

**In The Matter Of:**  
*STATE OF MISSOURI v.*  
*JEFFREY R. WEINHAUS*

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*SCOTT MERTENS*  
*June 6, 2013*  
*Franklin County, MO No. 12AB-CR02409-01*

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1           IN THE CIRCUIT COURT FOR THE COUNTY OF FRANKLIN  
2                               20TH JUDICIAL CIRCUIT  
3                               STATE OF MISSOURI  
4   STATE OF MISSOURI,                                )  
5           Plaintiff,                                ) Cause No. 12AB-CR02409-01  
6   vs.    )  
7   JEFFREY R. WEINHAUS,                               )  
8           Defendant.                                )  
9  
10  
11  
12  
13                               DEPOSITION OF SCOTT MERTENS,  
14           Taken on Behalf of the Defendant  
15                               June 6, 2013  
16  
17  
18  
19  
20  
21                               COURT REPORTING ASSOCIATES  
22                               P.O. BOX 440014  
23                               ST. LOUIS, MISSOURI 63144  
24                               314-961-6306  
25                               314-265-4602

Reported by: Jane M. Rich, RPR, CSR, CCR

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2                               20TH JUDICIAL CIRCUIT  
3                               STATE OF MISSOURI  
4   STATE OF MISSOURI,                                )  
5           Plaintiff,                                ) Cause No. 12AB-CR02409-01  
6   vs.    )  
7   JEFFREY R. WEINHAUS,                               )  
8           Defendant.                                )  
9  
10                               DEPOSITION OF SCOTT MERTENS, taken on behalf of the  
11           Defendant, on the 6th day of June, 2013, between the hours  
12           of eight o'clock in the forenoon and six o'clock in the  
13           afternoon of that day, in the offices of the Franklin  
14           County Prosecuting Attorney's office, 15 S. Church Street,  
15           Union, Missouri, before Jane M. Rich, a Missouri Certified  
16           Court Reporter, license number 411.  
17  
18                               A P P E A R A N C E S  
19                               The Plaintiff was represented by Mr. Robert H.  
20                               Parks, II, Franklin County Prosecuting Attorney, 15 S.  
21                               Church, Room 204, Union, Missouri 63084.  
22                               The Defendant was represented by Mr. Hugh  
23                               Eastwood, Attorney at law, 7777 Bonhomme, Suite 1603,  
24                               Clayton, Missouri 63105.  
25

Page 2

1                               I N D E X  
2   DEPOSITION EXHIBITS:  
3  
4   Plaintiff's Exhibit 5                                Page 58  
5  
6   EXAMINATION:  
7   Direct Examination by Mr. Eastwood                                4  
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1                               -oOo-  
2                               SCOTT MERTENS,  
3   of lawful age, having been first duly sworn to testify the  
4   truth, the whole truth, and nothing but the truth, deposes  
5   and says on behalf of the Defendant as follows:  
6                               D I R E C T E X A M I N A T I O N  
7   Q U E S T I O N S   B Y   M R .   E A S T W O O D :  
8   Q   Can you state your full name for the record,  
9   sir?  
10   A   My name is Scott Edward Mertens, and that's  
11   spelled M-e-r-t-e-n-s.  
12   Q   And you are with the Missouri State Highway  
13   Patrol?  
14   A   That is correct.  
15   Q   Okay. And where are you stationed? What  
16   troop are you with?  
17   A   I'm out of the general headquarters.  
18   Q   And where is that?  
19   A   In Jefferson City, but I'm stationed in Rolla,  
20   Missouri.  
21   Q   And what troop letter is that?  
22   A   It's -- Well, I'm under a division.  
23   Q   Okay.  
24   A   I'm out of the general headquarters, but I'm  
25   under the division of drug and crime control.

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1 Q Are you affiliated in some way with Troop I?  
 2 A I am assigned to the Troop I area through Jeff  
 3 City.  
 4 Q And how old of a man are you, sir?  
 5 A I'm 43.  
 6 Q Okay. And what is your DSN, or badge number?  
 7 A My badge number is 567.  
 8 Q And what is the highest level of education you  
 9 have achieved?  
 10 A I have a Bachelor's of science.  
 11 Q Okay. Where is that from?  
 12 A Drury University.  
 13 Q Okay. And have you served in the military?  
 14 A No, I have not.  
 15 Q Okay. And how long have you been employed  
 16 with the Missouri State Highway Patrol?  
 17 A Since January 1st of 1996.  
 18 Q Okay. And I have to ask you these questions,  
 19 unfortunately, but have you ever been formerly  
 20 disciplined, or reprimanded?  
 21 A No.  
 22 Q Okay. And have you ever been convicted of a  
 23 crime?  
 24 A Well, you had a question there on my  
 25 discipline.

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1 Q You were looking up, is there something --  
 2 A Well, there's a -- we have different types of  
 3 discipline, whether it was counseling report, or whether  
 4 it was stuff like that, but I had a counseling report  
 5 for an accident one time, that where I -- wasn't really  
 6 an accident, but I had gone down the median and done  
 7 some damage to a car.  
 8 Q So you got written up for --  
 9 A Well, it was a written counseling report, but  
 10 they're not really considered reprimand, I don't  
 11 believe, so...  
 12 Q And when was that?  
 13 A Oh, you're talking 10, 11 years ago probably.  
 14 Q Okay. Long time ago?  
 15 A Yes.  
 16 Q Okay. And have you ever been convicted of a  
 17 crime?  
 18 A No, I have not.  
 19 Q Okay. And have you ever been a party to civil  
 20 litigation?  
 21 A No, I have not.  
 22 Q Okay. Never been sued?  
 23 A No, I have not.  
 24 Q Never sued anyone. And are you competent and  
 25 of sound mind and body to testify here today?

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1 A I am.  
 2 Q You're not too tired?  
 3 A No, I'm not.  
 4 Q Okay. What did you review in order to -- what  
 5 documents or other things did you review in order to  
 6 prepare for today?  
 7 A I listened to my recorded interview and I've  
 8 read partial things in the blue book here.  
 9 Q Okay. The blue book, what is that?  
 10 A That is the investigation of the incident  
 11 involving Jeffrey Weinhaus on September 11th.  
 12 Q This the investigation that was performed by  
 13 Perry Smith and others?  
 14 A That is correct.  
 15 Q Okay. And who did you talk to in order to  
 16 prepare for today?  
 17 A I've talked to the prosecutor.  
 18 Q Mr. Parks?  
 19 A Yes.  
 20 Q Okay. And did you review either an audio or a  
 21 video recording of the incident itself?  
 22 A With Mr. Parks, or just --  
 23 Q Just in preparation for today?  
 24 A I have seen it, audio, or listened to an  
 25 audio, and I've seen a video.

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1 Q Okay.  
 2 A But not in preparation for today. I've just  
 3 reviewed them.  
 4 Q In the past?  
 5 A That is correct.  
 6 Q Okay. And have you been trained in the use of  
 7 force by the Missouri State Highway Patrol?  
 8 A Yes, I have.  
 9 Q Okay. Can you tell me a little bit about your  
 10 training?  
 11 A I am a defense tactics instructor. And I've  
 12 also been trained through the academy, and continuing  
 13 education throughout the years.  
 14 Q You've been trained in the continuum of force?  
 15 A We do not have a force continuum.  
 16 Q You do not?  
 17 A No.  
 18 Q Okay. Why is that?  
 19 A They have taken that out, that it is  
 20 outdated --  
 21 Q Okay.  
 22 A -- type. Their reasonings, you would have to  
 23 ask them.  
 24 Q Is there a specific manual or guide -- well,  
 25 you say the take it out, they took it out of a specific

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1 manual, or --  
 2 **A Our general orders.**  
 3 Q Your general orders?  
 4 **A Yes.**  
 5 Q And is that, is that the Bible, so to speak,  
 6 of your training?  
 7 **A I wouldn't call it a Bible, but I would call**  
 8 **it our general orders.**  
 9 Q Okay. And when you are -- Are you trained on  
 10 how to confront someone who is armed?  
 11 **A Yes.**  
 12 Q And what are you trained to do when you  
 13 confront someone who is armed?  
 14 **A That's a pretty general question. I guess I'm**  
 15 **not really understanding what you're asking me.**  
 16 Q How are you trained to -- Are you trained to  
 17 escalate, or de-escalate the threat?  
 18 **A I'm trying to use the force that is necessary**  
 19 **to, whether it's just my mere presence, or anything**  
 20 **above that, but I'm trained to, to either diffuse the**  
 21 **situation, you know, or -- I don't know how to explain**  
 22 **it.**  
 23 Q Okay.  
 24 **A Because I guess I'm not sure exactly what**  
 25 **you're asking.**

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1 Q Well, my question, and perhaps you've answered  
 2 it there, is that you're, generally speaking, you're  
 3 trained to diffuse a situation, not to escalate a  
 4 situation?  
 5 **A That is correct.**  
 6 Q Okay. And is there, does the threat level to  
 7 you automatically go up just because someone is carrying  
 8 a firearm?  
 9 **A No.**  
 10 Q Okay. I want to turn to the, sort of how this  
 11 all began, so to speak, which I believe is a complaint  
 12 by Judge Kelly Parker from Crawford County about a video  
 13 made by my client, Jeff Weinhaus, around mid-August of  
 14 2012.  
 15 Have you seen the video, the YouTube video that  
 16 was the subject of that complaint?  
 17 **A I have seen that, but it's been a long time.**  
 18 Q Okay. Did you see the version with captions  
 19 or without captions?  
 20 **A I would say probably both.**  
 21 Q Okay. Okay. Did you, did you investigate  
 22 that video together with Sergeant Folsom?  
 23 **A No, I did not.**  
 24 Q Sergeant Folsom previously testified here  
 25 today about his involvement in that investigation. Were

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1 you less involved in that investigation?  
 2 **A Yes.**  
 3 Q Okay. Did you meet with Judge Parker?  
 4 **A No, I did not.**  
 5 Q Did you meet with Lieutenant Satterfield?  
 6 **A No, I did not.**  
 7 Q Okay. Did you -- Were you with Sergeant  
 8 Folsom on the first visit to Jeff Weinhaus' house?  
 9 **A On August 22nd, yes.**  
 10 Q Okay. And what was the purpose of that visit?  
 11 **A To contact Mr. Weinhaus and basically**  
 12 **determine what his intentions were pertaining to the**  
 13 **video.**  
 14 Q Okay. And what happened when you got to the  
 15 house that day?  
 16 **A We arrived, we located the residents, we**  
 17 **weren't sure which residence was his. The first**  
 18 **residence we knocked on, Mr. Weinhaus did answer the**  
 19 **door. He immediately closed the door behind him as he**  
 20 **came out to say, I think he said can I help you**  
 21 **gentlemen, and we explained who we are and why we were**  
 22 **there.**  
 23 And Sergeant Folsom asked why his walk was  
 24 surrounded by bushes, so Sergeant Folsom asked, I believe,  
 25 if we could go down into the yard area so we weren't so

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1 **confined into one little small area.**  
 2 Q Okay. And when you went down, what did you  
 3 talk about?  
 4 **A Basically, his intentions on the video.**  
 5 Q What did you determine his intentions to be?  
 6 **A Mr. Weinhaus claimed that he was a peaceable**  
 7 **man, offered to give us a bulletin that he writes, and**  
 8 **walked over to his truck to give us the bulletin.**  
 9 Q Okay. And was that the end of it? Did you  
 10 just part ways and separately go about your business?  
 11 **A No. We continued to talk about different**  
 12 **things. Mr. Weinhaus shared a lot of his views, and the**  
 13 **things like that, of, of different things.**  
 14 I think Sergeant Folsom asked him, or explained  
 15 that his video didn't seem to be a peaceable video, that a  
 16 layman would look at it and say -- I think Mr. Weinhaus  
 17 made the comment of, what was the penalty for treason when  
 18 they were talking about going in and executing people. He  
 19 said that you'll be tried and executed, something to that  
 20 effect, in the video.  
 21 And so he asked him about that.  
 22 Q Okay. And were you concerned at that time  
 23 that Mr. Weinhaus was breaking any laws?  
 24 **A Yes.**  
 25 Q Okay. Why? Tell me about that.

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1    **A That's why we were there.**  
2    Q Okay. But I mean, in terms of the video. But  
3 I mean at the meeting, at the time of the meeting were  
4 you concerned by Mr. Weinhaus' statements, or demeanor,  
5 or behavior that he was doing anything unlawful?  
6    **A Well, if you look at the treason part of it,**  
7 **and I even asked Mr. Weinhaus, I said -- he explained**  
8 **what it was, and I said, well, how are they committing**  
9 **treason, and he said, well, they've perjured themselves.**  
10 **And then I explained, I said well, perjury is different**  
11 **than treason, they have two different penalties, and**  
12 **just because someone perjurers themself doesn't mean**  
13 **they committed treason.**  
14       But so as a concern for him saying, or being --  
15 breaking the law right at that time, no, we were more  
16 there to investigate the original thing of the video.  
17    Q So you weren't going to arrest him at that  
18 point?  
19    **A No.**  
20    Q At that point for threatening Judge Parker, or  
21 anyone else?  
22    **A No.**  
23    Q Okay. And did you then just leave the house  
24 and go about the rest of your day?  
25    **A No.**

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1    Q Okay. Why not?  
2    **A Sergeant Folsom, while he was closer to**  
3 **Weinhaus, explained to Mr. Weinhaus that he smelled the**  
4 **odor of marijuana whenever he exited the residence, and**  
5 **then also on his person, and told Mr. Weinhaus that he**  
6 **was going to have to secure the residence to get a**  
7 **warrant.**  
8    Q Could you smell the pot, or not?  
9    **A I did not.**  
10    Q And what did you do then? Did you stay at the  
11 residence, or did you leave with Sergeant Folsom?  
12    **A I stayed and secured the residence with**  
13 **another officer.**  
14    Q Did you allow Mr. Weinhaus back in his house?  
15    **A No, we did not.**  
16    Q And why was that?  
17    **A To protect anything that was in there of**  
18 **evidentiary value.**  
19    Q You were worried he might try to flush it down  
20 the toilet, or something?  
21    **A Anything that could be destroyed.**  
22    Q Is that standard procedure pretty much?  
23    **A That is standard procedure.**  
24    Q Were you involved in the application for the  
25 warrant, or were you just more securing the residence

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1 while Sergeant Folsom went and obtained the warrant?  
2    **A I just secured the residence.**  
3    Q Okay. So Sergeant Folsom comes back with a  
4 warrant; is that correct?  
5    **A Yes.**  
6    Q And what was the warrant for?  
7    **A I did not read the warrant.**  
8    Q Okay. Did you participate in the search?  
9    **A Yes, I did.**  
10    Q Okay. What did you search for?  
11    **A We searched for the marijuana.**  
12    Q Okay.  
13    **A And I think the warrant also allowed to search**  
14 **for computers, is what I was explained, and so we also**  
15 **searched for the computers, any computer, camera**  
16 **equipment, stuff like that.**  
17    Q And when you searched the house, did you only  
18 search certain areas of the house, or did you search the  
19 entire house?  
20    **A We searched every room, but -- and we were in**  
21 **different places, so I can't -- and I didn't search the**  
22 **entire house, so I can't say what the other people did**  
23 **that were in the house.**  
24    Q Did you only search things that were in plain  
25 view, or did you open drawers and things to that effect?

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1    **A We would have opened drawers, yes.**  
2    Q And what did you find of interest?  
3    **A Located a brown paper bag that contained a**  
4 **green leafy substance that was determined to be**  
5 **marijuana. Sergeant Folsom searched an area where his**  
6 **back drop was that he used in his videos, and found, I**  
7 **believe it was some morphine and some other things that**  
8 **were of interest, of paraphernalia type things, and**  
9 **then, of course, the computers and cameras were right**  
10 **there and another set of them upstairs.**  
11    Q And I'm going to show you a couple of pictures  
12 here.  
13    **A Okay.**  
14    Q These have already been marked as Exhibit 1,  
15 and perhaps to make it easier on you, I'm not going to  
16 show you the same picture in color on my laptop, it's a  
17 little brighter.  
18    **A Okay.**  
19    Q Do you recognize this?  
20    **A Yes, I do**  
21    Q And what is that?  
22    **A That is a night stand that is next to the bed**  
23 **of, in what I would consider the master bedroom.**  
24    Q Okay.  
25    **A Of the residence.**

1 Q And do you recognize the firearm and holster  
2 in there?  
3 A Yes. In the open drawer.  
4 Q Do you know who those belong to?  
5 A Yours had gone off.  
6 Q Screen saver. Do you know who that firearm  
7 and holster belong to?  
8 A We found a receipt, and I believe it was to a  
9 Judy, I do not know how to --  
10 Q Kroft?  
11 A Yes. I did not know how to say the name, it  
12 starts with a K.  
13 Q Mrs. Weinhaus?  
14 A His wife is how he identified her.  
15 Q Okay. And was the clip -- Are you familiar  
16 with this type of holster?  
17 A I am not familiar with this type of holster.  
18 Q Okay. Do you know if this is the gun and the  
19 holster that was later used at the incident of the MFA  
20 station?  
21 A It is similar, but to say that it is the exact  
22 same gun, I cannot.  
23 Q Okay. Do you know if the clip on this holster  
24 can be reversed, or changed, so it can be worn on either  
25 the right or the left-hand side of the body?

1 A I do not know that.  
2 Q Okay. I'm not going to ask you to speculate,  
3 okay, at any time.  
4 A Okay.  
5 Q If you know, you know, and if you don't, you  
6 don't, and that's fine.  
7 So were you aware that after your search of the  
8 house that my client went on to make additional YouTube  
9 videos?  
10 A Yes.  
11 Q And to your knowledge, did any of them single  
12 out your partner, Sergeant Folsom?  
13 A Yes, they did.  
14 Q And to your knowledge, did Sergeant Folsom  
15 receive personal e-mails and other communications from  
16 my client?  
17 A I believe he did.  
18 Q Okay.  
19 A I cannot say that for sure, but I believe he  
20 did.  
21 Q To your knowledge, were some of them  
22 threatening?  
23 A I do not recall.  
24 Q Okay. Did your partner -- Did Sergeant Folsom  
25 ever make statements to you, I feel threatened by Jeff

1 Weinhaus, or words to that effect?  
2 A I do not recall.  
3 Q Did you ever feel personally threatened by  
4 Jeff Weinhaus?  
5 A No. Mr. Weinhaus actually indicated that in  
6 one of his podcasts, where he contacted somebody in our  
7 organization, explained that he thought I was very  
8 professional.  
9 Q Okay. Were you aware, ever aware of threats  
10 by Mr. Weinhaus to your partner, Sergeant Folsom, that  
11 he should have shot, that he, Mr. Weinhaus, should have  
12 shot Sergeant Folsom in the head, or words to that  
13 effect?  
14 A I'm not sure if he said I should have shot him  
15 in the head. I think it was more, I could have shot him  
16 in the head in the video, I do remember that.  
17 Because Sergeant, I believe Sergeant Folsom  
18 thought I was done writing the search warrant return, and  
19 we were in two different areas of the property, so when he  
20 released the property to Mr. Weinhaus, he thought we were  
21 ready to go, but I still had to fill out the -- a couple  
22 lines on the return, I believe it was. And of course,  
23 immediately I thought, oh, there's a gun in there.  
24 But he had been pretty docile that day, and him  
25 and I did not have a problem, at that point I didn't think

1 him and Sergeant Folsom had a major problem, but after  
2 seeing the video I realized he was more upset than what I  
3 had realized.  
4 Q Do you think he was under the influence of  
5 anything on the day you visited his house?  
6 A I do not recall his -- exactly what my  
7 thoughts of him were at that time.  
8 Q Okay. Okay. You didn't think he was stoned  
9 on pot?  
10 A I'm not sure. In fact, I think one of the  
11 guys that came to help with the security made a comment  
12 that said he was under the influence of something.  
13 And I'm a -- I used to be a drug recognition  
14 expert, but I just did not pay attention. I was more  
15 worried about security. He continually wanted to get back  
16 in the truck to light cigarettes, and things like that, so  
17 I was more worried about personal security and security  
18 for the other officer that was there, than I was, really,  
19 analyzing his level of intoxication, or --  
20 Q Sure.  
21 A -- or lack of.  
22 Q Do you have concerns about the gun on the day  
23 you searched the house?  
24 A You'll have to explain that question.  
25 Q Well, do you have concerns about your safety

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1 if there was a gun?  
2 **A When we were in the house I did not, because**  
3 **we were in the house and no one else was. Prior to**  
4 **getting into the house, I did not know there was a gun**  
5 **in there.**  
6 Q Do you know who else lives in the house?  
7 **A I believe it was his son possibly, and his --**  
8 **the lady he identified as his wife.**  
9 Q Do you know who brought the marijuana into the  
10 house?  
11 **A That I do not.**  
12 Q Did Jeff or any of the other occupants of the  
13 house ever make any statements to you about who had  
14 brought the marijuana into the house?  
15 **A No.**  
16 Q Okay. I want to skip forward then to the  
17 incident of September 11th, 2012.  
18 **A Yes.**  
19 Q My understanding is that you and your partner,  
20 Sergeant Folsom, were executing an arrest warrant on  
21 Jeff Weinhaus that day; is that correct?  
22 **A That is correct.**  
23 Q Who issued that warrant, do you know?  
24 **A The Franklin County Circuit Court, I believe.**  
25 Q Okay. And were you involved in the obtaining

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1 of that warrant?  
2 **A No, I was not.**  
3 Q Okay.  
4 **A I was present, but I did not write the**  
5 **probable cause. I should clarify that.**  
6 Q Who did write the probable cause?  
7 **A I do believe it was Sergeant Folsom.**  
8 Q And who did you notify about the warrant after  
9 you obtained it?  
10 **A I did not notify anyone.**  
11 Q Do you know if your partner, Sergeant Folsom,  
12 notified anyone?  
13 **A Yes, I believe he notified, probably our**  
14 **staff, be guess, and that's speculation, but also, the**  
15 **FBI, and I believe it was the Franklin County Sheriff's**  
16 **Department.**  
17 Q Is it your normal practice to notify the  
18 sheriff, the county sheriff?  
19 **A Just depends on the situation in the county.**  
20 Q Okay. You don't feel -- Do you feel you have  
21 an obligation or a courtesy to notify the sheriff?  
22 **A I would say that depends upon the situation**  
23 **and the officer who's doing it.**  
24 Q Do you know who you contacted at the sheriff's  
25 office in this instance?

Page 23

1 **A I did not contact anyone.**  
2 Q Who did make contact with the officer?  
3 **A It would have been Sergeant Folsom. And I do**  
4 **not know who he spoke with.**  
5 Q Okay. And how did you make contact with Jeff,  
6 himself?  
7 **A I did not make contact with Jeff.**  
8 Q Sergeant Folsom did?  
9 **A Yes.**  
10 Q To your knowledge, did Jeff know that he was  
11 going to get arrested?  
12 **A You're asking me to speculate what Jeff**  
13 **thought?**  
14 Q No, no. I'm asking if you knew whether Jeff  
15 knew he was going to be arrested?  
16 **A If I knew if Jeff --**  
17 Q If Jeff had knowledge that he was going to be  
18 arrested?  
19 **A I do not know.**  
20 Q Did you or your partner -- Did you make any  
21 statements to Jeff -- I guess you didn't, strike that.  
22 Do you know if your partner made any statements  
23 to Jeff on the phone, stuff as, we need to bring you in to  
24 arrest you, or --  
25 **A No, he did not.**

Page 24

1 Q And in fact, you told, you -- your partner  
2 told Jeff that the purpose of the meeting was for  
3 something else; didn't he?  
4 **A That is correct.**  
5 Q And what was that?  
6 **A To return his computer equipment.**  
7 Q Okay. Was that a ruse?  
8 **A Yes, it was.**  
9 Q And where did you arrange to meet Jeff, or  
10 where did your partner, rather, arrange to meet Jeff?  
11 **A He arranged to meet Mr. Weinhaus at the MFA**  
12 **Oil station on route, I think it's K, king. K as in**  
13 **king.**  
14 Q And were you involved in the selection of that  
15 location?  
16 **A I do not recall.**  
17 Q Okay.  
18 **A I know I went there to observe the location,**  
19 **but whether I was involved in the actual selection of**  
20 **it, I'm not sure.**  
21 Q Why didn't you just have Jeff come into a  
22 highway patrol station?  
23 **A I don't know.**  
24 Q Okay. Or why didn't you have him come in,  
25 say, the sheriff's department?

Page 25

1    **A I don't know.**  
2    Q Okay. Were you concerned about your safety at  
3 the MFA station?  
4    **A No, I was not.**  
5    Q Okay. Did you request backup?  
6    **A Yes, we did.**  
7    Q Okay. Tell me about that. Who was your  
8 backup?  
9    **A And I will clarify that. I did not request**  
10 **backup. Sergeant Folsom requested backup.**  
11    Q Okay.  
12    **A It would have been the two FBI agents from the**  
13 **Rolla office, the field office, and then we also**  
14 **requested, or Sergeant Folsom also requested two marked**  
15 **patrol units, or two uniformed patrol units to also come**  
16 **to the area.**  
17    Q Okay. Did Sergeant Folsom also request the  
18 FBI agent?  
19    **A I'm sorry?**  
20    Q Did Sergeant Folsom also request that the FBI  
21 be involved?  
22    **A Yes.**  
23    Q And why was that?  
24    **A We work closely with them on a lot of things.**  
25 **They were, had been kept abreast of the situation where,**

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1 **of the podcasts, and had prior knowledge of**  
2 **Mr. Weinhaus, it was a logical choice.**  
3    Q There were no federal charges, to your  
4 knowledge, involved in this arrest, were there?  
5    **A No.**  
6    Q Okay. Did you wear a bullet resistant vest?  
7    **A No, I did not.**  
8    Q Okay. And why not?  
9    **A In the job that I am assigned to as a criminal**  
10 **investigator, we're not required to wear them on a daily**  
11 **basis.**  
12        **Sergeant Folsom and I had discussed putting them**  
13 **on while we were waiting for Mr. Weinhaus, and neither of**  
14 **us really had determined him to be a threat in that type**  
15 **of a manner, so we had chose not to put our vests on.**  
16    Q Were you concerned at the time that Jeff would  
17 bring along other people?  
18    **A Yes.**  
19    Q And were you concerned that would elevate the  
20 threat, potential threat level?  
21    **A Yes.**  
22    Q Okay. Were you aware -- You previously  
23 testified that Jeff had made threats, personally,  
24 against your partner; is that fair to say?  
25    **A That is fair to say.**

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1    Q Is it normal procedure for a trooper who has  
2 been personally singled out to go and execute an arrest  
3 warrant on that person, on the person making the threat?  
4    **A In different situations, yes.**  
5    Q Okay. Well, and why would that be normal  
6 procedure?  
7    **A Because the way you worded your question,**  
8 **if -- and I'll give you an example, if I have an**  
9 **investigation where a trooper's been threatened by**  
10 **somebody, they'll -- I go investigate it instead of the**  
11 **trooper.**  
12        **Since this was already an active investigation**  
13 **prior to Mr. Weinhaus making the threat, Sergeant Folsom**  
14 **is case agent, so in that case usually that case would**  
15 **stay with the investigating officer.**  
16    Q Were you concerned that the presence of  
17 Sergeant Folsom would provoke Jeff Weinhaus?  
18    **A No, I was not.**  
19    Q Okay. And did you know at the time whether  
20 Jeff was recording by audio, or video, or both, the  
21 meeting at the MFA station?  
22    **A No, I did not.**  
23    Q Subsequent to the incident, you've since  
24 learned that he was recording?  
25    **A Yes.**

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1    Q And had you ever reviewed those recordings in  
2 the past?  
3    **A Yes.**  
4    Q Tell me about where you and your partner  
5 parked to wait for Jeff.  
6    **A I believe I, if I have my directions right, --**  
7    Q Okay.  
8    **A -- I parked on the, kind of the northwest end**  
9 **of the parking lot, kind of above the station there a**  
10 **little bit.**  
11    Q How many yards was it away from the station?  
12    **A I do not know.**  
13    Q Guesstimate for me. I mean, just within 50,  
14 was it 100, was it --  
15    **A I'd say between 20 and 40.**  
16    Q Okay. And where did the FBI agents park?  
17    **A Once Mr. Weinhaus had said that he was going**  
18 **to bring other people, we went ahead and had them**  
19 **stationed on the opposite side of the parking lot, so if**  
20 **there was other vehicles, they would have direct access**  
21 **to those vehicles to come up from behind and provide**  
22 **assistance with security, and things like that.**  
23    Q Did you have a clear and unobstructed view of  
24 the FBI agents?  
25    **A Partially.**



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1 Q Partially clear and unobstructed?  
2 A Yes.  
3 Q So what was the other part?  
4 A We were -- We had a clear view of them, and  
5 then just prior to Mr. Weinhaus getting there, a vehicle  
6 pulled in and blocked them, where they -- and it was, I  
7 think it was a guttering, somebody working on the  
8 guttering, and had partially blocked them, and I think  
9 they were in the process of moving whenever Mr. Weinhaus  
10 pulled in to get, have a better view.  
11 Q Okay. Did the gutter people ask them to move,  
12 the FBI agents?  
13 A I do not know that.  
14 Q Did you have -- So there's you, there's the  
15 FBI agents, there's the gutter guys. There are two  
16 gutter guys?  
17 A I do not recall.  
18 Q Okay. Was there anyone else at the scene?  
19 A I believe they've interviewed other witnesses,  
20 but I do not know.  
21 Q Were they outdoors, or indoors, do you know?  
22 A I do not know.  
23 Q Did you have concerns that, for example, the  
24 gutter guys might be with Jeff?  
25 A I did not. Mainly because I think whenever we

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1 first went and looked at the station, I believe that  
2 that truck was there, if I remember correctly, so it did  
3 not cause me alarm at the time.  
4 Q Did you have concern before Jeff's arrival  
5 that, that allies, or friends of Jeff were lurking in  
6 the area somewhere?  
7 A I was more concerned that he would just bring  
8 people with him, if that answers your question.  
9 Q Okay. It does. Thank you.  
10 A Okay.  
11 Q And then between your partner's contact with  
12 Jeff and Jeff's arrival at the station, how long was  
13 that, about? How long did you wait?  
14 A I don't know, 15 minutes maybe.  
15 Q Okay. And from the entrance to the station,  
16 from the Highway K, to where you were parked, is that  
17 level, or is that on an incline, or decline?  
18 A If I recall correctly, I believe that was on a  
19 very slight decline where I parked at to the -- going  
20 down to the store, if that makes sense.  
21 Q So the store was uphill from where you were?  
22 A No. The store would have been downhill from  
23 where I was.  
24 Q So from the entrance to the parking lot, to  
25 where you were, was a slight incline? It was a slight

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1 uphill?  
2 A If you're coming from the entrance to the  
3 parking lot to my vehicle, I believe it was a slight  
4 incline.  
5 Q Okay. And so what happened once Jeff got to  
6 the situation, tell me what -- he got to the station.  
7 Let's start with, what did you observe about his  
8 arrival?  
9 A He was driving a green Subaru.  
10 Q Okay. And then what happened when he pulled  
11 into the station?  
12 A And when he pulled into the parking lot, I  
13 noticed Mr. Weinhaus was taking his seat belt off. I  
14 found that odd and it kind of heightened my sense of  
15 awareness, and -- Because usually we're taught that in  
16 the academy to get -- to make sure whenever we pull up  
17 to someplace and we're going to get out, even on traffic  
18 stops, to make sure you have that seat belt ready.  
19 And I mean, it was identical to what we do, and  
20 it just caught me like, oh, that's not right, so --  
21 Q And it increased your -- it escalated the  
22 situation, is that fair to say?  
23 A No. I would say it heightened my level of  
24 awareness.  
25 Q Okay. And when Jeff drove into the station,

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1 what route did his car take before he came to a stop?  
2 A His car came into the parking lot and he made  
3 a circle, like he was going toward the, which would  
4 be the -- he's going toward the front of the store,  
5 perpendicular to the store, but almost to the side of  
6 the store, which he didn't reach all the way to the side  
7 of the store, but then made a complete circle around the  
8 parking lot and faced the same direction I was facing,  
9 but probably 20 to 30 feet away from my vehicle, and  
10 probably 15 to 20 feet, his front end, versus my front  
11 end. His front end was probably 15 to 20 feet more  
12 forward than my vehicle.  
13 Q Did the way he park escalate the situation?  
14 A Again, I would say that it heightened my sense  
15 of awareness of the situation.  
16 Q Why would that be, specifically?  
17 A Because that gives him a tactical advantage  
18 over us. He's parked his where he -- especially me,  
19 because I'm on the side that where his car is, and  
20 Sergeant Folsom has cover on the other side with the  
21 engine block and things, as we're taught in the academy,  
22 but it definitely heightened my sense of awareness.  
23 Q Would the way he parked be reasonable if the  
24 purpose was to load computer equipment into the back of  
25 the Subaru?

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1 A Mere speculation, not really.  
2 Q Why would that be unreasonable?  
3 A If I was going to unload heavy computers,  
4 which I think I carried the box today, so I know it's  
5 heavy, and it's not a -- I would have parked closer if  
6 it was me, I would have parked maybe towards the back of  
7 the vehicle, not past the front of the vehicle. I would  
8 not have gone that far to do that.  
9 Q But it would be reasonable to put these big  
10 heavy computers into the back of the Subaru? Yes or no?  
11 A I'm sorry?  
12 Q It would be reasonable to put these big, heavy  
13 computers into the back of the Subaru?  
14 A Yes, I would say it would be reasonable to do  
15 that, yes.  
16 Q And what happened once Jeff came to a stop?  
17 A Sergeant -- Well, as he was coming in,  
18 Sergeant Folsom and I exited the vehicle, and after that  
19 I lost sight of Jeff for a few moments, so I'm not sure  
20 how and when he got out of the vehicle.  
21 Q When Jeff did get out of the vehicle, what did  
22 he do? Did he --  
23 A I lost sight of him.  
24 Q You lost sight of him?  
25 A Yes.

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1 Q So how high was the Subaru?  
2 A I did not measure it.  
3 Q Okay. But was it the height of a regular  
4 sedan, or was it higher, such as like an SUV, or a  
5 truck?  
6 A I believe it was a Forester, so it's more of a  
7 boxy, and it's a little bit taller than what I would  
8 think the Subaru Outback is, so I'd say maybe, if you're  
9 standing on level ground, maybe chest high, maybe a  
10 little bit somewhere in there I would think.  
11 Q Uh-huh.  
12 A The top of it.  
13 Q Okay. When Jeff -- If Jeff was standing next  
14 to the car, could you see over the top of the car and  
15 see his head?  
16 A If it was on level ground, but he would have  
17 been on the low side in that parking lot.  
18 Q Okay. Did you talk to Jeff when he got out of  
19 the car?  
20 A No. I was instructed to open the trunk and --  
21 Q Who instructed you?  
22 A Sergeant Folsom.  
23 Q Okay. Did Sergeant Folsom talk to Jeff?  
24 A Yes.  
25 Q And what did he say, do you recall?

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1 A Well, after reviewing the, the watch video  
2 that Mr. Weinhaus had on, you can hear Sergeant Folsom  
3 saying something, how you doing, Jeff, I believe,  
4 something like that.  
5 Q What was the tone and cadence of Sergeant  
6 Folsom's speech?  
7 A Normal.  
8 Q What was this tone and cadence of Jeff  
9 Weinhaus' speech?  
10 A I don't know his normal speech, other than  
11 what I've talked to him in the past, but it didn't seem  
12 different at first.  
13 Q Objectively, was his speech agitated, or was  
14 it at more of, kind of a slow, friendly banter level,  
15 or --  
16 A There wasn't time for friendly banter, or  
17 even -- and I couldn't say what, one way or the other  
18 how his voice was. I'm not sure I understand.  
19 Q Okay. So Jeff gets out of the car, you can't  
20 see him, your partner starts talking to him, what  
21 happens next?  
22 A Now I didn't say I can't see him, because I'm  
23 sure if I would have turned and looked, I could have  
24 seen him.  
25 Q Okay.

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1 A But as we're getting out of the car, Sergeant  
2 Folsom -- I had already shut my car door, and we had --  
3 the windows were down, and Sergeant Folsom said, as we  
4 were getting out, he said, hey, pop the trunk to support  
5 the ruse we're going to give the computers back.  
6 So I turned back around to pop the trunk to  
7 reach into the, we had -- there's a little trunk release  
8 up next to the headlights, so I reached in there, did  
9 that, and then I went around to the back of the trunk and  
10 lifted the trunk.  
11 But I don't know what he did from the time where  
12 I was told to go back to the, or to pop the trunk, and go  
13 back to the trunk.  
14 Q Do you know if Jeff stood still, or if he was  
15 walking around once he got out of the car?  
16 A Well, he would have had to walk, because he  
17 was away from his vehicle whenever I turned.  
18 Q Okay. So to your knowledge, he did not stand  
19 still, or --  
20 A With my knowledge, he --  
21 Q -- you don't know?  
22 A To my knowledge, he had to move away from his  
23 vehicle, because he was not standing right next to his  
24 vehicle.  
25 Q Okay. And to your knowledge, when you say

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1 move away from the vehicle, do you mean he was walking  
2 towards Sergeant Folsom?  
3 **A He would have been in the -- from his vehicle,**  
4 **he would have been in the direction of Sergeant Folsom,**  
5 **yes.**  
6 Q Perhaps taking steps forward -- Strike that.  
7 Not perhaps. Was taking steps towards him?  
8 **A I would assume so.**  
9 Q Okay. Did you see that?  
10 **A No.**  
11 Q Okay. And at this point, what was your  
12 awareness of the situation, to use your phrase?  
13 Were you concerned about an escalation, or of a  
14 threat level?  
15 **A I was aware of how he pulled in, I was aware**  
16 **of the seat belt, I knew it heightened my level of**  
17 **awareness, but as soon as Sergeant Folsom told me to do**  
18 **that, my concentration became on the trunk, to support**  
19 **that ruse, because he's my supervisor, so I do what he**  
20 **tells me.**  
21 **So I went to do that, and as I'm opening the**  
22 **trunk, or after I've opened the trunk, or shortly in that**  
23 **time period I hear Sergeant Folsom asking him about the**  
24 **gun on his side.**  
25 Q You heard the word gun?

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1 **A I don't know if he said gun, pistol, firearm.**  
2 Q Sure.  
3 **A But something to that effect.**  
4 Q And what did your hearing that word, what  
5 reaction did that cause in you?  
6 **A Well, immediately, I turned and I saw Jeff**  
7 **Weinhaus standing toward the back end, and away from his**  
8 **vehicle, but not at the back end, but kind of away, but**  
9 **toward the backside of his vehicle, if that makes sense.**  
10 Q Uh-huh.  
11 **A And immediately drew my weapon. I could hear**  
12 **them talking.**  
13 Q Okay. Let me stop you there. You drew your  
14 weapon. What position do you have when you drew your  
15 weapon?  
16 **A I'm sorry?**  
17 Q What position were you holding your firearm in  
18 once you drew your weapon?  
19 **A I, I believe I brought it to here.**  
20 **[Indicating].**  
21 Q So let the record reflect the witness is  
22 holding his right hand at about his mid-chest level.  
23 **A Almost to the pectoral.**  
24 Q The right pectoral?  
25 **A Yes.**

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1 Q And was the gun pointing down to the ground in  
2 what your partner called a low ready, or was it pointed  
3 at Jeff Weinhaus, or something else?  
4 **A Now low ready would be different than what I**  
5 **was doing.**  
6 Q Okay.  
7 **A So a low ready is where you have it down,**  
8 **pointing down toward the ground. Mine was more of a, to**  
9 **protect my weapon, basically, in case something else**  
10 **should come out, I wasn't sure if anybody else was in**  
11 **the car.**  
12 **I was on the SWAT team and we did that a lot as**  
13 **we're going through buildings, because you don't want to**  
14 **have your gun out and come around the corner and somebody**  
15 **take your gun away from your hand, so I was here until I**  
16 **got to where I knew I was, I was in the position you**  
17 **previously described, until I got to where I was going to.**  
18 Q And you say you saw Jeff Weinhaus, and first  
19 of all, what did you see on Jeff Weinhaus?  
20 **A I noticed he was wearing nice clothes, a tie,**  
21 **I believe, and I saw the holster.**  
22 Q Okay. So where was the holster on Jeff?  
23 **A It was on his -- It wasn't on his hip. It was**  
24 **on the front side on the right.**  
25 Q Okay. Could you stand up, sir, please, if you

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1 don't mind. And could you point on your body where his  
2 holster was?  
3 **A It would be right here on the right side, at**  
4 **the belt level.**  
5 Q So let the record reflect that the witness has  
6 pointed to the right-hand side of his belt, just to the  
7 right of the belt buckle, but in front of the right hip  
8 bone?  
9 **A That is correct.**  
10 Q Okay. And was this the green holster we  
11 previously saw in that photograph, or a holster that  
12 looked like that green holster?  
13 **A It was a similar holster to that green one.**  
14 **It could have been the same one. I do not know.**  
15 Q And you testified you're not familiar with  
16 this holster?  
17 **A I am not.**  
18 Q Was the holster covered, or uncovered?  
19 Sorry. Excuse me.  
20 Was the gun in the holster covered, or  
21 uncovered?  
22 **A As I'm approaching, the gun is covered.**  
23 Q Okay. And was the grip or butt of the gun,  
24 was it facing forward, or back -- in a cross-draw type  
25 position, or backward?

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1 A If I recall correctly -- I do not know.  
2 Q You don't know. Okay. Did -- And where was  
3 Jeff's hand, right hand, when you first looked over at  
4 him and saw this, this holster?  
5 A **Down to his side, as far as I can remember.**  
6 Q His right hand was down on his right-hand  
7 side?  
8 A **I think he was standing there with his hands**  
9 **down to his side.**  
10 Q Okay. And his left hand was also down at his  
11 side?  
12 A **I believe so, yes.**  
13 Q On his left -- left hand on the left-hand  
14 side, right hand on the right-hand side?  
15 A **That is correct.**  
16 Q Okay. Was the right hand touching the gun of  
17 the holster?  
18 A **As I approached, he did touch the holster,**  
19 **yes.**  
20 Q Okay. And what did you observe him do once he  
21 touched the holster?  
22 A **As I'm approaching, he grabs the flap of the**  
23 **holster, and I see it go -- be pulled down, and then he**  
24 **lets go of it, and I could see that it popped open, and**  
25 **then he stuck his hand back down to his side.**

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1 Q Okay. And so he pulled down and the holster  
2 pops open, and then he, where does he move his right  
3 hand next?  
4 A **He puts it down to his side.**  
5 Q Touching the gun, or no?  
6 A **No. He puts it down to the side, and he gives**  
7 **us like a little cold chill.**  
8 Q What does that mean, a cold chill?  
9 A **Kind of like a shiver, began to shake. As**  
10 **soon as he put his hand down, I saw him give a quick**  
11 **shiver.**  
12 Q Like a twitch almost?  
13 A **Yes.**  
14 Q And was he standing or moving at the time?  
15 A **He was standing still.**  
16 Q He was standing still. So he moved to the  
17 end, or just past his vehicle, and had stopped and was  
18 standing still when you saw him doing this?  
19 A **Now I did not see him move, as we discussed**  
20 **earlier.**  
21 Q Right. I understand.  
22 A **But where I saw him, he was standing at the**  
23 **back of the -- almost even with the back of the vehicle**  
24 **maybe, and maybe a little bit back, I'm not real sure,**  
25 **but I knew from my trunk to him, I had a clear sight of**

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1 him, and I was trying to get to where I had some type of  
2 a cover in case something did happen, so I was going to  
3 his vehicle, so --  
4 Q An unreasonable inference at some point before  
5 you looked over, he must have moved from the driver's  
6 seat of the vehicle to standing?  
7 A **That is correct.**  
8 Q Okay. And what happened after -- What  
9 statements did you hear Jeff say, if any?  
10 A **Whenever I hear Sergeant Folsom asking him if**  
11 **he had a gun, or why he had a gun, or something to that**  
12 **effect, I turned and I saw the holster, and I heard him**  
13 **say, why do you have your gun, or something to that**  
14 **effect.**  
15 Q Okay. Let me stop you there. When Jeff said  
16 like, why do you have your gun, or something to that  
17 effect, what type of comment did you take, did you hear  
18 that to be, in terms of the characterization?  
19 Was it a smart alec comment, obnoxious comment,  
20 was it a threatening comment?  
21 Was it just a factual question?  
22 A **I just took it as that's what he said.**  
23 Q Did his statement escalate the threat level in  
24 your situation, in your opinion?  
25 A **Absolutely.**

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1 Q In your training and experience, if someone  
2 has a gun, are you supposed to use verbal commands to  
3 try to take control of the situation?  
4 A **Yes.**  
5 Q Okay. And are the verbal commands supposed to  
6 distract from the gun? Distract the person from the  
7 gun.  
8 A **I never heard that, no.**  
9 Q Okay. What type of verbal commands,  
10 typically, or what is the purpose of verbal commands  
11 when someone has a firearm and you're trying to  
12 de-escalate the situation?  
13 A **Trying to gain control of the situation.**  
14 Q And can you give me an example of the type of  
15 verbal commands you might give?  
16 A **Well, I'll give you an example. Just a couple**  
17 **weeks ago, maybe last week, we went to a house where,**  
18 **with another officer reference some horse abuse, and we**  
19 **went there and a 16-year-old girl came out of the house**  
20 **with a rifle, and we were in plain clothes, and of**  
21 **course I said, I told her to put the gun down, highway**  
22 **patrol, and so she puts the gun down.**  
23 **So that was -- That's how I diffused that**  
24 **situation. If that's what you're asking me.**  
25 Q Sure. So using the actual word gun, or

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1 drawing the person's attention to the gun in itself can  
2 be part of the verbal commands?  
3 A Oh, absolutely.  
4 Q And then after Jeff said why do you have a  
5 gun, or words to that effect, what happened next?  
6 A I think one of them said, I think it was  
7 Sergeant Folsom said something about being authorized to  
8 have a gun, and I think Weinhaus replied, well, I'm  
9 authorized to have a gun, too.  
10 And I think that's when maybe Sergeant Folsom  
11 was telling him to get on the ground, and I was telling  
12 him to get on the ground also.  
13 Q And that was to de-escalate the threat level?  
14 A Absolutely.  
15 Q And in the course of this back and forth you  
16 just described to me, did Jeff take any actions at that  
17 point?  
18 A I'm sorry?  
19 Q What did he do? Did he walk anywhere, did he  
20 do anything with his hands while this conversation was  
21 going on?  
22 A Well, it happened so fast, it's almost like it  
23 happened all at the same time.  
24 Q I understand this is a very short period of  
25 time.

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1 A And as soon as that little banter was done, or  
2 almost in that same little banter, he says -- and I'm  
3 telling him to get down on the ground, and I'm, I think  
4 I'm still walking toward him at that time, and I'm  
5 saying, get on the ground, get on the ground, whatever  
6 I'm saying, and he doesn't look at me, he never -- I  
7 don't think he ever even looked at me.  
8 Q Where was he looking?  
9 A He was looking at Sergeant Folsom. So  
10 immediately I know he's out by himself, he has no cover,  
11 there's no immediate -- I mean, there's a tree that's  
12 probably, guesstimate, probably 20 yards away, that's a  
13 good-sized tree, but -- and then there's some wooded  
14 area really far away, and he would have to either come  
15 back to the car, or get to that tree, or something like  
16 that, so I'm more concerned with him looking at Sergeant  
17 Folsom, and that's when he said -- was telling him to  
18 get on the ground. He said you're going to have to  
19 shoot me, man, or you're going to have to shoot me,  
20 whatever he said.  
21 Q Let me stop you right there. So you said  
22 whatever he said.  
23 Are you sure that he said you're going to have  
24 to shoot me?  
25 A I'm positive he said you are going to have to

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1 shoot me.  
2 Q Could he have said --  
3 A Or you're going to have to kill me.  
4 Q Could he have said you don't have to shoot me,  
5 or you don't have to kill me?  
6 A No, no.  
7 Q Okay.  
8 A Absolutely not.  
9 Q And when Sergeant Folsom ordered Jeff to get  
10 down on the ground, did Jeff take any actions in  
11 compliance with his order?  
12 A Absolutely not.  
13 Q Did he put his hands in the air?  
14 A No, he did not.  
15 Q So his right hand did not go in the air?  
16 A No.  
17 Q Left hand did not go in the air?  
18 A No.  
19 Q Did he turn his body left or right?  
20 A No, he did not.  
21 Q Did he bend his knees, or take any actions to  
22 lower himself?  
23 A No, he did not.  
24 Q Okay. And what did he do?  
25 A He reached under the flap of the holster.

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1 Q Okay. Let me stop you there. When you say he  
2 reached, with which hand did he reach?  
3 A With the right hand, I believe.  
4 Q Okay. And what was his left hand doing at the  
5 time?  
6 A I don't recall.  
7 Q Okay. Could it have been with the right hand?  
8 A I just said it was with the right hand.  
9 Q Oh, did you?  
10 A Yes.  
11 Q Okay.  
12 A That he reached down with the right hand.  
13 Q But could his left hand have been reaching  
14 over toward his right hand?  
15 A Oh, absolutely.  
16 Q But you're not sure?  
17 A I'm not sure.  
18 Q And when you say the right hand was, he  
19 reached under the holster?  
20 A He reached under the flap of the holster.  
21 Q Okay. And did you see his hand touch the gun?  
22 A Yes. And then to correct something earlier,  
23 or to expound on something earlier, you asked me which  
24 way was the gun facing. It would have to have been  
25 facing, just out of my mind, it would have to have been

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1 facing with the butt of the gun to the right, because  
 2 that's the hand he reached under and gripped the gun  
 3 with.  
 4 Q And because you testified earlier the holster  
 5 was on the right front of his body, you could see his  
 6 hand touching the butt of the gun, or the grip of the  
 7 gun?  
 8 A Yeah. It was either the right, or -- Yeah.  
 9 Now I'm actually kind of confused. I'm not sure if he  
 10 reached up with the left or the right.  
 11 Q Okay.  
 12 A But I know he reached to the gun. I'm almost  
 13 positive it was the right, though.  
 14 Q Okay. And did you see -- Well, back up.  
 15 Did you see -- What angle was Jeff relative to  
 16 you at this time?  
 17 A He would have probably been at my, on a clock,  
 18 as I'm facing him, he would have probably been at my one  
 19 o'clock position.  
 20 Q Okay. And was he bladed towards you?  
 21 A No. He was bladed towards me. No, he was not  
 22 bladed towards me. I could see his full side, his full  
 23 left side and the front of him.  
 24 Q Okay. And what was his stance at the time?  
 25 Did he have his feet together, one in front of the

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1 other?  
 2 A I don't know. It would have been probably  
 3 side-by-side, but not like -- just like a regular person  
 4 stance, he was not standing in a, like a runner's  
 5 stance, or anything like that. I believe he was just  
 6 standing square.  
 7 Q Okay. And he didn't have one foot turned, or  
 8 one foot behind the other?  
 9 A I do not recall.  
 10 Q Okay. And so his hand goes down towards the  
 11 gun. And what happened next?  
 12 A I heard Sergeant Folsom's firearm go off, and  
 13 I had --  
 14 Q Okay. Stop right there. Had Jeff actually  
 15 pulled the gun out of the holster, or had he just put  
 16 his hand to the gun?  
 17 A I believe he had just put his hand to the gun,  
 18 had gripped it, something to that effect where there was  
 19 a viable threat there.  
 20 Q Okay. Did you ever see the entirety of the  
 21 gun being pulled out by Jeff?  
 22 A No, I did not.  
 23 Q Okay. Do you -- Okay. And then you heard  
 24 Sergeant Folsom fire, open fire?  
 25 A Yes, I heard his gun go off.

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1 Q And how many shots did he make, do you  
 2 remember?  
 3 A I know from the report, but I did not know at  
 4 the time. I think it was four.  
 5 Q Okay. And what did you do?  
 6 A As I heard the shots go off, I was getting my  
 7 sight picture.  
 8 Q Okay.  
 9 A And mine were in between his, somewhere in  
 10 there, so...  
 11 Q And did you open fire?  
 12 A Yes, I fired my firearm.  
 13 Q Where did you aim?  
 14 A I aimed at Jeffrey Weinhaus' head.  
 15 Q And what does your training teach you?  
 16 A Head and chest to stop the threat.  
 17 Q Cardiothoracic and brain. And where were you  
 18 looking at Jeff's body? At the head?  
 19 A At the head. It was the biggest target I had  
 20 at the time, and so I'd say that's probably why I went  
 21 to there, would be my assumption is why I went to the  
 22 head, because he's bladed and he's a thin man.  
 23 Q So he is bladed?  
 24 A Not bladed as in a runner's stance, but I'm  
 25 looking at the side of him.

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1 Q Okay.  
 2 A He is not bladed to Sergeant Folsom. He is,  
 3 his side, his side is toward me, so I have a shorter  
 4 view of him. I can see just the front part of him, but  
 5 I can see his full side to include part of his back.  
 6 Q So he's front on to Sergeant Folsom?  
 7 A Yes.  
 8 Q And you're seeing him more in profile almost?  
 9 A Yes.  
 10 Q And so you open -- What was beyond Jeff when  
 11 you were firing at him? In the back, sir, behind him,  
 12 in the background of your shooting.  
 13 A In my sight picture, or in Sergeant Folsom's?  
 14 Q In your sight picture.  
 15 A In my sight picture it would have been the  
 16 side of the building, partially, it was more of the side  
 17 than it was the front.  
 18 The front, I could see the full front, but if  
 19 was more the side. Then there was some old gas pumps,  
 20 looked like they had been cannibalized to repair other  
 21 pumps, looked like parts that were missing, but that's  
 22 what was to the side, in my view past Mr. Weinhaus.  
 23 Q And in fact, there were bullets later  
 24 recovered from that building, weren't there?  
 25 A I think there was a, for lack of better words,

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1 a divot in the building down low, where it was -- where  
2 there was a bullet that had struck. I don't know if  
3 they recovered a bullet there, or not.  
4 Q Were you concerned about flammable gas tanks  
5 being hit by your bullet?  
6 A No, I was not. There was none there.  
7 Q Were you concerned that Sergeant Folsom's  
8 sight picture might have a gas tank?  
9 A At that time I was not concerned about  
10 Sergeant Folsom's sight picture as I was mine.  
11 Q And did you see Jeff's reaction once he was  
12 shot?  
13 A Yes.  
14 Q Okay. And what was it?  
15 A I saw Sergeant Folsom's, I saw his shirt,  
16 Jeffrey Weinhaus' shirt move, so I knew Sergeant Folsom  
17 had hit him, and that was while I was also filling.  
18 Q Let me stop you right there. When you say  
19 moved, what do you mean, that his body turned left or  
20 right, or you just saw --  
21 A No, I could see the shirt move.  
22 Q A ripple in the shirt?  
23 A A ripple for lack of a better word, sure.  
24 Q And then what did Jeff's body do once he was  
25 shot?

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1 A From his position he, where he was facing  
2 Sergeant Folsom, he turned 180 degrees and fell forward.  
3 Q Did he turn to his left, counter-clockwise, or  
4 turn to his right clockwise?  
5 A He would have turned to, clockwise to his  
6 right. Turned away from me and --  
7 Q So he had his back to you almost as he went  
8 down?  
9 A Well, no.  
10 Q Okay.  
11 A He turned 180 degrees, so now I'm looking at  
12 his left side whenever he fell.  
13 Q You mean his right side?  
14 A I'm sorry. Yes, his right side.  
15 Q So he turned like this, clockwise to his  
16 right, and that's when he went down?  
17 A Yes.  
18 Q Did he fall on his face, on his knees?  
19 A He fell on his face.  
20 Q And after, right after you shot him, but  
21 before he fell, where were his hands?  
22 A Down to his side still.  
23 Q Down to his sides?  
24 A Well, down to his sides, down to the lower  
25 portion. They weren't -- I had lost sight of his hands

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1 whenever he turned away from me, so -- But they were  
2 still down, in the downward position, when they were on  
3 the side.  
4 I do know they were still on the gun, because  
5 whenever Sergeant Folsom went to approach him, he told me  
6 he's still got his hand on the gun.  
7 Q Did he ever put his hands up in the air at any  
8 point?  
9 A Absolutely not.  
10 Q Oh, okay. Not to the left or to the right?  
11 A No.  
12 Q Did you see Jeff's, I guess, did you see  
13 Jeff's eyes at any point?  
14 A Can I go back to that question? I will say he  
15 never raised his hands in a motion to say I'm okay, I'm  
16 surrendering, or I'm okay.  
17 And now whether he was talking and moving his  
18 hands, I don't recall that. But he never motioned his  
19 hands in a way to say okay, I'm complying with what you're  
20 saying.  
21 Q Okay. Were you concerned about the roofers  
22 after the shooting?  
23 A I was not concerned about the roofers after  
24 the shooting.  
25 Q Okay. Were you concerned that Jeff might have

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1 backup, for lack of a better word, that might be  
2 arriving at the scene, or hidden at the scene?  
3 A I was aware of it, but I was not concerned  
4 with it, because we had two FBI agents that were going  
5 to take care of that, and I put my trust in them to take  
6 care of that, and my, my focus was on Jeffrey Weinhaus,  
7 and getting him secured and covering him, and in fact,  
8 Sergeant Folsom secured him.  
9 Q When he went down, were you concerned he might  
10 still be a threat? "He" meaning Jeff.  
11 A Of course. He still has the gun on him, yes.  
12 Q And you observed Sergeant Folsom take the gun  
13 from Jeff?  
14 A Yes.  
15 Q Okay. When Jeff fell, you testified he fell  
16 on his face downwards. What happened to his hands when  
17 he fell?  
18 A They were still underneath him. Whenever he  
19 was laying there, they were underneath his front. He  
20 was laying on his front and his hands are still  
21 underneath him.  
22 Q So if this is the ground, he was sort of lying  
23 with his hands sort of underneath his body not in view  
24 of you?  
25 A Yes, that is correct. And I had, at that

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1 point I had a good view of his, his body at that point,  
2 except for it would have been the left side.  
3 Q All right. And then this shooting was  
4 investigated by Sergeant Perry Smith?  
5 A That is correct.  
6 Q Okay. And you were interviewed by Sergeant  
7 Perry Smith?  
8 A Yes.  
9 Q And some of those interviews were recorded.  
10 A That is correct.  
11 Q And did you ever talk to a Lieutenant George  
12 Knowles about the shooting?  
13 A Briefly.  
14 Q Okay. Is Lieutenant Knowles your supervisor?  
15 A He is my, he is my lieutenant, but Sergeant  
16 Folsom is my supervisor, so he would be the next person  
17 in line in my chain of command.  
18 Q He's up the chain of command?  
19 A Yes.  
20 Q Did you ever talk to a lawyer named Anthony  
21 Laramore about this shooting?  
22 A Not that I recall.  
23 Q Okay. He's a civil lawyer from St. Louis, I  
24 believe, he was retained by the Weinhaus family at one  
25 point.

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1 A Yeah, not that I recall.  
2 Q You don't recall talking to him?  
3 A No.  
4 Q Okay. Have you ever shot anyone else before?  
5 A No, I have not.  
6 Q Okay. I'm going to show you a couple  
7 documents. We're going to mark this Exhibit 2, I guess,  
8 or do you want to keep the numbers going up?  
9 THE REPORTER: We can mark it as five.  
10 [Reporter marked Defendant's Exhibit 5].  
11 Q (By Mr. Eastwood) So Exhibit 5. Mr. Parks  
12 kindly gave that to me today. Do you recognize that  
13 document, sir?  
14 A Yes, I do.  
15 Q And what is it?  
16 A It appears to be a written statement that I  
17 typed out.  
18 Q Okay. And did you review that in preparation  
19 for your deposition today?  
20 A Yes. But not this piece of paper you handed  
21 me.  
22 Q Okay. But the content you did review?  
23 A Yes.  
24 Q And do you stand by that statement that you --  
25 A Other than how many times I shot.

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1 Q Fair enough. When was that statement drafted  
2 by you?  
3 A That was drafted the morning afterwards, prior  
4 to going into an interview with Sergeant Smith.  
5 Q So the events were fresh in your mind, that's  
6 fair to say?  
7 A Yes.  
8 Q And this was the first shooting you'd been  
9 involved in?  
10 A That is correct.  
11 Q If you could change anything in that report,  
12 would you?  
13 A Yes.  
14 Q And what would that be?  
15 A That I only fired once.  
16 Q Okay. And that was just an honest mistake?  
17 A That was an honest mistake, I wasn't sure how  
18 many times I fired.  
19 And in fact, what I did was, I took my magazine  
20 out and I looked at it, and there was only one missing,  
21 one round missing out of the magazine, but I forgot to  
22 account for it was an extended magazine that doesn't have,  
23 and I forgot to account for the rounds that were in the  
24 extended magazine whenever I looked, so --  
25 Q Got it. Okay. But other than that, you stand

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1 by the report?  
2 A Yes.  
3 Q Okay. And then, are you familiar with this  
4 document, which I submit to you is an interview summary  
5 prepared by Sergeant Bauer, related -- or is that  
6 Corporal Ashby?  
7 A This is Corporal Ashby.  
8 Q Corporal Ashby, excuse me. Related to his  
9 interview with you. Have you reviewed this document?  
10 A No, I have not.  
11 Q Have you seen this before, ever?  
12 A Yes, I have.  
13 Q Okay. But you didn't review it in preparation  
14 for your deposition today?  
15 A No, I did not.  
16 Q Do you believe that this document fairly and  
17 accurately reflects your statements to Corporal Ashby?  
18 And if you need time to peruse it, please do.  
19 A Yeah. Let me just look at it here real quick.  
20 Okay.  
21 Q So what do you think, does Corporal Ashby  
22 fairly and accurately reflect your statements in this  
23 report?  
24 A Unless I missed something, I believe so.  
25 Q Okay. Well, and are there any statements in



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1 here that you would have Corporal Ashby correct?  
2 **A From what I knew at the time, I don't think**  
3 **so.**  
4 **Q** Okay. Is there anything that you feel is  
5 being omitted here, particularly a glaring omission?  
6 **A No.**  
7 **Q** Something that's needed to tell the story  
8 properly?  
9 **A No.**  
10 **Q** Okay. I want to move on briefly to -- We're  
11 almost done here.  
12 **A Okay.**  
13 **Q** I want to show you two things. One is an  
14 audiotape that I think you may have heard before, it's  
15 recorded either by Jeff, and/or his ex-wife, Valerie  
16 Weinhaus.  
17 And I'm not going to play the entire tape for  
18 you, because it begins about five minutes before he gets  
19 to the scene, so obviously, you have no knowledge of what  
20 he's saying or doing when he's just driving around, so --  
21 But what I'm asking you to do is two things. One, is to  
22 listen to this and tell me if it fairly and accurately  
23 depicts the events as you recall them, and, number two,  
24 I'm going to have a few questions, I'm going to have a few  
25 statements in there.

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1 So I'm just going to fast forward it, if that's  
2 okay with you?  
3 **A That's --**  
4 **[Video playing].**  
5 **Q** Who is that?  
6 **A That would be Sergeant Folsom.**  
7 **[Video playing]**  
8 **Q** So that's Jeff and Sergeant Folsom talking  
9 back and forth?  
10 **A That is correct.**  
11 **[Video playing].**  
12 **Q** Was that Sergeant Folsom ordering him down?  
13 **A Yes.**  
14 **[Video playing].**  
15 **Q** Now what do you hear Jeff say?  
16 **A You're going to have to shoot me, man.**  
17 **Q** Are you sure it couldn't be anything else?  
18 **A I am positive it's not anything else.**  
19 **Q** No doubt?  
20 **A No doubt.**  
21 **[Video playing].**  
22 **Q** Do you hear your voice at any point on that  
23 tape just now? I can replay it. I'm not trying to --  
24 **A Yes. During the whole time you just played?**  
25 **Q** Yes.

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1 **A Yes. You can hear me telling him to get on**  
2 **the ground.**  
3 **Q** You're both telling him to get on the ground?  
4 **A Yes.**  
5 **Q** Who is saying government?  
6 **A That's Sergeant Folsom talking to the FBI**  
7 **agents that are coming across the parking lot.**  
8 **[Video playing].**  
9 **Q** Who said he's down?  
10 **A Sergeant Folsom.**  
11 **[Video playing].**  
12 **Q** Does down mean he's dead, or just mean he's  
13 down?  
14 **A He's down. Basically saying he's secure.**  
15 **Q** When Sergeant Folsom secured the gun in the  
16 holster from Weinhaus when he was on the ground, what  
17 did he do with it, once he secured it?  
18 **A He removed it from the waistband area, and he**  
19 **tossed it back behind Weinhaus' feet, and it landed on**  
20 **the ground behind Weinhaus' feet, and once I saw that**  
21 **and he was pulling his hands in, I saw the FBI agent**  
22 **taking cover, that's when I left to go call our Troop C**  
23 **headquarters for an ambulance, and notified them of the**  
24 **situation.**  
25 **Q** Was the gun securely in the holster at the

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1 time when he threw it away, or was the holster open?  
2 **A I think it was partially out of his holster**  
3 **whenever he threw it, or at least whenever I saw it on**  
4 **the ground, it was partially out of the holster, I**  
5 **believe. I'm not --**  
6 **Q** Did you observe Sergeant Folsom close the  
7 holster before he tossed it?  
8 **A No. Because I was standing over Weinhaus**  
9 **watching him, more than I was watching what Sergeant**  
10 **Folsom was doing.**  
11 **Q** You were securing Weinhaus?  
12 **A Yes. I was, I was not securing Weinhaus.**  
13 **Sergeant Folsom was securing Weinhaus, I was providing**  
14 **cover where I would have been standing in case Weinhaus**  
15 **were to --**  
16 **Q** Reach for the gun?  
17 **A Reach for the gun, or try to rollover on**  
18 **Sergeant Folsom and try to fight with him on the ground,**  
19 **or anything like that.**  
20 **So we're taught in the academy that one person**  
21 **secures, one person provides cover, so that way if**  
22 **something does happen, you're not just both standing**  
23 **right there in the same spot, or both kneeling down doing**  
24 **something and you have no cover.**  
25 **Q** Did Sergeant Folsom roll Weinhaus over?

1 A I can't remember if he did that, or if I did  
2 that.  
3 Q Okay. But someone rolled Weinhaus over?  
4 A Not for a while. Not for a little while  
5 after. Because we both thought he had died, and he was,  
6 he was laying on the ground with his handcuffs behind  
7 his, handcuffs behind his back, and then I had left to  
8 call the ambulance.  
9 And then whenever I was coming back there in a  
10 short period I saw him move, so I knew he was still alive,  
11 and I think that's when we -- I think Lonnie Keathley,  
12 Corporal Lonnie Keathley was pulling in, or something.  
13 I'm not sure exactly how that happened.  
14 Q So it was after that he was cuffed, a while  
15 after he was cuffed that he was rolled over?  
16 A He could have rolled him up to check him, but  
17 I don't remember. I don't remember.  
18 Q Did he roll him over after he retrieved the  
19 firearm and the holster?  
20 A We're taught to check them for further  
21 weapons, and I was at the car, so I don't know if he  
22 rolled him over, or not.  
23 Q But I thought you said you were covering him,  
24 so --  
25 A I was covering him, but as soon as he got the

1 gun out and I saw the FBI agent coming, that's when I  
2 left and I went back around the other side of Weinhaus'  
3 car to my car and used the radio to call.  
4 Q Okay. I understand better now.  
5 And he was rolled over once you went around the  
6 car?  
7 A I, I don't remember.  
8 Q Okay. There's a statement on the tape -- I'm  
9 going to fast forward, is that okay?  
10 A It's fine with me.  
11 Q It's about 746, start about --  
12 [Video playing].  
13 Q What is J4? "He's not J4." What does that  
14 mean?  
15 A He is not dead.  
16 Q Oh. J4 means dead.  
17 A J4 means deceased, or a fatality.  
18 Q Okay. And I realize I have not played this  
19 whole audiotape for you today, but the portions that I  
20 have played for you, you believe truthfully and  
21 accurately record the events?  
22 A Yes, it records what happens.  
23 Q Okay. And then I want to show you a video.  
24 This is a, this is a snip-pit, a critical snip-pit, but  
25 a snip-it from the watch video.

1 A Okay.  
2 Q And I just want you to watch it and tell me if  
3 it truthfully and accurately depicts the events, or if  
4 you have some objection or problem with the video; okay?  
5 A Okay.  
6 [Video playing].  
7 Q Is that you?  
8 A Yes. That is me.  
9 Q So there you are, just as you're saying,  
10 holding that gun?  
11 A Yes.  
12 Q Once you hear a gun, that's when you pulled  
13 your gun out?  
14 A Yes.  
15 [Video playing].  
16 Q And that's when he said, you're going to have  
17 to shoot me, man?  
18 A Yes.  
19 Q Okay. So that brief snip-it there of about 12  
20 seconds, that accurately reflects the shooting as you  
21 recall it?  
22 A Yes.  
23 MR. EASTWOOD: Okay. I have no further  
24 questions for you.  
25 THE WITNESS: Thank you.

1 MR. PARKS: Do you wish to waive signature?  
2 THE WITNESS: That's fine.  
3 MR. PARKS: Okay. We are done then.  
4 MR. EASTWOOD: You're done. Thank you very much  
5 for your time today, sir.  
6  
7 [SIGNATURE OF THE WITNESS WAIVED BY AGREEMENT  
8 OF COUNSEL AND CONSENT OF THE WITNESS].  
9  
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25

1 CERTIFICATE  
2 I, JANE M. RICH, a Certified Court Reporter,  
3 within and for the State of Missouri, licence #411, do  
4 hereby certify that pursuant to notice there came before  
5 me in the offices of Mr. Robert H. Parks, II, Franklin  
6 County Prosecuting Attorney, 15 S. Church, Room 204,  
7 Union, Missouri,  
8 SCOTT MERTENS,  
9 who was first duly sworn to testify to the truth and  
10 nothing but the truth of all knowledge touching and  
11 concerning the matters in controversy in this cause; that  
12 the witness was thereupon examined, and signature of the  
13 witness waived by agreement of counsel and consent of the  
14 witness, and that this deposition is a true and accurate  
15 record of the testimony given by the witness.  
16 I further certify that I am not of counsel, nor  
17 attorney for either of the parties to said suit, nor  
18 related, nor interested in any of the parties or their  
19 attorneys.  
20 IN WITNESS WHEREOF, I have hereunto set my hand  
21 this 11th day of July, 2013.  
22  
23 \_\_\_\_\_  
24 Jane M. Rich, CCR No. 411.  
25

1 IN THE CIRCUIT COURT FOR THE COUNTY OF FRANKLIN  
2 20TH JUDICIAL CIRCUIT  
3 STATE OF MISSOURI  
4 Plaintiff, } Cause No. 12AB-CR02409-01  
5 vs. }  
6 JEFFREY R. WEINHAUS, }  
7 Defendant. }

8 CERTIFICATE OF OFFICER AND STATEMENT  
9 OF DEPOSITION CHARGES  
10 (Rule 57.03(g)(2)(A) & Section 492.590 RSMO 1985)  
11 DEPOSITION OF SCOTT MERTENS  
12 Taken on behalf of the Defendant  
13 June 6, 2013  
14 Name and address of person having custody of the original  
15 transcript: Mr. Hugh Eastwood, 7777 Bonhomme, Clayton,  
16 Missouri 63105.  
17 TAXED IN FAVOR OF: Defendant

18	70 pages original transcript.....	\$262.50
19	Attendance of Reporter.....	6.00
20	TOTAL	\$322.50

21 TAXED IN FAVOR OF: Plaintiff. Attorney for Plaintiff,  
22 Mr. Robert H. Parks, II, Franklin County Prosecuting  
23 Attorney, 15 S. Church, Room 204, Union, Missouri 63084.  
24 70 pages copy of transcript.....\$122.50  
25 Upon delivery of transcripts, the above charges had not  
yet been paid. It is anticipated that all charges will be  
paid in the normal course of business.

21 COURT REPORTING ASSOCIATES  
P.O. BOX 440014  
BRENTWOOD, MO 63144  
(314) 961-6306

22 IN WITNESS WHEREOF, I have hereunto set my hand on this  
23 11th day of July, 2013.  
24 \_\_\_\_\_  
25 Jane M. Rich, CCR #411

		26:24		
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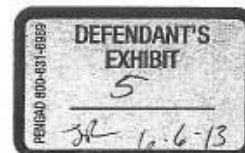
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1. On September 11, 2012, Sergeant Henry J. Folsom and I went to the Franklin County Prosecuting Attorney's Office, wherein Sergeant Folsom applied for and received an arrest warrant for Jeffrey W. Weinhaus, white male, date of birth October 6, 1966 of 2360 State Route K, St. Clair, Missouri. The charges on the arrest warrant stemmed from a earlier investigation, wherein Sergeant Folsom and I contacted Weinhaus at his residence on August 22, 2012 reference threats he made against judicial officers in Crawford County, Missouri.

2. On September 11, 2012, after obtaining the arrest warrant for Weinhaus, Sergeant Folsom and I contacted Federal Bureau of Investigation Agents Patrick Cunningham and Michael Maruschak, who agreed to meet us in St. Clair, Missouri and assist us in serving the arrest warrant on Weinhaus. After meeting with Special Agent Cunningham and Special Agent Maruschak, we agreed to attempt to have Weinhaus meet with us at the Missouri Farmers Association (MFA) Oil station on Missouri Route K between St. Clair and Piney Park, Missouri, which is in close proximity to Weinhaus' residence under the ruse that we were returning property seized from his residence on August 22, 2012. Sergeant Folsom also arranged through Troop I Radio to have two marked Missouri State Highway Patrol cars from the Franklin County Zones in the immediate area of the MFA Oil station in case Weinhaus attempted to flee.

3. At 1246 hours, once all officers were in the area, Sergeant Folsom contacted Weinhaus by telephone and requested he meet with him and me at the MFA Oil station near his residence. According to Sergeant Folsom, Weinhaus stated he was in Union, Missouri but would meet us in approximately fifteen minutes after he contacted additional people to accompany him. With this information, it was agreed that Special Agent Cunningham and Special Agent Maruschak would stage on the south side of the parking lot to have access to any additional people that might accompany Weinhaus. I placed my patrol vehicle facing southwest on the northwestern edge of the parking lot adjacent to Missouri Route K.

4. A short time after 1300 hours, I observed a green Subaru passenger vehicle slowing to turn in the north entrance to the MFA Oil station. I recognized the driver as Weinhaus and observed that he was taking off his seatbelt as he entered the parking lot. I also noticed that Weinhaus had a determined look on his face. Once Weinhaus entered the Parking lot Sergeant Folsom and I exited my patrol vehicle, Sergeant Folsom from the passenger side and me from the driver's side. As Sergeant Folsom exited my patrol vehicle, he requested I open the trunk to support the ruse we were returning property to Weinhaus. Weinhaus continued into the parking lot and began to drive his vehicle in a circular motion around the parking lot. Weinhaus placed his vehicle approximately fifteen to twenty-five feet away from my vehicle and slightly forward of my vehicle's position. Due to Weinhaus placement of his vehicle I immediately felt that Sergeant Folsom and I were in danger for our safety. Weinhaus had created, with his vehicle a barricade to our position. Sergeant Folsom continued around the rear of my patrol vehicle with a file folder in his hand to continue the ruse that Weinhaus had to sign for the returned property. As I opened the trunk, Sergeant Folsom approached Weinhaus' vehicle. When Sergeant Folsom was approximately ten to twenty feet behind Weinhaus' vehicle, I heard Sergeant Folsom start to explain to Weinhaus that he needed to sign some papers. I then heard Sergeant Folsom ask Weinhaus what he was doing with the gun. Weinhaus replied and asked Sergeant Folsom what he was doing with his gun. I turned from the trunk area and saw a green, nylon, military style holster attached to Weinhaus' front right hip. I immediately drew my patrol issued firearm from



my holster and saw that Sergeant Folsom had also drawn his firearm. I immediately took a position to the rear of Weinhaus' vehicle when I saw Weinhaus unlatch his holster with his right hand. Weinhaus then placed his hand back down to his side and appeared to begin to shake. Sergeant Folsom and I both ordered Weinhaus to the ground. As we ordered Weinhaus to the ground he placed his right hand under the holster flap as if to grip the firearm. In fear for my life and the life of the Sergeant Folsom, I began to fire my patrol issued firearm. Sergeant also fired. After firing my patrol issued weapon once, I saw Weinhaus turn 180 degrees and fall to the ground. Sergeant Folsom immediately went to Weinhaus to remove the weapon from Weinhaus' person as I covered Weinhaus. Sergeant Folsom informed me that Weinhaus still had his hand on the weapon. Sergeant Folsom gained control of the weapon and holster and removed it from Weinhaus' person.

5. After Sergeant Folsom removed Weinhaus' weapon I noticed that Special Agent Maruschak was also providing cover on Weinhaus as Sergeant Folsom secured him with handcuffs. I immediately left my position and returned to my patrol vehicle and contacted Troop C Communications Division, informed them of the shots fired and requested an ambulance. I then retrieved latex style gloves from my trunk and began administering medical aid to Weinhaus. A short time later, Emergency Medical Personnel arrived on scene. I then removed the handcuffs from Weinhaus and turned care for Weinhaus to the Emergency Medical Personnel.

S.E. Mertens, Corporal

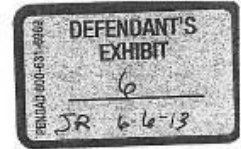
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<u>STATE CONTROL NO.:</u>	12 261 015 018	<u>REPORT DATE:</u>	09/12/2012
<u>REPORTING OFFICER:</u>	CORPORAL J. S. ASHBY	0222	<u>TROOP OF OCCURRENCE:</u> C
<u>OCCURRENCE TYPE:</u>	OFFICER INVOLVED SHOOTING		
<u>ITY:</u>	FRANKLIN		<u>SCENE PROCESSED:</u> N
<u>E/TIME:</u>	09/11/2012		
<u>OFFENSE STATUS:</u>	INVESTIGATION CONTINUING		<u>DDCC AT SCENE:</u> N
<u>LOCATION:</u>	FRANKLIN COUNTY		

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<u>WITNESS NAME:</u>	MERTENS, SCOTT E.
<u>ADDRESS:</u>	CORPORAL, MISSOURI STATE HWY PATROL
<u>DOB:</u>	
<u>PHYSICAL DESC:</u>	SEX: M RACE:
<u>PHONE NUMBER:</u>	HOME WORK

MISSOURI STATE HIGHWAY PATROL  
REPORT OF INVESTIGATION



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STATE CONTROL NO.:	12 261 015 018	REPORT DATE:	09/12/12
REPORTING OFFICER:	CORPORAL J. S. ASHBY	0222 TROOP OF OCCURRENCE:	C
OCC TYPE:	OFFICER INVOLVED SHOOTING		
COUNTY:	FRANKLIN	SCENE PROCESSED:	N
DATE/TIME:	09/11/2012		
OFFENSE STATUS:	INVESTIGATION CONTINUING	DDCC AT SCENE:	N
LOCATION:	FRANKLIN COUNTY		

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DETAILS OF INVESTIGATION

INTERVIEW WITH SCOTT E. MERTENS

1. On Wednesday, September 12, 2012, Sergeant Perry L. Smith of the Missouri State Highway Patrol, Division of Drug and Crime Control and I interviewed Corporal Scott E. Mertens of the Missouri State Highway Patrol Division of Drug and Crime Control, Troop I Rolla, regarding the officer involved shooting that occurred at 1535 Highway K, St. Clair, Missouri. The interview was recorded on a department issued digital recorder and the contents of the interview was downloaded onto a compact disc and is attached to this report. The interview was conducted at Troop I Headquarters in an interview room located at the Division of Drug and Crime Control Office. There was no one else present during the interview.

2. Corporal Mertens is described as Scott E. Mertens, badge number 567. Corporal Mertens has been employed with the Missouri State Highway Patrol for seventeen years, and as a Criminal Investigator for the Division of Drug and Crime Control for six years. Corporal Mertens is assigned to Troop I Headquarters located at P O Box 128, Rolla, Missouri.

3. During the interview, Corporal Mertens was asked to explain the events that led up to the officer involved shooting. He told us he skipped around a lot during an interview and he told us he wrote down what had happened because it was easier for him. He asked if he could read his statement. I told him yes. He asked me how far we wanted him to go back into the investigation. I told him to start out when he got involved. He said he would read his statement, which would explain a lot.

4. Corporal Mertens read the following events to us from a narrative he had prepared prior to our interview with him. Corporal Mertens gave us the narrative after his interview was concluded, which I seized as evidence. The narrative was later transported to Troop C Headquarters and released to the evidence custodian with property control number 02220911121340. Corporal Mertens read the following account:

- a. Mertens said on September 11, 2012, Sergeant Henry J. Folsom and him went to the Franklin County Prosecuting Attorney's Office wherein Sergeant Folsom applied for and received an



arrest warrant for Jeffrey Weinhaus, white male, date of birth October 06, 1966, of 2360 State Route K, St. Clair, Missouri. The charges on the arrest warrant stemmed from an earlier investigation, wherein Sergeant Folsom and he contacted Weinhaus at his residence on August 22, 2012, reference threats he made against judicial officers in Crawford County, Missouri.

- b. On September 11, 2012, after obtaining the arrest warrant for Weinhaus, Sergeant Folsom and he contacted the Federal Bureau of Investigation, Agents Patrick Cunningham and Michael Maruschak, who agreed to meet us in St. Clair, Missouri, and assist us in serving the arrest warrant on Weinhaus. After meeting with Special Agent Cunningham and Special Agent Maruschak, we agreed to attempt to have Weinhaus meet with us at the Missouri Farmers Association (MFA) Oil station on Missouri Route K between St. Clair and Piney Park, Missouri, which is in close proximity to Weinhaus' residence, under the ruse that we were returning property seized from his residence on August 22, 2012. Sergeant Folsom also arranged through Troop I radio to have two marked Missouri State Highway Patrol cars from the Franklin County zones in the immediate area of the MFA Oil station in case Weinhaus attempted to flee.
- c. At 1246 hours, once all of the officers were in the area, Sergeant Folsom contacted Weinhaus by telephone and requested he meet with him and me at the MFA Oil station near his residence. According to Sergeant Folsom, Weinhaus stated he was in Union, Missouri, but would meet us in approximately fifteen minutes after he contacted additional people that might accompany Weinhaus. I placed my patrol vehicle facing southwest on the northwestern edge of the parking lot adjacent to Missouri Route K.
- d. A short time after 1300 hours, I observed a green Subaru passenger vehicle slowing to turn in the north entrance to the MFA Oil station. I recognized the driver as Weinhaus and observed that he was taking off his seatbelt as he entered the parking lot. I also noticed that Weinhaus had a determined look on his face. Once Weinhaus entered the parking lot, Sergeant Folsom and I exited my patrol vehicle; Sergeant Folsom from the passenger side and me from the driver's side. As Sergeant Folsom exited my patrol vehicle, he requested I open the trunk to support the ruse we were returning property to Weinhaus. Weinhaus continued into the parking lot and began to drive his vehicle in a circular motion around the parking lot. Weinhaus placed his vehicle approximately fifteen to twenty-five feet away from my vehicles' position. Due to Weinhaus' placement of his vehicle, I immediately felt that Sergeant Folsom and I were in danger for our safety. Weinhaus had created, with his vehicle, a barricade to our position. Sergeant Folsom continued around the rear of my patrol vehicle with the file folder in his hand to continue the ruse that Weinhaus had to sign for the returned property. As I opened the trunk, Sergeant Folsom approached Weinhaus' vehicle. When Sergeant Folsom was approximately ten to twenty feet behind Weinhaus' vehicle, I heard Sergeant Folsom ask Weinhaus what he was doing with the gun. Weinhaus replied and asked

Sergeant Folsom what he was doing with his gun. I turned from the trunk area and saw a green, nylon military style holster attached to Weinhaus' front right hip. I immediately drew my patrol issued firearm from my holster and saw that Sergeant Folsom had also drawn his firearm. I immediately took a position to the rear of Weinhaus' vehicle when I saw Weinhaus unlatch his holster with his right hand. Weinhaus then placed his hand back down to his side and appeared to begin to shake. Sergeant Folsom and I both ordered Weinhaus to the ground. As we ordered Weinhaus to the ground, he placed his right hand under the holster flap as if to grip the firearm. In fear for my life and the life of Sergeant Folsom, I began to fire my patrol issued firearm. Sergeant Folsom also fired. After firing my patrol issued weapon once, I saw Weinhaus turn 180 degrees and fall to the ground. Sergeant Folsom immediately went to Weinhaus to remove the weapon from Weinhaus' person as I covered Weinhaus. Sergeant Folsom informed me that Weinhaus still had his hand on the weapon. Sergeant Folsom gained control of the weapon and holster and removed it from Weinhaus' person.

- e. After Sergeant Folsom removed Weinhaus' weapon, I noticed that Special Agent Maruschak was also providing cover on Weinhaus as Sergeant Folsom secured him with handcuffs. I immediately left my position and returned to my patrol vehicle and contacted Troop C Communications Division, informed them of the shots fired, and requested an ambulance. I then retrieved latex style gloves from my trunk and began administering medical aid to Weinhaus. A short time later, Emergency Medical Personnel arrived on scene. I then removed the handcuffs from Weinhaus and turned care for Weinhaus over to the Emergency Medical Personnel

- f. Typed signature of S.E. Mertens, Corporal

5. After Corporal Mertens read his statement he was asked while he was giving Weinhaus care if Weinhaus was talking. Corporal Mertens said he was, but he was incoherent and he sat up on his own. Corporal Mertens was asked who fired their weapon first. He told us that Sergeant Folsom did. He was asked how many rounds did he (Sergeant Folsom) fire. Corporal Mertens said he was told by Sergeant Folsom that he fired four shots. He went on to say that he did not keep count but knew it was several. He said Folsom fired four gunshots, and he fired once. Corporal Mertens was asked how many rounds he carries in his magazine. He told us he keeps his magazine fully loaded and one round in the chamber of his service weapon. He was asked how many ammunition rounds his magazine held. He said he did not know without looking at it. We then told Corporal Mertens that we located six spent .40 caliber ammunition rounds at the crime scene. He was asked if it was possible he may have fired twice during the incident. Corporal Mertens told us that it was very possible that he fired twice. Corporal Mertens was asked where his location was when he fired his weapon. He said he was behind Weinhaus' vehicle, about one to two feet close to the center of the vehicle. He was asked why he took that position. He said there was cover there and he was close to his patrol vehicle.

- 6. Corporal Mertens was asked to explain how Weinhaus entered the

parking lot. He said when Weinhaus entered the parking lot, they both got out of their vehicle about the same time and he went to the trunk to act like he was getting Weinhaus' property. He went on to say that when Weinhaus entered the parking lot, he observed him removing his seatbelt and he got a bad feeling that something was not right. He further advised that as Weinhaus pulled in he observed him reach down, then all of a sudden the seatbelt came off and Weinhaus' facial expression appeared to be a determined look. Weinhaus then made a large circle around the parking lot and parked his vehicle in front of his in a tactical maneuver. Corporal Mertens said he was thinking something wasn't right and thought, "Oh Fuck, that's not good".

7. Corporal Mertens was asked what happened when Sergeant Folsom met with Weinhaus. Corporal Mertens said he overheard Sergeant Folsom tell Weinhaus that he needed to sign some paperwork. He then heard Sergeant Folsom ask Weinhaus what he was doing with that gun. Corporal Mertens said he was approaching Weinhaus and he observed the weapon. Corporal Mertens was asked what did he do when he heard Weinhaus had a weapon. Corporal Mertens said he drew his weapon. He also advised he could feel his heart pounding, and he was telling himself to calm down as he was positioning himself to close proximity to cover. He was asked what direction he was facing at that time. He told me he was facing the side of the store where the old gas pumps were stored. He was asked where Sergeant Folsom was facing. He said Sergeant Folsom was facing the parking lot and Weinhaus was facing Sergeant Folsom with his back towards the parking lot. Corporal Mertens was asked what happened next. He said he remembered Sergeant Folsom asking about his gun, and Weinhaus asking Sergeant Folsom what he was doing with his gun. Weinhaus then reached down, unlatched his holster, and he observed Weinhaus starting to shake, like a tremor or cold chill went through his body. He then overheard Sergeant Folsom tell Weinhaus to get on the ground, and he also told Weinhaus to get on the ground. Weinhaus did not get on the ground, and he observed him raise the flap up from the holster to retrieve the weapon. At that point is when he started to fire his weapon. He was asked who fired first. He said Sergeant Folsom did. He went on to say he remembered hearing a gunshot before he fired his weapon. Corporal Mertens was asked if Weinhaus was able to remove the weapon from his holster. He said he could not recall, but he did have his hand on the weapon and when Sergeant Folsom retrieved the weapon from Weinhaus, the weapon was partially out of the holster. Corporal Mertens was asked why he fired at Weinhaus. He said he was in fear of his safety and Sergeant Folsom's safety.

8. Corporal Mertens was asked what did the agents with the Federal Bureau of Investigation do. He said he did not know and was not concentrated on them. He advised they were set up on the other side of the parking lot due to Weinhaus saying he was going to bring some people with him. He said where they were the agents were parked originally, but a truck pulled into the lot to work on the gutters of the store, which blocked the agents view. He observed the agents backing up, and at that point Weinhaus entered the parking lot. He thought the agents were coming toward their direction and witnessed Weinhaus with a gun.

9. Corporal Mertens was asked why they thought Weinhaus was bringing additional people. He said it was conveyed to him by Sergeant Folsom when he made arrangements to meet them. He was asked how they contacted Weinhaus. He said they contacted him using the Patrol

telephone. I asked him if the telephone call was time stamped. He said yes and that is how he knew the telephone call was placed at 1246 hours. Corporal Mertens was asked if they drove to Weinhaus' residence prior to making the telephone call. He said once they received the arrest warrant, they contacted the FBI who advised them they were on their way. While waiting for the agents, they decided to drive out to the MFA parking lot to survey it. They also went to Weinhaus' residence to see if he was home due to Sergeant Folsom receiving information that Weinhaus may not be in the area. He said they pulled into Weinhaus' neighbor's driveway, which was a good distance away, and observed the green Subaru parked in Weinhaus' driveway. They thought the Subaru belonged to Weinhaus' wife due to seeing Weinhaus in a pickup truck before. Corporal Mertens said Weinhaus had done a broadcast earlier and they learned that Weinhaus may be getting a divorce and may not be living at the residence. He said they left the area and went to get lunch at Taco Bell while waiting on the FBI agents. Corporal Mertens said Weinhaus must have left while they were waiting for the FBI due to him showing up from the opposite direction with the Subaru. He said they were expecting Weinhaus to be driving a truck, and prior to his arrival, they observed a blue truck pull onto the parking and the driver had dark hair and was balding. At first they thought he may be Weinhaus, but the driver of the vehicle wasn't Weinhaus.

10. Corporal Mertens was asked where he was standing when he fired his weapon. He said right behind Weinhaus' vehicle. He was asked if he knew if he hit Weinhaus. He said according to his sight picture, he thought he did but did not know for sure. He did not recall seeing any shots striking Weinhaus. He was asked if he heard the shot impact. Corporal Mertens advised he did not hear his shots but felt the recoil of his weapon. He remembered hearing gunshot coming from Sergeant Folsom's location. He went on to say once he fired, Weinhaus turned 180 degrees away in a clockwise direction, turning right. Corporal Mertens was asked if he was wearing his bullet proof vest during the incident. He said he was not wearing his vest. He was asked where was his vest located. He told us his vest was sitting in the back seat of his patrol car. He was asked if Sergeant Folsom was wearing his vest. He said no and it was located in the back seat too. He was then asked if he talked to any witnesses prior to our arrival. He said he talked to a witness, who was located behind Sergeant Folsom's location, working on a house. He was asked if the marked Trooper's vehicles were present during the time of incident. He said no and Corporal Keathley arrived first and he assisted Corporal Keathley in parking by Weinhaus. He was asked where did the ambulance park. He thought the ambulance parked by Corporal Keathley's patrol vehicle. He was asked who called for backup. He said he did and also requested an ambulance. He was asked how long did the incident occur from when the gun was observed to the end of the shooting. He thought between three to ten seconds.

11. Corporal Mertens was asked if we failed to ask him any questions that may assist us in the investigation. He said no and the interview was concluded at 1115 hours.

12. This investigation is continuing.

J. Scott Ashby, Corporal  
Division of Drug and Crime Control

JSA:ejs