

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF CALIFORNIA

3 --o0o--

4 ESTATE OF WILLIAM HENNEFER,  
5 JAH, JUH, WH, NH AND BIANCA  
HENNEFER,

6 Plaintiff,

No. 22-cv-00389-TLN-CSK

7 vs.

8 YUBA COUNTY, CALIFORNIA  
9 OPERATOR OF THE YUBA COUNTY  
SHERIFF'S DEPARTMENT, SHERIFF  
10 WENDEL ANDERSON, UNDERSHERIFF  
NICHOLAS MORAWCZNSKI, CAPTAIN  
11 JOSEPH MILLION, LIEUTENANT  
BRANDON SPEAR, DEPUTY TENG  
12 SAECHAO, DETECTIVE ROGER  
TARWATER, DETECTIVE NATALIE  
13 MULLINS, DEPUTY RAYMON ELLIS,  
DEPUTY TYLER ECK, DEPUTY  
14 VALENTINO AGUIRRE, DEPUTY  
DALLAS THORPE, DEPUTY BRADON  
15 MALLORY AND DOES 1 -15,

Defendants. /

16 -----  
17 REMOTE DEPOSITION OF EXPERT WITNESS:

18 DAVID SWEENEY

19 Wednesday, November 6, 2024

20  
21 FOCUS LITIGATION SOLUTIONS  
22 400 Capitol Mall, Suite 1450  
Sacramento, CA 95814  
23 916.228.4593  
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24  
25 STENOGRAPHICALLY REPORTED BY: CHRISTINE BEDARD, CSR #10709

1 BE IT REMEMBERED that, pursuant to Notice and  
2 on Wednesday, November 6, 2024 at the hour of 8:57 AM  
3 thereof, remotely before me CHRISTINE BEDARD, a Certified  
4 Shorthand Reporter in and for the County of Nevada, State  
5 of California, reporting remotely from Auburn, California  
6 there appeared by Zoom videoconference:

7 DAVID SWEENEY

8 called as a witness by the Defendants; who, being by me  
9 first remotely sworn, was examined and testified as is  
10 hereinafter set forth.

11 --o0o--

12 REMOTE APPEARANCES OF COUNSEL:

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I N D E X

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EXAMINATION BY MR. GROSS

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EXAMINATION BY MR. DWYER

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E X H I B I T I N D E X

Exhibit No.	Description	Page identified
A	Expert Report of David T. Sweeney dated August 30, 2024	98
B	Rebuttal Report	98
C	Policy 428	98
D	Policy 404	98

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1                                    DAVID SWEENEY,  
2                    having been first remotely sworn by the court  
3                    reporter, was examined and testified as follows:

4  
5                                    EXAMINATION BY MR. GROSS

6                    MR. GROSS:  Q.  Good morning.  Do you prefer  
7 David?  Mr. Sweeney?

8                    A.  David is fine.

9                    Q.  David.

10                  A.  Is Matt good for you?

11                  Q.  Yes.  Yes, it is.

12                  A.  First names are good.

13                  Q.  So my name is Matt Gross.  I am representing the  
14 County of Yuba, the sheriff's department and the  
15 individually named deputies in this civil lawsuit.  And  
16 we are here for your virtual deposition.  You've been  
17 retained as a police practices expert by Mr. Dwyer.

18                  A.  That is correct.

19                  Q.  Before we begin, you've had your deposition taken  
20 before; correct?

21                  A.  Yes, I have.

22                  Q.  And are you generally aware of the admonitions  
23 that attorneys go through before a deposition?

24                  A.  Yes.  Don't speak too fast; give a little pause  
25 before answering; physical gestures are not recognized by

1 the court reporter. Things like that.

2 Q. Perfect. Perfect. I won't go through those.  
3 Need a break, let me know, and we can take one. I think  
4 we'll -- we're going to be here for a little bit. This  
5 won't be a short deposition. I have a few questions to  
6 go through.

7 So let's just move -- move right into it. To  
8 prepare for today's deposition, did you speak with anyone  
9 other than Mr. Dwyer?

10 A. I did not.

11 Q. And beyond the documents referenced in your expert  
12 report, were there any other documents that you relied  
13 upon to prepare for this deposition?

14 A. No. I can't think of any.

15 Q. And we'll do this now. I want to introduce a copy  
16 of Exhibit A. I can screenshare it. I have a paper copy  
17 in front of me. But it's a document labeled, "Expert  
18 Report of David T. Sweeney, dated August 30th, 2024." Do  
19 you have a copy of that report in front of you?

20 A. Yes, I do.

21 Q. And can you just tell me what that document is.

22 A. Yes. I was tasked by Mr. Dwyer to review a case,  
23 a police-practices case, in Yuba County. And he provided  
24 me with a number of evidentiary items, which I watched,  
25 read, listened to.

1           And based on those evidentiary items, I then  
2 prepared a report detailing my opinions about the  
3 performance of the Yuba County Sheriff's Office. And  
4 that report that you're holding appears to be -- at least  
5 based on the first page, and I'm assuming the other pages  
6 were similar -- that would be my report and my opinions  
7 of what I discovered in reading the reports and reading  
8 the statements and reading the depositions.

9           All those evidentiary items that I reviewed, I  
10 detail at the front of the report just so we know what I  
11 was looking at in order to form these opinions. And then  
12 I gave my background and history as to why I should be  
13 viewed as an expert in these areas.

14           And then the rest of the report, there's some  
15 factual rehashing of the incident, followed by opinions  
16 that I made about what went right and went wrong during  
17 this incident.

18           Q. And were there any documents that you asked for in  
19 preparation of your expert report that you were not  
20 provided?

21           A. I don't believe so. There was one question we had  
22 on the drone video, and there might have been two copies  
23 of it. My copy did not have a time and date stamp in the  
24 corner. And, apparently, there is a video with the time  
25 and date stamp. That's the only thing I can think that I

1 was not provided.

2 Q. And do you have any understanding as to why you  
3 weren't provided that copy?

4 A. No.

5 Q. All right. And, approximately, how many hours did  
6 it take you to prepare your report?

7 A. It seems like somewhere in the range of 25 to 30  
8 hours. I could look it up specifically if you wish, but  
9 I think that's a good estimation.

10 Q. And that's -- that's fine. I don't need an exact  
11 amount of time. You mentioned part of your report has  
12 information regarding your CV, your background, who you  
13 are as -- as a person. And I want to spend some time  
14 talking about that.

15 How much time have you spent as a  
16 police officer before you retired?

17 A. Almost 35 years.

18 Q. And how much time did you spend as a field patrol  
19 officer before you were promoted to a sergeant?

20 A. I was an officer from 1987 until 2001 when I was  
21 promoted to sergeant.

22 Q. My math tells me 14, maybe 15 years?

23 A. 14 years.

24 Q. At -- during this deposition, I may use the phrase  
25 "the incident," and I just want you and I to have an

1 understanding that when I say "the incident," I'm  
2 referencing the allegations in the complaint regarding a  
3 January 25th, 2021, incident between Mr. William Hennefer  
4 and the Yuba County Sheriff's Department. Do you  
5 understand?

6 A. Yes, I do.

7 Q. At the time of the incident, do you know what the  
8 population of Yuba County was?

9 A. No, I do not.

10 Q. And do you know who the day shift -- or can you  
11 tell me what the day shift patrol staffing was for  
12 Yuba County on the day of the incident?

13 A. I could look it up. I was given that information  
14 I believe somewhere, but it might take me a few minutes  
15 to figure out where that was within the evidence.

16 I do recall a document that explained how many  
17 people were on shift; how many people were assigned to  
18 the incident, but right off two top of my head, that was  
19 not one of the things -- I tried to spend a reasonable  
20 amount of time reviewing this case before I ended. That  
21 was one that I didn't pay close attention to.

22 Q. Have you ever worked as a police officer or a  
23 supervisor in a rural area with a similar demographic as  
24 Yuba County?

25 A. No. The closest thing would be Corvallis, my last



1 year in policing. It was a rural area. But it was a  
2 college campus, so I can't really compare the two.  
3 Oregon State University is a rural college university.  
4 They have horses, cows, lamas, pigs, things like that.  
5 And then have a lot of property that extends beyond the  
6 individual campus there.

7 So I will say that those are familiar to me.  
8 They're similar, but, yet, most of my policing was done  
9 right there in the middle of campus, which is a campus  
10 environment. So I would say 95 percent of it was on  
11 campus and maybe 5 percent off campus. That would be the  
12 closest I would compare it to.

13 Q. Have you ever testified in a civil or criminal  
14 case in California?

15 A. I don't think so. Let me just look and review --  
16 quickly -- my report here. And I believe I detailed all  
17 the times that I testified at deposition. I've never  
18 been in a civil trial in California, I can tell you that  
19 right off the top of my head. And looking at my prior  
20 history of depositions, I do not see one in California.

21 Q. For your cases where you have been retained as an  
22 expert, what percentage of those cases are civil cases?

23 A. 100 percent.

24 Q. And of those civil cases, what is the breakdown  
25 where you've been retained by a plaintiff versus retained

1 by the defendant?

2 A. It's going to be about, approximately, Matt,  
3 one-third defense cases and two-thirds plaintiff cases.  
4 I couldn't give you the exact percentage, but I think  
5 that's a pretty good estimation.

6 Q. And it looks like in your report -- at least for  
7 the cases where you've been retained in the last  
8 four years -- those were all -- you were retained by the  
9 plaintiff?

10 A. No. The depositions that I participated in were  
11 all plaintiff-involved depositions. Or in other words I  
12 was hired by Plaintiff's attorney to provide  
13 expert-witness testimony.

14 But as far as the cases that I was retained in  
15 the last four years, again, I think the approximate  
16 percentage would be one-third defense and two-thirds  
17 plaintiff.

18 Q. All right. Can you tell me what the training term  
19 "learning domain" refers to in California?

20 A. No, I can't do that. And I better not harbor a  
21 guess because I don't know for sure.

22 Q. Do you know, approximately, how many  
23 learning domains there are for California POST academy --  
24 for the California POST academy training manual?

25 A. I don't know.

1 Q. If you know, are there any rulings regarding law  
2 enforcement practices in the Ninth Circuit or the  
3 United States Supreme Court that mention the term "best  
4 practices"?

5 A. I can't state for sure. I could harbor a guess,  
6 but I -- I don't know for sure.

7 Q. And I -- I think you would agree that courts don't  
8 refer to the phrase "best practice," but instead consider  
9 the actions of law enforcement that are reasonable.  
10 Would you agree with that statement?

11 A. That is a very common term when discussing the  
12 Ninth Circuit, superior court. Yes, I would agree with  
13 that.

14 Q. Would you also agree that a law enforcement  
15 officer making an honest mistake does not constitute  
16 negligence?

17 MR. DWYER: Objection. You're asking him to give  
18 a legal conclusion or state a statement of law. He was  
19 never retained for that. He's not an expert in law. So  
20 you're asking him to give a legal opinion. So I object  
21 on that basis.

22 If the witness feels competent to give a legal  
23 opinion, go ahead. But he was not retained for that.

24 THE WITNESS: Yeah. That one really gave me  
25 pause. Can you ask the question one more time, Matt.

1 MR. GROSS: Q. Yeah. Would you agree that a law  
2 enforcement officer who makes an honest mistake during an  
3 incident, that does not constitute negligence?

4 MR. DWYER: Well, again, I would just restate my  
5 objection. You're asking him to give a legal opinion  
6 about your hypothetical, an honest mistake not  
7 constituting negligence. And he was not requested to  
8 prepare on that point; and so I don't see any basis for  
9 the question. Also, I don't see -- objection. I don't  
10 see any relevance to his report.

11 THE WITNESS: That's a difficult one, Matt. I --  
12 I don't really have a good answer for that. And, you  
13 know, I would somewhat echo what Patrick said; that  
14 establishing negligence has different connotations for  
15 me, and I can't really hazard much of a guess there,  
16 which, that's what it would be at that point. And I  
17 better refrain from -- I generally refrain from guessing  
18 in the middle of depositions.

19 MR. GROSS: Q. Can you explain to me what the  
20 term "codified law enforcement practices and standards of  
21 care" refers to?

22 A. Generally that refers to a state establishing,  
23 through codified law, expectations of the police officers  
24 in their state.

25 Q. And what types of things would constitute a

1 codified law enforcement practice?

2 MR. DWYER: Are you asking him to give examples?

3 MR. GROSS: Yes.

4 MR. DWYER: And is that with regards to a  
5 particular state? Are you talking about California or  
6 some other state?

7 MR. GROSS: Q. California.

8 A. As I read through some of the evidence in  
9 preparation for today's deposition, I, once again, came  
10 across the California POST manual on crisis intervention.  
11 And at the beginning of that, it did talk about codified  
12 law enacted in -- I believe it was 2020 and 2021  
13 regarding particular police activities that the  
14 legislature wanted to be involved in.

15 In other words, they wanted to codify some of  
16 the expectations they had for those police departments.

17 And so that -- that one certainly comes to  
18 mind that police officers serve at the will of the  
19 public, and they do that through a system of laws. And  
20 so, obviously, our legislators of different states,  
21 including, of course, California and Washington, will  
22 codify in the law some expectations of officers in  
23 regards to pursuits; in regards to use of force; in  
24 regards to deescalation techniques and things like that.  
25 And that's what that manual kind of talked about at the

1 beginning there.

2 Q. Well, is -- is that California POST manual on  
3 deescalation, is that a recommendation by POST such that  
4 it be a codified law enforcement practice?

5 MR. DWYER: Counsel, I -- maybe -- I have an  
6 objection. It lacks clarity. It's ambiguous. I don't  
7 quite understand the question. Are you asking whether  
8 the POST manual itself is a product of California  
9 legislation or represents the legislation? I don't quite  
10 understand the question.

11 MR. GROSS: Q. Whether the California POST manual  
12 on deescalation is a codified law enforcement practice.

13 A. Just waiting to make sure if Patrick had any more  
14 to say there.

15 MR. DWYER: Well, I'm not sure I fully understand  
16 the question.

17 But, David, if you think you understand the  
18 question, go ahead.

19 THE WITNESS: The way I understand your question,  
20 Matt, is you're asking is the POST manual codified. In  
21 other words, was it written by the state legislature in  
22 order to govern and/or rule the actions of police  
23 officers. I would say no.

24 I believe that the POST manual is created by the  
25 California POST, which is known as the state police

1 training academy, responsible for dissemination of  
2 information and training standards for police officers in  
3 the state of California.

4 Q. Can you tell me how many weeks the California POST  
5 accredited academy is?

6 A. The --

7 MR. DWYER: Go ahead.

8 THE WITNESS: Go ahead.

9 MR. DWYER: I didn't understand the question.

10 But, David, if you understood, go ahead and  
11 answer.

12 THE WITNESS: From what I understand, it's around  
13 nine months.

14 MR. GROSS: Q. And can you tell me where officers  
15 who graduate from the police academy go next for  
16 training?

17 A. The best information I have would be a guess. So  
18 I better not be guessing at that. I can tell you what  
19 happens in Washington -- and I assume that California's  
20 similar -- but I don't know for sure. So I don't know at  
21 this point.

22 Q. Do you know how long and how many phases the field  
23 training program is in California?

24 A. No. Again, I could relay Washington, but not  
25 California.

1 Q. Do you know which field training program --

2 THE REPORTER: Counsel, "field training program"

3 what?

4 MR. GROSS: Q. Model Yuba County uses.

5 A. I don't know.

6 Q. Have you ever served as a field training officer?

7 A. Yes, I have.

8 Q. For how long?

9 A. It seems like four, five years. I trained a  
10 number of student officers that came through the Seattle  
11 Police Academy.

12 Q. Have you ever been a field training officer  
13 supervisor?

14 A. For a short period of time. I believe about  
15 six months, yes.

16 Q. What happened after the six months?

17 A. I believe I transferred units, and you had to be a  
18 patrol supervisor within the precinct to fulfill that  
19 role.

20 Q. And have you ever coordinated a field training  
21 officer program?

22 A. No.

23 Q. Your CV states that you taught "tactical  
24 deescalation." What is that, and what is tactical about  
25 it?



1           A. Tactical deescalation is the practice of inserting  
2 police officers into dynamic situations. The tactical  
3 part of them, of the training, specifies how the officers  
4 can safely accomplish their law enforcement objective.  
5 Combining that with the deescalation piece that says what  
6 options does the officer have in order to slow down the  
7 situation and still accomplish their law enforcement goal  
8 without the use of excessive or extraneous force.

9           So when you combine those two together,  
10 tactical deescalation is how do we get the job done and  
11 keep ourselves and our arrestees as safe as possible.  
12 Using force as necessary, but trying to limit the  
13 situations that an officer might find themselves having  
14 to use force when possibly there were other options that  
15 they could have used prior to that scenario, which would  
16 have kept them out of a forced situation, but still allow  
17 them to make the arrest or take someone into custody for  
18 a mental health issue or whatever the case might be.

19           Q. And just so I'm clear, when you're saying "force"  
20 in this situation, what do you mean by "force"?

21           A. There's different levels of force that a  
22 police officer has that states allow officers to use  
23 force in certain situations. Quite often these force  
24 requirements are codified in the law. And if they're not  
25 codified in the law, they're spelled out in training and

1 in the different police manuals.

2 So force is steps taken by an officer using  
3 their training, their tactics and their equipment in  
4 order to protect themselves or protect someone else at  
5 the scene. There's different levels of force.

6 I'll let you ask that question if we want to  
7 get into different levels, but it's basically the tools  
8 and techniques that an officer is authorized by law in  
9 order to protect themselves and the people they work  
10 with. This includes citizens, other officers and even  
11 other suspects.

12 Q. In your mind, what are the levels of force? How  
13 does that break down for you?

14 A. The first level of force is, generally, our police  
15 presence. Which means you -- not always, but in general,  
16 you might arrive with a police car. You might be in  
17 uniform. You might have a badge on, a name tag, patches  
18 on your shoulders. Things that tell the public that you  
19 are a police officer, and that there are certain things  
20 that you're going to order them to do or not to do. So  
21 that physical presence.

22 We step up from there. Now we combine that  
23 with a verbal presence. So you know, I'm the police. I  
24 came in a police car; I'm dressed in a uniform, and I'm  
25 now going to use words that express, "Seattle Police.

1 Stop what you're doing. Get down on the ground." That's  
2 just an example.

3 So I've now given my visible presence. I've  
4 now used, possibly, some type of verbal technique or  
5 verbal persuasion in order to accomplish my law  
6 enforcement purpose.

7 From there, you might have come-along holds  
8 where let's say someone doesn't want to leave a place  
9 where they're not supposed to be. Very simple thing  
10 might be to just take them by the arm, escort them out of  
11 the situation, whatever it might be.

12 You're not going to do an arrest. You don't  
13 need to issue a citation or something like that. And  
14 sometimes that -- that easy come-along hold might be just  
15 a step up above your verbal presence and allow you to  
16 accomplish a law enforcement purpose.

17 From there you can get into more serious types  
18 of hold. Gooseneck wrist holds. You might have pressure  
19 points, fingers-interlocking holds. Different things  
20 like that where you're applying a little bit more force.  
21 I'm not just taking you by the arm right now, I'm now  
22 using some level of pain compliance in order to get you  
23 to comply.

24 Stepping up from that, we then get into some  
25 of the tools that are provided to police departments

1 across the nation. And it's been my experience that  
2 a lot of the departments have a lot of these different  
3 tools; so this won't be an exhaustive list or specific to  
4 any particular agency. But different tools that you  
5 might find might be things that protect the officers;  
6 could be a pepper spray can; could be a night stick;  
7 could be a bean bag launcher; might be a PR 24; you might  
8 have a Taser.

9 All of these things are tools that are given  
10 to the officer in order to protect themselves and assist  
11 them in getting the job done; getting their law  
12 enforcement objective accomplished.

13 And then finally, if you step beyond those  
14 tools, those weapons that we might call less lethal --  
15 that's another kind of catchall phrase -- we then get  
16 into lethal weapons where you have pistols, rifles,  
17 shotguns. Things that are designed to have a lethal  
18 component with them wherein the officer has to defend  
19 their lives or the lives of another.

20 And the only appropriate tool sometimes when  
21 faced with life force might be that that gun, which,  
22 again, is a catchall term that covers the pistols, rifles  
23 and the shotguns. Those are the most common force tools  
24 and techniques that I'm familiar with.

25 Q. Thank you for that. We'll be -- we'll be getting

1 into that a bit later. Going back to your deescalation  
2 training, can you tell me when, where and who certified  
3 you in deescalation.

4 A. I can look it up. I didn't reference my training  
5 record in this report. I kind of gave a general overall.  
6 So if we want to maybe -- it's 9:26. I guess we just  
7 started. We could have a break and I could look that up  
8 if you wish.

9 Q. I just -- I put a star next to that. We can come  
10 back to that and look later on.

11 A. That sounds fine.

12 MR. DWYER: Matt, is it okay if he just provides  
13 the information to you later?

14 MR. GROSS: Yeah. I don't need an answer right  
15 this second.

16 THE WITNESS: Should I write that down, or are you  
17 going to remind me later?

18 MR. GROSS: Q. Sure.

19 A. And it was when I was certified in deescalation,  
20 was it?

21 Q. Yeah. When you were certified and where and who  
22 certified you.

23 A. When and where and who. Got it.

24 Q. And some of these might also get lumped into this,  
25 this research. But do you know if you were certified as

1 an end-user or a instructor in tactical deescalation?

2 A. That was both.

3 Q. How many hours was the course in tactical  
4 deescalation?

5 A. Once a year the Seattle Police Department put on  
6 what is called Street Skills, and it's a four-day block  
7 of instruction that matched up to our work schedule.  
8 During Street Skills, there would have been training in  
9 deescalation techniques.

10 Now, I will say that I didn't receive this  
11 through, perhaps, the bulk of my career. And it became  
12 more and more important as deescalation became one of  
13 those words that you kept hearing over and over in law  
14 enforcement circles and professional publications  
15 regarding law enforcement or just reading about court  
16 cases and things like that.

17 The more involved that I got with the training  
18 cadre with the Seattle Police Department and the more  
19 involved I got in training others, it became very  
20 important, obviously, for me to go through that training  
21 first in order to then disseminate the information that I  
22 have to some of the police officers that are, in fact,  
23 people of all ranks coming through our -- our basic  
24 training.

25 Not -- let me take that back. Not basic

1 training. Let's go back and call it Street Skills.  
2 Again, this is what we would do on a yearly basis to make  
3 sure that our -- our officers, our employees, our  
4 detectives, our sergeants are being trained in the  
5 expectations of the Seattle Police Department. So those  
6 Street Skills would encompass that tactical deescalation.

7 And, Matt, it became more and more apparent  
8 that this was a key component of our training in my later  
9 years. Let's say, years 28 through 35, perhaps.

10 The more and more that we involved ourselves  
11 in training in this deescalation model and, again, using  
12 tactical deescalation, it doesn't mean we're going to  
13 withdraw from situations and not do anything. We still  
14 have to accomplish our purpose, but how can we do it  
15 through techniques of deescalation and keep ourselves and  
16 our potential arrestees safer?

17 That was the goal of it. And the Seattle  
18 Police Department really started encouraging that. And  
19 so it's a long way to answer your question. But the more  
20 and more that we got involved with that, I myself, as a  
21 trainer, obviously, became more and more involved.

22 And it really became kind of like a secondary  
23 language for us with the Seattle Police Department. And  
24 we incorporated it into any number of trainings. So if  
25 you had a mental health training class, you incorporate a

1 deescalation element into that. If you had weapon  
2 retention class, you might also incorporate deescalation.  
3 If you had --

4 Q. A domestic violence -- deescalation's coming up in  
5 a lot of other classes?

6 A. That's correct. We also did it as a specific  
7 stand-alone class. But by that, we then incorporated it  
8 into any of the other trainings that we could find that  
9 it was applicable.

10 So when I would design field training  
11 scenarios for officers out in the field, then I tried to  
12 find where can I insert elements of potential  
13 deescalation where the officer then can successfully  
14 navigate the training course. And if they can do it, and  
15 they can talk the suspect into the back of their car  
16 rather than fight them into the back of their car, that  
17 was considered a definite win.

18 Q. When you were doing the deescalation classes  
19 themselves, or maybe these street smart classes, were  
20 they in person or were they online webinar classes?

21 A. In-person classes. We would sometimes start in  
22 the classroom, and there might be a short hour, maybe, an  
23 hour, maybe two hours of classroom instruction on  
24 technique or tactic, you know, what the training  
25 objective was for the day. And we'll incorporate our



1 police manual and how this applies to the training goal.

2 And then, generally, we'd go out in the field  
3 and then put those practices into effect and let the  
4 officers try out the techniques that we were training  
5 them to do in the classroom so they could try it out in a  
6 field setting.

7 Q. Did you ever have to take a written test to  
8 demonstrate your understanding and competency in  
9 deescalation?

10 A. I can't say for sure. I don't believe -- I don't  
11 remember one at this point that we had a written test on  
12 deescalation.

13 Q. Do you know if you had to participate in graded  
14 reality-based tacticals where you had to deescalate  
15 people in a variety of scenarios to demonstrate  
16 competency?

17 A. Yes. In that -- now, when you say "graded," I'm  
18 going to -- I'm going to add into that a little bit of  
19 pass/fail. We didn't give a letter grade that you might  
20 find in school. But if someone -- let's just keep it at  
21 that. It was generally pass/fail.

22 Q. When you taught deescalation, was that in person  
23 or was that a online webinar?

24 A. I can't even remember teaching online webinars in  
25 deescalation. So I'm going to say everything was in

1 person.

2 Q. And how many hours was your class?

3 A. Can you be more specific as to which class.

4 Q. On deescalation.

5 A. I could answer it this way. Tactical deescalation  
6 was a day-long class. That I know for sure. The other  
7 classes, if you're dealing with crisis-intervention  
8 training or mental-health training or domestic-violence  
9 response or traffic stops, field arrests, use of force,  
10 we generally would incorporate elements of deescalation  
11 almost without fail in every one of those classes.

12 So it's kind of a hard question to answer.  
13 But technical deescalation was a day-long class, I can  
14 definitely tell you that.

15 Q. And when you taught deescalation, were your  
16 students other law enforcement officers?

17 A. Yes.

18 Q. What agencies have you been hired as a private  
19 contractor to teach deescalation?

20 A. Zero.

21 Q. Have you ever produced an instructor-level course  
22 on deescalation?

23 A. I can't say that I produced one. No. I -- I'm  
24 going to say zero on that. By and large I was operating  
25 off of training standards established by the Seattle

1 Police Department. So I'm not going to claim to be the  
2 original author of any of those, shall we say.

3 Q. Have you ever authored a deescalation training  
4 manual?

5 A. No.

6 Q. Have you authored any peer-reviewed published  
7 articles, books or manuals on deescalation?

8 A. No.

9 Q. Do you hold yourself out as a subject matter  
10 expert in deescalation?

11 A. Yes, I do.

12 Q. Has any courts qualified you as a subject matter  
13 expert in deescalation?

14 A. No.

15 Q. What is the end goal of deescalation?

16 A. The end goal is for the officer to accomplish  
17 their law enforcement purpose without unnecessary use of  
18 force.

19 Q. Would you agree with me that someone can be a  
20 master in deescalation, but unless their audience agrees  
21 to enter into a constructive conversation to deescalate,  
22 the goal of deescalation cannot be accomplished?

23 MR. DWYER: Counsel, I'd like to object. It's  
24 ambiguous. What do you mean by "audience"?

25 MR. GROSS: A suspect.

1 MR. DWYER: Okay.

2 MR. GROSS: But, I mean, sometimes they're not  
3 suspects.

4 MR. DWYER: David, understand the question?

5 THE WITNESS: It's a mouthful.

6 MR. DWYER: If you would like him to break it down  
7 or something, ask him. But if you're prepared to answer,  
8 go ahead.

9 THE WITNESS: Yeah. If you could, Matt. I can  
10 insert the word suspect. One more time and let me try it  
11 again.

12 MR. GROSS: Q. Yeah. Would you agree with me  
13 that someone can have taken every single course in  
14 deescalation, they're a master in it --

15 A. Okay. Police officer, in other words?

16 Q. Yeah. They have all the training in  
17 deescalation --

18 A. Right.

19 Q. -- but it still requires the suspect to have a  
20 constructive conversation with that police officer for  
21 deescalation to work?

22 A. I'm going to disagree with that.

23 Q. Why?

24 A. There are elements of deescalation which don't  
25 necessarily involve conversation. And I can give you

1 some examples if you'd like.

2 Q. Please do.

3 A. One training scenario that I devised for officers  
4 was a suicidal subject at the end of a hall, and I would  
5 then bring a team of officers in, and I would tell them,  
6 "You're here for some type of disturbance and the  
7 individual's down the hall."

8 And it's -- the officers come in, and they  
9 start looking around. There they see the guy down at the  
10 end of the hall. I also, cleverly, put a big table right  
11 there by the entrance.

12 And if the officers had listened to my verbal  
13 training on deescalation, that placing barriers in  
14 between you and the suspect can act as a deterrent to the  
15 suspect attacking you, therefore reducing your  
16 requirement to use force on them, that is an element of  
17 deescalation. But it didn't require any conversation on  
18 the part of the officers and the suspect.

19 So they would come into the room, and I would  
20 tell my actor, I would say, "If they are working with you  
21 and you're feeling persuaded to drop the knife, go ahead  
22 and do that.

23 But if they start coming in, and they start  
24 yelling at you and just, you know, screaming at you and  
25 they're pointing guns at you" -- and again, the guy's

1 probably 15 or 20 feet away -- "then go ahead and start  
2 advancing on them."

3 But I said, "If the table's there, you got to  
4 stay on the other side of it." So, in other words, I  
5 tried to create a situation for the officers where they  
6 could end up being successful in this scenario, and  
7 remember the training that I had given them that  
8 sometimes an obstacle, a barrier, could be an effective  
9 deterrent to a suspect attacking you, and, therefore,  
10 you're not required to defend yourself.

11 In other words, the suspect might go home  
12 safely because he's not getting shot at that day.

13 Q. In that situation, for the suspect to surrender  
14 without there being force used, doesn't the suspect still  
15 have to voluntarily submit to the officers' deescalation  
16 techniques? Verbal, I should say.

17 A. Yes. I will agree with you on that. But I was  
18 answering the first question that was kind of like, in  
19 order to deescalate, must you have verbal conversation,  
20 and I would say no.

21 Another example of deescalation that I train  
22 is that sometimes calling additional officers to the  
23 scene or officers with specialties might be a form of  
24 deescalation. Because, again, you're taking actions;  
25 you're still accomplishing your law enforcement purpose,

1 but by bringing an additional officer or two with you,  
2 maybe simply that show of force and the guy saying,  
3 "Okay, there's not only one of you, there's three of you.  
4 Okay, I give up," right?

5 That might be the goal of deescalation, too,  
6 by saying, "Hey, look. We got three people here. You're  
7 not going anywhere. We're not going to come down there  
8 and get you either because we don't want to hurt you."

9 So, again, it's kind of a two-part question.  
10 Your first question was: Does there have to be verbal?  
11 And I would say no.

12 But I will agree that many, many times, a  
13 deescalation component is, obviously, that verbal  
14 component where -- communicating with the suspect, we're  
15 telling them what we need them to do, but maybe we could  
16 do it in a conversational tone and accomplish our law  
17 enforcement purpose.

18 Q. And it also sounds like a show of force can be  
19 deescalation. Instead of one officer, you said there's  
20 three; was that correct?

21 A. I agree with that.

22 Q. In deescalation or use of force, are you familiar  
23 with the term "preclusion"?

24 A. No, that wasn't a term we used.

25 Q. Is there a similar term that the Seattle Police

1 Department used?

2 A. You'd have to define it for me.

3 Q. Anything that, sort of -- a person, condition or  
4 circumstance that prevents or obstructs an officer from  
5 safely and effectively using techniques that -- that's  
6 the definition I'm working with.

7 A. That makes sense. So, in other words, are there  
8 things that might preclude the suspect from complying  
9 with the officer? And, yes, there are things that might  
10 preclude them from cooperating.

11 Q. Would you agree with me that there is a difference  
12 between possessing a technique/tactic or weapon and  
13 having it available to use during an encounter with a  
14 resistant or threatening person?

15 A. That's a really wide-ranging question.

16 MR. DWYER: David, if you need him to break it  
17 down, ask him that. If you're comfortable answering it,  
18 go ahead.

19 THE WITNESS: Before I answer it, Matt, can you  
20 ask it one more time.

21 MR. GROSS: Q. Yeah. Would you agree with me  
22 that there is a difference between possessing a  
23 technique/tactic weapon, and having it available to use  
24 during an encounter with a threatening person?

25 A. It's a difficult question to answer, but I can



1 think of scenarios, whether actually out on the street  
2 that I've been in or also in training where an officer  
3 might -- here's an example.

4 In SWAT, we had a lot of extra body armor.  
5 Most officers don't have that, right? So let's say we  
6 went to a-man-with-a-gun call, and he's shooting out of  
7 his balcony at people down below. We might say that an  
8 officer has body armor, but all they have is that thin  
9 piece of Kevlar that covers their chest and their back.

10 But if we had SWAT officers there, they're  
11 much more heavily armored. So we would have not only the  
12 chest, we'd have the upper neck. We would have the  
13 shoulder. We have groin protection. So it's a difficult  
14 question to answer.

15 I can think of scenarios where officers have  
16 things available to them, tools and techniques. Some of  
17 the things that, you know, generally you mentioned. But  
18 sometimes maybe something is locked in a car, and maybe  
19 you're now hands-on with the suspect. You might say you  
20 have that tool, but you can't get to it for one reason or  
21 another.

22 I can think of scenarios like that. So it's a  
23 really wide-ranging question; so I hesitate to get into  
24 more detail without a more specific question.

25 I can think of examples where people can have

1 tools and techniques and use them, but I can think of  
2 examples where people have tools and techniques, and, for  
3 whatever reason, they don't use them, I guess is my best  
4 answer.

5 Q. And would you agree that in order for a technique,  
6 a tactic or weapon to be available, the officer must be  
7 able to safely and effectively use or deploy it?

8 A. Police departments give officers tools and tactics  
9 in training to get the job done. I've never seen a  
10 police department that doesn't do that in one form or  
11 another. There's different standards for different  
12 departments.

13 So -- but, yes. They're given the tools and  
14 tactics and trained -- hopefully trained -- in the use of  
15 those. And then -- sorry. I don't know if I answered  
16 your question. Can you ask it one more time.

17 Q. Yeah. Would you agree that in order for a  
18 technique, tactic or weapon to be available, an officer  
19 must be able to safely and effectively use or deploy that  
20 item?

21 A. I can think of situations in general. I'm going  
22 to say yes. But I can also think of situations where an  
23 officer might not be able to safely use a tool or  
24 technique. But they either have used it anyway in, kind  
25 of, a violation of what that tool or technique was

1 designed to use for, or -- I -- I've seen situations  
2 where officers have things available to them, but they  
3 didn't use them. So, again, it's kind of a broad  
4 question, but I'm trying my best to answer it.

5 Q. Would you also agree that during an encounter with  
6 a resisting or threatening subject, if that person's  
7 behavior is interfering with law enforcement action, that  
8 then those law enforcement actions are no longer safe and  
9 effective to use?

10 A. I would disagree with that.

11 MR. DWYER: Objection.

12 THE WITNESS: Sorry. Go ahead, Patrick.

13 MR. DWYER: I was going to say objection. It's  
14 compound and ambiguous.

15 But if you feel you can answer, David, go ahead.

16 MR. GROSS: Q. Why would you disagree?

17 A. Again, the -- the hard thing about -- one of the  
18 hard things about law enforcement is every situation's  
19 different. You've probably heard that before, I'm sure,  
20 with your experience and mine as well. And it's really  
21 hard to state these 100 percent catch-all statements.

22 And I can think of scenarios that might run  
23 opposite of that or not flow in easy line with that. And  
24 if you want to hear a couple what-if's -- sorry. You're  
25 going to have to ask the question one more time, Matt.

1 Q. I think we can -- we can move into some specific  
2 examples. I think this will help with the --

3 A. Okay.

4 Q. -- the questions.

5 Would you agree that severe alcohol use or  
6 drug use negatively affects an officer from constructive  
7 talking with that person?

8 A. Not always. Having done 500 DUI arrests in my  
9 career, I can tell you that I was actually able to gain  
10 cooperation and conversation from 98 percent of them, I'm  
11 going to say. So I'm going to disagree with the  
12 statement.

13 I've also come across any number of people on  
14 drugs. And different drugs affect different people  
15 differently, right? So, again, it's kind of one of those  
16 I can't agree with a blanket statement like that because  
17 I can think of specific examples where people have still  
18 been cooperative. Now, can it hamper the ability to  
19 cooperate? Sure, but not always.

20 Q. And would you agree that no matter how good a  
21 officer's negotiating skills are, it's going to be more  
22 challenging with a person who was under the influence of  
23 drugs or alcohol?

24 A. It can be, but, no, not always. I'm thinking of  
25 people that weren't on drugs and alcohol and, oh, my

1 gosh. They created the worst fight you ever seen. So,  
2 sure, it can be, but not always.

3 Q. In reviewing this particular incident, did you  
4 find evidence that Mr. Hennefer was under the influence  
5 of drugs?

6 A. Yes.

7 Q. And did you find that he also had alcohol in his  
8 system?

9 A. No, I don't believe there was any evidence of  
10 alcohol use. I don't remember that from any of the  
11 officer's statements or any of the other evidence.

12 Q. Do you have any reason to disagree with the  
13 pathology and toxicology findings by Dr. Reiber that  
14 Mr. Hennefer's cause of death was drug overdose?

15 MR. DWYER: Objection. You're asking him to give  
16 an expert opinion about a medical issue.

17 THE WITNESS: And my understanding is we listen to  
18 the objection, and then I answer the question anyway?

19 MR. GROSS: Unless you're instructed not to  
20 answer.

21 THE WITNESS: Understood.

22 MR. DWYER: Yeah. Mr. Sweeney, if you feel that  
23 you are competent to give an answer about that medical  
24 issue, go ahead. If you don't feel competent, so state.

25 THE WITNESS: Certainly that is out of the area of

1 my expertise. However, I did read the report that said  
2 the cause of death was acute methamphetamine  
3 intoxication, I believe was the word.

4 MR. GROSS: Q. Did you also find evidence from  
5 Mr. Hennefer's family members that he was a long-time  
6 drug user?

7 MR. DWYER: Objection. States facts that haven't  
8 been put into evidence and not put into the hypothetical.

9 Again, Mr. Sweeney, if you have specific factual  
10 information you recall from documents reviewed, go ahead.

11 THE WITNESS: There were statements made by  
12 officers that detailed both 911 calls and in-person  
13 information by family members that Mr. Hennefer was under  
14 the influence of narcotics, that he recently relapsed.  
15 And I'll leave it at that.

16 There were statements by the officers  
17 relating -- well, that was the other thing I was going to  
18 add. One, there were statements made by family members,  
19 both in person and phone to officers at the scene or to  
20 dispatch. And then there were also the general  
21 observations of deputies at the scene that they believe  
22 Mr. Hennefer was affected by the use of narcotics.

23 MR. GROSS: Q. And not only just affected by  
24 narcotics on that day, but had a history of using drugs;  
25 correct?

1 MR. DWYER: Objection. Again, you're asking him  
2 whether -- what he knows about the history Mr. Hennefer,  
3 and I believe he's answered that question.

4 Mr. Sweeney, do you have any further knowledge  
5 that you've gained about Mr. Hennefer's history of using  
6 narcotics? Go ahead.

7 THE WITNESS: Only the information from his family  
8 that he did have that history and had relapsed.

9 MR. GROSS: Q. Would you agree that a person  
10 experiencing mental health issues might present a serious  
11 challenge to an officer attempting to deescalate that  
12 person?

13 A. I have seen many people with mental health issues  
14 that are difficult to deescalate. Yes. Not all, but  
15 many.

16 Q. Have you been trained that a person who is  
17 experiencing paranoia or schizophrenia might obstruct or  
18 prevent even a well-trained officer from effectively  
19 deescalating that person?

20 A. Some of the people -- you asked about my training  
21 or real-world experience? Sorry.

22 Q. That -- have you been trained?

23 A. I've been trained that people -- and did you --  
24 did you say mental health or drugs? Are we on mental  
25 health or drugs?

1 Q. Mental health issues?

2 A. Yeah. I've been trained that people with mental  
3 health issues can certainly present challenges to  
4 officers. However, many people can still be reasoned  
5 with and persuaded, and so deescalation tactics can still  
6 work. There is no cut and dry, 100 percent one way or  
7 the other.

8 Q. Would you agree that a person who was delusional  
9 could obstruct or prevent a well-trained officer from  
10 effectively communicating and using deescalation  
11 techniques?

12 MR. DWYER: Again, objection. Calling him to give  
13 a hypothetical or speculative answer. If you want to ask  
14 him about his particular experience, go ahead.

15 THE WITNESS: In my experience, yes. They might  
16 present that difficulty, but not all the time.

17 MR. GROSS: Q. And you would agree, it doesn't  
18 matter how good an officer's training is, if that suspect  
19 is experiencing delusional thoughts, it's going to  
20 interfere with the communications?

21 MR. DWYER: Objection. Again, assumes, you know,  
22 a hypothetical. You're assuming that it did.

23 Mr. Sweeney, if you want to explain your  
24 experience, go ahead.

25 THE WITNESS: I would disagree with the statement,



1 Matt. It certainly can, but not always. So it's kind of  
2 a similar answer to before, that it doesn't preclude  
3 deescalation from working. You can still talk to people  
4 and you can still persuade them.

5 I'm not going to say it happens all the time.  
6 It might not even happen the bulk of the time, but it  
7 doesn't -- it's not a blanket 100 percent that means that  
8 you can't talk to this person. It doesn't mean that.

9 MR. GROSS: Q. No. It just makes it more  
10 challenging than if you were trying to deescalate with  
11 me.

12 A. Sure. That I'll agree with. I mean, if someone's  
13 under the influence of narcotics in -- yeah, in general,  
14 I would agree that most of them would be more difficult  
15 to deescalate than you.

16 However, I'll go back to an earlier answer  
17 that I gave that some of the people that are the most  
18 difficult to deal with I don't believe had any signs of  
19 intoxication through alcohol or drugs.

20 So there is no blanket answer for that. It's  
21 a, you know -- I don't want to give the simple, easy  
22 answer. It depends. So I'm trying my best to answer  
23 your question, but I can certainly think of examples  
24 where people have been very difficult, more difficult  
25 because they're under the influence of some type of

1 substance, but it doesn't preclude you from still  
2 communicating with them. But it can make things more  
3 difficult.

4 Q. Now, did you find evidence in the discovery that  
5 you were provided that family members told law  
6 enforcement that Mr. Hennefer was delusional?

7 A. Yes.

8 Q. And did you find evidence in discovery from family  
9 members that they stated Mr. Hennefer was suffering from  
10 symptoms of mental illness?

11 A. Yes.

12 Q. Do you remember what mental illness symptoms  
13 family members stated they believed Mr. Hennefer was  
14 suffering from?

15 A. There was mention of schizophrenia.

16 Q. Have you been trained to recognize a person  
17 presenting with possible bipolar disorder?

18 A. When I went through crisis intervention training,  
19 we definitely discussed people that were bipolar. And of  
20 course we were given the caveat that we are not medical  
21 experts, nor are we trained to do diagnoses.

22 And when I would train officers in the same  
23 arena, I would give them that same advice that was given  
24 to me: That you might not be able to diagnose something  
25 like schizophrenia or bipolar disorder or dissociative

1 disorder or any of the other disorders.

2 It's most important that the officer recognize  
3 that there is something at play here which is making the  
4 situation difficult for this person. And could that be a  
5 foreign substance; could that be something in their mind.  
6 There are endless possibilities.

7 So in answer to your question, yes. But we  
8 were never a psychologist, a psychiatrist, anyone trained  
9 in medicine that could give a diagnosis on that, but  
10 certainly we learned about it.

11 Q. And I -- I don't want to ask for your medical  
12 opinion here, but in that training, what was, kind of,  
13 your takeaway? What is bipolar disorder? What's your  
14 understanding of it?

15 A. My understanding of it is that through one process  
16 or another, a person can go through definite highs during  
17 certain periods of time and definite lows.

18 So depending on where you find that person,  
19 whether they're at the manic stage or the slow and  
20 lethargic stage, those might be something that an  
21 officer -- again, an untrained person, but someone that's  
22 certainly going to come across people that are bipolar,  
23 suffering from that affliction, that this might be a  
24 reason why someone is behaving a certain way that they  
25 are.

1           That being said, there's also the difficulty  
2 when you then insert a foreign substance, a narcotic into  
3 that, or alcohol, and then how is that affecting the  
4 person? Is that the cause of their mood swings, or is it  
5 the -- the actual bipolar disorder or a combination  
6 thereof?

7           So it's a long-winded answer to say that yes,  
8 we've been trained in it; we talk about it; we recognize  
9 it, but it's never something that I'm going to say, "Oh,  
10 I know what's happening here."

11           You know, that's -- that's -- I would never  
12 hazard such a type of guess as that. So that's about the  
13 extent of my training.

14           Q. Would you agree that a person suffering from  
15 bipolar disorder would obstruct or prevent even a  
16 well-trained officer from effectively communicating with  
17 that person in crisis?

18           MR. DWYER: Objection. I think that's been asked  
19 and answered.

20           Mr. Sweeney, if you have anything further to add  
21 to your answer you've just given, go ahead.

22           THE WITNESS: It would just be a repeat that it  
23 might make things difficult, but not necessarily always.

24           MR. GROSS: Q. And would you agree that it  
25 wouldn't matter how good that officer was at

1 communicating and negotiating if the person's bipolar  
2 disorder was interfering with that communication; right?

3 MR. DWYER: Objection. I don't understand the  
4 question. Are you asking him whether or not it doesn't  
5 matter how well-trained the officer is?

6 MR. GROSS: Yes.

7 MR. DWYER: All right. So Mr. Sweeney, do you  
8 understand the question?

9 THE WITNESS: I think I have an answer for that.  
10 In my experience, I've seen poorly-trained officers or  
11 officers that don't incorporate their training into their  
12 regular day practices. I've also seen highly-trained  
13 officers that are very competent and incorporate their  
14 training into their daily practices as they work with  
15 people.

16 I've supervised hundreds of officers and  
17 reviewed hundreds of cases of uses of force or mental  
18 health calls or things like that. Certainly some  
19 officers are better communicators than others.

20 And it's been my experience that those are the  
21 type of officers I like seeing on a call, especially with  
22 someone who is difficult to deal with.

23 Other officers, I know that is not their skill  
24 set. They might have many other skill sets but maybe  
25 that's not one of them.

1           So I think in answer to your question, Matt,  
2           there are -- you know, everyone has different abilities,  
3           skills, training and the ability and desire and  
4           willingness to follow that training. And also certainly  
5           experience. A 20-year vet, 25-year vet is a lot more  
6           experienced than someone who has been on the job a year.

7           So -- but, again, I have to state that just  
8           because one person's poorly trained or disregards their  
9           training and someone else is an expert and, you know,  
10          consistently talks people into the back of their car  
11          rather than fighting them into the back of their car, it  
12          doesn't always mean that that person is always going to  
13          be the more successful when dealing with someone that's  
14          difficult.

15          Because sometimes the person that's difficult  
16          has a say in who they like and who they don't like. And  
17          I've seen many times where we're working through  
18          negotiations, and the suspect says, "I'm not going to  
19          talk to you anymore," or, "I don't like that guy," and we  
20          sub someone else out, and someone else gets a great  
21          result.

22          So there's no cut-and-dry answers to any of  
23          these questions. I can think of examples both for and  
24          against. I could -- and I'll leave my answer at that.

25          MR. GROSS: We've been going a little over an

1 hour. Do we want to continue? Take a break?

2 THE WITNESS: I would love a short break.

3 MR. DWYER: Yeah. I think probably a five-minute  
4 break would be good, Matt.

5 MR. GROSS: Let's go off the record.

6 MR. DWYER: Yes. Off the record.

7 (Recess taken.)

8 MR. GROSS: We are back on the record from a short  
9 break.

10 Q. David, would you agree that an officer attempting  
11 to deescalate with someone who is biased against law  
12 enforcement could obstruct or prevent that officer from  
13 effectively communicating with the suspect?

14 A. It might.

15 MR. DWYER: Objection. Hypothetical.

16 But, David, like I said, you could answer.  
17 Go ahead.

18 THE WITNESS: It might.

19 MR. GROSS: Q. Would you agree that it wouldn't  
20 matter how well-trained and experienced a negotiating  
21 officer is, if a suspect has bias against law  
22 enforcement, it's going to interfere with the  
23 negotiations?

24 MR. DWYER: Objection. Bias against law  
25 enforcement is a very ambiguous phrase.

1           Maybe Counsel would like to explain what he  
2 means more. It could be many things. So from a  
3 political bias to a hatred, I don't know what you're  
4 talking about.

5           MR. GROSS: Q. I am just -- David, I'll clarify.  
6 Bias against law enforcement could be they don't like law  
7 enforcement; they hate law enforcement; they have issues  
8 with authority. Those types of examples.

9           A. Okay. And then the question about -- I understand  
10 those people now. And then the question about them is  
11 once again?

12          Q. That even a well-trained officer trying to  
13 negotiate with someone who has bias against law  
14 enforcement, it's going to interfere with the  
15 negotiations?

16          A. I will disagree with that.

17          Q. And why?

18          A. Because, again, the general consensus might be,  
19 yes, that that might be something that's going to  
20 interfere or hamper communications between two parties --  
21 let's say between the police and someone they're trying  
22 to deal with. But it doesn't have to be that impediment,  
23 is -- is my answer.

24                 It -- it can be. It might even be that most  
25 of the time, but it doesn't have to be. There's no --



1 there's no clear-cut yes answer to that. Because there  
2 are people that I've met that I might consider biased  
3 against me, but we still got done what we needed to get  
4 done, whatever it might be.

5 Q. Did you find evidence in discovery that  
6 Mr. Hennefer had a dislike for law enforcement?

7 MR. DWYER: I will object. Just for  
8 clarification, Matt, by "discovery," did you mean the  
9 documents and things he reviewed?

10 MR. GROSS: Q. Yes.

11 A. What I remember was a term that he was afraid of  
12 law enforcement.

13 Q. Do you recall in discovery that Mr. Hennefer had  
14 been in a shootout or had been shot by law enforcement  
15 previously?

16 A. That was the information that I saw within some of  
17 the officer's statements.

18 Q. Do you think previously being shot by law  
19 enforcement might make someone have a dislike for law  
20 enforcement?

21 MR. DWYER: Objection. Asking for speculation.  
22 You can answer, David.

23 THE WITNESS: It certainly might.

24 MR. GROSS: Q. And so during this incident, you  
25 discovered information that Mr. Hennefer was under the

1 influence of methamphetamine; correct?

2 A. The cause of death in that -- I believe it was  
3 a -- a doctor's death certificate of some sort, or maybe  
4 it was just information given to the coroner, I can't  
5 remember what it was immediately. I could certainly look  
6 it up if you want to know which one it was exactly, but  
7 they did indicate the cause of death was methamphetamine.

8 Q. And do you agree that he was under the influence  
9 of methamphetamine during the stop with the  
10 sheriff's department?

11 MR. DWYER: Objection. It calls -- again, it's  
12 asking him for a medical opinion. Are you --

13 MR. GROSS: No, this is not a medical opinion.

14 MR. DWYER: Well, Mr. Sweeney -- other than what  
15 was in the medical -- what's in the record he reviewed?  
16 Is that what you're trying to get, Mr. Gross?

17 MR. GROSS: Yes.

18 MR. DWYER: It was stated in the records it was  
19 methamphetamine intoxication; so I'm not quite sure what  
20 you're trying to get.

21 MR. GROSS: I'm looking for his law enforcement  
22 experience, if he believes Mr. Hennefer was under the  
23 influence of methamphetamine.

24 MR. DWYER: Is that based upon the events and what  
25 happened at the incident scene?

1 MR. GROSS: If -- I just want to know his opinion.

2 MR. DWYER: Mr. Sweeney, if you think you can give  
3 an opinion, go ahead. If you can't, don't.

4 THE WITNESS: No. I couldn't say specifically  
5 what he would be under the influence of based on the  
6 officers' statements about some of the physical  
7 observations that they made, they thought he was under  
8 the influence of narcotics.

9 And, again, I think that's what most law  
10 enforcement officers should stick to, is you making a --  
11 just a general observation. So I only know what was  
12 reported in the officers' statements and in the  
13 depositions. So I -- I have no specific information  
14 other than that medical report as to what was the cause  
15 of the intoxication.

16 MR. GROSS: Q. And -- and there was information  
17 in discovery that Mr. Hennefer was experiencing  
18 delusions; correct?

19 A. That was something that was within the reports and  
20 statements. Yes.

21 Q. And there was information in discovery that  
22 Mr. Hennefer was displaying mental-illness symptoms such  
23 as paranoia; correct?

24 A. That is correct.

25 Q. And there was information in discovery that

1 Mr. Hennefer disliked law enforcement; correct?

2 A. I think I answered that question previously by  
3 stating that he was afraid of law enforcement.

4 MR. DWYER: Thank you, Mr. Sweeney. You took care  
5 of my question of asked and answered -- took care of my  
6 objection. I'm sorry.

7 MR. GROSS: Q. Would you agree that anyone or a  
8 combination of all of these presentations could preclude  
9 even the best negotiator from calming down Mr. Hennefer?

10 A. I would disagree.

11 Q. Why?

12 A. Once again, there is no 100-percent catchall  
13 statement that's going to be able to accurately describe  
14 100 percent of the suspects and 100 percent of the  
15 officers who are called to deal with those suspects. So  
16 put another way, you can still be successful. Does it  
17 make it difficult, sure, but there is still a chance of  
18 success.

19 Q. It doesn't make it easier; is that correct?

20 MR. DWYER: Again, are you asking as a generality  
21 or specific example? My objection is it's ambiguous.

22 THE WITNESS: I can't think of any examples where  
23 those particular characteristics that you just mentioned  
24 would make it easier to negotiate with someone. I can't  
25 think of a situation that would make it easier. So I'll

1 agree with that statement.

2 MR. GROSS: Q. Would distance and a person's  
3 inability to hear communication with an officer  
4 negatively impact deescalation and communication  
5 attempts?

6 MR. DWYER: Counsel, can you clarify what you mean  
7 by "distance." I'm trying to understand the question  
8 better.

9 MR. GROSS: Q. David, you would agree that the  
10 further a suspect is away from officers, that distance  
11 can make it harder for the suspect to hear and follow  
12 orders?

13 A. I would agree with that.

14 Q. In your review of this incident, do you recall  
15 that Mr. Hennefer, at one point, drove his truck some  
16 distance away and got stuck in a ditch next to the  
17 roadway?

18 A. I do remember that.

19 Q. And do you recall, approximately, how far away  
20 that was?

21 A. One deputy said it was 150 yards.

22 Q. Would you agree that trying to negotiate with  
23 Mr. Hennefer who's approximately 150 yards away in his  
24 truck is going to be challenging to deputies at the  
25 scene?

1 A. I agree.

2 Q. Would you agree that at that distance -- the use  
3 of a PA system from a patrol car -- can provide some  
4 assistance to law enforcement in trying to communicate  
5 with a suspect?

6 A. I agree.

7 Q. It's easier to use the PA system than shout with  
8 your voice if someone's 150 yards away?

9 A. That is correct.

10 Q. Would you also agree that it's still difficult  
11 using a PA system at 150 yards away if that person is  
12 under the influence of drugs?

13 A. It certainly can be, but I'm not sure that drugs  
14 necessarily make it more difficult. I think it's kind of  
15 a -- a two-part question you have there. I think the  
16 distance certainly would make it difficult in the first  
17 place. I'm sure if you combine that with narcotic use,  
18 those are two impediments to effective communication.

19 Q. Do you have any issues with the  
20 sheriff's department using the -- the PA system in the  
21 patrol car to try to communicate with Mr. Hennefer?

22 A. No. I've used that many times at many different  
23 scenes -- or had one of my officers do it I think is  
24 probably more accurate. No, I've done it myself, too.  
25 So that's my answer. Yes, the PA system is appropriate.

1 Q. And communication is a core part of deescalation;  
2 correct?

3 A. Yes, it is.

4 Q. And would you agree that deputies made repeated  
5 attempts to communicate with Mr. Hennefer when he was  
6 inside his truck once stuck in the ditch?

7 MR. DWYER: Thank you, Matt.

8 THE WITNESS: Yes. There were notations both in  
9 their statements and in the depositions, I believe, where  
10 officers discussed their communications with  
11 Mr. Hennefer. So, yes.

12 MR. GROSS: Q. And those attempts, that's a  
13 reasonable thing to do; correct?

14 A. Correct.

15 Q. Did you review statements that Detective Natalie  
16 Mullins tried to call Mr. Hennefer on two cell phones he  
17 had on his body?

18 A. I did see those notations from her. Yes.

19 Q. And that Detective Mullins also had dispatch  
20 attempt to call Mr. Hennefer as well?

21 A. That is correct.

22 Q. All right. And do you recall that no one was able  
23 to -- no one from the sheriff's department was able to  
24 communicate with Mr. Hennefer via those cell phones?

25 A. Correct.

1 Q. Do you have any criticisms of Detective Mullins'  
2 attempt to go communicate with Mr. Hennefer via the  
3 cell phones?

4 A. No.

5 Q. Would you agree that's also a reasonable thing to  
6 do?

7 A. I would agree.

8 Q. Do you recall reviewing that, at some point,  
9 Mr. Hennefer threw one of his phones into a flooded rice  
10 field?

11 A. I did see the mention of that from some of the  
12 deputies at the scene, I believe.

13 Q. Would you agree that disposing of a means of  
14 communication, such as a cell phone, is not a rational  
15 act?

16 A. I would agree with you on that. Most people would  
17 not throw their cell phone into the rice patty.

18 Q. And we already established that once that first  
19 cell phone was thrown out of the truck, Mr. Hennefer  
20 didn't communicate on the other cell phone with  
21 sheriff's department deputies; correct?

22 A. I don't believe -- at the point that he went down  
23 the road from them in that 150 yards, I don't believe  
24 there was any further phone communication with him.  
25 Correct.



1 Q. What do you, sort of, make of Mr. Hennefer drives  
2 down the roadway from deputies; he throws one phone out  
3 the window; refuses to answer the other cell phone as  
4 the -- as deputies are trying to communicate with  
5 Mr. Hennefer?

6 MR. DWYER: Objection. Ambiguous. I'm not quite  
7 sure what you're asking, Counsel.

8 THE WITNESS: What I make of it, that he was  
9 behaving in a way that showed that he was impaired. I  
10 agree with Deputy Eck's observations that he thought that  
11 he was dealing with someone who had ingested narcotics.

12 I also can see the possibilities discussed by  
13 his family as to his medical history. So we might have,  
14 again, that combination effect of narcotics use and a  
15 mental illness. I think that's my best answer on that.

16 MR. GROSS: Q. Would it be the rational thing for  
17 a person experiencing a mental or a physical crisis to  
18 ask for help from first responders?

19 MR. DWYER: Objection. You're asking him to  
20 respond as a medical or psychiatric expert?

21 Go ahead, Mr. Sweeney, to the extent you have  
22 personal experience.

23 THE WITNESS: I certainly don't have the medical  
24 experience. In my professional experience as a  
25 police officer and supervisor, it is uncommon for people

1 who have taken narcotics to ask law enforcement for help.

2 Because in the past, so many narcotics were  
3 felonies. Society has now, kind of, eased up on some of  
4 those restrictions, particularly in Washington State.  
5 I'm not so much sure about California. Oregon eased up.  
6 And now they're going back -- let me just end my answer  
7 there, that -- I'll end it there.

8 MR. GROSS: Q. And you would agree that at no  
9 time did Mr. Hennefer ask for help from the  
10 sheriff's department deputies who were at the scene?

11 A. That is correct. I cannot remember anything of  
12 him asking for help. Nothing comes to mind, so I'll  
13 agree with that statement.

14 Q. Have you been trained and certified in crisis  
15 intervention?

16 A. Yes.

17 Q. And this might be one of those questions we need  
18 to trail for lunch, but do you know when, where and who  
19 trained you in crisis intervention?

20 A. I could give approximate answers on that.

21 Q. I will take your approximate answers.

22 A. Okay. The first time crisis intervention training  
23 I had was through the Seattle Police Department. It was  
24 held at Seattle Central Community College. We had a  
25 classroom there. I'm going to say it was in the '90s.

1 But that's about as close of a guess I can get without  
2 looking at the actual record.

3 I then had crisis intervention training again  
4 in the 2000s. That training was held at our Seattle  
5 Police training facility.

6 And the third time that I had crisis  
7 intervention training -- no, let me take that back. The  
8 second time was at Green River Community College. Yeah.  
9 Well, it -- it -- I think it was at Green River Community  
10 College and/or the State police academy. They're both  
11 south of Seattle. And I remember driving to attend those  
12 classes.

13 Both of those classes in the '90s and 2000s --  
14 again, I don't have the exact dates, but those were  
15 taught by Seattle Police training officers. And I  
16 couldn't tell you immediately which particular officer or  
17 command staff member taught those.

18 The last crisis intervention training I  
19 took -- and, again, these are all 40-hour classes.  
20 They're one-week long. I remember all of them, but those  
21 specific questions that you have, I'm not sure -- but the  
22 last one I took was in the 2020s. I was at Oregon State  
23 University, and the training was held through the  
24 Corvallis Police Department. That was the city where  
25 Oregon State University is located. And we had a variety

1 of instructors.

2 I think now looking back at all those classes,  
3 they had a variety of instructors. They might have had a  
4 lead-in, but every time you're getting a new person  
5 coming in and teaching you something new. Perhaps it's a  
6 police procedural response. Perhaps it's something about  
7 mental illness. Perhaps it's someone who has resources  
8 to help people with dealing with mental illness,  
9 substance abuse.

10 So all three of those classes is going to have  
11 a wide variety of people who come in and train them. But  
12 those are my best memories of when and where and the who.

13 Q. Do you hold yourself as an expert in crisis  
14 intervention or hostage negotiation?

15 A. I would say yes for crisis intervention based on  
16 my lengthy experience, the number of 40-hour classes I've  
17 had, and my role in training hundreds of Seattle Police  
18 Department employees in crisis intervention.

19 I do not hold myself to be an expert in  
20 hostage negotiation, although I worked closely with the  
21 hostage negotiation team in Seattle Police Department  
22 when I was working in the SWAT team from 2010 to 2014.

23 Q. Have you ever been qualified in a state or federal  
24 court on the subject matter of crisis intervention?

25 A. No.

1 Q. Have you written or published any peer-reviewed  
2 papers, manuals or books on crisis intervention?

3 A. No.

4 Q. Now, I saw from your CV that you were a SWAT  
5 supervisor; correct?

6 A. Yes.

7 Q. And part of that, you oversaw hostage negotiators;  
8 correct?

9 A. We worked in conjunction with them. I took advice  
10 from them. I retained general incident command, unless  
11 the lieutenant was on the scene and then he would take  
12 over incident command.

13 But as the field supervisor, I worked very  
14 closely with the hostage negotiation team. I don't -- I  
15 might have even outranked them, but being that we were  
16 separate units who worked in partnership, I don't know  
17 that I could say I oversaw them. I would liken it more  
18 to I worked with them.

19 Q. Have you been trained or certified as a hostage  
20 negotiator?

21 A. No.

22 Q. Would you agree that supervising negotiations and  
23 actually being directly involved as a negotiator are two  
24 different skill sets?

25 A. I would agree with that.

1 Q. Do you hold yourself as an expert in suicidality  
2 or suicide by cop?

3 A. To the first one, suicidality, that sounds more  
4 like a medical prognosis or diagnosis that's beyond my  
5 expertise. That being said, I've had a lot of training  
6 on suicidal ideation in both a tactical response to  
7 suicidal ideation, as well as a crisis response to  
8 suicidal ideation. But I'm not going to hold myself to  
9 be an expert in that.

10 I think it would be more appropriate to say  
11 that I would be an expert in how we as law enforcement  
12 might respond to someone from a law enforcement  
13 perspective rather than that medical perspective. What  
14 was the second one you talked about?

15 Q. Suicide by cop.

16 A. Ah, suicide by cop. Once again, that is something  
17 I've received extensive training on; something that I'm  
18 aware of and that I've studied, and something that I've  
19 trained officers in the field on.

20 I think that it would be even more appropriate  
21 to say that that is a greater area of expertise for me  
22 than just suicidality; being that, when we're talking  
23 about suicide by cop, we're talking about someone taking  
24 actions in order to end their life, and they're going to  
25 provoke a response from law enforcement to assist them in

1 that endeavor, in that goal.

2 I have faced that situation out in the field.  
3 I've faced it in training and I've trained others. So,  
4 yes, I'm going to say that I'm an expert in police  
5 response to suicide by cop.

6 Q. And have you been qualified as an expert in a  
7 state or federal court on that subject matter?

8 A. No.

9 Q. Have you written or published any peer-reviewed  
10 papers, manuals or books on that subject?

11 A. No.

12 Q. And have you been trained or certified as a  
13 suicide investigator by an accredited institution?

14 A. No. I don't believe we have that designation --  
15 at least in the organizations I've worked for -- and I've  
16 never heard of that in other law enforcement  
17 organizations. In answer to your question, no, I have  
18 not.

19 Q. Are you familiar with the acronym SRA?

20 MR. DWYER: Counsel, do you have any context what  
21 you're talking about? What field or subject? There's  
22 many, many acronyms with the same initials.

23 MR. GROSS: Q. David, are you familiar with the  
24 acronym?

25 A. No, I'm not.

1 Q. Suicide Risk Assessment. Are you familiar with  
2 suicide risk assessment, SRA?

3 A. I do remember receiving training on the  
4 circumstances and the mindset that might cause someone to  
5 fall into suicidal ideation, but I don't remember it  
6 under those particular initials SRA.

7 Q. Have you ever done a suicide risk assessment on a  
8 case you worked where there was a suicide involved?

9 A. No.

10 Q. In your review of this incident, did you find any  
11 evidence that Mr. Hennefer was suicidal?

12 A. Certainly the statements and deposition of  
13 Deputy Eck reflected many times that Mr. Hennefer asked  
14 him to shoot him. So, yes.

15 Q. Do you recall statements from family members that  
16 they thought Mr. Hennefer was suicidal?

17 A. At this time, I don't remember the family stating  
18 that he was suicidal. I would have to go back and look  
19 through the evidence to absolutely answer that question.  
20 But at this time, Matt, I don't remember anyone stating  
21 that he was suicidal.

22 Q. In -- in the same vein, do you recall family  
23 members telling deputies that Mr. Hennefer wanted to die?  
24 He just wanted to say goodbye to his kids or that he  
25 thought he was going to die?



1           A. There were some statements like that.  
2 Deputy Mullins obtained information about his children,  
3 and that's quite often a common topic that law  
4 enforcement might bring up to a person who is expressing  
5 the desire to kill themselves: To try to have them  
6 remember those that they love; that would miss them if  
7 they were to actually go through with the act.

8                       So Deputy Mullins talked with the family  
9 members and got information about the children and was  
10 presenting to him over the PA, but I don't believe she  
11 ever got a response on that. But, yes, there was  
12 information. I'm not sure that -- did that answer your  
13 question?

14           Q. Yeah.

15           A. Okay.

16           Q. And on page 17 of your report, No. 11, you  
17 documented that Mr. Hennefer said, "Shoot me. Shoot me.  
18 I want to die."

19           A. Yes. He -- sorry. Was there a question with  
20 that?

21           Q. I just wanted to confirm that's written there, and  
22 you recall that information in documents you reviewed?

23           A. Yes, I do. That came from the Eck deposition.  
24 And I do remember reading -- particularly with Deputy Eck  
25 that had most of the communication with Mr. Hennefer --

1 about his desire to die. And of course I wasn't there,  
2 but referring to what Deputy Eck wrote, that was one of  
3 the statements, "Shoot me. Shoot me. I want to die.  
4 Shoot me."

5 Q. And you would agree that Mr. Hennefer's statements  
6 there, that it's a clear indication that he's suicidal?

7 A. I think it has all the hallmarks of -- no, I'll  
8 take that back. It doesn't have all the hallmarks. It  
9 has -- it expresses a desire that law enforcement kill  
10 him, but what it missed was the physical action in order  
11 to force that confrontation.

12 So it doesn't have all the hallmarks, but it  
13 certainly is a start in that progress of him asking law  
14 enforcement to kill him. So in answer to your question,  
15 that certainly sounds like the idea of suicide and that  
16 he wants to die.

17 Q. Are you familiar with the term suicide by cop or  
18 maybe the acronym SBC?

19 MR. DWYER: Asked and answered.

20 THE WITNESS: Yes. Yes, I am.

21 MR. GROSS: Q. And what is your understanding of  
22 suicide by cop?

23 A. I kind of talked about this before, but it's the  
24 idea that someone's chosen method of dying is at the  
25 hands of law enforcement. So they're going to force a

1 confrontation so that law enforcement is the one that  
2 kills them. And that's their chosen method of death.

3 And by provoking a response with law  
4 enforcement, the suicide by cop idea is that they'll have  
5 to shoot me and kill me. And so having faced this  
6 situation myself, there are expressed desires on the part  
7 of the person or actions on the part of the person which  
8 they hope then provokes that law enforcement response  
9 that they do draw a weapon, fire and kill the individual.  
10 And that's basically what suicide by cop is.

11 Q. Have you had any formal training in suicide by  
12 cop?

13 A. Yes.

14 Q. And would you agree that suicide by cop in certain  
15 individuals are different in the way that they plan their  
16 suicide or final death act?

17 A. As I mentioned before, a person expressing  
18 suicidal ideation might have different methods that they  
19 believe will help them be successful in killing  
20 themselves. One of those might be that if I can provoke  
21 a response from law enforcement, they will shoot me and  
22 kill me. So that -- that is one method that someone  
23 might express.

24 Someone else might express that they want to  
25 die by hanging, or express they want to die by taking

1 pills. So it's one of those methods that might -- that  
2 someone might express. They might talk about it, they  
3 might not. But that's their idea, that law enforcement  
4 will shoot me and kill me.

5 Q. Would you agree that suicide by cop-intent  
6 individuals are goal-oriented in their desire to provoke  
7 a shooting?

8 MR. DWYER: Objection. Again, you're asking him  
9 to opine as an expert in the psychology of suicide  
10 experts, and that's not really something he was retained  
11 to do and not in his field.

12 But to the extent you feel comfortable with  
13 that, Mr. Sweeney, go ahead.

14 THE WITNESS: It seems like the question that  
15 you're asking, Matt, is more kind of a general nature  
16 about being goal-oriented. What does goal-oriented mean  
17 and what steps is someone taking to achieve that goal?

18 And then so I could think of many examples of  
19 what that might be, both good and bad. And then you're  
20 trying to apply it to someone who's suicidal in a  
21 police-related environment, which, again, is my  
22 expertise, not necessarily being goal-oriented. It's a  
23 hard question to answer. I -- I'm -- I can't say for  
24 sure at this point.

25 MR. GROSS: Q. Are suicide by cop individuals

1 dangerous to law enforcement officers?

2 A. They certainly can be.

3 Q. And are they unpredictable?

4 A. They might be. Yes.

5 Q. And you documented in your report that  
6 Mr. Hennefer was behaving erratically; correct?

7 A. My observations -- of course, as you know, I was  
8 not at the scene, so they're based on observations made  
9 by deputies at the scene. And if those deputies put  
10 those words into reports, statements or they spoke them  
11 in depositions, I certainly tried to reference those  
12 statements.

13 I don't have that personal knowledge, but I  
14 have what the evidence shows from the officers that were  
15 at the scene.

16 Q. That evidence showed that at least Deputy Eck and  
17 other deputies perceived Mr. Hennefer as behaving  
18 erratically?

19 A. That is correct.

20 Q. Do people who are suspected of being under the  
21 influence also act erratically?

22 A. Some do.

23 Q. And can those same people who are under the  
24 influence also be unpredictable?

25 A. Some are.

1 Q. It's just difficult to know what they're going to  
2 do?

3 A. I'll agree with that.

4 Q. And would you agree it's very difficult to  
5 deescalate with a person who's under the influence,  
6 acting erratically and unpredictable?

7 A. We kind of talked about this in the last hour. It  
8 certainly can be. Those things can be impediments to  
9 effective communication or effective deescalation, but  
10 it's certainly not 100 percent. It -- it doesn't -- it's  
11 not an absolute.

12 So there are examples I can think of where  
13 I've still been successful in my law enforcement  
14 objective -- whatever that might be -- with people who  
15 are under the influence. So it can be difficult, but  
16 it's not 100 percent.

17 Q. In your training and experience, have suicide by  
18 cop individuals injured or killed other law enforcement  
19 officers to provoke a response?

20 A. And you said in my training and experience?

21 Q. Yes.

22 A. Okay. I don't believe I've ever been to a suicide  
23 by cop where the subject expressing suicidal ideation, or  
24 SBC as we've talked about, has successfully caused an  
25 officer to shoot them. And I don't remember any case

1 where an officer was hurt by a suicide by cop.

2 So in my experience, I'll say I'm not familiar  
3 with that. However, in my training, I will say I'm  
4 familiar, because I've been presented scenarios or  
5 articles or a -- training standards where I've been given  
6 examples of that happening. And certainly you can go to  
7 any of the police websites and search for that topic and  
8 find an example where an officer is talking about what  
9 happened with them, and how they got shot, or how they  
10 had to fire back, or what they would do differently.

11 So I do have some training, experience with  
12 that, but no real world experience of a subject being  
13 shot by police, SBC, or a subject shooting police that  
14 was SBC.

15 Q. Would you agree research studies show a growing  
16 percentage of officer-involved shootings are being  
17 classified as SBC-related?

18 A. I don't know.

19 Q. Would you agree that a suicide by cop-intent  
20 person who is under the influence of methamphetamine, has  
21 a dislike for law enforcement and is possibly delusional  
22 will present challenges to law enforcement attempting to  
23 communicate with that individual?

24 MR. DWYER: Objection. Asked and answered.

25 Mr. Sweeney, if you have anything new to add,

1 go ahead. But I believe the question's been handled  
2 several times.

3 THE WITNESS: I would agree that someone with all  
4 of the things that you just mentioned, there could  
5 certainly present obstacles to law enforcement to deal  
6 with, yes.

7 MR. GROSS: Q. Would you agree that if a person  
8 was SBC-intent, their intent is that they don't want to  
9 deescalate, but they want to deliberately provoke law  
10 enforcement into shooting and killing them because that's  
11 their plan for suicide?

12 A. I'm not sure I heard a question.

13 Q. Would you agree with that statement? And I can  
14 repeat it.

15 A. Please.

16 Q. Would you agree that an SBC-intent person -- would  
17 you agree that a person who is SBC-intent, their  
18 intention is not to deescalate, but their intention is to  
19 provoke a response for law enforcement to shoot and kill  
20 them completing their plan for suicide?

21 A. That's an interesting question, because in some  
22 cases -- and, again, I don't have a lot of personal  
23 experience with this. I've been on some SBC calls, but  
24 thankfully they resolved successfully without anyone  
25 being hurt.



1           That being said, in the training that I  
2 received or training manuals that I read or videos or  
3 articles that I read online, sometimes someone who is SBC  
4 is expressing a cry for help. Very similar to the person  
5 that calls 911 and then takes the pills. They want to be  
6 found. They don't want to die, but they don't know how  
7 to get help. Or they want to cause a commotion or a stir  
8 or to provoke a reaction from, let's say, a family or  
9 roommate. So sometimes there are cases, in my, again,  
10 training, that this could be a cry for help.

11           That being said, I think that oftentimes,  
12 people are using SBC in order to end their life. I think  
13 there is a goal there. But I don't think it's  
14 100 percent.

15           Q. And in this case did you review information that a  
16 red dot optic to a firearm was located in Mr. Hennefer's  
17 truck?

18           A. Yes.

19           Q. And that there was a large knife also initially  
20 found in Mr. Hennefer's truck; correct?

21           MR. DWYER: Objection to the characterization of  
22 the knife as large. There was no physical description  
23 given.

24           Go ahead, Mr. Sweeney, to the extent you know.

25           THE WITNESS: Yeah. There was a knife found on

1 the ground, is how I'll answer that question.

2 MR. GROSS: Q. There were also statements that  
3 Deputy Eck observed -- when he stopped Mr. Hennefer --  
4 that there was the Bowie knife in the center console of  
5 the truck; correct?

6 A. There were statements by Deputy Eck that he saw  
7 the handle of what he thought was a knife. And I believe  
8 he spoke to Deputy Saechao about it -- who was the acting  
9 supervisor that day -- and he wrote something in his  
10 statement that he thought it was a knife, but he wasn't  
11 absolutely sure.

12 That being said, I think he was fairly  
13 confident of what he saw. And when he was at the window  
14 talking to Mr. Hennefer, he did see a knife near the  
15 console, I believe, sticking down between the seat and  
16 the console, and that's what he thought it was.

17 Q. And before Deputy Eck pulled his firearm, he made  
18 repeated attempts with Mr. Hennefer to get him to calm  
19 down; correct?

20 A. I don't remember --

21 MR. DWYER: Objection.

22 THE WITNESS: -- those words.

23 MR. DWYER: Objection. You're characterizing, you  
24 know, Mr. Hennefer's conduct.

25 Mr. Sweeney, to the extent you want to answer

1 the question and address it, address Mr. Hennefer's  
2 conduct vis-a-vis Mr. -- Deputy Eck, go ahead.

3 THE WITNESS: I don't remember Deputy Eck stating  
4 the words that he wanted Mr. Hennefer to calm down.

5 MR. GROSS: Q. Do you recall reading evidence  
6 that Deputy Eck spoke with Mr. Hennefer's wife and was at  
7 the scene for 10 to 15 minutes before Mr. Hennefer  
8 decided to attempt to leave; correct?

9 A. That is correct.

10 Q. And at one point, Mr. Hennefer eventually, against  
11 Deputy Eck's direction, drives his truck towards  
12 Deputy Eck; correct?

13 A. Not exactly. He said he drove it towards his  
14 vehicle, but he wasn't in the vehicle at the time.

15 Q. No. Deputy Eck was standing next to the truck as  
16 Mr. Hennefer drove the truck forward?

17 A. That's what he said, yes.

18 Q. And that's what the -- that's what the evidence  
19 shows. That's all you can rely on.

20 A. Correct.

21 Q. And at that point, Mr. Hennefer's decision to  
22 drive the truck forward, did that pose an immediate  
23 threat to Deputy Eck's personal safety?

24 A. No.

25 Q. Why not?

1           A. Again, only relying on what Deputy Eck wrote,  
2 he -- he didn't express anything about him being in fear  
3 for his life; being in fear of being injured. He said  
4 that Hennefer drove slowly and then, you know, of course  
5 jumping ahead -- I'll let you ask what happened later.

6                     But, no, I don't remember he ever expressed  
7 anything about feeling like his personal safety was in  
8 danger from Mr. Hennefer driving.

9           Q. And then Deputy Eck decided to draw his firearm;  
10 correct?

11           A. That's correct.

12           Q. And Mr. Hennefer's verbal response was to yell out  
13 "Shoot me. Shoot me. I want to die;" is that correct?

14           A. I'd have to look back and make sure that was the  
15 immediate response. I do know that eventually -- at  
16 least according to Deputy Eck -- that those words were  
17 uttered. I'm not sure that that occurred at the  
18 immediate drawing of the firearm. I think it was pretty  
19 close to that.

20                     But to answer your question with 100 percent  
21 surety, I would have to go back and look at the report  
22 and look at Deputy Eck's statement. So I believe those  
23 two came fairly close together about there's a  
24 possibility there was some other communication between  
25 the suicidal ideation.

1 Q. And you're very critical of Deputy Eck for drawing  
2 his firearm -- and we'll get into that issue in a bit --  
3 but is it -- is it fair to say that this was a critical  
4 juncture in the encounter between Mr. Hennefer and the  
5 deputies because things had significantly escalated at  
6 this point?

7 A. I think that that is a pretty good summation  
8 between -- you've obviously read my report and you saw  
9 that I said until that happened, I was not critical of  
10 Deputy Eck's efforts. I thought that he made reasonable  
11 choices. I thought that he was trying to accomplish his  
12 law enforcement purpose, and I believe he had legal  
13 authority to be there and to investigate.

14 At the time he started drawing his firearm and  
15 displaying it to Mr. Hennefer in reaction, I think, to  
16 Mr. Hennefer driving the car, I think you're right. I  
17 think that's probably -- looking back at it, probably the  
18 key point where everything escalated and -- and went  
19 wrong with this encounter, so I would agree with that.

20 Q. Your report seems to be lacking mention of  
21 Mr. Hennefer's obvious suicidal intent. It doesn't  
22 really pop up in any of your opinions within your report;  
23 is that correct?

24 MR. DWYER: Is there an actual question?

25 MR. GROSS: Yeah.

1 MR. DWYER: I didn't hear a question. I heard  
2 argument.

3 MR. GROSS: And then I said "is it correct."

4 MR. DWYER: Is what correct?

5 MR. GROSS: That his report doesn't discuss  
6 Hennefer's suicidal intent.

7 MR. DWYER: This is Deputy Eck's report?

8 MR. GROSS: Mr. Sweeney's -- David's report.

9 MR. DWYER: Oh, okay. Go ahead, David.

10 THE WITNESS: No. I repeated what Deputy Eck  
11 said, and I tried to be accurate in what he described;  
12 what he heard; what he saw. And I think I did reflect  
13 those sentiments that he expressed.

14 MR. GROSS: Q. So you didn't completely discount  
15 Mr. Hennefer's suicidal remarks and provocative behavior  
16 during the incident?

17 MR. DWYER: Objection. Asked and answered.

18 If you have anything further, Mr. Sweeney,  
19 go ahead.

20 THE WITNESS: Nothing further. I didn't discount  
21 it.

22 MR. GROSS: Q. How much did you consider  
23 Mr. Hennefer's suicide by cop comments and behavior into  
24 your final opinions within your expert report?

25 A. It was interesting to me that the idea -- his idea

1 of suicide by cop only came about when he had the firearm  
2 drawn on him. So I certainly discuss that. There --  
3 there seemed to be a correlation, at least in time.

4 Q. And, obviously, you're not an expert in forensic  
5 psychology or human behavior; correct?

6 A. That is correct.

7 Q. So we have no idea what Mr. Hennefer was thinking  
8 at the time of the incident; correct?

9 A. I would almost always hesitate to state what  
10 someone was thinking. That being said, there is  
11 evidence, physical evidence, that Deputy Eck wrote in his  
12 report that might give us some clues as to what  
13 Mr. Hennefer was thinking. But, again, I -- as you know,  
14 I can't put myself in his head.

15 Q. Right.

16 A. But I can repeat what Deputy Eck said at the scene  
17 and what he heard.

18 Q. Exactly. We can only look at Mr. Hennefer's  
19 behavior through the deputies who were interacting with  
20 him because that's how law enforcement experts analyze  
21 events.

22 MR. DWYER: Is this a question, Counsel?

23 MR. GROSS: Q. Yes.

24 A. Okay. Let me make sure I understand. Is the  
25 question the only way that an expert can analyze a

1 situation is based on the deputy's recall of the event?

2 Am I getting the flavor of the question?

3 Q. Well, in this case, we can only analyze the events  
4 as a law enforcement expert based on what deputies  
5 perceived at the incident; correct?

6 MR. DWYER: Objection. We don't know what the  
7 deputies actually perceived. We have a record of what  
8 they say they perceived. So if you want to rephrase your  
9 question. He has to evaluate the situation based on what  
10 Deputy Eck and others reported in the incident report.

11 MR. GROSS: Well, we know what they perceived.  
12 They testified to it.

13 Q. But regardless of that baseless objection, David,  
14 you can answer.

15 A. That's not the only thing. So it's a hard  
16 question to answer, but let me try. Certainly the  
17 deputies in their statements, reports and depositions  
18 expressed themselves as to what they saw, and sometimes  
19 what they thought and what they felt. Not always, but  
20 that's -- that's where I would get most of my  
21 information, obviously, since I wasn't there, is based on  
22 what the deputies wrote or what they said in a  
23 deposition.

24 That being said, it's not the only method of  
25 analysis. You can also look at the physical evidence,



1 meaning, whether it's a map, a picture or a deputy  
2 describing their actions. And this is what I'm trying to  
3 get to.

4 So if a deputy is describing their actions,  
5 they might not tell you why. They might not say why they  
6 made a particular choice. So sometimes in those cases --  
7 in fact, the very case that we're discussing today -- if  
8 a deputy doesn't tell me why, or even if they do tell me  
9 why, I still think it's within my realm of expertise to  
10 offer an opinion based on what the evidence showed  
11 happened. Does that make sense?

12 If I see that something happened -- let's use  
13 a real-world example. If Deputy Eck says that  
14 Mr. Hennefer drove slowly back and forth on the road, he  
15 didn't really express anything of what he was feeling at  
16 that time. All that he said is that the guy's refusing  
17 to stop for me. I don't have much more opinion than that  
18 either; so I'm going to base it on what the evidence  
19 shows me.

20 And assuming that Deputy Eck is an honest  
21 individual, I assume that Mr. Hennefer drove his car --  
22 or his truck back and forth on the road several times.

23 So I think in answer to your question, I can't  
24 base it solely on what a deputy feels or expresses. It's  
25 also based on what the evidence showed happened. Whether

1 that deputy expressed feelings or ideations with that,  
2 they may or may not.

3 MR. GROSS: Q. As an expert, you don't want to be  
4 speculating; right?

5 A. There's certain things you can speculate on. And  
6 sometimes I have speculated in reports about things that  
7 I don't have enough information on, and I might state  
8 that. I'll state something like, "I don't have enough  
9 information about whether it's A or B, but it's probably  
10 one of the two," right? I've written that in reports.  
11 "I don't know the specific answer to this," might be  
12 something that I would write.

13 Q. Is there --

14 A. Sometimes you do speculate. You do use your  
15 training and experience to say, "This is what I think  
16 happened, and this is why I think it happened."

17 Q. Is there anything in your report with Mr. Hennefer  
18 that you speculated about?

19 A. To answer that one, I think we'd have to go back  
20 and spend some time going through the report and looking  
21 at each and every opinion. So I'm -- I'm willing to do  
22 that, but I would require the time -- and I don't need  
23 a lot of time -- but I think that you and I would want to  
24 go back through the report page by page and look at each  
25 opinion and identify -- and then I could identify for you

1 if there was any speculations.

2 So at this point I'm not going to say that I  
3 speculated on anything, but I certainly opined. So I'm  
4 trying to draw the difference between what's a  
5 speculation, I guess, and what's an opinion. I think  
6 that's the difficulty I'm having with your question.

7 MR. GROSS: Okay. Let's take another break. Go  
8 off the record.

9 MR. DWYER: That's fine, Counsel.

10 (Recess taken.)

11 MR. GROSS: Q. David --

12 A. Yes.

13 Q. -- do you have any criticism of the deputies who  
14 may have considered Mr. Hennefer to be a threat to their  
15 personal safety because he had immediate access to a  
16 knife that they observed in the truck?

17 MR. DWYER: Objection. Assumes a lot of facts  
18 that have not been established in time sequence at all at  
19 the same time. When who observed a knife in the vehicle  
20 at what time? When was the knife discarded from the  
21 vehicle? Maybe Counsel could break the question down.

22 MR. GROSS: Q. Let's start with do you have any  
23 criticisms of Deputy Eck, Deputy Aguirre, A-G-U-I-R-R-E,  
24 Deputy Saechao, S-A-E-C-H-E-O, or Deputy Thorp,  
25 T-H-O-R-P-E?

1           A. Okay. I remember all those four, and you're  
2 asking if I have any criticisms on what issue?

3           Q. That they perceived a threat to their personal  
4 safety because of the observation that Mr. Hennefer's in  
5 the truck with access to the knife?

6           A. It's kind of a multiple-part answer. There's two  
7 parts to that. One is, yes, I recognize that there's a  
8 knife in the vehicle. I -- I think Deputy Eck was  
9 probably correct in his assumption as to what he saw. So  
10 I think that the officers definitely have an officer  
11 safety issue to be aware of.

12                     But that's different than someone armed with a  
13 knife that's now coming toward them. So that there is a  
14 big difference between the two. One is a potential  
15 safety hazard, whereas one is an actual safety hazard.  
16 So it's kind of a two-part answer.

17           Q. Are you familiar with red dot optical sights for  
18 firearms?

19           A. I am familiar. I don't consider myself an expert,  
20 but I've used them. I've shot with them. Yes.

21           Q. And would you agree that red dot sights they can  
22 be mounted on long guns but they can also be mounted on  
23 pistols?

24           A. They can be mounted on pistols. It's less common,  
25 but they can be. Yes.

1 Q. And -- and would you agree that even though  
2 Deputy Eck observed the red dot sight but didn't see a  
3 firearm, it would be reasonable for deputies to consider  
4 Mr. Hennefer has access to a firearm?

5 A. Deputy Eck wrote that he could not see a firearm.  
6 And in the CAD records, it's noted as "UTL," meaning  
7 unable to locate. I don't think that I would ever tell  
8 an officer that there is no hazard present just because  
9 you see the red dot. I'm not going to tell an officer  
10 that. And I referenced that in my report.

11 I recognize that the presence of the red dot  
12 was appropriately noted by the officers at the scene.  
13 Deputy Eck passed that information along to the other  
14 deputies, and it was a known topic of discussion for the  
15 officers at the scene. That's all appropriate.

16 And I also wrote that I recognize seeing the  
17 handle of the knife and the red dot optic are potential  
18 officer safety hazards that the team was aware of.

19 So in answer to your question, they knew it  
20 and they were aware of it, and they thought there was a  
21 potential for a weapon. And, yeah, I'm not into  
22 absolutes. If you see a red dot, there is the potential  
23 for a weapon. And I'm not going to state that there was  
24 no weapon present. You can never be 100 percent sure.

25 There have been people booked into jail that

1 are armed even after a pat-down and the officer didn't  
2 locate the weapon that they've hidden on their person.  
3 So, right, you can never 100 percent state that someone  
4 is not armed. And, in fact, I would probably train  
5 officers never assume 100 percent that someone is not  
6 armed.

7 Q. And so the deputy's perception is that there's a  
8 red dot optic on the firearm but we don't see an actual  
9 firearm, it's still reasonable for them to believe there  
10 could be a firearm in this truck?

11 A. I think that is a reasonable, educated guess there  
12 might be a firearm. And I give them credit for that.  
13 And I wrote that in my report. I think that's reasonable  
14 based on what they saw, there might be.

15 Now, as to what chance there is, I don't know.  
16 But we can talk about that if you want to later. But as  
17 to the question that you asked, I think that they can,  
18 based on what they saw, think that there might be a  
19 firearm in that vehicle.

20 Q. And deputies at the scene made the decision to  
21 keep some distance between Mr. Hennefer and their police  
22 line; is that correct?

23 A. Yeah. We talked about that. Approximately  
24 150 yards he drove down the road, and they stayed where  
25 they were based on what I read.

1 MR. DWYER: The question for Counsel, and also the  
2 witness, there were different times in the incident where  
3 deputies were near the car or at the car or at different  
4 distances.

5 So maybe we could clarify the question by  
6 talking about whether we're talking about the initial  
7 part of the incident with just Deputy Eck, whether it's  
8 later with Deputy Eck, Aguirre and Saechao there. Or are  
9 we talking about later on when they moved down the road?  
10 Otherwise, we're going to have a very confused record.

11 MR. GROSS: Q. My question, David, was about once  
12 Mr. Hennefer drives his truck into the ditch, the  
13 sheriff's department doesn't move for a period of time to  
14 keep distance. You -- you saw evidence in the record of  
15 that?

16 A. Yes.

17 Q. And one of the things the sheriff's department did  
18 was they requested a ballistic blanket and a ballistic  
19 shield at the scene. Did you see evidence of that?

20 A. I did.

21 Q. And they also requested air support from CHP. Did  
22 you see information of that?

23 A. Yes, I did.

24 Q. And did you see information that the  
25 sheriff's department requested a drone as well to be at

1 the scene?

2 A. Yes.

3 Q. And the drone was there to provide constant visual  
4 support for the team as they approached the truck; is  
5 that your understanding?

6 A. Not entirely.

7 Q. Oh.

8 A. That was certainly one aspect of it, but I believe  
9 they also used the drone -- as they stayed a distance --  
10 so they used it for observation prior to moving up.

11 Q. And would you agree that all of these actions that  
12 we just talked about are consistent with deputies'  
13 reasonable belief that Mr. Hennefer could be armed with a  
14 firearm?

15 A. I think that you've changed my answer a little  
16 bit. We didn't discuss reasonableness. We discussed is  
17 there a possible situation where there could be a weapon  
18 in that car, and I said I'm never going to say  
19 100 percent.

20 Q. Okay. So going back, was it reasonable for  
21 deputies to believe a firearm was in the truck?

22 MR. DWYER: Objection. Asked and answered.

23 Mr. Sweeney, go ahead and answer if you have  
24 anything further to add to your prior answers.

25 THE WITNESS: And your question, Matt, was is it



1 reasonable to believe -- go ahead and ask it one more  
2 time, please.

3 MR. GROSS: Q. Is it reasonable that deputies  
4 believed Mr. Hennefer had a firearm in the truck based on  
5 the observations that there was a red dot optic inside  
6 the truck?

7 A. No.

8 Q. Why is that not a reasonable belief by the  
9 Yuba County Sheriff's Department deputies?

10 A. Because Deputy Eck had been at the vehicle. He  
11 spoke to Mr. Hennefer. They communicated back and forth.  
12 He, obviously, looked in the vehicle, and he described  
13 what he saw in that vehicle. He described Mr. Hennefer.  
14 He described the potential knife between the seat. He  
15 described seeing the red dot optic, but he could not see  
16 any weapon.

17 Now, it's possible there could be one there --  
18 I will give them that -- but I don't think it's  
19 reasonable to say there's a weapon in that truck.  
20 There -- it's true there was a red dot optic, but there's  
21 another explanation as to what the purpose of the red dot  
22 optic was.

23 Q. And so that's what I want to focus on; is why do  
24 you believe it wasn't reasonable for deputies to believe  
25 there was a firearm in the truck when they observed a red

1 dot optic on a firearm inside the truck?

2 A. I think it's reasonable to state -- just as I  
3 did -- I cannot 100 percent say that there's no weapon in  
4 that car. I can't say that. There might be, right? It  
5 was unreasonable because they never saw the weapon.  
6 There was never any threat of the weapon. There was  
7 never any discussion of the weapon. There was never any  
8 pointing of a weapon.

9 The deputies could state -- and I will agree  
10 with this -- that there is a potential for a weapon in  
11 that truck. I will not discount that. I -- I will -- I  
12 stated that in my report, and I state that here today in  
13 the deposition.

14 However, you also must look at the evidence  
15 that you're presented with and then decide, "What am I  
16 going to do based on the evidence that I have?" And  
17 that's where I found their decision unreasonable.

18 Q. In -- I don't think I've heard it yet. Why is  
19 that belief unreasonable?

20 A. Because they placed their safety above his safety  
21 and let him expire.

22 Q. Isn't officer safety always the number one  
23 prerogative of law enforcement?

24 A. It's an extremely important prerogative. I  
25 completely agree with you on that. And I preached

1 officer safety my whole career to anyone I've ever  
2 supervised or trained.

3           However, there are times when you look at the  
4 evidence that you're presented, and you decide, "We're  
5 going to take pathway A or pathway B. One of those might  
6 be that we're going to go up to the car," which they did.  
7 They overcame the fear or the threat that there was a  
8 weapon in that car. So they approached the car. The  
9 question is when did they approach?

10           So they -- or they chose pathway B, is, "We're  
11 going to wait back here. We're hanging out behind our  
12 cars. There might be a weapon in there." Yeah, there  
13 might be, but there's no evidence of that other than the  
14 red dot, right? But -- so the red dot is not a weapon.  
15 It can't harm you.

16           Q. No.

17           A. They've seen no weapon. Go ahead, Matt.

18           Q. And the -- my question isn't about whether there  
19 could be or there couldn't be. It's about isn't a  
20 reasonable belief for Deputy Eck and the other deputies  
21 who were first responding to the scene to believe that  
22 Mr. Hennefer is armed based on the observation that  
23 there's a red dot optic?

24           MR. DWYER: Objection.

25           MR. GROSS: Q. And you said it's unreasonable.

1 So then my question is: Why do you believe that is  
2 unreasonable?

3 MR. DWYER: He just answered that question,  
4 Mr. Gross. So objection. Asked and answered.

5 Mr. Sweeney, do you have anything to add to your  
6 previous answer on why it was unreasonable?

7 THE WITNESS: I think I was pretty thorough in  
8 that I explained my answer to that. So I won't change  
9 anything at this point. I could restate what I just  
10 said, but that's it.

11 MR. GROSS: Q. Well -- and one of the things --  
12 and I don't think you answered that question, but one of  
13 the things you said is, "Well, no one saw an actual  
14 firearm." So is it your belief that it's only reasonable  
15 if someone has a firearm if a deputy actually observes a  
16 firearm?

17 MR. DWYER: Objection. Argumentative.

18 Mr. Sweeney, go ahead if you can.

19 THE WITNESS: No.

20 MR. GROSS: Q. Law enforcement can rely on  
21 context clues. They don't need to see a firearm to  
22 reasonably believe someone could be armed; correct?

23 A. There are times in law enforcement when you should  
24 be evaluating all the clues that you're given, and that's  
25 going to have an influence on the decisions that you

1 make. Absolutely agree with you on that, Matt.

2 Q. And I think one of the statements in your report  
3 is that Mr. Hennefer said the -- the red dot optic was  
4 used for his tree trimming business?

5 A. I can't remember if that was information that the  
6 family actually relayed to law enforcement or if they  
7 asked about it. It was mentioned in the report, but I  
8 can't state at this time whether deputies knew -- they  
9 knew about the tree trimming business. But I don't know  
10 if they knew that red dot optics are used in tree  
11 trimming, you know, for measuring height and things like  
12 that. I don't know that for sure.

13 There's mention of it, and we could go back  
14 and look at it, and I -- I could tell you exactly. But  
15 off the top of my head, I know it's mentioned, but I'm  
16 not sure in what exact context.

17 Q. Do you recall reading in the CAD report that  
18 dispatch reported to deputies that Mr. Hennefer had a  
19 prior encounter with the Nevada County Sheriff's Office?  
20 Do you recall reading about that?

21 A. I do.

22 Q. And do you recall that dispatch reported that  
23 Mr. Hennefer made threats about purchasing a firearm and  
24 shooting up a hospital to get his son out?

25 A. There is the mention of that in the CAD I believe.

1 Yes.

2 Q. So with this information that dispatch reports and  
3 Deputy Eck's observation that there's a red dot optic in  
4 the truck, why is it not reasonable for deputies to  
5 believe Mr. Hennefer has a firearm?

6 A. I think there's certainly the possibility of it,  
7 right? I -- I don't discount that. I think that's  
8 certainly a possibility.

9 And when you see the red dot optic and you  
10 hear the threat, "I'm going to shoot up a hospital," I  
11 think those are reasonable -- those are reasonable --  
12 those things aren't unreasonable. Those are bits of  
13 information that were presented to the deputies at the  
14 scene.

15 So they recognize those, and I recognize those  
16 too. However, we still don't have direct evidence that  
17 this individual is armed and that we must keep our  
18 distance. And, in fact, they eventually did decide to go  
19 up there. It's a question of when.

20 Q. So is it your testimony that you need direct  
21 evidence of a firearm to reasonably believe that someone  
22 could be armed?

23 A. No.

24 MR. DWYER: Objection. Argumentative. Asked and  
25 answered.

1 THE WITNESS: No. I won't go that far and state  
2 that you must have that. But as I look at the facts and  
3 circumstances here, I believe it was unreasonable to  
4 avoid any interaction with him because of a red dot  
5 optic.

6 There wasn't the direct evidence that they've  
7 seen a weapon in the car or even that he told them about  
8 a weapon, or "I'm going to get a gun and I'm going to  
9 force you to shoot me." He didn't say that. He just  
10 said, "Shoot me. Shoot me. Kill me." So that's the  
11 evidence that they're presented with.

12 Q. Did you review evidence from Deputy Eck's  
13 testimony in his statement that Mr. Hennefer was, during  
14 the initial encounter, repeatedly noncompliant with his  
15 orders and kept moving his hands towards the steering  
16 wheel and reaching toward in the general vicinity of the  
17 knife?

18 A. There was the discussion that he was reaching  
19 around in the vehicle. Yes.

20 Q. And reaching towards the knife. He never grabbed  
21 the knife and brandished it, but he reached towards the  
22 knife and was told to stop?

23 MR. DWYER: Objection, Counsel. I don't recall  
24 any such specific statement. I think we'd have to  
25 check -- actually look at the evidence on that because I

1 think your question assumes a fact not in evidence.

2 THE WITNESS: And I was going to say the same  
3 thing. I don't remember that specific description.

4 MR. GROSS: Q. Would Mr. Hennefer's noncompliance  
5 with Deputy Eck's command -- Deputy Eck's commands cause  
6 a reasonably-trained deputy to be more or less concerned  
7 for their officer safety?

8 A. More concerned.

9 Q. In deescalation situations, is it sometimes  
10 appropriate for officers to raise their voice to gain  
11 compliance?

12 A. No.

13 Q. Why is it not appropriate for an officer to raise  
14 their voice in order to gain compliance?

15 A. The way I was trained, and the way I train others  
16 in deescalation, is that if you and I are having a  
17 conversation like we are today, we're not raising our  
18 voices with each other; we're discussing situations;  
19 we're talking back and forth.

20 And my goal is to deescalate you in order to  
21 convince you to do something: To leave; to put your  
22 hands behind your back; whatever the case might be. I  
23 think that's definitely deescalation.

24 My training that I received, and the training  
25 that I provide to others, is when you start raising your



1 voice, you're now issuing commands and it's harder for  
2 someone to -- you've escalated the situation.

3 Now, it might be entirely appropriate. I've  
4 raised my voice many times with people. There are times  
5 when that's necessary and appropriate. At this point  
6 you've veered away from deescalation and you're into  
7 command and control. Not saying it's wrong or right or  
8 anything like that, but at that point you're not working  
9 towards deescalation, you're working towards command and  
10 control.

11 Q. Does -- does that prior statement change when  
12 there's concerns about officer safety?

13 A. No.

14 MR. DWYER: Objection. Go ahead. Objection to  
15 the question.

16 But if you understand the question, Mr. Sweeney,  
17 go ahead.

18 THE WITNESS: I do. No.

19 MR. GROSS: Q. On page 14 of your report, you  
20 make statements that Deputy Eck and Aguirre, their  
21 decision to draw their firearms was a violation of  
22 Policy 428 when dealing with crisis intervention  
23 incidents. My question is: What specifically did they  
24 violate in Policy 428 by drawing their firearms?

25 MR. DWYER: Counsel, when you say "page 14,"

1 you're referring to page 14 in the lower right-hand  
2 corner or page 14 by PDF number in -- I think it points  
3 to the paragraph or section or a number.

4 MR. GROSS: Page 14 at the bottom.

5 MR. DWYER: Okay. And what paragraph are you  
6 looking at?

7 MR. GROSS: The paragraph that's not numbered.

8 MR. DWYER: Begins "Up until this point"?

9 MR. GROSS: Yes.

10 MR. DWYER: All right. Thank you.

11 THE WITNESS: So I found where you're looking on  
12 page 14. And then looking at the policy -- deescalation  
13 policy, there is a section there that I need to find.

14 MR. DWYER: Matt, while he is looking to find the  
15 section, do you want to go ahead and mark that as an  
16 exhibit, the document?

17 MR. GROSS: Sure. Let's make that exhibit --  
18 we'll call that C. Exhibit A and B -- Exhibit A will be  
19 his report. Exhibit B will be the rebuttal report.  
20 Exhibit C will be Policy 428 and Exhibit D will be 404.

21 (Exhibits A, B, C and D were  
22 identified for the record.)

23 MR. GROSS: That's fine with me, Counsel.

24 Thank you.

25 THE WITNESS: So there's a few sections I found.

1 And then I think to be most accurate, I should also look  
2 at the section in my report where I discuss this in more  
3 detail.

4 But right off the top, page -- let's go to  
5 Policy 428.6, Deescalation. Bullet point 3. "Be  
6 patient, polite, calm, courteous and avoid overreacting."

7 Bullet point 4. "Speak and move slowly and in a  
8 non-threatening manner." And then at the bottom of that  
9 one -- still in 428.6 -- "Responding deputies generally  
10 should not use stances or tactics that can be interpreted  
11 as aggressive."

12 And the last bullet point there, "Argue, speak  
13 with a raised voice or use threats to obtain compliance."

14 MR. GROSS: Q. Are there any other specific  
15 policies within 428 that you believe were violated?

16 A. That's a big question. To do that, we would want  
17 to go back to the report and look at, I believe, it's (e)  
18 where I discuss the policies and what went right and what  
19 went wrong.

20 MR. DWYER: Mr. Sweeney, can you give us the page  
21 number in Exhibit 1 -- or excuse me, Exhibit A.

22 THE WITNESS: Yes.

23 MR. GROSS: Q. Looking at Exhibit A, pages 28  
24 through 30, this is where there's more discussion on  
25 the -- your opinions about the failure to follow relevant

1 policies.

2 A. Right.

3 Q. And specifically just focusing on the decision to  
4 draw firearms and point them at Mr. Hennefer --

5 A. Yes.

6 Q. -- and in reviewing your report, what specific  
7 policy violations do you believe occurred?

8 MR. DWYER: I do have to say an objection. He's  
9 already answered that, but he may have some additional --  
10 because he just reviewed Policy 428 and cited sections to  
11 you.

12 Mr. Sweeney, if you have additional policy  
13 sections or information about either 428 or something  
14 else that they violated, go ahead.

15 THE WITNESS: While I'm looking through the rest  
16 of the policy -- well, that wouldn't be responsive to  
17 your question, so let me back away from that. Let me  
18 continue looking through the policy and what I wrote.

19 I think on page 29 of my report, item No. 7, "It  
20 is apparent that deputies knew Hennefer was on drugs,  
21 both from his behavior and from the family members'  
22 intelligence. Deputy Eck threatened Mr. Hennefer  
23 unnecessarily by pointing his gun at him.

24 "Eck's actions were excessive for someone who  
25 was" suspecting of -- "suspected of committing two

1       misdemeanors.

2               "Mr. Hennefer's resulting requests for deputies  
3       to kill him shows that he was unable to understand  
4       commands or to appreciate the consequences of his actions  
5       or inactions.

6               "Mr. Hennefer's behavior and lack of movement  
7       meant that deputies had an opportunity to approach and  
8       get Medical help for Mr. Hennefer."

9               This goes to Policy 428. Because what the  
10       policy is designed to do is to show deputies examples of  
11       behaviors that would be recommended dealing with someone  
12       who is experiencing a mental health crisis, as  
13       Mr. Hennefer clearly was.

14               He was suicidal, we've discussed that. He was  
15       on drugs, we've discussed that. He had other mental  
16       health conditions that we've discussed. So you factor  
17       all these things together, and what I believe Policy 428  
18       is trying to show you is you must take these things into  
19       consideration when you're deciding how you're going to  
20       handle someone.

21               And Deputy Eck decided that the best way to  
22       handle him was to point a gun at him and start shouting  
23       at him. And I believe it had the opposite effect rather  
24       than deescalating, as the policy is talking about. It  
25       escalated him. So that's the first one. Would be page

1 29, No. 7.

2 Q. And Policy 428.5 titled "First Responders," the  
3 first sentence of that subsection of the policy states,  
4 "Safety is a priority for first responders." And that's  
5 correct -- or that's what the policy says.

6 MR. DWYER: Is there a question, Counsel?

7 MR. GROSS: Yeah.

8 MR. DWYER: You asked him to confirm what you just  
9 stated the policy to be?

10 MR. GROSS: Q. Yeah. Yeah. That that's what the  
11 policy says?

12 A. It does say that. 428.5. "Safety is a priority  
13 for first responders."

14 Q. So I guess my question is: Where did Deputy Eck  
15 violate Policy 428 by pulling his firearm?

16 A. I discussed that a few minutes ago with the idea  
17 of escalating him and practically -- I don't know this  
18 for sure. What I can state, the facts show that after he  
19 pulled his gun is when Mr. Hennefer started talking about  
20 wanting the deputies to kill him.

21 So, again, I can't state that that -- that one  
22 caused the other, but certainly Mr. Hennefer was  
23 escalated at that point, and he was not calmed by the  
24 actions of Deputy Eck. So it's the opposite of  
25 deescalation. It's escalation.

1 Q. And would part of your answer also be based on  
2 what we discussed previously, that you believe it was  
3 unreasonable for deputies to believe Mr. Hennefer was  
4 armed?

5 A. Yes.

6 Q. Do you --

7 A. The other one -- sorry, Matt. Are we still on the  
8 question of going through Policy 428 and identifying  
9 issues?

10 Q. I have one other question about Policy 428.

11 A. Okay.

12 Q. On -- on the next page, 428.6 about deescalation,  
13 you reference that there were some bullet points that  
14 during the initial encounter, Deputy Aguirre,  
15 Deputy Eck -- they're pointing their firearms, that you  
16 believe they violated portions of 428.6. Do you remember  
17 stating that?

18 A. I do.

19 Q. But 428.6 states that deputies, "should generally"  
20 and that "responding deputies generally should not." So  
21 aren't these more guidelines and suggestions than actual  
22 hard and fast rules?

23 A. It's an interesting question, and it occurs every  
24 time you read policies that state what you will do and  
25 what you won't do, and what you should do and what you

1 should not do.

2 So I can see an interpretation that the  
3 manual -- which came from Lexipol -- is talking about  
4 things that officers should do and things that they  
5 shouldn't do.

6 In -- in general -- I mean, we could go  
7 through it line by line, but I'm in agreement with that.  
8 The question comes down to the wording. For what purpose  
9 do the command staff of Yuba County decide, "We're going  
10 to put this in the manual, but it's just a 'should.'  
11 It's a recommendation, but we're not going to hold you  
12 accountable for it"?

13 That puts officers in difficult positions.  
14 Any time you start getting into "should" and "should  
15 not," it renders the manual somewhat incomplete, because  
16 an officer is not told that they can or cannot. It just  
17 says "should" or "should not." So it's problematic on  
18 the part of Yuba County to leave the officers hanging.

19 Because if you read this the way I'm reading  
20 it, these are things that should be happening here. And  
21 if they are not, then we need to ask why they weren't or  
22 why they were. Whichever case you're looking at.

23 Q. So --

24 A. So it's a common question that occurs in police  
25 manuals, and it's not recommended because it's hard to



1 hold someone accountable for that. Yet, you can see the  
2 desire of the department to explain their expectation to  
3 the officers. So it's -- it's a complicated question and  
4 answer. But that's the best way I can answer that.

5 Q. When you were at the Seattle Police Department,  
6 did they subscribe to Lexipol for policies?

7 A. No.

8 Q. Did they have their own general orders?

9 A. Yes.

10 Q. Do you know if that's still the case today?

11 A. As far as I know, it is. I haven't looked at the  
12 SPD manual in a couple years, though. So I'm not sure  
13 100 percent is my best answer.

14 Q. What is your understanding of Lexipol?

15 A. It's an organization designed to help law  
16 enforcement. Lexipol provides training particularly --  
17 they're very heavy into the online videos. So you can go  
18 to Lexipol or PoliceOne, which, I believe, is published  
19 by Lexipol, and you can have videos and suggestions on  
20 how to handle a variety of different scenarios.

21 Probably their biggest contribution would be  
22 the Lexipol manual, which departments pay quite a bit of  
23 money for. But if you don't have the time or the ability  
24 or the desire to write your own police manual, Lexipol  
25 will send you one for a certain price. And I don't know

1 what the price is, but I know it's expensive. And then  
2 you can publish that as your own police or sheriff's  
3 department manual.

4 Some departments will alter the language that  
5 they get, but I believe that it's recommended you accept  
6 the policies as is, unless they come in violation with,  
7 perhaps, you have a local ordinance or a state law or  
8 something like that.

9 But Lexipol's pretty good about sending  
10 general enough policies that they're probably, as far as  
11 I know, the number one company to provide police manuals  
12 to the departments.

13 Q. In fact, I think the last number I saw was over  
14 850 police agencies rely on Lexipol for the outline of  
15 their own policies. They subscribe to Lexipol for  
16 policies.

17 So you -- you seem critical that Yuba County  
18 has relied on Lexipol for Policy 428, because it has --  
19 it makes references to "should generally" and "should not  
20 generally." But previously you also mentioned -- and I'd  
21 agree -- every law enforcement call-out is a different  
22 circumstance. Every suspect is different.

23 So isn't it reasonable that the policy has  
24 language that says, "We would generally like officers to  
25 do this," and "We would generally like to avoid officers

1 doing this," because every circumstance is different?

2 A. That is certainly one explanation; that because of  
3 the wide variety of law enforcement response and the wide  
4 variety of people that you're going to come in contact  
5 with, there is no 100 percent absolute right way to do  
6 every single situation.

7 In fact, you can insert two officers in a  
8 situation, and one will handle it one way and it's fine,  
9 and one handles it one way, and that's fine too. So  
10 that's common enough.

11 So I think in answer to your question, I think  
12 that's the answer that I'm providing. That -- that that  
13 is one of the reasons why you have ideas of "should" and  
14 "should not." Even though they're problematic for the  
15 officer, I think the department's trying to express what  
16 they want to happen, but they realize there might be  
17 exceptions.

18 Q. And it sounds like from your answer you're a  
19 little bit critical of that decision of having open  
20 language, "should" and "should not." Is that a fair  
21 reading?

22 A. I think I've provided a reasonable explanation of  
23 why that language is there, because it's impossible to  
24 accurately describe all the situations law enforcement  
25 officers might find themselves in on a day-to-day basis.

1 So I think that we have the specific language of  
2 "should," and this one is "should generally." You can  
3 see that right there under 428.6.

4 I think at the same time, though, that the  
5 department is expressing how they want to see this  
6 handled, and they're also making a suggestion on how  
7 you're going to be the most successful. And escalating  
8 someone is usually not going to be as successful as  
9 deescalating them. It can result in more force being  
10 used, et cetera.

11 Q. Would you agree that department policies are often  
12 more restrictive than state statutes or court rulings?

13 A. It's my experience that a good police manual  
14 should try to mirror those state statutes that we  
15 discussed this morning. A good police manual also should  
16 rely on what the latest court case says.

17 Let's say about when you can search a vehicle.  
18 Well, if you're going to write a vehicle search policy,  
19 it might behoove the legal advisor to say, "Great.  
20 Please send me the policy after you've written it. I'll  
21 verify that it conforms with either state statute or case  
22 law or both." So I believe that those two can go hand in  
23 hand and should.

24 Now, there are many things in a police manual  
25 that are not codified in, let's say, state law or case

1 law. Case law is not going to get into an issue whether  
2 an officer should be on time for roll call or not, right?

3 So there's many things in the manual that are  
4 specific to law enforcement: Maybe uniform violations or  
5 how to -- how to log your body-worn video, right? So  
6 there's a lot of things -- it -- I'm trying to answer  
7 your question.

8 There are a lot more things that you'll find  
9 in a police manual that you won't find in case law or in  
10 state statutes, I think is the best way I can answer  
11 that.

12 Q. And would you also agree that courts have said law  
13 enforcement officers that violate a department policy --  
14 scratch that question.

15 Would you agree that courts say that law  
16 enforcement officers don't need to strictly abide by a  
17 department policy unless it creates an underlying  
18 constitutional violation?

19 MR. DWYER: Objection. You're asking him to, you  
20 know -- first of all, object to the question that it's  
21 trying to summarize a massive body of law in one  
22 sentence, and it's not possible to do that.

23 And, two, you're asking Mr. Sweeney to answer a  
24 question which is pretty impossible to even define. So I  
25 don't think there's any way he can possibly answer it.

1           Mr. Sweeney, if you have something safe to say  
2 about it, go ahead.

3           THE WITNESS: Matt, could you ask me one more  
4 time.

5           MR. GROSS: Q. Yeah. Would you agree that the  
6 courts have said that even if an officer violates a  
7 department policy, it does not -- it does not become an  
8 issue unless there's an underlying constitutional  
9 violation that occurs?

10          MR. DWYER: Mr. Sweeney, if you have specific  
11 knowledge of a case --

12          THE WITNESS: I don't. Nothing comes to mind. I  
13 don't think I can really answer that. I don't know at  
14 this point.

15          MR. GROSS: And, Patrick, let's keep the speaking  
16 objections to a minimum. Just legal objections.

17          MR. DWYER: My objection is that you're asking him  
18 for a legal statement. And so I told him -- I told the  
19 witness unless he has specific memory of specific case  
20 law, he shouldn't be answering the question. I think  
21 that's a very appropriate objection.

22          MR. GROSS: Then just, "Objection. Calls for a  
23 legal conclusion." That's the objection.

24          MR. DWYER: Well...

25          MR. GROSS: Q. David, have you ever taught the

1 laws of arrest, search and seizure to other law  
2 enforcement officers?

3 A. Yes.

4 Q. In what setting have you taught other law  
5 enforcement officers? For instance, at the police  
6 academy, in-house training, as a private contractor or  
7 maybe as in an academic setting?

8 A. For several years, many years, I was a member of  
9 the SPD training cadre. What that means is that you  
10 train Seattle Police employees in a variety of  
11 disciplines in both the classroom setting -- usually at  
12 our training facility is where those would take place --  
13 and then we have additional locations where we then go  
14 and practice those lessons, let's say.

15 So I've not taught at the academy or in a  
16 strictly classroom setting like college. I think that  
17 answers the question. The training would be in-service  
18 training mostly for veteran officers.

19 Sometimes for rookie officers that arrive out  
20 of the academy we might have what we call POST LETA  
21 Academy, which means it's an academy for brand new  
22 officers that are just out of the academy. And that's a  
23 state academy. So now we're going to train them in some  
24 of the Seattle Police specific things that we want them  
25 to know about. So I think that's my best answer for

1 that.

2 Q. Have you authored any peer-reviewed papers,  
3 articles or training manuals on the subject of arrest,  
4 search and seizure?

5 A. No.

6 Q. And have you ever been qualified as an expert on  
7 the subject matter of arrest, search and seizure?

8 A. No.

9 Q. Based upon, kind of, your general law enforcement  
10 education, background and experience, I want to ask some  
11 questions about the laws of search, seizures and arrest.  
12 Can you tell me the three basic types of encounters that  
13 a law enforcement officer might have with the public.

14 A. Yes. One might be a consensual encounter. You're  
15 just meeting someone on the street. The person's free to  
16 leave. You're free to leave. And you're just having a  
17 casual personable encounter.

18 The second one might be a Terry stop. You  
19 have reason to believe that someone might have committed  
20 a crime, and you're allowed to detain that person for a  
21 reasonable amount of time while you investigate the  
22 circumstances.

23 And if you then proceed to the third level,  
24 which would be probable cause, if you believe it more  
25 likely than not that the individual did commit a certain



1 crime, probable cause then allows you to make a physical  
2 arrest of that person.

3 Q. And you sort of covered this, but I want to give  
4 you a chance to fully answer. What does reasonable  
5 suspicion allow an officer to do?

6 MR. DWYER: Objection. "Reasonable suspicion" in  
7 regards to what?

8 MR. GROSS: Q. If an officer has reasonable  
9 suspicion.

10 MR. DWYER: Of what? Crime being committed? Or  
11 reasonable suspicion that it's Sunday? Reasonable  
12 suspicion of what, Counsel?

13 MR. GROSS: Patrick, did you think my question was  
14 did a reasonable -- does an officer have reasonable  
15 suspicion that it's Sunday? Really?

16 MR. DWYER: I don't know what you're asking, Matt.  
17 So just define your question.

18 MR. GROSS: Q. David, did you understand my  
19 question?

20 A. Yes.

21 Q. Okay. Thank you. Can you answer it?

22 A. In my experience, when a police officer talks  
23 about reasonable suspicion, they're talking about certain  
24 facts that they've come across that indicates a  
25 possibility someone might have been involved in a crime.

1           You've not met the standard of probable cause,  
2 but you believe something might have happened. And I can  
3 give you a hundred examples of what that might be, but  
4 let's keep it in general terms.

5           There are certain facts and circumstances that  
6 have been known to the officer that leads them to believe  
7 there might be a crime afoot. And that allows you to  
8 investigate that crime. And if someone's there, and you  
9 have a reasonable suspicion that they might have been  
10 involved in that, you can detain them for a reasonable  
11 amount of time while you investigate.

12           And at the end of your investigation -- again,  
13 the law does not specify what that exact time limit is  
14 and every situation is different, but it has to be  
15 reasonable -- you are then going to make a determination  
16 "I have probable cause to arrest you for the crime," and  
17 then the officer can do whatever it is what is in their  
18 purview.

19           In general, we're talking about handcuffs and  
20 placed in the back of a police car, let's say. If they  
21 don't meet the probable cause standard, they still have  
22 some facts, they can't prove it, they don't believe  
23 they've met the -- the definition of probable cause,  
24 perhaps then they might write a report.

25           Perhaps they came across some broken windows

1 and they found someone nearby, but they didn't find  
2 anything else to prove that this guy did it, but they  
3 might still write a report or field contact report to  
4 indicate, "Hey, I found this suspicious situation, and I  
5 found this individual, but I can't prove that he or she  
6 was the one who broke the window, but I'm just going to  
7 write a report on it because who knows, there might be  
8 more information that comes in later that can allow me to  
9 tie this person to the crime." Let's say a fingerprint  
10 maybe, and you test the fingerprint, and you go, "Oh, it  
11 was the guy," and, therefore, you could then have your  
12 probable cause.

13 Q. What does the term "subjective standard of proof"  
14 mean to you?

15 A. It's not a common term that I've used before.  
16 But -- so I -- I guess I'll leave it at that. It's not a  
17 commonly-used phrase. Those are common words, and I  
18 could hazard a guess. But it's not a phrase that I am  
19 used to using in police work.

20 Q. What does the term "objective standard of proof"  
21 mean to you?

22 A. Objectivity is where something is more --  
23 subjective refers to feelings and decisions made based on  
24 your guesses, hunches, information known to you.

25 Objective means -- means less subjectivity

1 almost. It's kind of related, but somewhat opposite at  
2 the same time. It means that something's been -- a  
3 certain standard has been put into effect, whether it's  
4 written down or whether it's common knowledge or -- or  
5 something, but it's very objective; meaning, you've  
6 removed that level of subjectivity from your assessment.

7 Q. Does reasonable suspicion require a subjective or  
8 objective standard of proof?

9 A. That is a subjective standard.

10 Q. Do educated guesses count as reasonable suspicion?

11 A. That's an interesting question.

12 MR. DWYER: Before you answer, I want to state my  
13 objection. I have no idea where this question is going.  
14 It doesn't seem to be at all relevant to anything in the  
15 lawsuit.

16 But -- so if the question could focus on  
17 something that happened at the incident or something that  
18 the expert's report is about, that would be very helpful  
19 to the witness. Otherwise, I'd advise the witness not to  
20 speculate. We're here to discuss his reports about a  
21 specific incident.

22 THE WITNESS: One more time with the question,  
23 Matt, please.

24 MR. GROSS: Q. Do educated guesses count when an  
25 officer's trying to determine that they have reasonable

1 suspicion?

2 MR. DWYER: Same objection. Go ahead.

3 THE WITNESS: One thing that comes to mind is that  
4 courts will give some deference to an officer's  
5 experience. And let's say an officer has worked 10 years  
6 in narcotics and they see a particular action on the  
7 street based on their experience -- sorry, my dog has  
8 entered the frame. You need to go out -- the courts will  
9 give deference to an officer's experience.

10 And I was stating the example of a narcotics  
11 detective who's done that job for 10 years has a lot of  
12 experience, and the Court will give some recognition,  
13 more so than the brand new officer who thinks they saw  
14 something, but they don't really know because they've not  
15 really come across that in their experience.

16 So I'm not going to state that the detective in  
17 this hypothetical situation is -- is guessing. They have  
18 to still rely on facts. But maybe there's inferences  
19 that these facts lead them to believe they've now met the  
20 reasonable suspicion standard or the probable cause  
21 standard. Whatever -- whatever the case might be.

22 So are those educated guesses? I would -- I  
23 would hesitate to say that an officer is ever guessing,  
24 but sometimes your experience can give you hunches and  
25 ideas that maybe an inexperienced officer wouldn't have.

1           You still have to rely on facts in order to  
2 proceed wherever we are in that chain, whether it's  
3 reasonable suspicion or probable cause. So, again, I'm  
4 not going to state that an officer is just going to  
5 guess, because a guess is not going to hold up in  
6 court -- as you know -- but it might lead you to continue  
7 to investigate something that a brand new officer might  
8 not.

9           MR. GROSS: Q. And you mentioned for a bit  
10 probable cause. What does "probable cause" refer to?  
11 Can you explain that.

12           MR. DWYER: Objection. For the record, I have no  
13 idea why we're having this discussion. We're here to  
14 review the expert's opinions about the incident. This  
15 question has been -- so far been going on for about a  
16 half hour, and has nothing to do with the incident. So I  
17 object to it.

18           Go ahead, Mr. Sweeney.

19           THE WITNESS: It's a subjective standard that an  
20 officer needs in order to make an arrest or to apply for  
21 a warrant. So it's basically stating that, based on your  
22 training and experience, you believe that more likely  
23 than not that a crime has occurred.

24           The courts do not require the officer to prove  
25 the case out on the street, but they have to meet the

1 probable cause standard if they're going to make an  
2 arrest or apply for a warrant. And to a reasonable  
3 officer, that means more likely than not that a  
4 particular crime has occurred, and you can then take  
5 action based on that crime.

6 MR. GROSS: Q. And I think you answered this,  
7 that the probable cause is a subjective standard?

8 A. Yes, it is.

9 Q. What is the difference between what an officer can  
10 do when they have probable cause versus reasonable  
11 suspicion?

12 A. We kind of talked about this.

13 MR. DWYER: I was going to continue my objection  
14 to this line of questioning. It's totally irrelevant.

15 Go ahead, Mr. Sweeney.

16 THE WITNESS: When you have reasonable suspicion,  
17 it allows you to detain someone for a reasonable amount  
18 of time to investigate whether a crime has occurred.  
19 You've not met the probable cause standard at that point,  
20 but you think something might have happened.

21 Again, I talked about a crime is afoot, we might  
22 say. The difference between that and probable cause is  
23 you've now accumulated enough facts that you use your  
24 training and experience and your subjectivity to state  
25 now I have enough facts that it seems more likely than

1 not that this person did commit this crime.

2 And if you believe that they did, it allows you  
3 to then take whatever next step is appropriate for the  
4 crime; whether that be a citation, a warning, an arrest,  
5 whatever is appropriate for that level of crime.

6 MR. GROSS: Q. What circumstances or reasonable  
7 beliefs does an officer need to conduct a Terry search?

8 MR. DWYER: We've been over this Terry search  
9 subject earlier. So asked and answered. My other  
10 objection is this line of questioning has nothing to do  
11 with the reason we're here today.

12 Go ahead, Mr. Sweeney.

13 THE WITNESS: So I've not heard of a Terry search  
14 particularly, but I have heard of searching during a  
15 Terry stop. Is that what you're talking about?

16 MR. GROSS: Q. Yeah. Let's -- searching during a  
17 Terry stop --

18 A. Okay.

19 Q. -- what circumstances are reasonable, at least  
20 does an officer need?

21 A. An officer needs to state objective facts that  
22 lead them to believe there's a possibility of a weapon.  
23 And, in general, that means a pat-down of the outer  
24 clothing and the pockets. In general, it's not for going  
25 into pockets and pulling out small items.



1           As you touch, as you feel, as you pat down,  
2           you have to use your training and experience to say, "I  
3           believe that I felt the handle of a gun in his pocket."  
4           Or you see a particular suspicious bulge or something  
5           like that.

6           So these facts might be enough for an officer  
7           to then state why they needed to do a search. And,  
8           again, it's probably not a search, Matt. It's probably  
9           going to be a pat-down at that point. You can search  
10          incident to arrest, but I think I'll stop my answer there  
11          because it's really a pat-down, and you have to base it  
12          on your training and experience.

13          And there also might be other factors: A  
14          number of suspects present, high crime in the area.  
15          Maybe this particular crime involves an extreme threat of  
16          violence.

17          Let's say, you came across a dead body, and  
18          there's someone near there and maybe there's some facts  
19          that lead you to believe this might be the person that  
20          killed that person. Well, the Court's going to give you  
21          more leeway in your pat-down to make sure that you're  
22          safe. And if you're alone, they might give you the  
23          ability to even handcuff while there's investigation of  
24          the serious crime.

25          But if you're stopping a jaywalker, you're

1 probably -- it's going to be hard to justify that -- that  
2 pat-down during that Terry stop, per se. In fact, I  
3 would hesitate to say a jaywalker is probably not worthy  
4 of a Terry stop. But make it something simple like a  
5 shoplift or something.

6 MR. GROSS: Thank you. Let's go off the record.

7 (Lunch recess taken.)

8 MR. GROSS: We are back on the record after a  
9 lunch break. David, hopefully you had an enjoyable break  
10 and got some food to eat for lunch.

11 Q. I wanted to continue with the line of questioning  
12 regarding law enforcement's responsibilities during  
13 traffic stops and what's required.

14 A. Sure.

15 Q. I just wanted to confirm that you don't have any  
16 criticism of Deputy Eck for the initial detention  
17 regarding Mr. Hennefer being potentially trespassing and  
18 driving under the influence.

19 A. No. In fact, I wrote that in my report.

20 Q. And you made -- before the break you made  
21 reference that Mr. Hennefer had committed two misdemeanor  
22 crimes. Were those the ones you were referencing:  
23 Trespassing and driving under the influence?

24 A. Yes. And "committed," I don't think I wrote that.  
25 I think I wrote something about the deputy had a

1 reasonable suspicion or probably, you know -- it's  
2 possible that he could have had probable cause, too. I  
3 didn't really opine one way or the other, but I did  
4 believe he had the right to stop Mr. Hennefer.

5 Q. Based on your law enforcement education, your  
6 training and experience, can you tell us how a peace  
7 officer takes someone into custody? In other words,  
8 arrests them.

9 A. Sure. The most common thing to do is to tell  
10 someone they're under arrest, "Put your hands behind your  
11 back," and you place handcuffs on the wrists, and then  
12 you generally transport them. You might be going to  
13 jail, or you might be going back to the police station.  
14 Depends on your level of investigation, what the crime  
15 is.

16 Q. Did Deputy Eck ever inform Mr. Hennefer that he  
17 was being detained or not free to leave?

18 A. He did write that in his report, that, yes, he  
19 told him he was not free to leave, and that he was under  
20 investigation for driving while under the influence.

21 Q. Do you remember at what point in the traffic stop  
22 this occurred? When Deputy Eck said this?

23 A. I don't know exactly, but my impression of his  
24 statement was that this occurred shortly before  
25 Mr. Hennefer decided to drive away and Deputy Eck drew

1 his pistol -- drew his gun. So it was somewhat later in  
2 the stop.

3 I -- I think he even wrote initially that he  
4 was going to release him to a family member, which seems  
5 fine, other than the fact that I think he properly  
6 recognized, "Oh, wait a sec. This is a public roadway,  
7 and this guy's driving while he's on drugs." So I think  
8 he certainly had enough cause to at least stop and  
9 investigate that potential crime as well.

10 Q. Did you review any documents or statements from  
11 Deputy Eck that showed Mr. Hennefer voluntarily submitted  
12 to the detention?

13 A. Well, when you talk about "detention," yes.  
14 Initially he was understanding that -- that he was not  
15 leaving. And it appears from the report that they had a  
16 conversation at the vehicle; that Hennefer called a  
17 family member; he called an attorney; he began recording  
18 the deputy with his phone.

19 I think that was when some of the other people  
20 arrived, so that might have been after he tried to drive  
21 away. I'm not exactly sure without looking. So, yeah.

22 So I think initially he cooperated with the  
23 detention. And, again, "detention," I'm saying just the  
24 stop, right? He positioned his car to stop Hennefer's  
25 truck. So I'm not saying detention was an arrest at that

1 point. It hadn't been attempted.

2 Q. At what point during the traffic stop did  
3 Mr. Hennefer stop complying with the detention?

4 A. When he started to put his truck in drive and  
5 drove northbound, if -- if my directions are correct, I  
6 believe that's right. He drove northbound in reverse, I  
7 believe, judging by the picture.

8 So he drove backwards up the road. And then  
9 he was driving backwards and forwards, and that went on  
10 several times. But in answer to your question, it's when  
11 he put his car in gear and drove away from the officer.

12 Q. Did Deputy Eck ever tell Mr. Hennefer that he was  
13 being arrested?

14 A. I don't remember that phrase. I remember he --  
15 him saying something about being detained while he  
16 investigated for driving while under the influence.

17 Q. And -- and did you read any statements from  
18 Deputy Eck or other deputies that Mr. Hennefer  
19 voluntarily submitted to a formal arrest?

20 A. No.

21 Q. And none of the deputies at the scene were able to  
22 physically arrest Mr. Hennefer; correct?

23 A. That is correct.

24 Q. One of the issues was they were never able to get  
25 close enough to him to arrest him; correct?

1 A. Incorrect. They never tried.

2 Q. What do you mean by "they never tried"?

3 A. They didn't move up to his vehicle; particularly  
4 after it became stuck in the ditch. Not until 4:30,  
5 1630, after he died. That was the only time they  
6 approached.

7 Q. Do you have any evidence that Mr. Hennefer was in  
8 the formal custody, care or control of the deputies?

9 A. Custody, no. He had not been arrested. Care, I  
10 think there were plenty of discussions about that they  
11 wanted to get him help, but I wouldn't say he was under  
12 their care. And what was the third one?

13 Q. Control.

14 A. Control. I believe that Deputy Eck told  
15 Mr. Hennefer that he was not free to leave and to stop  
16 his vehicle, but he did not. So I would say that that  
17 was verbal control only. He didn't have hands on him.  
18 He didn't prevent him from putting the vehicle in gear.  
19 So I'll say that he was not in their control as well.

20 Q. Would you agree that Mr. Hennefer was continually  
21 verbally resistant to the detention and arrest?

22 A. No.

23 Q. Why not?

24 A. You said "continually," and I -- from what I read,  
25 this was not a continual process. There were times

1 certainly when he refused to exit the vehicle; where he  
2 refused to come out from behind the car door, and various  
3 explanations were given as to why he would not do that,  
4 but I wouldn't say it was continual.

5 Q. Up until the point that he drove the car into the  
6 ditch, would that be fair to say that he was verbally  
7 resistant?

8 A. Yes. It's more of a general statement without the  
9 word "continual." Yes, I would agree with that.

10 Q. Up until the point that he drove his truck into  
11 the ditch, was he physically resistant to the detention  
12 and arrest?

13 MR. DWYER: Objection. There's nothing in the  
14 record saying that they were attempting to arrest him.  
15 They detained him. So there's nothing in the evidence  
16 that I've seen that there's actually an arrest. They  
17 detained him. So maybe you could rephrase the question,  
18 Counsel.

19 MR. GROSS: Q. David, would you agree that the  
20 records show Mr. Hennefer was physically resistant to the  
21 detention up to the point of driving his truck into the  
22 ditch?

23 A. No.

24 Q. Why not?

25 A. There were verbal commands given to him, and he

1 disobeyed some of those commands. But there was no  
2 hands-on effort made by the deputies. So he was not  
3 physically resistant to them.

4 Q. So he was -- he was physically resistant to their  
5 verbal commands in that he didn't comply, but he  
6 didn't -- well, he moved away from deputies. He drove  
7 away from them. Is that not physically resistant?

8 A. When I think of resistance, I'm more akin to the  
9 idea of resisting arrest. So when you use the word  
10 "resistance," certainly I've talked about how he refused  
11 their verbal orders. But as far as resistant, I would  
12 not consider him a resistant suspect.

13 There were no hands-on efforts, and,  
14 therefore, no -- some of the things you normally see in  
15 resisting arrest: Twisting, pushing, refusing to put  
16 your hands behind your back. Those are the type of  
17 things that I, generally, would consider resistant.

18 Q. I'm not asking for a legal opinion here. I'm just  
19 asking for your training and experience as a law  
20 enforcement officer. Can you think of any codified law  
21 enforcement practice regarding law enforcement efforts,  
22 responsibilities to provide life-saving measures to  
23 someone that is not in their formal custody, care or  
24 control?

25 A. So the comment about a legal conclusion didn't



1 refer to the prior question. This is in reference to the  
2 current question?

3 Q. Yes. And I'm not looking for a legal conclusion.  
4 I'm looking for just your experience in law enforcement.

5 A. Now I understand. With that caveat in mind, can  
6 you ask the question one more time.

7 Q. Yeah. Can you think of any codified law  
8 enforcement practices requiring law enforcement officers  
9 to provide life-saving measures to someone who is not in  
10 law enforcement's custody, care or control?

11 A. I'm going to say that "codified" moves to that  
12 definition that you and I talked about earlier this  
13 morning. "Codifying" meaning something that's written  
14 down in the law, that's enacted by legislature, and I  
15 cannot think of anything.

16 Q. Do you intend to offer opinions that the  
17 sheriff's department and its deputies had a duty or  
18 obligation to provide immediate medical care to  
19 Mr. Hennefer?

20 MR. DWYER: Again, you're asking for a legal  
21 opinion. So, one, that's not an accurate statement of  
22 law. And, two, you're asking him to give a legal opinion  
23 about an inaccurate statement of the law. Maybe you  
24 could break it down for him as a law enforcement officer.

25 MR. GROSS: Q. David, as a law enforcement

1 officer -- so we're not talking about legal opinions,  
2 just in your training and experience -- do you intend to  
3 offer any opinions that the sheriff's department deputies  
4 needed to provide immediate medical care to Mr. Hennefer?

5 A. No.

6 Q. I want to skip ahead to your rebuttal report.

7 **Exhibit B** --

8 A. Sure.

9 Q. -- and work through some of this.

10 On page 4 on the bottom of **Exhibit B**,  
11 underneath the first opinion, you wrote that, "Deputy Eck  
12 knew Mr. Hennefer's state of mind." How can you opine  
13 that Deputy Eck knew Mr. Hennefer's state of mind?

14 A. I'm only going by his descriptions of  
15 Mr. Hennefer's mind being confused, erratic, prone to  
16 delusion and not fully comp -- fully comprehending his  
17 surroundings, the deputies' orders, even where he was at.

18 So there were several statements made by  
19 Deputy Eck referring to some of the behaviors exhibited  
20 by Mr. Hennefer.

21 And the general theory was, apparently, backed  
22 up by the family, that he was suffering from mental  
23 health issues, and he had relapsed and was using  
24 narcotics. And that this behavior really reflected his  
25 state of mind and directed -- maybe not directed, it

1 certainly influenced his behaviors on that day.

2 Q. So when -- when you say Deputy Eck knew  
3 Mr. Hennefer's state of mind, what you meant was you're  
4 basing that off of what Deputy Eck personally observed  
5 and what other family members and deputies at the scene  
6 communicated to Deputy Eck?

7 A. Correct.

8 Q. Because it would be impossible for Deputy Eck to  
9 know what's in Mr. Hennefer's state of mind?

10 A. I think given the prior explanation I gave, I can  
11 see the point of the question, and he's not going to know  
12 his exact state of mind or what he's thinking at the  
13 immediate time period.

14 But I think he properly referred to his  
15 observations, and he wrote down those observations in his  
16 report in his statement.

17 And I think those observations really point to  
18 why Mr. Hennefer behaved in some of the ways that he did,  
19 because he was affected by mental healthness [sic] and/or  
20 the use of narcotics.

21 Q. In -- underneath the second bolded at the section  
22 at the bottom of page 4, you open up and say, "To rebut,  
23 law enforcement has a duty to the public to render aid  
24 and help people." What is the basis for this opinion?

25 A. It really goes back to why most of us get into law

1 enforcement in the first place. We want to help people.  
2 There might be other corollary theories of why people get  
3 into law enforcement, you know. But for me, I could  
4 certainly tell you it's one of the most important -- it  
5 really got me started in my career. I just wanted to  
6 help people. I wanted to help the good people, and I  
7 wanted to arrest the bad people that were hurting the  
8 good people.

9 So I always viewed myself as kind of the  
10 sheepdog. You know, guarding the flock and keeping away  
11 the wolf from the door.

12 And then when you get into law enforcement and  
13 go through the academy and you work with a field training  
14 officer and you go through training and you go through  
15 your experiences in your career, and then you realize,  
16 "This is really our duty out here. This is why we're  
17 here. We're here to help people."

18 And although -- maybe not all, but I would  
19 wager a large proportion of our responsibilities here in  
20 law enforcement really come down to helping people, and  
21 that's what we do.

22 Q. And so when you say that, that's sort of your  
23 subjective opinion, is that you want to help people.  
24 That's why you're in law enforcement?

25 A. It's certainly subjective based on what I said

1 right there. But if you want, we could pull up the  
2 police officers code of ethics, and I think you'll find  
3 some language in there that's very similar to that.

4 I think if you and I want to spend time and go  
5 through the Yuba County Sheriff's Office manual, I think  
6 we would find some language very similar to that.

7 Q. Further on in -- in that opinion, about four  
8 sentences down, you write, "Yuba County  
9 Sheriff's Department deputies caused a negative  
10 interaction for Mr. Hennefer, eventually causing him to  
11 drive into a ditch, incapacitating his vehicle." How did  
12 the sheriff's department cause Mr. Hennefer to crash his  
13 truck into a ditch?

14 A. When Deputy Eck unnecessarily pulled his gun on a  
15 misdemeanor suspect that he would have no business ever  
16 using that gun on, he caused unnecessary fear. He made  
17 Mr. Hennefer's already present fear of law enforcement --  
18 he made it worse.

19 And Mr. Hennefer decided -- and again, we've  
20 talked about that his judgment is impaired, whether by  
21 mental illness or substance abuse or both -- based with  
22 that, Mr. Hennefer decided that his best way out  
23 initially was to ask the deputy to kill him. And that  
24 eventually he drove down the road, as we talked about,  
25 150 yards, and he got the vehicle stuck.

1 Q. Well, "eventually" was 50 minutes later --  
2 according to the CAD report -- that Mr. Hennefer drove  
3 his truck into the ditch. So I -- how was Deputy Eck's  
4 action 50 minutes before pulling his firearm the cause of  
5 Mr. Hennefer driving his truck into the ditch?

6 A. As I explained in the report, he was on the right  
7 track with Mr. Hennefer initially, and he made it a lot  
8 more complicated by escalating Mr. Hennefer rather than  
9 deescalating him.

10 And when he pulled his gun, and he started  
11 shouting at him; and he calls for code 3 officers to  
12 respond; and they get there in a hurry and they start  
13 shouting at him; and they start pulling guns; and the K9  
14 dog gets there; and the dog starts barking, I think it  
15 was probably more than Mr. Hennefer's mind could deal  
16 with at that time.

17 And, again, I'm not offering a medical opinion  
18 here, just based on what I'm seeing of the situation, the  
19 evidence that I read. And I think Mr. Hennefer was  
20 somewhat confused by the situation, and clearly did not  
21 want to obey the deputies' orders.

22 But, again, we add on maybe another  
23 misdemeanor charge for refusing to stop, and he drove  
24 down the road and he came back towards the deputies, and  
25 he drove down the road and he came back -- I can't

1 remember how many times -- but he did that several times,  
2 and eventually got his truck stuck.

3 It seemed clear that after he was faced with  
4 deputies that were escalating him rather than  
5 deescalating him, his mind made the choice, or he made  
6 the choice, "This is what I'm going to do. I'm going to  
7 tell them to kill me." That didn't work. "Well, I'm  
8 just going to drive down the road."

9 You know, I can't really imagine too much more  
10 in his mind. I'm not going to try to -- I'm going the  
11 try to rely on the evidence, what it showed me. And what  
12 it showed me was a person refusing to stop for the  
13 officers. A person that said, "Put the guns away. Put  
14 the dog away." I think at one time he even told his wife  
15 on the phone, "If they could just put the guns down, I'll  
16 cooperate."

17 But instead, they decided to keep guns up and  
18 continue with the shouting and the yelling and the dog  
19 barking. And it sounds like a pretty chaotic, hectic  
20 situation. And, again, I can't put myself in his mind,  
21 but based on the evidence, he drove down the road, drove  
22 away and got stuck in the ditch.

23 Q. Couldn't it also be just as likely that the  
24 methamphetamine in Mr. Hennefer's system was the cause  
25 for him driving off the road and getting the truck stuck

1 in the ditch?

2 MR. DWYER: Objection to the extent that it's  
3 asking the witness to give a medical opinion. I mean, if  
4 the witness has the ability to opine as to the effect of  
5 methamphetamine on mental judgment, he can.

6 THE WITNESS: In my prior experience as a DUI  
7 officer -- as I said, I've done probably 500 DUI arrests,  
8 most of those were alcohol. Some were for narcotics. A  
9 smaller proportion I will definitely say -- it's my  
10 experience and my training that use of narcotics similar  
11 to the use of alcohol can definitely affect the ability  
12 to drive. It can cause you to drive worse than if you  
13 were sober.

14 MR. GROSS: Q. In the next sentence on page 4 of  
15 your report, you write, "Yuba County Sheriff's deputies  
16 did not see that the knife had been thrown out of the  
17 vehicle by Mr. Hennefer." What's the basis for your  
18 opinion that the knife had been thrown out of the truck?

19 A. The evidence showed the picture of a knife in the  
20 middle of the roadway from the vehicle. I saw no mention  
21 of this in anyone's report or statement. And so that  
22 statement is based on that evidence of the picture of the  
23 knife in the road and that no one mentioned, "Hey, he  
24 threw the knife out."

25 Q. Isn't that an assumption? I mean, there's no



1 evidence as to when the photograph was taken; where the  
2 knife is in relationship to the truck. It seems to me  
3 that's an assumption that, during this encounter,  
4 Mr. Hennefer threw the knife out of the truck.

5 A. And the question is?

6 Q. Isn't your statement in your report that sheriff's  
7 deputies did not see the knife being thrown out of the  
8 vehicle an assumption based on the evidence in the  
9 record?

10 A. Somewhat. Based on your prior statement, there  
11 were -- was a statement by deputies who -- and I can't  
12 remember who it was. I think it was Eck, but it might  
13 have been another deputy. I could look it up -- but a  
14 deputy did state in their statement how they moved around  
15 the scene, and they took pictures of the clothes, they  
16 took pictures of the knife in the road and took pictures  
17 of the vehicle.

18 So that evidence was there. That tells me  
19 that the knife had been thrown out and was in the middle  
20 of the road.

21 Q. In the next sentence of your report you write,  
22 "They did not know that the red dot sight was being used  
23 for viewing trees." And the "they" in that sentence is  
24 the sheriff's department deputies. What information do  
25 you have to make that opinion?

1           A. As I read that statement -- I can see the point  
2 that I'm making an assumption there -- they did not know  
3 that the red dot sight was being used for viewing trees.

4           Now, I could have raised that different. A  
5 better way to write that would be, "No  
6 sheriff's office -- officer or sheriff's deputy wrote  
7 anything in their statement about the red dot sight being  
8 used for viewing trees." That would have been a more  
9 accurate statement.

10          Q. Did you see a picture of the red dot optic in the  
11 discovery documents you received?

12          A. No.

13          Q. So you don't know whether it has a magnification  
14 setting or not?

15          A. No.

16          Q. I'll represent to you that it's just a simple red  
17 dot optic to a firearm with no magnification. It just  
18 provides a little -- I don't know what type of red dot  
19 for a firearm. But do you know what practical purpose a  
20 red dot optic would serve for a tree service?

21          A. Having never been involved in tree topping, I  
22 learned from one of the family members that you use the  
23 red dot sights when you're in the tree business. In  
24 other words, you're looking up at the trees and sighting  
25 them. But that was new information to me. I'd never

1 really been involved in that before.

2 Q. If the -- if the red dot optic doesn't provide any  
3 magnification and it doesn't do any distance  
4 measurements, do you know any purpose for why you would  
5 use a red dot optic in the tree business?

6 MR. DWYER: Well, it's fine to ask him that. But,  
7 again, his expert report is on the police events at the  
8 incident. He's not an expert in tree surgery. I mean, I  
9 can offer you an explanation why, but I won't bother.  
10 There's an obvious one.

11 But that was something the family tried to  
12 explain to the officers, and they didn't pick up on it or  
13 pay attention to it. But to the extent he wants to give  
14 his lay opinions about uses of a red dot for tree  
15 surgery, go ahead.

16 THE WITNESS: I really don't know. As I said, not  
17 my line of work, and I didn't know much about it. I  
18 still don't.

19 MR. GROSS: Q. And that's because you're a law  
20 enforcement officer just as these deputies were at the  
21 scene. They see a red dot optic, they're going to assume  
22 it's related to a firearm and not related to a tree  
23 business. Would that be a reasonable assumption?

24 A. Yes.

25 Q. Now, do you -- did you review photographs of the

1 scene, sort of, the surrounding landscape?

2 A. Yes. I reviewed the photographs that  
3 Attorney Dwyer sent to me. And also you asked a question  
4 this morning did I look at any other sources, and I  
5 didn't mention that I went to Bing maps, and I used the  
6 ability to follow the route of the mapping vehicle, and I  
7 moved it down that road to the point whereas, to my best  
8 guess, where this incident took place.

9 So with that, I kind of looked around the  
10 area, and I did observe it in that way. So in answer to  
11 your question, I used Bing maps, but primarily I used the  
12 photographs that were provided in discovery.

13 Q. And from -- from reviewing the photographs that  
14 you were provided and doing a street view of the area,  
15 how would you describe that surrounding area where this  
16 incident occurred?

17 A. It's very rural, apparently used for growing rice,  
18 which, the only thing I know about that is rice plants  
19 grow in water, but that's really the extent of my  
20 knowledge. It was not heavily populated. I didn't see  
21 a lot of buildings in the area or homes along the areas.

22 Looking at the overhead map, I see a few  
23 houses and things possibly where the complainant lived.  
24 But other than that, obviously very rural, wide open.  
25 You could see the ditch alongside the road. You could

1 see the road. It's compact, but it's not fully asphalted  
2 or cemented. It's more of an unpaved road.

3 Q. And from your review of the photographs and the  
4 Bing map, did you see any trees in the surrounding area?

5 A. Not in the immediate area. In fact, possibly not  
6 even beyond that. I'll say no at this point. But I  
7 think there's still a possibility there was, but I'd have  
8 to look at the distance and check the photos again. I'm  
9 open to look at them now if you want. But I don't  
10 remember trees right offhand, at least not alongside the  
11 ditch.

12 Q. So when Mr. Hennefer and his wife told Deputy Eck  
13 and the other initial responding deputies that  
14 Mr. Hennefer's a contractor, he's there to provide tree  
15 trimming services for PG&E and Deputy Eck doesn't observe  
16 any trees in the surrounding area, isn't it --

17 MR. DWYER: Objection. That misstates the  
18 testimony. That's not what the testimony was, Counsel.

19 MR. GROSS: Q. Isn't it a reasonable assumption  
20 that a officer would suspect that person isn't out there  
21 for tree trimming?

22 MR. DWYER: I'll just continue my objection.  
23 Misstates the testimony.

24 You can answer to the best you can, Mr. Sweeney.

25 THE WITNESS: I remember something about the

1 complainant discussing the issue of trespassing with  
2 Deputy Eck. And there was something mentioned -- and,  
3 again, I'm happy to look it up, but I thought there was  
4 something mentioned that he actually got out of his  
5 vehicle and started working around a tree or doing  
6 something and maybe clearing some brush or something.

7 Again, I'd have to look at it to figure out what  
8 it was exactly, but I thought there was some statement by  
9 Deputy Eck that Mr. Hennefer had actually tried to do  
10 some tree work, and the complainant, the property owner,  
11 said, "No, stop, please."

12 MR. GROSS: Q. I'd be interested to know what  
13 tree Mr. Hennefer was trying to work on, because I don't  
14 recall seeing any trees in the surrounding area.

15 A. Let me --

16 MR. DWYER: Excuse me. That's not a question, so  
17 you don't need to respond. David, are you there?

18 THE WITNESS: I'm here. I'm -- yeah. I was  
19 waiting for a question. Or, Matt, you could -- you  
20 could, I guess, ask that one again. I found something  
21 here.

22 MR. GROSS: Q. Do you know if Mr. Hennefer was  
23 actually around any trees prior to or when Deputy Eck  
24 arrived?

25 A. On County 000-0004, which is page 4 of 24 -- so

1 it's the report we're looking at here -- and in this  
2 report, Deputy Eck is describing the circumstances that  
3 were told to him by the property owner.

4 And down about one, two, three, four, five,  
5 six, seven, eight, nine -- "The phone call was ended, and  
6 William stated to Leno that he was going to leave.  
7 However, William started to become more and more  
8 distracted by wanting to work and trim trees around a  
9 power line pole." So that was what my memory was telling  
10 me; that there was some actual attempt.

11 So I don't know what trees those are. You  
12 know, we'd have to ask Deputy Eck, but it must have been  
13 more of an interaction between the complainant and  
14 Mr. Hennefer.

15 So we're now third or fourth down the line.  
16 So the complainant's reporting this to the officer who  
17 puts it in the statement, and then I read it and then  
18 read it back to you.

19 Q. Yeah. Well, is that also an action that  
20 Mr. Hennefer's actually doing that or just that the  
21 reporting party is stating Mr. Hennefer's trying to do  
22 this?

23 A. It's unclear because of the word "wanting."

24 MR. DWYER: Yeah. Objection. You're asking the  
25 witness to speculate.

1 THE WITNESS: It's unclear because of the word  
2 "wanting." He's saying, "No, I want to work on this."  
3 Or sometimes people say he wants to do that because the  
4 individual's there doing it. So I don't know. He didn't  
5 describe him climbing a tree or power line pole or  
6 anything.

7 Anyway, that's what I took it for. I just read  
8 the sentence there, and it appeared to me that  
9 Mr. Hennefer had been distracted and wants to work on  
10 trimming trees around the power line poles. So I don't  
11 know exactly his -- his maneuvers or motions there. I  
12 don't think anyone does other than possibly the initial  
13 complainant.

14 MR. GROSS: Q. On page 5 of your rebuttal report  
15 at the very end, the last paragraph, you talk about how  
16 you believe the sheriff's department waited too long to  
17 develop a plan to approach the vehicle. Is that a fair  
18 generalization of that paragraph?

19 A. Yes, it is.

20 Q. At what point in time are you critical of the  
21 sheriff's department not approaching Mr. Hennefer's  
22 vehicle?

23 A. You and I discussed before the officer safety  
24 issues, which I recognize, and I would have the same  
25 officer safety concerns. If someone was in a vehicle,



1 and there was a knife between the seats and a red dot  
2 optic I believe on the dash, but let's say the red dot  
3 optic is in the car, I recognize the officer safety  
4 concerns there.

5 And I'll give YCSD some leeway and some room  
6 to maneuver around that and to recognize, to allow them  
7 to recognize, "Hey, we have an officer safety concern  
8 here." When Mr. Hennefer backed down the road and got  
9 stuck in the ditch, he alleviated that concern in large  
10 part, and here's why:

11 When you have a suspect that you believe has  
12 committed a crime and they're still mobile in a vehicle,  
13 that's a more difficult situation to deal with than  
14 someone that is stuck in a particular place.

15 Now, he could have gone out of the car, and he  
16 could have walked or ran or whatever. But they had the  
17 means to chase him down and stop him. But that didn't  
18 happen. So let's just deal with what did happen.

19 What happened was, he got his vehicle stuck.  
20 And I can appreciate some of the recommendations and  
21 actions taken by Deputy Saechao who was the acting  
22 day-shift commander, and he said, "Let's get CHP,"  
23 California Highway Patrol, "up in the air, and let's get  
24 a visual on this situation."

25 And, again, this occurs, oh, around -- I think

1 CHP first did their first pass -- well, they got called  
2 at 14:38, according to the record. And then they  
3 initially do their first pass at 14:54; so 2:54.

4 So I'll give them some leeway on, "Let's wait  
5 and let's -- let's get the CHP plane up in the air.  
6 Let's get a visual on this." And this goes on for  
7 a while. And the plane circles. The engine's on, the  
8 wipers are on. At 15:07, he's still in the driver's  
9 seat. At 15:08, they can only see him through the  
10 window. At 15:09, he's still sitting in the driver's  
11 seat.

12 When the plane is circling, they're reporting  
13 these visuals of the subject, and he's not moving. And  
14 you combine that with all the knowledge they had with his  
15 heart issues, with his drug use, with his anxiety, and  
16 certainly the difficult life situation this individual  
17 found himself in, when you see he's now in the vehicle;  
18 he's stuck; he's not getting out; he's not running away,  
19 and he's staying in one place, and the CHP is saying he's  
20 not moving, I don't see any reason why you can't move up  
21 at that point and interact with him and attempt an arrest  
22 or a medical intervention.

23 Whatever you want to do there, there's any  
24 number of ways you can handle that. But the idea is not  
25 to let him expire. And that's why they waited too long.

1 Why do we have to have the vehicle watched for an hour,  
2 hour and 20, hour 30 before we finally go, "Okay, I guess  
3 it's time to move up." Why wait that long?

4 I think even Deputy Eck wrote, "We waited  
5 several hours to finally" -- you know, he might have  
6 overstated it, but it probably felt like that. It  
7 probably felt like several hours, and this guy's still  
8 out in the middle of the field stuck in his truck, and  
9 he's not moving. And they waited too long. They should  
10 have gone up sooner. Give the plane a couple passes,  
11 and -- and then, yeah, he's not moving.

12 And, boy, you combine that with all the  
13 things, and you have -- you have the CNT negotiator  
14 saying, "I think he's suffering from medical distress,"  
15 and still you don't go?

16 You know, we have a duty to do something about  
17 that. We have a duty to help people, and it didn't  
18 happen in this case. And they waited too long. So  
19 there's a long answer to your question. But that's what  
20 I mean when I say they waited too long to help.

21 Q. Well, are you aware that Officer in Charge  
22 Saechao, when he requested CHP, he was looking for a  
23 helicopter to arrive but the only available unit was a  
24 airplane?

25 A. Yes, I believe I did read something about that.

1 Q. And are you aware that airplanes can't hover.  
2 They have to make circles around?

3 A. That is correct. And I believe he wrote that in  
4 his statement too.

5 Q. And do you know how much CHP Air Unit 21 was able  
6 to visually see Mr. Hennefer as it made a pass?

7 A. So they -- they watched him from 15:05 until to --  
8 I think their last broadcast was 16:24. And then the  
9 team moved up and they were cleared at 16:30. So they  
10 had around an hour 15, hour 20. I could do the exact  
11 math.

12 Q. What -- what time did the deputies -- when they  
13 are approximately 150 yards away, what time did they  
14 first begin moving up towards Mr. Hennefer's truck?

15 A. Around 16:30. Maybe a little bit sooner. There's  
16 some indications from Captain Million that medical's with  
17 them and advised to make an approach. Air 21 responds  
18 back at 16:24, "The wiper's going off." Captain Million  
19 makes references there's still no movement.

20 And at 16:26 is when they deployed the less  
21 lethal, which was the undersheriff. So that 16:26 to  
22 16:30 is probably the four minutes where they're up at  
23 the vehicle trying to get in, trying to see in. And all  
24 those steps I'll let you ask me about if you want.

25 Q. First, so we know the CHP air unit is making

1 circles around the plaintiff. But do you know how  
2 long -- each time a circle is made, how long Air 21 is  
3 able to visually see Mr. Hennefer before they can't see  
4 him anymore?

5 A. No.

6 Q. And so the issue that arises with that is that the  
7 sheriff's department doesn't have a constant visual  
8 observation of Mr. Hennefer; correct?

9 A. I -- that's not entirely correct. I think what  
10 you mean is CHP.

11 Q. The --

12 A. The deputies at the scene had constant visual, at  
13 least of the truck. I don't think they could really see  
14 in to Mr. Hennefer that well, but I think you mean CHP?

15 Q. Yes. CHP couldn't constantly see Mr. Hennefer  
16 because they're in a plane making circles; so they're not  
17 able to constantly provide that information down to the  
18 ground units?

19 MR. DWYER: Well, objection. We don't know how  
20 much they could see or not.

21 MR. GROSS: Q. Exactly. Exactly. We don't know.

22 MR. DWYER: Well, you know they were able to  
23 report down each time they circled there was no movement.  
24 So, obviously, they wouldn't make a report like that  
25 unless they could make a report like that.

1           So CHP was making a report "no movement" every  
2 time they circled the truck. That is established by the  
3 CAD record. I think that's our guideline. But that's  
4 the facts we have.

5           MR. GROSS: Q. And so with that, David, since we  
6 don't know how long CHP Air 21 is able to see  
7 Mr. Hennefer each time it does a circle; correct?

8           A. Not entirely.

9           Q. And is it reasonable for the sheriff's department  
10 to want to have a visual direct line of sight on  
11 Mr. Hennefer before approaching the vehicle?

12          A. No.

13          Q. Why not?

14          A. Until the drone operator got there, they didn't  
15 have the resources to maintain what you called that  
16 direct line of sight 100 percent of the time. We've  
17 already discussed and acknowledged that the plane is  
18 going to be doing loops around, laps around, whatever --  
19 circles, whatever you want to call them.

20                 And there are times -- I will agree with you,  
21 at least based on the evidence I read -- that the plane  
22 operator is not in 100 percent line of sight with  
23 Mr. Hennefer.

24                 But why is that unreasonable not to move up?  
25 Because of all the other medical factors you have that

1 he's probably in distress; so let's move up and help him.  
2 There's no officer safety concerns, but we can mitigate  
3 those, or we can deal with those, or they should have.  
4 That's my opinion.

5 Q. Are you aware that the sheriff's department sent a  
6 sniper several hundred yards away to try to gauge a  
7 different vantage point to look into the truck?

8 A. No, I am not aware of that.

9 Q. And are you aware that the sniper -- and the  
10 spotter who got sent with the sniper -- they were also  
11 unable to see inside the truck? Is that unreasonable for  
12 the sheriff's department to send a sniper over to the  
13 next rice field to try to gain a different line of sight  
14 into Mr. Hennefer's truck?

15 A. Is that unreasonable? Was that your question?

16 Q. Yeah. Is that unreasonable?

17 A. No.

18 Q. Are you aware that the sheriff's department  
19 approached Mr. Hennefer's truck sooner than 4:26 or 16:26  
20 hours?

21 MR. DWYER: I'm sorry. I'm not sure if I heard  
22 that correctly. Is he aware that they tried to approach  
23 the vehicle before 16:26?

24 MR. GROSS: Q. Correct.

25 A. There's an -- I'm going to say no. I'm not really

1 aware of that. No. I'm going to say no at this point.

2 Q. Are you aware that the sheriff's department  
3 deployed a noise distractionary device -- or also known  
4 as a flashbang -- to try to see if they could get  
5 Hennefer to move or wake up?

6 A. Yes.

7 Q. Was it reasonable for sheriff's deputies to  
8 believe that Mr. Hennefer might be sleeping or in a  
9 drug-induced state, passed out in the vehicle, and so  
10 they're going to use a noise distractionary device to try  
11 to see, "Can we wake him up"?

12 A. That is reasonable.

13 Q. Are you aware the sheriff's department attempted  
14 to use less-lethal bean bag rounds to break out the back  
15 windows of the truck to try to see inside the truck?

16 A. I am aware of that.

17 Q. Is that reasonable for the sheriff's department to  
18 use less-lethal bean bags to try to break windows so they  
19 can visually see Mr. Hennefer inside the truck?

20 A. Yes, that the reasonable.

21 Q. Now, do you ever receive training or responded to  
22 a call where there's a barricaded subject?

23 A. Yes.

24 Q. And have you responded to a call or received  
25 training where the barricaded subject was under the



1 influence of drugs or alcohol?

2 A. Yes.

3 Q. And have you received training or responded to a  
4 call where that barricaded subject under the influence of  
5 drug or alcohol passes out?

6 A. Yes.

7 Q. And what has your training or experience been in  
8 those situations where a barricaded subject under the  
9 influence of alcohol or drugs passes out?

10 A. What's my experience with that, or what have I  
11 done in the past; is that your question?

12 Q. Yeah. What have you done?

13 A. There's a variety of things that you might do:  
14 One: You might wait them out. Two: You might use other  
15 forms of persuasion, which could be wooden dowels on the  
16 door, breaking out windows of the house, knocking on the  
17 window. I'm trying to think what else.

18 The hard part of your question is barricaded,  
19 because that implies someone that has taken definitive  
20 steps to keep you out. So there are ways to defeat  
21 barricades, and we could go into that if you want to.  
22 You have to weigh the need to arrest the subject versus  
23 the danger caused by you entering the premises to  
24 physically do that.

25 In general in SWAT, if we have a true

1 barricaded person, we would prefer them to come out of  
2 the house on their own. Put their hands up in the air,  
3 "Turn around, get down on the ground." That's more  
4 preferable than going into the house and going after  
5 them.

6 Q. Are you aware of law enforcement training creating  
7 your own exigent circumstances?

8 A. Yes.

9 Q. Can you tell me what that means.

10 A. It's the theory that an officer is faced with a  
11 variety of different circumstances, as we've talked about  
12 today. Every call is different; every individual is  
13 different. When you create your own exigency, it,  
14 generally, refers to an officer placing themselves into  
15 the dangerous -- this is the most common one:

16 An officer moves up to a vehicle and stands in  
17 front or behind it. And then when the driver drives  
18 forward or backwards, theoretically into the officer,  
19 they decide that they have to fire their gun in  
20 self-defense.

21 We had a situation like that in Seattle, and  
22 they ended up firing at the officer because they created  
23 their own exigency. Why did you place yourself in that  
24 situation?

25 Stand at the side of the vehicle and

1 accomplished your law enforcement purpose that way,  
2 whether it's an arrest or stop or traffic stop or  
3 reasonable suspicion or whatever it might be. So that's  
4 been my experience with that.

5 Q. Wouldn't it be reasonable for the deputies at the  
6 scene of the Yuba County Sheriff's Department to want to  
7 continue to negotiate with Mr. Hennefer and try to  
8 resolve things peacefully without creating their own  
9 exigency about approaching the truck?

10 A. That's a difficult question to answer because  
11 we're talking about different time periods and different  
12 facts during all the circumstances that we've discussed  
13 today.

14 So, really, around the -- my answer is yes and  
15 no. But if you want to be more definitive on certain  
16 time periods or certain actions that were taken, I might  
17 be able to narrow it down for you.

18 Q. I guess, let's breakdown the "Yes" portion and the  
19 "No" portion for you.

20 Starting with the "Yes," where was their, sort  
21 of, concern that the sheriff's department might create  
22 their own exigency? And with the "No," they're not going  
23 to create their own exigency.

24 A. Deputy Saechao talked about Hennefer driving back  
25 and forth. And he was very smart. And he told the

1 officers, "If he drives past us, we're not going to start  
2 shooting," was basically what he's telling them. We're  
3 not going to take action at that point. We'll get air  
4 patrol, air support, and we'll follow him that way.

5 In other words, we're not going to create our  
6 own exigency and say our lives were in danger because we  
7 tried to step in front of his vehicle and stop it from  
8 moving. So that's a great example of Saechao saying,  
9 "Hey, let's not create our own exigency here."

10 Q. And so at what point does your answer become, no,  
11 the sheriff's department wouldn't have created their own  
12 exigency? Is that after the truck goes into the ditch?  
13 After the CHP air unit arrives? At what point does your  
14 answer become no?

15 A. Concerning the fact that Deputy Eck had been  
16 interacting with Mr. Hennefer for quite some time at the  
17 window; having conversations with him; not in fear for  
18 his life; not really expressed any fear of the red dot.  
19 He noted it was there. He was more worried about the  
20 knife and the reaching.

21 When -- I think you hit the nail on the head  
22 there. When he drives away and gets stuck in the ditch,  
23 there's your opportunity. Because I talked about earlier  
24 how, if you could limit the movement of a vehicle, you've  
25 taken away much of the problem. Now he can't drive away

1 from you. Now he can't run anyone over. Now he can't  
2 hurt an innocent victim with his vehicle.

3 So that took care of a large part of the  
4 problem when he's now stuck in the ditch. So I would say  
5 let's have a few passes from the air vehicle. We combine  
6 that with our knowledge of his medical history given by  
7 the family; our knowledge that he's on drugs and now he's  
8 not moving for several minutes, that's the time when we  
9 need to be moving up and taking action.

10 Because what exigency have you created for  
11 yourself at that point? None. You can move up to the  
12 vehicle, peer inside, and you can do this from a  
13 distance. And you could take a vehicle with you, you  
14 know, to give yourself some cover and look in that  
15 vehicle and go, "Yup. Sure enough, he's not moving."

16 And when you get, oh, 30 yards away, launch  
17 your flashbang right there and see if you get a response  
18 from him. It's super loud. I will guarantee if he's  
19 awake, he will flinch or jump or sit up with a startle or  
20 something like that.

21 And if he doesn't, that should create an even  
22 greater sense for you, "Wow, there's really something  
23 wrong here. Come on. Let's move up and let's see if we  
24 can help this guy because clearly there's a problem here  
25 that's greater than someone just sleeping."

1 MR. GROSS: Let's go off the record.

2 (Recess taken.)

3 MR. GROSS: Q. David, we're back here from a  
4 break and we're looking at Exhibit A, which is a copy of  
5 your expert report that you prepared for this case. And  
6 I wanted to ask you about opinion No. 2, specifically the  
7 third sentence.

8 In it you write, "There was a 'loss of key  
9 intelligence information from family and deputies and a  
10 lack of urgency to formulate a plan and then act on that  
11 plan.' "

12 My first question is: What was the loss of key  
13 intelligence information that you're referencing?

14 A. There were a couple times referenced in the  
15 discovery materials that family members tried to  
16 interject themselves into the situation. One of the  
17 times was when the -- I believe the sister and, perhaps,  
18 the brother-in-law -- don't quote me on that -- two  
19 family members arrived behind deputies who were arriving  
20 at the scene.

21 And there was some confusion at the scene.  
22 And they were yelling, and they were told to get back and  
23 to stay out of the way. And if not, they would be made  
24 to stay out of the way or, you know -- I think,  
25 essentially, kind of threatened with arrest. I don't

1 know if anyone said that particular word, but "You need  
2 to get the heck out of here," and so they did that; they  
3 backed away.

4 Now, eventually, HNT, I think, got in touch  
5 with those people, but it seemed like they didn't get a  
6 clear picture of what Mr. Hennefer was experiencing.

7 We talked about the lack of information about  
8 the red dot sight and what that's for. And there wasn't  
9 a really clear investigation -- that I could tell -- of  
10 what purpose was Mr. Hennefer trying to fulfill there.  
11 He expressed the idea that he had been hired for a job to  
12 clear trees near power poles and things like that, and he  
13 even gave a company name. But I don't -- didn't see much  
14 information that Deputy Eck really tried to confirm this,  
15 or that anyone really made much of an investigation of  
16 this.

17 So that was one of the first things that I  
18 think about when we lose key intelligence, it's the  
19 information provided by family members.

20 The second one was the family member who  
21 called 911, and the dispatcher spoke to them for a couple  
22 minutes; seemed to get impatient with them; didn't really  
23 want to talk to them anymore. And I could look at the  
24 exact language, but it was something about, "I'm hanging  
25 up. We're not talking anymore."

1           And that was the end of that idea of getting  
2 more, again, intelligence from family members that might  
3 have helped them get a clear picture of who they're  
4 dealing with, and some of the issues that he was facing  
5 in his life. Particularly in regards to his health, his  
6 mental health, his drug use.

7           Q. In regards to the first portion about Deputy Eck  
8 not investigating information further, didn't he also  
9 speak on the phone with Mr. Hennefer's wife?

10          A. Yes, he did.

11          Q. And didn't he use that information to determine,  
12 "I'll hold Mr. Hennefer at the scene and let her come  
13 pick him up"?

14          A. He did mention something in his report that that  
15 was his plan, was to release Hennefer to the family  
16 member. And I think you're right. I think it was the  
17 wife.

18          Q. What other investigation or information are you  
19 suggesting Deputy Eck should have done?

20          A. I think that he should have followed more along  
21 the lines of what Deputy Mullins eventually came to do,  
22 and that's to gather that key intelligence from the  
23 family members. And she learned more about his  
24 situation. She -- she did talk to people on the phone.  
25 She did try to call in to Mr. Hennefer, and that didn't



1 work.

2 But that information, if relayed to command  
3 staff, might have spurred some action from them. Just  
4 because of the threat that he's got heart issues and he's  
5 got drug abuse and he's got some mental health issues,  
6 all those things, if there had been a central clearing  
7 house -- and we sometimes call that's what an incident  
8 commander does.

9 You're taking information from a variety of  
10 sources -- possibly Deputy Eck or possibly Deputy Mullins  
11 or family members -- and you're getting sources of  
12 information that come to you as the incident commander,  
13 and then you can use this as intelligence to help you  
14 make decisions on what to do.

15 Q. You also mentioned that Mr. Hennefer's sister was  
16 at the scene and trying to communicate and not allowed to  
17 approach the police line. Do you recall learning that  
18 she stood on top of her car and attempted to wave down  
19 Mr. Hennefer?

20 A. Yes, I did read something about that.

21 Q. And that she was, at times, yelling and trying to  
22 get his attention?

23 A. Yes.

24 Q. Do you agree that that would interfere with the  
25 sheriff's department ongoing incident in trying to

1 deescalate the situation with Mr. Hennefer when his  
2 sister is behind them shouting and yelling on top of her  
3 car?

4 A. We discussed before how I had worked with hostage  
5 negotiation, but I've never been trained in hostage  
6 negotiation. I know enough about the basics, but it's my  
7 understanding from people that do work HNT is that family  
8 can be very useful at the scene, but they also can be a  
9 disruption. And the job of the negotiator is to walk  
10 that fine line between those two.

11 So you might want the family there to help  
12 obtain information that could help you form a solution to  
13 a problem. But in general, the general recommendation is  
14 that you do not allow family to then move up where they  
15 physically insert themselves into the scenario.

16 And, you know, in response to your question,  
17 that might also include yelling. If -- if there's a  
18 number of deputies there yelling at him at the place and  
19 now you bring family members and they're yelling too, I  
20 imagine that that would make a chaotic situation even  
21 more chaotic.

22 Q. Are you at all critical of the sheriff  
23 department's decision to not let family members  
24 communicate directly with Mr. Hennefer?

25 A. No, I'm not going to be critical of that. I think

1 that goes to my last statement; that you might want them  
2 there, but you might not want them right there. In other  
3 words, right where the situation is.

4 Sometimes you might have them at the command  
5 post. I don't generally recommend that. I recommend  
6 that you keep them accessible where you can reach them if  
7 necessary. Somewhere near, somewhere close where you can  
8 have that communication.

9 There have been times when family members have  
10 been used to help persuade someone to, let's say, come  
11 out of a building or car or something like that. But, in  
12 general, it's my experience that that is not the norm.  
13 In general, we want that family there for intel, for  
14 intelligence, but we might not want them inserting  
15 themselves physically into the scenario.

16 Q. And isn't it true that Detective Mullins took in  
17 information from family members at the scene?

18 A. Yes, she did.

19 Q. And she took in information from family members  
20 that called in on the phone?

21 A. Correct.

22 Q. And isn't it true that she also then relayed that  
23 information to her superiors?

24 A. There was that reference that she wrote in her  
25 statement about relaying descriptions of his medical

1 condition to command staff. Yes.

2 Q. And that was reasonable for her to take in that  
3 information as the crisis negotiator and then share that  
4 information with the -- her superiors at the scene?

5 A. Correct.

6 Q. Underneath opinion 3 on the same page, you state  
7 that there was confusion about making a decision to  
8 approach the truck until 16:20 PM. And I just wanted to  
9 clarify because before I think you had mentioned  
10 16:26 PM, and I just didn't know what -- what time you're  
11 stating that the deputies are approaching the truck.

12 A. There are a couple references. And at 16:20, I  
13 see, from the Ellis report, Deputies Zepeda, Thorpe,  
14 McGuire, Ellis and Undersheriff Morawcznski approached.

15 And for the court reporter, that's  
16 M-O-R-A-W-C-Z-N-S-K-I.

17 So we have that indication at 16:20. At  
18 16:26, there starts to be some indications from  
19 Captain Million that there's still no movement, and that  
20 they're deploying less-lethal.

21 So I don't think there's confusion on my part.  
22 There's just these different entries that we have  
23 different things going on at different times. So I can't  
24 tell you to the exact minute who's moving what and where,  
25 but I can give you, kind of, some general feelings -- no,

1 not feelings -- some general information from the data  
2 I'm looking at as to moving up.

3 And here's another example: At 16:22, Medical  
4 is with him and advised to make an approach. So, again,  
5 we have a variety of movements between 16:20. And then  
6 finally, 16:30, where Air 21 is -- can clear. And that's  
7 apparently when they find Mr. Hennefer deceased.

8 Q. I want to take you to page 24 of your report.  
9 It's the opinions under letter D, "The YCSD failed to  
10 timely summon medical assistance."

11 A. Yes.

12 Q. Looking at opinion 3, at what point would it have  
13 been proper to allow medical personnel to treat Hennefer?

14 A. After moving up to the vehicle and checking on his  
15 condition.

16 Q. And isn't that what happened here?

17 A. Yes, but too late.

18 Q. So you're not suggesting that the  
19 sheriff's department should have just let medical  
20 personnel go in front of law enforcement to the truck?

21 A. We generally recommend against that. We prefer to  
22 make sure that the scene is safe, and then to allow those  
23 medical personnel to do their job.

24 Q. And why is it that, generally? You want to make  
25 sure a scene is safe before letting medical personnel

1 approach?

2 A. Most medical personnel, other than SWAT medics,  
3 are not trained to defend themselves. At least from the  
4 department. They are not issued equipment to defend  
5 themselves, and that's not their job. So we take on that  
6 responsibility.

7 We have the power of arrest. We have the  
8 power to use force if necessary. And when you work with  
9 your fire department or your aide personnel or your  
10 ambulance personnel, in general we'll move up and make  
11 the scene safe and then bring them in.

12 Sometimes they can fall right behind us.  
13 Other times you can just say, "Hey, wait right here. Let  
14 us check this situation, and then we'll signal you to  
15 come on up." You could do it over the radio, or you  
16 could do it in person. You could have them there with  
17 you, but I think that answers your question.

18 Q. And you say that, "Proper procedure would have  
19 been to allow medical personnel to treat him and get him  
20 to the hospital with deputies to make initial contact in  
21 order to ensure that medical personnel were safe."

22 But how could the sheriff's department have  
23 permitted medical personnel to do this when Hennefer  
24 wasn't compliant?

25 A. Using team tactics, training; to move up, evaluate

1 the situation and determine his condition, as least as  
2 far as, you know, our sheriff's department personnel are  
3 medically trained, which usually is definitely not as  
4 much as fire department, ambulance and an aide car.

5 But you can at least move up to see if they're  
6 conscious; if they have a heartbeat; do the initial  
7 assessment, and then you can report back to the medical  
8 personnel what you found and ask them to get there.

9 That's why I said let law enforcement make the  
10 initial contact, and then allow the medical personnel in  
11 to do their job.

12 Q. Underneath opinion 5 you state that, "Officer  
13 safety is always a paramount concern, but there's  
14 circumstances when officers 'must consider placing their  
15 safety in jeopardy to protect the innocent.'" But would  
16 you agree here there weren't any innocent bystanders that  
17 needed to be protected; correct?

18 A. I agree with you.

19 Q. There wasn't a threat to the public at large by  
20 needing to act quicker; correct?

21 A. I agree.

22 Q. And in the next sentence you write that, "There's  
23 an expectation that peace officers will step into harm's  
24 way" to -- "on behalf of those endangered by violent  
25 crime." Was -- was Mr. Hennefer engaged in violent crime

1 that deputies needed to step in immediately?

2 A. No.

3 Q. Are you aware of the phrase "the fatal funnel"?

4 A. Yes.

5 Q. And can you describe for me your understanding of  
6 the fatal funnel.

7 A. When you're conducting a building search and  
8 you're moving down a hallway -- whether in a team of two,  
9 four, five, whatever your contact team is -- the fatal  
10 funnel is where you're going to a room, and if you stand  
11 right in front of that doorway, you've now silhouetted  
12 yourself and made yourself visible to anyone inside the  
13 room who might want to do you harm. So you're standing  
14 in the fatal funnel there.

15 Now, there are ways to mitigate that to where  
16 you don't have to stand in the fatal funnel. So I'll let  
17 you ask the question. I'll stop it there. But that's  
18 what the fatal funnel is, is standing in the middle of  
19 the doorway while you're searching a building and opening  
20 yourself up to a lot.

21 Q. What are ways that you can mitigate being in the  
22 fatal funnel?

23 A. In general, we train to have, at minimum, two  
24 officers going in that room. One will break left and  
25 address any threats on the right side; one will break



1 right and address any threats on the right side.

2 By separating, you've reduced the ability  
3 of -- let's say there was someone dangerous with a gun  
4 that really wanted to kill a police officer or two,  
5 you've now separated their attention, and they can't --  
6 at least easily without training -- acquire and shoot at  
7 two different targets that have now entered the room.

8 Now you have an officer breaking right, you  
9 have an officer breaking left, and they will address any  
10 threats that are present that fall within their area of  
11 responsibility. And you've separated the two officers,  
12 so that you can't fire off a quick burst of shots right  
13 at the middle of that door where the officers were  
14 because they're not standing there anymore. They came  
15 into the room and they went right and left.

16 Q. Can the concepts of the fatal funnel be applied  
17 to -- can they be applied outside of a building?

18 A. Yes.

19 Q. Could they apply in circumstances here where you  
20 have a narrow, single lane dirt road with flooded rice  
21 fields on either side?

22 A. Yes.

23 Q. Is it reasonable for officers to be concerned  
24 about the fatal funnel here at the incident because they  
25 have a narrow roadway with a single way to approach

1 Mr. Hennefer and the vehicle?

2 A. I think it's something to be aware of, but the  
3 threat to the officers is reduced because of a couple  
4 things: One is that Eck has already been up to the  
5 vehicle. He's already talked to Mr. Hennefer, and he's  
6 already looked inside the vehicle. He's not received any  
7 direct threat that Mr. Hennefer intended to harm him or  
8 anyone else.

9 And so I'm going to agree with you somewhat  
10 that we need to be careful. We can still use our officer  
11 safety techniques; move up as a team. There's different  
12 methods to do that as safely as possible. One of the  
13 best ways would be to have a vehicle moving in front of  
14 you, so that you can use that vehicle as cover and move  
15 up in that way.

16 Q. Would a ballistic shield or a ballistic blanket  
17 help alleviate an officer's concern in this instance with  
18 approaching Mr. Hennefer's vehicle with the concept of  
19 the fatal funnel?

20 A. It would certainly help. I don't know if it would  
21 completely alleviate, but, yes, it would help.

22 Q. Are you aware that the sheriff's department ran  
23 the RAP, R-A-P, RAP sheet of Mr. Hennefer during the  
24 incident?

25 A. Yes. That was noted in the report and I believe

1 in a statement.

2 Q. And are you aware of what information was provided  
3 as a result of that RAP sheet being run?

4 A. There was a couple codes that came back -- and if  
5 you want, I'll be happy to look those up -- but I don't  
6 remember the numbers right off the top of my head.

7 Q. One of them was Penal Code Section 245(a). Do you  
8 know what Penal Code Section 245(a) is?

9 A. I believe it is assault.

10 Q. And I think it's assault with a deadly weapon.

11 A. Sorry. I'm just waiting for a question there.

12 Q. Oh, is Penal Code Section 245(a), to your  
13 understanding, assault with a deadly weapon?

14 A. Yes.

15 Q. Is -- is it reasonable for officers to be  
16 concerned about officer safety when they learn that a  
17 suspect has a prior charge of assault with a deadly  
18 weapon?

19 A. It adds to the facts that you know. So, yes, it  
20 adds to your officer safety concern.

21 Let me rephrase that. This would have added  
22 to the deputies' officer safety concerns at the time.

23 Q. But your opinion is even with that information as  
24 well, it was still unreasonable for the  
25 sheriff's department to wait the time they did between

1 the truck going into the ditch and approaching the  
2 vehicle?

3 A. Yes.

4 Q. I think you've testified previously, David, that  
5 you've interacted with suspects who have been under the  
6 influence of methamphetamine?

7 A. Yes.

8 Q. What type of physical characteristics or behaviors  
9 do people who are under the influence of methamphetamine  
10 generally exhibit?

11 A. In my experience, methamphetamine use is generally  
12 accompanied by nervousness and fidgety behavior, quick  
13 talking. It seems to certainly activate the central  
14 nervous system to speed things along, speed things up  
15 and -- and I'll leave it at that.

16 Q. Does it create aggression in people who take it?

17 A. I believe it can, but it's also been my experience  
18 that some people on meth are not aggressive. So I think  
19 there's the possibility of that, but not always.

20 Q. And sometimes people on methamphetamine become  
21 violent; correct?

22 MR. DWYER: Are you asking him to give a  
23 professional medical opinion or based on his experience?

24 MR. GROSS: Q. Based on his experience.

25 A. Based on my experience, some people do become

1 violent.

2 Q. And some people don't react violently; correct?

3 A. That is correct.

4 Q. Is it reasonable for the sheriff's department to  
5 want to be careful in approaching Mr. Hennefer when  
6 family members have reported that he's used  
7 methamphetamine, and methamphetamine can lead to  
8 aggressive or violent behavior in some people?

9 A. I think that sheriff's deputies should always  
10 beware of things that could affect their safety, their  
11 officer safety at a scene. So, yes, they should be aware  
12 of that.

13 Q. Are you critical that Officer Saechao requested a  
14 K9 unit to the scene?

15 A. No.

16 Q. Are you critical that the K9 was deployed during  
17 the scene?

18 A. No.

19 Q. Going back to page 12 of your report, opinion No.  
20 10, you're critical about Officer Saechao not requesting  
21 that the other deputies at the scene put away their guns.

22 MR. DWYER: Counsel, let me just -- I don't see  
23 your citation. Are you looking at page 10 of the report?

24 MR. GROSS: Page 12, opinion No. 10.

25 MR. DWYER: I'm sorry. Thank you.

1 THE WITNESS: Just waiting for a question on that.

2 MR. GROSS: Q. Yes. So page 12, opinion No. 10,  
3 why are you critical that -- about Officer Saechao not  
4 requesting the other deputies put away their guns?

5 A. Saechao was the acting supervisor for the watch  
6 that day. He responded to the scene, and clearly is --  
7 at least initially -- the officer in charge. So he's got  
8 the seniority, and he's been placed in this acting role  
9 as the day shift supervisor.

10 When you are placed in the role as a  
11 supervisor, it's your job to control the actions of the  
12 deputies or officers that you're supervising.  
13 Deputy Saechao wrote in his statement all the things that  
14 he did in order to deescalate the situation.

15 And in fact, I think he did a good job: He  
16 put his hands out; he tried to talk to him; he tried to  
17 persuade Mr. Hennefer. Yet, at the same time, he's got  
18 the younger, more inexperienced officers at the scene  
19 with their guns out and they're yelling at Mr. Hennefer,  
20 and escalating him rather than deescalating him.

21 So my criticism of him would not be his own  
22 actions, which I felt were proper and could have helped  
23 alleviate this situation, but he failed to recognize his  
24 duty as a supervisor is to also control the actions of  
25 the deputies on the scene.

1           And it would have been proper for him to say,  
2       "Hey, guys. Let's back away from here a little bit. Why  
3       don't you guys holster up. Let's try to talk to him and  
4       negotiate with him and see if we can calm him down that  
5       way."

6           In fact, that was one of the recommendations  
7       from the family at the scene. They said that  
8       Mr. Hennefer said, "If they could just put the guns away,  
9       I'll talk to them." And again, he hadn't done anything  
10      at that point that required guns to be pointed at him.  
11      He's a misdemeanor suspect.

12          So I initially appreciated Deputy Saechao's  
13      response, and I could see that he had some training and  
14      experience. He just failed to control the actions of the  
15      deputies that he was supervising.

16          Q. Well, do you know why Deputy Saechao felt  
17      comfortable not drawing his firearm and trying to  
18      communicate with Mr. Hennefer?

19          A. I imagine that he was trying to follow Policy 428,  
20      which talks about deescalating someone and not escalating  
21      them; not threatening them unnecessarily. And, again,  
22      I'm making a bit of a guess here, but that's really what  
23      that sounds like. That he recognizes, "Let's see if we  
24      can calm this situation down. And let's -- let's be  
25      reasonable here."

1           And so I have -- in honesty -- a little bit of  
2 a guess there, and I can't really place myself in his  
3 mind, but that's what it seems to be, in my experience.  
4 When someone comes up to the scene and uses calm language  
5 and open stance and talks to someone trying to use  
6 persuasion rather than yelling at them, in general, that  
7 officer will be more successful.

8           There's certainly times for yelling and taking  
9 action and nothing stops you from escalating a situation.  
10 But once you have, it's much harder to deescalate after  
11 that.

12         Q. Well, I believe he also testified that he felt  
13 comfortable not drawing his firearm because he knew that  
14 he had lethal and less-lethal cover behind him. So he  
15 didn't need to draw his own firearm because he had that  
16 cover from other deputies at the scene.

17           Is that a -- a reasonable explanation for why  
18 Deputy Saechao wouldn't draw his firearm, is because he  
19 knows he has cover behind him?

20         A. To definitively answer that question, I would have  
21 to go back to his statement and look at it and read it.  
22 I'm not doubting what you're saying, but I'm not exactly  
23 sure at this point.

24           MR. GROSS: David, I don't have any further  
25 questions for you.



1 THE WITNESS: Thank you, Matt.

2 MR. DWYER: David, I do have questions for you.  
3 Why don't we take a five-minute break; just a short  
4 break, and we'll get back together, like, 3:30. I should  
5 be done hopefully within 20 or 30 minutes.

6 THE WITNESS: That sounds fine.

7 MR. DWYER: Thank you.

8 (Recess taken.)

9 MR. DWYER: There's no real good way to go through  
10 these questions. I'm going to go through them in reverse  
11 order starting with the last subject.

12

13 EXAMINATION BY MR. DWYER

14 MR. DWYER: Q. Mr. Sweeney, recalling the  
15 questions and your testimony about the actions of  
16 Deputy Saechao, do you recall testimony by Mr. Hennefer's  
17 sister, Tara Hennefer, that Deputy Saechao also had his  
18 gun pulled out pointed at Mr. Hennefer, contrary to  
19 Deputy Saechao --

20 THE REPORTER: Counsel, can you repeat that. You  
21 broke up a little bit there.

22 THE WITNESS: I agree.

23 MR. DWYER: Madam Reporter, do you need me to  
24 repeat that?

25 THE REPORTER: Yes.

1 MR. DWYER: Q. Mr. Sweeney, do you recall  
2 testimony by Tara Hennefer that conflicted the statements  
3 by Deputy Saechao about what he was doing when she  
4 arrived at the incident scene? And particularly that  
5 Deputy Saechao also had his gun out pointed at  
6 Mr. Hennefer and was also yelling commands at  
7 Mr. Hennefer.

8 A. From what I remember of her statement, she said  
9 that all the officers at the scene had their guns out and  
10 were yelling at Mr. Hennefer.

11 Q. And so if a jury might find Deputy Saechao's  
12 testimony convincing and accepted Tara Hennefer's --  
13 assuming Tara Hennefer's testimony is what actually  
14 occurred, would that be an indication that Deputy Saechao  
15 also acted incorrectly in his response to Mr. Hennefer?

16 A. Just waiting for the question.

17 Q. Did you not hear me?

18 A. Did I hear you. I didn't hear a question.

19 Q. All right. Would Tara Hennefer's testimony --  
20 assuming it is accepted by the jury as being the accurate  
21 testimony -- would that indicate that Deputy Saechao  
22 acted unreasonably by keeping his gun pointed at  
23 Mr. Hennefer and yelling commands at him?

24 A. It would certainly add to that argument -- yes --  
25 that participating in the guns-out response to a

1 misdemeanor subject would, in my view, be unreasonable.

2 Q. With regard to the K9 that was at the incident  
3 scene, do you recall reading in either the incident  
4 report or in some of the testimony about the K9s barking?

5 A. Yes.

6 Q. And do you recall that being a concern of  
7 Mr. Hennefer? He was concerned about the dog, and he was  
8 made nervous by the dog?

9 A. Yes, I do remember him stating that. I believe  
10 someone that was on the phone, which I believe was his  
11 wife, and she was trying to relay that to officers at the  
12 scene, possibly through 911.

13 Q. Okay. A few minutes ago Mr. Gross asked you  
14 whether or not you thought there was a problem with  
15 Deputy Saechao having asked the K9 unit to come to the  
16 incident scene, and you responded no, you thought that  
17 was an appropriate direction by Deputy Saechao; is that  
18 correct?

19 A. Yes.

20 Q. Was there something further that Deputy Saechao  
21 should have done to keep the K9 from barking at  
22 Mr. Hennefer?

23 A. Yes. You could keep the dog in the car until you  
24 actually need it for an arrest-type situation where it  
25 would be appropriate to deploy a police K9.

1 Q. Looking at page 24 of your report, item No. 5 --  
2 let me get there.

3 A. All right. Go ahead.

4 Q. That paragraph talks about, you know, officers --  
5 a peace officer's obligation to protect members of the  
6 public; is that correct?

7 A. Yes.

8 Q. And would you consider Mr. Hennefer a member of  
9 the public?

10 A. Yes.

11 Q. And when you wrote this paragraph No. 5, you also  
12 had in mind that there was a duty on the part of the  
13 Yuba County Sheriff's Department to -- to try and come to  
14 the aide and/or protect Mr. Hennefer, or at least try to  
15 prevent harm to him to the extent that they could; is  
16 that correct?

17 A. Yes.

18 Q. There was some discussion earlier on about the  
19 barricaded suspects. Do you recall that?

20 A. Yes.

21 Q. And I think you talked about SWAT teams and  
22 dealing with barricaded suspects in a house. My question  
23 to you is: Was Mr. Hennefer "barricaded" in the same way  
24 when he was in his vehicle?

25 A. No.

1 Q. Would you consider Mr. Hennefer to have been a  
2 barricaded suspect at any time during the incident?

3 A. No.

4 Q. There was some discussion earlier about deputies  
5 creating an exigency and that police generally try to  
6 have a policy and train and go through training so they  
7 don't create their own exigencies whereby either other  
8 officers, other members of the public might be hurt. Do  
9 you recall that discussion?

10 A. I do.

11 Q. Do you think Deputy Eck and the other officers  
12 that pulled their guns on Mr. Hennefer and started  
13 yelling commands at him, in effect, created an exigency  
14 when they did that?

15 A. No. They weren't taking an action that put them  
16 in such harm's way that they then had to use force  
17 because of where they put themselves or what actions they  
18 took. So I'll say no.

19 Q. Okay. So you're differentiating exigency from  
20 your other opinion that the actions of the deputies in  
21 having their firearms pointed at Mr. Hennefer was  
22 unreasonable and in violation of Policy 428. Two  
23 different things: Exigency and not abiding by 428; is  
24 that correct?

25 A. Correct. I don't believe that the deputies there

1 at the scene created a dangerous situation where they  
2 would then be forced to defend themselves.

3 Q. I just wanted to clarify that for the record.  
4 Thank you.

5 Mr. Gross asked you a series of questions  
6 about the deployment of less-lethal when the Yuba County  
7 sheriffs finally did make its approach to the vehicle.  
8 And there were not particular times stated by Mr. Gross  
9 or referred by Mr. Gross as to when that occurred. And I  
10 just want to have you look at the CAD detail, if you can.

11 Can you tell me what was the timestamp for  
12 when the flashbang grenade was deployed?

13 A. 16:26 Deputy Saechao made an entry deploying  
14 less-lethal. Now, that could be the bean bag shotgun,  
15 too, which would also be considered less-lethal. So let  
16 me continue to look at this.

17 What I'm looking at right now is the timeline.  
18 And that's the only thing I see right now between 16:20  
19 hours and 16:30 hours. So it -- at least in this, it  
20 doesn't say what that less-lethal is. So that could  
21 easily refer to the bean bag shotgun and trying to break  
22 out the rear windows.

23 Let me bring up the actual CAD, which might be  
24 a little bit harder to find.

25 Q. Well, actually, I think my question is going to

1 be -- where I'm going is -- you don't need to do that. I  
2 was just trying to establish that the less-lethal  
3 deployment by the Yuba County Sheriff's Department  
4 occurred in the 16:20, 16:30 time frame; correct?

5 A. I would agree with that.

6 Q. And earlier you had been asked some questions  
7 about when you might have recommended when to first  
8 approach the vehicle. And you had mentioned that the --  
9 that the deputies could have deployed less lethal upon  
10 approach to the vehicle. In other words -- in other  
11 words -- let me go back and reframe the question.

12 What I'm trying to get at here is, I  
13 understand your testimony is that it's your opinion that  
14 Yuba County Sheriff's Department could have approached  
15 the vehicle much earlier than 14:20 [sic]?

16 A. That is correct.

17 Q. And it's my understanding that it's your opinion  
18 that they could have approached the vehicle, you know,  
19 certainly within one or two circles of the CHP 21  
20 airplane reporting no movement in the vehicle?

21 A. That would be reasonable.

22 Q. Okay.

23 A. Wait for a couple passes; you know that he's  
24 stuck; you don't see him exiting the vehicle and running  
25 away or anything like that and get that intel from the

1 airplane operator. And if it appears that now we've gone  
2 around twice now and he's still not moving, that might be  
3 a good time to move up.

4 And, again, there's good methods and bad  
5 methods of doing that, but move up to that vehicle and do  
6 your due diligence and check and see if there's some aid  
7 that's needed by the individual.

8 Q. And I just want to make sure I understand when you  
9 say -- well, Mr. Gross asked you a number of questions  
10 today about deputies' concern for their own safety. And  
11 you've indicated of course that is a significant factor  
12 that goes into any incident like this.

13 But with regard to actually making an approach  
14 upon the vehicle after CHP Air 21 had circled a couple  
15 times and reported no movement, weren't the same methods  
16 that were deployed an hour, almost an hour and a half  
17 later, could they not have been deployed, approximately,  
18 3:05, 3:10 range with having the deputies move up to  
19 Mr. Hennefer's truck and a cruiser get 30, 40 yards away,  
20 maybe fire a less-lethal round or flashbang grenade or  
21 something like that to again ensure their safety?

22 A. Absolutely. The point I was trying to get across  
23 is that, at some point, YCSD needed to move up to that  
24 vehicle and check on him. And you could pick your  
25 time frame.



1 I think a reasonable time would be after the  
2 CHP airplane has circled a couple times. I think that's  
3 a great time to move up. When you know about his medical  
4 history, his use of drugs and that he's now not moving,  
5 behind the wheel, or you could wait an hour and a half,  
6 or you could wait three hours, or you could wait  
7 six hours.

8 Nothing changed between the first couple  
9 passes of the airplane that says he's not moving. And,  
10 again, this is, in theory, moving up six hours later.  
11 There was no change.

12 And, again, let's put it back in the realistic  
13 standpoint here. There's nothing that changed between  
14 15:05 and 16:20. So why was it unsafe at 15:05 hours but  
15 it's safe now at 16:20? Nothing changed. You still have  
16 to go up to the vehicle. So why not do it when someone  
17 might actually use your help?

18 Q. And my question was specifically directed to -- to  
19 that the deputies had the same options for additional  
20 safety measures to protect themselves at 3:05, 30:10  
21 [sic] as they did at an hour and 20 minutes later.

22 I was speaking in regular time so that, you  
23 know, between 15:00 hours and, you know, 16:20 hours and  
24 between 3:00 and 4:00. Do you understand?

25 A. I do. The only thing I would need to check is

1 when did that ballistic blanket arrive. That might have  
2 been something that changed between moving up when I  
3 thought it was reasonable and when they did.

4 Oh, 15:20, Deputy Zepeda's en route with the  
5 shield. Might be a little late at that point, because at  
6 15:18, Air 21 says there's no change or movement for the  
7 last four orbits.

8 So now they've got at this point, one, two,  
9 three, four, five, six -- six initial entries from  
10 Air 21. And I won't name all the times, but they run  
11 between 15:05 hours and 15:12. And then, again, at  
12 15:18, we have four more orbits. So they kind of lumped  
13 several orbits into one.

14 In other words, what they're doing is, they're  
15 not seeing any change. And they're saying, "We don't  
16 need to announce this every time. We've done four  
17 passes," and at 15:18, they then announce to YCSD, "We're  
18 still not seeing any movement. We've gone four more  
19 times since the last time we told you."

20 So if you continually wait for every last bit  
21 of safety equipment until you've decided it's safe to  
22 move up, your opportunity might have passed. I don't  
23 know when he died. I'm not an expert in that.

24 But I would say this: That the sooner you  
25 moved up, the better chance they had of saving his life

1 as opposed to waiting. And that's why I'm concerned that  
2 we're going to wait all the way until at least 16:20 or  
3 16:26, depending on what entries we're looking at this.

4 But if we can't move until we have a shield,  
5 there's still things you can do: You have a car with an  
6 engine block; you could move two cars up; you could have  
7 people walk behind it. I did not know about the sniper,  
8 but that's something definitely an overwatch that -- that  
9 and the drone, you have those two pieces of intel that  
10 could tell you if there's a threat to your safety. And  
11 that's your time to withdraw or to take necessary steps  
12 to use reasonable force.

13 So it's a long-winded answer, but you're never  
14 going to make a law enforcement scene 100 percent safe.  
15 There is no such thing. You cannot achieve that. You  
16 can, however, take steps to keep yourself reasonably safe  
17 and still accomplish your law enforcement purpose.

18 In this case, to move up and help someone that  
19 possibly overdosed or possibly passed out or possibly  
20 died because of health issues, heart issues, use of  
21 narcotics.

22 Q. Would it be fair to say that the report by  
23 Detective Mullins, who is doing the negotiations, her  
24 report to Captain Million, and possibly other officers at  
25 the scene, that she was concerned about medical distress,

1 wouldn't that create some urgency to move in to check on  
2 Mr. Hennefer?

3 A. It should have created urgency, and apparently it  
4 didn't. And in the deposition Sheriff Anderson said,  
5 "Hey, that's just one opinion from one deputy at the  
6 scene." Well, that's kind of a short-sided response,  
7 because this is your primary communicator and your  
8 primary collector of information about Mr. Hennefer and  
9 his condition. And why have a negotiator and ignore what  
10 they say and chalk it up to, Hey, that's just one  
11 deputies opinion?

12 No one knew. She's all out on her own on  
13 this. She's out on an island. I don't know why he's  
14 saying that. I thought it was very short-sided.

15 Q. It's my understanding of the incident report that,  
16 at the initial phase of the incident, that Deputy Eck,  
17 Aguirre, Thorpe and Saechao kept their guns pointed at  
18 Mr. Hennefer, and they kept them pointed at him until he  
19 actually backed up and started backing down the roadway  
20 from them to where he ultimately got stuck in the ditch;  
21 is that correct? Is that your understanding?

22 A. Yes, as far as I understand.

23 Q. I'm going to jump to another topic, which was to  
24 Policy 428. And you and Mr. Gross had a discussion about  
25 the language of 428 and whether there was -- the language

1 was mandatory or permissive. In other words it shall do  
2 the following things or shall not do these things, and/or  
3 should generally do or not do these things. Do you  
4 remember that discussion?

5 A. I do.

6 Q. The question arose in my mind, Policy 428 is a  
7 written policy document; correct?

8 A. Yes, it is.

9 Q. But it's not -- it doesn't substitute for actual  
10 field training, does it?

11 A. No.

12 Q. So doesn't it make sense that the way you minimize  
13 the -- any ambiguity or learn how and when to follow the  
14 policy is by doing field training exercises so that  
15 deputies can act out through a scenario with an actor so  
16 that they can understand what the policy is trying to  
17 tell them about what they should or should not generally  
18 do?

19 A. Just waiting for a question.

20 Q. So my question to you is: Would it be fair to say  
21 that the absence of field scenario training -- as  
22 reported elsewhere in your report -- leads Policy 428  
23 rather barren and leads deputies confused as to what they  
24 should do because they've not actually been trained on  
25 what it means; they've not had to act it out?

1 MR. GROSS: Objection. Calls for speculation.  
2 Object to the form.

3 MR. DWYER: Q. Do you understand my question,  
4 Mr. Sweeney, or do you need me to rephrase?

5 A. No, I understand it. I -- I don't think I could  
6 definitively say that the deputies are confused by the  
7 policy.

8 Q. Confused was probably not a good word. Would you  
9 say that in order for them to actually understand the  
10 policy, and an ability to implement the policy, field  
11 training is necessary?

12 A. It has been my experience in the Seattle Police  
13 Department as a multi-tier member of the training cadre,  
14 that adult learners, specifically police officers that I  
15 have the most familiarity with, it's one thing to explain  
16 a policy to them. I've done it 100 times in roll call,  
17 and I generally try to pull a training topic and talk  
18 about it that day. But it's just for discussion sake,  
19 and it's designed to get conversation flowing.

20 But if you really want someone to be able to  
21 look at a policy and figure out why it's there, it also  
22 helps to have two things: One: Someone of supervisory  
23 rank, whether it's a sergeant or lieutenant or captain to  
24 reinforce the ideas that are contained within that  
25 policy.

1           So, example, 428, it would be one thing for  
2 the officer just to read the policy, and then to -- you  
3 hope that they understand it or you just hope that they  
4 then employ the various wording within the policy out on  
5 the street.

6           But if you really want them to do well with  
7 the policy, I suggest that you train them in a classroom  
8 and then say, "Great. Now that we understand this, here  
9 is management's perspective on this. This is why we have  
10 this language here. These are our expectations of what  
11 you should and should not do. We, cannot, obviously  
12 cover every situation out in the street, but let's now go  
13 out in the field and we'll do some scenario training."

14           And this is really where you get to see police  
15 officers, sheriff's deputies put those practices into  
16 action. And you can show them that by taking steps A, B  
17 and C, you're giving yourself a greater chance of being  
18 successful with the outcome.

19           Likewise, if you consider that you need to do  
20 steps D, E and F, and you ventured down this path, this  
21 leads to difficulties for you. Either you've placed  
22 yourself in an unsafe situation, or you're now required  
23 to use force against someone that maybe if you would have  
24 done something else, you wouldn't have had to use force  
25 against them. Or maybe now they've hurt or killed an

1 officer.

2 Or maybe you've now turned what was something  
3 small and could be handled by a couple officers now into  
4 a day-long call-out with 20 different officers and  
5 command staff and something small became super  
6 complicated.

7 I'm giving you, obviously, some for instances  
8 there, but the main idea that I'm trying to get across is  
9 we teach these policies in the classroom, but then we put  
10 them into action and commit them to muscle memory by  
11 taking them out in the street and give them scenario  
12 training so they practice what they learned. That's how  
13 you commit something to memory.

14 And then when they find themselves in a real  
15 life situation, they say, "Hey, I've been through this  
16 before. I trained in this policy. I trained in this  
17 scenario, and I know something that might work or  
18 something that might not work." It goes both ways.

19 And that's my expectation of field-scenario  
20 training. It really helps you put those practices into  
21 effect, and it can help an officer become much more  
22 successful than simply reading a policy.

23 Q. And is it your opinion that the absence of  
24 field-scenario training as discussed in the various  
25 documents and depositions in this case was a factor in



1 the -- the actions by Deputy Eck and the other deputies  
2 that originally arrived on the scene that did not follow  
3 Policy 428? They pulled their guns. They yelled  
4 commands.

5 In other words, do you connect the absence of  
6 field-scenario training with what actually happened in  
7 the field with Deputy Eck, Deputy Aguirre, Deputy Thorpe,  
8 Deputy Saechao?

9 A. I do. Because if you look at what happened in the  
10 scene and how they decided to initially handle that and  
11 where it started to go wrong, and then what made it  
12 worse, now what if we had given somewhat of a similar  
13 training scenario.

14 Obviously you can't design a training scenario  
15 that covers 100 percent of the things an officer, deputy  
16 may uncover out in the field. However, you can help them  
17 learn a skill and be able to practice that skill and to  
18 put those skills to use out in the field.

19 And that's why you need that field training  
20 that really emphasizes the department's expectations;  
21 what does the manual say, and this is what we expect out  
22 of you.

23 Q. Let me look over my list of questions. I have a  
24 few left. Let me try to pick the ones that are  
25 significant here.

1           With regard to your experience and expertise  
2 and dealing with persons with suicidal ideation, is it --  
3 I don't want to say typical -- or is it appropriate in a  
4 circumstance where you're -- an officer is facing or  
5 interacting with a person who has expressed suicidal  
6 ideation to pull their weapon and point it at them? And  
7 if you need to elucidate that a little bit, please  
8 go ahead.

9           A. There are situations -- and I can think of them in  
10 real life, and I can think of them also in training --  
11 where someone is expressing suicidal ideation, but the  
12 method that they've chosen or the tool that they've  
13 chosen or the design that they've chosen to end their  
14 life now places the officer in danger.

15           There are reasonable actions that we train  
16 officers to keep themselves safe. And now if we get to a  
17 situation where I have a team of officers dealing with  
18 someone that is holding a gun to their head -- and I can  
19 think, we've done this in training and it's been in real  
20 life -- a person sitting in a park on a park bench and  
21 they got a gun held to their head, or I remember one  
22 holding under the neck, and whether we designed it and  
23 trained it or whether we actually see this in the field  
24 in real life, I do not want any officer killed because  
25 they were not prepared to use deadly force in that

1 situation.

2 If someone's going to arm themselves and they  
3 are prepared to take their own life, I think it's very  
4 reasonable to consider that they might also do one of two  
5 things: Either take you with them, meaning shoot at you;  
6 or, two: To present the weapon in your direction, and  
7 then we get into the suicide by cop that we discussed  
8 earlier.

9 So neither one of those scenarios is ideal.  
10 In fact, they're very difficult and hard for any officer  
11 to deal with, having to use lethal force against someone  
12 that's threatening their own life.

13 But in the situation like that, there are  
14 methods that an officer must take to protect themselves.  
15 And if that means pulling out your weapon just in case  
16 the subject decides that you're next and you have to  
17 defend your life, I'm not going to ever deny an  
18 opportunity for an officer to save their own life or that  
19 of their partner.

20 Q. Thank you. That's helpful.

21 And could we then just briefly extrapolate the  
22 principles or conflicts you just enunciated with the  
23 situation with Mr. Hennefer at the beginning of the  
24 incident in this case.

25 It's my understanding that he never threatened

1 any of the deputies. He never used a weapon or anything  
2 to assault any of the deputies. And he drove the vehicle  
3 slowly forwards and backwards, but not in a manner to try  
4 and strike an officer.

5 In that situation where they hear him express  
6 a suicidal ideation like "Just shoot me," was that an  
7 appropriate place where they could -- they should pull  
8 they're guns out to protect themselves? If not, how was  
9 that different from what you just described?

10 A. That would not be an appropriate time to you pull  
11 your gun and point it at the subject. As I explained  
12 several times in the report, that was an inappropriate  
13 overreaction to the facts that the officer was given.

14 Deputy Eck was up at the vehicle, and now  
15 Mr. Hennefer's refusing to get out of the vehicle. He's  
16 refusing to obey the commands. I understand that.

17 And there are reasonable officer safety  
18 concerns. And Matt and I discussed this earlier. I do  
19 not at all deny that the officer saw the red dot sight  
20 within the vehicle. I also do not deny that there was,  
21 potentially, a knife between the seat and the console.

22 But I also have to rely on the idea that  
23 Mr. Hennefer was actually fairly passive. And what I  
24 mean by that is, he made no active aggressive moves  
25 towards the officers. He didn't pull the knife and then

1 try to threaten the officer in order to force the suicide  
2 by cop. He didn't say anything about, "I'm going to now  
3 attach my red dot sight to this gun I've got, and I'm  
4 going to take you out."

5 There was discussion of him reaching around  
6 the vehicle. I fully recognize the officer safety  
7 concerns there. In general we do not want someone  
8 reaching around in a vehicle. But if what you're  
9 reaching around for is a knife, that's a lot easier to  
10 deal with than someone reaching around and pulling out a  
11 gun. Knives can be dealt with at a distance.

12 And you have the advantage as an officer.  
13 You're armed with a firearm, and you just maintain your  
14 safe distance. And if someone gets out of a car with a  
15 knife in their hand, I'm going to address them. I'm  
16 going to tell them to drop the knife.

17 This is not a time for deescalation. This is  
18 a time for command and control, which I discussed  
19 earlier. This is a time for pull out my weapon and  
20 pointing at the subject or have it at the low ready. And  
21 warning them if they come closer to me, I will use lethal  
22 force to stop them. Or if they come close to my partner  
23 I'm going to protect my partner or member of the public.

24 So that's, obviously, a time we need to give  
25 the warning and tell someone the consequences of

1 violating that.

2           It was interesting to me in reading  
3 Deputy Eck's report and statement and his deposition that  
4 he was aware of the red dot sight, but by far the knife  
5 seemed to be his biggest concern. I know that he looked  
6 in that vehicle. He said that he did. He noted what he  
7 observed. He was unable to locate any other weapon. So  
8 I think the knife is the biggest concern for him.

9           So if someone's just sitting in a vehicle and  
10 they're just driving away -- so we have a couple  
11 misdemeanors here. We have, potentially, the initial  
12 trespassing, technically a crime but probably not  
13 something that someone's going to be arrested for. I  
14 agree with let's just release him to the family member.

15           We also have the misdemeanor of, potentially,  
16 DUI on drugs. That's a little more serious because you  
17 potentially have a threat to the public if you're driving  
18 while you're on drugs. But, again, it's a misdemeanor.

19           So what is he protecting himself against  
20 there? I still don't know to this day. He correctly  
21 notes that the vehicle drives slowly up and down the  
22 street.

23           And let me get back to these what I call  
24 passive actions by Mr. Hennefer. He's not trying to run  
25 an officer over; he's not spinning his tires; he's not

1 speeding at high speed; he's not ramming through the  
2 vehicle. He obviously seemed confused and affected by  
3 use of drugs and/or his mental health.

4           Consequently, he drives slowly up and down the  
5 driveway until he gets -- or up and down the road until  
6 he gets stuck. To me, pulling a weapon in that case is  
7 an officer overreacting. It's an officer that found  
8 someone disobeying their orders, but if you've been up to  
9 the vehicle already and you've spent time with him;  
10 you've talked to him face to face; you even handed a cell  
11 phone back and forth as you talked to someone on the  
12 other line; you walked alongside the vehicle.

13           You mentioned that as the vehicle's going up  
14 and down, clearly the officer safety considerations  
15 weren't high enough to require someone to now yell and  
16 scream and point guns at someone.

17           I think it clearly made the situation worse  
18 for Mr. Hennefer and really rendered him unable or  
19 unwilling to comply further. That's, kind of, my  
20 assessment of the officer safety concern and the improper  
21 pulling of the weapon and using it to threaten  
22 Mr. Hennefer.

23           You can't shoot someone for committing a  
24 misdemeanor. And he never stated that his life was in  
25 danger and that he would then use lethal force in order

1 to protect it.

2 Q. Simple question: Was the mere presence of a knife  
3 in the truck a criminal violation? In other words, is it  
4 against the law to have a knife in the truck?

5 A. Not that I'm aware of.

6 Q. I just want to clarify. Early on in your  
7 testimony you were asked some questions about your own  
8 personal experience with situations somewhat akin to that  
9 with Mr. Hennefer where you're dealing with -- you  
10 one-on-one, dealing with persons who are intoxicated  
11 and/or have mental health issues.

12 And I just wanted to clarify for the record.  
13 Do you actually have personal instances where you  
14 successfully deescalated and talked down a person who was  
15 intoxicated and/or mentally ill?

16 A. Yes. Plenty of personal examples.

17 Q. Are there any of the dos and don'ts in Policy 428  
18 that you recall offhand that were methods or techniques  
19 that you employed in those personal circumstances where  
20 you did talk down or resolve peacefully a person who was  
21 intoxicated or mentally ill?

22 A. Yes. There were several things that I looked at  
23 in that policy that I have found personally to help me or  
24 a team that I'm in command of be successful and -- and  
25 gain a good outcome. And for me, a good outcome means



1 you still accomplish your law enforcement purpose and you  
2 didn't have to hurt anybody to do it and no officer got  
3 hurt.

4 Q. Do you recall any of those particular dos and  
5 don'ts that you thought were really -- stand out in your  
6 mind as being most important to your interactions with  
7 the people you described?

8 A. Sure. There's plenty of them here. I like the  
9 definition of a person in crisis. 428.1.1. "A person  
10 whose level of distress or mental health symptoms have  
11 exceeded the person's internal ability to manage his or  
12 her behavior or emotions."

13 This clearly applied to Mr. Hennefer. He fell  
14 right into this scenario, both because of his use of  
15 narcotics and his mental illness.

16 So it's good to recognize someone that might  
17 be suffering from being in crisis. And it helps me  
18 remember many of the people that I've dealt with. And we  
19 always have a saying in police work that to us it's just  
20 another day. It's just another call. But this person  
21 that you're dealing with, this might be the worst day of  
22 their life. And it always behooves me to remember that.

23 So I like that definition in 428.1.1.

24 Let's move on. 428.3. The signs of mental  
25 illness or person in crisis. I won't read all those, but

1 just know that in 3, it's been my personal experience and  
2 my training experience that I can see all of these  
3 categories, A through J, at one point or another in  
4 scenarios that I've been a part of, whether in real life  
5 or in training. And it's good for officers to keep those  
6 ideas in mind.

7 428.4, this is one of the biggest changes. I  
8 talked about going to crisis intervention training three  
9 times in my career. Three 40-hour classes. And this is  
10 the biggest change I saw between my two earlier classes  
11 with the Seattle Police Department and my last class that  
12 I went to with the Oregon State Police Department.

13 It became apparent to me that the Corvallis  
14 Police Department did a great job working with community  
15 resources to provide those people an opportunity to come  
16 and meet with police officers and to kind of outline some  
17 of the difficulties and issues that people in crisis can  
18 experience and how officers can help them.

19 Not only that, we actually had people who were  
20 suffering currently from mental health issues, and they  
21 came and talked to us about what worked for them in  
22 dealing with law enforcement and what didn't work.

23 And those were good things for me to keep in  
24 mind. So I can appreciate that part of the policy, that  
25 you want to collaborate with mental health professionals

1 to develop that education response protocol. That's  
2 excellent language.

3 Certainly 428.5, I think it's really important  
4 to recognize that people under the influence of alcohol  
5 or drugs may appear very similar to someone who's in a  
6 mental health crisis. Which one is it? Sometimes we  
7 don't know, and quite often, frankly, it's a combination  
8 of both of them.

9 I wish that 428.5 (a) was more prominently  
10 featured, particularly with Deputy Eck. But, frankly,  
11 a lot of the deputies at the scene to recognize that do  
12 we have a mental health crisis here? Is this why he's  
13 behaving a certain way? Is this why he's refusing my  
14 order to get out of the car? Is this why he's driving up  
15 and down the road?

16 And if you reframe those things and you move  
17 away from, "Oh, this guy's disobeying me. I get to pull  
18 my gun," and you realize, "Oh, wait a second. What we  
19 have is some type of mental health crisis," and then  
20 later you learn about the narcotics use, those go hand in  
21 hand. And if you keep that in mind, that might help you  
22 be more successful and possibly avoid escalating rather  
23 than deescalating, which I've talked about several times  
24 today.

25 I appreciate (b) there. To get backup

1 deputies and specialized resources. I actually thought  
2 that Deputy Saechao did a good job with that. What I  
3 wish that he had done better is the second part of (b)  
4 using conflict resolution and deescalation techniques to  
5 stabilize the incident as appropriate with Mr. Hennefer.

6 But I wish that he had recognized that it's  
7 going to be difficult for him to get through, to reach  
8 Mr. Hennefer to communicate with him on a one-on-one  
9 basis when the subject's worried about guns and dogs,  
10 right? Which one's more important to him at that time?  
11 Probably the guns and dogs, and you're not going to get  
12 a lot of cooperation when his mind is focused on, "I'm  
13 going to get shot" or "I'm going to get bit."

14 (d), Matt and I talked about getting the RAP  
15 sheet, but I didn't see any mention in any of the  
16 deputies' statements that they attempted to determine if  
17 Mr. Hennefer was the registered owner of a firearm. That  
18 would have been something that might have been helpful  
19 for them to know.

20 We talked about (e) before. Again, it's  
21 telling you -- it's telling the officer, remember, that  
22 their mental and emotional state and potential inability  
23 to understand commands or to appreciate the consequences  
24 of his or her action or inaction as perceived by the  
25 deputy, it's important for deputies to take this into

1 account and remember that.

2 That might be why someone is not cooperating  
3 with you. It might be intentional, but it might be  
4 because they can't understand your commands.

5 (h), clearly I wish that Deputy Eck and the  
6 other responding deputies, and, in fact, command staff  
7 had determined the nature of any crime. If everyone  
8 could just back up a second, calm things down and  
9 realize, "Wait a sec. We're dealing with a misdemeanor  
10 subject here. Do we really need everyone pointing guns  
11 at him? Yelling at him? Dogs barking? Are we creating  
12 a situation and making it worse when we're dealing with a  
13 couple misdemeanors?"

14 When we get into Section 428.6, clearly the  
15 description of deescalation I like. I can identify with  
16 most all of these bullet points here. I won't read them  
17 all, but I think that this section really captures the  
18 idea of what things might be successful for an officer to  
19 successfully negotiate these circumstances. Someone in  
20 crisis, especially when they're combined with drug and  
21 alcohol use.

22 And Matt and I discussed this generally. And  
23 I think you and I even touched on it too. Yes, that is  
24 somewhat problematic language. Might an officer say,  
25 "Now, I don't have to do any of these things because look

1 at these words up here. It just says, I should generally  
2 do this. It doesn't say that I have to."

3 If an officer relies on that language, they're  
4 really selling themselves and the public short. They're  
5 going to find themselves in situations where they're more  
6 unsuccessful than they are successful, because I believe  
7 it's my experience, it's my training, that these things  
8 that you see here in 428.6, if they had been used more  
9 effectively during this scenario, we might have seen a  
10 successful outcome.

11 Q. Thank you. Do you have anything further?

12 A. I -- you know, I'm not going to get into as much  
13 detail. I can tell it's probably time to wrap this up,  
14 but let's just say I -- I -- I think this is a really  
15 well-written policy other than some of the "shoulds"  
16 rather than "shall."

17 But that being said, I like the section on  
18 supervisor responsibilities. And then it's really  
19 important to follow up after these events to make sure  
20 that we recognize what we could do better in the future.  
21 That's how you help officers learn: Create a good  
22 after-action report and discuss it with everyone who was  
23 there at the scene and say, "Okay. Here's what we did  
24 right on this. But let's be critical of ourselves so we  
25 can do it better next time. Here's what we did wrong."

1           And I'm of the mind that this can help a  
2 department become more successful in dealing with people  
3 in crisis.

4           Q. Do you recall in these after reviews that there  
5 was testimony that no after-action report was prepared  
6 about this incident?

7           A. I do remember that. Deputy Mullins prepared an  
8 after-action report, but it's part of her role as the  
9 crisis negotiator. What this is talking about is helping  
10 everyone at the scene get better by doing this  
11 after-action report. Involve more people in it, not just  
12 the negotiator.

13          Q. So my question is: Do you think the Yuba County  
14 Sheriff's Department should have done a more complete,  
15 more thorough after-action report after this incident?

16          A. Yes.

17          Q. All right. And last question: Is it your opinion  
18 that had the deputies that responded to the incident  
19 scene been more properly trained in Policy 428, in  
20 particular more classroom and field scenario training,  
21 that there's a good likelihood that Mr. Hennefer would be  
22 alive today?

23          A. Yes, I do believe that. I thought that their  
24 training records -- particularly the newer officers that  
25 were first on the scene -- really showed deficiencies in

1 the amount of training that they've received.

2 You can't just rely on, "Well, he went to the  
3 academy a few years ago. They should be good to go."  
4 No. You should keep up with your training every year and  
5 incorporate that field training to really help the adult  
6 learner put those practices into action so that they can  
7 help them make better choices next time.

8 MR. DWYER: Mr. Sweeney, thank you. I have no  
9 further questions. Mr. Gross?

10 MR. GROSS: Nothing else.

11 MR. DWYER: Thank you so much for coming today.  
12 Thank you, Matt.

13 MR. GROSS: We can go off the record.

14 THE REPORTER: Can I just ask you guys on the  
15 record if you want transcripts.

16 MR. GROSS: I'll take one.

17 MR. DWYER: Yes. I just need the electronic PDF.  
18 No indexes. No nothing. Bare bones. And I'm in no  
19 hurry. We need it by the end of December, something like  
20 that. There's no hurry.

21 THE REPORTER: Electronic okay for you?

22 MR. GROSS: Yes. And then I'll have my assistant  
23 send over the exhibits.

24 (The deposition concluded at 4:26 PM.)

25 ---oOo---



D E C L A R A T I O N

I, David Sweeney, do hereby declare under penalty of perjury that I have read the foregoing transcript of my deposition; that I have made such corrections as noted herein in ink, initialed by me, or attached hereto; that my testimony as contained herein as corrected is true and correct.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_.  
(Year) (City) (State)

-----  
DAVID SWEENEY

DEPONENT'S CORRECTION SHEET

To add testimony, indicate "Add" and print the exact words you wish to add. To delete testimony, indicate "Delete" and print the exact words you wish to delete.

Deposition of: David Sweeney

Deposition Date: November 6, 2024

I, David Sweeney, have the following changes to my deposition transcript:

PAGE	LINE	CHANGE (Add/Delete)
___/___/	_____	_____
___/___/	_____	_____
___/___/	_____	_____
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___/___/	_____	_____
___/___/	_____	_____
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___/___/	_____	_____
___/___/	_____	_____
___/___/	_____	_____


1 STATE OF CALIFORNIA ]

2 COUNTY OF NEVADA ]

3 I, the undersigned, a Certified Shorthand  
4 Reporter in the State of California, hereby certify that  
5 the witness (if applicable) in the foregoing deposition  
6 was by me remotely sworn to testify to the truth, the  
7 whole truth, and nothing but the truth in the  
8 within-entitled cause; that said proceeding was taken at  
9 the time and place therein stated; that the testimony of  
10 said witness was reported by me, a disinterested person,  
11 and was thereafter transcribed under my direction into  
12 typewriting; that the foregoing is a full, complete, and  
13 true record of the said testimony; and that the  
14 witness(if applicable) was informed of his/her  
15 opportunity to read and, if necessary, correct said  
16 deposition and to subscribe the same.

17 I further certify that I am not of counsel or  
18 attorney for either or any of the parties in the  
19 foregoing proceedings and caption named, or in any way  
20 interested in the outcome of the cause named in said  
21 caption.

22  
23 Dated this 13th day of November, 2024

24   
-----  
25 CHRISTINE BEDARD, CSR NO. 10709

1 FOCUS LITIGATION SOLUTIONS  
2 400 Capitol Mall, Suite 1450  
3 Sacramento, CA 95814  
4 916.228.4593  
5 Focuslitigationssolutions.com

6 Date: November 13, 2024

7 DT Sweeney Consulting  
8 4616 25th Avenue NE, Suite 156  
9 Seattle, WA98105

10 Case: Hennefer vs. Yuba County  
11 Deposition of DAVID SWEENEY  
12 Deposition taken: November 6, 2024

13 Dear DAVID SWEENEY,

14 Please be advised the original transcript of  
15 your deposition is ready for your review.

16 You may either call my office to make  
17 arrangements with me to read and sign the original  
18 transcript, or you may contact your attorney or the  
19 attorney who arranged for you to be present at your  
20 deposition. If they have ordered a copy of the  
21 transcript, you may review their copy and make  
22 corrections by indicating on a separate sheet of paper  
23 the page and line number and the word or words you wish  
24 to correct. Please then sign your correction sheet at  
25 the bottom and return it to the above address.

As this is a civil action, you have 35 days  
from the date of this letter to read, correct, if  
necessary and sign your transcript. It will then be  
sealed and sent to the examining attorney pursuant to the  
applicable law.

Sincerely,



Christine Bedard

Certified Shorthand Reporter #10709

cc: All Counsel

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**1** (2)**10** (7)**100** (22)**100-percent** (1)**10709** (3)**11** (1)**12** (3)**13** (1)**13th** (1)**14** (8)**14:20** (1)**14:38** (1)**14:54** (1)**1450** (2)**15** (5)**15:00** (1)**15:05** (4)**15:07** (1)**15:08** (1)**15:09** (1)**15:12** (1)**15:18** (3)**15:20** (1)**150** (8)**156** (1)**16:20** (10)**16:22** (1)**16:24** (2)**16:26** (8)**16:30** (6)**1630** (1)**17** (1)**1705** (1)**177** (1)**1987** (1)

&lt; 2 &gt;

**2** (1)**2:54** (1)**20** (6)**2000s** (2)**2001** (1)**2010** (1)**2014** (1)**2020** (1)**2020s** (1)**2021** (2)**2024** (8)**20-year** (1)**21** (9)**2180** (1)**22-cv-00389-TLN-****CSK** (1)**24** (4)**245(a)** (3)**25** (1)**25th** (2)**25-year** (1)**28** (2)**29** (2)

&lt; 3 &gt;

**3** (5)**3:00** (1)**3:05** (2)**3:10** (1)**3:30** (1)**30** (7)**30:10** (1)**30th** (1)**35** (3)

&lt; 4 &gt;

**4** (6)**4:00** (1)**4:26** (2)**4:30** (1)**40** (1)**400** (2)**404** (2)**40-hour** (3)**428** (24)**428.1.1** (2)**428.3** (1)**428.4** (1)**428.5** (4)**428.6** (8)**432.5407** (1)**4616** (1)

&lt; 5 &gt;

**5** (5)**50** (2)**500** (3)**530** (1)

&lt; 6 &gt;

**6** (4)

&lt; 7 &gt;

**7** (2)

&lt; 8 &gt;

**8:57** (1)**850** (1)

&lt; 9 &gt;

**9:26** (1)**90s** (2)**911** (4)**916** (1)**916.228.4593** (2)**929.1481** (1)**95** (1)**95814** (2)**95946** (1)**98** (5)**9815** (1)

&lt; A &gt;

**abide** (1)**abiding** (1)**abilities** (1)**ability** (10)**able** (18)**absence** (3)**absolute** (2)**absolutely** (4)**absolutes** (1)**abuse** (3)**academic** (1)**academy** (16)**accept** (1)**accepted** (2)**access** (3)**accessible** (1)**accompanied** (1)**accomplish** (10)**accomplished** (3)**accomplishing** (1)**account** (1)**accountable** (2)**accredited** (2)**accumulated** (1)**accurate** (6)**accurately** (2)**achieve** (2)**acknowledged** (1)**acquire** (1)**acronym** (3)**acronyms** (1)**act** (9)**acted** (2)**acting** (5)**action** (16)**actions** (24)**activate** (1)**active** (1)**activities** (1)**actor** (2)**actual** (10)**acute** (1)**add** (11)**Add/Delete** (1)**added** (1)**additional** (6)**address** (7)**adds** (2)**admonitions** (1)**adult** (2)**advancing** (1)**advantage** (1)**advice** (2)**advise** (1)**advised** (3)**advisor** (1)**affect** (3)**affliction** (1)**afoot** (2)**afraid** (2)**after-action** (5)**agencies** (2)**agency** (1)**aggression** (1)**aggressive** (4)**ago** (3)**agree** (83)**agreement** (1)**agrees** (1)**AGUIRRE** (7)



<b>A-G-U-I-R-R-E</b> (1)	<b>appreciate</b> (5)	<b>attacking</b> (2)	<b>basis</b> (7)
<b>Ah</b> (1)	<b>appreciated</b> (1)	<b>attempt</b> (5)	<b>bean</b> (5)
<b>ahead</b> (44)	<b>approach</b> (14)	<b>attempted</b> (4)	<b>BEDARD</b> (4)
<b>aid</b> (2)	<b>approached</b> (7)	<b>attempting</b> (4)	<b>began</b> (1)
<b>aide</b> (3)	<b>approaching</b> (7)	<b>attempts</b> (4)	<b>beginning</b> (3)
<b>air</b> (17)	<b>appropriate</b> (18)	<b>attend</b> (1)	<b>Begins</b> (1)
<b>airplane</b> (5)	<b>appropriately</b> (1)	<b>attention</b> (4)	<b>behalf</b> (1)
<b>airplanes</b> (1)	<b>approximate</b> (3)	<b>attorney</b> (7)	<b>behaved</b> (1)
<b>akin</b> (2)	<b>approximately</b> (8)	<b>attorneys</b> (1)	<b>behaving</b> (5)
<b>alcohol</b> (14)	<b>area</b> (14)	<b>Auburn</b> (1)	<b>behavior</b> (11)
<b>alive</b> (1)	<b>areas</b> (2)	<b>audience</b> (2)	<b>behaviors</b> (4)
<b>allegations</b> (1)	<b>arena</b> (1)	<b>August</b> (2)	<b>behoove</b> (1)
<b>alleviate</b> (3)	<b>Argue</b> (1)	<b>author</b> (1)	<b>behooves</b> (1)
<b>alleviated</b> (1)	<b>argument</b> (2)	<b>authored</b> (3)	<b>belief</b> (5)
<b>allow</b> (11)	<b>Argumentative</b> (2)	<b>authority</b> (2)	<b>beliefs</b> (1)
<b>allowed</b> (2)	<b>arises</b> (1)	<b>authorized</b> (1)	<b>believe</b> (82)
<b>allows</b> (4)	<b>arm</b> (3)	<b>available</b> (7)	<b>believed</b> (2)
<b>alongside</b> (3)	<b>armed</b> (11)	<b>Avenue</b> (1)	<b>believes</b> (1)
<b>alter</b> (1)	<b>armor</b> (2)	<b>avoid</b> (4)	<b>bench</b> (1)
<b>a-man-with-a-gun</b> (1)	<b>armored</b> (1)	<b>awake</b> (1)	<b>best</b> (18)
<b>ambiguity</b> (1)	<b>arose</b> (1)	<b>aware</b> (24)	<b>better</b> (12)
<b>ambiguous</b> (6)	<b>arranged</b> (1)		<b>beware</b> (1)
<b>ambulance</b> (2)	<b>arrangements</b> (1)	<b>&lt; B &gt;</b>	<b>beyond</b> (5)
<b>amount</b> (6)	<b>arrest</b> (29)	<b>back</b> (57)	<b>BIANCA</b> (1)
<b>analysis</b> (1)	<b>arrested</b> (3)	<b>backed</b> (4)	<b>bias</b> (5)
<b>analyze</b> (3)	<b>arrestees</b> (2)	<b>background</b> (3)	<b>biased</b> (2)
<b>and/or</b> (8)	<b>arrests</b> (4)	<b>backing</b> (1)	<b>big</b> (3)
<b>ANDERSON</b> (2)	<b>arrest-type</b> (1)	<b>backup</b> (1)	<b>biggest</b> (5)
<b>announce</b> (2)	<b>arrive</b> (4)	<b>backwards</b> (4)	<b>Bing</b> (3)
<b>answer</b> (83)	<b>arrived</b> (5)	<b>bad</b> (3)	<b>bipolar</b> (8)
<b>answered</b> (16)	<b>arrives</b> (1)	<b>badge</b> (1)	<b>bit</b> (18)
<b>answering</b> (4)	<b>arriving</b> (1)	<b>bag</b> (4)	<b>bits</b> (1)
<b>answers</b> (6)	<b>articles</b> (4)	<b>bags</b> (1)	<b>blanket</b> (6)
<b>anxiety</b> (1)	<b>asked</b> (22)	<b>balcony</b> (1)	<b>block</b> (2)
<b>anybody</b> (1)	<b>asking</b> (30)	<b>ballistic</b> (5)	<b>body</b> (5)
<b>anymore</b> (5)	<b>aspect</b> (1)	<b>Bare</b> (1)	<b>body-worn</b> (1)
<b>anyone's</b> (1)	<b>asphalted</b> (1)	<b>barking</b> (5)	<b>bolded</b> (1)
<b>anyway</b> (3)	<b>assault</b> (5)	<b>barren</b> (1)	<b>bones</b> (1)
<b>apparent</b> (3)	<b>Assessment</b> (6)	<b>barricaded</b> (10)	<b>booked</b> (1)
<b>apparently</b> (5)	<b>assigned</b> (1)	<b>barricades</b> (1)	<b>books</b> (3)
<b>appear</b> (1)	<b>assist</b> (2)	<b>barrier</b> (1)	<b>bother</b> (1)
<b>APPEARANCES</b> (1)	<b>assistance</b> (2)	<b>barriers</b> (1)	<b>bottom</b> (5)
<b>appeared</b> (2)	<b>assistant</b> (1)	<b>base</b> (3)	<b>Bowie</b> (1)
<b>appears</b> (3)	<b>assume</b> (4)	<b>based</b> (36)	<b>Box</b> (1)
<b>applicable</b> (4)	<b>assumes</b> (3)	<b>baseless</b> (1)	<b>boy</b> (1)
<b>applied</b> (3)	<b>assuming</b> (5)	<b>basic</b> (3)	<b>BRADON</b> (1)
<b>applies</b> (1)	<b>assumption</b> (7)	<b>basically</b> (4)	<b>brand</b> (3)
<b>apply</b> (4)	<b>attach</b> (1)	<b>basics</b> (1)	<b>brandished</b> (1)
<b>applying</b> (1)	<b>attached</b> (1)	<b>basing</b> (1)	<b>BRANDON</b> (1)

<b>break</b> (23)	<b>catch-all</b> (1)	<b>citation</b> (3)	<b>comments</b> (1)
<b>breakdown</b> (2)	<b>categories</b> (1)	<b>cited</b> (1)	<b>commit</b> (4)
<b>breaking</b> (3)	<b>cause</b> (33)	<b>citizens</b> (1)	<b>committed</b> (5)
<b>briefly</b> (1)	<b>caused</b> (5)	<b>city</b> (2)	<b>committing</b> (2)
<b>bring</b> (5)	<b>causing</b> (1)	<b>civil</b> (6)	<b>common</b> (11)
<b>bringing</b> (1)	<b>caveat</b> (2)	<b>claim</b> (1)	<b>commonly-used</b> (1)
<b>broad</b> (1)	<b>cc</b> (1)	<b>clarification</b> (1)	<b>commotion</b> (1)
<b>broadcast</b> (1)	<b>cell</b> (9)	<b>clarify</b> (7)	<b>communicate</b> (12)
<b>broke</b> (2)	<b>cemented</b> (1)	<b>clarity</b> (1)	<b>communicated</b> (2)
<b>broken</b> (1)	<b>center</b> (1)	<b>class</b> (8)	<b>communicating</b> (6)
<b>brother-in-law</b> (1)	<b>Central</b> (3)	<b>classes</b> (15)	<b>communication</b> (11)
<b>brush</b> (1)	<b>certain</b> (14)	<b>classified</b> (1)	<b>communications</b> (3)
<b>building</b> (4)	<b>certainly</b> (44)	<b>classroom</b> (9)	<b>communicator</b> (1)
<b>buildings</b> (1)	<b>certificate</b> (1)	<b>clear</b> (8)	<b>communicators</b> (1)
<b>bulge</b> (1)	<b>Certified</b> (11)	<b>clear-cut</b> (1)	<b>Community</b> (4)
<b>bulk</b> (2)	<b>certify</b> (2)	<b>cleared</b> (1)	<b>comp</b> (1)
<b>Bullet</b> (5)	<b>cetera</b> (1)	<b>clearing</b> (2)	<b>compact</b> (1)
<b>burst</b> (1)	<b>chain</b> (1)	<b>clearly</b> (9)	<b>company</b> (2)
<b>business</b> (6)	<b>chalk</b> (1)	<b>cleverly</b> (1)	<b>compare</b> (2)
<b>bystanders</b> (1)	<b>challenge</b> (1)	<b>climbing</b> (1)	<b>competency</b> (2)
	<b>challenges</b> (2)	<b>close</b> (7)	<b>competent</b> (4)
<b>&lt; C &gt;</b>	<b>challenging</b> (3)	<b>closely</b> (2)	<b>complainant</b> (5)
<b>CA</b> (4)	<b>chance</b> (5)	<b>closer</b> (1)	<b>complainant's</b> (1)
<b>CAD</b> (7)	<b>change</b> (7)	<b>closest</b> (2)	<b>complaint</b> (1)
<b>cadre</b> (3)	<b>changed</b> (5)	<b>clothes</b> (1)	<b>complete</b> (2)
<b>CALIFORNIA</b> (26)	<b>changes</b> (2)	<b>clothing</b> (1)	<b>completely</b> (3)
<b>California's</b> (1)	<b>chaotic</b> (3)	<b>clues</b> (3)	<b>completing</b> (1)
<b>call</b> (21)	<b>characteristics</b> (2)	<b>CNT</b> (1)	<b>compliance</b> (4)
<b>called</b> (9)	<b>characterization</b> (1)	<b>code</b> (5)	<b>compliant</b> (1)
<b>calling</b> (2)	<b>characterizing</b> (1)	<b>codes</b> (1)	<b>complicated</b> (3)
<b>call-out</b> (2)	<b>charge</b> (4)	<b>codified</b> (13)	<b>comply</b> (3)
<b>calls</b> (8)	<b>chase</b> (1)	<b>codify</b> (2)	<b>complying</b> (2)
<b>calm</b> (7)	<b>check</b> (7)	<b>Codifying</b> (1)	<b>component</b> (4)
<b>calmed</b> (1)	<b>checking</b> (1)	<b>collaborate</b> (1)	<b>compound</b> (1)
<b>calming</b> (1)	<b>chest</b> (2)	<b>collector</b> (1)	<b>comprehending</b> (1)
<b>campus</b> (6)	<b>children</b> (2)	<b>college</b> (6)	<b>concept</b> (1)
<b>Capitol</b> (2)	<b>choice</b> (3)	<b>combination</b> (4)	<b>concepts</b> (1)
<b>CAPTAIN</b> (6)	<b>choices</b> (2)	<b>combine</b> (6)	<b>concern</b> (11)
<b>caption</b> (2)	<b>chose</b> (1)	<b>combined</b> (1)	<b>concerned</b> (7)
<b>captures</b> (1)	<b>chosen</b> (5)	<b>Combining</b> (1)	<b>Concerning</b> (1)
<b>car</b> (34)	<b>CHP</b> (17)	<b>come</b> (24)	<b>concerns</b> (7)
<b>care</b> (11)	<b>CHRISTINE</b> (4)	<b>come-along</b> (2)	<b>concluded</b> (1)
<b>career</b> (6)	<b>circle</b> (2)	<b>comes</b> (7)	<b>conclusion</b> (4)
<b>careful</b> (2)	<b>circled</b> (4)	<b>comfortable</b> (4)	<b>condition</b> (5)
<b>cars</b> (2)	<b>circles</b> (7)	<b>coming</b> (6)	<b>conditions</b> (1)
<b>case</b> (30)	<b>circling</b> (1)	<b>command</b> (14)	<b>conduct</b> (3)
<b>cases</b> (13)	<b>Circuit</b> (2)	<b>commander</b> (3)	<b>conducting</b> (1)
<b>casual</b> (1)	<b>circumstance</b> (4)	<b>commands</b> (13)	<b>confident</b> (1)
<b>catchall</b> (3)	<b>circumstances</b> (14)	<b>comment</b> (1)	<b>confirm</b> (4)

<b>conflict</b> (1)	<b>coordinated</b> (1)	<b>cut</b> (1)	<b>define</b> (3)
<b>conflicted</b> (1)	<b>cop</b> (19)	<b>cut-and-dry</b> (1)	<b>definite</b> (3)
<b>conflicts</b> (1)	<b>copies</b> (1)	<b>CV</b> (3)	<b>definitely</b> (8)
<b>conforms</b> (1)	<b>cop-intent</b> (2)	< D >	<b>definition</b> (5)
<b>confrontation</b> (2)	<b>copy</b> (8)	<b>daily</b> (1)	<b>definitive</b> (2)
<b>confused</b> (7)	<b>core</b> (1)	<b>DALLAS</b> (1)	<b>definitively</b> (2)
<b>confusion</b> (3)	<b>corner</b> (2)	<b>danger</b> (5)	<b>delete</b> (3)
<b>conjunction</b> (1)	<b>corollary</b> (1)	<b>dangerous</b> (4)	<b>deliberately</b> (1)
<b>connect</b> (1)	<b>coroner</b> (1)	<b>dash</b> (1)	<b>delusion</b> (1)
<b>connotations</b> (1)	<b>correct</b> (75)	<b>data</b> (1)	<b>delusional</b> (4)
<b>conscious</b> (1)	<b>corrected</b> (1)	<b>date</b> (5)	<b>delusions</b> (1)
<b>consensual</b> (1)	<b>CORRECTION</b> (2)	<b>dated</b> (3)	<b>demographic</b> (1)
<b>consensus</b> (1)	<b>corrections</b> (2)	<b>dates</b> (1)	<b>demonstrate</b> (2)
<b>consequences</b> (3)	<b>correctly</b> (2)	<b>DAVID</b> (40)	<b>deny</b> (3)
<b>Consequently</b> (1)	<b>correlation</b> (1)	<b>David's</b> (1)	<b>DEPARTMENT</b> (69)
<b>consider</b> (12)	<b>Corvallis</b> (3)	<b>day</b> (16)	<b>departments</b> (8)
<b>consideration</b> (1)	<b>COUNSEL</b> (23)	<b>day-long</b> (3)	<b>department's</b> (3)
<b>considerations</b> (1)	<b>count</b> (2)	<b>days</b> (1)	<b>depending</b> (2)
<b>considered</b> (3)	<b>COUNTY</b> (28)	<b>day-shift</b> (1)	<b>depends</b> (2)
<b>consistent</b> (1)	<b>couple</b> (15)	<b>day-to-day</b> (1)	<b>deploy</b> (3)
<b>consistently</b> (1)	<b>course</b> (10)	<b>dead</b> (1)	<b>deployed</b> (7)
<b>console</b> (4)	<b>COURT</b> (13)	<b>deadly</b> (4)	<b>deploying</b> (2)
<b>constant</b> (3)	<b>courteous</b> (1)	<b>deal</b> (11)	<b>deployment</b> (2)
<b>constantly</b> (2)	<b>courts</b> (8)	<b>dealing</b> (17)	<b>DEPONENT'S</b> (1)
<b>constitute</b> (3)	<b>Court's</b> (1)	<b>dealt</b> (2)	<b>DEPOSITION</b> (27)
<b>constituting</b> (1)	<b>cover</b> (6)	<b>Dear</b> (1)	<b>depositions</b> (10)
<b>constitutional</b> (2)	<b>covered</b> (1)	<b>death</b> (7)	<b>deputies</b> (103)
<b>constructive</b> (3)	<b>covers</b> (3)	<b>deceased</b> (1)	<b>DEPUTY</b> (141)
<b>Consulting</b> (1)	<b>cows</b> (1)	<b>December</b> (1)	<b>deputy's</b> (2)
<b>contact</b> (6)	<b>crash</b> (1)	<b>decide</b> (5)	<b>describe</b> (5)
<b>contained</b> (2)	<b>create</b> (11)	<b>decided</b> (9)	<b>described</b> (7)
<b>context</b> (3)	<b>created</b> (8)	<b>decides</b> (1)	<b>describing</b> (3)
<b>continual</b> (3)	<b>creates</b> (1)	<b>deciding</b> (1)	<b>Description</b> (4)
<b>continually</b> (3)	<b>creating</b> (4)	<b>decision</b> (8)	<b>descriptions</b> (2)
<b>continue</b> (9)	<b>credit</b> (1)	<b>decisions</b> (3)	<b>design</b> (3)
<b>contractor</b> (3)	<b>crime</b> (26)	<b>declare</b> (1)	<b>designation</b> (1)
<b>contrary</b> (1)	<b>crimes</b> (1)	<b>deescalate</b> (15)	<b>designed</b> (6)
<b>contribution</b> (1)	<b>criminal</b> (2)	<b>deescalated</b> (1)	<b>desire</b> (7)
<b>control</b> (13)	<b>crisis</b> (30)	<b>deescalating</b> (8)	<b>desires</b> (1)
<b>conversation</b> (9)	<b>crisis-intervention</b> (1)	<b>deescalation</b> (71)	<b>detail</b> (5)
<b>conversational</b> (1)	<b>critical</b> (13)	<b>deescalation's</b> (1)	<b>detailed</b> (2)
<b>conversations</b> (1)	<b>criticism</b> (3)	<b>defeat</b> (1)	<b>detailing</b> (1)
<b>convince</b> (1)	<b>criticisms</b> (3)	<b>defend</b> (6)	<b>detain</b> (3)
<b>convincing</b> (1)	<b>cruiser</b> (1)	<b>defendant</b> (1)	<b>detained</b> (4)
<b>cooperate</b> (2)	<b>cry</b> (2)	<b>Defendants</b> (3)	<b>DETECTIVE</b> (9)
<b>cooperated</b> (1)	<b>CSR</b> (2)	<b>defense</b> (2)	<b>detectives</b> (1)
<b>cooperating</b> (2)	<b>current</b> (1)	<b>deference</b> (2)	<b>detention</b> (10)
<b>cooperation</b> (2)	<b>currently</b> (1)	<b>deficiencies</b> (1)	<b>determination</b> (1)
<b>cooperative</b> (1)	<b>custody</b> (6)		<b>determine</b> (4)

<b>determined</b> (1)	<b>dissemination</b> (1)	<b>DUI</b> (4)	<b>end-user</b> (1)
<b>deterrent</b> (2)	<b>dissociative</b> (1)	<b>duty</b> (7)	<b>enforcement</b> (105)
<b>develop</b> (2)	<b>distance</b> (15)	<b>DWYER</b> (120)	<b>enforcement's</b> (2)
<b>device</b> (2)	<b>distances</b> (1)	<b>dying</b> (1)	<b>engaged</b> (1)
<b>devised</b> (1)	<b>distracted</b> (2)	<b>dynamic</b> (1)	<b>engine</b> (1)
<b>diagnose</b> (1)	<b>distractionary</b> (2)	< E >	<b>engine's</b> (1)
<b>diagnoses</b> (1)	<b>distress</b> (4)	<b>earlier</b> (12)	<b>enjoyable</b> (1)
<b>diagnosis</b> (2)	<b>DISTRICT</b> (2)	<b>Early</b> (1)	<b>ensure</b> (2)
<b>die</b> (10)	<b>disturbance</b> (1)	<b>eased</b> (2)	<b>enter</b> (1)
<b>died</b> (3)	<b>ditch</b> (21)	<b>easier</b> (5)	<b>entered</b> (2)
<b>difference</b> (6)	<b>doctor's</b> (1)	<b>easily</b> (2)	<b>entering</b> (1)
<b>different</b> (43)	<b>document</b> (5)	<b>EASTERN</b> (1)	<b>entirely</b> (4)
<b>differentiating</b> (1)	<b>documented</b> (2)	<b>easy</b> (3)	<b>entrance</b> (1)
<b>differently</b> (2)	<b>documents</b> (9)	<b>eat</b> (1)	<b>entries</b> (3)
<b>difficult</b> (27)	<b>dog</b> (8)	<b>echo</b> (1)	<b>entry</b> (1)
<b>difficulties</b> (2)	<b>dogs</b> (3)	<b>ECK</b> (77)	<b>enunciated</b> (1)
<b>difficulty</b> (3)	<b>doing</b> (14)	<b>Eck's</b> (13)	<b>environment</b> (2)
<b>diligence</b> (1)	<b>domain</b> (1)	<b>educated</b> (4)	<b>equipment</b> (3)
<b>direct</b> (6)	<b>domains</b> (1)	<b>education</b> (3)	<b>erratic</b> (1)
<b>directed</b> (3)	<b>domestic</b> (1)	<b>effect</b> (7)	<b>erratically</b> (4)
<b>direction</b> (4)	<b>domestic-violence</b> (1)	<b>effective</b> (5)	<b>escalated</b> (5)
<b>directions</b> (1)	<b>don'ts</b> (2)	<b>effectively</b> (8)	<b>escalating</b> (8)
<b>directly</b> (2)	<b>door</b> (4)	<b>effort</b> (1)	<b>escalation</b> (1)
<b>dirt</b> (1)	<b>doorway</b> (2)	<b>efforts</b> (3)	<b>escort</b> (1)
<b>disagree</b> (8)	<b>dos</b> (2)	<b>eight</b> (1)	<b>especially</b> (2)
<b>discarded</b> (1)	<b>dot</b> (41)	<b>either</b> (12)	<b>essentially</b> (1)
<b>disciplines</b> (1)	<b>doubting</b> (1)	<b>electronic</b> (2)	<b>establish</b> (1)
<b>discount</b> (4)	<b>dowels</b> (1)	<b>element</b> (2)	<b>established</b> (4)
<b>discovered</b> (2)	<b>Dr</b> (1)	<b>elements</b> (3)	<b>establishing</b> (2)
<b>discovery</b> (11)	<b>draw</b> (7)	<b>ELLIS</b> (3)	<b>ESTATE</b> (1)
<b>discuss</b> (7)	<b>drawing</b> (6)	<b>elucidate</b> (1)	<b>estimation</b> (2)
<b>discussed</b> (19)	<b>drawn</b> (1)	<b>Email</b> (2)	<b>et</b> (1)
<b>discussing</b> (4)	<b>dressed</b> (1)	<b>emotional</b> (1)	<b>ethics</b> (1)
<b>discussion</b> (12)	<b>drew</b> (2)	<b>emotions</b> (1)	<b>evaluate</b> (2)
<b>discussions</b> (1)	<b>drive</b> (9)	<b>emphasizes</b> (1)	<b>evaluating</b> (1)
<b>disinterested</b> (1)	<b>driver</b> (1)	<b>employ</b> (1)	<b>event</b> (1)
<b>dislike</b> (3)	<b>driver's</b> (2)	<b>employed</b> (1)	<b>events</b> (5)
<b>disliked</b> (1)	<b>drives</b> (8)	<b>employees</b> (3)	<b>eventually</b> (9)
<b>disobeyed</b> (1)	<b>driveway</b> (1)	<b>en</b> (1)	<b>evidence</b> (46)
<b>disobeying</b> (2)	<b>driving</b> (16)	<b>enacted</b> (2)	<b>evidentiary</b> (3)
<b>disorder</b> (7)	<b>drone</b> (6)	<b>encompass</b> (1)	<b>exact</b> (11)
<b>disorders</b> (1)	<b>drop</b> (2)	<b>encounter</b> (11)	<b>exactly</b> (11)
<b>dispatch</b> (5)	<b>drove</b> (21)	<b>encounters</b> (1)	<b>EXAMINATION</b> (4)
<b>dispatcher</b> (1)	<b>drug</b> (8)	<b>encouraging</b> (1)	<b>examined</b> (2)
<b>displaying</b> (2)	<b>drug-induced</b> (1)	<b>endangered</b> (1)	<b>examining</b> (1)
<b>disposing</b> (1)	<b>drugs</b> (22)	<b>endeavor</b> (1)	<b>example</b> (10)
<b>disregards</b> (1)	<b>dry</b> (1)	<b>ended</b> (3)	<b>examples</b> (16)
<b>disruption</b> (1)	<b>DT</b> (1)	<b>endless</b> (1)	<b>exceeded</b> (1)
<b>disseminate</b> (1)	<b>due</b> (1)		<b>excellent</b> (1)

exceptions (1)	facing (2)	five (4)	gather (1)
excessive (2)	fact (16)	five-minute (2)	gauge (1)
excuse (2)	factor (3)	flashbang (4)	gear (2)
<b>EXECUTED</b> (1)	factors (2)	flavor (1)	general (31)
exercises (1)	facts (19)	flinch (1)	generality (1)
exhaustive (1)	factual (2)	flock (1)	generalization (1)
Exhibit (16)	fail (1)	flooded (2)	generally (30)
exhibited (1)	failed (3)	flow (1)	gestures (1)
Exhibits (2)	failure (1)	flowing (1)	getting (12)
exigencies (1)	fair (6)	<b>FOCUS</b> (4)	give (42)
exigency (13)	fairly (3)	focused (1)	given (18)
exigent (1)	fall (3)	focusing (1)	giving (2)
exit (1)	familiar (11)	Focuslitigationsolution	go (95)
exiting (1)	familiarity (1)	s.com (2)	goal (11)
expect (1)	family (43)	follow (9)	goal-oriented (4)
expectation (3)	far (10)	followed (2)	goes (7)
expectations (6)	fast (2)	following (2)	going (138)
expensive (1)	fatal (10)	follows (1)	<b>Good</b> (31)
experience (58)	fear (7)	food (1)	goodbye (1)
experienced (2)	featured (1)	force (38)	<b>Gooseneck</b> (1)
experiences (1)	federal (2)	forced (2)	gosh (1)
experiencing (7)	feel (5)	foregoing (4)	govern (1)
<b>EXPERT</b> (33)	feeling (3)	foreign (2)	grabbed (1)
expertise (6)	feelings (4)	forensic (1)	grade (1)
experts (3)	feels (2)	form (5)	graded (2)
expert's (2)	feet (1)	formal (4)	graduate (1)
expert-witness (1)	fell (1)	forms (1)	great (6)
expire (2)	felonies (1)	formulate (1)	greater (4)
explain (7)	felt (7)	forth (7)	<b>Green</b> (2)
explained (4)	fidgety (1)	forward (3)	grenade (2)
explanation (6)	field (34)	forwards (2)	groin (1)
explanations (1)	fields (1)	found (14)	<b>GROSS</b> (124)
express (9)	field-scenario (3)	four (13)	ground (4)
expressed (8)	fight (2)	four-day (1)	grow (1)
expresses (2)	fighting (1)	fourth (1)	growing (2)
expressing (6)	figure (3)	frame (3)	guarantee (1)
extends (1)	final (2)	frankly (2)	guarding (1)
extensive (1)	finally (5)	free (5)	guess (21)
extent (9)	find (27)	front (8)	guesses (4)
extra (1)	findings (1)	fulfill (2)	guessing (4)
extraneous (1)	fine (11)	full (1)	guideline (1)
extrapolate (1)	fingerprint (2)	fully (6)	guidelines (1)
extreme (1)	fingers-interlocking	funnel (10)	gun (21)
extremely (1)	(1)	further (15)	guns (20)
< F >	fire (7)	future (1)	guns-out (1)
face (2)	firearm (38)	< G >	guy (6)
faced (6)	firearms (6)	gain (5)	guys (3)
facility (2)	firing (1)	gained (1)	guy's (5)
	first (33)		

## &lt; H &gt;

**half** (3)  
**hall** (3)  
**hallmarks** (3)  
**hallway** (1)  
**hamper** (2)  
**hand** (5)  
**handcuff** (1)  
**handcuffs** (2)  
**handed** (1)  
**handle** (9)  
**handled** (3)  
**handles** (1)  
**hands** (8)  
**hands-on** (3)  
**hanging** (4)  
**happen** (5)  
**happened** (17)  
**happening** (3)  
**happens** (2)  
**happy** (2)  
**harbor** (2)  
**hard** (11)  
**harder** (4)  
**harm** (4)  
**harm's** (2)  
**Harvard** (1)  
**hate** (1)  
**hatred** (1)  
**hazard** (6)  
**hazards** (1)  
**head** (8)  
**health** (24)  
**healthness** (1)  
**hear** (9)  
**heard** (10)  
**hearing** (1)  
**heart** (3)  
**heartbeat** (1)  
**heavily** (2)  
**heavy** (1)  
**heck** (1)  
**hectic** (1)  
**height** (1)  
**held** (4)  
**helicopter** (1)  
**help** (41)  
**helped** (2)  
**helpful** (3)

**helping** (2)  
**helps** (3)  
**HENNEFER** (182)  
**Hennefer's** (45)  
**hereinafter** (1)  
**hereto** (1)  
**hesitate** (4)  
**Hey** (10)  
**hidden** (1)  
**high** (3)  
**highly-trained** (1)  
**highs** (1)  
**Highway** (1)  
**hired** (3)  
**his/her** (1)  
**history** (9)  
**hit** (1)  
**HNT** (2)  
**hold** (11)  
**holding** (3)  
**holds** (3)  
**holster** (1)  
**home** (1)  
**homes** (1)  
**honest** (4)  
**honesty** (1)  
**hope** (3)  
**hopefully** (3)  
**horses** (1)  
**hospital** (3)  
**hostage** (8)  
**hour** (15)  
**hours** (17)  
**house** (5)  
**houses** (1)  
**hover** (1)  
**human** (1)  
**hunches** (2)  
**hundred** (2)  
**hundreds** (3)  
**hurry** (3)  
**hurt** (8)  
**hurting** (1)  
**hypothetical** (6)

## &lt; I &gt;

**idea** (17)  
**ideal** (1)  
**ideas** (4)

**ideation** (11)  
**ideations** (1)  
**identified** (2)  
**identify** (3)  
**identifying** (1)  
**ignore** (1)  
**ill** (2)  
**illness** (8)  
**imagine** (3)  
**immediate** (8)  
**immediately** (3)  
**impact** (1)  
**impaired** (2)  
**impatient** (1)  
**impediment** (1)  
**impediments** (2)  
**implement** (1)  
**implies** (1)  
**important** (10)  
**impossible** (3)  
**impression** (1)  
**improper** (1)  
**inability** (2)  
**inaccurate** (1)  
**inaction** (1)  
**inactions** (1)  
**inappropriate** (1)  
**incapacitating** (1)  
**incident** (48)  
**incidents** (1)  
**include** (1)  
**includes** (1)  
**including** (1)  
**incomplete** (1)  
**incorporate** (7)  
**incorporated** (2)  
**Incorrect** (1)  
**incorrectly** (1)  
**indexes** (1)  
**indicate** (5)  
**indicated** (1)  
**indicates** (1)  
**indicating** (1)  
**indication** (3)  
**indications** (2)  
**individual** (10)  
**individually** (1)  
**individuals** (4)  
**individual's** (2)

**inexperienced** (2)  
**inferences** (1)  
**influence** (27)  
**influenced** (1)  
**inform** (1)  
**information** (57)  
**informed** (1)  
**ingested** (1)  
**in-house** (1)  
**initial** (12)  
**initialed** (1)  
**initially** (10)  
**initials** (2)  
**injured** (2)  
**ink** (1)  
**innocent** (3)  
**In-person** (2)  
**insert** (5)  
**inserting** (2)  
**in-service** (1)  
**inside** (9)  
**instance** (2)  
**instances** (2)  
**institution** (1)  
**instructed** (1)  
**instruction** (2)  
**instructor** (1)  
**instructor-level** (1)  
**instructors** (2)  
**intel** (3)  
**intelligence** (8)  
**intend** (2)  
**intended** (1)  
**intent** (3)  
**intention** (2)  
**intentional** (1)  
**interact** (1)  
**interacted** (1)  
**interacting** (3)  
**interaction** (3)  
**interactions** (1)  
**interested** (2)  
**interesting** (5)  
**interfere** (5)  
**interfering** (2)  
**interject** (1)  
**internal** (1)  
**interpretation** (1)  
**interpreted** (1)

**intervention** (16)  
**intoxicated** (3)  
**intoxication** (4)  
**introduce** (1)  
**investigate** (7)  
**investigated** (1)  
**investigating** (1)  
**investigation** (7)  
**investigator** (1)  
**involve** (2)  
**involved** (12)  
**involves** (1)  
**irrelevant** (1)  
**island** (1)  
**issue** (11)  
**issued** (1)  
**issues** (19)  
**issuing** (1)  
**item** (3)  
**items** (4)  
**its** (2)

## &lt; J &gt;

**JAH** (1)  
**jail** (2)  
**January** (1)  
**jaywalker** (2)  
**jeopardy** (1)  
**job** (14)  
**JOSEPH** (1)  
**judging** (1)  
**judgment** (2)  
**JUH** (1)  
**jump** (2)  
**jumping** (1)  
**juncture** (1)  
**jury** (2)  
**justify** (1)

## &lt; K &gt;

**K9** (7)  
**K9s** (1)  
**keep** (19)  
**keeping** (2)  
**kept** (5)  
**Kevlar** (1)  
**key** (6)  
**kids** (1)  
**kill** (14)

**killed** (4)  
**killling** (2)  
**kills** (1)  
**kind** (30)  
**knew** (10)  
**knife** (41)  
**Knives** (1)  
**knocking** (1)  
**know** (123)  
**knowledge** (8)  
**known** (5)  
**knows** (3)

## &lt; L &gt;

**labeled** (1)  
**lack** (3)  
**lacking** (1)  
**lacks** (1)  
**lamas** (1)  
**landscape** (1)  
**lane** (1)  
**language** (16)  
**laps** (1)  
**large** (7)  
**late** (2)  
**latest** (1)  
**launch** (1)  
**launcher** (1)  
**LAW** (130)  
**laws** (3)  
**lawsuit** (2)  
**lay** (1)  
**lead** (5)  
**lead-in** (1)  
**leads** (4)  
**learn** (5)  
**learned** (4)  
**learner** (1)  
**learners** (1)  
**learning** (3)  
**leave** (14)  
**leaving** (1)  
**leeway** (3)  
**left** (4)  
**legal** (15)  
**legislation** (2)  
**legislators** (1)  
**legislature** (3)  
**lengthy** (1)

**Leno** (1)  
**less-lethal** (10)  
**lessons** (1)  
**LETA** (1)  
**lethal** (9)  
**lethargic** (1)  
**letter** (3)  
**letting** (1)  
**level** (7)  
**levels** (4)  
**Lexipol** (11)  
**Lexipol's** (1)  
**LIEUTENANT** (3)  
**life** (20)  
**life-saving** (2)  
**likelihood** (1)  
**liken** (1)  
**Likewise** (1)  
**limit** (3)  
**line** (21)  
**lines** (1)  
**list** (2)  
**listen** (1)  
**listened** (2)  
**LITIGATION** (2)  
**little** (16)  
**lived** (1)  
**lives** (3)  
**local** (1)  
**locate** (3)  
**located** (2)  
**locations** (1)  
**locked** (1)  
**log** (1)  
**long** (15)  
**longer** (1)  
**long-time** (1)  
**long-winded** (2)  
**look** (39)  
**looked** (6)  
**looking** (30)  
**looks** (1)  
**loops** (1)  
**lose** (1)  
**loss** (2)  
**lot** (19)  
**loud** (1)  
**love** (2)  
**low** (1)

**lower** (1)  
**lows** (1)  
**lumped** (2)  
**lunch** (4)

## &lt; M &gt;

**Madam** (1)  
**magnification** (3)  
**main** (1)  
**maintain** (2)  
**making** (12)  
**Mall** (2)  
**MALLORY** (1)  
**manage** (1)  
**management's** (1)  
**mandatory** (1)  
**maneuver** (1)  
**maneuvers** (1)  
**manic** (1)  
**manner** (2)  
**manual** (24)  
**manuals** (8)  
**map** (3)  
**mapping** (1)  
**maps** (2)  
**mark** (1)  
**massive** (1)  
**master** (2)  
**matched** (1)  
**materials** (1)  
**math** (2)  
**Matt** (33)  
**matter** (10)  
**MATTHEW** (1)  
**McGuire** (1)  
**mean** (21)  
**meaning** (5)  
**means** (16)  
**meant** (2)  
**measurements** (1)  
**measures** (3)  
**measuring** (1)  
**medical** (38)  
**medically** (1)  
**medical's** (1)  
**medicine** (1)  
**medics** (1)  
**meet** (3)  
**meeting** (1)

<b>member</b> (10)	<b>movement</b> (10)	<b>night</b> (1)	<b>officers</b> (109)
<b>members</b> (26)	<b>movements</b> (1)	<b>nine</b> (2)	<b>officer's</b> (9)
<b>memories</b> (1)	<b>moves</b> (3)	<b>Ninth</b> (2)	<b>OFFICES</b> (1)
<b>memory</b> (4)	<b>moving</b> (21)	<b>noise</b> (2)	<b>oftentimes</b> (1)
<b>mental</b> (34)	<b>MULLINS</b> (11)	<b>noncompliance</b> (1)	<b>oh</b> (12)
<b>mental-health</b> (1)	<b>multiple-part</b> (1)	<b>noncompliant</b> (1)	<b>okay</b> (25)
<b>mental-illness</b> (1)	<b>multi-tier</b> (1)	<b>non-threatening</b> (1)	<b>once</b> (9)
<b>mentally</b> (2)	<b>muscle</b> (1)	<b>norm</b> (1)	<b>one-on-one</b> (2)
<b>mention</b> (10)		<b>normally</b> (1)	<b>ones</b> (2)
<b>mentioned</b> (16)	< N >	<b>northbound</b> (2)	<b>one's</b> (1)
<b>mere</b> (1)	<b>nail</b> (1)	<b>notations</b> (2)	<b>one-third</b> (2)
<b>met</b> (5)	<b>name</b> (4)	<b>noted</b> (6)	<b>one-week</b> (1)
<b>meth</b> (1)	<b>named</b> (3)	<b>notes</b> (1)	<b>ongoing</b> (1)
<b>methamphetamine</b> (15)	<b>names</b> (1)	<b>Notice</b> (1)	<b>online</b> (5)
<b>method</b> (5)	<b>narcotic</b> (2)	<b>November</b> (6)	<b>oOo</b> (2)
<b>methods</b> (8)	<b>narcotics</b> (19)	<b>number</b> (16)	<b>open</b> (5)
<b>mgross@porterscott.co</b>	<b>narrow</b> (3)	<b>numbered</b> (1)	<b>opening</b> (1)
<b>m</b> (1)	<b>NATALIE</b> (2)	<b>numbers</b> (1)	<b>operating</b> (1)
<b>middle</b> (7)	<b>nation</b> (1)		<b>OPERATOR</b> (4)
<b>MILLION</b> (5)	<b>nature</b> (2)	< O >	<b>opine</b> (4)
<b>mind</b> (27)	<b>navigate</b> (1)	<b>oOo</b> (4)	<b>opined</b> (1)
<b>mindset</b> (1)	<b>NE</b> (1)	<b>obey</b> (2)	<b>opinion</b> (42)
<b>mine</b> (1)	<b>near</b> (5)	<b>object</b> (6)	<b>opinions</b> (13)
<b>minimize</b> (1)	<b>nearby</b> (1)	<b>Objection</b> (58)	<b>opportunity</b> (6)
<b>minimum</b> (2)	<b>necessarily</b> (4)	<b>objections</b> (2)	<b>opposed</b> (1)
<b>minute</b> (1)	<b>necessary</b> (8)	<b>objective</b> (9)	<b>opposite</b> (4)
<b>minutes</b> (11)	<b>neck</b> (2)	<b>Objectivity</b> (1)	<b>optic</b> (21)
<b>mirror</b> (1)	<b>Need</b> (35)	<b>obligation</b> (2)	<b>optical</b> (1)
<b>misdemeanor</b> (9)	<b>needed</b> (7)	<b>observation</b> (6)	<b>optics</b> (1)
<b>misdemeanors</b> (3)	<b>needing</b> (1)	<b>observations</b> (9)	<b>options</b> (3)
<b>missed</b> (1)	<b>needs</b> (2)	<b>observe</b> (2)	<b>orbits</b> (3)
<b>misstates</b> (2)	<b>negative</b> (1)	<b>observed</b> (7)	<b>order</b> (27)
<b>mistake</b> (3)	<b>negatively</b> (2)	<b>observes</b> (1)	<b>ordered</b> (1)
<b>mitigate</b> (3)	<b>negligence</b> (4)	<b>obstacle</b> (1)	<b>orders</b> (7)
<b>mobile</b> (1)	<b>negotiate</b> (6)	<b>obstacles</b> (1)	<b>ordinance</b> (1)
<b>Model</b> (2)	<b>negotiating</b> (3)	<b>obstruct</b> (4)	<b>Oregon</b> (5)
<b>money</b> (1)	<b>negotiation</b> (6)	<b>obstructs</b> (1)	<b>organization</b> (1)
<b>months</b> (3)	<b>negotiations</b> (5)	<b>obtain</b> (2)	<b>organizations</b> (2)
<b>mood</b> (1)	<b>negotiator</b> (9)	<b>obtained</b> (1)	<b>original</b> (3)
<b>MORAWCZNSKI</b> (2)	<b>negotiators</b> (1)	<b>obvious</b> (2)	<b>originally</b> (1)
<b>M-O-R-A-W-C-Z-N-S-</b>	<b>neither</b> (1)	<b>obviously</b> (15)	<b>outcome</b> (5)
<b>K-I</b> (1)	<b>nervous</b> (2)	<b>occurred</b> (11)	<b>outer</b> (1)
<b>morning</b> (4)	<b>nervousness</b> (1)	<b>occurs</b> (4)	<b>outline</b> (2)
<b>motions</b> (1)	<b>Nevada</b> (3)	<b>offer</b> (4)	<b>outranked</b> (1)
<b>mounted</b> (3)	<b>never</b> (26)	<b>offering</b> (1)	<b>outside</b> (1)
<b>mouthful</b> (1)	<b>new</b> (7)	<b>offhand</b> (2)	<b>overall</b> (1)
<b>move</b> (31)	<b>newer</b> (1)	<b>Office</b> (5)	<b>overcame</b> (1)
<b>moved</b> (6)	<b>NH</b> (1)	<b>officer</b> (147)	<b>overdose</b> (1)
	<b>NICHOLAS</b> (1)	<b>officer-involved</b> (1)	<b>overdosed</b> (1)



<b>overhead</b> (1)	<b>pdwyer@pdwyerlaw.c</b>	<b>pigs</b> (1)	<b>possibility</b> (7)
<b>overreacting</b> (2)	<b>om</b> (1)	<b>pills</b> (2)	<b>possible</b> (7)
<b>overreaction</b> (1)	<b>peace</b> (3)	<b>pistol</b> (1)	<b>possibly</b> (15)
<b>oversaw</b> (2)	<b>peacefully</b> (2)	<b>pistols</b> (4)	<b>POST</b> (13)
<b>overstated</b> (1)	<b>peer</b> (1)	<b>place</b> (13)	<b>potential</b> (10)
<b>overwatch</b> (1)	<b>peer-reviewed</b> (4)	<b>placed</b> (5)	<b>potentially</b> (5)
<b>owner</b> (3)	<b>Penal</b> (3)	<b>places</b> (1)	<b>power</b> (6)
< P >	<b>penalty</b> (1)	<b>placing</b> (3)	<b>PR</b> (1)
<b>P.O</b> (1)	<b>Penn</b> (1)	<b>Plaintiff</b> (6)	<b>practical</b> (1)
<b>PA</b> (6)	<b>people</b> (70)	<b>plaintiff-involved</b> (1)	<b>practically</b> (1)
<b>Page</b> (31)	<b>pepper</b> (1)	<b>PLAINTIFFS</b> (1)	<b>practice</b> (9)
<b>pages</b> (2)	<b>perceived</b> (7)	<b>Plaintiff's</b> (1)	<b>practices</b> (11)
<b>pain</b> (1)	<b>percent</b> (24)	<b>plan</b> (7)	<b>preached</b> (1)
<b>paper</b> (2)	<b>percentage</b> (4)	<b>plane</b> (7)	<b>precinct</b> (1)
<b>papers</b> (3)	<b>perception</b> (1)	<b>plants</b> (1)	<b>preclude</b> (5)
<b>paragraph</b> (7)	<b>Perfect</b> (2)	<b>play</b> (1)	<b>preclusion</b> (1)
<b>paramount</b> (1)	<b>performance</b> (1)	<b>Please</b> (9)	<b>prefer</b> (3)
<b>paranoia</b> (2)	<b>period</b> (3)	<b>plenty</b> (3)	<b>preferable</b> (1)
<b>park</b> (2)	<b>periods</b> (3)	<b>PM</b> (3)	<b>premises</b> (1)
<b>part</b> (19)	<b>perjury</b> (1)	<b>pocket</b> (1)	<b>preparation</b> (2)
<b>participate</b> (1)	<b>permissive</b> (1)	<b>pockets</b> (2)	<b>prepare</b> (4)
<b>participated</b> (1)	<b>permitted</b> (1)	<b>point</b> (56)	<b>prepared</b> (7)
<b>participating</b> (1)	<b>person</b> (60)	<b>pointed</b> (7)	<b>prerogative</b> (2)
<b>particular</b> (18)	<b>personable</b> (1)	<b>pointing</b> (6)	<b>presence</b> (7)
<b>particularly</b> (9)	<b>personal</b> (12)	<b>points</b> (4)	<b>present</b> (12)
<b>parties</b> (2)	<b>personally</b> (2)	<b>pole</b> (2)	<b>presentations</b> (1)
<b>partner</b> (3)	<b>personnel</b> (13)	<b>poles</b> (2)	<b>presented</b> (5)
<b>partnership</b> (1)	<b>persons</b> (2)	<b>police</b> (81)	<b>presenting</b> (2)
<b>parts</b> (1)	<b>person's</b> (6)	<b>PoliceOne</b> (1)	<b>pressure</b> (1)
<b>party</b> (1)	<b>perspective</b> (3)	<b>police-practices</b> (1)	<b>pretty</b> (7)
<b>pass</b> (3)	<b>persuade</b> (3)	<b>police-related</b> (1)	<b>prevent</b> (6)
<b>pass/fail</b> (2)	<b>persuaded</b> (2)	<b>policies</b> (11)	<b>prevents</b> (1)
<b>passed</b> (4)	<b>persuasion</b> (3)	<b>policing</b> (2)	<b>previous</b> (1)
<b>passes</b> (7)	<b>PG&amp;E</b> (1)	<b>Policy</b> (58)	<b>previously</b> (6)
<b>passive</b> (2)	<b>phase</b> (1)	<b>polite</b> (1)	<b>price</b> (2)
<b>pat</b> (1)	<b>phases</b> (1)	<b>political</b> (1)	<b>primarily</b> (1)
<b>patches</b> (1)	<b>phone</b> (16)	<b>poorly</b> (1)	<b>primary</b> (2)
<b>pat-down</b> (6)	<b>phones</b> (4)	<b>poorly-trained</b> (1)	<b>principles</b> (1)
<b>path</b> (1)	<b>photograph</b> (1)	<b>pop</b> (1)	<b>print</b> (2)
<b>pathology</b> (1)	<b>photographs</b> (5)	<b>populated</b> (1)	<b>prior</b> (12)
<b>pathway</b> (3)	<b>photos</b> (1)	<b>population</b> (1)	<b>priority</b> (2)
<b>patient</b> (1)	<b>phrase</b> (8)	<b>PORTER</b> (1)	<b>private</b> (2)
<b>PATRICK</b> (7)	<b>physical</b> (10)	<b>portion</b> (3)	<b>probable</b> (17)
<b>patrol</b> (7)	<b>physically</b> (9)	<b>portions</b> (1)	<b>probably</b> (26)
<b>patty</b> (1)	<b>pick</b> (4)	<b>pose</b> (1)	<b>problem</b> (5)
<b>pause</b> (2)	<b>picture</b> (7)	<b>positioned</b> (1)	<b>problematic</b> (3)
<b>pay</b> (3)	<b>pictures</b> (3)	<b>positions</b> (1)	<b>procedural</b> (1)
<b>PDF</b> (2)	<b>piece</b> (2)	<b>possessing</b> (2)	<b>procedure</b> (1)
	<b>pieces</b> (1)	<b>possibilities</b> (2)	<b>proceed</b> (2)

proceeding (1)	put (33)	reasonably-trained (1)	reinforce (1)
proceedings (1)	puts (2)	reasoned (1)	relapsed (3)
process (2)	putting (1)	reasons (1)	related (3)
produced (2)	< Q >	rebut (1)	relating (1)
product (1)	qualified (4)	Rebuttal (4)	relationship (1)
professional (3)	question (136)	recall (27)	relay (2)
professionals (1)	questioning (3)	recalling (1)	relayed (3)
prognosis (1)	questions (16)	receive (2)	relaying (1)
program (4)	question's (1)	received (8)	release (3)
progress (1)	quick (2)	receiving (1)	relevance (1)
prominently (1)	quicker (1)	Recess (5)	relevant (2)
promoted (2)	quickly (1)	recognition (1)	relied (2)
prone (1)	quite (9)	recognize (18)	relies (1)
proof (3)	quote (1)	recognized (3)	rely (9)
proper (4)	< R >	recognizes (1)	relying (1)
properly (3)	radio (1)	recommend (3)	remarks (1)
property (3)	raise (2)	recommendation (3)	remember (42)
proportion (2)	raised (3)	recommendations (2)	REMEMBERED (1)
protect (13)	raising (2)	recommended (4)	remind (1)
protected (1)	ramming (1)	record (24)	REMOTE (2)
protecting (1)	ran (2)	recording (1)	remotely (5)
protection (1)	range (2)	records (4)	removed (1)
protocol (1)	rank (1)	red (41)	render (1)
prove (4)	ranks (1)	reduced (2)	rendered (1)
provide (13)	RAP (4)	reducing (1)	renders (1)
provided (11)	R-A-P (1)	refer (4)	repeat (5)
provides (3)	rational (2)	reference (6)	repeated (3)
providing (1)	RAYMON (1)	referenced (3)	repeatedly (1)
provocative (1)	reach (2)	references (3)	rephrase (4)
provoke (7)	reached (1)	referencing (3)	Report (92)
provokes (1)	reaching (8)	referred (2)	REPORTED (9)
provoking (1)	react (1)	referring (3)	Reporter (12)
psychiatric (1)	reaction (2)	refers (5)	reporting (5)
psychiatrist (1)	read (27)	reflect (1)	reports (8)
psychologist (1)	reading (13)	reflected (2)	represent (1)
psychology (2)	ready (2)	refrain (2)	representing (1)
public (12)	real (7)	reframe (2)	represents (1)
publications (1)	realistic (1)	refused (3)	requested (6)
publish (1)	reality-based (1)	refuses (1)	requesting (2)
published (4)	realize (4)	refusing (7)	requests (1)
pull (8)	really (55)	regard (3)	require (5)
pulled (7)	realm (1)	regarding (8)	required (4)
pulling (8)	real-world (2)	regardless (1)	requirement (1)
purchasing (1)	rear (1)	regards (7)	requirements (1)
purpose (15)	reason (7)	registered (1)	requires (1)
pursuant (2)	reasonable (70)	regular (2)	requiring (1)
pursuits (1)	reasonableness (1)	rehashing (1)	research (2)
purview (1)	reasonably (3)	Reiber (1)	resistance (2)
pushing (1)			resistant (11)

resisting (3)	rulings (2)	seen (11)	shotgun (2)
resolution (1)	run (5)	seizure (3)	shotguns (2)
resolve (2)	running (2)	seizures (1)	shots (1)
resolved (1)	rural (5)	self-defense (1)	shoulder (1)
resources (4)	< S >	selling (1)	shoulders (1)
respond (4)	Sacramento (3)	send (4)	shoulds (1)
responded (6)	SAECHAO (29)	sending (1)	shout (1)
responders (4)	Saechao's (2)	seniority (1)	shouting (5)
responding (5)	S-A-E-C-H-E-O (1)	sense (4)	show (8)
responds (1)	safe (14)	sent (4)	showed (9)
response (22)	safely (7)	sentence (8)	shows (4)
responsibilities (4)	safer (1)	sentences (1)	sic (3)
responsibility (2)	safety (38)	sentiments (1)	side (5)
responsible (1)	sake (1)	separate (2)	sight (12)
responsive (1)	save (1)	separated (2)	sighting (1)
rest (2)	saving (1)	separating (1)	sights (3)
restate (2)	saw (19)	sequence (1)	sign (3)
restrictions (1)	saying (16)	sergeant (3)	signal (1)
restrictive (1)	says (11)	sergeants (1)	significant (2)
result (3)	SBC (7)	series (1)	significantly (1)
resulting (1)	SBC-intent (3)	serious (4)	signs (2)
retained (11)	SBC-related (1)	serve (2)	silhouetted (1)
retention (1)	scenario (15)	served (1)	similar (12)
retired (1)	scenarios (10)	service (1)	simple (5)
return (1)	scene (64)	services (1)	simply (2)
reverse (2)	scenes (1)	set (2)	Sincerely (1)
review (13)	schedule (1)	sets (2)	single (4)
reviewed (8)	schizophrenia (3)	setting (6)	sister (4)
reviewing (5)	school (1)	seven (1)	sit (1)
reviews (1)	SCOTT (1)	severe (1)	sitting (3)
rice (6)	scratch (1)	share (1)	situation (50)
rifles (2)	scream (1)	sheepdog (1)	situations (14)
right (62)	screaming (1)	sheet (6)	situation's (1)
right-hand (1)	screenshare (1)	SHERIFF (3)	six (7)
Risk (3)	se (1)	sheriffs (1)	skill (5)
River (2)	sealed (1)	SHERIFF'S (52)	Skills (7)
road (23)	search (14)	shield (4)	skip (1)
roadway (6)	searching (3)	shift (4)	sleeping (2)
ROGER (1)	seat (5)	shoot (21)	slow (2)
role (5)	seats (1)	shooting (6)	slowly (6)
roll (2)	Seattle (23)	shootings (1)	small (3)
rookie (1)	sec (2)	shootout (1)	smaller (1)
room (7)	second (9)	shop (1)	smart (2)
roommate (1)	secondary (1)	shoplift (1)	sniper (5)
round (1)	section (11)	short (7)	sober (1)
rounds (1)	sections (3)	Shorthand (3)	Society (1)
route (2)	see (72)	shortly (1)	solely (1)
rule (1)	seeing (7)	short-sided (2)	solution (1)
rules (1)		shot (7)	SOLUTIONS (2)

someone's (7)	standpoint (1)	subscribe (3)	< T >
something's (1)	stands (1)	subsection (1)	table (1)
somewhat (10)	star (1)	substance (5)	table's (1)
son (1)	start (13)	substitute (1)	tactic (3)
sooner (4)	started (12)	success (1)	tactical (11)
sorry (11)	Starting (2)	successful (16)	tacticals (1)
sort (7)	startle (1)	successfully (5)	tactics (6)
sounds (8)	starts (2)	suffering (8)	tag (1)
sources (3)	State (61)	suggest (1)	take (33)
south (1)	stated (9)	suggesting (2)	takeaway (1)
SPD (2)	statement (39)	suggestion (1)	taken (16)
speak (5)	statements (29)	suggestions (2)	takes (2)
speaking (2)	STATES (8)	suicidal (22)	talk (17)
SPEAR (1)	stating (10)	suicidality (3)	talked (28)
specialized (1)	station (1)	suicide (31)	talking (24)
specialties (1)	statute (1)	Suite (4)	talks (5)
specific (22)	statutes (3)	summarize (1)	Tara (5)
specifically (7)	stay (3)	summation (1)	targets (1)
specifies (1)	stayed (2)	summon (1)	TARWATER (1)
specify (1)	staying (1)	Sunday (2)	Taser (1)
speculate (4)	steering (1)	super (2)	tasked (1)
speculated (3)	<b>STENOGRAPHICAL</b>	superior (1)	taught (8)
speculating (1)	<b>LY (1)</b>	superiors (2)	teach (2)
speculation (3)	step (7)	supervised (2)	teaching (2)
speculations (1)	Stepping (1)	supervising (3)	team (13)
speculative (1)	steps (8)	supervisor (12)	teams (1)
speed (3)	stick (2)	supervisory (1)	technical (1)
speeding (1)	sticking (1)	support (3)	technically (1)
spelled (1)	stir (1)	supposed (1)	technique (6)
spend (5)	stood (1)	Supreme (1)	technique/tactic (2)
spent (2)	Stop (27)	sure (47)	techniques (15)
spinning (1)	stopped (1)	surety (1)	tell (35)
spoke (5)	stopping (1)	surgery (2)	telling (6)
spotter (1)	stops (3)	surrender (1)	tells (2)
spray (1)	Street (15)	surrounding (5)	TENG (1)
spurred (1)	strictly (2)	surroundings (1)	term (13)
SRA (3)	strike (1)	suspect (29)	terms (1)
stabilize (1)	stuck (17)	suspected (2)	Terry (8)
staff (6)	student (1)	suspecting (1)	test (3)
staffing (1)	students (1)	suspects (8)	testified (7)
stage (2)	studied (1)	suspicion (17)	testify (1)
stamp (2)	studies (1)	suspicious (2)	testimony (22)
stance (1)	sub (1)	SWAT (7)	Thank (16)
stances (1)	subject (26)	SWEENEY (45)	thankfully (1)
Stand (4)	subjective (8)	Sweeney's (1)	theoretically (1)
stand-alone (1)	subjectivity (3)	swings (1)	theories (1)
standard (13)	subject's (1)	sworn (3)	theory (3)
standards (5)	submit (1)	symptoms (4)	thereof (2)
standing (4)	submitted (2)	system (9)	

<b>thin</b> (1)	<b>train</b> (11)	<b>uniform</b> (3)	<b>viewing</b> (3)
<b>thing</b> (18)	<b>trained</b> (29)	<b>unit</b> (6)	<b>violate</b> (3)
<b>Things</b> (73)	<b>trainer</b> (1)	<b>UNITED</b> (2)	<b>violated</b> (3)
<b>think</b> (167)	<b>training</b> (126)	<b>units</b> (3)	<b>violates</b> (1)
<b>thinking</b> (5)	<b>trainings</b> (2)	<b>University</b> (4)	<b>violating</b> (1)
<b>thinks</b> (1)	<b>transcribed</b> (1)	<b>unnecessarily</b> (3)	<b>violation</b> (7)
<b>third</b> (5)	<b>transcript</b> (6)	<b>unnecessary</b> (2)	<b>violations</b> (2)
<b>this</b>	<b>transcripts</b> (1)	<b>unpaved</b> (1)	<b>violence</b> (2)
<b>day</b> (1)	<b>transferred</b> (1)	<b>unpredictable</b> (3)	<b>violent</b> (5)
<b>thorough</b> (2)	<b>transport</b> (1)	<b>unreasonable</b> (16)	<b>violently</b> (1)
<b>Thorp</b> (1)	<b>treat</b> (2)	<b>unreasonably</b> (1)	<b>virtual</b> (1)
<b>THORPE</b> (4)	<b>tree</b> (16)	<b>unsafe</b> (2)	<b>vis-a-vis</b> (1)
<b>T-H-O-R-P-E</b> (1)	<b>trees</b> (13)	<b>unsuccessful</b> (1)	<b>visible</b> (2)
<b>thought</b> (20)	<b>trespassing</b> (4)	<b>untrained</b> (1)	<b>visual</b> (6)
<b>thoughts</b> (1)	<b>trial</b> (1)	<b>unwilling</b> (1)	<b>visually</b> (3)
<b>threat</b> (13)	<b>tried</b> (17)	<b>upper</b> (1)	<b>visuals</b> (1)
<b>threaten</b> (2)	<b>trim</b> (1)	<b>urgency</b> (3)	<b>voice</b> (6)
<b>threatened</b> (3)	<b>trimming</b> (6)	<b>use</b> (70)	<b>voices</b> (1)
<b>threatening</b> (5)	<b>truck</b> (57)	<b>useful</b> (1)	<b>voluntarily</b> (3)
<b>threats</b> (5)	<b>true</b> (6)	<b>user</b> (1)	<b>vs</b> (2)
<b>three</b> (10)	<b>truth</b> (3)	<b>uses</b> (4)	< W >
<b>threw</b> (3)	<b>try</b> (25)	<b>usually</b> (3)	<b>WA98105</b> (1)
<b>throw</b> (1)	<b>trying</b> (41)	<b>UTL</b> (1)	<b>wager</b> (1)
<b>thrown</b> (5)	<b>Turn</b> (1)	<b>uttered</b> (1)	<b>wait</b> (15)
<b>throws</b> (1)	<b>turned</b> (1)	< V >	<b>waited</b> (6)
<b>tie</b> (1)	<b>twice</b> (1)	<b>VALENTINO</b> (1)	<b>waiting</b> (7)
<b>time</b> (96)	<b>Twisting</b> (1)	<b>Valley</b> (1)	<b>wake</b> (2)
<b>timeline</b> (1)	<b>two</b> (38)	<b>vantage</b> (1)	<b>walk</b> (2)
<b>timely</b> (1)	<b>two-part</b> (3)	<b>variety</b> (12)	<b>walked</b> (2)
<b>times</b> (33)	<b>two-thirds</b> (2)	<b>various</b> (3)	<b>want</b> (75)
<b>timestamp</b> (1)	<b>TYLER</b> (1)	<b>veered</b> (1)	<b>wanted</b> (17)
<b>tires</b> (1)	<b>type</b> (9)	<b>vehicle</b> (77)	<b>wanting</b> (4)
<b>titled</b> (1)	<b>types</b> (4)	<b>vehicle's</b> (1)	<b>wants</b> (4)
<b>today</b> (11)	<b>typewriting</b> (1)	<b>vein</b> (1)	<b>warning</b> (3)
<b>today's</b> (2)	<b>typical</b> (1)	<b>ventured</b> (1)	<b>warrant</b> (2)
<b>told</b> (14)	< U >	<b>verbal</b> (14)	<b>Washington</b> (4)
<b>tone</b> (1)	<b>ultimately</b> (1)	<b>verbally</b> (2)	<b>watch</b> (1)
<b>tool</b> (5)	<b>unable</b> (5)	<b>verify</b> (1)	<b>watched</b> (3)
<b>tools</b> (12)	<b>unclear</b> (2)	<b>versus</b> (3)	<b>water</b> (1)
<b>top</b> (7)	<b>uncommon</b> (1)	<b>vet</b> (2)	<b>wave</b> (1)
<b>topic</b> (5)	<b>uncover</b> (1)	<b>veteran</b> (1)	<b>way</b> (38)
<b>topping</b> (1)	<b>underlying</b> (2)	<b>vicinity</b> (1)	<b>ways</b> (7)
<b>totally</b> (1)	<b>underneath</b> (4)	<b>victim</b> (1)	<b>weapon</b> (37)
<b>touch</b> (2)	<b>UNDERSHERIFF</b> (3)	<b>video</b> (3)	<b>weapons</b> (2)
<b>touched</b> (1)	<b>undersigned</b> (1)	<b>videoconference</b> (1)	<b>webinar</b> (2)
<b>toxicology</b> (1)	<b>understand</b> (31)	<b>videos</b> (3)	<b>webinars</b> (1)
<b>track</b> (1)	<b>understanding</b> (17)	<b>view</b> (2)	<b>websites</b> (1)
<b>traffic</b> (5)	<b>understood</b> (2)	<b>viewed</b> (2)	<b>Wednesday</b> (2)
<b>trail</b> (1)			

**weeks** (1)  
**weigh** (1)  
**Well** (39)  
**well-trained** (6)  
**well-written** (1)  
**WENDEL** (1)  
**went** (13)  
**we're** (42)  
**we've** (15)  
**WH** (1)  
**what-if's** (1)  
**wheel** (2)  
**Whichever** (1)  
**wide** (4)  
**wide-ranging** (2)  
**wife** (6)  
**WILLIAM** (4)  
**willing** (1)  
**willingness** (1)  
**win** (1)  
**window** (6)  
**windows** (5)  
**wipers** (1)  
**wiper's** (1)  
**wish** (9)  
**withdraw** (2)  
**within-entitled** (1)  
**WITNESS** (73)  
**witness(if)** (1)  
**wolf** (1)  
**wooden** (1)  
**word** (9)  
**wording** (2)  
**words** (28)  
**work** (22)  
**worked** (11)  
**working** (9)  
**world** (1)  
**worried** (2)  
**worse** (5)  
**worst** (2)  
**worthy** (1)  
**Wow** (1)  
**wrap** (1)  
**wrist** (1)  
**wrists** (1)  
**write** (14)  
**written** (11)  
**wrong** (7)

**wrote** (21)

< Y >

**yards** (11)  
**YCSD** (4)  
**Yeah** (33)  
**year** (5)  
**yearly** (1)  
**years** (14)  
**yell** (2)  
**yelled** (1)  
**yelling** (16)  
**younger** (1)  
**YUBA** (24)  
**Yup** (1)

< Z >

**Zepeda** (1)  
**Zepeda's** (1)  
**Zero** (2)  
**Zoom** (1)