

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 24-CV-80022-DMM

RYAN GOULD,

Plaintiff,

vs.

BETHANY GUERRIERO, and  
JOSEPH STRZELECKI,

Defendants.

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**DEFENDANT, JOSEPH STRZELECKI'S STATEMENT OF MATERIAL FACTS IN  
SUPPORT OF HIS MOTION FOR SUMMARY JUDGMENT**

Defendant, JOSEPH STRZELECKI, by and through his undersigned counsel, pursuant to Rule 56, *Fed.R.Civ.P.*, and Local Rule 56.1, *S.D.Fla.L.R.*, files this Concise Statement of Material Facts in support of his Motion for Summary Judgment, as follows:

1. Joseph Strzelecki is a 28-year-old law enforcement officer employed by the City of Palm Beach Gardens Police Department (PBGPD). He took his oath of office on October 15, 2022, entered field training, and successfully completed the 12-month probationary period on March 5, 2024. *Strzelecki Dec.*, ¶1, attached to **Appendix at Tab 1**.

2. Officer Strzelecki remains in good standing with the City. He has not been the subject of any citizen complaints, including any by Ryan Gould. Gould did not name Strzelecki as an offending officer in an internal complaint he filed with PBGPD. **Appendix, Tab 2**.

3. On May 9, 2023, an argument took place between Plaintiff, Ryan Gould, and a pregnant woman while both were utilizing a community pool. Each blames the other for the argument. The female complainant called and informed that she was being harassed by a male (Gould). *Conventionally Filed Audio*, "03 G23-002514 911." Her husband's complaint was

similar, advising that a male in a multi-colored suit was screaming at his wife, calling her a “retard” and demanding that she get out of the pool. He believed the male (Gould) may have been on drugs based upon his behavior. *Audio*, “02 G23-002514 911.” Gould also called 911 and reported that a gun was on scene, had been brandished and that he wanted police to respond, and that he would be pressing charges. *Audio*, “01 G23-002514 911.”

4. At this time, Strzelecki was on duty serving as a road patrol officer. He was still a rookie/probationary officer. *Strzelecki Dec.*, ¶4.

5. Strzelecki received a dispatch about a female arguing with a male, advising that one party to the argument had a firearm. The location was the community pool at Sabal Ridge. Strzelecki drove to that location, along with Officer Bethany Guerriero, arriving at roughly the same time. *Strzelecki Dec.*, ¶5; *Conventionally Filed BGVideo, JSVideo*.

6. Guerriero had 20 years of experience and was a senior negotiator for crisis intervention. *Guerriero Depo.*, 10:22 – 11:24.

7. Since there had been calls from both sides of the argument, Strzelecki was uncertain who was armed with a gun. But with any gun call, he treated it as a priority call, with a sense of urgency to get there quickly, determine who has the weapon, and eliminate any possibility that it may be utilized. *Strzelecki Dec.*, ¶¶6-7; *Guerriero*, 50:1 – 51:11.

8. Information from dispatch is often useful in assessing who to approach first on scene, and the way to approach, but it is just a tool, and should not cause an officer to definitively conclude on a gun call that any person is unarmed or not a threat. *Strzelecki Dec.*, ¶8.

9. Dispatched information is often incorrect, and not because of incompetence of the dispatchers, but because Dispatch is generally relaying information from citizen callers, that may be inaccurate since callers intentionally have bias when reporting incidents in which they are

personally involved. For instance, someone who is aware that the police have been called about him, may then call 911 himself with competing information (true or false) to defend, or lessen his chances of being arrested. *Strzelecki Dec.*, ¶9.

10. When multiple callers are relaying information, often inconsistently, it is the officer's job to investigate the situation, and not simply credit second-hand information dispatched from on-scene citizen callers. Again, citizen callers are often interested in seeking to impugn one side, and exonerate themselves. *Strzelecki Dec.*, ¶10; *Guerriero*, 52:4 – 52:23.

11. Gould was not believed to be the initial caller. His status as a second caller would not cause Strzelecki to discount information he relayed to dispatch, but at the same time it would not be prudent to accept without investigation who was possibly armed. *Strzelecki Dec.*, ¶11.

12. When driving quickly with lights and sirens to a gun call, hearing and absorbing every fact that comes over the radio is not typical or reasonable. That is why there is no substitute on a gun call for addressing those on scene, and determining who is armed. *Strzelecki Dec.*, ¶12; *Guerriero Depo.*, 45:3 – 46:2; 49:16 – 23.

13. Strzelecki generally understood while traveling to this call that there were two males on scene, and one had a gun that was reported to be in the groin area at the time of the call. Whether it would have remained in his groin area after officers arrived is speculative since a gun can easily be moved on a person. *Strzelecki Dec.*, ¶13.

14. Most calls Strzelecki has responded to have turned out different from the information Dispatch provided. *Strzelecki Dec.*, ¶14. Thus, Strzelecki's primary objective upon arrival was to ensure that whoever had the gun could not use it. *Strzelecki Dec.*, ¶14.

15. Strzelecki's body worn camera video is on file with the Court. It depicts Officer Guerriero arriving first, and out of her vehicle before Strzelecki's car was parked. *Strzelecki Dec.*,

¶17; *Conventionally Filed Videos*, JSVideo and BGVideo.

16. Officer Guerriero appeared to have engaged Gould in conversation as Strzelecki was exiting his vehicle. Her video (BGVideo) reflects that she calmly said, “hey man, how are you doing, keep your hands out of your pockets for me.” *Id.*; *Strzelecki Dec.*, ¶18.

17. On a firearm call, an officer telling someone to keep hands out of pockets is not an optional request, but a directive given for officer safety. Guns can be small, and concealed in bathing suit pockets or waistbands in the back. *Strzelecki Dec.*, ¶19; *Guerriero Depo.*, 61:14-22.

18. Gould responded with words to the effect that he did not have a gun as he came closer to the police. But at that moment, Strzelecki (and Guerriero as well) did not know whether, in fact, he was armed. Gould had not been searched. Strzelecki acknowledges that he was not in fear for his safety. *Strzelecki Dec.*, ¶20; *Guerriero Depo.*, 92:5 – 11.

19. Gould then placed his right hand into his right pocket, even though he had been told by Officer Guerriero not to put his hands in his pockets. *Conventionally Filed Videos*, BGVideo and JSVideo.

20. Gould now claims that he did not hear the directive or understand that he should not have reached in his pockets. *Gould Depo.*, 86:10-14. **Appendix Tab 4.** Whether and to what extent Gould heard and understood what Guerriero demanded was not something Strzelecki considered in the moment since he could not possibly know what Gould heard and understood. Guerriero’s statements seemed clear and audible though, both on scene and in reviewing the videos. *Conventionally Filed Videos*, BGVideo and JSVideo; *Strzelecki Dec.*, ¶21.

21. Strzelecki’s real-time observations were that Guerriero more forcefully stated on her second command, “keep your hands out of your pockets!” *Strzelecki Dec.*, ¶22. Unlike in the moment, the video can now be viewed second-by-second in freeze frame mode, and it depicts

Guerriero's second command as occurring after Gould had already begun reaching for his pocket (we are talking about split-seconds), but at that moment Strzelecki reasonably perceived that Gould had been told twice to stay out of his pockets, and that he went into his right pocket anyway. *Strzelecki Dec.*, ¶23.

22. Whether Gould had been told once or twice to keep his hands out of his pocket, at a minimum, Gould should have taken his hand out of his pocket without anything in his hand. *Strzelecki Dec.*, ¶24.

23. Gould withdrew what appeared to be a phone from his pocket. *Strzelecki Dec.*, ¶25.

24. Strzelecki could not understand at the time why someone that was told to keep hands out of his pockets twice would then reach for and pull out a phone.<sup>1</sup> *Strzelecki Dec.*, ¶26; *Conventionally Filed Videos*, BGVideo and JSVideo.

25. Guerriero then told Gould twice to put his phone down. Gould remained with his phone in hand, refusing to do so, and then commenced arguing with Officer Guerriero. *Strzelecki Dec.*, ¶27; *Conventionally Filed Videos*, BGVideo and JSVideo.

26. Since Strzelecki believed Gould to have been involved in a gun-related incident that led to multiple calls to 911, he thought it reasonable for Officer Guerriero to direct Gould not to place his hands in his pockets. This is not a command that intrudes to any degree on one's freedom as one can just as easily approach and speak with officers (that notably were there, in part, due to **his 911 call**) with hands away from pockets. *Strzelecki Dec.*, ¶28.

27. Officer Guerriero as the senior officer on scene (by about 20 years) was taking the lead, and Strzelecki was taking cues from her. *Strzelecki Dec.*, ¶29.

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<sup>1</sup> Gould's deposition testimony was that he did so out of habit. "*I often play with my phone and flip it around.*" *Gould Depo.*, 87:4-7. Strzelecki had no knowledge in the moment that Gould was a person with a habit of playing with and flipping his phone.

28. With Guerriero taking the lead, Strzelecki's primary role then became backup for officer and scene safety. *Strzelecki Dec.*, ¶30.

29. Based upon Strzelecki's vantage point and observations, Gould had been given four commands: two not to go in his pockets, and two to put his phone down, all four of which were not complied with. *Strzelecki Dec.*, ¶31.

30. Officer Guerriero, based upon her experience, saw fit to draw her firearm, order Gould to the ground and detain Gould in handcuffs pending further investigation. *Strzelecki Dec.*, ¶32; *Conventionally Filed Videos*, BGVideo and JSVideo; *Guerriero Depo.*, 36:22-37:37:3.

31. Guerriero's training and experience were significantly superior to Strzelecki, and in the moment, he could not question Guerriero's observations since she was the one giving commands, and her vantage point different from his. *Strzelecki Dec.*, ¶33.

32. Strzelecki could not have reasonably, and would not have directed a senior officer on scene, whose vantage point was not the same, to dispense with an investigatory detention of a noncompliant, argumentative, agitated individual on a gun call, who had disregarded multiple police commands that were given for safety reasons. *Strzelecki Dec.*, ¶34.

33. Strzelecki could not reasonably, nor would he have physically intervened in Officer Guerriero briefly withdrawing her firearm since that would have been imprudent, unsafe and unreasonable to get in the line of fire of an officer with a gun drawn, particularly in the very short period of time she had her gun out. *Strzelecki Dec.*, ¶35.

34. Officer Guerriero had her gun drawn for **12 seconds**. Strzelecki is unaware of anything he could have done, then and even in hindsight, in that short amount of time that could have prevented Guerriero from drawing her gun, or causing her to put it away in less than the mere **12 seconds** it was out. *Conventionally Filed Videos*, BGVideo and JSVideo; *Strzelecki Dec.*, ¶36.

35. Strzelecki had no authority, or ability even if possessed with the authority, to compel Guerriero to put her gun away in that *12 seconds*. Nor would it be reasonable to conclude that Officer Guerriero (a 20-year veteran officer) would have taken directives from a rookie officer and altered her actions in that fleeting amount of time. *Strzelecki Dec.*, ¶37.

36. Although in the same vicinity, Strzelecki could not be certain of what Guerriero was observing. She may have observed something that he did not, that caused her to fear for safety. Guerriero's vast experience could have led her to perceive a risk that Strzelecki could not. Perhaps she saw something in Gould's pockets or behind his back. *Strzelecki Dec.*, ¶38.

37. Per Strzelecki's police training, when one officer draws a lethal weapon, the second officer should cover with a less lethal option. That way, if the subject engages in any quick or furtive movements that might lead to use of a weapon to gain control, the officers will have a less-lethal option. A Taser is a less-lethal option. It is not designed or intended to inflict great bodily injury, but instead to temporarily incapacitate. *Strzelecki Dec.*, ¶39.

38. Gould, in fact, later commended Strzelecki's decision stating, "at least the other guy pulled out his Taser." *Gould Depo.*, 77:19-25.

39. Strzelecki did not discharge his Taser. *Conventionally Filed Videos*, BGVideo and JSVideo; *Strzelecki Dec.*, ¶41.

40. Strzelecki did not touch Gould. *Id*; *Strzelecki Dec.*, ¶42.

41. Strzelecki unholstered his holster for 23 seconds, until Gould was secured in handcuffs by Officer Guerriero. *Videos*, BGVideo and JSVideo; *Strzelecki Dec.*, ¶43.

42. Gould laughed, and when Officer Guerriero asked him if he thought it was funny, she explained to him that she was detaining him. Gould told her she was "fucked." *Videos*, BGVideo and JSVideo; *Strzelecki Dec.*, ¶44.

43. Strzelecki asked Gould if he had identification, at which point he began to attempt to stand up. *Conventionally Filed Videos*, BGVideo and JSVideo; *Strzelecki Dec.*, ¶45.

44. Officer Guerriero directed him back to the ground into a seated position, after which Gould asked, “who the fuck is this?” *Videos*, BGVideo and JSVideo; *Strzelecki Dec.*, ¶46.

45. Gould was excited at this point, and Strzelecki told him a couple of times to relax to de-escalate. *Videos*, BGVideo and JSVideo; *Strzelecki Dec.*, ¶47.

46. When Gould engaged in more arguments with Officer Guerriero and said he did not have a gun, Strzelecki explained to him that officers would not know that upon arrival. *Videos*, BGVideo and JSVideo; *Strzelecki Dec.*, ¶48.

47. The body worn camera videos show that Strzelecki was present ***for only about 90 seconds from the time Guerriero ordered Gould to the ground until Strzelecki left with Officer Michael Valerio*** to address the other individuals involved in the call. *Videos*, BGVideo and JSVideo; *Strzelecki Dec.*, ¶¶51-52.

48. Officer Valerio observed Gould in handcuffs being detained, and he too did not request or direct Officer Guerriero to release him. *Strzelecki Dec.*, ¶¶55.

49. Strzelecki did not encounter Gould again until Gould was at the Palm Beach Gardens Police Department. The remainder of Gould’s interaction with PBGPD law enforcement officers (and it was prolonged and included Gould calling Guerriero a “psycho” and “pussy,” impugning police officers repeatedly, insulting military veterans, lying about being an attorney, and effectively imploring officers to arrest him on several occasions, even explaining he “would love it” if he were arrested) occurred outside of Strzelecki’s presence. Strzelecki only learned of Gould’s abhorrent behavior after the fact. *Strzelecki Dec.*, ¶¶56; ***Conventionally Filed Video, GouldVideo at 038-0:56; 1:10-1:25; 1:45-1:55; 2:17-2:19; 6:24-8:00; 14:05-14:10; 15:40-***



**16:30; 26:06-26:20; 27:00-27:35.** *Gould*, 106:2; 29:9-30:6; 24:15-25:4.

50. Strzelecki remained on scene but in a completely other location, unable to see Gould for over an hour. Gould was arrested after Strzelecki departed. *Strzelecki Dec.*, ¶57.

51. Gould understood that at the time Strzelecki left the area, he was being detained. *Gould*, 68:13-17. Gould does not assert that Strzelecki detained him at all. *Gould*, 114:10-13.

52. Ultimately, based upon what occurred while Strzelecki was briefly present with Gould on scene, he would not have placed Gould under arrest; however, the decision to arrest him was made by Officer Guerriero after Strzelecki departed, and more may have transpired. Even though Strzelecki would not have arrested Gould based upon what occurred in his presence, whether and to what extent Officer Guerriero had probable cause or arguable cause is for her to explain, including whether any of Gould's actions after Strzelecki left contributed to her decision.

53. All probable cause determinations were made by Officer Guerriero. *Guerriero*, 142:12 – 144:16; *Strzelecki Dec.*, ¶60.

54. Strzelecki was also informed by a supervisor that Gould was being arrested based upon Officer Guerriero's probable cause. *Strzelecki Dec.*, ¶61.

55. Strzelecki was tasked with writing a report on this arrest only because Officer Guerriero was taken from the scene with chest pain and admitted to the hospital for a cardiac event. Had she not fallen ill and taken to the hospital, it would have been her report. *Strzelecki Dec.*, ¶62; *Guerriero*, 104:14 – 107:16.

56. Because it was Guerriero's arrest and formulation of probable cause (and not Strzelecki's), he specifically and contemporaneously noted: "Due to the facts above **Ofc. Guerriero found probable cause to charge Mr. Gould** with one count of resist officer without violence F.S.S. 842.02." (emphasis added). **Appendix, Tab 3**, p. 7; *Strzelecki Dec.*, ¶63.

57. Guerriero's probable cause included Gould reaching in his pockets when told not to do so, and refusing to identify himself during the police investigation. *Guerriero Depo.*, 145:8 – 147:8. **Appendix Tab 5.**

58. Had Strzelecki made any probable cause determinations, the report would not have expressed that the arrest was solely based upon the probable cause determination of another officer. *Strzelecki Dec.*, ¶64.

59. Strzelecki transported Gould from the PBGPD to the jail, but not from the scene to the PBGPD. During transport and at the jail, Strzelecki had no discretion or authority to unarrest or release Gould since Guerriero made an arrest. Strzelecki was not a supervisor and had no ability to override the decision of a senior officer, or any officer for that matter. *Strzelecki Dec.*, ¶¶65-66.

60. One or more supervisors viewed video (from the community, not officer body cameras) of the interaction between Gould and the other parties with whom he had been involved, and determined that Gould was a victim of a crime. *Strzelecki Dec.*, ¶69.

61. Strzelecki was directed to unarrest Gould and take him home. Gould was not charged with any crime since no papers charging him with a crime were filed or submitted. *Strzelecki Dec.*, ¶70; *Gould Depo.*, 45:16 – 46:1.

62. Gould was not booked into the Palm Beach County Jail. He was not photographed or fingerprinted. Strzelecki asked Gould if he would like to ride home with the handcuffs removed, and then dropped him off back in the community and returned to work. *Strzelecki Dec.*, ¶¶71-72.

63. Gould has not sought or received any medical treatment whatsoever for any reason relating to this occurrence. *Gould Depo.*, 42:18-23. He made no complaints about any hot pavement on scene. *Id.*, 181:24-25; 184:9-11; 187:7-9.

64. The individual with the gun was arrested and prosecuted. *Strzelecki Dec.*, ¶75.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5th day of June, 2024, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system or by email to all parties. I further certify that I either mailed the foregoing document and the Notice of Electronic Filing by first class mail to any non-CM/ECF participants and/or the foregoing document was served via transmission of Notice of Electronic Filing generated by CM/ECF to any and all active CM/ECF participants.

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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 9:24CV80022DMM

RYAN GOULD,

Plaintiff,

-vs-

BETHANY GUERRIERO and JOSEPH STRZELECKI,

Defendants.

\_\_\_\_\_ /

US LEGAL SUPPORT  
444 W Railroad Avenue  
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West Palm Beach, Florida 33401  
Thursday, April 25, 2024  
8:12 a.m. - 11:45 a.m.

DEPOSITION OF BETHANY GUERRIERO

Taken before Robyn Maxwell, RPR, FPR,  
RSA, and Notary Public in and for the State of Florida at  
Large, pursuant to Notice of Taking Deposition filed in  
the above-mentioned cause.

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PLAINTIFF EXHIBITS

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{Reporter's Note: Exhibits 1-4 were retained by Mr. Rice.}

1 Thereupon,  
2 the following proceedings began at 8:12 a.m.:

3 THE COURT REPORTER: Raise your right hand,  
4 please.

5 Do you solemnly swear or affirm the  
6 testimony you are about to give in this matter  
7 will be the truth, the whole truth and nothing but  
8 the truth?

9 THE WITNESS: Yes, I do.

10 Thereupon,

11 BETHANY GUERRIERO,  
12 having been first duly sworn or affirmed, was examined  
13 and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. RICE:

16 Q. Good morning.

17 A. Good morning.

18 Q. How would you like me to address you today?

19 A. You can call me Beth, that's fine.

20 Q. Okay. If that --

21 A. That works.

22 Q. -- changes, let me know.

23 A. Sure, no problem.

24 Q. Have you ever taken a deposition before?

25 A. Yes, I have.



1 Q. When was that?

2 A. I took one -- let's see.

3 In relation to this case or just any case?

4 Q. Just any deposition.

5 A. I would say within the last year.

6 Q. What was the circumstances of that

7 deposition?

8 A. Well, it had to do with this case, I

9 believe. I don't know. No. I don't -- I don't know. I

10 don't -- I'm sorry, I don't. . .

11 Q. That's fine.

12 And so, I just want to go over at the  
13 beginning some ground rules about how a deposition works.

14 A. Okay.

15 Q. So at this deposition, the reporter will be

16 making a record under oath. Everything that is being

17 said in the room will be taken down verbatim, including

18 my questions and your answers.

19 A. Okay.

20 Q. After the deposition, there will be a

21 transcript available that you'll be able to review. The

22 purpose of this deposition is to get information that can

23 be used in this court case or others.

24 Because the reporter is writing down what

25 we're saying, I just ask only one of us speak at a time.

1 A. Okay.

2 Q. So even if you know where my question is  
3 going, please wait until I fully finish the question, and  
4 I will do my best to wait until you're done answering  
5 before starting another one.

6 Also, at certain times, your attorneys may  
7 state objections.

8 A. Uh-huh.

9 Q. I just ask that you wait to respond until  
10 they finish speaking the objection. Generally, you can  
11 continue your response after they've made it, unless your  
12 attorney directs you to not respond.

13 A. Okay.

14 Q. Does that make sense?

15 A. Yes, sir, it does.

16 Q. Now, I also ask that if you don't  
17 understand any of my questions, that you ask for a  
18 clarification.

19 A. Okay.

20 Q. If you answer a question that I've asked,  
21 then I'll assume that you sufficiently understood it, be  
22 able to answer it; is that fair?

23 A. That's fair.

24 Q. If you need a question repeated back or  
25 clarified, please let us know.

1           Also, if you need a break at any time for  
2 any reason, I'm happy to do that. The one thing that I  
3 ask is just that you just finish answering any pending  
4 questions before we take a break.

5           A.     Okay.

6           Q.     Does that work for you?

7           A.     Yes, sir.

8           Q.     All right. Is there anything today that  
9 would impair your ability to participate in this  
10 deposition?

11          A.     No.

12          Q.     Can I get your full name, please?

13          A.     First name is Bethany, last name is  
14 Guerriero.

15          Q.     Can you spell that, please?

16          A.     Sure. First is B-E-T-H-A-N-Y; last is  
17 G-U-E-R-R-I-E-R-O.

18          Q.     Can I get your date of birth, please?

19          A.     2/20/1975.

20          Q.     What city and state do you currently reside  
21 at?

22          A.     Delray Beach, Florida.

23          Q.     Did you meet with anyone to prepare before  
24 this deposition today?

25          A.     I met with my attorney.

1 Q. So I'm going to say that, I'm not going to  
2 ask for confidential conversations with your attorney.  
3 If there's any information that is part of a private,  
4 legal conversation with your attorneys --

5 A. Uh-huh.

6 Q. -- I don't want you to include that; I'm  
7 not asking about that. Otherwise, I'm asking about  
8 anything besides that.

9 Does that make sense?

10 A. Yes.

11 Q. Did you review any documents to prepare for  
12 this deposition?

13 A. Yes.

14 Q. What documents did you review?

15 A. Transcripts from my IA involving this case.

16 Q. So is it fair to say the IA file?

17 A. Yes.

18 Q. Anything else?

19 A. No.

20 Q. Did you talk to anyone else, besides your  
21 attorneys, to prepare for this deposition?

22 A. No.

23 Q. Have you ever been charged with or  
24 convicted of a crime?

25 A. I was not convicted of any crime, no.

1 Q. Have you been charged with a crime?

2 A. I had been charged with a crime, yes.

3 Q. And what was that?

4 A. Back in 2019, I was charged with  
5 cyberstalking, I believe.

6 Q. Can you tell me what the allegations were?

7 A. Sure. It was imposed by my ex-wife Nicole  
8 Guerriero, during a divorce and custody battle, that I  
9 was cyberstalking her.

10 Q. Do you know what county that was in?

11 A. Palm Beach.

12 Q. And what was the resolution of that case?

13 A. It was nolle prossed by the State  
14 Attorney's Office.

15 Q. Okay. Can you describe your education  
16 related to law enforcement, please?

17 A. Sure. I completed a four-year degree,  
18 bachelor's degree, at Florida Atlantic University prior  
19 to my employment as a law enforcement officer, in  
20 addition to six months at the police academy located in  
21 Lake Worth, Palm Beach County. And then while employed  
22 as a police officer, just numerous trainings over the  
23 course of 20 years.

24 Q. Can you describe your work experience  
25 related to law enforcement?

1 MR. ALEXANDER: All right. Excuse me for  
2 one second.

3 MR. RICE: Actually, let's go off the  
4 record, yes, yes. Sorry.

5 (Discussion off the record.)

6 BY MR. RICE:

7 Q. So I'm sorry if I cut you off.

8 A. It's okay.

9 Q. Can you continue describing your law  
10 enforcement work experience?

11 A. Since being employed, correct?

12 Q. Correct. So I'm asking for any employment,  
13 work, those sorts of things related to law enforcement.

14 A. I don't -- I got hired in 2003, went into  
15 the police academy in 2004 and was released from field  
16 training in June of 2004. And I've been with the City of  
17 Palm Beach Gardens ever since then. So everything I've  
18 done in the last 20 years has been law enforcement  
19 related.

20 Q. And what positions or roles have you had  
21 with the Palm Beach Gardens Police?

22 A. I was a undercover tax agent. I held the  
23 position of field training officer on and off for the  
24 course of 13 years. I was briefly on SWAT for a little  
25 while. I was senior negotiator on our Crisis

1 Intervention and Hostage Negotiation Team. I worked in  
2 our community involvement unit for a number of years  
3 where I ran our juvenile first offender program. I also  
4 was in charge of running our Explorer program, which is  
5 the young adults that aspire to possibly go on into law  
6 enforcement. I was a CPR instructor. That's about it.  
7 It's a lot of -- a lot of stuff.

8 Q. Have you had any specialized training, as  
9 part of your law enforcement experience?

10 A. I have.

11 Q. Can you describe that, please?

12 A. Sure. As a former SWAT operator, I had  
13 gone through not only the tryout for that team, but I had  
14 gone to basic entry school, as well as a sniper school,  
15 so that was my training encompassing that unit.  
16 Throughout the years being on our Crisis Intervention and  
17 our Hostage Negotiation Team, numerous trainings,  
18 advanced trainings for that position I held on that team.

19 Q. Anything else?

20 A. As far as being an undercover narcotics  
21 agent, I had been to numerous conferences and trainings.  
22 And related to that, I had been to instructor schools for  
23 becoming a field training officer. So yes.

24 Q. Anything else?

25 A. I think -- I think I've covered everything.

1 Q. Okay. What's your current employment  
2 status?

3 A. I am not employed. I -- I work for myself  
4 on a part-time basis.

5 Q. And how did your employment at the Palm  
6 Beach Gardens end?

7 A. I was terminated on August 25th of 2023.

8 Q. And during this deposition, I'm going to  
9 refer to the incident and Mr. Gould. That's the incident  
10 at issue in this lawsuit.

11 Are you familiar with that incident?

12 A. I am, yes.

13 Q. And you understand that as we talk further,  
14 when I'm referring to events of the incident, that I'm  
15 referring to that with Mr. Gould?

16 A. Yes, sir, I understand.

17 Q. Now, as part of this lawsuit, did you  
18 search for any materials that you personally possessed  
19 related to the incident or this lawsuit?

20 A. I'm not sure I understand what you're  
21 asking.

22 Q. Were you aware that the plaintiff had  
23 requested certain materials from you that you may have  
24 related to Mr. Gould or this lawsuit?

25 A. Such as -- can you give me an example



1 because I'm still --

2 Q. Such as handwritten notes about the  
3 incident, emails about the incident, text messages?

4 A. Okay. Yeah. I had -- I had been asked  
5 about that.

6 Q. And did you search for those materials?

7 A. I don't have anything that's related to  
8 that.

9 Q. Did you do any searching to make sure you  
10 have nothing related?

11 A. I -- I did do searching, and I -- I don't  
12 have anything that's related to that.

13 Q. Okay. And I will ask, too, that, as this  
14 is a deposition and I'm hoping to ask you questions to  
15 get information from you, to please refrain from looking  
16 at your attorney or else maybe we'll switch seating up  
17 because I just want to make sure I'm getting the answers  
18 from you and not --

19 A. Okay.

20 Q. -- other sources.

21 A. Understandable.

22 Q. Is that fair?

23 A. Sure.

24 MR. MORSE: Just let the record reflect,  
25 none of her attorneys were giving her any answers

1 to answer her question.

2 MR. RICE: And I'll say for the record that  
3 I have no concerns at the moment.

4 MR. MORSE: Okay.

5 MR. RICE: I just want to make sure, we  
6 move forward --

7 MR. MORSE: Sure.

8 MR. RICE: -- it doesn't continue.

9 MR. MORSE: No issues.

10 BY MR. RICE:

11 Q. Do you have any handwritten notes of any  
12 sort related to the incident or the matters in the  
13 lawsuit?

14 A. No, sir.

15 Q. Do you have any emails, besides any sent to  
16 your attorneys privately, related to the incident or this  
17 lawsuit?

18 A. No, sir.

19 Q. Again, same question regarding text  
20 messages?

21 A. No, sir, I don't.

22 Q. Any social media posts or direct messages?

23 A. No, sir.

24 Q. Have you discussed this incident, the  
25 lawsuit or those matters with anybody, besides your

1 attorneys privately?

2 A. No, sir.

3 Q. Now, tell me about -- I believe you had  
4 critical stress management and deescalation training; is  
5 that correct?

6 A. That's correct.

7 Q. Can you tell me about that, please?

8 A. We receive training annually within the  
9 department, but, you know, as a crisis negotiator/hostage  
10 negotiator, as stated previously this morning, you know,  
11 I -- I do have trainings that other people at the  
12 department that are not on a team such as what I was part  
13 of has partaken in.

14 Q. And what sort of general skills or matters  
15 do you learn about in those trainings?

16 A. You know, deescalation, picking up on  
17 different cues such as verbal or nonverbal in relation to  
18 human behavior.

19 Q. Is deescalation important for a police  
20 officer?

21 A. It is, yes.

22 Q. Why?

23 A. Because it's a tactic that is used in hopes  
24 of bringing a situation back down to a calmer level that  
25 can be manageable.

1 Q. Do you know if the Palm Beach Gardens has a  
2 policy regarding deescalation?

3 A. We do.

4 Q. And what is that?

5 A. I'm kind of paraphrasing as to -- as to  
6 what I just described, but, you know, we do have, you  
7 know, trainings in relation to how to deescalate with the  
8 general public or subjects or whoever we may encounter  
9 while at work.

10 Q. What is your understanding about why Palm  
11 Beach Gardens has that policy?

12 A. It's -- it's important. I think it's  
13 important with any law enforcement --

14 MR. MORSE: Object --

15 A. -- job.

16 MR. MORSE: -- as to form.

17 You can go ahead and answer when I say  
18 "object as to the form," unless I instruct you not  
19 to. It's okay to answer.

20 THE WITNESS: It's okay to answer?

21 MR. MORSE: Yeah.

22 THE WITNESS: Okay.

23 A. It's -- it's an important aspect of -- of  
24 policing.

25

1 BY MR. RICE:

2 Q. Now, before the incident with Mr. Gould,  
3 were you subject to any medical conditions that affected  
4 your performance, as a police officer?

5 A. That day or in general or --

6 Q. What I'm asking is -- and, again, if I need  
7 to clarify, please let me know.

8 A. Sure.

9 Q. Sometimes my questions can get a bit  
10 unwieldy --

11 A. Sure.

12 Q. -- and weird.

13 A. Understandable.

14 Q. The day of the incident with Mr. Gould, was  
15 there anything that you were subject to, suffered from,  
16 had in your history, et cetera, that may have had an  
17 effect on your performance, as a police officer, that  
18 day?

19 A. No, not that day, no.

20 Q. And so, just to be clear to ask kind of the  
21 flip side, on the day of the incident with Mr. Gould,  
22 there were no impairments, that you were aware of, to  
23 your ability to operate, as a police officer?

24 A. That's correct.

25 Q. Okay. Were you trained in use of force

1 standards?

2 A. Yes.

3 Q. Can you tell me, generally, how an officer  
4 is supposed to approach use of force?

5 A. If -- you know, a- -- again there's  
6 escalation and deescalation that can be involved with  
7 that. And, you know, we are met with different levels of  
8 not only protecting ourselves but protecting the general  
9 public and protecting the -- the subjects that we are  
10 encountering with, as well as our officers.

11 Q. Can an officer use force whenever they  
12 want?

13 A. No.

14 Q. When can an officer generally use force?

15 A. When it's subjective and reasonable.

16 Q. Can you expound on that for me, please?

17 A. Sure, I'll -- I'll -- I'll do the best I  
18 can.

19 So every situation is -- is different. And  
20 that objectable [sic] reasonableness can change while  
21 encountering subjects, people, citizens throughout the --  
22 the course of a call or investigation. And we have to be  
23 diligent of that.

24 Q. And I'll also make clear at this point that  
25 when I'm asking about certain concepts or understandings,

1 I'm most interested as to what you understood on the day  
2 of the incident.

3 A. Okay.

4 Q. If there are things that -- I want to  
5 change the time frame, I'll specify, you know, today  
6 versus the date of the incident. And likewise, please  
7 let me know if you're understanding --

8 A. Okay.

9 Q. -- since the incident has changed.

10 A. Uh-huh.

11 Q. Is that fair?

12 A. That's fair.

13 Q. Now, you mentioned that threats can change  
14 throughout an encounter, correct?

15 A. Correct.

16 Q. And is it your understanding that an  
17 officer needs to adapt to the threat being presented?

18 A. Yes.

19 Q. So if there is no threat currently  
20 existing, can an officer generally use force?

21 MR. MORSE: Object as to form.

22 A. Again, that -- that can change. I'm sorry.  
23 That can change during an encounter.

24 BY MR. RICE:

25 Q. I understand that can change.

1           And so, I'm just saying, at the base level,  
2 let's say that an encounter starts and there is no threat  
3 even perceivable.

4           A.     Okay.

5           Q.     Can an officer generally use force?

6           MR. MORSE:   Object as to form.

7           A.     Again, it -- it would be that officer's  
8 objective reasonableness at that moment while in an  
9 encounter, investigation.

10 BY MR. RICE:

11          Q.     And so, what I'm asking -- okay.  If  
12 there's no safety threat to an officer, what else might  
13 permit an officer to use force?

14          MR. MORSE:   Object as to form.

15          THE WITNESS:  Can I answer or. . .

16          MR. MORSE:   Yeah, no, when I say, "object  
17 as to form," yes.

18          THE WITNESS:  Okay.

19          MR. MORSE:   Continue to answer, unless Rick  
20 or I tell you not to answer a question.

21          THE WITNESS:  Okay.  Okay.

22          A.     Again, that can change throughout an  
23 encounter.

24 BY MR. RICE:

25          Q.     And I understand it can change, but let's



1 say that it does not change.

2 A. Okay.

3 Q. I want to get your understanding.

4 A. Uh-huh.

5 Q. So let's say there's no safety threat.

6 A. Uh-huh.

7 Q. Nothing has changed, and nothing is  
8 changing?

9 A. Okay.

10 Q. Just a simple example.

11 When could an officer use force during that  
12 situation if there's no safety threat, or could they not?

13 A. Again, I'm -- I'm going to stick to my  
14 answer that, you know, that can change, and an encounter  
15 can present initially as nonthreatening and then it can  
16 evolve into something.

17 Q. And from my example, please assume that the  
18 situation does not evolve and does not change.

19 A. Okay.

20 Q. When could an officer use force in that  
21 situation, or could they not?

22 A. If you're speaking about that specific  
23 moment in time where there's absolutely no threat at --  
24 at that exact moment, then no.

25 Q. Is it your understanding that an officer

1 could not use force if there's no safety threat, there's  
2 no adapting safety threat, there's no change, generally  
3 an officer could not use force in that situation; is that  
4 fair?

5 A. That's fair.

6 MR. MORSE: Object as to form.

7 BY MR. RICE:

8 Q. Now let's talk about changes and  
9 adaptations.

10 If it goes from no safety threat to  
11 potential safety threat, then could an officer use force?

12 A. Yes.

13 Q. Describe for me how that works and what an  
14 officer would consider.

15 A. There's -- there's a lot of variables, you  
16 know, to that. It's -- you know, for us information can  
17 always be changing. So, you know, it's what we are  
18 receiving information-wise at the time that's going to, I  
19 guess, dictate an -- an outcome or -- or how that  
20 objective reasonableness can change.

21 Q. And you mentioned the objective standard.

22 Would you agree that an officer needs to  
23 view safety threats based on objective facts available to  
24 the officer?

25 A. Yes.

1 Q. And so, is it your understanding that an  
2 officer could use force based on only the potential of a  
3 safety threat?

4 A. Yes.

5 Q. And how would that look?

6 A. Again, there's -- there's so many different  
7 variables that can be, you know, inserted here to -- to  
8 describe that, and it really is that officer's perception  
9 with what they're being given with at the moment, how  
10 that's going to change or stay the same.

11 Q. Can you give me an example of when an  
12 officer would be justified in using force to a potential,  
13 but not actual, safety threat?

14 A. When there's a weapon involved.

15 Q. Would the officer have to have information  
16 that a weapon may be involved?

17 A. Yes.

18 Q. Can an officer just assume in every  
19 encounter that a weapon is involved?

20 A. You have to.

21 Q. And so, is an officer justified in using  
22 force in every encounter?

23 A. They could be, depending upon how a  
24 situation unfolds.

25 Q. So is it your understanding, and, again,

1 I'm trying to get to your understanding --

2 A. Uh-huh.

3 Q. -- that because anyone could potentially be  
4 armed at any moment --

5 A. Uh-huh.

6 Q. -- that as an officer, you are justified in  
7 using force in nearly every situation?

8 MR. MORSE: Object as to form.

9 A. It is our responsibility to assume that  
10 every one has a weapon. We're already bringing one  
11 weapon, which is our own --

12 BY MR. RICE:

13 Q. And --

14 A. -- to a scene.

15 Q. And I want to get to your understanding.

16 A. Uh-huh.

17 Q. If you are an officer assuming everyone  
18 else is armed that you come into contact with, would you  
19 feel justified in using force upon anyone until you know  
20 that they are not armed?

21 A. Force when it's reasonable.

22 Q. And so, what would be reasonable force in  
23 that situation?

24 A. There is an unknown until that unknown can  
25 be clarified with details. It also has to do with

1 demeanor of -- of somebody, you know, on scene that we  
2 could be encountering or -- or dealing with that, you  
3 know, we're in an information gathering standpoint, and a  
4 person's demeanor can, again, change that objective  
5 reasonableness for us.

6 Q. Would you agree, though, that a demeanor is  
7 something that an officer can observe?

8 A. You can, yes.

9 Q. And so, that would be information that an  
10 officer could perceive and then decide whether to use  
11 force, correct?

12 A. Correct.

13 Q. Can an officer use force based solely on  
14 assumptions?

15 A. Again, that would come back to their --  
16 there's a -- there's a lot of factors with that, so I  
17 don't. . .

18 Q. And my question is just based solely on  
19 assumptions.

20 If an officer has no perception, no  
21 observable facts of a safety threat --

22 A. Uh-huh.

23 Q. -- but has an assumption that there's a  
24 safety threat, based solely on that assumption, is it  
25 your understanding that an officer can use force?

1 A. You can.

2 Q. Okay. Are there certain facts -- factors  
3 that you're supposed to consider as an officer about  
4 using force?

5 A. Yes.

6 Q. Are you familiar with the Graham factors?

7 A. "The Graham factors," can you -- it -- it  
8 may be -- had -- it may have been presented a different  
9 way with our agency with policies, so. . .

10 Q. Well, I'll just ask you some general  
11 questions.

12 As an officer, are you supposed to consider  
13 the severity of the crime at issue, with respect to use  
14 of force?

15 A. Yes.

16 Q. Are you supposed to consider whether the  
17 suspect poses an immediate threat to the safety of  
18 officers or others?

19 A. Yes.

20 Q. And are you supposed to consider whether  
21 someone is actively resisting or attempting to evade  
22 arrest?

23 A. Yes.

24 Q. And how would you use those factors in your  
25 use of force analysis?

1           A.       Again, that can -- that can escalate or  
2 deescalate, depending upon how an encounter or situation  
3 unfolds with -- 1, with what an officer is presented with  
4 initially, and 2, how that can continue to unfold through  
5 information gathering.

6           Q.       And so, you mentioned escalate is  
7 deescalate is also possible during an encounter that a  
8 threat could go away, correct?

9           A.       A threat could potentially go away, sure.

10          Q.       Was it your understanding that at that  
11 point, less force or no force may be justified?

12          A.       It could be. It's --

13          Q.       I mean, what was your understanding?

14          A.       I'm not -- I'm not sure.

15                   MR. MORSE: Are you asking about the  
16 incident --

17          A.       Yeah.

18                   MR. MORSE: -- or just in general?

19 BY MR. RICE:

20          Q.       I'm asking in general. Again, I'm happy to  
21 clarify.

22          A.       Right.

23          Q.       But let's say that, just an example  
24 encounter --

25          A.       Uh-huh.

1 Q. -- someone poses a threat, they have a gun.

2 A. Uh-huh.

3 Q. They let the officer take the gun, they're  
4 no longer armed, they are compliant and polite.

5 At that point, would you agree that their  
6 threat level has gone down?

7 A. To a degree.

8 Q. And so, would an officer in the face of  
9 less threat be justified in using less force or no force  
10 at that point?

11 A. At that point, sure.

12 Q. So you'd agree that an officer would have  
13 to adapt up with force and down with force, during a  
14 situation as it unfolds?

15 A. Correct.

16 Q. And that's a moment-by-moment analysis,  
17 correct?

18 A. Yes.

19 Q. Okay. Are you also aware that officers had  
20 a duty to intervene when other officers used unlawful  
21 force?

22 A. Yes.

23 Q. Can you describe that for me, please?

24 A. I can give a broad example. But, you know,  
25 if maybe someone has already been taken into custody and



1 someone continues to use physical force against that  
2 person when there is perhaps adequate number of backups  
3 on scene or they are no longer actively or passively  
4 resisting, and, you know, that type of action from an  
5 officer continues, then another officer on scene would  
6 have a duty to intervene.

7 Q. And that's an affirmative duty to  
8 intervene, correct?

9 A. Yes.

10 Q. And so, if an officer perceives improper  
11 force being used and they don't act, then they have  
12 failed their duty, correct?

13 A. Correct.

14 Q. Is there a duty to report officer  
15 misconduct, as part of the Palm Beach Gardens Police  
16 Force?

17 A. Yes.

18 Q. Is that a policy?

19 A. Yes.

20 Q. What's your understanding of that?

21 A. That if an officer on a scene or -- you  
22 know, witnesses conduct that is perceived as misconduct,  
23 then they have a duty to report that.

24 Q. Does that go for every officer who  
25 witnesses misconduct?

1 A. Yes.

2 Q. Are there any exceptions, that you know of,  
3 where an officer could see misconduct and fail to report  
4 it but abide by policy?

5 A. I believe so.

6 Q. And what would that be?

7 A. I'm not quite sure how to answer that or  
8 what you're looking for, specifically.

9 Q. Sure.

10 To put it in clearer terms, does an officer  
11 who witnesses misconduct by another officer always have  
12 to report the misconduct per policy?

13 A. Per policy, does that happen? All the  
14 time? I -- I don't know. I can't answer that.

15 Q. Is it your understanding that the policy  
16 would require that?

17 A. Sure, the policy can require that.

18 Q. Are you aware of instances where officers  
19 of the Palm Beach Gardens witnessed officer misconduct  
20 and did not report it?

21 A. I'm quite sure.

22 Q. How often would you say that occurs?

23 A. I -- I don't want to -- I don't want to  
24 generalize or -- or speculate, but, you know, nothing is  
25 100 percent, so I'm -- I'm quite sure that it does

1 happen.

2 Q. How many instances are you personally aware  
3 of?

4 A. I -- I don't feel comfortable giving an --  
5 an exact number because I -- I don't know.

6 Q. Is it more than ten?

7 A. I have no idea.

8 Q. Would you say it is a regular occurrence?

9 A. At my agency or agencies across the board?

10 Q. Your agency.

11 A. I -- I can't give an accurate number. I  
12 don't know.

13 Q. Would it surprise you if an officer did not  
14 report another officer's misconduct?

15 A. It would not surprise me, no.

16 Q. Why not?

17 A. Because, again, nothing is -- is a hundred  
18 percent, so, again, I -- I -- I can't -- I can't give an  
19 exact number or answer. I just know that it probably  
20 does happen.

21 Q. Did you ever have any discussions with any  
22 officers about not reporting officer misconduct?

23 A. Not that I remember, no.

24 Q. Never in your career?

25 A. I don't think so, no.

1 Q. Were you aware of any other officers  
2 discussing not reporting officer misconduct in any  
3 circumstance?

4 A. I can't recall; I don't know.

5 Q. And you were with an officer during the  
6 Gould incident, correct, at the beginning?

7 A. Which officer are you referring to?

8 Q. Strzelecki.

9 A. Strzelecki, yes.

10 Q. Let's turn to your understanding of the  
11 resisting an officer without force statute.

12 Are you familiar with that criminal  
13 statute?

14 A. Yes.

15 Q. What is your understanding of what  
16 constitutes that crime?

17 A. Resisting without violence? Is that --

18 Q. Correct.

19 A. -- what you're speaking of?

20 So it's a -- it could be a -- a passive  
21 aggressive -- you know, if -- if I am giving verbal  
22 commands and you are not listening to what I need you to  
23 do, that would constitute as resisting an officer without  
24 violence.

25 Q. Do you have an understanding -- and, again,

1 I preface that because I want to get to your  
2 understanding; not the general or legal version.

3 But are there times when a person would be  
4 able to disobey or disregard an officer's command without  
5 violating that statute?

6 A. I would say, if it's more along the lines  
7 of a consensual encounter and there is no incident or  
8 situation or investigation at hand.

9 Q. So describe for me what a "consensual  
10 encounter" is?

11 A. I could be driving down the street, and I  
12 see somebody, and I have real no rhyme or reason to  
13 checkout with them, and I said, you know, hey man, can  
14 I -- can I ta- -- can I talk to you? That's one thing  
15 they have; during a consensual, they can either talk to  
16 me or not, but they're not obligated to at that point.

17 Q. And is that different than say, like, an  
18 investigative stop?

19 A. Yes, it's different.

20 Q. Describe to me what an investigative stop  
21 is.

22 A. Well, an investigative stop is going to  
23 involve a -- a reason or a situation that we are called  
24 to where we are now legally investigating a potential  
25 crime or investigating a situation to which upon we've

1 been called to.

2 Q. And is it your understanding that during an  
3 investigative stop, you can make commands of people  
4 present at the scene?

5 A. Yes.

6 Q. And what sort of commands can you make?

7 A. That depends. If, you know, I need to  
8 speak with somebody that is potentially in- -- involved,  
9 I can, you know, command to speak to that person. It --  
10 but, again, that's -- that depends upon what a scene or a  
11 situation looks like when we're initially responding.

12 Q. Do you make any efforts to let, I'll say,  
13 person, civilian -- the person you're encountering, just  
14 so we're clear.

15 But do you make any efforts to let the  
16 person you're encountering know whether it's a consensual  
17 encounter or an investigative stop?

18 A. I mean, if I am going to a call that I've  
19 been asked to respond to and conduct an investigation,  
20 then no.

21 Q. Do you have any concerns that the person  
22 you're encountering might be confused whether it's a  
23 consensual encounter or an investigative stop?

24 A. No.

25 Q. Do you assume that they understand what's a

1 lawful command and what's merely a request, generally?

2 A. Generally.

3 Q. And so, for you, would it be appropriate  
4 for you to inform someone that there's a legal duty to  
5 comply with your command?

6 A. Again, I -- I -- I feel that that can  
7 change or present itself differently, as a call or  
8 investigation is unfolding.

9 MR. MORSE: Object as to form.

10 BY MR. RICE:

11 Q. But would you give that information, if you  
12 deemed it necessary during an encounter?

13 A. Well, again, it depends on what deems it to  
14 be necessary, but, you know, I'm going to ref- -- I'm go  
15 degree to refer back to, a situation can sometimes  
16 dictate how that's going to go.

17 Q. Have you ever encountered situations where  
18 a civilian is confused about whether they need to comply  
19 with an order or not?

20 A. I'm quite sure over the course of -- of  
21 20 years I have an en- -- encountered that. I just, off  
22 the top of my head, for the sake of giving correct  
23 information, I don't want to just throw it out. But, you  
24 know, yes, I -- in 20 years, you do encounter that at  
25 some point.

1 Q. Is it your understanding that for criminal  
2 resistance, the one that we're talking about --

3 A. Uh-huh.

4 Q. -- that person would need to understand  
5 that they were subject to a lawful order and then failed  
6 to comply?

7 A. Yes.

8 Q. So is it your understanding that the person  
9 would need to understand that they were given a lawful  
10 command; not merely a consensual request --

11 A. Correct.

12 Q. -- to resist it?

13 A. Yes.

14 Q. Okay. Can you describe for me -- do you  
15 know what "temporary detentions" are?

16 A. Sure. When you're temporarily detaining  
17 somebody, you are still in the midst of -- of conducting  
18 an investigation and -- and -- and doing factfinding.  
19 We're trying to gather as much information as possible to  
20 make headway during a scene because not all the times are  
21 they cut and dry.

22 Q. What does a temporary detention look like?

23 A. You can temporarily detain somebody by  
24 using handcuffs; you can temporarily detain somebody by  
25 putting them in the backseat of your car; you can



1 temporarily detain somebody by having them have a seat  
2 and letting them know, hey, I need you to have a seat;  
3 we're conducting an investigation.

4 Q. How does that -- excuse me.

5 How does that compare to an arrest?

6 A. When someone is under arrest, you let them  
7 know they're under arrest and for what charge.

8 Q. So would it be your general practice to  
9 tell someone who's under arrest that they are under  
10 arrest?

11 A. Again, that -- that situation can change  
12 from a -- you know, a temporary detention, and then it  
13 can, you know, turn itself or upgrade to an arrest, yes.

14 Q. And that's what I'm asking.

15 Just your general practice though, you  
16 would inform somebody that they're under arrest, if they  
17 were?

18 A. Yes.

19 Q. Do you generally tell people what crime  
20 they're arrested for, if they're arrested?

21 A. That is also situational, depending upon  
22 what is going on external factor wise when it comes to a  
23 multitude of things. It could be, you know, safety not  
24 only for us but for the -- you know, the person we have  
25 detained or -- or under arrest. So at that specific

1 moment in time, it may not always be feasible to let them  
2 know what they're under arrest for, but will come about  
3 during the investigation or -- or detention, arrest,  
4 however you want to say that, see it.

5 Q. Are you aware that the Palm Beach Gardens  
6 has policies regarding response to resistance?

7 A. Yes.

8 Q. Do the policies direct officers to use  
9 deescalation when appropriate?

10 A. When appropriate, yes.

11 Q. And what's your understanding of how that  
12 works?

13 A. Again, it could be situational. You know,  
14 escalation/deescalation can change throughout the course  
15 of a call or an investigation. And we have to respond  
16 accordingly to those changes, if there are any.

17 Q. So if an officer is presented with some  
18 resistance and an officer can equally either deescalate  
19 or use force, what does Palm Beach Gardens' policy direct  
20 the officer to do?

21 A. Whatever is feasible and safe in -- in that  
22 moment, again, because it -- it can change.

23 Q. So is it your understanding that Palm Beach  
24 Gardens' policy leaves it completely up to the officer  
25 whether to use force in response to resistance or

1 deescalate, and that's the officer's decision?

2 A. Well, are you asking me about decision or  
3 discretion?

4 Q. Well, I'm asking about preference.

5 So again, if force or deescalation or  
6 equally available --

7 A. Uh-huh.

8 Q. -- does Palm Beach Gardens' policy and  
9 training encourage an officer to do one over the other?

10 MR. MORSE: Object as to form.

11 THE WITNESS: Can I answer or. . .

12 MR. MORSE: Yeah, always answer with that.

13 THE WITNESS: Okay.

14 MR. MORSE: That's fine.

15 A. Again, it's -- it's that that can change  
16 from situation to situation. I mean, you -- you have to  
17 do what's best not only for your safety but for the  
18 safety of other officers, for the safety of the general  
19 public and initially, that person you have in custody.

20 BY MR. RICE:

21 Q. So I just want to make sure I understand  
22 you correctly.

23 A. Uh-huh.

24 Q. There's really no preference between  
25 deescalation and use of force, based on your

1 understanding?

2 A. I mean, of course, deescalation would be a  
3 preferred method. Is it always going to work? No.

4 Q. Now, I want to start talking about the  
5 incident with Mr. Gould.

6 A. Uh-huh.

7 Q. Before you arrived on scene at the parking  
8 lot, were you aware of any information about the  
9 incident?

10 A. Very -- it -- it was brief. We were  
11 notified that there was some type of disturbance at the  
12 neighborhood -- one of the neighborhood pools involving a  
13 firearm.

14 Q. Were you listening to the radio at the  
15 time, the police radio?

16 A. Yes.

17 Q. Were you hearing calls come in from  
18 dispatch about the incident?

19 A. Yes.

20 Q. What information did you get from the  
21 police radio about the incident?

22 A. It was difficult, at best, to get initial  
23 information because there were different dispatchers  
24 coming on to the radio giving information, and there were  
25 three different people calling 911 that day, so the

1 initial dissemination of information was not clear.

2 Q. Did you get information from any other  
3 source, besides the police radio, before you arrived on  
4 scene?

5 A. One of our K-9 officers, Valerio, had  
6 arrived shortly prior to mine and Officer Strzelecki's  
7 arrival. And the only thing that he had said that I  
8 remember hearing over the radio just prior to pulling in  
9 was that he was 10-12 with -- which means, in our code,  
10 he was with somebody on the other side of the pool. And  
11 that was -- that was it. That was the initial  
12 information that he had provided.

13 Q. Did Officer Valerio communicate any  
14 potential safety threats at that time?

15 A. He did not. He did not indicate which  
16 party he was with nor that a firearm was secured at that  
17 time.

18 Q. As an officer, would you generally air  
19 potential safety threats to other officers, if feasible?

20 A. I would, yes.

21 Q. How was Officer Valerio's tone at the time?  
22 Was it calm, agitated?

23 A. I mean, he -- he did not seem elevated, but  
24 that doesn't always mean anything because we have  
25 officers that -- I mean, a horrific incident could be

1 going on, and they sound like a commercial airline pilot  
2 with their demeanor and how calm they are, so. . .

3 Q. But you would agree that he could be calm  
4 because the situation's calm, correct?

5 A. Could be, but, again --

6 MR. MORSE: Object as to form.

7 A. -- I'm not going to speculate.

8 BY MR. RICE:

9 Q. Were you aware that a person with a  
10 multicolored swimsuit was involved in the incident?

11 A. Yes.

12 Q. And so, I want to walk through the incident  
13 moment by moment.

14 So I just want to be clear, right now, I'm  
15 asking about: Before you arrive, you're aware that there  
16 was someone with a multicolored swimsuit?

17 A. There was, yes. And right before pulling  
18 into the development, I remember looking at my computer  
19 screen where information is updated via dispatch as they  
20 receive it. And one of the last things I remember  
21 looking in those, we call them, CAD notes was "multicolor  
22 colored bathing suit, gun in groin area."

23 Q. Do you know if that CAD information is  
24 saved?

25 A. It should be.

1 MR. MORSE: Object as to form.

2 MR. RICE: So I'm going to introduce  
3 Exhibit 7, which is an event report.

4 And I'll note for the record that I'm going  
5 to use the same numbering as the deposition  
6 yesterday with Officer Strzelecki.

7 For the record, Exhibit 1 is the radio  
8 recording regarding this incident; Exhibit 2 is a  
9 surveillance parking lot video; Exhibit 3 is  
10 Strzelecki's body-worn camera of the incident;  
11 Exhibit 4 is Officer Guerriero's body-worn camera;  
12 Exhibit 5 is Officer Strzelecki's report regarding  
13 this incident; Exhibit 6 is Officer Strzelecki's  
14 interview during the IA process. And so, this  
15 will be Exhibit 7, an event report related to this  
16 incident.

17 (Plaintiff Exhibit 1 was marked.)

18 (Plaintiff Exhibit 2 was marked.)

19 (Plaintiff Exhibit 3 was marked.)

20 (Plaintiff Exhibit 4 was marked.)

21 (Plaintiff Exhibit 5 was marked.)

22 (Plaintiff Exhibit 6 was marked.)

23 (Plaintiff Exhibit 7 was marked.)

24 BY MR. RICE:

25 Q. So I'm go going to turn my computer

1 around -- actually, I think I have a paper copy.

2 (Counsel confer sotto voce.)

3 BY MR. RICE:

4 Q. So I'm handing you a six-page document  
5 called "Event Report." And I want to turn your attention  
6 to the back page.

7 Is this the CAD information that you were  
8 referring to?

9 A. I believe so, yes.

10 Q. And when I show you exhibits or ask you  
11 about things, if you need a moment, please read them  
12 through and make sure you have an understanding, and feel  
13 free to refer to it as I ask questions; is that fair?

14 A. Yes.

15 Q. So if you need a moment to just take it in  
16 and read it, let me know.

17 A. Okay.

18 Q. But does this appear to be the information  
19 that would've been displayed on your computer before  
20 arriving to the incident?

21 A. Yes.

22 Q. Do you have any reason to believe that is  
23 not that information?

24 A. No.

25 Q. Can you point to me on this document or



1 maybe read for the record the notations that you reviewed  
2 before getting out of your car?

3 A. It literally was this last paragraph where  
4 it says, "has the weapon in a holster and groin area."  
5 And then the -- the few notes underneath that, "white  
6 male, brown hair, multicolored suit." Again, the -- the  
7 notes are not super clear, reading them even now.

8 Q. Did you review the notes in between those  
9 notations?

10 A. Briefly, but, again, you know, I'm -- I'm  
11 pulling into a -- a development so, 1, I'm trying to  
12 drive; 2, my computer is dinging at me letting me know  
13 there is notes being updated; and 3, I'm trying to pay  
14 attention to my environment as I'm -- I'm pulling in.

15 Q. So is it fair to say you didn't completely  
16 read these notes before you went to the in- -- like,  
17 before you got out of your car?

18 A. Well, and -- and that's -- I think I had  
19 said that, and I'll clarify that, that I remember seeing,  
20 you know, certain things involving a -- a weapon and a  
21 multicolored bathing suit and a bunch of stuff in  
22 between, so. . .

23 Q. Was the information in this document  
24 available to you, before you got out of your car?

25 A. It was; however, I am pulling up to a scene

1 where there is a gun involved, so I'm not going to sit in  
2 my car continuing to read if there is a potential threat.

3 Q. And that's what I was going to ask, is:  
4 You made the decision, instead of to read the notes or  
5 get more information from this source, to get out of your  
6 car and engage with the person in the parking lot?

7 A. Well, correct, because that person was now  
8 walking towards us, so I -- I don't take anything for  
9 granted.

10 Q. And the information you had available at  
11 that moment was that someone had a weapon and a holster  
12 in a groin area, correct?

13 A. That's correct, uh-huh.

14 Q. And someone was wearing a multicolored  
15 swimsuit, correct?

16 A. Correct.

17 Q. Any other information regarding the  
18 incident before you got out of your car?

19 A. Just I remember hearing Officer Valerio or  
20 the officer who had just gotten there prior to me saying  
21 that he was 10-12 on the other side of the pool, just for  
22 my information.

23 Q. So you knew Officer Valerio was generally  
24 in the area, correct?

25 A. Generally in the area.

1 Q. Did you see his vehicle, when you pulled  
2 up?

3 A. I did see his vehicle, yes.

4 Q. Did you see Officer Valerio, when you  
5 pulled up?

6 A. Not readily, no, which is why I think maybe  
7 he was trying to put out his location. I -- I don't  
8 know; I can't answer for him.

9 (Recess taken, 8:58 a.m. to 9:03 a.m.)

10 MR. RICE: All right. We're back on.

11 BY MR. RICE:

12 Q. Did anything happen during the break that  
13 affects your ability to continue this deposition?

14 A. No, sir.

15 Q. And I only ask because you never know the  
16 one time something does.

17 MR. MORSE: If you don't ask, you don't  
18 know.

19 MR. RICE: Exactly.

20 A. No. I appreciate you asking, though.

21 BY MR. RICE:

22 Q. All right. So we were talking about the  
23 beginning of the incident.

24 Were you aware of any description of the  
25 person who actually had the gun?

1 A. I do not remember hearing that at all.

2 Q. And as you sit here today, how is your  
3 memory of that incident?

4 A. I mean, pretty good I would say; however,  
5 we are coming up on a -- on a year now, so I mean, I'm  
6 only human, and I'm probably not going to have everything  
7 100 percent correct, but I'm going to do my best to  
8 recall for you.

9 Q. Sounds good.

10 Now, when you first arrived on the scene,  
11 what is going through your mind?

12 A. As someone that's been there a long time, a  
13 lot is unfolding. You know, primarily, as far as I'm  
14 concerned and from my standpoint and how I'm feeling and  
15 dealing with things at that moment, I still have at least  
16 one firearm outstanding because I never heard that a  
17 firearm was secured, and I don't really know at this  
18 point who is still armed. I -- I don't know, you know.

19 So first and foremost, I tried to take an  
20 abundance of caution in -- not only for myself but for a  
21 newer officer and for the community; it's broad daylight.  
22 We don't know who's out and about.

23 Q. And so, your primary concern, again, I want  
24 to make sure I get it correct, is locating that unknown  
25 firearm?

1 A. Correct.

2 Q. Do you know if any other officers had  
3 information about where the firearm was?

4 A. No.

5 Q. Do you know whether dispatch had  
6 information about who had the firearm?

7 A. No. At -- at -- at that moment, like I  
8 said, I'm -- I did not know.

9 Q. And you knew that Officer Valerio had  
10 previously responded, correct?

11 A. Right, yeah. He was maybe a minute ahead  
12 of me or so.

13 Q. Could you have radioed to Officer Valerio  
14 or dispatched to ask them if they had information on  
15 where the firearm was?

16 A. I mean, again, anything is possible. You  
17 know, maybe. But at that point, if, to me, there's a --  
18 there was a lot of -- you know, a lot of radio traffic  
19 going on, there were different dispatchers. And  
20 sometimes in our profession, I'm not saying it's always  
21 right, but less is more, and one less person on the radio  
22 at that moment is what I -- what I was thinking, in case,  
23 God forbid, something else unfolded.

24 Q. So the situation wasn't so urgent to need  
25 you to use the radio; is that fair?

1           A.       I'm not saying that it wasn't urgent at  
2 all. I'm just saying that sometimes in calls that  
3 pres- -- present urgency or a real threat such as a  
4 firearm or another type of potential weapon being  
5 involved, especially a gun, I don't want to clog the air,  
6 especially when I'm -- there -- there's a lot of things  
7 going on at one time, so I'm listening and absorbing  
8 Officer Valerio's last bit of radio traffic, I'm pulling  
9 into the parking lot, I am trying to be aware of my  
10 surroundings. I have my computer going off, I have the  
11 police radio going off. So I have a multitude of factors  
12 I am trying to now, in a matter of seconds, you know,  
13 compartmentalize.

14           Q.       Well, you had a couple different options  
15 available to you though at the beginning of the incident,  
16 correct? And I'll explain them: You could have further  
17 reviewed the computer notes, correct?

18           A.       I mean, it -- it -- it's an option, but at  
19 that moment. . .

20           Q.       Well, that's what I'm asking: The option  
21 was available, correct? There was nothing stopping you  
22 from sitting in your car and reviewing the computer notes  
23 first before getting out, right?

24           A.       No, but for me, that wasn't a safe thing to  
25 do.

1 Q. And that's what I was going to ask  
2 eventually is, why you decided the course you chose.

3 But the computer was an option.

4 You could have radioed to ask if Valerio or  
5 dispatch had information about where the gun was,  
6 correct?

7 A. A possibility.

8 Q. And otherwise, you can just get out of your  
9 car and go engage with the person in the parking lot,  
10 right?

11 A. Correct.

12 Q. And why did you choose to get out of your  
13 car and engage with the person in the parking lot rather  
14 than review the computer notes or radio about the  
15 location of the gun?

16 A. Because, to me, there was still a safety --  
17 a severe safety concern there. There is -- there is a  
18 gun somewhere. And when I see someone walking towards my  
19 vehicle or towards my general direction and I don't know  
20 who that person is, I need to get out of my vehicle so  
21 that I could try to see or start determining what's going  
22 on. I'm not just going to let a person walk up on me  
23 that I don't know.

24 Q. Well, and you can refer to the computer  
25 notes here, but had you looked at them, you can see that

1 the caller has the gun in the holster with his wife, and  
2 he was referring to the man in the swimsuit as somebody  
3 else, right?

4 A. But it wasn't clear who exactly the caller  
5 was because we had three individuals calling 911 at the  
6 same time.

7 Q. Now, what I'm saying is, on the report in  
8 front of you, though --

9 A. Okay.

10 Q. -- if you had read it, you would see the  
11 caller was with his wife and had his gun in a holster,  
12 and he was reporting a man in a multicolored bathing suit  
13 harassing his wife.

14 A. Okay.

15 Q. I mean, you can look at the document in  
16 front of you.

17 A. No, I -- and I understand what you're  
18 saying; I'm looking at the document.

19 However, when you look at this -- this  
20 presentation of -- of notes, I would kind of have to  
21 really put all my focus into reading this jumbled  
22 presentation of notes and now take my eyes off of the  
23 person that's walking to my left.

24 Q. Well, if I were to say that the document in  
25 front of you has information about who has the gun, would



1 you disagree with that?

2 A. No.

3 Q. And you would agree that this information  
4 was available to you in your computer at the start of the  
5 incident, correct?

6 A. It -- it was there.

7 Q. So I'm going to say it again: You didn't  
8 choose this option, and I understand your reason for  
9 doing it.

10 A. Uh-huh.

11 Q. But had you looked in your computer, you  
12 could've gotten information about where the gun was,  
13 right?

14 A. Well, we're looking at this from hindsight.  
15 I'm looking at this realtime as it's unfolding.

16 Q. Noted.

17 And looking at it from hindsight today --

18 A. Uh-huh.

19 Q. -- understanding that's not often how  
20 officers operate --

21 A. Uh-huh -

22 Q. -- that's not how officer evaluate use of  
23 force, but --

24 A. Uh-huh.

25 Q. -- with hindsight, you would agree that

1 this information or this document has information about  
2 who had the gun?

3 A. No. You can agree to anything that's  
4 hindsight, but at the moment when I'm going through that,  
5 I -- I wouldn't say that that was a hundred percent fair  
6 to say.

7 Q. When you get out of your car, what efforts  
8 do you do, if any, to understand where the gun is?

9 A. I can see an individual approaching me with  
10 a multicolored bathing suit who later on I understand to  
11 be Mr. Gould.

12 Q. Uh-huh.

13 A. Again, that wasn't readily available to me  
14 at that moment. And I remember the -- the first thing I  
15 had said to him was in an, I would say fairly, calm and  
16 professional manner, hey man, do me a favor and keep  
17 your -- your hand out of your pocket, away from your  
18 pocket because from my angle, I had already -- and, you  
19 know, I'm looking over the front end of a -- of a Tahoe;  
20 I'm only 5'5", and that's a huge vehicle. I had seen  
21 both hands disappear from my sight.

22 Q. So as you pulled up, did you see anything  
23 in Mr. Gould's hand?

24 A. I wasn't looking directly at his hands,  
25 again, because like I said, I'm -- I'm pulling into a

1 development, I'm driving, I'm trying to, like, make sense  
2 of whatever little notes are -- are popping up here  
3 because the computer's dinging, and I just remember  
4 seeing a person, a -- a male out of my peripheral vision  
5 as I'm -- I'm pulling around to park.

6 Q. So would it be fair to say that you didn't  
7 observe Mr. Gould's hands as you were pulling up?

8 A. That's fair to say, yeah.

9 Q. Okay. How tall did Mr. Gould appear to be?

10 A. I -- I don't know. I just want to say  
11 average height for a male.

12 Q. Would 5'2" be a reasonable statement of his  
13 height?

14 A. No. He seemed a -- a little bit taller  
15 than that, but. . .

16 Q. Would 6 feet seem a reasonable statement of  
17 his height?

18 A. I -- I would say.

19 Q. And Mr. Gould is wearing a multicolored  
20 swimsuit, correct?

21 A. Board shorts or -- yeah.

22 Q. And he did not have a shirt on, right?

23 A. Correct.

24 Q. And he didn't have a backpack or anything  
25 on him, correct?

1 A. Correct.

2 Q. Did you see a gun in a holster in his groin  
3 area?

4 A. I couldn't initially really see anything  
5 because, you know, if -- if a groin is in a holster --  
6 if -- if a holster is in a groin area -- I mean, firearms  
7 are all shapes and sizes, so are holsters, so I can't say  
8 with 100 percent certainty that I knew a gun was there or  
9 not.

10 Q. I didn't ask if you knew a gun was there.  
11 But did you see a gun in a holster in his  
12 groin area?

13 A. No.

14 Q. And so, again, I want to make sure I get  
15 your words correctly, you started out the encounter with,  
16 hey, can I talk to you for a minute, would you do me a  
17 favor and keep your hands out of your pocket; is that  
18 fair?

19 A. Uh-huh.

20 Q. Yes?

21 A. Yes, sorry.

22 Q. Do you think it would be reasonable that  
23 Mr. Gould understood that as a request and not a command  
24 to keep his hands out of his pockets?

25 MR. MORSE: Object as form.

1           A.     Request, command, I'm -- I'm telling you  
2     to -- to do something.

3     BY MR. RICE:

4           Q.     Well, you rephrased it as more asking him  
5     to do it, correct?

6           A.     Okay. Yeah, can --

7           Q.     Fair.

8           A.     Can -- sure. Can you keep your hands out  
9     of your pockets for me?

10          Q.     And is that how you understood it, that you  
11     were starting as a kind of more friendly ask to keep his  
12     hands out of his pocket?

13          A.     Correct, yeah.

14          Q.     Because later in the incident, you did give  
15     more assertive commands, correct?

16          A.     Yes.

17          Q.     Would you agree that at the very incident,  
18     that first statement was not one of those assertive  
19     commands?

20          A.     Maybe not assertive or a- -- aggressive,  
21     but it was -- I did ask him to do something.

22          Q.     You did.

23                     And again, I want to be clear your  
24     understanding was that you were commanding him to keep  
25     his hands out of his pocket; is that fair?

1 A. Command/asking, yeah, I -- I asked him not  
2 to do something.

3 Q. And Mr. Gould said that he was confused and  
4 thought you were merely requesting, as a favor, to keep  
5 his hands out of his pockets, but he had no legal duty to  
6 do so at that moment.

7 Would you dispute that that was a  
8 reasonable belief?

9 MR. MORSE: Object as to --

10 MR. ALEXANDER: Object to form.

11 A. I'm sorry. That --

12 BY MR. RICE:

13 Q. Sure --

14 A. -- threw me off. Can -- can you --

15 Q. -- everybody jumps in.

16 So objection is preserved. I'll try to  
17 rephrase or restate the best I can.

18 A. Okay.

19 Q. If Mr. Gould were to say, I heard  
20 Officer Guerriero say that and I understood it as just a  
21 request to keep my hands out of my pockets, she was  
22 asking nicely, but it wasn't a legal command for me to do  
23 so, would you say that that's reasonable or not  
24 reasonable?

25 A. I mean, it could be perceived as -- as

1 reasonable.

2 Q. Okay. And that's what I'm asking, is  
3 like --

4 A. Yeah.

5 Q. -- if you could say, here's why this is --

6 A. Uh-huh.

7 Q. -- outrageous, or here's why, yes, I agree,  
8 I just want to get your understanding, to be clear.

9 A. Uh-huh.

10 Q. And so, take me through from that first  
11 moment, let's say, through to the point that Mr. Gould  
12 gets on the ground.

13 Can you just walk me through that, please?

14 A. Sure. I'll -- I'll do the best that I can.

15 So I remember after initially coming into  
16 contact with him and asking him to keep his hands away  
17 from his pockets, out of his pockets, I was met with, "I  
18 am not the one with" -- "with the gun," and he said it  
19 with an -- an air of agitation to it, which, initially,  
20 for me, now it -- it flipped that switch --

21 Q. Uh-huh.

22 A. -- because there was -- to me, at that  
23 moment, was not presenting like a victim. You know, over  
24 the course of 20 years, if I've asked people, or  
25 especially on a scene where a gun is involved, I had not

1 been met with that type of answer or retort, which,  
2 again, heightened now my senses even more.

3 Q. Sure. We can stop there because again, I  
4 kind of want to go piece by piece.

5 A. Sure.

6 Q. So his response, the best you can recall  
7 is, I don't have a gun, right?

8 A. "I'm" -- "I'm not the one with" --  
9 "with" -- "with a gun," or yeah, however he --

10 Q. I was going to say, if I misstate something  
11 or whatever, please correct me. I want to understand --

12 A. Sure.

13 Q. -- what you recall.

14 A. Uh-huh.

15 Q. Can you articulate why that didn't -- that  
16 wasn't consistent with how you would expect a victim to  
17 respond?

18 A. Because it came off as a -- like, a --  
19 like -- like -- like a bit aggressive in the -- in the  
20 realm that he wasn't really down for listening to what I  
21 was telling him. And after he came with that, I saw the  
22 hands drop again. And at that point, I remember telling  
23 him more forcefully now to, "keep your hands out of your  
24 pockets," and comes up with a -- what I later was able to  
25 realize a phone, but. . .



1 Q. So let's walk through a couple of those  
2 pieces.

3 A. Okay.

4 Q. First, I want to go back to when he puts  
5 his hand in his pocket, right.

6 At that point, you say something to the  
7 effect of, "Keep your hands out of your pockets," right?

8 A. Uh-huh.

9 Q. Is that fair?

10 A. That's fair.

11 Q. Would you characterize that as an assertive  
12 command?

13 A. Yes.

14 Q. And if Mr. Gould were to say that he was  
15 confused whether that was a command or a polite request,  
16 do you think that would be reasonable?

17 MR. MORSE: Object as to form.

18 A. I don't think so. We are -- we are on a --  
19 on a gun call, and I am telling you to keep your hands  
20 out of your pockets, and I felt at that point I was being  
21 challenged. And to me, that equates a severe safety  
22 risk.

23 BY MR. RICE:

24 Q. And that's what I want to get at is, again,  
25 is based on your understanding --

1 A. Yeah.

2 Q. -- is that second command, based on your  
3 tone and phrasing, it was not confusing whether it was a  
4 mere request or a command; is that fair?

5 A. I would say that's fair, yeah.

6 Q. Okay. Do you have any training regarding  
7 how trauma can affect people?

8 A. I'm not a doctor; I'm not a psychiatrist by  
9 any means. I mean, do I have experience, as I had stated  
10 before, with crisis intervention, hostage negotiation, I  
11 do. You know, we are trained to pick up on verbal, as  
12 well as nonverbal queues; you know, some behaviors, if  
13 you will. And for me, he -- like, I understand there  
14 could be a multitude of responses from somebody.

15 Q. Uh-huh.

16 A. That day, it just was not the typical  
17 response that I had encountered in the past of a victim.

18 Q. But you would agree that trauma can affect  
19 various people very differently?

20 A. Of course. I'm -- I'm not -- I'm not  
21 disputing that at all. That's why I said, although I've  
22 got all of this training, I'm still not a doctor of  
23 what's going through someone's head in a split second.

24 Q. And trauma can often make someone  
25 emotionally heightened; is that fair?

1 MR. MORSE: Object as to form.

2 A. Ye- --

3 THE WITNESS: I can answer yes?

4 MR. MORSE: Yeah, yeah, yeah.

5 THE WITNESS: Okay.

6 MR. MORSE: Just to explain, just so we

7 don't keep --

8 THE WITNESS: Yeah, I mean --

9 MR. MORSE: Yeah, "Object as to form" is to  
10 reference the record for us. Like, if there was a  
11 question about, hey, what did Mr. Morse or  
12 Mr. King talk with you about last night, that I  
13 would object to, and you wouldn't answer that.

14 THE WITNESS: Okay. But --

15 MR. MORSE: But the "Object as to form" is  
16 for more for the lawyers later down the road. So  
17 you can always answer those questions.

18 THE WITNESS: All right. I just want to  
19 make sure.

20 MR. MORSE: I know when you hear  
21 "objections," they go, I can't, but no, they're  
22 very different in these types of depositions, so  
23 answer always unless we tell you not to answer.

24 MR. RICE: And it's good to clarify because  
25 you'll be hearing that a lot as we go forward.

1 THE WITNESS: Yeah. I just want to make  
2 sure I'm doing things the right way here today.

3 MR. RICE: "Object to form" means don't  
4 talk over your attorney, but carry on afterward.  
5 I would expect your attorneys will jump in with a  
6 "do not to respond" --

7 MR. MORSE: Sure, sure.

8 MR. RICE: -- "proceed" if you shouldn't.  
9 So like I said, just give a beat to allow your  
10 attorneys to object, and then we can carry on.

11 THE WITNESS: Okay.

12 BY MR. RICE:

13 Q. So I believe my question, and objection  
14 preserved, is: Do you understand that trauma can make  
15 somebody emotionally heightened; make their emotions more  
16 severe?

17 A. Sure, I do understand that.

18 Q. Can trauma make somebody more irritable?

19 MR. MORSE: Object as to form.

20 A. It -- it could.

21 BY MR. RICE:

22 Q. Okay. And I understand -- again, I want to  
23 make sure I got your stuff here.

24 A. Uh-huh.

25 Q. You were concerned that Mr. Gould's

1 response evinced some aggressive edge, fair?

2 A. That's fair.

3 Q. Was it inconsistent with suffering some  
4 trauma?

5 A. I -- again, I --

6 MR. MORSE: Object as to form.

7 A. I can't answer that because I'm in my own  
8 situation realtime; he's in his situation realtime. So  
9 for me to try to answer for him what he was feeling or  
10 going through at that moment would be unfair and  
11 incorrect for me to say.

12 BY MR. RICE:

13 Q. And I guess, what I want to get at though  
14 is: At that time you had very little information  
15 available?

16 A. That's correct, yes.

17 Q. And based on that short response by  
18 Mr. Gould, is it a fair possibility that it could be  
19 aggression or it could be trauma, but you didn't have the  
20 information at the moment to determine?

21 A. That's fair, and that's correct, yes.

22 Thank you.

23 Q. That's all I want to get at, is there's  
24 always possibilities.

25 A. Okay.

1 Q. I'm just going through my notes. Give me a  
2 moment.

3 A. No, no worries. Take your time.

4 Q. Now I want to go back to that second  
5 command from you, the "Keep your hands out of your  
6 pockets."

7 After you gave that command, did you  
8 observe Mr. Gould's hands go back into his pockets at any  
9 time?

10 A. I observed them drop again, which could  
11 indicate that he's going back towards his pockets again.  
12 Again, because of -- of -- of where I am in relation to  
13 him, instead of keeping hands up or visible or whatever,  
14 they -- for whatever reason, they -- they dropped again,  
15 and I -- I'm not taking that chance, I'm sorry.

16 Q. At that point, though, after the command,  
17 "Keep your hands out of your pockets," did you have a  
18 full view of Mr. Gould?

19 A. I believe -- I believe so.

20 Q. You don't recall anything obstructing you  
21 at that point, correct?

22 A. Not at that point, no.

23 Q. And I'll tell you what because I don't want  
24 to just go off your memory.

25 A. Uh-huh.

1 Q. Would it be helpful to review that portion  
2 of your body-worn camera video --

3 A. Sure.

4 Q. -- to refresh your memory?

5 A. Sure.

6 MR. MORSE: Can you broadcast it up here?

7 MR. RICE: I cannot. I'll swing it around.

8 So we're going to go to Exhibit 4, and I'm  
9 going to start from the beginning. And if you  
10 have --

11 MR. ALEXANDER: And while we're doing that,  
12 quickly, can we go off the record one minute very  
13 briefly.

14 MR. RICE: Sure. Let's go off the record.

15 (Recess taken at 9:24 a.m. to 9:29 a.m.)

16 BY MR. RICE:

17 Q. Why don't we go back on the record because  
18 I want to play for you a portion of your body-worn  
19 camera.

20 A. Okay.

21 Q. And so, I'm going to start it at the  
22 beginning and play through a portion of the incident. If  
23 you need to refer to it or anything played back or have  
24 any other issues, let me know, okay?

25 A. Okay.

1 Q. Can you see it okay with the glare?

2 A. Yes, I can.

3 (Video playing.)

4 THE WITNESS: Yeah, that first 30 seconds  
5 is always muted on our BWCs.

6 UNIDENTIFIED SPEAKER: 33, I'm making  
7 contact on the other side of the pool, just  
8 letting you know.

9 (Video playing.)

10 MR. RICE: I pause at 45 seconds.

11 THE COURT REPORTER: Did you want me to  
12 transcribe the video?

13 MR. RICE: No, you don't need to transcribe  
14 the video.

15 THE COURT REPORTER: Thank you.

16 MR. RICE: Resuming at 45 seconds.

17 (Video playing.)

18 MR. RICE: All right. You can stop it  
19 there.

20 BY MR. RICE:

21 Q. All right. So I'll stop at 1:11.

22 A. Okay.

23 Q. Does that help refresh your recollection?

24 MS. JOHNSON: I'm back guys, if --

25 A. Yes.



1 MS. JOHNSON: Unless you already started.

2 MR. RICE: No. And I'll just say for the  
3 record, I was playing Beth, her body-worn camera  
4 from the beginning to 1:11 on the recording, just  
5 so she could view it and refresh her memory. But  
6 that's all I've --

7 MS. JOHNSON: Okay.

8 MR. RICE: -- gone over.

9 MS. JOHNSON: Okay.

10 MR. RICE: And do you want to identify  
11 yourself for the record, please?

12 MS. JOHNSON: Yes, Melissa Johnson. And I  
13 am here in place of Scott Alexander, who was  
14 originally appearing at the deposition.

15 MR. RICE: Thank you.

16 And I'll also just state for the record  
17 that unless anybody objects, I don't need the  
18 statements transcribed on any of the recordings or  
19 exhibit because those are available in the  
20 exhibits.

21 MR. MORSE: No objection.

22 MS. JOHNSON: Yeah, no objection.

23 BY MR. RICE:

24 Q. So after review of that video, would you  
25 agree that after that second time you said, "Keep your

1 hands out of your pockets," the time that you said it  
2 forcefully, Mr. Gould never reached his hand into his  
3 pocket?

4 A. That's not -- I don't think that's  
5 necessarily accurate from -- I -- I understand things are  
6 -- are moving quickly there, but, you know, like you  
7 said, we're trying to break things down, you know, piece  
8 by piece. So when I have a lot of -- of -- of this and  
9 then --

10 Q. I'll just say, you can't gesture and say  
11 that --

12 A. Okay.

13 Q. If you can describe it for the record,  
14 please.

15 A. Okay. There -- there was -- there was  
16 clear agi- -- agitation with him at this point. So hands  
17 coming up, phone was in the right hand, I believe, hands  
18 come back down again, now although, the -- the right hand  
19 is -- is occupied, the left arm and hand comes back down  
20 to the left side of the -- of -- of the pocket. And if  
21 you look at the video again, as I'm walking forward, he  
22 actually blades and takes a -- a step back and -- and  
23 blades his body. And there was an object, I wasn't quite  
24 sure what it was, towel, bed, clothing or whatever, just  
25 behind him. So when he took that slight bladed stance

1 back in the area of where this article was that was  
2 unknown to me at the time but observable, he also started  
3 to move backwards. And I'm -- I just wasn't sure; was he  
4 going for that, was he -- I'm not going to say or give  
5 any more commands past of what I did about keeping your  
6 hands away or out of your pockets, or -- you know, now  
7 we're re- -- retreating backwards.

8 Q. I appreciate that. I want to stick to the  
9 question that I asked --

10 A. Okay.

11 Q. -- which is: Did you observe Mr. Gould put  
12 his hand in his pocket, after that forceful command?

13 A. Yeah, I wasn't going to give him another  
14 opportunity to possibly do that.

15 Q. I didn't ask if you were going to give him  
16 an opportunity.

17 A. Uh-huh.

18 Q. I asked: Did you observe Mr. Gould put his  
19 hand in his pocket after you gave the forceful command?

20 A. It wasn't in his pocket, but, again, the --  
21 the hands dropped. So I don't know where those hands are  
22 -- are going at that point.

23 Q. So is it fair to say that you did not  
24 observe Mr. Gould put his hand in his pocket after you  
25 gave the forceful command?

1 A. His hands, they dropped.

2 Q. Okay. Would it be fair though, if  
3 some were to say -- if I were to say you did not observe  
4 Mr. Gould put his hand in his pocket after you gave the  
5 forceful command, is that an accurate statement?

6 A. It's an accurate statement. I just didn't  
7 know where they were going to go, so. . .

8 Q. And so, you had other concerns besides his  
9 hand being in his pocket at that moment; is that fair?

10 A. Yes.

11 Q. One of those concerns was that Mr. Gould  
12 dropped his hands, correct?

13 A. Uh-huh.

14 Q. Yes?

15 A. Yes. Sorry. So sorry.

16 Q. It gets everybody.

17 And by Mr. Gould dropping his hands, what  
18 is the concern there?

19 A. I don't know if he's going to put his hands  
20 back in or around his -- his pockets. I don't know  
21 what's in that left pocket. I have no idea.

22 Q. And so, the concern -- again, correct me if  
23 I'm wrong, but is that, by dropping his hands, he could  
24 reach for a weapon concealed on his person?

25 A. He could, yes.

1 Q. Any other concerns, or is that the main  
2 one?

3 A. That was the main one.

4 Q. And at that the moment, you're outside of  
5 reaching distance to Mr. Gould, correct?

6 A. What do you mean, "reaching distance" --

7 Q. You --

8 A. -- for --

9 Q. Neither you or Mr. Gould could reach out  
10 with your arms and touch each other, correct?

11 A. Correct.

12 Q. So a danger at that moment would be some  
13 sort of long-range weapon, fair?

14 A. Long-range weapon as far as what?

15 Q. Longer than something in somebody's hand,  
16 right?

17 A. Well, I mean, a -- a weapon could -- could

18 be a weapon. It could -- it could be a knife. I -- it

19 -- that -- that phone could've been a gun, you know.

20 We're presented with all kinds of training throughout law

21 enforcement, even in the academy, of -- of numerous

22 things shown to us where, you know, phones are presented

23 as firearms. I -- I don't know.

24 Q. So is it your understanding that if someone  
25 is holding a phone, you can treat them as armed?

1           A.       Until I can secure that person and figure  
2 out further what's going on, I have to assume that  
3 anything could be a weapon, especially on a gun call.

4           Q.       Now, you also mentioned that he blades his  
5 body.

6                       Can you describe what you mean by that,  
7 please?

8           A.       So he dropped back with his -- with his  
9 left foot slightly. So when you take a bladed stance, to  
10 me, that could present as being a defensive type  
11 stance -- especially because the left foot bladed back  
12 towards where that unknown object was that I -- I wasn't  
13 sure at the point what that was, what could have been in  
14 it, under it, on it, I don't know; I just know that  
15 seeing that heightened my awareness at that point that he  
16 was -- he was taking that stance towards something.  
17 That's one of those behaviors that, for me, was equating  
18 to possibly not something very good.

19           Q.       Did you observe any indication of a weapon  
20 in that pile on the ground?

21           A.       Not from where I was standing, no.

22           Q.       Did you have any information that a weapon  
23 was in a pile on the ground at that time?

24           A.       No, but it doesn't mean in the time I get  
25 there from the time he was wherever he was that it

1 couldn't have been placed there, dropped there. Like, we  
2 could speculate all day --

3 Q. Well, I was going to say --

4 A. -- what could've.

5 Q. I'm sorry. I didn't mean to talk over you.

6 A. No, it's okay.

7 Q. Would it be fair to say that it was  
8 speculation then that there could be a weapon under that  
9 pile?

10 A. There could be, and -- yeah, it could --  
11 there could've been, absolutely.

12 Q. Did Mr. Gould appear scared by your  
13 approach?

14 A. No. He, actually -- and this -- this is  
15 what really kind of heightened my awareness even more was  
16 that, he was very, like, defiant and -- and just seemed  
17 extremely agitated and angry with the fact that we were  
18 at where we were at.

19 Q. Is agitation and anger consistent with  
20 symptoms of trauma?

21 MR. MORSE: Object as to form.

22 A. It -- it could be, but, you know, at that  
23 moment, I'm -- I'm trying to do a job, and I -- I wasn't  
24 there at that moment to figure out if it was trauma or  
25 not. I have to keep everybody safe, including Mr. Gould.

1 BY MR. RICE:

2 Q. A common command by officers is for someone  
3 to put their hands up, correct?

4 A. It can be, yeah.

5 Q. Okay. I mean, is that a command that you  
6 have issued many times before?

7 A. I have.

8 Q. And the reason that commands someone to put  
9 their hands up is to keep their hands away from their  
10 body to grab be something, correct?

11 A. Correct.

12 Q. And so the officer can clearly see their  
13 hands, right?

14 A. Uh-huh.

15 Q. Yes?

16 A. Yes.

17 Q. Did you command Mr. Gould to put his hands  
18 up?

19 A. No. I just remember saying to keep his  
20 hands away or out of your pockets and. . .

21 Q. So you commanded him to keep his hands out  
22 of his pockets, but you did not command him to put his  
23 hands up, fair?

24 A. Fair.

25 Q. Did you command Mr. Gould not to drop his



1 hands?

2 A. No, but your pockets are on your pants, so  
3 if I tell you, "Keep your hands out of your pockets," you  
4 would assume, and sometimes we can't assume, but you're  
5 going to have to drop your hands to keep them out of your  
6 pockets, so. . .

7 Q. But after that forceful command to keep his  
8 hands out of his pockets, you would agree that Mr. Gould  
9 did not disobey a command by merely dropping his hands,  
10 fair?

11 A. You're really splitting hairs on that one.  
12 Um --

13 Q. I am. I'm going to split hairs.

14 And the level of detail I want to get to  
15 is: By Mr. Gould dropping his hands but not putting them  
16 into his pockets, did that comply with your demand?

17 A. No.

18 Q. How so?

19 A. Because I'm telling you to keep your hands  
20 out of or away from your pockets, and you're dropping  
21 your hands. And I remember him saying, you know,  
22 basically, like, he doesn't have to listen to me; he  
23 didn't commit a crime. So there was deflection when I'm  
24 trying to give a command for everyone's safety.

25 Q. Should Mr. Gould have known that by you

1 telling him to keep his hands out of his pockets, that he  
2 was not to drop his hands?

3 MR. MORSE: Object as to form.

4 A. I would say, reasonably, yes.

5 BY MR. RICE:

6 Q. And how would Mr. Gould have known that you  
7 ordering him to keep his hands out of his pockets also  
8 included not dropping his hands? What information was  
9 available to Mr. Gould to give him that understanding?

10 MR. MORSE: Object as to form.

11 A. I mean, I'm not really sure, but, you know,  
12 I'm going to stick with what I've been saying. And I'm  
13 telling you to keep your hands out of or away from your  
14 pockets.

15 BY MR. RICE:

16 Q. Did you command Mr. Gould not to move?

17 A. I don't remember. I don't think so.

18 Q. Did you command Mr. Gould to remain fully  
19 facing you?

20 A. I don't think so. I don't remember.

21 Q. And it's a common police command to order  
22 somebody to remain in place, fair?

23 A. It can be.

24 Q. And maybe they don't say it like a lawyer,  
25 but they'll say stop, don't move, correct?

1 A. They could. You could, yes.

2 Q. But you didn't give that command to  
3 Mr. Gould during that initial part of the encounter,  
4 correct?

5 A. Correct.

6 Q. And so, Mr. Gould blades his body, as you  
7 described.

8 Was he disobeying a command, in your  
9 opinion?

10 A. I perceived it as such, yes.

11 Q. Why?

12 A. Because again, I'm -- I'm -- I'm working  
13 off of, you know, other past experiences that, you know,  
14 in situations possibly similar to that, people are a lot  
15 calmer. They want direction; they -- they need to know  
16 what to do to -- to stay safe. And I was not getting  
17 that level of compliance from Mr. Gould. And again, you  
18 know, I understand you're saying what you're saying in  
19 regards to trauma responses, but I'm not a doctor, and  
20 it's -- my job is initial safety of the scene. And when  
21 I'm being met with verbal resistance, active  
22 resistance --

23 (Phone interruption.)

24 A. -- it's going to --

25 MR. RICE: Let's go off the record for a

1 moment.

2 (Recess taken, 9:43 a.m. to 9:44 a.m.)

3 BY MR. RICE:

4 Q. What information, if any, did Mr. Gould  
5 have available to him to understand that he was not to  
6 move or blade his body?

7 MR. MORSE: Object as to form.

8 A. Well, like I said, the -- the commands that  
9 I had given him of, you know, to keep his hands out of  
10 his pockets to me seemed pretty clear.

11 BY MR. RICE:

12 Q. So you understood the command to "Keep your  
13 happened out of your pocket" as to include don't move and  
14 don't blade away from the officers?

15 A. Uh-huh.

16 Q. "Yes"?

17 A. Yes.

18 Q. Was Mr. Gould detained at any point, during  
19 this encounter?

20 A. Yes.

21 Q. At what point did the detention start?

22 A. When I ordered him to the ground and I  
23 handcuffed him.

24 Q. So would you agree that before you ordered  
25 him to the ground, your understanding was that Mr. Gould

1 was not detained?

2 A. Before I ordered him to the ground?

3 Q. Yes.

4 A. No, I wouldn't say that. I mean, if -- if  
5 I'm -- if I'm engaging with you and now we have each  
6 other's attention and I'm being greeted with what I had  
7 described to you earlier and now it quickly moves to the  
8 point of I'm putting you on the ground and detaining you  
9 and handcuffing you, I'm not sure at what point he didn't  
10 realize he wasn't free to go at that moment.

11 Q. Sure. And I'm not asking you to speak to  
12 what he actually thought.

13 A. Uh-huh.

14 Q. But what was your understanding of when  
15 Mr. Gould was detained?

16 A. The minute he was ordered to the ground.

17 Q. Okay. Was Mr. Gould arrested at any point  
18 during this encounter?

19 A. He was, yes.

20 Q. And at what point did the arrest occur?

21 A. After -- so after I was trying to get more  
22 information as far as who he was and his involvement in  
23 the incident.

24 Q. Is there a specific moment you can cite to  
25 when the detention converts to an arrest?

1           A.       After he is handcuffed, I roll him over  
2 immediately to -- to sit him up, and he immediately went  
3 to pop up, and I said, "yeah, I did not tell you to" --  
4 "to get up." You know, and from that point it was just  
5 what I perceived to be some, you know, verbal, as well as  
6 active resistance, even after in custody. And trying to  
7 speak with Mr. Gould to try to ascertain certain  
8 information was just not possible at that moment due to  
9 agitation and aggravation on both of our parts.

10           Q.       And so, that's the moment that you  
11 considered Mr. Gould under arrest; is that fair?

12           A.       Correct, because I am trying to gather more  
13 information and I'm not able to ascertain that, even as  
14 far as a simple name; "What's your name?"

15           Q.       I want to go back towards the beginning of  
16 the encounter. Again, I'm sorry to jump back and forth.

17           A.       That's okay.

18           Q.       Was there an opportunity to deescalate,  
19 after you gave your forceful command?

20           A.       To me, there was not, because he was still  
21 verbally resistant at that point. So it was very  
22 difficult for me to try to get anything further out of  
23 him because there was just a bunch of banter going on,  
24 you know, back and forth that made it very difficult for  
25 me to try to, like, keep the situation calm enough to get

1 him to calm down where I could talk to him.

2 Q. Well, I mean, an officer can deescalate  
3 from someone using heightened or aggressive language,  
4 correct?

5 A. What do you mean?

6 Q. Well, when could you deescalate a  
7 situation, if not when someone's using resistant  
8 language?

9 A. Well, at -- at one point, you know, when he  
10 was still seated, I even tried. I said, "hey, let-" --  
11 "let's take this back down a notch." And I was still met  
12 with the verbal aggression, and there were now other  
13 officers arriving on scene. And it got to the point  
14 where I could not get any further with him, verbally, and  
15 once enough officers were there, deescalation can be as  
16 simply as me walking away, which is what I did.

17 Q. Sure.

18 And you'd agree by that point, though, the  
19 situation had escalated quite a bit from the beginning of  
20 the encounter?

21 A. Yes.

22 Q. And so I'll say, as jumping back towards  
23 the beginning --

24 A. Uh-huh, yes.

25 Q. -- when you gave your forceful command and

1 Mr. Gould responds with the language, could you have  
2 deescalated or attempted to deescalate at that point?

3 MR. MORSE: I'm going to object as to form;  
4 this has already been answered.

5 But you go ahead and answer, again.

6 A. Again, given -- given the nature of the  
7 call, that there is a firearm and my main focus at that  
8 very moment is everybody's safety, mine, his, the general  
9 public, my backup officers, no, I did not feel at that  
10 moment I had room for any type of deescalation because it  
11 was just an immediate one-after-the-other verbal  
12 resistance from him, so. . .

13 BY MR. RICE:

14 Q. So is it fair to say you made the decision  
15 then not to pursue deescalation at that point?

16 MR. MORSE: Object as to form. She already  
17 answered that question several times now.

18 You can go ahead and answer it again.

19 A. I'm going to stick with what I have and how  
20 I have been answering because that is what my perception  
21 and my belief at that very moment was; try to gain some  
22 type of control, whether it be through escalation, not  
23 escalation. I'm not going to wait after I've already  
24 said at least twice to "Keep your hands out of your  
25 pockets."



1 BY MR. RICE:

2 Q. You would agree that you drawing your gun  
3 is an escalation, fair?

4 A. Yes.

5 Q. Why did you draw your gun?

6 A. Because when I saw all of those movements  
7 of the hands now dropping again, that bladed stance and,  
8 like, back pedaling, I don't know what's underneath that  
9 towel, backpack, clothing that I'm unsure of at -- at  
10 this time; I don't know if you still have anything in  
11 your pockets. He never once turned away from me, so I  
12 still can't see his back. I don't know what's there.

13 Q. Can an officer draw their gun whenever they  
14 feel like it?

15 A. No.

16 Q. When is it appropriate for an officer to  
17 draw their gun?

18 A. Again, when it's objective and reasonable.  
19 And at that moment, with what was going on with the  
20 information that I had been provided, which was very  
21 little, and still knowing to me that there was a gun  
22 outstanding, I'm not going to wait for me or someone else  
23 to be shot.

24 Q. Well, you -- and I want to clarify, because  
25 "objective" and "reasonable," you would agree, are pretty

1 vague terms, fair?

2 A. Uh-huh.

3 MR. MORSE: Object as to form.

4 BY MR. RICE:

5 Q. "Yes"?

6 A. Yes.

7 Q. I want to get to your understanding, if you  
8 can explain it better, what sort of circumstances --

9 MR. MORSE: Object as to form.

10 BY MR. RICE:

11 Q. -- should be present -- what sort of  
12 circumstances should be present for an officer to draw  
13 their lethal firearm?

14 A. Well, when I am going to a disturbance  
15 where a firearm is involved, as far as I am concerned,  
16 there is still a firearm outstanding because nobody  
17 clarified that they had a gun in their possession that  
18 was made safe, and I have the type of resistance that I'm  
19 getting from Mr. Gould, I am not going to wait a third or  
20 fourth time to see if you're going to go back in your  
21 pockets or not for the safety of everyone there, and I  
22 drew my firearm.

23 Q. And you would agree that drawing your  
24 firearm presents a deadly force threat to Mr. Gould,  
25 fair?

1 A. Fair.

2 Q. And generally, you should draw your firearm  
3 when you are faced with a potentially deadly or very  
4 significant safety threat, fair?

5 A. I considered that -- that situation at that  
6 moment to have been that.

7 Q. And what I'm asking is generally though.

8 MR. MORSE: Object as to form.

9 BY MR. RICE:

10 Q. Generally though, an officer should only  
11 draw their lethal firearm if there's a deadly force or a  
12 significant safety threat, correct; not just any safety  
13 threat, fair?

14 A. Well, I'm speaking about this incident; I'm  
15 not speaking about a generalized incident.

16 Q. And so, that's not answering my question.

17 A. Right.

18 Q. Because my question is about the general --

19 A. Okay.

20 Q. -- information.

21 So generally, would you agree that an  
22 officer should only draw their firearm in the face of a  
23 deadly or very significant safety threat?

24 A. Yes.

25 Q. Okay. And you would agree that an officer

1 needs to respond to objective, articulable facts when  
2 using use of force, fair?

3 A. Fair.

4 Q. And an officer -- again, we've talked about  
5 all of this, but when you encountered, Mr. Gould, did you  
6 have any objective, articulable facts that he was armed?

7 A. I didn't have any that he wasn't, so I had  
8 to assume that he was, just, again, based on the lack of  
9 information that was put out.

10 Q. So you perceived the safety threat based on  
11 an absence of information; is that fair?

12 A. On a firearm call, yes.

13 Q. Do you have any objective, articulable  
14 facts, at the moment you draw your firearm, that  
15 Mr. Gould is armed?

16 A. Again, I had already given, at least twice,  
17 to "Keep your hands out of your pockets." And when I'm  
18 met with the behavior that I had described numerous  
19 times, I am not going to take that chance of you pulling  
20 a weapon or possibly a firearm.

21 Q. I understand you're not going to take that  
22 chance --

23 A. Uh-huh.

24 Q. -- and you were concerned about Mr. Gould's  
25 demeanor and posture.

1                   What I'm asking is: Can you tell me any  
2 articulable, objective facts that Mr. Gould was armed at  
3 the time?

4                   A.       I didn't know enough about him or the  
5 situation to make that determination. Again, you're wit-  
6 -- you're looking at this from a hindsight, and I am  
7 giving you realtime moments.

8                   Q.       And so, at the moment you draw your  
9 firearm --

10                  A.       Uh-huh.

11                  Q.       -- if someone were to stop you, pull you  
12 aside and say, can you point to me any objective,  
13 articulable fact that Mr. Gould is armed, what would you  
14 respond with?

15                  A.       Well, again, given his actions and what I  
16 considered not to be the normal reaction of a victim,  
17 yes, that, to me, was objective and reasonable, given the  
18 situation and the information that was provided to me at  
19 that time.

20                  Q.       Any other objective, articulable facts that  
21 Mr. Gould was armed?

22                  A.       Again, during a split-second decision, no.

23                  Q.       And you would agree that about eight  
24 seconds had lapsed between Mr. Gould reaching into his  
25 pocket and when you draw your gun; does that sound about

1 right?

2 A. Again, we're looking from a hindsight  
3 perspective. I wasn't counting the seconds at that time.

4 Q. But if someone were to say, that was about  
5 eight seconds, would you have any reason to dispute that?

6 A. I guess not, no.

7 Q. And during those eight seconds, you and  
8 Mr. Gould continued talking to each other, correct?

9 A. Correct.

10 Q. And you had the opportunity to continue  
11 observing Mr. Gould, correct?

12 A. Again, hindsight. I'm not going to wait  
13 for a third or fourth time or a fifth time for you to  
14 disobey commands and getting near pockets that I don't  
15 know, which is an unknown for me.

16 Q. Again, and I think you're kind of assuming  
17 where I'm going, but I'm not asking that question.

18 A. Uh-huh.

19 Q. I'm not asking why you made the decision  
20 that you did.

21 I'm just asking: During that time period,  
22 you were able to observe Mr. Gould, correct?

23 A. Yes.

24 Q. Did you observe any indication that there  
25 was a weapon on Mr. Gould's body?

1           A.     I -- I couldn't -- I couldn't readily see  
2 anything, but that doesn't mean that there's -- something  
3 wasn't there or couldn't have been there.

4           Q.     And again, I want to be clear, you're  
5 answering a question I didn't ask.

6                     What I'm asking is: Did you see any  
7 indication that there was a weapon on Mr. Gould's body?

8           MR. MORSE: I'm going to object as to form.  
9 She just answered your question.

10          MR. RICE: Well, I ask --

11          MR. MORSE: You can go ahead and answer it.

12 BY MR. RICE:

13          Q.     I was going to say, I asked it. I feel it  
14 wasn't answered. I understand that you lacked  
15 information --

16          A.     Uh-huh.

17          Q.     -- and you assumed that he was armed.

18          A.     Uh-huh.

19          Q.     That's not my question.

20                     My question is: Did you see any indication  
21 on Mr. Gould's body that he was armed?

22          A.     Well, what's an indication to you.

23          Q.     A bulge.

24          A.     Uh-huh.

25          Q.     Did you see a bulge on Mr. Gould's clothes?

1 A. No, but that doesn't always mean anything.

2 Q. Again, I didn't ask if it means anything.

3 I just asked: Did you see a bulge?

4 A. No.

5 Q. Did you see a gun on his person?

6 A. Not visible.

7 Q. Did Mr. Gould say that he was armed?

8 A. All he said was, "I'm not the one with the  
9 gun," but we don't ever initially believe people until we  
10 get further along in our investigation that dispels our  
11 fears.

12 Q. And I get it. And, I guess, we're having  
13 some confusion because you're answering the opposite what  
14 of what I'm asking. And I get that you're answering what  
15 your assumptions were based on and why you were assuming  
16 things. What I'm asking is the opposite.

17 What did you actually observe? For  
18 example, if someone is holding a gun in their hand, you  
19 don't need to assume they have a gun; you can perceive  
20 they have a gun, correct?

21 A. I observed that he was verbally and, to a  
22 degree, physically noncompliant.

23 Q. And do those --

24 MR. MORSE: I'm going to object as to form.

25 And I'd like the record to reflect,



1 Mr. Rice, you're putting into Ms. Guerriero's head  
2 things that she is not saying or doing.

3 MR. RICE: I'm going --

4 MR. MORSE: She never said --

5 MR. RICE: -- to ask for no speaking  
6 objections, please, or we can go outside the room.

7 MR. MORSE: Well, I can put on the record  
8 that the editorializing with what you're putting  
9 on her is inappropriate.

10 MR. RICE: And I'm going to object to --

11 MR. MORSE: But you can --

12 MR. RICE: -- speaking objections.

13 MR. MORSE: -- answer his question.

14 Again, I want the record to be clear. It's  
15 a deposition, Mr. Rice. I can put on the record  
16 what I perceive in a deposition of improper  
17 behavior, of putting things to my client that  
18 she's not saying.

19 MR. RICE: And that's fine. I'm just  
20 concerned with coaching a witness about potential  
21 ways to answer my questions.

22 MR. MORSE: I'm not coaching anybody.  
23 She's answered your question, like, seven times  
24 already. So --

25 MR. RICE: No. And I'll --

1 MR. MORSE: -- she can answer again. It's  
2 just by saying she's confused. She didn't say she  
3 was confused. That's all. You said she was  
4 confused. I'd like the record to be clear that  
5 you're adding traits to her answers that she's not  
6 saying. That's all. That's the only thing I'm  
7 saying. I'm not coaching anybody.

8 MR. RICE: And my --

9 MR. MORSE: There is no reason to coach.

10 MR. RICE: My understanding is questions  
11 are not evidence, correct?

12 MR. MORSE: What's that?

13 MR. RICE: My understanding is my questions  
14 are not evidence, correct?

15 MR. MORSE: Well, it depends.

16 MR. RICE: Are they evidence?

17 MR. MORSE: Well, it depends if, you know,  
18 the case ever went to trial, there was impeachment  
19 or things like that or if things were trying to be  
20 mischaracterized as the witness was confused in  
21 the deposition. Look, I said she was confused.  
22 That's all. This doesn't need to turn into  
23 something it's not. I want the record to be  
24 clear, she didn't say she was confused; you said  
25 she was confused as a preamble to your question.

1           You should probably ask the question instead of  
2           preambling it.

3       BY MR. RICE:

4           Q.       Well, and, again, I'll go back and say for  
5           the record, if any of my question are inaccurate or  
6           unclear or confusing, please let me know; is that fair?

7           A.       That's fair. And I feel that I've been  
8           doing that; however, I'm not confused with what I'm  
9           telling you, which was happening in realtime to me.

10          Q.       I am not saying that you're confused about  
11          what you're telling me. My concern is, that's not the  
12          question that I'm asking.

13                    The question I'm asking is: Can you  
14          describe for me anything that you observed affirmatively,  
15          that existed, to indicate that Mr. Gould was, in fact,  
16          armed?

17          A.       No.

18          Q.       Okay. That's all. That's the question I  
19          was asking you. And my concern was just the answers  
20          you're providing to me, at least, didn't answer that  
21          question, but thank you for your response.

22                    Now, at some point you ordered Mr. Gould to  
23          get on the ground, correct?

24          A.       Correct.

25          Q.       Would you agree that at that point, your

1 emotions were heightened?

2 A. Yes.

3 Q. Why were they heightened?

4 A. Because I have somebody who I still don't  
5 know who they are, what they're involvement is in this  
6 case, again, given the information that I was provided  
7 initially at the time. His behavior, to me, was not  
8 typical of a victim. I'm not saying it -- it can't ever  
9 be like that. But through my experience, the verbal  
10 agitation, the -- how do -- how do I say this? But  
11 coming back at me with the aggravation that he did that  
12 he's not the one with the gun and, you know, whatever  
13 other verbal word salad was going on at the moment was  
14 not typical of a victim or trying to gain control of a  
15 scene that is potentially very dangerous.

16 Q. Did you feel you were losing control of a  
17 situation at that moment?

18 A. No.

19 Q. Were you scared at moment?

20 A. No.

21 Q. Why weren't you scared?

22 A. Because I was able to get control,  
23 initially, of the situation, finally, to get Mr. Gould on  
24 the ground and secured, in hopes that I could possibly  
25 further my investigation figuring out who he was.

1 Pulling up to that scene, yes, it's always a fear for us.

2 So backtracking just a bit, you know, I  
3 would be untruthful in saying to you that I do my job  
4 with no fear. We all should have a healthy fear --

5 Q. Well --

6 A. -- because we never know.

7 Q. I'll say that sounds like a dumb question,  
8 but I just want to ask for clarity: When there's a  
9 potential safety threat, does that cause you to be  
10 scared?

11 A. Sure. Sure.

12 Q. Did you ever see Mr. Gould reach toward his  
13 back, while he was standing?

14 A. No.

15 Q. Mr. Gould was shirtless at the time,  
16 correct?

17 A. Yes.

18 Q. Do you know how hot it was that day?

19 A. I -- I don't have a particular degree, no.

20 Q. Was it a warm day, would you say?

21 A. It was May, so it was warm.

22 Q. And you ordered Mr. Gould to lie down on  
23 the pavement, correct?

24 A. Correct.

25 Q. And he was shirtless, right?

1 A. Yes.

2 Q. Did you have any concerns about the heat of  
3 the pavement on Mr. Gould's chest at the time?

4 A. Which is why I immediately rolled him over  
5 and sat him up.

6 Q. Okay.

7 MR. MORSE: Keep going. I have to use the  
8 restroom.

9 BY MR. RICE:

10 Q. During that part of the encounter when  
11 Mr. Gould is on the ground, did he appear to be  
12 expressing some confusion about why you were detaining  
13 him?

14 A. Some but, again, verbally, he was extremely  
15 verbally aggressive with me, repeatedly telling me that,  
16 you know, he wasn't the one that had committed a crime,  
17 or he's not doing a crime, or again, I'm not trying to  
18 direct quote Mr. Gould by any means, but I am painting  
19 the picture for you in answering the question that he was  
20 still verbally resistant, which made it difficult for me  
21 at that particular second in time -- moment in time to  
22 get further clarification.

23 Q. Okay. And I'll say, too, as far as exact  
24 statements of what people said, you would agree there's a  
25 video recording of that?

1 A. Yes.

2 Q. And that has what people literally said,  
3 correct?

4 A. Yes. Yes, sir.

5 Q. And I'm just asking you for your general  
6 recollection and understanding of the situation; is that  
7 fair?

8 A. That's fair enough, yeah.

9 Q. Why did you handcuff Mr. Gould?

10 A. Well, due to his behavior and what he was  
11 saying, his agitated state. You know, sometimes  
12 detaining somebody like that could be a form of  
13 deescalation and making a scene safe for everybody  
14 involved.

15 Q. Okay. So that was your intention and  
16 understanding when handcuffing him?

17 A. Correct.

18 Q. Were you aware that Officer Strzelecki  
19 unholstered and pointed his taser at the time?

20 A. At the -- again, I'm going from realtime at  
21 those moments. I don't recall seeing that; however, it  
22 was my understanding after the fact that that's what had  
23 happened.

24 Q. Did you give any sort of signal or  
25 communication to Officer Strzelecki during the initial

1 portion of the incident that you were perceiving a safety  
2 threat?

3 A. It all happened so quickly, so I -- I  
4 don't -- I don't recall. I don't think that I gave any  
5 direct comment to him. I just stayed focused and  
6 continued with what I was doing at that moment.

7 Q. And I was going to say, is it fair to say  
8 you were focused on Mr. Gould at the time?

9 A. Yes.

10 Q. And you don't recall any sort of  
11 intentional, verbal or signal communication to  
12 Officer Strzelecki that you are perceiving a safety  
13 threat; is that fair?

14 A. That's fair.

15 Q. Okay. Now, when you rolled over Mr. Gould,  
16 you told him to sit up, correct?

17 A. Yes.

18 Q. Did you command him to not stand up?

19 A. I did because -- and I'm -- I'm not sure  
20 whose body camera it shows; it could be mine. Again, I'm  
21 not trying to misquote anything. But he immediately  
22 pushed up against my legs to start standing up, and I had  
23 given him another verbal command to sit down; that I did  
24 not instruct him to stand up.

25 Q. Okay. Would it help refresh your memory to



1 see that portion of the body camera recording?

2 A. I mean, if you want to show it to me, okay.

3 Q. That's fine. I can ask you.

4 So is it your recollection, though, that  
5 the order went: You told Mr. Gould to sit up, he does  
6 sit up but then starts to stand up?

7 A. Uh-huh.

8 Q. "Yes"?

9 A. Yes.

10 Q. And then you say, "I didn't tell you to  
11 stand up," and you put him back on the ground?

12 A. In a seated position, correct.

13 Q. And so, would you agree that when Mr. Gould  
14 initially tried to stand up, you had not commanded him  
15 not to stand up; is that fair?

16 A. Fair.

17 Q. Okay. Did you know at the time that  
18 Officer Strzelecki was asking Mr. Gould about his ID?

19 A. I don't -- I don't recall that. I don't  
20 remember.

21 Q. Was it possible that Mr. Gould was standing  
22 up to engage with Officer Strzelecki and make his ID  
23 available?

24 MR. MORSE: Object as to form.

25 A. I don't remember.

1 BY MR. RICE:

2 Q. Would it be helpful to watch the video or  
3 no?

4 A. I mean, if -- again, if you want to show it  
5 to me, but. . .

6 Q. Sure.

7 MR. RICE: Why don't we start your body  
8 camera at 1:30.

9 (Video played from 1:30 to 1:43.)

10 MR. RICE: So I'm going to stop it at 1:43.

11 BY MR. RICE:

12 Q. Were you aware that Officer Strzelecki had  
13 tried talking with Mr. Gould at that moment?

14 A. All I heard was Mr. Gould the whole time,  
15 so if Officer Strzelecki said something, he was drowned  
16 out by Mr. Gould.

17 Q. Is it fair to say that your attention was  
18 solely on Mr. Gould at the moment?

19 A. That's fair to say.

20 Q. And at this point in the encounter,  
21 Mr. Gould has said that he did not have a gun, and that  
22 he was, in fact, the person being harassed by the person  
23 who did have the gun, correct?

24 A. Correct.

25 Q. Did you consider that information at all or

1 assign any value to it?

2 A. Initially, no.

3 Q. Why not?

4 A. Because of his behavior still.

5 Q. Were you concerned that Mr. Gould was  
6 frustrated that he was the victim of one crime and had  
7 now been held at gun point and arrested by police?

8 MR. MORSE: Object as to form.

9 A. I was not readily concerned at that moment  
10 because I was still trying to gain control of the scene  
11 and Mr. Gould with his verbal defiance, shall I say, was  
12 making that difficult.

13 BY MR. RICE:

14 Q. So is it fair to say that your mind was not  
15 on that possibility?

16 A. At that moment, I guess that's fair to say.

17 MR. MORSE: Object as to form.

18 BY MR. RICE:

19 Q. Now, during this encounter, would you agree  
20 you made unprofessional statements towards Mr. Gould?

21 A. Yes, I did.

22 Q. And what statements would you consider to  
23 be unprofessional?

24 A. I did refer to him as a -- as a punk.  
25 There was some unprofessional language in the form of --

1 of cursing. So, you know, I will tell you that that was  
2 unnecessary.

3 Q. Why did you make those comments?

4 A. I think, again, going through that  
5 situation with all of the unknowns and being met with the  
6 verbal defiance that I was, I was still in a heightened  
7 state after an adrenalin dump. And it was also at that  
8 point that I started not feeling well and realizing that,  
9 medically, there could've been something going on with me  
10 at that moment.

11 Q. Is it fair to say that during this  
12 encounter, you were experiencing extreme emotions?

13 A. Yes.

14 Q. Now, I want to ask about the medical  
15 concerns.

16 Toward later in the incident, you left the  
17 scene due to medical concerns, correct?

18 A. Yes.

19 Q. And I don't want to talk about any  
20 irrelevant medical concerns.

21 But I'll ask you: Are you aware of any  
22 medical conditions or circumstances that affected your  
23 conduct or performance in this incident?

24 A. Again, not initially because I'm -- I'm not  
25 a doctor. I just knew that there was something not right

1 happening with me, medically.

2 Q. And again, we don't need to go into things  
3 that are not --

4 A. Uh-huh.

5 Q. -- pertinent.

6 A. Correct.

7 Q. But in hindsight, having been evaluated and  
8 having distance from the incident, as you sit here today,  
9 are you aware of anything, medically, that was going on  
10 during the incident that may have affected your conduct?

11 A. It very well could have, but, you know,  
12 that wasn't apparent to me until, like you said,  
13 hindsight. I've already been admitted and on the cardiac  
14 floor for two days.

15 Q. And so, what condition may have contributed  
16 to this, to your conduct during this incident?

17 A. It was a cardiac incident.

18 Q. Can you explain in more detail, please?

19 A. I don't have to.

20 MR. MORSE: With regard to that, actually,  
21 she said she had a cardiac incident. Actually,  
22 give us a minute on her medical information --

23 MR. RICE: Okay.

24 MR. MORSE: -- just to see where -- because  
25 I want to talk to her about it, though because we

1 have HIPAA and things like that. I know we're in  
2 a deposition and it's relevant, so we'll probably  
3 get it. I just want to talk to her, again, just  
4 about her private medical; that's all.

5 MR. RICE: Let's just go off the record and  
6 take a moment to -- actually, before we go off the  
7 record, let me just make a record.

8 Counsel is going to confer with their  
9 client about medical issues, so we're taking a  
10 break to facilitate that.

11 MR. MORSE: Cool.

12 (Recess taken, 10:14 a.m. to 10:22 a.m.)

13 BY MR. RICE:

14 Q. Did anything occur during the break that  
15 affects your ability to continue this deposition?

16 A. No.

17 Q. Did you have a conversation with anybody  
18 else besides your attorneys, during the break?

19 A. No.

20 Q. So I was asking about a medical condition,  
21 and I want to be clear, I'm asking about your  
22 understanding, as you sit here today.

23 Could you describe any medical condition or  
24 circumstances that existed that may have affected your  
25 conduct during the incident?

1           A.     I wasn't aware of anything outstanding  
2 prior to this incident. There were things that were  
3 discovered later on after hospitalization.

4           Q.     And what was discovered later on?

5           A.     I suffered a cardiac incident. I was  
6 admitted for two days. On the third day, I was dismissed  
7 from the hospital to follow up with a cardiologist  
8 through workman's comp, which took place over the course  
9 over eight weeks. And it was discovered that there -- I  
10 have -- again, I'm not a doctor, so I'm just trying to  
11 give you the best of what I can of what was discovered.

12                     An enlarged part of my heart where the top  
13 of -- again, I don't want to misquote things, but  
14 basically, an -- an enlargement, in addition to some  
15 leaking, which, that day, could have contributed to  
16 everything medically that I was feeling.

17           Q.     And I appreciate that, and I will say,  
18 we're not here for a medical matter.

19           A.     Sure.

20           Q.     What I'm most concerned about is, again,  
21 what the benefit of hindsight and what you've learned  
22 through diagnosis and treatment how, if at all, could  
23 that condition have impacted your performance during the  
24 incident?

25           A.     It could have greatly.

1 Q. How so?

2 A. You know, not feeling well, not feeling  
3 100 percent, not really understanding what was -- what  
4 was going on, it being not typical of any other type of  
5 maybe stressful event I've encountered and there have  
6 been plenty over 20 years, that not being a typical  
7 response. And then having those symptoms I was having --  
8 I was -- -- I was going through, magnify and continue and  
9 become greater to the point where I knew something was  
10 severely wrong and was transported.

11 Q. Did you have any indication that this  
12 condition existed before or during the incident?

13 A. No.

14 Q. Did that medical condition affect your  
15 judgment at all?

16 A. It possibly could have, yes.

17 Q. How? How could it have?

18 A. You know, experiencing -- like, towards --  
19 towards the tail end of that, I was experiencing some  
20 chest pain. Does it happen? Yes. But this wasn't  
21 readily going away; it was actually getting worse as time  
22 was going on, and to the point where this is the first  
23 time in 20 years of being on this job that I had ever had  
24 to use any type of workman's comp, you know what I'm  
25 saying?



1           And sometimes as police officers, to our  
2 own fault, aren't always great at expressing when maybe  
3 we don't feel well or something may not be going on  
4 because you don't want to jump to conclusions in  
5 understanding that, you know, there was some stressful  
6 things that had happened. But when it wasn't going away,  
7 it was actually persisting and getting worse when things  
8 were supposed to be calmer, I realized that something was  
9 wrong.

10           Q.     Did that condition contribute to the stress  
11 you were experiencing during the incident?

12           A.     It could have, yes.

13           Q.     Would you say it could have increased your  
14 stress during the incident?

15           A.     It could have, yes.

16           Q.     Did what you were experiencing distract you  
17 in any way from your interactions with Mr. Gould?

18           A.     I believe so because at -- you know, again  
19 I'm -- I'm not trying to justify the verbiage that was  
20 going on between us. You know, I'll admit all day long  
21 that that wasn't my best moment at all. But I also feel,  
22 hindsight we don't try to do that, but in this case, I  
23 feel it's necessary because of the medical things that  
24 were uncovered that yes, that could have played a part.

25           Q.     Okay. And to be clear, what I'm most

1 interested in is if there were circumstances or factors  
2 that affected how you perceived things, how you made  
3 judgement calls, how you interacted with Mr. Gould, if  
4 this medical condition is one of them, I just want to  
5 understand how it may have impacted things and how you  
6 perceived or know that it did.

7           And so, I'll ask you: In any other ways  
8 that we haven't discussed, are there any possible ways or  
9 ways that it -- the medical condition affected your  
10 interaction with Mr. Gould or performance during the  
11 incident?

12           A. Not -- not being a doctor, I mean, it's --  
13 like I said, it's -- it's very possible, you know. I  
14 just know one's hospitalized and going through treatment  
15 and further testing and everything else, it definitely  
16 cleared things up, I guess, as far as what could have  
17 happened, medically, that day with me.

18           Q. Is it fair to say that towards the end of  
19 this incident, you were quite concerned about the medical  
20 condition?

21           A. Yes.

22           Q. Now, at some point during the incident, did  
23 you come to an understanding that Mr. Gould was not the  
24 person with the gun and that the person with the gun was  
25 elsewhere?

1 A. Yes.

2 Q. When did you come to that understanding?

3 A. I believe it was once I was finally able to  
4 speak with Officer Valerio.

5 Q. And did you learn that from  
6 Officer Valerio, or did you know that yourself?

7 A. I know it was Officer Valerio once he had  
8 come out and heard the commotion and realized what was  
9 going on. He, at some point, I don't know exactly when,  
10 let me know.

11 Q. Sure. Would it be helpful to maybe review  
12 your body camera --

13 A. Sure.

14 Q. -- recording?

15 MR. RICE: So I'm going to pull up

16 Exhibit 4.

17 BY MR. RICE:

18 Q. You know, I'm just going to let it play  
19 from the beginning, and I'll just give you a preview of  
20 what I'm going to ask so you can watch for this.

21 I want to have an understanding of when and  
22 how you learned what the situation was, that there was a  
23 person harassing somebody's wife, who had the gun and  
24 where that person was; is that fair?

25 A. Okay.

1 Q. So I'm going to play it through a bit just  
2 so you can watch what happened.

3 A. Whose body camera is this?

4 Q. This is Exhibit 4, and this is your body  
5 camera.

6 A. Okay.

7 (Video playing.)

8 A. Okay, so --

9 MR. RICE: I'm going to stop at 2:20.

10 (Video paused.)

11 A. Right. So now that Officer Valerio is out  
12 and he heard this is when it became apparent to me who  
13 actually had a gun, who did not and --

14 BY MR. RICE:

15 Q. And so, at 2:20 I'm stopping.

16 So how at this point did you know who had  
17 the gun and who didn't?

18 A. Well, all right. Maybe not exactly at this  
19 point, I'm sorry.

20 But, like, now that he's here, I remember  
21 him clarifying who had what.

22 Q. And so, at this point on your video, have  
23 you heard Officer Valerio describe that to you yet?

24 A. Not at -- not at this point, but it's. . .

25 Q. And I understand that you're having -- now,

1 correct me if I'm wrong, but you're starting to remember  
2 things. I'm going to play it through to about five  
3 minutes and 30 seconds, and just again, I'm just going to  
4 ask you at the end how you understood and learned the  
5 nature of the incident, where the gun was.

6 A. Okay.

7 Q. And then we'll proceed.

8 (Video playing.)

9 MR. RICE: So I'm going on stop at 5:34.

10 A. Uh-huh.

11 BY MR. RICE:

12 Q. And you would agree on the video that  
13 you're explaining -- who's this officer you're talking  
14 to?

15 A. That's Sergeant Glass.

16 Q. You're explaining to Sergeant Glass that  
17 Mr. Gould was accused of harassing a caller's wife,  
18 correct?

19 A. Correct.

20 Q. How did you know that?

21 A. I don't want to misspeak because there's a  
22 lot of moving parts and a lot of different people's  
23 videos, so I don't, honestly, remember at what point I  
24 received that information as far as, like, who was who.

25 Q. Well, would you agree -- and that's why I

1 played the full five-and-a-half minutes of the beginning  
2 of the encounter --

3 A. Uh-huh.

4 Q. -- that it's likely that you knew that  
5 information before you encountered Mr. Gould? Would that  
6 be fair?

7 A. I don't -- again, I -- I don't remember at  
8 what point I had gotten that information, but it wasn't  
9 initially when I had first gotten there and all of this  
10 unfolded.

11 Q. So in the first five-and-a-half minutes of  
12 this video, after you get out of your car, when you have  
13 this conversation, can you direct me to a moment where  
14 you learn of that information?

15 A. I don- -- honestly, I don't recall. I  
16 don't remember.

17 Q. Can you point me to a portion of this video  
18 where you learned of this information, before the  
19 five-and-a-half minute mark?

20 A. I don't remember. I'm sorry.

21 Q. So I take that as a no then?

22 A. Yeah, no.

23 Q. So if you can't point that out on the  
24 video, would it be fair to say that you knew that  
25 information before you got out of your car?

1 A. No.

2 Q. Why not?

3 A. Because I don't know exactly at what point  
4 I had received that information, understood that  
5 information, processed that information because from the  
6 moment I had gotten there, this is what I was dealing  
7 with.

8 Q. Okay. And I just want to make sure your  
9 testimony is clear today, and so correct me if I misstate  
10 something.

11 But my understanding is that you cannot  
12 point to a specific moment on this video before the  
13 five-and-a-half minute mark where you learned of this  
14 information, and so is that fair?

15 A. I mean, that's fair. I guess, that I  
16 just -- I don't recollect when exactly that was.

17 Q. And that's what I was going to say.

18 As you sit here today, you are uncertain  
19 and cannot say at all when you learned that information?

20 A. That's fair to say. I -- I -- I can't give  
21 you a specific point in time. I don't recall or remember  
22 when that was.

23 Q. But you would agree that at the  
24 five-and-a-half minute mark, you did, in fact, have that  
25 understanding, correct, that Mr. -- I'll ask a better

1 question.

2 At about the five-and-a-half minute mark on  
3 your video, you would agree that you have the  
4 understanding that Mr. Gould was accused of harassing a  
5 caller's wife and that the caller was somebody else?

6 A. That's what I was taking from that, yes.

7 Q. And I'm just going to play a little bit  
8 more of this conversation.

9 MR. RICE: So we'll go back to about 5:18.

10 (Video playing.)

11 MR. RICE: I'm going to stop at six minutes  
12 and 30 seconds.

13 BY MR. RICE:

14 Q. And if you need me to replay a portion to  
15 refresh your memory --

16 A. Uh-huh.

17 Q. -- please let me know.

18 During this conversation, is it Sergeant  
19 Glass you were talking to?

20 A. Yes, yes.

21 Q. You relayed to him that Mr. Gould was  
22 accused of harassing a caller's wife, correct?

23 A. Correct.

24 Q. And your understanding at this time was  
25 that the caller had lifted his shirt and shown a gun to



1 Mr. Gould, correct?

2 A. Correct.

3 Q. And you understood that the caller had the  
4 gun; not Mr. Gould, correct?

5 A. Correct.

6 Q. Can you point to any portion of this video  
7 that shows where you learned all of that information?

8 A. I -- again, I -- I can't because I don't  
9 remember at what point I formally, like, received  
10 everything to the point where I was relaying this to him.

11 Q. And I'll just clarify my question because I  
12 know it feels like I'm asking literally the same thing 20  
13 times, but I'm trying not to.

14 Before I asked you about the information  
15 that Mr. Gould was not the caller and was the person  
16 accused of harassing the wife, now I'm asking, in  
17 addition to that, that the caller had lifted his shirt up  
18 and had a gun and that the call was the one with the gun;  
19 not Mr. Gould.

20 So those additional facts, did you see any  
21 part, prior to this video, where you learned that  
22 information?

23 A. No, but, again, I don't -- I don't remember  
24 at what point I had received all of that information.

25 Q. And so, as you sit here today, you just

1 don't know where that information came from, period?

2 A. I don't remember. I'm -- I'm not -- I'm  
3 trying to tell that you with everything -- the way that  
4 it had gone on and we're now almost a year later, I -- I  
5 don't remember.

6 Q. Is there anything that you know of that  
7 would refresh your memory as to that point?

8 A. I don't know. I mean, there's a ton of  
9 other peoples' body camera videos, so I -- I don't know.  
10 I feel like I've answered this question for you to the  
11 best that I can right now.

12 Q. And I'll tell you what. Where I'm getting  
13 at is, some day later, something will come across your  
14 attention and you can say, oh, now I see this material  
15 and now I remember where I learned this information.

16 And what I'm asking today is: Is there  
17 some source of information that would let you know where  
18 you learned it from?

19 For example, would listening to the radio  
20 transmissions, the recordings of the radio transmissions  
21 before the incident, would that help refresh your memory  
22 whether you learned the information we're talking about  
23 from that?

24 A. I mean, it's possible, but I -- again, it's  
25 how I was receiving information or even hearing any,

1 because I may not have been hearing that just because I  
2 was focused on other things at the time, which is trying  
3 to get to that scene. So I -- I don't want to go down a  
4 rabbit hole and talk myself into an answer that I've told  
5 you, I don't remember. I don't know.

6 Q. Understood.

7 But you would agree that at the point of  
8 your discussion with Sergeant Glass, you appeared to  
9 understand that information, right?

10 A. Yes. I just don't un- -- I don't remember  
11 at what -- I just -- I don't remember.

12 MR. RICE: Well, I'm going to play a  
13 portion of Exhibit 1, a radio recording, and this  
14 is a recording of dispatch and calls related to  
15 the incident.

16 (Excerpts from Exhibit 1, radio recording,  
17 were played and transcribed as follows:)

18 DISPATCH: 336922. Sabal Ridge at 100,  
19 Sabal Ridge Circle, 1-0-0 Sabal Ridge Circle.  
20 Clubhouse pool, white male, brown hair  
21 multicolored suit. Advised a male's harassing his  
22 wife. Male calling the wife name and telling  
23 people to get out of the pool, 5400. Possible 57,  
24 caller's 10-12, nothing further.

25 The male's now walking to the other side of

1 the clubhouse. We also have the white land line  
2 caller's by the ECCW and does have a signal zero  
3 on him.

4 A. Can I stop you for one second?

5 MR. RICE: I'm going to stop at 1:34.

6 (Excerpts from Exhibit 1, radio recording,  
7 were paused.)

8 A. Okay. So in listening to this thus far it  
9 is not clear to me who has what, who is the victim, who  
10 is the suspect. All I'm getting is descriptors. There's  
11 no -- again, you have three different people calling 911.  
12 So listening to this radio traffic, it's still not very  
13 clear who has what or who's doing what.

14 BY MR. RICE:

15 Q. I'm not a police officer, so I just want to  
16 see if you can confirm the information on this recording.

17 A. Uh-huh.

18 Q. The dispatch appears to be relaying that  
19 someone called in to report a male harassing his wife,  
20 correct?

21 A. Correct.

22 Q. And the male who was harassing the wife was  
23 wearing a multicolored swimsuit, correct?

24 A. That's -- that's what I'm hearing, yeah.

25 Q. Okay. And, again --

1 A. But it's --

2 Q. -- I'm just ask- -- I didn't mean to cut  
3 you off.

4 But what I'm asking is: As you sit here  
5 listening to the recording today --

6 A. Uh-huh.

7 Q. -- would you agree that that is the  
8 information that the dispatch was relaying?

9 A. Yes, but again, we're going back 20/20 --  
10 like, hindsight 20/20; not in that moment when I've got a  
11 bunch of different things going through my head.

12 Q. And what I'll say is, the question I'm  
13 asking right now are not going back in hindsight.

14 As we sit here and listen to it today --

15 A. Uh-huh.

16 Q. -- I just want to confirm, because I was  
17 not there and I'm not a police officer, that my  
18 understanding of what's on this call matches your  
19 understanding of what's on this call.

20 And so --

21 A. Which is?

22 Q. That dispatch is relaying that someone  
23 called in to report a male harassing his wife?

24 A. But there were also three different people  
25 reporting that same information, so who is who?

1 Q. But that information is in this dispatch  
2 call, correct?

3 A. In what form?

4 Q. And the dispatcher is saying a caller's  
5 reporting a male --

6 A. Right.

7 Q. -- a white male --

8 A. But who?

9 Q. -- in a multicolored swimsuit harassing his  
10 wife.

11 A. But what caller? Which -- which one, when  
12 we have three different ones?

13 Q. Well, that information -- and we'll put  
14 stuff together.

15 My question though is --

16 A. Uh-huh.

17 Q. -- that information, that one piece --

18 A. Uh-huh.

19 Q. -- is in this radio transmission, correct?

20 A. That's correct, but, again, we're also  
21 going upon dispatch, who is not there either.

22 Q. And I'm not asking that question.

23 A. Okay. But I'm trying to provide you my  
24 insight to that.

25 Q. And you can, but I just want to make clear

1 that I'm not asking that question.

2 A. Okay.

3 Q. Dispatch also relayed that that male walked  
4 to the other side of the clubhouse, correct?

5 A. But which male?

6 Q. The male who was accused of harassing the  
7 wife.

8 MR. MORSE: Object as to form.

9 A. Which is who? Where's the descriptor on  
10 that though?

11 BY MR. RICE:

12 Q. I'm saying, that's what dispatch relayed;  
13 is that correct or not?

14 MR. MORSE: Object to form.

15 BY MR. RICE:

16 Q. Or don't you know?

17 A. It's -- it's unclear to me, listening to  
18 that, exactly who that might be.

19 Q. Fair.

20 Dispatch said that the caller had a CCW and  
21 a gun in a holster in his groin area, correct?

22 A. Right.

23 Which caller; 1, 2 or 3?

24 Q. I didn't ask that.

25 A. But I'm providing you that information

1 because that's how it was perceived by me.

2 Q. And I would just ask you to please listen  
3 to the question being asked.

4 A. Okay.

5 Q. Make sure you understand it. If I'm being  
6 unclear or it feels like I'm asking something that I'm  
7 not, please let me know.

8 A. Okay.

9 Q. What I'm asking is: On this call, dispatch  
10 relayed that the caller has a CCW and a gun in a holster  
11 in his groin area, correct?

12 A. Correct.

13 MR. RICE: And I'm going to continue to  
14 play it back at 1:34.

15 RICK KING: Can you start at beginning?

16 MR. RICE: At the request of counsel, I  
17 will start at 00 and play it through.

18 (Excerpts from Exhibit 1, radio recording,  
19 were resumed and transcribed as follows:)

20 DISPATCH: 336922 --

21 (Excerpts from Exhibit 1, radio recording,  
22 were paused.)

23 MR. RICE: Let's go off the record for a  
24 moment.

25 THE COURT REPORTER: Did you want to give



1 me a transcript of this?

2 MR. RICE: We don't need to write -- this  
3 is an exhibit. You don't need to -- and if you  
4 have already, that's awesome, but --

5 THE COURT REPORTER: No. I would want the  
6 audio recording to transcribe it correctly against  
7 later.

8 MR. RICE: I'll give you the audio. But  
9 this is an exhibit. I'll give you this file. I  
10 don't have a written transcript of it, and we --

11 THE COURT REPORTER: Yeah, I can write that  
12 for you later if you want a really fresh --

13 MR. RICE: If you want. And like I said, I  
14 don't actually think we need a transcript.

15 MR. MORSE: I agree. The audio and video  
16 is what it is so I mean.

17 THE COURT REPORTER: In the Florida court  
18 reporter handbook, we are supposed to transcribe  
19 videos being played and audio being played, so  
20 that's why I'm asking if you're going to give  
21 me --

22 MR. MORSE: They're exhibits, so you'll  
23 definitely get it.

24 (Discussion off the record.)

25 MR. RICE: I'm going resume at 10 seconds.

1                   And if you're having trouble hearing the  
2                   audio or need portions played back, let me know.

3                   THE WITNESS:   Okay.

4                   MR. RICE:    I know that my laptop doesn't  
5                   have the best speakers.

6                   THE WITNESS:   No, you're okay.

7                   (Excerpts from Exhibit 1, radio recording,  
8                   were resumed.)

9                   (Excerpts from Exhibit 1, radio recording,  
10                  were paused.)

11                  A.        "Advised a male is harassing his wife," so  
12                  whose wife?  The man in the multicolored bathing suit?  
13                  Because that's how I understand that.

14                  BY MR. RICE:

15                  Q.        Okay.

16                  MR. RICE:   I'm going to resume, play it  
17                  back at 36 seconds.

18                  (Excerpts from Exhibit 1, radio recording,  
19                  were resumed.)

20                  A.        Again, who?  Which caller?

21                  MR. RICE:   I'm going to stop at 1:37.

22                  (Excerpts from Exhibit 1, radio recording,  
23                  were paused.)

24                  A.        The -- the -- the suspect or the person  
25                  with the multicolored bathing suit because that's the

1 last descriptor I remember hearing.

2 BY MR. RICE:

3 Q. Well, wouldn't you agree that the dispatch  
4 seems to use three terms for the people involved: One is  
5 "caller," one is "male," and one is "wife."

6 A. Okay. And how am I supposed to decipher  
7 that without any other physical descriptors, other than a  
8 multicolored bathing suit?

9 Q. And I'm not asking if you understood that,  
10 but I mean, you would agree that at this point in the  
11 recording, that dispatcher used those terms to refer to  
12 three different people?

13 A. Correct.

14 Q. Okay.

15 MR. RICE: Let's carry on at 1:37.

16 (Excerpts from Exhibit 1, radio recording,  
17 were resumed.)

18 A. Can you stop that for a second?

19 Can you pull up --

20 MR. RICE: Stopping at 2:35.

21 (Excerpts from Exhibit 1, radio recording,  
22 were paused.)

23 A. Can you pull up a picture of Mr. Gould?

24 BY MR. RICE:

25 Q. I cannot.

1 A. Because I'm pretty sure he had brownish  
2 hair and -- and facial hair, as well.

3 Q. That's what you recall?

4 A. I do.

5 Q. And I was going to say, after we get  
6 through this exhibit, if you want to refer back to your  
7 body camera, I'm happy to pull that up.

8 A. That's fine.

9 MR. RICE: I'll resume at 2:35.

10 (Excerpts from Exhibit 1, radio recording,  
11 were resumed.)

12 MR. RICE: I'm going to stop at 3:31.

13 (Excerpts from Exhibit 1, radio recording,  
14 were paused.)

15 BY MR. RICE:

16 Q. Was that most recent transmission you  
17 responding to the call?

18 A. Yes.

19 Q. So at this time, were you listening to the  
20 radio transmissions?

21 A. I believe, after this, I had gotten on the  
22 radio, is when Officer Valerio let me know he was 10-12  
23 on the other side of the pool from my 14. That's all he  
24 said.

25 Q. And after listening to about

1 three-and-a-half minutes of the radio transmissions,  
2 would you agree that dispatch talks about two calls  
3 coming in?

4 A. At least two calls, yes.

5 Q. And the first minute-and-a-half is a call  
6 from someone who says that a white male in a multicolored  
7 swimsuit is harassing his wife, correct?

8 A. Uh-huh correct.

9 Q. And after about a-minute-and-a-half,  
10 dispatch reports that a second caller has called in,  
11 correct?

12 A. Correct.

13 Q. And this second caller claims that someone  
14 lifted his shirt and showed him a gun, correct?

15 A. Correct.

16 Q. Would you agree that the information you  
17 conveyed to Sergeant Glass about the incident and who was  
18 involved is contained in these radio calls?

19 A. Not all of it.

20 Q. What information is not contained in these  
21 radio calls?

22 A. Who is who.

23 Q. So whether Mr. Gould was the person with  
24 the gun in his groin or whether Mr. Gould was the person  
25 being threatened by it, correct?

1 A. Correct.

2 Q. But when you talked to Sergeant Glass, you  
3 understood who was who at that point, correct?

4 A. Correct. I just don't recall where I got  
5 the clarification from is what I'm trying to tell you.

6 Q. I understand that.

7 Is there any other information that you  
8 conveyed to Sergeant Glass at about the five-and-a-half  
9 minute mark on your body camera recording that is not  
10 present in these radio calls?

11 A. I don't -- I don't -- again, I don't -- I  
12 don't really recall. I don't know. I don't think so.

13 Q. As you sit here today, there's nothing you  
14 can point to?

15 A. Correct.

16 Q. Okay. Did you tell Sergeant Glass and  
17 other officers that Mr. Gould went back into his pockets  
18 again?

19 A. Yes.

20 Q. Why did you say that?

21 A. Because that's what it had appeared to me  
22 at the time was potentially happening. Again, I'm in --  
23 I'm in a heightened state, I've got a lot going on. So  
24 for me, that's what my perception was at that moment.

25 Q. Was your perception that, because earlier

1 we talked about, and, again, I'm going to be splitting  
2 hairs here because that's what I do, that there's a  
3 difference between Mr. Gould dropping his hands and going  
4 into his pockets, right?

5 A. Correct.

6 Q. Did you perceive Mr. Gould go into his  
7 pockets a second time?

8 A. I perceived hands dropping, which could  
9 have led to that.

10 Q. Would it have been more accurate to tell  
11 Sergeant Glass that you saw Mr. Gould drop his hands a  
12 second time?

13 A. Perhaps, but I was still in a heightened  
14 state of emotion and, like, realizing that whatever was  
15 going on with me medically wasn't getting any -- any  
16 better. I was still feeling symptomatic; although, that  
17 may not have been conveyed at that moment, that's what  
18 was going on for me. So again, my perception at that  
19 moment of what was going on was real for me at that  
20 moment.

21 Q. So it would be fair to say there were  
22 circumstances that may have led you to be less precise  
23 with your language at that moment?

24 A. That's correct.

25 Q. Okay. Did you say that Mr. Gould was,

1 "obviously, amped-up on something"?

2 A. I did say that.

3 Q. What did you mean by that?

4 A. What I meant by that was, he was, again,  
5 not presenting what I had experienced in past calls for  
6 service, investigations as typical victim behavior. You  
7 know, coming into contact with people all the time for a  
8 living, we literally have to make split-second decisions;  
9 we have to look at stuff that are literally going by in  
10 the matter of milliseconds. And to me, he seemed like he  
11 could have been on something --

12 Q. Can --

13 A. -- with his demeanor.

14 Q. Can you articulate specific things that led  
15 you to come to that judgment?

16 A. The -- the animation of the -- of the  
17 hands, of verbally resisting me when it came to -- you're  
18 saying to me that he wasn't fully understanding, but my  
19 perception was in his moment of not understanding was  
20 being defiant and not listening to us. As police  
21 officers, we take that as a huge red flag and as a  
22 potential threat or threat.

23 Q. So is it fair to say that you perceived him  
24 as being an aggressor towards you?

25 A. That was my perception at the moment, yes.



1 Q. Did Mr. Gould exhibit any signs of  
2 intoxication?

3 A. So he was sweating profusely. I understand  
4 there's -- there's -- there's a temperature thing going  
5 on right here. I understand, according to him and the  
6 way things went for him -- trauma responses, we've  
7 already discussed this, that it could present symptoms  
8 like that. Again, I'm not a doctor. I just go based  
9 upon my experiences and my trainings and my dealings with  
10 people and the general public on a daily basis, and  
11 that's how it was perceived to me.

12 Q. And I appreciate that clarification.

13 So generally, would it be fair to say that  
14 some of these indicators could be both consistent with  
15 intoxication but also other explanations?

16 A. Absolutely, yes.

17 Q. And I'm asking: Knowing that, can you  
18 articulate any indicators that Mr. Gould was intoxicated  
19 or under the influence of any substances? So sweating  
20 was one, correct?

21 A. Sweating was one. The -- the -- the -- you  
22 know, the hand movements up and down and, you know, it --  
23 it came off as a bit erratic. The statements that he was  
24 making, the verbal combativeness of that. You know,  
25 initially, the -- the lack of respect for me and my

1 presence and what I was trying to do -- and I -- I  
2 understand he could have been, you know, again, 20/20 in  
3 his own head, but when I'm trying to make a split-second  
4 decision, I don't have time for that.

5 Q. Anything else?

6 A. No, sir.

7 Q. Okay. Now, you said that during the  
8 initial detention of Mr. Gould, your primary concern was  
9 to locate if there was any weapon, fair?

10 A. Fair.

11 Q. Was a search conducted of Mr. Gould or his  
12 belongings nearby for a weapon?

13 A. By me? No.

14 Q. Did you request a search?

15 A. I don't remember specifically asking for  
16 one; however, sometimes things get taken for granted that  
17 shouldn't. I wasn't the only police officer on the  
18 scene, so I'm not trying to place blame on anybody else,  
19 but there was a bunch of us there at that point; any one  
20 of us could have done that.

21 Q. Why would you say, if you know, why did you  
22 not request or search Mr. Gould for weapons?

23 A. I was still in a -- in a heightened state  
24 and, again, I was, like, combatting internally what was  
25 ever going on with me medically, realizing that something

1 wasn't quite right and, literally, just kind of hold  
2 things together. I also realized that with the  
3 heightened state, and there were other officers there,  
4 maybe Mr. Gould wouldn't have appreciated if I was  
5 continuing to put my hands on him.

6 Q. So would it be fair to say that once  
7 Mr. Gould was in handcuffs and there were many officers  
8 around him, that your priority shifted to the medical  
9 condition you were concerned about and your heightened  
10 emotions?

11 A. Correct.

12 Q. Okay. Did you request that a supervisor  
13 arrive during Mr. Gould's arrest?

14 A. I did.

15 Q. Why?

16 A. Well, to be quite honest with you, as a  
17 senior officer on that particular platoon, we had three  
18 supervisors on duty that day, and it seemed a little odd  
19 to me that with the type of call that this was, a  
20 disturbance presenting a firearm, that perhaps a  
21 supervisor would not have been en route sooner. And at  
22 least for me, when somebody is taken into custody, we  
23 either request a supervisor. Or once someone is taken  
24 into custody, that we reiterate to a supervisor, are you  
25 48, that we either have a 10-15, which is someone that's

1 been arrested or in custody or what have you. I just  
2 felt that because of what was going on, I was shocked  
3 that a supervisor wasn't en route sooner than it took me  
4 to have to call one to the scene.

5 Q. So for Palm Beach Gardens Police -- which  
6 you are a long-time member of and have experience with,  
7 correct?

8 A. Yes, yes.

9 Q. -- is it standard practice to call a  
10 supervisor for all custodial arrests for any offense?

11 A. Maybe not particularly to a scene, but to,  
12 at the very least, notify a supervisor that someone has  
13 been detained, arrested, placed in handcuffs where -- it  
14 is customary, and it's something that I have practiced  
15 over the years, to let a supervisor know so that they're  
16 aware of what's going on, as a supervisor.

17 Q. And so, you would say that custom combined  
18 with the fact that this was a gun incident led you to  
19 call for a supervisor?

20 A. Yes.

21 Q. Is that correct?

22 A. That's correct.

23 Q. Okay. Now, at some point, did you come  
24 into contact with the person who had the gun in his  
25 groin?

1 A. Yes.

2 Q. And what do you recall, if anything, about  
3 that interaction?

4 A. I recall walking around to the interior of  
5 the pool area and the north side of the clubhouse where I  
6 ran in or I came into contact with a man with the last  
7 name of Silva. At that point, and I'm generalizing here,  
8 I don't want to say specifically, but it was now apparent  
9 to me that he was the subject that had a firearm. Before  
10 any questioning in regards to that, I remember reading  
11 him his Miranda warnings, because that was on the body  
12 camera.

13 Q. And you talked to Mr. Silva, correct?

14 A. Briefly, yes.

15 Q. And he was with a woman, correct?

16 A. Yes.

17 Q. And that person was, presumably, his wife?

18 A. Presumably, yes. She was in a bathing  
19 suit, and she presented to me as, obviously, very  
20 pregnant.

21 Q. Was Mr. Silva shorter than Mr. Gould?

22 A. I'm going to be honest with you here, I  
23 didn't really take into account how tall anybody was. I  
24 -- I didn't. It just. . .

25 Q. So as you sit here today, you have no

1 recollection of that, either way?

2 A. No.

3 Q. Okay.

4 A. I don't.

5 Q. Was Mr. Silva wearing a shirt and shorts at  
6 the time?

7 A. I do remember a short-sleeve shirt. And  
8 he -- I -- they look like baggy shorts. I don't know.

9 Q. And when --

10 A. He was --

11 Q. When you first encountered Mr. Silva, was  
12 he still armed?

13 A. No.

14 Q. Did he have a holster in his groin, do you  
15 know?

16 A. I don't remember.

17 Q. Did you have any safety concerns when you  
18 approached Mr. Silva?

19 A. At that point I did not because he was in  
20 contact with other officers. I'm not exactly sure all  
21 who before I got there, but he was no longer armed.

22 Q. So is it fair to say that because other  
23 officers were present and did not seem concerned  
24 themselves, that you did not have any concerns yourself?

25 A. I'm not saying that. I'm just saying I did

1 not see a firearm on Mr. Silva at that point.

2 Q. Did you know he was disarmed when you first  
3 approached him?

4 A. I did not. Well, I take that back. I  
5 don't remember if it was clarified who had secured the  
6 weapon at that point. I don't remember; I don't know.

7 Q. And I'll say, I'm not trying to do memory  
8 games or anything like that.

9 A. Uh-huh.

10 Q. Would it be helpful to view your body-worn  
11 camera about that initial encounter with Mr. Silva?

12 A. That's fine.

13 MR. RICE: I'm going to go back to  
14 Exhibit 4. I'm going to start at about 733.

15 (Video playing.)

16 MR. RICE: Now, I'm going to stop it at  
17 7:46.

18 BY MR. RICE:

19 Q. This is when you first encountered  
20 Mr. Silva and a woman, correct?

21 A. Correct.

22 Q. At this point you understand that Mr. Silva  
23 was previously armed, correct?

24 A. At this point, yes.

25 Q. Do you know if Mr. Silva is still armed?

1           A.     I see a holster.  It ap- -- it appears  
2 empty, but, again, there were two other officers there  
3 with him.

4           Q.     So did --

5           A.     So. . .

6           Q.     Did you have any safety concerns at this  
7 time?

8           A.     With there being two other officers already  
9 there speaking with him and he is relatively calm, I did  
10 not.

11          Q.     So the fact that Mr. Silva has been accused  
12 of threatening somebody with a gun previously was not a  
13 sufficient safety concern to warrant action by you at  
14 this time, correct?

15          A.     But when I arrived there, I did not know  
16 who was who.  At first, I didn't.

17          Q.     And I didn't ask that.

18                 What I asked was the mere fact that  
19 Mr. Silva was accused of previously threatening somebody  
20 with a gun was not a sufficient safety threat for you to  
21 use force or take any action at this time, correct?

22          A.     Correct.

23          Q.     Okay.  And the fact that Mr. Silva had  
24 possessed a gun was also not a fact that required action  
25 by you at this time, correct?



1 A. Correct.

2 Q. And it was your understanding that  
3 Mr. Silva had a holster in his groin area but not a gun,  
4 correct?

5 A. Correct.

6 Q. Okay. Do you know where the gun was at  
7 this point?

8 A. At that particular moment, I did not.

9 Q. Were you concerned that the gun could be  
10 elsewhere on Mr. Silva's body?

11 A. I don't -- I don't recall, like, feeling  
12 that way or I -- I don't -- I don't know.

13 Q. Well, I'm just curious because I believe  
14 previously, you talked about how generally you assumed  
15 most people were armed or take action against officers,  
16 correct?

17 A. Correct.

18 Q. So wouldn't you assume that Mr. Silva was  
19 still armed until it was confirmed to you that he was  
20 not?

21 A. I mean, it -- it's reasonable --

22 MR. MORSE: Object as to form;  
23 mischaracterization.

24 A. You could say that, but he was also with  
25 two other police officers at that point.

1 BY MR. RICE:

2 Q. And so, the fact that he was with other  
3 officers, did that alleviate any potential safety  
4 concerns you may have felt?

5 A. A bit, yes, because when I encountered  
6 Mr. Gould, there was nobody around him. So I didn't know  
7 who he had made contact with. I didn't know who he was.

8 Q. And just to that point, when you first  
9 encountered Mr. Gould, you didn't know whether  
10 Officer Valerio had made contact with him or not, fair?

11 A. I had no idea. I had no clue.

12 Q. Did you provide probable cause for  
13 Mr. Gould's arrest?

14 A. In what capacity? What do you mean? I  
15 mean, I had placed the man under arrest.

16 Q. Well, officers are generally required to  
17 provide a probable cause statement or affidavit in  
18 connection with someone's arrest, correct?

19 A. Correct. I was also carted off to the  
20 hospital.

21 Q. And I know you weren't on the scene, but  
22 did you provide the information to establish that  
23 probable cause for Mr. Gould's arrest?

24 A. Briefly, I had, you know, explained  
25 initially upon my arrival what had taken place, which

1 constituted me placing him under arrest.

2 Q. Well, and I'll tell you why I'm asking  
3 this, is: Did you understand that Officer Strzelecki  
4 wrote a report and filled out that probable cause  
5 affidavit?

6 A. Much later on I did.

7 Q. And so, is it your understanding that  
8 Officer Strzelecki relied on your observations and your  
9 account of the incident to establish probable cause for  
10 Mr. Gould's arrest?

11 A. Yes.

12 MR. MORSE: Objects as to form.

13 BY MR. RICE:

14 Q. And what I'm asking is, what  
15 Officer Strzelecki understood is that you were providing  
16 probable cause through your account and observations.

17 Did you also have that understanding about  
18 the time of the incident, that your account and  
19 observations would be used to establish probable cause  
20 for Mr. Gould's arrest?

21 A. Well, yes, because it was how I perceived  
22 everything happening up to the point of him being  
23 arrested.

24 Q. And during this incident, do you believe  
25 there was probable cause to arrest Mr. Gould?

1 A. Absolutely.

2 Q. Based on what?

3 A. Based on his actions, based on the totality  
4 of the circumstances, the information that was received  
5 by me, perceived by me at that time.

6 Q. What crime, if any, was there probable  
7 cause for?

8 A. Resisting.

9 Q. Resisting without violence or force?

10 A. Yeah. Re- -- resisting -- resisting an  
11 officer.

12 Q. And what conduct by Mr. Gould specifically  
13 established probable cause for that particular crime?

14 A. Going back to I had told him, at least  
15 twice, to keep his hands out of or away from his pockets,  
16 to which he did not listen.

17 Q. And so, just to clarify, I know we've gone  
18 through this quite a bit before, but I just want to make  
19 sure I understand, that specific conduct would be the  
20 first time that Mr. Gould reached into and pulled his  
21 cell phone out of his pocket, correct?

22 A. No.

23 Q. Okay.

24 A. It would be after the second time that I  
25 had told him, I can tell you one time, and if you do not

1 listen when I tell you one time -- regardless of how I'm  
2 asking, telling you, commanding you, yelling at you,  
3 whatever, I'm telling you not to do something, whether  
4 it's in a nice way or not such a nice way, it takes one  
5 time. I -- I let it go to two, almost three times before  
6 I ordered him on to the ground because of the behaviors,  
7 both verbally and nonverbally, he was displaying.

8 Q. So was it your understanding that when  
9 Mr. Gould reached into his pocket and pulled his cell  
10 phone out --

11 A. I did not know.

12 Q. What I'm asking is: When Mr. Gould reached  
13 into his pocket and pulled his cell phone out, would that  
14 alone have established probable cause, in your opinion,  
15 for resisting an officer?

16 A. Yes, because I had already told him not to  
17 do that.

18 Q. And would it establish further probable  
19 cause when Mr. Gould dropped his arms down near his  
20 pockets after your additional command, correct?

21 A. Correct.

22 Q. Anything else establish probable cause or  
23 those, the instances?

24 A. Well, once he was in -- in custody and he  
25 had already, you know, stood up and now there's other

1 officers there, we -- were asked for his name, he was  
2 deflecting by asking or saying other things, and it was a  
3 refusal to provide his name for basic identification  
4 purposes so we could further our investigation the  
5 correct way. That's obstruction.

6 Q. So you understood that Mr. Gould's refusal  
7 to provide a name during an arrest also constituted  
8 resistance?

9 A. Correct.

10 Q. But you would agree that Mr. Gould could  
11 not have been under arrest at that point, unless he  
12 had --

13 MR. ALEXANDER: Object --

14 BY MR. RICE:

15 Q. -- previous- --

16 MR. ALEXANDER: -- to form.

17 BY MR. RICE:

18 Q. -- -ly committed some crime, correct, or  
19 been -- let me strike that question.

20 But you would agree that by the time  
21 Mr. Gould was under arrest, you had to have probable  
22 cause of some crime at that point in time, correct?

23 A. I'm going to a gun call, which I -- I don't  
24 know at that very moment who is who. And when I'm met  
25 with that type of resistance, both verbally, I have PC if

1 a crime was committed at that point.

2 Q. Well -- and what I'm asking is: You would  
3 just agree that a requirement for Mr. Gould to be  
4 arrested is the existence of probable cause that he  
5 committed some crime, correct?

6 A. He did commit a crime by going back down  
7 after me giving him an order not to do so, and we're on a  
8 firearm call.

9 Q. And I didn't ask if he did commit a crime  
10 or that sort of thing. It's just, just asking about the  
11 requirements for an arrest.

12 A. Uh-huh.

13 Q. In order for you to make an arrest, you  
14 need probable cause that someone has committed a crime,  
15 correct?

16 A. He did right in front of me.

17 Q. I didn't ask if he did right in front of  
18 you.

19 What I'm asking is: For you to arrest  
20 somebody, it is required that you have probable cause  
21 that that person committed a crime, correct?

22 A. Correct.

23 Q. Okay. Now, during this incident, were  
24 there times that officers, including you, muted their  
25 body camera audio?

1           A.     I did. I -- I -- I know that I did. It  
2 was not intentional. We try very hard to -- to, like,  
3 never do those things; however, in an -- in an event  
4 to -- to mute it, I believe I turned it off and didn't  
5 realize that I -- I did so. The buttons are kind of  
6 close in relation in that system that you have to hit  
7 them in to mute as opposed to turn off -- honestly, was a  
8 simple mistake. I didn't mean anything by that, by  
9 trying to mute it.

10           Q.     Well, and what I'm asking isn't about the  
11 muting though.

12           A.     Uh-huh.

13           Q.     Are there circumstances that policy allows  
14 you to mute the audio of your body camera recorders?

15           A.     Yes.

16           Q.     What are those circumstances?

17           A.     So anything that we're not trying to give  
18 any type of official statement to, or, you know,  
19 sometimes things that may not be immediately relevant to  
20 whatever is going on but, you know, you -- there -- there  
21 is stipulations in the policy where you can mute the body  
22 camera. Do we try not to do that, yes, but. . .

23           Q.     Would having a conversation with other  
24 officers about an incident qualify as a time when you  
25 could mute your audio?



1 A. What -- what incident are -- are we  
2 referring to? This one --

3 Q. No, dur- --

4 A. -- specifically --

5 Q. During --

6 A. -- or --

7 Q. During this incident, if you were to have a  
8 conversation with just other officers, would you be  
9 allowed to mute your audio per policy?

10 A. Yes.

11 Q. Why?

12 A. Because it may not have anything to do  
13 specifically with what's going on with that particular  
14 case or. . .

15 Q. So would it be fair to say that any  
16 discussions, even among officers, related to this  
17 incident, the people involved, potential crimes would be  
18 audio recorded by body cameras?

19 A. Correct.

20 Q. Do you recall what was discussed while your  
21 body camera was muted?

22 A. I -- I don't. I. . .

23 Q. Why did you mute your body camera?

24 A. I -- I don't want to misspeak here.

25 Like -- like I said, it was a mistake. I didn't mean to,

1 like, try to mute or even turn it off. I think it was --  
2 I was trying to explain maybe what was going on with me,  
3 too. But, again, I don't want to -- I don't want to  
4 speculate or -- or misspeak.

5 Q. But it's your position today that audio  
6 recordings should have been maintained of any  
7 discussions, even among police officers, related to the  
8 incident, the people or potential crimes?

9 A. Yes.

10 Q. Okay. And do you have knowledge of anybody  
11 not doing that?

12 A. Not off the top of my head, no.

13 THE WITNESS: Can we take a restroom break?

14 MR. RICE: Yeah, let's take a five,  
15 ten-minute break.

16 (11:19 a.m. to 11:24 a.m.)

17 BY MR. RICE:

18 Q. Again, I'll ask you: Did anything occur  
19 during your break that prevents your ability to continue  
20 this deposition?

21 A. No.

22 Q. Okay. Later when you were in the hospital,  
23 did you have a conversation with Sergeant Beath?

24 A. I did.

25 Q. What did you discuss with him?

1           A.       Again, I don't -- I'm not aware of verbatim  
2       because by the time he had come to see me, several hours  
3       had passed so I was already medicated. A decision based  
4       on initial tests was already made that I was going to be  
5       admitted to the cardiac unit. So I was merely waiting to  
6       be transported upstairs to the cardiac unit by the time  
7       Sergeant Beath had gotten there.

8           Q.       And what topics, if any, did you discuss  
9       with him?

10          A.       He had come in to the emergency room to  
11       notify me that he had unarrested Mr. Gould and that I  
12       probably was going to be facing some type of disciplinary  
13       action.

14          Q.       And how did you feel about that  
15       information?

16          A.       To be quite honest with you, it was  
17       disturbing to me because, again, as I had stated, I was  
18       already medicated, they had worked several hours to get  
19       my blood pressure back down to an acceptable level. My  
20       wife was now present at the time that Sergeant Beath had  
21       showed up along with two other officers in the general  
22       emergency room area to discuss issues that, I personally  
23       feel, could have been dealt with at another time.

24          Q.       So is it fair to say that those weren't the  
25       place or circumstances to raise those issues?

1 A. Correct.

2 Q. Putting those concerns aside and looking to  
3 the substance of the information, how did you feel about  
4 that, the fact that Mr. Gould had been unarrested and  
5 that there was an investigation being opened?

6 A. I was -- I was disturbed by that  
7 information, to be honest with you.

8 Q. Why?

9 A. Because I had probable cause to arrest  
10 Mr. Gould for what had occurred that day. And learning  
11 that he had been unarrested when I had probable cause to  
12 effect that said arrest, I couldn't understand why or  
13 where that was coming from. But, again, I was already  
14 medicated when I am having this discussion being brought  
15 to me.

16 Q. Did you have a discussion with  
17 Sergeant Beath that he would bet \$20 that the case  
18 wouldn't go to IA?

19 A. That he said that?

20 Q. Correct.

21 A. Yeah, he did say that.

22 Q. How did you understand that comment?

23 A. Again, I was medicated. So, you know, I  
24 just -- I was feeling very uneasy on top of not feeling  
25 well. I was -- I felt as if I was being put in a

1 position where I really couldn't go anywhere because I'm  
2 wearing a hospital gown, I have IVs and all kinds of  
3 testing equipment attached to me, so it's not like I can  
4 just readily get up and walk away from the situation.

5 Q. How engaged were you with Sergeant Beath at  
6 the time?

7 A. How engaged? What do you mean?

8 Q. Correct. I mean, you mentioned these  
9 medical concerns and other things on your mind.

10 A. Uh-huh.

11 Q. Were you able to be present mentally in  
12 that conversation or not?

13 A. No, absolutely not. I don't -- I don't  
14 feel that was an appropriate time when someone's in there  
15 for a cardiac incident and they've already been medicated  
16 and you come to the hospital several hours later.

17 Q. So I want to go to an interview that you  
18 gave.

19 At some point this matter did get referred  
20 to IA, correct?

21 A. Correct.

22 Q. Do you know how it was referred to IA?

23 A. I don't because, again, I was in the  
24 hospital for two, three days before it was even brought  
25 to my attention that this was now an IA investigation.

1 Q. And as you sit here today, do you feel that  
2 your conduct warranted an Internal Affairs investigation?

3 A. No.

4 Q. Why not?

5 A. Because during these types of situations  
6 and over the course of 20 years, you know, you see things  
7 that -- that happen. I -- you know, I'm not going to sit  
8 here and give specifics, but I've witnessed several  
9 things. I've been the person that has maybe had to  
10 intervene and calm a situation down before human emotions  
11 completely took over, so. . .

12 Q. So is it fair to say that, as you sit here  
13 today, your position is that you acted reasonably and by  
14 the standards you're supposed to during this incident?

15 A. Well, as I discussed with you earlier,  
16 the -- the back and forth verb- -- verbally between  
17 Mr. Gould and I, you know, was unnecessary.

18 Q. So you would agree there was some  
19 unprofessional language on your part?

20 A. Yes, unprofessional language, absolutely.

21 Q. But other than that, do you feel that you  
22 acted appropriately and in line with standards?

23 A. I do.

24 Q. Okay. As part of the IA investigation, you  
25 gave an interview, correct?

1 A. Correct.

2 Q. And was it a voluntary interview?

3 A. I'm not really sure what you mean by that.

4 Q. Did you choose to participate, or were you  
5 legally compelled to participate?

6 A. Well --

7 Q. If you know.

8 A. I mean, it's an IA investigation, so I am  
9 required to come in and give a statement.

10 Q. So you felt legally compelled to give a  
11 statement, fair?

12 A. Correct.

13 Q. And you gave the statement with counsel  
14 present, correct?

15 A. Correct.

16 Q. I have as Exhibit 8 a recording of your  
17 interview, and I want to go over a few points to see if  
18 what you said in that interview are accurate and still  
19 accurate today.

20 MR. RICE: So I'm going to start at nine  
21 minutes and four seconds.

22 (Excerpts from Exhibit 8, recorded  
23 interview, were played and transcribed as  
24 follows:)

25 OFFICER GUERRIERO: Yes, a male wearing

1 multicolored shorts. And as I was pulling in --

2 (Excerpts from Exhibit 8, recorded

3 interview, were paused.)

4 MR. RICE: You know what? Let me start  
5 back at, like, 8:30 to just give you some context.

6 (Excerpts from Exhibit 8, recorded  
7 interview, were resumed and transcribed as  
8 follows:)

9 IA INVESTIGATOR: You just got involved.

10 OFFICER GUERRIERO: Uh-huh.

11 IA INVESTIGATOR: Dispatch said the  
12 individual that was armed has a -- was a CCW  
13 holder and had the gun holstered in his waist.

14 The second caller, which eventually turned  
15 out to be Mr. Gould, said the subject with the gun  
16 pulled up his shirt and revealed that the gun was  
17 in his belt, and he was described as 5'2" and 120  
18 pounds.

19 Now, when you arrived, do you recall  
20 Mr. Gould was wearing a bathing suit and Crocs?

21 OFFICER GUERRIERO: When I arrived I  
22 remember seeing, yes, a male wearing multicolored  
23 shorts. And as I was pulling in, I could see him.  
24 And then to the -- as he was walking towards me,  
25 he was now to my left as I was starting to pull



1 around. And just behind him, I -- where the  
2 stopped car was, I noticed a -- a lump. I wasn't  
3 sure what was it was at the time; if it was a  
4 shirt, if it was a backpack, if it was a towel. I  
5 wasn't sure.

6 And the radio traffic was very confusing.  
7 I wasn't sure at first because as -- as one of the  
8 last things I'm looking at just prior to my  
9 arrival, I see, which I highlighted here in the  
10 notes, that the caller's been advised to show his  
11 hands at all times to the officer, keep his hands  
12 away from his groin area.

13 So it became known to me later on down the  
14 road that there were actually three people. The  
15 three people that eventually were involved were  
16 all calling 911 at the same time and each were  
17 speaking to a different dispatcher. I was --

18 MR. RICE: I'll stoop at 10:10.

19 (Excerpts from Exhibit 8, recorded  
20 interview, were paused.)

21 BY MR. RICE:

22 Q. Over that portion we listened to, was  
23 everything that you said in that interview accurate, as  
24 of today?

25 A. Yes.

1 Q. How recently, if at all, have you reviewed  
2 your interview with Internal Affairs?

3 A. Like, thoroughly; like, page by page, or  
4 just glancing at it?

5 Q. In any manner, if I were to ask you if you  
6 generally were familiar with the interview you gave with  
7 Internal Affairs?

8 A. I'm -- I'm generally familiar, yes.

9 Q. As you sit here today, are there any  
10 portions of that interview that you dispute or now claim  
11 are inaccurate?

12 A. I don't believe so.

13 Q. Okay. You have had prior discipline beyond  
14 this incident, correct?

15 A. Yes.

16 Q. Can you briefly describe any prior  
17 discipline you have received?

18 A. In 2019, I received a prior discipline for  
19 language on a scene where I had arrested an intoxicated  
20 individual for creating a disturbance at the mall when he  
21 had put his hands and shoved me but not only my partner,  
22 backup officer that had initially gotten on scene,  
23 resulting in a use of force by deploying my taser. So  
24 during that heightened incident, the language that I  
25 used, I guess, was deemed unprofessional, and I was given

1 a written reprimand for that.

2 Q. Anything else?

3 A. Also a little bit later on in 2019, an  
4 incident involving my ex-wife who is a Lieutenant for the  
5 City of Delray in overseeing the IA unit at the time of  
6 said incident. We were in the middle of a pretty  
7 contentious divorce, child custody. I don't know how  
8 much further you want me to -- to get into this but. . .

9 Q. That's fine, but that's generally what it  
10 involved.

11 And what came of it?

12 A. What -- what came of it was that the State  
13 Attorney's Office dismissed and null processed her  
14 allegation. In turn, my ex-wife was put under IA to  
15 which she was sustained on six counts of perjury, and I  
16 signed an NDA because I sued the City of Delray and won  
17 for false arrest, false report and other civil rights  
18 violations.

19 Q. Okay. Did any of those incidents  
20 contribute to your actions or understanding of the  
21 incident with Mr. Gould?

22 A. What do you mean? I don't understand that  
23 question.

24 Q. Well, just, for example, if you had  
25 previously -- if someone had previously been disciplined

1 for using excessive force when encountering a suspect,  
2 they may approach a subsequent encounter with knowledge  
3 that they shouldn't or should do things that it may  
4 affect their conduct, right?

5 A. Well, the incident in 2019, I was issued a  
6 written reprimand for my language. My use of force was  
7 cleared.

8 Q. And you were given a written reprimand for  
9 your language.

10 What I'm asking is: Did that have any  
11 affect -- based on your understanding as you sit here  
12 today, did that have any affect on our interaction with  
13 Mr. Gould?

14 A. Again, you know, should the banter have  
15 continued, no. And I've -- I've sat here and, you know,  
16 told you that; you know, I'm honest with that. However,  
17 given the circumstance that elicited the heightened  
18 response and, you know, having a medical issue go on,  
19 contributing factors, yes.

20 Q. So it would be fair to say, though, that  
21 during your incident with Mr. Gould, you understood what  
22 was expected of you, in terms of professional language?

23 A. I was concerned with protecting and --  
24 and -- you know, the safety of lives; not so much my  
25 language --

1 Q. That's not --

2 A. -- to be honest with you.

3 Q. That's not the question I asked.

4 A. Okay.

5 Q. The question I asked was: During your  
6 interaction with Mr. Gould --

7 A. Uh-huh.

8 Q. -- you had a good understanding of what was  
9 expected for you, with respect to professional language?

10 A. Sure.

11 Q. And you also understood what could  
12 potentially happen if you violated those standards,  
13 correct?

14 A. Correct.

15 Q. Have you had any training in reactionary  
16 gaps or time lag issues?

17 A. What do you mean?

18 Q. Well, there is a set of training and  
19 principles about the time it takes for someone to, say,  
20 perceive a threat, understand the threat and react to it.

21 Are you familiar with that line of  
22 training?

23 MR. MORSE: Object as to form.

24 A. To what your specifics are, no.

25

1 BY MR. RICE:

2 Q. Okay. That is about what I have, so I'm  
3 going to ask some closing questions.

4 Have all of your answers been complete  
5 today?

6 A. Yes, sir.

7 Q. Have all of your answers today been  
8 accurate, or is there anything, now that we're at the  
9 end, that you would like to go back and revisit?

10 A. No.

11 Q. And so, just so the record's clear, you  
12 believe that, as you sit here today, that all your  
13 answers have been accurate, correct?

14 A. Yes.

15 Q. Have you understood all my questions  
16 sufficiently or asked for clarification, as I've asked  
17 them?

18 A. Yes.

19 MR. RICE: I have nothing further.

20 MR. MORSE: Let's take a five-minute break.

21 MR. RICE: Yes, sure.

22 (Recess taken, 11:39 a.m. to 11:45 a.m.)

23 MR. MORSE: We don't have any questions.

24 MR. RICE: I have nothing further.

25 MR. MORSE: That's it.

1 MR. ALEXANDER: No, nothing further here.

2 MR. RICE: Will you read and sign?

3 MR. MORSE: Read, read, yep.

4 MS. JOHNSON: We have no questions either.

5 MR. RICE: Thank you. This concludes the  
6 deposition.

7 (Thereupon, the deposition was concluded at  
8 approximately 11:45 a.m. Signature and  
9 formalities were not waived.)

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Bethany Guerriero

April 25, 2024

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EXCEPT FOR ANY CORRECTIONS MADE ON  
THE ERRATA SHEET BY ME, I CERTIFY  
THIS IS A TRUE AND ACCURATE TRANSCRIPT.

BETHANY GUERRIERO

Sworn to and subscribed before me this

day of 2024.

Personally known or I.D. \_\_\_\_\_

Notary Public in and for the  
State of Florida at Large

My commission expires:



Bethany Guerriero

April 25, 2024

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CERTIFICATE OF OATH OF WITNESS

THE STATE OF FLORIDA )  
 ) SS:  
COUNTY OF PALM BEACH )

I, Robyn Maxwell, Registered Professional Reporter, Registered Professional Reporter, Notary Public in and for the State of Florida at Large, certify that the witness, BETHANY GUERRIERO, personally appeared before me on April 25, 2024 and was duly sworn by me.

WITNESS my hand and official seal this 13th day of May, 2024.

*Robyn Maxwell*

<%16987,Signature%>  
Robyn Maxwell, RPR, FPR, CLR  
Realtime Systems Administrator  
Notary Public, State of Florida at Large

Notary No. HH 232817

My Commission Expires: 4/4/2028

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REPORTER'S DEPOSITION CERTIFICATE

THE STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

I, Robyn Maxwell, Florida Professional Reporter, certify that I was authorized to and did stenographically report the deposition of BETHANY GUERRIERO, the witness herein on April 25, 2024; that a review of the transcript was requested; that the foregoing pages numbered pages 1 through 168; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 13th day of May, 2024.

*Robyn Maxwell*  
\_\_\_\_\_  
%16987, Signature%

Robyn Maxwell, RPR, FPR, CLR  
Realtime Systems Administrator

1 Gregory Joseph Morse, ESQUIRE  
greg@morselegal.com

2

3 13th of May, 2024

4 RE: Gould, Ryan vs. Guerriero, Bethany, et ano  
04/25/2024, BETHANY GUERRIERO, FLA 6672209

5

6 The above-referenced transcript is available for  
7 review.

8 The witness should read the testimony to verify its  
9 accuracy. If there are any changes, The witness should  
10 note those with the reason on the attached Errata Sheet.

11 The witness should, please, date and sign the Errata  
12 Sheet and email to the deposing attorney as well as to  
13 Veritext at Transcripts-fl@veritext.com and copies will  
14 be emailed to all ordering parties.

15 It is suggested that the completed errata be returned  
16 30 days from receipt of testimony, as considered  
17 reasonable under Federal rules\*, however, there is no  
18 Florida statute to this regard.

19 If the witness fails to do so, the transcript may be  
20 used as if signed.

21 Yours,

22 Veritext Legal Solutions

23 \*Federal Civil Procedure Rule 30(e)/Florida Civil  
24 Procedure Rule 1.310(e).

25

1 RE: Gould, Ryan vs. Guerriero, Bethany, et ano | FLA  
2 6672209

3 DEPO OF: BETHANY GUERRIERO TAKEN: 04/25/2024

4 E R R A T A S H E E T

5 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

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7 REASON \_\_\_\_\_

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19 REASON \_\_\_\_\_

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21 Under penalties of perjury, I declare that I have  
22 read the foregoing document and that the facts  
23 stated in it are true.

23

24

25 \_\_\_\_\_ DATE \_\_\_\_\_  
BETHANY GUERRIERO

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