

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF INDIANA
3 PADUCAH DIVISION

4 BOB ANDERSON,)
5 Administrator of the)
6 Estate of Charles)
7 Christopher McClure,)
8 Deceased, and Next Friend)
9 of S.M., B.M., and C.M.,)
10 Minor Daughters of Mr.)
11 McClure,)

12 Plaintiffs,)

13 -v-)

14 CITY OF FULTON, KENTUCKY,)
15 et al.,)

16 Defendants.)

Case No. 5:18-cv-32-TBR

17 The deposition upon oral examination of
18 LONNIE BELL, a witness produced and sworn before me,
19 Elizabeth A. Taylor, RPR, a Notary Public in and for
20 the County of Vanderburgh, State of Indiana, taken on
21 behalf of the Plaintiffs at the offices of Kentucky
22 State Police Post 16, 8298 Keach Drive, Henderson,
23 Kentucky, on August 22, 2019, at 10:12 a.m., pursuant
24 to the Federal Rules of Civil Procedure.
25

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1 LONNIE BELL,

2 called as a witness by the Plaintiffs, having been first
3 duly sworn, was examined and testified as follows:

4 EXAMINATION

5 QUESTIONS BY MR. BELZLEY

6 **Q Sir, could you state your name for the record**
7 **please?**

8 A My name is Lonnie, L-o-n-n-i-e, Bell, B-e-l-l.

9 **Q And how old are you, sir?**

10 A I'm 48.

11 **Q And what do you do for a living?**

12 A I'm currently retired.

13 **Q When did you retire?**

14 A July 31st of 2019.

15 **Q And prior to your retirement, what did you do for a**
16 **living?**

17 A I was a lieutenant with the Kentucky State Police.

18 **Q How long had you worked for the Kentucky State**
19 **Police before retiring?**

20 A Twenty-three and a half years.

21 **Q Can you tell me -- just sort of give me kind of a**
22 **chronological history of your employment by the**
23 **Kentucky State Police beginning when you started**
24 **work there.**

25 A Began the academy February 4th, 1996. It's roughly

1 about five months. After that, I was assigned to
2 Post 2 Madisonville from, I guess, July of '96
3 until about August of 2001. Then after that, I
4 came to Post 16, which is Henderson, as a road
5 trooper, and I was a road trooper there for
6 approximately five years. Then I was promoted to
7 sergeant. I remained at Post 16 Henderson as a
8 sergeant for five years. And then I was promoted
9 to lieutenant in September of '11 and went to --
10 back to Post 2 Madisonville for a little -- for a
11 year or two, and then came back to Henderson. And
12 then after Henderson, I went to the critical
13 incident response team for about two and a half
14 years, and that's where I retired from.

15 **Q Okay. What is the critical incident response team?**

16 A It is basically -- partially it's -- in addition to
17 a job title, it's a team designed to respond to
18 critical incidents. That could be primarily
19 officer-involved shootings but also other sensitive
20 things, such as the Marshall County High School
21 shooting. Events like that.

22 **Q When was the critical incident response team**
23 **formed?**

24 A I believe it was formed in January of 2017.

25 **Q And do you know what -- why it was formed?**

1 A Speculation is that the commissioner, Sanders at
2 the time, wanted a statewide team to investigate
3 critical incidences is about my knowledge of it.

4 **Q Is Sanders still the commissioner?**

5 A Yes.

6 **Q Did you have any involvement in the formation of
7 the critical incident response team?**

8 A What do you mean exactly?

9 **Q Were you consulted about what the CIRT should do,
10 who should be in it?**

11 A No. We discussed some of that after the fact, but
12 whenever the offers were out for people to go to
13 that team, it was new, and it was still -- we were
14 figuring all that out.

15 **Q Okay. Did the CIRT have any written policies and
16 procedures that governed what it did and how it did
17 it?**

18 A At that time, no.

19 **Q Did it subsequently promulgate any?**

20 A I don't -- I don't know. I know that they have
21 some policies, but I don't know -- we have a policy
22 and procedure manual, and I don't know if those --
23 because it takes a while evidently for those to get
24 in there. I don't know if that was ever developed
25 to be in the manual.

1 **Q Okay. How did you become involved with the CIRT?**

2 A I was basically asked by someone in Frankfort
3 headquarters if I would be interested in being a
4 part of that, and I said yes.

5 **Q Who in Frankfort asked you?**

6 A I don't remember.

7 **Q Do you know why they asked you in particular
8 whether you'd be interested?**

9 A No. I didn't ask.

10 **Q Now, prior to being asked if you'd be interested in
11 joining the CIRT, had you had any investigative
12 experience?**

13 A Yes.

14 **Q Tell me about that.**

15 A Well, every -- most every trooper has some form of
16 investigative experience. We investigate
17 everything from speeding tickets up to burglaries,
18 sex assaults, et cetera. And that's not just for
19 investigative detective personnel. So there is
20 investigative experience there among a lot of
21 people. And then once I became lieutenant, I was
22 put in an investigative role at the Madisonville
23 post. So I was tasked with investigating a variety
24 of incidents.

25 **Q Okay. Did you receive for that purpose any**

1 **training over and above -- any training in**
2 **investigative procedure over and above what**
3 **troopers receive in general?**

4 A I don't know about over and above because I don't
5 know what everybody else across the state has been
6 through, but I did attend a training at the Georgia
7 Bureau of Investigations or wherever their little
8 compound is outside of Atlanta on officer-involved
9 shootings. I had been to the FBI National Academy
10 where we had a class, which is basically a ten-week
11 class on, among other things, but officer-involved
12 shootings. We had an in-service one year that
13 involved -- I don't know if it was strictly
14 officer-involved shootings but it was something
15 along in-custody deaths or uses of force. I don't
16 remember what it was titled. And since, I've had a
17 -- like, in the last year or so, I've had a class
18 that's called something about reconstructing, but
19 it has to do with measurements and some other
20 stuff.

21 **Q Okay. The Georgia Bureau of Investigation training**
22 **you received, when did that take place?**

23 A 2015 or 2016.

24 **Q How about the FBI?**

25 A 2013 or '14.

1 Q Okay. And how about the in-service?

2 A '16, I believe.

3 Q Okay. Well, in the last -- the last six years
4 preceding your retirement, you had gotten a lot of
5 training on officer-involved shootings.

6 A Some, yes, sir.

7 Q I would have expected -- and perhaps I just don't
8 know how things work, but I would have thought the
9 KSP would have wanted to retain your expertise in
10 that area. Was there any attempt to talk you out
11 of retiring?

12 A There were people that asked if I would just stay,
13 but, you know, everybody -- my assumption is and
14 the way I've dealt with people who were prepared
15 for retirement is whenever they've decided that
16 it's time to retire, then they've -- they've
17 figured out the numbers or they have reasons why
18 they want to go. So usually they just fade away.

19 Q Did your retirement have anything to do with this
20 case or this lawsuit?

21 A No.

22 Q Did anybody suggest to you that you retire?

23 A No.

24 Q This was solely a decision made on your part?

25 A Yes.

1 Q Okay. Did you know that your grand jury testimony
2 in this case was going to be recorded?

3 A Yeah, I figured. Typically, it's recorded.

4 Q Have you heard the recording of your grand jury
5 testimony?

6 A No.

7 Q Do you have a written curriculum vitae that sets
8 forth your work history and your professional
9 achievements, things of that nature?

10 A A vorte? Is that what you called it?

11 Q A curriculum vitae, like a résumé.

12 A No.

13 Q You haven't been looking for a job but --

14 A No.

15 Q -- sometimes people have documented sort of what
16 they've done since graduation from high school.

17 A No.

18 Q Okay. All right. Have you ever been sued before
19 as a consequence of an investigation you've
20 conducted?

21 A No.

22 Q Now, with regard to this investigation concerning
23 the shooting of Mr. McClure, how was it determined
24 that you would conduct that investigation?

25 A It's regional. The way that the CIRT team was --

1 it's unofficially set up as an east and a west, and
2 obviously, Fulton is very far in the west, and I
3 live in the western part of the state. So
4 logically, it was my call to get to go to Fulton.

5 **Q Who decides who gets that call?**

6 A On that incident, I believe Lieutenant Claude
7 Little, who basically has an office in Frankfort,
8 he's the one that called me to respond down there.

9 **Q Do you know why he called you in particular about**
10 **that?**

11 A He's our -- the guy that makes the phone call to
12 the people to get -- for us to respond.

13 **Q Okay. But did -- in terms of why you got that**
14 **call, is there -- is there a written procedure that**
15 **dictates who is called?**

16 A As far as the process goes, to my knowledge,
17 anybody can work their own shooting. Like, Fulton
18 could work their own shooting if they wanted to.
19 That's my understanding. I don't know if they have
20 a policy otherwise. If they elect not to, they
21 contact the local state police post, and then the
22 state police post contacts headquarters who decides
23 if specialized sections respond to whatever the
24 incident may be.

25 **Q Okay. Well, do you know whether you were asked to**

1 do this because of any special expertise you had or
2 because -- just because you were next on the list
3 or do you know how that worked?

4 A Just -- I don't know the reason why.

5 Q How were you notified that you were to be the
6 person to investigate this shooting?

7 A By phone.

8 Q Was that just one phone call?

9 A To respond, to my knowledge, I believe so.

10 Q And it was with that person you previously
11 identified?

12 A Yes, sir.

13 Q Do you remember what he told you when he called
14 you?

15 A I do not.

16 Q To your recollection, was it just basically we've
17 had an officer-involved shooting in Fulton. You
18 need to get down there. I'm going to have you
19 investigate it. Anything more than that that you
20 can recall?

21 A Not that I recall.

22 Q Now, have you read the complaint in this case?

23 A I briefed over it, yes, sir.

24 Q Do you recall reading over what was alleged in the
25 complaint about what Secretary Tilly, what

1 Commissioner Sanders, and what Deputy Commissioner
2 Payne said were the purposes of the CIRT?

3 A No. I don't remember that.

4 Q In terms of transparency, bringing to bear
5 expertise on critical incidents and things of that
6 nature. You were -- you were asked to become
7 involved with the CIRT. And I assume, because you
8 subsequently became involved, you were interested
9 in working for -- or being involved with the CIRT.
10 Is that fair to say?

11 A Yes.

12 Q Tell me once -- what happened once you made the
13 decision that you wanted to be a CIRT team member?

14 A I transferred, I guess, on paper to the section.

15 Q Okay. Anything other than that?

16 A I don't know what -- what you mean other than just
17 transfer to the section.

18 Q Well, was there any kind of -- was there any kind
19 of meeting between the new officers involved with
20 this new team with the commissioner or the deputy
21 commissioner or the secretary to talk to you about
22 the importance of what you were going to do, its
23 purpose, anything of that nature?

24 A Not that I remember with Justice Tilly or if -- I
25 don't remember if the commissioner would have been

1 involved in any meeting or the deputy commissioner.

2 Q Did you get anything in writing welcoming you to
3 the critical incident response team that told you
4 what to anticipate in terms of being a member, what
5 you might be asked to do, what -- the importance of
6 your job?

7 A Nothing in writing. The understanding was
8 obviously we'd be available to work
9 officer-involved shootings throughout the state.

10 Q Now, aside from any meeting or anything you got in
11 writing welcoming you to a team or discussing with
12 you what you were going to be doing as a part of
13 the team, did you get any special training as --
14 after joining the CIRT?

15 A After joining it?

16 Q Yes, sir.

17 A Yeah. Some of that that we discussed earlier.
18 Depending on the date of when it was may have been
19 either right around that same time or right after.
20 But since the -- I know the reconstruction training
21 that I talked about that had to do with
22 measurements and degrees and stuff like that was
23 after the formation of the team. At some point in
24 time, 2017, maybe, after the formation, I did go to
25 South Carolina for force science training.

1 Q Force science training?

2 A That's an institute out of Minneapolis, I believe.

3 Q Okay. And you received that training in South
4 Carolina?

5 A Yes. And it seems like that was sometime in 2017.

6 Q What's meant by force science?

7 A That's just the name of the company I would call it
8 that presents the training.

9 Q Okay. Do you have any written materials that you
10 received from that training you got in South
11 Carolina?

12 A No.

13 Q Okay. All right.

14 A Because -- they give you -- there are -- and I will
15 elaborate on that one.

16 Q Sure.

17 A They give you a binder while you're there, but
18 whenever we got back and switching out cars, mine
19 was left on top of the car, and it was strung about
20 I-75 somewhere.

21 Q I did that with a cell phone recently. So I know
22 how that happens. How about do you have any
23 written materials from the training you got at the
24 Georgia Bureau of Investigation?

25 A I don't believe so.

1 Q How about the FBI training?

2 A No.

3 Q If I -- do you recall at the Georgia training, were
4 there -- were there PowerPoints that were presented
5 or written materials that were circulated?

6 A I believe there were PowerPoints. I don't know
7 about written materials circulated because it was
8 -- it was a lot of having to do with Georgia -- the
9 way Georgia does things and Georgia type laws. So
10 I don't remember getting, if I did, any written
11 materials.

12 Q If you wanted to get copies of those materials, how
13 would you -- who would you contact?

14 A I don't know if they would -- if you would contact
15 Georgia, if they would have something on file from
16 that particular date. I don't know.

17 Q All righty. How about the FBI?

18 A I don't --

19 Q Who would you -- do you know somebody in particular
20 you would contact?

21 A I don't know anybody in particular because most
22 anybody that I would know no longer -- has retired
23 from there or no longer is employed there. So I
24 would just say it would be a phone call to Quantico
25 and get patched through to whoever to whoever to

1 whoever to figure that out.

2 **Q** Okay. But let me just be sure that I'm correct.
3 The Georgia training you recall taking place
4 sometime in 2015 or '16?

5 A Yes.

6 **Q** And the FBI training you recall taking place
7 sometime in 2013, 2014?

8 A Correct.

9 **Q** All right. And the South Carolina training, that
10 was -- what year do you think that took place?

11 A I'm pretty sure that was late 2017.

12 **Q** Late 2017. Now, when we're talking about this
13 training that you got at Georgia -- the FBI and
14 South Carolina, was this training something you
15 sought on your own or was it recommended to you
16 that you take it or were you ordered to take it by
17 someone in the Kentucky State Police?

18 A Which training is that?

19 **Q** Well, let's start with the Georgia training.

20 A The Georgia was presented to us and asked us if
21 we'd like to attend, to the best I remember, and
22 any -- and, of course, training, you know, a lot of
23 -- we call it training. It may be classroom stuff.
24 Some of it is hands on. Some of it is not, just to
25 clarify that. It would have been something that I

1 would have been interested in going to.

2 **Q Okay. How about the FBI training?**

3 A That's something I sought out.

4 **Q Okay. And the South Carolina training?**

5 A The South Carolina training was something that I
6 had been interested in for some time, and then it
7 was presented to me with the opportunity to go. I
8 didn't seek it out, but then when the opportunity
9 was presented, I agreed to go.

10 **Q In terms of the training that you got in Georgia,**
11 **were you compensated -- reimbursed your expenses by**
12 **Kentucky State Police or the Commonwealth of**
13 **Kentucky?**

14 A Possibly.

15 **Q Same question for the FBI training.**

16 A No.

17 **Q Same question for the South Carolina training.**

18 A Probably.

19 **Q Now, back to sort of the organization of the CIRT.**
20 **You said it was divided into sort of an eastern**
21 **district and a western district. Back at the time**
22 **of your investigation of the shooting of**
23 **Mr. McClure, do you recall how many CIRT members**
24 **were in the western district of Kentucky?**

25 A I believe we were three.

1 Q Do you remember who the other two were?

2 A Matt Weiss would be one and Ezra Stout would have
3 been the other.

4 Q Where was Matt Weiss located?

5 A The western part of the state.

6 Q Yeah. Was he associated with any particular post?

7 A No. He was part of the CIRT as well.

8 Q Okay. So the CIRT members weren't assigned to any
9 particular post. They would essentially float
10 throughout the western district?

11 A Correct.

12 Q Now, after you became a member of the CIRT team,
13 was your work as an employee of the Kentucky State
14 Police devoted exclusively to the work you were
15 doing as a member of the CIRT?

16 A Yes.

17 Q Now, I saw in some documents that have been
18 produced in this case that apparently at some point
19 Mr. Weiss was also involved or thought to be or was
20 going to be involved in the investigation
21 concerning the shooting of Mr. McClure. Do you
22 recall anything about that?

23 A No.

24 Q Was Mr. Weiss ever involved in any part of the
25 investigation of the shooting of Mr. McClure?

1 A No.

2 Q Did anybody assist -- from the Kentucky State
3 Police assist you or was anyone with the Kentucky
4 State Police, other than yourself, involved in the
5 investigation of the shooting of Mr. McClure?

6 A Yes.

7 Q Who was that?

8 A Basically, the majority of Post 1 Kentucky State
9 Police Mayfield, detective personnel, investigative
10 personnel, and I'm sure that there were probably
11 some uniformed troopers present as well.

12 Q What did they do as a part of the investigation?

13 A They basically -- what I saw, from the best I
14 remember, is they would carry on the way they would
15 a normal investigation without -- with me being in
16 the lead and them consulting with me before they
17 did anything because it was ultimately my
18 investigation. And some posts are still
19 responsible for collecting evidence and putting
20 that into the system, so to speak, because CIRT, we
21 do not have a location for evidence. So it stays
22 locally with the affected post with the affected
23 post number, and they would have been -- they
24 assisted with some -- what I would call a canvas,
25 talking to some witnesses and taking pictures and

1 stuff like that.

2 **Q Okay. But you were the lead investigator and you**
3 **essentially supervised that work?**

4 A I wasn't over them at all times. You know, a lot
5 of times it would be autonomous. Like, if a
6 detective was interviewing a witness --

7 **Q Oh, sure.**

8 A -- then I may be over here doing something else.

9 **Q Yeah, yeah. No. I understand. Now, who was your**
10 **supervisor who essentially looked over your**
11 **shoulder while you did this investigations of the**
12 **shooting of Mr. McClure?**

13 A There wasn't one that actually looked over my
14 shoulder.

15 **Q Now, after -- did you ever -- did you consult with**
16 **a more senior officer or employee of the Kentucky**
17 **State Police as a part of the investigation of the**
18 **shooting of Mr. McClure?**

19 A I'm sure at some point in time -- Claude Little,
20 even though we're of equal rank, he's kind of the
21 official go -- unofficial/official, whatever,
22 go-between for CIRT to contact people to respond.
23 And usually we will up -- or I will update him on
24 what I have. Just a real brief synopsis either
25 over the phone or -- usually over the phone because

1 of the distance.

2 Q Okay. Where is he located?

3 A Usually in Frankfort.

4 Q And does he have a formal title with the CIRT or
5 the Kentucky State Police?

6 A He's a lieutenant as well.

7 Q Is he a member of the CIRT?

8 A Yes.

9 Q Is there any formal policy, written policy or
10 procedure that you're aware of that requires that
11 you consult with Mr. Little or is that just kind of
12 a basic recognition that he's an older hand or more
13 experienced?

14 A To my knowledge, there is no written policy on
15 that.

16 Q All right. In the course of your investigation of
17 the shooting of Mr. McClure, did you ever have any
18 conversations with Deputy Commissioner Payne?

19 A Not that I recall.

20 Q Or Commissioner Sanders?

21 A No.

22 Q All right. Is there any documentation of your
23 investigation of the shooting of Mr. McClure other
24 than your Kentucky State Police investigative
25 report?

1 A That would be it in its entirety.

2 Q Do you have any notes -- personal notes that --
3 that weren't included as a part of your formal
4 investigative report?

5 A I don't believe so.

6 Q In the course of performing your investigation, did
7 you ever circulate e-mails about the investigation
8 to anybody?

9 A I don't know, but I wouldn't think so.

10 Q Did anybody ever e-mail you about it?

11 A Not that I recall.

12 Q Did you have any -- ever exchange e-mails, Facebook
13 messages, voice mails with Mr. Buckingham?

14 A Not that I recall.

15 Q Or Chief Powell?

16 A I know I talked with Chief Powell on the phone and
17 in person. I believe that's it.

18 Q Or Mr. Fulcher?

19 A Fulcher? No.

20 Q What was your understanding about what it was you
21 were supposed to investigate?

22 A The events that led up to the shooting of
23 Mr. McClure.

24 Q And what was it that you were supposed to determine
25 as a part of your investigation?

1 A Wrongdoing.

2 Q Whose wrongdoing?

3 A Typically, the police officer, if everything had
4 been done. And I'm not really concerned with
5 policy but more along that they follow the law.

6 Q Now, did you conclude as a part of this
7 investigation that there had been any wrongdoing on
8 the part of Officer Buckingham?

9 A I don't make the conclusion. The grand jury or the
10 commonwealth attorney typically makes the
11 conclusion on that once they're presented with the
12 case.

13 Q Okay. Now, have you ever performed an
14 investigation of an officer-involved shooting in
15 which anybody concluded that the officer that
16 pulled the trigger had erred or committed any
17 wrongdoing?

18 A Have I ever conducted an investigation where
19 someone -- what was the rest of that?

20 Q Where somebody decided based upon your
21 investigation that the officer had messed up?

22 A No.

23 Q To your knowledge, has any critical incident
24 response team investigation been the basis of any
25 conclusion that an officer had committed any

1 **wrongdoing?**

2 A As far as wrongdoing goes, can you elaborate on
3 that because there's --

4 Q Well, let's say kind of -- contrary to what
5 happened in this case, an investigator with the
6 CIRT performed an investigation of an
7 officer-involved shooting. The issue was taken to
8 a grand jury and the grand jury returned an
9 indictment against the officer.

10 A No.

11 Q You're not aware of that happening in any case that
12 was investigated by --

13 A I am not aware of it, no.

14 Q Now, how many -- well, we don't need to guess about
15 that. In discovery we asked, among other things,
16 for you to identify police shootings you had
17 investigated. And you identified -- starting with
18 December 3, 2011, one, two, three, four, five, six,
19 seven, eight, nine, ten, 11 shootings. Now, you
20 said there were three other CIRT investigators in
21 the western district of Kentucky. Do you know how
22 many shooting cases they had investigated?

23 A No.

24 Q Was it -- do you know -- or do you have -- is it
25 your impression that they had roughly the same

1 amount of experience you had in investigating
2 officer-involved shootings?

3 A I really don't know.

4 Q In any of the officer-involved shootings you've
5 investigated, do you know whether in any of those
6 cases the -- any sort of disciplinary action or
7 work -- employment action was taken against the
8 officer who had pulled the trigger at all?

9 A Do I know of any?

10 Q Yeah.

11 A Like, disciplinary action within --

12 Q Any of the officers you investigated?

13 A Do I know of any, no.

14 Q Do you know of any policy changes that were made as
15 a result of -- or in the course of your
16 investigations of any officer-involved shootings?

17 A No.

18 Q Are you aware of any disciplinary actions or
19 employment sanctions imposed on officers involved
20 in shootings in any shootings investigated by
21 members of the critical incident response team?

22 A It's not something I would know.

23 Q Do you know whether there is any -- well, let me
24 back up. When you prepare -- whenever you
25 investigate an officer-involved shooting, do you

1 always prepare a written report?

2 A Yes.

3 Q And when you prepare that written report, where
4 does that written report go?

5 A At that time, it was just going to the affected
6 post.

7 Q Would it go anywhere else? Would it go to
8 Frankfort?

9 A Some do, yes.

10 Q Is there any system that has been put into place
11 with regard to the critical incident response team
12 and its investigation of officer-involved shootings
13 to collect information or statistics from the
14 reports of the investigators who have investigated
15 officer-involved shootings?

16 A Yes.

17 Q And tell me about that. How is that done?

18 A Like how the information is gathered?

19 Q Yeah.

20 A There are -- and I don't know what they all are off
21 the top of my head. There are a list of questions
22 to -- and I think it's on an Excel something, but
23 I'm not exactly sure if that's how they keep it.
24 It talks about age, if someone was intoxicated or
25 not, how many rounds were fired, weapons, if

1 charges were brought about on either side, if death
2 occurred or injury or whatever.

3 **Q Okay. Does that have -- and is that an Excel or a**
4 **questionnaire or a spreadsheet that every**
5 **investigator fills out at the conclusion of their**
6 **investigation of an officer-involved shooting?**

7 **A** I think it can be done by whoever within -- if
8 someone has the information or someone is looking
9 at it or it could be not necessarily at the
10 conclusion. If information came up day one and you
11 were available to put it in there, you could, and
12 then update it -- the rest of it as it came in.
13 You could do it, I'm guessing, at any point.

14 **Q I get the sense from your description of this that**
15 **it's online. Is it an electronic or digital kind**
16 **of questionnaire that gets filled out?**

17 **A** It's not a questionnaire. I wouldn't call it that.
18 It's -- it's an electronic version, yes.

19 **Q Okay. And it's expected -- your understanding is**
20 **it's expected that somebody fill that out for every**
21 **officer-involved shooting?**

22 **A** Yes.

23 **Q And does that -- for lack of a better term, that**
24 **form that's to be filled out, does that have a name**
25 **or does it have a form designation?**

1 A Not to my knowledge.

2 Q And who is it that oversees or looks at the
3 information that's put into that form?

4 A I don't know.

5 Q Is it somebody in Frankfort?

6 A I would assume.

7 Q Do you know whether that -- the information from
8 those completed forms is then selected,
9 synthesized, and somebody tries to make some sense
10 out of what's going on?

11 A I don't know.

12 Q Have you filled out -- or have you or somebody else
13 on your behalf filled out one of those forms in
14 every one of the officer-involved shootings you've
15 investigated?

16 A Not in every one that I've investigated, but yes, I
17 have completed some.

18 Q Has it been filled out in most of the
19 officer-involved shooting cases you've
20 investigated?

21 A Yes.

22 Q Now, is this a -- is this a form that's sent to you
23 or is this a form that you know how to access
24 online and fill out?

25 A I used to know how to access it, but I'm not sure

1 if permission had to be granted first or -- because
2 there's certain things -- I guess read only or
3 things that can be changed. I'm not really sure of
4 the difference or how that worked.

5 Q But you don't know who it is that's overseeing
6 those forms or looking at them once they're filled
7 out?

8 A It'd be someone in Frankfort, like you said.

9 Q Okay. Or what's done with the information you
10 might put into a form after you send it in?

11 A Correct.

12 Q Now, I take it, like most electronic forms, you
13 fill in the information and then you click a submit
14 button; is that right?

15 A There's not a submit button. It's just -- you
16 could save it.

17 Q Okay. After you've filled out a form of that kind,
18 has anybody contacted you about what you've put
19 into any of the form?

20 A No.

21 Q Has any -- speaking in particular of your
22 investigation report here in this case concerning
23 Mr. McClure, did anybody ask you to change anything
24 in your report before it was finalized?

25 A Not that I recall.

1 Q Has anybody ever asked you to change anything in a
2 report that you prepared concerning an
3 officer-involved shooting?

4 A A lot of times they are quality controlled. So
5 there may be typographical errors or something like
6 that, punctuation, et cetera, or just clarify
7 something.

8 Q Other than --

9 A But not to alter it, so to speak, no.

10 Q The only -- fair to say the only feedback you've
11 gotten on reports you've prepared of
12 officer-involved shootings might concern
13 typographical errors, punctuation, clarification,
14 but never to alter facts set forth in the report.

15 A Correct.

16 Q Any conclusions you might have made in the report,
17 anything of that nature.

18 A Correct.

19 Q All right. Did anyone tell you how to -- how they
20 wanted you to conduct the investigation of the
21 shooting of Mr. McClure?

22 A No.

23 Q Chief Powell didn't indicate to you anything he
24 wanted you to investigate in particular or how he
25 wanted you to investigate that shooting?

1 A No.

2 Q How about Mr. Stacy, the commonwealth attorney?

3 A No.

4 Q Did Mr. Stacy at any time ever direct you to issue
5 -- or did he ever issue subpoenas to assist you in
6 your investigation or suggest to you that you
7 subpoena or seek any information in particular?

8 A Not that I recall.

9 Q How about anybody associated with the Kentucky
10 State Police?

11 A No.

12 Q So with regard to this investigation the
13 investigation itself, you operated completely
14 independently of any influence as to how you
15 conducted the investigation, what facts you
16 obtained, what conclusions you reached?

17 A Yes.

18 Q Now, as a consequence of any investigation you've
19 conducted of an officer-involved shooting, have you
20 ever recommended that charges be brought against an
21 officer or that an officer be disciplined or
22 sanctioned for how he handled himself?

23 A I have not.

24 Q Prior to undertaking your investigation of the
25 shooting of Mr. McClure, did you know any of the

1 people involved?

2 A No.

3 Q You had never met Chief Powell before, never met
4 Mr. Buckingham before, never met Mr. Fulcher
5 before?

6 A Correct.

7 Q Had you ever had any professional contacts with the
8 Fulton City Police Department?

9 A The only time I had ever been to Fulton was -- I
10 don't know if it was 2011, '12, '13, '14. There
11 was a different officer-involved shooting late one
12 night at some apartment complex, and I couldn't
13 tell you the year or the date. I'm sure that there
14 may have been some Fulton officers there, but I
15 don't remember.

16 Q Okay. Yeah. What is the Kentucky State Police
17 post that is closest to Fulton, Kentucky? Is that
18 KSP Post 1?

19 A Yes. Mayfield.

20 Q And it's in Mayfield. Okay.

21 A Yes.

22 Q Was there a CIRT team member that was working out
23 of the Mayfield post at that time?

24 A No.

25 Q When it came to the formation of the Critical

1 Incident Response Team, did you ever hear anything
2 that indicated to you that the impetus for creating
3 the CIRT was in any way related to or a response to
4 the investigation by the Kentucky State Police of
5 the shooting of Greg Harrison down in Bowling
6 Green, Kentucky?

7 A No.

8 Q Or the KSP investigator who was involved in that
9 case, her connections or pre-existing connections
10 with the people she was investigating?

11 A No.

12 Q Now, when it came to investigating the shooting of
13 Mr. McClure, did you conduct that investigation in
14 any way different from any prior investigation of
15 an officer-involved shooting you had performed?

16 A No.

17 Q Now, when it comes to conducting an investigation
18 of an officer-involved shooting, do you have some
19 kind of a flowchart, a written process, procedure
20 that you refer to to make sure -- a checklist to
21 make sure that you check all the boxes, you get all
22 the available information, you ask all the right
23 questions?

24 A I believe there is one now, but I don't believe
25 there was one at the time.

1 Q So was there anything at the time that you involved
2 -- that you investigated the shooting of
3 Mr. McClure that provided you any guidance or --
4 well, I'll just leave it at that. Any guidance in
5 how to conduct an investigation of that type?

6 A Any like structured form or like a script, so to
7 speak?

8 Q Yeah.

9 A No.

10 Q Has anyone ever criticized the manner in which
11 you've conducted an officer-involved shooting --

12 A No.

13 Q -- prior to the filing of this lawsuit?

14 A No.

15 Q Now, I believe that your investigation report in
16 this case was reviewed before -- by another officer
17 before it was finalized.

18 A I believe so.

19 Q Who was that?

20 A It would have been somebody at Post 1. I'm not
21 exactly sure who.

22 Q Joe Adams? Does that sound familiar?

23 A Yes. He worked down there, yes.

24 Q And what was his relationship to you? Was he in
25 the CIRT team?

1 A No. He worked at Post 1 in Mayfield.

2 **Q What was his position at Post 1 in Mayfield?**

3 A I believe a sergeant, but I don't know what role he
4 played, what sergeant.

5 **Q Do you know why the investigative report prepared**
6 **by a lieutenant who was a member of the CIRT team**
7 **would be reviewed by a post sergeant who had no**
8 **connection whatsoever with the CIRT?**

9 A Well, like I say, at the time, the investigations
10 were going through the affected post, which in this
11 case would be the Mayfield post, and their -- the
12 way the process works is criminal investigations
13 are reviewed by an admin sergeant, typically, and
14 then usually -- and if it was or not -- I don't
15 know. Some people initial; some people don't. --
16 by also the investigative lieutenant and sergeant
17 at the affected post as well.

18 **Q Was there any person -- did you have a superior**
19 **officer who reviewed the reports of your**
20 **investigations of officer-involved shootings?**

21 A At that time, no.

22 **Q During your tenure with the CIRT, have you ever**
23 **overheard or participated in any discussions or**
24 **seen any exchange of e-mails or texts about whether**
25 **or not the CIRT should have a superior officer that**

1 reviewed all final reports of officer-involved
2 shootings?

3 A Yes. They do that now, yes.

4 Q Do you know when they started that?

5 A I do not.

6 Q Do you know who it is that does that now?

7 A Lieutenant Claude Little does and Captain Chad
8 Mills does. If there's anybody else, I do not
9 know.

10 Q And do you know why that change was made to where
11 those two individuals are now reviewing reports?

12 A No.

13 Q Do you know whether Joe Adams had ever been
14 involved in an officer involved -- involved in the
15 investigation of an officer-involved shooting
16 before?

17 A I do not.

18 Q Do you know whether he had ever been involved in an
19 officer-involved shooting himself?

20 A No.

21 Q Have you ever been involved in an officer-involved
22 shooting?

23 A Yes.

24 Q How many times?

25 A Two.

1 Q Tell me about those.

2 A One in roughly 2001 involved an active meth lab.
3 Two subjects, a vehicle that struck me and another
4 trooper and drug him down the road, actually. That
5 resulted in the driver being shot by me.

6 And then another one in 2005 or '06 that
7 involved a domestic situation with shots fired.
8 Whenever we arrived at the house, guns pointed,
9 shots fired after we got to the house, and that
10 ultimately responded in police, including myself,
11 shooting an armed subject inside a house.

12 Q Okay. I mean, in one instance you've told me about
13 you've got a guy dragging a trooper down the road
14 in a car.

15 A Yes, sir.

16 Q And probably the trooper is experiencing injury as
17 it's occurring, and it needs to -- it needs to
18 stop.

19 A Yes.

20 Q You felt justified in shooting in that instance?

21 A Yes.

22 Q Nonetheless, despite the circumstances, despite the
23 justification, did you -- do you believe you
24 experienced -- you personally experienced some kind
25 of -- any kind of mental trauma as a result of that

1 incident?

2 A No.

3 Q How about the other one?

4 A No.

5 Q Did you seek any mental counseling or anything as a
6 consequence of either of those --

7 A No.

8 Q -- incidents you were involved in?

9 Now, I know that things have progressed as
10 time has gone on and I think at least the Fulton
11 City Police Department and I think the Kentucky
12 State Police now have policies that talk about
13 assisting officers that have been involved in
14 officer-involved shootings with any difficulty they
15 might have as a consequence.

16 Were policies in effect -- policies like that
17 in effect at the KSP back when these incidents you
18 were involved in occurred?

19 A Yes.

20 MR. BELZLEY: Let's see. We've been going
21 about an hour. Do you all want to take a short
22 break and stretch legs and stuff? I'd like to.

23 (A brief recess was taken.)

24 Q Mr. Bell, I assume that when you do a shooting --
25 or investigating -- investigate a shooting like

1 this, is the point of your investigation to
2 determine, as you said, whether the officer was
3 guilty of any wrongdoing, and as a part of that,
4 whether the facts of the shooting reflect a need
5 for additional training or different training or
6 different policies or anything of that -- something
7 of that nature?

8 A The wrongdoing, the policy side, I don't really
9 have any say-so in that. That's more up to other
10 people to decide that. Like, different agencies.
11 That's an internal issue, and I'm not concerned
12 with internal issues.

13 Q Okay. Well, to the -- is it your understanding of
14 part of the function of the investigations of
15 officer-involved shootings that you perform to
16 determine whether there's a need for more or
17 different training or more or different policies?

18 A I would assume that training issues may come out of
19 it.

20 Q Okay. Have you ever conducted an investigation of
21 an officer-involved shooting that you believed
22 indicated to you a need for more or additional
23 training?

24 A No.

25 Q Or different training?

1 A No.

2 Q Or a change in policy?

3 A No.

4 Q Have you ever conducted an investigation of an
5 officer-involved shooting that you believed
6 indicated the responsible officer ought to be
7 prosecuted?

8 A No.

9 Q Or criminally indicted?

10 A No.

11 Q Of the -- of the investigations of officers --
12 officer-involved shootings that you've conducted,
13 in how many of those cases -- and I think we
14 counted up in 11 -- in how many of those cases did
15 you testify to a grand jury?

16 A I don't know. Probably half -- more than half.

17 Q In how many of those cases did relations of the
18 persons -- or did the shooting result in some kind
19 of civil litigation like this one? Do you
20 remember?

21 A This is the only one I'm aware of.

22 MR. BELZLEY: If you could, ma'am, mark this
23 as Exhibit 1.

24 (Plaintiff's Exhibit 1 was marked for
25 identification.)

1 Q Can you identify Exhibit 1 for the record please?

2 A It's a Kentucky IBRS report.

3 Q And is this the KYIBRS you prepared concerning your
4 investigation of the shooting of Mr. McClure?

5 A It appears to be.

6 Q All right. Now, let's take a moment. I just want
7 to go through this with you and ask you some
8 questions.

9 On the first page under property data, it
10 indicates where vehicle -- or in the vehicle entry
11 -- well, I read that to indicate Mr. McClure did
12 approximately \$2,500 worth of property damage as a
13 -- before he was shot. Am I reading that right?

14 A To that vehicle, yes. I'm not sure if that's
15 inclusive of all of them or just that particular
16 one.

17 Q Okay. Well, look through these -- this page and
18 the pages that follow and tell me if you see any
19 additional property damage value listed.

20 A Not on this.

21 Q Now, prior to Mr. McClure being shot, had he
22 physically injured anybody to your knowledge?

23 A The only person -- and I don't know if he -- I
24 don't believe he sought medical treatment, but I
25 believe Chief Powell got some glass in his face

1 from the -- McClure trying to strike him through
2 the windshield.

3 Q Did you ever hear any evidence that Mr. McClure
4 verbally threatened Chief Powell?

5 A On the video, he did. I don't remember exactly
6 what he said, but there was -- I don't remember
7 what the threats were exactly.

8 Q How about Mr. Buckingham?

9 A No.

10 Q Did you -- prior to Mr. Buckingham shooting
11 Mr. McClure, did Mr. Buckingham have any knowledge
12 of what Mr. McClure had said to Chief Powell?

13 A I don't know.

14 Q Now, if you look on -- you have a synopsis for your
15 investigation. And your synopsis says, and I
16 quote, "Charles McClure damaged vehicles with a
17 steel post. He continued to swing the post at a
18 police officer in a threatening manner which
19 resulted in Mr. McClure being shot and killed by a
20 police officer."

21 Now, that synopsis, is that -- is that a
22 summary of the incident that you're investigating
23 or is that a conclusion that you've drawn from your
24 investigation?

25 A Probably a combination.

1 Q Okay. And am I reading this right to indicate that
2 your belief that Mr. McClure was shot and killed by
3 a police officer because he swung a post at a
4 police officer in a threatening manner? That was
5 your conclusion as to why he was shot?

6 A He was being -- he was being a threat, yeah,
7 swinging the post and everything.

8 Q Now, Mr. McClure was shot twice, was he not?

9 A Yes.

10 Q The first time he was shot, was it your conclusion
11 that he was presenting at that point a risk of
12 serious bodily harm or death to the police officer
13 that shot him?

14 A Yes.

15 Q The second time he was shot, was it your conclusion
16 that Mr. McClure was presenting a risk of serious
17 bodily harm or death to the police officer that
18 shot him?

19 A Yes.

20 Q Yes, it was. Now, you're not suggesting that
21 Mr. McClure was shot just simply because he was
22 banging cars and knocking out windows with a steel
23 post, are you?

24 A Correct.

25 Q So that in and of itself didn't warrant his being

1 shot?

2 A Right.

3 Q The only thing that justified Mr. McClure being
4 shot was the fact that he was swinging a post at a
5 police officer in a manner that confronted that
6 officer with the risk of serious bodily harm or
7 death?

8 A Yes.

9 Q Now, in looking through your report, you've
10 included in here your description of a number of
11 interviews with individuals. You had contact with
12 Tobi McClure, a member of Mr. McClure's family,
13 Michael Phipps, Dayna Phipps, Stacey Easley, Peter
14 Toon, Ronesia Martin, Darrell Pruitt, Gary
15 Robertson, Charles Kellermeier.

16 Was Officer Buckingham privy to any of the
17 information you obtained from these individuals
18 before he shot Mr. McClure?

19 A I don't know.

20 Q Well, I guess, if you're investigating -- I guess
21 my question is, if you're investigating wrongdoing
22 by -- whether there was wrongdoing by a shooting
23 police officer, why are you talking to people and
24 getting information that he was not privy to and
25 formed no basis for his decision to shoot?

1 A Is that a question?

2 Q Yes. Why are you talking to these people?

3 A Because they're witnesses, and they are affected by
4 Mr. McClure's actions as well, and it led up to
5 everything.

6 Q Well -- but what is -- I understand -- I would
7 understand your response if what you were doing was
8 investigating criminal conduct by Mr. McClure.
9 That's -- that's fairly obvious from the videos
10 that were taken. Why are you talking to these
11 people when your investigation is focused on
12 whether or not the officer who shot Mr. McClure was
13 justified in doing so?

14 A Just part of being thorough.

15 Q Did anybody suggest that you talk to all of these
16 witnesses about what Mr. McClure -- who Mr. McClure
17 was, what he was doing in the hours and days and
18 minutes, seconds prior to Mr. Buckingham's arrival
19 on the scene?

20 A Did anyone suggest that?

21 Q Yeah. Did somebody tell you you need to talk to
22 these people?

23 A It's just part of the investigative process.

24 Q Okay. Now, I didn't see your conversations or any
25 interviews with individuals about what

1 Mr. Buckingham had been doing in the days, hours,
2 minutes, seconds prior to the shooting. Did you
3 talk to anybody about that?

4 A Not that I'm aware of.

5 Q Why not?

6 A Going back to what you had said previously, I
7 guess, is the concern was over those incidents
8 surrounding those brief seconds or minutes leading
9 up to the shooting.

10 Q Well, apparently -- I mean, apparently that applied
11 to Mr. Buckingham but not to Mr. -- not to
12 Mr. McClure. Why is that?

13 A Applied to Mr. Buckingham but not to Mr. McClure?

14 Q Yeah. When it came to Mr. Buckingham, you were
15 focusing on the moments immediately preceding his
16 shooting of Mr. McClure. When it came to
17 Mr. McClure, you're talking to people about --
18 you're researching his criminal history. You're
19 talking to people about what he was doing in the
20 weeks and days and hours before the shooting. Why
21 the difference?

22 A Well, if I remember correctly, talking to Officer
23 Buckingham, there was -- you know, he was at
24 whatever he was doing just right before that, which
25 would have been while the incident was going on out

1 on the street unbeknownst to him. He was at the
2 police department talking to somebody maybe about
3 shift or lunch or what they were doing. So that
4 would be going back just as far as what was -- with
5 Mr. McClure within the same time frame.

6 Q Did you ever review Mr. Buckingham's personnel
7 record?

8 A No.

9 Q Now, I saw that you talked to Mr. Buckingham about
10 whether he was on any medication at the time.

11 A Uh-huh.

12 Q You all had a conversation about that. Did you
13 conduct any investigation into whether or not what
14 Mr. Buckingham told you about that was true?

15 A No.

16 Q You took his word for it?

17 A Yes.

18 Q Did you ever examine Mr. McClure's residence?

19 A No.

20 Q Now, my understanding is -- from reviewing your
21 report, that before Mr. Buckingham arrived on the
22 scene, Chief Powell had had a number of encounters
23 with Mr. McClure; correct?

24 A Yes.

25 Q And we can -- well, let's go to page -- bear with

1 me here. I'm sorry. Page 20 of your report. At
2 the bottom of that page, you begin your discussion
3 of your interview with Chief Powell.

4 And on page 24, you asked Chief Powell, all
5 right. So go back to the 16th. That's the date
6 when this shooting occurred. Tell me about what
7 happened. And so he -- he gave a long response to
8 that. He indicated that initially he got out of
9 his vehicle and spoke with Mr. McClure, told
10 Mr. McClure to come over here. Let me talk to you.
11 He took off running across the street.

12 Is it your understanding that at that time
13 Mr. McClure had in his hands the pole with the
14 knife taped to it?

15 A Where are you exactly?

16 Q Page 24, sort of in the middle of that big
17 paragraph where Chief Powell is telling you what
18 happened on the 16th. And it starts with -- he
19 says, and, of course, in a minute, I started
20 talking to Chris and said, hey, Chris. You need to
21 come back over here and let me talk. And he took
22 off running across the street there and said I'm
23 not coming back. He said I'm not crossing back
24 over there. And I said, let's talk. I said, let's
25 talk because I felt that maybe I could talk him

1 down because I had talked to him four days before
2 on this incident, and he seemed like he knew me by
3 my last name and my first name when we was talking
4 then and -- but it wasn't working.

5 Now, when that -- when that was taking place,
6 is it your understanding that at that time
7 Mr. McClure had in his hands the metal pole to
8 which he had taped a folding knife?

9 A Yes.

10 Q Okay. Did you ask Chief Powell why he didn't tase
11 or pepper spray or shoot Mr. McClure then?

12 A I don't know without reviewing the whole
13 transcript.

14 Q Chief Powell goes on to tell you, I mean, he would
15 become -- he would -- he had become very, very
16 angry and upset, and he said, I'm not -- and just
17 rattling on and some things. I don't know what was
18 said. But immediately he went toward Lake Street,
19 which would be walking east, in a trot more or
20 less. I jumped in my vehicle and followed him, and
21 I rolled down my window, and I said, Chris, let's
22 talk. Let's talk.

23 Any -- do you recall asking Chief Powell why
24 he didn't exercise or utilize either lethal or
25 nonlethal force at that point?

1 A No.

2 Q Why not?

3 A Why didn't I ask him?

4 Q Yeah.

5 A I don't remember. I can only assume it was because
6 I never figured he got that close, and Mr. McClure
7 did not present a threat to him at that time.

8 Q Did you see the dash cam video --

9 A Yes.

10 Q -- of Chief Powell --

11 A Yes.

12 Q -- and his encounters with Mr. McClure?

13 A Yes.

14 Q Did you see the video of Chief Powell driving up to
15 Mr. McClure, rolling down his window, and having a
16 conversation with Mr. McClure apparently standing
17 just outside his driver's side window?

18 A Yes.

19 Q Did you not ask him about use of force at these
20 points because you under- -- because his decision
21 not to resort to force was understandable to you?

22 A Did I not ask him about force because it was -- can
23 you repeat that some different way?

24 Q Yeah. You understood why he wasn't -- you
25 understood why he wasn't tasing Mr. McClure --

1 A No.

2 Q -- or pepper spraying him or shooting him. You
3 understood at that time why the chief wasn't doing
4 that to this man.

5 A No.

6 Q I'm confused by your answer. You didn't understand
7 why he wasn't doing it or you did?

8 A I did not understand why he was not using force.

9 Q Did you have a talk with Chief Powell about that?

10 A No.

11 Q You would agree -- what's the effective range of a
12 taser, 25 feet?

13 A It depends on the cartridge in it. I think there's
14 some that are 15, some 21, maybe some 25.

15 Q How about the effective range of OC spray?

16 A Depends.

17 Q If I'm sitting in a driver's seat and I roll down
18 my window and there's a guy standing directly
19 outside my car, if I hit him with OC spray at that
20 point, would it be effective?

21 A Possibly but not -- it just depends because -- and
22 that wouldn't be a good selection anyway because
23 you're probably going to spray yourself.

24 Q Now, Chief Powell goes on to say -- to describe the
25 instances where Mr. McClure broke out, swung --

1 swung the metal pole and shattered his front
2 windshield and then went back and swung the metal
3 pole and broke out his rear window in his SUV. Do
4 you recall that happening?

5 A I think the back glass was first and the windshield
6 was second, if I remember correctly.

7 Q Okay. Did you talk to Chief Powell about why he
8 didn't get out of his car and shoot Mr. McClure at
9 that point?

10 A No. He said he thought about, if I remember
11 correctly, running him over at some point. I don't
12 remember exactly what point that was.

13 Q Did you ask him why he didn't run him over?

14 A No.

15 Q I mean, you have seen on Mr. Buckingham's video
16 from Mr. Buckingham's body cam that Chief Powell
17 drives up to the point where Mr. McClure is shot,
18 before he's shot a second time by Mr. Buckingham
19 and gets out of his SUV, abandons the cover of his
20 SUV and walks towards Mr. McClure with his hands
21 empty. You've seen that, haven't you?

22 A Mr. Who? Powell?

23 Q Mr. Powell.

24 A I've seen it. It's been a while since I've seen
25 that part of the video. So I would assume that's

1 right.

2 Q If Mr. McClure was presenting a risk of serious
3 bodily harm or death to anybody at that point, why
4 would Mr. -- why would Chief Powell get out of his
5 SUV and start walking towards Mr. McClure with his
6 hands empty?

7 A That would be based on different perceptions and
8 you'd have to ask him about that.

9 Q Did you ask him about it?

10 A I don't believe so. Not that I remember.

11 Q Why not?

12 A I don't know.

13 Q Now, I'm confused by something, and I'm hoping you
14 can help clarify. I keep reading -- I watched
15 Mr. Buckingham's body cam. It appears he's in a
16 cruiser. He drives up, gets out, shoots
17 Mr. McClure, walks around the truck where
18 Mr. McClure is laying -- struggling to get up and
19 shoots him again. There's talk in here, and I've
20 seen it elsewhere, about Mr. McClure knocking out
21 the back window of Mr. Buckingham's vehicle. Did
22 he knock out the back window of the cruiser that we
23 see Mr. Buckingham driving in his body cam?

24 A Yes.

25 Q When did that happen?

1 A Somewhere on the video, whenever he rounded the
2 back of the -- we'll call it a cruiser.

3 Q Well, I don't -- was there any photographs taken of
4 a shattered window of the cruiser Mr. Buckingham
5 had been in?

6 A Of the shattered what?

7 Q Shattered back window.

8 A Yes. And I believe it's on the video too that it's
9 broken. Shattered.

10 Q Okay. Well, we'll look at a video in a minute, and
11 we'll talk about that.

12 Okay. Was -- when you talk about Mr. McClure
13 knocking out the back window of Mr. Buckingham's
14 vehicle, is the vehicle you're talking about a
15 black SUV?

16 A Yes.

17 Q Okay. But I thought that vehicle was parked at the
18 scene when Mr. Buckingham drove up?

19 A There was another vehicle there, a maroon van, that
20 was parked there as well that Mr. McClure broke the
21 back glass out of. He also broke the glass out of
22 Chief Powell's vehicle and the back glass out of
23 Officer Buckingham's vehicle, and he did some
24 damage to two or three other vehicles prior to
25 that.

1 Q Okay. But it's your understanding that Mr. McClure
2 damaged the vehicle somehow?

3 A Yes.

4 Q Damaged the vehicle that we see Officer Buckingham
5 operating up to the scene of the shooting?

6 A Yes.

7 Q Okay. Now, you spoke with Chief Powell. When you
8 spoke with Chief Powell, you asked him have you
9 seen the video yet, and he said, no. When you
10 spoke with Chief Powell, had you seen the video at
11 that time?

12 A I believe so.

13 Q Did anything Chief Powell tell you strike you as
14 being inconsistent with what -- well, let me be
15 particular about the video. When you spoke with
16 Chief Powell, had you seen his dash cam video at
17 that time?

18 A I believe so.

19 Q Had you seen Officer Buckingham's body cam at that
20 time?

21 A I believe so.

22 Q Did anything he -- was anything he told you, did it
23 strike you as being inconsistent with what you had
24 seen in either of those videos?

25 A Not that I recall.

1 Q Now, in your summary of Chief Powell's video, you
2 state that approximately 2:57 into the video,
3 Mr. McClure breaks the back glass out of Chief
4 Powell's police vehicle. At approximately 3:17,
5 Mr. McClure strikes the front of the windshield
6 with the pole and then breaks the windshield.
7 Mr. McClure then begins walking away.

8 Did you take from that any indication that
9 Mr. McClure wanted to physically harm Chief Powell?

10 A I would believe so, yes.

11 Q Okay. Why would he walk away after breaking his
12 front windshield?

13 A I don't know.

14 Q Now, you have a description of Lieutenant
15 Buckingham's body cam video in your report. And
16 you say that Mr. Buckingham's body cam video is
17 approximately 22 minutes and 31 seconds in length.
18 The video begins with Lieutenant Buckingham driving
19 his police vehicle to assist Chief Powell.
20 Lieutenant Buckingham exits his police vehicle with
21 his handgun and Mr. McClure comes toward him as he
22 breaks the glass in the police vehicle.

23 Now, are you talking there about Mr. McClure
24 breaking the glass in the black police SUV?

25 A Yes.

1 Q Okay. How -- well, Mr. McClure is shot by
2 Lieutenant Buckingham and goes to the ground.

3 Did Officer Buckingham say anything to
4 Mr. McClure before shooting him?

5 A I don't remember.

6 Q Should he have?

7 A Not necessarily.

8 Q Why?

9 A Because everything happened -- happened and happens
10 so fast sometimes there's not enough time to say
11 anything.

12 Q Did you talk -- now, Mr. Buckingham drove up to the
13 scene, got out -- abandoned -- got out of his
14 cruiser. Did you have any discussion with
15 Mr. Buckingham about whether that was wise or
16 not --

17 A No.

18 Q -- or whether he should have stayed in the cruiser
19 or whether he should have taken cover behind his
20 cruiser before engaging Mr. McClure?

21 A No, but, you know, looking at the video, to me, it
22 looked like he was attempting to use his vehicle as
23 cover as temporary as it could be.

24 Q How far away from Mr. Buckingham was Mr. McClure
25 when Mr. Buckingham shot him the first time?

1 A I'd say approximately the width of his police
2 vehicle. Maybe eight -- eight-ish feet.

3 Q Do you recall -- and we'll talk about this later,
4 if need be. Do you recall Lieutenant Buckingham
5 tell you he was 12 to 15 yards?

6 A Yes.

7 Q Which would have been 36 to 45 feet?

8 A Yes, I believe he said something to that effect.

9 Q Did you ever conduct any investigation into that to
10 determine whether Mr. Buckingham was right and you
11 were wrong?

12 A Whether Mr. Buckingham was right and I was wrong?

13 Q Well, you just said you thought he was the width of
14 a vehicle from him, eight feet.

15 A I'm going by what the video shows. And it's not
16 uncommon for people -- officers and other people
17 associated in critical incidents of any kind to
18 have a different perception. Either things are
19 closer than what they may -- what they really are
20 or things are farther away than what they really
21 are. So it was quite apparent he wasn't 45 feet
22 away based on the video and a variety of other
23 things.

24 Q Well, did you -- were you at the scene of the
25 shooting?

1 A Well after the fact, yes.

2 Q Okay. Had the vehicles been moved?

3 A No.

4 Q Did you conduct any measurements to find out
5 precisely how far Mr. Buckingham was from
6 Mr. McClure when he shot him?

7 A There were measurements taken, but there wouldn't
8 have been -- wouldn't have been able to do how far
9 he was away from him whenever the shots were fired.

10 Q Well, you'll agree with me there's a big difference
11 between somebody with a metal pole being eight feet
12 away from you and somebody with a metal pole being
13 36 to 45 feet away from you --

14 A Yes.

15 Q -- wouldn't you? And that's a significant enough
16 difference to make it material as to whether there
17 was a need to shoot the man; right?

18 A Not necessarily.

19 Q Why not?

20 A Because obviously his -- not everybody is real good
21 at guesstimating ranges, number one. Number two,
22 it's obvious by the video he was much closer than
23 36 to 45 feet or whatever you said, and we didn't
24 have that information at the time. That came at
25 least two days later. And just from what I

1 remember from the scene is if he had been 36 to
2 45 feet away or whatever you said, he would have
3 been like out in the middle of a different
4 intersection.

5 **Q Well, when you got to the scene, there had been**
6 **items of evidence marked; correct?**

7 **A Yes.**

8 **Q The knife had broken -- had come off from the pole.**
9 **That was in one spot. The pole was in another.**
10 **You also had shell casings. You had a shell casing**
11 **from the first shot, a shell casing from the second**
12 **shot. Did anybody make any attempt to measure the**
13 **distances between any of these items of evidence?**

14 **A They may have with what's called a Total Station**
15 **that documents it and it can be -- I think there's**
16 **pictures in there somewhere of --**

17 **Q Well, no. My understanding was because of the**
18 **rain, the Total Station couldn't be used.**

19 **A I think the Total Station was used, but there's a**
20 **different thing. It's a 3D scanner that couldn't**
21 **be used because of the rain. If I remember right,**
22 **that was brought to the scene but wasn't able to be**
23 **used, and I think that's why they elected to use**
24 **the Total Station, which documents location**
25 **evidence. And I think what you're asking about,**

1 something as far as measurements go, measure where
2 the shell casings were to where the pipe was to see
3 how close they actually were. Is that basically
4 what you're asking?

5 **Q Yeah.**

6 A Okay. Well, that would not be even close to
7 accurate either because things have a tendency to
8 get moved. Just because a shell casing goes one
9 way, doesn't mean -- that can't necessarily tell
10 you exactly where your shooter was either.

11 **Q Okay. In any event, nobody measured the distance**
12 **from the passenger side -- or the driver's side**
13 **door of Mr. Buckingham's vehicle to the point where**
14 **Mr. McClure was standing when he was shot the first**
15 **time?**

16 A Not to my knowledge.

17 **Q Okay. So we don't have anything about that other**
18 **than the video and Buckingham's testimony?**

19 A I'm not sure what the reconstruction -- the Total
20 Station includes in measurements or if that's a
21 digital download or -- I'm sure that there may be a
22 measurement somewhere, but I don't know for sure.

23 **Q Now, what was Mr. McClure doing when Mr. Buckingham**
24 **shot him the first time?**

25 A Coming around his vehicle and what I would say

1 almost chasing him down with a metal pipe and
2 causing damage.

3 **Q Chasing who down?**

4 A Buckingham. Chasing him down may not be the exact
5 term but that's what I'm going to refer to it as.

6 **Q Okay. What was Mr. McClure doing the second time**
7 **Mr. Buckingham shot him?**

8 A I think he was -- if I remember right, without
9 watching the video, he was refusing verbal commands
10 to stay down. He was in an effort to push himself
11 up, and the pole -- the pole and the knife were on
12 the ground still somewhere. But the pole, post,
13 whatever you want to call it, was just within half
14 an arm's length to grab and be able to use. He was
15 still resisting, combative.

16 **Q He did not have the pole in his hand when he was**
17 **shot the second time by Officer Buckingham;**
18 **correct?**

19 A Correct.

20 **Q And Officer Buckingham was between Mr. McClure and**
21 **the knife when he shot him a second time, wasn't**
22 **he?**

23 A I don't know.

24 **Q Well, where was the knife when Buckingham shot him**
25 **the second time?**

1 A It was on the ground somewhere.

2 Q Well, do you know where?

3 A It seemed like it was near the pole, but I'd have
4 to refer back to pictures to...

5 Q Is it -- is it important as to -- is it important
6 to your analysis, your investigation, your
7 conclusion how close that pole was to Mr. McClure
8 when Mr. Buckingham shot him a second time?

9 A Is it important to me? Yes.

10 Q And why?

11 A Because it's still a dangerous deadly weapon that
12 could inflict death.

13 Q If it's close enough for him to have reached
14 without much trouble, that's important to know.
15 Likewise, if it wasn't close enough for him to
16 reach, that would be important as well.

17 A Right. And I'm -- going back on memory, I'm not
18 sure if anybody knew exactly where the knife was at
19 that point either.

20 Q Okay. Well, likewise is it important to your
21 investigation where the knife was?

22 A Yes.

23 Q And for the same reason. When Mr. McClure was shot
24 a second time, was that knife within -- could he
25 have gotten that knife and presented a risk?

1 A Possibly.

2 Q That's the issue, right, with regard to the knife,
3 was it close enough for him to get to and use?

4 A Well, at the time, was it close enough for him to
5 get it and use it or did he still have possession
6 of it?

7 Q Now, did Mr. McClure have anything in his hands
8 when he was shot a second time?

9 A Not that I recall going back and watching the
10 video, no.

11 Q How close to Mr. McClure was Mr. Buckingham when he
12 shot him a second time?

13 A Probably about the same distance as before, maybe a
14 little bit closer.

15 Q Wasn't he basically point blank?

16 A I wouldn't call it point blank, no.

17 Q Was he within an arm's length of Mr. McClure when
18 he shot him a second time?

19 A I don't recall exactly. I mean, I don't remember
20 -- I don't -- working off memory, I don't remember
21 the gun coming out and touching Mr. McClure, which
22 would be an arm's length. So...

23 Q Well, let's do this. Let's go ahead and watch the
24 video. I've got it loaded up here. Let me pull it
25 up.

1 (A discussion was held off the record.)

2 Q Now, can you see this okay?

3 A Yeah. I'm going to turn these lights off, if
4 that's okay.

5 Q Okay. Yeah. That'd be great. I'm going to try to
6 get where I can stop this.

7 Okay. This video starts, and we hear, "okay.
8 He just broke my window out." Do you know who's
9 talking there?

10 A I believe that's Chief Powell.

11 Q Okay. Now, what we're looking at here is
12 identified in the Kentucky State Police records and
13 Axon, A-x-o-n, body two, X81105248. And is that
14 your understanding of the identifier for Lieutenant
15 Buckingham's body cam?

16 A Yes.

17 Q Okay. So what we're seeing here is sort of the
18 dashboard, the front windshield, and the hands and
19 the steering wheel of a vehicle being driven by
20 Mr. Buckingham.

21 A Okay.

22 Q Has he had any contact with Mr. McClure to this
23 point?

24 A No.

25 Q All right. Okay. That is Chief Powell saying he

1 just broke my windshield. So we -- we hear on this
2 the report -- both of Chief Powell's reports of
3 Mr. McClure knocking out his back window and then
4 breaking his windshield; right?

5 A Okay.

6 Q Now, is that Mr. McClure?

7 A Yes.

8 Q Okay. So we see that Mr. Buckingham stopped his
9 cruiser. I believe he's got a gun in his left
10 hand. He's stuck it out -- he's opened his door,
11 and he has stuck it out the space between the door
12 and his A pillar, and he yells to Mr. McClure to
13 get back. Okay? Now we see here Mr. Buckingham
14 has his left hand out the window, the gun in his
15 hand. Has Mr. Buckingham shot at Mr. McClure up to
16 this point?

17 A No.

18 Q Has Mr. McClure done any damage to the vehicle
19 Mr. Buckingham is driving to this point?

20 A Not that I'm aware of.

21 Q All right. Was that a gunshot?

22 A I don't believe so.

23 Q Okay. Now, it appears that Mr. McClure has -- has
24 gone somewhere. Mr. Buckingham has shut the door,
25 put his car in gear and is now driving, is that

1 correct, your understanding of it?

2 A I don't know about Mr. McClure going somewhere. He
3 is out of sight of the video, yes.

4 Q Okay. That does look closer -- a lot closer than
5 12 to 15 yards.

6 A Yes.

7 Q Has Officer Buckingham just shot Mr. McClure the
8 first time?

9 A I'd have to finish watching it because I know
10 there's a couple of pops in there where he hits the
11 glass.

12 Q Where he breaks out the rear window of this black
13 SUV we're seeing here. Now, is this black SUV
14 we're seeing here, is this what's referred to as
15 Officer Buckingham's vehicle that gets its rear
16 window knocked out?

17 A Yes, I believe so.

18 Q Okay. So when we read that Mr. McClure has knocked
19 out the back window of Officer Buckingham's
20 vehicle, that's not the vehicle Officer Buckingham
21 drove up to the scene, is it?

22 A Huh?

23 Q Officer Buckingham drove up, gets out of something
24 that he's driving, and that's what's in front of
25 him.

1 A That's the vehicle he gets out of. Rewind it just
2 a little bit and you'll see -- because I believe --
3 if I'm looking at that right, his door is even
4 still open where he exited the vehicle. That's his
5 car.

6 MS. WORAK: Greg, if I can clarify this at
7 all, that's Buck's vehicle. He gets out of it and
8 turns and goes around it. That's the vehicle that
9 Buck was driving. I know in the body cam it looks
10 like he's driving a smaller car, but that is Buck's
11 vehicle.

12 A He gets out and goes to the back of his vehicle.

13 MS. WORAK: He gets out and turns around.

14 Q Okay. He's stopping a second time. All right.
15 And I don't see him getting out of his car --
16 getting out of his car, walking to the back of his
17 vehicle, and shooting him.

18 MS. WORAK: But Greg --

19 Q Now, let's --

20 MS. WORAK: I'm going to object. You need
21 to --

22 Q That's what I'm looking for.

23 MS. WORAK: If you want to testify and say
24 that's what you see --

25 MR. BELZLEY: Well, that's what I'm looking

1 for.

2 MS. WORAK: You haven't even gone all the way
3 through the video the second time. He's not out of
4 the vehicle yet.

5 **Q Okay. I'm just going to go through this piece by**
6 **piece.**

7 MS. WORAK: Okay. That's the door.

8 **Q We see an open door. He gets out of the open door.**

9 A He turns to his left.

10 **Q He turns to his left where this SUV is.**

11 A Where his --

12 **Q He's not walked around the back of his car.**

13 A All right. I'm going to draw a picture real quick.

14 **Q No. I understand what you're telling me.**

15 A And you realize that it's just a video that's
16 mounted right here (indicating) that's only showing
17 one perception, one thing. He doesn't have a video
18 crew following him around to show that the door has
19 remained open and everything else.

20 MS. WORAK: Just for the record, he just
21 indicated that the video is mounted on the
22 officer's chest -- in the middle of his chest.

23 MR. BELZLEY: Let's go off the record and take
24 a break because I've got the videos here -- or I've
25 got the photographs here that I think can shed some

1 light on this.

2 (A brief recess was taken.)

3 MR. BELZLEY: My apologies. My bad.

4 MS. WORAK: Just for the record, I think --
5 while we were on a break, I think we clarified for
6 Greg to some extent which vehicle is which in the
7 video.

8 MR. BELZLEY: Yes, you have. And I appreciate
9 that, and I apologize for the misunderstanding.

10 MS. WORAK: Okay. Are we still going to be
11 watching video or do I need to sit down?

12 MR. BELZLEY: Back to the video. No, we're
13 going to keep watching the video.

14 MS. WORAK: Okay.

15 MR. BELZLEY: Back to the video.

16 MS. WORAK: Why don't you back it up a little
17 bit because you're a little bit further along than
18 you were when we first got confused about the car.

19 **Q Okay. Here we go. Okay. He's getting out and**
20 **basically he spins to his left.**

21 **A** (Witness nods head affirmatively.)

22 MS. WORAK: You've got to have audible
23 responses.

24 THE WITNESS: Oh, okay.

25 **A** Yes.

1 Q Now, he's got his gun pointed at Mr. McClure. Has
2 Mr. McClure to this point struck anybody -- any
3 human being with that pole?

4 A Not that I'm aware of.

5 Q What did Mr. McClure strike with the pole at or
6 near the time Mr. Buckingham shot him the first
7 time?

8 A I believe the back glass of Lieutenant Buckingham's
9 vehicle -- police vehicle.

10 Q Okay. Now, let me back up just -- see if I can
11 back up just a little bit and stop something
12 because I want to ask you about it. This is a
13 Fulton police vehicle; correct?

14 A Yes.

15 Q On the back window, it's got an American flag. I
16 get that. What is that on top of it?

17 A I don't know.

18 Q Is that some -- is that the -- sort of the skull
19 punisher emblem?

20 A I think it's reminiscent of like what I would call
21 a -- like a mask that like warriors wore in like
22 greek times, stuff like that. I think it's
23 symbolic of military and warrior type stuff.

24 Q Did you see that on any other police vehicle?

25 A I've never paid attention to it.

1 Q Now, in looking through the photographs, there were
2 numerous pictures taken of the back windows of --
3 that Mr. McClure had been -- had knocked out of
4 other vehicles, but I couldn't find a photograph
5 that showed this back window that was knocked out.
6 Do you know whether that -- there was -- there were
7 no photographs taken because nobody wanted anyone
8 to see that there or they thought that that would
9 reflect badly on Officer Buckingham?

10 A No.

11 Q Have you ever seen that decal on any police vehicle
12 before?

13 A I don't know.

14 Q To your knowledge, was anything moved? Were any of
15 these items of evidence moved before you got to the
16 scene?

17 A Not to my knowledge.

18 Q Okay. All right. Let's keep going. So
19 Mr. McClure has been shot, and I think -- now we
20 clear that clang-a-lang-lang.

21 A Uh-huh.

22 Q What is that?

23 A I believe that's the pipe hitting the ground.

24 Q That's Mr. McClure dropping the pipe. Okay. And
25 in this -- in this frame, we see Mr. McClure flat

1 on his back on the ground. His legs are up. Do
2 you see the pipe anywhere in that picture?

3 A Not from the video, no.

4 Q All right. Let me back this up just a little
5 because I want to see something. Dang it. There.
6 Perfect. Good job, Greg. Do you see what I'm
7 pointing at on the screen in front of the red van?

8 A Okay.

9 Q Didn't it turn out that was the knife that was --

10 A I believe so.

11 Q Okay. So we've got the knife in front of the
12 maroon van. When Officer Buckingham pulled his
13 trigger and shot Mr. McClure the first time, was
14 there an individual in the driver's seat in the
15 maroon van?

16 A I believe he was, yes.

17 Q So he was in the line of fire when Mr. Buckingham
18 shot Mr. McClure the first time, was he not?

19 A Potentially.

20 Q Was that wise?

21 A I don't know how to answer that question.

22 Q Well, it wasn't. I mean, you had -- you had an
23 innocent civilian in the line of fire. You're
24 shooting at a guy because he's knocking out a back
25 window. What justifies that?

1 A What justifies his shooting the guy --

2 Q Yeah, who is knocking out a back window.

3 A Because he's still posing a threat to him.

4 Q Okay. In any event, at this point, Mr. McClure has
5 been shot. Do you know where the bullet entered
6 Mr. McClure that he was shot with the first time?

7 A Both of them entered his left side somewhere, and I
8 couldn't tell you which one was first, which one
9 was second.

10 Q Okay. But as we see in this frame, the knife is in
11 front of the maroon van; correct?

12 A There is a knife, yes.

13 Q Okay. Was there any other knife other than that
14 one found at the scene?

15 A I don't believe so.

16 Q Okay. So can we assume from that that that was the
17 knife that Mr. McClure had attached to his pole?

18 A Yes.

19 Q Now, now, is there anything that is obstructing
20 Officer Buckingham's view of that knife?

21 A I don't know.

22 Q Or its distance from Mr. McClure?

23 A There is nothing obstructing the camera's view of
24 that knife, no.

25 Q Okay. And I understand Mr. Buckingham may not have

1 **been paying attention to that at this point.**

2 A He may not even be looking that direction, correct.

3 **Q May not even be looking that direction. I got you.**

4 **Mr. McClure is on the ground. We've heard the**
5 **metal pole drop. Now, look where the metal pole**
6 **is. Do you see that?**

7 A Uh-huh.

8 **Q The metal pole is perpendicular to this white**
9 **stripe, is it not? It's this way. This white**
10 **stripe goes this way. So it's perpendicular.**

11 A It's near the white stripe, yes.

12 MS. WORAK: Just for purpose of the record,
13 when we're saying white stripe, to me, it looks
14 like it's like a stop bar underneath Mr. McClure.

15 MR. BELZLEY: Or something, yeah. Can you
16 mark this, ma'am, this next exhibit.

17 (Plaintiff's Exhibit 2 was marked for
18 identification.)

19 **Q Let me show you a photograph that was taken by the**
20 **Kentucky State Police. Do you see where the bar is**
21 **in this picture?**

22 A Yes.

23 **Q Who moved it from where we're looking at it on the**
24 **video to where we see it in Exhibit 2?**

25 A I don't know.

1 Q You will agree that the bar that we see in the
2 photograph marked Exhibit 2 is not in the same
3 location as we see in the video?

4 A In this part of the video, correct.

5 Q Okay. Now, can we agree that the question is how
6 far the pole is from Mr. McClure in the video as
7 opposed to how close it would -- have been to him
8 in the photograph?

9 A Can we agree what?

10 Q Can we agree that the issue here is how far it is
11 from him in the video as opposed to how far it
12 would be from him in the photograph?

13 A It's in a different location in the photograph,
14 yes.

15 Q Does the Kentucky State Police have policies and
16 procedures concerning the preservation of evidence
17 at a crime scene?

18 A Yes.

19 Q And to your knowledge, does the Fulton police have
20 policies and procedures concerning preservation of
21 evidence?

22 A I don't know.

23 Q Have you looked? Have you checked?

24 A No.

25 Q Now, Mr. McClure is behind -- in this frame behind

1 Mr. Buckingham's right forearm or he's being
2 obscured. Would you agree with me that
3 Mr. Buckingham is between Mr. McClure's location
4 and where we saw the knife?

5 A Based on that, I couldn't agree or disagree.

6 Q Okay. Well, you know that we've got the maroon van
7 to Mr. Buckingham's right; correct?

8 A Correct.

9 Q And we've got the knife in front of the maroon van.

10 A Right.

11 Q If Mr. Buckingham is over here approaching
12 Mr. McClure and the post, Mr. Buckingham is between
13 Mr. McClure and the knife, is he not?

14 A Possibly. But if you look at the way the stripe is
15 in your picture, that's closer to the van, and he's
16 more out to the very end. If you're looking at it
17 from the -- from the video and the picture, then
18 there could be three feet or two feet between him
19 and the van, which could be a walkway. I don't
20 know.

21 Q If anybody believed that Mr. McClure could access
22 or reach that pole and use it to hurt anybody, why
23 isn't somebody -- why isn't Mr. Buckingham, for
24 instance, immediately approaching the metal pole,
25 kicking it out of the way, and instead just

1 directly approaching Mr. McClure?

2 A I don't know.

3 Q Did you ask him?

4 A No.

5 Q Is that because he didn't think the metal pole
6 could be reached by Mr. McClure or was a threat?

7 A That's a question for him.

8 Q I know. But that's a question you didn't ask him.

9 A Okay.

10 Q Why not?

11 A I don't know.

12 Q Now, we see in this frame Mr. McClure is directly
13 in front of Mr. Buckingham. Mr. Buckingham has his
14 gun on him and above him -- slightly above him.
15 How far away from Mr. McClure would you say
16 Mr. Buckingham is?

17 A I'd say three to five feet --

18 Q Okay. We see --

19 A -- guessing.

20 Q And who is this guy -- that's gotten out of his --
21 gotten out of his SUV and is walking towards
22 Mr. McClure with his hands empty?

23 A That looks like Chief Powell.

24 MS. WORAK: Greg, before you move on, will you
25 for the record state what the time stamp is on the

1 video so that when we're talking about a particular
2 frame, we know exactly where in the video he's
3 testifying about?

4 MR. BELZLEY: Oh, that's a good point.

5 MS. WORAK: Probably the better time stamp
6 will be the one on the bottom.

7 MR. BELZLEY: 118.

8 MS. WORAK: 0118 on Buckingham's body camera?

9 MR. BELZLEY: Yeah.

10 **Q Okay. Did Mr. Buckingham just shoot him a second**
11 **time there?**

12 A Yes.

13 **Q Why? Why did he shoot him?**

14 A You would have to ask him for sure, but I'm sure he
15 still perceived him as a threat.

16 **Q Well, I -- did you ask him why he shot him then?**

17 A I'd have to go back and review his interview. But
18 I can also see Mr. McClure has changed positions
19 and now he's facing the pole.

20 **Q Yeah. How far away from Mr. McClure is he from the**
21 **pole?**

22 A Not far. I'd say three feet.

23 **Q Well, he's got -- you've got the Chief Powell**
24 **approaching him and the pole. You've got**

25 **Mr. Buckingham standing over him with a gun pulled.**

1 Do you realistically believe as an investigator on
2 the CIRT that Mr. McClure presented any risk of any
3 harm to anybody at this point?

4 A That's based on their perception being there at
5 that point in time.

6 Q No, no, no. I'm not talking about their
7 perception. And let me tell you, officer, I've
8 talked -- I've interviewed a lot of police officers
9 and the reason I asked about the Woodcock case was
10 because in that case, an officer testified he
11 perceived a risk of serious bodily injury or death
12 from a guy he shot from a distance of 75 feet with
13 an assault rifle who had threatened the police and
14 nobody had seen him with a weapon. So perceptions
15 are one thing. Facts are another.

16 What do you see here that indicates that this
17 man -- that indicates to you -- I know what Powell
18 has told you. I know what Buckingham has told you.
19 I want to know what you see here that indicates to
20 you that this man posed a risk of serious bodily
21 harm or death to anybody at this point.

22 A That is still a potential weapon. If he gets his
23 hands on it, he can definitely impose seriously
24 injury or death on it.

25 Q Well, sure. Well, his hands are a potential

1 **weapon.**

2 A Potentially but not -- I'm not saying deadly
3 weapon, though.

4 **Q He could jump up and gouge Mr. Buckingham's eyes**
5 **out.**

6 A He could, yes, thank you, and then he could shoot
7 him for that, yes. But what this is, this is a
8 weapon that he's actually used to damage property
9 and some of that damage is hard to inflict.

10 **Q Do you understand the distinction that -- or are**
11 **you familiar with the distinction that has been**
12 **drawn in law about whether a person is armed or**
13 **unarmed?**

14 A No.

15 **Q Have you, as a part of your training to conduct**
16 **these types of investigations of officer-involved**
17 **shootings, received any instruction, any education**
18 **at all in what the law considers to be justified?**

19 A As far as what the KRS -- the Kentucky revised
20 statute.

21 **Q No, I'm talking about cases like the 6th circuit**
22 **case.**

23 A As far as people being in reasonable fear of --

24 **Q Yeah?**

25 A -- death or serious physical injury?

1 Q Yeah.

2 A Okay. Somewhat.

3 Q Like, the 6th circuit case that says a guy standing
4 in front of a couple --

5 MR. COMBS: Objection.

6 Q -- a couple of police officers --

7 MR. BRENN: You're going to need to ask him
8 questions.

9 Q Have you heard about the case?

10 A Possibly.

11 Q The 6th circuit where a guy standing in front of
12 police officers with a long rifle and the officer
13 said he pointed the rifle at him, and they shot him
14 and killed him, and there was a dispute whether he
15 had actually pointed the rifle or not. Are you
16 familiar with that case?

17 A I may have heard of it, but I'm not overly
18 familiar, no.

19 Q Are you familiar with the 6th circuit case where
20 officers were -- shot and killed a man that was
21 charging them with knives in both hands and was
22 covered with blood and the 6th circuit faulted them
23 for doing that. Are you familiar with that case?

24 A No.

25 Q So as I understand it, the conclusions you reached

1 in this case rested ultimately on what Chief Powell
2 and Mr. Buckingham told you they were perceiving at
3 that moment; is that right?

4 A Mostly. And the video.

5 Q Okay. Now, at this point before Mr. Buckingham
6 shoots him a second time, he's -- Mr. McClure has
7 already got one bullet in him, doesn't he?

8 A Yes.

9 Q Do you know what damage that bullet did to
10 Mr. McClure?

11 A No.

12 Q Does it -- is this indicative to you that the
13 bullet that entered Mr. McClure's body when
14 Mr. Buckingham shot him a second time did so from
15 an angle from above Mr. McClure's shoulder?

16 A Am I familiar with that?

17 Q Well, does it indicate to you?

18 A I mean, it would -- obviously he's higher, and he's
19 lower.

20 Q So you would expect the second bullet to traverse
21 in a downward fashion through Mr. McClure's body,
22 would you not?

23 A I don't know.

24 Q Have you done -- have you received any kind of
25 forensic autopsy, biomedical training as a part of

1 **your investigation --**

2 A No.

3 **Q -- experience? Okay. Now, we -- whose hand is**
4 **that on the back of Mr. McClure's neck?**

5 MS. WORAK: What's our timestamp?

6 MR. BELZLEY: It is at 0119.

7 A I believe that's Lieutenant Buckingham.

8 **Q Did you ever ask Mr. Buckingham why instead of**
9 **shooting Mr. McClure he just didn't kick him?**

10 A No.

11 **Q Or punch him?**

12 A No.

13 **Q Or knock him down?**

14 A No.

15 **Q Why not?**

16 A Because he had already established that the fear of
17 serious physical injury or death was present, and I
18 would doubt that -- I don't know his training, but
19 I know mine. You're not really taught to kick
20 people, and I think going hands on at that time
21 would be inappropriate.

22 **Q Why?**

23 A Because it's still dangerous, and you're still
24 perceiving a dangerous threat.

25 **Q So what he's doing at this point, grabbing**

1 Mr. McClure, it looks like, at the back of the
2 neck, you consider that inappropriate?

3 A Not inappropriate. I wouldn't choose that tactic,
4 but another reasonable officer may go hands on at
5 that point.

6 Q Within a second of shooting him, Mr. Buckingham is
7 close enough to Mr. McClure to put his hand on his
8 neck. Would you agree with that?

9 A Give or take a second, yes.

10 Q Doesn't that indicate to you that there were
11 nonlethal force alternatives available to
12 Mr. Buckingham that he, in fact, utilized soon
13 after shooting Mr. McClure a second time that he
14 could have utilized before shooting him?

15 A It doesn't indicate that to me, no.

16 Q Why not?

17 A Because he had other options available too, and he
18 decided to go one way or the other, yes.

19 Q He had an option to use a nonlethal force
20 alternative, and he had an option to shoot the man.
21 Aren't you trained as a Kentucky State Police
22 trooper that you are to use only the force
23 necessary to bring the subject under control?

24 A I don't know if that's exactly the way it's worded
25 but something to that effect, yes.

1 Q And Fulton city use of force policy says the same
2 thing, doesn't it?

3 A I don't know.

4 Q So you don't get to shoot somebody just because you
5 don't want to hassle with using a nonlethal force
6 alternative; right?

7 A Correct.

8 Q If a nonlethal force alternative is available to
9 you and is adequate to control the situation,
10 you're expected to use that and not shoot somebody;
11 right?

12 A I don't know. It may not be appropriate at the
13 time.

14 Q How would -- how would it -- how would using a non
15 -- how would rejecting a nonlethal force
16 alternative, an available nonlethal force
17 alternative in favor of a lethal force alternative
18 be appropriate or reasonable?

19 A Because you don't go into a potentially lethal
20 situation where the other person has a weapon that
21 could potentially kill you with a less lethal
22 option.

23 Q And the weapon you're talking about is the metal
24 bar?

25 A Yes.

1 Q And you -- but you don't know how far away that
2 metal bar is from Mr. McClure?

3 A No.

4 Q Did he ever touch it before he was shot?

5 A The first or second time?

6 Q Second time.

7 A Oh. Not that I recall.

8 Q Do you know how close he got to that metal bar
9 before he was shot a second time?

10 A It looked like just a couple of feet.

11 Q Do you think he could have reached it before Chief
12 Powell would have stepped on the bar?

13 A Oh, yes.

14 Q What did you do to investigate that?

15 A Nothing on that part.

16 Q Did you ask Chief Powell why he's sauntering over
17 to Mr. McClure instead of running over and kicking
18 that bar out of his reach?

19 A No. I just -- without being rude, I just don't see
20 Chief Powell as the type that moves like a cat.

21 MR. BELZLEY: Well, I really don't think
22 that's funny when we're talking about a dead man
23 here.

24 A Well, it's not meant to be funny. It's just trying
25 to put it into perspective.

1 Q Well, I know. And you're not laughing. It's Ms.
2 Worak that's laughing down there.

3 A Ideally in a perfect world --

4 MS. WORAK: No. I'm not laughing about a dead
5 man, Greg. I'm laughing at this line of
6 questioning. Go ahead.

7 A And that's a question for Chief Powell. I'm sure
8 -- I don't know what he was focused on. He may not
9 have even seen the pipe. That would be up to his
10 perspective and his vision at that time.

11 Q It would be hard to miss, wouldn't you say?

12 A No.

13 Q I mean, it's a white pipe. It's three feet long.
14 He's already swung it at Chief Powell's windshield
15 and it's laying on black asphalt. How does he miss
16 that?

17 A It wouldn't be hard to miss because again, we
18 still -- they don't know where the knife is, and as
19 you indicated earlier, the distance Buckingham was
20 in reality versus his perception was much greater.
21 So he thought he was further back. So I think it'd
22 be easy to miss that. And maybe he saw it. I
23 don't know. You'd have to ask him.

24 Q Did you ask him?

25 A No, I don't believe so.

1 Q When you testified to the grand jury, did you
2 testify to -- was your testimony --

3 MR. COMBS: Objection.

4 Q -- based on facts or --

5 MR. COMBS: We can't answer any questions
6 about what he testified to in the grand jury. You
7 know that.

8 MR. BELZLEY: Why?

9 MR. COMBS: Because Kentucky rules of criminal
10 procedure say he will be held in contempt if he
11 says anything about that. I mean, we all know
12 that.

13 MR. BELZLEY: I don't know that. I mean, I --

14 MR. COMBS: Rule 5.24. Grand jury proceedings
15 are secret. He can't say anything about it.

16 MR. BELZLEY: We've got a tape of his
17 testimony.

18 MR. COMBS: You've got a tape of his testimony
19 that you're probably not supposed to have, but
20 either way, you've got it. That doesn't mean he
21 can testify about it.

22 MR. BELZLEY: Well, the fact that I've got it
23 is what we base our allegation against --

24 MR. COMBS: Well, if you want to talk to the
25 judge, you talk to the judge. I just told you what

1 our response is to any questions about what was
2 said in the grand jury room.

3 MR. BELZLEY: So you're not -- so you're
4 instructing him not to answer --

5 MR. COMBS: I am.

6 MR. BELZLEY: -- any questions about what he
7 told the grand jury.

8 MR. COMBS: I am.

9 MR. BELZLEY: Okay.

10 **Q Now, he is -- he's shot a second time. Did you**
11 **make any determination of how much time it took to**
12 **contact EMS?**

13 **A** I did at some point in time, but I don't remember
14 the exact time. I remember they were talking about
15 it on the video. I believe those response records
16 are somewhere in the case, and they're talking
17 about on the video some -- seems to be some
18 confusion about who called them or if they're on
19 their way or whatever.

20 **Q Okay. Was there some delay in -- well, let me back**
21 **up. When the man is shot a second time, how soon**
22 **would you expect somebody to call EMS?**

23 **A** Fairly quick.

24 **Q To be fair, probably not until the individual is**
25 **cuffed and under control?**

1 A I would want him to be secure somewhat and
2 potentially -- because if I remember right, I think
3 Lieutenant Buckingham wasn't even aware he'd hit
4 him -- shot him the first time. He thought he may
5 have missed, if I remember correctly. So at some
6 point in time they have to even establish that he
7 is injured, and then I would -- they would start
8 calling for medical services.

9 Q Okay. Did you make a determination whether there
10 was an inordinate delay in their summoning medical
11 services for Mr. McClure or an unreasonable delay?

12 A I wouldn't say unreasonable. I think that there
13 was some confusion about when EMS was contacted or
14 if they were contacted.

15 Q Okay. Let's -- are you all okay with just keeping
16 on going? Because I'm kind of on a roll here, and
17 if you all are okay, I'd just assume keep moving if
18 it's all right with everybody else, in particular
19 you, Mr. Bell. You're the guy answering the
20 questions and --

21 A Let's drive on.

22 Q Okay.

23 MR. BELZLEY: How are you doing, ma'am? Do
24 you need anything to drink?

25 MS. REPORTER: No. I'm good.

1 MR. BELZLEY: Because I know where the water
2 is.

3 Q Did anybody make a log of who was in and among the
4 evidence after Mr. McClure was shot?

5 A I believe Post 1 had somebody responsible for that,
6 but I don't know who it would have been.

7 Q Have you ever seen that log?

8 A Not that I recall.

9 Q Let me ask the reporter to mark this 3.

10 (Plaintiff's Exhibit 3 was marked for
11 identification.)

12 Q Let me just show you this. This is a photograph,
13 and I think it's Mr. Buckingham standing to the
14 left. But do you know who that big guy with the
15 beard is that's standing to the right?

16 A I think he -- I don't know his name, but I think
17 he's an employee of the Fulton Police Department,
18 but I don't know his name.

19 Q Okay. Do you know -- do you know whether he was
20 interviewed by anybody?

21 A No.

22 Q Give me a second here as I get my act together. Do
23 you know what happened with Mr. Buckingham after
24 this was all over?

25 A I think someone took him back to the police

1 department, but I don't know who.

2 Q How long after this incident on January 16 I think
3 it was, how long after that was it that you
4 interviewed Mr. Buckingham?

5 A I believe on the 18th.

6 Q Okay. Why did you not interview him before then?

7 A Because I still had a lot of stuff to go on and --
8 as far as evidence and autopsy and scheduling and
9 distance and just a variety of things.

10 Q When you spoke with Mr. Buckingham, did he have
11 counsel present?

12 A I don't believe he did.

13 Q Was he sworn to tell the truth when you spoke with
14 him?

15 A No.

16 Q Why not?

17 A I don't think I'm capable of swearing someone in.

18 Q Well, there's people that can do it. We've got a
19 court reporter who swore you. I mean, was there --

20 A No.

21 Q Is there -- was there a reason other than there
22 just wasn't anybody available to do it?

23 A No.

24 Q Did you consult as a part of your investigation any
25 of the policies and procedures of the Fulton Police

1 Department?

2 A No.

3 Q I've got twisted up here. Let's take a short
4 break. I think I'm missing part of my -- bear with
5 me here. I may be wrong. Let's take a short
6 break. I've lost part of my stuff.

7 (A brief recess was taken.)

8 Q I'm looking at your conversation with Lieutenant
9 Buckingham that begins at ten page on your report
10 -- page 10 of your report. Now, on page -- I'm
11 looking at page 13 in particular. Now, as we were
12 able to determine, Lieutenant Buckingham's
13 estimation that he was 12 to 15 yards away from Mr.
14 McClure when he shot him the first time, that was
15 obviously wrong.

16 A Uh-huh.

17 Q And that was a -- that was a -- by the same token,
18 and we discussed this a little bit earlier, when
19 you're interviewing somebody, particularly an
20 officer who has pulled a trigger in an
21 officer-involved shooting, how -- I mean, how --
22 how reliable is it what they tell you?

23 A It depends. As far as the truth as they know it
24 and factual, very reliable. Sometimes in critical
25 incidents, even not with just police officers, but

1 with other people, even people in car accidents,
2 sometimes their memory may be distorted. They may
3 think something happened one way when in reality it
4 happened another, but that's just the way they
5 remember it, which isn't wrong.

6 Q Now, I think you'll recall from watching the video
7 when Mr. Buckingham shoots Mr. McClure the first
8 time, Mr. McClure -- we hear Mr. McClure drop the
9 pole.

10 A Okay.

11 Q Do you recall that?

12 A Yes.

13 Q And then we don't -- there's nothing on the video
14 to indicate that he ever touched the pole again;
15 correct?

16 A Nothing on the video, correct.

17 Q So on page 13 when Mr. Buckingham is telling you --
18 he said, so I jumped out of my car, and I think at
19 that time is when I fired the first shot when he
20 was coming towards my vehicle, and I heard him say,
21 no, no. And he took off running or trying to run.
22 And I honestly thought I missed him shooting him.
23 I thought I missed. And he went back by the
24 chief's car, right by his car again, swinging that
25 stick or pole. Now, that's not -- that's not

1 accurate, is it, because we know after
2 Mr. Buckingham shot him the first time, he dropped
3 the pole?

4 A Right. And he may -- you'd have to ask him. He
5 may be remembering back whenever he first arrived
6 at the scene.

7 Q I'm not expecting, you know, exact factual
8 accuracy. There's all -- science has told us
9 there's all sorts of things that happen in terms of
10 people -- the memories of people in good faith.
11 And I just wanted to establish that.

12 A Okay.

13 Q Okay. If you look on page 14 at the very top, you
14 asked Mr. Powell, okay, and what do you think would
15 have happened if he, Mr. McClure, had continued to
16 do what he was doing. And this is when
17 Mr. Buckingham shot him a second time. And
18 Mr. Buckingham says, I was -- I think he would have
19 possibly injured or killed the chief with the way
20 he was -- with his close contact and his proximity
21 to the chief. For some reason, to me, I don't know
22 if he was trapped in his vehicle or he couldn't
23 back out or get away or he was in a very bad
24 situation, and I think if I hadn't done what I did,
25 I think he possibly could have killed him or very

1 seriously injured him or someone else.

2 Now, that's not accurate, is it, because we
3 saw even before Mr. Buckingham shot him Mr. McClure
4 a second time, Chief Powell drove up, opened his
5 driver's side door, got out and started walking
6 towards Mr. McClure; correct?

7 A Correct.

8 Q All right. Mr. Buckingham had never been involved
9 in an officer-involved shooting prior to this, had
10 he?

11 A Correct.

12 Q Did you -- did you have some -- did that raise some
13 concern in your mind as to the adequacy of his
14 training?

15 A No.

16 Q Do you know when it was he last received firearms
17 training before this incident?

18 A It's in here somewhere. I did not include a
19 specific date, but it was from 2016.

20 Q Okay. What is your understanding -- now, that's --
21 that's firearms training. And when we talk about
22 firearms training, am I correct we're talking about
23 checking on whether an officer knows how to
24 properly load, maintain, fire his weapon, whether
25 he -- you know, his marksmanship and all of that?

1 A Marksmanship, for the most part, I would assume is
2 pretty uniform across the state.

3 Q When we're talking about marksmanship, we're
4 talking about a fixed sort of target -- nonhuman
5 target that --

6 A Definitely nonhuman. Usually fixed but not always.

7 Q Yeah. Have you heard discussions or participated
8 in discussions among Kentucky law enforcement
9 personnel about the need for more training that is
10 realistic in terms of a shoot/not shoot decision as
11 Officer Buckingham had to make in this case?

12 A As far as like scenario based? Is that --

13 Q Yeah.

14 A As far as people thinking that it's -- in my
15 opinion, it would be 50/50. You would have half
16 the people saying that we need more. Half say it's
17 adequate, and then I know that there are other
18 options as far as video simulators, et cetera, but
19 I don't know what's offered to everyone.

20 Q Yeah. And I -- and what I had in mind was -- when
21 I was deposing a police chief in another case, he
22 talked about the video, that there's a van or a
23 truck that goes around that actually -- and he said
24 it puts -- pretty realistic. You get in front of
25 the video and it's shoot/don't shoot. Are you

1 aware of anything other than that -- similar to
2 that or that offers that type of training other
3 than that one van?

4 A I don't know what all is available.

5 Q He -- this chief also told me that there is a
6 limited number of spaces available for that
7 training and that it costs money. Have you
8 overheard or participated in conversations about
9 economic restrictions on being able to get officers
10 that type of training?

11 A No.

12 Q Do you know whether Mr. Buckingham had ever tased
13 anybody before?

14 A No.

15 Q Now, I'm looking on page 15 of your report at the
16 very bottom. And it's -- and it sheds some light
17 on what perhaps was going on in Mr. McClure's head
18 at the time this was going on at or around the
19 time, and it says -- and I'm five lines up from the
20 bottom. It says, he was very excited and talking
21 about people sending him videos of his wife having
22 sex with another man, and they were sending him
23 videos of a child care in Martin, if I remember
24 right. He said they had like 14 employees over
25 there and there was child sexual stuff going on.

1 And they were sending him videos of it and people
2 were after him because he had videos of it.

3 Now, was it your understanding that
4 Mr. McClure had minor daughters?

5 A I had heard that later, yes.

6 Q Or minor children. To your knowledge, has there
7 been any investigation of whether Mr. McClure had
8 videos, if he did, what was on the videos, whether
9 there was child sexual abuse involving his children
10 going on at a child care over in Martin?

11 A No.

12 Q Did you attend the autopsy?

13 A Yes.

14 Q Did the -- and I think two bullets were removed
15 from Mr. McClure's body?

16 A Yes.

17 Q Do you have a recollection of where those bullets
18 entered his body?

19 A If I remember right, they entered on the left side.

20 Q Both on the left side?

21 A Yes. Pretty close to each other, and they were
22 recovered from his right side just under his skin.

23 Q Prior to Mr. McClure being shot the first time by
24 Mr. Buckingham, had Mr. McClure assaulted the
25 physical person of anyone with that metal pole and

1 **knife?**

2 A Like I said earlier, it could be considered an
3 assault with the glass fragments going onto Chief
4 Powell while he's sitting in his vehicle, and my
5 knowledge of the assault statute on a police
6 officer doesn't actually -- you don't have to
7 actually make contact. It can be an attempt. So
8 that would fall in there as well.

9 Q Now that I've been corrected and I understand that
10 Mr. Buckingham drives up in the SUV, gets out,
11 spins around, and shoots Mr. McClure the first time
12 when Mr. McClure is knocking the window out of his
13 SUV, what -- did you have any discussion with
14 Mr. Powell about why he chose to stop his vehicle
15 at that point?

16 A No.

17 Q Or why he -- why it was he chose to aban- -- you
18 know, abandon the cover of his vehicle at that
19 point?

20 A No. You're saying Mr. Powell; correct?

21 Q No. I'm talking about Mr. Buckingham.

22 MS. WORAK: You said Powell.

23 A You said Mr. Powell.

24 Q I'm sorry.

25 A Mr. Powell definitely, no, we didn't have that

1 discussion. Mr. Buckingham, no, because -- I will
2 elaborate on that because I would expect him to get
3 out. That's what cops do. So -- and also if you
4 watch Chief Powell's video, Mr. McClure is running
5 at Mr. Buckingham's vehicle. So the way I view it
6 is Buckingham exited his vehicle and was using his
7 vehicle as cover to keep Mr. McClure on the
8 opposite side, as I would if somebody was shooting
9 at me so to say, and then that's whenever he was,
10 for lack of a better term, chased down at the back
11 of the SUV with a steel pipe.

12 **Q I got you. Okay. Did Mr. McClure have any weapons**
13 **on him other than that bar and that folding knife?**

14 A I don't believe so.

15 **Q Now, I saw in some of the photographs what appeared**
16 **to be a cell phone on the asphalt with its back**
17 **off. Whose cell phone is that?**

18 A I believe that -- and just whenever I was trying to
19 catch up with your reading a minute ago, I saw
20 somewhere where I think Lieutenant Buckingham said
21 he had a cell phone and a wallet maybe on his
22 person. So I'm assuming it was Mr. McClure's.

23 **Q I saw in the photographs of his wallet a veteran of**
24 **foreign wars card. Was he a vet?**

25 A Not that I'm aware of.

1 Q Now, the bullets -- there were two different types
2 of bullets fired. There was a Federal brand 40 and
3 a Hornady brand 40. Were either of those bullets
4 soft nose?

5 A I don't know.

6 Q Now, you state in responses to discovery that Joe
7 Adams, who signed off on your report, he probably
8 did not see the videos.

9 A I don't know. I would assume he didn't, but I
10 don't know that he did or did not.

11 Q Did you ever recommend to him that he do so?

12 A No.

13 Q Had attorney Stacy -- Commonwealth Attorney Stacy
14 seen the videos before the grand jury?

15 A I believe so.

16 Q What attempts were made to subdue Mr. McClure
17 before he was shot the first time?

18 A As far as hands on, none that I'm aware of. Chief
19 Powell's video is very limited on what he -- his
20 actions were outside of the verbal portion --
21 verbal commands. A reasonable person I would think
22 and a reasonable officer would expect that a
23 person, if you said get on the ground and come here
24 or stop or whatever, you would expect them to
25 listen. So that would be kind of a -- a law

1 enforcement officer way of subduing someone or
2 having them stop whatever activity they're engaged
3 in.

4 **Q Okay. Was -- other than what Chief Powell said to**
5 **Mr. McClure, are you aware of any efforts made to**
6 **subdue Mr. McClure?**

7 A Not that I'm aware of.

8 **Q What evidence do you have -- is there any evidence**
9 **that you have to indicate that when Mr. McClure**
10 **struck Chief Powell's front windshield, he was**
11 **trying to hit Chief Powell as opposed to just**
12 **breaking his windshield?**

13 A What evidence?

14 **Q Yeah.**

15 A Just common sense. I don't know why he would aim
16 it where he did in that effort. I mean, up to that
17 point, he had been limited to sides of vehicles and
18 back glasses, and that's, to me, pretty strategic
19 that if I'm throwing a baseball and I want you to
20 catch it, I'm going to throw it to you or at you
21 instead of somewhere else so I'm intending on -- I
22 mean, if that makes sense.

23 **Q If that were the case, why would Mr. McClure have**
24 **walked away from Chief Powell's vehicle after**
25 **breaking his front windshield? Why wouldn't he**

1 have continued his efforts to strike Chief Powell
2 physically?

3 A To get away. Same reason if he thought he'd hit
4 him, he wasn't offering aid either. He took off.
5 He fled.

6 Q Now, I think we saw on the video that Mr. McClure
7 was shot either before or after, milliseconds
8 difference, the time that he broke the window out
9 of Mr. Buckingham's SUV.

10 A Yes.

11 Q After he was shot -- after he broke that window, if
12 he hadn't been shot before, he was shot immediately
13 thereafter. Would you agree with that?

14 A Yes.

15 Q And, therefore, after he broke that window, he
16 didn't then raise -- he didn't then raise the pipe
17 in a threatening manner at Mr. Buckingham?

18 A Well, like you say, it's within milliseconds of it
19 all happening. So it pretty much might as well as
20 just happened at the same time. And then, of
21 course, he falls to the ground and drops the pipe
22 so he didn't --

23 Q But do you recall after him breaking the window,
24 his then raising the pipe in a threatening
25 manner --

1 A I do not recall that.

2 Q -- much less approaching Mr. Buckingham with a pipe
3 raised in a threatening manner?

4 A The video doesn't show that.

5 Q Okay. Now, we saw that after Mr. McClure was shot
6 the first time and Mr. Buckingham came around the
7 back of his SUV, Mr. McClure's hands were clearly
8 visible; correct?

9 A To the camera, yes.

10 Q And he didn't have anything in his hands?

11 A Correct.

12 Q And we know that from the video that -- or at least
13 it appears from the videos and the KSP photographs
14 that were taken that the knife was in front of the
15 maroon van, and it would have been -- it wouldn't
16 have been inches away from Mr. McClure.

17 A No.

18 Q It would have been feet, and it would have been on
19 the other side of Mr. Buckingham?

20 A It would have been in front of the van, yes.

21 Q Okay. But Mr. McClure would have had to go through
22 Mr. Buckingham to reach the knife had he wanted to?

23 A As we discussed earlier. I mean, depending on
24 where he's positioned there. He could have went
25 around him, beside him. I don't know the distance

1 there.

2 Q Now, in looking through the investigation, there
3 was a private citizen at the scene who was a
4 Vietnam vet?

5 A Yes.

6 Q Okay. Was he carrying a weapon?

7 A He indicated in his interview that he was, yes. I
8 believe it was the gentleman in the maroon van that
9 was sitting there in front of where all the action
10 happened.

11 Q And where -- where was that weapon at the time?

12 A I don't know at the time.

13 Q Would he have had any right to just -- unless he
14 was being threatened personally by Mr. McClure,
15 would he have had any right to get out and just
16 shoot Mr. McClure?

17 A I'd have to interview him further in-depth, but
18 yeah, I believe he would based on what he thought
19 Mr. McClure was going to do to him or others.

20 Q It would depend on the circumstances?

21 A Yes.

22 Q He couldn't have shot him if Mr. McClure was
23 sitting on the ground and the pole and the knife
24 were across the street?

25 A If he wasn't presenting a threat, no.

1 Q Okay. Now, prior to your grand jury testimony, did
2 you have any conversations with Mr. Stacy about
3 what you would say to the grand jury?

4 A No, I don't believe so.

5 Q Did you meet with Mr. Stacy prior to testifying
6 before the grand jury?

7 A I don't remember meeting with him before. If we
8 did anything, we talked on the phone or to his
9 secretary, but I don't remember -- I talked with
10 him on February 10th. I'm believing that was a
11 phone call. Briefed him on the shooting. Just a
12 real quick synopsis and that I wanted to present
13 the case to the grand jury.

14 Q Did he -- at any point did he ask you, so what --
15 so, Lonnie, what do you think? Did our guy screw
16 up or what? Did he ever ask you that?

17 A No. Not that I recall, no.

18 Q Did you have any discussion with Mr. Stacy in any
19 shape or form prior to your testifying to the grand
20 jury of what you would and would not say to the
21 grand jury or how you would say it?

22 A No.

23 Q Now, am I correct that when an officer -- when you
24 as a trooper are trained in the use of your weapon,
25 that if you believe that you're in a situation in

1 which you are being -- you or someone else is being
2 threatened with serious bodily harm or death and
3 you draw your weapon and you believe you need to
4 fire your weapon, am I correct that you are trained
5 to aim at center mass?

6 A Yes.

7 Q Okay. And what I'm getting at there is there's a
8 lot of speculation among the general public about,
9 well, why didn't you just wing him. Well, why
10 didn't you shoot him in the arm. Why didn't you
11 shoot him in the hand. That's bull because you
12 could shoot somebody in the hand. It wouldn't stop
13 them. You could miss. The center mass meaning the
14 subject's torso offers the most obvious target and
15 offers the most obvious chance of actually stopping
16 the threat; correct?

17 A Yes.

18 Q And that's why officers are trained that if you're
19 going to discharge your weapon, aim at center mass.

20 A Typically, yes.

21 Q Now, as a consequence, when officers discharge
22 their weapons, there is an understanding that
23 they're going to -- they're likely to hurt the
24 person they're shooting and may perhaps kill them;
25 correct?

1 A Yes.

2 Q So it would be impossible not to point your weapon
3 -- it would be impossible to point your weapon at
4 someone and discharge it while at the same time not
5 intending to wound or hurt them. That is precisely
6 the intent of discharging the weapon, is it not?

7 A I don't -- I don't know if I like the word
8 impossible in there, but yes, I think your intent
9 is to stop the threat.

10 Q Okay. Now, did you make a determination of what
11 Lieutenant Buckingham knew about Mr. McClure at the
12 time he shot him the first time?

13 A What he knew about him?

14 Q Yeah.

15 A What do you mean?

16 Q Well, did he -- was he operating on anything other
17 than what was happening then?

18 A I don't believe so. I think something he said to
19 the effect of -- of course, obviously he was going
20 to assistant chief, and he said that the chief and
21 him had worked together for obviously a long time
22 and that he said the chief sounded distressful or
23 stressful or stressed or something like that, and
24 he could tell that something was different about
25 this incident.

1 Q Okay. But he wasn't -- he didn't have in his mind
2 some prior incident with Mr. McClure or
3 Mr. McClure's criminal history --

4 A No.

5 Q -- going back to 2002? He was operating on what
6 was before him in the moment?

7 A Yes.

8 Q Okay. We -- there was some discussion about Chief
9 Powell being struck by pieces of the window of his
10 windshield. Did he seek medical attention for
11 that?

12 A I don't believe so.

13 Q Do you recall seeing any medical records concerning
14 medical treatment given anyone as a consequence of
15 what Mr. McClure did that day?

16 A No.

17 Q Other than Mr. McClure swinging or making
18 threatening gestures or breaking the windshields of
19 Chief Powell and Mr. Buckingham, are you aware of
20 any verbal threats he made to either Chief Powell
21 or Mr. Buckingham?

22 A I would have to go back and watch Chief Powell's
23 videos because, if I remember right, at the
24 beginning of his, it's very low volume, and he said
25 something -- I don't remember exactly what it was,

1 but I believe the chief may have construed that as
2 a threat, but I don't remember what it was that he
3 said.

4 **Q Whatever it was, it's -- and to the extent you can**
5 **make it out, it's on Chief Powell's dash cam video?**

6 **A Yes.**

7 MR. BELZLEY: Let's take a short break. Let
8 me look over my outline, and I may be done. If I'm
9 not, I've just got a few more things to cover.

10 (A brief recess was taken.)

11 MR. BELZLEY: I'm done. No further questions.

12 EXAMINATION

13 QUESTIONS BY MS. WORAK

14 **Q All right. Mr. Bell, we met before. My name is**
15 **Kristen Worak. I am one of the attorneys that**
16 **represents the officers involved and the City of**
17 **Fulton.**

18 I am going to jump around quite a bit to try
19 not to cover the exact same things Mr. Belzley
20 covered. So just bear with me.

21 Aside from -- we went over your experience as
22 a trooper. Do you have any college credits or a
23 college degree?

24 **A I have a bachelor's degree.**

25 **Q Where did you get that?**

1 A University of Louisville.

2 **Q And what's your degree in?**

3 A Criminal justice.

4 **Q So it's a B.A.?**

5 A Yes.

6 **Q When did you get it?**

7 A This month.

8 **Q Just this month?**

9 A Yes.

10 **Q Congratulations.**

11 A Thank you.

12 **Q Any other formal post secondary education?**

13 A I also have an associate's degree in science or
14 something like that from Owensboro Community and
15 Technical School.

16 **Q When did you get that?**

17 A 2005.

18 **Q Did you have a particular focus for your associate
19 of science?**

20 A It was law enforcement as well. I don't know what
21 they called it at the time but something along that
22 line.

23 **Q Do you have plans for doing anything specific with
24 your bachelor of arts in criminal justice?**

25 A No.

1 Q Have you ever served in the military?

2 A Yes.

3 Q Tell me about your service.

4 A I was an M1 tanker, which we commonly refer to as
5 an Army crewman. Basically, the M1 main battle
6 tank that's on the news everywhere. I had three
7 and a half years of active duty and four and a half
8 years in the National Guard. No overseas
9 deployments.

10 Q Were you honorably discharged?

11 A Yes.

12 Q What was your rank?

13 A Sergeant, E5.

14 Q We've talked a lot about the CIRT position that you
15 held. Is that considered like specialized for the
16 Kentucky state troopers?

17 A Yes.

18 Q And it's additional training beyond what you have
19 to have every year as a trooper?

20 A If there is additional training, we -- we have the
21 opportunity to go to more specialized training,
22 yes.

23 Q I want you to look with me -- this is a copy of
24 your training -- a transcript for you that was
25 provided to us. I'm interested in this -- at the

1 very bottom it says 2-25-16. Investigation,
2 trooper officer involved shootings and in-custody
3 deaths, Frankfort.

4 A Yes.

5 Q Is that one of the training sessions -- or the
6 particular types of training that you testified
7 about earlier that -- you testified about the one
8 in Georgia. There was the FBI National Academy,
9 the in-service, and there was one in South
10 Carolina. That's a different one, this one on --

11 A I think it's one of the same that's included in
12 there. And that particular one also had a role in
13 teaching a short -- like an hour block of
14 instruction as well.

15 Q So the one on February 25th, 2016, you had a role
16 in teaching?

17 A Yes.

18 Q Okay. So tell me about what you taught.

19 A Basically, my -- I think my primary role was to --
20 the people that were invited to the class were
21 basically investigative sergeants and investigative
22 lieutenants from state police posts across the
23 state to help familiarize them more with shooting
24 situations. And the part that I had to come up and
25 teach was -- had to deal with basically rapport

1 with the family and how to deal with families of
2 people who had been shot by police and stuff like
3 that.

4 **Q And that was like a one-hour portion that you**
5 **taught?**

6 A I believe it was one hour, yes.

7 **Q And overall -- am I correct that it was a 32-hour**
8 **course?**

9 A Yes.

10 **Q Okay. And this is after you got involved with**
11 **CIRT; correct?**

12 A This was before.

13 **Q This was before?**

14 A Yes. This was in 2016. And then the CIRT was not
15 developed until -- or put into effect until
16 January of 2017.

17 **Q Okay. So it's safe to say you have a history of --**
18 **I don't know if the correct word is specializing in**
19 **police-involved shootings or in-custody deaths.**

20 A Some, yes.

21 **Q Okay. Have there been any other courses that**
22 **you've helped teach or instruct in the course of**
23 **your law enforcement career?**

24 A Just locally through citizen police academies and
25 stuff through -- mainly my main portion there was

1 just law enforcement relations and like radar type
2 stuff, vehicle radar.

3 **Q Was that training other officers?**

4 A That was basically educating the public. As far as
5 other officers, no, at the FBI National Academy and
6 the Southern Police Institution, you had to give
7 presentations to other law enforcement officers
8 from across the nation. They may be an hour. They
9 may be two-hour presentations.

10 **Q Okay. And did anybody supervise you in giving**
11 **those presentations?**

12 A Just the instructor of the class, which is -- in
13 some instances would be a Ph.D. and some just a
14 professor.

15 **Q And so what were your presentations? Let me ask**
16 **you. How many presentations did you give? Do you**
17 **remember?**

18 A Say over the course of both, maybe half a dozen,
19 give or take.

20 **Q Okay. And what were some of the things you gave**
21 **presentations on?**

22 A Good question. One would have had to do with law
23 enforcement administration and leadership and --
24 I'm trying to think of the word -- internal
25 investigations. Another would have been basically

1 unsolved crimes. Another would have been an
2 interesting, for lack of a better term, homicidal
3 death or like a crime that went -- that would have
4 went undetected had it not been for just a certain
5 piece of evidence that came in. You gave a
6 presentation on that to basically let someone else
7 know what was out there as far as if they wanted to
8 look at other alternatives than just your normal
9 investigative resources.

10 **Q Okay. Do you remember how many -- did you get**
11 **college credits for the FBI academy?**

12 **A Yes.**

13 **Q Do you remember how many credits you got?**

14 **A I believe it was 18.**

15 **Q And that -- you used that towards your B.A. that**
16 **you just received?**

17 **A Yes.**

18 **Q So you've given presentations for the FBI academy.**
19 **Have you ever had an opportunity to author any**
20 **articles or have anything -- have anything**
21 **published with regard to law enforcement?**

22 **A No.**

23 **Q Okay. Going back to this February 25, 2016,**
24 **course, was this specialized just for Kentucky**
25 **State Police or was that open to other departments?**

1 A That one that I was involved in was just for
2 Kentucky State Police.

3 Q Okay. Is it -- do you know, is this course one
4 that is -- that you -- you kind of talked about
5 earlier, there are few seats to get in and
6 everybody -- and you just have to indicate that
7 you're interested or is it something that's
8 required?

9 A At that point in time, they wanted every
10 investigative sergeant and every investigative
11 lieutenant at the post to come have the training.
12 So it was kind of a volun-told. This -- you might
13 benefit from this but -- come on.

14 Q Was the majority of this in a classroom or were
15 there like hands-on activities?

16 A The majority of that was in a classroom.

17 Q Okay. Do you still have your materials for that
18 course?

19 A I do not. I think the headquarters or academy
20 section is required to keep certain things from
21 classes. So if it was still in existence, it would
22 be there.

23 Q Okay. In that course, did you learn about or was a
24 topic of discussion about police officer perception
25 of the events as they're unfolding?

1 A Yes.

2 **Q And what did you learn about that?**

3 A That everybody -- it's -- basically, the perception
4 they have at the time of the event and everybody's
5 perception can be different. For example, there's
6 two, four -- you know, we're sitting in this room.
7 There's six of us. We may all see and hear things
8 differently at different times. You may see
9 something that I had no idea existed, and I may see
10 a bunch of other stuff that you didn't.

11 **Q What about with respect to officer perception of**
12 **what they see and perceive in front of them versus**
13 **what's on a body cam mounted on their chest?**

14 A The body cam has been something that a lot of
15 people bring up because they expect that that tells
16 the whole story, and it doesn't. It shows one
17 direction, one perception. It doesn't show what's
18 to your left or right. It shows what's directly in
19 front of you, if it's not even being blocked by,
20 say, an arm or a hand or a car or whatever. It
21 doesn't show hot, cold, smells or anything like
22 that. It's very limited on what it shows even
23 though -- it's a good tool, but it doesn't show
24 everything.

25 **Q Okay. What do you -- what about, did you learn**

1 about, like, the physiological response that
2 officers' experience during these incidents?

3 A As far as how they react to it during the situation
4 or after?

5 Q After. You tell me.

6 A Everybody reacts different. I mean, it's
7 everybody's perception. A lot of times people will
8 wait too long to react whenever someone may have
9 reacted sooner and it's all on what I would call
10 how a reasonable person or reasonable person would
11 respond. A lot of it has to do with their training
12 and experience, and their experience is a large
13 part of what they've been exposed to in the past.

14 Q So like their life experiences even?

15 A Even life experiences, yes. Just even -- not just
16 inclusive of law enforcement but outside that as
17 well.

18 Q Okay. Either -- you talked a lot about -- or
19 Mr. Belzley has asked you a lot about particular
20 procedures or policies with respect to the CIRT.
21 Just in your experience either with this course or
22 other investigations you've done, how is the
23 investigation of an officer-involved shooting
24 different or the same as an investigation of any
25 other shooting or any other incident you may

1 **investigate?**

2 A They pretty much -- a lot of people -- sometimes
3 they're more public, obviously, usually, but they
4 usually follow along the same lines. You know, you
5 still have people involved. You have witnesses.
6 You have people who have just heard things. You
7 have rumors. You have social media that's
8 involved. But you go about it pretty much in the
9 same process. You still document evidence. You
10 photograph evidence. You collect evidence. You
11 secure evidence. You talk to witnesses. You
12 photograph people. Everybody still has their
13 rights. Just like civilians, you know, police have
14 the same rights as them. They have the right to
15 invoke counsel or speak or not on the criminal
16 side. As far as the internal side, an officer does
17 not have the option to not speak. So that's how
18 that would differ, but that's internal. And for
19 the most part, you know, prosecutors are consulted
20 sometimes as the -- right after the scene unfolds
21 to get direction on how they want to proceed, and
22 sometimes it's later on to determine if charges
23 need to be brought.

24 **Q Okay. So from the criminal aspect of it, it makes**
25 **no difference if the person you're investigating**

1 has a badge?

2 A Correct.

3 Q Okay. Have you ever arrested a law enforcement
4 officer?

5 A Yes.

6 Q And have you ever arrested a law enforcement
7 officer and they were criminally charged or
8 convicted?

9 A Yes.

10 Q Very often?

11 A Not very often, no.

12 Q About how many would you expect?

13 A Probably, again, about half a dozen, give or take,
14 over 23 years.

15 Q Okay. Were any of those assaults?

16 A Domestic violence assault would be the -- probably
17 be the top of it. Usually it was a driving under
18 the influence type offense.

19 Q Your documentation in one of these CIRT
20 officer-involved shooting incidents versus any
21 other incident that you investigate, is the
22 documentation basically the same?

23 A Basically, yes.

24 Q Okay. And is your involvement with the prosecutor
25 basically the same?

1 A Yes.

2 Q Okay. Is it any different?

3 A No. And even in criminal -- in civilian criminal
4 cases and police criminal cases, one thing I've
5 noticed is every prosecutor has their own way of
6 doing things. It's 50/50 who wants to present to a
7 grand jury, who wants to read the case and give an
8 opinion. So -- and that even happens with civilian
9 crimes as well. So it's pretty much -- they mirror
10 one another.

11 Q So when you say 50/50, does that mean some
12 prosecutors will do it one way and some prosecutors
13 will -- for example, some prosecutors will want
14 your opinion, some prosecutors just want to send it
15 to the grand jury?

16 A It's not that they want my opinion. Like, they'll
17 get the entire case file, and then they usually
18 then determine if they want to present to a grand
19 jury or if they want to just give a prosecutorial
20 opinion, I guess.

21 Q Okay. And then the -- the end result of a CIRT
22 investigation versus an investigation of a
23 non-officer-involved shooting, is there any
24 difference in whether or not -- and how you make a
25 recommendation or if you do or do not make a

1 recommendation to the prosecutor?

2 A No.

3 Q It's exactly the same?

4 A Yes.

5 Q Okay. Are you currently working on like a master's
6 degree or anything?

7 A No.

8 Q That's not your plan?

9 A No.

10 Q You're done?

11 A Yes.

12 Q I don't blame you. Aside from being a state
13 trooper, do you have any other experience as a law
14 enforcement officer?

15 A No.

16 Q Okay. Before your retirement, or I guess even now,
17 are you a member of any, like, law enforcement
18 professional associations or clubs or
19 organizations?

20 A Not at the moment, no.

21 Q Were you before you retired?

22 A I was a member of the FBI National Academy
23 Associates, the Southern Police Institute Alumni
24 Association, and local crime stoppers here.

25 Q How long were you in the -- well, I should say the

1 **FBI National Academy Association, is that something**
2 **where you're a lifetime member once you've been?**

3 A No. It's one of those things you always have the
4 experience, but they want you to pay money every
5 year if you want to continue being a member.

6 **Q Okay. How long were you a member?**

7 A Three years.

8 **Q Okay. What about the -- did you say the Southern**
9 **Police Institute?**

10 A Yeah. That's part of U of L. That just ended
11 probably in May.

12 **Q Of '19?**

13 A Yes. So just a little over a year in that. And
14 the crime stoppers board I was on for roughly six
15 years.

16 **Q Okay. Are you a member of any other organizations**
17 **right now?**

18 A No.

19 **Q Or any clubs?**

20 A No, ma'am.

21 **Q Have you ever had any courses or training in like**
22 **the medical field?**

23 A Just basic first aid in the military, and then I --
24 through the academy, we have -- I believe at the
25 time it was called first responder training. It

1 was 40-hour training. That would have been in
2 1996. And then earlier this year, I got
3 recertified on basic first aid, infant and adult
4 CPR.

5 **Q Okay. The FBI academy and the first responder**
6 **training, what all did that include? Basic first**
7 **aid? Would that be it?**

8 A That would have been the State Police Academy, not
9 the FBI Academy.

10 **Q Oh, State Police Academy. I'm sorry.**

11 A That would have been basic first aid, CPR, choking
12 hazards, first aid wounds, pressure dressings,
13 et cetera.

14 **Q Okay. I'm going to kind of hop around a little bit**
15 **here. Before I get to some of my questions, I want**
16 **to cover some ground that Mr. Belzley has already**
17 **covered.**

18 **First of all, I just want to clarify, there's**
19 **been some mention or reference to the knife being,**
20 **taped to the end of the post.**

21 A Yes.

22 **Q Was it taped to the end of the post?**

23 A I don't know that it was taped. More a -- a lot of
24 knives have a clip on it, and the pole, if I
25 remember correctly, was more -- not a -- not a pipe

1 but more like a square tubing. So it had four
2 sides. And I think it was more clipped to it.
3 More like a bayonet type thing than taped.

4 Q Okay. And do you recall watching the dash cam
5 video for Terry Powell and seeing Mr. McClure
6 remove the knife from the pole --

7 A Yes.

8 Q -- and then stick it back on?

9 A Yes. Because at one point in time, I remember he
10 had one in one hand and one in the other.

11 Q Okay. So is that consistent with the theory that
12 he was using the clip on it to stick it on the
13 end --

14 A Yes.

15 Q -- of the pipe instead of taping it?

16 A Yes.

17 Q So we've talked about the -- the difference in what
18 a body camera shows and what an officer sees, and
19 Mr. Belzley asked you several times about you
20 relied just on what Officer Powell or Officer
21 Buckingham told you. Isn't it -- would you agree
22 that when you have all of these videos and you can
23 put the picture together with the external videos
24 from dash cams and the various body cameras, isn't
25 it helpful to have that instead of just relying on

1 what an officer is saying?

2 A Yes.

3 Q And you didn't just rely on what the officer's told
4 you in your interviews. You looked at the videos
5 as well; right?

6 A Correct.

7 Q Okay. Now -- and we've looked -- we've gone back
8 today in part of your testimony. We've talked to
9 you about -- or Mr. Belzley has talked to you about
10 what you saw in Buckingham's body cam video.

11 Now, you'd agree with me that here today we've
12 backed up the video and we've watched it many times
13 over and over again, and we have the benefit of
14 pausing and reversing and looking at things again.
15 That's not the perception of the officer at the
16 scene; right?

17 A Correct.

18 Q What's important from the officer's perspective is
19 realtime, not slowed down and not backing up and
20 watching it again; right?

21 A Correct.

22 Q So that's where it becomes important for you to
23 interview the officer about his perception; right?

24 A Yes.

25 Q And would you expect an officer who has just gone

1 through a critical incident like this to be able to
2 tell you all of the facts exactly 100 percent
3 correct whenever -- without the benefit of watching
4 the video while you're interviewing them?

5 A No.

6 Q Would you expect they'd get things a little bit
7 jumbled?

8 A Yes.

9 Q It's a stressful event; right?

10 A Correct.

11 Q Do you recall what the results of the toxicology
12 for Mr. McClure were?

13 A I know he had a -- it came back positive for
14 methamphetamine and amphetamine that I remember.
15 It seems like the numbers were kind of high, but I
16 don't remember.

17 Q But he was positive for methamphetamine and
18 amphetamines?

19 A Yes.

20 Q Okay. Based on your -- in your experience, have
21 you had occasion to deal with individuals who were
22 under the influence of methamphetamine?

23 A Yes.

24 Q How did they act?

25 A Energetic, kind of bouncing all over the place.

1 The longer they seem to be on it, the more paranoid
2 they get and delusional. Commonly, and not unique
3 to this case, people often think that they're being
4 watched or followed or just a variety of things.
5 But it causes them -- they can get irritated real
6 easily, and harder than someone not on
7 methamphetamine, they're harder to deal with and
8 reason with.

9 Q Okay. That was my next question, whether or not
10 they're easy to reason with.

11 A No.

12 Q Do they usually talk out of their heads?

13 A Most of the time, yes.

14 Q Kind of talk about things that the rest of us
15 aren't perceiving at all?

16 A Yes.

17 Q And I guess that's what you said, they're paranoid?

18 A Yes.

19 Q Have you ever had occasion to be involved in the
20 use of force with someone who is under the
21 influence of methamphetamine?

22 A Yes.

23 Q Do they perceive pain and, I guess what I'm trying
24 to say, different holds and things like that the
25 same as someone who is not under the influence of

1 **drugs?**

2 A The holds and the pressure points and stuff like
3 that doesn't seem to affect them as it would
4 someone who wasn't under the influence. And also
5 in my experience, it tends to make them -- I don't
6 know how strong they were before, but they seemed
7 like they were stronger than what they would
8 normally be, if that makes sense.

9 **Q So do they become more aggressive typically?**

10 A Yeah. Methamphetamine is one that would make you
11 -- marijuana kind of mellows people out and
12 methamphetamine kind of heightens your senses and
13 make you more -- I don't know what the word is --
14 aggressive is probably about as good a word as you
15 can use.

16 **Q What about the use of a taser on someone who is**
17 **under the influence of methamphetamine? Is that**
18 **always effective?**

19 A No.

20 **Q Is the use of a taser always effective on anybody?**

21 A No.

22 **Q Why is that?**

23 A Because it's a man-made instrument. They just
24 don't always work. They don't affect everybody the
25 same, and there's a lot of factors in a taser. I

1 have been taser trained and as part of that
2 training, we get tased, but that's a classroom type
3 environment, and there's a lot of factors that go
4 into why it wouldn't work, distance, weather, how
5 thick someone's clothing is. There are two bars
6 that come out. They both have to penetrate the
7 skin. Not very far. The closer they are, the less
8 effective it is. The further away, the more
9 effective. If one of them comes out, it doesn't
10 even have any effect.

11 **Q So if both of the barbs don't make contact with the**
12 **person on their body, then you haven't created a**
13 **circuit and it's not going to be effective at all?**

14 A Correct.

15 **Q Okay. What is typically the distance that's**
16 **recommended to use a taser?**

17 A If I remember right, it's 15 to 21 feet, but it --
18 and you're aiming at the big muscle groups,
19 preferably the back if you could. But obviously
20 like with a lot of the tasers, the cartridge --
21 whatever they're called, the probes that go out are
22 at 21 feet. So that would be the extreme distance.
23 You wouldn't want to -- I wouldn't recommend using
24 it at 21 feet because it's going to probably not
25 reach its target.

1 Q What if you deploy a taser and it's not effective
2 either because you don't create a circuit or it
3 just doesn't affect the person, doesn't make, I
4 guess, contact with their body in both places,
5 would the officer then be required to put away the
6 taser and pull out their next choice of weapon?

7 A Sometimes, yes. There are -- there's training that
8 teaches you how to follow up with either a second
9 cartridge if you have it or what's called a
10 drive-stun. If you have a -- one probe in
11 somewhere else, then you can take the taser itself
12 and touch another part of the body and it will
13 produce a circuit. If you don't have a probe in
14 somebody and you just do that, it's called a
15 drive-stun. Basically, that just inflicts pain.
16 It's like if you touched an electric fence. It
17 hurts but it doesn't cause injury, so to speak. If
18 that didn't work, then you'd want to either,
19 depending on the situation, drop it or re-holster
20 it and choose another tool I would say.

21 Q Is the drive-stun option available on all the
22 tasers?

23 A I believe so.

24 Q Do you know if Buckingham had a taser on him?

25 A I do not remember.

1 Q Do you know if Terry Powell had a taser?

2 A I do not remember.

3 Q Would it surprise you if they did not?

4 A It would not surprise me.

5 Q Okay. With the drive-stun option, is that
6 recommended or good practice to use if someone has
7 a deadly weapon in their hand?

8 A No. It's -- that would be another thing too. You
9 don't recommend -- kind of like the old saying
10 goes, you don't take a knife to a gun fight type
11 thing. You wouldn't use -- the taser is a less
12 lethal option. You wouldn't use that in a deadly
13 force situation.

14 Q Okay. How much time do you think would pass in
15 order for someone who couldn't use the drive-stun
16 option -- they attempted the taser and it didn't
17 work for whatever reason. They didn't have the
18 option to use the drive-stun. About how much time
19 do you think would pass for an officer to do away
20 with the taser and go to their next weapon? Let's
21 say their pistol.

22 A Typically, if you use a taser, it's going to --
23 whenever you squeeze the trigger, it's going to
24 apply cycle for about five seconds. Sometimes it
25 will take you that long to realize this isn't

1 working. So if you applied it and then didn't have
2 the option to do a drive-stun or whatever,
3 depending on the person and how they're trained and
4 their experience, I mean, I would say five seconds
5 to 20 seconds just depending on the distance and
6 the situation.

7 **Q Okay. You testified earlier about this force**
8 **science training in South Carolina?**

9 A Yes.

10 **Q What was the substance of that?**

11 A That place I think is called Force Science
12 Institute. They do a lot of stuff with perception
13 and reaction time. Like, you know, just -- and it
14 has to do with a lot of different things. Like,
15 they do a lot of science, I believe, with like
16 baseball and pitchers and throwing and the amount
17 of time it takes to swing a bat and how long -- you
18 know, if you point a gun at me and I point a gun at
19 you and then you turn your body or whatever, it
20 makes a difference on where rounds impact you or my
21 perception at the time, the danger, and how long it
22 takes to start that action and how long it takes to
23 stop that action.

24 **Q Okay.**

25 A Because even though you have -- I have to react to

1 your actions, I also have to react to your
2 inactions. So if you're causing a threat, I have
3 to realize that, and then whenever you stop that
4 threat, I also have to realize that and then stop
5 my action.

6 **Q Everything is not instantaneous?**

7 A Correct.

8 **Q So do you remember what you learned about how long**
9 **it takes to -- for a typical person, a typical**
10 **officer, to see a threat and react?**

11 A I think the average perception reaction time, if
12 I'm remembering right, is about a second and a
13 half, give or take, the person.

14 **Q Okay. So do you remember about how long typically**
15 **it takes for an average officer to -- after that**
16 **second and a half approximately to see and react to**
17 **actually draw their weapon and to unholster and to**
18 **fire an accurate shot?**

19 A Oh, man. I wasn't planning on a quiz. It seems
20 like it's -- I don't want to guess, but it seems
21 like it's about 1.2 seconds, give or take. Because
22 it takes -- I think you fire a round about every
23 quarter of a second. So by the time you realize
24 you shouldn't be firing, it adds more time,
25 something like that.

1 Q Okay. So from -- does it sound -- or it sounds to
2 me like you're saying that from the time an officer
3 -- the average typical officer sees a threat and
4 reacts to it, unholsters a gun and fires an
5 accurate shot, it could take up to three seconds
6 before they ever pull the trigger?

7 A That's what I would say.

8 Q Okay. And that would be -- would that be fast,
9 somebody who is really good?

10 A I think that would be -- I think that would be
11 pretty fast.

12 Q Pretty fast?

13 A I think the dynamics would be -- to them it may
14 feel longer or it may feel -- I don't see how it
15 could feel much quicker.

16 Q Okay. And just a second matters --

17 A Yes.

18 Q -- a great deal in a deadly situation; correct?

19 A Correct.

20 Q Where an officer is being confronted with a deadly
21 weapon?

22 A Yes.

23 Q We've talked about this case and the post and where
24 it -- we've called it a pole and a post. You've
25 said it's kind of square and hollow. Is it kind of

1 **like a sign post, it's metal?**

2 A That's what I would say. It's rigid. It's pretty
3 tough. It's three-foot six inches. So three and a
4 half feet. It was pretty sturdy is what I would
5 call it.

6 **Q Okay. And was it kind of sharp on the ends?**

7 A It had some jagged edges, yes.

8 **Q Okay. You indicated earlier that you considered**
9 **that a deadly weapon?**

10 A Yes.

11 **Q Have you ever tried to bust the windshield out of a**
12 **car?**

13 A Yes.

14 **Q Police cruiser?**

15 A Out of --

16 **Q Or out of any car?**

17 A Out of a car, yes.

18 **Q How hard is it to do?**

19 A I was unsuccessful whenever I tried it with -- and
20 it's very limited, you know, the number of times
21 you have to actually break glass and pull someone
22 out of a vehicle, but in my situation, we have an
23 expandible baton, and that's what I -- we had
24 somebody run, and they were trapped and didn't get
25 out of the car or they were stopped and didn't want

1 to get out of the car. So I took it to break the
2 glass and hit it two or three times, and it
3 didn't -- it was ineffective.

4 **Q The aspen baton wouldn't even break their**
5 **windshield?**

6 A I know some people are successful with it and it
7 happens, but I -- I was -- I thought it would be a
8 lot easier than that, and it was not.

9 **Q Using this post, did it appear to you -- from the**
10 **video, Officer Powell's dash cam video, did it**
11 **appear that it was fairly easy for Mr. McClure to**
12 **bust the windshield with that post?**

13 A Yes.

14 **Q Either -- that's either because the weapon was the**
15 **right weapon for the job, that it was deadly, or**
16 **that he was very strong, one or the other?**

17 A Yes.

18 **Q Okay. So does it make a difference to you whether**
19 **or not at the time the officer was confronted**
20 **whether he had the knife on the post or not? Was**
21 **it still deadly even if it didn't have the knife?**

22 A Yes.

23 **Q Frankly, he could get to the officer quicker and**
24 **sooner with a three and a half foot post versus a**
25 **short knife; correct?**

1 A Yes.

2 Q One of the things you testified about earlier was
3 that you talked on the phone, you thought, with
4 Chief Powell. You thought maybe you talked to him
5 on the phone. Do you remember any conversations
6 you had with him?

7 A I wouldn't remember the conversation. If anything
8 it was probably to set up interview times or
9 something.

10 Q Not anything of substance?

11 A No.

12 Q Do you need to take a break?

13 A No.

14 Q You testified there were two incidents where you
15 had fired your weapon in your career as a trooper.
16 Did -- one was the meth lab and was the domestic
17 that you showed up for. Did either of those
18 subjects die?

19 A One did, yes, the domestic situation.

20 Q Okay. And you said that you didn't seek any -- you
21 didn't experience mental trauma after that?

22 A No.

23 Q But is it common for officers to experience mental
24 trauma after a death?

25 A It is, yes.

1 Q Is that why they now -- a lot of departments will
2 require special care for an officer after they've
3 killed a subject?

4 A Yes. And it's -- you know, I've seen and read, you
5 know, where some people involved in one are ready
6 to go back to work that night and some are off for
7 years. It just depends, I guess, on the situation
8 and level of danger of what they were involved in.

9 Q Probably their background as well?

10 A Yes.

11 Q Okay. We looked at the -- first page of the KYIBRS
12 report, it's Exhibit 1, earlier, and we talked
13 about the \$2,500 value in property damage. You
14 testified that that looked like it was just one
15 vehicle. There were multiple vehicles that were
16 damaged; correct?

17 A Yes. And I'm not sure -- and a little background
18 on the IBRS report, is it's kind of complicated to
19 fill out. It's kind of one of those things if you
20 don't do it perfect, it's like this equals this,
21 then this has to equal that, and it's very
22 frustrating at times. So doing this two and a half
23 years ago, I don't know if maybe it limited me --
24 limited me on what I could put in there and what I
25 could not.

1 Q Certainly would it surprise you to find out there
2 was far more than \$2,500 worth of damage done?

3 A No, it would not.

4 Q There were multiple vehicles, not just police
5 officers, there were civilian vehicles as well;
6 right?

7 A Yes.

8 Q The -- I think it's the Vietnam veteran with the
9 burgundy van and he had a weapon on him at the
10 time; right?

11 A I believe he indicated he did, yes.

12 Q Did he tell you that he was prepared to use that
13 weapon?

14 A Yes.

15 Q And why is that?

16 A I don't remember why because that was -- like an
17 afterthought, if I remember right, after our
18 recorded interview, he had brought that up, and I
19 think he just probably felt a duty to protect
20 coming from his service days. Just speculating.

21 Q Okay. Obviously he felt a threat, though; right?

22 A Yes.

23 Q One of the things that Mr. Belzley touched on is
24 whether or not there was a verbal threat made to
25 Chief Powell, and you said you couldn't remember

1 the exact words, but you thought that there was
2 some threat made to Chief Powell. And his dash cam
3 video, it was -- the volume was low and it is hard
4 to understand. Did you hear or do you -- and you
5 can tell me if you didn't hear this. Did you hear
6 Mr. McClure tell Chief Powell when he said to put
7 the weapon down, did you hear -- did you hear him
8 say, you're going to have to make me?

9 A I don't remember that.

10 Q Okay. Would you -- if he said that, would you
11 perceive that as a threat or a challenge?

12 A Yes, a challenge definitely.

13 Q And the purpose of your investigation for an
14 officer-involved shooting, given that it's so
15 similar to the investigation of any other shooting,
16 your purpose is not just to determine if the
17 officer's actions were justified. Your actions are
18 -- your investigation is to gather all the
19 information about the entire incident; correct?

20 A Yes.

21 Q So that would include whether or not the person who
22 is shot was acting correctly, whether or not they
23 committed a crime as well; correct?

24 A Yes.

25 Q So, therefore, their background for that part of

1 the day is also -- that's why that's important;
2 correct?

3 A Yes.

4 Q You had multiple conversations with Mr. McClure's
5 family and other witnesses on the scene; correct?

6 A Uh-huh.

7 Q Were all of those conversations recorded?

8 A I believe -- I believe they were unless it was just
9 one where I happened to get caught on the phone and
10 didn't -- or it wasn't an actual meeting. It was a
11 phone call. And I don't remember talking on the
12 phone too much.

13 Q Do you remember speaking to Tobi, his sister?

14 A Yes.

15 Q Did -- and I've listened to the audio of your
16 conversations with her. She volunteered a lot of
17 information about her brother, didn't she?

18 A Yes.

19 Q Do you remember her volunteering information about
20 his history with drugs and just kind of acting out?

21 A Yeah. I don't remember to what extent she said,
22 but I do remember her talking about her brother
23 being on drugs, and they'd had a tumultuous
24 relationship at best I think you would say.

25 Q Do you remember her telling you that he was just as

1 much a good friend and a good brother as much as he
2 could provoke and turn on you like a snake?

3 A No, I don't remember that, but I -- sounds like
4 something she would have said.

5 Q If it's in the audio, you don't dispute it; right?

6 A Correct.

7 Q Is that important for you to understand -- is that
8 important to you in understanding the --
9 Mr. McClure and how he acted or could have reacted
10 in this situation?

11 A Yes, because if he would do that to family, then --
12 somebody, I don't remember if it was her, had
13 mentioned he liked to fight a lot. And I don't
14 know if that was in his younger days or what
15 proximity that was in life, but somebody told me he
16 was -- he was pretty good at it too. Pretty good
17 with his fists, and I don't remember who that was.

18 Q I think somebody called him scrappy.

19 A Sounds right.

20 Q And this type of information was volunteered by
21 these individuals; correct?

22 A Yes.

23 Q Do you remember having conversations with -- did
24 you -- do you recall meeting with Tobi and Samantha
25 and Melissa? I don't know the date. I'm sorry.

1 A I remember Samantha and Melissa, but Tobi I do not
2 believe was there with them because I don't think
3 they got along, if I remember right. If I'm
4 remembering right. I think it was Samantha --
5 Samantha is the daughter?

6 Q Yes.

7 A And her mother and Bob.

8 Q Anderson?

9 A There you go.

10 Q Okay. Did you record the entirety of your
11 conversations with them during that meeting?

12 A I believe so.

13 Q Okay. At any point in time during that meeting,
14 did you tell them that you did not agree with how
15 the events transpired?

16 A I don't remember.

17 Q Okay. If it's not in the recording, do you think
18 you said it?

19 A If it's not in the recording, I don't think I said
20 it.

21 Q Would you have told them that you didn't agree with
22 Buckingham's actions?

23 A No.

24 Q Do you agree with Buckingham's actions?

25 A Yes.

1 Q So you certainly wouldn't have told them that
2 you --

3 A No. Are you on a page?

4 Q No. Did you tell them that you were disturbed by
5 how long it took for a call to be made for an
6 ambulance?

7 A I don't think I would have used the word disturbed.
8 I know that they were concerned about it because
9 Samantha was, if I remember right, concerned about
10 how long it was taking and -- because I allowed
11 them to watch the video, and it -- seemingly no one
12 was performing any kind of first aid, and I think
13 as far as the videos and stuff go, people are
14 getting first aid equipment out of their cars and
15 whatever limited capabilities they had. But I
16 remember not knowing why it would take so long, but
17 also I think I qualified that because typically, I
18 worked in very rural areas. So if I can get an
19 ambulance in ten, 15, 20 minutes, I'm kind of
20 excited, actually. So I don't remember the extent
21 of what was said there, but if it's not on audio,
22 then I wouldn't have said it.

23 Q Whenever you've watched these videos, you could see
24 and you testified about doing what they -- what
25 limited they could getting out a first aid kit and

1 things. Have you ever listened to the audio in the
2 other dash cams with the purpose of figuring out
3 when's the first call that -- for an ambulance or
4 that shots were fired?

5 A I don't recall doing that in this one.

6 Q Would it surprise you to find out that immediately
7 upon Mr. McClure been secured that Chief Powell
8 called for an ambulance and indicated shots fired?

9 A That would not surprise me.

10 Q Okay. If he did so immediately, would that be
11 appropriate?

12 A Yes.

13 Q Okay. But it does indicate -- I mean, it does
14 appear from the body cam footage from Buckingham
15 that there was some confusion with the ambulance;
16 correct?

17 A Correct.

18 Q Do you recall hearing in Buckingham's body cam
19 footage whenever -- after the second shot and a
20 Deputy Fulcher, who is wearing the green T-shirt,
21 he's down with Mr. McClure, do you recall that
22 Buckingham asked where is the ambulance twice --

23 A Yes.

24 Q -- very rapidly? Would it surprise you that within
25 the first four seconds, he's asked for the

1 ambulance twice?

2 A It wouldn't surprise me.

3 Q That indicates that he's wanting this guy to get
4 help quickly; right?

5 A Yes.

6 Q Do you remember hearing whenever someone came over
7 from dispatch and asking do you guys need an
8 ambulance and somebody said are you shitting me?
9 Pardon me. I'm just quoting.

10 A Yes, I remember hearing that.

11 Q That indicates that the officers were unhappy that
12 the ambulance hadn't already been dispatched;
13 correct?

14 A Yes.

15 Q Okay. Did you have more than one meeting in person
16 with Bob Anderson?

17 A I don't remember having -- I remember meeting him
18 the one time and I think that was with --

19 Q Samantha and Melissa?

20 A Yes. I think that was the only time.

21 Q And that was recorded?

22 A Yes.

23 Q Did you ever tell him that law enforcement actions
24 were bullcrap?

25 A No.

1 Q Recorded or not recorded, you never would have said
2 that?

3 A That's not even terminology I would use anywhere.
4 So definitely not.

5 Q You certainly don't believe Buckingham or any of
6 the law enforcement officer's actions were
7 bullcrap?

8 A Correct.

9 Q In your interviews with the various eyewitnesses,
10 both the people that -- well, I guess none of his
11 family members were eyewitnesses; correct?

12 A Correct.

13 Q So in your interviews with the eyewitnesses who had
14 seen Mr. McClure during that day leading up to the
15 shooting as well as who witnessed the shooting, was
16 the consensus that he was acting erratically?

17 A Yes.

18 Q And that he couldn't be reasoned with?

19 A Yes.

20 Q The individuals that actually witnessed the
21 shooting, was it the consensus that he was
22 attacking the officers?

23 A Yes. I believe somebody used that word.

24 Q Was it the consensus of the witnesses who actually
25 saw the shots fired that Buckingham had to do it or

1 he would be hit?

2 MR. BELZLEY: Object to the question.

3 A Yes.

4 MR. BELZLEY: He doesn't know what the
5 consensus is.

6 Q Out of everyone you interviewed, the eyewitnesses,
7 did anyone tell you that Buckingham should not have
8 shot the man or that he was not being threatened?

9 A No one said that.

10 Q So there's no question in your mind that this was
11 not an unprovoked shooting?

12 A Can you rephrase that, please?

13 Q Buckingham was being provoked.

14 A Yes.

15 Q Okay. We looked at the video earlier, and I know
16 that there was confusion about whose vehicle he's
17 rounding. Buckingham got out of his vehicle. We
18 decided he spun to the left and went around his
19 driver's side. Immediately upon turning the corner
20 of his SUV, Mr. McClure was there; correct?

21 A Yes.

22 Q And immediately you hear the pop of the glass on
23 his back windshield; correct?

24 A Yes.

25 Q Do you hear that before you ever hear a gunshot?

1 A I'd have to slow it down and watch it. It seems
2 like it's all -- like Mr. Belzley said earlier, all
3 milliseconds and right in there. I would have to
4 really study it to figure out the pop and the shot
5 and the glass breakage.

6 Q Okay. But at that -- right about the time whenever
7 the shot is fired, he's -- he's hitting the glass
8 either within a millisecond before or a millisecond
9 after?

10 A Yes.

11 Q Okay. So at the time the trigger is being pulled,
12 the weapon -- a deadly weapon is in Mr. McClure's
13 hand and he's within the width of a Ford Explorer
14 away from Buckingham?

15 A Correct.

16 Q Okay. When I say the width of the Explorer, I
17 mean, I guess the back bumper because that's what
18 we're looking at in the video; right?

19 A Uh-huh.

20 Q If Buckingham pulled the trigger and he did not
21 make contact with Mr. McClure, would you expect
22 that McClure would hit the ground just out of shock
23 or just to take cover?

24 A I would say it wouldn't be uncommon if he did that.

25 Q So it wouldn't be strange for Buckingham to believe

1 that he hadn't hit McClure when he pulled the
2 trigger?

3 A Correct.

4 MR. BELZLEY: Objection to the question as to
5 what Mr. Buckingham believed.

6 Q It wouldn't surprise you? Would it surprise you
7 based on your experience?

8 MR. BELZLEY: Same objection.

9 A It would not surprise me.

10 Q Okay. Well, in the video after the first shot, do
11 you immediately see blood coming out of McClure?

12 A I didn't.

13 Q Okay. This is not like the movies where someone as
14 soon as they get shot, it's very noticeable that
15 they've been hit?

16 A Correct.

17 Q In part of your investigation, you became aware of
18 a prior incident within the weeks before involving
19 Mr. McClure and the Fulton Police Department;
20 correct?

21 A Yes.

22 Q Why was that important to your investigation?

23 A It shows that they had dealt with him before. Of
24 course, obviously that was incident free. And one
25 thing in my experience that I look at is the number

1 of people that -- for whatever reason, they pose a
2 threat later on, all of them seem to know to have a
3 history of how to deal with law enforcement. They
4 know that -- okay. I'm -- like, in this case, they
5 dealt with him, and everybody went away and he went
6 about his business. Or if they have a warrant on
7 him, they get arrested. They go to jail. They go
8 to court. They get out on bond and, you know,
9 repeat, whatever. So obviously that day he didn't
10 feel law enforcement was a threat. He didn't feel
11 like it was a problem. You know, they talked about
12 -- regardless of whatever he had going on in life,
13 they talked and everybody went their separate ways
14 and life was good.

15 **Q Okay. Are you familiar with the Fulton, Tennessee,**
16 **area?**

17 A No.

18 **Q Okay. So did you understand or appreciate when you**
19 **got there that at the scene of the shooting, you're**
20 **within steps of Kentucky and Tennessee?**

21 A I had to have some help getting oriented with that,
22 but my understanding was I think all this started
23 at the Family Dollar, which may actually be in
24 Tennessee and then -- but yet the road is partially
25 Tennessee and partially Kentucky, something like

1 that.

2 Q Right. So --

3 A It was confusing.

4 Q -- the road is the state line road; correct?

5 A Right.

6 Q That's basically the state line; right?

7 A Yes.

8 Q Did you understand or come to learn that -- that
9 the Tennessee line was right there on the edge of
10 where the shooting occurred?

11 A That was my understanding, yes.

12 Q Was it your understanding that Mr. McClure was
13 going in and out of the state -- over the state
14 line?

15 A I don't know if I knew that at the time or not, but
16 I would have seen -- with me being confused about
17 where I was standing where I wouldn't really know
18 where he was walking back and forth.

19 Q In the dash cam footage, would you agree with me
20 that Mr. McClure was kind of running all over
21 different sides of the road, kind of going back and
22 forth?

23 A Yes.

24 Q Okay. The prior incident, the -- in the week
25 before, is it your understanding that the Fulton

1 Police Department did not arrest him?

2 A That's my understanding.

3 Q Was that because he was in Tennessee?

4 A I don't remember that part.

5 Q If he was in Tennessee, Fulton wouldn't have
6 jurisdiction; correct?

7 A Correct.

8 Q Had Mr. McClure on this incident -- on this date
9 whenever he was shot, had he run into Tennessee,
10 would Powell or Buckingham had the authority to --
11 would they have jurisdiction in Tennessee?

12 A Not to my knowledge.

13 Q It probably would have been better for everybody if
14 he had ran into Tennessee; right?

15 A Yes.

16 Q We watched all -- or a large portion of
17 Buckingham's body camera footage, and Mr. Belzley
18 pointed out that when Buckingham first drove up on
19 the scene, he had his gun in his left hand out the
20 window. He was yelling at Mr. McClure there;
21 right?

22 A Yes.

23 Q So there he not only had officer presence but he
24 had verbal commands with Mr. McClure; right?

25 A Correct.

1 Q Is it your understanding that Mr. McClure is still
2 darting around, running amongst where the officers'
3 cars were?

4 A Yes.

5 Q Did it appear that Buckingham then had to readjust
6 his -- or re-maneuver his car based on where
7 Mr. McClure was running?

8 A Yes.

9 Q When Mr. McClure -- whenever Buckingham encountered
10 McClure after he got out of his car, for that first
11 shot, was Mr. McClure an active threat to
12 Buckingham's safety?

13 A Yes.

14 Q Could Mr. McClure have killed him with that post?

15 A Yes.

16 Q And he was within -- let's say the post you said
17 was about three and a half feet long. We don't
18 know what Mr. McClure's wingspan was, but was he
19 within distance of likely being very close to
20 reaching Officer Buckingham?

21 A Yes.

22 Q Okay. What about the second shot? Did you --
23 based on your review of all of the videos and your
24 investigation, did you still feel that Mr. McClure
25 was a threat at the time of the second shot?

1 A Yes.

2 Q Based on your training and your experience, I take
3 it you're probably familiar with the use of force
4 continuum and practice with regard to use of force
5 and elevating to different levels of force;
6 correct?

7 A Yes.

8 Q Okay. Did you look at the Fulton Police Department
9 use of force policy?

10 A No, ma'am.

11 Q Okay. Typically, though, there are different
12 levels; correct?

13 A Yes.

14 Q Is an officer always required to go through every
15 level of force before escalating to lethal force if
16 they're presented with lethal force?

17 A No.

18 Q Okay. Are you familiar with like a 21-foot rule?

19 A 21-foot rule as far as what I'm familiar with has
20 to do with edged weapons or knives. It's been
21 around for quite a long time. It's the safe
22 distance -- alleged safe distance that you need to
23 be away from someone with an edged weapon for
24 safety and the amount of time it takes you to
25 perceive and react to threat if they come at you.

1 In recent times, I've read some stuff somewhere
2 that has even increased that distance based on
3 someone's skill set and experience and everything.

4 **Q So what is an officer to do if a subject is less**
5 **than 21 feet from them with a sharp object?**

6 A If possible, you'd want to create more distance to
7 where you are back to the 21 or greater feet, and
8 all the time I would suggest verbal commands or,
9 like you said, your officer presence.

10 **Q If they have a lethal weapon -- a sharp object or a**
11 **lethal weapon within 21 feet, would it be justified**
12 **to -- would the level of force justify lethal**
13 **force?**

14 A Yes, if they presented a threat with that weapon,
15 yes.

16 **Q Okay. Have you ever used a taser on somebody that**
17 **was under the influence of methamphetamine?**

18 A I have never used a taser on anyone, no.

19 **Q You've never used a taser on anyone?**

20 A I was trained on it, and I was the supervisor at
21 the time. So I wasn't responding to routine calls
22 for service as often. So I've never used it on
23 anyone.

24 **Q Do you know anything about use of tasers on**
25 **somebody with -- that's under the influence of**

1 **methamphetamine and how they react?**

2 A Different ways is what I've read and seen from
3 other people that have told me. Sometimes it's
4 effective. Sometimes it's not. Sometimes it just
5 angers them further.

6 Q Did you form an opinion as to whether Chief Terry
7 Powell's actions were appropriate? I know you
8 didn't -- you didn't make a recommendation to the
9 commonwealth attorney, but in your own mind, did
10 you form an opinion?

11 A Yes.

12 Q Okay. Based on your training and your experience,
13 do you believe that Chief Powell would have been
14 justified in escalating to lethal force before
15 Buckingham ever fired a shot?

16 A Yes.

17 Q Based on your training and experience, do you
18 believe that Chief Powell would have been justified
19 in using lethal force when McClure punched the post
20 through his windshield just above his head?

21 A Yes.

22 Q Based on your training and experience, you believe
23 the first shot by Buckingham was justified?

24 A Yes.

25 Q And based on your training and experience, do you

1 believe the second shot was justified?

2 A Yes.

3 MR. BELZLEY: Asked and answered.

4 MS. WORAK: No. I said the second shot.

5 Q Based on your training and experience, do you
6 believe that the aid rendered to Mr. McClure after
7 he was shot was appropriate for law enforcement
8 officers?

9 A Yes.

10 Q As to any other aspect of the medical side of it,
11 since you don't have any medical training, you
12 would defer to medical professionals; correct?

13 A Yes.

14 Q Give me just a minute. Did I hear you correctly
15 that you testified that you didn't know which -- as
16 far as the two wounds on Mr. McClure's body, you
17 didn't know which came from which shot, whether the
18 higher wound was from the first shot or the second
19 shot or the bottom one?

20 A Yeah. I don't know which one came first.

21 MS. WORAK: Okay. That's all I have for right
22 now. I'm sure Mr. Belzley has some questions for
23 you or your own attorney.

24

25

1 EXAMINATION

2 QUESTIONS BY MR. COMBS

3 Q As a state trooper with the CIRT, when you go to
4 the scene of a shooting like this, are you
5 investigating whether the officer complied with
6 department policy?

7 A No.

8 Q Mr. Belzley asked you if you were familiar with
9 some 6th circuit civil rights cases. Do you
10 enforce federal law?

11 A No.

12 Q Are you investigating whether the officer complied
13 with federal law or civil rights law?

14 A No, sir.

15 Q What are you investigating for?

16 A The legal justification for the officer's actions.

17 Q Under state law or federal law?

18 A State law. I'm sorry. Yes. State law.

19 Q Okay. I was looking at the video here -- I hate to
20 get this whole thing started again but -- let me
21 find my spot here, and I will turn it around. What
22 I wanted to ask you about is this second shot. I
23 don't know if -- if there's a way everybody can see
24 here. This is the same video that Mr. Belzley
25 asked you about earlier. My screen is a little

1 smaller.

2 MS. WORAK: For the record, I think we're at
3 0:21:21.

4 Q Here in the video, if I can stop it at a point --
5 all right. At this point about 1:18, 1:19 on the
6 video, did you see Mr. McClure starting to get back
7 up?

8 A Yes.

9 Q Which way is he facing as he starts to get up?

10 A It looks like his -- he would be facing Chief
11 Powell.

12 Q Chief Powell. Chief Powell -- I think Mr. Belzley
13 asked you about Chief Powell getting out of his
14 vehicle unarmed here.

15 A Yes.

16 Q Or not necessarily unarmed but no weapon in his
17 hand; is that correct?

18 A Yes.

19 Q And at that point, if Mr. McClure had -- had been
20 able to grab his pipe and run toward Chief Powell,
21 could the chief -- based on, you know, all your
22 experience as a trooper, on the range, firearms
23 training, that sort of thing, could the chief have
24 drawn his gun to defend himself?

25 A It depends on his level of experience but that

1 close, I would say it would be doubtful and do it
2 successfully.

3 Q Okay. So we've talked a lot about the threat to
4 Officer Buckingham. But does -- would you agree
5 that the greater threat here would be to Chief
6 Powell if he had picked that pipe up?

7 A Yes.

8 Q Do you think Officer Buckingham would be justified
9 in using deadly force to defend Chief Powell?

10 A Yes.

11 Q And does Chief Powell look like he's in a good
12 position to defend himself?

13 A No.

14 MR. COMBS: That's all I want to ask.

15 MR. BELZLEY: I'll try and be short.

16 EXAMINATION

17 QUESTIONS BY MR. BELZLEY

18 Q Mr. Bell, you don't know what effect the drugs in
19 Mr. McClure's system had on his behavior or what he
20 might have felt or thought?

21 A No.

22 Q That's all -- all of that -- all your responses to
23 all of that questioning on those subjects was just
24 speculation on your part?

25 A Yes. But people don't consume drugs to maintain

1 their normal status quo.

2 Q But we do know that it played absolutely no part in
3 Mr. Buckingham's thinking on that occasion because
4 he didn't know what was in Mr. McClure's system at
5 the time he shot him, did he?

6 A Correct.

7 MS. WORAK: I'm going to object. Speculation.

8 Q There was also a great deal of questions about
9 perception reaction. All the time that would be
10 required to perceive and react to a threat, all the
11 time that would be required to reach down and pull
12 one's weapon and aim it and all that. That doesn't
13 really come into play here at all because when
14 Mr. Buckingham gets out of his SUV before shooting
15 Mr. McClure the first time, he's already drawn his
16 weapon; correct?

17 A It doesn't play a part in the drawing of the
18 weapons, but it makes -- it has a part in the
19 perception/reaction, the choosing to shoot, and the
20 placing the finger on the trigger and actually
21 fulfilling that action.

22 Q We're talking about the difference between
23 perceiving a need to pull the trigger and how long
24 that would take as compared to perceiving the need
25 to reach down, take your gun out of its holster,

1 aim at a subject and pull the trigger; right?

2 A Yes.

3 Q And that difference in time is considerable, is it
4 not?

5 A Define considerable.

6 Q Material. I mean, there's a lot that can happen in
7 that period of time.

8 A Yes.

9 Q It would take a lot longer to simply decide you
10 need to pull the trigger when you've got your gun
11 -- it would take much shorter time to simply pull a
12 trigger when you've already got your gun pulled and
13 pointed at a subject than it would to pull your gun
14 out of the holster, aim it, and then pull the
15 trigger.

16 A Possibly.

17 Q Well, have you ever been aware of a situation in
18 which it took less time to simply pull the trigger
19 than it did -- in which it took more time to simply
20 pull the trigger than it did to pull a gun from its
21 holster?

22 A As far as pulling the trigger, probably not, but
23 there have been studies that the way -- everybody
24 always has always said you react how you were
25 trained. And that's anything. Swimmers, police,

1 whatever. Sometimes what I've heard are stories
2 where -- and studies where the cops have had their
3 gun down out of the holster in their hand down by
4 their leg and that has actually taken longer to
5 perceive, react with that because that's not how
6 they're trained -- and I don't know why they would
7 do that -- versus if it's in your holster, that's
8 the way you're trained, that's where you
9 automatically go, and there's been studies that
10 show it being in the holster, it's actually been
11 produced and reacted quicker than being held down
12 at your side, if that makes sense.

13 **Q Okay. But that's not in play here because**
14 **Mr. Buckingham always had his gun pointed at least**
15 **in Mr. McClure's direction.**

16 **A In that direction, yes.**

17 **Q Okay. Now, the Vietnam vet that said he was going**
18 **to shoot Mr. Buckingham, you testified that you**
19 **believed that he was sitting in the driver's seat**
20 **of that maroon van at the time that Mr. Buckingham**
21 **shot Mr. McClure the first time; correct?**

22 **A Yes.**

23 **Q So, as I understand it, the Vietnam vet at that**
24 **time didn't feel threatened enough to pull his**
25 **weapon before Mr. Buckingham did.**

1 A Is that a question?

2 Q Yes.

3 A I missed it.

4 Q Is that right?

5 A So what's your question?

6 Q Mr. Buckingham had his gun out and had shot
7 Mr. McClure before the Vietnam vet even reached for
8 his weapon; correct?

9 A I don't know if he ever reached for it or not, but
10 yeah, he didn't -- he didn't shoot Mr. McClure.

11 Q He didn't feel threatened enough to pull his weapon
12 and shoot Mr. McClure before Mr. Buckingham did,
13 did he?

14 A Not at that point, no.

15 Q Do you have any evidence that this Vietnam vet ever
16 laid his hand on his weapon during this incident?

17 A No.

18 Q You're going to have to make me. Is that what you
19 were referring to you heard or might -- might be
20 able to hear Mr. McClure say that could be
21 perceived as a threat?

22 A With Mr. --

23 Q To Chief Powell.

24 A To Chief Powell?

25 Q Yeah.

1 A Are we still talking about the Vietnam vet?

2 Q No, no. We're talking about Chief Powell.

3 Ms. Worak asked you -- she said, do you remember
4 when Chris McClure was talking to Chief Powell and
5 Chief Powell says, you need to put that down and
6 Chris McClure said you're going to have to make me.

7 A It seems like there was something else in there,
8 but yeah, I mean, you're going to have to make me,
9 it's a threat of sorts. I mean, if you say, hey,
10 get out of my house. Well, you're going to have to
11 make me. I mean, that's not asking politely.

12 Q Well, you used a different word when she asked the
13 question, and I want to ask you about the
14 difference between that word and the word threat.
15 You said it was a challenge. Do you remember
16 saying that?

17 A Uh-huh.

18 Q And I agree with you on that. He's challenging
19 him. Come out. Make me. He's not saying, I'm not
20 only not going to put it down, I'm going to stick
21 it through your skull. He doesn't say that, does
22 he?

23 A I don't think he has to. It's potato potato.

24 Q Maybe there's a difference, maybe there's not. He
25 doesn't say I'm going to kill you with this pipe,

1 does he?

2 A No.

3 Q He doesn't say that unless the chief drives away,
4 he's going to stab him with the knife or kill him
5 with the pipe, does he?

6 A Not that I recall.

7 Q All he says is after the chief says, you're going
8 to need to put that down, he says, you're going to
9 have to make me. That's all you recall him saying.

10 A I'd have to watch the video again. I don't know if
11 that's all he said, but I'd stand by what the video
12 says.

13 Q Now, Buckingham didn't know that anybody would
14 describe -- would say that Mr. McClure could turn
15 on you like a snake at the time he shot him, did
16 he?

17 A No.

18 Q You don't know whether Buckingham had an opinion as
19 to whether Mr. McClure was scrappy or good with his
20 fists or anything like that?

21 A No.

22 Q Now, can we agree that at the time Mr. McClure is
23 shot, and we talked about it being milliseconds
24 either before he knocked out the window or a
25 millisecond after he knocked out the window, but

1 what that means is he -- he's either shot when he's
2 swinging at the window or he's shot after breaking
3 the window; right?

4 A Right.

5 Q Now, you were asked whether Chief Powell should
6 have shot -- or should have killed Mr. McClure
7 before Buckingham did. Mr. Buckingham couldn't
8 shoot Mr. McClure just because Powell didn't do it
9 before, did he -- could he?

10 A Could Lieutenant Buckingham shoot him just because
11 he hadn't been shot earlier?

12 Q Yeah. I mean --

13 A No.

14 Q -- Buckingham couldn't come up there and say --
15 within it in mind, well, Powell, should have --
16 could have killed you when you swung at his
17 windshield. So I'm going to kill you now. That's
18 not justification for a shooting, is it?

19 A Correct.

20 Q Should Chief Powell have gotten out of his SUV with
21 nothing in his hands after Mr. McClure had been
22 shot the first time unless he believed that
23 Mr. McClure presented no threat?

24 A That's a tactical decision.

25 Q Okay. So Chief Powell made a tactical decision?

1 A Uh-huh.

2 Q And the tactical decision was what, that
3 Mr. McClure didn't present a sufficient threat for
4 him to -- to require him to at least pull his gun?

5 A I don't know what he thought about that, but
6 tactically if you look at what I think I would have
7 done or a reasonable officer -- a different
8 reasonable officer would have done, he should have
9 got out armed with something regardless of what he
10 thought that guy was doing.

11 Q Is it -- is it possible he got out armed with
12 nothing because he didn't think Mr. McClure
13 presented a threat under those circumstances?

14 A That would be one possibility, yes.

15 MR. BELZLEY: All right. No further
16 questions.

17 MS. WORAK: I have a couple followups.

18 EXAMINATION

19 QUESTIONS BY MS. WORAK

20 Q The Vietnam vet's van, do you remember which glass
21 was broken out in it?

22 A The back, I believe.

23 Q So Mr. McClure wasn't as close to the Vietnam vet's
24 person as he was to Officer Buckingham; correct?

25 A Correct.

1 Q Okay. One of the things that Mr. Belzley just
2 pointed out is that with the milliseconds between
3 the breaking of the glass and the pulling the
4 trigger or the gunshot that we hear on the video
5 that the shot was -- either happened while he was
6 swinging or right after he broke the window.
7 Wouldn't it be true that either way, the post was
8 up in a swinging motion whenever the trigger was
9 pulled?

10 A Yes.

11 Q So that's a threat?

12 A Yes.

13 Q So I'm going to go back to this -- the timing for
14 reacting and pulling a weapon. My questions
15 previously were premised on the fact that we're
16 talking about -- first, we're going to try a taser.
17 And the taser doesn't work for whatever reason.
18 Then we've got to figure out what our next weapon
19 is and we've got to decide if we're going to pull
20 our gun.

21 So if you pull a taser. You use a taser.
22 We're going to say it takes a second and a half,
23 like you said, to perceive and react to the threat.
24 So you pull your taser out.

25 A Okay.

1 Q And then you said that the taser runs for about
2 five seconds. So now we're up to at least six and
3 a half seconds; right?

4 A Yes.

5 Q It takes that long to realize the taser is not
6 effective. So then we have to go to our next
7 option, which would be the next weapon, which we
8 would then have to unholster and pull which would
9 take another three seconds minimum; correct?

10 A Yes.

11 Q So at this point we would be at ten seconds or more
12 to perceive and respond in two different forms of
13 weapons if we decided to start with the taser
14 first?

15 A Approximately, yes.

16 Q Ten seconds, would that be the difference between
17 life and death of an officer --

18 A Yes.

19 Q -- when faced with a lethal weapon?

20 A Yes.

21 MS. WORAK: That's all I've got.

22 EXAMINATION

23 QUESTIONS BY MR. BELZLEY

24 Q Now, you told me when I was questioning you that
25 you really didn't reach a conclusion as to whether

1 what Mr. Buckingham had done was wrong or not in
2 this case, but when you were pressed by Ms. Worak,
3 you said that you came to the opinion that
4 Mr. Buckingham's actions were justified; correct?

5 A Yes.

6 Q Is that right?

7 A Yes.

8 Q Okay. Did you come to the same opinion in all of
9 the other police shooting cases you investigated?

10 A All of them aren't the same, but I let the
11 commonwealth attorney or grand jury come up with
12 the official conclusion. Yes, I have an opinion,
13 and most of what I have -- if you want to get into
14 it, most of what I've discovered in
15 officer-involved shootings that I've been involved
16 in and worked around is, if anything, the officer
17 has waited too long to fire a shot and put someone
18 else or himself in way more danger than was
19 necessary for the situation.

20 Q Well, I get that. But you came up -- you reached
21 an opinion in this case and you've testified to it
22 that what Officer Buckingham did was justified. He
23 was justified in shooting him the first time. He
24 was justified in shooting him the second time. My
25 question is, have you ever come -- reached a

1 different opinion, a personal opinion in any of the
2 other police shooting cases that you've
3 investigated?

4 A No.

5 MR. BELZLEY: No further questions.

6 MR. COMBS: No questions.

7 MS. REPORTER: Do you want to order the
8 transcript?

9 MR. BELZLEY: Yes, ma'am. Just -- well, I
10 need an original and then just a plain PDF.

11 MS. WORAK: Give me a paper copy and then the
12 e-mail, condensed.

13 MS. REPORTER: The paper copy, do you want a
14 full size?

15 MS. WORAK: Full size.

16 MR. COMBS: I'll take an electronic copy.

17 (The deposition concluded at 2:23 p.m.)
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1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF INDIANA
3 PADUCAH DIVISION

4 BOB ANDERSON,)
5 Administrator of the)
6 Estate of Charles)
7 Christopher McClure,)
8 Deceased, and Next Friend)
9 of S.M., B.M., and C.M.,)
10 Minor Daughters of Mr.)
11 McClure,)

12 Plaintiffs,)

13 -v-)

Case No. 5:18-cv-32-TBR

14 CITY OF FULTON, KENTUCKY,)
15 et al.,)

16 Defendants.)
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The deposition of LONNIE BELL, taken in the above-captioned matter, on August 22, 2019, and at the time and place set out on the title page hereof.

It was requested that the deposition be transcribed by the reporter and that same be reduced to typewritten form.

It was agreed that the reading and signature by the deponent to the deposition were waived on behalf of the parties Plaintiffs and Defendants by their respective counsel, the witness being present and consenting thereto, the deposition to be read with the same force and effect as if signed by said deponent.

CERTIFICATE OF REPORTER

STATE OF KENTUCKY AT LARGE:

I, Elizabeth A. Taylor, RPR, a Notary Public in and for said county and state, do hereby certify that the deponent herein, LONNIE BELL, was by me first duly sworn to tell the truth, the whole truth, and nothing but the truth in the aforementioned matter;

That the foregoing deposition was taken on behalf of the Plaintiffs; that said deposition was taken at the time and place heretofore mentioned between 10:12 a.m. and 2:23 p.m.;

That said deposition was taken down in stenograph notes and afterwards reduced to typewriting under my direction; and that the typewritten transcript is a true record of the testimony given by said deponent;

And that the reading and signature by the deponent to the deposition were waived on behalf of the parties Plaintiffs and Defendants by their respective counsel, the witness being present and consenting thereto, the deposition to be read with the same force and effect as if signed by said deponent.

I do further certify that I am a disinterested person in this cause of action; that I am not a

1 relative of the attorneys for any of the parties.

2 IN WITNESS WHEREOF, I have hereunto set my
3 hand and affixed my notarial seal this 3rd day of
4 August, 2019.

5
6
7 Elizabeth A. Taylor

8 Elizabeth A. Taylor, RPR
9 Notary Public - State of Kentucky
10 My Commission Expires - 01-03-2020
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