

IN THE SUPERIOR COURT OF CANDLER COUNTY
STATE OF GEORGIA

[Redacted Name]

Plaintiff,

vs. Civil Action File No.: [Redacted]

[Redacted Name]

Defendants.

VIDEOTAPED DEPOSITION OF: W. KEN KATSARIS

TAKEN AT THE INSTANCE OF: The Plaintiff

DATE: June 12, 2018

TIME: Commenced at 2:00 p.m.
Concluded at 5:17 p.m.

LOCATION: 2894 Remington Green Lane
Tallahassee, Florida

REPORTED BY: JO LANGSTON
Registered Professional
Reporter



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1 PROCEEDINGS
 2 * * *
 3 MR. BUTLER: This will be the deposition of Ken
 4 Katsaris, taken pursuant to notice and agreement,
 5 taken pursuant to the Georgia Civil Practice Act for
 6 all purposes permitted by the act, including use at
 7 trial. And with that, please do your read-on.
 8 We'll start the video and then swear the witness.
 9 VIDEOGRAPHER: We are now on the record. In
 10 the Superior Court of Candler County, State of
 11 Georgia, [REDACTED]
 12 [REDACTED]
 13 [REDACTED],
 14 [REDACTED], plaintiff, versus Metter, Georgia,
 15 and [REDACTED] defendants.
 16 This is the videotaped deposition of W. Ken
 17 Katsaris. We're at the offices of Accurate
 18 Stenotype Reporters at 2894 Remington Green Lane.
 19 It is June 14 (sic), 2018, at approximately
 20 2:00 p.m. Will the court stenographer please swear
 21 the witness.
 22 THE COURT REPORTER: Do you swear or affirm the
 23 testimony you're about to give will be the truth,
 24 the whole truth, and nothing but the truth?
 25 THE WITNESS: I do.

1 Q Okay. Let me plug my microphone back in. Did
 2 you bring your complete file with you today?
 3 A I did.
 4 Q I understand you did not bring your resume or
 5 testimony list; is that right?
 6 A With me, that's correct.
 7 Q I have those from counsel for the City. Did
 8 you bring all your notes on the case with you?
 9 A They're on -- they're not notes. They're
 10 simply Post-it notes that have on them a note, but the
 11 note is something on that page as opposed to an
 12 assessment. No assessments.
 13 Q Do you have any notes or assessments that you
 14 did not bring with you today?
 15 A No. I don't work that way.
 16 Q Did you take any notes other than the Post-it
 17 notes and writings I see on the documents in front of
 18 you?
 19 A No. I didn't. I don't. I never have.
 20 Q Did you bring all documents that you printed
 21 out for purposes of this case?
 22 A I brought a couple of extra things. Everything
 23 else was sent to me.
 24 Q What did you print out on your own?
 25 A I just brought a couple of things that I refer

1 VIDEOGRAPHER: Would the attorneys please
 2 identify themselves for the record.
 3 MR. BUTLER: Jeb Butler on behalf of the
 4 plaintiffs.
 5 MR. JONES: Justin Jones on behalf of the
 6 plaintiffs.
 7 MR. THRELKELD: Paul Threlkeld on behalf of the
 8 defendant City of Metter.
 9 MR. BICKNESE: Karsten Bicknese, attending via
 10 phone, on behalf of Defendant [REDACTED]
 11 WHEREUPON,
 12 W. KEN KATSARIS
 13 was called as a witness and, having been first duly sworn,
 14 was examined and testified as follows:
 15 DIRECT EXAMINATION
 16 BY MR. BUTLER:
 17 Q I brought with me, marked as Exhibit A, a copy
 18 of your notice of deposition.
 19 (Plaintiff's Exhibit A was marked.)
 20 MR. BUTLER: I only have one copy, Paul, if you
 21 want to take a look at it.
 22 BY MR. BUTLER:
 23 Q But look it over and tell me if that looks
 24 familiar to you, please, Mr. Katsaris.
 25 A Yes. I have it right here.

1 to when I'm teaching, for example. I brought with me the
 2 International Association of Chiefs of Police, the
 3 largest, most prestigious body of law enforcement
 4 administrators in the world. The National Law
 5 Enforcement Policy Center concepts and issue paper and
 6 model policy on pursuits, which would be, in my opinion,
 7 the only recognized document that anybody could turn to
 8 if you were to say, tell me what's reputable that would
 9 be recognized that other law enforcement administrators
 10 would readily go to.
 11 (Plaintiff's Exhibit B was marked.)
 12 Q Let's stop there and I'll mark that. Pass it
 13 to me, if you don't mind. Thank you. I'm going to mark
 14 it as Exhibit B to your deposition. And what I'm
 15 marking, as I understand it, is a model police policy.
 16 Is that right?
 17 A It's a model policy and a concepts and issues
 18 paper by the Law Enforcement Policy Center. It's all
 19 together, from the International Association of Chiefs of
 20 Police. And from here on out, I'll refer to it as IACP.
 21 Q Okay. I take it then that you consider
 22 Plaintiff's Exhibit B to be authoritative with respect to
 23 what should be in a police pursuit policy; is that right?
 24 A I consider it to be a recognized document that
 25 is the only one that would be recognized in the country

1 that one might turn to. They have, as a caveat at the
2 end, a declaration that this is a possible guide that
3 would depend on local political, environmental, bargained
4 agreements, other things that may impact how it might
5 change.

6 As far as -- it's at least semi-authoritative.
7 In other words, there is no other document. So I don't
8 rely on it. I just simply, when I'm teaching, say, if
9 you're going to turn to a document that everybody in the
10 country would have access to and would agree that at
11 least it's a base, that would be it. There is no other
12 such document.

13 Q So the IACP document marked as Exhibit B is
14 semi-authoritative?

15 A It's recognized as a beginning point for
16 everybody to know there are some things to consider when
17 you're talking about a pursuit policy.

18 Q Do you consider it authoritative, not
19 authoritative, semi-authoritative, or can you say?

20 A I would say semi-authoritative, if that is such
21 a thing actually. In other words, it is not
22 authoritative to the extent that I would tell somebody,
23 Go print it and put your name on it. I would say, Read
24 it and see what's in agreement with your commission,
25 manager, chief, if it's a chief, or sheriff or director

1 Q All right. Why did you print and bring Scott
2 against Harris?

3 A It is a federal case, largely dealing with
4 constitutional standards obviously. However, we in law
5 enforcement have long recognized that the Supreme Court
6 is usually the initiating point for the establishment of
7 standards and law and guides for law enforcement actions
8 and activities.

9 We can go all the way back to, in law
10 enforcement for pursuits, to the Inyo County case, Brower
11 v. Inyo County. It was a federal, constitutional case at
12 the federal level, but it became part and parcel of all
13 policies and procedures throughout the nation. Tennessee
14 v. Garner, a constitutional case, Tennessee, it was a
15 federal case. It became a part and parcel of every state
16 statute in all 50 states.

17 Graham v. Connor was a case that was federal,
18 was constitutional in nature. But the Supreme Court
19 established a standard of care for the operation of law
20 enforcement procedures. I believe that Scott v. Harris,
21 in combination with other cases that some I've mentioned,
22 some I haven't, also established and are taken by law
23 enforcement nationwide to be recognized and authoritative
24 for the establishment of their own procedures in law
25 enforcement at the state level.

1 of a patrol statewide. It at least is a beginning point
2 of what is generally agreed on in most cases.

3 Q It's a starting point?

4 A It is, and a baseline that everybody can at
5 least say here's a beginning.

6 Q All right. What else did you print off and
7 bring with you today that was not sent to you by counsel
8 for the City?

9 A The Supreme Court decision in Scott v. Harris,
10 which is a Georgia case.

11 Q Well, it's -- I understand what you mean.

12 A It's a federal case, but it was in Georgia.
13 (Plaintiff's Exhibit C was marked.)

14 Q Right. 2007, video cameras. I was a clerk
15 when this one came out, or just after. I was a clerk
16 just after this one came out. All right. I'm going to
17 mark that as Exhibit C to your deposition.

18 Is there anything else that you printed and
19 brought with you today that was not sent to you by
20 counsel for the City?

21 A I'm not sure if they sent it to me or I got it
22 myself. Title 40, motor vehicles, Georgia State.

23 Q Okay. Hand it to me.

24 A I don't know if it was in my file or I put it
25 in there. I don't know.

1 My own state of Florida, for example, started
2 changing policy and procedure as a result of Scott v.
3 Harris. They changed it at the local and state level
4 even though that's a federal case. They took it as
5 procedure that we should be following.

6 Q What does Scott against Harris have to do with
7 this case?

8 A It's a pursuit case.

9 Q Is there a rule announced in Scott against
10 Harris that you believe applies to the case that we're
11 here about today?

12 A There's a rationale established by the Court.

13 Q What is that?

14 A That I have -- actually, I marked it, not that
15 I relied on it, but I knew it was there. I just marked
16 it so we could go to it. That indicates, by the U.S.
17 Supreme Court, that allowing someone, because they drive
18 fast, they drive reckless, they go over the double yellow
19 line a few times, they speed up to 90 or 100 miles an
20 hour, they run a stoplight or a stop sign or two, they
21 are home free, the law enforcement officers can't chase
22 them. They said, no, that's not right.

23 So the Court established in the body of the
24 case that, you know, fleeing from the police creates a
25 danger on the roadway that they should not be allowed to

1 create just to get away. So therefore they said that
2 it's reasonable for a police officer to continue a chase,
3 just so that there is no policy that dictates a law
4 enforcement officer has to terminate because they became
5 dangerous.

6 Q What was the underlying offense in Scott
7 against Harris?

8 A Traffic, speeding.

9 Q All right. Did Scott against Harris involve
10 the police pursuit policy of Metter, Georgia?

11 A No. Coweta County.

12 Q Coweta.

13 A Coweta. Sorry.

14 Q I passed through it today. Do you consider
15 yourself an expert on the law?

16 A Well, the State of Florida has given me the,
17 quote, unquote, blessing to teach the law to police
18 officers. To that extent, I would say my interpretation,
19 my gathering of information and my presenting it in the
20 classroom, they've allowed me to do that.

21 Now, would I go before a judge in a court and
22 say I'm an expert in the law? Probably not. I am at
23 least expert in -- I would call it subject matter expert,
24 which is what the State says.

25 Q I'm asking because courts have particular

1 A That's correct.

2 Q I think you testified in all 50 states, Puerto
3 Rico, Guam, District of Columbia, Canada and Australia;
4 is that right?

5 A No.

6 Q No.

7 A No.

8 Q What's wrong about that?

9 A Well, you used the word "testify." I have been
10 retained.

11 Q I see.

12 A I've certainly testified widely, but I haven't
13 had the pleasure of actually being in court in every one
14 of those jurisdictions. I have been retained by someone
15 in law enforcement in all 50 states, Canada, several
16 foreign countries, and all the possessions of this
17 country.

18 Q Does that mean you've been retained in all
19 those places, but it might not have always been in a
20 litigation matter; is that right?

21 A No. It was.

22 Q It was. So you've been involved in litigation
23 in all 50 states?

24 A I just haven't been to court in every one of
25 those jurisdictions.

1 thoughts on experts on the law, and I'm not sure that's
2 your area -- the area in which you've been designated
3 here. Do you have any opinions involving expertise on
4 the law that you intend to offer in the case of [REDACTED]
5 against the City of Metter?

6 A I didn't develop legal opinions. I'm only
7 bringing to your attention that in order to teach policy
8 and procedure, one has to know the law. And it's very
9 difficult to go into a classroom in a police academy and
10 simply say, I don't know the law, we're just going to
11 talk about policy, because the policy is driven by the
12 law.

13 I have to present it. So I'm saying to you,
14 I'll answer questions. I'll bring in information. Does
15 that make me an expert in the court on law? No.

16 Q So you're not an expert in the court on the
17 law; is that fair?

18 A In the court I would not say I am here to
19 render myself as an expert on the law. I would say an
20 expert on pursuits, which means I have to understand the
21 law sufficiently to teach it.

22 Q All right. I think we've gone through
23 everything that you've printed and brought with you that
24 was not sent to you by counsel for the City; is that
25 right?

1 Q I understand. Been retained in litigation,
2 then, in all 50 states, Puerto Rico, Guam, District of
3 Columbia, Canada and Australia; is that right?

4 A At least, yes.

5 Q I brought with me the testimony list that I got
6 from counsel for the City. I'll mark it and hand it to
7 you. I've got two lists, one for trials, one for
8 depositions. Does that sound familiar?

9 A Yes.

10 (Plaintiff's Exhibit D was marked.)

11 Q I'm now handing you what I've marked as
12 Plaintiff's Exhibit D. Does that appear to be your trial
13 testimony list?

14 A Yes.

15 Q How far back does it go?

16 A It's supposed to be four years. It could be a
17 little bit more.

18 Q What happens to the cases that are older than
19 four years?

20 A What happens to the other ones?

21 Q Yeah.

22 A They disappear.

23 Q Why do they disappear?

24 A Because I'm not required to keep them, and I'm
25 not going to -- I'm not interested in having all the

1 information of my entire life. I simply keep what the
2 Court requires.

3 Q Do you delete or ask your staff to delete cases
4 older than four years?

5 A It's been a long time since I've had that
6 discussion with the person that works as a -- she's not
7 an employee of mine. She's her own employer, but she
8 does work for me. She uses her own computers. I just
9 tell her, Give me everything that -- you know, I keep --
10 I give her -- I feed her the cases and she drops off
11 everything else. I don't know what happens to it.

12 Q Does she delete cases older than four years?

13 A Yes. Unless it's a little older. It could be
14 a little older than four.

15 Q Why are there no dates on any of these cases?

16 A I don't usually give her dates. I don't
17 believe the date was required by the Court.

18 Q How do you know which ones are older than four
19 years?

20 A I don't. That's why I said it's probably five
21 years. I think we err on the side of caution. She drops
22 off those that she thinks are older.

23 (Plaintiff's Exhibit E was marked.)

24 Q I will show you what I've marked as Plaintiff's
25 Exhibit E. Does that appear to be your testimony list

1 retained 70 or 75 percent by the defense in civil cases.

2 Do I remember that right?

3 A Retained, yes. That doesn't mean that I give
4 them favorable opinions. It doesn't mean that it goes to
5 deposition or trial.

6 Q All right. I'm interested to know how many of
7 your cases involve shootings, how many involve vehicle
8 pursuits or how it breaks down by subject matter.

9 A Well, ever since the Sacramento case that went
10 to the U.S. Supreme Court that established the "shocks
11 the conscience" standard for a federal constitutional
12 violation, there was an immediate and dramatic drop in
13 pursuit cases even brought to court, because plaintiffs
14 are filing in state court. Many don't wish to do that
15 and don't. So there's been an immense drop. So I used
16 to do a lot of pursuit cases.

17 I would say that probably shootings would be
18 more than others, but use of force in general would be
19 the higher category.

20 Q I see. When you say use of force, does that
21 include vehicular pursuit cases, or is that a different
22 category in the way you're using the words now?

23 A Well, of course, you could put a use of force
24 twist to vehicles. I mean, vehicles have been considered
25 the potential for deadly force. Obviously 37,000 people

1 for depositions?

2 A Yes.

3 Q And, again, I presume cases older than four
4 years get deleted. Is that true?

5 A Probably five, but true.

6 Q And, again, there's no dates on this one?

7 A No.

8 Q In civil -- in cases where you've been retained
9 in a civil case, have you testified on behalf of both
10 defendants and plaintiffs?

11 A Yes.

12 Q In what percentages, roughly?

13 A I'm probably retained more by the defense. I
14 don't know the percentage for sure. Maybe 70, 75 percent
15 retained. The only way I could tell you how the
16 testimony works out would be to run through and mark
17 these as plaintiff and defense. And I would assume it
18 would come out fairly close to even, probably maybe one
19 or the other.

20 I think on depositions it's going to come out
21 heavier on the plaintiff side. And that's because
22 sometimes the plaintiffs don't take my deposition and the
23 defense does.

24 Q I see. We don't need to go through every case,
25 but my understanding is you've said that you've been

1 a year die in automobile crashes. If they weren't
2 deadly, they wouldn't -- we wouldn't have so many dead
3 people. But you could say that there's a deadly force
4 component.

5 But a vehicle is seldom ever used as a tool in
6 law enforcement for deadly force. I have a couple of
7 examples that I show in training, for example, where that
8 occurs, but it --

9 Q I can save us a little time. You don't have
10 to -- I appreciate it. What I'm trying to drive at is
11 the areas in which you normally testify, and you said a
12 lot of it is use of force. I take it, when you say use
13 of force, you don't mean vehicle pursuit in the context
14 of that question. Am I right?

15 A I'm not. That's correct.

16 Q Okay. What percentage of the time that you
17 testify in do you think it involves vehicle pursuits?

18 A Very little.

19 Q Something like five percent or less?

20 A I never categorized it. I would say that it
21 dropped dramatically after Sacramento.

22 Q When was that, the Sacramento case?

23 A If I could look at -- I think the date is in
24 here, because the case is discussed. Let me see if they
25 put it in here. Lewis v. Sacramento. 1998.

1 Q What ballpark figure do you think it is you --
2 how many -- since '98, how many vehicle pursuit cases do
3 you figure you've testified in or been retained in?

4 A I have no idea. I have no way of knowing. I
5 would have to look at this to tell you what it was for
6 the last four to five years. That's all I would know.

7 Q In the vehicle pursuit cases that you do
8 recall, have there been some where you testified for the
9 defense and some for the plaintiff, or has it all --

10 A Yes.

11 Q -- been one side?

12 A There have been some for the plaintiff, sure.

13 Q All right. Have you ever testified that a
14 police chase, vehicular chase was not justified?

15 A Yes.

16 Q Tell me about that.

17 A Gosh, I'll try to remember. I don't know.
18 Pursuit cases are -- if I may establish for you where I
19 have to come from in doing pursuit cases, there is a
20 national recognized standard in use of force that is
21 tested by Graham v. Connor with the interface of
22 Tennessee v. Garner. So that's pretty established.

23 The issue with pursuits, as you will see as you
24 read this document from the International Association of
25 Chiefs of Police, it sets out that basically every

1 A That being -- I'm on my train of thought and
2 you're interrupting it. That being the case, I may
3 testify in another case that the deputy, officer, trooper
4 did not follow the recognized procedure that he was given
5 as a guide by his own agency and/or state.

6 So I'm not going to go in and make up the rules
7 or I don't want to be Dauberted out either. I'm not
8 going to go in and testify that this is my thoughts, this
9 is what I want, I want to see them do this.

10 You will see clearly in this document there is
11 no law anywhere in the land that establishes what you
12 must have to have a pursuit policy. That being the case,
13 I have testified according to the pursuit guidelines of
14 that agency.

15 Q Is it possible for the pursuit guidelines of an
16 agency to be unreasonable?

17 A I'm sure. I just -- I don't know what that is,
18 but I was taught actually in first grade to be careful of
19 always and never. Those are two words that, you know, go
20 through life and think about it whenever anybody says
21 that.

22 Q Would you pass me those papers you printed off
23 again? We had them up here.

24 A Yeah. I picked them up. I thought I might
25 refer to them.

1 pursuit has to be judged by the policy that the agency
2 has in place.

3 Therefore, candidly, when you're in state court
4 and you're looking at whether the officer violated their
5 policy or not, you can't come in and establish your own
6 elusive, This is my standard. There is an expert out
7 there that does, who has a true belief in a certain
8 category of offense that's necessary to pursue.

9 Q Who are you talking about?

10 A Geoffrey Alpert, Dr. Alpert.

11 Q You can say his name.

12 A Well, I like Geoff and I don't have any ax to
13 grind. Dr. Alpert believes that unless it's a violent
14 crime, it is not a justifiable pursuit, and even then it
15 may not be justified. But that's his belief. And he
16 can't go to any place in the country, any document except
17 written by him, to find that it says that's the case.

18 Here is the document that guides tens of
19 thousands of police chiefs, sheriffs, directors, et
20 cetera, about what the parameters are. And it says, it
21 boils down to it's what the policy is. So that being the
22 case --

23 Q Let me stop you and ask you --

24 A No. I want to answer your question.

25 Q Is it possible to have --

1 Q There was a third. You've passed it to me. I
2 have it right here. So is it true that when you assess
3 in this case proper -- is it true that when you assess in
4 this case proper law enforcement procedures, what you're
5 thinking about is the City of Metter's policy?

6 A Correct.

7 Q As opposed to what you might consider in the
8 abstract or even as to what --

9 A The IACP?

10 Q -- the IACP may consider proper?

11 A Yes.

12 Q All right. I'll hand these back. I'll set
13 them here because we marked them, but grab them if you
14 need to.

15 Are there circumstances in which you think a
16 vehicle pursuit would be unreasonable regardless of what
17 the local policy says?

18 A I'm sure we could get there.

19 Q What would it be for you?

20 A I really have not had time to sit and think of
21 what that might be. I think there was a time when, for
22 example, I rendered an opinion that happened here in
23 Florida, South Florida -- I was trying to remember where
24 it was, I'm sure it was a court case -- where they got
25 tired of chasing the car. They had a helicopter in the

1 air. They took their AR-15s from the helicopter and just
2 started pummeling the car with rounds --

3 Q You can't do that?

4 A -- from the air. You could under certain
5 circumstances, but I didn't think so in a traffic
6 violation.

7 Q Do you agree that an officer is not justified
8 in engaging in a high-speed pursuit just because the
9 suspect flees at high speed?

10 MR. THRELKELD: Object to the form.

11 THE WITNESS: That depends on the policy.

12 BY MR. BUTLER:

13 Q If a policy were to say that a high-speed
14 pursuit was justified any time that a suspect fled at
15 high speed, would you think that policy was reasonable?

16 A There's no guide that says it wouldn't be, so
17 it's up to the local government, so it would have to be
18 reasonable.

19 Q You would have no problem with that?

20 A They're allowed to have the policy in place
21 that allows for -- that would be a policy that allows
22 officer discretion on pursuit. That would be reasonable,
23 that's correct.

24 Q What about under -- well, I guess I need to go
25 ahead and ask you this. Do you have an opinion as to

1 A No, I wouldn't say that. I would say that I
2 accepted that, out of the people deposed that I had
3 information from, who should know, one said, I was given
4 that policy. I signed off on that policy. I followed
5 that policy, and I never saw this other policy, 12, which
6 would be the other one.

7 And the chief said, This was the policy that
8 was in the locker room. This is the one that everybody
9 looked at. This is the one we gave out. So I do have an
10 opinion that that was the policy in effect, based on
11 information given to me under oath. Other than that, I
12 see there's some dispute, and I can't resolve it other
13 than that.

14 Q Okay. So you do have an opinion on which
15 policy was in place on December 5, 2015?

16 A I have an opinion based on testimony, yes.

17 Q Your opinion is that 5-3 was in effect on
18 December 5, 2015. Is that true?

19 A That's true.

20 Q The basis for that is the testimony of Adrian
21 Montevalvo and Mack Seckinger; is that true?

22 A Correct, sir.

23 Q Is there any other basis for that opinion?

24 A I don't believe there was any -- let me look at
25 my depositions. Well, [REDACTED] [REDACTED] certainly said they

1 what the City of Metter's police pursuit policy was as of
2 December 5th, 2015, the date of this chase and collision?

3 A I'm not sure what you're asking me. Perhaps
4 you could define that a little bit better. Do you want
5 me to tell you how to correct it?

6 Q Yeah.

7 A Are you asking me what they have to have in the
8 policy, or are you asking me about the two different
9 policies that are at issue?

10 Q I'm asking you do you have an opinion as to
11 what policy governed on December 5, 2015.

12 A But you didn't say that. You immediately took
13 for granted, without putting on the record, that there
14 are two policies. Mr. Katsaris, have you evaluated each
15 of those, and which one of those do you think was in
16 effect? Because the way you said it, I could take it
17 another way as well. In any event, I do not know.

18 Q Okay.

19 A I only know what was testified to. And that is
20 that the officer said 5-3, 5-dash-3. The chief at the
21 time said 5-3. And I don't have anything else basically
22 to go on, other than that policy was there.

23 Q All right. Is it fair to say then that you
24 have no opinion as to which policy governed police
25 pursuits on December 5th, 2015?

1 implemented it. They chased him. The chief was offered
2 as a 26(b) witness as well, and he has a
3 double-under-oath testimony to that. So he had a chance
4 to think about it and still came up with the same answer.
5 I really don't have any other evidence.

6 Q Okay. So your basis for that is testimony of
7 Seckinger twice and Montevalvo once, and that's it; is
8 that fair?

9 A That's fair.

10 Q Have you evaluated the -- hold on. Let me do
11 this right. We're going out of my anticipated order, so
12 I've got to dig into my documents. All right. We've
13 been referring -- we've been referring to a document that
14 we've called 5-3. Is that the same document that's
15 already been marked as Plaintiff's Exhibit 6 that's
16 before you now?

17 A My perusal of various pages indicate it's the
18 same, yes.

19 Q All right. And we've been referring also to
20 another policy that I believe you identified as Chapter
21 12. And does that appear to be the same Chapter 12
22 that's included in what's already been marked as
23 Plaintiff's Exhibit 5, which says on the front Metter
24 Police Department Standard Operating Procedures -- excuse
25 me -- Standard Operating Policy and Procedures Manual?

1 A Yes. It appears to be that, yes.
 2 Q All right. I think you said earlier that you
 3 understood there to be a dispute as to which policy was
 4 in place. Am I correctly remembering what you said?
 5 A Well, there's certainly a discussion about that
 6 in the record, yes.
 7 Q What parts of -- why do you say there's a
 8 dispute? In what parts of the record have you seen that?
 9 A Well, I really didn't archive it. I just know
 10 from reading the file that there's certainly an
 11 allegation, at least by the plaintiffs, about 12 being in
 12 effect, that they were asked about whether it was 12 or
 13 5-3. And I saw a lot of give and take and question and
 14 answers on that issue, so --
 15 Q In context much like this?
 16 A Pardon?
 17 Q In context much like this. Have you formulated
 18 an opinion as to whether the actions of Adrian Montevalvo
 19 on December 5, 2015, violated the policy that's contained
 20 in Plaintiff's Exhibit 5?
 21 A Which is? Five is which one?
 22 Q Five is --
 23 A Is that 12?
 24 Q Five contains Chapter 12, that's right.
 25 A He would have violated 12, yeah.

1 increasingly dangerous driving by the suspect after the
 2 chase begins does constitute grounds to continue the
 3 high-speed pursuit?
 4 A Yes. We just broke a record, by the way. The
 5 court reporter would tell you. I don't think that I've
 6 answered ever three times in a row with one word.
 7 Q Well, it must have been good questions. You're
 8 welcome.
 9 A Right.
 10 Q In order to be reasonable, do you think that an
 11 agency's pursuit policy has to create some situations in
 12 which a high-speed pursuit is impermissible?
 13 A What has to be reasonable? If you would answer
 14 that. Or I can just tell you that I can't answer your
 15 question. I don't understand it.
 16 Q Either way works. I'll try again.
 17 A I can help you clear it up.
 18 Q All right.
 19 A You said, is it reasonable. Is what
 20 reasonable? Is the policy reasonable? Is the action
 21 reasonable? In other words, you are vague and not clear
 22 enough for me to answer.
 23 Q All right. Do you believe that in order for a
 24 policy to be reasonable, that pursuit policy must
 25 identify some situations in which a high-speed pursuit is

1 Q Have you evaluated Metter's new policy?
 2 A No. I haven't seen it. I just found out there
 3 was another one written. I did find out from the new
 4 chief.
 5 Q Rob Shore?
 6 A Yeah, Rob Shore, S-H-O-R-E. Chief Shore said
 7 that he did put into place a new policy and that it's
 8 officer discretion. So I assume that it's probably
 9 pretty close to 5-3, because 12 is not officer
 10 discretion.
 11 Q Have you reviewed the new policy that Chief
 12 Shore discussed in that deposition?
 13 A No. I wasn't sent that.
 14 Q Do you believe that under the 5-3 document
 15 that's been marked as Plaintiff's Exhibit 6, that an
 16 officer is justified in engaging in a high-speed chase
 17 merely because a suspect flees at high speed?
 18 A Yes.
 19 Q Do you believe that under the document that's
 20 been marked as Plaintiff's Exhibit 6, which is 5-3, that
 21 an officer is justified in continuing a high-speed
 22 pursuit merely because the suspect continues to flee at
 23 high speed after the chase begins?
 24 A Yes.
 25 Q In other words, do you believe that

1 not permissible?
 2 A No.
 3 Q Do you believe that there are constitutional
 4 issues at stake in this litigation?
 5 A At stake?
 6 Q In this litigation.
 7 A Constitutional?
 8 Q Yes.
 9 A You didn't allege any constitutional
 10 violations. I'd have to know what you're alleging. If
 11 you ask me, I teach the law, remember.
 12 Q I do remember. I do remember.
 13 A Do you want some advice?
 14 Q Sure.
 15 A No. I said -- I asked. I'll give you my best
 16 shot.
 17 Q Should we allege constitutional violations?
 18 You're offering advice.
 19 MR. THRELKELD: Object to the form.
 20 THE WITNESS: They would fail, because in
 21 Plumoff v. Rickard, if you're familiar with it,
 22 R-I-C-K-A-R-D, P-L-U-M-O-F-F, the U.S. Supreme Court
 23 allowed 16 shots to be fired into the car from the
 24 side, with no jeopardy on the part of the officers,
 25 to stop a pursuit which they believed, had the car

1 began fleeing again, it would have been dangerous on
 2 the roadway, therefore better the driver died in a
 3 hail of bullets by the police from a safe position
 4 than to continue driving at speeds that were 70 and
 5 80 miles an hour. So if you want to take your case
 6 and look at the Supreme Court, you probably
 7 shouldn't. That's my advice.

8 BY MR. BUTLER:

9 Q Thank you.

10 A Yes.

11 Q Have you ever testified that an officer should
 12 have discontinued a chase that is already in progress?

13 A Yes.

14 Q Tell me about that.

15 A I know I have. I couldn't -- I'm having a hard
 16 time remembering my case files. I just know that when a
 17 policy dictates that an officer work under certain
 18 parameters and it's a state case, then I will testify as
 19 to the violations of the policy.

20 Obviously, a violation of a policy could be
 21 negligence, per se. So if indeed certain things were
 22 required of the officer and training provided to do it
 23 that way and they didn't, then that could be.

24 Now, I will tell you that prior to Lewis v.
 25 Sacramento, obviously I testified in some files that

1 A Or attempted, yes.

2 Q Or attempted? Do you view that as reasonable,
 3 that policy as reasonable?

4 A It's reasonable for the agency to adopt the
 5 policy that they believe is best suited for their needs.
 6 They are not under any requirement to adopt a more
 7 stringent policy.

8 Q Are there many policies like that that require
 9 a violent crime or an attempt at a violent crime before a
 10 police pursuit at high speed can be justified?

11 A Well, I've never done a survey of the numbers,
 12 and nobody has. I believe there have been some attempts.
 13 But you don't get enough responses to get an accurate
 14 figure. I would say that it's in the minority in the
 15 country, as far as that particular requirement. So low
 16 percentage.

17 Q Anyway, there are at least multiple policies
 18 that you've encountered in your career that require a
 19 violent crime or an attempt at a violent crime before a
 20 high-speed police pursuit is justified?

21 A I've certainly seen it, yes.

22 Q Have you ever reviewed a police policy that you
 23 viewed as unreasonable?

24 A Only I remember an agency that had no policy.
 25 That's unreasonable.

1 would have -- perhaps today I can't because the law
 2 changed. When the law changes, the experts must change
 3 as well, because you can't continue testifying to
 4 something that's now lawful or unlawful and you were the
 5 other way around.

6 Q I think you just said a violation of the policy
 7 could be negligence, per se.

8 A Could be, yeah. I'm not making the legal
 9 conclusion, but I'm just saying that if an agency directs
 10 an officer to do certain things and they are not done --
 11 for example, there are some agencies that do specify
 12 violent crimes. And if the officer didn't, then the
 13 agency policy dictates.

14 Q Have you seen agency policies that do specify
 15 violent crimes?

16 A Yes.

17 Q Where?

18 A I wouldn't want to start going into it. I
 19 think you're sitting in a jurisdiction right here that
 20 does.

21 Q In Tallahassee?

22 A Uh-huh (indicating affirmatively).

23 Q In other words, here the -- in order for a
 24 vehicle police pursuit to be permissible, the suspect
 25 must have committed some violent crime?

1 Q Other than that, have you ever --

2 A Well, then, no, because if you read the
 3 International Association of Chiefs of Police document,
 4 which is the guide for understanding police pursuits for
 5 police chiefs, sheriffs, colonels, directors --

6 Q Are you referring to Exhibit B?

7 A That's correct. It outlines the broad nature
 8 of what a city or a jurisdiction, any jurisdiction would
 9 be authorized to do, and it's their choice.

10 Q All right. So is it fair to say that as long
 11 as a jurisdiction had a policy in place, you've never
 12 viewed a police pursuit policy that you -- strike that.

13 Is it fair to say that as long as a
 14 jurisdiction had a police pursuit policy in place, you
 15 have never found one that you viewed as unreasonable?

16 A Not in recent memory.

17 Q Can you remember one ever?

18 A I know that I've seen those that didn't have a
 19 policy. The IACP has been active for a number of years
 20 in putting out a model. Many agencies took the model,
 21 just simply put their name on it and adopted it. So, you
 22 know, what happens is, with some guidance, they don't
 23 have to go bare, even if they can't think of what they
 24 ought to have, they've got one readily, you know,
 25 accessible, and they can put their name on it and say,

1 Well, I use the IACP model.
 2 Q So in your view, not having a policy is
 3 unreasonable?
 4 A It would be, except that you can have a verbal
 5 policy. In other words, if a chief came in and said,
 6 This is what I taught my officers to do, and generally
 7 that would be like three, two or three officers, and they
 8 don't have a lot going on, and the chief says, I meet
 9 with the officers and we talk about what we are going to
 10 do, and that's consistent, it is possible to have a
 11 verbal policy.
 12 So when I say no policy, it's when the chief
 13 shows up and says, We never talked about it. You know,
 14 they're out there, and I guess, if they run, they chase
 15 them. Now, I think that's unreasonable.
 16 Q All right. So the absence of a police pursuit
 17 policy is unreasonable in your view; is that fair?
 18 A Unless it's verbal.
 19 Q Well, it would be a verbal policy.
 20 A Yeah.
 21 Q Okay. And then have you ever reviewed a police
 22 pursuit policy that you thought was unreasonable?
 23 A Taking in context the last answer, no.
 24 Q The last answer was that you have to have some
 25 kind of policy, right?

1 who would see something that might be frightening.
 2 Q All right. As you sit here today, can you name
 3 anything that [REDACTED] [REDACTED] did to put the citizens of
 4 Metter in danger before this chase started?
 5 A No. And I'm not evaluating anything other than
 6 the contact the police had with him. And the police
 7 contact had with him was a call to the 911 that there's
 8 something strange about this car that's been sitting
 9 there, and somebody popped up in the back, looked and
 10 then got back down. That is an unknown risk situation.
 11 So it starts off with law enforcement, because
 12 we don't know, as an unknown risk. So he placed the
 13 citizens at risk by putting himself in a suspicious
 14 situation such as that a citizen would call in a call of
 15 a suspicious situation.
 16 Q I'll move to strike as nonresponsive everything
 17 after the word "no."
 18 What authorized the officer to turn on his blue
 19 lights behind [REDACTED] [REDACTED]
 20 A He started to speed away. He said he
 21 followed -- he, the officer, for pronoun reference, the
 22 officer said that he followed him for about a mile, and
 23 he started to speed away, in his sworn testimony, in the
 24 deposition, prior to him turning on the lights.
 25 Q Was there anything other than traffic

1 A In some way, yes.
 2 Q All right. Before this chase started in
 3 Metter, Georgia, December 5, 2015, what had [REDACTED]
 4 [REDACTED] done to put the citizens of Metter in danger?
 5 A Put the citizens on notice? The what?
 6 Q I'll repeat it. Before this chase started on
 7 December 5, 2015, what had [REDACTED] [REDACTED] done to put the
 8 citizens of Metter in danger?
 9 A That's really not the equation that results in
 10 police activity. However, answering that in a sterile
 11 environment, not related to the facts of this case
 12 because it's hypothetical from a law enforcement
 13 position, nothing particularly that I know of.
 14 However, that's not the way you would evaluate
 15 a police case, because it's the fact that a police
 16 officer was called to a suspicious vehicle. So it's an
 17 unknown threat. We categorize in law enforcement any
 18 threats or circumstances that are suspicious as being
 19 unknown.
 20 For example, he was doing something suspicious.
 21 That makes him threatening to the citizens by a law
 22 enforcement officer. But if you're asking me, now that I
 23 know, he wasn't doing anything that was threatening to
 24 the citizens, unless some child looked inside the car and
 25 saw them having sex. That would be a danger to a child

1 violations that authorized Adrian Montealvo to turn on
 2 his blue lights behind [REDACTED] [REDACTED]
 3 A Yes.
 4 Q What?
 5 A Terry v. Ohio.
 6 Q That's reasonable articulable suspicion,
 7 correct? Of what?
 8 A He had reason to do an investigative detention.
 9 Q What reason?
 10 A And the Court authorizes an officer to do so.
 11 Also Wardlow v. Illinois. Both of those give the officer
 12 the right. In Wardlow, it's an extension of Terry. And
 13 in Wardlow it says that if a person moves obviously away
 14 from a police officer and appearing to be intentional at
 15 the presence of a police officer, then the officer
 16 further has a right to stop the person, question the
 17 person and perform an investigative stop. I believe that
 18 Terry and Wardlow both apply.
 19 Q Do you believe that an officer has the
 20 authority to stop and question anyone who moves away from
 21 that officer?
 22 A It depends on if they meet the Wardlow status
 23 and standard. Like I told you, I teach the law. So yes.
 24 Q Yeah, I'm aware that you view yourself as a
 25 teacher of the law.

1 A Yeah.

2 Q What reasonable articulable suspicions did

3 Montealvo have, other than traffic violations, at the

4 time that Montealvo turned on his blue lights?

5 A Well, number one, there was a call that there

6 was suspicious activity in the car and that the

7 description was that somebody is in the back seat, they

8 popped up and they got back down, that the car had been

9 there for a period of time. She went jogging, that the

10 caller did, came back, car still there.

11 It was sufficient for a citizen to raise

12 suspicion. The facts and circumstances as detailed by

13 the citizen, plus the fact that that car was seen as the

14 officer comes back, who then followed the car and it sped

15 away from him, probably because of the sight of the

16 patrol car following him, gave him every reason to do an

17 investigative detention. So he could stop him for that.

18 He was an unknown risk at that time.

19 Q I take it you reached the conclusion that

20 Officer Montealvo was justified in initiating this chase;

21 is that correct?

22 A Yes.

23 Q And I take it you have reached the conclusion

24 that Officer Montealvo was justified in continuing this

25 chase until the crash occurred.

1 A Yes.

2 Q What would have to change for you to change

3 your opinion on the -- on your opinion that Montealvo was

4 justified in continuing the chase?

5 A That ██████████ M-I-N-C-E-Y, stopped.

6 Q So Montealvo should have stopped the chase if

7 ██████████ stopped. Are there any other -- is there anything

8 that could have occurred during this chase, other than

9 ██████████ stopping, that would lead you to the conclusion

10 that Montealvo should have broken off the pursuit?

11 A Nothing that he was guided by, no, because he

12 had discretion.

13 Q What if ██████████ and Montealvo were driving

14 150 miles an hour and passing cars left and right, would

15 you then conclude that Montealvo should have broken off

16 the chase?

17 MR. THRELKELD: Object to the form.

18 THE WITNESS: I would hope by then he's already

19 got somebody up ahead of him and is laying spike

20 strips at that point. But there is a point at

21 which, if he was in a car capable of 150 and if the

22 patrol car was capable of 150 -- both of those are

23 hypothetical because ██████████ may be driving a car

24 that goes 150, the patrol officer would not have

25 been.

1 I would think it's time to start thinking about

2 it, sure, absolutely. It depends on where they are.

3 If they're on the interstate, you give them much

4 more latitude there.

5 BY MR. BUTLER:

6 Q Do you know what kind of car ██████████ was

7 driving?

8 A Yeah, an Aztek, Pontiac, one of those that

9 didn't sell very well.

10 Q That's right. Of course, apparently, none of

11 the Pontiacs did.

12 A They're not going to use me in a Pontiac

13 commercial.

14 Q No. And so you know where this chase occurred,

15 of course. You know where this chase occurred, of

16 course.

17 A Where the case --

18 Q You know where this chase occurred, of course.

19 A Yeah, in Metter.

20 Q Right.

21 A Right. It was so simple, I thought you were

22 asking something else. I'm sorry.

23 Q You mentioned interstate, so I'm trying to move

24 that --

25 A You asked me is there anything. I mean --

1 Q Yeah.

2 A Okay.

3 Q So given where this chase occurred, at what

4 speed should Montealvo have broken off his pursuit?

5 A There is no -- it's an officer evaluation.

6 It's discretion.

7 Q There is no speed?

8 A There is no speed set, no, obviously.

9 Q All right. What number of cars would those

10 two, by those two meaning ██████████ and Montealvo, have had

11 to pass before you would think Montealvo should break the

12 chase off?

13 A Well, according to his guide, there is no

14 number. Again, it's an officer evaluation, discretion as

15 to --

16 Q So your opinion would be the same no matter

17 what the number of cars was?

18 A As far as whether the officer is violating his

19 procedures, yes.

20 Q I understand. You were a patrol officer,

21 right?

22 A Yes.

23 Q What would you have done?

24 MR. THRELKELD: Object to the form.

25 THE WITNESS: Well, the only one that I engaged

1 in that was of any length, a long time ago and even
 2 more recently, they stopped, one by forced stop, and
 3 the other because there was another patrol car
 4 coming from the other direction and he felt like no
 5 sense, so he stopped.
 6 BY MR. BUTLER:
 7 Q And what would you have done in this case --
 8 MR. THRELKELD: Same objection.
 9 BY MR. BUTLER:
 10 Q -- if you had been driving Montealvo's car?
 11 A I can't answer that because --
 12 Q Why?
 13 A -- I'd have to be behind the wheel and
 14 observing everything to tell you how I would feel at that
 15 moment, at that time, given the environment that I saw.
 16 There's a lot of things that you tick off and evaluate.
 17 So I wouldn't want to put myself behind his wheel at that
 18 moment, because the entirety of the atmosphere,
 19 surroundings and circumstances and what he saw and felt
 20 are all a part of his discretion.
 21 Q So as we sit here today, you don't know what
 22 you would have done in Montealvo's shoes?
 23 MR. THRELKELD: Object to the form.
 24 THE WITNESS: No. And I don't know what
 25 another officer in the same jurisdiction would do,

1 nobody even asked about in the deposition, and follow the
 2 policy. In other words, it all depends on the policy.
 3 My policy was not a lot different than this one.
 4 Q Than 5-3?
 5 A Yeah. You were probably going to ask, so I'll
 6 just tell you.
 7 Q Yeah, I probably was. If your officer, that
 8 is, an officer under your charge, had done what Montealvo
 9 did, would you have reprimanded that officer?
 10 A No.
 11 Q Would you have given more training to that
 12 officer on the pursuit policy?
 13 A Depends on how he answered the questions, if I
 14 thought he knew what he was doing or if I thought he just
 15 did it and couldn't answer the questions. I wouldn't
 16 want him to go to court and not be able to answer the
 17 questions. So if he couldn't answer my questions, I
 18 would send him back for training.
 19 Q Because you'd want him to be able to answer the
 20 questions in court?
 21 A Well, you want to know what you're doing. I
 22 mean, if he did it right but didn't or was not able to
 23 articulate it, then I would want him to be able to do it
 24 right and articulate that.
 25 Q What questions would you ask him?

1 because it's officer discretion, so people all have
 2 different tolerances for how they may look at those
 3 things.
 4 MR. BUTLER: I'll move to strike as
 5 nonresponsive everything after the word "no."
 6 VIDEOGRAPHER: Two minutes.
 7 MR. BUTLER: All right. Well, let's change the
 8 tape.
 9 VIDEOGRAPHER: It's the end of number one.
 10 We're now going off the record. It's 3:02.
 11 (Off-the-record discussion)
 12 VIDEOGRAPHER: Back on the record. This is
 13 number two and it's 3:03.
 14 BY MR. BUTLER:
 15 Q I want to make sure I'm using my terminology
 16 correctly. Is Montealvo a patrol officer?
 17 A Yes.
 18 Q You've been in charge of patrol officers
 19 before, I think.
 20 A Yes.
 21 Q What would you expect the patrol officers under
 22 your charge to do in this situation?
 23 A Evaluate the environment, the traffic, time of
 24 day, offense and what he or she believed about the
 25 vehicle from what they saw, movements, other things that

1 A I would ask him all the things that were looked
 2 at in this file in terms of speeds, what he knew. I
 3 would read the 911 call, the risk unknown category, the
 4 fact that he fled from the officer upon sight without the
 5 officer needing to turn on, in this case, his blue lights
 6 and siren, those kinds of things.
 7 In other words, a person who flees without you
 8 attempting to stop them is more dangerous or would be in
 9 a category different than somebody who simply stops or
 10 flees after you turn on your blue lights. That makes it
 11 more risk unknown.
 12 For example, what he had was a call. The
 13 officer didn't want to go there. The officer didn't go
 14 there and see somebody. The officer never laid his eyes
 15 on this car or this person. The officer was told, Check
 16 out a suspicious situation. And when he gets there, the
 17 car is on the move, so he follows it.
 18 Now, had he just made a right turn, left turn,
 19 gone straight, turned away, he would have probably done
 20 nothing, although he could, because he had the right to
 21 do an investigative detention. But he could have just
 22 let him go. But the car fled.
 23 So when the car flees and is doing reckless
 24 actions and you haven't even engaged, then it's more
 25 dangerous and that person is more risk than would be

1 otherwise. So he had a notch above a situation where he
2 sees a person run a stop sign and then turns on his blue
3 light. This person, Mr. [REDACTED] fled first before he
4 even asked him to stop. So that makes him more
5 suspicious.

6 Q So if an officer in your charge had done what
7 Montevalvo did, you would not necessarily give him more
8 training on the policy?

9 A No. Depending on how he answered my question.
10 I'd want to know if he knew the policy.

11 Q Do you agree that a high-speed chase can be
12 dangerous?

13 A Yes.

14 Q Do you agree that high-speed chases can put the
15 lives of others at risk?

16 A Yes.

17 Q Do you agree that police departments should
18 have rules and policies about when high-speed chases are
19 appropriate and when they are not?

20 A Repeat.

21 Q Do you agree that police departments should
22 have rules and policies about when high-speed chases are
23 appropriate and when they are not?

24 MR. THRELKELD: Object to the form.

25 THE WITNESS: That depends on the type of

1 factors to consider is all that we have to have.

2 Q So do you think that a police department need
3 not have rules and policies about when it is appropriate
4 to continue a high-speed chase?

5 A No. They need to have them, but I can't answer
6 it with a simple question. I have to -- I mean, a simple
7 answer of yes or no. I simply am saying that when it's
8 officer discretion, which they're allowed to do, then
9 they simply give them the parameters that a violation
10 occurred.

11 For example, the very minimal needed would be,
12 you can't just go out and attempt to make people run on
13 you and stop them. You know, it should be a legitimate
14 traffic stop. Something happens that causes you to --
15 calls your attention to them. And then give the
16 parameters of traffic, environment, weather, day, time of
17 day, things, and that's all officer discretion.

18 So they ought to have something in place that
19 gives a guide to police officers about a pursuit.

20 Q They ought to have something in place that
21 gives a guide to police officers about a pursuit?

22 A Yes.

23 Q All right. Should that include when to
24 continue and when not to continue a chase?

25 MR. THRELKELD: Object to the form, asked and

1 policy, because if it's officer discretion, you're
2 asking for me to say that they should have been
3 there when it's not appropriate. And that would --
4 if you accept that when it's not appropriate, it's
5 an officer-driven decision, yes.

6 In other words, they may not say that it's
7 inappropriate. They may lay out things to consider.
8 And they may not say, it comes to this point, you
9 can't pursue. And for me to answer that --

10 BY MR. BUTLER:

11 Q I'm just trying to save some time and we can
12 all get out of here.

13 A I know you do, but I've got to answer my
14 questions.

15 Q Do you agree that police departments should
16 have -- I'm going to change the question. Strike that.

17 Do you agree that police departments should
18 have rules and policies about when high-speed chases are
19 appropriate?

20 A Yes.

21 Q Do you agree that police departments should
22 have rules and policies about when it's appropriate to
23 continue a high-speed chase?

24 A We're in the same dilemma. If it's officer
25 discretion, then by simply enumerating a number of

1 answered.

2 THE WITNESS: Well, that's asked and answered,
3 and it's become back to the officer discretion
4 situation. So they can't tell -- they can't tell an
5 officer not to if they're giving the officer
6 discretion based on a series of factors.

7 BY MR. BUTLER:

8 Q Do you agree that a police department should
9 train its officers on its pursuit policy?

10 A Yes.

11 Q Do you agree that that training should occur at
12 least once a year?

13 A No.

14 Q Do you agree -- how often should it occur?

15 A I don't believe it's necessary. It's not a
16 vanishing kind of skill in terms of understanding what
17 the pursuit policy is. We have much more in law
18 enforcement that we need to do yearly training on for
19 disappearing skills than remembering what the pursuit
20 policy is.

21 If we did yearly training on everything that a
22 police officer does, we wouldn't have any police officers
23 on the street. So being an administrator and a trainer
24 still, I'm senior instructor at our academy, our state
25 academy, largest one in the southeast, I would have to

1 say that, you know, you have to pick and choose the
 2 things that are vanishing skills.
 3 Q Do you think that Metter should have trained
 4 Montealvo at least yearly on its policy?
 5 MR. THRELKELD: Object to the form.
 6 THE WITNESS: On that policy or policies?
 7 BY MR. BUTLER:
 8 Q On Metter's policy.
 9 A On pursuit?
 10 Q Yes.
 11 A I wouldn't think it's necessary for every year,
 12 no, unless you change it. Now, if you change it, yeah.
 13 You change one word, you've got to go over it with them,
 14 sure.
 15 Q Oh, if you change the policy?
 16 A Yeah. I just don't think, if you have a policy
 17 that tells you what to do, it's not necessary. There is
 18 no requirement in the country -- and I will tell you that
 19 any department that tells you they retrain everybody on
 20 pursuits every year, they need to look at their logs.
 21 They probably aren't.
 22 Q Do you agree that a police department should
 23 have a clear policy -- excuse me. Strike that. Do you
 24 agree that a police department should have a clear answer
 25 as to what the applicable pursuit policy is?

1 A If they don't know the policy, that's correct.
 2 Q When you train officers on a policy, how should
 3 that training occur?
 4 MR. THRELKELD: Object to the form.
 5 THE WITNESS: It depends on how radical a
 6 departure it is from what they already have. For
 7 example, there's a system in place and they use it
 8 that allows an officer to read the policy and sign
 9 that they read and understood it.
 10 That is a good way to have them review the
 11 policy every year, which wouldn't take a lot of
 12 time. So that kind of annual training is probably
 13 what most are talking about.
 14 However, if you change the policy, then I
 15 believe that you should do more than just tell them
 16 to read it. They need to know the nuance of the
 17 changes.
 18 BY MR. BUTLER:
 19 Q So if there's a new -- excuse me. If there's a
 20 new pursuit policy in place, the police department should
 21 do more than just have the officer read it?
 22 A That's correct.
 23 Q Did I understand you to say that if the
 24 training consists only of reading the policy and signing
 25 for it, then that should be done annually?

1 A Yes.
 2 Q Do you agree that if officers in the field
 3 don't know the policy, then the policy doesn't do much
 4 good?
 5 A Now you've confused me. You want me to tell
 6 you how?
 7 Q Yes.
 8 A You said if the officer doesn't know the
 9 policy. Are you saying that if they're -- somehow
 10 somebody knows about another policy that nobody ever gave
 11 to an officer, should he know that there's a mystery
 12 policy in somebody's drawer?
 13 Q It's not a trick question.
 14 A Okay. I'm not sure what you're asking. You
 15 see, we have two policies in this case, and there's some
 16 discussion about which one was in effect. Are you asking
 17 me should Officer Montealvo have known what the policy is
 18 that he's following and follow it? Yes.
 19 Should he have known that that was the policy?
 20 Yes, and he said he did. Should he have known about 12
 21 if that was not the policy, no.
 22 Q The question isn't tied to any specific policy.
 23 The question is, do you agree that if officers in the
 24 field don't know a department's pursuit policy, then the
 25 pursuit policy doesn't do much good?

1 A There's no reason not to, because the officer
 2 now -- most agencies are equipped with computers in the
 3 car, and they can pull those up while they're out visible
 4 on preventative patrol, not driving but stopped, and can
 5 read.
 6 Q Do you think that merely having officers read a
 7 policy and sign it once is sufficient training on that
 8 policy?
 9 MR. THRELKELD: Object to the form.
 10 THE WITNESS: If it's a redo of the same
 11 policy. I'd like to see new policies have more than
 12 just reading the policy. In other words, if the
 13 legal department of the agency or the legal city
 14 person from city hall who is an adviser to the chief
 15 might write a little interpretation of the changes
 16 or the reasons or cite some other cases and why this
 17 occurred, if they -- they have to have something
 18 more than just read this and implement it if it's
 19 different.
 20 BY MR. BUTLER:
 21 Q So if there's a change in policy, it needs to
 22 be more than just read and sign?
 23 A In something like pursuit, use of force,
 24 firearms, complex issues dealing with, you know, maybe
 25 complex juvenile issues where the laws --

1 Q Let me change the question around for you then.
 2 If there's a change in a pursuit policy, reading and
 3 signing is insufficient training; is that true?
 4 MR. THRELKELD: Object to the form.
 5 THE WITNESS: Depending on how complex the
 6 change is, I would want them to at least highlight
 7 and explain the change, so they would know how it
 8 affects them. It doesn't have to be in-person
 9 training, but it needs to be an explanation beyond
 10 just read the policy, because they may miss the
 11 change.
 12 BY MR. BUTLER:
 13 Q I see.
 14 A Which is why in the legislature they do
 15 underlining and line-out, so that you can see, here's the
 16 old, here's the new and understand.
 17 Q What if an officer is new to the police force,
 18 should that officer's training on a pursuit policy be
 19 more than simply reading the policy and signing for that
 20 pursuit policy?
 21 MR. THRELKELD: Object to the form.
 22 THE WITNESS: Yes. And it generally is,
 23 because they either get it at the academy, they get
 24 it at in-service training for the agency when they
 25 graduate, if it's a generic statewide training, or

1 Q So your position is that Montevalvo testified
 2 that he reviewed Metter's policy during his EVOC
 3 training?
 4 A Do you want me to read it to you?
 5 Q No. I want your understanding.
 6 A I'll be glad to tell you where it is in there.
 7 Yes.
 8 Q Yes, that is your understanding?
 9 A That is my understanding. I'll read it to you.
 10 Q That's all right. All I need is an answer.
 11 A Well, if I can, I like to prove things.
 12 Q Do you agree that POST certification training
 13 does not include training on when to start and when to
 14 stop a high-speed chase?
 15 MR. THRELKELD: Object to the form.
 16 THE WITNESS: Well, that may be, depending on
 17 the instructor presenting it. It depends.
 18 Generally speaking, a lot of the academies do not.
 19 But not all POST-certified academies are generic.
 20 Some are affiliated with agencies or an agency.
 21 BY MR. BUTLER:
 22 Q I'm talking about Georgia.
 23 A I know. Even in Georgia, some still have their
 24 own academy, even though it's POST training.
 25 Q Some what still have their own academy?

1 they get it with a field training officer, because
 2 most every agency uses a field training officer to
 3 ride with, who explains different policies as
 4 everything comes up.
 5 BY MR. BUTLER:
 6 Q All right. So if an officer is new to the
 7 force, that officer should have more training than just
 8 reading and signing the pursuit policy?
 9 A Correct.
 10 Q I wanted to ask you about -- I presume you're
 11 familiar with POST certification in Georgia.
 12 A Yes.
 13 Q Do you agree that EVOC, which stands for
 14 Emergency Vehicle Operation Course, is the part of POST
 15 certification that deals with operation of patrol cars?
 16 A It does.
 17 Q Do you agree that EVOC does not provide
 18 training on when to initiate or when to discontinue a
 19 high-speed pursuit?
 20 MR. THRELKELD: Object to the form.
 21 THE WITNESS: At the academy it does not. In
 22 EVOC training that's provided by this department,
 23 the officer testified that he went over the policy
 24 during the annual EVOC training.
 25 BY MR. BUTLER:

1 A Pardon?
 2 Q Some what still have their own academy?
 3 A Some agencies still have their own academy or a
 4 grouping of similar -- in other words, if they all have
 5 the same pursuit policy that is attending a particular
 6 academy, then they would go over that.
 7 Q Does Metter have its own academy?
 8 A No.
 9 Q Okay. Do you agree that POST certification for
 10 an officer of the Metter Police Department does not
 11 include training on when to start and when to stop a
 12 high-speed chase?
 13 A I believe that's correct.
 14 Q Do you agree that POST certification for an
 15 officer in the Metter Police Department does not include
 16 training on the Metter police pursuit policies?
 17 MR. THRELKELD: Object to the form.
 18 THE WITNESS: I believe that's correct.
 19 BY MR. BUTLER:
 20 Q With all these pursuit policies, do you agree
 21 that the big picture question is weighing the danger of
 22 the suspect against the danger of the chase?
 23 MR. THRELKELD: Object to the form.
 24 THE WITNESS: The risk of the person escaping
 25 versus the risks that are presented on the road is

1 considered a balancing question to ask yourself,
 2 yes, while you're pursuing.
 3 BY MR. BUTLER:
 4 Q And when we talk about the risk of the person
 5 escaping, what we mean is what risk that person would
 6 pose to the citizens of the relevant jurisdiction if that
 7 person did escape; is that right?
 8 A You can ask yourself that question, but there's
 9 no requirement that you come to a conclusion that the
 10 risk isn't there. Just like the Supreme Court said in
 11 Scott v. Harris, if the person thinks that they can
 12 simply speed and act reckless and get away because you
 13 have to stop, that they believe is not productive for
 14 pursuits, and it would just increase the danger on the
 15 roadways.
 16 They're very instructive in terms of their
 17 opinion on that. And being the Supreme Court, obviously
 18 it carries an impact in law enforcement.
 19 Q Are you aware of any -- are you aware of or
 20 familiar with or did you review for this case any
 21 statistics about the percentage of people who stop when
 22 an officer initiates a traffic stop by turning on his or
 23 her blue lights?
 24 A The vast majority of people stop. That's in
 25 the -- may I refer to the IACP, if I may?

1 Q That wasn't my question.
 2 A It wasn't?
 3 Q No. My question was this. Do you believe that
 4 Adrian Montevalvo should have weighed the danger created
 5 by [REDACTED] against the danger created by the
 6 high-speed chase?
 7 A You weren't in my mind either, because that's
 8 what I was answering. I said that it makes him much more
 9 of a risk, and therefore in my mind --
 10 Q That's still not the question. The question is
 11 whether Montevalvo should have evaluated that. Right?
 12 So --
 13 A I'm answering you. You and I are on a
 14 different wavelength, which is what happens with officer
 15 discretion. When I'm talking about the fact that he
 16 created a risk for the officer by his actions is also
 17 what the officer is weighing about his risk if he should
 18 get away. I'm sorry. You know, I'm putting the colors
 19 on a canvas and I'm talking to a color-blind person.
 20 Q You think I'm color-blind?
 21 A In my answers you are.
 22 Q No. Here's the question. Was Montevalvo
 23 required to conduct that analysis, that is, to weigh the
 24 danger of [REDACTED] against the danger of the chase?
 25 A He wasn't required to sit there and tick it

1 Q Yeah. We've got to get our work product off of
 2 it first.
 3 MR. THRELKELD: It's just Justin's notes.
 4 They're not --
 5 MR. BUTLER: It's usually my best questions.
 6 THE WITNESS: If I could, a couple of factors
 7 in pursuit?
 8 BY MR. BUTLER:
 9 Q As long as it's just a couple --
 10 A It is. The majority of recorded pursuits were
 11 short in both duration and distance, which indicates the
 12 majority stopped. More than two-thirds of the recorded
 13 pursuits started with an initial violation involving a
 14 traffic violation only.
 15 Q -- that will be enough. Do you believe that
 16 Adrian Montevalvo should have weighed the danger presented
 17 by [REDACTED] against the danger created by the
 18 high-speed chase?
 19 A To the extent that it was his discretion -- and
 20 I'm not in his mind nor am I permitted to really get into
 21 his mind. The fact that it was a call of a suspicious
 22 vehicle, that somebody was in the back, that somebody was
 23 popped up and looked out and hid themselves again in the
 24 car, the fact that he was simply behind the car when it
 25 took off gave him much more reason to continue a pursuit.

1 off. He was supposed -- he was required to have all
 2 those factors in his mind.
 3 Q He was required to have those factors in his
 4 mind?
 5 A Somewhere he went over the materials, and that
 6 should be a part of his discretion, yes.
 7 Q So he was required, in the exercise of his
 8 discretion, to consider the danger created by [REDACTED]
 9 against the danger created by the high-speed chase?
 10 A Part of what --
 11 Q Is that yes or is it no?
 12 A It's in the policy. I don't know what he was
 13 doing. But in whatever way he did that, that was one of
 14 the guides that was given to him, yes.
 15 Q Can you say whether or not he should have done
 16 that?
 17 A He should be thinking about it, at least --
 18 even if it's down deep in his mind and it's indelibly
 19 imprinted and he doesn't have to say, okay, I have to
 20 think about this now. I doubt that you do that.
 21 When you do something every day and you're
 22 always in the same environment, patrol car, watching,
 23 looking, it's amazing how you just do things by instinct
 24 and you don't even know that you're doing it. So it
 25 becomes that kind of concept. You do it by instinct.

1 Q Should Montevalvo have weighed the danger of
 2 against the danger of the chase?
 3 MR. THRELKELD: Object to the form, asked and
 4 answered.
 5 BY MR. BUTLER:
 6 Q Should he have considered that?
 7 MR. THRELKELD: Same objection.
 8 THE WITNESS: It was a consideration that --
 9 BY MR. BUTLER:
 10 Q It was a consideration for who?
 11 A For him.
 12 Q Okay. That's a good answer.
 13 A I said that, but I said I don't know in what
 14 manner. In other words, did he bring it up and say to
 15 himself, Okay, I have to do this now, or was it instinct
 16 that he was applying his discretion, given the totality
 17 of the circumstances.
 18 Q Do you agree that an officer should not
 19 continue a chase if the danger of that chase outweighs
 20 the danger of the suspect?
 21 MR. THRELKELD: Object to the form.
 22 THE WITNESS: It's a consideration.
 23 BY MR. BUTLER:
 24 Q What other consideration is there?
 25 A That is the consideration.

1 A Correct.
 2 Q Testifying at trial costs \$3,500, right?
 3 A Plus travel expenses, yes.
 4 Q And the travel expenses are \$500 generally, and
 5 there could be a little bit added to that; is that true?
 6 A No. Five hundred dollars is an inconvenience
 7 fee for travel. I don't charge portal to portal. I
 8 don't like portal to portal. Your expert, for example,
 9 charges you \$375 for every hour he sits in his car or an
 10 airplane. I don't do that. I charge \$500 as a flat
 11 inconvenience fee. I don't like portal-to-portal charges
 12 because I think it's unfair.
 13 Q Okay. Trial testimony costs \$3,500, plus a
 14 \$500 inconvenience fee; is that right?
 15 A That's correct, plus expenses.
 16 Q And every day that you're standing by and
 17 waiting to testify at trial costs \$2,000; is that right?
 18 A That's correct.
 19 Q Depositions generally cost \$2,500, right?
 20 A If they're not videotaped, right.
 21 Q And if they're video, they're 3,500?
 22 A Which is the trial fee, that's correct.
 23 Q Why the difference in video and non-video?
 24 A Because I'm here in a situation where it's not
 25 a laid-back, easy discovery deposition. I know that at

1 Q Now, I paid you \$3,500 for the deposition
 2 today; is that right?
 3 A Yes, that's correct.
 4 Q What did I pay for?
 5 A What did you pay for?
 6 Q Yeah.
 7 A Five hours, and I'm here to talk to you.
 8 Q Was it five or seven?
 9 A Five. It's \$500 an hour for each hour over
 10 five. You have my fee agreement, don't you? It's on
 11 there.
 12 (Plaintiff's Exhibit F was marked.)
 13 Q Is your fee agreement now marked as Plaintiff's
 14 Exhibit F?
 15 A Yeah. Is there a question?
 16 Q Yeah. Is your fee agreement now marked as
 17 Plaintiff's Exhibit F?
 18 A Oh, yes.
 19 Q This says it costs \$7,500 to have you commence
 20 the review of a case; is that right?
 21 A That's correct.
 22 Q That is nonrefundable, right?
 23 A That's not refundable.
 24 Q After that, most things are invoiced at
 25 \$375 per hour, right?

1 any minute any part of this could be presented to a jury.
 2 Q Do you think stenographic depositions can be
 3 presented to juries?
 4 A If you're videotaping it, I wouldn't bet on the
 5 fact that you would never use some portion of it to get
 6 an answer of mine before the jury.
 7 Q Have you sent any invoices to the lawyers
 8 representing the City?
 9 A No. We have not gone over the minimum fee.
 10 Q Oh. Do you intend to send any invoices to
 11 counsel representing the city?
 12 A Not unless they provide me with more material.
 13 Q Do you have any work you plan to do in the
 14 future on this case that you haven't done yet?
 15 A Yes.
 16 Q What is that work?
 17 A If we're going to go to trial, I want to view
 18 the route.
 19 Q All right. Have you been to Metter yet?
 20 A Not for this case.
 21 Q Do you have any -- going to Metter costs
 22 \$2,500, right?
 23 A Correct.
 24 Q Are there any exhibits or anything that you
 25 would prepare for trial, that you anticipate preparing

1 for trial?
 2 A Perhaps a blowup of some of the IACP
 3 considerations.
 4 Q And that's what's been marked as Plaintiff's
 5 Exhibit B?
 6 A Right.
 7 Q Anything else? By that I mean anything else,
 8 any other exhibits you foresee using at trial or
 9 preparing for trial?
 10 A Not from my perspective. I would highly
 11 recommend a jury maybe listen to the 911 call to the
 12 police.
 13 Q What part? What part?
 14 A The park, at the park.
 15 Q You can't understand with a pen in my mouth?
 16 What part of the --
 17 A Oh, what part.
 18 Q Which specific part or parts of the 911 tape?
 19 A Well, so they would have an understanding that
 20 this officer was responding to what was thought to be by
 21 a citizen a suspicious situation, which puts the officer
 22 into a different mind-set than just seeing somebody run a
 23 stop sign.
 24 Q Do you mean Chandra Brown's 911 call?
 25 A Yes.

1 you call your office and ask them to e-mail the addendum
 2 to me.
 3 A I can do that.
 4 MR. THRELKELD: I can e-mail Sarah right now.
 5 THE WITNESS: No. I'll get it.
 6 VIDEOGRAPHER: Do you want to go off the
 7 record?
 8 THE WITNESS: Let's go off the record.
 9 MR. BICKNESE: We're taking a short break?
 10 VIDEOGRAPHER: Yeah. We're off the record.
 11 (Short break)
 12 VIDEOGRAPHER: We are back on the record.
 13 BY MR. BUTLER:
 14 Q All right. Mr. Katsaris, you've got in front
 15 of you Plaintiff's Exhibit G, which is your CV without
 16 the addendum that you have; is that correct?
 17 A Correct.
 18 Q You have an addendum but you just e-mailed it
 19 to me, correct?
 20 A Correct.
 21 Q We see on your CV -- this is where it says
 22 you've been retained in all 50 states, Guam, Puerto Rico,
 23 D.C., and Canada and Australia, right?
 24 A Right.
 25 Q What percentage of your work involves

1 MR. THRELKELD: Chandra.
 2 MR. BUTLER: Chandra, excuse me. I'm sure my
 3 co-counsel knew that.
 4 (Plaintiff's Exhibit G was marked.)
 5 BY MR. BUTLER:
 6 Q Have I now marked as Plaintiff's Exhibit --
 7 wait a minute. Did I give you two copies? Apparently I
 8 only brought two.
 9 A This isn't updated.
 10 Q Okay. How do you know? Excuse me. Let me do
 11 the record thing. Have I marked as Plaintiff's Exhibit G
 12 a copy of what at least at one point was your CV?
 13 A Yes. And I updated it.
 14 Q All right. When?
 15 A I don't know. Six, eight months ago, maybe
 16 longer, maybe a year.
 17 Q How can you tell?
 18 A Because I did it as an addendum.
 19 Q What do you mean you did it as an addendum?
 20 A I didn't update this part of it. I put an
 21 addendum to it, because this got sufficiently behind that
 22 I just put an addendum to show everything else.
 23 Q Where is that addendum?
 24 A I'd have to get -- I could send it to you.
 25 Q We'll take a break here in a minute. Why don't

1 litigation?
 2 A You know, it started off pretty low, obviously,
 3 and as time goes, it's grown. And I'm getting awfully
 4 selective about the files that I will take, and I've cut
 5 back on some subjects. I'm trying to keep it at about
 6 60 percent of my time, because I train a lot and I love
 7 teaching, so I don't want to give up my role.
 8 I'm scheduled through the next two years at the
 9 police academy. I'm scheduled the next two years in the
 10 national seminars. I've got to take time. Teaching is
 11 one hour of preparation -- I mean, excuse me, two hours
 12 of preparation for every one hour you present. The
 13 litigation is at its max right now in terms of about
 14 60 percent of my time.
 15 Q I see that you have also provided policy
 16 development assistance for various government agencies.
 17 A Yes.
 18 Q Does that involve helping various government
 19 agencies write their policies?
 20 A Yes.
 21 Q To include pursuit policies?
 22 A Yes.
 23 Q Where have you done that?
 24 A Well, widely throughout the state and --
 25 Q By the state, you mean Florida?

1 A Florida, yeah. And certainly all over the
 2 country in different levels. The only place that
 3 actually paid me to come there and actually write the
 4 policy with the chief and present it to the officers,
 5 that I remember, I think was Idaho Falls, Idaho.
 6 Typically, I assist people at the seminars,
 7 because I do five to seven national seminars a year. And
 8 they will say, Hey, you know, I'm having some
 9 difficulties with this or that. And I'll either give
 10 them direction to what to look at, ask them what their
 11 goal is, what do you want to do, and then give them some
 12 thoughts about what they can do.
 13 I don't even charge them. In other words, I've
 14 helped. I've done -- I've sat around in the evening
 15 after a seminar, just visiting and giving them
 16 assistance. I've done that hundreds of times.
 17 Q Other than -- well, I see a Cairo, Georgia --
 18 A Oh, I went there, yeah, right.
 19 Q -- listed on your CV.
 20 A That was a long time ago.
 21 Q And I believe it says in 1986. I've got to
 22 pull up the CV. I believe your CV says that in 1986 you
 23 provided -- you drafted the policy and procedures manual
 24 for the Cairo Police Department.
 25 A Right.

1 Q You mentioned that in 2011 --
 2 A And I trained everybody on the Honolulu Police
 3 Department. Now, they serve a million and a quarter
 4 people.
 5 Q Let me draw you back to Georgia. Anyplace else
 6 in Georgia where you --
 7 A I know, but I'm just saying I remembered that
 8 one, and I'm -- I was amazed that I forgot it. Georgia,
 9 I don't recall. I worked with those chiefs in the
 10 seminar, because I was there for a full day.
 11 Q Uh-huh.
 12 A And we outlined what's available, what the law
 13 is, what the procedures are, what people are doing around
 14 the country. I tried to give them guidance in a group.
 15 Q I see.
 16 A So that would have been a lot of them. And
 17 then Wyoming as well, I did all the sheriffs of the state
 18 of Wyoming on pursuit.
 19 Q All sheriffs, Wyoming.
 20 A Yeah.
 21 Q I'd go back to Hawaii.
 22 A I just don't archive a lot of these things.
 23 I'm sorry.
 24 Q I see also in your CV a reference to AELE,
 25 which stands for --

1 Q Are there any other places other than Idaho
 2 Falls, Idaho, and Cairo, Georgia, where you drafted the
 3 police pursuit policy?
 4 A Well, not lately, but I did all of them for the
 5 Florida Highway Patrol.
 6 Q All for Florida Highway Patrol?
 7 A And I mean I -- I can't even begin to think of
 8 the agencies I participated with. But, I mean, as far as
 9 them saying, We want you to write it, that's not as many.
 10 Usually it's helping guidance of what to look for, what
 11 laws, what court opinions to read and consider and that
 12 kind of thing.
 13 Q What agencies in Georgia have you helped to
 14 write the policies for?
 15 A Well, you know, for years I was the instructor
 16 at the Georgia Police Chiefs Association on pursuit. And
 17 I can't remember the years. It's been a while since I've
 18 done it. But I used -- and I sat down with lots of them
 19 and talked about pursuit policy. There were two areas
 20 actually, use of force and pursuits.
 21 Oh, I did it for the Big Island of Hawaii and
 22 Honolulu. I wrote their policies. They took me out
 23 there, and I trained -- I suffered through staying in a
 24 condo on Waikiki Beach for about two months. That was a
 25 rough commitment.

1 A Americans for Effective Law Enforcement. It's
 2 a defense organization, putting on training for the
 3 lawyers and the officers, commanders that represent
 4 obviously law enforcement.
 5 Q And you're certified as a litigation specialist
 6 with AELE, right?
 7 A Yes.
 8 (Plaintiff's Exhibit No. 23 was marked.)
 9 Q Have I now marked as Plaintiff's Exhibit 23
 10 your listing as a certified litigation specialist with
 11 AELE?
 12 A Yeah. I don't even remember this going up.
 13 It's quite dated.
 14 MR. THRELKELD: What's this?
 15 THE WITNESS: I don't keep it up.
 16 MR. THRELKELD: What exhibit number?
 17 MR. BUTLER: 23.
 18 THE WITNESS: This is not something I work on.
 19 It's old.
 20 BY MR. BUTLER:
 21 Q Flip to the last page, if you would. And
 22 there, there's a list of things that you're qualified to
 23 testify about.
 24 A Right.
 25 Q Are you qualified in all those areas?

1 A Yes. I have actually testified in court on
 2 every one of them. I will not testify on a subject I'm
 3 not certified in, trained on, experienced on, educated on
 4 or that I don't train in. I train in all these areas.
 5 And, largely, I'm certified in all these areas. You
 6 know, if you live long enough, you can do a lot of
 7 things.
 8 Q Before this chase started, did Officer
 9 Montevalvo have any reason to believe that [REDACTED] [REDACTED]
 10 had committed a violent crime?
 11 MR. THRELKELD: Object to the form.
 12 THE WITNESS: No reason to believe, no. That
 13 would be to a probable cause standard, the words
 14 you're using. No.
 15 BY MR. BUTLER:
 16 Q Now, before this chase started, did Officer
 17 Montevalvo have any reasonable, articulable suspicion that
 18 [REDACTED] had committed a violent crime?
 19 MR. THRELKELD: Same objection.
 20 THE WITNESS: No.
 21 BY MR. BUTLER:
 22 Q Before this chase started, did Montevalvo have
 23 any reasonable, articulable suspicion that [REDACTED] had
 24 committed a drug offense?
 25 MR. THRELKELD: Same objection.

1 know what I'm talking about?
 2 A This?
 3 Q Yes.
 4 A Yes.
 5 Q Have you reviewed the Rule 30(b)(6) deposition
 6 of the City in which Chief Mack Seckinger testified?
 7 A I testified to that, yes.
 8 Q Have you reviewed the individual deposition of
 9 Mack Seckinger?
 10 A Yes.
 11 Q Have you reviewed the deposition of Adrian
 12 Montevalvo?
 13 A Yes.
 14 Q Angie Carroll, clerk?
 15 A Who was the other one?
 16 Q City clerk, Angie Carroll.
 17 A I don't think so.
 18 Q What was her -- I may have the name wrong.
 19 Okay. So no on Angie Carroll?
 20 A It may have been for an opinion outside of my
 21 scope. I don't know. I don't believe I have it, no.
 22 MR. THRELKELD: He doesn't have it.
 23 BY MR. BUTLER:
 24 Q How about Rob Shore?
 25 A Yes.

1 THE WITNESS: No.
 2 BY MR. BUTLER:
 3 Q Before this chase started, did Officer
 4 Montevalvo have any reasonable, articulable suspicion that
 5 [REDACTED] [REDACTED] had committed a felony?
 6 MR. THRELKELD: Same objection.
 7 THE WITNESS: I believe fleeing and eluding is
 8 a felony I think he committed commensurate.
 9 BY MR. BUTLER:
 10 Q I missed the last word you used.
 11 A Commensurate with meeting him. In other words,
 12 when he got behind him and he took off, I believe he
 13 committed a felony at that time.
 14 Q You believe it was a felony for [REDACTED] to drive
 15 off from Montevalvo after Montevalvo first saw him and
 16 before Montevalvo turned on his blue lights?
 17 A No. After he gave notice, to continue.
 18 Q Let me try, see if I can --
 19 A Before, no.
 20 Q Let me see if I can get my question -- I may
 21 have messed up my question. Before this chase started,
 22 did Officer Montevalvo have any reasonable, articulable
 23 suspicion that [REDACTED] [REDACTED] had committed a felony?
 24 A No.
 25 Q Have you reviewed the Metter case file? Do you

1 Q How about [REDACTED] [REDACTED]
 2 A Yes.
 3 Q [REDACTED] [REDACTED] was unable to remember anything
 4 about the chase or crash. Is that consistent --
 5 A Pretty much, yeah.
 6 Q Is that consistent with your understanding?
 7 A Yes.
 8 Q Was there anything in the [REDACTED] [REDACTED]
 9 deposition that changed your mind or changed your
 10 opinions about the case?
 11 A Well, he did remember that he was fleeing, or
 12 at least he answered that. On page 21 he was asked, You
 13 were fleeing from the police at the time. He said, Yes,
 14 sir.
 15 Now, whether that was from memory or -- I don't
 16 know. He does not say that he didn't see the lights. He
 17 said he didn't remember when he turned them on. So
 18 that's telling me that he knew about them, but he just
 19 didn't know at what point he turned them on. And that's
 20 on page --
 21 Q It's really okay. I don't need the page
 22 number. Was there anything in [REDACTED] deposition that
 23 changed your opinions about the case?
 24 A No. I thought it was interesting that this is
 25 the only time he admitted that he didn't turn -- didn't

1 stop for the police. He said he stops for the police.
 2 But no.
 3 Q All right. Lionel [REDACTED] did you read that
 4 deposition?
 5 A Must not.
 6 Q Have you reviewed the deposition of Geoffrey
 7 Alpert?
 8 A Yes.
 9 Q Have you interviewed any witnesses or people
 10 with direct knowledge of the case?
 11 A No.
 12 Q I believe you said or implied earlier you have
 13 listened to the 911 tapes?
 14 A Yes.
 15 Q How about the dispatch tapes?
 16 A Yes.
 17 Q Was there anything significant in the dispatch
 18 tapes to you?
 19 A No.
 20 Q Who contacted you on the case?
 21 A Mr. Threlkeld, I believe.
 22 Q All right. The gentleman seated to your right
 23 who signed your fee agreement? The gentleman seated to
 24 your right who signed your fee agreement?
 25 A That's correct.

1 words, this is my opinion. I don't care what somebody
 2 else said. I don't do that.
 3 So I try only to bring that which everyone can
 4 agree on is recognized, known. And then I determine
 5 whether or not the materials suggest that that's below a
 6 recognized standard, meets the standard, is above the
 7 standard, and prepare myself to answer your questions of
 8 course.
 9 Q Is Exhibit B the standard, in your mind?
 10 A It's the recognized procedures that everybody
 11 can agree on, is the only document that is in the country
 12 that would be available to all law enforcement. For
 13 example, you could go off to the National Institute of
 14 Justice, for example, and --
 15 Q Can you hand me B? I think you have Exhibit B.
 16 A What's that?
 17 MR. THRELKELD: IACP?
 18 BY MR. BUTLER:
 19 Q IACP, yeah.
 20 A You could go to the National Institute of
 21 Justice, which is a reference service where people write
 22 articles, for example, and they have various articles,
 23 beliefs, theories, data, research. But that is not
 24 something that a police chief is going to turn to,
 25 because that's no better than a professor at a university

1 Q Describe the methodology that you used in
 2 reaching your opinions, please.
 3 A In reaching my opinions, first I review all of
 4 the material that is sent to me, and if I believe there
 5 is something I need, I'll ask for it and I will obtain
 6 it. Very seldom do I ever add anything to a file. But I
 7 realize that everyone recognizes the Court case of Scott
 8 v. Harris, so I didn't mind putting that in.
 9 And I did not believe that he could supply for
 10 me the International Association of Chiefs of Police
 11 material, because he probably wouldn't have had it, so I
 12 added that.
 13 Q He being Mr. Threlkeld?
 14 A Mr. Threlkeld. So I did go ahead and take and
 15 put that copy in the file. But I review the file. Then
 16 I will take a look at the materials that are there, what
 17 is indicated occurred, what are the differences, if any,
 18 between the individuals, what policy guidance was
 19 afforded to the police officers, what training they had.
 20 And I will take all of the material and compare
 21 and do an analysis of how it lines up with what is
 22 generally recognized. For example, I wouldn't want to
 23 pick out something that is out there nationally that
 24 everyone would know about that's recognized and push it
 25 aside and just come up with my own things. In other

1 writing a book. And that book doesn't become the
 2 standard of care.
 3 If there's anything that even comes close to
 4 that, it would be the IACP materials because -- and
 5 what's interesting about the pursuit procedure in this
 6 case, the policy that I brought to you from the IACP, is
 7 it's the only one signed off on by the membership. The
 8 rest of them are written by staff, generally reviewed by
 9 a committee and then implemented.
 10 In the fall of 1996, the membership of the IACP
 11 actually held a working committee meeting on the pursuit
 12 model policy to make -- to get agreement. So out of all
 13 the model policies they have, which is one on just about
 14 everything in law enforcement, this one stands aside and
 15 above the others.
 16 Q Would it be fair or unfair to characterize the
 17 IACP document that's marked as Exhibit B as the standard
 18 of care for police?
 19 A It would be unfair to say it's the standard of
 20 care. I said if any document comes close to that,
 21 because there is no other document.
 22 Q I heard you. I promise.
 23 A I tried to be careful.
 24 Q Is it fair to say your methodology was to
 25 review all the facts and information that you could find

1 that you thought was appropriate and then apply your
 2 training, experience and knowledge to it?
 3 A No.
 4 Q No. Why not?
 5 A Because it's not everything I could find. I
 6 didn't look for anything. I asked the counsel to furnish
 7 me what was the case file. So --
 8 Q Let me try to rephrase it.
 9 A -- it's not a shame on me. It's a shame on him
 10 if I didn't get something. I do not go out on my own
 11 looking for his case. If he doesn't know what he needs,
 12 then I'm not going to do it for him, because I'm not an
 13 advocate. I am simply an expert. Give me your file.
 14 Don't hide anything from me, because I'll become your
 15 worst enemy, like I did in Maricopa County on a pursuit
 16 case. I was testifying for the defense.
 17 Q Tell me after we're done.
 18 A Okay. I know. I'm just saying I will do it.
 19 In deposition I testified contrary to the defense that I
 20 was hired for.
 21 Q Well, I'll dig around and see if I've got
 22 anything. Is it fair to say your methodology then was to
 23 take the file with which you were presented and apply
 24 your training, knowledge and experience to it to reach
 25 your conclusions?

1 Q Do you agree that created a danger to others?
 2 A Yes.
 3 Q I believe I've asked you this. Is it your
 4 opinion that Montealvo was correct to continue this
 5 pursuit until the Aztek crashed?
 6 A He was not incorrect. It's not a correct
 7 versus incorrect.
 8 Q Authorized.
 9 A It's a discretion, and discretion doesn't have
 10 correct and incorrect.
 11 Q All right. Is it your opinion that Adrian
 12 Montealvo was authorized to continue this pursuit until
 13 the Aztek crashed?
 14 A Because it was discretionary, yes.
 15 Q And that's what he did?
 16 A Yes.
 17 Q Do you believe that if Montealvo had concluded
 18 that the Aztek was not going to stop, then Montealvo
 19 should have discontinued his pursuit at that time?
 20 MR. THRELKELD: Object to the form.
 21 THE WITNESS: No.
 22 BY MR. BUTLER:
 23 Q Why not?
 24 A Because we -- we don't teach them to
 25 conclude -- we don't teach law enforcement officers that

1 A Yes. There's a three-step process that Daubert
 2 requires, and I try to follow that.
 3 Q I knew you knew what we were talking about.
 4 A Yeah. Actually, it's Kumho Tire that directs
 5 more of law enforcement than Daubert.
 6 Q I used to know that. Anyway, you're aware, of
 7 course, that at one part of this chase, the Aztek was
 8 doing 80 miles an hour, passing vehicles left and right.
 9 Were you aware of that?
 10 A Passing vehicles, and I don't remember about
 11 the left and right.
 12 Q Do you remember the 80 miles an hour?
 13 A Yeah. Yes.
 14 Q Do you agree that created a danger to other
 15 drivers?
 16 A Sure.
 17 Q Are you aware that at one point the Aztek was
 18 doing a hundred miles an hour?
 19 A Yes. At the bridge, right.
 20 Q Do you agree that created a danger to others?
 21 A Yes.
 22 Q Are you aware that at one point Montealvo was
 23 doing 110 miles an hour in his 2008 Crown Victoria?
 24 A I don't recall his speed, but it was pretty
 25 close to Mr. [REDACTED] so yes.

1 they're not going to stop. Basically, they do, and
 2 generally they bail, a lot, out of their cars. And to
 3 stop would not necessarily create, as Scott v. Harris
 4 very carefully by Supreme Court justices, who established
 5 the law for law enforcement said, if you stop, that does
 6 not mean -- and I can read you the words of the U.S.
 7 Supreme Court. That does not mean that the person is
 8 going to stop.
 9 As a matter of fact, as the Court ruled, it
 10 probably would only give them the feeling that you are
 11 now coming up with a different plan and it's going to be
 12 even more dangerous for them. In other words, you're
 13 backing off, you're going to trick them, you've got spike
 14 strips set up ahead and they don't want to run over them
 15 or there's a roadblock coming that they don't know about.
 16 This is all cited in the Supreme Court case.
 17 I'm not off on a tangent. This is where we get our
 18 information to establish what we should do, and we accept
 19 the guidance of the U.S. Supreme Court. It's an
 20 interesting quote from the Court.
 21 Q Okay. Let's look at it.
 22 A Sure. May I?
 23 Q Yes. I'll hand it to you.
 24 A I'd like to.
 25 Q I can tell.

1 A Well, I mean, I'm a teacher. Page 12 of the
 2 Scott v. Harris opinion. But wait, says the respondent,
 3 couldn't the innocent public equally have been protected
 4 and the tragic accident entirely avoided if the police
 5 had simply ceased their pursuit? We think the police
 6 need not have taken that chance and hoped for the best.
 7 Whereas Scott's action, ramming respondent off the road,
 8 was certain to eliminate the risk that respondent posed
 9 to the public, ceasing pursuit was not.

10 First of all, there would have been no way to
 11 convey convincingly to respondent that the chase was off
 12 and that he was free to go. Had respondent looked in his
 13 rearview mirror and seen the police cars deactivate their
 14 flashing lights and turn around, he would have no idea
 15 whether they were truly letting him get away or simply
 16 devising a new strategy for capture. Perhaps the police
 17 knew a shortcut that he didn't know.

18 Q That whole thing is going to be in the record.
 19 She'll scan it in, so we don't need to read it all.

20 A Oh, well, so you know I'm right. It's there.

21 Q Are you aware Scott against Harris is a 1983
 22 case, meaning under Section 1983?

23 A I know what -- you don't need to tell me that.
 24 Of course. It's a 2007 case.

25 Q Yes. Alleging constitutional violations,

1 right?

2 A Yes. But you see, so is Graham v. Connor and
 3 so is Tennessee v. Garner and so is Brower v. Inyo
 4 County, and all of those procedures became our policy.

5 Q Whose policy?

6 A Law enforcement.

7 Q Metter's?

8 A Yes.

9 Q What parts of -- never mind.

10 A In use of force. You want to look at it?

11 Q No.

12 A Well, it's there.

13 Q You know Geoffrey Alpert?

14 A Yes.

15 Q Is he a respected expert in the field?

16 A Yes.

17 Q Are you familiar with the Georgia Association
 18 of Chiefs of Police review and recommendations of law
 19 enforcement pursuits in Georgia?

20 A Yes. I know they -- they do. Yeah, they have
 21 an accreditation process, yes.

22 Q I'll show you what I'm talking about. Well,
 23 no, I won't either. But you're familiar with the
 24 document. In general, do you have any quarrels or
 25 disagreements with that document?

1 A I wouldn't -- since I have not reviewed it in,
 2 I don't even remember when, I wouldn't want to comment on
 3 it.

4 (Plaintiff's Exhibit H was marked.)

5 Q Okay. I brought with me a copy of your expert
 6 disclosure in this case, which I've now marked as
 7 Plaintiff's Exhibit H. Have you seen that before?

8 A I don't think so. I think we discussed it.

9 Q Who is "we"?

10 A Myself and the signee of this, Paul Threlkeld.

11 Q When did you and Mr. Threlkeld discuss the
 12 disclosure marked as Plaintiff's Exhibit H?

13 A Eight?

14 Q H.

15 A Oh, H. I couldn't tell you. I keep no notes
 16 on phone calls.

17 Q Does Exhibit H accurately cover the areas in
 18 which you have opinions?

19 A Let me see it again. I didn't read it for that
 20 question. Yes.

21 Q Do you have any opinions not covered by the
 22 disclosure marked as Plaintiff's Exhibit H?

23 A I think they're generic and broad enough to
 24 cover what I've talked about, yes.

25 Q Meaning that the language in Exhibit H does

1 cover your opinions?

2 A Yes.

3 Q Are there any areas mentioned in Plaintiff's
 4 Exhibit H as to which you do not have opinions?

5 A Areas listed for which I do not have an
 6 opinion?

7 Q Correct.

8 A I think you've asked me something from every
 9 one of those areas. I rendered an opinion.

10 Q What I mean is, basically, is Exhibit H
 11 overbroad? In other words, is it --

12 A No, no, because it's limited to pursuit, just
 13 all of the aspects of pursuit.

14 Q Tell me in summary form, please, what are your
 15 opinions in this case.

16 A That there are two policies that were presented
 17 to me, that it appeared to me that between 12 and 5-3,
 18 that there is more evidence to suggest that 5-3 was in
 19 effect. Certainly it was the testimony of the officer
 20 that he signed off on it and that was the only policy he
 21 was aware of. I accepted that as the case.

22 And that if I'm asked questions contrary, about
 23 12, which you asked, I answered them honestly, reasonably
 24 and fairly, the difference between them. That given
 25 officer discretion is the presentation of the policy 5-3,

1 that the officer acted reasonably in following his
 2 discretion, that this was not a mere traffic stop and
 3 that there was an enhanced value to stopping Mr. [REDACTED]
 4 based on the fact that it was a call of a suspicious
 5 vehicle with suspicious circumstances and the fact that
 6 the officer had not made a decision to stop him yet or
 7 not for sure, even though he had the right under the
 8 temporary detention statute -- or excuse me --
 9 constitutional standard, because of the suspicious
 10 behavior, but he only turned on his blue lights in
 11 reaction to the vehicle speeding off.

12 After that it was his discretion to continue an
 13 evaluation and determine how to handle the pursuit, which
 14 he did. And I find that there is no way to say that he
 15 acted inappropriately, given the breadth of the
 16 decision-making authority he had.

17 VIDEOGRAPHER: Two minutes.

18 BY MR. BUTLER:

19 Q I think we can sum this up in two. I take it
 20 then you have three basic opinions. The first is that
 21 5-3 governs. The second is that Montealvo had the
 22 discretion to attempt or to initiate a traffic stop. The
 23 third is that Montealvo had the discretion to continue
 24 his pursuit.

25 MR. THRELKELD: Object to the form.

1 were 5-3 governs your opinion that Montealvo had
 2 discretion to initiate a traffic stop, that Montealvo had
 3 discretion to continue a pursuit. And my recollection is
 4 you said that's an all right summary, although it's
 5 incomplete, and we talked about it a little bit. Are
 6 there sub-opinions in there I'm missing?

7 A Well, there are sub -- sub-opinions, and I kind
 8 of gave it to you.

9 Q Right. You kind of did. He didn't think kind
 10 of was good enough.

11 MR. JONES: Do you?

12 THE WITNESS: I thought my sub-opinions were so
 13 concise that I just wanted to stick with that
 14 instead of a further summary.

15 BY MR. BUTLER:

16 Q All right. What sub-opinions are you talking
 17 about?

18 A We'd have to go back and look at the answers.
 19 I think I -- I tried to tick off the things that are
 20 already in the record that I believed were important that
 21 I reviewed and had opinions on. I believe it's in the
 22 record already. Unless we're going to try to discuss it
 23 further, I'd like to leave it where it is.

24 Q Well, that will work for me. Any opinions that
 25 we haven't already talked about today?

1 THE WITNESS: I don't know that I would agree
 2 with summarizing it that way. If I'm asked to say
 3 would that be an accurate summary, I would say it's
 4 a summary, but it doesn't completely cover
 5 everything.

6 BY MR. BUTLER:

7 Q What did I leave out?

8 A Well, I think that's a summary of the opinions.
 9 I gave them, and I'm just going to stick by what I said.

10 Q You have reasons for the opinions, but I just
 11 want to make sure I'm not surprised at trial.

12 A I think those are the basic areas, yes.

13 MR. BUTLER: All right. Let's change the tape.

14 VIDEOGRAPHER: It's the end of number two.

15 We're now going off the record, and it's 4:10.

16 (Short break)

17 VIDEOGRAPHER: We are back on the record. This
 18 is the beginning of number three and it's 4:33.

19 BY MR. BUTLER:

20 Q Mr. Katsaris, before we broke, we were talking
 21 about your opinions, and I was trying to get a grasp of
 22 all that there were. And Mr. Jones correctly reminded me
 23 that I should attempt to be more precise than we have
 24 been.

25 I tried to summarize by saying your opinions

1 A No, no.

2 Q Is there anything in the IACP policy marked as
 3 Plaintiff's Exhibit B that you disagree with?

4 A Well, you know, I doubt it. I would have to
 5 read every word of it again, and I don't think we want to
 6 do that. Let's just put it this way. In general, I
 7 agree with the posture that they have, which is not
 8 singular.

9 In other words, they've got -- for example,
 10 they talk about why a pursuit would be favorable and why
 11 they're unfavorable. So I don't want to be caught up in
 12 saying, you know, that I agree with everything that is
 13 said in the -- if you took it out of context. If you
 14 left it in the context, I agree with it, because what
 15 they try to do is balance what the real issues are and
 16 put it in perspective. So in toto, I agree with it.

17 Q All right. So with everything taken in
 18 context, there's nothing in the IACP policy marked as
 19 Plaintiff's Exhibit B with which you disagree?

20 A Right. The reason why I'm being careful is
 21 because you could read something to me out of there in
 22 trial and say, You agreed with all of this. And I don't
 23 think you would do that. But on the other hand, I'm
 24 saying, in context, I agree with it.

25 Q All right. Okay. Let's look just at the --

1 oh, good, it has page numbers. So what appears in
2 Exhibit B to be most relevant to me are pages -- I'm
3 going to clip them together for you -- two through six.
4 I'm going to hand the document back to you. And tell me
5 is there anything on those pages that you don't agree
6 with.

7 A (Views document.) I'm back, sir.

8 Q Okay.

9 A With the caveat of the disclaimer at the end of
10 page six, which is what I was talking about taking in
11 context, I agree with laying this out for agencies to
12 consider.

13 Q By "this," you mean pages two to six of
14 Plaintiff's Exhibit B?

15 A Right. It says, the caveat that I said taken
16 in context, Each law enforcement agency operates in a
17 unique environment of federal court ruling, state laws,
18 local ordinances, regulations, judicial and
19 administrative decisions and collective bargaining
20 agreements that must be considered. In addition, the
21 formulation of specific agency policies must take into
22 account local, political, community perspectives,
23 customs, prerogatives and demands, often divergent law
24 enforcement strategies and philosophies, and the impact
25 of varied agency resources, capabilities, among other

1 Q Nothing wrong with it?

2 A Not if that's what they wanted.

3 Q Okay. You mentioned blowing up parts of the
4 IACP policy at trial. What parts are you referring to?

5 A Well, I hadn't thought about it, but I wanted
6 to make sure I told you that I might use it. I'd have to
7 think about what was best.

8 Q Best for what purpose?

9 A For presenting the thoughts of this particular
10 policy, since I've already said I'm using it as a basis.
11 I'm not sure. I'm not sure. I believe counsel will have
12 to make a decision about what exhibit he wants. I'm not
13 sure at this time. Perhaps some of the language past
14 page -- you were asking me page one through six.

15 Q Well, if you want to blow something up on page
16 eight, I want to know about it.

17 A The background, the things that I gave you
18 about the data that's reflected here, the information.
19 For example, I didn't even -- you didn't even ask me
20 about it. The Scott v. Harris information is in here.
21 On page nine there are two arguments that are generally
22 set forth in favor of pursuits.

23 I would -- if we went to a jury, I would want
24 them to know that obviously the paper that would go out
25 throughout the country has these considerations for them

1 factors. This document is not intended to be a national
2 standard.

3 Q I understand.

4 A Okay. Now, what they presented is for a
5 beginning. And I don't want to take each and every entry
6 and say, I agree, I agree, I agree. I agree with what
7 they're trying to do, and that is, give an agency a
8 starting point to include or not include, depending on
9 their need. And you notice they even went so far as to
10 say, The officers' collective bargaining unit may not
11 want some of this in there.

12 So I agree with what the efforts are. I had no
13 intentions of saying, take one line and I agree you must
14 do this. I agree that this policy is recognized as a
15 beginning effort. That's why I was careful to try to
16 frame it that way, instead of presenting it to you, here,
17 use it. Now, some agencies will re-title this and just
18 use it. It's easy, and they wouldn't go wrong with that.

19 Q All right. Some agencies would just re-title
20 the IACP agreement that's Plaintiff's Exhibit B to your
21 deposition and just go with it and --

22 A They could.

23 Q And there would be nothing wrong with that, you
24 said?

25 A No.

1 to utilize in developing their pursuit policy. So on
2 page nine and ten are pieces of information that I
3 probably would want to use.

4 Q How did Montevalvo know that [REDACTED] vehicle
5 was a suspicious vehicle?

6 A It was put out to him. It was dispatched to
7 check on the vehicle that -- I can't remember the exact
8 wording right now, but it was related to the call that
9 came in.

10 Q Because it was in the -- Montevalvo knew it
11 ultimately because it was in Ms. Brown's 911 call, right?

12 A Right.

13 Q Did the presence of another person in the
14 Aztek, is that a factor in favor of a chase and a
15 continued high-speed chase or a factor against a
16 continued chase and a high-speed chase?

17 MR. THRELKELD: Object to the form.

18 THE WITNESS: Probably it would lean against,
19 if he knew. I believe that he never saw a
20 passenger. You have to consider now multiple
21 situations. Depending. For example, had she
22 gotten -- I had a case, for example, where a
23 passenger jumped up and was waving out the -- what's
24 the opening at the top, the --

25 BY MR. BUTLER:

1 Q Sunroof.
 2 A Sunroof, the moonroof, and was doing this
 3 (indicating). The officer had to think about what does
 4 this mean. He believed that it was a kidnapping.
 5 Q Do you consult and work through a company or
 6 under your own name?
 7 A Just my name. I'm not even incorporated.
 8 Q Okay. Have you spoken with anyone, other than
 9 the people who work for you, have you spoken with anyone
 10 other than Paul Threlkeld, sitting to your right, about
 11 this case?
 12 A No. I don't have any employees.
 13 Q Okay.
 14 A My assistant even has her own business.
 15 Q So the only person with whom you've spoken
 16 about this case would be Mr. Threlkeld, the City's
 17 lawyer, and maybe your assistant?
 18 A I wouldn't have spoken to her about it.
 19 Q Okay.
 20 A I just said I don't have any employees. But
 21 even as my assistant, that is -- she operates as a sole
 22 proprietor of her own business, doing my work.
 23 Q I'm not trying to make you liable for her.
 24 A I know. I'm just saying, I haven't spoken to
 25 her.

1 Q Is the answer to the question I just asked,
 2 that is, did he pose a danger to human life or a danger
 3 of causing serious injury to someone before this chase
 4 started?
 5 A It's unknown.
 6 Q Was there any reason to think that he did?
 7 A It's unknown. It was a suspicious car.
 8 Q Any reason to think, before this chase started,
 9 that [REDACTED] posed a danger to human life or a danger of
 10 causing serious injury?
 11 A You want me to go back and repeat what I talked
 12 about to you? I said not to a probable cause standard.
 13 Q All right.
 14 A Because I've already answered my questions, and
 15 I was very careful about them, and now you're bordering
 16 on harassing me by asking me again.
 17 Q No, I'm not.
 18 A Yeah, you are. You're trying to get me to say
 19 something else to questions I have answered. I have
 20 already answered your questions about him and his danger.
 21 And now you're thinking I might say, no, without the "to
 22 a probable cause" standard. I think I told you that he
 23 met the Terry v. Ohio, the Wardlow standard.
 24 I really don't want to do this again. I've
 25 answered your question, and I'm objecting to you doing

1 Q Let me try a third time. Is the only person
 2 with whom you've spoken about this case the City's
 3 lawyer, Paul Threlkeld?
 4 A As far as I know, unless he had somebody on the
 5 phone I don't recall.
 6 Q Nobody else that you know of?
 7 A Not that I remember, no.
 8 Q Is there anything else that you'd like to
 9 review in this case that you have not yet reviewed?
 10 A Asked and answered. I gave it to you already.
 11 Q I don't remember. What was the answer?
 12 A That I'll review the scene if we go to trial.
 13 Q Anything else?
 14 A No.
 15 Q Before this chase started, did [REDACTED] [REDACTED]
 16 pose a danger to human life or a danger of causing
 17 serious injury to someone?
 18 MR. THRELKELD: Object to the form.
 19 THE WITNESS: We've already gone through all
 20 those.
 21 BY MR. BUTLER:
 22 Q What's the answer to that question?
 23 A No. But you've already gone through this
 24 series, asking me about before the pursuit, all those
 25 pieces of information.

1 it. I'm objecting.
 2 Q I have not asked you this question before.
 3 A You did.
 4 Q No, that's wrong. I've got a right to ask it.
 5 A You absolutely did ask me about whether he
 6 had -- he was a danger prior to the officer contacting
 7 him. You did ask me that question.
 8 Q I don't think I asked you about a danger to the
 9 officer contacting him. I know I didn't use these words
 10 before.
 11 A Okay. Go ahead.
 12 Q Thank you. Here's the question. Before this
 13 chase started, was there any reason to believe, to a
 14 probable cause or reasonable, articulable suspicion
 15 standard, that [REDACTED] posed a danger to human life or a
 16 danger of causing serious injury to someone?
 17 MR. THRELKELD: Object to the form.
 18 THE WITNESS: Not to a probable cause standard,
 19 no. But you --
 20 BY MR. BUTLER:
 21 Q Okay. How about to a reasonable, articulable
 22 suspicion standard?
 23 MR. THRELKELD: Same objection.
 24 THE WITNESS: Yes, because he was dispatched to
 25 this car being suspicious.

1 BY MR. BUTLER:
 2 Q Okay. Any reason other than being dispatched
 3 to the car that was declared to be suspicious?
 4 A No. And Mrs. Lincoln would have enjoyed the
 5 concert otherwise.
 6 Q Did you meet with Mr. Threlkeld before this
 7 deposition?
 8 A Yes.
 9 Q When?
 10 A This morning.
 11 Q Any other times?
 12 A No.
 13 Q How long did you meet for this morning?
 14 A Twenty minutes.
 15 Q Where?
 16 A Here.
 17 Q Did y'all talk on the phone about this
 18 deposition before this deposition?
 19 A No.
 20 Q Have you worked with Mr. Threlkeld or Oliver
 21 Maner before?
 22 A Yes.
 23 Q How many times?
 24 A Once that we talked about today, and there may
 25 have been another. I can't -- I think there was another

1 Q Is it north of 99 percent?
 2 A No.
 3 Q Is it north of 95?
 4 A Yes.
 5 Q And you said, We have a guesstimate. Who is
 6 "we"?
 7 A We in the field of law enforcement, people that
 8 practice and teach and what have you.
 9 Q Is a 2001 Pontiac Aztek safe at a hundred miles
 10 an hour?
 11 MR. THRELKELD: Object to the form.
 12 THE WITNESS: I haven't tested it.
 13 BY MR. BUTLER:
 14 Q Okay. Is a 2008 Crown Victoria safe at a
 15 hundred miles an hour?
 16 MR. THRELKELD: Objection to the form.
 17 THE WITNESS: It's made to do 115, 17, 117.
 18 BY MR. BUTLER:
 19 Q Do you believe it's safe at a hundred miles an
 20 hour?
 21 MR. THRELKELD: Objection.
 22 THE WITNESS: I think that now we're talking
 23 about the driver, not the car. If the car is in
 24 good condition and the driver is up to it,
 25 certainly.

1 one. Maybe twice.
 2 Q All right. When?
 3 A A couple of years ago.
 4 Q Both of them a couple of years ago or --
 5 A Well, one was -- I think ended a year, year or
 6 two ago, and I don't know about the other one. Seems
 7 like there was another. Maybe it was his partner on
 8 another. I'm not sure.
 9 (Plaintiff's Exhibit F-2 was marked.)
 10 Q I've marked now as Plaintiff's Exhibit F-2 what
 11 I believe is the addendum to your CV. Is that the
 12 addendum to your CV that we talked about earlier?
 13 A Yes.
 14 Q Here's a question I did ask you earlier, but I
 15 cannot remember your answer. Did you review or are you
 16 familiar with statistics about the percentage of the time
 17 that people stop when an officer attempts to pull them
 18 over?
 19 A We have a guesstimate on that. We don't have
 20 actual knowledge on the numbers because we don't -- we
 21 don't archive the traffic stops in that manner. It's a
 22 guesstimate. The majority stop for the officers. It's a
 23 high, high, high percentage.
 24 Q Is it north of 90 percent?
 25 A Yes.

1 BY MR. BUTLER:
 2 Q When was the last time you were a patrol
 3 officer?
 4 A Well, I don't go out on patrol. I'm still a
 5 police officer. I meet all the requirements. I just
 6 don't go out on patrol. It's probably been seven or
 7 eight years since I've been out on patrol.
 8 Q When was the last time you had to make a
 9 decision about whether to initiate a traffic stop
 10 personally?
 11 A Well, I know I got involved in traffic stops.
 12 I mean, I'm confident that I may have suggested it. I'm
 13 the trainer, and I've trained all the people that I work
 14 with. I'm confident I probably said, Pull that car over.
 15 I mean, was I sitting behind the wheel? Probably not.
 16 Q When was the last time when sitting behind the
 17 wheel you had to decide whether to initiate a traffic
 18 stop?
 19 A I couldn't tell you that because I -- I have
 20 alternately been behind the wheel of a patrol car in
 21 years past, but it's been quite a while since I actually
 22 chauffeured a police car as the driver. I go more as a
 23 backup, second trainer assessing the work that's being
 24 done.
 25 Q As a driver, is it -- I mean, are we talking

1 two years ago, ten?
 2 A Oh, no. Over seven or eight years ago, yeah.
 3 Q When was the last time you had to make a
 4 decision about -- well, strike that. When was the last
 5 time you had to personally make a decision about whether
 6 to continue a pursuit in a police vehicle?
 7 A I don't recall, but whenever it was, it was
 8 sooner than your expert.
 9 Q What's the answer?
 10 A I can't recall. At least I've done it.
 11 Q Are we talking 10 years ago, 20 years ago?
 12 A I don't remember.
 13 Q You don't remember if it was within the last --
 14 A You shouldn't make an issue out of it. Your
 15 expert has never done it. Don't do that.
 16 Q Do you remember whether it was in the last 10
 17 years?
 18 A Probably in the last 10 years, yeah, but I
 19 don't remember when.
 20 Q Do you remember the occasion?
 21 A No, I don't.
 22 Q When was the last time that you were in charge
 23 of patrol officers?
 24 A That all depends on how you define the word "in
 25 charge," because when I'm working with anybody, they

1 there that's in law enforcement looks to me for whatever
 2 is going on. For example, while we were at the academy,
 3 I made an arrest while teaching traffic stops, an actual
 4 arrest, a physical, in-custody arrest. I mean, a man
 5 committed a crime in the parking lot.
 6 Q Of the academy?
 7 A Of the academy.
 8 Q Good Lord.
 9 A Was working on a crew and was stealing
 10 something from a vehicle. I'm at the academy, and I'm
 11 armed and I have my badge on. I'm outside, and you can
 12 see that. I couldn't believe it. He's sneaking around.
 13 I knew it was one of the students' trucks. He's looking
 14 around. Next thing you know, he's reaching inside, and I
 15 immediately made an arrest.
 16 Q Yeah.
 17 A But I'm always on duty, and I back up my
 18 students at night. If I'm out, I will make a stop behind
 19 their car. I always come up with my star very visible
 20 and stand at a position where they know they're not
 21 alone. If they have a couple of guys to stop, looks like
 22 there could be something, I -- I do backup. So I stay
 23 very involved.
 24 Now, does that officer look to me? Am I in
 25 charge? I think they tell me, If you tell me to do

1 usually consider me senior because of my background. I
 2 am senior instructor, not former sheriff. That
 3 usually -- like I've been told even by the former
 4 sheriff -- I haven't spoken to the current sheriff about
 5 it. But the former sheriff had told me, If you're with
 6 me, you tell me what to do because you know better than I
 7 do.
 8 So I don't know what "in charge" means. They
 9 consider my rank sheriff. I am not, but they -- because
 10 I was there and because I've been in training ever since
 11 and because I've trained everybody in this area, all
 12 agencies, they pretty much look to me to assist.
 13 Q You were sheriff here, right?
 14 A Yes.
 15 Q In Tallahassee?
 16 A Yes.
 17 Q Which is Leon County?
 18 A Yes.
 19 Q What I'm trying to drive at is when the last
 20 time you were in charge of -- you know, obviously, when
 21 you were sheriff of Leon County, you had deputies.
 22 A Well, I was really in charge then, but now
 23 it's -- it all depends on what you mean.
 24 Q Yeah.
 25 A For example, when I'm at the academy, anybody

1 something, I'm going to do it. I mean, I'm their
 2 trainer, so they look to me. So I'm not in charge, but I
 3 am.
 4 Q When is the last time you were a sheriff?
 5 A Oh, I haven't been -- the sheriff, the elected
 6 sheriff?
 7 Q Yes.
 8 A 1981.
 9 Q Have you ever been a police chief?
 10 A Never been a police chief.
 11 Q Have you ever been part of a police force?
 12 A On a police force?
 13 Q Yeah.
 14 A Yeah, sure.
 15 Q What was your highest rank?
 16 A Just law enforcement. I never went up the
 17 ranks. I was sheriff. I went from bottom to the top.
 18 Q Okay. I see. In what jurisdiction are you a
 19 police officer?
 20 A This jurisdiction, Leon County.
 21 Q Leon County? All right.
 22 A I was a state trooper for about nine years. I
 23 had the whole state. But I went back to the sheriff's
 24 office.
 25 Q So you're a sheriff -- you're with the


1 sheriff's office now in an official capacity, I take it.
 2 A That's correct. If you will notice in very
 3 large print --
 4 Q I believe you.
 5 A Sworn.
 6 Q All right.
 7 A That means I can arrest.
 8 Q I believe that's going to be all my questions.
 9 A But you're not under arrest.
 10 Q Good. I'm not trying to give you an excuse.
 11 But before that, I'm going to go through my notes, make
 12 sure I haven't omitted anything. Let's take a break.
 13 A All right. Thank you.
 14 (Short break)
 15 VIDEOGRAPHER: We are back on the record.
 16 BY MR. BUTLER:
 17 Q Mr. Katsaris, I'm going to mark -- you've
 18 brought a whole bunch of materials with you as your file
 19 that are in front of you. I see it's a lot of
 20 depositions and other printed papers with some sticky
 21 notes on them that constitute your notes; is that right?
 22 A Reminders, notes, yes.
 23 (Plaintiff's Exhibit I was marked.)
 24 Q All right. And we'll go through and speed-mark
 25 everything. The top one is the 5-3 document we've


1 (Plaintiff's Exhibit L was marked.)
 2 A Yes.
 3 (Plaintiff's Exhibit M was marked.)
 4 Q Thank you. The next is your version of the
 5 deposition, and that's Exhibit M, right?
 6 A Yes.
 7 (Plaintiff's Exhibit N was marked.)
 8 Q The next is your notes and stuff on the
 9 deposition of Adrian Montevalvo, and that's Exhibit N, as
 10 in November, right?
 11 A Yes.
 12 (Plaintiff's Exhibit O was marked.)
 13 Q The next is the deposition of Chief Shore, with
 14 your notes on it, and that's Exhibit O, correct?
 15 A Yes.
 16 (Plaintiff's Exhibit P was marked.)
 17 Q The next is the deposition of -- the 30(b)(6)
 18 deposition of the City of Metter, where the deponent was
 19 Mack Seckinger, taken 6/15/17, Exhibit P as in poplar,
 20 right?
 21 A Yes.
 22 (Plaintiff's Exhibit Q was marked.)
 23 Q The next is the deposition of Mack Seckinger,
 24 taken as an individual on 8/18/17. That's Exhibit Q as
 25 in Quebec, right?

1 referred to. I've now marked that as Plaintiff's Exhibit
 2 I; is that correct?
 3 A Yes.
 4 (Plaintiff's Exhibit J was marked.)
 5 Q The next one is labeled Chapter 12, Vehicle
 6 Operations, with an effective date of 10/29/07 that I've
 7 marked as Exhibit J; is that right?
 8 A Yes.
 9 Q The next is a -- looks like a printing of a
 10 transcript or something. Anyway, it's sideways, and it
 11 starts with some discussion of Sandra Brown. I've marked
 12 that as K.
 13 (Plaintiff's Exhibit K was marked.)
 14 A Right.
 15 Q Is that right?
 16 A That may be a repeat.
 17 Q I believe it is.
 18 A Yeah, I think it is. I don't know. I didn't
 19 realize it when I first got the file.
 20 Q Let me see if you put anything of interest in
 21 here to me. It does not look like you did, so we're
 22 going to put that in the unmarked pile. The next one
 23 we'll mark is Plaintiff's Exhibit L. This is a document
 24 beginning with, police department memorandum, and it's
 25 Plaintiff's L; is that right?

1 A Yes.
 2 (Plaintiff's Exhibit R was marked.)
 3 Q And the final one is the deposition of
 4 Dr. Geoffrey Alpert, with your notes and stuff, and
 5 that's marked as Plaintiff's Exhibit R as in Romeo,
 6 right?
 7 A Yes.
 8 Q Do you agree that high-speed chases generally
 9 end either with the suspect stopping or crashing?
 10 MR. THRELKELD: Object to the form.
 11 THE WITNESS: No.
 12 BY MR. BUTLER:
 13 Q How else do they end?
 14 A What did you say?
 15 Q Let me see if I can clarify. Do you agree that
 16 most high-speed chases end in one of the following two
 17 ways; one, there's a crash or, two, the suspect stops?
 18 A No.
 19 Q What's the other alternative?
 20 A They let them go.
 21 Q Okay. So if a high-speed chase starts, it
 22 usually ends in one of three ways. The suspect stops,
 23 there's a crash or the officer lets them go. Is that
 24 right?
 25 MR. THRELKELD: Same objection.

1 THE WITNESS: I guess so, yeah.
 2 BY MR. BUTLER:
 3 Q You've told me, if I recall right, that about
 4 60 percent of your time is devoted to the litigation
 5 consulting practice.
 6 A It varies by the year, but yes, probably.
 7 Q What about percentage of income?
 8 A Probably 60 percent.
 9 Q How many times would you estimate that you have
 10 testified either in deposition or at trial, total?
 11 A I don't know. I've never kept track.
 12 Q Would it be in the hundreds --
 13 A Hundreds.
 14 Q -- or thousands?
 15 A Hundreds.
 16 MR. BUTLER: That's all the questions I have.
 17 Thank you.
 18 THE WITNESS: Thank you.
 19 MR. BUTLER: All right. Thank you, sir.
 20 VIDEOGRAPHER: Now going off the record. It is
 21 5:17.
 22 (Whereupon, the deposition was concluded at
 23 5:17 p m.)
 24
 25

1
 2 CERTIFICATE OF REPORTER
 3 STATE OF FLORIDA)
 4 COUNTY OF LEON)
 5 I, JO LANGSTON, Registered Professional
 6 Reporter, certify that the foregoing proceedings were
 7 taken before me at the time and place therein designated;
 8 that my shorthand notes were thereafter translated under
 9 my supervision; and the foregoing pages number 1 through
 10 117 are a true and correct record of the aforesaid
 11 proceedings.
 12 I further certify that I am not a relative,
 13 employee, attorney or counsel of any of the parties, nor
 14 am I a relative or employee of any of the parties'
 15 attorney or counsel connected with the action, nor am I
 16 financially interested in the action.
 17 DATED this 21st day of June 2018.
 18
 19
 20 
 21
 22 JO LANGSTON,
 23 Registered Professional Reporter
 24
 25

1
 2 CERTIFICATE OF OATH
 3
 4 STATE OF FLORIDA)
 5 COUNTY OF LEON)
 6
 7 I, the undersigned authority, certify that said
 8 designated witness personally appeared before me and was
 9 duly sworn.
 10
 11 WITNESS my hand and official seal this 21st day
 12 of June 2018.
 13
 14
 15
 16
 17 
 18
 19 JO LANGSTON, RPR
 20 Notary Public
 21 Commission #FF931140
 22
 23
 24
 25

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