

# EXHIBIT I

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
San Francisco Division

JOHN BAUER, an individual and  
as Successor in Interest of  
Jacob Bauer, deceased; ROSE  
BAUER, an individual and as  
Successor in Interest of Jacob  
Bauer, deceased,

Plaintiffs,

vs.

No. 3:19-cv-04593-LB

CITY OF PLEASANTON; BRADLEE  
MIDDLETON; JONATHAN CHIN;  
RICHARD TROVAO; STEVEN BENNETT;  
ALEX KOUMISS; JASON KNIGHT;  
MARTY BILLDT; DAVID SPILLER;  
and DOES 1 to 50, inclusive,  
Defendants.

\_\_\_\_\_/

DEPOSITION OF RICHARD TROVAO  
Oakland, California  
Thursday, October 8, 2020

Reported by:

Natalie Y. Botelho, CSR No. 9897  
Job No. 4262017

Confidential portions:

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1 APPEARANCES:

2  
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21  
22 ALSO PRESENT:

23 BRITTANY SMITH, law clerk

24 LINDA LIM, paralegal

25 TED HOPPE, Videographer

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By Mr. Gwilliam		7
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	of Exhibit 11 entitled "Smart	
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	Use Considerations, Hand out	
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	CEW Study Aid"	
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Exhibit 20	A document entitled "Interview	6
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	with Ofc. Richard Trovao"	
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Exhibit 21	Clip of video PPD 368	122
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	A summary of the second	
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	interview of Officer Trovao	
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Exhibit 24	(designated "Confidential")	103
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	A report of Taser Protect	
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	Life, Bates PPD001398 through	
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## REFERENCE TO PREVIOUSLY MARKED EXHIBITS

NUMBER	DESCRIPTION	PAGE
Exhibit 11	A presentation document entitled "Taser CEW Annual Conducted Energy Weapon (CEW) User Update," Version 21 - Effective January 14, 2019	114
Exhibit 12	Pleasanton Police Department, Pleasanton PD Policy Manual, Use of Force, Bates PPD000440 through PPD000464	38
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Oakland, California, Thursday, October 8, 2020

12:57 p.m.

PROCEEDINGS

(Whereupon, prior to the commencement of 12:34:15  
the deposition, Exhibit 20 was marked for 12:34:15  
identification.) 12:34:15

THE VIDEOGRAPHER: Very good. Video is 12:57:41  
rolling, so let's begin. 12:57:42

Good afternoon. We're going on the 12:57:44  
record. The time now is 12:57 on October 8th, 2020. 12:57:46  
This is media unit 1 in the video-recorded 12:57:52  
deposition of Richard Trovao in the matter of Bauer 12:57:55  
versus City of Pleasanton, et al., filed in the 12:58:01  
United States District Court, Northern District of 12:58:04  
California, San Francisco Division, Case 12:58:07  
No. 3:19-CV-04593-LB. This video deposition is 12:58:10  
being held at 1999 Harrison Street in Oakland, 12:58:18  
California. 12:58:21

My name is Ted Hoppe, from Veritext. I'm 12:58:23  
the videographer. The court reporter today is 12:58:26  
Natalie Botelho, also from Veritext. 12:58:28

Counsel, could you please voice identify 12:58:32  
yourselves and state whom you represent. 12:58:33

MR. GWILLIAM: Yes. I'm Gary Gwilliam, 12:58:35

1 representing the plaintiffs. With me is Brittany 12:58:37  
2 Smith. And my partner, Jayme Walker, and my 12:58:39  
3 paralegal, Linda Lim, will probably be joining us 12:58:42  
4 shortly. 12:58:45

5 MR. BLECHMAN: Noah Blechman, on behalf of 12:58:45  
6 the defendants. 12:58:48

7 THE VIDEOGRAPHER: Natalie, could you 12:58:49  
8 please swear the witness in. 12:58:49  
9 12:58:51

10 RICHARD TROVAO, 12:58:51  
11 having been administered an oath, was examined and 12:58:51  
12 testified as follows: 12:58:51  
13 12:58:51

14 EXAMINATION BY MR. GWILLIAM 12:58:58

15 MR. GWILLIAM: Q. Officer Trovao, would 12:59:01  
16 you state your full name and business address for 12:59:01  
17 the record? 12:59:04

18 A. Sure. Richard Manuel Trovao. Business 12:59:04  
19 address is 4833 Bernal Avenue, Pleasanton, 12:59:08  
20 California 94566. 12:59:11

21 Q. Officer Trovao, have you had your 12:59:13  
22 deposition taken before? 12:59:15

23 A. No. 12:59:16

24 Q. You've had an opportunity to sit through 12:59:17  
25 some of these depositions. This morning you sat 12:59:20

1 basically straps that go to his wrists to the 13:37:44  
2 gurney. 13:37:47  
3 Q. Do you know whether he was breathing at 13:37:49  
4 that time? 13:37:52  
5 A. I don't know. 13:37:54  
6 MR. BLECHMAN: Calls for speculation, 13:37:54  
7 calls for expert testimony. Go ahead. 13:37:55  
8 THE WITNESS: I don't know. 13:37:58  
9 MR. BLECHMAN: Yeah, you can answer. 13:37:59  
10 Perfect. 13:38:01  
11 MR. GWILLIAM: Q. Did you ever think it 13:38:02  
12 would be a good idea well before you made a decision 13:38:03  
13 to even put him into a wrap that somebody should 13:38:07  
14 deescalate the situation and maybe sit down and try 13:38:11  
15 and talk to him to see what was going on? 13:38:13  
16 MR. BLECHMAN: Incomplete hypothetical, 13:38:15  
17 vague as to time, vague as to "deescalate the 13:38:18  
18 situation." You can respond. 13:38:21  
19 THE WITNESS: At the time, once we put 13:38:25  
20 handcuffs on him, he was still kicking with his 13:38:26  
21 feet. And the restraint system we have to minimize 13:38:29  
22 that is the wrap. And so we had to put the wrap on 13:38:33  
23 him in order to minimize that. 13:38:37  
24 MR. GWILLIAM: Q. You put four sets of 13:38:41  
25 handcuffs on him, correct? 13:38:42



1 little. 14:18:11

2 (Whereupon the video marked as Exhibit 19 14:18:12

3 was played.) 14:18:12

4 MR. GWILLIAM: Stop. 14:18:24

5 Q. So did you tase him again, then, at this 14:18:24

6 point, just there at 2:35? 14:18:27

7 A. I'm sorry. For me? No. 14:18:30

8 Q. Did you tase him again? 14:18:32

9 A. No. 14:18:34

10 MR. GWILLIAM: Just take it back just a 14:18:34

11 little bit. So take it from there. Just move it 14:18:35

12 forward, 2:30. 14:18:50

13 (Whereupon the video marked as Exhibit 19 14:18:51

14 was played.) 14:18:51

15 MR. GWILLIAM: Q. Okay. We run that up 14:19:41

16 until I think it's about three minutes and 12 14:19:43

17 seconds or something like that. Is that video 14:19:45

18 consistent with your recollection of what happened, 14:19:47

19 as far as you can see from the video? 14:19:49

20 A. Yes. 14:19:52

21 MR. GWILLIAM: Okay. We've got another 14:19:53

22 video. Let's -- the next one has not been marked 14:19:55

23 yet, so I guess it will be 21. 14:19:57

24 (Whereupon the video marked as Exhibit 21 14:20:14

25 was played.) 14:20:14

1 MR. GWILLIAM: Stop right there. 14:20:15

2 Q. Now, that was you using your baton on him, 14:20:16

3 right? 14:20:18

4 A. Yes. 14:20:19

5 Q. Why did you pull out your baton and strike 14:20:19

6 him like that? And incidentally, we're at point 08 14:20:21

7 of this video, Exhibit 21. 14:20:26

8 A. So we were trying to remove his left arm 14:20:29

9 from underneath Mr. Bauer. And I tried initially to 14:20:31

10 try to pull his arm. That didn't work, so I tried 14:20:35

11 the distraction blows with -- by jabbing, by using 14:20:39

12 my baton in the closed position, hoping that that 14:20:42

13 would release his grip, or whatever he was doing to 14:20:46

14 hold his arm underneath him. And as you could see, 14:20:49

15 it didn't have any effect either. 14:20:52

16 Q. Where exactly on your body (sic) did you 14:20:54

17 hit him? In the head? 14:20:56

18 A. No. It was on the side. Right here, 14:20:58

19 somewhere on the side (indicating). 14:20:59

20 MR. BLECHMAN: When you describe for the 14:21:02

21 video, you got to describe for the record. 14:21:04

22 THE WITNESS: Oh, I'm sorry. Left side 14:21:08

23 area, under -- under his arm. 14:21:09

24 MR. GWILLIAM: Q. And you thought by 14:21:12

25 hitting -- 14:21:13

1 Let me rephrase that. Do you know for a fact that 14:23:21  
2 he wasn't tased twice at this point in the video, 14:23:23  
3 which is 13 seconds? 14:23:26  
4 MR. BLECHMAN: Argumentative as phrased, 14:23:29  
5 but go ahead. 14:23:30  
6 THE WITNESS: Do I know for a fact that we 14:23:31  
7 both did not tase him at the same exact time? No, I 14:23:33  
8 do not. 14:23:38  
9 MR. GWILLIAM: Let's go on. This is 13 14:23:39  
10 seconds. 14:23:41  
11 (Whereupon the video marked as Exhibit 21 14:23:43  
12 was played.) 14:23:43  
13 MR. GWILLIAM: Q. Isn't that sound the 14:23:54  
14 sound of a taser? 14:23:55  
15 A. It's the sound of our body-worn camera. 14:23:56  
16 Q. Thank you. 14:23:59  
17 MR. BLECHMAN: What time was that on 14:23:59  
18 there? 14:24:01  
19 MR. GWILLIAM: :27. 14:24:01  
20 (Whereupon the video marked as Exhibit 21 14:24:18  
21 was played.) 14:24:18  
22 MR. GWILLIAM: Let's -- we got one more. 14:24:18  
23 This will be 22, for the record, I think. 14:24:19  
24 MR. BLECHMAN: That last one was 14:24:24  
25 Bennett's? 14:24:25

1 MS. WALKER: Yes, from PPD 368, and this 14:24:28  
2 next one is a clip from PPD 378, which is -- 14:24:30  
3 MR. GWILLIAM: This is Billdt's body -- 14:24:41  
4 MS. WALKER: Sorry. PPD 378. 14:24:42  
5 MR. BLECHMAN: Thank you. 14:24:46  
6 (Whereupon the video marked as Exhibit 22 14:24:57  
7 was played.) 14:24:57  
8 MR. GWILLIAM: Q. That shows you putting 14:24:57  
9 your feet on him and trying to push him over, as you 14:24:58  
10 said. 14:25:01  
11 A. Put my foot, yes, sir. 14:25:02  
12 Q. All right. Thank you. I think that takes 14:25:03  
13 care of our videos. 14:25:05  
14 Okay. What I want to do is -- I have 14:25:13  
15 previously marked as Exhibit 20, the transcript of 14:25:14  
16 your initial interview. So she's got a copy of 14:25:19  
17 that. If you can look at it, she'll give it to you, 14:25:22  
18 and so -- as I said, this was previously marked as 14:25:25  
19 20, so I may want to go through this with you for a 14:25:28  
20 minute. All right? 14:25:31  
21 A. Sure. 14:25:32  
22 Q. Do you have Exhibit 20 there? 14:25:34  
23 All right. So one of the things, Officer 14:25:46  
24 Trovao, is when I looked at this, I couldn't tell 14:25:50  
25 from this exactly what time you were interviewed 14:25:53

# CONFIDENTIAL



# CONFIDENTIAL

3 (Here marks the end of this portion of the 15:03:56

4 deposition designated "Confidential.") 15:03:56

5 15:03:56

6 ---oOo--- 15:03:56

7 15:03:56

8 MR. BLECHMAN: This is also confidential, 15:03:59

9 so I guess we're staying in the confidential. 15:03:59

10 MR. GWILLIAM: Well, let's talk about 15:04:01

11 that. This should -- I don't think this should be 15:04:02

12 confidential. I don't see this is part of any 15:04:05

13 disciplinary issues. It's just a matter of the 15:04:08

14 taser. 15:04:11

15 MR. BLECHMAN: Well, this document -- 15:04:11

16 here's what we can do: We can just maintain this 15:04:12

17 document as confidential because it came from the 15:04:14

18 administrative investigation which was confidential, 15:04:20

19 but I think the testimony you can ask him about. We 15:04:24

20 don't have to deem that confidential if you have a 15:04:27

21 problem with it. 15:04:29

22 MR. GWILLIAM: Yeah, I didn't understand 15:04:29

23 why it would be marked confidential anyway. I mean, 15:04:30

24 if it came in the normal course of it, this would 15:04:33

25 not be, to my mind, a confidential document, but 15:04:37

1 THE WITNESS: In 2019. Well, I may have. 15:19:01

2 MR. BLECHMAN: Yeah. 15:19:09

3 MR. GWILLIAM: Q. The first one on the 15:19:09

4 first page back in -- which is the second page of 15:19:10

5 the document, it says, "Smart Use Considerations," 15:19:13

6 and there's a box with pictures of it. It's very 15:19:17

7 hard to read. I tried to blow it up. But that 15:19:21

8 appears to have some guidelines as to the use of the 15:19:27

9 taser under different circumstances. 15:19:32

10 It's very hard to read, but if you look at 15:19:39

11 the box here -- let me do this: Let me make an 15:19:41

12 11-A, because I blew it up a little bit in an 15:19:51

13 attempt to try and read that one page. So I'm going 15:19:54

14 to hand you the blow-up of what is currently the 15:19:57

15 second page of Exhibit 11, but it's blown up so we 15:20:00

16 can look a little better at it, because it's still 15:20:04

17 hard to read. Just this is the best copy we have. 15:20:07

18 So we'll make this as 11-A because it is part of the 15:20:09

19 document. So if you look at this one -- 15:20:14

20 A. I think we need to pause for like five 15:20:17

21 seconds just so I can get to my copy. 15:20:18

22 MR. BLECHMAN: At least somebody's looking 15:20:20

23 out for the court reporter. 15:20:20

24 (Whereupon Exhibit 11-A was marked for 15:20:31

25 identification.) 15:20:31

1 hypothetical as phrased, calls for speculation. You 15:24:42  
2 can respond. 15:24:45

3 THE WITNESS: Well, I think it's also 15:24:46  
4 important to include -- that we have to include 15:24:47  
5 "when objectively reasonable and as practicable. Do 15:24:50  
6 not repeat drive stuns if compliance is not 15:24:53  
7 achieved." Yes, I definitely -- I agree with that 15:24:57  
8 statement. 15:24:59

9 MR. GWILLIAM: Q. Okay. And then the 15:24:59  
10 third bullet -- little box on there says, "Do not 15:25:00  
11 use drive stuns if pain is unlikely to gain 15:25:04  
12 compliance due to mind-body disconnect," paren, 15:25:08  
13 "(psychotic episode)," closed paren, or increased 15:25:12  
14 pain tolerance," close -- "(drugs/alcohol)," end 15:25:15  
15 paren. Do you think that that's an appropriate 15:25:19  
16 restriction on the use of the taser? 15:25:21

17 A. Yes. 15:25:23

18 MR. BLECHMAN: Same objection. 15:25:24

19 THE WITNESS: Yes. 15:25:24

20 MR. GWILLIAM: Q. And then going to the 15:25:26  
21 next page, says, "Higher Risk Populations." And one 15:25:28  
22 of them -- the second box is "Mentally ill." Do you 15:25:41  
23 agree that that's certainly a high-risk use of a 15:25:46  
24 taser, would be on a mentally ill person? 15:25:50

25 A. Yes, it is a high risk, yes. 15:25:54



1 Q. See at the bottom, it says in bold black, 15:25:55  
2 "CEW use on these individuals could increase the 15:25:56  
3 risk of death or serious injury." You would agree 15:25:59  
4 with that? 15:26:03  
5 A. Yes. 15:26:03  
6 Q. And then the last page of what I think is 15:26:04  
7 the training document says that "Avoid 15:26:07  
8 Repeated/Extended CEW Durations." The first bullet 15:26:09  
9 point says, "Minimize the number and duration of CEW 15:26:15  
10 exposures." Do you agree with that? 15:26:19  
11 A. Yes. 15:26:20  
12 Q. Next says, "CEW exposure is a physically 15:26:21  
13 and psychological stressful event." Do you agree 15:26:24  
14 with that? 15:26:26  
15 A. Yes. 15:26:28  
16 Q. Next bullet point says, "Use the 15:26:29  
17 shortest" -- "use the shortest duration of CEW 15:26:31  
18 exposure objectively reasonable to accomplish lawful 15:26:34  
19 objectives." Do you agree with that? 15:26:38  
20 A. Yes. 15:26:40  
21 Q. Next says, "Avoid repeated or continuous 15:26:40  
22 exposures beyond 15 seconds absent reasonably 15:26:43  
23 perceived immediate threat and increased 15:26:45  
24 justification." Do you agree with that? 15:26:49  
25 A. Yes. 15:26:50

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1 the time now is 3:30. 15:30:22

2 MR. BLECHMAN: We'll take a copy. 15:32:11

3 Electronic is fine for us. 15:32:12

4 (Whereupon the deposition concluded at 15:32:14

5 3:32 p.m.) 15:32:14

6 (Whereupon, subsequent to the conclusion 15:32:14

7 of the deposition, Exhibit 21 and 15:32:14

8 Exhibit 22 were marked for 15:32:14

9 identification.) 15:32:14

10 15:32:14

11 ---oOo--- 15:32:14

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CERTIFICATE OF REPORTER

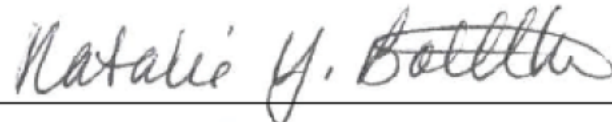
I, Natalie Y. Botelho, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled.

The said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript [ ] was [X] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED: October 19, 2020

A handwritten signature in cursive script, reading "Natalie Y. Botelho", is written over a horizontal line.

Natalie Y. Botelho, CSR No. 9897