

SGT. JAMES E. BUTLER
82562

February 21, 2025

46 to 49

Page 46 1 THE DEPONENT: Yes. 2 BY MR. BENAK: 3 Q. Okay. For instance, if he was down the 4 block, 100 feet away, whether or not force was 5 excessive would be different than if he was three 6 feet away, correct? 7 MS. MOORE: Objection, form, incomplete, 8 hypothetical. 9 THE DEPONENT: It depends on the 10 circumstances. 11 BY MR. BENAK: 12 Q. Well, let's put it a different way. If 13 there is a danger imposed, a danger of loss or 14 injury to Mr. Maynard by his proximity to the 15 discharge of a weapon, wouldn't that be important in 16 determining whether use of force was objective and 17 reasonable? 18 MS. MOORE: Same objection. 19 THE DEPONENT: My conclusion would not 20 make a determination under use of force whether it's 21 appropriate or not. 22 BY MR. BENAK: 23 Q. Right. But it would make a difference to 24 others who looked at your report, whether they've 25 learned Mr. Maynard was three feet away or 30 feet	Page 48 1 Q. In your experience? 2 A. In my experience, she said he was close so 3 – 4 Q. So you didn't take it any further than 5 that? 6 A. Correct. 7 Q. Turn your attention if you will please to 8 the Bates number page 2284, which is page 4 of this 9 exhibit. Excuse me. Page 5. It's the last page of 10 the exhibit. 11 And I am looking at Roman three B – 12 excuse me – Roman three C – I guess I'm on the 13 wrong page. Hang on a second. 14 Roman four on page 3 of the exhibit, 15 that's where we're going to start. Are you with me? 16 It's called use of deadly force. 17 A. Yes. 18 Q. The definition is, "Deadly force is force 19 by any means that is likely to cause death or great 20 bodily harm." Did I read that correctly? 21 A. You did. 22 Q. Now, isn't the proximity to the civilian, 23 in this case, Kent Maynard, relevant to whether the 24 path of the bullet is likely to cause great death or 25 bodily harm?
Page 47 1 away. Isn't that true? 2 MS. MOORE: Objection, form, foundation, 3 incomplete hypothetical, calls for speculation. 4 BY MR. BENAK: 5 Q. Do you understand my question? 6 A. I understand. And the distance, no. 7 Q. So you didn't think the distance was 8 important to investigate? 9 MS. MOORE: Same objections. 10 THE DEPONENT: No. She said he was close, 11 and I didn't think it was appropriate or necessary 12 to ask her to give me exact footage. 13 BY MR. BENAK: 14 Q. What if you learned that Mr. Maynard's 15 head was two inches away from the path of the 16 bullet? Would that make a difference? 17 MS. MOORE: Same objections. 18 THE DEPONENT: To my investigation, no. 19 BY MR. BENAK: 20 Q. Well, in ensuring the accuracy of the TRR, 21 wouldn't it make sense to include the proximity of a 22 civilian to the line of fire of a discharged weapon? 23 MS. MOORE: Objection, foundation, calls 24 for speculation. 25 BY MR. BENAK:	Page 49 1 MS. MOORE: Objection, form, foundation, 2 incomplete hypothetical. 3 BY MR. BENAK: 4 Q. You can answer. 5 A. Can you repeat that? 6 Q. Sure. I'm focused on the part of the 7 phrase that says, "Any means likely to cause death 8 or great bodily harm." Are you with me? 9 A. I am. 10 Q. And if Mr. Maynard was three inches from 11 the path of the bullet, isn't that a question or 12 isn't that an indicator of whether he is likely or 13 unlikely to cause death or great bodily harm? 14 MS. MOORE: Objection, form. 15 THE DEPONENT: The distance wouldn't 16 matter. It'd be on the distance of the bullet. 17 BY MR. BENAK: 18 Q. So it's not more likely that he would've 19 been shot three inches from the path of the bullet 20 as opposed to 30 feet? Is that what you're telling 21 me? 22 MS. MOORE: Same objection. 23 THE DEPONENT: It would – it would all 24 depend. I mean there's a lot of variables. 25 BY MR. BENAK:

SGT. JAMES E. BUTLER
82562

February 21, 2025

110 to 113

Page 110 1 BY MR. BENAK: 2 Q. You think it's crazy? 3 A. If it was reasonable? 4 Q. Yeah. I'm asking you whether or not you 5 think it's crazy that Kent Maynard thinks that 6 Officer Mostek used unreasonable force having looked 7 at everything you looked at today? 8 MS. MOORE: Same objection. 9 THE DEPONENT: Do I think he has a 10 legitimate claim? 11 BY MR. BENAK: 12 Q. Yes. 13 A. You're asking me to determine whether – 14 Q. Well, I'm not. I'm asking you your 15 understanding. Let's phrase it so we've got – 16 we're going to track this message. 17 FOP said that he was making up crazy – 18 what did they say? "May be making up crazy 19 exaggerated complaints." 20 A. Complaints. 21 Q. Okay. Based on everything you've seen 22 today, do you think that Mr. Maynard's complaint 23 that she used unreasonable force in killing his dog 24 is a crazy made up, exaggerated complaint? 25 MS. MOORE: Objection, form, foundation,	Page 112 1 said, adding on compound and competency. 2 BY MR. BENAK: 3 Q. Do you have the question in mind? 4 A. You're asking me to make my determination 5 on whether her use of force was justified or not? 6 Q. Well, let's make it simple. They've said 7 it's a crazy exaggerated complaint, Sergeant, okay? 8 And based on everything you've seen today, do you 9 think it's a crazy exaggerated complaint for Mr. 10 Maynard to think that she used excessive force? 11 MS. MOORE: Same objections. 12 THE DEPONENT: I don't know what the 13 complaint that was made. I never read the 14 complaint, so I don't know if any portions of it 15 were exaggerated. 16 BY MR. BENAK: 17 Q. Okay. Well, let's just – let's just make 18 it just – 19 A. I think he has – he has the right to make 20 a complaint. As far as it being exaggerated, I'm 21 unaware of any exaggeration because I never read the 22 complaint or had any conversation. 23 Q. I want to make this real simple. You've 24 watched all the videotapes. You've looked at the 25 witness reviews by – excuse me, you've looked at
Page 111 1 calls for speculation, calls for legal conclusion. 2 Go ahead and answer. 3 THE DEPONENT: You asking – I don't know 4 what – I didn't have any conversation with FOP. 5 She never told me what the allegations were, the 6 complaints were, so I don't know if they were 7 exaggerated or not. 8 BY MR. BENAK: 9 Q. Well, I'm just going to ask you, do you 10 think it was exaggerated for Mr. Maynard based on 11 everything you've seen to claim that she used 12 excessive force based on what you've seen? 13 A. Based on what I – 14 MS. MOORE: Same objections and asked and 15 answered. 16 Go ahead. 17 BY MR. BENAK: 18 Q. Go ahead. 19 A. Do I think it's unreasonable? 20 Q. Did you think that the force that Carmen 21 Mostek used – Officer Mostek used was unreasonable? 22 That's the first question. And the second question 23 is whether you think it's crazy for Mr. Maynard to 24 make that claim? 25 MS. MOORE: Same objections I've already	Page 113 1 the BWC body camera of Zhao. You've seen the 2 witness that were around. You've heard Mr. 3 Maynard's distress at his dog being killed, and you 4 saw the video of how it happened. 5 And what I'm asking you is do you think a 6 claim that Officer Mostek used excessive force is 7 crazy and made up? 8 MS. MOORE: Same objections I've already 9 asserted to this line of questioning and adding on 10 that this has now been asked and answered a handful 11 of times. 12 BY MR. BENAK: 13 Q. Officer or Sergeant, can you answer that, 14 please? 15 A. Do I think that specific – making an 16 allegation that the use of force was unnecessary? 17 That was his complaint, is that being exaggerated? 18 Q. Yes. 19 A. Based on that, no. 20 Q. Now, you say, I believe following up, "I 21 wouldn't worry about it. He's on body camera acting 22 like a fool." That's your response to her – her 23 message. 24 A. Yes. 25 Q. Okay. And on what do you base your

SGT. JAMES E. BUTLER
82562

February 21, 2025

114 to 117

Page 114 1 statement that he's on body cam making himself look 2 like a fool? 3 A. I would assume that he was on body camera 4 because I know he was swearing a lot and yelling. 5 Q. So we watched the body camera from Officer 6 Zhao's camera where Mr. Maynard approached Officer 7 Zhao and complained that he had the dog in his hand 8 when he was – when the dog was shot. Did you think 9 that should be characterized as Mr. Maynard acting 10 like a fool? 11 MS. MOORE: Objection, form, incomplete 12 hypothetical. 13 THE DEPONENT: No. 14 BY MR. BENAK: 15 Q. What is it about what you knew about the 16 case at this time that made you think that the jag 17 off – by the way, this guy sitting right next to me 18 – that that jag off was looking like a fool on the 19 BWC? What part of the BWC did you see that made you 20 say that? 21 MS. MOORE: Object to the form of the 22 question. 23 THE DEPONENT: I didn't see any. 24 BY MR. BENAK: 25 Q. Then she says in response, "Okay. Thanks.	Page 116 1 question, incomplete. 2 THE DEPONENT: The exact distance, no. 3 BY MR. BENAK: 4 Q. Okay. So there was no basis on which COPA 5 could make a determination that this was excessive 6 force because they didn't know how close Mr. Maynard 7 was; is that right? 8 MS. MOORE: Objection, form, foundation, 9 assumes facts. 10 BY MR. BENAK: 11 Q. You can answer. 12 A. You're asking me to make a determination 13 of what COPA's investigation revealed, which I'm not 14 – I don't know. 15 Q. Well, based on what you know about COPA's 16 investigation? 17 A. It's still pending. 18 Q. I understand that, but based on what you 19 know from the reports that were made by the officers 20 in the field, there was no evidence, no witness 21 statement, no testimony by an officer before COPA 22 filed its complaint that there was any issue of 23 excessive force because there was nobody who 24 commented on how close Mr. Maynard was. Isn't that 25 right?
Page 115 1 Yeah, hopefully it gets squashed." What did you 2 understand that to mean? 3 MS. MOORE: Objection, calls for 4 speculation – to the extent it calls for 5 speculation. 6 THE DEPONENT: I could only speculate to 7 what – that it did – a COPA investigation doesn't 8 do anything with it. 9 BY MR. BENAK: 10 Q. Well, getting squashed is a little bit 11 different than being resolved, isn't it, Sergeant? 12 MS. MOORE: Objection, form. 13 THE DEPONENT: Yes. 14 BY MR. BENAK: 15 Q. Okay. And you're the recipient of this 16 message and so you have an understanding of what she 17 means when she says, "Hopefully it gets squashed." 18 So you thought that meant what? 19 A. That COPA would determine that her use of 20 force was fine. 21 Q. Right, because there was no evidence 22 anywhere in the TRR or any report made in this case 23 that had anything to do with how close Mr. Maynard 24 was when the shot was fired. Isn't that right? 25 MS. MOORE: Object to the form of the	Page 117 1 MS. MOORE: Object to the form of the 2 question, foundation, incomplete hypothetical, 3 argumentative. 4 BY MR. BENAK: 5 Q. You can answer, Sergeant. 6 A. Whether or not – it would not have 7 determined how far Mr. Maynard was from the dog, 8 whether she used excessive force or not. 9 Q. I didn't quite understand your question. 10 A. You're asking me if – 11 Q. Can you repeat? 12 A. Yes. COPA is conducting the 13 investigation. If she used excessive force, it 14 wouldn't to determine whether how far Mr. Maynard 15 was from Officer Mostek. 16 Q. But as far as you knew, there was no one 17 who told COPA or no one who participated in the TRR 18 that talked about how close Mr. Maynard was. Isn't 19 that right? 20 A. I don't – 21 MS. MOORE: Objection, form. 22 THE DEPONENT: I don't know who COPA 23 talked to. 24 BY MR. BENAK: 25 Q. I'm saying that from the people you do

SGT. JAMES E. BUTLER
82562

February 21, 2025

130 to 133

Page 130 1 MR. BENAK: Let's make -- yeah, let's make 2 that an exhibit, too. 3 THE REPORTER: All right. So then exhibit 4 -- 5 MR. BENAK: Whatever number it is. 6 THE REPORTER: Okay. So then for Exhibit 7 13. 8 MR. BENAK: 13. 9 (WHEREUPON, Exhibit 13 was marked for 10 identification.) 11 MS. MOORE: How are we on the -- is it the 12 regular angle? 13 THE VIDEOGRAPHER: Yeah, go ahead. 14 MS. MOORE: Just don't want to be in the - 15 - okay. 16 EXAMINATION 17 BY MS. MOORE: 18 Q. I just have a few follow-up questions, 19 Sergeant. 20 First of all, earlier you said that you 21 were describing what a paper card was and you said 22 assigned to do the report. Can you explain what 23 that means? 24 A. They were assigned to prepare the report 25 for the incident.	Page 132 1 describe why they used force? 2 A. The force that they used and why they used 3 that force, yes. That's what the narrative portion 4 is. 5 Q. Okay. Now and this exhibit too is only a 6 portion of the tactical response report; is that 7 correct? 8 A. I believe there's another section that was 9 completed by the captain. 10 Q. Correct. So looking at your section, the 11 reviewing supervisor, you wrote in your comments 12 that you have reviewed the tactical response report 13 and affirmed that the report is legible and 14 complete. 15 That's what you wrote, right? 16 A. That's correct. 17 Q. Now complete, what does that mean? 18 A. It means all the boxes were checked, that 19 the information is filled out in here as far as the 20 officer's name, just that all the boxes are checked. 21 Q. Okay. So as the reviewing supervisor, 22 you're essentially reviewing the report to make sure 23 the appropriate columns are filled out? 24 A. That's correct. 25 Q. In terms of any investigation, that goes
Page 131 1 Q. Okay. So literally, go into the form, 2 fill out the information that they have at that 3 time? 4 A. That is correct. 5 Q. Anything more than that? 6 MR. BENAK: Objection. 7 THE DEPONENT: Making notifications. 8 BY MS. MOORE: 9 Q. Okay. And you described what those 10 notifications were, correct? 11 A. Yes. 12 Q. Now, when you arrived on scene, we saw 13 your body worn camera. Did you see any of these 14 witnesses in your body worn camera when you arrived 15 on scene? 16 A. I don't believe I did. 17 Q. Now, I want to turn to Exhibit 4, the TRR. 18 If you can find that in your stack of exhibits. 19 Okay. What is the purpose of a tactical 20 response report? 21 A. When there's a use of force incident, the 22 officer documents their use of force and the reason 23 why they used that particular use of force. 24 Q. So the purpose of this narrative section 25 and checking off the boxes is for the officer to	Page 133 1 to the next level, true? 2 A. That's correct. 3 Q. Okay. And I'd also just -- I believe this 4 is actually not on this report, but -- because we 5 don't have the last two pages here. The TRR is 6 filled out right after the incident, true? 7 A. Correct. 8 Q. And it actually explicitly states that it 9 is done without further investigation, meaning 10 acknowledges that further things could come to light 11 like more video, things like that, right? 12 A. That's correct. 13 Q. Okay. So in terms of this Ring camera, 14 you didn't know when this was being filled out that 15 there was a Ring camera, correct? 16 A. That's correct. 17 Q. And the tactical response report itself, 18 even envisioned such a scenario that something could 19 be found later, right? 20 A. Yes. 21 Q. And that it would be addressed in other 22 means in a follow-up investigation? 23 A. Right. Investigating unit that's 24 following up, yes. 25 Q. Okay. And that is not you?