintiff's body-worn camera footage was played.)
MR. BENAK: You can stop it here. Stop it for a second.
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Did you see any of these photos of the dog when you were at – on the scene, Sergeant?
A. I briefly saw the dog – one dog when the sheet was taking off.
Q. Was the call of a person shot consistent with your understanding that there had been a 911 call of a person shot?
A. I believe it was originally dispatched as a person shot.

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MR. BENAK: Go ahead, Kent. Play out the rest of it.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. Have you ever seen this document, Sergeant?
A. I have not.
Q. Have you ever heard the conclusion that COPA determined this case qualifies for the reason of the City of Chicago's release -- excuse me.
MR. MAYNARD: Sorry.
MR. BENAK: That's all right. I'm going to start over again here.
BY MR. BENAK:
Q. "COPA recommends that CPD evaluate the current assignment of the officer and whether administrative duties or relief of powers is warranted during the pendency of this investigation."
Have you ever heard that statement made by COPA?
A. In other circumstances, yes.

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Q. Did COPA tell you that when they conducted their interview with you?
A. They did not.
Q. Do you know what the status of the COPA investigation of Officer Mostek is?
A. No.
Q. Would you ordinarily receive information about the status of one of your officers in a COPA investigation?
MS. MOORE: Objection, form.
THE DEPONENT: If somebody was going to be suspended, I would receive a notification to serve them with that suspension.
BY MR. BENAK:
Q. Now in this case, Officer Mostek is not in your line of authority; is that correct?
A. That's correct.
Q. So you may or may not receive anything about this?
A. That's correct.
Q. But you do, of course, expect to receive the result of the investigation into you?
A. Yes.
MR. BENAK: I want to play one more video. Unplug, please.

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MS. MOORE: I just want to put a request on the record that that Exhibit 12 be sent to us because I don't believe it's been produced.
MR. BENAK: Noted.
MR. THOMPSON: Just for the -- are we on?
Just for the record, Mostek joins with that request.
MR. BENAK: Okay.
BY MR. BENAK:
Q. Okay. We're going to look at one more video, Sergeant. You indicated that you've seen a media report of the dog shooting. I'm wondering if this is the one you saw.
I'm going to play this real quick, see if I can get it expanded onto the screen here.
Yeah, I got to go out here. That's right.
It doesn't want to do it, so let's just play it. I think it's plays where you can see it.
(Plaintiff's body-worn camera footage was played.)
(Plaintiff's body-worn camera footage was stopped.)
BY MR. BENAK:
Q. So my first question is, is that the video you referred to earlier when you said you'd seen --

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A. No.
Q. -- a video on the news?
You saw a different one?
A. I saw from -- I think it was WGNNX.
Q. Have you ever seen that video?
A. I have not.
Q. Do you think there was anything about the video that was inaccurate?
The one we just watched?
MS. MOORE: Objection, form, calls for speculation, foundation.
THE DEPONENT: I wasn't -- I don't know what questions were asked or anything like that. I mean, basically, Officer Mostek shot Mr. Maynard's dog, yes.
MR. BENAK: I have nothing further.
MR. THOMPSON: I don't have any questions.
MR. BECK: Nothing. Thank you.
THE REPORTER: Really quickly --
MS. MOORE: I have questions.
THE REPORTER: Right. That's okay. That last video, you did not enter it.
MR. BENAK: Oh, okay.
THE REPORTER: Is it not going to be entered?

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MR. BENAK: Let's make -- yeah, let's make that an exhibit, too.
THE REPORTER: All right. So then exhibit –
MR. BENAK: Whatever number it is.
THE REPORTER: Okay. So then for Exhibit 13.
MR. BENAK: 13.
(WHEREUPON, Exhibit 13 was marked for identification.)
MS. MOORE: How are we on the – is it the regular angle?
THE VIDEOGRAPHER: Yeah, go ahead.
MS. MOORE: Just don't want to be in the - - okay.
EXAMINATION
BY MS. MOORE:
Q. I just have a few follow-up questions, Sergeant.
First of all, earlier you said that you were describing what a paper card was and you said assigned to do the report. Can you explain what that means?
A. They were assigned to prepare the report for the incident.

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Q. Okay. So literally, go into the form, fill out the information that they have at that time?
A. That is correct.
Q. Anything more than that?
MR. BENAK: Objection.
THE DEPONENT: Making notifications.
BY MS. MOORE:
Q. Okay. And you described what those notifications were, correct?
A. Yes.
Q. Now, when you arrived on scene, we saw your body worn camera. Did you see any of these witnesses in your body worn camera when you arrived on scene?
A. I don't believe I did.
Q. Now, I want to turn to Exhibit 4, the TRR. If you can find that in your stack of exhibits.
Okay. What is the purpose of a tactical response report?
A. When there's a use of force incident, the officer documents their use of force and the reason why they used that particular use of force.
Q. So the purpose of this narrative section and checking off the boxes is for the officer to

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describe why they used force?
A. The force that they used and why they used that force, yes. That's what the narrative portion is.
Q. Okay. Now and this exhibit too is only a portion of the tactical response report; is that correct?
A. I believe there's another section that was completed by the captain.
Q. Correct. So looking at your section, the reviewing supervisor, you wrote in your comments that you have reviewed the tactical response report and affirmed that the report is legible and complete.
That's what you wrote, right?
A. That's correct.
Q. Now complete, what does that mean?
A. It means all the boxes were checked, that the information is filled out in here as far as the officer's name, just that all the boxes are checked.
Q. Okay. So as the reviewing supervisor, you're essentially reviewing the report to make sure the appropriate columns are filled out?
A. That's correct.
Q. In terms of any investigation, that goes

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to the next level, true?
A. That's correct.
Q. Okay. And I'd also just – I believe this is actually not on this report, but – because we don't have the last two pages here. The TRR is filled out right after the incident, true?
A. Correct.
Q. And it actually explicitly states that it is done without further investigation, meaning acknowledges that further things could come to light like more video, things like that, right?
A. That's correct.
Q. Okay. So in terms of this Ring camera, you didn't know when this was being filled out that there was a Ring camera, correct?
A. That's correct.
Q. And the tactical response report itself, even envisioned such a scenario that something could be found later, right?
A. Yes.
Q. And that it would be addressed in other means in a follow-up investigation?
A. Right. Investigating unit that's following up, yes.
Q. Okay. And that is not you?

A. Correct.
Q. Okay. Was it up to you to determine whether the force used here was reasonable?
A. It's not my determination to make.
MS. MOORE: That's all I have.
MR. BENAK: We have nothing.
THE REPORTER: Okay. Before we go off the record, Mr. Benak, are you taking the original?
MR. BENAK: Yes.
THE REPORTER: Okay. And Ms. Moore, a copy?
MS. MOORE: We'll take a copy.
THE REPORTER: And Mr. Thompson, would you like a copy?
MR. THOMPSON: No, thank you.
THE REPORTER: Okay. Thank you.
MS. MOORE: And then we'll reserve.
THE VIDEOGRAPHER: Okay. Then I'm going to take orders for video. So he would like a copy of the original. Okay.
Then Moore, a copy of the video?
MS. MOORE: Yeah, we'll take a copy of this.
THE VIDEOGRAPHER: And then anybody else? Anybody else?

All right. Let me take us off. All right. Please stand by.
The time is 1:12 p.m. We are off the record.
(WHEREUPON, the deposition of JAMES BUTLER was concluded at 1:12 p.m.)

CERTIFICATE

I, the undersigned Tim Baron, am a videographer on behalf of NAEGELI Deposition & Trial. I do hereby certify that I have accurately made the video recording of the deposition of Sgt. James E. Butler, in the above captioned matter on the 21st day of February, 2025 taken at the location of 225 W Washington Street Chicago, IL 60606.

No alterations, additions, or deletions were made thereto.

I further certify that I am not related to any of these parties in the matter and I have no financial interest in the outcome of this matter.

Tim Baron

CERTIFICATE

I, Sylvia Palacios, do hereby certify that I reported all proceedings adduced in the foregoing matter and that the foregoing transcript pages constitutes a full, true and accurate record of said proceedings to the best of my ability.

I further certify that I am neither related to counsel or any party to the proceedings nor have any interest in the outcome of the proceedings.

IN WITNESS HEREOF, I have hereunto set my hand this 12th day of March, 2025.

Sylvia Palacios

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CORRECTION SHEET
Deposition of: Sgt. James E. Butler Date: 02/21/25
Regarding: Maynard vs. City of Chicago
Reporter: Palacios/Brown
_____
Please make all corrections, changes or
clarifications to your testimony on this sheet,
showing page and line number.
If there are no changes, write "none" across the
page. Sign this sheet and the line provided.
Page Line Reason for Change
____ ____ _____
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____ ____ _____
Signature: _____
Sgt. James E. Butler

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Date: 02/21/2025 Assignment #: 82562
Deponent: Sgt. James E. Butler
Case: KENT MAYNARD vs CITY OF CHICAGO

ATTORNEY - TRANSCRIPT ENCLOSED:
signature of your client is required. Please have your client
make any corrections necessary. Sign the Correction Sheet
where indicated. Forward a COPY of the executed Correction
Sheet directly to the attorney(s) listed below. (The Address(es)
can be found on the Appearance page of the deposition.) Also,
send a COPY of the executed Correction Sheet to our corporation.

C C:Naegeli Deposition and Trial

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DECLARATION
Deposition of: Sgt. James E. Butler Date: 02/21/2025
Regarding: KENT MAYNARD vs CITY OF CHICAGO
Reporter: Sylvia I. Palacios
_____

I declare under penalty of perjury the following to be
true:

I have read my deposition and the same is true and
accurate save and except for any corrections as made
by me on the Correction Sheet herein.

Signed at _____, _____
on the _____ day of _____, 20____.

Signature: _____
Sgt. James E. Butler

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EXHIBIT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION

KENT MAYNARD, JR.,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 24-cv-03612
	)	
THE CITY OF CHICAGO, a municipal corporation, and Chicago Police Officer CARMEN MOSTEK (Star 8664),	)	District Judge Elaine E. Bucklo
	)	Magistrate Judge Young B. Kim
	)	
Defendants.	)	

DECLARATION OF LIEUTENANT ROBERT FLORES

I, Lieutenant Robert Flores, declare under penalty of perjury, that the following facts are true and correct to the best of my knowledge:

1. I have personal knowledge of, and am competent to testify to, the facts stated in this Declaration.

2. I am employed with the Chicago Police Department ("CPD") as a Lieutenant in CPD's Bureau of Internal Affairs, and I am familiar with CPD's policies, rules, and regulations that are applicable to all sworn department members of CPD. I have been employed with CPD for thirty-two (32) years.

3. In my role as a Lieutenant with the Bureau of Internal Affairs ("BIA"), CPD's BIA office is responsible for investigating allegations of misconduct against department members that do not fall within the jurisdiction of the Civilian Office of Police Accountability.

4. I was designated as a 30(b)(6) witness in this matter on the topic of rules, regulation, policies, and procedures of the Chicago Police Department of off-duty CPD officers and specifically, use of fore by off-duty Chicago Police Officers.

5. CPD policies and directives apply to all department members, at all times, regardless of whether they are on-duty or off-duty. All sworn department members are expected to comport themselves in a manner consistent with department rules, including rules regarding use of force, firearm discharge, and post-incident responsibilities.

6. For example, General Order 03-06 titled Firearm Discharge and Officer-Involved Death Incident Response and Investigation, attached hereto as Exhibit K, requires that following any firearm discharge, the involved member must remain on scene, protect and secure the scene until supervisory personnel arrive, request medical attention for the injured, holster and secure

their firearm, and cooperate with the supervisory investigation. All officers on or off-duty are expected to comply with these requirements in the event of a firearm discharge. Ex. K. at FCRL002266-002267.

7. I am aware that Carmen Mostek did not stay on scene, which is more akin to the actions of a civilian and not the expectation of an on-duty or off-duty sworn department member.

8. Special Order 04-12 titled Incidents Involving Animals, attached hereto as Exhibit L, informs department members of the procedures related to enforcing laws relating to animals, outlines procedures for the inventory of animals, and delineates the notifications required when handling animal-related incidents. Ex. L at FCRL002382.

9. Pursuant to Section V of Special Order 04-12, a department member who observes or responds to a complaint of a dead or destroyed animal, the member will request Department of Streets and Sanitation removal of the animal through OEMC. Ex. L at FCRL002378.

10. However, the fact that CPD policies apply to officers at all times does not mean that the officer is acting within the performance of their duties at any given moment.

11. BIA investigations into police conduct concern whether department members acted consistently with department directives and do not concern scope of employment.

12. For example, if an off-duty officer becomes intoxicated and gets into a bar fight out of state, CPD would still evaluate whether the officer's conduct complied with CPD policies and directives, such as prohibitions on alcohol-related misconduct or required notifications. This evaluation occurs regardless of whether the officer was engaged in police action.

13. I declare that, to the best of my knowledge and belief, the information contained herein is true, accurate and complete.

Pursuant to 28 U.S.C. §1746, I state under penalty of perjury that the foregoing is true and correct.

Dated: 11 SEPT 2025

Lt Robert A Flores

Lieutenant Robert Flores
Chicago Police Department

EXHIBIT

Chicago Police Department

General Order G03-06

FIREARM DISCHARGE AND OFFICER-INVOLVED DEATH INCIDENT RESPONSE AND INVESTIGATION

ISSUE DATE:	31 December 2020	**EFFECTIVE DATE:**	15 April 2021
RESCINDS:	29 February 2020 version		
INDEX CATEGORY:	03 - Field Operations		
CALEA:			

I. PURPOSE

This directive:

A. outlines the investigative authority, response procedures, and investigative responsibilities for:

1. officer-involved deaths pursuant to the Illinois Police and Community Relations Improvement Act (50 ILCS 727).

2. firearm discharge incidents involving sworn members.

NOTE: *The Department has determined extraordinary circumstances demand an immediate revision or clarification to this policy. The Department will work collaboratively with the Independent Monitoring Team (IMT) and the Office of the Attorney General (OAG) to review and modify the procedures and responsibilities established by this directive, as appropriate. While this review is being conducted and until a revised directive is published, the procedures established by this directive remain in effect.*

B. satisfies CALEA Law Enforcement Standard Chapters 4 and 41.

II. VERBATIM TEXT OF PERTINENT SUB-SECTIONS FROM ILLINOIS COMPILED STATUTES (ILCS)

A. 50 ILCS 727/1-5 "Definitions". As used in this Act:

1. "Law enforcement agency" means an agency of this State or unit of local government which is vested by law or ordinance with the duty to maintain public order and to enforce criminal laws or ordinances.

2. "Law enforcement officer" or "officer" means any person employed by a State, county, or municipality as a policeman, peace officer, or in some like position involving the enforcement of the law and protection of public interest at the risk of the person's life.

3. "Officer-involved death" means any death of an individual that results directly from an action or directly from an intentional omission, including unreasonable delay involving a person in custody or intentional failure to seek medical attention when the need for treatment is apparent, of a law enforcement officer while the officer is on duty, or otherwise acting within the scope of his or her employment, or while the officer is off duty, but performing activities that are within the scope of his or her law enforcement duties. "Officer-involved death" includes any death resulting from a motor vehicle accident, if the law enforcement officer was engaged in law enforcement activity involving the individual or the individual's vehicle in the process of apprehension or attempt to apprehend.

B. 50 ILCS 727/1-10 Investigation of officer-involved deaths; requirements.

1. (a) Each law enforcement agency shall have a written policy regarding the investigation of officer-involved deaths that involve a law enforcement officer employed by that law enforcement agency.

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2. (b) Each officer-involved death investigation shall be conducted by at least 2 investigators, or an entity or agency comprised of at least 2 investigators, one of whom is the lead investigator. The lead investigator shall be a person certified by the Illinois Law Enforcement Training Standards Board as a Lead Homicide Investigator, or similar training approved by the Illinois Law Enforcement Training Standards Board or the Department of State Police, or similar training provided at an Illinois Law Enforcement Training Standards Board certified school. No investigator involved in the investigation may be employed by the law enforcement agency that employs the officer involved in the officer-involved death, unless the investigator is employed by the Department of State Police and is not assigned to the same division or unit as the officer involved in the death.

3. (c) In addition to the requirements of subsection (b) of this Section, if the officer-involved death being investigated involves a motor vehicle accident, at least one investigator shall be certified by the Illinois Law Enforcement Training Standards Board as a Crash Reconstruction Specialist, or similar training approved by the Illinois Law Enforcement Training Standards Board or the Department of State Police, or similar training provided at an Illinois Law Enforcement Training Standards Board certified school. Notwithstanding the requirements of subsection (b) of this Section, the policy for a law enforcement agency, when the officer-involved death being investigated involves a motor vehicle collision, may allow the use of an investigator who is employed by that law enforcement agency and who is certified by the Illinois Law Enforcement Training Standards Board as a Crash Reconstruction Specialist, or similar training approved by the Illinois Law Enforcement Training and Standards Board, or similar certified training approved by the Department of State Police, or similar training provided at an Illinois Law Enforcement Training and Standards Board certified school.

4. (d) The investigators conducting the investigation shall, in an expeditious manner, provide a complete report to the State's Attorney of the county in which the officer-involved death occurred.

5. (e) If the State's Attorney, or a designated special prosecutor, determines there is no basis to prosecute the law enforcement officer involved in the officer-involved death, or if the law enforcement officer is not otherwise charged or indicted, the investigators shall publicly release a report.

III. POLICY

A. **Sanctity of Human Life.** *The Department's highest priority is the sanctity of human life. The concept of the sanctity of human life is the belief that all human beings are to be perceived and treated as persons of inherent worth and dignity, regardless of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military status, immigration status, homeless status, source of income, credit history, criminal record, criminal history, or incarceration status. Department members will act with the foremost regard for the preservation of human life and the safety of all persons involved.* All incidents will be resolved with the foremost regard for the preservation of human life and the safety of all persons involved.

B. The Department recognizes that firearms discharge and officer-involved death incidents are traumatic events and is committed to treating all impacted with dignity and respect.

C. Consistent with existing Department Rules and Regulations on the dissemination of information, the actions of Department members will not unreasonably impede or delay access to information for the families of individuals who have been injured or the deceased.

D. No Department member below the rank of captain will direct any investigation into a firearm discharge or officer-involved death incident.

E. For the purposes of the procedures and responsibilities of this directive:

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1. an "officer-involved death incident" is any incident involving the death of or potentially life-threatening injury to one or more members of the public, where such death or injury resulted directly from an action or intentional omission of a Department member who was on duty or otherwise acting within the scope of his or her employment or duty.

2. a "firearm discharge incident" is any incident where a sworn Department member has discharged a firearm consistent with the Department directive titled "Firearm Discharge Incidents - Authorized Use and Post-Discharge Administrative Procedures."

F. Firearm discharge and officer-involved death incident investigations remain bound by the involved members' respective collective bargaining agreement(s) and the Department directive titled "Department Member Bill of Rights," including the timeliness of documented formal statements.

G. *The Department strictly prohibits its members from engaging in any form of retaliation, intimidation, or coercion against Department members or members of the public for reporting alleged misconduct or for supporting, assisting in, or cooperating with any complaint or misconduct investigation, including the investigation of firearm discharge and officer-involved death incident, consistent with the Department directive titled "Prohibition of Retaliation."*

IV. INVESTIGATIVE AUTHORITY

A. To ensure the proper coordination of activities and investigations of firearm discharge and officer-involved death incidents, the assigned *designated exempt-level incident commander* responsible for the investigation, the appropriate Bureau of Detectives Area supervisor, the *Incident Response Team (IRT)* supervisor, and the responding Civilian Office of Police Accountability (COPA) personnel will confer and coordinate at the scene about the conduct of on-scene investigative activity.

B. **COPA.** Pursuant to the Municipal Code of Chicago, the Civilian Office of Police Accountability (COPA) will:

1. conduct investigations into all incidents, including those in which no allegation of misconduct is made, in which a Department member discharges a firearm in a manner that potentially could strike another individual (Section 2-78-120(c)).

NOTE: This investigative authority includes incidents where a Department member discharges a firearm and has struck another individual.

2. have jurisdiction and conduct investigations into all incidents of an officer-involved death as defined by and consistent with the Police and Community Relations Improvement Act (50 ILCS 727/1-5) (Section 2-78-120(e)).

NOTE: This investigative authority includes incidents where a member is off duty but performing activities that are within the scope of his or her law enforcement duties.

C. **Chicago Police Department.**

1. The *designated exempt-level incident commander* will oversee the Department's on-scene investigative responsibilities into the underlying criminal conduct of non-Department members and the officer-involved death or firearm discharge incident, excluding a firearm discharge solely for the destruction/deterrence of an animal with no human injuries. This includes shots fired at a Department member, the unintentional discharge of a firearm, and all firearms discharge incidents with injuries, whether on or off duty.

2. For firearms discharge incidents solely for the destruction/deterrence of an animal with no human injuries, the district executive officer (XO) of the district of occurrence, the rank of captain, will respond and assume command of the investigation. If the district XO is not on duty, the commander of the district of occurrence will respond and assume command.

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3. When the involved member is the same rank or higher than the incident commander responsible for the investigation designated above, the *designated exempt-level incident commander,* will assume the investigating command personnel responsibilities. When the involved member is the *designated exempt-level incident commander* or a member the rank of deputy chief or above, the Chief, *Bureau of Patrol,* will assume the investigating command personnel responsibilities.

4. The on-scene *designated exempt-level incident commander* responsible for the investigation will coordinate the Department's on-scene law enforcement related activities related to:

   a. the preservation of public safety.

   b. the investigation of any underlying criminal offenses by non-Department members.

   c. the Department's response, actions, and, if applicable, investigative responsibility, for other non-criminal incidents resulting in an officer-involved death (e.g., suicide in custody).

   d. motor vehicle crashes resulting in an officer-involved death (as defined by the Police and Community Relations Improvement Act, 50 ILCS 727) for which COPA will serve as the lead investigative agency.

5. The *Incident Response Team* is responsible for conducting the Department's investigation into the underlying criminal conduct of non-Department members and the officer-involved death or firearm discharge incident, excluding a firearm discharge solely for the destruction/deterrence of an animal with no human injuries.

D. The criminal investigation of non-Department members associated with the firearms discharge or officer-involved death incident involving a sworn member will be conducted concurrently with the COPA investigation.

NOTE: In instances that a firearm discharge incident has occurred that does not involve the death or potential life-threatening injury of a non-Department member, the Department investigation may take precedence over the COPA investigation.

E. When a firearm discharge or an officer-involved death incident requires more than one concurrent investigation, the responsibilities of the lead agencies are as follows:

1. Any on-scene activities required to ensure public safety, preserve evidence, and secure the incident scene will be commenced immediately and led and coordinated by Department personnel consistent with the procedures outlined in the Department directive titled "Preliminary Investigations." These activities will take precedence over any other investigation.

2. *COPA has the primary responsibility and authority for* investigations into the actions of any Department member in relation to the firearm discharge or officer-involved death and *the investigation* will be conducted by COPA personnel.

   a. Nothing within the law prevents the Department from conducting an internal review of firearm discharge or officer-involved death incidents to address Department policy, training, tactical, and equipment considerations.

   b. The Department will conduct an internal review of use of force incidents consistent with the Department directive titled "Department Review of Use of Force."

3. The investigation of the underlying criminal offense involving non-Department members will be led and coordinated by Department personnel. This investigation will:

   a. not interfere with or obstruct the investigation conducted under the requirements of 50 ILCS 727/1-10;

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b. be conducted by the Bureau of Detectives, *Incident Response Team* which will report to and coordinate with the assigned *designated exempt-level incident commander*;

c. be assisted by the appropriate Bureau of Detectives Area personnel who will report to and coordinate with the assigned *designated exempt-level incident commander*;

d. be conducted independently and consistent with the procedures established by the Chief, Bureau of Detectives.

F. When a member of the public has sustained potential life-threatening injuries that resulted directly from an action or intentional omission of a Department member who was on duty or otherwise acting within the scope of his or her employment, and the action or omission does not otherwise fall within COPA's jurisdiction, the *designated exempt-level incident commander* will coordinate the investigation of the incident and confer with COPA's investigative personnel to assess what, if any, investigative activities will be led by or otherwise involve COPA personnel.

G. For any firearm discharge or officer-involved death incidents occurring within the City of Chicago involving a law enforcement officer employed by a law enforcement agency other than the Department, the Chicago Police Department will conduct all investigative activities related to the incident and when applicable, perform all of the duties required by the Police and Community Relations Improvement Act (50 ILCS 727). Federal law enforcement agencies and law enforcement agencies from outside of Illinois are not governed by the act and any investigation into an officer-involved death incident or the use of deadly force will be investigated under the jurisdiction of the involved agency. The Chicago Police Department will provide assistance, as needed.

V. IMMEDIATE NOTIFICATIONS

For all firearm discharge and officer-involved death incidents:

A. the involved member(s) will immediately notify the Office of Emergency Management and Communications (OEMC) providing all relevant information and requesting additional resources.

NOTE: If the firearm discharge or officer-involved death incident occurs outside the City of Chicago, the member will also notify the law enforcement agency having jurisdiction and the Chicago Police Department's Crime Prevention and Information Center (CPIC).

B. OEMC will notify the:

1. involved member's immediate supervisor.
2. field supervisor and the watch operations lieutenant from the district of occurrence.
3. CPIC.

C. CPIC will notify the following via email and phone communication:

1. the *designated exempt-level incident commander (through the Office of the First Deputy Superintendent).*
2. the commander of the district of occurrence.
3. COPA personnel.
4. the commander of the affected Bureau of Detectives area.
5. Bureau of Detectives Incident Response Team.
6. the area deputy chief, *Bureau of Patrol.*
7. *the Commander, Force Review Division.*
8. the involved member's commanding officer.
9. Major Accident Investigation Section, when appropriate.

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10. Bureau of Internal Affairs (BIA) call-out supervisor, for firearm discharge incidents.

11. any other units or agencies as appropriate and consistent with CPIC procedures.

VI. IMMEDIATE RESPONSIBILITIES

The following immediate procedures will be followed for all firearm discharge or officer-involved death incidents:

A. **Initial Incident Response.** Upon being notified of firearm discharge or an officer-involved death incident, OEMC will:

1. dispatch sufficient district law enforcement units to the scene.

2. when appropriate, notify the Chicago Fire Department to dispatch emergency medical service units to the scene.

3. assign a field supervisor from the district of occurrence to the scene. If a member has been injured, OEMC will assign a supervisor to respond to the medical facility treating the injured member.

4. not broadcast the name of a Department member who has been involved in a firearm discharge incident or an officer-involved death incident over the police radio.

B. **Involved Member.** The member(s) involved in a firearm discharge or an officer-involved death incident, if physically capable, will:

1. immediately request medical attention for the injured *and, as soon as it is safe and feasible to do so, provide life saving aid consistent with their Department training, including the Law Enforcement Medical and Rescue Training (LEMART) training, to persons injured by a Department member's use of force until medical professionals arrive on scene.*

   a. *Department members may provide appropriate medical care consistent with their training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid and/or arranging for transportation to an emergency medical facility.*

   b. *If the scene is safe and the person in custody is secure, Department members will not interfere with emergency medical personnel when providing treatment to injured persons.*

2. attend to all required emergency and security duties arising from the incident, including crime scene protection, until the arrival of responding supervisory personnel.

3. remain on the scene, if not injured, and report to a field supervisor from the district of occurrence upon his or her arrival.

   EXCEPTION: Any involved member in need of immediate medical treatment will seek such treatment, and thereafter, make themselves available to confer with the *designated exempt-level incident commander* responsible for the investigation.

4. not deactivate his or her activated Department-issued recording equipment (e.g., In-Car Video Systems, Body Worn Cameras) until so directed by an on-scene supervisor in accordance with the procedures delineated in the Department directives titled "Body Worn Cameras" and "In-Car Video Systems."

   NOTE: The Body Worn Camera of the involved member will be secured consistent with the Department directive titled "Body Worn Cameras."

5. for firearm-discharge incidents:

   a. ensure that his or her firearm remains holstered and secured until it is submitted to Forensic Services Division personnel.

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NOTE: If the involved member is injured and needs to be immediately relieved of his or her firearm prior to receiving medical treatment, another Department member will take possession of the firearm and duty belt and ensure that the firearm remains holstered and secured, until the arrival of the responding supervisor.

b. preserve the firearm as evidence for processing in accordance with the Department directive titled "Crime Scene Protection and Processing," if disarmed during a firearm discharge incident or if the firearm may otherwise contain biological or other trace-matter evidence.

6. cooperate with the public safety investigation conducted by a supervisor by providing an oral response to the public safety questions to ensure public safety, preserve evidence, and secure the incident scene. Consistent with the Department directive titled "Preliminary Investigations," the public safety investigation will consist of general safety questions concerning:

a. any injuries sustained by the member or other individuals.

b. whether weapons were discharged, either by Department members or other individuals, what type of weapons, and the direction of the discharges.

c. whether subjects are still at large, their descriptions, direction of travel, and alleged criminal offense(s).

d. the identification and location of any victims, offenders, witnesses, or evidence.

e. information about any involved vehicles, including damage to vehicles or vehicle-related safety concerns.

f. any officer-wellness related matters.

NOTE: Department members will ensure Department-issued recording equipment (e.g., In-Car Video Systems, Body Worn Camera) are deactivated before providing oral responses to the public safety questions as delineated in the Department directives titled "Body Worn Cameras" and 'In-Car Video Systems."

7. not view their in-car or body-worn camera videos until authorized by an on-scene supervisor, in consultation with the *Incident Response Team* investigator, and consistent with the restrictions outlined in Item X-C of this directive.

8. *be responsible for the safety and security of persons in their custody. Department members are reminded that a subject will be searched and restrained in such a manner as to prevent escape and to provide for the safety of the public, the person in custody, and the officers involved. Consistent with the above requirement, Department members will assess the necessity to apply restraining devices (handcuffs) to subjects, including not applying restraining devices to subjects who are known to be deceased.*

C. **Reviewing Supervisor.** The assigned reviewing supervisor from the district of occurrence will:

1. proceed immediately to the scene and assume command and oversight of the scene until relieved by a higher ranking supervisor from district law enforcement or the *designated exempt-level incident commander*.

NOTE: An assigned supervisor will remain on scene with sufficient information to fully brief the responding *designated exempt-level incident commander* responsible for the investigation, if applicable.

2. ensure sufficient district law enforcement units are available at the scene and request additional personnel or equipment as necessary, including the assignment of the *designated exempt-level incident commander* responsible for the investigation.

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3. ensure the appropriate medical attention is requested and, *as soon as it is safe and feasible to do so, provide life saving aid consistent with their Department training, including the Law Enforcement Medical and Rescue Training (LEMART) training, to persons injured by a Department member's use of force until medical professionals arrive on scene.*

   a. *Department members may provide appropriate medical care consistent with their training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid and/or arranging for transportation to an emergency medical facility.*

   b. *If the scene is safe and the person in custody is secure, Department members will not interfere with emergency medical personnel when providing treatment to injured persons.*

4. ensure the public safety investigation is conducted to ensure public safety, preserve evidence, and secure the incident scene consistent with the Department directive titled "Preliminary Investigations," including:

   a. securing the scene;

   b. addressing any injuries and public safety issues; and

   c. identifying and securing any victims, offenders, witnesses, and evidence.

5. establish an inner and outer perimeter at the scene of the incident as soon as practicable.

   a. The inner perimeters are the areas at the scene of the incident where physical evidence is likely to be recovered.

   b. The outer perimeters are the areas surrounding and encompassing the inner perimeters where assigned personnel can be briefed and deployed.

   c. The reviewing supervisor will ensure access to the specific areas of the crime scene is as delineated in the Department directive titled "Crime Scene Protection and Processing."

D. **Responding Department Members.** Department members responding to the scene will report to the on-scene supervisor and will perform all actions necessary to address the immediate needs of the scene, including:

1. immediately requesting medical attention for the injured *and, as soon as it is safe and feasible to do so, providing life saving aid consistent with their Department training, including the Law Enforcement Medical and Rescue Training (LEMART) training, to persons injured by a Department member's use of force until medical professionals arrive on scene.*

   a. *Department members may provide appropriate medical care consistent with their training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid and/or arranging for transportation to an emergency medical facility.*

   b. *If the scene is safe and the person in custody is secure, Department members will not interfere with emergency medical personnel when providing treatment to injured persons.*

2. securing the scene of the incident, including identifying and securing evidence.

3. locating and apprehending any offenders.

4. identifying and securing witnesses, to the extent reasonably possible and lawfully permitted.

E. **District of Occurrence Command.**

1. The district executive officer of the district of occurrence, when on duty, will respond to and assume command of a firearm discharge or an officer-involved death incident until relieved of responsibility by a higher ranking member from district law enforcement or the *designated exempt-level incident commander.*

2. If the district XO is not on duty, the commander of the district of occurrence will respond and assume command.

F. **COPA.** Upon notification of a firearm discharge or officer-involved death incident as defined by 50 ILCS 727, *COPA personnel, in accordance with Item IV-B of this directive*, will immediately respond to the incident scene to initiate *and conduct the investigation* consistent with COPA's jurisdiction.

VII. POST-INCIDENT RESPONSIBILITIES

The following procedures will be followed for all firearm discharge or officer-involved death incidents, after the scene has been secured, notifications have been made, and investigative personnel have arrived at the scene.

A. **Involved Members.** All involved Department members, if physically capable, will:

1. remain on scene until released by the *designated exempt-level incident commander* responsible for the investigation or directed to a different location for the completion of the investigation, in coordination with the *Incident Response Team* and COPA.

2. remain separate from and avoid any contact or communication with any other involved members or witnesses until released by the *designated exempt-level incident commander* responsible for the investigation, in coordination with COPA.

3. report to the *designated exempt-level incident commander* responsible for the investigation upon his or her arrival and cooperate with any additional public-safety-related questions as consistent with consistent with the Department directive titled "Preliminary Investigations."

4. not discuss the facts of the incident **with any other involved members or witnesses**, until interviewed by COPA.

EXCEPTION: **This prohibition does not restrict communication:**

a. for officer or public safety (e.g., identifying criminal acts, tactical information), including during the completion of the public safety investigation.

b. as instructed by counsel in relation to civil, criminal, or administrative proceedings.

c. when participating in any wellness or stress management programs.

d. This prohibition will not continue beyond 60 days from the date of the incident, unless COPA extends the prohibition.

e. COPA may extend this prohibition, for additional 60 day periods, **on an individual basis and only when it is determined to be necessary to preserve the integrity of the investigation.**

f. If this prohibition is extended, **the above exceptions remain applicable** and COPA will provide the member with an official notification and the parameters of the extension.

g. Under no circumstances will this prohibition be extended beyond the final disciplinary decision of the investigation.

NOTE: Final disciplinary decision is defined as the conclusion of the process for disciplinary recommendations described in the Municipal Code of Chicago Section 2-78-130(a).

5. continue to follow the existing procedures based on the nature of the incident, including but not limited to:

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a. "De-escalation, Response to Resistance, and Use of Force"

b. "Firearm Discharge Incidents - Authorized Use and Post-Discharge Administrative Procedures"

c. "Emergency Use of Department Vehicles"

d. "Traffic Crashes Involving Department Members"

e. "Miscellaneous Detention Facility Topics"

6. be afforded the opportunity, prior to completing incident reports or other documentation, to listen to any audio and view any video contained on the Department-issued recording equipment (e.g., In-Car Video Systems and Body-Worn Cameras) that contains audio or video of the incident. This applies solely to audio and video captured from the perspective of the member making the statement (e.g., the Body-Worn Camera worn by the member and In-Car Video footage taken while the member was in the relevant vehicle). Any listening to such audio or viewing such video must be disclosed by the member or his or her supervisor in the reports and documentation related to the incident. Such information will be documented on the case report, Tactical Response Report (TRR), and any other applicable Department reports completed for the incident.

7. when applicable, truthfully and completely report each reportable use of force on a Tactical Response Report (TRR) (CPD-11.377), consistent with the Department directive titled "Incidents Requiring the Completion of a Tactical Response Report," and other reports at the location designated by the *designated exempt-level incident commander* responsible for the investigation.

NOTE: A member that has discharged a firearm **WILL NOT** be required to complete the "Narrative" section of the TRR for any firearms discharge incidents (with or without injury).

8. complete any required reports to document the incident by truthfully and completely describing the facts and circumstances concerning the incident and submit the reports by the end of his or her tour of duty.

B. **Witness Members.** Any member, whether on or off duty, who did not discharge a firearm nor was involved in an officer-involved death incident, but who observed or was present during the incident or who has been fired upon will:

1. remain on scene until released *designated exempt-level incident commander* responsible for the investigation or directed to a different location for the completion of the investigation, in coordination with the Incident Response Team and COPA.

2. remain separate from and avoid any contact or communication with any other involved members or witnesses until released by the *designated exempt-level incident commander* responsible for the investigation, in coordination with COPA.

3. report to the *designated exempt-level incident commander* responsible for the investigation upon his or her arrival and provide the investigative personnel with required information and assistance.

4. not discuss the facts of the incident **with any other involved members or witnesses**, until interviewed by COPA.

EXCEPTION: **This prohibition does not restrict communication:**

a. for officer or public safety (e.g., identifying criminal acts, tactical information), including during the completion of the public safety investigation.

b. as instructed by counsel in relation to civil, criminal, or administrative proceedings.

c. when participating in any wellness or stress management programs.

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d. This prohibition will not continue beyond 60 days from the date of the incident, unless COPA extends the prohibition.

e. COPA may extend this prohibition, for additional 60 day periods, **on an individual basis and only when it is determined to be necessary to preserve the integrity of the investigation**.

f. If this prohibition is extended, **the above exceptions remain applicable** and COPA will provide the member with an official notification and the parameters of the extension.

g. Under no circumstances will this prohibition be extended beyond the final disciplinary decision of the investigation.

NOTE: Final disciplinary decision is defined as the conclusion of the process for disciplinary recommendations described in the Municipal Code of Chicago Section 2-78-130(a).

5. complete any required reports to document the incident by truthfully and completely describing the facts and circumstances concerning the incident and submit the reports by the end of his or her tour of duty.

C. **Reviewing Supervisor.** The assigned reviewing supervisor from the district of occurrence will:

1. after the completion of the public safety investigation and the scene is safe and secure, promptly contact CPIC from the scene to confirm the notifications listed in Item V-C have been made and provide CPIC with additional relevant or updated incident information, if known.

2. ensure the involved and witness members remain separate from each other, including being transported separately from the scene, and monitored to avoid any contact or communication with any other involved members or witnesses until released by the *designated exempt-level incident commander* responsible for the investigation, in coordination with COPA.

NOTE: When feasible, involved and witness members will be monitored by supervisory personnel of higher rank.

3. ensure witnesses and other persons (Department member or non-Department member) who may have relevant information are made available to the on-scene *designated exempt-level incident commander, Incident Response Team* and COPA personnel for on-scene interviews.

4. when feasible, ensure all Department and non-Department vehicles involved in the incident remain undisturbed until Forensic Services Division personnel, the *designated exempt-level incident commander* , and COPA assess the need for and complete any forensic processing.

5. ensure a sworn Department member, other than the involved member, has been assigned to conduct the preliminary investigation, prepare the original case report, relay additional information to investigating units, and make the appropriate notifications, including to the Medical Examiner's Office for officer-involved deaths.

6. ensure written reports are generated and submitted to document on-scene investigative activities performed by district law enforcement personnel, such as searches for firearms or other physical evidence, and review all written reports generated by district law enforcement personnel submitted during the preliminary investigation.

7. ensure that the name, star number, and unit of assignment of all Department members and the name and organizational affiliation of all non-Department personnel (e.g., COPA) who have arrived on the scene, including the time of arrival, or who enter the crime scene are documented in accordance with the Department directives titled "Preliminary Investigations" and "Crime Scene Protection and Processing."

8. for firearm-discharge incidents, ensure:

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a. when feasible, no member of any rank other than Forensics Services Division personnel handles, inspects, unloads, or otherwise tampers with the involved member's firearm.

NOTE: If the involved member is injured and was relieved of his or her firearm by another Department member prior to receiving medical treatment, the responding supervisor will take possession of the firearm and duty belt from the securing member and ensure that the firearm remains holstered and secured.

b. unless the member was disarmed, the firearm remains holstered and secured pending the arrival of Forensic Services Division personnel and COPA personnel.

c. where circumstances require that a Department member's firearm must be preserved as evidence, the firearm is processed in compliance with the Department directive titled "Crime Scene Protection and Processing."

d. all fired projectiles have been accounted for without contaminating or interfering with the collection and maintenance of evidence.

9. for officer-involved death investigations, ensure:

a. the Medical Examiner's Office is notified of an officer-involved death and a Medical Examiner (ME) number is obtained.

b. when practicable, the prompt screening of the decedent from public view (e.g., blocking the public view or covering of the decedent) is provided, consistent with his or her training and available equipment.

(1) At any time during the course of the investigation, if the highest ranking on-scene district law enforcement supervisor determines that the safety of officers or the public is in jeopardy, the supervisor may request the immediate removal of the decedent from the scene, consistent with Item X-E of this directive.

(2) If appropriate, the supervisor will consult with the Incident Response Team supervisor or *designated exempt-level incident commander* responsible for the investigation prior to the screening, covering, or removal the decedent.

10. if circumstances necessitate the relocation of the investigation from the site of the occurrence, contact the *designated exempt-level incident commander* responsible for the investigation for authorization and notify CPIC.

11. complete the reviewing supervisor's section of the TRR, if applicable and appropriate.

NOTE: If the involved member is of the rank of sergeant or higher, a higher ranking member will complete the supervisor's section of the TRR.

12. remain on duty until dismissed by the *designated exempt-level incident commander* responsible for the investigation.

D. **Watch Operations Lieutenant.** The watch operations lieutenant of the district of occurrence will:

1. verify the appropriate supervisory resources have responded to the scene and ensure the responsibilities of the reviewing supervisor have been assigned to the appropriate supervisor.

2. obtain a Universal (U) Number from COPA in all cases in which a Department member has:

a. discharged a firearm (on or off duty) and another person is injured or killed by one or more bullets fired by that member, or

b. suffered a self-inflicted gunshot wound.

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3. follow the procedures in the Department directive titled "Notification of Death or Serious Injury to a Member: Duty Related" when a Department member has been injured or killed by gunfire or seriously injured or killed as a result of any firearm discharge or officer-involved death incident.

VIII. INCIDENT INVESTIGATION

A. ***Designated Exempt-Level Incident Commander.*** The on-scene *designated exempt-level incident commander* responsible for the investigation will:

1. proceed to the scene, assume command of the scene, and ensure a complete and thorough investigation is conducted of the incident.

2. ensure all tasks delineated for lower-ranking personnel have been or are being performed, including the public safety investigation at the scene of the incident.

3. personally conduct an investigation into the circumstances surrounding the incident in a manner consistent with this directive.

4. confer with the supervisor who conducted the initial public safety investigation and, if deemed necessary, conduct a voluntary walk through and a public safety interview with each of the involved Department member(s) without delay and outside the presence of any other individual.

5. designate a supervisor responsible for assisting in the preliminary investigation whenever the incident has occurred in more than one district.

6. ensure that each involved member is accompanied and monitored by a supervisor of higher rank than the involved member, when feasible, who will ensure the involved member is separated and directed not to communicate with any other Department member or witnesses to the incident, consistent with Item VII-A-4 and VII-B-4 of this directive.

   a. The *designated exempt-level incident commander* responsible for the investigation will assign separate transportation for the involved and witness members and ensure they avoid contact or communication related to the incident until released by the *designated exempt-level incident commander* responsible for the investigation, in coordination with COPA.

   b. The involved member will be escorted from the scene as soon as practicable and remain accompanied by a supervisor until released by the *designated exempt-level incident commander* responsible for the investigation, in coordination with COPA.

7. ensure Forensic Services Division personnel collect and process evidence at the scene of the incident and complete all required tasks outlined in this directive.

   NOTE: In consultation with COPA investigative personnel if available, the *designated exempt-level incident commander* responsible for the investigation may waive firearm inventory and ballistic examination and may authorize the member to retain his or her firearm in instances in which there is no likelihood of death or injury to a person or no identifiable property damage resulting from a firearm discharge incident.

8. ensure the appropriate notifications and reporting requirements are completed, including the completion of the secondary case report by Bureau of Detectives personnel and when applicable, the notification to the Medical Examiner's Office.

9. unless immediately necessary, consult with responding COPA investigative personnel if available, Bureau of Detectives personnel, and Forensic Services Division personnel before any involved vehicles are removed from the scene.

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10. may direct additional investigatory actions or otherwise coordinate the Department's on-scene response to any firearm discharge or officer-involved death incident as deemed necessary.

11. *ensure any representatives from the Fraternal Order of Police (FOP) or the Police Benevolent and Protective Association (PBPA) do not interfere in the investigation of the incident, but are provided the appropriate access consistent with their respective collective bargaining agreement.*

12. fulfill the obligations outlined in the Department directive titled "Traumatic Incident Stress Management Program," including:

    a. determining whether an incident should be classified as a traumatic incident in situations other than those specifically defined as a traumatic incident.

    b. notifying the Professional Counseling Division of the incident.

    c. notifying the affected member of their responsibilities.

13. prior to the end of his or her tour of duty, complete the review process for the submitted Tactical Response Reports following the procedures outlined in the Department directive titled "Incidents Requiring the Completion of a Tactical Response Report."

    NOTE: *Consistent with the Department directive titled "Incidents Requiring the Completion of a Tactical Response Report," the designated exempt-level incident commander will review and approve all submitted TRRs for the incident, including for any lesser uses of force by Department members associated with the firearm discharge or officer-involved death incident.*

14. if necessary, prior to the end of his or her tour of duty, review the Major Incident Notification Report and ensure its completion.

B. **COPA Personnel.** Upon the arrival of COPA personnel, the *designated exempt-level incident commander* responsible for the investigation:

1. will ensure that as soon as the scene is safe and secure, COPA investigators will be provided the opportunity to participate in the preliminary assessment during the immediate aftermath of a firearm-discharge or officer-involved death incident to the same extent as any Department member or any other law enforcement agency investigating the incident.

2. will provide a narrative of the incident to the COPA investigators based on the information available at that time, including, but not limited to:

    a. walking through the incident scene.

    b. providing information obtained from the "public safety" interview conducted with the involved member(s).

    c. disclosing any and all evidence and witnesses identified by Department personnel.

3. has an ongoing obligation to keep COPA personnel apprised of all relevant information or evidence identified or obtained pursuant to on-scene law enforcement activity or Department investigation, including approved reports.

C. COPA personnel will be responsible for notification and responding to the Cook County State's Attorney's Office Law Enforcement Accountability Division concerning the officer-involved death investigation.

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D. As soon as it becomes apparent, any conflict of opinion or procedure between Department members and COPA investigative personnel at the scene will be reported to the on-scene *designated exempt-level incident commander*. The on-scene *designated exempt-level incident commander* will confer with the COPA investigative personnel to immediately resolve the conflict on-scene. If an immediate resolution is unavailable, the conflict will be reported up the respective chains of command for resolution.

E. **Bureau of Detectives Responsibilities**

1. In all officer-involved death incidents and firearm discharge incidents other than the destruction/deterrence of an animal with no human injury, the Bureau of Detectives area commander and the Incident Response Team supervisor will consult with the assigned *designated exempt-level incident commander* and determine the appropriate Bureau of Detectives response.

2. When assigned to the investigation of a firearms discharge or officer-involved death incident, the Incident Response Team supervisor will:

   a. personally respond to the scene of the investigation.

   b. under the direction of the appropriate Bureau of Detectives area commander, assume the responsibility for the criminal investigation of non-Department members.

   c. ensure the preservation of evidence.

      NOTE: The highest ranking member of the Bureau of Detectives on scene will be responsible for the collection and processing of evidence on the scene. The highest ranking district law enforcement member on scene will be responsible for protection of the evidence and maintaining the crime scene until all evidence is collected.

   d. coordinate with responding COPA investigative personnel regarding the collection and processing of evidence and the interviewing of witnesses.

   e. ensure the identification of witnesses.

   f. ensure that interviews of witnesses related to the criminal investigation of the non-Department member(s) associated with the firearms discharge or officer-involved death incident are video-recorded, when possible, unless the witness declines to permit such recording or such recording is prohibited by law.

   g. ensure that all witnesses are informed that they have the opportunity to speak with investigative personnel from COPA and witness interviews are conducted in accordance with Item IX of this directive.

   h. provide timely responses to requests for information from COPA investigative personnel during the preliminary investigation on scene and any additional follow-up investigations.

   i. if appropriate, be responsible for notification and responding to the Cook County State's Attorney's Office Felony Review concerning the underlying criminal investigation.

   j. make available to COPA investigative personnel, reports (when completed and approved), information, video and audio materials, and any other documents or material of evidentiary value related to the incident.

   k. ensure all reports are completed in a timely manner.

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3. The assigned Bureau of Detectives personnel will complete a secondary case report, consistent with the classifications outlined in the Incident Reporting Guide (CPD-63.451), to document the Department's investigation of firearm discharge incidents involving sworn members other than the destruction of an animal where no one was injured or officer-involved death incidents. The assigned Bureau of Detectives personnel will:

   a. ensure the secondary case report is associated with the Records Division (RD) number of the original incident case report.

   b. document each Department member who viewed video evidence or listened to audio evidence at the scene, including whether the video was viewed or the audio was listened to with COPA investigative personnel present.

   c. document the name and time of arrival of all COPA investigative personnel arriving on the scene.

IX. WITNESS INTERVIEWS

A. Witnesses will not be held or detained against their will consistent with the Department directive titled "Preliminary Investigations."

B. COPA personnel will be afforded the opportunity to interview all witnesses.

1. The order in which Department investigators and COPA investigators conduct witness interviews will be determined by the *designated exempt-level incident commander* responsible for the investigation and the COPA investigative personnel, in consultation with the Bureau of Detectives personnel.

2. If the Department is conducting a concurrent investigation of criminal conduct by non-Department members related to the incident, the witness interviews may be conducted concurrently, if feasible, by the Department and COPA.

C. All witnesses will be informed of the opportunity to speak with investigative personnel from COPA. When known, Department personnel will notify COPA personnel before a witness leaves a Department facility or the scene of the incident. However, witnesses will not be held or detained against their will solely for the purpose of notifying COPA personnel.

D. Department members will continue to identify and transport civilian witnesses to the appropriate Bureau of Detectives Area for the purpose of conducting interviews.

NOTE: Although all witnesses will be encouraged to be transported to the appropriate Bureau of Detectives Area office to be interviewed, witnesses who refuse, but are willing to be interviewed on scene should be accommodated and, if appropriate, afforded safety and security considerations. On-scene voluntary interviews may be facilitated by the use of Department recording devices (e.g., In-Car Video Systems, Body Worn Cameras) consistent with the Department directives titled "Body Worn Cameras" and "In-Car Video Systems."

E. COPA, and, if appropriate, Cook County State's Attorney's Office personnel, will interview any available civilian witnesses.

X. CRIME SCENE ACCESS AND EVIDENCE PROCESSING

A. Once the scene is safe and secure, the COPA investigative personnel will have immediate access to all areas within the designated crime scene, in coordination with the *designated exempt-level incident commander* responsible for the investigation.

B. Department members will continue to identify, secure, protect, collect, and process evidence at the incident scene consistent with the Department directive titled "Crime Scene Protection and Processing."

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1. Department members assigned to the Forensic Services Division may mark and photograph evidence at the scene prior to the arrival of the COPA investigative personnel. Evidence will not be collected or processed until the arrival of the COPA personnel, unless exigent circumstances necessitate immediate collection and processing (e.g., inclement weather resulting in the loss or destruction of evidence).

2. Additional evidence identified by the on-scene COPA investigative personnel will be collected by Forensic Services Division personnel with the concurrence and approval of the COPA investigative personnel.

3. Any and all items of evidence identified by either the Department or COPA will be photographed, collected, and processed by Forensics Services Division personnel.

4. Forensic Services Division personnel will collect and process evidence in a manner to ensure a timely removal of a decedent from a public incident scene, when applicable.

C. A member of the COPA investigative team must be present for:

1. the first viewing of available video or audio material related to the incident.

2. the collection and preservation of any:

a. firearms recovered at the scene, and

b. audio and video material obtained at or near the scene of the investigation from the Department or a third-party.

EXCEPTION: This requirement will not apply when there is a public safety need to listen to, review, or collect any evidence prior to the on-scene arrival of COPA investigative personnel and COPA personnel have been notified of the incident and are unavailable.

D. Forensic Services Division personnel will:

1. take complete and accurate measurements of the scene from which to develop a detailed plat.

2. take numerous detailed photographs of the scene from various angles and depths, procuring artificial light as necessary.

3. consult with responding COPA personnel regarding the collection and processing of evidence related to the incident, including activities to take place at other locations, such as hospitals.

4. upon request of COPA personnel in consultation with the *designated exempt-level incident commander* responsible for the investigation, take detailed photographs of officers involved in or witness to the firearms discharge or officer-involved death incident.

E. Deceased Removal

1. At any time during the course of the investigation, if the highest ranking on-scene district law enforcement supervisor determines that the safety of officers or the public is in jeopardy, the supervisor may request the immediate removal of the decedent from the scene.

2. If an immediate removal is deemed necessary, the highest ranking on-scene district law enforcement supervisor will ensure that the deceased remains are pronounced consistent with the Department directive titled "Processing and Transportation of Deceased Persons." When removing the decedent from the scene, Department members will proceed in a respectful and private manner to the extent possible.

XI. POST-FIREARM DISCHARGE INCIDENT SCENE AND FIREARM PROCESSING

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A. Unless there are overriding public or officer-safety concerns, no members of any rank other than Forensic Services Division personnel will handle, inspect, unload, or otherwise tamper with the involved member(s)' firearm(s), or any other firearms involved in the firearms-discharge incident. The firearm will remain holstered and secured pending the arrival of the *designated exempt-level incident commander* responsible for the investigation and Forensic Services Division personnel.

B. If the Department member was disarmed during the firearm-discharge incident or if the firearm contains biological or other trace-matter evidence, the firearm will be preserved as evidence and processed in compliance with the Department directive titled "Crime Scene Protection and Processing."

C. Forensic Services Division personnel will:

1. conduct any necessary firearm inspection(s) on-scene in the presence of the *designated exempt-level incident commander*, Incident Response Team personnel, and COPA personnel, unless unavailable. If the *designated exempt-level incident commander* determines that safety concerns or weather conditions preclude the on-scene inspection, the involved member(s) will remain in the continual presence of a designated supervisor of higher rank than the involved member until the inspection is conducted by Forensic Services Division personnel in the affected Bureau of Detectives area in the presence of COPA personnel.

2. upon request of COPA personnel in consultation with the *designated exempt-level incident commander*, examine the firearm(s) of Department members present at the time of the firearm-discharge incident to:

   a. identify its make, model, serial number, caliber, type (revolver, semi-automatic pistol, rifle, shotgun, etc), and other identifiers,

   b. determine the type of ammunition used, and

   c. determine the number of rounds expended and/or remaining.

3. examine the surrounding area, including property and any involved vehicles, to identify the number and location of cartridge casings, bullets, bullet fragments, bullet entries and exits, or other property damage caused by bullets, bullet fragments, or other projectiles.

4. identify and photograph all visible bullet entries in surrounding vehicles and property and, if necessary and feasible, conduct trajectory analysis.

5. inventory all firearms known to have been discharged by a Department member and all firearms for which inspection is inconclusive as to whether the firearm was discharged in accordance with Department directive titled "Firearms Taken into Custody or Turned In." These firearms will be inventoried in cases in which:

   a. an individual has been injured or killed.

   b. identifiable property damage has occurred.

   c. potential property damage may have occurred. In potential property damage cases, the designated incident commander responsible for the investigation may authorize the responsible member to retain his or her firearm for subsequent personal transport to the Forensics Services Division within ninety-six hours of the incident. The authorization will be noted in the "Comments" field of the eTrack inventory application.

6. if necessary and feasible, preserve the scene for possible trajectory analysis and:

   a. avoid removing bullet fragments from surfaces in a manner that would prevent possible trajectory analysis.

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b. determine whether processing involved vehicles can be effectively accomplished on scene. If involved vehicles are to be transported to a secure environment for later processing, Department personnel will be cognizant not to disturb content and configuration of the vehicle (e.g., disturbing the position of the seats).

7. if the investigation indicates additional weapons were discharged, upon request of COPA personnel in consultation with the *designated exempt-level incident commander* responsible for the investigation, conduct gun shot residue testing on:

a. any civilian involved in the incident whenever a weapon is recovered on scene or any witness to the incident believes the subject possessed a weapon.

b. any Department member present when the firearm-discharge incident occurred, if requested by COPA personnel.

XII. DISSEMINATION OF INFORMATION

A. The release of Department information to the news media concerning firearm discharge and officer-involved death incidents will be consistent with the Department directive titled "News Media Guidelines."

B. In consultation with the Commander, Incident Response Team, and *designated exempt-level incident commander* responsible for the investigation, the Director, Communications Division, (or a designee who is not directly involved in the investigation or investigative chain) is responsible for addressing on-scene media inquiries on behalf of the Department. When applicable and appropriate, the Communications Division will:

1. coordinate an on-scene media statement summarizing the preliminary investigation of an incident.

2. issue a formal preliminary written statement to news media outlets.

C. The Communications Division is responsible for responding to news media inquiries on behalf of the Department not made from the scene of the incident, including those made via phone, email, or other electronic communications.

D. News media inquires concerning the investigation of an officer-involved death pursuant to the Illinois Police and Community Relations Improvement Act (50 ILCS 727) will be referred to COPA.

E. Consistent with the policies outlined in this and other associated directives, the *Incident Response Team* and Bureau of Detectives personnel will be responsible for notifying the family of individuals who have been injured or the deceased during a firearm discharge or officer-involved death incident.

F. Any additional Department communication concerning a firearm discharge or officer-involved death incident will be made in consultation with the Force Investigation Division.

XIII. CONFLICT PROVISION

If this directive conflicts with any other Department directive, this directive will take precedence.

David O. Brown
Superintendent of Police

20-120 MWK/TSS

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EXHIBIT

Chicago Police Department

Special Order S04-12

INCIDENTS INVOLVING ANIMALS

ISSUE DATE:	11 February 2019	**EFFECTIVE DATE:**	11 February 2019
RESCINDS:	16 January 2015 version		
INDEX CATEGORY:	04 - Preliminary Investigations		
CALEA:			

I. PURPOSE

This directive:

A. identifies the functions and responsibilities of the City of Chicago Commission on Animal Care and Control (CACC).

B. outlines procedures for the inventory of animals.

C. *continues* the required notifications when handling animal-related incidents.

D. continues the use of the Cook County Animal & Rabies Control Animal Bite Report (green card).

E. continues the use of the Legal Notice for the City of Chicago Municipal and State Violations Animal Seizure form (CPD-11.468).

NOTE: Units may order additional Cook County Animal & Rabies Control Animal Bite Report and *Legal Notice for the City of Chicago Municipal and State Violations Animal Seizure forms (CPD-11.468)* from the Equipment and Supply Section through normal requisition procedures.

F. continues the use of the City of Chicago Animal Care and Control Animal Inventory form.

II. GENERAL INFORMATION

A. Department members are responsible for enforcing the following laws relating to animals:

1. Animal Care and Control, Chapter 7-12, Municipal Code of Chicago (MCC); and

2. the Humane Care for Animals Act, 510 ILCS 70/3 et seq., 720 ILCS 5/12-35, 720 ILCS 5/12-36, and 720 ILCS 5/48.

B. Department members will respond to animal bite incidents, situations where the immediate safety and well-being of a person is threatened by an animal, and reports of animal abuse, animal torture, or animal fighting.

C. The Chicago Animal Care and Control has a staff member available twenty-four hours a day, seven days a week. Animal control officers have the authority to enforce MCC Chapter 7-12 and are available to respond to emergency animal-removal-service requests. A Department member requiring an animal-removal service will make the request via the Office of Emergency Management and Communications (OEMC) zone dispatcher.

D. In every instance where an animal is seized by a Department member, the member will issue the Legal Notice for the City of Chicago Municipal and State Violations form (CPD-11.468).

NOTE: If a stray animal is seized on private property, a notice must be issued even if the person present denies ownership.

E. The following are approved shelters where a Department member may, with a supervisor's approval, bring an animal:

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1. Chicago Animal Care and Control (24 hour drop-off);
2. Animal Welfare League-Chicago (0800-1900 hour drop-off);
3. Animal Welfare League-Chicago Ridge (24 hour drop-off); and
4. Any animal control center or humane society approved by the Executive Director, Chicago Animal Care and Control.

NOTE: A list of approved shelters is available on the Chicago Animal Care and Control website.

III. ANIMAL BITE INCIDENTS

A. A Department member assigned to an animal bite incident, regardless of whether the victim is human or animal, and other than an incident involving a Department canine, will:

1. arrange for the transportation of the victim to the nearest approved medical facility, if necessary.
2. determine if the biter animal is in the care of the owner or keeper, If:
    a. the animal **is not** in the care of the owner or keeper, notify CACC to remove the animal. If CACC cannot respond in a timely manner, the animal will be inventoried; or
    b. the animal **is** in the care of the owner or keeper, inform the owner or keeper that the animal must be examined by a veterinarian within twenty-four hours after the bite, and the animal must be impounded, at:
        (1) a veterinarian animal hospital; or
        (2) the home of the owner or keeper, if currently vaccinated against rabies and directed to do so by the animal's veterinarian; or
        (3) the Chicago Animal Care and Control facility.
3. cite the animal owner or keeper for any Municipal Code of Chicago (MCC) violations using an Administrative Notice of Ordinance Violation (ANOV) consistent with the Department directive titled "Municipal Administrative Hearings." Hearings will be scheduled according to the Court Citing Date Card for Misdemeanor and City Ordinances card (CPD-11.562) using the member's court key. Cases will be scheduled for a hearing date **twenty-eight to sixty-five days** from the date of the violation.
4. complete the top portion of a Cook County Animal & Rabies Control Animal Bite Report.
    a. The Cook County Animal & Rabies Control Animal Bite Report tracks the potential spread of rabies and serves an important public health purpose.
    b. When the victim of an animal bite is a juvenile, a Department member will only enter "Minor" in the Victim Information-Name section of the Cook County Animal & Rabies Control Animal Bite Report.
5. notify the Alternate Response Section Administrative Desk by telephone, provide the information on the Cook County Animal & Rabies Control Animal Bite Report, including the full name of any juvenile animal bite victim, and receive an animal bite report number.
6. enter the animal bite report number and the name and star number of the Alternate Response Section member notified on the Cook County Animal & Rabies Control Animal Bite Report.
7. forward the completed top portion of the Cook County Animal & Rabies Control Animal Bite Report via Department mail as soon as possible or no later than the end of the tour of duty.

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NOTE: The bottom portion of the completed Cook County Animal & Rabies Control Animal Bite Report will be given to the owner or keeper of the biting animal, left at the owner's or keeper's residence, or left at the location of occurrence if the owner is not available.

8. when the animal is not in the care of the owner or keeper and the CACC is unable to respond in a timely manner, *a Department member will* :

   a. notify his or her immediate supervisor.

   b. determine if transportation can be accomplished safely and without incident.

   c. when determined the transportation can be conducted safely, request authorization from his or her immediate supervisor to transport the live animal(s) to:

      (1) the district station when there is a facility to hold the animal(s); or

      (2) any of the approved facilities listed in Item II-E of this directive.

   d. upon approval, transport the animal, with the CACC's copy of the City of Chicago Animal Care and Control Animal Inventory form, to the approved holding facility.

   e. *provide a copy of the City of Chicago Animal Care and Control Animal Inventory form or attach to the cage holding the animal.*

B. When a biter animal is to be seized by a Department member under either state law or municipal ordinance, the member will complete the Legal Notice for the City of Chicago Municipal and State Violations form (CPD-11.468) and distribute the notice in the following manner:

1. the original (white) of the completed Legal Notice for the City of Chicago Municipal and State Violations form (CPD-11.468) will be left at the residence or place of seizure stating that the animal has been seized.

2. the second copy (yellow) will be attached to the CACC City of Chicago Animal Care and Control Animal Inventory form, which is then attached to the district cage housing the animal or given to the animal control officer taking custody of the animal.

3. the third copy (pink) will accompany the arrest report or other required report, consistent with the Incident Reporting Guide (CPD-63.451).

NOTE: **The animal inventory number will be recorded on the Legal Notice for the City of Chicago Municipal and State Violations form (CPD-11.468)**; therefore, members will contact, from the field, the district facility where the animal is to be inventoried and request the assignment of an animal inventory number.

C. When an animal bite is reported in a district other than the district of occurrence:

1. the assigned member will:

   a. complete the Cook County Animal & Rabies Control Animal Bite Report and obtain an animal bite number from the Alternate Response Section Administrative Desk.

      NOTE: When there is an allegation that the biter animal was sick or diseased, the reporting officer will notify the *district station supervisor* in the district of occurrence, by telephone, to request that an immediate follow-up investigation is initiated.

   b. forward the Cook County Animal & Rabies Control Animal Bite Report to the review officer in the district of occurrence via Department mail.

2. the review officer in the district of occurrence will, upon receipt of the original Cook County Animal & Rabies Control Animal Bite Report, notify the *district station supervisor* of the required follow-up investigation.

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3. the *district station supervisor* in the district of occurrence will, upon receipt of the Cook County Animal & Rabies Control Animal Bite Report, assign a member to complete the investigation.

4. the investigating member in the district of occurrence will ensure:

   a. that the provisions in Items III-A and, when appropriate, III-B of this directive are followed;

   b. all necessary information is provided to the CACC, by telephone, including the animal bite report number previously assigned to the incident; and

   c. the name and badge/star number of the CACC person contacted is noted on the Cook County Animal & Rabies Control Animal Bite Report.

D. When a person is bitten by a Department canine, follow the procedures consistent with the Department directive titled "Canine Teams."

IV. CRIMES AGAINST ANIMALS

A. Field personnel assigned to investigate animal abuse, animal torture, breeding animals for fighting, training animals for fighting, or animal fighting incidents will respond to the scene to conduct a preliminary investigation. If bonafide, a Department member will:

1. notify CACC and request they respond to the scene to safely control and remove all animals involved.

   NOTE: If there are dead animals at the scene which may have evidentiary value, members will inform CACC of that fact and request that they respond in a timely manner to take custody of the evidence.

2. request an evidence technician to photograph the animal(s) and scene.

3. notify the Animal Crimes Team (ACT) via CPIC, which may conduct a follow-up investigation. If there is evidence of crimes against animals, ACT will contact the Troubled Building Unit and provide the location where the incident occurred.

4. complete a case report consistent with the Incident Reporting Guide. The report will indicate that an extra copy is sent to the ACT.

5. follow the procedures delineated in Item III-A-8 of this directive when CACC is unable to respond.

6. when impounding the animal(s) for a violation of the appropriate section of 510 or 720 Illinois Compiled Statutes violations, a Department member will:

   a. complete the Legal Notice for the City of Chicago Municipal and State Violations Animal Seizure form (CPD-11.468); and

   b. contact, from the field, the district facility where the animal is to be inventoried, request an inventory number, and record that number on the notice.

   NOTE: The original (white) will be left at the residence or place of seizure. The second copy (yellow) will be attached to the City of Chicago Animal Care and Control Animal Inventory form, which is then attached to the district cage housing the animal or given to the animal control officer or specially trained Department member taking custody of the animal. The third copy (pink) will accompany the arrest report or other required report, consistent with the Incident Reporting Guide (CPD-63.451), as necessary.

7. complete the inventory of the animal(s) as outlined in this directive.

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B. If an arrest is made, the arresting officer will:

1. charge the offender with a violation of the appropriate section of 510 or 720 Illinois Compiled Statutes. The owner of the seized animal may relinquish possession of the animal by signing in the designated box on the City of Chicago Animal Care and Control Animal Inventory form. If the ownership of the animal has not been relinquished, the officer will record the following notation in the narrative of the arrest report: ANIMAL SEIZED, OWNERSHIP NOT RELINQUISHED; PETITION FOR FORFEITURE REQUESTED.

NOTE: A Department member will refer to the directive titled "Animal Care Statutes and Ordinance" for a list of specific charges relating to animals. The Chapter 510 offenses cover all animals, while the Chapter 720 offenses refer specifically to dog fighting, sexual contact/conduct with an animal, and the possession of unsterilized dogs by a felon.

2. obtain the approval of the *district station supervisor* in the district of arrest to notify and confer with the assistant state's attorney assigned to the Felony Review Unit for approval of felony charges, if appropriate. Notification to the Bureau of Detectives is not necessary.

3. notify CACC or the Alternate Response Section, as appropriate, of the court information for the arrested animal owner/keeper.

C. *District Station Supervisor* Duties

When an arrest for a violation of 510 ILCS 70, 720 ILCS 5/48-1, 720 ILCS 5/12-35, or 720 ILCS 5/12-36 is made, the district station supervisor will:

1. ensure that the required notation appears in the narrative of the arrest report if an animal is seized but ownership is not relinquished; and

2. follow current bonding procedures.

NOTE: **If the appropriate charge is a Class A misdemeanor and the owner/keeper of the seized animal has not relinquished ownership, the *district station supervisor* will not allow the offender to post bond nor be given an I-Bond.** The arrestee will be sent to the first court call following the arrest for the court to set bond and the State's Attorney's Office to file a petition for forfeiture of the animal(s) involved.

V. DEAD OR DESTROYED ANIMALS

A. A Department member observing or responding to a complaint of a dead animal will determine if the animal is evidence of criminal activity. If there:

1. **is evidence** of criminal activity, the member will complete the appropriate case report, request an evidence technician to photograph the animal and, after photographing, request CACC removal of the animal through OEMC.

2. **is no evidence** of criminal activity, the member will request Department of Streets and Sanitation removal of the animal through OEMC.

B. When a Department member uses a firearm to destroy a seriously injured or dangerous animal, the member will follow the procedures consistent with the Department directive titled "Firearms Discharge Incidents Involving Sworn Members."

VI. STRAY OR LOST ANIMALS

A. Complaints regarding stray animals will be directed to the 311 Non-Emergency City Service Request telephone number.

NOTE: Per MCC 7-12-040, the CACC will be responsible for impounding stray animals.

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B. When a stray animal presents an immediate threat to the safety of any person, members will notify CACC to apprehend the animal(s) and take other actions, as appropriate.

NOTE: When it has been determined via OEMC confirmation that CACC will be unable to respond or be unreasonably delayed in their response to an animal(s) posing an immediate danger to the public, a Department member may request, through OEMC, the assistance of SWAT to apprehend the animal(s). Department members are authorized to take other actions, as appropriate, to address any articulable threat to the immediate safety and well-being of the public by an animal.

C. *When a stray or lost animal presents no immediate threat to the safety of any person, members will request a unit trained in the use of a microchip scanner consistent with the BOP Special Order titled "Microchip Scanning Devices."*

NOTE: *Department member's will not unnecessarily endanger themselves when adhering to this policy*.

D. When a stray animal is captured by a responding member other than those specially trained, and CACC will be unable to respond or be unreasonably delayed in their response, the member will follow the procedures delineated in Item III-A-8 of this directive prior to transporting the animal.

NOTE: If there is evidence of criminal activity, the responding member will follow the procedures delineated in item IV of this directive.

E. A Department member will ensure that the animal shelter name and inventory number is included in any completed case reports.

VII. DISTRICT ANIMAL INVENTORY

A. A Department member will:

1. only inventory live animals as a last resort when other options are not feasible; and
2. immediately notify the *district station supervisor* of any inventoried animal(s).

B. The purpose of inventorying animals is to:

1. provide protection of evidence; and
2. furnish the Department with a record of the actions involved in accepting or releasing animals.

NOTE: Animals will be inventoried only if the animal can be secured in a locked facility.

C. Animals will be inventoried using the City of Chicago Animal Care and Control Animal Inventory form.

1. The Animal Control Center (white) copy will be attached to the cage housing the animal and given to the CACC officer taking custody of the animal.

NOTE: If the animal is turned over to *an approved shelter*, the Animal Control Center (white) copy will be mailed to CACC via Department mail.

2. To acknowledge receipt of the animal, the Citizen's Receipt (yellow) copy will be given to the owner or citizen that turned in the animal.
3. The third copy, Unit/District/ *PMA Supervisor* (pink) copy, will be retained in district files consistent with record-retention requirements.
4. The fourth copy, Kennel Record (buff) copy, will be attached to the door of the cage holding the animal or will be given to personnel at the shelter that receives the animal (CACC or a private shelter). If the animal is disposed of in any other manner, this copy will be destroyed.

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D. The *district station supervisor* will:

1. ensure that the cage door is secured and the Animal Control Center (white) and Kennel Record (buff) copies of the City of Chicago Animal Care and Control Animal Inventory form are attached to the door;

2. ensure that the CACC is notified and the inventoried animal is picked up by CACC *or approved shelter personnel*. Inventoried animals should not be in Department custody longer than **eight hours**;

3. ensure that the animal is provided with food and water if CACC personnel are unable to pick up the animal within a short period of time; and

4. renotify the CACC at the beginning of each shift if an animal has not been picked up.

(Items indicated by *italics/double underline* were added or revised.)

Authenticated by KC

Eddie T. Johnson
Superintendent of Police

18-095 JAB

ADDENDA:

1. S04-12-01 - Animal Care Statutes and Ordinance

EXHIBIT M

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION

KENT MAYNARD, JR.,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 24-cv-03612
	)	
THE CITY OF CHICAGO, a municipal corporation, and Chicago Police Officer CARMEN MOSTEK (Star 8664),	)	District Judge Elaine E. Bucklo
	)	Magistrate Judge Young B. Kim
Defendants.	)	

DECLARATION OF THOMAS STOYIAS

I, Thomas Stoyias, declare under penalty of perjury, that the following facts are true and correct to the best of my knowledge:

1. I have personal knowledge of, and am competent to testify to, the facts stated in this Declaration.

2. I am employed with the Chicago Police Department ("CPD") as an Assistant Director in CPD's Research and Development Division, which is responsible for analyzing, revising, and writing the policies of CPD and I am familiar with CPD's policies regarding the completion of the Tactical Response Reports ("TRRs"). I have been employed by CPD for twenty-three (23) years.

3. I was designated as a 30(b)(6) witness in this matter on the topics of the rules, regulation, policies, and practices of the Chicago Police Department to investigate incidents involving the discharge of a firearm or the use of deadly force.

4. A TRR is a standardized CPD form used to document, investigate, and evaluate reportable use of force of incidents on or off duty

5. The TRR is a post-incident document completed by the individual Department member for reportable use of force incidents to explain, in their own words, what force the department member used and why.

6. The TRR is as a part of internal documentation review, and investigation process to determine whether the Department member's use of force response appears to be in compliance with department policy and directives based on the preliminary information reviewed and available at the time of the report. The completion of the TRR is an administrative step taken after the incident.

7. A completed TRR describes the facts and circumstances concerning the incident and documents the Department member's decision to employ a particular use of force and the reasonableness, necessity, and proportionality of the force used. CPD's supervisory role in reviewing the TRR is to ensure sufficiency and completeness.

8. Under section III of G03-02-02, Incidents Requiring the Completion of a TRR, attached hereto as Exhibit N, sworn department members must complete a TRR when they are in performance of their duties and engage in a reportable use of force, including a Level 2 reportable use of force such as a firearm discharge solely to destroy/deter an animal. See Exhibit N at FCRL003201.

9. Exhibit N defines the circumstances that require the completion of a TRR under Item III.

10. I declare that, to the best of my knowledge and belief, the information contained herein is true, accurate and complete.

Pursuant to 28 U.S.C. §1746, I state under penalty of perjury that the foregoing is true and correct.

Dated: 15SEP25

Assistant Director Thomas Stoyias
Chicago Police Department

EXHIBIT N

Chicago Police Department

General Order G03-02-02

INCIDENTS REQUIRING THE COMPLETION OF A TACTICAL RESPONSE REPORT

ISSUE DATE:	28 June 2023	**EFFECTIVE DATE:**	28 June 2023
RESCINDS:	15 April 2021 Version		
INDEX CATEGORY:	03 - Field Operations		
CALEA:	Law Enforcement Standards Chapter 4		

I. PURPOSE

This directive:

A. continues the Tactical Response Report (CPD-11.377) and the Tactical Response Report - Investigation form (CPD-11.377-I).

B. identifies incidents that require the completion of a Tactical Response Report (TRR).

C. outlines the reporting, reviewing, and investigatory responsibilities of *sworn* Department members *and detention aides* for reportable use of force incidents *while in the performance of their duties*.

D. continues *the* levels of reportable use of force, supervisory response procedures, and investigative authority and responsibilities.

II. POLICY

A. **Tactical Response Report (TRR).** Tactical Response Reports (TRR) are used by the Department to:

1. document, investigate, and evaluate reportable use of force incidents where members respond to the actions of a person, including any force mitigation efforts, or when members use a reportable use of force. A TRR is also completed when a Department member is assaulted or battered by an individual and no response option was used by the member.

2. regularly review citywide and district-level data regarding reportable uses of force to:

a. assess the relative frequency and type of force used by *Department* members.

b. identify any patterns, trends, or emerging concerns relative to the use of force incidents reviewed by the *Tactical Review and Evaluation Division (TRED)*. *TRED* will review reportable uses of force and recommend specific modifications to existing policy, procedures, training, tactics, or equipment, consistent with *G03-02-08,* "Department Review of Use of Force."

B. **Accuracy.** Department members are responsible, at all times, for truthfully and completely:

1. reporting each reportable use of force incident outlined in Item III of this directive.

2. describing the facts and circumstances concerning any incident involving the use of force by Department members.

C. **Accountability.** Department members will be responsible for articulating the specific facts to explain the member's own decision to employ a particular use of force and the reasonableness, necessity, and proportionality of the force used.

D. Any Department member completing or reviewing a Tactical Response Report (TRR) will comply with the procedures outlined in *S03-14,* "Body Worn Cameras" and *S03-05,* "In-Car Video Systems" for viewing, flagging, and retaining video and audio recorded with Department-issued recording devices.

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1. *Except for incidents outlined below, Department members may view recordings of an incident from their Department-issued recording device(s) prior to writing an initial report related to the incident.*

   EXCEPTION: *Department members will not view recordings of an incident prior to writing an initial report for the following incidents:*

   (1) A Department member has been involved in or is a witness to an officer-involved firearm discharge or officer-involved death incident.

   (2) Use of deadly force incidents or use of force incidents resulting in great bodily harm or death.

   (3) If a Department member is ordered to write a report in response to a complaint or misconduct investigation.

2. *When the exceptions apply, after writing an initial report, a Department member, subject to a supervisor's approval, may write a supplemental report after reviewing his or her recordings.*

   NOTE: *Supervisors will document any denial of a member completing a supplemental report and the rationale for the denial.*

3. *Department members will document in any report they complete for the incident if they reviewed audio or video evidence for purposes of completing the report.*

E. Consistent with *G08-01,* "Complaint and Disciplinary System," any Department member who becomes aware of information indicating that a reportable use of force incident was not reported will immediately notify his or her supervisor.

F. **Supervisory Review of Reportable Uses of Force**

1. All reportable uses of force by Department members will be reviewed by Department supervisors, who play a critical role in ensuring that force is used consistent with the law and Department policy.

2. Supervisory reviews and investigations of reportable use of force incidents are essential to promote community confidence in the Department and identify necessary individual and Department-wide after-action support and corrective action.

3. A supervisor who used reportable force or ordered a use of reportable force during a use of force incident will not perform the functions and responsibilities of the reviewing supervisor or investigating supervisor for the incident.

   NOTE: Under these circumstances, the watch operations lieutenant of the district of occurrence or the responding *Street Deputy* will determine the appropriate supervisor to perform the functions and responsibilities of the reviewing or investigating supervisor.

4. *If a supervisor uses reportable force, the watch operations lieutenant (WOL) of the district of occurrence will perform the functions and responsibilities of the reviewing supervisor and investigating supervisor for the incident,* ***including the required documentation on the Tactical Response Report (TRR) and the Tactical Response Report-Investigation (TRR-I)****.*

   a. *However, the WOL may designate another supervisor of the same rank or higher than the involved supervisor to perform the field and other responsibilities of the reviewing supervisor (e.g., on-scene response, crime scene processing, canvass for witnesses, case reporting requirements, notifications).*

   b. *If this designation occurs, the WOL will document the supervisor who performed the actions and the information provided by the designated supervisor in the "Reviewing Supervisor" section of the TRR.*

REMINDER: *The functions and responsibilities of the investigating supervisor will be completed by a supervisor at least one rank higher than the highest ranking member using reportable force during the incident or the Street Deputy.*

III. INCIDENTS REQUIRING THE COMPLETION OF A TACTICAL RESPONSE REPORT

A. A Tactical Response Report is required to be completed for the following reportable use of force incidents involving a sworn *Department* member or detention aide in the performance of his or her duties:

1. All use of force incidents involving:

   a. a *person* who is injured or alleges injury resulting from the member's use of force.

   b. the active resistance of a *person*.

      EXCEPTION: A Tactical Response Report is **NOT** required when:

      (1) the *person's* only action of resisting is fleeing,

      (2) the member's actions did not extend beyond verbal commands or control holds utilized in conjunction with handcuffing and searching techniques, and

      (3) the *person* is not injured or does not complain of injury resulting from the member's use of force.

   c. an act of obstructing a police officer when the obstructing is a physical act directed at the Department member and requires a reportable use of force response.

   d. a *person* whose actions are aggressively offensive, with or without weapons, or who is using or threatening the imminent use of force against the member that will likely cause physical injury, including an assault, aggravated assault, or threat of physical attack.

   e. physical attacks against a Department member, including a murder, aggravated battery, or battery, regardless of whether or not the *person* made actual physical contact with the member or the member has sustained a physical injury.

      NOTE: The Federal Bureau of Investigation and the State of Illinois Uniform Crime Reporting Systems require data from the Department when the offense of murder, aggravated battery, battery, aggravated assault, or assault is committed against a police officer or a detention aide in the performance of their duties. This documentation will be completed using the TRR.

2. All incidents involving a Department member's use of:

   a. **Level 1 reportable use of force.** Level 1 reportable use of force is the use of any force by a Department member to overcome the active resistance of a *person, as outlined below,* that does not rise to a Level 2 or Level 3 reportable use of force. Level 1 reportable uses of force include force that is reasonably expected to cause pain or injury, but does not result in injury or complaint of injury. Level 1 reportable uses of force include the use of:

      (1) pressure point compliance and joint manipulation techniques *in response to active resistance of a person that do not result in an injury or complaint of injury*;

      (2) wristlocks, armbars, and other firm grips *in response to active resistance of a person that do not result in an injury or complaint of injury;* and

(3) any leg sweep, takedown, stunning technique, or weaponless direct mechanical action or technique (including kicks, knee strikes, elbow strikes, closed hand strikes, or punches) that does not result in an injury or complaint of injury.

b. **Level 2 reportable use of force.** Level 2 reportable use of force is the use of any force by a Department member that includes use of a less-lethal weapon or that causes an injury or results in a complaint of injury, but does not rise to a Level 3 reportable use of force. Level 2 reportable uses of force include the use of:

(1) reportable force against a *person who is fully restrained and controlled (e.g. both hands secured together) with handcuffs or other restraining devices (e.g., flexible restraining devices);*

(2) impact weapons strikes (baton, asp, or other impact weapon) to the body other than the head or neck;

(3) any leg sweep, takedown, stunning technique, or weaponless direct mechanical action or technique (including kicks, knee strikes, elbow strikes, closed hand strikes, or punches) that results in an injury or complaint of injury.

(4) OC spray or other chemical weapons;

(5) a Taser;

(6) impact munitions;

(7) canines as a force option;

(8) a Long Range Acoustic Device (LRAD) acoustic transmission to cause discomfort as a compliance technique; and

(9) an unintentional firearms discharge or a firearm discharge solely to destroy/deter an animal that did not involve a firearm discharged at a person and did not result in injury to any person.

c. **Level 3 reportable use of force.** Level 3 reportable use of force is when a Department member does any of the following:

(1) uses any force that constitutes deadly force, including:

(a) discharging a firearm.

EXCEPTION: This does not include an unintentional firearms discharge or a firearm discharge solely to destroy/deter an animal that did not involve a firearm discharged at a person and did not result in injury to any person.

(b) using an impact weapon to intentionally strike a person's head or neck.

(c) using a chokehold *(applying any direct pressure to the throat, windpipe, or airway of another)*.

(d) *the application of* carotid artery restraints *(techniques that compress the blood vessels in the neck to inhibit or restrict blood flow to carotid arteries).*

(e) *the application of other restraint above the shoulders with risk of positional asphyxiation (use of a technique used to restrain a person above the shoulders, including the neck or head, in a position which interferes with the person's ability to breathe after the person no longer poses a threat to the officer or any other person).*

(2) uses any force that causes injury to any person resulting in admission to a hospital.

(3) uses any force that causes the death of any person.

B. A Tactical Response Report is **NOT** required to be completed for the following incidents:

1. The use of escort holds and pressure compliance techniques which are not in response to active resistance of a *person* and do not result in an injury or allegation of injury.

2. The use of joint manipulation techniques, wristlocks, armbars or other firm grips utilized in conjunction with handcuffing and searching techniques which are not in response to active resistance of a *person* and do not result in an injury or allegation of injury.

3. That force necessary to overcome passive resistance due to physical disability or intoxication which does not result in injury or allegation of injury.

4. The use of force in an approved training exercise.

C. If the most serious use of force requires an investigation by a certain level of supervisor, then the investigation of all Tactical Response Reports resulting from the use of force by any member in that incident will be the responsibility of that level of supervisor.

D. When a reportable use of force incident involves one or more reportable uses of force by a Department member against the same *person*, the uses of force will be reported on one Tactical Response Report.

NOTE: Subsequent reportable uses of force by a Department member involving the same *person* once the original Tactical Response Report has been completed and approved will be reported on a separate TRR.

E. When a reportable use of force has occurred during an identified mass arrest incident, members will follow the special procedures outlined in *S06-06,* "Mass Arrest Procedures."

IV. PROCEDURES

A. Immediate Notifications

1. Each sworn member or detention aide in the performance of his or her duties who is involved in a reportable use of force incident, as described in Item III-A of this directive will immediately notify the Office of Emergency Management and Communications (OEMC) that he or she has been involved in a reportable use of force incident.

2. The Office of Emergency Management and Communications (OEMC) will:

a. immediately notify the involved member's immediate supervisor and watch operations lieutenant of the district of occurrence.

b. assign a field supervisor from the district of occurrence to respond to the scene when the involved member has discharged any weapon, an injury has occurred to a *person*, bystander, or any member, or any other Level 2 or Level 3 reportable use of force incident.

c. notify the Crime Prevention and Information Center (CPIC) for all incidents involving the:

(1) use of deadly force;

(2) discharge of a firearm, impact munitions, Taser, OC spray or other chemical weapons;

(3) use of canines as a force option; and

(4) use of a Long Range Acoustic Device (LRAD) acoustic transmission to cause discomfort as a compliance technique.

B. **Completing the Tactical Response Report (TRR)**

Each sworn member or detention aide in the performance of his or her duties who is involved in a reportable use of force incident, as described in Item III-A of this directive, will:

1. complete a Tactical Response Report using the *CLEARNET* Tactical Response Report (*C-TRR*) application, documenting the information as requested on the report, including force mitigation efforts (e.g., verbal direction/control techniques).

a. If more than one member is involved in a reportable use of force incident, each sworn member or detention aide who uses *reportable* force will complete a TRR. Therefore, there may be multiple reports completed for a single incident.

b. If an object is perceived by the member as a weapon that could cause great bodily harm or death and is not actually a weapon or the object recovered is different than the perceived weapon:

(1) indicate the *person's* actions and indicate the actual weapon or object on the TRR, and

(2) if the item was different than perceived, indicate in the "Weapon/Object Perceived As" field what the weapon or object was perceived to be.

EXAMPLE: If a member uses force against an assailant holding an object that the involved member perceives to be a handgun, but upon recovery, the object was determined to be a BB gun, the member will indicate "Other - BB gun" as the "Weapon Description" and "Handgun" in the "Weapon/Object Perceived As" field.

c. The involved member will be required to complete the "Narrative" section of the TRR:

(1) describing with specificity, the use of force incident, the *person's* actions or other circumstances necessitating the force used, and the involved member's response, including force mitigation efforts (e.g., verbal direction/control techniques), and specific types and amount of force used.

(2) indicating whether or not any body-worn camera or in-car video digitally recorded data was viewed in advance of completing the TRR, *consistent with Item II-D of this directive*.

EXCEPTION: The involved member **WILL NOT** be required to complete the "Narrative" section of the TRR for any firearms discharge incidents (with or without injury) and in any use of force incident resulting in death.

NOTE: Specific instructions for the completion of the form can be found in the *C-TRR* Application Help Documentation. Department members will refer to *S04-13-05,* "Alternate Paper Reporting Procedures" if the *C-TRR* system is unavailable.

2. review the TRR for completeness and accuracy.

3. submit the completed TRR before the end of the involved member's tour of duty.

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4. notify their immediate supervisor that the TRR has been submitted and is available for review.

5. document the reason for the initial stop, arrest, or other enforcement action by submitting the other required reports as indicated in:

   a. *G04-01,* "Preliminary Investigations," *S04-14,* "Citing Traffic Violations and Attending Traffic Court," and *S04-09-13,* "Investigatory Stop System" to his or her immediate supervisor for review and approval before the end of the involved member's tour of duty.

   b. *G06-01*, "Processing Persons Under Department Control" to the *watch operations lieutenant* in the district of occurrence.

V. REVIEWING SUPERVISOR RESPONSIBILITIES

A. A supervisor who has been notified of a reportable use of force incident as described in Item III-A of this directive will:

1. ensure immediate notifications in Item IV-A are completed.

2. respond to the scene when the involved member has been involved in a Level 2 or Level 3 reportable use of force incident. The notified supervisor will determine if:

   a. an on-scene response is necessary when notified of a Level 1 reportable use of force incident.

   b. circumstances exist that would necessitate:

      (1) the involved member(s) to immediately relocate from the incident scene, or

      (2) the assignment of additional personnel to protect and manage the incident scene.

B. When responding to the scene of a reportable use of force incident, the reviewing supervisor will:

1. ensure that known available witnesses are identified and interviewed, to the extent reasonably possible, and that the required information, including the witness personal information and statement, is recorded on the Tactical Response Report (TRR),

   EXCEPTION: The reviewing supervisor will not interview the identified witnesses or obtain written statements for deadly force incidents, officer-involved death incidents, or any other circumstance where the Civilian Office of Police Accountability (COPA) receives an administrative notification and responds to the scene. For these incidents, the reviewing supervisor will:

   a. document only the witness personal information on the TRR.

   b. identify the witnesses for the assigned investigative personnel who will be responsible for conducting the interviews or obtaining statements. The reviewing supervisor will, to the extent reasonably possible and lawfully permitted, secure the witnesses for the assigned investigative personnel interview.

   c. coordinate, as appropriate, with responding COPA personnel.

2. request the assignment of an evidence technician to take photographs of *persons* and Department members who have been involved in a use of force incident and are injured, allege injury, or when otherwise deemed appropriate by the supervisor.

3. ensure that other evidence is gathered, preserved, handled, and processed according to existing Department procedures.

4. ensure that the involved members and *persons* receive the appropriate medical attention.

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5. for Level 2 and Level 3 reportable use of force incidents involving injury or complaint of injury for which a COPA notification is not required, undertake reasonable efforts to identify and interview additional witnesses beyond those that are known and available.

NOTE: The result of the above requirement to canvass for witnesses, including negative results, will be documented in the "Reviewing Supervisor" section of the TRR.

C. When conducting a supervisory review of a reportable use of force incident, the reviewing supervisor will:

1. ensure the involved member completes and submits a TRR before the end of the involved member's tour of duty.

2. ensure the appropriate case report is completed for the incident, consistent with the guidelines established in the Incident Reporting Guide (IRG) (CPD-63.451).

NOTE: A case report is required even if the TRR resulted from an incident that would not otherwise require a report (e.g., warrant arrests). Members will refer to the IRG section titled "Special Case Reporting Index for Use of Force Incidents" for specific reporting instructions.

3. ensure additional notifications are made consistent with:

a. *G03-02-03,* "Firearm Discharge Incidents - Authorized Use and Post-Discharge Administrative Procedures ;"

b. *G03-02-04,* "Taser Use Incidents;"

c. *G03-02-05,* "Oleoresin Capsicum (OC) or Other Chemical Agent Use Incidents;"

d. *G03-02-06,* "Canine Use Incidents;" and

e. *G03-02-07,* "Baton Use Incidents."

4. complete the TRR for a member who is unable to complete the report due to injury or other extraordinary circumstance.

5. use the "Attachment" feature of the TRR to attach copies of the appropriate approved district-level generated reports that are related to the incident involving the completion of the TRR, including:

a. the incident case report,

b. Arrest Reports,

c. Supplementary Reports,

d. Inventory Reports,

e. Injury on Duty Reports,

f. the Taser Deployment Data Download, and

NOTE: *Per G03-02-04,* "Taser Use Incidents," *the Taser Deployment Data Download will be uploaded as an attachment by the investigating supervisor.*

g. any other pertinent Department report.

6. review the portion of the TRR completed by the involved member, including:

a. confirming or rejecting any addresses that result in a beat of "0" and may be inaccurate.

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b. reviewing each instance where "Other" has been selected as the "Subject's Actions."

c. if the TRR is incomplete, insufficient, or contains inconsistencies within the report, return the TRR to the member and discuss reasons with the involved member.

7. complete the "Reviewing Supervisor" section of the TRR. The reviewing supervisor will:

a. document, if any, the type of injury and the location of the injury *to the person against whom force was used*.

NOTE: The reviewing supervisor will clarify in the "Reviewing Supervisor: Comments" section whether the injury was observed or alleged by the *person*, to what body part did the injury occur, and if the documented injury occurred prior to the reportable use of force, when appropriate.

b. document any other incident information, observations, or other actions taken that are not already captured in the TRR fields in narrative form in the "Reviewing Supervisor: Comments" section of the TRR.

c. attest to his or her compliance with the responsibilities outlined in this directive.

d. when misconduct is observed or an allegation of misconduct is received by the reviewing supervisor, make the appropriate notifications to the Civilian Office of Police Accountability (COPA) to obtain a complaint log (CL) number.

NOTE: *The reviewing supervisor will only include a complaint log (CL) number obtained for observed or allegations of misconduct. A Log Number obtained for a use of force that requires an administrative notification to the Civilian Office of Police Accountability (COPA) will be documented by the Investigating Supervisor.*

e. if appropriate, attest to the completeness and legibility of the report and inform the Investigating Supervisor that it has been reviewed and is ready for supervisory review and investigation of the incident.

VI. USE OF FORCE INCIDENT INVESTIGATION

A. **Investigatory Responsibility.** For reportable use of force incidents, the investigation of the incident and completion and approval of all TRR-Is will be:

1. the responsibility of the following ranked supervisor:

a. The *Street Deputy* will review and investigate the following types of incidents:

(1) the discharge of a firearm by a Department member, excluding discharges solely to destroy/deter an animal with no human injury;

(2) *any other uses of force that constitutes deadly force*.

(3) a member's use of force, by whatever means, that results in potential life-threatening injury or death of any individual;

NOTE: *For the above-listed incidents, the Street Deputy will coordinate the investigative response with the investigative personnel from the Investigative Response Team (IRT) or Detective Area, as appropriate.*

(4) when a Department canine is deployed as a reportable use of force and physically apprehends a person by making physical contact, including grasping the person or the person's clothing; and

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(5) any lesser use of force by a Department member when that use of force stems from the same incident in which another member used force described in Items VI-A-1-a-(1), (2), or (3) of this directive.

b. A member the rank of captain or above assigned to the district of occurrence will review and investigate incidents involving the discharge of a firearm solely for the destruction/deterrence of an animal with no human injury.

c. The watch operations lieutenant (WOL) assigned to the district of occurrence will investigate all other incidents.

NOTE: If the watch operations lieutenant or *a supervisor the rank of lieutenant or above designated as the district of occurrence watch operations lieutenant* is unavailable, the district station supervisor will follow the appropriate procedures established by the *Bureau of Patrol* to ensure the TRR-I is completed and approved *by the appropriate supervisor*.

2. completed by a supervisor at least one rank higher than the highest ranking member using reportable force during the incident or the *Street Deputy*.

3. completed within 48 hours of the use of force incident, unless an extension is approved, in writing, by the appropriate exempt-level supervisor.

NOTE: *Upon approval of an investigative extension, the approving exempt-level supervisor will ensure the investigation of the incident and completion of the TRR-I is completed in a timely manner.*

B. **Investigating Supervisor.** The assigned supervisor described in Item VI-A will:

1. conduct an investigation into the use of force incident by:

a. attempting to interview the *person* of any reportable use of force, solely about the use of force incident, and record the *person's* statement regarding the use of force in the space provided on the TRR-I.

(1) Prior to any interview, the investigating supervisor will follow the procedures outlined in *G04-03*, "Custodial Interrogations," including expressly warning the individual of their constitutional rights.

(2) When the incident involves potential felony charges, the investigating supervisor will confer with the arresting officers and the assigned investigative personnel prior to the interview to determine the appropriate time and scope of the interview.

(3) When interviewing a juvenile, the investigating supervisor will follow guidelines and restrictions outlined in *S06-04*, "Processing of Juveniles and Minors Under Department Control."

(4) When interviewing a person that is suspected of an offense which electronically recorded custodial interrogations are mandated, the investigating supervisor will follow procedures outlined in *S04-03-01*, "Digital Recording of Interrogations."

(5) The investigating supervisor will check "DNA" in the "Subject's Statement" section when the incident involves only an animal destruction/deterrence or unintentional discharge.

(6) When an interview of the *person* is not conducted, the investigating supervisor will indicate *this fact* on the report and provide a specific reason why the interview was not conducted.

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b. performing a visual inspection of the *person* and document any observations and specific injuries in the "Lieutenant or Above/Incident Commander: Comments" section.

NOTE: The investigating supervisor will clarify in the "Lieutenant or Above/Incident Commander: Comments" section whether the injury was observed or alleged by the person, to what body part did the injury occur, and if the documented injury occurred prior to the reportable use of force, when appropriate.

c. reviewing all the information reasonably available regarding the use of force incident and documenting the investigatory information in the "Lieutenant or Above/Incident Commander: Comments" section of the TRR-I, including but not limited to:

(1) a review of all available reports.

(2) a review of all Department-recorded video *of the involved member's use of force* (e.g., In Car Video System, lockup facility cameras, body worn cameras), if available. *The investigating supervisor will document the video(s) viewed and the duration of the footage.*

(3) documentation of any allegations of excessive force.

(4) if available, witness statements, photographs, and other evidence or information collected by the reviewing supervisor.

(5) any other investigatory information or observations.

2. complete the "Lieutenant or Above/Incident Commander Review" section of the TRR-I. The investigating supervisor will:

a. review the portion of the TRR completed by the involved member and the reviewing supervisor for sufficiency and completeness. If the TRR is incomplete, insufficient, or contains inconsistencies within the report, the investigating supervisor will return the TRR to the appropriate member.

b. determine the Department members who were identified in the incident reports as being on the scene of the use of force incident and who are reasonably believed to have relevant knowledge or information regarding the reportable use of force incident. The investigating supervisor will indicate these members in the "Lieutenant or Above/Incident Commander Review" section of the TRR-I.

c. attest to his or her compliance with the responsibilities outlined in this directive.

d. determine if the member's use of force requires a notification to the Civilian Office of Police Accountability (COPA) to obtain a complaint log (CL) number. A notification to COPA is required for all incidents involving:

(1) the use of deadly force,

(2) the discharge of a firearm,

(3) the discharge of a Taser,

(4) the discharge of Oleoresin Capsicum (OC) devices,

(5) the use of excessive force or an allegation of excessive force,

(6) the death or potential life-threatening injury to a member of the public that resulted directly from an action or intentional omission of a Department member, and

(7) uses of force that may violate the law or Department policy.

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e. use the "Attachment" feature of the TRR-I to attach copies of any other approved and available Department report related to the incident involving the completion of the TRR that is not already attached, including any initiation report submitted to COPA regarding allegations of misconduct.

NOTE: *Per G03-02-04,* "Taser Use Incidents," *the Taser Deployment Data Download will be uploaded as an attachment by the investigating supervisor.*

f. conduct a supervisory evaluation to determine whether the member's use of force response was in compliance with Department policy and directives.

NOTE: The investigating supervisor will not make a determination for deadly force or officer-involved death incidents.

g. if appropriate:

(1) provide timely, constructive feedback to the member engaged in the reportable use of force and the reviewing supervisor.

(2) *identify and adequately address any performance that is exceptional or that may be improved through after-action support or corrective actions, including training or other nondisciplinary methods.*

(3) make recommendations for *after-action support for* the involved member or the reviewing supervisor (e.g., individualized training, performance coaching, review of Department directives).

(a) *When determining any recommended after-action support for Department members or supervisors, the investigating supervisor will access the "TRR Debriefing Point Dashboard" to identify and review any previous use-of-force-related debriefing points for the involved members.*

(b) *The "TRR Debriefing Point Dashboard" is accessible from The Wire via the Tableau Server Environment.*

(4) *ensure any recommendations for district-level after-action support are completed with the identified member(s).*

(5) document in the "Lieutenant or Above/Incident Commander: Comments" section what *after-action support is* recommended, including identifying specific training, when appropriate, *and if the recommedations were completed (e.g., what action, by whom, when)*.

h. if appropriate, sign and approve the TRR-I.

VII. USE OF FORCE INCIDENT REVIEW

Approved Tactical Response Reports (TRR) and Tactical Response Report - Investigation (TRR-I) forms will be subject to an after-action review consistent with the guidelines and procedures outlined in *G03-02-08,* "Department Review of Use of Force."

A. A representative sample of Level 1 reportable uses of force and all Level 2 reportable uses of force as outlined in Item III of this directive will be reviewed by the *Tactical Review and Evaluation Division*.

B. All Level 3 reportable uses of force as outlined in Item III of this directive will be reviewed by the Force Review Board (FRB).

VIII. DATA MAINTENANCE AND RETENTION

The *commanding officer*, Strategic Initiatives Division, will ensure:

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A. the *CLEARNET* Tactical Response Report application is managed and maintained to reliably record and track all Department data reported and derived from reportable use of force incidents documented in the *C-TRR* application.

B. the Department data on reportable use of force incidents contained in the TRR and TRR-I are maintained and retained consistent with existing data retention procedures.

(Items indicated by *italics/double underline* have been added or revised)

Fred L. Waller
Interim Superintendent of Police

T22-094 MWK/TSS

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EXHIBIT O

(FCRL 001764, Mostek's 911 Call)

EXHIBIT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION

KENT MAYNARD, JR.,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 24-cv-03612
	)	
THE CITY OF CHICAGO, a municipal corporation, and Chicago Police Officer CARMEN MOSTEK (Star 8664),	)	District Judge Elaine E. Bucklo
	)	Magistrate Judge Young B. Kim
	)	
Defendants.	)	

DECLARATION OF LIEUTENANT ROBERT FLORES

I, Lieutenant Robert Flores, declare under penalty of perjury, that the following facts are true and correct to the best of my knowledge:

1. I have personal knowledge of, and am competent to testify to, the facts stated in this Declaration.

2. I am employed with the Chicago Police Department ("CPD") as a Lieutenant in CPD's Bureau of Internal Affairs, and I am familiar with CPD's policies, rules, and regulations that are applicable to all sworn department members of CPD. I have been employed with CPD for thirty-two (32) years.

3. In my role as a Lieutenant with the Bureau of Internal Affairs ("BIA"), CPD's BIA office is responsible for investigating allegations of misconduct against department members that do not fall within the jurisdiction of the Civilian Office of Police Accountability.

4. I was designated as a 30(b)(6) witness in this matter on the topic of rules, regulation, policies, and procedures of the Chicago Police Department of off-duty CPD officers and specifically, use of fore by off-duty Chicago Police Officers.

5. CPD policies and directives apply to all department members, at all times, regardless of whether they are on-duty or off-duty. All sworn department members are expected to comport themselves in a manner consistent with department rules, including rules regarding use of force, firearm discharge, and post-incident responsibilities.

6. For example, General Order 03-06 titled Firearm Discharge and Officer-Involved Death Incident Response and Investigation, attached hereto as Exhibit K, requires that following any firearm discharge, the involved member must remain on scene, protect and secure the scene until supervisory personnel arrive, request medical attention for the injured, holster and secure

their firearm, and cooperate with the supervisory investigation. All officers on or off-duty are expected to comply with these requirements in the event of a firearm discharge. Ex. K. at FCRL002266-002267.

7. I am aware that Carmen Mostek did not stay on scene, which is more akin to the actions of a civilian and not the expectation of an on-duty or off-duty sworn department member.

8. Special Order 04-12 titled Incidents Involving Animals, attached hereto as Exhibit L, informs department members of the procedures related to enforcing laws relating to animals, outlines procedures for the inventory of animals, and delineates the notifications required when handling animal-related incidents. Ex. L at FCRL002382.

9. Pursuant to Section V of Special Order 04-12, a department member who observes or responds to a complaint of a dead or destroyed animal, the member will request Department of Streets and Sanitation removal of the animal through OEMC. Ex. L at FCRL002378.

10. However, the fact that CPD policies apply to officers at all times does not mean that the officer is acting within the performance of their duties at any given moment.

11. BIA investigations into police conduct concern whether department members acted consistently with department directives and do not concern scope of employment.

12. For example, if an off-duty officer becomes intoxicated and gets into a bar fight out of state, CPD would still evaluate whether the officer's conduct complied with CPD policies and directives, such as prohibitions on alcohol-related misconduct or required notifications. This evaluation occurs regardless of whether the officer was engaged in police action.

13. I declare that, to the best of my knowledge and belief, the information contained herein is true, accurate and complete.

Pursuant to 28 U.S.C. §1746, I state under penalty of perjury that the foregoing is true and correct.

Dated: 11 SEPT 2025

Lt Robert A Flores

Lieutenant Robert Flores
Chicago Police Department

EXHIBIT

Chicago Police Department

General Order G03-06

FIREARM DISCHARGE AND OFFICER-INVOLVED DEATH INCIDENT RESPONSE AND INVESTIGATION

ISSUE DATE:	31 December 2020	**EFFECTIVE DATE:**	15 April 2021
RESCINDS:	29 February 2020 version		
INDEX CATEGORY:	03 - Field Operations		
CALEA:			

I. PURPOSE

This directive:

A. outlines the investigative authority, response procedures, and investigative responsibilities for:

1. officer-involved deaths pursuant to the Illinois Police and Community Relations Improvement Act (50 ILCS 727).

2. firearm discharge incidents involving sworn members.

NOTE: *The Department has determined extraordinary circumstances demand an immediate revision or clarification to this policy. The Department will work collaboratively with the Independent Monitoring Team (IMT) and the Office of the Attorney General (OAG) to review and modify the procedures and responsibilities established by this directive, as appropriate. While this review is being conducted and until a revised directive is published, the procedures established by this directive remain in effect.*

B. satisfies CALEA Law Enforcement Standard Chapters 4 and 41.

II. VERBATIM TEXT OF PERTINENT SUB-SECTIONS FROM ILLINOIS COMPILED STATUTES (ILCS)

A. 50 ILCS 727/1-5 "Definitions". As used in this Act:

1. "Law enforcement agency" means an agency of this State or unit of local government which is vested by law or ordinance with the duty to maintain public order and to enforce criminal laws or ordinances.

2. "Law enforcement officer" or "officer" means any person employed by a State, county, or municipality as a policeman, peace officer, or in some like position involving the enforcement of the law and protection of public interest at the risk of the person's life.

3. "Officer-involved death" means any death of an individual that results directly from an action or directly from an intentional omission, including unreasonable delay involving a person in custody or intentional failure to seek medical attention when the need for treatment is apparent, of a law enforcement officer while the officer is on duty, or otherwise acting within the scope of his or her employment, or while the officer is off duty, but performing activities that are within the scope of his or her law enforcement duties. "Officer-involved death" includes any death resulting from a motor vehicle accident, if the law enforcement officer was engaged in law enforcement activity involving the individual or the individual's vehicle in the process of apprehension or attempt to apprehend.

B. 50 ILCS 727/1-10 Investigation of officer-involved deaths; requirements.

1. (a) Each law enforcement agency shall have a written policy regarding the investigation of officer-involved deaths that involve a law enforcement officer employed by that law enforcement agency.

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2. (b) Each officer-involved death investigation shall be conducted by at least 2 investigators, or an entity or agency comprised of at least 2 investigators, one of whom is the lead investigator. The lead investigator shall be a person certified by the Illinois Law Enforcement Training Standards Board as a Lead Homicide Investigator, or similar training approved by the Illinois Law Enforcement Training Standards Board or the Department of State Police, or similar training provided at an Illinois Law Enforcement Training Standards Board certified school. No investigator involved in the investigation may be employed by the law enforcement agency that employs the officer involved in the officer-involved death, unless the investigator is employed by the Department of State Police and is not assigned to the same division or unit as the officer involved in the death.

3. (c) In addition to the requirements of subsection (b) of this Section, if the officer-involved death being investigated involves a motor vehicle accident, at least one investigator shall be certified by the Illinois Law Enforcement Training Standards Board as a Crash Reconstruction Specialist, or similar training approved by the Illinois Law Enforcement Training Standards Board or the Department of State Police, or similar training provided at an Illinois Law Enforcement Training Standards Board certified school. Notwithstanding the requirements of subsection (b) of this Section, the policy for a law enforcement agency, when the officer-involved death being investigated involves a motor vehicle collision, may allow the use of an investigator who is employed by that law enforcement agency and who is certified by the Illinois Law Enforcement Training Standards Board as a Crash Reconstruction Specialist, or similar training approved by the Illinois Law Enforcement Training and Standards Board, or similar certified training approved by the Department of State Police, or similar training provided at an Illinois Law Enforcement Training and Standards Board certified school.

4. (d) The investigators conducting the investigation shall, in an expeditious manner, provide a complete report to the State's Attorney of the county in which the officer-involved death occurred.

5. (e) If the State's Attorney, or a designated special prosecutor, determines there is no basis to prosecute the law enforcement officer involved in the officer-involved death, or if the law enforcement officer is not otherwise charged or indicted, the investigators shall publicly release a report.

III. POLICY

A. **Sanctity of Human Life.** *The Department's highest priority is the sanctity of human life. The concept of the sanctity of human life is the belief that all human beings are to be perceived and treated as persons of inherent worth and dignity, regardless of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military status, immigration status, homeless status, source of income, credit history, criminal record, criminal history, or incarceration status. Department members will act with the foremost regard for the preservation of human life and the safety of all persons involved.* All incidents will be resolved with the foremost regard for the preservation of human life and the safety of all persons involved.

B. The Department recognizes that firearms discharge and officer-involved death incidents are traumatic events and is committed to treating all impacted with dignity and respect.

C. Consistent with existing Department Rules and Regulations on the dissemination of information, the actions of Department members will not unreasonably impede or delay access to information for the families of individuals who have been injured or the deceased.

D. No Department member below the rank of captain will direct any investigation into a firearm discharge or officer-involved death incident.

E. For the purposes of the procedures and responsibilities of this directive:

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1. an "officer-involved death incident" is any incident involving the death of or potentially life-threatening injury to one or more members of the public, where such death or injury resulted directly from an action or intentional omission of a Department member who was on duty or otherwise acting within the scope of his or her employment or duty.

2. a "firearm discharge incident" is any incident where a sworn Department member has discharged a firearm consistent with the Department directive titled "Firearm Discharge Incidents - Authorized Use and Post-Discharge Administrative Procedures."

F. Firearm discharge and officer-involved death incident investigations remain bound by the involved members' respective collective bargaining agreement(s) and the Department directive titled "Department Member Bill of Rights," including the timeliness of documented formal statements.

G. *The Department strictly prohibits its members from engaging in any form of retaliation, intimidation, or coercion against Department members or members of the public for reporting alleged misconduct or for supporting, assisting in, or cooperating with any complaint or misconduct investigation, including the investigation of firearm discharge and officer-involved death incident, consistent with the Department directive titled "Prohibition of Retaliation."*

IV. INVESTIGATIVE AUTHORITY

A. To ensure the proper coordination of activities and investigations of firearm discharge and officer-involved death incidents, the assigned *designated exempt-level incident commander* responsible for the investigation, the appropriate Bureau of Detectives Area supervisor, the *Incident Response Team (IRT)* supervisor, and the responding Civilian Office of Police Accountability (COPA) personnel will confer and coordinate at the scene about the conduct of on-scene investigative activity.

B. **COPA.** Pursuant to the Municipal Code of Chicago, the Civilian Office of Police Accountability (COPA) will:

1. conduct investigations into all incidents, including those in which no allegation of misconduct is made, in which a Department member discharges a firearm in a manner that potentially could strike another individual (Section 2-78-120(c)).

NOTE: This investigative authority includes incidents where a Department member discharges a firearm and has struck another individual.

2. have jurisdiction and conduct investigations into all incidents of an officer-involved death as defined by and consistent with the Police and Community Relations Improvement Act (50 ILCS 727/1-5) (Section 2-78-120(e)).

NOTE: This investigative authority includes incidents where a member is off duty but performing activities that are within the scope of his or her law enforcement duties.

C. **Chicago Police Department.**

1. The *designated exempt-level incident commander* will oversee the Department's on-scene investigative responsibilities into the underlying criminal conduct of non-Department members and the officer-involved death or firearm discharge incident, excluding a firearm discharge solely for the destruction/deterrence of an animal with no human injuries. This includes shots fired at a Department member, the unintentional discharge of a firearm, and all firearms discharge incidents with injuries, whether on or off duty.

2. For firearms discharge incidents solely for the destruction/deterrence of an animal with no human injuries, the district executive officer (XO) of the district of occurrence, the rank of captain, will respond and assume command of the investigation. If the district XO is not on duty, the commander of the district of occurrence will respond and assume command.

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3. When the involved member is the same rank or higher than the incident commander responsible for the investigation designated above, the *designated exempt-level incident commander,* will assume the investigating command personnel responsibilities. When the involved member is the *designated exempt-level incident commander* or a member the rank of deputy chief or above, the Chief, *Bureau of Patrol,* will assume the investigating command personnel responsibilities.

4. The on-scene *designated exempt-level incident commander* responsible for the investigation will coordinate the Department's on-scene law enforcement related activities related to:

   a. the preservation of public safety.

   b. the investigation of any underlying criminal offenses by non-Department members.

   c. the Department's response, actions, and, if applicable, investigative responsibility, for other non-criminal incidents resulting in an officer-involved death (e.g., suicide in custody).

   d. motor vehicle crashes resulting in an officer-involved death (as defined by the Police and Community Relations Improvement Act, 50 ILCS 727) for which COPA will serve as the lead investigative agency.

5. The *Incident Response Team* is responsible for conducting the Department's investigation into the underlying criminal conduct of non-Department members and the officer-involved death or firearm discharge incident, excluding a firearm discharge solely for the destruction/deterrence of an animal with no human injuries.

D. The criminal investigation of non-Department members associated with the firearms discharge or officer-involved death incident involving a sworn member will be conducted concurrently with the COPA investigation.

NOTE: In instances that a firearm discharge incident has occurred that does not involve the death or potential life-threatening injury of a non-Department member, the Department investigation may take precedence over the COPA investigation.

E. When a firearm discharge or an officer-involved death incident requires more than one concurrent investigation, the responsibilities of the lead agencies are as follows:

1. Any on-scene activities required to ensure public safety, preserve evidence, and secure the incident scene will be commenced immediately and led and coordinated by Department personnel consistent with the procedures outlined in the Department directive titled "Preliminary Investigations." These activities will take precedence over any other investigation.

2. *COPA has the primary responsibility and authority for* investigations into the actions of any Department member in relation to the firearm discharge or officer-involved death and *the investigation* will be conducted by COPA personnel.

   a. Nothing within the law prevents the Department from conducting an internal review of firearm discharge or officer-involved death incidents to address Department policy, training, tactical, and equipment considerations.

   b. The Department will conduct an internal review of use of force incidents consistent with the Department directive titled "Department Review of Use of Force."

3. The investigation of the underlying criminal offense involving non-Department members will be led and coordinated by Department personnel. This investigation will:

   a. not interfere with or obstruct the investigation conducted under the requirements of 50 ILCS 727/1-10;

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b. be conducted by the Bureau of Detectives, *Incident Response Team* which will report to and coordinate with the assigned *designated exempt-level incident commander*;

c. be assisted by the appropriate Bureau of Detectives Area personnel who will report to and coordinate with the assigned *designated exempt-level incident commander*;

d. be conducted independently and consistent with the procedures established by the Chief, Bureau of Detectives.

F. When a member of the public has sustained potential life-threatening injuries that resulted directly from an action or intentional omission of a Department member who was on duty or otherwise acting within the scope of his or her employment, and the action or omission does not otherwise fall within COPA's jurisdiction, the *designated exempt-level incident commander* will coordinate the investigation of the incident and confer with COPA's investigative personnel to assess what, if any, investigative activities will be led by or otherwise involve COPA personnel.

G. For any firearm discharge or officer-involved death incidents occurring within the City of Chicago involving a law enforcement officer employed by a law enforcement agency other than the Department, the Chicago Police Department will conduct all investigative activities related to the incident and when applicable, perform all of the duties required by the Police and Community Relations Improvement Act (50 ILCS 727). Federal law enforcement agencies and law enforcement agencies from outside of Illinois are not governed by the act and any investigation into an officer-involved death incident or the use of deadly force will be investigated under the jurisdiction of the involved agency. The Chicago Police Department will provide assistance, as needed.

V. IMMEDIATE NOTIFICATIONS

For all firearm discharge and officer-involved death incidents:

A. the involved member(s) will immediately notify the Office of Emergency Management and Communications (OEMC) providing all relevant information and requesting additional resources.

NOTE: If the firearm discharge or officer-involved death incident occurs outside the City of Chicago, the member will also notify the law enforcement agency having jurisdiction and the Chicago Police Department's Crime Prevention and Information Center (CPIC).

B. OEMC will notify the:

1. involved member's immediate supervisor.
2. field supervisor and the watch operations lieutenant from the district of occurrence.
3. CPIC.

C. CPIC will notify the following via email and phone communication:

1. the *designated exempt-level incident commander (through the Office of the First Deputy Superintendent).*
2. the commander of the district of occurrence.
3. COPA personnel.
4. the commander of the affected Bureau of Detectives area.
5. Bureau of Detectives Incident Response Team.
6. the area deputy chief, *Bureau of Patrol.*
7. *the Commander, Force Review Division.*
8. the involved member's commanding officer.
9. Major Accident Investigation Section, when appropriate.

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10. Bureau of Internal Affairs (BIA) call-out supervisor, for firearm discharge incidents.

11. any other units or agencies as appropriate and consistent with CPIC procedures.

VI. IMMEDIATE RESPONSIBILITIES

The following immediate procedures will be followed for all firearm discharge or officer-involved death incidents:

A. **Initial Incident Response.** Upon being notified of firearm discharge or an officer-involved death incident, OEMC will:

1. dispatch sufficient district law enforcement units to the scene.

2. when appropriate, notify the Chicago Fire Department to dispatch emergency medical service units to the scene.

3. assign a field supervisor from the district of occurrence to the scene. If a member has been injured, OEMC will assign a supervisor to respond to the medical facility treating the injured member.

4. not broadcast the name of a Department member who has been involved in a firearm discharge incident or an officer-involved death incident over the police radio.

B. **Involved Member.** The member(s) involved in a firearm discharge or an officer-involved death incident, if physically capable, will:

1. immediately request medical attention for the injured *and, as soon as it is safe and feasible to do so, provide life saving aid consistent with their Department training, including the Law Enforcement Medical and Rescue Training (LEMART) training, to persons injured by a Department member's use of force until medical professionals arrive on scene.*

   a. *Department members may provide appropriate medical care consistent with their training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid and/or arranging for transportation to an emergency medical facility.*

   b. *If the scene is safe and the person in custody is secure, Department members will not interfere with emergency medical personnel when providing treatment to injured persons.*

2. attend to all required emergency and security duties arising from the incident, including crime scene protection, until the arrival of responding supervisory personnel.

3. remain on the scene, if not injured, and report to a field supervisor from the district of occurrence upon his or her arrival.

   EXCEPTION: Any involved member in need of immediate medical treatment will seek such treatment, and thereafter, make themselves available to confer with the *designated exempt-level incident commander* responsible for the investigation.

4. not deactivate his or her activated Department-issued recording equipment (e.g., In-Car Video Systems, Body Worn Cameras) until so directed by an on-scene supervisor in accordance with the procedures delineated in the Department directives titled "Body Worn Cameras" and "In-Car Video Systems."

   NOTE: The Body Worn Camera of the involved member will be secured consistent with the Department directive titled "Body Worn Cameras."

5. for firearm-discharge incidents:

   a. ensure that his or her firearm remains holstered and secured until it is submitted to Forensic Services Division personnel.

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NOTE: If the involved member is injured and needs to be immediately relieved of his or her firearm prior to receiving medical treatment, another Department member will take possession of the firearm and duty belt and ensure that the firearm remains holstered and secured, until the arrival of the responding supervisor.

b. preserve the firearm as evidence for processing in accordance with the Department directive titled "Crime Scene Protection and Processing," if disarmed during a firearm discharge incident or if the firearm may otherwise contain biological or other trace-matter evidence.

6. cooperate with the public safety investigation conducted by a supervisor by providing an oral response to the public safety questions to ensure public safety, preserve evidence, and secure the incident scene. Consistent with the Department directive titled "Preliminary Investigations," the public safety investigation will consist of general safety questions concerning:

a. any injuries sustained by the member or other individuals.

b. whether weapons were discharged, either by Department members or other individuals, what type of weapons, and the direction of the discharges.

c. whether subjects are still at large, their descriptions, direction of travel, and alleged criminal offense(s).

d. the identification and location of any victims, offenders, witnesses, or evidence.

e. information about any involved vehicles, including damage to vehicles or vehicle-related safety concerns.

f. any officer-wellness related matters.

NOTE: Department members will ensure Department-issued recording equipment (e.g., In-Car Video Systems, Body Worn Camera) are deactivated before providing oral responses to the public safety questions as delineated in the Department directives titled "Body Worn Cameras" and 'In-Car Video Systems."

7. not view their in-car or body-worn camera videos until authorized by an on-scene supervisor, in consultation with the *Incident Response Team* investigator, and consistent with the restrictions outlined in Item X-C of this directive.

8. *be responsible for the safety and security of persons in their custody. Department members are reminded that a subject will be searched and restrained in such a manner as to prevent escape and to provide for the safety of the public, the person in custody, and the officers involved. Consistent with the above requirement, Department members will assess the necessity to apply restraining devices (handcuffs) to subjects, including not applying restraining devices to subjects who are known to be deceased.*

C. **Reviewing Supervisor.** The assigned reviewing supervisor from the district of occurrence will:

1. proceed immediately to the scene and assume command and oversight of the scene until relieved by a higher ranking supervisor from district law enforcement or the *designated exempt-level incident commander*.

NOTE: An assigned supervisor will remain on scene with sufficient information to fully brief the responding *designated exempt-level incident commander* responsible for the investigation, if applicable.

2. ensure sufficient district law enforcement units are available at the scene and request additional personnel or equipment as necessary, including the assignment of the *designated exempt-level incident commander* responsible for the investigation.

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3. ensure the appropriate medical attention is requested and, *as soon as it is safe and feasible to do so, provide life saving aid consistent with their Department training, including the Law Enforcement Medical and Rescue Training (LEMART) training, to persons injured by a Department member's use of force until medical professionals arrive on scene.*

   a. *Department members may provide appropriate medical care consistent with their training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid and/or arranging for transportation to an emergency medical facility.*

   b. *If the scene is safe and the person in custody is secure, Department members will not interfere with emergency medical personnel when providing treatment to injured persons.*

4. ensure the public safety investigation is conducted to ensure public safety, preserve evidence, and secure the incident scene consistent with the Department directive titled "Preliminary Investigations," including:

   a. securing the scene;

   b. addressing any injuries and public safety issues; and

   c. identifying and securing any victims, offenders, witnesses, and evidence.

5. establish an inner and outer perimeter at the scene of the incident as soon as practicable.

   a. The inner perimeters are the areas at the scene of the incident where physical evidence is likely to be recovered.

   b. The outer perimeters are the areas surrounding and encompassing the inner perimeters where assigned personnel can be briefed and deployed.

   c. The reviewing supervisor will ensure access to the specific areas of the crime scene is as delineated in the Department directive titled "Crime Scene Protection and Processing."

D. **Responding Department Members.** Department members responding to the scene will report to the on-scene supervisor and will perform all actions necessary to address the immediate needs of the scene, including:

1. immediately requesting medical attention for the injured *and, as soon as it is safe and feasible to do so, providing life saving aid consistent with their Department training, including the Law Enforcement Medical and Rescue Training (LEMART) training, to persons injured by a Department member's use of force until medical professionals arrive on scene.*

   a. *Department members may provide appropriate medical care consistent with their training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid and/or arranging for transportation to an emergency medical facility.*

   b. *If the scene is safe and the person in custody is secure, Department members will not interfere with emergency medical personnel when providing treatment to injured persons.*

2. securing the scene of the incident, including identifying and securing evidence.

3. locating and apprehending any offenders.

4. identifying and securing witnesses, to the extent reasonably possible and lawfully permitted.

E. **District of Occurrence Command.**

1. The district executive officer of the district of occurrence, when on duty, will respond to and assume command of a firearm discharge or an officer-involved death incident until relieved of responsibility by a higher ranking member from district law enforcement or the *designated exempt-level incident commander.*

2. If the district XO is not on duty, the commander of the district of occurrence will respond and assume command.

F. **COPA.** Upon notification of a firearm discharge or officer-involved death incident as defined by 50 ILCS 727, *COPA personnel, in accordance with Item IV-B of this directive*, will immediately respond to the incident scene to initiate *and conduct the investigation* consistent with COPA's jurisdiction.

VII. POST-INCIDENT RESPONSIBILITIES

The following procedures will be followed for all firearm discharge or officer-involved death incidents, after the scene has been secured, notifications have been made, and investigative personnel have arrived at the scene.

A. **Involved Members.** All involved Department members, if physically capable, will:

1. remain on scene until released by the *designated exempt-level incident commander* responsible for the investigation or directed to a different location for the completion of the investigation, in coordination with the *Incident Response Team* and COPA.

2. remain separate from and avoid any contact or communication with any other involved members or witnesses until released by the *designated exempt-level incident commander* responsible for the investigation, in coordination with COPA.

3. report to the *designated exempt-level incident commander* responsible for the investigation upon his or her arrival and cooperate with any additional public-safety-related questions as consistent with consistent with the Department directive titled "Preliminary Investigations."

4. not discuss the facts of the incident **with any other involved members or witnesses**, until interviewed by COPA.

EXCEPTION: **This prohibition does not restrict communication:**

a. for officer or public safety (e.g., identifying criminal acts, tactical information), including during the completion of the public safety investigation.

b. as instructed by counsel in relation to civil, criminal, or administrative proceedings.

c. when participating in any wellness or stress management programs.

d. This prohibition will not continue beyond 60 days from the date of the incident, unless COPA extends the prohibition.

e. COPA may extend this prohibition, for additional 60 day periods, **on an individual basis and only when it is determined to be necessary to preserve the integrity of the investigation.**

f. If this prohibition is extended, **the above exceptions remain applicable** and COPA will provide the member with an official notification and the parameters of the extension.

g. Under no circumstances will this prohibition be extended beyond the final disciplinary decision of the investigation.

NOTE: Final disciplinary decision is defined as the conclusion of the process for disciplinary recommendations described in the Municipal Code of Chicago Section 2-78-130(a).

5. continue to follow the existing procedures based on the nature of the incident, including but not limited to:

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a. "De-escalation, Response to Resistance, and Use of Force"

b. "Firearm Discharge Incidents - Authorized Use and Post-Discharge Administrative Procedures"

c. "Emergency Use of Department Vehicles"

d. "Traffic Crashes Involving Department Members"

e. "Miscellaneous Detention Facility Topics"

6. be afforded the opportunity, prior to completing incident reports or other documentation, to listen to any audio and view any video contained on the Department-issued recording equipment (e.g., In-Car Video Systems and Body-Worn Cameras) that contains audio or video of the incident. This applies solely to audio and video captured from the perspective of the member making the statement (e.g., the Body-Worn Camera worn by the member and In-Car Video footage taken while the member was in the relevant vehicle). Any listening to such audio or viewing such video must be disclosed by the member or his or her supervisor in the reports and documentation related to the incident. Such information will be documented on the case report, Tactical Response Report (TRR), and any other applicable Department reports completed for the incident.

7. when applicable, truthfully and completely report each reportable use of force on a Tactical Response Report (TRR) (CPD-11.377), consistent with the Department directive titled "Incidents Requiring the Completion of a Tactical Response Report," and other reports at the location designated by the *designated exempt-level incident commander* responsible for the investigation.

NOTE: A member that has discharged a firearm **WILL NOT** be required to complete the "Narrative" section of the TRR for any firearms discharge incidents (with or without injury).

8. complete any required reports to document the incident by truthfully and completely describing the facts and circumstances concerning the incident and submit the reports by the end of his or her tour of duty.

B. **Witness Members.** Any member, whether on or off duty, who did not discharge a firearm nor was involved in an officer-involved death incident, but who observed or was present during the incident or who has been fired upon will:

1. remain on scene until released *designated exempt-level incident commander* responsible for the investigation or directed to a different location for the completion of the investigation, in coordination with the Incident Response Team and COPA.

2. remain separate from and avoid any contact or communication with any other involved members or witnesses until released by the *designated exempt-level incident commander* responsible for the investigation, in coordination with COPA.

3. report to the *designated exempt-level incident commander* responsible for the investigation upon his or her arrival and provide the investigative personnel with required information and assistance.

4. not discuss the facts of the incident **with any other involved members or witnesses**, until interviewed by COPA.

EXCEPTION: **This prohibition does not restrict communication:**

a. for officer or public safety (e.g., identifying criminal acts, tactical information), including during the completion of the public safety investigation.

b. as instructed by counsel in relation to civil, criminal, or administrative proceedings.

c. when participating in any wellness or stress management programs.

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d. This prohibition will not continue beyond 60 days from the date of the incident, unless COPA extends the prohibition.

e. COPA may extend this prohibition, for additional 60 day periods, **on an individual basis and only when it is determined to be necessary to preserve the integrity of the investigation**.

f. If this prohibition is extended, **the above exceptions remain applicable** and COPA will provide the member with an official notification and the parameters of the extension.

g. Under no circumstances will this prohibition be extended beyond the final disciplinary decision of the investigation.

NOTE: Final disciplinary decision is defined as the conclusion of the process for disciplinary recommendations described in the Municipal Code of Chicago Section 2-78-130(a).

5. complete any required reports to document the incident by truthfully and completely describing the facts and circumstances concerning the incident and submit the reports by the end of his or her tour of duty.

C. **Reviewing Supervisor.** The assigned reviewing supervisor from the district of occurrence will:

1. after the completion of the public safety investigation and the scene is safe and secure, promptly contact CPIC from the scene to confirm the notifications listed in Item V-C have been made and provide CPIC with additional relevant or updated incident information, if known.

2. ensure the involved and witness members remain separate from each other, including being transported separately from the scene, and monitored to avoid any contact or communication with any other involved members or witnesses until released by the *designated exempt-level incident commander* responsible for the investigation, in coordination with COPA.

NOTE: When feasible, involved and witness members will be monitored by supervisory personnel of higher rank.

3. ensure witnesses and other persons (Department member or non-Department member) who may have relevant information are made available to the on-scene *designated exempt-level incident commander, Incident Response Team* and COPA personnel for on-scene interviews.

4. when feasible, ensure all Department and non-Department vehicles involved in the incident remain undisturbed until Forensic Services Division personnel, the *designated exempt-level incident commander* , and COPA assess the need for and complete any forensic processing.

5. ensure a sworn Department member, other than the involved member, has been assigned to conduct the preliminary investigation, prepare the original case report, relay additional information to investigating units, and make the appropriate notifications, including to the Medical Examiner's Office for officer-involved deaths.

6. ensure written reports are generated and submitted to document on-scene investigative activities performed by district law enforcement personnel, such as searches for firearms or other physical evidence, and review all written reports generated by district law enforcement personnel submitted during the preliminary investigation.

7. ensure that the name, star number, and unit of assignment of all Department members and the name and organizational affiliation of all non-Department personnel (e.g., COPA) who have arrived on the scene, including the time of arrival, or who enter the crime scene are documented in accordance with the Department directives titled "Preliminary Investigations" and "Crime Scene Protection and Processing."

8. for firearm-discharge incidents, ensure:

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a. when feasible, no member of any rank other than Forensics Services Division personnel handles, inspects, unloads, or otherwise tampers with the involved member's firearm.

NOTE: If the involved member is injured and was relieved of his or her firearm by another Department member prior to receiving medical treatment, the responding supervisor will take possession of the firearm and duty belt from the securing member and ensure that the firearm remains holstered and secured.

b. unless the member was disarmed, the firearm remains holstered and secured pending the arrival of Forensic Services Division personnel and COPA personnel.

c. where circumstances require that a Department member's firearm must be preserved as evidence, the firearm is processed in compliance with the Department directive titled "Crime Scene Protection and Processing."

d. all fired projectiles have been accounted for without contaminating or interfering with the collection and maintenance of evidence.

9. for officer-involved death investigations, ensure:

a. the Medical Examiner's Office is notified of an officer-involved death and a Medical Examiner (ME) number is obtained.

b. when practicable, the prompt screening of the decedent from public view (e.g., blocking the public view or covering of the decedent) is provided, consistent with his or her training and available equipment.

(1) At any time during the course of the investigation, if the highest ranking on-scene district law enforcement supervisor determines that the safety of officers or the public is in jeopardy, the supervisor may request the immediate removal of the decedent from the scene, consistent with Item X-E of this directive.

(2) If appropriate, the supervisor will consult with the Incident Response Team supervisor or *designated exempt-level incident commander* responsible for the investigation prior to the screening, covering, or removal the decedent.

10. if circumstances necessitate the relocation of the investigation from the site of the occurrence, contact the *designated exempt-level incident commander* responsible for the investigation for authorization and notify CPIC.

11. complete the reviewing supervisor's section of the TRR, if applicable and appropriate.

NOTE: If the involved member is of the rank of sergeant or higher, a higher ranking member will complete the supervisor's section of the TRR.

12. remain on duty until dismissed by the *designated exempt-level incident commander* responsible for the investigation.

D. **Watch Operations Lieutenant.** The watch operations lieutenant of the district of occurrence will:

1. verify the appropriate supervisory resources have responded to the scene and ensure the responsibilities of the reviewing supervisor have been assigned to the appropriate supervisor.

2. obtain a Universal (U) Number from COPA in all cases in which a Department member has:

a. discharged a firearm (on or off duty) and another person is injured or killed by one or more bullets fired by that member, or

b. suffered a self-inflicted gunshot wound.

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3. follow the procedures in the Department directive titled "Notification of Death or Serious Injury to a Member: Duty Related" when a Department member has been injured or killed by gunfire or seriously injured or killed as a result of any firearm discharge or officer-involved death incident.

VIII. INCIDENT INVESTIGATION

A. ***Designated Exempt-Level Incident Commander.*** The on-scene *designated exempt-level incident commander* responsible for the investigation will:

1. proceed to the scene, assume command of the scene, and ensure a complete and thorough investigation is conducted of the incident.

2. ensure all tasks delineated for lower-ranking personnel have been or are being performed, including the public safety investigation at the scene of the incident.

3. personally conduct an investigation into the circumstances surrounding the incident in a manner consistent with this directive.

4. confer with the supervisor who conducted the initial public safety investigation and, if deemed necessary, conduct a voluntary walk through and a public safety interview with each of the involved Department member(s) without delay and outside the presence of any other individual.

5. designate a supervisor responsible for assisting in the preliminary investigation whenever the incident has occurred in more than one district.

6. ensure that each involved member is accompanied and monitored by a supervisor of higher rank than the involved member, when feasible, who will ensure the involved member is separated and directed not to communicate with any other Department member or witnesses to the incident, consistent with Item VII-A-4 and VII-B-4 of this directive.

   a. The *designated exempt-level incident commander* responsible for the investigation will assign separate transportation for the involved and witness members and ensure they avoid contact or communication related to the incident until released by the *designated exempt-level incident commander* responsible for the investigation, in coordination with COPA.

   b. The involved member will be escorted from the scene as soon as practicable and remain accompanied by a supervisor until released by the *designated exempt-level incident commander* responsible for the investigation, in coordination with COPA.

7. ensure Forensic Services Division personnel collect and process evidence at the scene of the incident and complete all required tasks outlined in this directive.

   NOTE: In consultation with COPA investigative personnel if available, the *designated exempt-level incident commander* responsible for the investigation may waive firearm inventory and ballistic examination and may authorize the member to retain his or her firearm in instances in which there is no likelihood of death or injury to a person or no identifiable property damage resulting from a firearm discharge incident.

8. ensure the appropriate notifications and reporting requirements are completed, including the completion of the secondary case report by Bureau of Detectives personnel and when applicable, the notification to the Medical Examiner's Office.

9. unless immediately necessary, consult with responding COPA investigative personnel if available, Bureau of Detectives personnel, and Forensic Services Division personnel before any involved vehicles are removed from the scene.

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10. may direct additional investigatory actions or otherwise coordinate the Department's on-scene response to any firearm discharge or officer-involved death incident as deemed necessary.

11. *ensure any representatives from the Fraternal Order of Police (FOP) or the Police Benevolent and Protective Association (PBPA) do not interfere in the investigation of the incident, but are provided the appropriate access consistent with their respective collective bargaining agreement.*

12. fulfill the obligations outlined in the Department directive titled "Traumatic Incident Stress Management Program," including:

    a. determining whether an incident should be classified as a traumatic incident in situations other than those specifically defined as a traumatic incident.

    b. notifying the Professional Counseling Division of the incident.

    c. notifying the affected member of their responsibilities.

13. prior to the end of his or her tour of duty, complete the review process for the submitted Tactical Response Reports following the procedures outlined in the Department directive titled "Incidents Requiring the Completion of a Tactical Response Report."

    NOTE: *Consistent with the Department directive titled "Incidents Requiring the Completion of a Tactical Response Report," the designated exempt-level incident commander will review and approve all submitted TRRs for the incident, including for any lesser uses of force by Department members associated with the firearm discharge or officer-involved death incident.*

14. if necessary, prior to the end of his or her tour of duty, review the Major Incident Notification Report and ensure its completion.

B. **COPA Personnel.** Upon the arrival of COPA personnel, the *designated exempt-level incident commander* responsible for the investigation:

1. will ensure that as soon as the scene is safe and secure, COPA investigators will be provided the opportunity to participate in the preliminary assessment during the immediate aftermath of a firearm-discharge or officer-involved death incident to the same extent as any Department member or any other law enforcement agency investigating the incident.

2. will provide a narrative of the incident to the COPA investigators based on the information available at that time, including, but not limited to:

    a. walking through the incident scene.

    b. providing information obtained from the "public safety" interview conducted with the involved member(s).

    c. disclosing any and all evidence and witnesses identified by Department personnel.

3. has an ongoing obligation to keep COPA personnel apprised of all relevant information or evidence identified or obtained pursuant to on-scene law enforcement activity or Department investigation, including approved reports.

C. COPA personnel will be responsible for notification and responding to the Cook County State's Attorney's Office Law Enforcement Accountability Division concerning the officer-involved death investigation.

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D. As soon as it becomes apparent, any conflict of opinion or procedure between Department members and COPA investigative personnel at the scene will be reported to the on-scene *designated exempt-level incident commander*. The on-scene *designated exempt-level incident commander* will confer with the COPA investigative personnel to immediately resolve the conflict on-scene. If an immediate resolution is unavailable, the conflict will be reported up the respective chains of command for resolution.

E. **Bureau of Detectives Responsibilities**

1. In all officer-involved death incidents and firearm discharge incidents other than the destruction/deterrence of an animal with no human injury, the Bureau of Detectives area commander and the Incident Response Team supervisor will consult with the assigned *designated exempt-level incident commander* and determine the appropriate Bureau of Detectives response.

2. When assigned to the investigation of a firearms discharge or officer-involved death incident, the Incident Response Team supervisor will:

   a. personally respond to the scene of the investigation.

   b. under the direction of the appropriate Bureau of Detectives area commander, assume the responsibility for the criminal investigation of non-Department members.

   c. ensure the preservation of evidence.

      NOTE: The highest ranking member of the Bureau of Detectives on scene will be responsible for the collection and processing of evidence on the scene. The highest ranking district law enforcement member on scene will be responsible for protection of the evidence and maintaining the crime scene until all evidence is collected.

   d. coordinate with responding COPA investigative personnel regarding the collection and processing of evidence and the interviewing of witnesses.

   e. ensure the identification of witnesses.

   f. ensure that interviews of witnesses related to the criminal investigation of the non-Department member(s) associated with the firearms discharge or officer-involved death incident are video-recorded, when possible, unless the witness declines to permit such recording or such recording is prohibited by law.

   g. ensure that all witnesses are informed that they have the opportunity to speak with investigative personnel from COPA and witness interviews are conducted in accordance with Item IX of this directive.

   h. provide timely responses to requests for information from COPA investigative personnel during the preliminary investigation on scene and any additional follow-up investigations.

   i. if appropriate, be responsible for notification and responding to the Cook County State's Attorney's Office Felony Review concerning the underlying criminal investigation.

   j. make available to COPA investigative personnel, reports (when completed and approved), information, video and audio materials, and any other documents or material of evidentiary value related to the incident.

   k. ensure all reports are completed in a timely manner.

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3. The assigned Bureau of Detectives personnel will complete a secondary case report, consistent with the classifications outlined in the Incident Reporting Guide (CPD-63.451), to document the Department's investigation of firearm discharge incidents involving sworn members other than the destruction of an animal where no one was injured or officer-involved death incidents. The assigned Bureau of Detectives personnel will:

   a. ensure the secondary case report is associated with the Records Division (RD) number of the original incident case report.

   b. document each Department member who viewed video evidence or listened to audio evidence at the scene, including whether the video was viewed or the audio was listened to with COPA investigative personnel present.

   c. document the name and time of arrival of all COPA investigative personnel arriving on the scene.

IX. WITNESS INTERVIEWS

A. Witnesses will not be held or detained against their will consistent with the Department directive titled "Preliminary Investigations."

B. COPA personnel will be afforded the opportunity to interview all witnesses.

1. The order in which Department investigators and COPA investigators conduct witness interviews will be determined by the *designated exempt-level incident commander* responsible for the investigation and the COPA investigative personnel, in consultation with the Bureau of Detectives personnel.

2. If the Department is conducting a concurrent investigation of criminal conduct by non-Department members related to the incident, the witness interviews may be conducted concurrently, if feasible, by the Department and COPA.

C. All witnesses will be informed of the opportunity to speak with investigative personnel from COPA. When known, Department personnel will notify COPA personnel before a witness leaves a Department facility or the scene of the incident. However, witnesses will not be held or detained against their will solely for the purpose of notifying COPA personnel.

D. Department members will continue to identify and transport civilian witnesses to the appropriate Bureau of Detectives Area for the purpose of conducting interviews.

NOTE: Although all witnesses will be encouraged to be transported to the appropriate Bureau of Detectives Area office to be interviewed, witnesses who refuse, but are willing to be interviewed on scene should be accommodated and, if appropriate, afforded safety and security considerations. On-scene voluntary interviews may be facilitated by the use of Department recording devices (e.g., In-Car Video Systems, Body Worn Cameras) consistent with the Department directives titled "Body Worn Cameras" and "In-Car Video Systems."

E. COPA, and, if appropriate, Cook County State's Attorney's Office personnel, will interview any available civilian witnesses.

X. CRIME SCENE ACCESS AND EVIDENCE PROCESSING

A. Once the scene is safe and secure, the COPA investigative personnel will have immediate access to all areas within the designated crime scene, in coordination with the *designated exempt-level incident commander* responsible for the investigation.

B. Department members will continue to identify, secure, protect, collect, and process evidence at the incident scene consistent with the Department directive titled "Crime Scene Protection and Processing."

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1. Department members assigned to the Forensic Services Division may mark and photograph evidence at the scene prior to the arrival of the COPA investigative personnel. Evidence will not be collected or processed until the arrival of the COPA personnel, unless exigent circumstances necessitate immediate collection and processing (e.g., inclement weather resulting in the loss or destruction of evidence).

2. Additional evidence identified by the on-scene COPA investigative personnel will be collected by Forensic Services Division personnel with the concurrence and approval of the COPA investigative personnel.

3. Any and all items of evidence identified by either the Department or COPA will be photographed, collected, and processed by Forensics Services Division personnel.

4. Forensic Services Division personnel will collect and process evidence in a manner to ensure a timely removal of a decedent from a public incident scene, when applicable.

C. A member of the COPA investigative team must be present for:

1. the first viewing of available video or audio material related to the incident.

2. the collection and preservation of any:

a. firearms recovered at the scene, and

b. audio and video material obtained at or near the scene of the investigation from the Department or a third-party.

EXCEPTION: This requirement will not apply when there is a public safety need to listen to, review, or collect any evidence prior to the on-scene arrival of COPA investigative personnel and COPA personnel have been notified of the incident and are unavailable.

D. Forensic Services Division personnel will:

1. take complete and accurate measurements of the scene from which to develop a detailed plat.

2. take numerous detailed photographs of the scene from various angles and depths, procuring artificial light as necessary.

3. consult with responding COPA personnel regarding the collection and processing of evidence related to the incident, including activities to take place at other locations, such as hospitals.

4. upon request of COPA personnel in consultation with the *designated exempt-level incident commander* responsible for the investigation, take detailed photographs of officers involved in or witness to the firearms discharge or officer-involved death incident.

E. Deceased Removal

1. At any time during the course of the investigation, if the highest ranking on-scene district law enforcement supervisor determines that the safety of officers or the public is in jeopardy, the supervisor may request the immediate removal of the decedent from the scene.

2. If an immediate removal is deemed necessary, the highest ranking on-scene district law enforcement supervisor will ensure that the deceased remains are pronounced consistent with the Department directive titled "Processing and Transportation of Deceased Persons." When removing the decedent from the scene, Department members will proceed in a respectful and private manner to the extent possible.

XI. POST-FIREARM DISCHARGE INCIDENT SCENE AND FIREARM PROCESSING

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A. Unless there are overriding public or officer-safety concerns, no members of any rank other than Forensic Services Division personnel will handle, inspect, unload, or otherwise tamper with the involved member(s)' firearm(s), or any other firearms involved in the firearms-discharge incident. The firearm will remain holstered and secured pending the arrival of the *designated exempt-level incident commander* responsible for the investigation and Forensic Services Division personnel.

B. If the Department member was disarmed during the firearm-discharge incident or if the firearm contains biological or other trace-matter evidence, the firearm will be preserved as evidence and processed in compliance with the Department directive titled "Crime Scene Protection and Processing."

C. Forensic Services Division personnel will:

1. conduct any necessary firearm inspection(s) on-scene in the presence of the *designated exempt-level incident commander*, Incident Response Team personnel, and COPA personnel, unless unavailable. If the *designated exempt-level incident commander* determines that safety concerns or weather conditions preclude the on-scene inspection, the involved member(s) will remain in the continual presence of a designated supervisor of higher rank than the involved member until the inspection is conducted by Forensic Services Division personnel in the affected Bureau of Detectives area in the presence of COPA personnel.

2. upon request of COPA personnel in consultation with the *designated exempt-level incident commander*, examine the firearm(s) of Department members present at the time of the firearm-discharge incident to:

   a. identify its make, model, serial number, caliber, type (revolver, semi-automatic pistol, rifle, shotgun, etc), and other identifiers,

   b. determine the type of ammunition used, and

   c. determine the number of rounds expended and/or remaining.

3. examine the surrounding area, including property and any involved vehicles, to identify the number and location of cartridge casings, bullets, bullet fragments, bullet entries and exits, or other property damage caused by bullets, bullet fragments, or other projectiles.

4. identify and photograph all visible bullet entries in surrounding vehicles and property and, if necessary and feasible, conduct trajectory analysis.

5. inventory all firearms known to have been discharged by a Department member and all firearms for which inspection is inconclusive as to whether the firearm was discharged in accordance with Department directive titled "Firearms Taken into Custody or Turned In." These firearms will be inventoried in cases in which:

   a. an individual has been injured or killed.

   b. identifiable property damage has occurred.

   c. potential property damage may have occurred. In potential property damage cases, the designated incident commander responsible for the investigation may authorize the responsible member to retain his or her firearm for subsequent personal transport to the Forensics Services Division within ninety-six hours of the incident. The authorization will be noted in the "Comments" field of the eTrack inventory application.

6. if necessary and feasible, preserve the scene for possible trajectory analysis and:

   a. avoid removing bullet fragments from surfaces in a manner that would prevent possible trajectory analysis.

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b. determine whether processing involved vehicles can be effectively accomplished on scene. If involved vehicles are to be transported to a secure environment for later processing, Department personnel will be cognizant not to disturb content and configuration of the vehicle (e.g., disturbing the position of the seats).

7. if the investigation indicates additional weapons were discharged, upon request of COPA personnel in consultation with the *designated exempt-level incident commander* responsible for the investigation, conduct gun shot residue testing on:

a. any civilian involved in the incident whenever a weapon is recovered on scene or any witness to the incident believes the subject possessed a weapon.

b. any Department member present when the firearm-discharge incident occurred, if requested by COPA personnel.

XII. DISSEMINATION OF INFORMATION

A. The release of Department information to the news media concerning firearm discharge and officer-involved death incidents will be consistent with the Department directive titled "News Media Guidelines."

B. In consultation with the Commander, Incident Response Team, and *designated exempt-level incident commander* responsible for the investigation, the Director, Communications Division, (or a designee who is not directly involved in the investigation or investigative chain) is responsible for addressing on-scene media inquiries on behalf of the Department. When applicable and appropriate, the Communications Division will:

1. coordinate an on-scene media statement summarizing the preliminary investigation of an incident.

2. issue a formal preliminary written statement to news media outlets.

C. The Communications Division is responsible for responding to news media inquiries on behalf of the Department not made from the scene of the incident, including those made via phone, email, or other electronic communications.

D. News media inquires concerning the investigation of an officer-involved death pursuant to the Illinois Police and Community Relations Improvement Act (50 ILCS 727) will be referred to COPA.

E. Consistent with the policies outlined in this and other associated directives, the *Incident Response Team* and Bureau of Detectives personnel will be responsible for notifying the family of individuals who have been injured or the deceased during a firearm discharge or officer-involved death incident.

F. Any additional Department communication concerning a firearm discharge or officer-involved death incident will be made in consultation with the Force Investigation Division.

XIII. CONFLICT PROVISION

If this directive conflicts with any other Department directive, this directive will take precedence.

David O. Brown
Superintendent of Police

20-120 MWK/TSS

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EXHIBIT

Chicago Police Department

Special Order S04-12

INCIDENTS INVOLVING ANIMALS

ISSUE DATE:	11 February 2019	**EFFECTIVE DATE:**	11 February 2019
RESCINDS:	16 January 2015 version		
INDEX CATEGORY:	04 - Preliminary Investigations		
CALEA:			

I. PURPOSE

This directive:

A. identifies the functions and responsibilities of the City of Chicago Commission on Animal Care and Control (CACC).

B. outlines procedures for the inventory of animals.

C. *continues* the required notifications when handling animal-related incidents.

D. continues the use of the Cook County Animal & Rabies Control Animal Bite Report (green card).

E. continues the use of the Legal Notice for the City of Chicago Municipal and State Violations Animal Seizure form (CPD-11.468).

NOTE: Units may order additional Cook County Animal & Rabies Control Animal Bite Report and *Legal Notice for the City of Chicago Municipal and State Violations Animal Seizure forms (CPD-11.468)* from the Equipment and Supply Section through normal requisition procedures.

F. continues the use of the City of Chicago Animal Care and Control Animal Inventory form.

II. GENERAL INFORMATION

A. Department members are responsible for enforcing the following laws relating to animals:

1. Animal Care and Control, Chapter 7-12, Municipal Code of Chicago (MCC); and

2. the Humane Care for Animals Act, 510 ILCS 70/3 et seq., 720 ILCS 5/12-35, 720 ILCS 5/12-36, and 720 ILCS 5/48.

B. Department members will respond to animal bite incidents, situations where the immediate safety and well-being of a person is threatened by an animal, and reports of animal abuse, animal torture, or animal fighting.

C. The Chicago Animal Care and Control has a staff member available twenty-four hours a day, seven days a week. Animal control officers have the authority to enforce MCC Chapter 7-12 and are available to respond to emergency animal-removal-service requests. A Department member requiring an animal-removal service will make the request via the Office of Emergency Management and Communications (OEMC) zone dispatcher.

D. In every instance where an animal is seized by a Department member, the member will issue the Legal Notice for the City of Chicago Municipal and State Violations form (CPD-11.468).

NOTE: If a stray animal is seized on private property, a notice must be issued even if the person present denies ownership.

E. The following are approved shelters where a Department member may, with a supervisor's approval, bring an animal:

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1. Chicago Animal Care and Control (24 hour drop-off);
2. Animal Welfare League-Chicago (0800-1900 hour drop-off);
3. Animal Welfare League-Chicago Ridge (24 hour drop-off); and
4. Any animal control center or humane society approved by the Executive Director, Chicago Animal Care and Control.

NOTE: A list of approved shelters is available on the Chicago Animal Care and Control website.

III. ANIMAL BITE INCIDENTS

A. A Department member assigned to an animal bite incident, regardless of whether the victim is human or animal, and other than an incident involving a Department canine, will:

1. arrange for the transportation of the victim to the nearest approved medical facility, if necessary.
2. determine if the biter animal is in the care of the owner or keeper, If:
    a. the animal **is not** in the care of the owner or keeper, notify CACC to remove the animal. If CACC cannot respond in a timely manner, the animal will be inventoried; or
    b. the animal **is** in the care of the owner or keeper, inform the owner or keeper that the animal must be examined by a veterinarian within twenty-four hours after the bite, and the animal must be impounded, at:
        (1) a veterinarian animal hospital; or
        (2) the home of the owner or keeper, if currently vaccinated against rabies and directed to do so by the animal's veterinarian; or
        (3) the Chicago Animal Care and Control facility.
3. cite the animal owner or keeper for any Municipal Code of Chicago (MCC) violations using an Administrative Notice of Ordinance Violation (ANOV) consistent with the Department directive titled "Municipal Administrative Hearings." Hearings will be scheduled according to the Court Citing Date Card for Misdemeanor and City Ordinances card (CPD-11.562) using the member's court key. Cases will be scheduled for a hearing date **twenty-eight to sixty-five days** from the date of the violation.
4. complete the top portion of a Cook County Animal & Rabies Control Animal Bite Report.
    a. The Cook County Animal & Rabies Control Animal Bite Report tracks the potential spread of rabies and serves an important public health purpose.
    b. When the victim of an animal bite is a juvenile, a Department member will only enter "Minor" in the Victim Information-Name section of the Cook County Animal & Rabies Control Animal Bite Report.
5. notify the Alternate Response Section Administrative Desk by telephone, provide the information on the Cook County Animal & Rabies Control Animal Bite Report, including the full name of any juvenile animal bite victim, and receive an animal bite report number.
6. enter the animal bite report number and the name and star number of the Alternate Response Section member notified on the Cook County Animal & Rabies Control Animal Bite Report.
7. forward the completed top portion of the Cook County Animal & Rabies Control Animal Bite Report via Department mail as soon as possible or no later than the end of the tour of duty.

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NOTE: The bottom portion of the completed Cook County Animal & Rabies Control Animal Bite Report will be given to the owner or keeper of the biting animal, left at the owner's or keeper's residence, or left at the location of occurrence if the owner is not available.

8. when the animal is not in the care of the owner or keeper and the CACC is unable to respond in a timely manner, *a Department member will* :

   a. notify his or her immediate supervisor.

   b. determine if transportation can be accomplished safely and without incident.

   c. when determined the transportation can be conducted safely, request authorization from his or her immediate supervisor to transport the live animal(s) to:

      (1) the district station when there is a facility to hold the animal(s); or

      (2) any of the approved facilities listed in Item II-E of this directive.

   d. upon approval, transport the animal, with the CACC's copy of the City of Chicago Animal Care and Control Animal Inventory form, to the approved holding facility.

   e. *provide a copy of the City of Chicago Animal Care and Control Animal Inventory form or attach to the cage holding the animal.*

B. When a biter animal is to be seized by a Department member under either state law or municipal ordinance, the member will complete the Legal Notice for the City of Chicago Municipal and State Violations form (CPD-11.468) and distribute the notice in the following manner:

1. the original (white) of the completed Legal Notice for the City of Chicago Municipal and State Violations form (CPD-11.468) will be left at the residence or place of seizure stating that the animal has been seized.

2. the second copy (yellow) will be attached to the CACC City of Chicago Animal Care and Control Animal Inventory form, which is then attached to the district cage housing the animal or given to the animal control officer taking custody of the animal.

3. the third copy (pink) will accompany the arrest report or other required report, consistent with the Incident Reporting Guide (CPD-63.451).

NOTE: **The animal inventory number will be recorded on the Legal Notice for the City of Chicago Municipal and State Violations form (CPD-11.468)**; therefore, members will contact, from the field, the district facility where the animal is to be inventoried and request the assignment of an animal inventory number.

C. When an animal bite is reported in a district other than the district of occurrence:

1. the assigned member will:

   a. complete the Cook County Animal & Rabies Control Animal Bite Report and obtain an animal bite number from the Alternate Response Section Administrative Desk.

      NOTE: When there is an allegation that the biter animal was sick or diseased, the reporting officer will notify the *district station supervisor* in the district of occurrence, by telephone, to request that an immediate follow-up investigation is initiated.

   b. forward the Cook County Animal & Rabies Control Animal Bite Report to the review officer in the district of occurrence via Department mail.

2. the review officer in the district of occurrence will, upon receipt of the original Cook County Animal & Rabies Control Animal Bite Report, notify the *district station supervisor* of the required follow-up investigation.

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3. the *district station supervisor* in the district of occurrence will, upon receipt of the Cook County Animal & Rabies Control Animal Bite Report, assign a member to complete the investigation.

4. the investigating member in the district of occurrence will ensure:

   a. that the provisions in Items III-A and, when appropriate, III-B of this directive are followed;

   b. all necessary information is provided to the CACC, by telephone, including the animal bite report number previously assigned to the incident; and

   c. the name and badge/star number of the CACC person contacted is noted on the Cook County Animal & Rabies Control Animal Bite Report.

D. When a person is bitten by a Department canine, follow the procedures consistent with the Department directive titled "Canine Teams."

IV. CRIMES AGAINST ANIMALS

A. Field personnel assigned to investigate animal abuse, animal torture, breeding animals for fighting, training animals for fighting, or animal fighting incidents will respond to the scene to conduct a preliminary investigation. If bonafide, a Department member will:

1. notify CACC and request they respond to the scene to safely control and remove all animals involved.

   NOTE: If there are dead animals at the scene which may have evidentiary value, members will inform CACC of that fact and request that they respond in a timely manner to take custody of the evidence.

2. request an evidence technician to photograph the animal(s) and scene.

3. notify the Animal Crimes Team (ACT) via CPIC, which may conduct a follow-up investigation. If there is evidence of crimes against animals, ACT will contact the Troubled Building Unit and provide the location where the incident occurred.

4. complete a case report consistent with the Incident Reporting Guide. The report will indicate that an extra copy is sent to the ACT.

5. follow the procedures delineated in Item III-A-8 of this directive when CACC is unable to respond.

6. when impounding the animal(s) for a violation of the appropriate section of 510 or 720 Illinois Compiled Statutes violations, a Department member will:

   a. complete the Legal Notice for the City of Chicago Municipal and State Violations Animal Seizure form (CPD-11.468); and

   b. contact, from the field, the district facility where the animal is to be inventoried, request an inventory number, and record that number on the notice.

   NOTE: The original (white) will be left at the residence or place of seizure. The second copy (yellow) will be attached to the City of Chicago Animal Care and Control Animal Inventory form, which is then attached to the district cage housing the animal or given to the animal control officer or specially trained Department member taking custody of the animal. The third copy (pink) will accompany the arrest report or other required report, consistent with the Incident Reporting Guide (CPD-63.451), as necessary.

7. complete the inventory of the animal(s) as outlined in this directive.

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B. If an arrest is made, the arresting officer will:

1. charge the offender with a violation of the appropriate section of 510 or 720 Illinois Compiled Statutes. The owner of the seized animal may relinquish possession of the animal by signing in the designated box on the City of Chicago Animal Care and Control Animal Inventory form. If the ownership of the animal has not been relinquished, the officer will record the following notation in the narrative of the arrest report: ANIMAL SEIZED, OWNERSHIP NOT RELINQUISHED; PETITION FOR FORFEITURE REQUESTED.

NOTE: A Department member will refer to the directive titled "Animal Care Statutes and Ordinance" for a list of specific charges relating to animals. The Chapter 510 offenses cover all animals, while the Chapter 720 offenses refer specifically to dog fighting, sexual contact/conduct with an animal, and the possession of unsterilized dogs by a felon.

2. obtain the approval of the *district station supervisor* in the district of arrest to notify and confer with the assistant state's attorney assigned to the Felony Review Unit for approval of felony charges, if appropriate. Notification to the Bureau of Detectives is not necessary.

3. notify CACC or the Alternate Response Section, as appropriate, of the court information for the arrested animal owner/keeper.

C. *District Station Supervisor* Duties

When an arrest for a violation of 510 ILCS 70, 720 ILCS 5/48-1, 720 ILCS 5/12-35, or 720 ILCS 5/12-36 is made, the district station supervisor will:

1. ensure that the required notation appears in the narrative of the arrest report if an animal is seized but ownership is not relinquished; and

2. follow current bonding procedures.

NOTE: **If the appropriate charge is a Class A misdemeanor and the owner/keeper of the seized animal has not relinquished ownership, the *district station supervisor* will not allow the offender to post bond nor be given an I-Bond.** The arrestee will be sent to the first court call following the arrest for the court to set bond and the State's Attorney's Office to file a petition for forfeiture of the animal(s) involved.

V. DEAD OR DESTROYED ANIMALS

A. A Department member observing or responding to a complaint of a dead animal will determine if the animal is evidence of criminal activity. If there:

1. **is evidence** of criminal activity, the member will complete the appropriate case report, request an evidence technician to photograph the animal and, after photographing, request CACC removal of the animal through OEMC.

2. **is no evidence** of criminal activity, the member will request Department of Streets and Sanitation removal of the animal through OEMC.

B. When a Department member uses a firearm to destroy a seriously injured or dangerous animal, the member will follow the procedures consistent with the Department directive titled "Firearms Discharge Incidents Involving Sworn Members."

VI. STRAY OR LOST ANIMALS

A. Complaints regarding stray animals will be directed to the 311 Non-Emergency City Service Request telephone number.

NOTE: Per MCC 7-12-040, the CACC will be responsible for impounding stray animals.

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B. When a stray animal presents an immediate threat to the safety of any person, members will notify CACC to apprehend the animal(s) and take other actions, as appropriate.

NOTE: When it has been determined via OEMC confirmation that CACC will be unable to respond or be unreasonably delayed in their response to an animal(s) posing an immediate danger to the public, a Department member may request, through OEMC, the assistance of SWAT to apprehend the animal(s). Department members are authorized to take other actions, as appropriate, to address any articulable threat to the immediate safety and well-being of the public by an animal.

C. *When a stray or lost animal presents no immediate threat to the safety of any person, members will request a unit trained in the use of a microchip scanner consistent with the BOP Special Order titled "Microchip Scanning Devices."*

NOTE: *Department member's will not unnecessarily endanger themselves when adhering to this policy*.

D. When a stray animal is captured by a responding member other than those specially trained, and CACC will be unable to respond or be unreasonably delayed in their response, the member will follow the procedures delineated in Item III-A-8 of this directive prior to transporting the animal.

NOTE: If there is evidence of criminal activity, the responding member will follow the procedures delineated in item IV of this directive.

E. A Department member will ensure that the animal shelter name and inventory number is included in any completed case reports.

VII. DISTRICT ANIMAL INVENTORY

A. A Department member will:

1. only inventory live animals as a last resort when other options are not feasible; and
2. immediately notify the *district station supervisor* of any inventoried animal(s).

B. The purpose of inventorying animals is to:

1. provide protection of evidence; and
2. furnish the Department with a record of the actions involved in accepting or releasing animals.

NOTE: Animals will be inventoried only if the animal can be secured in a locked facility.

C. Animals will be inventoried using the City of Chicago Animal Care and Control Animal Inventory form.

1. The Animal Control Center (white) copy will be attached to the cage housing the animal and given to the CACC officer taking custody of the animal.

NOTE: If the animal is turned over to *an approved shelter*, the Animal Control Center (white) copy will be mailed to CACC via Department mail.

2. To acknowledge receipt of the animal, the Citizen's Receipt (yellow) copy will be given to the owner or citizen that turned in the animal.
3. The third copy, Unit/District/ *PMA Supervisor* (pink) copy, will be retained in district files consistent with record-retention requirements.
4. The fourth copy, Kennel Record (buff) copy, will be attached to the door of the cage holding the animal or will be given to personnel at the shelter that receives the animal (CACC or a private shelter). If the animal is disposed of in any other manner, this copy will be destroyed.

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D. The *district station supervisor* will:

1. ensure that the cage door is secured and the Animal Control Center (white) and Kennel Record (buff) copies of the City of Chicago Animal Care and Control Animal Inventory form are attached to the door;

2. ensure that the CACC is notified and the inventoried animal is picked up by CACC *or approved shelter personnel*. Inventoried animals should not be in Department custody longer than **eight hours**;

3. ensure that the animal is provided with food and water if CACC personnel are unable to pick up the animal within a short period of time; and

4. renotify the CACC at the beginning of each shift if an animal has not been picked up.

(Items indicated by *italics/double underline* were added or revised.)

Authenticated by KC

Eddie T. Johnson
Superintendent of Police

18-095 JAB

ADDENDA:

1. S04-12-01 - Animal Care Statutes and Ordinance

EXHIBIT M

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION

KENT MAYNARD, JR.,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 24-cv-03612
	)	
THE CITY OF CHICAGO, a municipal corporation, and Chicago Police Officer CARMEN MOSTEK (Star 8664),	)	District Judge Elaine E. Bucklo
	)	Magistrate Judge Young B. Kim
Defendants.	)	

DECLARATION OF THOMAS STOYIAS

I, Thomas Stoyias, declare under penalty of perjury, that the following facts are true and correct to the best of my knowledge:

1. I have personal knowledge of, and am competent to testify to, the facts stated in this Declaration.

2. I am employed with the Chicago Police Department ("CPD") as an Assistant Director in CPD's Research and Development Division, which is responsible for analyzing, revising, and writing the policies of CPD and I am familiar with CPD's policies regarding the completion of the Tactical Response Reports ("TRRs"). I have been employed by CPD for twenty-three (23) years.

3. I was designated as a 30(b)(6) witness in this matter on the topics of the rules, regulation, policies, and practices of the Chicago Police Department to investigate incidents involving the discharge of a firearm or the use of deadly force.

4. A TRR is a standardized CPD form used to document, investigate, and evaluate reportable use of force of incidents on or off duty

5. The TRR is a post-incident document completed by the individual Department member for reportable use of force incidents to explain, in their own words, what force the department member used and why.

6. The TRR is as a part of internal documentation review, and investigation process to determine whether the Department member's use of force response appears to be in compliance with department policy and directives based on the preliminary information reviewed and available at the time of the report. The completion of the TRR is an administrative step taken after the incident.

7. A completed TRR describes the facts and circumstances concerning the incident and documents the Department member's decision to employ a particular use of force and the reasonableness, necessity, and proportionality of the force used. CPD's supervisory role in reviewing the TRR is to ensure sufficiency and completeness.

8. Under section III of G03-02-02, Incidents Requiring the Completion of a TRR, attached hereto as Exhibit N, sworn department members must complete a TRR when they are in performance of their duties and engage in a reportable use of force, including a Level 2 reportable use of force such as a firearm discharge solely to destroy/deter an animal. See Exhibit N at FCRL003201.

9. Exhibit N defines the circumstances that require the completion of a TRR under Item III.

10. I declare that, to the best of my knowledge and belief, the information contained herein is true, accurate and complete.

Pursuant to 28 U.S.C. §1746, I state under penalty of perjury that the foregoing is true and correct.

Dated: 15SEP25

Assistant Director Thomas Stoyias
Chicago Police Department

EXHIBIT N

Chicago Police Department

General Order G03-02-02

INCIDENTS REQUIRING THE COMPLETION OF A TACTICAL RESPONSE REPORT

ISSUE DATE:	28 June 2023	**EFFECTIVE DATE:**	28 June 2023
RESCINDS:	15 April 2021 Version		
INDEX CATEGORY:	03 - Field Operations		
CALEA:	Law Enforcement Standards Chapter 4		

I. PURPOSE

This directive:

A. continues the Tactical Response Report (CPD-11.377) and the Tactical Response Report - Investigation form (CPD-11.377-I).

B. identifies incidents that require the completion of a Tactical Response Report (TRR).

C. outlines the reporting, reviewing, and investigatory responsibilities of *sworn* Department members *and detention aides* for reportable use of force incidents *while in the performance of their duties*.

D. continues *the* levels of reportable use of force, supervisory response procedures, and investigative authority and responsibilities.

II. POLICY

A. **Tactical Response Report (TRR).** Tactical Response Reports (TRR) are used by the Department to:

1. document, investigate, and evaluate reportable use of force incidents where members respond to the actions of a person, including any force mitigation efforts, or when members use a reportable use of force. A TRR is also completed when a Department member is assaulted or battered by an individual and no response option was used by the member.

2. regularly review citywide and district-level data regarding reportable uses of force to:

a. assess the relative frequency and type of force used by *Department* members.

b. identify any patterns, trends, or emerging concerns relative to the use of force incidents reviewed by the *Tactical Review and Evaluation Division (TRED)*. *TRED* will review reportable uses of force and recommend specific modifications to existing policy, procedures, training, tactics, or equipment, consistent with *G03-02-08,* "Department Review of Use of Force."

B. **Accuracy.** Department members are responsible, at all times, for truthfully and completely:

1. reporting each reportable use of force incident outlined in Item III of this directive.

2. describing the facts and circumstances concerning any incident involving the use of force by Department members.

C. **Accountability.** Department members will be responsible for articulating the specific facts to explain the member's own decision to employ a particular use of force and the reasonableness, necessity, and proportionality of the force used.

D. Any Department member completing or reviewing a Tactical Response Report (TRR) will comply with the procedures outlined in *S03-14,* "Body Worn Cameras" and *S03-05,* "In-Car Video Systems" for viewing, flagging, and retaining video and audio recorded with Department-issued recording devices.

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1. *Except for incidents outlined below, Department members may view recordings of an incident from their Department-issued recording device(s) prior to writing an initial report related to the incident.*

   EXCEPTION: *Department members will not view recordings of an incident prior to writing an initial report for the following incidents:*

   (1) A Department member has been involved in or is a witness to an officer-involved firearm discharge or officer-involved death incident.

   (2) Use of deadly force incidents or use of force incidents resulting in great bodily harm or death.

   (3) If a Department member is ordered to write a report in response to a complaint or misconduct investigation.

2. *When the exceptions apply, after writing an initial report, a Department member, subject to a supervisor's approval, may write a supplemental report after reviewing his or her recordings.*

   NOTE: *Supervisors will document any denial of a member completing a supplemental report and the rationale for the denial.*

3. *Department members will document in any report they complete for the incident if they reviewed audio or video evidence for purposes of completing the report.*

E. Consistent with *G08-01,* "Complaint and Disciplinary System," any Department member who becomes aware of information indicating that a reportable use of force incident was not reported will immediately notify his or her supervisor.

F. **Supervisory Review of Reportable Uses of Force**

1. All reportable uses of force by Department members will be reviewed by Department supervisors, who play a critical role in ensuring that force is used consistent with the law and Department policy.

2. Supervisory reviews and investigations of reportable use of force incidents are essential to promote community confidence in the Department and identify necessary individual and Department-wide after-action support and corrective action.

3. A supervisor who used reportable force or ordered a use of reportable force during a use of force incident will not perform the functions and responsibilities of the reviewing supervisor or investigating supervisor for the incident.

   NOTE: Under these circumstances, the watch operations lieutenant of the district of occurrence or the responding *Street Deputy* will determine the appropriate supervisor to perform the functions and responsibilities of the reviewing or investigating supervisor.

4. *If a supervisor uses reportable force, the watch operations lieutenant (WOL) of the district of occurrence will perform the functions and responsibilities of the reviewing supervisor and investigating supervisor for the incident,* ***including the required documentation on the Tactical Response Report (TRR) and the Tactical Response Report-Investigation (TRR-I)****.*

   a. *However, the WOL may designate another supervisor of the same rank or higher than the involved supervisor to perform the field and other responsibilities of the reviewing supervisor (e.g., on-scene response, crime scene processing, canvass for witnesses, case reporting requirements, notifications).*

   b. *If this designation occurs, the WOL will document the supervisor who performed the actions and the information provided by the designated supervisor in the "Reviewing Supervisor" section of the TRR.*

REMINDER: *The functions and responsibilities of the investigating supervisor will be completed by a supervisor at least one rank higher than the highest ranking member using reportable force during the incident or the Street Deputy.*

III. INCIDENTS REQUIRING THE COMPLETION OF A TACTICAL RESPONSE REPORT

A. A Tactical Response Report is required to be completed for the following reportable use of force incidents involving a sworn *Department* member or detention aide in the performance of his or her duties:

1. All use of force incidents involving:

   a. a *person* who is injured or alleges injury resulting from the member's use of force.

   b. the active resistance of a *person*.

      EXCEPTION: A Tactical Response Report is **NOT** required when:

      (1) the *person's* only action of resisting is fleeing,

      (2) the member's actions did not extend beyond verbal commands or control holds utilized in conjunction with handcuffing and searching techniques, and

      (3) the *person* is not injured or does not complain of injury resulting from the member's use of force.

   c. an act of obstructing a police officer when the obstructing is a physical act directed at the Department member and requires a reportable use of force response.

   d. a *person* whose actions are aggressively offensive, with or without weapons, or who is using or threatening the imminent use of force against the member that will likely cause physical injury, including an assault, aggravated assault, or threat of physical attack.

   e. physical attacks against a Department member, including a murder, aggravated battery, or battery, regardless of whether or not the *person* made actual physical contact with the member or the member has sustained a physical injury.

      NOTE: The Federal Bureau of Investigation and the State of Illinois Uniform Crime Reporting Systems require data from the Department when the offense of murder, aggravated battery, battery, aggravated assault, or assault is committed against a police officer or a detention aide in the performance of their duties. This documentation will be completed using the TRR.

2. All incidents involving a Department member's use of:

   a. **Level 1 reportable use of force.** Level 1 reportable use of force is the use of any force by a Department member to overcome the active resistance of a *person, as outlined below,* that does not rise to a Level 2 or Level 3 reportable use of force. Level 1 reportable uses of force include force that is reasonably expected to cause pain or injury, but does not result in injury or complaint of injury. Level 1 reportable uses of force include the use of:

      (1) pressure point compliance and joint manipulation techniques *in response to active resistance of a person that do not result in an injury or complaint of injury*;

      (2) wristlocks, armbars, and other firm grips *in response to active resistance of a person that do not result in an injury or complaint of injury;* and

(3) any leg sweep, takedown, stunning technique, or weaponless direct mechanical action or technique (including kicks, knee strikes, elbow strikes, closed hand strikes, or punches) that does not result in an injury or complaint of injury.

b. **Level 2 reportable use of force.** Level 2 reportable use of force is the use of any force by a Department member that includes use of a less-lethal weapon or that causes an injury or results in a complaint of injury, but does not rise to a Level 3 reportable use of force. Level 2 reportable uses of force include the use of:

(1) reportable force against a *person who is fully restrained and controlled (e.g. both hands secured together) with handcuffs or other restraining devices (e.g., flexible restraining devices);*

(2) impact weapons strikes (baton, asp, or other impact weapon) to the body other than the head or neck;

(3) any leg sweep, takedown, stunning technique, or weaponless direct mechanical action or technique (including kicks, knee strikes, elbow strikes, closed hand strikes, or punches) that results in an injury or complaint of injury.

(4) OC spray or other chemical weapons;

(5) a Taser;

(6) impact munitions;

(7) canines as a force option;

(8) a Long Range Acoustic Device (LRAD) acoustic transmission to cause discomfort as a compliance technique; and

(9) an unintentional firearms discharge or a firearm discharge solely to destroy/deter an animal that did not involve a firearm discharged at a person and did not result in injury to any person.

c. **Level 3 reportable use of force.** Level 3 reportable use of force is when a Department member does any of the following:

(1) uses any force that constitutes deadly force, including:

(a) discharging a firearm.

EXCEPTION: This does not include an unintentional firearms discharge or a firearm discharge solely to destroy/deter an animal that did not involve a firearm discharged at a person and did not result in injury to any person.

(b) using an impact weapon to intentionally strike a person's head or neck.

(c) using a chokehold *(applying any direct pressure to the throat, windpipe, or airway of another)*.

(d) *the application of* carotid artery restraints *(techniques that compress the blood vessels in the neck to inhibit or restrict blood flow to carotid arteries).*

(e) *the application of other restraint above the shoulders with risk of positional asphyxiation (use of a technique used to restrain a person above the shoulders, including the neck or head, in a position which interferes with the person's ability to breathe after the person no longer poses a threat to the officer or any other person).*

(2) uses any force that causes injury to any person resulting in admission to a hospital.

(3) uses any force that causes the death of any person.

B. A Tactical Response Report is **NOT** required to be completed for the following incidents:

1. The use of escort holds and pressure compliance techniques which are not in response to active resistance of a *person* and do not result in an injury or allegation of injury.

2. The use of joint manipulation techniques, wristlocks, armbars or other firm grips utilized in conjunction with handcuffing and searching techniques which are not in response to active resistance of a *person* and do not result in an injury or allegation of injury.

3. That force necessary to overcome passive resistance due to physical disability or intoxication which does not result in injury or allegation of injury.

4. The use of force in an approved training exercise.

C. If the most serious use of force requires an investigation by a certain level of supervisor, then the investigation of all Tactical Response Reports resulting from the use of force by any member in that incident will be the responsibility of that level of supervisor.

D. When a reportable use of force incident involves one or more reportable uses of force by a Department member against the same *person*, the uses of force will be reported on one Tactical Response Report.

NOTE: Subsequent reportable uses of force by a Department member involving the same *person* once the original Tactical Response Report has been completed and approved will be reported on a separate TRR.

E. When a reportable use of force has occurred during an identified mass arrest incident, members will follow the special procedures outlined in *S06-06,* "Mass Arrest Procedures."

IV. PROCEDURES

A. Immediate Notifications

1. Each sworn member or detention aide in the performance of his or her duties who is involved in a reportable use of force incident, as described in Item III-A of this directive will immediately notify the Office of Emergency Management and Communications (OEMC) that he or she has been involved in a reportable use of force incident.

2. The Office of Emergency Management and Communications (OEMC) will:

a. immediately notify the involved member's immediate supervisor and watch operations lieutenant of the district of occurrence.

b. assign a field supervisor from the district of occurrence to respond to the scene when the involved member has discharged any weapon, an injury has occurred to a *person*, bystander, or any member, or any other Level 2 or Level 3 reportable use of force incident.

c. notify the Crime Prevention and Information Center (CPIC) for all incidents involving the:

(1) use of deadly force;

(2) discharge of a firearm, impact munitions, Taser, OC spray or other chemical weapons;

(3) use of canines as a force option; and

(4) use of a Long Range Acoustic Device (LRAD) acoustic transmission to cause discomfort as a compliance technique.

B. **Completing the Tactical Response Report (TRR)**

Each sworn member or detention aide in the performance of his or her duties who is involved in a reportable use of force incident, as described in Item III-A of this directive, will:

1. complete a Tactical Response Report using the *CLEARNET* Tactical Response Report (*C-TRR*) application, documenting the information as requested on the report, including force mitigation efforts (e.g., verbal direction/control techniques).

a. If more than one member is involved in a reportable use of force incident, each sworn member or detention aide who uses *reportable* force will complete a TRR. Therefore, there may be multiple reports completed for a single incident.

b. If an object is perceived by the member as a weapon that could cause great bodily harm or death and is not actually a weapon or the object recovered is different than the perceived weapon:

(1) indicate the *person's* actions and indicate the actual weapon or object on the TRR, and

(2) if the item was different than perceived, indicate in the "Weapon/Object Perceived As" field what the weapon or object was perceived to be.

EXAMPLE: If a member uses force against an assailant holding an object that the involved member perceives to be a handgun, but upon recovery, the object was determined to be a BB gun, the member will indicate "Other - BB gun" as the "Weapon Description" and "Handgun" in the "Weapon/Object Perceived As" field.

c. The involved member will be required to complete the "Narrative" section of the TRR:

(1) describing with specificity, the use of force incident, the *person's* actions or other circumstances necessitating the force used, and the involved member's response, including force mitigation efforts (e.g., verbal direction/control techniques), and specific types and amount of force used.

(2) indicating whether or not any body-worn camera or in-car video digitally recorded data was viewed in advance of completing the TRR, *consistent with Item II-D of this directive*.

EXCEPTION: The involved member **WILL NOT** be required to complete the "Narrative" section of the TRR for any firearms discharge incidents (with or without injury) and in any use of force incident resulting in death.

NOTE: Specific instructions for the completion of the form can be found in the *C-TRR* Application Help Documentation. Department members will refer to *S04-13-05,* "Alternate Paper Reporting Procedures" if the *C-TRR* system is unavailable.

2. review the TRR for completeness and accuracy.

3. submit the completed TRR before the end of the involved member's tour of duty.

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4. notify their immediate supervisor that the TRR has been submitted and is available for review.

5. document the reason for the initial stop, arrest, or other enforcement action by submitting the other required reports as indicated in:

   a. *G04-01,* "Preliminary Investigations," *S04-14,* "Citing Traffic Violations and Attending Traffic Court," and *S04-09-13,* "Investigatory Stop System" to his or her immediate supervisor for review and approval before the end of the involved member's tour of duty.

   b. *G06-01*, "Processing Persons Under Department Control" to the *watch operations lieutenant* in the district of occurrence.

V. REVIEWING SUPERVISOR RESPONSIBILITIES

A. A supervisor who has been notified of a reportable use of force incident as described in Item III-A of this directive will:

1. ensure immediate notifications in Item IV-A are completed.

2. respond to the scene when the involved member has been involved in a Level 2 or Level 3 reportable use of force incident. The notified supervisor will determine if:

   a. an on-scene response is necessary when notified of a Level 1 reportable use of force incident.

   b. circumstances exist that would necessitate:

      (1) the involved member(s) to immediately relocate from the incident scene, or

      (2) the assignment of additional personnel to protect and manage the incident scene.

B. When responding to the scene of a reportable use of force incident, the reviewing supervisor will:

1. ensure that known available witnesses are identified and interviewed, to the extent reasonably possible, and that the required information, including the witness personal information and statement, is recorded on the Tactical Response Report (TRR),

   EXCEPTION: The reviewing supervisor will not interview the identified witnesses or obtain written statements for deadly force incidents, officer-involved death incidents, or any other circumstance where the Civilian Office of Police Accountability (COPA) receives an administrative notification and responds to the scene. For these incidents, the reviewing supervisor will:

   a. document only the witness personal information on the TRR.

   b. identify the witnesses for the assigned investigative personnel who will be responsible for conducting the interviews or obtaining statements. The reviewing supervisor will, to the extent reasonably possible and lawfully permitted, secure the witnesses for the assigned investigative personnel interview.

   c. coordinate, as appropriate, with responding COPA personnel.

2. request the assignment of an evidence technician to take photographs of *persons* and Department members who have been involved in a use of force incident and are injured, allege injury, or when otherwise deemed appropriate by the supervisor.

3. ensure that other evidence is gathered, preserved, handled, and processed according to existing Department procedures.

4. ensure that the involved members and *persons* receive the appropriate medical attention.

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5. for Level 2 and Level 3 reportable use of force incidents involving injury or complaint of injury for which a COPA notification is not required, undertake reasonable efforts to identify and interview additional witnesses beyond those that are known and available.

NOTE: The result of the above requirement to canvass for witnesses, including negative results, will be documented in the "Reviewing Supervisor" section of the TRR.

C. When conducting a supervisory review of a reportable use of force incident, the reviewing supervisor will:

1. ensure the involved member completes and submits a TRR before the end of the involved member's tour of duty.

2. ensure the appropriate case report is completed for the incident, consistent with the guidelines established in the Incident Reporting Guide (IRG) (CPD-63.451).

NOTE: A case report is required even if the TRR resulted from an incident that would not otherwise require a report (e.g., warrant arrests). Members will refer to the IRG section titled "Special Case Reporting Index for Use of Force Incidents" for specific reporting instructions.

3. ensure additional notifications are made consistent with:

a. *G03-02-03,* "Firearm Discharge Incidents - Authorized Use and Post-Discharge Administrative Procedures ;"

b. *G03-02-04,* "Taser Use Incidents;"

c. *G03-02-05,* "Oleoresin Capsicum (OC) or Other Chemical Agent Use Incidents;"

d. *G03-02-06,* "Canine Use Incidents;" and

e. *G03-02-07,* "Baton Use Incidents."

4. complete the TRR for a member who is unable to complete the report due to injury or other extraordinary circumstance.

5. use the "Attachment" feature of the TRR to attach copies of the appropriate approved district-level generated reports that are related to the incident involving the completion of the TRR, including:

a. the incident case report,

b. Arrest Reports,

c. Supplementary Reports,

d. Inventory Reports,

e. Injury on Duty Reports,

f. the Taser Deployment Data Download, and

NOTE: *Per G03-02-04,* "Taser Use Incidents," *the Taser Deployment Data Download will be uploaded as an attachment by the investigating supervisor.*

g. any other pertinent Department report.

6. review the portion of the TRR completed by the involved member, including:

a. confirming or rejecting any addresses that result in a beat of "0" and may be inaccurate.

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b. reviewing each instance where "Other" has been selected as the "Subject's Actions."

c. if the TRR is incomplete, insufficient, or contains inconsistencies within the report, return the TRR to the member and discuss reasons with the involved member.

7. complete the "Reviewing Supervisor" section of the TRR. The reviewing supervisor will:

a. document, if any, the type of injury and the location of the injury *to the person against whom force was used*.

NOTE: The reviewing supervisor will clarify in the "Reviewing Supervisor: Comments" section whether the injury was observed or alleged by the *person*, to what body part did the injury occur, and if the documented injury occurred prior to the reportable use of force, when appropriate.

b. document any other incident information, observations, or other actions taken that are not already captured in the TRR fields in narrative form in the "Reviewing Supervisor: Comments" section of the TRR.

c. attest to his or her compliance with the responsibilities outlined in this directive.

d. when misconduct is observed or an allegation of misconduct is received by the reviewing supervisor, make the appropriate notifications to the Civilian Office of Police Accountability (COPA) to obtain a complaint log (CL) number.

NOTE: *The reviewing supervisor will only include a complaint log (CL) number obtained for observed or allegations of misconduct. A Log Number obtained for a use of force that requires an administrative notification to the Civilian Office of Police Accountability (COPA) will be documented by the Investigating Supervisor.*

e. if appropriate, attest to the completeness and legibility of the report and inform the Investigating Supervisor that it has been reviewed and is ready for supervisory review and investigation of the incident.

VI. USE OF FORCE INCIDENT INVESTIGATION

A. **Investigatory Responsibility.** For reportable use of force incidents, the investigation of the incident and completion and approval of all TRR-Is will be:

1. the responsibility of the following ranked supervisor:

a. The *Street Deputy* will review and investigate the following types of incidents:

(1) the discharge of a firearm by a Department member, excluding discharges solely to destroy/deter an animal with no human injury;

(2) *any other uses of force that constitutes deadly force*.

(3) a member's use of force, by whatever means, that results in potential life-threatening injury or death of any individual;

NOTE: *For the above-listed incidents, the Street Deputy will coordinate the investigative response with the investigative personnel from the Investigative Response Team (IRT) or Detective Area, as appropriate.*

(4) when a Department canine is deployed as a reportable use of force and physically apprehends a person by making physical contact, including grasping the person or the person's clothing; and

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(5) any lesser use of force by a Department member when that use of force stems from the same incident in which another member used force described in Items VI-A-1-a-(1), (2), or (3) of this directive.

b. A member the rank of captain or above assigned to the district of occurrence will review and investigate incidents involving the discharge of a firearm solely for the destruction/deterrence of an animal with no human injury.

c. The watch operations lieutenant (WOL) assigned to the district of occurrence will investigate all other incidents.

NOTE: If the watch operations lieutenant or *a supervisor the rank of lieutenant or above designated as the district of occurrence watch operations lieutenant* is unavailable, the district station supervisor will follow the appropriate procedures established by the *Bureau of Patrol* to ensure the TRR-I is completed and approved *by the appropriate supervisor*.

2. completed by a supervisor at least one rank higher than the highest ranking member using reportable force during the incident or the *Street Deputy*.

3. completed within 48 hours of the use of force incident, unless an extension is approved, in writing, by the appropriate exempt-level supervisor.

NOTE: *Upon approval of an investigative extension, the approving exempt-level supervisor will ensure the investigation of the incident and completion of the TRR-I is completed in a timely manner.*

B. **Investigating Supervisor.** The assigned supervisor described in Item VI-A will:

1. conduct an investigation into the use of force incident by:

a. attempting to interview the *person* of any reportable use of force, solely about the use of force incident, and record the *person's* statement regarding the use of force in the space provided on the TRR-I.

(1) Prior to any interview, the investigating supervisor will follow the procedures outlined in *G04-03*, "Custodial Interrogations," including expressly warning the individual of their constitutional rights.

(2) When the incident involves potential felony charges, the investigating supervisor will confer with the arresting officers and the assigned investigative personnel prior to the interview to determine the appropriate time and scope of the interview.

(3) When interviewing a juvenile, the investigating supervisor will follow guidelines and restrictions outlined in *S06-04*, "Processing of Juveniles and Minors Under Department Control."

(4) When interviewing a person that is suspected of an offense which electronically recorded custodial interrogations are mandated, the investigating supervisor will follow procedures outlined in *S04-03-01*, "Digital Recording of Interrogations."

(5) The investigating supervisor will check "DNA" in the "Subject's Statement" section when the incident involves only an animal destruction/deterrence or unintentional discharge.

(6) When an interview of the *person* is not conducted, the investigating supervisor will indicate *this fact* on the report and provide a specific reason why the interview was not conducted.

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b. performing a visual inspection of the *person* and document any observations and specific injuries in the "Lieutenant or Above/Incident Commander: Comments" section.

NOTE: The investigating supervisor will clarify in the "Lieutenant or Above/Incident Commander: Comments" section whether the injury was observed or alleged by the person, to what body part did the injury occur, and if the documented injury occurred prior to the reportable use of force, when appropriate.

c. reviewing all the information reasonably available regarding the use of force incident and documenting the investigatory information in the "Lieutenant or Above/Incident Commander: Comments" section of the TRR-I, including but not limited to:

(1) a review of all available reports.

(2) a review of all Department-recorded video *of the involved member's use of force* (e.g., In Car Video System, lockup facility cameras, body worn cameras), if available. *The investigating supervisor will document the video(s) viewed and the duration of the footage.*

(3) documentation of any allegations of excessive force.

(4) if available, witness statements, photographs, and other evidence or information collected by the reviewing supervisor.

(5) any other investigatory information or observations.

2. complete the "Lieutenant or Above/Incident Commander Review" section of the TRR-I. The investigating supervisor will:

a. review the portion of the TRR completed by the involved member and the reviewing supervisor for sufficiency and completeness. If the TRR is incomplete, insufficient, or contains inconsistencies within the report, the investigating supervisor will return the TRR to the appropriate member.

b. determine the Department members who were identified in the incident reports as being on the scene of the use of force incident and who are reasonably believed to have relevant knowledge or information regarding the reportable use of force incident. The investigating supervisor will indicate these members in the "Lieutenant or Above/Incident Commander Review" section of the TRR-I.

c. attest to his or her compliance with the responsibilities outlined in this directive.

d. determine if the member's use of force requires a notification to the Civilian Office of Police Accountability (COPA) to obtain a complaint log (CL) number. A notification to COPA is required for all incidents involving:

(1) the use of deadly force,

(2) the discharge of a firearm,

(3) the discharge of a Taser,

(4) the discharge of Oleoresin Capsicum (OC) devices,

(5) the use of excessive force or an allegation of excessive force,

(6) the death or potential life-threatening injury to a member of the public that resulted directly from an action or intentional omission of a Department member, and

(7) uses of force that may violate the law or Department policy.

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e. use the "Attachment" feature of the TRR-I to attach copies of any other approved and available Department report related to the incident involving the completion of the TRR that is not already attached, including any initiation report submitted to COPA regarding allegations of misconduct.

NOTE: *Per G03-02-04,* "Taser Use Incidents," *the Taser Deployment Data Download will be uploaded as an attachment by the investigating supervisor.*

f. conduct a supervisory evaluation to determine whether the member's use of force response was in compliance with Department policy and directives.

NOTE: The investigating supervisor will not make a determination for deadly force or officer-involved death incidents.

g. if appropriate:

(1) provide timely, constructive feedback to the member engaged in the reportable use of force and the reviewing supervisor.

(2) *identify and adequately address any performance that is exceptional or that may be improved through after-action support or corrective actions, including training or other nondisciplinary methods.*

(3) make recommendations for *after-action support for* the involved member or the reviewing supervisor (e.g., individualized training, performance coaching, review of Department directives).

(a) *When determining any recommended after-action support for Department members or supervisors, the investigating supervisor will access the "TRR Debriefing Point Dashboard" to identify and review any previous use-of-force-related debriefing points for the involved members.*

(b) *The "TRR Debriefing Point Dashboard" is accessible from The Wire via the Tableau Server Environment.*

(4) *ensure any recommendations for district-level after-action support are completed with the identified member(s).*

(5) document in the "Lieutenant or Above/Incident Commander: Comments" section what *after-action support is* recommended, including identifying specific training, when appropriate, *and if the recommedations were completed (e.g., what action, by whom, when)*.

h. if appropriate, sign and approve the TRR-I.

VII. USE OF FORCE INCIDENT REVIEW

Approved Tactical Response Reports (TRR) and Tactical Response Report - Investigation (TRR-I) forms will be subject to an after-action review consistent with the guidelines and procedures outlined in *G03-02-08,* "Department Review of Use of Force."

A. A representative sample of Level 1 reportable uses of force and all Level 2 reportable uses of force as outlined in Item III of this directive will be reviewed by the *Tactical Review and Evaluation Division*.

B. All Level 3 reportable uses of force as outlined in Item III of this directive will be reviewed by the Force Review Board (FRB).

VIII. DATA MAINTENANCE AND RETENTION

The *commanding officer*, Strategic Initiatives Division, will ensure:

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A. the *CLEARNET* Tactical Response Report application is managed and maintained to reliably record and track all Department data reported and derived from reportable use of force incidents documented in the *C-TRR* application.

B. the Department data on reportable use of force incidents contained in the TRR and TRR-I are maintained and retained consistent with existing data retention procedures.

(Items indicated by *italics/double underline* have been added or revised)

Fred L. Waller
Interim Superintendent of Police

T22-094 MWK/TSS

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EXHIBIT O

(FCRL 001764, Mostek's 911 Call)