

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ALEXANDER GRAY,)
 Plaintiff,)
vs.) No. 23-cv-1931
CITY OF EVANSTON, et al.,)
 Defendants.)

The deposition of DETECTIVE MICHAEL F.
KANE called for examination pursuant to the
Rules of Civil Procedure for the United States
District Courts pertaining to the taking of
depositions, taken remotely before Johnetta
Stafford Taylor, a Registered Professional
Reporter within and for the State of Illinois,
on October 31, 2023, at the hour of 2:21 p.m.
via Zoom videoconferencing.

Johnetta Stafford Taylor
License No. 084-001583



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I N D E X

WITNESS

EXAMINATION

DETECTIVE MICHAEL F. KANE

By Mr. Flaxman

4

E X H I B I T S

NUMBER

MARKED FOR ID

(Exhibits previously marked and
retained by Mr. Flaxman.)



1 THE COURT REPORTER: On the record.

2 This deposition is being taken by means
3 of Zoom audio/videoconference, and the oath will
4 be administered remotely by the court reporter
5 pursuant to Executive Order 2020-14 and by
6 agreement of counsel.

7 will all counsel present please state
8 your name and agreement with this procedure.

9 MR. FLAXMAN: I'm Kenneth Flaxman, attorney
10 for the Plaintiff. We agree.

11 MR. DAFFADA: James Daffada, attorney for all
12 Defendants in this case. We agree.

13 (Whereupon, the witness was
14 duly sworn.)

15 MR. FLAXMAN: Good afternoon, sir.

16 DETECTIVE MICHAEL F. KANE,
17 called as a witness herein, was examined and
18 testified as follows:

19 EXAMINATION

20 BY MR. FLAXMAN:

21 Q. Could you state your name and spell
22 your last name for us, please.

23 A. Yes. Michael Kane, K-A-N-E.

24 Q. And what's your business or occupation,



1 sir?

2 A. I'm a detective with the Evanston
3 Police Department.

4 Q. And for how long have you worked for
5 the Evanston Police Department?

6 A. Approximately 8 1/2 years.

7 Q. How did you come to -- when you
8 started, was your position when you started
9 detective?

10 A. No.

11 Q. What was your position when you
12 started?

13 A. I was a patrolman.

14 Q. How did you come to be a detective?

15 A. I applied for the position six months
16 ago.

17 Q. Was there an increase in pay to become
18 a detective?

19 A. No.

20 Q. Was there a change in working hours
21 when you became a detective?

22 A. Yes.

23 Q. And what were your hours as a police
24 officer and what are they as a detective?



1 A. I worked a 12-hour shift as a
2 patrolman. Now, I work an 8-hour shift as
3 detective.

4 Q. Do you work 40 hours a week?

5 A. Yes.

6 Q. As a patrol officer working 12-hour
7 shifts, how many hours a week did you work?

8 A. I would work one 60-hour workweek, and
9 then I would work one 12-hour workweek the
10 following week.

11 Q. Back on March 31 of 2021, am I correct
12 that you were a patrol officer?

13 A. Yes.

14 Q. Did you look at any documents or images
15 or videos to prepare for this deposition?

16 A. I did.

17 Q. Could you tell us what you looked at?

18 A. I looked at body camera from the
19 incident, the police report. And that's all.

20 Q. When you say police reports, is there
21 more than one police report?

22 A. To the best of my recollection, I read
23 the report written by Officer Shannell Brown.

24 Q. And let's -- let me put it on the



1 screen and ask you if it's the same one that's
2 been marked as, I think -- as an exhibit, which
3 I'll...

4 (Whereupon, Exhibit No. 10
5 was previously marked for
6 identification.)

7 BY MR. FLAXMAN:

8 Q. Do you see what's been marked at the
9 bottom as Exhibit 10 on your screen?

10 A. I do.

11 Q. This is a 3-page report; is that right?

12 A. Can you scroll up, sir?

13 Q. Sure.

14 (Short pause.)

15 THE WITNESS: Yes. I reviewed this report a
16 few weeks ago.

17 BY MR. FLAXMAN:

18 Q. Is this the report you reviewed in
19 preparation for this deposition?

20 A. Yes.

21 Q. Did you look at any other reports?

22 A. No.

23 Q. When you looked at this report, did you
24 see anything that did not -- that was not in



1 accord with your recollection of the incident of
2 March 31, 2021?

3 A. I don't recall the incident from my
4 memory from that date.

5 Q. Well, did looking at the report refresh
6 your recollection?

7 A. No.

8 Q. Did you look at any videos to prepare
9 for the deposition?

10 A. I did.

11 Q. And how many videos did you look at?

12 A. I don't know.

13 Q. Did you look at your body camera video?

14 A. Yes.

15 Q. Did you conduct a search of a suspect
16 on March 31, 2021?

17 A. Based on the video, I did conduct a
18 search.

19 Q. Could you tell us why you conducted
20 that search?

21 A. Based on the video, I believed the
22 subject I searched was armed with a handgun.

23 MR. FLAXMAN: I'm sorry. I missed the last
24 words.



1 Could we have it read back, please?

2 THE WITNESS: I'll repeat myself.

3 Based on the video and the best of my
4 recollection, I searched the subject in the
5 video because I believed he was armed with a
6 handgun.

7 BY MR. FLAXMAN:

8 Q. And could you tell us why you believed
9 he was armed with a handgun?

10 A. Due to the call of service from
11 dispatch.

12 Q. And do you remember what was -- what
13 information about that call for service was
14 relayed to you?

15 A. Based on the video, I heard dispatch
16 state there was a man with a gun on the public
17 way in the 500-block of Sheridan Square with a
18 gun in his right hand.

19 Q. Is there anything that the dispatcher
20 communicated about the race of the suspect?

21 A. Yes.

22 Q. And what was that?

23 A. It was white.

24 Q. And was there anything that was



1 communicated to you by the dispatcher about the
2 height of the suspect?

3 A. Yes. Based on the video and the best
4 of my recollection, I believe it was 5 to 6 feet
5 tall.

6 Q. And was the man that you searched
7 between 5 and 6 feet tall?

8 A. I don't know.

9 Q. Was the man that you searched a white
10 male?

11 A. I don't know.

12 Q. Okay. Before you searched that man,
13 had you seen him hold a handgun?

14 A. I don't recall.

15 Q. Before you searched that man, had he
16 told you that he had a handgun?

17 A. I don't know.

18 Q. When you searched that man, did you
19 find a handgun?

20 A. Based on the video, I did not.

21 Q. Well, if you'd found a handgun, would
22 you have written a report?

23 A. I don't know.

24 Q. If you found a handgun, would some



1 police officer on the scene have written a
2 report documenting that you found a handgun?

3 A. Yes, of course.

4 Q. Okay. When you reviewed the video, was
5 that your body camera video or somebody else's
6 body camera video?

7 A. I don't know.

8 Q. Did you review a body camera video?

9 A. I did.

10 Q. How was the information from the
11 dispatch communicated to you when you were
12 en route to the scene on March 31 of 2021?

13 A. Based on the video that was sent to me
14 via radio.

15 Q. And were you in a vehicle when you
16 heard that radio message?

17 A. I don't know.

18 Q. Was anybody -- were you in the presence
19 of other police officers when you heard that
20 radio message?

21 A. I don't recall.

22 Q. Let me -- are you familiar with the
23 search and seizure policy of the City of
24 Evanston?



1 A. I've read it, but I don't recall
2 specifics on it.

3 Q. Do you recall anything in the search
4 and seizure policy of the City of Evanston as it
5 was in effect on March 31 of 2021 that required
6 that any search be documented?

7 A. I don't know.

8 Q. Have you seen any documentation of the
9 search that you conducted on March 31 of 2021?

10 A. I don't know.

11 Q. When you say you don't know, does that
12 mean you don't recall or you never learned that?
13 what do you mean when you say I don't know?

14 A. I don't recall any report of my search.

15 Q. Okay. Do you recall whether you
16 prepared a report?

17 A. I did not prepare a report.

18 Q. Have you ever given a deposition
19 before?

20 A. No.

21 Q. Have you ever been sued before?

22 A. No.

23 Q. Did you ever work for the City of North
24 Chicago?



1 A. I did.

2 Q. When did you work there?

3 A. I was employed with the City of North
4 Chicago in 2014.

5 Q. And why did you leave?

6 A. I left North Chicago to become a police
7 officer in Evanston.

8 Q. Had you attended a police academy at
9 North Chicago?

10 A. Yes.

11 Q. Which police academy did you attend?

12 A. Cook County Sheriff's Police Academy.

13 Q. Did you have to test at the City of
14 Evanston to start work there as a police
15 officer?

16 A. Yes.

17 Q. Had you tested at Evanston before you
18 started the job at North Chicago?

19 A. Sorry. Can you rephrase that question?

20 Q. Well, had you tested -- let me start
21 over.

22 Had you started the testing procedure
23 at Evanston before you started the job at North
24 Chicago?



1 A. Yes.

2 Q. Do you recall -- let me go back.

3 On March 31, 2021 when you were
4 responding to this call that we've been talking
5 about, did you have a weapon with you?

6 A. Yes.

7 Q. Did you have a handgun?

8 A. Yes.

9 Q. Did you have a Taser?

10 A. I don't recall at that time.

11 Q. Do you recall unholstering that handgun
12 at any time during the incident of March 31,
13 2021?

14 A. I do not recall.

15 Q. Did you see your unholstered handgun in
16 your hand on the video that you watched about
17 the incident?

18 A. Yes. Based on the video, I did see my
19 weapon unholstered.

20 Q. Well, do you recall why it was that you
21 unholstered your firearm?

22 A. Based on the video, I was responding to
23 a call of an armed subject.

24 Q. And did you see an armed subject before



1 you unholstered your handgun?

2 A. No.

3 Q. Did you see a white male at the
4 location referred to in the dispatch about the
5 suspect?

6 A. I don't know.

7 Q. What do you mean by you don't know?

8 A. I don't recall.

9 Q. Well, did you see a male in the
10 approximate location referred to in the
11 dispatch?

12 A. Based on the video, I observed a male
13 in the parkway.

14 Q. And as you sit here today, do you
15 recall whether that male you saw was black or
16 white?

17 A. Based on the video, I don't know his
18 race.

19 Q. When you unholstered your handgun, did
20 you point it at that suspect?

21 A. Based on the video, I did not point my
22 handgun at the subject.

23 MR. FLAXMAN: Let's go to the tape -- let's
24 go to the video. I'm about to show you what's



1 previously been marked and I believe shared with
2 your counsel -- nothing is popping up.

3 As 17, Kane 032016 to 043522. And let
4 me see if I can get that on the screen.

5 That's not what I want to do.

6 All right. I think -- is it on your
7 screen? Is there a video on your screen?

8 THE WITNESS: Yes, sir.

9 (Whereupon, a video was shown
10 with audio.)

11 BY MR. FLAXMAN:

12 Q. Can you tell us, in the top right-hand
13 corner, it says -- or in the top near the right,
14 it says 14:41:13-0500.

15 Do you see that?

16 A. I do.

17 Q. Are you familiar with the scene that's
18 depicted in this frame?

19 A. I am.

20 Q. Can you tell us what it is?

21 A. This is the 500 block of Sheridan
22 Square.

23 Q. Okay. Is this the north end or the
24 south end?



1 A. This is the north end.

2 MR. FLAXMAN: Okay. Let me play a little
3 bit.

4 (Whereupon, a video was shown
5 with audio.)

6 BY MR. FLAXMAN:

7 Q. Was that your voice we just heard?

8 A. I did not hear that. I don't know.

9 Q. Is the audio playing on your end or --

10 MR. DAFFADA: It's pretty light. Try it
11 again.

12 (Whereupon, a video was shown
13 with audio.)

14 BY MR. FLAXMAN:

15 Q. Were you able to make out any of those
16 words?

17 A. No, sir.

18 Q. Okay. Were you able to make out words
19 on the video when you reviewed it before the
20 deposition?

21 A. Yeah. I had heard words, but I don't
22 recall the words.

23 MR. FLAXMAN: Okay. Let's keep playing.
24



1 (Whereupon, a video was shown
2 with audio.)

3 BY MR. FLAXMAN:

4 Q. Were you able to make out any of the
5 words we just heard?

6 A. No.

7 Q. Okay. And does the number in the right
8 top say 14:41:40?

9 A. It does.

10 Q. Do you know the name of the police
11 officer whose back we're looking at?

12 A. Based on prior video, it appears to be
13 officer Kubiak.

14 Q. And it looks like there's no handgun in
15 his holster; is that correct?

16 A. Yes.

17 Q. Could you make out any of the words he
18 said?

19 MR. DAFFADA: Objection. Foundation.

20 You can answer.

21 THE WITNESS: No.

22 MR. FLAXMAN: All right. Let's play some
23 more.



1 (Whereupon, a video was shown
2 with audio.)

3 BY MR. FLAXMAN:

4 Q. Did you hear Officer Kubiak say 'Get on
5 the ground, please'?

6 A. Yes.

7 Q. Is that a standard instruction given by
8 Evanston police officers?

9 MR. DAFFADA: Objection. Form.

10 You can answer.

11 THE WITNESS: I don't know.

12 BY MR. FLAXMAN:

13 Q. Have you ever instructed a suspect to
14 'Get on the ground, please'?

15 A. I don't recall.

16 Q. Were you surprised -- or do you
17 remember hearing Officer Kubiak say 'Get on the
18 ground, please'?

19 A. I do not.

20 Q. Okay. Could you -- from this video,
21 could you tell whether we're looking at a
22 suspect who was a white male or a black male?

23 A. I could not.

24 MR. FLAXMAN: Let's play some more.



1 (Whereupon, a video was shown
2 with audio.)

3 BY MR. FLAXMAN:

4 Q. Did you hear Officer Kubiak say 'Get on
5 the ground'?

6 A. Yes.

7 Q. Do you remember hearing him say that on
8 March 31, 2021?

9 A. I do not.

10 MR. FLAXMAN: Let's play some more.

11 (Whereupon, a video was shown
12 with audio.)

13 BY MR. FLAXMAN:

14 Q. Now, is that your hand on his vest?

15 A. Yes.

16 Q. Do you remember putting your hand on
17 his vest?

18 A. Based on my memory, I do not.

19 Q. And why would you have placed your hand
20 on his vest in that situation?

21 MR. DAFFADA: Objection. Form.

22 You can answer.

23 THE WITNESS: I don't know.
24



1 BY MR. FLAXMAN:

2 Q. Now, we're looking at the suspect who
3 is now -- has complied with the order to get on
4 the ground; is that right?

5 A. Yes.

6 Q. And he's holding his hands out apart
7 from his body; is that right?

8 A. Yes.

9 MR. FLAXMAN: Okay. Let's play some more.

10 (Whereupon, a video was shown
11 with audio.)

12 BY MR. FLAXMAN:

13 Q. Did you hear Officer Kubiak say
14 something and you won't get hurt?

15 A. I did not hear that.

16 Q. Okay.

17 (Whereupon, a video was shown
18 with audio.)

19 BY MR. FLAXMAN:

20 Q. And we're hearing a tone every several
21 seconds.

22 Do you know what that tone is?

23 A. I do.

24 Q. What is it?



1 A. That's an emergency tone.

2 Q. And do you know how it's generated?

3 A. During any type of emergency, it deters
4 other officers from getting on the radio.

5 MR. FLAXMAN: Let's play some more.

6 (Whereupon, a video was shown
7 with audio.)

8 BY MR. FLAXMAN:

9 Q. Did you hear that voice say 'Do you got
10 any weapons on you'?

11 A. I did.

12 Q. Was that your voice?

13 A. I don't know.

14 Q. Was it Officer Kubiak's voice?

15 A. I do not know.

16 Q. Okay. We're now -- the number at the
17 top right is 14:42.07; is that correct?

18 A. Yes.

19 MR. FLAXMAN: Let's play some more.

20 (Whereupon, a video was shown
21 with audio.)

22 BY MR. FLAXMAN:

23 Q. Did you hear that word 'no weapons on
24 you'?



1 A. I just heard weapons.

2 MR. FLAXMAN: Let's play some more.

3 (Whereupon, a video was shown
4 with audio.)

5 BY MR. FLAXMAN:

6 Q. Now, did you hear 'like Superman'?

7 A. Yes.

8 Q. Have you ever instructed a suspect to
9 hold their hands apart like Superman?

10 A. I don't recall.

11 Q. Have you ever heard any Evanston police
12 officer other than on March 31 give that
13 instruction to hold your hands apart like
14 Superman?

15 A. I don't recall.

16 MR. FLAXMAN: All right. Let's play some
17 more.

18 (Whereupon, a video was shown
19 with audio.)

20 MR. FLAXMAN: Well, we reached the end of
21 that snippet.

22 BY MR. FLAXMAN:

23 Q. Do you remember as you got closer to
24 the suspect on March 31 of 2021, were you able



1 to see whether he was a black man or a white
2 man?

3 A. I don't recall.

4 Q. Were you able to see that he had
5 headphones in front of him on the ground?

6 A. I don't recall.

7 Q. Do you know why it was that the man was
8 on the ground?

9 A. He was instructed to get on the ground
10 by officer Kubiak.

11 Q. And do you know why Evanston police
12 officers instruct suspects to get on the ground?

13 A. I don't --

14 MR. DAFFADA: Objection. Form.

15 THE WITNESS: -- know.

16 BY MR. FLAXMAN:

17 Q. Now up to the end of that video, the
18 snippets that we just watched, did you see the
19 suspect do anything that caused you to believe
20 that he was in possession of a firearm?

21 A. I don't know.

22 Q. Before the snippet that we just watched
23 concluded or when you were on the scene on
24 March 31 of 2021, did you hear the suspect say



1 anything that caused you to believe he had a
2 firearm?

3 MR. DAFFADA: Can you repeat the question
4 again? I'm sorry.

5 MR. FLAXMAN: Can we have it read back,
6 please.

7 (whereupon, the record was read
8 as requested.)

9 THE WITNESS: I don't know.

10 BY MR. FLAXMAN:

11 Q. Does that mean -- when you say I don't
12 know, what do you mean by that?

13 A. Based on the video, I did not hear
14 anything from the said subject eliciting that he
15 would have a firearm.

16 Q. Based on the video, did you agree that
17 officer Kubiak was following the rules and
18 regulations of the Evanston Police Department in
19 his interaction with the suspect?

20 A. Based on the video, I would agree with
21 his actions.

22 Q. Now, when you worked at Evanston, did
23 you receive training on search and seizure?

24 A. I have.



1 Q. And did you receive training about
2 complaints from anonymous callers?

3 A. I don't recall.

4 Q. Back on March 31 of 2021, was it your
5 understanding that the caller who complained
6 about the man with the gun did not leave his or
7 her name?

8 A. Based on the video and dispatch, I have
9 no knowledge of this.

10 Q. Well, if we go back to that report --

11 MR. DAFFADA: Incident report?

12 MR. FLAXMAN: Which is Exhibit 10, which I
13 now put on the screen I think.

14 Is it sharing or not?

15 THE WITNESS: It's not.

16 MR. FLAXMAN: All right. We'll make it
17 share.

18 (Short pause.)

19 MR. FLAXMAN: Is it now sharing?

20 THE WITNESS: Yes, sir. I see the report.

21 MR. FLAXMAN: Let's look at Page 2 of
22 Exhibit 10.

23 BY MR. FLAXMAN:

24 Q. Do you see where it says -- and I'll



1 make it a little bigger if I can.

2 while en route, dispatch advised that
3 an unknown citizen.

4 Do you see that?

5 A. I do.

6 Q. Do you remember hearing that on
7 March 31 of 2021 when you were en route to the
8 scene?

9 A. I do not.

10 Q. Okay. Does an unknown citizen mean
11 that it's an anonymous person?

12 A. I don't know.

13 Q. Did you ever receive any instruction in
14 the course of your employment for the City of
15 Evanston that reports from unknown citizens are
16 not reliable?

17 A. I did not.

18 (Short pause.)

19 MR. FLAXMAN: All right. That's not a good
20 one.

21 (Whereupon, Exhibit No. 2
22 was previously marked for
23 identification.)

24 MR. FLAXMAN: All right. All right. We're



1 looking at Exhibit 2.

2 BY MR. FLAXMAN:

3 Q. Are you able to see that?

4 A. Yes.

5 Q. Are you the police officer where the
6 cursor is, the one who is not wearing a mask?

7 A. Yes. That is me.

8 Q. Okay. What were you doing -- do you
9 recall what you were doing at the time shown on
10 this image?

11 A. I do not recall.

12 Q. Having looked at Exhibit 2, do you have
13 any recollection about whether the suspect --
14 let me go back.

15 Is the suspect shown in Exhibit 2?

16 A. Based on the video, yes.

17 Q. And having looked at this image from
18 the video, is the suspect black or white?

19 A. I do not know his actual race.

20 Q. Okay. Do you know whether he appeared
21 to you to be a white male back on March 31 of
22 2021?

23 A. I do not recall.

24 Q. Okay. Do you know who the officer is



1 who has the I-C-E on his jacket?

2 A. Based on the video, I believe that to
3 be Detective Rosenbaum.

4 Q. Did you arrive on the scene with
5 Detective Rosenbaum?

6 A. I do not recall.

7 (Whereupon, Exhibit No. 4
8 was previously marked for
9 identification.)

10 Q. Could you tell us what Exhibit 4 --
11 what area is shown in Exhibit 4?

12 MR. DAFFADA: I didn't hear the question,
13 Ken.

14 BY MR. FLAXMAN:

15 Q. Could you tell us what area is shown in
16 Exhibit 4?

17 A. Exhibit 4 is showing the 500 block of
18 Sheridan Square.

19 Q. And you were present when this image
20 was created; is that right?

21 A. Based on the video, yes.

22 Q. Do you recall how many officers who
23 were present had unholstered firearms?

24 A. I do not recall.



1 (Whereupon, Exhibit No. 5
2 was previously marked for
3 identification.)

4 MR. FLAXMAN: Now, Exhibit 5 is the same
5 image.

6 BY MR. FLAXMAN:

7 Q. Is that you where my cursor is, if
8 you're able to make that out?

9 A. That is not me.

10 Q. Okay.

11 A. To the best of my recollection, that is
12 not me, sir.

13 Q. Okay. And this is the same area of the
14 park as the other preceding images; is that
15 right?

16 A. Yes.

17 Q. And is this you where my cursor is?

18 A. Yes.

19 Q. Okay. Do you know what you're doing in
20 this image?

21 A. I do not know in this image.

22 (Whereupon, Exhibit No. 11
23 was previously marked for
24 identification.)



1 MR. FLAXMAN: I really don't care about this.

2 I'm showing you Exhibit 11.

3 BY MR. FLAXMAN:

4 Q. Have you ever seen an event report of
5 this nature?

6 A. I do not recall seeing a -- actually,
7 this is a CADS ticket. I've seen these before.

8 Q. Well, have you ever -- my specific
9 question is: Have you ever seen this type of a
10 report?

11 A. Yes.

12 Q. And how did you have occasion to see
13 it?

14 A. In the past, I've seen these printed
15 out after incidents to show when officers have
16 responded to calls, dispatched to calls, arrived
17 at calls.

18 Q. Do you know how these forms are
19 created?

20 A. I do not.

21 Q. Are officers when they're dispatched to
22 a call supposed to communicate that they've
23 arrived at the scene?

24 A. Yes.



1 (Whereupon, Exhibit No. 12
2 was previously marked for
3 identification.)

4 MR. FLAXMAN: Okay. This Exhibit 12.

5 BY MR. FLAXMAN:

6 Q. Is that you standing up?

7 A. Yes. That's me.

8 Q. Do you recall what you were looking at?

9 A. I do not recall.

10 Q. Can you tell what your right hand is
11 doing?

12 A. It appears to be near my back pocket.
13 I do not know what I'm doing now, sir.

14 (Whereupon, Exhibit No. 13
15 was previously marked for
16 identification.)

17 BY MR. FLAXMAN:

18 Q. Are you depicted in this image,
19 Exhibit 13?

20 A. Yes.

21 Q. Can you tell us what you're doing?

22 A. Based on Exhibit 13, it appears that I
23 am handcuffing the subject.

24 Q. And could you tell us why you



1 handcuffed the subject?

2 A. Yes. Based on the video, the subject
3 is believed to be armed at this time.

4 Q. And at the time you were handcuffing
5 the suspect, had you seen him with a gun?

6 A. I don't recall.

7 Q. At the time you were handcuffing the
8 subject, had you felt a hard object in his
9 clothing?

10 A. I do not recall.

11 Q. At the time you were handcuffing the
12 subject, had the subject or the suspect told you
13 that he had a gun?

14 A. I do not recall.

15 Q. Do you remember the subject saying that
16 he lived across the street and he was just
17 outside getting a smoke?

18 A. I do not recall.

19 (Whereupon, Exhibit No. 14
20 was previously marked for
21 identification.)

22 MR. FLAXMAN: This is Exhibit 14.

23 we'll skip.
24



1 (Whereupon, Exhibit No. 15
2 was previously marked for
3 identification.)

4 MR. FLAXMAN: Exhibit 15.

5 we'll skip.

6 (Whereupon, Exhibit No. 16
7 was previously marked for
8 identification.)

9 MR. FLAXMAN: Exhibit 16.

10 we'll skip.

11 Let's watch another video, which will
12 take some -- stop share.

13 (Whereupon, Exhibit No. 18
14 was previously marked for
15 identification.)

16 MR. FLAXMAN: This is video Exhibit 18. It's
17 from the complete video, Kane 6 starting at
18 6 minutes, 26 seconds and 13 frames. And I'll
19 try to get it going.

20 (Short pause.)

21 BY MR. FLAXMAN:

22 Q. Are you able to see an image on your
23 screen?

24 A. Yes.



1 Q. And that police officer who has his
2 hands touching the suspect is not you; is that
3 correct?

4 A. Yes.

5 Q. Who is it, if you know?

6 A. That is Officer Burgers.

7 MR. FLAXMAN: Okay. Let's play a little bit.

8 (Whereupon, a video was shown
9 with audio.)

10 BY MR. FLAXMAN:

11 Q. Do you see Officer Burgers searching
12 through the jacket of the suspect?

13 A. I do.

14 Q. Do you recall searching through the
15 jacket of the suspect?

16 A. Based on the video, I recall searching
17 parts of his jacket.

18 Q. And why did you search parts of his
19 jacket?

20 A. I believed the subject to be armed with
21 a firearm.

22 Q. Did you have a search warrant to search
23 his jacket?

24 A. I did not.



1 Q. Had you seen him with a handgun before
2 you searched his jacket?

3 A. I did not.

4 Q. Had any person on the scene told you
5 that they had seen the suspect with a handgun?

6 A. Based on the video and dispatch, our
7 caller stated they saw the subject with a
8 handgun?

9 Q. Was the caller at the scene?

10 A. I do not recall.

11 Q. Did the suspect or subject tell you
12 that he had a handgun?

13 A. I don't know.

14 MR. FLAXMAN: Okay. Let's play a little
15 more.

16 (Whereupon, a video was shown
17 with audio.)

18 BY MR. FLAXMAN:

19 Q. Now, we see someone's hands and gloves.

20 Are those your hands and your gloves?

21 A. I do not know.

22 Q. Okay. And we're looking in the top
23 right hand, the number is 14:44:22; is that
24 correct?



1 A. Yes.

2 MR. FLAXMAN: Let's play a little more.

3 (Whereupon, a video was shown
4 with audio.)

5 BY MR. FLAXMAN:

6 Q. And after watching that snippet, do you
7 have -- has your recollection been refreshed as
8 to whether the subject you were -- that was
9 being questioned in that video was black or
10 white?

11 A. No.

12 MR. FLAXMAN: Okay. Let's take a five-minute
13 break, and I think we're going to be done.

14 MR. DAFFADA: Okay.

15 (Whereupon, a short break was
16 taken.)

17 MR. FLAXMAN: I'm going to show you some more
18 video. The first one I'm going to show you is
19 Exhibit 19. It's Kubiak from 4:27:04 to 05:09.

20 (Whereupon, Exhibit No. 19
21 was previously marked for
22 identification.)

23 MR. DAFFADA: It's still not on the screen.



1 (Whereupon, a video was shown
2 with audio.)

3 MR. FLAXMAN: All right.

4 BY MR. FLAXMAN:

5 Q. Do you see this video at the top
6 right-hand corner, it says 14:43:16?

7 A. I do.

8 Q. Do we see you in this image that we're
9 starting with?

10 A. Based on the video, I believe -- I
11 can't see my face there.

12 MR. FLAXMAN: All right. Let's play a little
13 bit.

14 (Whereupon, a video was shown
15 with audio.)

16 BY MR. FLAXMAN:

17 Q. Is that you turning the suspect over?

18 A. Yes.

19 Q. Are you searching him as you turn him
20 over?

21 A. Based on the video, it appears so.

22 Q. After having seen this snippet of the
23 video, do you have a refreshed recollection as
24 to whether the man who is the suspect was a



1 black male or a white male?

2 A. I do not.

3 MR. FLAXMAN: All right. Let's play some
4 more.

5 (Whereupon, a video was shown
6 with audio.)

7 BY MR. FLAXMAN:

8 Q. Could you tell us what you're doing at
9 the last -- at this point in the video?

10 A. At this point in the video, it appears
11 that I'm searching the subject's coat.

12 Q. And why were you searching him?

13 A. Based on the video, the suspect is
14 believed to be armed with a handgun.

15 (Whereupon, a video was shown
16 with audio.)

17 BY MR. FLAXMAN:

18 Q. Were you searching the suspect's
19 clothing in this snippet that we just saw?

20 A. Based on the video, it appears so.

21 Q. Did you find any weapons when you
22 searched him?

23 A. I did not.

24 Q. Did you find any contraband when you



1 searched him?

2 A. I did not.

3 Q. Do you recall finding cigarettes?

4 A. I do not recall.

5 MR. FLAXMAN: Okay. Let's watch some more.

6 (Whereupon, a video was shown

7 with audio.)

8 BY MR. FLAXMAN:

9 Q. Were there any supervisors or
10 supervisor at the scene on March 31, 2021?

11 A. I do not know.

12 Q. Do the supervisors in Evanston wear
13 different colored uniforms or shirts than patrol
14 officers?

15 A. Supervisors can wear the same colored
16 shirt and they can wear a white shirt mostly on
17 special events.

18 MR. FLAXMAN: Okay. Let's continue with the
19 video.

20 (Whereupon, a video was shown

21 with audio.)

22 BY MR. FLAXMAN:

23 Q. Did that show you continuing to search
24 the suspect?



1 A. Yes.

2 Q. And we just saw three officers help the
3 suspect to his feet; is that correct?

4 A. Yes.

5 Q. Could you tell us who those officers
6 are?

7 A. I believe it to be Officer Burgers,
8 Detective Popp, and myself.

9 Q. Okay. And after having seen this
10 snippet, do you have any refreshed recollection
11 as to whether or not the suspect was a male
12 black or a male white person?

13 A. I do not.

14 MR. FLAXMAN: Let's play some more.

15 (Whereupon, a video was shown
16 with audio.)

17 (Whereupon, Exhibit No. 20
18 was previously marked for
19 identification.)

20 MR. FLAXMAN: All right. We're now going to
21 look at Exhibit 20, which is Brown from 4
22 minutes, 32 seconds and 15 frames to 5 minutes,
23 27 seconds and 9 frames.



1 (Whereupon, a video was shown
2 with audio.)

3 BY MR. FLAXMAN:

4 Q. Did you hear somebody say nothing?

5 A. I did not.

6 Q. Do you remember the suspect telling you
7 that he didn't have anything that was unlawful
8 in his possession?

9 A. I don't recall.

10 Q. Is this another angle of the video at
11 14:42:25 showing you searching the suspect?

12 A. Yes.

13 MR. FLAXMAN: Okay. Let's play some more.

14 (Whereupon, a video was shown
15 with audio.)

16 BY MR. FLAXMAN:

17 Q. Okay. After having seen this snippet,
18 has your recollection now been refreshed as to
19 whether or not the suspect was a white male or a
20 black male?

21 A. No.

22 MR. FLAXMAN: Let's play some more.

23 (Whereupon, a video was shown
24 with audio.)



1 BY MR. FLAXMAN:

2 Q. In this video that you just saw, the
3 suspect is on the ground; is that right?

4 A. Yes.

5 Q. Is that a dignified way of treating a
6 citizen?

7 A. Yes.

8 MR. FLAXMAN: Let's watch one more.

9 (Whereupon, a video was shown
10 with audio.)

11 MR. DAFFADA: On the video, just so you know,
12 the sound quality was not the same as if it's
13 not on Zoom, on the original.

14 MR. FLAXMAN: I hope that when we get to
15 seeing each other in person, we can get better
16 sound.

17 I have nothing further.

18 MR. DAFFADA: Okay. Thanks, Ken.

19 Ken, we can off the record. I wanted
20 to ask you about the rest of the deps just real
21 quick.

22 MR. FLAXMAN: Let's just close it.

23 Do you waive signature again?

24 MR. DAFFADA: Yes, sir.



1 MR. FLAXMAN: We'll be ordering the original.

2 MR. DAFFADA: And we'll take a copy.

3 FURTHER DEPONENT SAITH NOT.

4 (Deposition concluded at 3:16 p.m.)



1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF C O O K)

4 I, Johnetta Stafford Taylor, a Certified
5 Shorthand Reporter within and for the County of
6 Cook County and State of Illinois, do hereby
7 certify that heretofore, to-wit, on October 31,
8 2023, remotely appeared before me via Zoom
9 videoconferencing, DETECTIVE MICHAEL F. KANE, in
10 a cause now pending and undetermined in the U.S.
11 District Court for the Northern District of
12 Illinois, Eastern Division, Illinois, wherein
13 ALEXANDER GRAY is the Plaintiff, and CITY OF
14 EVANSTON, et al. are the Defendants.

15 I further certify that the said DETECTIVE
16 MICHAEL F. KANE was first duly sworn to testify
17 the truth, the whole truth and nothing but the
18 truth in the cause aforesaid; that the testimony
19 then given by said witness was reported
20 stenographically by me in the presence of the
21 said witness, and afterwards reduced to
22 typewriting by Computer-Aided Transcription, and
23 the foregoing is a true and correct transcript
24 of the testimony so given by said witness as



1 aforesaid.

2 I further certify that the signature to
3 the foregoing deposition was waived by counsel
4 for the respective parties.

5 I further certify that the taking of this
6 deposition was pursuant to notice and that there
7 were present at the deposition the attorneys
8 hereinbefore mentioned.

9 I further certify that I am not counsel
10 for nor in any way related to the parties to
11 this suit, nor am I in any way interested in the
12 outcome thereof.

13 IN TESTIMONY WHEREOF: I have hereunto
14 set my verified digital signature this 6th day
15 of November 2023.

16
17
18 
19
20

21 COOK COUNTY, ILLINOIS

22 LIC. NO. 084-001583



<p>0</p> <p>032016 16:3</p> <p>043522 16:3</p> <p>05:09 37:19</p> <hr/> <p>1</p> <p>1/2 5:6</p> <p>10 7:4,9 26:12,22</p> <p>11 30:22 31:2</p> <p>12 32:1,4</p> <p>12-hour 6:1,6,9</p> <p>13 32:14,19,22 34:18</p> <p>14 33:19,22</p> <p>14:41:13-0500 16:14</p> <p>14:41:40 18:8</p> <p>14:42:07 22:17</p> <p>14:42:25 42:11</p> <p>14:43:16 38:6</p> <p>14:44:22 36:23</p> <p>15 34:1,4 41:22</p> <p>16 34:6,9</p> <p>17 16:3</p> <p>18 34:13,16</p> <p>19 37:19,20</p> <hr/> <p>2</p> <p>2 26:21 27:21 28:1,12,15</p> <p>20 41:17,21</p> <p>2014 13:4</p> <p>2020-14 4:5</p> <p>2021 6:11 8:2,16 11:12 12:5,9 14:3,13 20:8 23:24 24:24 26:4 27:7 28:22 40:10</p> <p>26 34:18</p> <p>27 41:23</p> <hr/> <p>3</p> <p>3-page 7:11</p> <p>31 6:11 8:2,16 11:12 12:5,9 14:3,12 20:8 23:12,24 24:24 26:4 27:7 28:21 40:10</p>	<p>32 41:22</p> <p>3:16 44:4</p> <hr/> <p>4</p> <p>4 29:7,10,11,16,17 41:21</p> <p>40 6:4</p> <p>4:27:04 37:19</p> <hr/> <p>5</p> <p>5 10:4,7 30:1,4 41:22</p> <p>500 16:21 29:17</p> <p>500-block 9:17</p> 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