

In The
Supreme Court of the United States

WILLIAM R. STEVENSON,
Petitioner,

v.

RANDY CORDOVA, *ET AL.*
Respondents.

On Petition for Writ of Certiorari to the
United States
Court of Appeals for the Tenth Circuit

**BRIEF IN OPPOSITION
APPENDIX VOLUME I
(APPENDICES A-1 THROUGH A-198)**

CRAIG W. CAIN*
JENNIFER L. WHITE
CAIN & WHITE, LLP
1555 Quail Lake Loop, Suite 100
Colorado Springs, CO 80906
(719) 575-0010
(719) 575-0020 (Fax)
CCAIN@CAINWHITELAW.COM
JWHITE@CAINWHITELAW.COM
COUNSEL FOR RESPONDENTS

*Counsel of Record

TABLE OF CONTENTS

	Page
APPENDIX A: Defendants' Motion for Summary Judgment with Exhibits	A-1
APPENDIX B: Plaintiff's Complaint	B-1
APPENDIX C: Portions of the Transcript of the Trial - Day 1	C-1
APPENDIX D: Portions of the Transcript of the Trial - Day 2	D-1
APPENDIX E: Portions of the Transcript of the Trial - Day 3	E-1
APPENDIX F: Portions of the Transcript of the Trial - Day 4	F-1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and

A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

DEFENDANTS R. CORDOVA, M. HOLLOWAY, C. WILLIAMS, K. CLINKINBEARD, J. ESPINOZA, AND M. BENAVEDEZ'S MOTION FOR SUMMARY JUDGMENT

Defendants R. CORDOVA (Capt. Randy Cordova), M. HOLLOWAY (Lt. Mark

Holloway), C. WILLIAMS (Lt. Carl Williams), K. CLINKENBEARD (Sgt. Karen Clinkinbeard; Sgt. Clinkenbeard's name is misspelled in Plaintiff's Complaint), J. ESPINOZA (Sgt. Jason Espinoza), and M. BENAVIDEZ (Sgt. Michael Benavidez; Sgt. Benavidez's name is misspelled in Plaintiff's Complaint) (hereinafter "Defendants"), pursuant to Fed.R.Civ.P. 56 hereby move for summary judgment against Plaintiff and, in support thereof, state as follows:

I. INTRODUCTION

1. Plaintiff William R. Stevenson, an inmate with the Colorado Department of Corrections (CDOC) at the Colorado Territorial Correctional Facility ("CTCF"), has filed a Prisoner Complaint pursuant to 28 U.S.C. § 1343 and 42 U.S.C. § 1983, claiming alleged violations under the United States Constitution. (See Plaintiff's Complaint.) (Doc. 1) Plaintiff alleges that he has been deprived of his Eighth Amendment right to be free from cruel and unusual punishment.
2. In Plaintiff's Complaint, he alleges that Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Officer Hanson, Sgt. Sullivan, and Sgt. Benavidez subjected him to excessive force by:

excessively tasing him five times in rapid succession; by applying handcuffs more tightly than necessary; by dropping him on his face from approximately 2-3 feet in the air after he was handcuffed, shackled and otherwise subdued; by then pressing his face hard into the floor grinding his teeth on the concrete; by intentionally bending his wrist and pulling his arms while handcuffed and strapped to a back board; and by ignoring his repeated and reasonable complaints about the cuffs being too tight and refusing his requests to loosen the same.

(See p. 3 of Plaintiff's Complaint.) (Doc. 1) Plaintiff further alleges that Defendants

Holloway, C. Williams, and Cordova, as supervisors, were deliberately indifferent to Plaintiff's alleged constitutional deprivation in violation of his Eighth Amendment rights. (See pp. 13-16 of Plaintiff's Complaint.)(Doc. 1)

3. Defendants submit that no genuine issue of material fact exists and that Defendants, as government officials, are immune from suit on Plaintiff's claims as Defendants' conduct did not violate Plaintiff's Eighth Amendment rights because Plaintiff cannot prove that Defendants' actions were malicious or sadistic. As no issue of material fact exists that Defendants' actions were consistent with the legitimate purpose of maintaining and restoring order and protecting institutional security, Defendants are entitled to summary judgment in their favor.

II. UNDISPUTED MATERIAL FACTS

4. On February 29, 2012, Officer Gary Meyers observed Plaintiff receiving a manila envelope from another inmate at CTCF. (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A**.) (See 18:3-11 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B**.)
5. Officer Meyers ordered Plaintiff to bring the envelope and contents to the control center so that it could be searched. (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A**.) Plaintiff removed the contents of the envelope and attempted to hand the envelope, but not its contents, to Officer Meyers. (See 55:4-12 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B**.) Plaintiff then stated: "If you want to write me up for disobeying a direct order, you're more than welcome." (See 54:21-23 of Plaintiff's Deposition Transcript attached hereto as

Exhibit B.) Following Plaintiff's refusal to produce the contents of the envelope, Officer Meyers issued a call to CTCF staff to search Plaintiff for contraband. (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**)

6. Defendants Sgt. Clinkinbeard and Officer Hanson responded to Officer Meyers' call informing them that Plaintiff had received contraband and that Plaintiff had refused to comply with a direct order to relinquish the item. (See Sgt. Karen Clinkinbeard's Incident Report and affidavit attached hereto as **Exhibit C.**) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) A security camera located in the upper vestibule of cell house 1 at CTCF captured a portion of Plaintiff's interaction with Defendants Sgt. Clinkinbeard and Officer Hanson beginning prior to the subject use of force. (See Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) The following is a chronology of events as documented by multiple security cameras, numerous CDOC staff incident reports, and Plaintiff's deposition testimony:

- (1) Upon contact with Defendants Clinkinbeard and Hanson, Plaintiff explained that he had grievances in the envelope and that he would not relinquish the envelope to be searched. (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C.**) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E.**) (See 63:8-9 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.**)
- (2) Defendant Sgt. Clinkinbeard explained to Plaintiff that any item passed between inmates in a CDOC facility may be searched and informed him that he is required to comply with the orders of CDOC staff. (See Sgt.

- Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.)
- (3) Plaintiff continued to refuse to consent to a search. (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.)
 - (4) Defendant Sgt. Clinkinbeard then directed Plaintiff to submit to having wrist restraints (handcuffs) applied. (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.) (See 63:9-11 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B**.)
 - (5) Plaintiff became passive resistive, raised his hands in the air, and stated that he would not "cuff up." (See 66:9-15 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B**.) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A**.) (See Plaintiff's handwritten note dated March 14, 2012 attached hereto as **Exhibit F**.) (See at 1:18 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)
 - (6) Plaintiff physically resisted Defendants Officer Hanson and Sgt. Clinkinbeard's attempts to direct Plaintiff to face the wall so that wrist restraints could be applied. (See at 1:28 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.) (See Gary Meyers' Incident Report attached hereto as **Exhibit A**.)

- (7) Plaintiff dropped to his knees and actively resisted attempts by Defendants Sgt. Clinkinbeard and Officer Hanson to secure Plaintiff's arms. (See at 1:37-1:50 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Officers Gary Meyers' Incident Report attached hereto as **Exhibit A**.)
- (8) Officer Meyers then radioed for additional assistance. (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.)
- (9) After verbally commanding Plaintiff to place his hands behind his back, and Plaintiff not complying Defendant Sgt. Clinkinbeard used a pressure point technique upon Plaintiff in an attempt to gain his compliance. (See Sgt. Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See at 1:43 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)
- (10) Plaintiff dropped himself completely to the floor and laid face down on the ground with his arms beneath his body. (See at 1:53 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Plaintiff's handwritten note dated March 14, 2012 attached hereto as **Exhibit F**.) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.)
- (11) Defendant Officer Hanson attempted to place wrist restraints on Plaintiff's left wrist, and Plaintiff actively resisted by pulling his arm away. (See at 2:03 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Gary Meyers' Incident Report attached hereto as **Exhibit A**.)
- (12) According to Plaintiff, he simply "didn't want to get cuffed up." (See 78:15-16 of Plaintiff's Deposition

Transcript attached hereto as **Exhibit B.**)

- (13) Defendant Sgt. Espinoza and Officer Moschetti arrived and witnessed Plaintiff “wrestling” on the floor with Defendants Sgt. Clinkinbeard and Officer Hanson, refusing direct orders to “cuff up.” (See 2:35 of the Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit g.**) (See Officer Gary Meyers’ Incident Report attached hereto as **Exhibit A.**) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.**)
- (14) Officer Moschetti placed both of his hands upon Plaintiff’s left arm in an attempt to restrain Plaintiff’s left wrist. (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.**) (See 2:39 of the Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)
- (15) Defendant Sgt. Espinoza verbally directed Plaintiff to submit to being restrained, and informed him that further noncompliance would result in Plaintiff being tased. (See Sgt. Karen Clinkinbeard’s Incident Report and Affidavit attached hereto as **Exhibit C.**) (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.**)
- (16) Plaintiff continued to resist despite the use of pressure point tactics and persistent orders to submit. (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.**)
- (17) After Defendant Sgt. Espinoza issued three orders directing Plaintiff to comply, Defendant Sgt. Espinoza used his taser upon Plaintiff’s back. (See 81:15-16 of Plaintiff’s Deposition Transcript attached hereto as **Exhibit B.**) (“They were asking me to cuff up at that

time.”)) (See Sgt. Karen Clinkinbeard’s Incident Report and Affidavit attached hereto as **Exhibit C.**) (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.**)

- (18) After Plaintiff did not visually respond to being tased, Defendant Espinoza inspected his taser to make sure that it was operating correctly, verbally directed Plaintiff to comply, and again tased Plaintiff on his back. (See Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.** (“The taser had little to no affect on the [Plaintiff].”))
- (19) After repeating the tasing in an effort to gain Plaintiff’s compliance, Defendant Sgt. Espinoza determined the taser to be ineffective and placed the taser back into its holster. (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G.**)
- (20) Plaintiff verbally stated that he “had done too much time for [the taser] to affect him.” (See Sgt. Karen Clinkinbeard’s Incident Report and Affidavit attached hereto as **Exhibit C.**)
- (21) Defendant Sgt. Espinoza then utilized strength techniques in an attempt to assist Defendants Sgt. Clinkinbeard and Officer Hanson in placing Plaintiff’s hands behind his back for cuffing. (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G.**)
- (22) Defendants Sgt. Sullivan, Sgt. Benavidez, Capt. Cordova, and Lt. Holloway arrived at the upper vestibule in response to Officer Meyers’ call and witnessed Defendants Sgt. Espinoza; Sgt. Clinkinbeard; and Officer Hanson, and Officer Moschetti attempting to restrain Plaintiff who continued to resist these attempts. (See 3:00 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto

as **Exhibit G.**) (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**) (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Sgt. Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K.**) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**)

- (23) Defendant Sgt. Benavidez used his body weight to secure Plaintiff's legs. (See 3:03 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K.**)
- (24) Defendant Sullivan secured Plaintiff's head using a pressure point technique. (See 3:11 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**)
- (25) Defendant Lt. Holloway applied leg restraints to Plaintiff. (See 3:28 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**)
- (26) At one point during this incident with Plaintiff, Defendant Sgt. Sullivan removed his taser and placed it upon Plaintiff's shoulder blade, but did not activate the taser. (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**)
- (27) Defendant Sgt. Sullivan verbally ordered Plaintiff to stop resisting and to allow the staff to place restraints on him. (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**)
- (28) Despite the use of pressure point techniques, Plaintiff continued to resist. (See Sgt. Gary Sullivan's Incident

Report attached hereto as **Exhibit I.**)

- (29) CDOC staff were eventually able to secure Plaintiff's wrists behind his back with handcuff restraints. (See at approximately 3:50 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**)
- (30) Officer Robles arrived at the location of the incident and observed CDOC staff on the ground with Plaintiff. (See 4:14 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Officer Jerod Robles' Incident Report attached hereto as **Exhibit M.**)
- (31) After speaking with Defendant Capt. Cordova for several minutes, Plaintiff was ordered to his feet. (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E.**)
- (32) Plaintiff verbally refused to stand and informed CDOC staff that they would have to carry him. (See 86:15 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.** ("So I said, 'Fine. Carry me.'")) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**) (See Virgil Fontenot's Incident Report attached hereto as **Exhibit N.**) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C.**) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H.**) (See Sgt. Gary Sullivan's Incident Report and Affidavit attached hereto as **Exhibit I.**) (See Officer Jessica Hanson's Incident Report and Affidavit attached hereto

as **Exhibit E.**)

- (33) Following Plaintiff's explicit refusal to stand up, CDOC staff physically lifted Plaintiff to his feet. (See 4:36 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**)
- (34) After verbal directives to walk with the staff downstairs, Plaintiff verbally refused and began to physically resist. (See Sgt. Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K.**) (See Officer Carol Snow's Incident Report attached hereto as **Exhibit O.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C.**)
- (35) Plaintiff physically refused to walk and began thrashing his legs. (See 4:43 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**)
- (36) As Plaintiff kicked his legs out from underneath himself, CDOC staff assisted him back to the ground. (See 4:47 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C.**) (See Officer Jessica Hanson's Incident Report and Affidavit attached hereto as **Exhibit E.**) (See Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached

hereto as **Exhibit J.**)

- (37) Because Plaintiff continued to refuse to walk, Plaintiff was then lifted onto a backboard and secured with straps. (See 11:28 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C.**) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H.**)

- (38) The body cam footage captured the following verbal exchange:

Plaintiff: **"You loosen that strap, there sir? [inaudible] on the right side."**

CDOC Staff: **"When you comply, when you comply."**

Plaintiff: **"Will you let go of my arm, man?"**

CDOC Staff: **"When you comply."**

(See 1:15-1:30 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

- (39) CDOC staff carried Plaintiff down the stairs to the lower Vestibule, placed him on a gurney, and delivered him to the clinic for an anatomical evaluation. (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H.**) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E.**)

- (40) While being carried to the clinic, Plaintiff stated:

"Oh you guys aren't strong enough to carry me all the way, you sure tased me four times."

You didn't hurt me did you? You guys be wrong, man."

(See 2:41 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

"I made them carry me, cause I'm not going to walk."

(See 6:06 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

- (41) Upon arriving at the CDOC clinic, Plaintiff continued to verbally express his non-compliance. (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G**.) (See Officer Jerod Robles' Incident Report attached hereto as **Exhibit M**.) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J**.)

CDOC Staff: **"So I'm saying is if they are telling you to put your hands behind your back all you gotta do is put them behind your back. You know your going to get your time to talk to me soon as I get there. Okay? And it's the same deal, you're telling me you're not going to be compliant."**

Plaintiff: **"I aint tellin' you notin', I aint said shit yet."**

CDOC Staff: **"Yeah, you said you're not going to work with these guys, you know I want to loosen your cuffs up, get you where you are situated."**

(See 10:24-10:50 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

CDOC Staff: **"Are you going to sit up? [inaudible]"**

You gunna do this anatomical with the nurse?"

Plaintiff: **"Yeah, she can do an anatomical, yeah, I'm not complying [inaudible] I might stand up. I'm doing everything laying down. [inaudible] You guys going to carry me."**

Unknown: **"If you continue to be resistant, [inaudible] there should be no use of force but you're being resistant."**

Plaintiff: **"Why, why should I be helpful to you guys?"**

(See 11:28-11:52 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

- (42) Defendant Capt. Cordova asked Plaintiff to comply with the anatomical examination and informed him that his wrist restraints would then be adjusted. (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J**.)

CDOC Staff: **"It's understandable that, that you wanted to get it settled easy, is what I'm saying, okay? But, if they give you a direct order to cuff up, you need to cuff up when they tell you to do that. Okay? They don't. They were coming up on a situation."**

Plaintiff: **"Can we take the cuffs off man?"**

CDOC Staff: **"No."**

Plaintiff: **"No."**

CDOC Staff: **"So you going to sit up? Let the nurse do her anatomical?"**

Plaintiff: **"How am I going to do the anatomical**

with these cuffs on?”

CDOC Staff: **“Well, we’re going to loosen them, when you get up and get you situated. But I need to know you’re going to be compliant.”**

(See 13:03-11:36 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

- (43) Plaintiff refused to comply with requests to be anatomically examined so Defendant Cordova ordered that Plaintiff be taken to Cell House 3 (segregation) for a simultaneous strip search and anatomical exam. (See 13:37-14:44 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Capt. Randy Cordova’s Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit H.**) (See Gary Sullivan’s Incident Report and Affidavit attached hereto as **Exhibit I.**) (See Lt. Mark Holloway’s Incident Report and Affidavit attached hereto as **Exhibit L.**)
- (44) Plaintiff was carried on the backboard into the “strip out” room in Cell House 3. (See Officer Virgil Fontenot’s Incident Report hereto as **Exhibit N.**)
- (45) During this process, Plaintiff verbally mentioned, multiple times, that he would be filing a lawsuit against the staff. (See Michael Benavidez’s Incident Report and Affidavit attached hereto as **Exhibit K.**) (See e.g., 17:00 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)
- (46) Plaintiff was then asked if he was going to comply with the strip search and replied again in the negative. (See Capt. Randy Cordova’s Incident Report and Affidavit attached hereto as **Exhibit J.**)

CDOC Staff: **“You going to comply?”**

Plaintiff: "You guys going to tase me again."

CDOC Staff: "You going to strip out for us?"

Plaintiff: "You going to loosen the handcuffs?"

CDOC Staff: "You going to strip down for us?"

Plaintiff: "You going to loosen the handcuffs?"

CDOC Staff: "We're going to take you out of those handcuffs."

Plaintiff: "I'm asking you reasonably [inaudible] right now [inaudible] that's my that's my [inaudible] right there."

CDOC Staff: "If you work with us. You going to work with us? . . . Right now you're unpredictable."

(See 19:03-19:34 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

- (47) Defendant Capt. Cordova directed that Plaintiff's wrist restraints be removed and replaced with strip search restraints. (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J**.) (See 22:44 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)
- (48) Plaintiff was directed to submit to having his clothing removed. Plaintiff again refused. As a result, Plaintiff's clothing was manually removed by Sergeant Andrew Weaver. (See Officer Jerod Robles' Incident Report attached hereto as **Exhibit M**.) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J**.) (See Sgt. Andrew Weaver's Incident Report attached hereto as **Exhibit P**.) (See 22:44-24:00 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

- (49) Plaintiff then cooperated for the anatomical exam, with the exception of the penis and anus check. (See 34:03 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K.**) (See Officer Jerod Robles' Incident Report and Affidavit attached hereto as **Exhibit M.**)
- (50) Defendant Jody Bufmack, RN, visually evaluated Plaintiff and questioned him as part of her first anatomical examination of Plaintiff. (See Jody Bufmack's first Incident Report and Affidavit attached hereto as **Exhibit Q.**)
- (51) Defendant Bufmack recorded Plaintiff's injuries as follows:
- (a) **Six (6) small raised red bumps less than 1 cm each on Plaintiff's back;**
 - (b) **chipped right front tooth;**
 - (c) **two (2) superficial non bleeding lacerations on lower lip;**
 - (d) **superficial abrasions times two, both wrists; and**
 - (e) **indentation of skin.**

Nurse Bufmack further commented: "Complaints of above plus neck pain." (See Jody Bufmack's First Anatomical Form attached hereto as **Exhibit R.**)

- (52) During the exam, Defendant Lt. Holloway photographed Plaintiff's body. (See Officer Jerod Robles' Incident Report attached hereto as **Exhibit M.**) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**) (See seven (7) photos attached hereto as **Exhibit S.**)
- (53) After the anatomical exam, and following Plaintiff's refusal to dress himself, Plaintiff's underwear was placed upon him. (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**) (See 37:06 of the Body Cam video attached hereto as

Exhibit D-2, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

- (54) Plaintiff was next ordered to accompany the staff to the segregation cell. Plaintiff verbally refused and dropped himself to the floor. (See 39:20 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Sgt. Michael Benavidez's Incident Report attached hereto as **Exhibit K.**) (See Sgt. Gary Sullivan's Incident Report and Affidavit attached hereto as **Exhibit I.**) (See Sgt. Andrew Weaver's Incident Report attached hereto as **Exhibit P.**) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See officer Virgil Fontenot's Incident Report attached hereto as **Exhibit N.**)
- (55) Once on the floor, Staff picked up Plaintiff from the floor and placed Plaintiff back onto the backboard and gurney and transported him to the segregation cell. (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit g.**) (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**) (See Sgt. Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K.**) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**)
- (56) Once in the segregation cell, while still on the backboard, Plaintiff was placed on the floor and his leg restraints were removed. (See Sgt. Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K.**)
- (57) Plaintiff refused to comply with orders directing him to rise and back up to the cell door to allow staff to remove his wrist restraints. (See 44:17 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Sgt. Gary

Sullivan's Incident Report and Affidavit attached hereto as **Exhibit I.**) (See Officer Jerod Robles' Incident Report attached hereto as **Exhibit M.**) (See Sgt. Andrew Weaver's Incident Report attached hereto as **Exhibit P.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Officer Virgil Fontenot's Incident Report attached hereto as **Exhibit N.**)

- (58) The staff then exited the cell in a "force cell" fashion; exiting one at a time and staging at the cell door. Once all restraints were removed from Plaintiff, CDOC staff exited Plaintiff's cell. (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**)
- (59) Plaintiff remained in the segregation cell laying face down on the ground and wearing nothing but his boxer shorts underwear. Plaintiff was then given his socks, jumpsuit, and shoes. (See Sgt. Andrew Weaver's Incident Report attached hereto as **Exhibit P.**)
- (60) Defendant Nurse Bufmack requested that Plaintiff come to the door of his segregation cell so that she could perform a second anatomical exam. Plaintiff refused to stand or talk to medical staff. (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Jody Bufmack's second Incident Report and Affidavit attached hereto as **Exhibit Q.**)
- (61) Defendant Bufmack reported:

"Bumps/six (6) raised areas on back are less red."

"Plaintiff refuses to get off floor and come to door. Lying on stomach on floor voicing displeasure. No acute injury or distress noted."

(See Jody Bufmack's Second Incident Report and Affidavit attached hereto as **Exhibit Q..**)

7. During this incident, Officer Moschetti sustained a cut to his hand and Defendant Hanson sustained a scratch and strain to her right arm. (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**)

III. STANDARD OF REVIEW

8. Summary Judgment is appropriate if "the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). In reviewing a motion for summary judgment, the court reviews the record in the light most favorable to the non-moving party. Sealock v. State of Colorado, 218 F.3d 1205, 1209, (10th Cir. 1994). The purpose of summary judgment is to determine whether trial is necessary. White v. York Int'l. Corp., 45 F.3d 357, 360 (10th Cir. 1995). Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, admissions or affidavits show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). The moving party bears the initial burden of showing an absence of evidence to support the nonmoving party's case. Id. at 325. "Once the moving party meets this burden, the burden shifts to the nonmoving party to demonstrate a genuine issue for trial on a material matter." Concrete Works, Inc. v. City & County of Denver, 36 F. 3rd 1513, 1518 (10th Cir. 1994) (citing Celotex, 477 U.S. at 325). The nonmoving party may not rest solely on the allegations in the pleadings, but must instead designate "specific facts showing that there is a genuine issue for trial." Celotex,

477 U.S. at 324. A disputed fact is “material” if “under substantive law it is essential to the proper disposition of the claim.” *Adler v. Wal-Mart Stores, Inc.*, 144 F.3d 664, 670 (10th Cir. 1998) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). At the summary judgment stage of litigation, a plaintiff’s version of the facts must find support in the record. *Thomson v. Salt Lake Cnty.*, 584 F.3d 1304, 1312 (10th Cir. 2009). In response to a motion for summary judgment, the burden shifts to the party opposing the motion to produce factual evidence, not mere allegations or argument, to show a triable issue of fact exists. *Hall v. Bellmon*, 935 F.2d 1106, 1111 (10th Cir. 1991).

IV. NO GENUINE ISSUE OF MATERIAL FACT EXISTS THAT DEFENDANTS ARE IMMUNE FROM SUIT ON PLAINTIFF’S CLAIMS

9. In order to promote the efficient administration of public services, the doctrine of qualified immunity “shields government officials performing discretionary functions from individual liability under 42 U.S.C. § 1983 unless their conduct violates ‘clearly established statutory or constitutional rights of which a reasonable person would have known.’” *Baptiste v. J.C. Penney Co.*, 147 F.3d 1252, 1255 (10th Cir.1998) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)). “[Q]ualified immunity is an affirmative defense to a section 1983 action, providing immunity from suit from the outset.” *Adkins v. Rodriguez*, 59 F.3d 1034, 1036 (10th Cir.1995).
10. Once a defendant asserts qualified immunity as a defense, the plaintiff must satisfy a “heavy two-part burden” to avoid summary judgment: (1) “that the defendant’s actions violated a constitutional or statutory right” and (2) that the right “was clearly established at the time of the defendant’s unlawful conduct.” *Serna v. Colorado*

Dep't of Corr., 455 F.3d 1146, 1150 (10th Cir. 2006) (quoting Medina v. Cram, 252 F.3d 1124, 1128 (10th Cir.2001)).

11. Because no genuine issue of material fact exists that Defendants, as employees of the State of Colorado, did not violate Plaintiff's Eighth Amendment right to be free from cruel and unusual treatment, Defendants Espinoza, Clinkinbeard, Hanson, Sullivan, Benavidez, Holloway, C. Williams, and Cordova are immune from suit on Plaintiffs claims. Therefore, summary judgment is appropriate.

A. Elements of an Eighth Amendment Claim

12. The "core inquiry" for an Eighth Amendment excessive force claim is "whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." Serna, 455 F.3d at 1152 (citing Hudson v. McMillian, 503 U.S. 1, 7(1992)).
13. The Tenth Circuit has articulated two "prongs" that a plaintiff must prove to prevail on an excessive force claim: (1) that "the alleged wrongdoing was objectively harmful enough to establish a constitutional violation;" and (2) "that the officials acted with a sufficiently culpable state of mind." Serna, 455 F.3d at 1152.
14. With respect to the first prong, the objective component of an excessive force claim is "contextual and responsive to contemporary standards of decency." Smith v. Cochran, 339 F.3d 1205, 1212 (10th Cir. 2003).
15. Although an inmate need not show a "significant injury" to state a claim, *de minimis* uses of physical force are excluded from the cruel and unusual punishment inquiry unless "**repugnant to the conscience of mankind.**" Hudson v. McMillian, 503 U.S.

at 9-10 (boldface emphasis); See Norton v. The City of Marietta, 432 F.3d 1145, 1156 (10th Cir.2005); Reed v. Smith, 1999 WL 345492, at *4 (10th Cir. 1999) (not selected for publication) (offered as persuasive authority); Rhoten v. Werholtz, 243 Fed. Appx. 364, 367 (10th Cir. 2007) (not selected for publication) (offered as persuasive authority).

16. With respect to the second prong, the Tenth Circuit holds that a sufficiently culpable state of mind (malicious and sadistic intent) may be inferred where **“there can be no legitimate purpose for the officers' conduct.”** Serna, 455 F.3d at 1152 (quoting Smith v. Cochran, 339 F.3d 1205, 1212 (10th Cir.2003) (boldface emphasis)). Courts must determine whether **“the evidence goes beyond a mere dispute over the reasonableness of a particular use of force or the existence of arguably superior alternatives.”** Whitley v. Albers, 475 U.S. 312, 322 (1986)(boldface emphasis).
17. In reviewing a prison guard's use of force, the court must give **“wide-ranging deference”** to the measures taken with the intention of preserving internal order and discipline and maintaining institutional security. See Id. at 321-22 (boldface emphasis); Hudson v. Palmer, 468 U.S. 517, 529 (1984). It is **“abundantly clear that prison guards have the authority to use that amount of force or those coercive measures reasonably necessary to enforce an inmate's compliance with valid prison rules so long as such measures are not undertaken maliciously or sadistically.”** Hope v. Pelzer, 536 U.S. 730, 761 (2002) (internal quotation marks omitted) (quoting Ort v. White, 813 F.2d 318 (C.A.11 1987)

(boldface emphasis)).

B. Plaintiff Verbally Refused and Physically Resisted Multiple Lawful Commands

18. Consistent with the United States Supreme Court's determination that searches of inmates are valid and necessary to ensure institutional security and safety, the Colorado Territorial Correctional Facility maintains a policy providing CDOC employees with the absolute right to search an offender or cell at any time. (See § 18 of CTCF New Arrival Orientation Handbook attached hereto as **Exhibit T.**) see Hudson v. Palmer, 468 U.S. at 529. Pursuant to CDOC Administrative Regulation 150-01, it is an offense for an inmate to refuse to allow, obstruct, or hinder in any way, a CDOC employee's search of any person, housing unit, or property. (See CDOC AR 150-01(IV)(D)(CLASS II OFFENSES)(15) attached hereto as **Exhibit U.**) Additionally, it is a CDOC violation for an inmate to refuse to obey a reasonable order issued by CDOC staff, or to create a facility disruption. (See CDOC AR 150-01(IV)(D)(CLASS II OFFENSES)(16), (25)(a) attached hereto as **Exhibit U.**)
19. It is undisputed that on February 29, 2012, Officer Gary Meyers observed Plaintiff receiving a manila envelope from another inmate at CTCF. (See 18:3-11 of Plaintiff's Deposition Transcript attached hereto as Exhibit **B.**) Officer Meyers ordered Plaintiff to bring the envelope to the control center so that it could then be searched for contraband. (See Officer Gary Meyers' Incident Report and Affidavit attached hereto as Exhibit **A.**) Plaintiff disobeyed the order and refused to turn over the contents of the envelope to Officer Meyers. Plaintiff explained to Officer Meyers, "**If you want to write me up for disobeying a direct order, you're more than welcome.**" (See 55:4-12, 54:21-23 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.**)

Following Plaintiff's refusal to produce the contents of the envelope, Officer Meyers summoned Defendants Clinkinbeard and Hanson to search Plaintiff for contraband. (See Officer Gary Meyers' Incident Report and Affidavit attached hereto as **Exhibit A.**)

20. At this point, Plaintiff had (1) refused a lawful order, (2) refused to allow a search of his property, and (3) created a facility disruption; thus violating three separate CDOC Administrative Regulations. (See CDOC AR 150-01(IV)(D)(CLASS II OFFENSES)(15),(16), and (25)(a) attached hereto as **Exhibit U.**)

21. Upon contacting Plaintiff, Defendant Clinkinbeard:

asked me [plaintiff] if I had not given [Officer Meyers] an envelope . . . and I told her . . . 'Yes, I didn't give him an envelope and I took it up to my cell.' And at that point she told me to turn around and cuff up. And that's when I asked her, 'To turn around and cuff up for what?' She said, 'You're going to seg.' And I said, 'Seg for what?' She Said, 'Well, you disrupted the facility.'

(See 63:5-15 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.**)

22. It is undisputed that Plaintiff refused to comply with Defendant Clinkinbeard's order to submit to being handcuffed. According to Plaintiff, he simply "didn't want to get cuffed up" and "felt that it was unnecessary[.]" (See 66:9-15, 78:15-16, 79:1-3 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.**)
23. Acting in accordance with their legitimate authority to preserve internal order and discipline and to maintain institutional security, Defendants Clinkinbeard and Hanson utilized physical force in an attempt to apply wrist restraints upon Plaintiff following his explicit refusal to comply with the lawful order to submit to having them applied.

(See at 1:18 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

24. Plaintiff's Complaint does not dispute the fundamental authority of Defendants Clinkinbeard and Hanson (or any other Defendant) to restrain Plaintiff with handcuffs. See *Von Halley v. Clements*, 519 Fed. Appx. 521, 523 (10th Cir. 2013) (not selected for publication) (handcuffing an inmate while in prison does not offend a constitutional right). Instead, Plaintiff claims that excessive force was used in the manner and force utilized to apply the wrist restraints; in essence, "a mere dispute over the reasonableness" of Defendants' conduct. See *Whitley*, 475 U.S. at 322.
25. The undisputed evidence demonstrates that Plaintiff physically resisted the attempts of Defendants Clinkinbeard and Hanson to apply wrist restraints by pulling away from them, dropping to the ground, and continuing to defend himself actively and passively against the efforts of Defendant Clinkinbeard and Hanson to secure Plaintiff's arms. (See at 1:28-1:50 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

C. No Genuine Issue of Material Fact Exists That Defendant Espinoza Did Not Violate Plaintiff's Constitutional Rights By Tasing Plaintiff to Compel His Compliance

26. Defendant Sgt. Espinoza and Officer Moschetti responded to Officer Meyers' call requesting assistance with an offender refusing to "cuff up." (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H.**) Upon arrival, Defendant Sgt. Espinoza and Officer Moschetti witnessed Plaintiff

- “wrestling” on the floor, engaged in a physical altercation with Defendants Sgt. Clinkinbeard and Officer Hanson and resisting the application of restraints. (See 2:35 of the Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G**.) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H**.)
27. After issuing multiple verbal commands directing Plaintiff to discontinue his resistance, and upon informing Plaintiff that he would be tased if he did not comply, Defendant Sgt. Espinoza did use his taser upon Plaintiff’s back. (See Sgt. Karen Clinkinbeard’s Incident Report and Affidavit attached hereto as **Exhibit C**.) (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G**.) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H**.) Because Plaintiff did not visually respond to being tased and continued to physically resist, Defendant Espinoza tased Plaintiff a second time. (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G**.) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H**.) (“The taser had little to no affect on the [Plaintiff].”) Plaintiff verbally proclaimed that he “**had done too much time for [the taser] to affect him.**” (See Sgt. Karen Clinkinbeard’s Incident Report and Affidavit attached hereto as **Exhibit H**.) After repeated tasing of the Plaintiff, apparently once more, for a total of three times, Defendant Espinoza determined the taser to be ineffective and placed the device back into its holster. (See Sgt. Jason Espinoza’s Incident Report and Affidavit

attached hereto as **Exhibit H.**)

28. Contrary to Plaintiff's contention that he "posed no threat to anyone," Defendants submit that Plaintiff's refusal to obey multiple and direct orders from CDOC staff did pose a direct threat to the security of the institution. (See p. 12 of Plaintiff's Complaint.) (Doc. 1) As explained by the Seventh Circuit,

When an order is given to an inmate there are only so many choices available to the correctional officer. If it is an order that requires action by the institution, and the inmate cannot be persuaded to obey the order, some means must be used to compel compliance, such as a chemical agent or physical force. [. . .]

Orders given must be obeyed. Inmates cannot be permitted to decide which orders they will obey, and when they will obey them. Someone must exercise authority and control. One can quickly reason what would happen in a maximum security prison without proper discipline.[. . .]

Inmates are and must be required to obey orders. When an inmate refuse[s] to obey a proper order, he is attempting to assert his authority over a portion of the institution and its officials. Such refusal and denial of authority places the staff and other inmates in danger.

Soto v. Dickey, 744 F.2d 1260, 1270 (7th Cir.1984), *cert. denied*, 470 U.S. 1085 (1985) (offered as persuasive authority).

29. Consistent with this, federal courts, including the Tenth Circuit, have consistently held that prison guards may use tasers and similar stun devices to compel obedience by inmates. Hunter v. Young, 238 Fed. Appx. 336, 339 (10th Cir. 2007) (not selected for publication) (offered as persuasive authority) (compiling cases holding that the use of a taser upon an uncooperative inmate is not unconstitutional). And **"this is so whether the inmate is locked in his prison cell**

or is in handcuffs.” *Id.* (quoting *Soto v. Dickey*, 744 F.2d 1260, 1270 (7th Cir.1984)).

30. The undisputed evidence demonstrates that Defendant Sgt. Espinoza happened upon an exigent circumstance which threatened the security of the institution, and then utilized his taser in an effort to restore order. Because Defendant Sgt. Espinoza used his taser to assist Defendants Officer Hanson and Sgt. Clinkinbeard in restraining Plaintiff, who was continuing to physically resist repeated lawful commands, there was clearly a legitimate purpose for Defendant Sgt. Espinoza’s conduct. (See 97:15-16 of Plaintiff’s Deposition attached hereto as **Exhibit B**. (“they were trying to cuff me up while I was being tased.”)). As there is no issue of material fact that there was a legitimate purpose for Defendant Sgt. Espinoza’s use of force, malicious and sadistic intent cannot be inferred and Defendant Sgt. Espinoza is entitled to summary judgment. *Serna*, 455 F.3d at 1152.
31. According to Defendant Nurse Bufmack’s anatomical evaluation of Plaintiff immediately following the altercation, Plaintiff’s back displayed “6 small raised red bumps;” which Defendants submit, indicates that Plaintiff was tased three (3) times (consistent with the taser’s two prongs). (See Nurse Bufmack’s First Anatomical Form attached hereto as **Exhibit R**.) Despite Plaintiff’s statements immediately following the use of force indicating his belief that he had been tased four (4) times, Plaintiff now claims in his Complaint that he was instead tased five (5) times. (*Compare* 2:42, 22:30, 30:19 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)) with p. 3 of Plaintiff’s Complaint.) For the purpose of Plaintiff’s Eighth Amendment claim,

Defendant Espinoza contends that the difference between being tased three (3) and five (5) times is negligible as Plaintiff was tased to effectuate the legitimate purpose of restoring order and maintaining security during an ongoing physical confrontation. This is particularly true given the evidence that at least some of the taser applications were either having no effect on Plaintiff or an insufficient effect to persuade him to modify his uncooperative behavior. See paragraph 27, *supra*. See Serna, 455 F.3d at 1152.

C. No Genuine Issue of Material Fact Exists That Defendants Did Not Violate Plaintiff's Constitutional Rights By Allegedly Using Pressure Techniques to Compel Plaintiff's Compliance

32. Plaintiff contends that by allegedly utilizing pressure techniques, Defendant Hanson subjected Plaintiff to cruel and unusual treatment. Defendants contend that the use of pressure techniques did not constitute an Eighth Amendment violation as Plaintiff cannot establish that Defendants acted with a sufficiently culpable state of mind. Moreover, Defendants maintain that the use of pressure techniques was not objectively harmful enough to establish a constitutional violation. See Serna, 455 F.3d at 1152.
33. Contrary to Plaintiff's claim that pressure techniques were used "merely to inflict unnecessary and wanton pain," there is no evidence to suggest that Defendants used pressure techniques for any other reason but to attempt to restrain Plaintiff. As stated by Defendants Clinkinbeard, Sullivan, and Espinoza:

- (1) **"I tried loud verbal commands and [the] Mandibular Angle [a pressure technique] to get the offender to put his hands behind his back for restraints to be applied."** (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C.**) (emphasis added)

- (2) “[Plaintiff] **kept resisting even with other pressure points being applied by other officers.**” (See Gary Sullivan’s Incident Report attached hereto as **Exhibit I.**)
- (3) “**Other staff were giving pressure point tactics to [Plaintiff] with no complaint results from [Plaintiff].**” “[I] **used strength techniques to assist in getting [Plaintiff’s] right arm behind his back.**” (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G.**)

34. When asked about his response to having pressure techniques applied, Plaintiff states, “**I just resisted.**” (See 194:8-11 of Plaintiff’s Deposition attached hereto as **Exhibit B.**) Because undisputed evidence demonstrates that the techniques were used for the legitimate purpose of gaining compliance following Plaintiff’s verbal and physical refusal to submit to being restrained, and not “merely to inflict unnecessary and wanton pain,” the use of pressure techniques did not violate Plaintiff’s Eighth Amendment rights.

35. Defendants also urge that the use of pressure techniques was not objectively sufficiently harmful to rise to the level of an Eighth Amendment violation. Plaintiff describes the pressure techniques as being “uncomfortable” but admits that they caused no lasting pain. (See 194:6-7, 12-14 of Plaintiff’s Deposition attached hereto as **Exhibit B.**) Defendants submit that without an identifiable injury, pressure techniques are excluded from the cruel and unusual punishment inquiry as *de minimis* as the force is not “**repugnant to the conscience of mankind.**” See Hudson v. McMillian, 503 U.S. at 9-10; see Norton, 432 F.3d at 1156 (grabbing and twisting of inmate’s neck was not sufficiently objectively harmful enough to establish an Eighth Amendment excessive force claim); Reed, 1999 WL 345492, at *4 (not

selected for publication) (offered as persuasive authority) (inmate's allegations that prison officials grabbed him, tried to ram him into a wall and dragged him while walking him through the prison were insufficient to state a Eighth Amendment excessive force claim); Rhoten, 243 Fed. Appx. at 367 (not selected for publication) (offered as persuasive authority) (finding, as a matter of law, that allegations that officers slammed an inmate against a wall, squeezed his nipples and buttocks, and pulled his testicles did not satisfy objective prong of an excessive force claim). Because the use of pressure techniques was a *de minimus* use of force, and because Plaintiff admits that the pressure techniques caused no lasting harm, summary judgment in favor of Defendant Hanson is proper.

D. No Genuine Issue of Material Fact Exists That Defendant Espinoza Did Not Violate Plaintiff's Constitutional Rights By Allegedly Applying Handcuffs More Tightly Than Necessary

36. Similar to the above, Plaintiff cannot demonstrate that Defendant Sgt. Espinoza (or any other defendant) violated his Eighth Amendment rights "by applying handcuffs more tightly than necessary." (See p. 10 of the Complaint.) (Doc. 1) As stated by the United States Supreme Court in Whitley, the infliction of pain in the course of a prison security measure "**does not amount to cruel and unusual punishment simply because it may appear in retrospect that the degree of force authorized or applied for security purposes was unreasonable.**" Whitley, 475 U.S. at 319. As wrist restraints were applied in pressing circumstances while Plaintiff was engaged in an ongoing physical conflict with CDOC staff who were then attempting to effectuate a reasonable order, Defendant Sgt. Espinoza submits that there is no evidence that suggests that his application of handcuffs was intended for any other

purpose but to restrain an inmate who was actively resisting and refusing to comply. Moreover, as Defendant Sgt. Espinoza secured Plaintiff with wrist restraints for the legitimate purpose of restoring order, Plaintiff's claim pertaining to the application of the handcuffs is merely a **"dispute over the reasonableness of a particular use of force,"** and is therefore outside the scope of the Eighth Amendment. *Id.* at 322. As no genuine issue of material fact exists that Defendant Sgt. Espinoza applied handcuffs to effectuate a reasonable order and not maliciously or sadistically to cause pain, Defendant Sgt. Espinoza is entitled to summary judgment.

E. No Genuine Issue of Material Fact Exists That Defendant Sullivan Did Not Violate Plaintiff's Constitutional Rights By Allegedly Dropping Him or by Pressing His Head Against the "Ground"

37. Plaintiff's allegation that Defendants subjected him to cruel and unusual treatment by "dropping him on his face from approximately 2-3 feet in the air after he was handcuffed, shackled and otherwise subdued" cannot be supported as there is no evidence of malicious or sadistic intent. Immediately preceding the moment Plaintiff claims to have been dropped, Plaintiff received verbal directives to walk with the staff downstairs. (See 88:22-89:5 of Plaintiff's Deposition attached hereto as **Exhibit B.**) In response to the order, Plaintiff proclaimed: "[y]ou carry me," and then **"became defiant"** with CDOC staff. (See 89:4-11 of Plaintiff's Deposition attached hereto as **Exhibit B.**) The surveillance footage illuminates Plaintiff's admitted defiance by showing that Plaintiff kicked his legs out from underneath himself when CDOC staff lifted him to his feet, potentially causing weight shift and balance issues regarding their ability to effectively support Plaintiff's weight among the CDOC employees holding him. (See 4:36-4:52 of Upper Vestibule Video Footage attached

hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) In response to Plaintiff's active resistance, CDOC staff attempted to corral Plaintiff's flailing legs as he was lowered back to the ground. When questioned as to whether he believed that he was intentionally dropped, Plaintiff states, "**I don't know [] if it was intentional or not[.]**" (See 101:10-14 of Plaintiff's Deposition attached hereto as **Exhibit B**.) In light of Plaintiff's admission that he does not know whether he was intentionally dropped, and the surveillance footage demonstrating that Plaintiff kicked his legs out from underneath himself making it more difficult to support his weight, Defendants contend that they are entitled to summary judgment on this issue as Plaintiff cannot produce evidence that he was intentionally dropped, let alone dropped as a result of malicious or sadistic intent. See Serna, 455 F.3d at 1152.

38. Plaintiff then claims that "**immediately**" after the above sequence of events, Defendant Sgt. Sullivan "put his hands [] on the back of [Plaintiff's] head and was pushing [his] head to the ground." (See 101:23-25 of Plaintiff's Deposition attached hereto as **Exhibit B**.) In the context of the undisputed facts — that Plaintiff verbally and physically resisted restraint and refused to comply, both on his feet and on the ground, and then "became defiant" and thrashed his legs as CDOC staff attempted to again bring him to his feet — it cannot be said that Defendant Sgt. Sullivan, by allegedly holding Plaintiff's head to the ground, acted with "**no legitimate purpose**" and in a manner that is "**repugnant to the conscience of mankind**." Serna, 455 F.3d at 1152; Cochran, 339 F.3d at 1212. As the alleged conduct "immediately"

followed Plaintiff's continued physical and verbal "defia[ce]," there is no genuine issue of material fact that by restraining Plaintiff's movement during an ongoing physical confrontation by allegedly "pushing [Plaintiff's] head to the ground," Defendant Sgt. Sullivan's alleged behavior was consistent with the legitimate purpose of restraining Plaintiff's movements and restoring order and maintaining institutional security. (See 89:11, 101:23 of Plaintiff's Deposition attached hereto as **Exhibit B.**) (See 4:36-4:52 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) Therefore, Defendant Sullivan is entitled to summary judgment. See e.g., Cruz v. Webb, 211 F.3d 1277 (10th Cir. 2000) (not selected for publication) (offered as persuasive authority) (granting summary judgment for prison guards who kneeled on prisoner's back and pushed his head against a wall momentarily knocking him unconscious, as guards used physical force they considered necessary to maintain discipline.)

F. No Genuine Issue of Material Fact Exists That Defendant Sgt. Benavidez Did Not Violate Plaintiff's Constitutional Rights By Allegedly Bending Plaintiff's Wrist and Pulling His Arm

39. Plaintiff alleges that Defendant Sgt. Benavidez subjected him to cruel and unusual punishment by bending Plaintiff's wrists and pulling his arm. (See p. 15 of Plaintiff's Complaint.) (Doc. 1) According to Plaintiff's Complaint, "the person" who allegedly bent Plaintiff's wrist released his hand "[w]hen [Plaintiff] yelled," but later began "pulling on [his] arm near the elbow." (See p. 11 of Plaintiff's Complaint.) (Doc. 1) Defendant Sgt. Benavidez submits that because bending a wrist (assuming for the sake of argument here that this did occur), but stopping upon Plaintiff's verbal

complaint, and pulling on an arm, are actions that are not "**repugnant to the conscience of mankind**," these types of alleged harm are excluded from the cruel and unusual punishment inquiry as *de minimis*. See Saleh v. United States, 2011 WL 2682728, at *6 (D. Colo. 2011) (not selected for publication) (offered as persuasive authority) (pulling prisoner's hand behind his back causing pain was both *de minimus* and not of a nature that is repugnant to mankind); see Marshall v. Milyard, 415 Fed. Appx. 850, 852 (10th Cir. 2011) (not selected for publication) (offered as persuasive authority) (grabbing prisoner's arm and digging into it with fingernails is *de minimus* force for the purpose of an Eighth Amendment claim). Because there is no issue of material fact that Defendant Sgt. Benavidez's alleged use of force was *de minimus*, and because it cannot be shown that he used it maliciously or sadistically, summary judgment for Defendant Sgt. Benavidez is proper.

G. Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Officer Hanson, Sgt. Sullivan, and Sgt. Benavidez Are Immune From Suit Because No Genuine Issue of Material Fact Exists That They Did Not Violate Plaintiff's Eighth Amendment Rights

40. With respect to Plaintiff's allegations against Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Officer Hanson, Sgt. Sullivan, and Sgt. Benavidez, the undisputed evidence demonstrates that the decisions to use force were made in tense, uncertain, and rapidly evolving circumstances in which Plaintiff was verbally and physically resisting and failing to comply with direct and reasonable orders. It is "**abundantly clear**" that Defendants had the authority to use reasonably necessary force to compel Plaintiff's compliance with their valid orders, so long as such measures were not undertaken maliciously or sadistically. See Hope, 536 U.S. at

761. As there is no genuine issue of material fact that Defendants did not act maliciously or sadistically, but rather acted for the legitimate purpose of restoring order and maintaining institutional security, Plaintiff's claims are a mere **"dispute over the reasonableness of a particular use of force or the existence of arguably superior alternatives"** and do not implicate the Eighth Amendment. See Whitley, 475 U.S. at 322; see also Hunter, 238 Fed. Appx. at 339 (not selected for publication) (declining to second guess "split second judgments" about necessary force made in exigent circumstances). Because Plaintiff cannot demonstrate that Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Officer Hanson, Sgt. Sullivan, or Sgt. Benavidez violated his Eighth Amendment right to be free from cruel and unusual treatment, Defendants are entitled qualified immunity from suit on Plaintiff's claims. See Baptiste, 147 F.3d at 1255.

H. Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova Are Entitled to Summary Judgment Because There is No Issue of Material That Defendants Were Not Required to Intervene

41. Plaintiff alleges that Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova, as supervisors are liable for failing to intervene while Plaintiff was being tased and subject to pressure techniques, failing to check the tightness of the handcuffs, and for allowing Plaintiff's head to be pressed against the floor. (See pp. 13-16 of Plaintiff's Complaint.)(Doc. 1)
42. Supervisors are liable under § 1983 only for their own culpable involvement in the violation of a person's constitutional rights. Serna, 455 F.3d at 1151. To establish supervisor liability under § 1983, a plaintiff must establish **"that the supervisor acted knowingly or with 'deliberate indifference' that a constitutional violation**

would occur.” *Id.* (quoting *Green v. Branson*, 108 F.3d 1296, 1302 (10th Cir.1997)).

Deliberate indifference requires that the official “**both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.**” *Serna*, 455 F.3d at 1154-55 (quoting *Verdecia v. Adams*, 327 F.3d 1171, 1175 (10th Cir.2003)).

43. Defendants submit that summary judgment on Plaintiff’s “failure to intervene” claims is proper as Plaintiff has failed to establish any underlying violation of Plaintiff’s constitutional rights, as discussed *supra*. See *Broadus v. Timme*, 2012 WL 639310, at *10 (D. Colo. 2012) (not selected for publication) (offered as persuasive authority) (“[e]stablishing a constitutional violation is a necessary predicate to any claim that an officer failed to intervene.”).
44. Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova are also entitled to summary judgment as Plaintiff cannot demonstrate that Defendants Lt. Holloway, Lt. C. Williams, or Capt. Cordova acted knowingly or with deliberate indifference that a substantial risk of a constitutional harm existed. See *Serna*, 455 F.3d at 1155. In the current context, Plaintiff is first required to demonstrate that Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova were aware of facts from which they could infer that Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Officer Hanson, Sgt. Sullivan, and Sgt. Benavidez were using force without a legitimate purpose and second, that Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova actually drew that inference. *Id.* at 1154.
45. Plaintiff cannot demonstrate that Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova were aware of facts from which the inference could be drawn that

Plaintiff's Eighth Amendment rights were being violated given that the context of the subject force evidenced a legitimate purpose and none of the actions taken to restrain Plaintiff were unreasonable or "**repugnant to the conscience of mankind.**" Hudson, 503 U.S. at 9-10.

46. Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova arrived at the location of the subject use of force following a first responders' call for "an inmate [] resisting staff attempts to get him into wrist restraints." (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**) As CDOC inmates are required to comply with lawful orders and prison guards possess the fundamental authority to handcuff prisoners Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova had no reason to suspect that Plaintiff's constitutional rights were being violated following the first responders' call. See Von Halley, 519 Fed. Appx. at 523 (not selected for publication) (offered as persuasive authority) (handcuffing an inmate while in prison does not offend a constitutional right) (See CDOC AR 150-01(IV)(D)(CLASS II OFFENSES)(25)(a) attached hereto as **Exhibit U.**)
47. When Defendants Holloway, C. Williams, and Cordova arrived at the upper vestibule, they observed CDOC staff on the floor engaged in a physical confrontation with an inmate who continued to resist their attempts to apply wrist restraints. (See 40:4-21 of Capt. Randy Cordova's Deposition attached hereto as **Exhibit V.**) (See 3:00 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) As

Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova were aware that CDOC staff were attempting to apply wrist restraints, and could plainly see that Plaintiff was continuing to physically resist, there are no facts from which Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova could infer a constitutional violation as prison staff possess the authority to use reasonable force to enforce an inmate's compliance with valid prison rules and orders. See Hope, 536 U.S. at 761. When CDOC staff used pressure techniques, a taser, and other physical force to attempt to subdue Plaintiff and obtain compliance, Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova had no reason to believe that CDOC staff were using force for reasons other than a good faith effort to restore order and discipline following Plaintiff's refusal to obey direct commands. Because there are no facts from which Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova could infer that CDOC staff were using force maliciously or sadistically, Plaintiff also cannot establish that Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova actually inferred that Plaintiff's constitutional rights were being violated.

48. In addition to having no reason to believe that CDOC staff were using a taser maliciously or sadistically, as liability for failing to intervene is necessarily predicated on having a *reasonable opportunity* to intervene, Defendants cannot be liable for failing to prevent Plaintiff from being tased as they cannot be said to have had an adequate opportunity to do so. See Duncan v. Quinlin, WL 1726802, at *5 (D. Colo. 2015) (not selected for publication) (offered as persuasive authority). According to Plaintiff, he was tased multiple times "in rapid succession." (See p. 10 of Plaintiff's Complaint.) (Doc. 1) Defendants submit that regardless of whether Plaintiff was

tased three (3) or five (5) times, Plaintiff's admission that he was tased "in rapid succession" demonstrates that Defendants did not have a reasonable opportunity to intervene. Without a reasonable opportunity to intervene, Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova are entitled to summary judgment on this claim.

49. With respect to Plaintiff's failure to intervene claims as they pertain to Plaintiff's allegation that Defendants refused to loosen Plaintiff's handcuffs, Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova are entitled to summary judgment as Plaintiff cannot demonstrate that the refusal to loosen the handcuffs was motivated by a malicious or sadistic intent as the undisputed evidence demonstrates that Plaintiff's handcuffs were not adjusted as result of his explicit and continued refusal to cooperate. Throughout the subject use of force, Plaintiff's restraints were the subject of significant discussion between Plaintiff and CDOC staff. As documented by the body cam video, in response to Plaintiff's complaints regarding his backboard restraints, CDOC staff informed Plaintiff repeatedly that his restraints would be adjusted contingent upon his compliance:

(1) Plaintiff: **"You loosen that strap, there sir?
[inaudible] on the right side."**

CDOC Staff: **"When you comply, when you comply."**

Plaintiff: **"Will you let go of my arm, man?"**

CDOC Staff: **"When you comply."**

(See 1:15-1:30 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

50. After being carried on the backboard to the CTCF clinic for an anatomical evaluation, Plaintiff continued to state his non-compliance. (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Jerod Robles' Incident Report attached hereto as **Exhibit M.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**)

(1) CDOC Staff: **"You're telling me you're telling me you're not going to be compliant."**

Plaintiff: **"I aint tellin' you nothin', I aint said shit yet."**

CDOC Staff: **"Yeah, you said you're not going to work with these guys, you know I want to loosen your cuffs up get you where you are situated."**

(See 10:24-10:50 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

CDOC Staff: **"Are you going to sit up? [inaudible] You gunna do this anatomical with the nurse?"**

Plaintiff: **"Yeah, she can do an anatomical, yeah, I'm not complying [inaudible] I might stand up. I'm doing everything laying down. [inaudible] You guys going to carry me."**

CDOC Staff: **"If you continue to be resistant, [inaudible] there should be no use of force but you're being resistant."**

Plaintiff: **"Why, why should I be helpful to you guys?"**

(See 11:28-11:52 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

51. Plaintiff refused to comply with requests to be anatomically examined so Defendant Capt. Cordova ordered that Plaintiff be taken to segregation for a simultaneous strip search and anatomical exam. (See 13:37-14:44 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J**.) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit J**.) (See Gary Sullivan's Incident Report attached hereto as **Exhibit I**.) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L**.)

(1) Plaintiff: **"Can we take the cuffs off man?"**
CDOC Staff: **"No."**
Plaintiff: **"No."**
CDOC Staff: **"So you going to sit up? Let the nurse do her anatomical?"**
Plaintiff: **"How am I going to do the anatomical with these cuffs on?"**
CDOC Staff: **"Well, were going to loosen them, when you get up and get you situated. But I need to know, you're going to be compliant."**

(See 13:03-11:36 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

(2) CDOC Staff: **"You going to comply?"**
Plaintiff: **"You guys going to tase me again."**
CDOC Staff: **"You going to strip out for us?"**

Plaintiff: **"You going to loosen the handcuffs?"**

CDOC Staff: **"You going to strip down for us?"**

Plaintiff: **"You going to loosen the handcuffs?"**

CDOC Staff: **"We're going to take you out of those handcuffs."**

Plaintiff: **"I'm asking you reasonably [inaudible] right now [inaudible] that's my that's my [inaudible] right there."**

CDOC Staff: **"If you work with us. . . You going to work with us? Right now you're unpredictable."**

(See 19:03-19:34 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

52. In order to complete the strip search of Plaintiff, Defendant Capt. Cordova directed that Plaintiff's wrist restraints be removed and replaced with strip search restraints. (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J**.) (See 22:44 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)
53. Plaintiff's deposition testimony is consistent in that his handcuffs were not adjusted in response to his refusal to comply:

(1) **Q:** "During this incident, did the officers ever ask you if you were going to comply?"

Plaintiff: **"They asked me to stand up eventually, and I asked them if they would loosen the cuffs."**

Q: "Okay. So you made standing up contingent upon their loosening the cuffs."

Plaintiff: **"Yes. I explained the cuffs were extremely**

tight. [. . .] Somebody said, ‘You don’t dictate to us. You don’t tell us what to do.’ So I said, ‘Fine. Carry me.’”

(See 85:23 -86:15 of Plaintiff’s Deposition attached hereto as **Exhibit B.**)

54. As the undisputed evidence demonstrates that CDOC staff were willing to adjust Plaintiff’s restraints upon his compliance, Defendants contend that Plaintiff cannot demonstrate that Defendants’ failure to loosen Plaintiff’s handcuffs was motivated by malicious or sadistic intent. Instead, the evidence demonstrates that the wrist restraints were not adjusted in order to attempt to maintain the order which had recently been partially restored in part due to the application of the handcuffs. Throughout the course of the subject use of force incident, Plaintiff demonstrated consistent verbal and physical resistance to CDOC orders. On multiple occasions following Plaintiff’s complaints regarding the handcuffs, CDOC staff informed Plaintiff that the restraints would be loosened, or even removed, if he cooperated with their commands. The uncontroverted evidence demonstrates that despite Plaintiff’s awareness that CDOC staff would adjust his restraints if he cooperated, Plaintiff continued to be non-compliant and defiant. Because there is no issue of material fact that Plaintiff’s restraints were not adjusted in an effort to maintain order as a direct result of his continued refusal to cooperate and comply, Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova, by not intervening to adjust the wrist restraints, acted consistent with the legitimate purpose of maintaining institutional security.
55. Because Plaintiff cannot demonstrate that Defendants Lt. Holloway, Lt. C. Williams,

and Capt. Cordova violated his Eighth Amendment right to be free from cruel and unusual treatment, Defendants are immune from suit on Plaintiff's claims. See Baptiste, 147 F.3d at 1255.

V. CONCLUSION

56. Based upon the evidence and case law presented herein, Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Sgt. Benavidez, Lt. Holloway, Lt. C. Williams, and Capt. Cordova request that this Court enter summary judgment in their favor. A proposed Order is attached hereto.

WHEREFORE, Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Sgt. Benavidez, Lt. Holloway, Lt. C. Williams, and Capt. Cordova respectfully pray for an Order granting summary judgment and dismiss with prejudice Plaintiff's claim under the Eighth Amendment against Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Sgt. Benavidez, Lt. Holloway, Lt. C. Williams, and Capt. Cordova, as there are no genuine issues of material fact in dispute and Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Sgt. Benavidez, Lt. Holloway, Lt. C. Williams, and Capt. Cordova are entitled to summary judgment.

Respectfully submitted this 12th day of November, 2015.

CAIN & WHITE, LLP

/s/Craig W. Cain

Craig W. Cain, No. 15930

Jennifer L. White, No. 36466

1555 Quail Lake Loop, Suite 100

Colorado Springs, Colorado 80906

Telephone: (719) 575-0010

Facsimile: (719) 575-0020

E-mail: ccain@cainwhitelaw.com

jwhite@cainwhitelaw.com

Attorneys for Defendants R. Cordova,

D. Nunez, M. Holloway, K. Topliss, C. Williams, K. Clinkenbeard, J. Espinoza, J. Bufmack, M. Benovedez, and A. Bell

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to Fed.R.Civ.P. 5, on this 12th day of November, 2015, a true and correct copy of the above and foregoing **DEFENDANTS R. CORDOVA, M. HOLLOWAY, C. WILLIAMS, K. CLINKENBEARD, J. ESPINOZA, AND M. BENAVEDEZ'S MOTION FOR SUMMARY JUDGMENT** was served, via ECF, upon the following:

Brett D. Lampiasi, Esq.
P.O. Box 347
Hatfield, MA 01038
Attorney for Plaintiff William R. Stevenson

/s/Diana Domingues
Diana Domingues, Paralegal

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: 02/29/2012

Approx Time: 06:30 AM

Status: Open

Incident Type: Use of Force

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: Upper Vestibule

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 1 by MEYERS, GARY W (gwmeyers) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F

Approximate Time of Incident: 06:30 AM

Shift: Days

Work Unit: Custody/Control

Days Off: M-T

Suspected Gang Related: ☐Evidence: ☐

Docno:

Name:

Living Unit:

Pod Tier Cell Bunk

110913

STEVENSON, WILLIAM R

CTCF/SEG

RFP

Parole/Community/ Shift Commander: CORDOVA, RANDY (rzcordov) Date Approved: 02/29/12 12:47 PM	Report Rejected: <input type="checkbox"/> Report Approved: <input checked="" type="checkbox"/> Report Voided: <input type="checkbox"/>	Report Needs Approval <input checked="" type="checkbox"/> Submitted: 02/29/12 11:52 AM
	Duty Officer's Initiation of Investigation Charge: <input type="checkbox"/> Duty Officer: _____ Informational: <input type="checkbox"/> Reviewed: _____	

Detailed Report on following Page

Incident# 529889**Report 1 detail by MEYERS, GARY (gwmeyers) for Incident 529889**

On 02/29/12 at approximately 6:30AM I, Officer Meyers was indirectly involved with a use of force involving Offender Stevenson, William #110913. Offender Stevenson was observed receiving a manila envelop from Offender Milligan, Michael #52081 in the upper vestibule in CH-1. The contents of the folder are unknown. While in the upper control center I gave several loud verbal commands to bring the item to the control center. Stevenson refused these direct orders and went on to state, "This is legal shit man and it's none of your fucking business". After several more verbal commands Offender Stevenson emptied the folder and attempted to pass it on as the ordinal. At that time I called for cell house staff to search the Offender for contraband. Officer Hanson and Sgt Clinkinbeard were the first to respond. Both Officers gave several direct orders to step into the vestibule. Offender Stevenson complied. Once in the vestibule staff attempted to counsel Stevenson about his refusal to consent to a search. Offender Stevenson became verbally noncompliant and became passive aggressive when asked to move towards the wall so wrist restraints could be applied. At that time Offender Stevenson raised both hands above his head and refused to comply with any of the staffs directives. When Officer Hanson attempted to place wrist restraints on Stevenson's Left wrist, Stevenson sat on the ground and begun to pull his body away so that staff couldn't get restraints on. It should be noted that once Offender Stevenson's hands went above his head, first responders were called to assist. Both Officers attempted to apply restraint until responding staff could arrive. Sgt Espinoza, along with responding staff arrived to assist with Offender. Once there was sufficient staff I retrieved ankle restraints so they could be applied. It should be noted that there were 13 uniformed Officers in the vestibule. After wrist and ankle restraints were applied Offender was secured in the prone position on the floor. Offender Stevenson refused to stand even after given direct orders to do so. Eventually Stevenson stood with the assistants of staff. Once on his feet, Stevenson attempted to assault staff by using a left knee strike. Once Offender Stevenson elevated his left leg his right leg came out from under him and he was assisted to the ground once again by responding staff. This behavior continued until Offender Stevenson was placed on the back board and carried out of the cell house. It should be noted that facility operations were delayed because of the staff required to assist with this issue. EOR

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial
Correctional Facility in his individual and
official capacities,
D. NUNEZ, Captain at Colorado Territorial
Correctional Facility in his individual and
official capacities,
M. HOLLOWAY, Lieutenant at Colorado Territorial
Correctional Facility in his individual and
official capacities,
K. TOPLISS, Lieutenant at Colorado Territorial
Correctional Facility in his individual and
official capacities,
C. WILLIAMS, Lieutenant at Colorado Territorial
Correctional Facility in his individual and
official capacities,
H. WILLIAMS, Lieutenant at Colorado Territorial
Correctional Facility in his individual and
official capacities,
K. CLINKENBEARD, Sergeant at Colorado Territorial
Correctional Facility in his individual and
official capacities,
J. ESPINOZA, Sergeant at Colorado Territorial
Correctional Facility in his individual and
official capacities,
G. SULLIVAN, Sergeant at Colorado Territorial
Correctional Facility in his individual and
official capacities,
J. HANSON, Corrections Officer at Colorado
Territorial Correctional Facility in his
individual and official capacities,
J. SOTO, Corrections Officer at Colorado
Territorial Correctional Facility in his
individual and official capacities,
J. BUFMACK, Nurse at Colorado Territorial
Correctional Facility in his individual and
official capacities,

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M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

DEPOSITION OF WILLIAM RAYMOND STEVENSON
SEPTEMBER 15, 2015
1:00 p.m.

PURSUANT TO NOTICE, the deposition of WILLIAM RAYMOND STEVENSON, #110913, was taken on behalf of the Defendants, pursuant to the Federal Rules of Civil Procedure, at 275 West Highway 50, Canon City, Colorado, this date at 1:01 p.m., before Janice Doyle, a Certified Court Reporter and a Notary Public.

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EXHIBIT	DESCRIPTION	PAGE
A	Plaintiff's Response to Defendant's First Set of Interrogatories Dated February 5, 2015	16
B	Plaintiff's Responses to Defendant's First Request For Production of Documents Dated February 6, 2015	152
C	Complaint of Unnecessary, Unreasonable and Excessive Force, Dated March 14, 2014, Numbered STEVENSON-00674 Through STEVENSON-00679; Department of Corrections DOC Employee/Contract Worker Conduct Complaint, Numbered STEVENSON-00673	59
C-1	Department of Corrections DOC Employee/Contract Worker Conduct Complaint, Numbered STEVENSON-00673	60

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APPEARANCES

For the Plaintiff:
BRETT LAMPIASI, ESQ.
P.O. Box 347
Hatfield, Massachusetts 01038
(413) 336-3008
(413) 322-8391
Fax (413) 425-0255
E-mail: brett@blamplaw.com

For the Defendants:
CRAIG W. CAIN, ESQ.
Cain & White, LLP
1555 Quail Lake Loop, Suite 100
Colorado Springs, Colorado 80906
(719) 575-0010
Fax (719) 575-0020
E-mail: ccain@cainwhitelaw.com

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EXHIBIT	DESCRIPTION	PAGE
D	Addendum, Correction of 3/14/12 Excessive Force Complaint Dated March 17, 2012, Numbered STEVENSON-00671 Through STEVENSON-00672	59
E	Colorado Department of Corrections Clinical Services Anatomical Form Dated 2/29/12, Numbered STEVENSON-00015 Through STEVENSON-00014, STEVENSON-00016, STEVENSON-00012 Through STEVENSON-00013	169

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I N D E X

DEPOSITION WITNESS:	PAGE
WILLIAM RAYMOND STEVENSON Examination by Mr. Cain	6

2 (Pages 2 to 5)

<p>6</p> <p>1 Whereupon, the following proceedings were</p> <p>2 had:</p> <p>3 IT WAS STIPULATED AND AGREED that the</p> <p>4 within proceedings were taken pursuant to the</p> <p>5 Federal Rules of Civil Procedure.</p> <p>6</p> <p>7 (Exhibit Nos. A, B, C, D, and E were</p> <p>8 marked for identification by the court reporter.)</p> <p>9</p> <p>10 WHEREUPON,</p> <p>11 WILLIAM RAYMOND STEVENSON,</p> <p>12 the witness herein, having been first duly sworn</p> <p>13 by the notary public, was examined and testified</p> <p>14 as follows:</p> <p>15</p> <p>16 EXAMINATION</p> <p>17 BY MR. CAIN:</p> <p>18 Q All right. Good afternoon, sir.</p> <p>19 A Good afternoon.</p> <p>20 Q My name is Craig Cain. I'm with the</p> <p>21 law firm of Cain and White. My partner is</p> <p>22 Jennifer White, who you may or may not have been</p> <p>23 in contact with when receiving some documents. We</p> <p>24 are representing a number of defendant -- Colorado</p> <p>25 Department of Corrections defendants, including</p>	<p>8</p> <p>1 in the last 24 hours?</p> <p>2 A (Nodded.)</p> <p>3 Q Is that a "yes"?</p> <p>4 A Yes.</p> <p>5 Q And just a few more ground rules.</p> <p>6 Let me ask you: Have you had your deposition</p> <p>7 taken before, sir?</p> <p>8 A No.</p> <p>9 Q Basically, your attorney may have had</p> <p>10 a chance to discuss it with you, but he's probably</p> <p>11 told you and I want to warn you off the bat</p> <p>12 there's something called attorney-client privilege</p> <p>13 you may be aware of. So, basically, discussions</p> <p>14 between you and your attorney I don't want you</p> <p>15 relaying to me. All right?</p> <p>16 A (Nodded.)</p> <p>17 Q If I ask you a question that you</p> <p>18 believe is asking you to tell me something you</p> <p>19 discussed with your attorney, it's probably not</p> <p>20 it, because, again, I don't want to violate that</p> <p>21 privilege. Do you understand?</p> <p>22 A Yes.</p> <p>23 Q All right. And as you're doing so</p> <p>24 far, answer audibly, as the reporter mentioned.</p> <p>25 We've got a little bit of a -- the HVAC here is</p>
<p>7</p> <p>1 Randy Cordova, Donald Nunez, Mark Holloway,</p> <p>2 Kenneth Topliss, T-O-P-L-I-S-S, Carl Williams,</p> <p>3 Henry Williams, Karen Clinkenbeard,</p> <p>4 C-L-I-N-K-B-E-A-R-D, I believe, Jason Espinoza,</p> <p>5 Jason Soto, Jody Bufmack, Michael Benovedez,</p> <p>6 B-E-N-A-V-E-D-E-Z [sic], and Aubrey Bell. And I'm</p> <p>7 here today to take your deposition. All right?</p> <p>8 A Okay.</p> <p>9 Q And I'd like to start off by having</p> <p>10 you identify yourself so we know it's you here</p> <p>11 today. Could you state your name and spell your</p> <p>12 last name, please?</p> <p>13 A My name is William R. Stevenson,</p> <p>14 S-T-E-V-E-N-S-O-N.</p> <p>15 Q Okay. And, sir, any reason you feel</p> <p>16 you could not participate to the best of your</p> <p>17 ability today?</p> <p>18 A No.</p> <p>19 Q Let me ask you: Have you taken any</p> <p>20 medications in the last 24 hours that could</p> <p>21 potentially affect your ability to participate</p> <p>22 today?</p> <p>23 A Tylenol 3s, but that wouldn't affect</p> <p>24 my ability.</p> <p>25 Q Is that all the medication you've had</p>	<p>9</p> <p>1 kind of loud, so we'll try to talk over that so</p> <p>2 she can hear us both. All right?</p> <p>3 A Yes.</p> <p>4 Q And as you're doing so far, if you</p> <p>5 can wait till I finish my question to give your</p> <p>6 answer and I'll afford you the same courtesy by</p> <p>7 not talking over you when you're answering. All</p> <p>8 right?</p> <p>9 A Yes.</p> <p>10 Q Because the court reporter can only</p> <p>11 take down one of us at a time. Does that make</p> <p>12 sense?</p> <p>13 A Yes.</p> <p>14 Q Now, with regard to the questions I'm</p> <p>15 asking you, if you don't understand a question for</p> <p>16 any reason, please ask me to rephrase it, and I</p> <p>17 will. Okay?</p> <p>18 A Okay.</p> <p>19 Q Because this is important because</p> <p>20 this is a deposition, and it's informal in the</p> <p>21 sense that we're just sitting here. We're not in</p> <p>22 a courtroom with a judge or a bunch of jurors.</p> <p>23 It's just you, me, your attorney, and the</p> <p>24 reporter. It's formal in the sense that it is</p> <p>25 sworn testimony and that the transcript of this</p>

3 (Pages 6 to 9)

10	12
1 could be used at hearings involved in this case or	1 individual besides Jason Soto that was action
2 the trial itself. Do you understand that?	2 involved, so --
3 A Understand.	3 Q And who was that?
4 Q Okay. So it's important -- if	4 A His name is Robles. Mr. Robles.
5 someone hears part of this transcript down the	5 C.O. Robles.
6 road they hear that I asked a question and you	6 Q Okay.
7 answered it, they're going to assume that you	7 A Then the other person is Mr. Henry
8 understood that question, otherwise, you would not	8 Williams. Information indicates that Mr. Williams
9 have answered it. Is that fair?	9 was not there also.
10 A That's fair.	10 Q Okay. So you initially thought he
11 Q Okay. And if you need to take a	11 might be, but further investigation showed that he
12 break, let me know. I may ask you to answer the	12 was not. Is that what you're saying, in a
13 last question that I've I asked you or a very	13 nutshell?
14 short series of questions on the same topic, but I	14 A That's correct.
15 will let you take a break. All right?	15 Q Anyone else there, sir?
16 A Okay.	16 A No.
17 Q Okay. As far as preparing for this	17 Q Okay. Thank you.
18 deposition, again, don't tell me any discussions	18 Okay. What's your date of birth,
19 you may have had with your attorney. What did you	19 sir?
20 do to prepare for this deposition?	20 A 1/29/62.
21 A Looked over my complaint and some of	21 Q And where were you born?
22 the discovery material.	22 A Seattle, Washington.
23 Q Okay. And when you say "discovery	23 Q And did you graduate from high
24 material," you mean the interrogatory responses or	24 school?
25 request for production responses?	25 A Yes, sir.
11	13
1 A Both.	1 Q Any education after that?
2 Q Okay. Anything else, sir?	2 A Some college courses, community
3 A No.	3 college.
4 Q Now, I read you a long list of names	4 Q Where did you take those?
5 to start this, which, I believe, are still my	5 A I think one was at Edmonds, through
6 clients in this case at this point. We have a	6 Edmonds Community College. There was Centralia
7 number of them. I believe it's one, two, three,	7 Community College.
8 four, five, six, seven, eight, nine, ten, eleven,	8 Q In Washington also?
9 twelve. And do you know all of those folks?	9 A Yeah. They are all in Washington
10 A Yes, sir.	10 state. And I think that's it.
11 Q As of today, do you believe all of	11 Q What type of classes did you take
12 those folks should still be in this case or have	12 there, generally?
13 some of your -- some of your investigation and	13 A Culinary arts. I took a janitorial
14 such indicated that perhaps one or two or more of	14 science class, business math, business law. Just
15 them should not?	15 -- that's about it.
16 A One, two or more of them should not.	16 Q Okay. And have you attempted to
17 Q And who might those be? Do you	17 continue your education, either formally or
18 remember offhand? And I can give you the list to	18 informally, since then?
19 look at that, if that would help you.	19 A No.
20 A Sure. It would be Jason Soto.	20 Q Okay. Do you do any reading?
21 Q And you're saying that he would not?	21 A All the time.
22 A He would not.	22 Q What types of things do you read,
23 Q And for what reason, in a nutshell,	23 sir?
24 sir?	24 A Study the bible. I like reading
25 A Jason Soto. There was another	25 religious material.

14	16
1 Q Okay.	1 I've worked in food service and as an OCA.
2 A Some legal stuff because I'm working	2 Q I think I know, but for the record,
3 on my case.	3 what's an OCA?
4 Q Okay. Is this the only case you have	4 A Offender care aid.
5 going right now?	5 Q Okay. And are you presently working
6 A No.	6 as an OCA?
7 Q What's the other case?	7 A Yes, sir.
8 A Criminal.	8 Q Who's your immediate supervisor
9 Q Okay. Do you know what court? Is	9 there?
10 that in federal court also in Colorado?	10 A Her name is Martin, Sergeant Martin.
11 A No.	11 Q And how long have you been in this
12 Q Where is that? Do you know?	12 facility?
13 A That's in appellate court, Colorado.	13 A Since 2009.
14 Q Appellate?	14 Q Okay. A little background. I'm
15 A Court of appeals.	15 going to show you what is marked as Exhibit A.
16 Q What's the name of that case? I'm	16 I'll represent to you this is a copy of your
17 assuming your name is in there.	17 interrogatory responses, but certainly take a look
18 A Yes.	18 at that and verify that I'm correct there.
19 Q Okay. Have you got one or two or	19 MR. LAMPIASI: Thank you.
20 more as defendants?	20 MR. CAIN: You bet.
21 A There's a civil case that I'm working	21 THE WITNESS: Yes, interrogatory
22 on, too, that's against an attorney here in	22 responses.
23 Colorado, so --	23 Q BY MR. CAIN: Okay. And I notice on
24 Q Okay.	24 page 8 you signed those. That's your signature,
25 A That's it.	25 sir?
15	17
1 Q Is that -- has that been filed --	1 A Yes.
2 A Yes.	2 Q Okay. And you had read over these
3 Q -- in a court?	3 and at least contributed to these or maybe wrote
4 What court is that filed in?	4 them in their entirety?
5 A That was in Denver District Court.	5 A Yes.
6 Q Okay. And I'm assuming your name is	6 Q Did you write them in their entirety?
7 that.	7 A Yes.
8 A Yes.	8 Q Okay. Going back to page 1, I'd like
9 Q So if we did a name search for you,	9 to follow up and get a little bit of information
10 that would probably pop up.	10 about some of the folks that have been listed as
11 A Most definitely.	11 people who may have information related to this
12 Q Okay. Any other cases that you're	12 lawsuit. Okay? At the bottom of the first page,
13 involved in, sir?	13 we've got Michael Mulligan. It says a former CTCF
14 A No.	14 inmate. Says Mr. Mulligan -- Milligan,
15 Q And are you married?	15 M-I-L-L-I-G-A-N. Let's see. One's Mulligan;
16 A No.	16 one's Milligan. Do you know which one it is?
17 Q Have you been married in the past?	17 A I think it's Mulligan with a U.
18 A No.	18 Q Okay. M-U-L-L-I-G-A-N?
19 Q Children?	19 A Yes.
20 A I have two kids that I'm aware of.	20 Q Okay. This says, "Handed plaintiff
21 Q Okay. And have you had any	21 his grievances back and has relevant information
22 employment, any jobs while you've been in the	22 concerning the issues raised in the pleadings."
23 facility down here?	23 Now, does this relate to some
24 A Since I've been at this facility,	24 activity that took place the morning of this
25 I've worked as a recreation staff in the gym.	25 subject incident?

5 (Pages 14 to 17)

<p>18</p> <p>1 A The information that he has, the</p> <p>2 relevant information?</p> <p>3 Q Or the actual -- it says, "Handed</p> <p>4 plaintiff his grievances back."</p> <p>5 When did that take place?</p> <p>6 A Yes. That happened the morning of</p> <p>7 the incident, sir.</p> <p>8 Q Okay. And can you tell me, in a</p> <p>9 nutshell, his involvement that morning?</p> <p>10 A He handed me the grievances back. He</p> <p>11 came over and gave them to me.</p> <p>12 Q Were they your grievances?</p> <p>13 A Yes, sir.</p> <p>14 Q How had he gotten those then?</p> <p>15 A I had given them to him to read, as I</p> <p>16 mentioned in the complaint.</p> <p>17 Q Okay. And was he a friend of yours</p> <p>18 at that time?</p> <p>19 A Yes, sir.</p> <p>20 Q Still a friend?</p> <p>21 A I haven't been in contact with him.</p> <p>22 Q Since when?</p> <p>23 A Since he left the facility in about</p> <p>24 2010, maybe.</p> <p>25 Q All right.</p>	<p>20</p> <p>1 Q Okay. And against the captain, you</p> <p>2 mean captain who, for the record?</p> <p>3 A It was Captain Nunez.</p> <p>4 Q Okay. And did anybody read through</p> <p>5 those grievances other than Mr. Mulligan prior to</p> <p>6 the start of this incident that we're here for</p> <p>7 today?</p> <p>8 MR. LAMPIASI: Object to the form.</p> <p>9 Q BY MR. CAIN: That you're aware of.</p> <p>10 A No.</p> <p>11 Q And I'll get to that later, but I</p> <p>12 want to go through some of these names. I</p> <p>13 appreciate that information. Michael -- top of</p> <p>14 the next page, "Michael Jones is a former CTCF</p> <p>15 inmate." It says, "Mr. Jones witnessed the</p> <p>16 excessive use of force and has relevant</p> <p>17 information concerning the issues raised in the</p> <p>18 pleadings."</p> <p>19 Okay. Now, I'm assuming when it says</p> <p>20 "witnessed the use of excess force," does this</p> <p>21 mean the use of excessive force that you believe</p> <p>22 took place on February 29th, 2012?</p> <p>23 A Yes, sir.</p> <p>24 Q Okay. And how did Mr. Jones witness</p> <p>25 this? Where was he? How was this set up, sir?</p>
<p>19</p> <p>1 A It was 2012 he left this facility.</p> <p>2 Q Okay.</p> <p>3 A Yeah.</p> <p>4 Q So about the same year as this</p> <p>5 incident --</p> <p>6 A Yeah.</p> <p>7 Q -- that we're here for?</p> <p>8 Okay. And as far as having your</p> <p>9 grievances, do you know why he had your grievances</p> <p>10 that morning?</p> <p>11 A Yes, sir. I gave them to him for him</p> <p>12 to read over the night and handed them back that</p> <p>13 following morning.</p> <p>14 Q Any particular reason for doing that?</p> <p>15 A The grievances were against Captain</p> <p>16 Nunez, and I gave them the grievances to read just</p> <p>17 in case something happened to me. I was turning</p> <p>18 them in to my case manager that morning.</p> <p>19 Q Were you concerned about something</p> <p>20 happening to you?</p> <p>21 A Possibly.</p> <p>22 Q Why?</p> <p>23 A Just the complaints were against a</p> <p>24 captain here, and I didn't feel comfortable</p> <p>25 without anyone knowing what was going on, so --</p>	<p>21</p> <p>1 A He was inside the door on the -- in</p> <p>2 the pod, 34 left.</p> <p>3 Q And I notice -- I've watched the</p> <p>4 video concerning this. Have you watched that</p> <p>5 video also, sir?</p> <p>6 A Yes.</p> <p>7 Q Okay. So it's -- it's your belief</p> <p>8 that he witnessed at least some of that</p> <p>9 interaction, your interaction with the officers</p> <p>10 that morning?</p> <p>11 A Yes.</p> <p>12 Q Okay. Have you -- did you talk to</p> <p>13 him afterwards to verify what he had or had not</p> <p>14 seen?</p> <p>15 A Yes.</p> <p>16 Q Okay. What's your -- best of your</p> <p>17 memory as to how much of that he saw, what he did</p> <p>18 see, what he told you?</p> <p>19 A I believe that that was attached --</p> <p>20 his statement was attached as an exhibit here.</p> <p>21 Q Okay. To the complaint?</p> <p>22 A Yes, sir.</p> <p>23 Q Okay.</p> <p>24 A And -- no, not to the complaint but</p> <p>25 to the interrogatory responses.</p>

<p style="text-align: right;">22</p> <p>1 Q Okay. Okay. And I'm -- I will check 2 that. I'm sorry. I do not have that with me 3 today. In fact, I'm remembering that now. Had 4 you written that or had he written that statement? 5 A We had went over the statement 6 together -- 7 Q Okay. 8 A -- and wrote it at the same time. 9 Q Okay. And with regard -- and when's 10 the last time you spoke with Mr. Jones? 11 A I don't recall. 12 Q Okay. Jeff Nowak. Indicates he's a 13 former CTCF inmate and similar endorsement of his 14 testimony as Mr. Jones. Did you attach a 15 statement of his also to the interrogatory 16 responses? 17 A He was transferred from the 18 institution before we could get a statement from 19 him. 20 Q Okay. Did you talk to him after this 21 incident of February 29th, 2012, regarding what he 22 saw? 23 A Yes. 24 Q What's your understanding based on 25 your discussions with him of what he saw of that</p>	<p style="text-align: right;">24</p> <p>1 A Yes. He was a witness as well. 2 Q And what's your understanding as to 3 what he saw, sir? 4 A He saw most of the incident that took 5 place from the beginning until the door was 6 covered. 7 Q Okay. A similar amount of the 8 incident as Mr. Nowak? 9 A Yes, sir. 10 Q And which side was he on? Do you 11 remember? 12 A He was on 34 right. 13 Q 34 right? 14 A Uh-huh. 15 Q Okay. Did you talk to him once about 16 this incident? Twice or more? 17 A Mr. Nowak, at least twice. 18 Q I'm sorry. Mr. Allen I'm asking. 19 A Oh, Mr. Allen. 20 Q Yes. 21 A Yes. 22 Q And I'm sorry if I -- I meant Mr. 23 Allen, where was he then? Was he 34 right or -- 24 A He was on 34 right. 25 Q He was 34 right as was Mr. Nowak?</p>
<p style="text-align: right;">23</p> <p>1 incident? 2 A He was at the door on the 34 right 3 side, 34 right pod -- 4 Q Okay. 5 A -- and witnessed what happened. 6 Q Okay. All the way until you were 7 taking out of -- taken out of sight of that pod? 8 A No. They witnessed until the officer 9 stood in front of the door, in front of the 10 window. 11 Q Okay. 12 A And they closed the door. 13 Q Okay. Do you remember which officer 14 that would have been that stood in front? 15 A According to the video, it was 16 Sergeant Walker on the right -- 34 right pod, and 17 Lieutenant Williams -- Carl Williams stood in 18 front of the window on 34 left pod. 19 Q Okay. Shawn D. Allen. He's endorsed 20 to testify similarly. Did he have a statement 21 attached to this interrogatory response? 22 A No. He left before he could give a 23 statement, as well, before I could obtain one. 24 Q But you discussed it with him 25 afterwards?</p>	<p style="text-align: right;">25</p> <p>1 A As was Mr. Nowak. 2 Q Okay. And so you said you talked to 3 Mr. Allen more than once? 4 A Yes. 5 Q About how many times, do you think? 6 A To Mr. Allen, about twice. 7 Q Okay. Michael Jetters. It says he's 8 former CTCF. Apparently, he's at AVCF, unit 5, at 9 this point, or at least at the time these 10 interrogatories were responded to. Is that your 11 understanding? 12 A Yes. I need to make a correction 13 here. 14 Q Sure. 15 A I mentioned Michael Jones as writing 16 a report. Jones didn't do a statement. It was 17 Michael Jeeters [sic] -- 18 Q Okay. 19 A -- who actually -- 20 Q Okay. 21 A -- who prepared a statement. Jones 22 was on 34 left -- 23 Q Okay. 24 A -- and witnessed the incident until 25 the doors were closed. And captain -- or Sergeant</p>

7 (Pages 22 to 25)

<p style="text-align: right;">26</p> <p>1 -- Lieutenant Williams -- excuse me -- stood in 2 front of the door. 3 Q So similar amount of time to Nowak 4 and Allen, just on the other side? 5 A On the other side. 6 Q Well, Michael Jetters, J-E-T-T-E-R-S, 7 then -- 8 A Uh-huh. 9 Q -- he -- you've indicated that he -- 10 you have a statement of his attached to the 11 interrogatories -- 12 A I believe I did -- 13 Q -- you did originally? 14 A -- yes, sir. 15 Q Okay. I'll double check that. That 16 kind of rings a bell for one of the Michaels. 17 A Okay. 18 Q And did he write that statement? Did 19 you assist him? Or how did that statement come 20 into being? 21 A We sat down and discussed what 22 happened, and he told me what he saw, and I wrote 23 the statement. 24 Q Okay. And did what he see -- was he 25 able to witness this incident a similar amount of</p>	<p style="text-align: right;">28</p> <p>1 A He saw -- he was upset when they 2 closed the door. He saw pretty much the same as 3 everyone else. 4 Q Okay. And when did he leave this 5 facility? 6 A I don't recall. 7 Q Okay. Scott Husser, H-U-S-S-E-R, 8 similar endorsement as to what he saw. Was he in 9 either 34 left or right? 10 A Husser was in 34 right pod. 11 Q And was -- your understanding, he was 12 able to see the incident for about the same amount 13 of time as the other folks? 14 A Yes. 15 Q And he's not provided a statement? 16 A He has. 17 Q He has. So did you attach that to 18 the interrogatory responses? 19 A I believe I did, sir. 20 Q Okay. And with regard to 21 Mr. Husser's statement, would you have discussed 22 that with him and then you wrote the statement, or 23 did he, or how did that work? 24 A He wrote his own statement. 25 Q Okay. Robert Staples, did he write a</p>
<p style="text-align: right;">27</p> <p>1 time as Jones, Nowak, and Allen? 2 A Yes, sir. 3 Q And which side was he on? 4 A Jeeters [sic] was 34 right as well. 5 Q Okay. And how many times do you 6 think you discussed this incident with Michael 7 Jetters or Jetters, however they pronounce it? 8 A About four times. 9 Q Okay. Do you know when he left here? 10 A I don't recall when he left, but he 11 returned and then he left again. So -- 12 Q Okay. And the most recent leaving 13 was approximately? 14 A About 2/13, I believe. 15 Q Okay. William Gilmore. Says he 16 witnessed the excessive use of force and has 17 relevant information concerning the issues raised 18 in the pleadings. Did you attach a statement of 19 William Gilmore's to this? 20 A No. 21 Q Did you discuss with Mr. Gilmore what 22 he saw that day? 23 A I did. 24 Q And generally, what did he see based 25 on your memory?</p>	<p style="text-align: right;">29</p> <p>1 statement? 2 A No. 3 Q Okay. Did you discuss what he saw 4 with him? 5 A No. That wasn't -- he wasn't -- 6 didn't witness the -- 7 Q Okay. 8 A -- excessive force. 9 Q In fact, we're getting to the next 10 four, which are endorsed to testify a little bit 11 differently, and let me go ahead and go over 12 those. It says, "Mr. Staples was on the same tier 13 as plaintiff in segregation and overheard" I 14 believe that's many of the conversation -- should 15 be many, correct? 16 A Yes. 17 Q "Of the conversations plaintiff had 18 with staff as he spoke to them as they made their 19 various rounds, and he has relevant information 20 concerning the issues raised in the pleadings." 21 What type of conversations do you 22 believe he overheard. What's he going to add to 23 this? 24 MR. LAMPIASI: I'll object to form. 25 Q BY MR. CAIN: Best of your knowledge,</p>

<p style="text-align: right;">30</p> <p>1 sir.</p> <p>2 A He may have recalled me speaking with</p> <p>3 the nurses regarding my injuries, may recall</p> <p>4 speaking to Captain Cordova regarding additional</p> <p>5 photographs, the number of TASER holes in my back.</p> <p>6 Q Okay.</p> <p>7 A May recall me asking for pictures in</p> <p>8 addition.</p> <p>9 Q Okay. It says, "Mr. Staples is a</p> <p>10 former CTCF inmate."</p> <p>11 When did he leave? Do you remember?</p> <p>12 A Would have been 2013, I believe.</p> <p>13 Q All right. And the nurses that you</p> <p>14 believe he may have overheard speaking with, who</p> <p>15 might those be?</p> <p>16 A Nurse Rudnick [phonetic], Nurse</p> <p>17 Bufmack.</p> <p>18 Q Okay.</p> <p>19 A Nurse Grieb, I believe.</p> <p>20 Q Do you know how to spell that last</p> <p>21 name?</p> <p>22 A G-R-I-E-B.</p> <p>23 Q Okay. Anything else that Mr. Staples</p> <p>24 may have overheard that you believe is relevant to</p> <p>25 this case that you can think of right now?</p>	<p style="text-align: right;">32</p> <p>1 A Mr. Horton. The other two, no.</p> <p>2 Q Okay. And when did you discuss this</p> <p>3 with Mr. Horton?</p> <p>4 A In segregation during that period of</p> <p>5 time and in population here.</p> <p>6 Q Okay. How many times in pop -- well,</p> <p>7 how many times in segregation during -- I'm</p> <p>8 assuming late February, sometime March 2012?</p> <p>9 A Yes, sir.</p> <p>10 MR. LAMPIASI: Object to the form.</p> <p>11 Q BY MR. CAIN: How many times do you</p> <p>12 think you discussed that with him?</p> <p>13 A Well, probably we spoke about three</p> <p>14 different occasions in segregation, a few in</p> <p>15 population.</p> <p>16 Q When's the last time in population</p> <p>17 you would have discussed this with him, ballpark?</p> <p>18 A I don't recall.</p> <p>19 Q Within the last year?</p> <p>20 A Yes, it's been within the last year.</p> <p>21 Q So that's probably 2015?</p> <p>22 A Yeah.</p> <p>23 Q Okay. Arthur W. Smith, again, he's a</p> <p>24 current CTCF inmate. He was -- well, before I get</p> <p>25 to him, I note a number of the folks previously</p>
<p style="text-align: right;">31</p> <p>1 A I can't recall at this point.</p> <p>2 Q Okay. Ezekiel Trujillo. Says he's a</p> <p>3 former CTCF inmate, and his endorsement is similar</p> <p>4 to Mr. Staples. Same tier in segregation and may</p> <p>5 have overheard conversations you had with staff</p> <p>6 that might be relevant to this case, you believe.</p> <p>7 Would he have potentially overheard essentially</p> <p>8 similar statements you may have made to the people</p> <p>9 you mentioned with regard to Mr. Staples?</p> <p>10 A Yes.</p> <p>11 MR. LAMPIASI: Object to the form.</p> <p>12 Excuse me.</p> <p>13 Q BY MR. CAIN: Okay. Arvel Horton,</p> <p>14 H-O-R-T-O-N. Now, he's a current CTCF inmate, so</p> <p>15 he's still here as of today?</p> <p>16 A Yes.</p> <p>17 Q And, again, with the knowledge he may</p> <p>18 have, would that -- would he potentially have</p> <p>19 overheard similar conversations as your</p> <p>20 descriptions concerning Mr. Staples and</p> <p>21 Mr. Trujillo?</p> <p>22 A Yes, sir.</p> <p>23 Q Have you had a conversation with</p> <p>24 Mr. Staples, Mr. Trujillo, or Mr. Horton as to</p> <p>25 what they may have overheard specifically?</p>	<p style="text-align: right;">33</p> <p>1 are listed as former CTCF inmates. Do you have</p> <p>2 any reason to believe that those folks were moved</p> <p>3 out of here for any reason related to this case or</p> <p>4 just simply simple turnover?</p> <p>5 A I'm not sure. I don't know.</p> <p>6 Q Do you have any reason to believe</p> <p>7 that they were moved out of here for any reason</p> <p>8 related to this case?</p> <p>9 A I'm not sure.</p> <p>10 Q Arthur W. Smith is a current CTCF</p> <p>11 inmate. Mr. Smith was plaintiff's cellmate from</p> <p>12 April 4th, 2012, to May 30th, 2013, and has</p> <p>13 relevant information concerning the issues raised</p> <p>14 in the pleadings. What information do you think</p> <p>15 Arthur Smith might have, sir?</p> <p>16 A Information relating to the damage</p> <p>17 that was done to my hands.</p> <p>18 Q Done to your what?</p> <p>19 A My hands.</p> <p>20 Q Okay. And what damage was that?</p> <p>21 A I had damage to the back of my hands</p> <p>22 in the bones and --</p> <p>23 Q Were the bones actually broken or</p> <p>24 bruised or do you know?</p> <p>25 A I believe they were fractured.</p>

<p style="text-align: right;">34</p> <p>1 Q Fractured. Okay. And what caused</p> <p>2 them to be fractured?</p> <p>3 A The excessive force, I believe.</p> <p>4 Q From what?</p> <p>5 A Bending of my wrist while I was</p> <p>6 handcuffed.</p> <p>7 Q Okay.</p> <p>8 A Pulling on the elbow.</p> <p>9 Q I'm sorry?</p> <p>10 A Pulling on my elbow.</p> <p>11 Q Okay.</p> <p>12 A Bending my wrist while handcuffed</p> <p>13 very forcefully, sir.</p> <p>14 Q Okay. You said handcuffed very</p> <p>15 forcibly?</p> <p>16 A While I was handcuffed, they were</p> <p>17 doing the bending and the pulling very forcefully.</p> <p>18 Q Forcefully. Okay. So the area of</p> <p>19 the broken bones would be around where the</p> <p>20 handcuffs were then?</p> <p>21 A They were in the -- in the carpal</p> <p>22 bones in the back of my hand.</p> <p>23 Q Top of your back of your hands.</p> <p>24 A Yes, sir.</p> <p>25 Q Correct?</p>	<p style="text-align: right;">36</p> <p>1 your cellmate from April 4th, 2012, to May 30th,</p> <p>2 2013. So this was, oh, a little over a month or</p> <p>3 so after this incident, correct?</p> <p>4 A Yes, sir.</p> <p>5 Q Who had been your cellmate prior to</p> <p>6 that?</p> <p>7 A I believe it was Gilmore. William</p> <p>8 Gilmore was my celly. Was it Gilmore?</p> <p>9 Q Who is referenced on page 2 of</p> <p>10 Exhibit A?</p> <p>11 A Yes. But no, it wasn't Gilmore. I</p> <p>12 had moved from 34 right pod over to the left side.</p> <p>13 I don't recall who the cellmate was prior to him.</p> <p>14 Q Okay. Would you have talked to that</p> <p>15 cellmate about injury to your hands or were you</p> <p>16 still in --</p> <p>17 A The injury.</p> <p>18 Q The injury that you're claiming from</p> <p>19 the February 29th, 2012, incident, would you have</p> <p>20 told your prior cellmate about that?</p> <p>21 A No.</p> <p>22 Q Why not?</p> <p>23 A We weren't cellmates at that time.</p> <p>24 Q Okay.</p> <p>25 A The injury took place afterwards.</p>
<p style="text-align: right;">35</p> <p>1 Okay. Did you have anybody verify</p> <p>2 that these bones were fractured or broken?</p> <p>3 A There was X-rays.</p> <p>4 Q Who took those X-rays?</p> <p>5 A I don't know who the technician was,</p> <p>6 but it was part of the treatment that I received a</p> <p>7 month later.</p> <p>8 Q Okay. And they indicated to you that</p> <p>9 the bones were actually fractured.</p> <p>10 A I believe that it came back and said</p> <p>11 discoloration or -- I don't recall what the</p> <p>12 specific report said.</p> <p>13 Q Okay. Do you know if anybody</p> <p>14 specifically told you that you had fractured bones</p> <p>15 in your hands, wrists due to this incident of</p> <p>16 February 29th, 2012?</p> <p>17 A No.</p> <p>18 Q It's just your suspicion at this</p> <p>19 point.</p> <p>20 A Yes.</p> <p>21 Q Okay. Anything else that Arthur</p> <p>22 Smith, information he might have related -- you</p> <p>23 believe is related to this case?</p> <p>24 A No.</p> <p>25 Q Do you know why -- it says he was</p>	<p style="text-align: right;">37</p> <p>1 Q Okay. I guess what I'm asking is:</p> <p>2 So when did you get out of segregation from this</p> <p>3 incident?</p> <p>4 A That was March 29th.</p> <p>5 Q Okay. So the only cellmate -- the</p> <p>6 first cellmate you had after this incident was</p> <p>7 Arthur Smith.</p> <p>8 A Yes, sir.</p> <p>9 Q Is that correct?</p> <p>10 Okay. Because in segregation, you're</p> <p>11 kind of there by yourself.</p> <p>12 A Yes, sir.</p> <p>13 Q Correct.</p> <p>14 Okay. Who is your present cellmate?</p> <p>15 A His name is Tony Johnson, I believe.</p> <p>16 Just moved him.</p> <p>17 Q Okay. Let's go to -- looking at the</p> <p>18 bottom of page 2 of Exhibit A, your interrogatory</p> <p>19 responses and then going to -- actually to the top</p> <p>20 of page 3 and interrogatory number 3, it's asking</p> <p>21 you to describe in detail the nature and extent of</p> <p>22 the alleged injuries to your wrists. Now, you</p> <p>23 might remember that -- looks like Nicole Gellar,</p> <p>24 the assistant attorney general, was on the case at</p> <p>25 the time these interrogatories were propounded and</p>

10 (Pages 34 to 37)

<p>38</p> <p>1 you responded to them.</p> <p>2 A Uh-huh. Yes.</p> <p>3 Q Okay. Did you ever meet her?</p> <p>4 A No.</p> <p>5 Q Okay. So interrogatory number 3</p> <p>6 talks about your injuries. Your response was</p> <p>7 plaintiff suffered -- I'm assuming you mean from</p> <p>8 this February 29th, 2012, incident. Plaintiff</p> <p>9 suffered unnecessary pain, swelling, scratches,</p> <p>10 cuts, deep indentations, scarring, decreased</p> <p>11 mobility, pain in both hands, injury to his carpal</p> <p>12 bones in the back of both hands, and nerve damage.</p> <p>13 Is that still your position today, sir?</p> <p>14 A Yes.</p> <p>15 Q Okay. Well, let's take a look at</p> <p>16 this. Unnecessary pain. That's certainly</p> <p>17 subjective. The swelling. Was that documented,</p> <p>18 the swelling?</p> <p>19 MR. LAMPIASI: Object to form.</p> <p>20 THE WITNESS: I believe so.</p> <p>21 Q BY MR. CAIN: Okay. And where was</p> <p>22 the swelling? Why don't you describe it to me.</p> <p>23 A It was in my wrist.</p> <p>24 Q All the way around?</p> <p>25 A My hands were swollen, sir.</p>	<p>40</p> <p>1 back and forward?</p> <p>2 A Yes, sir.</p> <p>3 Q Okay. And it says scratches. What</p> <p>4 were the scratches caused by and where were they?</p> <p>5 A I had scratches on my wrists.</p> <p>6 Q Top of your wrists?</p> <p>7 A Both sides, actually.</p> <p>8 Q On the top of your wrists? That's</p> <p>9 where you were indicating, I thought. I just</p> <p>10 wanted you --</p> <p>11 A Yes.</p> <p>12 Q -- to confirm that.</p> <p>13 A Yes.</p> <p>14 Q Okay. And also, cuts. Same place?</p> <p>15 A Yeah. They were on the arm from here</p> <p>16 (indicating) to here (indicating).</p> <p>17 Q Top of the arm?</p> <p>18 A Both sides, sir.</p> <p>19 Q Okay. And you believe that was</p> <p>20 caused by the handcuffs?</p> <p>21 A Yes.</p> <p>22 Q So were the handcuffs actually</p> <p>23 sliding up and down the wrist or lower arm?</p> <p>24 A At one point, yes, sir.</p> <p>25 Q Okay. At what point was that that</p>
<p>39</p> <p>1 Q Okay. And you believe that was</p> <p>2 caused by the handcuffs?</p> <p>3 A Yes, sir.</p> <p>4 Q Okay.</p> <p>5 A And the bending and pulling as well.</p> <p>6 Q Okay. And when you say bending and</p> <p>7 pulling, I'm trying to get a sense of that. Can</p> <p>8 you give me an example of how they -- how your</p> <p>9 wrist was bent and pulled, your hand, causing</p> <p>10 injury?</p> <p>11 A Well, the handcuffs are placed on</p> <p>12 this area here (indicating).</p> <p>13 Q Around your wrist?</p> <p>14 A And they were tight.</p> <p>15 Q Okay.</p> <p>16 A And while the handcuffs were on,</p> <p>17 there was various officers that would -- that was</p> <p>18 bending the wrist back as far as they could.</p> <p>19 Bending this way (indicating) and bending back and</p> <p>20 also pulling on the -- on the elbow at various</p> <p>21 times.</p> <p>22 Q Okay.</p> <p>23 A And in the tape you could hear me</p> <p>24 complain about that, sir.</p> <p>25 Q Okay. So actually bending your hand</p>	<p>41</p> <p>1 they were sliding up and down the wrists? Do you</p> <p>2 remember specifically or --</p> <p>3 A I remember when they picked me up by</p> <p>4 the handcuffs is when the --</p> <p>5 Q Okay. And who picked you up by the</p> <p>6 handcuffs?</p> <p>7 A I don't recall.</p> <p>8 Q Okay. So they picked up -- picked</p> <p>9 you up holding onto the handcuffs only?</p> <p>10 A What do you mean by "only"?</p> <p>11 Q Sure. It sounds -- when you say</p> <p>12 picked you up by the handcuffs, I'm getting the --</p> <p>13 I'm hearing that they grabbed between the</p> <p>14 handcuffs and lifted you without lifting any other</p> <p>15 part of your body. Or was it just partially, or</p> <p>16 how would you describe it?</p> <p>17 MR. LAMPIASI: Object to form.</p> <p>18 THE WITNESS: I can't recall. I</p> <p>19 remember them picking me up by using the</p> <p>20 handcuffs.</p> <p>21 MR. CAIN: Okay.</p> <p>22 THE WITNESS: So that's how my wrists</p> <p>23 got scraped up.</p> <p>24 Q BY MR. CAIN: And you can't say</p> <p>25 whether they were picking you up solely by</p>

<p style="text-align: right;">42</p> <p>1 grabbing your handcuffs or at least somebody's</p> <p>2 hand was on the handcuffs along with hands on</p> <p>3 other parts of your body?</p> <p>4 A No.</p> <p>5 MR. LAMPIASI: Object to form.</p> <p>6 THE WITNESS: No. I believe they --</p> <p>7 Q BY MR. CAIN: You believe?</p> <p>8 A I believe they picked me up by the</p> <p>9 handcuffs.</p> <p>10 Q And not lifting any other portion of</p> <p>11 your body? Just the handcuffs?</p> <p>12 A Yeah, not at that time.</p> <p>13 Q Okay. And the handcuffs then slid up</p> <p>14 and caused injury up your arm?</p> <p>15 A Abrasions and scrapes.</p> <p>16 Q Okay. On both arms, then. They</p> <p>17 slipped up both arms?</p> <p>18 A Yes, sir.</p> <p>19 Q And what is scratching? I haven't</p> <p>20 been in a whole lot of handcuffs. So what is</p> <p>21 scratching on the handcuffs? I thought they were</p> <p>22 relatively smooth.</p> <p>23 MR. LAMPIASI: Object to form.</p> <p>24 THE WITNESS: I'm not understanding</p> <p>25 the --</p>	<p style="text-align: right;">44</p> <p>1 left from the cuts.</p> <p>2 Q Okay. So they -- over the three</p> <p>3 years or so, they've gone away --</p> <p>4 A Yes, sir.</p> <p>5 Q -- gradually?</p> <p>6 A Yes.</p> <p>7 Q Okay. And I do notice today you have</p> <p>8 your left hand in a bandage. Is that due to</p> <p>9 anything related to this February 29th, 2012,</p> <p>10 incident?</p> <p>11 A Yes, sir.</p> <p>12 Q Okay. Why don't you tell me what --</p> <p>13 how that is related.</p> <p>14 A We had surgery. It was considered a</p> <p>15 carpal tunnel surgery. That was during the</p> <p>16 incident. I reported that this (indicating), the</p> <p>17 handcuff here on the left hand (indicating) was</p> <p>18 tight, and it damaged the nerve on this hand</p> <p>19 (indicating).</p> <p>20 Q On your left hand?</p> <p>21 A On my left hand, yes, sir.</p> <p>22 Q Down to the base of your thumb, it</p> <p>23 looked like you were pointing at. In that area?</p> <p>24 A Yeah. You can tell instantly that</p> <p>25 was.</p>
<p style="text-align: right;">43</p> <p>1 MR. CAIN: Sure.</p> <p>2 THE WITNESS: -- question.</p> <p>3 Q BY MR. CAIN: What part of the metal</p> <p>4 of the handcuff is actually causing you</p> <p>5 scratching? I thought they were somewhat smooth.</p> <p>6 A Yeah, but when they are tight, they</p> <p>7 are tight, and they are not smooth, and they are</p> <p>8 scratching your skin, sir.</p> <p>9 Q So they dig into your skin.</p> <p>10 A Yes.</p> <p>11 Q And also in that interrogatory</p> <p>12 response on page 3 of Exhibit A, you refer to deep</p> <p>13 indentations. Was that similarly caused by the</p> <p>14 handcuffs, you believe?</p> <p>15 A Yes, by the handcuffs.</p> <p>16 Q And were those deep indentations on</p> <p>17 the top, on the bottom, sides, or --</p> <p>18 A All the way around.</p> <p>19 Q All the way around both wrists?</p> <p>20 A Yes, sir.</p> <p>21 Q Okay. Also says scarring. Where do</p> <p>22 you have scarring on those wrists because of this</p> <p>23 February 29th, 2012, incident, sir?</p> <p>24 A You can't see them now because of my</p> <p>25 skin coloration, but there was definitely scars</p>	<p style="text-align: right;">45</p> <p>1 Q Okay. And was that because the</p> <p>2 handcuff rode up onto the thumb and caused injury,</p> <p>3 or how would you describe it?</p> <p>4 MR. LAMPIASI: Object to the form.</p> <p>5 THE WITNESS: It was just tight in</p> <p>6 that area.</p> <p>7 Q BY MR. CAIN: Okay. And so did they</p> <p>8 do what's called a carpal tunnel release surgery,</p> <p>9 or what's your understanding?</p> <p>10 A I understand that they did a carpal</p> <p>11 tunnel release, sir.</p> <p>12 Q And when was that done?</p> <p>13 A I believe it was September the 3rd, I</p> <p>14 believe.</p> <p>15 Q Of 2015?</p> <p>16 A Yes, sir.</p> <p>17 Q Okay. And who did that?</p> <p>18 A It was Dr. Romero at the St. Mary's</p> <p>19 Hospital in Pueblo.</p> <p>20 Q St. Mary-Corwin?</p> <p>21 A Corwin, yes, sir.</p> <p>22 Q Okay. How's it been doing?</p> <p>23 A I'm getting some feeling back in my</p> <p>24 fingertips. I have no feeling in my thumb.</p> <p>25 Q Okay. How long have you been having</p>

12 (Pages 42 to 45)

<p style="text-align: right;">46</p> <p>1 tingling or numbness in your fingertips or thumb</p> <p>2 on the left hand?</p> <p>3 MR. LAMPIASI: Object to form.</p> <p>4 THE WITNESS: 2005, I believe.</p> <p>5 Q BY MR. CAIN: Okay. It started then?</p> <p>6 A (Nodded.)</p> <p>7 Q That's a "yes" for the record?</p> <p>8 A Yes.</p> <p>9 Q I could tell you nodded your head,</p> <p>10 but that's fine.</p> <p>11 A I'm sorry. I got it.</p> <p>12 Q Do you know why this started in 2005?</p> <p>13 Did you relate it to any particular activity? Any</p> <p>14 particular injury?</p> <p>15 A You know, I thought it was related to</p> <p>16 exercise, to weightlifting, but there was a</p> <p>17 incident, another handcuffing incident that took</p> <p>18 place in Washington. I was examined at the</p> <p>19 hospital, and they said that I had carpal tunnel.</p> <p>20 And I believe it was as a result of that. And I</p> <p>21 had also been giving massages under the table and</p> <p>22 that may have contributed.</p> <p>23 Q Okay. With regard to -- you say you</p> <p>24 giving or getting massages?</p> <p>25 A Giving massages.</p>	<p style="text-align: right;">48</p> <p>1 atrophy?</p> <p>2 A Yes.</p> <p>3 Q Okay. And so kind of in the palm,</p> <p>4 the heel of the left hand?</p> <p>5 A Yes.</p> <p>6 Q That muscle got smaller?</p> <p>7 A Yes.</p> <p>8 Q Okay.</p> <p>9 A Just on the left hand. I'm</p> <p>10 right-handed.</p> <p>11 Q Okay. And you said you could</p> <p>12 immediately -- you immediately knew that you</p> <p>13 damaged the nerve. How? Describe why you</p> <p>14 immediately knew you damaged the nerve.</p> <p>15 A You could just -- you could feel it.</p> <p>16 Q What did it feel like?</p> <p>17 A Just numbness, tingling. Just -- I</p> <p>18 don't know how to describe it, but you could tell</p> <p>19 that there was -- that there was additional damage</p> <p>20 here (indicating).</p> <p>21 Q Okay. And have you received any</p> <p>22 relief since the surgery on the left hand at all?</p> <p>23 Has it gotten any better?</p> <p>24 A Since the surgery?</p> <p>25 Q Yes, sir.</p>
<p style="text-align: right;">47</p> <p>1 Q Okay. And so that could have</p> <p>2 contributed to the carpal tunnel in your left</p> <p>3 hand?</p> <p>4 A Possibly, yes.</p> <p>5 Q And are you left- or right-hand</p> <p>6 dominant, sir?</p> <p>7 A I'm right-handed.</p> <p>8 Q And with regard to that left hand,</p> <p>9 did these symptoms change at all at the time of or</p> <p>10 immediately after this February 29th, 2012,</p> <p>11 incident?</p> <p>12 A My left hand got progressively worse.</p> <p>13 Q Okay. And when you say progressively</p> <p>14 worse, was worse an hour later, a day later, a</p> <p>15 week later, a month later, or how did that</p> <p>16 progress?</p> <p>17 A I could tell instantly that there was</p> <p>18 damage to the nerve, and then over time, I started</p> <p>19 losing feeling. That's what I mean by</p> <p>20 progressive.</p> <p>21 Q Okay.</p> <p>22 A So over time, I started losing</p> <p>23 feeling, and then the muscle in this area here</p> <p>24 (indicating) was just gone.</p> <p>25 Q So I guess -- have you heard the word</p>	<p style="text-align: right;">49</p> <p>1 A On the left thumb?</p> <p>2 Q On the left, yes.</p> <p>3 A No.</p> <p>4 Q How about the left wrist and hand, in</p> <p>5 general?</p> <p>6 A The hand, I'm getting feeling and</p> <p>7 stuff back in my -- in my fingertips now. We</p> <p>8 discussed that with the doctor.</p> <p>9 Q Okay.</p> <p>10 A And said it might take time, might</p> <p>11 come back, might not.</p> <p>12 Q Okay. How about the right wrist? Do</p> <p>13 you feel that your -- you had carpal tunnel</p> <p>14 starting at least back in 2004 or '5 in the right</p> <p>15 side, too, correct?</p> <p>16 A Yes, sir.</p> <p>17 Q Okay. And was that exacerbated at</p> <p>18 all by this February 29th, 2012, incident, do you</p> <p>19 believe?</p> <p>20 A The right, I don't know if it totally</p> <p>21 exacerbated or not, but after the incident, I had</p> <p>22 problems with the right as well.</p> <p>23 Q Okay. Has that -- have those</p> <p>24 problems kind of gone back to where they were</p> <p>25 before this February 29th, 2012, incident?</p>

<p>50</p> <p>1 MR. LAMPIASI: Object to foundation.</p> <p>2 Q BY MR. CAIN: To the right?</p> <p>3 MR LAMPIASI: Objection. Foundation.</p> <p>4 Q BY MR. CAIN: From your perspective.</p> <p>5 A For awhile, I experienced a lot of</p> <p>6 pain and discomfort.</p> <p>7 Q Okay. But as you sit here today, is</p> <p>8 the right hand pretty similar to what it would</p> <p>9 have been back in 2011, 2010, 2009?</p> <p>10 MR. LAMPIASI: Object to form.</p> <p>11 THE WITNESS: No, it's not. It's</p> <p>12 worse.</p> <p>13 Q BY MR. CAIN: Can you tell me how</p> <p>14 much worse it is?</p> <p>15 A There's more tingling. There's more</p> <p>16 numbness. There's more just lack of -- I don't</p> <p>17 know how to describe it. The strength is gone.</p> <p>18 Q Okay. When you say numbness and</p> <p>19 tingling in the right hand, where is it? What</p> <p>20 part of the hand? What part of the fingers?</p> <p>21 A It's the fingers. The whole hand.</p> <p>22 The whole hand, it tingles. It goes numb. I</p> <p>23 don't have any feelings in the fingertips at all</p> <p>24 in these fingers (indicating).</p> <p>25 Q Okay. And so it's all five fingers?</p>	<p>52</p> <p>1 Q Okay. What did he have to say about</p> <p>2 that?</p> <p>3 A I don't know what he had to say. He</p> <p>4 just said he was gonna put in the consult.</p> <p>5 Q Okay. Let's go down to the next</p> <p>6 interrogatory response. And I'm going to go</p> <p>7 through another statement here in more detail</p> <p>8 later that you gave regarding this February 29th,</p> <p>9 2012, incident. But I want to hit a little bit in</p> <p>10 this. The question was: Explain in detail why</p> <p>11 you allege that staff here at the facility were</p> <p>12 not justified in using force against you on the</p> <p>13 date of the incident.</p> <p>14 And your response, the first sentence</p> <p>15 is: "When plaintiff was told by Clinkenbeard that</p> <p>16 he was going to seg" -- I assume that means</p> <p>17 segregation?</p> <p>18 A Yes.</p> <p>19 Q "For disrupting the facility, he told</p> <p>20 her that he had not disrupted the facility and</p> <p>21 that she was being unreasonable."</p> <p>22 Why don't you describe what you mean</p> <p>23 by that. What was going on there?</p> <p>24 A She told me that I was going to</p> <p>25 segregation. And I said, "For what?"</p>
<p>51</p> <p>1 All four fingers and the thumb?</p> <p>2 A No. Just the four fingers.</p> <p>3 Q Just the four fingers? And all the</p> <p>4 way down to the tips?</p> <p>5 A As far as the numbness?</p> <p>6 Q Yes.</p> <p>7 A No. The numbness is in the</p> <p>8 fingertips and no feeling in the fingertips.</p> <p>9 Q Okay.</p> <p>10 A The experience, like numbness and</p> <p>11 electrical shocks, tingling.</p> <p>12 Q Okay. In the fingertips or</p> <p>13 throughout that hand?</p> <p>14 A It's throughout the hand.</p> <p>15 Q The right hand?</p> <p>16 A Yes.</p> <p>17 Q Okay. Are you still getting what</p> <p>18 feels to you like electrical shocks in the left</p> <p>19 hand since the surgery?</p> <p>20 A Yes, since the surgery. I discussed</p> <p>21 that with the doctor.</p> <p>22 Q Okay. Did the doctor indicate that</p> <p>23 he wanted to go ahead and do surgery on your right</p> <p>24 hand?</p> <p>25 A He did.</p>	<p>53</p> <p>1 She said, "For disrupting the</p> <p>2 facility."</p> <p>3 I said -- I told her that I didn't</p> <p>4 disrupt the facility.</p> <p>5 Q Okay. And what was she referring to?</p> <p>6 Did you have any idea what she was referring to?</p> <p>7 A She said that by virtue of her having</p> <p>8 to stop what she was doing downstairs to come</p> <p>9 upstairs because of Mr. Meyers' call that I had</p> <p>10 disrupted the facility.</p> <p>11 Q Okay. And what was the subject of</p> <p>12 Mr. Meyers' call, if you're aware of that?</p> <p>13 A He -- I don't know exactly what he</p> <p>14 told her.</p> <p>15 Q Okay. What you do know. I mean,</p> <p>16 what type of incident was he relating to her? Do</p> <p>17 you know?</p> <p>18 A Yes. He had asked me to give him</p> <p>19 copies or give him the envelope that I received</p> <p>20 from Mr. Milligan.</p> <p>21 Q Okay. I think you said Milligan. So</p> <p>22 is it Milligan or Mulligan?</p> <p>23 A Mulligan. Excuse me.</p> <p>24 Q You want to take a mulligan on that?</p> <p>25 A That's a mulligan. I'm sorry. Yeah.</p>

14 (Pages 50 to 53)

<p style="text-align: right;">54</p> <p>1 Q No problem. No problem. Just a 2 little jocularity halfway through the deposition 3 is a little bit of a relief. 4 So he was -- he had called her 5 regarding the -- what you had mentioned were the 6 grievances that were in an envelope? 7 A Yes. 8 Q That Mr. Mulligan was giving back to 9 you? 10 A Yes. 11 Q Okay. And had he asked for those 12 or -- 13 A Yes, he had. I had pulled them out 14 of the envelope, and I told him that they were 15 grievances, that I was gonna be turning those in 16 to my case manager that day. And I pulled them 17 out, and I held them up to the window and showed 18 him that they were grievances. And he told me to 19 give them to him, that they were going into 20 contraband. And I said, "Well, I'm going to turn 21 these into my case manager." And I said, "If you 22 want to write me up for disobeying a direct order, 23 you're more than welcome." 24 And I showed him the envelope, and I 25 tried to hand him the envelope through the small</p>	<p style="text-align: right;">56</p> <p>1 A Definitely positive. 2 Q Okay. And so it's your understanding 3 following that he simply called for someone -- 4 well, let me back up. You then put the grievances 5 back in the envelope? 6 A I took the envelope and the 7 grievances, put the grievances in the envelope, 8 and took them upstairs to my cell. 9 Q Okay. Why did you do that? 10 A Because I didn't want them to be 11 confiscated. I figured that if he took those -- 12 they were against a powerful captain here -- that 13 they would come up missing. 14 Q Okay. Had you ever had grievances 15 come up missing before? 16 A I haven't, no. 17 Q Okay. You've talked to other people 18 that have? 19 A Yes, sir. 20 Q Okay. And are you certain they 21 actually had that happen or was it just kind of 22 hearsay from them? 23 A You never know what people say in 24 here. 25 Q Okay. So you went up to your cell.</p>
<p style="text-align: right;">55</p> <p>1 window, and that was it. So -- and I went and 2 took that stuff up the stairs and put it in my 3 cell. 4 Q Okay. Let me ask you this: You say 5 you tried to hand him the envelope? 6 A Yes, sir. 7 Q Okay. And did he respond to your 8 attempts to try to hand him the envelope that you 9 could see? 10 A He wanted everything. And since I 11 didn't give him everything, he didn't take the 12 envelope. 13 Q Okay. And everything, to your 14 understanding, being the envelope and the 15 grievances inside? 16 A Yes, sir. 17 Q Was there anything else inside that 18 envelope? 19 A No, sir. 20 Q You're positive of that. 21 A I showed it to him. 22 Q Are you positive that there was 23 nothing else inside -- 24 A Yes, sir. 25 Q -- the envelope?</p>	<p style="text-align: right;">57</p> <p>1 You put the envelope with the grievances in it in 2 your cell. And then did you come back out of your 3 cell? 4 A Yes, I did. 5 Q Why? 6 A I came -- I was brushing my teeth and 7 washing my face. And so when I was coming down 8 the stairs, that's when Mrs. Clinkenbeard and the 9 other officer, Hanson, approached me. 10 Q Okay. And they approached you and 11 said what? 12 A Asked me to step out in the hall, and 13 she asked me why I had used profane language 14 against C.O. Meyers. 15 Q Okay. 16 A I told her I hadn't. 17 Q You're positive of that? 18 A Yes, sir. 19 Q Okay. 20 A In fact, I offered her to go in and 21 ask any of the inmates that were in the pod. 22 Q Okay. And then in your interrogatory 23 response you say, "She now claims the plaintiff 24 refused lawful orders to allow staff to search for 25 contraband."</p>

15 (Pages 54 to 57)

<p>58</p> <p>1 Did she bring that up?</p> <p>2 A No. She never mentioned searching me</p> <p>3 for contraband.</p> <p>4 Q Okay.</p> <p>5 A No.</p> <p>6 Q As far as from your perspective, did</p> <p>7 she have any reason to believe that you might have</p> <p>8 some sort of contraband given your actions that</p> <p>9 morning?</p> <p>10 MR. LAMPIASI: Object to form.</p> <p>11 Foundation.</p> <p>12 THE WITNESS: No. I was dressed in</p> <p>13 sweat pants and a T-shirt and some shower thongs.</p> <p>14 I didn't have anything. Where would I hide a</p> <p>15 nine-and-a-half-by-thirteen-inch envelope?</p> <p>16 Q BY MR. CAIN: Okay. Well, would it</p> <p>17 be typical for you to be getting envelopes or</p> <p>18 other items from another inmate at that time of</p> <p>19 the morning?</p> <p>20 A No.</p> <p>21 Q Okay. Let's go ahead and jump from</p> <p>22 this interrogatory response to another exhibit</p> <p>23 here, which is -- my understanding is a little bit</p> <p>24 more detailed statement by you of what happened on</p> <p>25 February 29th, 2012, from your perspective.</p>	<p>60</p> <p>1 A No. My handwriting today is very not</p> <p>2 good. So, comparison.</p> <p>3 Q Why is your handwriting today not</p> <p>4 good?</p> <p>5 A Because of the -- I don't have grip</p> <p>6 or feeling. Hands go numb when I write.</p> <p>7 Q In your right hand?</p> <p>8 A Yes, sir.</p> <p>9 Q Okay. Well, let's look at the top</p> <p>10 here. Why did you do this report?</p> <p>11 A After the -- while I was in</p> <p>12 segregation, Mrs. Aldrich came and I explained to</p> <p>13 her -- I had written her a letter explaining that</p> <p>14 -- what excessive force was used against me. And</p> <p>15 she had a report delivered. The first page is</p> <p>16 missing. I don't know where that is. Okay.</p> <p>17 That's it.</p> <p>18 Q And I will show you -- I did not</p> <p>19 think you had written that, but let me check. Let</p> <p>20 me go ahead and make this Exhibit C-1.</p> <p>21 (Exhibit No. C-1 was marked for</p> <p>22 identification by the court reporter.)</p> <p>23 Q BY MR. CAIN: This is going to be</p> <p>24 C-1. I'll show you -- and I don't have a copy, if</p> <p>25 you can share it with your attorney. I just</p>
<p>59</p> <p>1 A Okay.</p> <p>2 Q I'll show you what has been marked as</p> <p>3 Exhibit C, as in cat.</p> <p>4 MR. LAMPIASI: Thank you.</p> <p>5 Q BY MR. CAIN: And I'm going to show</p> <p>6 you also -- I believe there was an addendum that</p> <p>7 you had done to that.</p> <p>8 A Yes, sir.</p> <p>9 Q And that is Exhibit D. Kind of go</p> <p>10 through those.</p> <p>11 MR. LAMPIASI: I'm sorry. B is</p> <p>12 March --</p> <p>13 MR. CAIN: C --</p> <p>14 MR. LAMPIASI: C?</p> <p>15 MR. CAIN: -- is the first one and</p> <p>16 the addendum is Exhibit D.</p> <p>17 MR. LAMPIASI: Thank you.</p> <p>18 Q BY MR. CAIN: Okay. Sir, looking at</p> <p>19 Exhibit C, is this your writing? And take a look</p> <p>20 at it and make sure. My understanding is it is,</p> <p>21 but, by all means, check me on that.</p> <p>22 A That's a lot more neater than my</p> <p>23 writing.</p> <p>24 Q Okay. Is it your testimony that</p> <p>25 somebody else wrote that?</p>	<p>61</p> <p>1 pulled it out of my deposition notebook. At the</p> <p>2 bottom, it is Bates Stevenson-000673. Is that the</p> <p>3 first page document that you're referring to?</p> <p>4 A Yes, sir.</p> <p>5 Q And what -- is that your handwriting</p> <p>6 on that document?</p> <p>7 A Yes, sir.</p> <p>8 Q Okay. So you would have filled that</p> <p>9 out along with this attached letter?</p> <p>10 A Yes, sir.</p> <p>11 Q Okay. And you would have filled that</p> <p>12 out at the request of Ms. Aldrich?</p> <p>13 A Yes, sir.</p> <p>14 Q And what was Ms. Aldrich's position</p> <p>15 at that point?</p> <p>16 A She was the administrative services</p> <p>17 manager.</p> <p>18 Q Okay. Could you shove that back over</p> <p>19 here? Let me take a look at that right quick and</p> <p>20 see if I have any questions about that before we</p> <p>21 get to your longer letter.</p> <p>22 A If I could use the restroom.</p> <p>23 Q Sure. We'll take a break.</p> <p>24 (Recess taken from 1:59 p.m. to</p> <p>25 2:02 p.m.)</p>

16 (Pages 58 to 61)

<p style="text-align: right;">62</p> <p>1 MR. CAIN: We'll let the record</p> <p>2 reflect we took a little bit of a break.</p> <p>3 Q BY MR. CAIN: Back at it, sir. So we</p> <p>4 took a look at Exhibit C-1 is the cover sheet,</p> <p>5 essentially, for the D.O.C. conduct complaint.</p> <p>6 And then it says, see attached, a six-page</p> <p>7 complaint. And is Exhibit C, in fact, what was</p> <p>8 attached as the six-page complaint?</p> <p>9 A Yes.</p> <p>10 Q Okay. And so all the writing on C-1</p> <p>11 here was done by you on this form, sir?</p> <p>12 A Yes, sir.</p> <p>13 Q And then this letter is yours, C?</p> <p>14 A Yes.</p> <p>15 Q Okay. Let's go ahead and take a look</p> <p>16 that. That's dated March 14th, 2012. Were you</p> <p>17 still in segregation at the time you wrote that?</p> <p>18 A I was.</p> <p>19 Q Okay. So I guess the good news is</p> <p>20 you had nobody to interrupt you. That's about the</p> <p>21 only good news in segregation. Okay. It says,</p> <p>22 "On February 29th, 2012, in unit 1 at</p> <p>23 approximately 7:00 a.m. Sergeant Clinkenbeard told</p> <p>24 me to cuff up."</p> <p>25 And was that in -- and why did she</p>	<p style="text-align: right;">64</p> <p>1 understanding, why did she come up and see you</p> <p>2 rather than Mr. Meyers come out to see you?</p> <p>3 MR. LAMPIASI: Object. Foundation.</p> <p>4 THE WITNESS: I don't know.</p> <p>5 Q BY MR. CAIN: Okay. Was he in a</p> <p>6 position where he can come out or does he have to</p> <p>7 stay where he is?</p> <p>8 MR. LAMPIASI: Object to foundation.</p> <p>9 Q BY MR. CAIN: Per your understanding.</p> <p>10 A I don't know --</p> <p>11 MR. LAMPIASI: Same objection.</p> <p>12 THE WITNESS: I don't know if he</p> <p>13 could have come out. He probably could have come</p> <p>14 out.</p> <p>15 Q BY MR. CAIN: Okay. He was on duty</p> <p>16 that morning?</p> <p>17 A Yes, sir.</p> <p>18 Q Okay. And he was -- is it your</p> <p>19 understanding his duty would have been to watch</p> <p>20 you at that point?</p> <p>21 A Yes.</p> <p>22 MR. LAMPIASI: Object to foundation.</p> <p>23 Go ahead.</p> <p>24 THE WITNESS: Sorry. Yes.</p> <p>25 Q BY MR. CAIN: Okay. And do you know</p>
<p style="text-align: right;">63</p> <p>1 tell you to cuff up, your understanding?</p> <p>2 A She was -- she asked me if I had</p> <p>3 sworn at Mr. --</p> <p>4 Q Meyers?</p> <p>5 A Mr. Meyers. And I told her no. She</p> <p>6 asked me if I had -- if I had not given him an</p> <p>7 envelope, you know, and I told her -- I said,</p> <p>8 "Yes, I didn't give him an envelope and I took it</p> <p>9 up to my cell." And at that point, she told me to</p> <p>10 turn around and cuff up. And that's when I asked</p> <p>11 her, "To turn around and cuff up for what?"</p> <p>12 She said, "You're going to seg."</p> <p>13 And I said, "Seg for what?"</p> <p>14 She said, "Well, you disrupted the</p> <p>15 facility."</p> <p>16 And I said, "No, I haven't disrupted</p> <p>17 the facility."</p> <p>18 She said because she had to stop what</p> <p>19 she was doing downstairs and come up to tend to</p> <p>20 this, that I had disrupted the facility, and to</p> <p>21 turn around and cuff up. And I told her -- I</p> <p>22 said, "Look, we need to talk to the shift</p> <p>23 commander so we can get this straight." And I</p> <p>24 requested to see the shift commander.</p> <p>25 Q Okay. Now, why did she -- your</p>	<p style="text-align: right;">65</p> <p>1 what Officer Clinkenbeard's duty was that morning?</p> <p>2 A She was the sergeant of the unit.</p> <p>3 Q So was she in a position of observing</p> <p>4 unit one that morning or was she somewhere else?</p> <p>5 A She was in the unit.</p> <p>6 Q Okay.</p> <p>7 A He said that he called her and she</p> <p>8 came up, so she was in the unit.</p> <p>9 Q And when you say put this folder</p> <p>10 through a window, I've not been in this particular</p> <p>11 unit that you're talking about, so if you could</p> <p>12 help me a little bit. Was he in kind of a</p> <p>13 glassed-in area where he was viewing unit one at</p> <p>14 that time?</p> <p>15 A Yes. He was viewing our pod.</p> <p>16 Q Viewing the pod?</p> <p>17 A Yes, sir.</p> <p>18 Q And she was on a different floor, as</p> <p>19 far as you knew?</p> <p>20 A Yes. Her office was on the first</p> <p>21 floor downstairs.</p> <p>22 Q So as far as you knew, her duty was</p> <p>23 not to be watching that pod in that morning.</p> <p>24 MR. LAMPIASI: Object to form.</p> <p>25 Foundation.</p>

<p style="text-align: right;">66</p> <p>1 THE WITNESS: I don't know. I know</p> <p>2 they look at the cameras all the time and see</p> <p>3 what's going on.</p> <p>4 Q BY MR. CAIN: She wasn't in that</p> <p>5 glassed-in area with --</p> <p>6 A No, sir.</p> <p>7 Q -- Officer Meyers?</p> <p>8 A No, sir.</p> <p>9 Q Okay. Then going back to your</p> <p>10 six-page letter attached to your complaint, sir,</p> <p>11 it says, "I refused" -- I'm assuming her request</p> <p>12 to cuff up -- because you felt she was being</p> <p>13 totally unreasonable and requested to see a</p> <p>14 supervisor or shift commander.</p> <p>15 A Yes, sir.</p> <p>16 Q Do you know who the -- her supervisor</p> <p>17 or the shift commander was that morning?</p> <p>18 A The unit supervisor or lieutenant, I</p> <p>19 was -- I forget his name. I don't recall his</p> <p>20 name, but the shift commander was Captain Cordova.</p> <p>21 Q Captain who?</p> <p>22 A Cordova.</p> <p>23 Q Okay. Do you know if he was</p> <p>24 contacted about this incident prior to -- well,</p> <p>25 one, do you know if he was contacted regarding</p>	<p style="text-align: right;">68</p> <p>1 A Just harassment-type stuff.</p> <p>2 Q Can you give me an example?</p> <p>3 A Just shaking our cell down, taking</p> <p>4 stuff. I can't remember. Just the day prior,</p> <p>5 there was an incident with Mr. Meyers. I -- it's</p> <p>6 been so long, I can't recall.</p> <p>7 Q Okay. When you say shake down the</p> <p>8 cell, what do you mean?</p> <p>9 A Well, just shaking down our cell.</p> <p>10 It's coming in, searching, taking items.</p> <p>11 Q Actually taking items?</p> <p>12 A Yeah.</p> <p>13 Q What type of items?</p> <p>14 A I can't recall everything, but he</p> <p>15 used to shake down everything. He was a frequent</p> <p>16 cell shaker down.</p> <p>17 Q Okay. And when you say taking items</p> <p>18 or -- taking items that you're not supposed to</p> <p>19 have in the cell?</p> <p>20 A I guess.</p> <p>21 Q Or some gray areas? Or how would you</p> <p>22 describe that?</p> <p>23 A I don't know.</p> <p>24 Q Okay.</p> <p>25 A He was a shaker down. He liked</p>
<p style="text-align: right;">67</p> <p>1 this incident at all that day?</p> <p>2 A According to the reports, yes, he was</p> <p>3 called.</p> <p>4 Q As far as you know, do you know if he</p> <p>5 was contacted prior to Officer -- Sergeant</p> <p>6 Clinkenbeard asking you to cuff up?</p> <p>7 A I don't think so.</p> <p>8 Q Okay. Now, with regard to Sergeant</p> <p>9 Clinkenbeard, you knew her before this day?</p> <p>10 A Yes.</p> <p>11 Q Had you had any problems with her</p> <p>12 before this day?</p> <p>13 MR. LAMPIASI: Object to the form.</p> <p>14 MR. CAIN: I'm sorry. Is that "no"?</p> <p>15 A No.</p> <p>16 Q Okay. How about Meyers? Had you</p> <p>17 known him prior to this day? And this day, of</p> <p>18 course, again, being February 29th, 2012.</p> <p>19 A Yes.</p> <p>20 Q You knew him prior to this day.</p> <p>21 A Yes.</p> <p>22 Q Had any problems with him prior to</p> <p>23 that day?</p> <p>24 A Yes.</p> <p>25 Q What type of problems had you had?</p>	<p style="text-align: right;">69</p> <p>1 taking stuff, whether it was, you know, authorized</p> <p>2 or not.</p> <p>3 Q Okay. Can you remember specifically</p> <p>4 anything unauthorized that he took that he should</p> <p>5 not have from you?</p> <p>6 A I can't recall.</p> <p>7 Q Okay. So -- and other than that --</p> <p>8 you said shake down the cells -- what other types</p> <p>9 of problems had you had with him?</p> <p>10 A I can't -- just personality kind of</p> <p>11 thing. We just didn't get along at all.</p> <p>12 Q Okay. Can you put it in -- I know</p> <p>13 sometimes it's difficult to put in words, but can</p> <p>14 you put into words why you think you did not get</p> <p>15 along with him? Any particular things he did?</p> <p>16 Idiosyncracies? Anything like that?</p> <p>17 MR. LAMPIASI: Object to form.</p> <p>18 THE WITNESS: Meyers was just a</p> <p>19 gung-ho officer. Not too many people cared for</p> <p>20 him, not even the staff, so --</p> <p>21 Q BY MR. CAIN: When you say gung-ho,</p> <p>22 kind of a by-the-book type of guy?</p> <p>23 A Yeah.</p> <p>24 Q Kind of a Boy Scott I've heard people</p> <p>25 refer to him.</p>

18 (Pages 66 to 69)

<p style="text-align: right;">70</p> <p>1 A I don't know.</p> <p>2 Q Okay. Don't know what a Boy Scout</p> <p>3 is?</p> <p>4 A I know Boy Scott.</p> <p>5 Q But you're not going to call him a</p> <p>6 Boy Scout.</p> <p>7 A Right.</p> <p>8 Q But pretty gung-ho, you said.</p> <p>9 A Yes, sir.</p> <p>10 Q Okay. Had you ever had to grieve him</p> <p>11 for anything prior to this February 29th --</p> <p>12 A No, sir.</p> <p>13 Q -- 2012 date?</p> <p>14 Okay. Just -- there's a lot of folks</p> <p>15 in the facility and you might have talked to him</p> <p>16 last if you had the choice. Is that what you're</p> <p>17 saying?</p> <p>18 MR. LAMPIASI: Object to form.</p> <p>19 THE WITNESS: No.</p> <p>20 Q BY MR. CAIN: Okay. Did you ever</p> <p>21 talk to him about anything?</p> <p>22 A No.</p> <p>23 Q Okay. Ever try to get to know him at</p> <p>24 all? Talk to him about any subject at all?</p> <p>25 A No.</p>	<p style="text-align: right;">72</p> <p>1 Q Did you do it for them because they</p> <p>2 weren't maybe as tall as some of the others?</p> <p>3 A No. I was just waiting for the shift</p> <p>4 commander. I wanted to speak to a shift</p> <p>5 commander. I had that right.</p> <p>6 Q Okay. And why did you think you had</p> <p>7 that right?</p> <p>8 A Because the policy allows you to</p> <p>9 request to speak to a shift commander.</p> <p>10 Q Okay. Does the policy allow you to</p> <p>11 put your hands up in the air out of reach of the</p> <p>12 correctional officers?</p> <p>13 MR. LAMPIASI: Object. Foundation.</p> <p>14 THE WITNESS: No. Like I said, I was</p> <p>15 just waiting to talk to the shift commander.</p> <p>16 MR. CAIN: Okay.</p> <p>17 THE WITNESS: I thought it was</p> <p>18 unreasonable.</p> <p>19 MR. CAIN: Okay.</p> <p>20 THE WITNESS: Why would she handcuff</p> <p>21 me?</p> <p>22 Q BY MR. CAIN: But you did put your</p> <p>23 hands up in the air, and you just happened to have</p> <p>24 two females that weren't the tallest folks in the</p> <p>25 facility, correct?</p>
<p style="text-align: right;">71</p> <p>1 Q Just didn't like his attitude?</p> <p>2 A Yeah.</p> <p>3 Q That's a "yes"?</p> <p>4 A That's a "yes." Sorry.</p> <p>5 Q Okay. Now, back to Clinkenbeard,</p> <p>6 Sergeant Clinkenbeard. She's female, correct?</p> <p>7 A Yes.</p> <p>8 Q And we're going back to your</p> <p>9 statement, Exhibit C, next line, when she and C.O.</p> <p>10 Hanson -- what does C.O. mean, for the record?</p> <p>11 A Correctional officer.</p> <p>12 Q Hanson. And what is Correctional</p> <p>13 Officer Hanson's first name? Do you know? Did</p> <p>14 you know?</p> <p>15 A It was Jessica.</p> <p>16 Q Okay. "So when she and Jessica</p> <p>17 Hanson pursued me, I raised my hands straight in</p> <p>18 the air out of their reach."</p> <p>19 And why did you do that?</p> <p>20 A I was asking to wait until the shift</p> <p>21 commander arrived.</p> <p>22 Q Had you ever done that before in</p> <p>23 response to an officer at the facility trying to</p> <p>24 cuff you, put your hands up in the air?</p> <p>25 A No.</p>	<p style="text-align: right;">73</p> <p>1 MR. LAMPIASI: Object to the form.</p> <p>2 THE WITNESS: Yes.</p> <p>3 Q BY MR. CAIN: And you figured they</p> <p>4 wouldn't be able to reach your wrists given their</p> <p>5 height. I mean, that's just physics, correct?</p> <p>6 MR. LAMPIASI: Object to form.</p> <p>7 THE WITNESS: Not really. They are</p> <p>8 not that much shorter than I am.</p> <p>9 Q BY MR. CAIN: Okay. But do you think</p> <p>10 they could reach your wrists if you had them</p> <p>11 straight up in the air?</p> <p>12 A No.</p> <p>13 Q Okay. Then it says you -- "I raised</p> <p>14 my hands straight in the air out of their reach,</p> <p>15 went to the corner, knelt down, and laid flat on</p> <p>16 my stomach with my arms beneath me."</p> <p>17 Why did you do that?</p> <p>18 A I didn't want to touch anyone, and I</p> <p>19 didn't want to be cuffed. And I just kept asking</p> <p>20 to see the shift commander.</p> <p>21 Q Okay. Then it says "why" -- or while</p> <p>22 lying. I guess you meant while?</p> <p>23 A Yes, sir.</p> <p>24 Q "While lying in this passive</p> <p>25 position, I waited for someone with authority to</p>

19 (Pages 70 to 73)

<p style="text-align: right;">74</p> <p>1 arrive and question what was going on." 2 Next paragraph, "When other staff 3 arrived, including several lieutenants and a 4 captain, no one asked a single question." 5 Did you tell the lieutenants and a 6 captain what was going on? 7 A I didn't get a chance to tell anyone 8 anything. 9 Q Okay. 10 A I was just -- I was Tased. 11 Q Okay. Let's -- it says instead you 12 were immediately dog-piled by several officers. 13 What does dog-piled mean to you? 14 A I was just kind of jumped on. 15 Q Okay. And would it be out of the 16 ordinary to have an inmate such as yourself lying 17 on the floor? 18 MR. LAMPIASI: Object to the form. 19 Q BY MR. CAIN: Prior to their 20 dog-piling on you? 21 MR. LAMPIASI: Same objection. 22 THE WITNESS: Would it be -- could 23 you repeat the question? 24 Q BY MR. CAIN: Sure. Around this 25 time, February 29th, 2012, in the morning, would</p>	<p style="text-align: right;">76</p> <p>1 A A little. 2 Q Did you holler? 3 A Can't holler. You can't holler. You 4 can't move. You're just -- you're paralyzed when 5 you're Tased. 6 Q But after the voltage stops, did you 7 holler? 8 A I kept asking to talk to the shift 9 commander. 10 Q And who was the shift commander at 11 that time? Do you know? 12 A It was Mr. Cordova at that time. 13 Q Okay. And how did they respond? Or 14 did anyone respond? 15 A No. 16 Q No one responded to your request to 17 talk to the shift commander? 18 A Not at that time, no. 19 Q Okay. And your memory is that 20 Sergeant Espinoza was one of the officers who 21 Tased you? 22 A Yes. 23 Q Okay. And has your further 24 investigation confirmed that Sergeant Espinoza was 25 one of the officers who Tased you?</p>
<p style="text-align: right;">75</p> <p>1 it be out of the ordinary to be seeing an inmate 2 such as yourself lying on the floor in a hallway 3 like you were? 4 A Probably would be out of the 5 ordinary. 6 Q Okay. Had you ever seen anyone else 7 lie in the hall -- in that hallway? 8 A No. 9 Q Okay. So you're saying they 10 dog-piled you. And since you were lying on your 11 stomach with your arms beneath you, the weight of 12 the officers initially trapped my arms so I could 13 not move. Is that your memory? 14 A Yes, initially. 15 Q Could you talk at that point? 16 A I was being Tased. I couldn't talk 17 at all. 18 Q Well, how soon after they dog-piled 19 you were you Tased? 20 A It was instantly. 21 Q Okay. And how did you respond to 22 being Tased? 23 A When you're being Tased, you can't 24 respond. You're frozen. 25 Q Does it hurt?</p>	<p style="text-align: right;">77</p> <p>1 MR. LAMPIASI: Object to the form. 2 THE WITNESS: I believe that he may 3 have been the only one. I'm not sure. There may 4 have been more. 5 Q BY MR. CAIN: Okay. Was it your 6 understanding that one of the officers may have 7 attempted, but his TASER didn't Tase? I thought 8 one of the officers perhaps tried, but the TASER, 9 for some reason, did not work. 10 MR. LAMPIASI: Object. 11 Q BY MR. CAIN: Do you remember that? 12 MR. LAMPIASI: Object to the form. 13 Excuse me. 14 THE WITNESS: Do not remember. 15 Q BY MR. CAIN: Okay. You do not 16 remember that? 17 A That the TASER didn't work? 18 Q Yes. 19 A No, I don't recall that at all. 20 Q And your statement, Exhibit C, then 21 says, "This was unnecessary, unreasonable and 22 excessive." And I assume you are referring to the 23 Tasing? 24 A Yes. 25 Q Why do you believe it was</p>

20 (Pages 74 to 77)

<p style="text-align: right;">78</p> <p>1 unnecessary, unreasonable and excessive?</p> <p>2 A Well, I was Tased rapidly back to</p> <p>3 back to back to back.</p> <p>4 Q Okay.</p> <p>5 A I couldn't speak.</p> <p>6 Q Okay.</p> <p>7 A Couldn't move.</p> <p>8 Q And prior to that, just to get your</p> <p>9 full explanation, why did you lay down on the</p> <p>10 floor?</p> <p>11 MR. LAMPIASI: Object to form.</p> <p>12 THE WITNESS: I laid down on the</p> <p>13 floor because I was -- I wanted to wait till the</p> <p>14 shift commander arrived. I didn't want to touch</p> <p>15 anyone, and I didn't want to be handcuffed at that</p> <p>16 time.</p> <p>17 Q BY MR. CAIN: Why did you not want to</p> <p>18 touch anyone?</p> <p>19 A In situations like this, they can</p> <p>20 claim that you assaulted them.</p> <p>21 Q Did you feel the need to touch</p> <p>22 anyone?</p> <p>23 A No, sir.</p> <p>24 Q Okay. And why didn't you allow</p> <p>25 yourself to be cuffed?</p>	<p style="text-align: right;">80</p> <p>1 foundation. Answer.</p> <p>2 THE WITNESS: No. There was -- I'm,</p> <p>3 what, 6:30, 7:00 in the morning. I got on a</p> <p>4 T-shirt and some sweat pants. And the envelope</p> <p>5 that I had was nine by thirteen, and I put it in</p> <p>6 my cell, and I told her that I put it in my cell.</p> <p>7 So what reason would she have to have -- or think</p> <p>8 that I had some contraband?</p> <p>9 Q Was it your understanding that she</p> <p>10 had heard that you had received something from</p> <p>11 Mr. Mulligan?</p> <p>12 A She said that it was an envelope.</p> <p>13 She specifically said envelopes. I told her that</p> <p>14 there was grievances in the envelope and I put</p> <p>15 them in my cell.</p> <p>16 Q Okay. And did she ask to see that</p> <p>17 envelope?</p> <p>18 A She never asked.</p> <p>19 Q And this was shortly after you had</p> <p>20 received that envelope back from Mr. Mulligan,</p> <p>21 correct?</p> <p>22 A Yes. This was after I put it in my</p> <p>23 cell and came down the stairs.</p> <p>24 Q And just prior to that, you had</p> <p>25 received that from Mr. Mulligan, then took it up</p>
<p style="text-align: right;">79</p> <p>1 A Well, because I felt that it was</p> <p>2 unnecessary that I be cuffed. I hadn't done</p> <p>3 anything wrong.</p> <p>4 Q Why not allow yourself to be cuffed</p> <p>5 and then talk to the shift commander?</p> <p>6 A Well, if I didn't feel that I did</p> <p>7 anything wrong, I didn't feel there was no need to</p> <p>8 cuff me. And I didn't have any contraband or</p> <p>9 anything on me. It was just -- I felt it was</p> <p>10 unreasonable.</p> <p>11 Q Okay. And you feel that there's no</p> <p>12 way that officer Clindenbeard or Officer Hanson</p> <p>13 could have believed you had any contraband on you.</p> <p>14 Is that what you're saying?</p> <p>15 MR. LAMPIASI: Object to the form.</p> <p>16 Q BY MR. CAIN: Would that have been</p> <p>17 possible?</p> <p>18 MR. LAMPIASI: Same objection.</p> <p>19 THE WITNESS: The question is --</p> <p>20 would you repeat that?</p> <p>21 Q BY MR. CAIN: Sure. At that time,</p> <p>22 did you have -- did you believe that Officer</p> <p>23 Clindenbeard or Officer Hanson could have thought</p> <p>24 validly that you might have contraband on you?</p> <p>25 MR. LAMPIASI: Object to the form and</p>	<p style="text-align: right;">81</p> <p>1 to your cell, correct?</p> <p>2 A No. I showed it to the officer at</p> <p>3 the window first.</p> <p>4 Q And then took it to your cell.</p> <p>5 A Yes, sir.</p> <p>6 Q Okay. Going back to Exhibit C, it</p> <p>7 says, in this position on the floor with the</p> <p>8 weight on your back, you couldn't move your arms</p> <p>9 if you wanted to. The officers had to know this.</p> <p>10 Eventually, your right arm was freed and cuff, and</p> <p>11 then the other -- but at first in the position I</p> <p>12 was lying, I could not immediately bring my left</p> <p>13 arm back. Is that in response to their request to</p> <p>14 bring your left arm back to cuff it?</p> <p>15 A Well, yeah. They were asking me to</p> <p>16 cuff up at that time.</p> <p>17 Q Okay.</p> <p>18 A Yes.</p> <p>19 Q And did you voluntarily give them</p> <p>20 your right arm or did they take your right arm to</p> <p>21 cuff it?</p> <p>22 A I don't recall.</p> <p>23 Q Did they ask you to present your arms</p> <p>24 to be cuffed at that point?</p> <p>25 A Yes.</p>

21 (Pages 78 to 81)

<p style="text-align: right;">82</p> <p>1 Q And what was your response?</p> <p>2 A I didn't have a response. They just</p> <p>3 kept saying cuff up. Cuff up.</p> <p>4 Q Did you offer your right arm for them</p> <p>5 to cuff it?</p> <p>6 A At first, I couldn't do anything</p> <p>7 because I was frozen, and then the body weight was</p> <p>8 on me.</p> <p>9 Q But did you offer your right arm to</p> <p>10 be cuffed just prior to their actually cuffing</p> <p>11 your right arm or did they take it?</p> <p>12 A No. I was still asking to see the</p> <p>13 shift commander.</p> <p>14 Q Okay. Top of the next page, you say</p> <p>15 -- with regard to your left arm, did you</p> <p>16 voluntarily offer up your left arm to be cuffed at</p> <p>17 that time?</p> <p>18 A Top of the next page.</p> <p>19 Q Page 2.</p> <p>20 A I'm on page 2. I don't see where</p> <p>21 you're at.</p> <p>22 Q I'm asking you, on the bottom of page</p> <p>23 1, you said, given the position you were lying in,</p> <p>24 I could not immediately bring my left arm back.</p> <p>25 Correct?</p>	<p style="text-align: right;">84</p> <p>1 Q Okay. You say at the top of page 2</p> <p>2 that they, meaning the handcuffs, were put on</p> <p>3 extremely tight right from the beginning?</p> <p>4 A Yes.</p> <p>5 Q And you say you could feel the extra</p> <p>6 effort. What do you mean by that?</p> <p>7 A I could feel once they were put on,</p> <p>8 they were squeezed on.</p> <p>9 Q Was it causing you to lose the blood</p> <p>10 flow to your hands?</p> <p>11 A Yes, eventually.</p> <p>12 Q How long after they put them on do</p> <p>13 you felt -- did you feel you lost the blood flow</p> <p>14 going to your hands, or at least some of it?</p> <p>15 A It was quick.</p> <p>16 Q Okay.</p> <p>17 A It was quick.</p> <p>18 Q And you said cut deep into your skin</p> <p>19 and touched the bone on each side. Were your</p> <p>20 wrists bleeding at that point?</p> <p>21 A No. But they were -- the cuffs were</p> <p>22 extremely, extremely tight. There was no -- no</p> <p>23 room there.</p> <p>24 Q Okay. And you said, "Within seconds</p> <p>25 I could feel the circulation in my hands and</p>
<p style="text-align: right;">83</p> <p>1 A Uh-huh.</p> <p>2 Q That's a "yes"?</p> <p>3 A Yes.</p> <p>4 Q And the next page says, "When the two</p> <p>5 cuffs went on." I'm assuming in between that that</p> <p>6 they put the cuff on your left arm.</p> <p>7 A Yes.</p> <p>8 Q I'm asking: Did you voluntarily</p> <p>9 offer your left arm to be cuffed?</p> <p>10 A I believe I did at that point.</p> <p>11 Q Are you sure? Is that what the video</p> <p>12 reflects that you saw or do you remember?</p> <p>13 A Yeah. I don't -- I think once the --</p> <p>14 one of the -- the cuffs were on. I don't think I</p> <p>15 was resisting the cuffs after that point.</p> <p>16 Q Are you sure?</p> <p>17 A I was still asking to see the -- talk</p> <p>18 to the shift commander.</p> <p>19 Q Are you sure or don't remember, or</p> <p>20 how would you describe it?</p> <p>21 MR. LAMPIASI: Object to the form.</p> <p>22 THE WITNESS: I don't recall. I</p> <p>23 don't know.</p> <p>24 Q BY MR. CAIN: Don't recall?</p> <p>25 A No, I don't recall.</p>	<p style="text-align: right;">85</p> <p>1 fingers being cut off." Correct?</p> <p>2 A Yes, sir.</p> <p>3 Q Okay. So when they put those on that</p> <p>4 tight, what was your immediate response?</p> <p>5 A I complained.</p> <p>6 Q Okay. Were you hollering and saying,</p> <p>7 hey, that hurt?</p> <p>8 A Yes, I was.</p> <p>9 Q Okay. And how did they respond to</p> <p>10 you?</p> <p>11 A No one responded.</p> <p>12 Q Okay. Didn't they tell you to stand</p> <p>13 up?</p> <p>14 MR. LAMPIASI: Object to the form.</p> <p>15 THE WITNESS: I asked them to loosen</p> <p>16 the cuffs, told them that I had carpal tunnel and</p> <p>17 nerve damage.</p> <p>18 Q BY MR. CAIN: Okay. And did any of</p> <p>19 the officers say, are you willing to comply with</p> <p>20 us?</p> <p>21 A No one responded. The first two</p> <p>22 times, I complained there was no response.</p> <p>23 Q Okay. During this incident, did the</p> <p>24 officers ever ask you if you were going to comply?</p> <p>25 A They asked me to stand up,</p>

22 (Pages 82 to 85)

<p style="text-align: right;">86</p> <p>1 eventually, and I asked them if they would loosen</p> <p>2 the cuffs.</p> <p>3 Q Okay. So you made standing up</p> <p>4 contingent upon their loosening the cuffs.</p> <p>5 A Yes. I explained that the cuffs were</p> <p>6 extremely tight.</p> <p>7 Q Okay.</p> <p>8 A Then I asked them to loosen them.</p> <p>9 Q And they said stand up first,</p> <p>10 essentially.</p> <p>11 MR. LAMPIASI: Object to the form.</p> <p>12 THE WITNESS: Somebody said, "You</p> <p>13 don't dictate to us. You don't tell us what to</p> <p>14 do."</p> <p>15 So I said, "Fine. Carry me."</p> <p>16 Q BY MR. CAIN: Okay. Did it cross</p> <p>17 your mind that perhaps standing up and not having</p> <p>18 them carry you would have gotten those cuffs off</p> <p>19 sooner?</p> <p>20 A Probably not. I don't think so.</p> <p>21 Q Why not?</p> <p>22 A They weren't trying to -- just --</p> <p>23 they weren't trying to take the cuffs off. They</p> <p>24 weren't trying to loosen them.</p> <p>25 Q What was -- what was your</p>	<p style="text-align: right;">88</p> <p>1 to segregation, so --</p> <p>2 Q BY MR. CAIN: Had you ever been</p> <p>3 cuffed and taken to the nurse prior?</p> <p>4 A Yes.</p> <p>5 Q At that facility?</p> <p>6 A No, not at this facility.</p> <p>7 Q Okay. So you've been cuffed and</p> <p>8 taken to the nurse at other facilities. And when</p> <p>9 they got you to the nurse, would they have then</p> <p>10 taken the cuffs off in those other facilities for</p> <p>11 your examination?</p> <p>12 A I don't think so. I think they leave</p> <p>13 the cuffs on until you get to your segregation</p> <p>14 cell.</p> <p>15 Q You're sure about that.</p> <p>16 A Yeah, I'm sure.</p> <p>17 Q Okay. So basically, going back to</p> <p>18 this morning of December -- February 29th, 2012,</p> <p>19 they are asking you to stand up and walk. And you</p> <p>20 basically told them, you're going to have to carry</p> <p>21 me.</p> <p>22 A They asked me to stand up and walk.</p> <p>23 I asked them to loosen the cuffs. They said,</p> <p>24 "Stand up and walk."</p> <p>25 I said, "Loosen the cuffs, please,</p>
<p style="text-align: right;">87</p> <p>1 understanding why they wanted you to stand up and</p> <p>2 walk?</p> <p>3 A So they could take me to the hole,</p> <p>4 probably. I don't know.</p> <p>5 Q Did you know that?</p> <p>6 A I assumed. I assumed at that point.</p> <p>7 I was trying to prevent that. That's why I asked</p> <p>8 to see the shift commander. Once they cuff you,</p> <p>9 you're -- you're pretty much going to segregation,</p> <p>10 sir.</p> <p>11 Q Always?</p> <p>12 A Ninety percent of the time.</p> <p>13 Q You didn't go straight to segregation</p> <p>14 this day. You went to see a Nurse Bufmack, didn't</p> <p>15 you?</p> <p>16 A They always take you to the nurse</p> <p>17 first and then --</p> <p>18 Q Okay.</p> <p>19 A -- they take you to segregation.</p> <p>20 Q So you knew you were probably going</p> <p>21 to the nurse first on this day, February 29th,</p> <p>22 2012?</p> <p>23 MR. LAMPIASI: Object to form.</p> <p>24 THE WITNESS: I had that experience.</p> <p>25 I don't know or not. I knew I was probably going</p>	<p style="text-align: right;">89</p> <p>1 you know."</p> <p>2 And then, "You don't dictate to us.</p> <p>3 You don't tell us what to do."</p> <p>4 So that's when I said, "Well, fine.</p> <p>5 You carry me."</p> <p>6 Q Okay.</p> <p>7 A I had been reasonable up to that</p> <p>8 point.</p> <p>9 Q And at that point you became</p> <p>10 unreasonable?</p> <p>11 A I became defiant at that point.</p> <p>12 Q Okay.</p> <p>13 A Just like, you don't care about me.</p> <p>14 Q And again, it never occurred to you</p> <p>15 that if you would have complied and stood up and</p> <p>16 walked, they might have addressed the cuff issue.</p> <p>17 MR. LAMPIASI: Object to the form.</p> <p>18 Q BY MR. CAIN: Loosened it? Taken</p> <p>19 them off?</p> <p>20 MR. LAMPIASI: Same objection.</p> <p>21 THE WITNESS: You asked that</p> <p>22 question. I don't think they would have.</p> <p>23 Q BY MR. CAIN: Have you ever had</p> <p>24 correctional officers loosen cuffs in response to</p> <p>25 your request that they loosen cuffs before?</p>

<p style="text-align: right;">90</p> <p>1 A No.</p> <p>2 Q Have you ever had officers put your</p> <p>3 cuffs on too tight before this incident?</p> <p>4 A Yes.</p> <p>5 Q Did you ask them to loosen them?</p> <p>6 A Yes.</p> <p>7 Q Did they?</p> <p>8 A No.</p> <p>9 Q They've never done that?</p> <p>10 A That was the incident that I was</p> <p>11 discussing. No.</p> <p>12 Q And how many prior incidents have you</p> <p>13 had in facilities where you were cuffed?</p> <p>14 MR. LAMPIASI: Object to the form.</p> <p>15 THE WITNESS: I don't recall the --</p> <p>16 specifically how many.</p> <p>17 Q BY MR. CAIN: Okay. Had you ever</p> <p>18 been cuffed prior to this February 29th, 2012,</p> <p>19 incident at this facility?</p> <p>20 A No, I don't believe so.</p> <p>21 Q Are you sure?</p> <p>22 A No, I don't -- I don't think so.</p> <p>23 Q Okay. Did you have an incident back</p> <p>24 on March 30th, 2004, where you were -- refused to</p> <p>25 stand up, refused to cuff up and had to be Tased?</p>	<p style="text-align: right;">92</p> <p>1 A January 10th. I don't recall that</p> <p>2 one.</p> <p>3 Q In January -- January of 2004, would</p> <p>4 you have been in the Sterling facility?</p> <p>5 A Yes.</p> <p>6 Q Okay. Going back to December 23rd,</p> <p>7 2003, you had to be carried. Do you remember</p> <p>8 that?</p> <p>9 A Yes.</p> <p>10 Q Was that Sterling also?</p> <p>11 A Yes.</p> <p>12 Q Were the folks being unreasonable at</p> <p>13 that point?</p> <p>14 A Yes.</p> <p>15 Q Okay.</p> <p>16 A That's why I requested them to carry</p> <p>17 me.</p> <p>18 Q Okay. I'm assuming they asked you to</p> <p>19 stand up and walk, and you said, no, carry me.</p> <p>20 MR. LAMPIASI: Object to form.</p> <p>21 THE WITNESS: I don't recall.</p> <p>22 Q BY MR. CAIN: Do you know why they</p> <p>23 would have to carry you? Was it another too tight</p> <p>24 handcuff issue?</p> <p>25 A No, I don't recall that, but I recall</p>
<p style="text-align: right;">91</p> <p>1 A March 30th, 2004?</p> <p>2 Q Yes.</p> <p>3 A Yes.</p> <p>4 Q What facility was that at?</p> <p>5 A That was at Sterling, sir.</p> <p>6 Q Okay. In a nutshell, what happened</p> <p>7 there? What was that incident about?</p> <p>8 A I don't recall. I'd have to be</p> <p>9 refreshed.</p> <p>10 Q Okay. Were your wrists injured in</p> <p>11 that incident?</p> <p>12 A Not in that incident, no.</p> <p>13 Q January 16th, 2004, did you force the</p> <p>14 staff to carry you at an incident in early 2004?</p> <p>15 A I did. They were being unreasonable.</p> <p>16 Q Okay. Just as you believed they were</p> <p>17 March 30th, 2004?</p> <p>18 A March 30th.</p> <p>19 Q That we just talked about where you</p> <p>20 refused to stand up, refused to cuff up, and had</p> <p>21 to be Tased.</p> <p>22 MR. LAMPIASI: Object to the form.</p> <p>23 THE WITNESS: Yes.</p> <p>24 Q BY MR. CAIN: January 10th, 2004, you</p> <p>25 refused to stand up. Do you remember that?</p>	<p style="text-align: right;">93</p> <p>1 just some unreasonableness and -- and so, carry</p> <p>2 me.</p> <p>3 Q Okay. In this response, when you</p> <p>4 feel that they are unreasonable, you just say</p> <p>5 carry me, I guess I've heard the term passive</p> <p>6 resistance. Have you heard that term before?</p> <p>7 A Yes.</p> <p>8 Q Was that your intent there?</p> <p>9 Basically, if you're going to move me anywhere,</p> <p>10 you're just going to have to carry me?</p> <p>11 A Only --</p> <p>12 MR. LAMPIASI: Object to the form.</p> <p>13 THE WITNESS: Only if there was</p> <p>14 unreasonableness in there, in what was going on</p> <p>15 would I do that. And it's only been in that</p> <p>16 situation.</p> <p>17 Q BY MR. CAIN: Okay. And has that</p> <p>18 helped the situation in the past for you?</p> <p>19 MR. LAMPIASI: Object to the form.</p> <p>20 THE WITNESS: I don't know if it's</p> <p>21 helped or not.</p> <p>22 Q BY MR. CAIN: Did you file actions</p> <p>23 over those incidents?</p> <p>24 A I wasn't injured in those incidents.</p> <p>25 Q Did you file any civil rights</p>

<p style="text-align: right;">94</p> <p>1 violation actions?</p> <p>2 A No.</p> <p>3 Q Okay. Let's go back to page 2 of</p> <p>4 Exhibit C, sir.</p> <p>5 A Okay.</p> <p>6 Q And you said you told them to loosen</p> <p>7 up the cuffs because you have bilateral -- severe</p> <p>8 bilateral carpal tunnel and nerve damage. And</p> <p>9 their response was to stand up? Asked you to</p> <p>10 stand up again?</p> <p>11 A No. There was no response at that</p> <p>12 time.</p> <p>13 Q You said after you were cuffed and</p> <p>14 subdued. What do you mean by subdued?</p> <p>15 A I was handcuffed. I was shackled and</p> <p>16 surrounded by, the reports say, 13 officers.</p> <p>17 Subdued.</p> <p>18 Q While they were doing this, were you</p> <p>19 moving your arms, moving your legs in an attempt</p> <p>20 to get anybody off of you or to stand up?</p> <p>21 MR. LAMPIASI: Object to the form.</p> <p>22 THE WITNESS: At what point, sir?</p> <p>23 Q BY MR. CAIN: Prior to your being</p> <p>24 subdued.</p> <p>25 A Prior to the handcuffs going on or</p>	<p style="text-align: right;">96</p> <p>1 think it would have been reasonable for someone to</p> <p>2 assume that you were trying to get up?</p> <p>3 MR. LAMPIASI: Objection.</p> <p>4 Foundation.</p> <p>5 THE WITNESS: At the time they were</p> <p>6 -- I was being Tased and I couldn't move, really.</p> <p>7 MR. CAIN: Okay.</p> <p>8 THE WITNESS: You know, I was trying</p> <p>9 to -- I was hurting.</p> <p>10 Q BY MR. CAIN: You just said that you</p> <p>11 were moving because you were hurting. And I'm</p> <p>12 just curious, if you're -- if you're acquiescing</p> <p>13 to being cuffed, why are you moving at all?</p> <p>14 MR. LAMPIASI: Object to the form.</p> <p>15 THE WITNESS: Why am I moving at all?</p> <p>16 MR. CAIN: Yes, sir.</p> <p>17 THE WITNESS: Well, I was in pain. I</p> <p>18 was hurting, so --</p> <p>19 Q BY MR. CAIN: Okay. Did any of the</p> <p>20 officers tell you not to move while they were</p> <p>21 placing the handcuffs and shackles on you?</p> <p>22 A No. They just was repeating to cuff</p> <p>23 up. Cuff up.</p> <p>24 Q What does cuff up mean to you?</p> <p>25 A It means you allow them to put cuffs</p>
<p style="text-align: right;">95</p> <p>1 prior to the shackles going on?</p> <p>2 Q Yes.</p> <p>3 A Well, I was moving because I was in</p> <p>4 pain.</p> <p>5 Q In pain where?</p> <p>6 A My back, my wrists, my -- primarily,</p> <p>7 my back and my wrists.</p> <p>8 Q And were you moving your legs and</p> <p>9 your arms?</p> <p>10 A My body was moving.</p> <p>11 Q Okay.</p> <p>12 A I wasn't kicking anyone.</p> <p>13 Q Okay. But as far as this moving, do</p> <p>14 you think it would have been possible to interpret</p> <p>15 that as you were struggling to get up?</p> <p>16 MR. LAMPIASI: Objection.</p> <p>17 Foundation.</p> <p>18 THE WITNESS: No. At that point,</p> <p>19 what you're talking about, I wasn't even asked to</p> <p>20 get up.</p> <p>21 MR. CAIN: Well --</p> <p>22 THE WITNESS: Prior to the</p> <p>23 handcuffing, I wasn't asked to get up.</p> <p>24 Q BY MR. CAIN: Well, if you weren't</p> <p>25 asked to get up and you were struggling, do you</p>	<p style="text-align: right;">97</p> <p>1 on you.</p> <p>2 Q And is it easier to put cuffs on your</p> <p>3 hands and feet if you're not moving?</p> <p>4 A Well --</p> <p>5 MR. LAMPIASI: Object. Foundation.</p> <p>6 THE WITNESS: -- someone's bending</p> <p>7 your wrists and pulling your arms and Tasing you,</p> <p>8 you know, that's pretty painful. You're gonna --</p> <p>9 your body's gonna move somewhat, you know, between</p> <p>10 the paralyzation.</p> <p>11 Q BY MR. CAIN: Okay. And were they</p> <p>12 trying to cuff you as you were being Tased or was</p> <p>13 the attempt to cuff and shackle after the Tasing</p> <p>14 had stopped?</p> <p>15 A I believe they were trying to cuff me</p> <p>16 while I was being Tased.</p> <p>17 Q Are you sure about that?</p> <p>18 A Oh, yeah, I'm sure about that. And</p> <p>19 then the ankle shackles came later.</p> <p>20 Q Okay. Were you moving your legs when</p> <p>21 they were trying to put the ankle shackles on?</p> <p>22 A No.</p> <p>23 Q You're positive about that?</p> <p>24 A I'm positive.</p> <p>25 Q Okay. And you said after you were</p>

25 (Pages 94 to 97)

<p style="text-align: right;">98</p> <p>1 cuffed and subdued, "someone intentionally pressed</p> <p>2 on the back of my head with both hands while at</p> <p>3 the same time putting the full weight of their</p> <p>4 body using their knee on my neck and back,</p> <p>5 pressing my two front teeth hard into the concrete</p> <p>6 floor."</p> <p>7 How do you know they were</p> <p>8 intentionally doing this?</p> <p>9 A How do I know they were intentionally</p> <p>10 doing it? Well, I'm shackled and I'm handcuffed,</p> <p>11 and someone was -- had their hands on the back of</p> <p>12 my neck and they were pushing really hard and the</p> <p>13 weight of their body is on me. And there's</p> <p>14 nothing on the ground but my two front teeth.</p> <p>15 Q Okay.</p> <p>16 A So, I mean, that's intentional.</p> <p>17 Q And --</p> <p>18 A Seems pretty intentional to me.</p> <p>19 Q Are you sure you had been shackled at</p> <p>20 that time?</p> <p>21 A Oh, yes, I was handcuffed and</p> <p>22 shackled at that time.</p> <p>23 Q And were you -- was your body moving</p> <p>24 prior to this person getting on your back as you</p> <p>25 were laying there?</p>	<p style="text-align: right;">100</p> <p>1 dropping me --</p> <p>2 Q Okay.</p> <p>3 A -- and that's how I got on the</p> <p>4 ground.</p> <p>5 Q Okay.</p> <p>6 A And then that's when they were</p> <p>7 pressing my face to the concrete floor, sir.</p> <p>8 Q Now, how -- to drop you, obviously,</p> <p>9 you had to be up in the air. Did they lift you up</p> <p>10 or did you stand up?</p> <p>11 A You remember, I told you they picked</p> <p>12 me up by the handcuffs --</p> <p>13 Q Okay.</p> <p>14 A -- and that's how I got those -- them</p> <p>15 scrapes.</p> <p>16 Q Okay. The handcuffs slid up and</p> <p>17 scraped your arm?</p> <p>18 A Yes.</p> <p>19 Q Okay. Did you assist your getting up</p> <p>20 by using your legs to stand up or was this solely</p> <p>21 them lifting you up?</p> <p>22 A It was solely them lifting me.</p> <p>23 Q Your legs, you were just -- you were</p> <p>24 limp.</p> <p>25 A I -- yeah. They mentioned that in</p>
<p style="text-align: right;">99</p> <p>1 A This was -- and there's a part here</p> <p>2 when I -- I have to explain this here.</p> <p>3 Q Sure.</p> <p>4 A Because this is the part where I was</p> <p>5 dropped when they picked me up by the handcuffs.</p> <p>6 Yes, I was dropped, and that's how my face got on</p> <p>7 the floor, and I inadvertently -- I didn't put</p> <p>8 that in this. This is in my grievance. But when</p> <p>9 I was writing this, they were rushing me to get</p> <p>10 this done.</p> <p>11 Q Who was rushing you?</p> <p>12 A Mrs. Aldrich and the staff that kept</p> <p>13 coming to the cell and asking me if I was done</p> <p>14 with the report, done with the report, done with</p> <p>15 the report.</p> <p>16 Q How many times did they come in?</p> <p>17 A At least four times.</p> <p>18 Q Well, after this particular portion</p> <p>19 of the report that you say that you forgot to put</p> <p>20 that in, you wrote four more pages afterwards.</p> <p>21 Didn't you?</p> <p>22 A I sure did.</p> <p>23 Q Five more pages. Anyway, let's go</p> <p>24 back to --</p> <p>25 A I put that in my grievance about them</p>	<p style="text-align: right;">101</p> <p>1 their reports that I kept going limp.</p> <p>2 Q Okay. And why did you go limp?</p> <p>3 A Because I wanted them to carry me.</p> <p>4 Q Because you thought they were being</p> <p>5 unreasonable.</p> <p>6 A I thought they were being</p> <p>7 unreasonable.</p> <p>8 Q Okay. And you said they dropped you.</p> <p>9 A Yes, sir.</p> <p>10 Q Do you think they intentionally</p> <p>11 dropped you?</p> <p>12 A I don't know --</p> <p>13 Q Do you know?</p> <p>14 A -- if it was intentional or not. I</p> <p>15 know that the person that was on this side</p> <p>16 (indicating) --</p> <p>17 Q Your right side?</p> <p>18 A Right side. And let go and my face</p> <p>19 hit the ground. Excuse me.</p> <p>20 Q Did anybody respond to that saying,</p> <p>21 sorry or whoops or anything like that? Did you</p> <p>22 hear it?</p> <p>23 A Immediately, Sergeant Sullivan put</p> <p>24 his hands in -- on the back of my head and was</p> <p>25 pushing my face to the ground.</p>

26 (Pages 98 to 101)

<p style="text-align: right;">102</p> <p>1 Q And you knew that was Sullivan.</p> <p>2 A Yes.</p> <p>3 Q Okay. And you still believe that was</p> <p>4 Sullivan?</p> <p>5 A I'm positive that was Sullivan.</p> <p>6 Q Any idea why he would have done that</p> <p>7 at that time?</p> <p>8 MR. LAMPIASI: Objection.</p> <p>9 Foundation.</p> <p>10 THE WITNESS: I can't -- I don't know</p> <p>11 what was in his mind. He was intending to hurt</p> <p>12 me.</p> <p>13 Q BY MR. CAIN: Had you ever had any</p> <p>14 run-ins or issues with Sergeant Sullivan prior to</p> <p>15 this?</p> <p>16 A No. He was my boss.</p> <p>17 Q When you say your boss, at what job?</p> <p>18 A OCA boss at the time.</p> <p>19 Q So hadn't had any problems with him</p> <p>20 at all prior to this.</p> <p>21 A Not with him.</p> <p>22 Q Pretty good relationship?</p> <p>23 A Not really. It was just a working</p> <p>24 relationship.</p> <p>25 Q He was a fair boss? Fair to you?</p>	<p style="text-align: right;">104</p> <p>1 pressure was released and I was finally able to</p> <p>2 talk, I immediately complained about the cuffs and</p> <p>3 asked that they be loosened." You say no one</p> <p>4 responded.</p> <p>5 And then you say, "They wanted me to</p> <p>6 stand and walk." I'm assuming they told you that</p> <p>7 they wanted you to stand and walk?</p> <p>8 A Yeah, yeah.</p> <p>9 Q Okay. And that's a "yes"?</p> <p>10 A Yes, sir.</p> <p>11 Q And then it says, "I said that I</p> <p>12 would walk if they would loosen the cuffs."</p> <p>13 A Yes, sir.</p> <p>14 Q And Sullivan stated, "There's no</p> <p>15 negotiating here."</p> <p>16 Is that what he said?</p> <p>17 A Yes, sir, that's what he said.</p> <p>18 Q And what was your understanding as to</p> <p>19 what he meant by no negotiating?</p> <p>20 A Just like that other person said.</p> <p>21 You don't dictate to us.</p> <p>22 Q Okay.</p> <p>23 A You don't tell us what to do.</p> <p>24 Q Well, negotiating isn't dictating.</p> <p>25 Negotiating is, hey, you do something; I'll do</p>
<p style="text-align: right;">103</p> <p>1 A Hadn't been in OCA long at that time,</p> <p>2 but I guess he was fair.</p> <p>3 Q Okay. And the teeth, you say, "My</p> <p>4 teeth grinding on the floor." I think there's an</p> <p>5 allegation that one of the teeth were -- one of</p> <p>6 your teeth was chipped or more?</p> <p>7 A Actually, both were chipped.</p> <p>8 Q Okay. And how did you find -- well,</p> <p>9 is that documented in any of the reports? I've</p> <p>10 just seen where one tooth was chipped.</p> <p>11 A Nurse Bufmack recorded that the right</p> <p>12 tooth was chipped. And when I was in segregation,</p> <p>13 I think it was Mr. Horton was out in the yard --</p> <p>14 or on the cell. They have a cage where they have</p> <p>15 the yard, and I was showing him my teeth. And he</p> <p>16 said both teeth were chipped. And so the second</p> <p>17 anatomical that was done by Nurse Grieb shows that</p> <p>18 also the left tooth was chipped as well. So</p> <p>19 that's how I knew that both teeth were chipped.</p> <p>20 Q Okay. And you verified that</p> <p>21 yourself?</p> <p>22 A Yeah, in the mirror. That was one of</p> <p>23 the reasons I wanted pictures.</p> <p>24 Q Okay. Going down to the next</p> <p>25 paragraph, paragraph two, it says, "When the</p>	<p style="text-align: right;">105</p> <p>1 something. Correct?</p> <p>2 A Yeah, yeah.</p> <p>3 Q Okay. That's a "yes"?</p> <p>4 A Yes.</p> <p>5 Q Okay. So, I mean, that could be</p> <p>6 interpreted that, you know, hey, we're not</p> <p>7 negotiating here. Basically, we need you to stand</p> <p>8 up, correct?</p> <p>9 A Yes.</p> <p>10 Q Okay. But your decision was at that</p> <p>11 point you were just going to let them carry you.</p> <p>12 MR. LAMPIASI: Object to the form.</p> <p>13 THE WITNESS: They refused to loosen</p> <p>14 the cuffs. I was reasonably asking them to loosen</p> <p>15 the cuffs. It was painful.</p> <p>16 Q BY MR. CAIN: When you say it was</p> <p>17 painful, again, I -- certainly, different people</p> <p>18 have different levels of pain. But as you're</p> <p>19 being carried in the video, I mean, you're making</p> <p>20 comments such as, "Oh, you guys aren't strong</p> <p>21 enough to carry me all the way. You didn't hurt</p> <p>22 me, did you?"</p> <p>23 And when you get outside, I think you</p> <p>24 talked to someone else out there. I don't know if</p> <p>25 it was another inmate and say something like --</p>

<p style="text-align: right;">106</p> <p>1 let's see if I can find that. Said, "I made them</p> <p>2 carry me because I ain't gonna walk."</p> <p>3 Do you remember saying that?</p> <p>4 MR. LAMPIASI: Object to form.</p> <p>5 Foundation.</p> <p>6 THE WITNESS: I don't recall that.</p> <p>7 MR. CAIN: Okay.</p> <p>8 THE WITNESS: I may have.</p> <p>9 Q BY MR. CAIN: When's the last time</p> <p>10 you watched that video, sir? Watched and listened</p> <p>11 to the video, the body camera portion of it?</p> <p>12 A I really haven't had a real good</p> <p>13 opportunity to listen to the complete video.</p> <p>14 Q Okay. You don't deny that you said</p> <p>15 that? You're just saying you don't remember at</p> <p>16 this point.</p> <p>17 MR. LAMPIASI: Excuse me. Object to</p> <p>18 the form.</p> <p>19 THE WITNESS: Yeah. I don't recall</p> <p>20 making that statement.</p> <p>21 Q BY MR. CAIN: Okay. Was your pain --</p> <p>22 during this time, the handcuffs, how would you</p> <p>23 rate that pain on zero to ten pain scale, zero</p> <p>24 being no pain, ten being the worst pain you can</p> <p>25 imagine?</p>	<p style="text-align: right;">108</p> <p>1 A Benovedez was one of the persons.</p> <p>2 Q Okay.</p> <p>3 A And the other person, I thought, was</p> <p>4 Mr. Soto and turns out to be Mr. Robles.</p> <p>5 Q Okay.</p> <p>6 A They look very much alike.</p> <p>7 Q Okay. Is it okay if I tell them you</p> <p>8 said that?</p> <p>9 A Yes, you can.</p> <p>10 Q Just kidding you. Dressed up in</p> <p>11 their uniforms, I imagine a lot of them look</p> <p>12 pretty similar.</p> <p>13 Okay. Going to the next paragraph,</p> <p>14 you, again, refer to someone in the middle kept</p> <p>15 purposely bending your wrists causing severe pain.</p> <p>16 Which wrist was that? Do you remember?</p> <p>17 A That's when I was actually strapped</p> <p>18 down to the board.</p> <p>19 Q Okay.</p> <p>20 A And I believe -- yeah, when I looked</p> <p>21 back, that's when I saw Benovedez. I didn't know</p> <p>22 who he was at the time.</p> <p>23 Q And arm was -- which wrist was that?</p> <p>24 Do you remember?</p> <p>25 A Yeah, that was on the left.</p>
<p style="text-align: right;">107</p> <p>1 A I would say it was a nine, and when</p> <p>2 they were bending and pulling on the handcuffs, it</p> <p>3 was off the scale.</p> <p>4 Q So you screamed?</p> <p>5 A I'm a man. I'm not gonna -- you</p> <p>6 know, I was --</p> <p>7 Q Did you holler?</p> <p>8 A I was complaining, you know.</p> <p>9 Q Okay.</p> <p>10 A I did complain.</p> <p>11 Q Okay. Let's go to the top of page 3</p> <p>12 of your Exhibit C, sir.</p> <p>13 A Yes, sir.</p> <p>14 Q It says, "Since they refused to</p> <p>15 loosen the cuffs and I refused to walk, someone</p> <p>16 suggested that I be carried on the gurney board."</p> <p>17 And so they put you on the gurney</p> <p>18 board, correct?</p> <p>19 A Yes, sir.</p> <p>20 Q And in that paragraph, you believe</p> <p>21 that someone was intentionally pulling on your</p> <p>22 arms and putting additional pressure on your</p> <p>23 wrists?</p> <p>24 A Yes, sir.</p> <p>25 Q Do you know who that was?</p>	<p style="text-align: right;">109</p> <p>1 Q Okay. And was that person grabbing</p> <p>2 your hands and just lifting your wrist up, you</p> <p>3 said, or down or hand up or down?</p> <p>4 A There was -- there was the bending,</p> <p>5 the -- have you seen that video? I'm sure you</p> <p>6 have.</p> <p>7 Q Yes.</p> <p>8 A Those cuffs were so tight. And the</p> <p>9 forceful bending, this is what they -- what this</p> <p>10 individual was doing. And it was -- it was</p> <p>11 hurting. And then when I complained about it,</p> <p>12 stopped, they would put pressure on the elbow,</p> <p>13 which was pulling on the elbow.</p> <p>14 Q Okay. And you had interpreted that</p> <p>15 as intentionally trying to hurt you rather than</p> <p>16 just kind of lifting you?</p> <p>17 MR. LAMPIASI: Object to the form.</p> <p>18 THE WITNESS: Yes.</p> <p>19 Q BY MR. CAIN: Why?</p> <p>20 A Why would someone do that? I'm</p> <p>21 already handcuffed? What's the purpose in --</p> <p>22 Q Well --</p> <p>23 A -- bending my wrist and pulling my</p> <p>24 elbow when I'm handcuffed and subdued.</p> <p>25 Q Do you know if they just weren't</p>

<p style="text-align: right;">110</p> <p>1 holding onto your hand wrist to help transport you</p> <p>2 on the board?</p> <p>3 A I'm already --</p> <p>4 MR. LAMPIASI: Object --</p> <p>5 THE WITNESS: -- on the board.</p> <p>6 MR. LAMPIASI: -- to the form.</p> <p>7 Excuse me.</p> <p>8 Q BY MR. CAIN: Right. But the</p> <p>9 board --</p> <p>10 MR. LAMPIASI: Object to the form.</p> <p>11 Sorry.</p> <p>12 MR. CAIN: But the board's got to</p> <p>13 move.</p> <p>14 THE WITNESS: But there's no reason</p> <p>15 for them to hold my hand when I'm strapped down on</p> <p>16 the gurney plus strapped down on the backboard.</p> <p>17 And where am I going? I'm not going anywhere.</p> <p>18 I'm handcuffed and laying on my belly.</p> <p>19 Q BY MR. CAIN: So you were on the</p> <p>20 gurney at that point?</p> <p>21 A I'm on the backboard and the gurney.</p> <p>22 Q Okay. Bottom of page 3, it says,</p> <p>23 "Once at medical, Cordova" -- that's Captain</p> <p>24 Cordova?</p> <p>25 A Yes, sir.</p>	<p style="text-align: right;">112</p> <p>1 correct?</p> <p>2 A No, I don't think that was the</p> <p>3 conversation at all. I was just asking them to</p> <p>4 loosen the cuffs.</p> <p>5 Q They didn't say, are you going to</p> <p>6 comply?</p> <p>7 A Well, yeah --</p> <p>8 MR. LAMPIASI: Object to the form.</p> <p>9 THE WITNESS: -- he did say that.</p> <p>10 MR. LAMPIASI: Excuse me. Go ahead.</p> <p>11 Q BY MR. CAIN: In fact, I think one of</p> <p>12 the officers said, you know, if you tell me you're</p> <p>13 going to comply, I'll take your word as a</p> <p>14 gentleman.</p> <p>15 MR. LAMPIASI: Object.</p> <p>16 Q BY MR. CAIN: Do you remember him</p> <p>17 saying that?</p> <p>18 MR. LAMPIASI: I'm sorry. Objection.</p> <p>19 Foundation.</p> <p>20 Q BY MR. CAIN: So you do --</p> <p>21 MR. LAMPIASI: Form too.</p> <p>22 Q BY MR. CAIN: You do remember him</p> <p>23 saying that?</p> <p>24 A Yes, I do recall that.</p> <p>25 Q Okay. Let's jump to the top of page</p>
<p style="text-align: right;">111</p> <p>1 Q "Asked if I was going to cooperate</p> <p>2 with the anatomical." Your response, "I asked if</p> <p>3 they were going to loosen the cuffs."</p> <p>4 A Yes.</p> <p>5 Q "He asked again if I would</p> <p>6 cooperate."</p> <p>7 And I remember that from the film</p> <p>8 kind of going back and forth. You really never</p> <p>9 did say you were going to cooperate, did you?</p> <p>10 MR. LAMPIASI: Object to the form.</p> <p>11 THE WITNESS: Actually, before they</p> <p>12 went to medical, I was -- and you can see this on</p> <p>13 that tape. I was prepared to cooperate in</p> <p>14 medical, and you can hear that just prior to</p> <p>15 someone saying, well, let's do it in segregation.</p> <p>16 So, yes, I was prepared to cooperate then and</p> <p>17 there in medical, and that's on that -- on the</p> <p>18 tape.</p> <p>19 Q BY MR. CAIN: Okay. But then you say</p> <p>20 they went to segregation, so you did not want to</p> <p>21 cooperate at that point.</p> <p>22 A Well, as soon as I got there, I asked</p> <p>23 them to loosen the cuffs.</p> <p>24 Q And we're back to, if they didn't</p> <p>25 loosen the cuffs, you weren't going to cooperate,</p>	<p style="text-align: right;">113</p> <p>1 4, sir. Okay. The middle paragraph says,</p> <p>2 "Someone suggested that the anatomical and the</p> <p>3 strip be conducted at the same time in</p> <p>4 segregation."</p> <p>5 Do you remember who suggested that?</p> <p>6 A I thought it was Holiday. I don't</p> <p>7 know -- Holloway. I don't know if it was him or</p> <p>8 not.</p> <p>9 Q In fact, in your statement, you say,</p> <p>10 "I believe this was Lieutenant Holloway."</p> <p>11 A Yeah.</p> <p>12 Q Does that kind of refresh your memory</p> <p>13 as to who might have?</p> <p>14 A Yes.</p> <p>15 Q Because you would have done this back</p> <p>16 in March 14th, 2012, correct --</p> <p>17 A Yeah.</p> <p>18 Q -- this statement?</p> <p>19 A (Nodded.)</p> <p>20 Q Then you say, "After being wheeled to</p> <p>21 the segregation strip cell, the same scenario took</p> <p>22 place. Since they grudgingly refused to loosen</p> <p>23 the cuffs, I refused to participate in the strip."</p> <p>24 Correct?</p> <p>25 A Yes.</p>

29 (Pages 110 to 113)

<p style="text-align: right;">114</p> <p>1 Q Okay. Then at the bottom of that</p> <p>2 paragraph it says, "The cuffs were finally</p> <p>3 replaced with other more loose-fitting cuffs as</p> <p>4 part of the strip procedure. Relief at last. By</p> <p>5 this time, I was furious."</p> <p>6 Do you know why they replaced your</p> <p>7 cuffs with the more loose-fitting cuffs?</p> <p>8 A Why couldn't they replace the</p> <p>9 loose-fitting cuffs when I requested them to begin</p> <p>10 with? They could have put some loose-fitting</p> <p>11 cuffs on. I guess it was time, you know.</p> <p>12 Q But at that point you started</p> <p>13 cooperating, correct?</p> <p>14 MR. LAMPIASI: Objection.</p> <p>15 Foundation.</p> <p>16 THE WITNESS: Did I start</p> <p>17 cooperating? It was like I never did not want to</p> <p>18 cooperate. I just wanted them to loosen the</p> <p>19 cuffs.</p> <p>20 Q BY MR. CAIN: Okay. But is it your</p> <p>21 memory that once you began cooperating as part of</p> <p>22 the strip that they -- that is when they replaced</p> <p>23 the cuffs with looser-fitting cuffs?</p> <p>24 A No.</p> <p>25 MR. LAMPIASI: Object to the form.</p>	<p style="text-align: right;">116</p> <p>1 MR. LAMPIASI: Object to the form.</p> <p>2 Q BY MR. CAIN: -- while you were lying</p> <p>3 down, correct?</p> <p>4 A Yes.</p> <p>5 MR. LAMPIASI: Same objection.</p> <p>6 Q BY MR. CAIN: Do you consider that</p> <p>7 cooperating? Just lying down there?</p> <p>8 A Well, I did make it easy for them.</p> <p>9 That's -- one of the officers said that I did</p> <p>10 comply with the strip.</p> <p>11 Q What about --</p> <p>12 A Even though I was voicing that I</p> <p>13 didn't want to comply, I complied.</p> <p>14 Q Would have been a lot easier if you</p> <p>15 would have sat up and taken off your shirt and</p> <p>16 pants yourself, though, correct?</p> <p>17 A A lot easier for them to loosen those</p> <p>18 handcuffs earlier on.</p> <p>19 Q Okay.</p> <p>20 A I wouldn't have been upset. But I</p> <p>21 wasn't, you know --</p> <p>22 Q You weren't what?</p> <p>23 A I wasn't, you know, threatening</p> <p>24 towards them. I wasn't trying to hurt or harm</p> <p>25 anyone.</p>
<p style="text-align: right;">115</p> <p>1 THE WITNESS: No. They just -- they</p> <p>2 just did it, and that's shown on the video. I</p> <p>3 wasn't, you know --</p> <p>4 Q BY MR. CAIN: You weren't</p> <p>5 cooperating?</p> <p>6 A No. It had nothing to do with not</p> <p>7 cooperating. They just kept saying cooperate, you</p> <p>8 know.</p> <p>9 Q Or comply. Those were the words</p> <p>10 being used.</p> <p>11 A Comply with what? I'm shackled,</p> <p>12 subdued, handcuffed. Comply with what? I was</p> <p>13 gonna hurt anyone.</p> <p>14 Q Right. Were you willing to comply</p> <p>15 with the strip and the anatomical?</p> <p>16 MR. LAMPIASI: Object to the form.</p> <p>17 THE WITNESS: I complied with most of</p> <p>18 the strip, yes.</p> <p>19 Q BY MR. CAIN: Well, I just remember</p> <p>20 the film, and basically you lying there and</p> <p>21 they're having to pull your clothes off. You</p> <p>22 didn't sit up or stand up to undress so they could</p> <p>23 do the anatomical. They essentially kind of had</p> <p>24 to take your clothes off you --</p> <p>25 A Yeah.</p>	<p style="text-align: right;">117</p> <p>1 Q Okay.</p> <p>2 A I don't know why they got something</p> <p>3 like that. That wasn't the point.</p> <p>4 Q Do you -- sorry. I didn't mean to</p> <p>5 interrupt you. Go ahead.</p> <p>6 A I was just being defiant because they</p> <p>7 were being defiant.</p> <p>8 Q Okay. And you feel that as long as</p> <p>9 you weren't trying to hurt them, then you were</p> <p>10 cooperating.</p> <p>11 MR. LAMPIASI: Object to form.</p> <p>12 Foundation.</p> <p>13 THE WITNESS: Well, I wasn't --</p> <p>14 again, I wasn't not truly not cooperating.</p> <p>15 Q BY MR. CAIN: So you were</p> <p>16 cooperating.</p> <p>17 MR. LAMPIASI: Object to form.</p> <p>18 THE WITNESS: During the strip, yes,</p> <p>19 I was.</p> <p>20 Q BY MR. CAIN: By lying there and</p> <p>21 letting them take your clothes off.</p> <p>22 MR. LAMPIASI: Same objection.</p> <p>23 THE WITNESS: Yes.</p> <p>24 Q BY MR. CAIN: Had you ever gone</p> <p>25 through a strip like that or strip before?</p>

30 (Pages 114 to 117)

<p style="text-align: right;">118</p> <p>1 A Yes.</p> <p>2 Q And did you lie there and have them</p> <p>3 pull your clothes off or did you take your clothes</p> <p>4 off yourself in those other incidents?</p> <p>5 A One incident, I made them take my</p> <p>6 clothes off.</p> <p>7 Q But the other one, you took your</p> <p>8 clothes off yourself?</p> <p>9 A Yes.</p> <p>10 Q Then we get to Nurse Bufmack at the</p> <p>11 bottom of page 4. Had you dealt with Nurse</p> <p>12 Bufmack prior to this incident, sir?</p> <p>13 A I don't recall.</p> <p>14 Q Do you remember having any issues</p> <p>15 with Nurse Bufmack before this incident? Any</p> <p>16 problems at all?</p> <p>17 A No.</p> <p>18 Q Okay. The top of page 5, sir, if you</p> <p>19 could turn to that in Exhibit C.</p> <p>20 A Uh-huh.</p> <p>21 Q Looks like after you requested that</p> <p>22 additional photos be taken and the anatomical</p> <p>23 corrected, you said, moments later, he -- I</p> <p>24 believe Holloway -- returned to your cell and told</p> <p>25 me that Nunez said there would be no additional</p>	<p style="text-align: right;">120</p> <p>1 Q Okay. And going back to page 5, you</p> <p>2 believe the reason the second anatomical was not</p> <p>3 allowed is that they were trying to hide the true</p> <p>4 extent of your injuries and the actual force used.</p> <p>5 Correct?</p> <p>6 A Yes.</p> <p>7 Q Had you ever been in a situation</p> <p>8 where you had an anatomical done before after an</p> <p>9 injury?</p> <p>10 A I've had anatomicals, but I haven't</p> <p>11 had injuries.</p> <p>12 Q Okay. I thought -- okay. So you've</p> <p>13 never been injured in any facility before.</p> <p>14 A No, no, no. Not a D.O.C. facility.</p> <p>15 In Washington is where the handcuffing incident</p> <p>16 took place.</p> <p>17 Q Okay.</p> <p>18 A That was in the jail --</p> <p>19 Q Okay.</p> <p>20 A -- where they hurt my wrist and stuff</p> <p>21 too.</p> <p>22 Q Hurt your wrists similarly?</p> <p>23 A Yes.</p> <p>24 Q Okay. And what did they -- did they</p> <p>25 do one anatomical after that? Two? More?</p>
<p style="text-align: right;">119</p> <p>1 photos or medical exams. We've done our part. We</p> <p>2 documented. Do you remember that?</p> <p>3 A Yes. Those were his words.</p> <p>4 Q Okay. And you thought that was</p> <p>5 unreasonable?</p> <p>6 A Yes.</p> <p>7 Q Okay. Did you feel that Nurse</p> <p>8 Bufmack had not done a proper job?</p> <p>9 A Yes.</p> <p>10 Q In fact, going back to page 4 -- I</p> <p>11 apologize for that. After you saw Nurse Bufmack</p> <p>12 -- and you saw her on February 29th, 2012,</p> <p>13 correct?</p> <p>14 A Yes.</p> <p>15 Q The same day of this incident?</p> <p>16 A Yes.</p> <p>17 Q And then on March 2nd, 2012, you</p> <p>18 state, when the injuries were more pronounced and</p> <p>19 visible and no one could see the swelling -- and</p> <p>20 one could see the swelling and indented rings</p> <p>21 around your wrists, you asked for a second</p> <p>22 anatomical. Correct?</p> <p>23 A Yes. That was after I had showed --</p> <p>24 there was several nurses, officers, and another</p> <p>25 inmate that counted the holes in my back.</p>	<p style="text-align: right;">121</p> <p>1 A There was -- they didn't even do an</p> <p>2 anatomical. I didn't see a medical person at that</p> <p>3 jail at all.</p> <p>4 Q Did you ask for one at that jail in</p> <p>5 Washington after that incident?</p> <p>6 A I believe I did.</p> <p>7 Q You just never saw one?</p> <p>8 A No.</p> <p>9 Q Okay.</p> <p>10 A I got out and went to the hospital.</p> <p>11 Q Okay. And so you went to the</p> <p>12 hospital because of those handcuff injuries at the</p> <p>13 Washington jail incident?</p> <p>14 A Yes.</p> <p>15 Q And what did they find at the</p> <p>16 hospital? What type of condition?</p> <p>17 A Carpal tunnel.</p> <p>18 Q Okay.</p> <p>19 A I believe it was as a result of that</p> <p>20 handcuff incident.</p> <p>21 Q Did those doctors say that they</p> <p>22 believed it was a result or was that your</p> <p>23 impression or both?</p> <p>24 A I never had it prior to that, so --</p> <p>25 Q You never had it from weightlifting?</p>

31 (Pages 118 to 121)

<p style="text-align: right;">122</p> <p>1 A I mean, I thought maybe that that</p> <p>2 might have been what it was from.</p> <p>3 Q Okay. Going back to page 5, sir, in</p> <p>4 the middle paragraph of Exhibit C, it says, "On</p> <p>5 March 7th, 2012, after complaining to Captain</p> <p>6 Cordova, a second anatomical was conducted by</p> <p>7 Nurse Mary."</p> <p>8 Do you know Mary's last name?</p> <p>9 A That's Mrs. Grieb.</p> <p>10 Q And that was G-R?</p> <p>11 A G-R-I-E-B, I believe.</p> <p>12 Q Okay. And Cordera and Gallegos were</p> <p>13 there for that anatomical?</p> <p>14 A Yes.</p> <p>15 Q Okay. And at the bottom it says, "I</p> <p>16 would also like photos of the chipped tooth."</p> <p>17 At that time, were you thinking only</p> <p>18 one tooth was chipped?</p> <p>19 A That's because Nurse Bufmack said it</p> <p>20 was one tooth. Yes.</p> <p>21 Q Could you feel that it was chipped?</p> <p>22 A Yes.</p> <p>23 Q You couldn't feel both of them were</p> <p>24 chipped.</p> <p>25 A No, I couldn't.</p>	<p style="text-align: right;">124</p> <p>1 at least even said ouch or anything like that? Or</p> <p>2 were you simply saying, hey, that's too tight. It</p> <p>3 hurts?</p> <p>4 MR. LAMPIASI: Object to the form.</p> <p>5 THE WITNESS: I complained about them</p> <p>6 -- there was a lot of complaints on that tape.</p> <p>7 There are few times where I complained about them</p> <p>8 bending and pulling my wrists, so --</p> <p>9 MR. CAIN: Okay.</p> <p>10 THE WITNESS: Elbow.</p> <p>11 Q BY MR. CAIN: And I remember on that</p> <p>12 tape, and I made a note, when they were taking you</p> <p>13 out, you said, "Oh, you guys aren't strong enough</p> <p>14 to carry me all way. You didn't hurt me, did</p> <p>15 you?"</p> <p>16 Again, you say you don't remember</p> <p>17 saying that or --</p> <p>18 MR. LAMPIASI: Object to the form.</p> <p>19 THE WITNESS: You didn't hurt me, did</p> <p>20 you?</p> <p>21 Q BY MR. CAIN: Let me start the first</p> <p>22 part. "Oh, you guys aren't strong enough to carry</p> <p>23 me all the way."</p> <p>24 Do you remember saying that?</p> <p>25 A I might have. I don't recall that.</p>
<p style="text-align: right;">123</p> <p>1 Q Okay.</p> <p>2 A I could feel the grinding, though.</p> <p>3 Q Was your lip cut from that?</p> <p>4 A Yes.</p> <p>5 Q Was it bleeding?</p> <p>6 A No, it wasn't bleeding.</p> <p>7 Q Okay. Let's go to your addendum,</p> <p>8 which is Exhibit D, as in dog, sir.</p> <p>9 A Yes.</p> <p>10 Q Why did you do this addendum? And</p> <p>11 this is dated March 17th, 2012, three days later,</p> <p>12 correct?</p> <p>13 A Yes. I received the report of</p> <p>14 Captain Cordova on the -- I think it was 3/15.</p> <p>15 Q Okay.</p> <p>16 A 3/15 or 3/16. And as I was reading</p> <p>17 his report, my memory was jarred.</p> <p>18 Q Okay.</p> <p>19 A I think he said that I complained</p> <p>20 only two times, and I was, like, no, no, no.</p> <p>21 There was way more than two times. And then -- so</p> <p>22 I took inventory.</p> <p>23 Q And, in fact, talking about the</p> <p>24 complaining, do you remember a time on the tape</p> <p>25 where you actually, you know, cried out in pain or</p>	<p style="text-align: right;">125</p> <p>1 Q Okay. That could be kind of</p> <p>2 interpreted as kind of busting their chops. Have</p> <p>3 you ever heard that expression?</p> <p>4 A Uh-huh.</p> <p>5 Q Do you know why you would have been</p> <p>6 busting their chops at that point?</p> <p>7 A Yeah.</p> <p>8 Q Why?</p> <p>9 A If I said that, they were refusing to</p> <p>10 loosen the cuffs, man.</p> <p>11 Q But the thing about kind of -- kind</p> <p>12 of attacking their manhood saying they can't carry</p> <p>13 you, was there a reason for you doing that?</p> <p>14 MR. LAMPIASI: Object to the form.</p> <p>15 Q BY MR. CAIN: I may be overstating</p> <p>16 that. But basically, it probably could be seen as</p> <p>17 kind of busting their chops and kind of dissing</p> <p>18 them a little bit. Do you see how that could be</p> <p>19 interpreted as dissing them a little bit?</p> <p>20 A Sure.</p> <p>21 MR. LAMPIASI: Object to the form.</p> <p>22 Q BY MR. CAIN: So why --</p> <p>23 MR. LAMPIASI: Go ahead. Was there a</p> <p>24 question? I'm sorry.</p> <p>25 MR. CAIN: Yeah.</p>

32 (Pages 122 to 125)

<p style="text-align: right;">126</p> <p>1 Q BY MR. CAIN: I guess the question</p> <p>2 is: So why did you do that? Why did you bust</p> <p>3 their chops?</p> <p>4 MR. LAMPIASI: Same objection.</p> <p>5 THE WITNESS: I don't know.</p> <p>6 MR. LAMPIASI: I'm sorry. Can I get</p> <p>7 a quick drink of water?</p> <p>8 MR. CAIN: Certainly. By all means.</p> <p>9 You want to take another break? That's fine.</p> <p>10 (Recess taken from 3:05 p.m. to</p> <p>11 3:07 p.m.)</p> <p>12 MR. CAIN: Okay. We'll let the</p> <p>13 record reflect we took a little bit of a break.</p> <p>14 Q BY MR. CAIN: Okay. Sir, back to</p> <p>15 your addendum, Exhibit D, as in dog, I'll go</p> <p>16 through and see what kind of questions I had about</p> <p>17 that. Oh, you do reference being dropped. "That</p> <p>18 person on my right dropped me and I landed on my</p> <p>19 face from about two to three feet."</p> <p>20 That's what it states, correct?</p> <p>21 A Yes, sir.</p> <p>22 Q Do you know how many people were</p> <p>23 lifting you up at that time when you got dropped?</p> <p>24 A I thought it was four.</p> <p>25 Q Okay. Could it have been three?</p>	<p style="text-align: right;">128</p> <p>1 talk to me."</p> <p>2 Now, when he knelt down to talk to</p> <p>3 you, were you on the floor? Were you on the</p> <p>4 gurney? Or where were you, sir?</p> <p>5 A I was on the floor when Captain</p> <p>6 Cordova knelt down to talk to me. But actually,</p> <p>7 Cordova spoke to me twice.</p> <p>8 Q Okay. When was the first time?</p> <p>9 A The first time was on the -- on the</p> <p>10 -- on the floor.</p> <p>11 Q About how long after this incident</p> <p>12 started?</p> <p>13 A I don't know how long it was. It</p> <p>14 shows him kneeling down on video.</p> <p>15 Q Okay.</p> <p>16 A I don't know exactly when that is.</p> <p>17 Q So the first time he knelt down to</p> <p>18 talk to you when you were on the floor, correct?</p> <p>19 A Yes, sir.</p> <p>20 Q What was discussed? What was he</p> <p>21 saying? What did you say back?</p> <p>22 A I was telling him at that time -- I</p> <p>23 was discussing the cuffs, to loosen the cuffs and</p> <p>24 about my hands. And I believe I was telling him</p> <p>25 about the unreasonableness of the whole situation</p>
<p style="text-align: right;">127</p> <p>1 A No. I remember two in the front and</p> <p>2 two in the back. I remember the hands on the</p> <p>3 body.</p> <p>4 Q Were the two female officers part of</p> <p>5 lifting you up?</p> <p>6 A No, I don't believe so.</p> <p>7 Q Okay. But you remember -- your</p> <p>8 memory is whoever was holding your right shoulder</p> <p>9 -- I think you stated before -- you believe</p> <p>10 dropped you.</p> <p>11 A Yes. My right side.</p> <p>12 Q Or at least they're letting go for</p> <p>13 whatever reason resulting in you going down,</p> <p>14 correct?</p> <p>15 A Yes, sir.</p> <p>16 Q Were you moving at all prior to you</p> <p>17 being dropped?</p> <p>18 A I wasn't, because I wanted them to</p> <p>19 pick me up and carry me.</p> <p>20 Q Jump to the next page of your</p> <p>21 addendum, Exhibit D. In the second paragraph, you</p> <p>22 state, "The fourth time I complained about the</p> <p>23 cuffs being too tight and the third time I</p> <p>24 requested they be loosened was when I spoke</p> <p>25 directly to Captain Cordova as he knelt down to</p>	<p style="text-align: right;">129</p> <p>1 with Ms. --</p> <p>2 Q Okay. So from the get-go, you're</p> <p>3 saying it was unreasonable and telling Cordova</p> <p>4 that.</p> <p>5 A Yes, sir.</p> <p>6 Q And how did he respond?</p> <p>7 A I don't remember him responding at</p> <p>8 all.</p> <p>9 Q Do you know why he would have knelt</p> <p>10 down to talk to you if he wasn't going to talk to</p> <p>11 you?</p> <p>12 MR. LAMPIASI: Objection.</p> <p>13 Foundation.</p> <p>14 THE WITNESS: I don't know. There's</p> <p>15 two incident reports that says he knelt down to</p> <p>16 talk to me for several minutes.</p> <p>17 Q BY MR. CAIN: You remember him</p> <p>18 kneeling down to talk to you the first time,</p> <p>19 correct?</p> <p>20 A Yes.</p> <p>21 Q But your testimony is that you only</p> <p>22 talked to him; he didn't talk back.</p> <p>23 A Yeah, he didn't -- he didn't -- he</p> <p>24 wanted me to stand up and walk after I got through</p> <p>25 talking to him.</p>

33 (Pages 126 to 129)

<p style="text-align: right;">130</p> <p>1 Q Okay.</p> <p>2 A But I was complaining to him.</p> <p>3 Q Okay. So the first time he kneeled</p> <p>4 down to talk to you while you were on the floor,</p> <p>5 he was basically saying, hey, why don't you get up</p> <p>6 and walk. Is that your memory?</p> <p>7 MR. LAMPIASI: Objection.</p> <p>8 THE WITNESS: No. I was complaining</p> <p>9 to him about what was going on and about the cuffs</p> <p>10 being too tight and requested that they be</p> <p>11 loosened.</p> <p>12 Q BY MR. CAIN: I just heard you say,</p> <p>13 though, that he was wanting you to get up and</p> <p>14 walk. How did you know that?</p> <p>15 A That was at the end. That was at the</p> <p>16 end.</p> <p>17 Q Okay. Well, we've got the first</p> <p>18 kneeling down. And there's a second kneeling down</p> <p>19 when you're on the gurney, is that correct?</p> <p>20 A That was when I was on the gurney,</p> <p>21 and I don't see that on the -- on the -- on the</p> <p>22 video.</p> <p>23 Q Okay. Were you out of the building</p> <p>24 then or did he do that when you were on the gurney</p> <p>25 and still in the first building?</p>	<p style="text-align: right;">132</p> <p>1 remember what he was telling me. That I was --</p> <p>2 that they were gonna take me to medical and so</p> <p>3 forth.</p> <p>4 Q Okay. But you got the impression</p> <p>5 somehow that he was wanting you to stand up,</p> <p>6 correct?</p> <p>7 A I was --</p> <p>8 MR. LAMPIASI: Object to the form.</p> <p>9 THE WITNESS: No. I was already on</p> <p>10 the gurney at that point.</p> <p>11 Q BY MR. CAIN: I just thought you had</p> <p>12 -- a few minutes ago you had mentioned that he was</p> <p>13 wanting you to get up and walk.</p> <p>14 A Yeah. That was the initial kneeling</p> <p>15 down.</p> <p>16 Q Okay.</p> <p>17 A At the end of me talking to him.</p> <p>18 Q Okay.</p> <p>19 A Yes.</p> <p>20 Q The initial kneel down, when he</p> <p>21 kneeled down.</p> <p>22 A Yes, sir.</p> <p>23 Q Okay. And the second time he kneeled</p> <p>24 down, he indicated -- you said pinky rule and is</p> <p>25 this what you train your officers to do, something</p>
<p style="text-align: right;">131</p> <p>1 A Still in the first building.</p> <p>2 Q Unit one?</p> <p>3 A Yes.</p> <p>4 Q Do you remember him kneeling down and</p> <p>5 talking to you at that time?</p> <p>6 A I was on -- the gurney was on the</p> <p>7 floor, and I was put on the gurney, yes.</p> <p>8 Q Okay. So you were already on the</p> <p>9 backboard, and the backboard was being put on the</p> <p>10 gurney?</p> <p>11 A No. I was still on the floor --</p> <p>12 Q Okay.</p> <p>13 A -- at that time. And the video</p> <p>14 didn't pick that up. But when they brought the</p> <p>15 gurney -- excuse me. When they brought the</p> <p>16 backboard, they set it on the floor and put me on</p> <p>17 the backboard. And he spoke to me again at that</p> <p>18 time.</p> <p>19 Q What did he say at that time?</p> <p>20 A I was complaining to him about them</p> <p>21 -- I asked him -- talked about the pinky rule, and</p> <p>22 that's when someone else was bending my wrist.</p> <p>23 And I asked him if that's how you train your boys</p> <p>24 to -- you know, use excessive force.</p> <p>25 And he was telling me that -- I don't</p>	<p style="text-align: right;">133</p> <p>1 like that. Correct?</p> <p>2 A Yes.</p> <p>3 Q And then he said, well, we're going</p> <p>4 to take you over to medical.</p> <p>5 A I don't remember what all was said at</p> <p>6 that point.</p> <p>7 Q Okay.</p> <p>8 A But he did indicate --</p> <p>9 Q Was he hollering at you?</p> <p>10 A No.</p> <p>11 Q Was he somewhat calm?</p> <p>12 A Yeah. He wasn't hollering.</p> <p>13 Q Okay. Okay. When he says taking you</p> <p>14 over to medical, did you know why they were taking</p> <p>15 you over to medical?</p> <p>16 A I don't know what was in his mind.</p> <p>17 Q Okay. So that second time when he</p> <p>18 kneeled down to talk to you, how long was that</p> <p>19 discussion in time?</p> <p>20 A It wasn't as long as the first time.</p> <p>21 Q Okay.</p> <p>22 A I don't recall exactly how long it</p> <p>23 was.</p> <p>24 Q The first time, ballpark, how long</p> <p>25 was the first time he kneeled down? How long did</p>

34 (Pages 130 to 133)

134	<p>1 you speak?</p> <p>2 A The first time, it was awhile. I</p> <p>3 don't remember exactly how long. Some report says</p> <p>4 several minutes, but it wasn't that long.</p> <p>5 Q Okay. Minute or two minutes, maybe?</p> <p>6 A Probably a minute or so.</p> <p>7 Q Okay.</p> <p>8 A Yeah.</p> <p>9 Q And the second time was maybe not</p> <p>10 quite a minute?</p> <p>11 A It wasn't that long. It was -- I</p> <p>12 kept asking -- I remember talking and asking to</p> <p>13 see the shift commander.</p> <p>14 Q All right. I'm going to jump back to</p> <p>15 your interrogatories, sir. Do you have those,</p> <p>16 Exhibit A, I believe?</p> <p>17 A Yes, sir.</p> <p>18 Q And let me go to page 3 and your</p> <p>19 response to interrogatory number 4. Let me know</p> <p>20 when you're there.</p> <p>21 A Uh-huh.</p> <p>22 Q Are you there?</p> <p>23 A Yep.</p> <p>24 Q Okay. Down towards the bottom of</p> <p>25 that second paragraph, down about here</p>	136	<p>1 of force.</p> <p>2 Q Do you know what those injuries were?</p> <p>3 A Scratches.</p> <p>4 MR. LAMPIASI: I'm sorry. Object to</p> <p>5 foundation.</p> <p>6 Q BY MR. CAIN: If you know.</p> <p>7 A I don't recall. I think it was a</p> <p>8 scratch and a strained arm or something.</p> <p>9 Q Okay. And do you know how those were</p> <p>10 caused?</p> <p>11 A No.</p> <p>12 Q Okay. And down to the bottom of page</p> <p>13 4 of Exhibit A, your interrogatory responses --</p> <p>14 A Page 4. Okay.</p> <p>15 Q And you -- down there you say H.</p> <p>16 Williams will be dismissed.</p> <p>17 A Yes.</p> <p>18 Q Is that because you determined that</p> <p>19 H. Williams was really not involved in this?</p> <p>20 A Yes.</p> <p>21 Q Okay. Thank you. Okay. Let's go to</p> <p>22 page 6, please. At the bottom, there's</p> <p>23 interrogatory number 20, and there's a response,</p> <p>24 and it's a pretty long paragraph. And down here</p> <p>25 at the very bottom couple of lines, I want to</p>
135	<p>1 (indicating). I'll kind of point it out --</p> <p>2 A Okay.</p> <p>3 Q -- since it's kind of long. It says,</p> <p>4 "After they refused repeated requests to loosen</p> <p>5 the cuffs and plaintiff refused to walk as a</p> <p>6 result, as staff picked up him up to carry him, he</p> <p>7 made no attempt to assault staff by using a left</p> <p>8 knee strike as alleged by correction officer</p> <p>9 Meyers."</p> <p>10 So you don't know what he's talking</p> <p>11 about with regard to a left knee strike?</p> <p>12 A No, sir.</p> <p>13 Q And you're certain you were never</p> <p>14 kicking your legs when you were down on the</p> <p>15 ground?</p> <p>16 A I may have been moving, but as far as</p> <p>17 kicking, trying to intentionally, you know, no,</p> <p>18 sir. Never.</p> <p>19 Q So legs may have been moving, but you</p> <p>20 weren't intentionally trying to kick anyone.</p> <p>21 A No, sir.</p> <p>22 Q Okay. Do you know if any of the</p> <p>23 officers were hurt in this incident?</p> <p>24 A There was a report that said two</p> <p>25 officers received injuries as a result of the use</p>	137	<p>1 direct your attention there, sir.</p> <p>2 A Okay.</p> <p>3 Q It says, the last sentence, "It is</p> <p>4 believed that Bell, Wolfe, and others conspired at</p> <p>5 various points to keep plaintiff from exhausting."</p> <p>6 Do you have any specific evidence</p> <p>7 that they were conspiring or is that just your</p> <p>8 thought at this point?</p> <p>9 MR. LAMPIASI: Object to form.</p> <p>10 THE WITNESS: I believe -- that I had</p> <p>11 turned that report in on the 29th, and there was</p> <p>12 -- it hadn't even been assigned to be investigated</p> <p>13 with no response within the 30-day period. Mr.</p> <p>14 Bell indicated that he thought that I wasn't going</p> <p>15 to sue. Or the report hadn't been investigated by</p> <p>16 the time even after that was found out not to be</p> <p>17 true. It was to be investigated by a certain</p> <p>18 time. It wasn't.</p> <p>19 Then when the step three came, it</p> <p>20 just ended up disappearing. So all these</p> <p>21 different things, there's more than that that led</p> <p>22 me to believe that. But --</p> <p>23 MR. CAIN: Okay.</p> <p>24 THE WITNESS: -- these things</p> <p>25 together led me to believe that somebody was</p>

138	<p>1 trying to keep me from exhausting. Mr. Bell and</p> <p>2 Mr. Wolfe were involved.</p> <p>3 Q BY MR. CAIN: You're looking --</p> <p>4 you're considering the circumstances, correct?</p> <p>5 A Yes, sir.</p> <p>6 Q You've never heard Bell or Wolfe</p> <p>7 conspiring with anybody or talking to anybody</p> <p>8 about, you know, losing your reports.</p> <p>9 A No, I never heard that.</p> <p>10 Q You're just considering all the</p> <p>11 evidence personally.</p> <p>12 A Circumstances, evidence, yes.</p> <p>13 Q Okay. Jumping down to interrogatory</p> <p>14 number 21 at the bottom of that page, it says,</p> <p>15 "Explain in detail why you refused to comply with</p> <p>16 the orders of staff members immediately preceding</p> <p>17 the use of force incident giving rise to your</p> <p>18 claims."</p> <p>19 And your response was: "Plaintiff</p> <p>20 was told by Sergeant Clinkenbeard that he was</p> <p>21 going to segregation even though he had done</p> <p>22 nothing wrong to deserve going to segregation."</p> <p>23 And basically, the second part of that sentence is</p> <p>24 your interpretation, correct?</p> <p>25 A Well, I hadn't done anything wrong.</p>	140	<p>1 report, and that's it. You don't go to</p> <p>2 segregation, sir.</p> <p>3 Q Do you know anybody that's ever gone</p> <p>4 to segregation for disobeying a direct order?</p> <p>5 A No.</p> <p>6 Q Had you ever been in segregation</p> <p>7 before at this facility?</p> <p>8 A Prior to that, I believe once, I</p> <p>9 believe.</p> <p>10 Q Just once. Are you sure?</p> <p>11 A I can't recall.</p> <p>12 Q Okay. Well, the time you do remember</p> <p>13 going to segregation, what led to that, sir?</p> <p>14 A I think they said that that was a</p> <p>15 facility disruption or something, I believe.</p> <p>16 Q Do you remember the facts of that,</p> <p>17 generally?</p> <p>18 A I think it was Captain Nunez.</p> <p>19 Q Okay.</p> <p>20 A Yeah. There was a guy that got</p> <p>21 killed. Key chain. I can't recall everything,</p> <p>22 but I do remember going to segregation.</p> <p>23 Q I mean, that's -- it's usually rather</p> <p>24 serious when you get sent to segregation, isn't</p> <p>25 it?</p>
139	<p>1 That's not a segregation offense. Yes.</p> <p>2 Q But Sergeant Clinkenbeard is not</p> <p>3 saying, I'm taking you to segregation even though</p> <p>4 you did nothing wrong. The doing nothing wrong</p> <p>5 was your interpretation.</p> <p>6 MR. LAMPIASI: Object to the form.</p> <p>7 THE WITNESS: Yes. I believed that I</p> <p>8 disobeyed a direct order.</p> <p>9 MR. CAIN: Okay.</p> <p>10 THE WITNESS: Normally, they give you</p> <p>11 a report for disobeying a direct report.</p> <p>12 MR. CAIN: Okay.</p> <p>13 THE WITNESS: For me not giving him</p> <p>14 the report, I was disobeying a direct order. That</p> <p>15 didn't -- you know, that's not a segregationable</p> <p>16 offense.</p> <p>17 Q BY MR. CAIN: Okay. And you know</p> <p>18 that for a fact.</p> <p>19 A Yeah. You get a write-up. That's</p> <p>20 it.</p> <p>21 Q That's because you've gotten written</p> <p>22 up before for that type of conduct and not been</p> <p>23 sent to segregation?</p> <p>24 A That's just general knowledge around.</p> <p>25 You know, people disobey a direct order, you get a</p>	141	<p>1 A Not really.</p> <p>2 Q Okay.</p> <p>3 A Not around here. And that's one of</p> <p>4 the reasons I didn't want to get cuffed up.</p> <p>5 Because once you get cuffed up and you go to the</p> <p>6 captain's office, you're going to -- 90 percent</p> <p>7 you're going to seg.</p> <p>8 Q Okay. But, again, going back to that</p> <p>9 other incident, you don't remember what it was.</p> <p>10 Well, let me ask this: Did you not obey a direct</p> <p>11 order with regard to that other incident when you</p> <p>12 went to segregation?</p> <p>13 A I don't recall that.</p> <p>14 Q You don't recall what you did?</p> <p>15 A Yeah, I can't remember all the</p> <p>16 details.</p> <p>17 Q Do you remember any details other</p> <p>18 than somebody getting killed?</p> <p>19 A Something about a key and --</p> <p>20 Q Did they --</p> <p>21 A I can't recall.</p> <p>22 Q Did they suspect you might have had</p> <p>23 the key?</p> <p>24 MR. LAMPIASI: Object to form.</p> <p>25 Foundation.</p>

36 (Pages 138 to 141)

<p style="text-align: right;">142</p> <p>1 THE WITNESS: No. It was my key. I</p> <p>2 remember something about my key. I can't recall</p> <p>3 the details.</p> <p>4 MR. CAIN: Okay.</p> <p>5 THE WITNESS: I remember Mrs. Worthy</p> <p>6 [phonetic] asking for a key or something, but</p> <p>7 after that, I don't remember exactly what</p> <p>8 happened, sir.</p> <p>9 Q Okay. Did you feel that you had done</p> <p>10 something wrong to warrant going to segregation</p> <p>11 that last time --</p> <p>12 MR. LAMPIASI: Objection.</p> <p>13 Q BY MR. CAIN: -- or was it just a</p> <p>14 mistake?</p> <p>15 MR. LAMPIASI: Objection.</p> <p>16 Foundation.</p> <p>17 THE WITNESS: You're talking about</p> <p>18 the --</p> <p>19 MR. CAIN: The previous time, not</p> <p>20 this time.</p> <p>21 THE WITNESS: No, I don't think I did</p> <p>22 anything wrong or anything.</p> <p>23 Q BY MR. CAIN: Okay. But the</p> <p>24 circumstances were such that they were suspicious</p> <p>25 that you had done something wrong, correct?</p>	<p style="text-align: right;">144</p> <p>1 segregation. I don't remember all the details, so</p> <p>2 that's what I was explaining to you.</p> <p>3 Q Okay.</p> <p>4 A I was hoping maybe you had something.</p> <p>5 Q I'm just seeing it says pre</p> <p>6 segregation and anatomical done, but I do not have</p> <p>7 that. So, again, you don't remember why you went</p> <p>8 to segregation December 30th, 2010?</p> <p>9 A No.</p> <p>10 Q What type of conduct does it normally</p> <p>11 take to rise to the level of a person like</p> <p>12 yourself going to segregation?</p> <p>13 MR. LAMPIASI: Objection.</p> <p>14 Foundation.</p> <p>15 Q BY MR. CAIN: To your knowledge, sir.</p> <p>16 A Facility disruption, fighting, stuff</p> <p>17 like that.</p> <p>18 Q Okay.</p> <p>19 MR. LAMPIASI: I'm sorry. I need to</p> <p>20 ask for a break.</p> <p>21 MR. CAIN: Sure.</p> <p>22 MR. LAMPIASI: We're getting into a</p> <p>23 potential attorney-client issue --</p> <p>24 MR. CAIN: Sure.</p> <p>25 MR. LAMPIASI: -- that we need to</p>
<p style="text-align: right;">143</p> <p>1 A I don't recall, sir. I'll just say I</p> <p>2 can't recall.</p> <p>3 Q Well, they didn't just arbitrarily</p> <p>4 pick you out of the crowd and say, you're going to</p> <p>5 segregation that prior time, did they?</p> <p>6 A I don't --</p> <p>7 MR. LAMPIASI: Objection. Form.</p> <p>8 THE WITNESS: If you could refresh my</p> <p>9 memory, maybe I could --</p> <p>10 Q BY MR. CAIN: Let's see if I have</p> <p>11 that one offhand. Do you remember when that prior</p> <p>12 incident would have been? Approximately what</p> <p>13 year?</p> <p>14 MR. LAMPIASI: Object to the form.</p> <p>15 THE WITNESS: I'm not sure. 2010,</p> <p>16 something. I'm not sure.</p> <p>17 Q BY MR. CAIN: Okay. Give me just one</p> <p>18 second. December 30th, 2010, do you remember</p> <p>19 being handcuffed at that point?</p> <p>20 A Could you give me some more detail?</p> <p>21 Q Yeah. I don't have the details of</p> <p>22 the incident. I just see a handcuffing incident.</p> <p>23 Does that ring any bells at all? Between</p> <p>24 Christmas and New Year's in 2010.</p> <p>25 A Yeah, I remember going to</p>	<p style="text-align: right;">145</p> <p>1 discuss.</p> <p>2 MR. CAIN: Sure. No problem.</p> <p>3 (Recess taken from 3:26 p.m. to</p> <p>4 3:30 p.m.)</p> <p>5 Q BY MR. CAIN: Okay. With regard to</p> <p>6 that incident, I'm not sure if I have any more</p> <p>7 information to go on that. So we'll just</p> <p>8 potentially -- it may be in the record somewhere.</p> <p>9 Records are records.</p> <p>10 Okay. Going back to page 6 of</p> <p>11 Exhibit A, sir.</p> <p>12 A Uh-huh.</p> <p>13 Q Response to interrogatory number 21,</p> <p>14 you state, second sentence, "It has been</p> <p>15 plaintiff's experience that once a person is</p> <p>16 handcuffed and marched to the shift commander's</p> <p>17 office and the staff speaks to them first, it's a</p> <p>18 done deal. He is going to segregation, no</p> <p>19 questions asked, whether he deserves to or not."</p> <p>20 Now, one, I guess, of course, you</p> <p>21 weren't marched. I guess they were marching. You</p> <p>22 were kind of rolling, correct? So had you</p> <p>23 actually been in a situation before where you were</p> <p>24 handcuffed and marched to the shift commander's</p> <p>25 office and it was a done deal and you went to</p>

37 (Pages 142 to 145)

<p style="text-align: right;">146</p> <p>1 segregation? Is that the December 2010 time?</p> <p>2 A No. This is just from past</p> <p>3 experience dealing with other people.</p> <p>4 Q So hearing it anecdotally from other</p> <p>5 inmates?</p> <p>6 A Yes.</p> <p>7 Q Okay. And the next sentence, "And</p> <p>8 that is especially so at this facility where the</p> <p>9 various shift commanders routinely and arbitrarily</p> <p>10 lock inmates in prehearing confinement," open</p> <p>11 paren, "RFP, remove from population," close</p> <p>12 parens, whether one poses an imminent and</p> <p>13 substantial threat to the security of the</p> <p>14 institution or other offenders, D.O.C. employees,</p> <p>15 or to himself."</p> <p>16 Is that, again, based on personal</p> <p>17 experience or anecdotal evidence from other</p> <p>18 inmates?</p> <p>19 A This one is both, actually. I was</p> <p>20 RFP'd one time in this situation here. I didn't</p> <p>21 pose an imminent threat to anyone.</p> <p>22 Q So you're saying this -- well, I'm</p> <p>23 sorry. I kind of interrupted you. Go ahead.</p> <p>24 A No. You're fine.</p> <p>25 Q So you're saying the RFP that you're</p>	<p style="text-align: right;">148</p> <p>1 Q But they are at least removed from</p> <p>2 the population --</p> <p>3 A Yeah.</p> <p>4 Q -- sometimes.</p> <p>5 And did you always see what caused --</p> <p>6 what led to them being marched out?</p> <p>7 A Not totally, not all of them.</p> <p>8 Q Okay.</p> <p>9 A Sometimes.</p> <p>10 Q Okay. Let me go through and see what</p> <p>11 other questions I have from the interrogatories.</p> <p>12 Give me a second. Okay. Going down to</p> <p>13 interrogatory number 23, your response about six</p> <p>14 or seven lines into it, are you there, sir?</p> <p>15 A Six or seven lines.</p> <p>16 Q Where it says, "It has also been</p> <p>17 revealed by the incident report of defendant</p> <p>18 Sullivan that he also applied a TASER but did not</p> <p>19 activate it. The only knowledge you have of that</p> <p>20 is from his report?"</p> <p>21 A Yes.</p> <p>22 Q And you say "imagine that." I take</p> <p>23 that to mean that you have a credibility issue</p> <p>24 with that statement.</p> <p>25 A Is that a question?</p>
<p style="text-align: right;">147</p> <p>1 referring to, your experience, is this December --</p> <p>2 February 29th, 2012, incident. Correct?</p> <p>3 A That, and other people's</p> <p>4 experiences --</p> <p>5 Q Okay.</p> <p>6 A -- yes, sir.</p> <p>7 Q So besides this, you're relying upon</p> <p>8 hearing it from other folks, other inmates,</p> <p>9 correct?</p> <p>10 A Seeing it, yes.</p> <p>11 Q Okay. Now, seeing, I mean, did you</p> <p>12 see everything that happened or did you just kind</p> <p>13 of see it towards the end of it when they're</p> <p>14 hauling them out?</p> <p>15 A Well, you seem them haul them out and</p> <p>16 they go and they never come back.</p> <p>17 Q Okay.</p> <p>18 A So --</p> <p>19 Q Did you see why they -- well, you're</p> <p>20 not suggesting they kill them and put them in a</p> <p>21 hole, are you? We hope not?</p> <p>22 A I hope not.</p> <p>23 Q So you're not suggesting that you</p> <p>24 know that happens.</p> <p>25 A No.</p>	<p style="text-align: right;">149</p> <p>1 Q Yes.</p> <p>2 A I didn't know if he did or not. I</p> <p>3 know I was Tased a lot of times, so --</p> <p>4 Q But you don't know if one person did</p> <p>5 it or two.</p> <p>6 MR. LAMPIASI: Objection to the form.</p> <p>7 THE WITNESS: Correct.</p> <p>8 Q BY MR. CAIN: Okay. Do you know for</p> <p>9 a fact that defendant Sullivan Tased you?</p> <p>10 A For a fact, I don't.</p> <p>11 Q Okay. And going down about five</p> <p>12 lines from the bottom of that same paragraph, sir,</p> <p>13 you say, "Sullivan caused additional injury when</p> <p>14 he sadistically let go of plaintiff, dropping him</p> <p>15 face first on the concrete and then sadistically</p> <p>16 pressing his face into the ground to cause</p> <p>17 unnecessary pain."</p> <p>18 One, are you certain that it was</p> <p>19 Sullivan that was on your right shoulder who led</p> <p>20 -- who dropped you or for some reason released</p> <p>21 your left -- your right shoulder --</p> <p>22 A Yeah.</p> <p>23 Q -- causing you to go to the ground?</p> <p>24 A It was Sullivan, Mr. Sullivan.</p> <p>25 Q You're positive of that.</p>

38 (Pages 146 to 149)

<p style="text-align: right;">150</p> <p>1 A I'm positive of that.</p> <p>2 Q Now, how do you know he was sadistic</p> <p>3 and -- sadistic kind of involves -- indicates an</p> <p>4 intent to be pretty mean and nasty, wouldn't you</p> <p>5 say?</p> <p>6 A Yes, sir.</p> <p>7 Q Okay. Do you know that he had that</p> <p>8 in his mind when you left his grasp for one reason</p> <p>9 or another?</p> <p>10 A It -- it -- when I'm on the -- on the</p> <p>11 ground subdued, you know, I'm handcuffed, I'm</p> <p>12 shackled, he's -- the intent was in his motion,</p> <p>13 his -- what he was doing and how he was doing it.</p> <p>14 I mean, I can't explain, but --</p> <p>15 Q Okay.</p> <p>16 A -- he was hurting me.</p> <p>17 Q When he had you on the ground, you</p> <p>18 say?</p> <p>19 A Yes, after I was dropped.</p> <p>20 Q And you're just assuming that he was</p> <p>21 -- sadistically let you drop prior to that,</p> <p>22 correct?</p> <p>23 A I don't know if that was sadistic,</p> <p>24 that part or not. But him pressing my face, I</p> <p>25 can't say sadistic for sure, dropping me. But</p>	<p style="text-align: right;">152</p> <p>1 move. My face is on the ground (indicating).</p> <p>2 What am I gonna do at this point?</p> <p>3 Q Well, let me -- okay. You showed me</p> <p>4 that a couple times. I think I get that sense.</p> <p>5 But when you were dropped to the ground, did your</p> <p>6 teeth immediately go into the floor or was that</p> <p>7 later when the knee was on your back or neck?</p> <p>8 A No. I tried to break the -- my</p> <p>9 forehead hit the ground because I didn't want my</p> <p>10 teeth to hit the ground.</p> <p>11 Q Okay. So your forehead hit the</p> <p>12 ground first?</p> <p>13 A First, yes, sir.</p> <p>14 Q Okay. And were you doing any moving</p> <p>15 between the time your forehead hit the ground and</p> <p>16 the knee was put in your back or neck?</p> <p>17 A No.</p> <p>18 MR. LAMPIASI: Object to form. Go</p> <p>19 ahead.</p> <p>20 THE WITNESS: No, sir.</p> <p>21 Q BY MR. CAIN: Okay. And you're</p> <p>22 positive of that.</p> <p>23 A Yes, sir.</p> <p>24 Q I'm going to show you what has been</p> <p>25 marked as Exhibit B, as in boy. I'll represent to</p>
<p style="text-align: right;">151</p> <p>1 once I was on the ground, there was no need to</p> <p>2 press my face to the --</p> <p>3 Q Okay.</p> <p>4 A -- ground.</p> <p>5 Q And once you were on the ground, are</p> <p>6 you positive that you were not moving at all once</p> <p>7 you got onto the ground?</p> <p>8 A I don't believe I was moving at all</p> <p>9 at that point.</p> <p>10 Q Are you sure?</p> <p>11 A I don't even think the video shows</p> <p>12 that.</p> <p>13 Q But do you remember whether you were</p> <p>14 moving or not when you hit the ground?</p> <p>15 A No. That's what I remember</p> <p>16 (indicating). Just my two front teeth being on</p> <p>17 the ground.</p> <p>18 Q But prior to the knee going into your</p> <p>19 back or neck and your teeth going into the ground,</p> <p>20 you don't remember if you were moving around after</p> <p>21 you fell to the ground trying to get up or moving</p> <p>22 around at all?</p> <p>23 A No. I couldn't move.</p> <p>24 Q Why?</p> <p>25 A Well, if you ever -- I just couldn't</p>	<p style="text-align: right;">153</p> <p>1 you that these are your responses to request for</p> <p>2 production of documents done by the prior counsel.</p> <p>3 Have you seen these before, sir?</p> <p>4 A Yes.</p> <p>5 Q Okay. Let's go to the second page,</p> <p>6 please.</p> <p>7 A Okay.</p> <p>8 Q And request for production number 4,</p> <p>9 it says, "Please produce a copy of any and all</p> <p>10 grievances that you have filed involving</p> <p>11 defendants or any of the staff asserting that</p> <p>12 you've been retaliated against." Response number</p> <p>13 4, "Retaliation is a legal theory which need not</p> <p>14 be asserted in a grievance to exhaust. Such facts</p> <p>15 in this case were unknown and did not exist at the</p> <p>16 time of filing the grievance."</p> <p>17 Just on the subject of retaliation,</p> <p>18 do you think any of the folks, any of the</p> <p>19 defendants, my clients here, anything they did was</p> <p>20 motivated by any retaliation against you with</p> <p>21 regard to this February 29th, 2012, incident?</p> <p>22 A Yes.</p> <p>23 Q And why don't you tell me why first.</p> <p>24 Who and why?</p> <p>25 A Mr. Aubrey Bell, case manager.</p>

<p>154</p> <p>1 Q And how do you spell his last name?</p> <p>2 A B-E-L-L.</p> <p>3 Q Okay. And why -- what gave rise to</p> <p>4 him wanting to -- well, why don't you just put it</p> <p>5 this way. Please explain why you say that.</p> <p>6 A Mr. Bell added ten points on my</p> <p>7 custody review score saying that I had a staff</p> <p>8 assault.</p> <p>9 Q Based on this incident?</p> <p>10 A Based on this incident.</p> <p>11 Q Okay.</p> <p>12 A The conviction in that case had been</p> <p>13 either reversed or dismissed. At the time Mr.</p> <p>14 Bell made the classification referral was on March</p> <p>15 -- in March of 2013, the COPD conviction had been</p> <p>16 reversed or dismissed May 3rd of 2012. Mr. Bell</p> <p>17 was aware that that had been dismissed. I think</p> <p>18 he received notification from Mrs. Aldrich --</p> <p>19 MR. LAMPIASI: Excuse me.</p> <p>20 THE WITNESS: Bless you -- on the</p> <p>21 15th of May --</p> <p>22 MR. CAIN: Okay.</p> <p>23 THE WITNESS: -- of 2012. And so</p> <p>24 once you are classified as assaultive behavior</p> <p>25 towards staff, there's this internal thing that</p>	<p>156</p> <p>1 risk.</p> <p>2 The second thing was the incident</p> <p>3 report for the paraphernalia, the water bag, he</p> <p>4 tried to say that was escape paraphernalia. And I</p> <p>5 explained to Mr. Bell that that was not escape</p> <p>6 paraphernalia and what I used the water bag for.</p> <p>7 And Mrs. Jance [phonetic] had written an incident</p> <p>8 report for just possession of unauthorized</p> <p>9 possession. And then Bell somehow had his</p> <p>10 incident report added onto her report, which is</p> <p>11 never heard of, you know.</p> <p>12 Q Never heard of by who?</p> <p>13 A There's -- when the incident report</p> <p>14 came out -- comes out, it's only one staff that</p> <p>15 writes the report, and their signature is it.</p> <p>16 This incident report had Mrs. Jance's report at</p> <p>17 the top and then Bell's report was included at the</p> <p>18 bottom of the incident report. And that's --</p> <p>19 anyway, that was reversed on appeal, I believe</p> <p>20 because of that reason.</p> <p>21 But that's the reason I believe that</p> <p>22 Mr. Bell -- Mr. Bell retaliated against me,</p> <p>23 because of the -- the incident. It was a number</p> <p>24 of things that had taken place. The grievance</p> <p>25 came up missing. Then I get this, the charge was</p>
<p>155</p> <p>1 goes on where they consider you a high-risk</p> <p>2 offender. And so when I found that part out,</p> <p>3 that's one reason. When I found that out that</p> <p>4 Mr. Bell had requested, I just had a feeling that</p> <p>5 he was not supportive of me and that he was doing</p> <p>6 things. So I requested a copy of the</p> <p>7 classification referral, and I saw that ten points</p> <p>8 on there. And I asked him to -- you know, he</p> <p>9 initially said, "Oh, I didn't put that on there."</p> <p>10 I said, "Mr. Bell, you the one that</p> <p>11 generated this report." So I asked him to correct</p> <p>12 it, wrote him a letter, wrote him a second letter.</p> <p>13 He didn't correct it. So I wrote to Mrs.</p> <p>14 Aldrich. Didn't hear nothing from her, so I wrote</p> <p>15 to the lady, Mrs. Butler, and it was reversed</p> <p>16 after that.</p> <p>17 But once you're classified as a</p> <p>18 high-risk offender, you're treated differently.</p> <p>19 You don't -- you know, it's just --</p> <p>20 Q How?</p> <p>21 A How? The staff treats you different,</p> <p>22 man. It's just a known thing. I can't explain</p> <p>23 it. You don't get jobs. You're kind of marked.</p> <p>24 You're labeled. You're watched. You know, that</p> <p>25 sort of thing, once you're classified as high</p>	<p>157</p> <p>1 dismissed. Mr. Bell knew that the charge was</p> <p>2 dismissed. Then he adds this ten points on, which</p> <p>3 has me closed out, my custody, and has me labeled</p> <p>4 as a high-risk offender.</p> <p>5 If you have escape or escape</p> <p>6 paraphernalia that also labels you as a high-risk</p> <p>7 offender, according to D.O.C. policy. So it was</p> <p>8 my understanding -- and I complained about Mr.</p> <p>9 Bell losing the grievance, about him not</p> <p>10 correcting the custody score. And so I believe</p> <p>11 that based on, you know, those issues that that</p> <p>12 was the purpose for his retaliation.</p> <p>13 Q And you believe this was all</p> <p>14 intention on Mr. Bell's part to try to get back at</p> <p>15 you.</p> <p>16 A Of course I did.</p> <p>17 Q Okay.</p> <p>18 A He said that he was gonna correct it</p> <p>19 before he left, and he never did. He retired</p> <p>20 before it even got fixed.</p> <p>21 Q And how did both of those things --</p> <p>22 well, how did either of those things affect you?</p> <p>23 Did you get changed to a different unit?</p> <p>24 Different cell block?</p> <p>25 A Well, if I hadn't have caught that,</p>

40 (Pages 154 to 157)

<p style="text-align: right;">158</p> <p>1 sir -- I don't mean to cut you off.</p> <p>2 Q That's fine.</p> <p>3 A If I hadn't caught it, no telling</p> <p>4 what the effect would have been --</p> <p>5 Q Okay.</p> <p>6 A -- you know, later on.</p> <p>7 Q So you headed it off at the pass.</p> <p>8 A Yes.</p> <p>9 Q So nothing actually bad happened</p> <p>10 because you feel you stopped it.</p> <p>11 A But the retaliation was there. I</p> <p>12 believe that -- yeah, I do believe that I stopped</p> <p>13 it.</p> <p>14 Q And you believe you were retaliated</p> <p>15 because of this February 29th, 2012, incident?</p> <p>16 A I believe so, yes, sir.</p> <p>17 Q Okay.</p> <p>18 A And because I complained about the</p> <p>19 grievance. Step three grievance, I gave it to</p> <p>20 him. Disappeared. Where did it go?</p> <p>21 Q All right. Let's go to request for</p> <p>22 production number 5 on Exhibit B, your response,</p> <p>23 "Although plaintiff was indeed denied timely and</p> <p>24 adequate medical care and such can be inferred</p> <p>25 from the pleadings, plaintiff's claim relates to</p>	<p style="text-align: right;">160</p> <p>1 One, that's a long sentence, but</p> <p>2 let's kind of break it down. With regard to her</p> <p>3 minimizing the extent of -- how did Nurse Bufmack</p> <p>4 minimize the extent of injury? What do you hear</p> <p>5 her saying in that video?</p> <p>6 A I recall asking how many times I had</p> <p>7 been Tased. She said it was three times. And I</p> <p>8 had six -- six TASER holes in my back.</p> <p>9 Q Six welts, for lack of a better term?</p> <p>10 You say holes or welts, or how would you describe</p> <p>11 it?</p> <p>12 A I asked her how many times I had been</p> <p>13 Tased.</p> <p>14 Q Okay.</p> <p>15 A And she said -- I believe I heard her</p> <p>16 say three times. And then I had six TASER marks.</p> <p>17 I can't recall exactly what she said.</p> <p>18 Q Okay. And is it your understanding</p> <p>19 that TASERS have two prongs?</p> <p>20 A Yes.</p> <p>21 Q Okay. So is it your understanding --</p> <p>22 again, I'm not a TASER expert. Sounds like if you</p> <p>23 have been Tasered at least once you have more</p> <p>24 experience than I do. But is it your</p> <p>25 understanding that if you have a TASER and you get</p>
<p style="text-align: right;">159</p> <p>1 defendant Bufmack and others conspiring to cover</p> <p>2 up, hide and minimize the excessive use of force,</p> <p>3 the facts of which were not known and, therefore,</p> <p>4 did not exist at the time of filing the</p> <p>5 grievance."</p> <p>6 You say, "The evidence which sets the</p> <p>7 conspiracy in motion," open bracket, "to cover up,</p> <p>8 hide, and minimize," close bracket, is found on</p> <p>9 Bates labeled Stevenson 00926 e VID 00003 at,"</p> <p>10 apparently, "30 minutes to 30 minutes to 59</p> <p>11 seconds where defendant Bufmack could be seen and</p> <p>12 heard minimizing the extent of injury to</p> <p>13 plaintiff's back and wrists. And such evidence is</p> <p>14 also found in the glances between defendant</p> <p>15 Espinoza and Benovedez," B-E-N-O-V-E-D-E-Z, "who</p> <p>16 are captured on video looking at each other at the</p> <p>17 very moment defendant Bufmack can be heard</p> <p>18 minimizing the injury to plaintiff's back caused</p> <p>19 by the TASER and which plaintiff believes is, no</p> <p>20 doubt, the reason defendant Nunez refused to later</p> <p>21 on authorize a more accurate anatomical when</p> <p>22 requested and, no doubt, the reason black and</p> <p>23 white photos of plaintiff's injuries were produced</p> <p>24 by you instead of color photos so the actual</p> <p>25 injury could remain hidden."</p>	<p style="text-align: right;">161</p> <p>1 hit with both of those that each one is going to</p> <p>2 leave a mark?</p> <p>3 A Yes, sir.</p> <p>4 Q So if you have six marks, that would</p> <p>5 mean you got hit three times.</p> <p>6 A Yes.</p> <p>7 Q If that's true, correct?</p> <p>8 A Yes.</p> <p>9 Q Okay. But you're saying that there</p> <p>10 were more marks? Somebody later interpreted --</p> <p>11 saw more marks, correct? Nurse Mary?</p> <p>12 A No, it wasn't Mary. It was -- it was</p> <p>13 so many nurses. I have them listed --</p> <p>14 Q Okay.</p> <p>15 A -- there in my --</p> <p>16 Q Right.</p> <p>17 A -- part of the discovery, too, all</p> <p>18 the nurses that came.</p> <p>19 Q But you're saying when you were seen</p> <p>20 later, another nurse saw not six but ten TASER</p> <p>21 marks?</p> <p>22 A Yeah. Not only the nurse. First it</p> <p>23 was Mr. Horton.</p> <p>24 Q Okay.</p> <p>25 A Then it was, I think, Nurse Rudnick</p>

41 (Pages 158 to 161)

<p style="text-align: right;">162</p> <p>1 and C.O. -- another C.O. Because when the nurses 2 come by, they are with an officer. 3 Q Okay. 4 A And then there was another nurse and 5 another officer. And then I showed them to 6 Mr. Holloway. 7 Q Okay. 8 A Then Captain Cordova. 9 Q And how long was that after Nurse 10 Bufmack saw you? 11 A That was the next day, second day, 12 the third day. And then on the seventh day, I 13 told Mr. Cordova. 14 Q Okay. And so you're certain that 15 Nurse Bufmack should have seen ten marks showing 16 up at the time she looked at you? 17 MR. LAMPIASI: Objection. 18 Foundation. 19 Q BY MR. CAIN: Or do you know whether 20 perhaps some of those weren't showing yet? 21 A At the time, I didn't know if they 22 were not showing. But from looking at the 23 pictures that were taken the day of the incident, 24 you could see there were more. 25 Q You think it's clear there were ten?</p>	<p style="text-align: right;">164</p> <p>1 A No. They -- everybody that I'm aware 2 of said ten. 3 Q But you think there are more. 4 A And that's just from looking at the 5 colored pictures. 6 Q Okay. And you think Nurse Bufmack 7 intentionally said, oh, I only see six rather than 8 ten. 9 A Yes, sir. 10 Q Do you know why she would have done 11 that? 12 A Do I know why? 13 Q Yes. 14 A I don't know why she would have done 15 that. Perhaps to, you know, protect her 16 colleagues. I don't know. 17 Q Is just getting Tased three times a 18 lot better than getting Tased five times from your 19 perspective? 20 MR. LAMPIASI: Objection. 21 THE WITNESS: I don't understand. 22 Say that again. 23 MR. CAIN: Sure. 24 THE WITNESS: Would you repeat that, 25 please?</p>
<p style="text-align: right;">163</p> <p>1 A And in the video, you can also see 2 more. 3 Q Okay. 4 A So either ten or more. 5 Q Okay. Has anybody ever said there 6 were more than ten? 7 A No. Everyone said that they counted 8 ten. 9 Q Okay. 10 A But from looking at the pictures, I 11 counted more. 12 Q And do you know if what you saw, more 13 than ten, could have been marks left by the straps 14 or are you sure that they are TASER marks, or do 15 you know? 16 A They are TASER marks. 17 Q Okay. 18 A And the people that looked at them, 19 the nurses and the other staff and the inmate, the 20 prongs -- count the prongs. 21 Q But they never said -- nobody other 22 than you has said there were more than ten. 23 MR. LAMPIASI: Objection. 24 Foundation. 25 Q BY MR. CAIN: That you're aware of.</p>	<p style="text-align: right;">165</p> <p>1 Q BY MR. CAIN: Is there a significant 2 difference in getting Tased three times versus 3 five different times from your perspective? 4 MR. LAMPIASI: Same objection. 5 THE WITNESS: Well, five times is 6 worse than three times. 7 Q BY MR. CAIN: Four times is worse 8 than three times. 9 A Certainly is. 10 Q Three times is worse than two times. 11 A Uh-huh. 12 Q That's a "yes"? 13 A Yes. 14 Q Do you have an independent 15 recollection of how many times -- from what you 16 felt, how many times you were Tased? 17 A I thought it was four -- 18 Q Okay. 19 A -- initially. 20 Q Okay. Now, jumping to the back of 21 page 4, back page, which is page 4 of Exhibit B, 22 under the request for production number 12, 23 "Please produce a signed release concerning your 24 medical records attached hereto." 25 "Answer: Plaintiff does not consent</p>

42 (Pages 162 to 165)

166	<p>1 to release of his entire medical file because the</p> <p>2 entire file is not relevant to matters involved in</p> <p>3 the current litigation. He does, however, consent</p> <p>4 to release of medical information," open bracket,</p> <p>5 "which you already have," close bracket, "limited</p> <p>6 in scope and relating only to carpal tunnel and</p> <p>7 the examination, diagnosis, and treatment for</p> <p>8 injuries sustained as a result and after the use</p> <p>9 of excessive force occurring on February 29th,</p> <p>10 2012."</p> <p>11 And, again, having come into this</p> <p>12 case after -- as the second counsel, I'm just</p> <p>13 trying to understand that. Is there -- perhaps</p> <p>14 you or your attorney could indicate on the record</p> <p>15 whether you're aware that -- is there some sort of</p> <p>16 log been done with regard to some of your medical</p> <p>17 records that were produced to prior counsel that I</p> <p>18 assume that I have? Can anybody speak to that?</p> <p>19 A Privilege?</p> <p>20 MR. LAMPIASI: I'll jump in here.</p> <p>21 MR. CAIN: Sure.</p> <p>22 MR. LAMPIASI: I don't think there</p> <p>23 was a privilege log done. We can talk about this.</p> <p>24 MR. CAIN: Okay.</p> <p>25 MR. LAMPIASI: I'm very familiar with</p>	168	<p>1 MR. LAMPIASI: We'll never do that.</p> <p>2 The other thing I should say is this -- this</p> <p>3 response number 12 was, of course, completed when</p> <p>4 Mr. Stevenson was pro se.</p> <p>5 MR. CAIN: Okay.</p> <p>6 MR. LAMPIASI: Might have been an</p> <p>7 oversight.</p> <p>8 MR. CAIN: That's what I thought.</p> <p>9 MR. LAMPIASI: So --</p> <p>10 MR. CAIN: We'll go ahead and take a</p> <p>11 look at that. So again, just open the</p> <p>12 discussions, if nothing else. I don't want to</p> <p>13 have something that I'm not supposed to have,</p> <p>14 especially if the court's ordered it. But if</p> <p>15 there's any question as to what you think, again,</p> <p>16 the way I always do these, if you think that I</p> <p>17 shouldn't get something, well, let's get it from</p> <p>18 the court and get it determined.</p> <p>19 MR. LAMPIASI: I agree.</p> <p>20 MR. CAIN: All right.</p> <p>21 Q BY MR. CAIN: Sir, going to the next</p> <p>22 part of that response, and it says, "Since you</p> <p>23 already have Dr. Timothy Creany," C-R-E-A-N-Y,</p> <p>24 "secretly interrogate plaintiff regarding his</p> <p>25 previous and current medical condition and he</p>
167	<p>1 what Mr. Stevenson's obligations are in terms of</p> <p>2 producing medical records and the scope of that</p> <p>3 production.</p> <p>4 MR. CAIN: Right.</p> <p>5 MR. LAMPIASI: And I'll advise him on</p> <p>6 that. And if there's something that you feel like</p> <p>7 you'd have to -- that you would like to have and</p> <p>8 don't have --</p> <p>9 MR. CAIN: Okay.</p> <p>10 MR. LAMPIASI: -- and if it's within</p> <p>11 the bounds of the rules, then we'll sign what you</p> <p>12 have to sign --</p> <p>13 MR. CAIN: Okay.</p> <p>14 MR. LAMPIASI: -- to complete those</p> <p>15 logs.</p> <p>16 MR. CAIN: Okay. That's fine. I</p> <p>17 just wanted to follow up on that and make sure</p> <p>18 we're at least discussing it. If there's</p> <p>19 something we have to fight over, that's fine. But</p> <p>20 I just like to do that beforehand. I always err</p> <p>21 on the side of -- we'll have it, you know,</p> <p>22 reviewed by the court if there's an issue.</p> <p>23 MR. LAMPIASI: Well, I can assure you</p> <p>24 one thing. We're never going to fight about it.</p> <p>25 MR. CAIN: Okay.</p>	169	<p>1 released that information to you without first</p> <p>2 obtaining a HIPAA release without a court order,</p> <p>3 subpoena, or request for discovery and since we</p> <p>4 already have plaintiff's medical records," open</p> <p>5 bracket, "illegally," close bracket, "he did not</p> <p>6 understand why you are trying to obtain a signed</p> <p>7 medical release now."</p> <p>8 And that's just kind of follow-up,</p> <p>9 and that sounds like something we can talk about</p> <p>10 similar to what we just discussed.</p> <p>11 MR. LAMPIASI: Sure.</p> <p>12 Q BY MR. CAIN: Because I don't think</p> <p>13 you're referring to me, because I wasn't on here</p> <p>14 at the time. So --</p> <p>15 A No.</p> <p>16 Q Any discussions you might have had</p> <p>17 with Ms. Gellar -- but I just want to follow up</p> <p>18 and make sure we're -- everybody at this point</p> <p>19 knows what they are willing to disclose or not</p> <p>20 willing to disclose so we can address it. Okay?</p> <p>21 A Uh-huh.</p> <p>22 Q That's a "yes"?</p> <p>23 A That's a yes.</p> <p>24 Q Okay. Exhibit E, as in egg, my</p> <p>25 understanding these are documents from the</p>

43 (Pages 166 to 169)

170	<p>1 anatomicals. Have you seen these before, sir?</p> <p>2 And I'm assuming there's no --</p> <p>3 A Yes.</p> <p>4 Q -- issue as to whether these should</p> <p>5 be produced in this case. Because I believe these</p> <p>6 are from February 29th, 2012, and also March 7th,</p> <p>7 2012, so these would seem to be certainly relevant</p> <p>8 to the issues involved in this case.</p> <p>9 A Yes.</p> <p>10 Q Okay. Have you seen these before,</p> <p>11 sir?</p> <p>12 A Yes.</p> <p>13 Q Okay. Let's look at the first page,</p> <p>14 Stevenson 00015. And this was done by Nurse</p> <p>15 Bufmark [sic]. Is that your memory, that she</p> <p>16 would have seen you that day, sir?</p> <p>17 A Yes.</p> <p>18 Q List of injuries, six small, raised,</p> <p>19 red bumps less than one centimeter each on back.</p> <p>20 And those are the bumps you believe that -- you've</p> <p>21 testified that other folks found ten similar bumps</p> <p>22 rather than six. Correct?</p> <p>23 A Yes.</p> <p>24 Q Okay. And you believe there may be</p> <p>25 more than ten.</p>	172	<p>1 deep indentations. I had scrapes. I had cuts.</p> <p>2 It was more than just two superficial abrasions.</p> <p>3 Q Were one or both of your wrists</p> <p>4 bleeding at the time of this examination?</p> <p>5 A They were not bloody, bleeding, no.</p> <p>6 Q Were they bleeding at all? Let me</p> <p>7 qualify bleeding. Outside the skin.</p> <p>8 A No.</p> <p>9 Q Number four, indentation of skin. Do</p> <p>10 you agree with that? And I'm assuming she means</p> <p>11 the wrist. No. She's -- on the diagram, she's</p> <p>12 saying the ankles, correct?</p> <p>13 A Ankles, yeah.</p> <p>14 Q And how would you have -- how did you</p> <p>15 describe those? Would you have described them as</p> <p>16 indentations of skin on the ankles?</p> <p>17 A Yeah. Those were deep indentations,</p> <p>18 yeah.</p> <p>19 Q Any bleeding beyond -- outside the</p> <p>20 skin?</p> <p>21 A Not there. But, sir?</p> <p>22 Q Yes, sir.</p> <p>23 A Could I back up to --</p> <p>24 Q By all means.</p> <p>25 A Just to three.</p>
171	<p>1 A Yes.</p> <p>2 Q Okay. Number two, chipped right</p> <p>3 front tooth, two superficial, nonbleeding</p> <p>4 lacerations on lower lip. Do you agree that -- do</p> <p>5 you agree with that, although you believe there</p> <p>6 might have been two teeth chipped?</p> <p>7 A Yes. Two teeth chipped and more than</p> <p>8 two superficial lacerations.</p> <p>9 Q And why do you say more than</p> <p>10 superficial? Well, let me ask you this: Would</p> <p>11 you agree that they were nonbleeding?</p> <p>12 A Excuse me. I'm sorry about that.</p> <p>13 Q Sure.</p> <p>14 A I'm referring to -- I'm jumping</p> <p>15 ahead. I'm thinking about the wrist here. But,</p> <p>16 yeah, two superficial, nonbleeding abrasions on</p> <p>17 the lower lip.</p> <p>18 Q Okay. And she said -- okay. And</p> <p>19 then number three, it says, "Superficial abrasions</p> <p>20 times two both wrists."</p> <p>21 Do you agree with that?</p> <p>22 A No.</p> <p>23 Q And tell me why you do not agree with</p> <p>24 that.</p> <p>25 A Two superficial abrasions. I had</p>	173	<p>1 Q Sure.</p> <p>2 A As far as the wrists, the -- there</p> <p>3 were scrapes on the wrists and rings from the --</p> <p>4 from the cuffs. And this (indicating) on both</p> <p>5 wrists, you can see in the picture the deep</p> <p>6 indentation here (indicating). And this is the</p> <p>7 damage that was done here to this (indicating), my</p> <p>8 nerve here (indicating).</p> <p>9 Q You're pointing to the base of your</p> <p>10 left thumb, correct?</p> <p>11 A Yes. On the outside.</p> <p>12 Q Okay.</p> <p>13 A Yeah.</p> <p>14 Q And the other wrist, you're pointing</p> <p>15 to the inside of the wrist, correct?</p> <p>16 A Yeah. As far as being visible,</p> <p>17 that's -- I had them both. I had scrapes on both</p> <p>18 of these wrists (indicating). On the camera, you</p> <p>19 can see the scrapes here (indicating), and it was</p> <p>20 -- I'm just saying it was more than two</p> <p>21 superficial abrasions.</p> <p>22 Q Okay. And also under comments she</p> <p>23 references that this is a preseggregation</p> <p>24 anatomical, essentially regarding a claim of use</p> <p>25 of force incident in cell house with staff.</p>

44 (Pages 170 to 173)

<p style="text-align: right;">174</p> <p>1 Complains up above plus neck pain. Where were you</p> <p>2 having neck pain, sir?</p> <p>3 A At the base of my neck and just</p> <p>4 through the back of the -- through the back of the</p> <p>5 neck.</p> <p>6 Q Okay. I'm assuming you're not a</p> <p>7 doctor. I'm not either. Not a medical doctor,</p> <p>8 correct? Neither one of us are?</p> <p>9 A No.</p> <p>10 Q But tell me why do you -- what do you</p> <p>11 believe caused this neck pain in this incident, if</p> <p>12 you know?</p> <p>13 A Well, the pain came from the head</p> <p>14 being pressed to the ground.</p> <p>15 Q Okay. You mentioned you believe</p> <p>16 there was a knee in the back of your neck or upper</p> <p>17 back in that area?</p> <p>18 A It was something.</p> <p>19 Q Okay. And that's what you believed</p> <p>20 caused the neck pain?</p> <p>21 A Yeah, that force.</p> <p>22 Q Okay.</p> <p>23 A The force.</p> <p>24 Q How long did that neck pain last</p> <p>25 after this incident?</p>	<p style="text-align: right;">176</p> <p>1 It says, "Refused. Bumps, six raised areas on</p> <p>2 back are less red."</p> <p>3 Do you know what was refused there,</p> <p>4 sir? It looks like the page -- the first page was</p> <p>5 -- the examination was done at 7:05 a.m. and the</p> <p>6 second one was 7:40 a.m. Do you remember Nurse</p> <p>7 Bufmack taking a look at you and then coming back</p> <p>8 and taking a look at you again a little bit later?</p> <p>9 MR. LAMPIASI: Object to the form.</p> <p>10 Go ahead.</p> <p>11 THE WITNESS: Yeah. Down in the</p> <p>12 comment section, she said, "Post strip out</p> <p>13 anatomical. Inmate refuses to get off floor and</p> <p>14 come to the door. Lying on stomach on floor</p> <p>15 voicing displeasure. No acute injury or distress</p> <p>16 noted."</p> <p>17 MR. CAIN: Okay.</p> <p>18 THE WITNESS: Once --</p> <p>19 MR. CAIN: Go ahead.</p> <p>20 THE WITNESS: Once I was taken to the</p> <p>21 cell, she wanted to examine me again. And I'm,</p> <p>22 like, for what? You just did an anatomical, and</p> <p>23 you carried me around the corner. Nobody touched</p> <p>24 me. Nothing happened, so --</p> <p>25 Q BY MR. CAIN: It looks like it was</p>
<p style="text-align: right;">175</p> <p>1 A It was --</p> <p>2 Q Days? Weeks? Couple of months?</p> <p>3 A It was weeks. About two weeks.</p> <p>4 Q Okay. Had you ever had neck pain in</p> <p>5 that area before this incident?</p> <p>6 A No, sir.</p> <p>7 Q Never fallen, hurt yourself in any</p> <p>8 way that you're aware of --</p> <p>9 A Never.</p> <p>10 Q -- that you can remember?</p> <p>11 A Never injured my neck, no.</p> <p>12 Q Okay. And never had pain in the</p> <p>13 neck. Correct?</p> <p>14 A No.</p> <p>15 Q That's a "no"?</p> <p>16 A No.</p> <p>17 Q And I guess the way I asked it, it's</p> <p>18 correct that you never had pain in your neck prior</p> <p>19 to this incident. Correct?</p> <p>20 A Correct.</p> <p>21 Q Okay. I didn't want to get into</p> <p>22 double negatives. Okay. Let's go to the next</p> <p>23 page. Bottom right of Exhibit E, as in egg,</p> <p>24 Stevenson 00014. Under list injuries, circle area</p> <p>25 and -- above and number according to description.</p>	<p style="text-align: right;">177</p> <p>1 about 35 minutes later. Correct?</p> <p>2 A No.</p> <p>3 Q Is that consistent with your memory?</p> <p>4 A No, no, no. This was directly after</p> <p>5 the anatomical --</p> <p>6 Q Okay.</p> <p>7 A -- in the strip out room. After she</p> <p>8 did the anatomical, I was -- that was the last</p> <p>9 thing that she did. And I was took right around</p> <p>10 the corner. I don't know why this time is</p> <p>11 different there.</p> <p>12 Q Okay.</p> <p>13 A But it was within minutes.</p> <p>14 Q When she started the first</p> <p>15 anatomical, does 7:05, does that sound consistent?</p> <p>16 7:05 a.m. when she started the first anatomical?</p> <p>17 A I don't remember what time it was.</p> <p>18 Q Okay.</p> <p>19 A I don't recall the time.</p> <p>20 Q Okay. So by the time she finished</p> <p>21 the first anatomical, they took you to the cell,</p> <p>22 got you there. She asked to see you again. Could</p> <p>23 30 or 35 minutes have passed?</p> <p>24 A No, no.</p> <p>25 Q Okay.</p>

45 (Pages 174 to 177)

<p style="text-align: right;">178</p> <p>1 A That's impossible.</p> <p>2 Q Well, in her comments, "Post strip</p> <p>3 out anatomical. Inmate refuses to get off floor</p> <p>4 and come to door." Is that true?</p> <p>5 A Yes.</p> <p>6 Q Why did you refuse?</p> <p>7 A Well, like I said, I just had an</p> <p>8 anatomical. She just had completed it. They</p> <p>9 picked me up, put me on the stretcher, marched me</p> <p>10 around the corner and down the hall less than 50</p> <p>11 feet, 60 feet at the most. And nobody touched me</p> <p>12 or bothered me or assaulted me, so --</p> <p>13 Q Okay. Let's go to the next page,</p> <p>14 Stevenson 00016. It looks like it's kind of a</p> <p>15 summary of the prior report. And the next page --</p> <p>16 MR. LAMPIASI: Object to --</p> <p>17 MR. CAIN: I'm sorry?</p> <p>18 MR. LAMPIASI: I'm sorry. I'll</p> <p>19 withdraw that.</p> <p>20 Q BY MR. CAIN: Take a look --</p> <p>21 MR. LAMPIASI: I thought you were</p> <p>22 about to ask a question.</p> <p>23 MR. CAIN: Sure.</p> <p>24 Q BY MR. CAIN: And take a look at the</p> <p>25 next one, Stevenson 00012. Mary Grieb, G-R-I-E-B,</p>	<p style="text-align: right;">180</p> <p>1 A So he did authorize the second</p> <p>2 anatomical at my request too.</p> <p>3 Q Nurse Grieb, had you ever -- did you</p> <p>4 know her before this? Have --</p> <p>5 A No.</p> <p>6 Q -- anything to do with her?</p> <p>7 A No.</p> <p>8 Q Okay. Under list injuries, it says,</p> <p>9 "One, healing scratch marks, left wrist,</p> <p>10 multiple."</p> <p>11 Is that consistent with your memory?</p> <p>12 A Yes.</p> <p>13 Q "Two, healing scratch marks, right</p> <p>14 wrist, multiple."</p> <p>15 Consistent with your memory?</p> <p>16 A Yes, sir.</p> <p>17 Q "Three, left front tooth appears</p> <p>18 small chip out of distal edge."</p> <p>19 Is that consistent with your memory?</p> <p>20 A At the time, I didn't know that the</p> <p>21 tooth was chipped until it was, like, March 2nd.</p> <p>22 But, yeah.</p> <p>23 Q Okay. Now --</p> <p>24 A The left tooth, anyway.</p> <p>25 Q Yeah. Because I thought -- hadn't</p>
<p style="text-align: right;">179</p> <p>1 is that another nurse, sir?</p> <p>2 A Yeah, that's Mary Grieb.</p> <p>3 Q Grieb. This appears to have been</p> <p>4 dated March 7th, 2012, at 9:20 a.m. Do you</p> <p>5 remember seeing her about that time? Is that</p> <p>6 consistent with your memory?</p> <p>7 A Yes.</p> <p>8 Q Okay. And this says under comments,</p> <p>9 "Anatomical requested by shift commander, Captain</p> <p>10 Cordova and offender." What led to that?</p> <p>11 A On the 7th, I showed Mr. Cordova the</p> <p>12 marks on my hands and back, and at that time, they</p> <p>13 were scabbed, so they were healing. Healing</p> <p>14 marks. So it must have been some blood or</p> <p>15 something, but anyway, I had him count the TASER</p> <p>16 marks on my back, and I told -- asked him if I</p> <p>17 could get another anatomical and some photographs.</p> <p>18 And he looked at it, and he said, "Okay. I'll</p> <p>19 have you taken down to medical."</p> <p>20 Espinoza and Sergeant Williams came</p> <p>21 and took me to medical. And while I was down</p> <p>22 there, Ms. Cordova and Profura [phonetic] that</p> <p>23 went in with me with the anatomical. And this is</p> <p>24 with Mrs. Grieb produced [sic].</p> <p>25 Q Okay.</p>	<p style="text-align: right;">181</p> <p>1 Nurse Bufmark [sic] talked about chipped right</p> <p>2 tooth?</p> <p>3 A Exactly.</p> <p>4 Q Now this says chip, left tooth,</p> <p>5 correct?</p> <p>6 A Exactly.</p> <p>7 Q Okay. And do you know why there's no</p> <p>8 reference to a chipped right tooth here, just the</p> <p>9 left tooth?</p> <p>10 A I --</p> <p>11 MR. LAMPIASI: Objection.</p> <p>12 Foundation.</p> <p>13 THE WITNESS: I don't know why she</p> <p>14 wouldn't record both of them.</p> <p>15 MR. CAIN: Okay.</p> <p>16 THE WITNESS: Minimization.</p> <p>17 Q BY MR. CAIN: Well, do you think she</p> <p>18 was intentionally minimizing something?</p> <p>19 A I take that back. No.</p> <p>20 Q Okay.</p> <p>21 A I'm just --</p> <p>22 Q Number 4, left anterior ankle, small,</p> <p>23 approximately four-millimeter diameter healing</p> <p>24 surface scratch. Is that consistent with your</p> <p>25 memory?</p>

46 (Pages 178 to 181)

<p style="text-align: right;">182</p> <p>1 A Yes, sir.</p> <p>2 Q And I'm just wondering, going up to</p> <p>3 the left tooth, you see the little man's head</p> <p>4 there with -- where it says front tooth, left, and</p> <p>5 3?</p> <p>6 A Yes.</p> <p>7 Q Are you certain when she says left</p> <p>8 tooth that she meant left from her perspective or</p> <p>9 your perspective or do you know?</p> <p>10 A It was both teeth, sir.</p> <p>11 Q But you don't know why she didn't put</p> <p>12 both teeth.</p> <p>13 A No.</p> <p>14 Q Okay. Going back to the list of</p> <p>15 injuries, multiple, open paren, ten, close paren,</p> <p>16 healing marks on back. And that's referring to</p> <p>17 the diagram up there in what they believed at that</p> <p>18 time was showing ten -- ten marks rather than six</p> <p>19 TASER marks?</p> <p>20 A Yes.</p> <p>21 Q Okay. And the next page, Stevenson</p> <p>22 00013, under objective, it says, "Anatomical</p> <p>23 completed at request of shift commander, Captain</p> <p>24 Cordova, and offender. See anatomical for further</p> <p>25 information. Offender requested pictures be taken</p>	<p style="text-align: right;">184</p> <p>1 MR. LAMPIASI: What do you need?</p> <p>2 THE WITNESS: I was gonna mention</p> <p>3 that they didn't take pictures of my teeth.</p> <p>4 Q BY MR. CAIN: So nobody ever took</p> <p>5 pictures of your teeth?</p> <p>6 A Nobody ever took pictures of my</p> <p>7 teeth, no. I requested it.</p> <p>8 Q Could you see the chips to your teeth</p> <p>9 from the front or did you have -- would that have</p> <p>10 to be inside your mouth to see those?</p> <p>11 A You could see them from the front,</p> <p>12 because they were identified from the other</p> <p>13 people. That's how I knew I had two chipped</p> <p>14 teeth, because somebody told me.</p> <p>15 Q And who was that that told you?</p> <p>16 A That was Arvel Horton was the first</p> <p>17 person.</p> <p>18 Q And you're positive neither one of</p> <p>19 those chips were there prior to this incident of</p> <p>20 February 29th, 2012?</p> <p>21 A No. The medical records show that</p> <p>22 they weren't.</p> <p>23 Q Okay. Do you have medical records</p> <p>24 prior to that showing no chips?</p> <p>25 A Yes.</p>
<p style="text-align: right;">183</p> <p>1 of healing surface. Scratch marks on wrists,</p> <p>2 ankle and back. Offender was referred to security</p> <p>3 staff to obtain pictures, if appropriate."</p> <p>4 Is that accurate?</p> <p>5 A I requested pictures, yes, sir.</p> <p>6 Q And did you, in fact, have security</p> <p>7 staff obtain additional pictures?</p> <p>8 A They refused.</p> <p>9 Q Okay. Who did you talk to? Who</p> <p>10 refused?</p> <p>11 A I asked -- when I was down there, I</p> <p>12 asked Mr. Cordova. Because he came through the</p> <p>13 medical, and he said -- he said that pictures had</p> <p>14 already been taken, so --</p> <p>15 Q Okay.</p> <p>16 A -- I took that as a refusal.</p> <p>17 Q And had pictures been taken that day,</p> <p>18 March 7th, 2012?</p> <p>19 A No. Pictures had been taken on March</p> <p>20 2nd.</p> <p>21 Q March 2nd, 2012.</p> <p>22 A No, no. Excuse me. February 29th.</p> <p>23 Excuse me.</p> <p>24 Q Okay.</p> <p>25 A February 29th.</p>	<p style="text-align: right;">185</p> <p>1 Q Okay. What dentist had you seen</p> <p>2 prior to this incident of February 29th, 2012?</p> <p>3 A The last -- it was the dentist at</p> <p>4 D.R.D.C. October 28th -- or October 10th, I</p> <p>5 believe, 2008 --</p> <p>6 Q Okay.</p> <p>7 A -- was the last dentist.</p> <p>8 Q And you said -- for the record, what</p> <p>9 is D.R.D.C.?</p> <p>10 A That's the Denver reception center.</p> <p>11 Q Okay.</p> <p>12 A Department of Corrections.</p> <p>13 Q Alrighty. Let me go back and just</p> <p>14 cover a few things, and we'll be wrapping up here</p> <p>15 pretty quickly. With regard to -- how many times</p> <p>16 have you been directed to cuff up since you've</p> <p>17 been at this facility total?</p> <p>18 A Directed to cuff up. I don't -- two,</p> <p>19 three times.</p> <p>20 Q Okay.</p> <p>21 A I'm not sure.</p> <p>22 Q Does that include this February 29th,</p> <p>23 2012 --</p> <p>24 A Yes.</p> <p>25 Q What were the other two times? Do</p>

<p style="text-align: right;">186</p> <p>1 you remember?</p> <p>2 A We were talking about that other one</p> <p>3 up there. I know I went to segregation.</p> <p>4 Q Okay.</p> <p>5 A But I remember --</p> <p>6 Q Okay.</p> <p>7 A -- them putting handcuffs on me.</p> <p>8 Q Okay.</p> <p>9 A And the other times, I remember</p> <p>10 Mr. Espinoza came and got me to speak to an</p> <p>11 inspector general, and they wanted me to cuff up.</p> <p>12 Cuff up for what? I did.</p> <p>13 Q Okay.</p> <p>14 A But that's all I remember.</p> <p>15 Q Do you know why you spoke to the</p> <p>16 inspector general?</p> <p>17 A Yeah, that was regarding a different</p> <p>18 complaint.</p> <p>19 Q A complaint you had made?</p> <p>20 A Yeah.</p> <p>21 Q Yes? Okay. Had you ever been --</p> <p>22 let's set this February 29th, 2012, incident</p> <p>23 aside. Other than that, have you ever been</p> <p>24 involved in a physical altercation with prison</p> <p>25 staff?</p>	<p style="text-align: right;">188</p> <p>1 Q I'm sorry? So no incidents that you</p> <p>2 can think of where they've actually treated you</p> <p>3 differently. You just feel they're looking at you</p> <p>4 differently.</p> <p>5 A No. There's been incidents, but I</p> <p>6 don't know if it's related to this or not --</p> <p>7 Q Okay.</p> <p>8 A -- so I can't say for sure.</p> <p>9 Q Was there a February 12th, 2012,</p> <p>10 event involving a book --</p> <p>11 A Yes.</p> <p>12 Q -- and Officer Nunez? I thought you</p> <p>13 said something about you had some issues with</p> <p>14 Nunez.</p> <p>15 A Yes.</p> <p>16 Q Was that due to that book?</p> <p>17 A Yes.</p> <p>18 Q Why don't you tell me in a nutshell</p> <p>19 what happened there.</p> <p>20 A The chaplain had gave me a book</p> <p>21 called Dealing With People You Can't Stand. Case</p> <p>22 manager McBride after -- I think there was a</p> <p>23 shake-down and the book came up missing or</p> <p>24 confiscated from my cell. And I went to McBride</p> <p>25 and -- because his name was on the shake-down</p>
<p style="text-align: right;">187</p> <p>1 A No, not -- I never touched,</p> <p>2 physically assaulted no staff ever. No.</p> <p>3 Q Okay. Any inmates?</p> <p>4 A No.</p> <p>5 Q And going beyond just Colorado</p> <p>6 Territorial, any other places you've been</p> <p>7 incarcerated, any physical altercations with</p> <p>8 prison staff or inmates?</p> <p>9 A No, not that I can recall.</p> <p>10 Q Okay. Generally, how would you</p> <p>11 describe your relationship with prison staff at</p> <p>12 this facility?</p> <p>13 A Before the lawsuit, I thought it was</p> <p>14 fine. Now it's kind of strained. I don't know.</p> <p>15 Q Okay. How is it different? How</p> <p>16 would you -- can you give me some examples of</p> <p>17 strained?</p> <p>18 A Just a lot of stress, I guess.</p> <p>19 Seeing the people involved. Just --</p> <p>20 Q Do they treat you differently? Can</p> <p>21 you give me examples?</p> <p>22 A Just the looks. Just the looks.</p> <p>23 Q So looks but no actual objective</p> <p>24 treating you differently, correct?</p> <p>25 A Yeah.</p>	<p style="text-align: right;">189</p> <p>1 slip. And I had another book in my pocket, and I</p> <p>2 knew they were gonna say that I had -- was over</p> <p>3 the limit, which I wasn't over the limit.</p> <p>4 And so I said, "Mr. McBride, I'd like</p> <p>5 to give you this book in exchange for this other</p> <p>6 book that was taken." I told him the name of the</p> <p>7 title. He said the book had been put in the</p> <p>8 contraband room and that he'd go get it and</p> <p>9 exchange it. Week went by, two weeks went by,</p> <p>10 month goes by. No book. So I went back to him</p> <p>11 finally, and he said that the book had been</p> <p>12 misplaced. They didn't know where it was.</p> <p>13 So I contacted Mrs. Aldrich. She</p> <p>14 said they were going to order the book for me from</p> <p>15 Barnes and Nobles [sic]. Well, that took -- they</p> <p>16 had to get the money or something. The book was</p> <p>17 ordered. Captain Furton [phonetic] was the</p> <p>18 captain at that time. One of the captains, he</p> <p>19 ordered the book. They paid for it. It came</p> <p>20 through the property room.</p> <p>21 And when I went to go get it from the</p> <p>22 property room, it was Sergeant Poole [phonetic]</p> <p>23 told me that I had to send the book out or have it</p> <p>24 destroyed. I said "Well, for what? You know,</p> <p>25 it's a brand new book. You know, it was purchased</p>

48 (Pages 186 to 189)

190	192
1 for me in replacement." He said -- and I asked	1 Q Okay.
2 him -- I said, "Well, who told you that?"	2 A I think he was --
3 He said, "It was Nunez that told me."	3 Q So you think he did something
4 So when I saw Nunez a week later, I	4 improper?
5 asked him -- I said, "Hey, man. What's -- you	5 A Not only that, but when I requested
6 know, why won't you allow me to have my book?	6 the photographs and additional anatomical, I wrote
7 Because I asked Mr. Poole to save it until we got	7 to Mr. Nunez several times, logged him into the
8 to the bottom of it, not to destroy."	8 legal mail log, never ever got a response from
9 And Nunez kept referring to a policy,	9 him. And finally, I accused him when he didn't
10 this policy. The policy said that he couldn't	10 respond of intentionally trying to cover up and
11 give it to you. The policy said. So I continued	11 hide. Why wouldn't he want me to have another
12 to ask Mr. Nunez, "Well, what policy are you	12 anatomical and pictures?
13 referring to, sir?"	13 Q So that's the main beef you have with
14 And throughout our conversation, we	14 Nunez with regard to not allowing this follow-up
15 spoke for a good 15 minutes. And at the end, he	15 anatomical and pictures?
16 never referred to the policy, so at the end when	16 A I believe so.
17 we stood up to leave, I said, "Man, can you tell	17 Q Just kind of a few questions with
18 me what policy you're referring to? You keep	18 regard to the defendants that are in this. Karen
19 referring to a policy saying that the chaplain	19 Clinkenbeard, Sergeant Clinkenbeard, is it your
20 didn't have authority to give me this book."	20 contention that she injured you at all or you just
21 So he -- right in my face, "You keep	21 -- is it just that you have problems with her
22 it up, Stevenson. You're right on the verge of a	22 decision to cuff you?
23 write-up."	23 MR. LAMPIASI: Object to the form.
24 You know, I was like, "Write-up for	24 THE WITNESS: Mrs. Clinkenbeard used
25 what, man? I'm trying to resolve this and get my	25 these pressure techniques, which I thought was
191	193
1 book back, you know."	1 excessive under the circumstances when I was
2 And he just dismissed me and walked	2 laying prone on the floor, you know.
3 off. So that was the purpose of the grievances,	3 Q BY MR. CAIN: Okay. And going --
4 you know. First, he deprived me of property	4 just backing up a little bit, I want to kind of go
5 without due process, and then he threatened me	5 through that just to find out what kind of
6 with a write-up when I'm trying to resolve the	6 allegations you're making against a few of these
7 issue and get my book back.	7 people specifically. So you're there with her and
8 And then I wrote a letter to the	8 Officer Hanson, correct?
9 warden. The warden had that captain -- Major	9 A Yes.
10 Hildebrand [phonetic] investigate it. And the	10 Q Okay. And they -- you put your hands
11 book was returned, what, a year and a half later,	11 up. She says she wants to cuff you, put your
12 you know. It shouldn't have never been taken.	12 hands up. And then you walk over to the wall and
13 And then come to find out the policy that he was	13 fall down to your knees, correct?
14 referring to didn't even exist.	14 A Pretty much, yes.
15 Q Do you know if he had made that	15 Q You weren't injured at that point?
16 decision or somebody above him made the decision?	16 A No.
17 A I'm not sure. And that's what the	17 Q Okay. And then how long after that
18 grievances were about.	18 did Clinkenbeard use these pressure point
19 Q So then why is Nunez a defendant in	19 techniques?
20 this case?	20 A It was like immediately once I laid
21 A Nunez investigated, I guess, the	21 down on the floor.
22 grievance, and Nunez never ever once came and	22 Q Okay.
23 spoke to me. Never interviewed any of the	23 A You know, she's --
24 witnesses, denied the grievance, and I don't think	24 Q And what type of pressure point
25 that it should have been denied.	25 techniques did she use and where?

194	196
1 MR. LAMPIASI: Objection.	1 Q How about Mark Holloway? Why do you
2 Foundation.	2 have him in here as a defendant, sir?
3 THE WITNESS: The head and neck area.	3 A Mark Holloway is a supervisor. He
4 Q BY MR. CAIN: And did that cause you	4 was there, witnessed what happened as far as the
5 pain?	5 pressing of the face and the request for the
6 A Yeah. It was uncomfortable. It was	6 handcuffs. And the Tasing, I think he was there
7 painful.	7 for that too.
8 Q Okay. Did you cry out or say ouch	8 Q As far as you know, no hands on you,
9 or --	9 correct?
10 A I just resisted, you know, just kind	10 A No. Just --
11 of relaxed and took it.	11 Q Okay.
12 Q Okay. Did that cause any lasting	12 A He had a supervisor.
13 pain?	13 Q What about Kenneth Topliss,
14 A No.	14 T-O-P-L-I-S-S? Why is he a defendant in this
15 Q Okay. And Ms. Hanson, you don't have	15 suit, sir?
16 her as a defendant here. Why? She didn't do	16 A Mr. Topliss is a hearing officer and
17 anything like that?	17 he found me guilty of staff assault and facility
18 A Mrs. Hanson, I didn't know.	18 disruption, and there was no evidence that I
19 Q I'm not suggesting you should have	19 assaulted anyone. I was very careful. And I told
20 her as a defendant. I'm just --	20 the warden that I didn't touch anyone and was
21 A Yeah.	21 careful not to touch anyone and that those staff
22 Q My understanding is you have not.	22 were injured. I didn't cause their injury. I
23 A Yeah. I didn't know, really, what	23 didn't injure them.
24 all she had done, you know.	24 And so he found me guilty. And his
25 Q Okay. She just kind of came in to	25 incident report says that he relied on the
195	197
1 assist Ms. -- or Officer Clinkenbeard. Is that	1 statement of Cordova and Mr. Cordova's report.
2 your understanding?	2 There's no factual nothing in there indicating
3 A Yes.	3 that I caused any of these assaults.
4 Q And she didn't use any pressure point	4 Q So Captain Cordova's report says
5 techniques on you.	5 nothing about you assaulting or in any way harming
6 A It was said that she did, so -- but	6 any of these folks?
7 personally, I don't know if she did or not.	7 A That report said that two staff
8 Q Don't know if Ms. Hanson did?	8 received injuries as a result of use of force for
9 A Yeah.	9 their use of force. It doesn't say that I injured
10 Q As far as Ms. Clinkenbeard -- or	10 them, caused any injury. I didn't. I didn't
11 Officer Clinkenbeard, you actually saw her use the	11 touch anyone, period. Wouldn't.
12 handholds on you, correct?	12 Q So you're saying Lieutenant Topliss,
13 A Yes, yes.	13 his finding was not supported by any evidence at
14 Q Okay. Randy Cordova, in a nutshell,	14 all?
15 what did he do wrong regarding you?	15 A No.
16 A Mr. Cordova just ignored my pleas to	16 Q Okay. Carl Williams, Lieutenant Carl
17 loosen the cuffs --	17 Williams, why is he a defendant in this suit, sir?
18 Q Okay.	18 A Supervisor.
19 A -- and didn't really supervise the	19 Q So there during -- there during the
20 staff that were pressing my face to the floor and	20 time, didn't lay hands on you, but you're saying
21 bending my wrist and pulling on my elbows and --	21 he could have done something else?
22 Q Captain Cordova himself, he didn't	22 A He could have intervened.
23 really lay a hand on you during that time, did he?	23 Q Okay. Lieutenant Henry Williams, I
24 A No. He was aware that the cuffs were	24 guess we've decided he's out. Correct?
25 too tight and refused to loosen them.	25 A Yes.

50 (Pages 194 to 197)

<p style="text-align: right;">198</p> <p>1 Q Okay. Karen Clinkenbeard, we've</p> <p>2 discussed her. And after that initial -- your</p> <p>3 initial contact with her and her using the</p> <p>4 handholds on your neck, she was pretty much out of</p> <p>5 it after that is your understanding?</p> <p>6 A As far as the excessive force, I</p> <p>7 think that there was -- there was a conspiracy</p> <p>8 here to cover this stuff up and especially accuse</p> <p>9 me of kicking staff. I didn't kick anyone.</p> <p>10 Wouldn't kick anyone.</p> <p>11 Q Okay.</p> <p>12 A And so --</p> <p>13 Q With regard -- you're saying she was</p> <p>14 involved in that conspiracy?</p> <p>15 A Yes, sir.</p> <p>16 Q Who else do you believe was involved</p> <p>17 in that conspiracy?</p> <p>18 A I believe it was her and Topliss and</p> <p>19 Cordova and Nunez, Bufmack, Espinoza and</p> <p>20 Benovedez.</p> <p>21 Q And what evidence do you have of</p> <p>22 conspiracy?</p> <p>23 A It's all circumstantial, sir.</p> <p>24 Q You're not aware of somebody --</p> <p>25 overhearing them saying, hey, let's get together</p>	<p style="text-align: right;">200</p> <p>1 guilt for staff assault, the ten points on the</p> <p>2 custody score, these things kind of infer that</p> <p>3 there was -- there was some meeting of the mind,</p> <p>4 you know.</p> <p>5 Q Anything in addition that you can</p> <p>6 think of?</p> <p>7 A I'll quit. No.</p> <p>8 Q So nothing in addition you can think</p> <p>9 of right now?</p> <p>10 A As far as?</p> <p>11 Q That -- the circumstances that you</p> <p>12 believe support this conspiracy amongst those</p> <p>13 folks you mentioned.</p> <p>14 A Yeah. Just, you know, there's -- not</p> <p>15 wanting to take pictures of my teeth, not wanting</p> <p>16 to do another anatomical, not wanting to take</p> <p>17 additional pictures, not responding to my letters</p> <p>18 to Nunez, the minimization of the amount of holes</p> <p>19 in my back, the minimization of the -- saying</p> <p>20 superficial abrasions on my wrists when there was</p> <p>21 far more than that. Just all these things tied</p> <p>22 together.</p> <p>23 There was a review done by a Lisa</p> <p>24 Montoya that said that there was absolutely no</p> <p>25 injuries. Just all this stuff taken together is</p>
<p style="text-align: right;">199</p> <p>1 and cover this up.</p> <p>2 A No, sir.</p> <p>3 Q Anything like that?</p> <p>4 A No, sir.</p> <p>5 Q Okay. And the circumstantial --</p> <p>6 circumstances are simply -- give me some examples</p> <p>7 of the circumstances that you believe support a</p> <p>8 conspiracy amongst those folks to cover this up.</p> <p>9 A One is -- well, there are several.</p> <p>10 Q Sure.</p> <p>11 A What I should have been written up</p> <p>12 for, disobeying a direct order for Mr. -- not</p> <p>13 giving the reports to Mr. Meyers. That appears</p> <p>14 nowhere in this incident report. There was never</p> <p>15 any -- any request for me to search -- for them to</p> <p>16 search me. None of their incident reports state</p> <p>17 that.</p> <p>18 Then all of a sudden in their</p> <p>19 admissions and interrogatories, oh, he refused the</p> <p>20 search. No, I never refused a search. There was</p> <p>21 never any request for them to search. Mr. Cordova</p> <p>22 says that I kicked my legs. I never kicked</p> <p>23 anyone. And when I asked in admissions, who did I</p> <p>24 kick, you know, he says, I don't know.</p> <p>25 The incident report of the finding of</p>	<p style="text-align: right;">201</p> <p>1 -- makes you believe that there was a conspiracy</p> <p>2 to attempt to cover up the excessive force.</p> <p>3 Q Okay. Jason Espinoza, Sergeant Jason</p> <p>4 Espinoza, why is he involved in this lawsuit, sir?</p> <p>5 And that wasn't one you said shouldn't be. Who</p> <p>6 was the other guy that you said shouldn't be?</p> <p>7 A That was Soto and Mr. Henry Williams.</p> <p>8 Q So let's talk about Jason Espinoza.</p> <p>9 Why is he involved in this lawsuit, sir?</p> <p>10 A Jason Espinoza can be seen in the</p> <p>11 video Tasing me and -- he Tased me.</p> <p>12 Q And you believe it was unreasonable</p> <p>13 for him to Tase you given the circumstances he was</p> <p>14 faced with.</p> <p>15 A Yes. He should have stopped and</p> <p>16 asked some questions or something first, and there</p> <p>17 was no need for him to continue to Tase me in the</p> <p>18 manner that he did. I initially thought it was</p> <p>19 four times. It's five, more. I don't know.</p> <p>20 Q Okay.</p> <p>21 A The evidence shows more.</p> <p>22 Q When you say he should have asked</p> <p>23 questions, what should he have asked?</p> <p>24 A Well, if there's a situation like</p> <p>25 that, you know, and there's supervisors that's</p>

<p style="text-align: right;">202</p> <p>1 coming. Hey, what's going on here? What's the 2 problem? You know, what -- hey, what's -- what's 3 happening here? Nobody asked a single thing. 4 Q And there's Jody Bufmack. Have you 5 pretty much given me all the reasons why she's 6 involved in this lawsuit? Is there anything else 7 that you haven't already told me? 8 A I just think that she was -- she 9 mentioned in one of her reports -- you didn't go 10 over that, but she mentioned that I complained 11 about back, neck, and wrist pain. And I think 12 that she was aware that -- of my pain. And I put 13 in a kite to see medical for March 1st, the very 14 next day, you know, to get treatment. 15 Q Of 2012? 16 A 2012. And I didn't see nobody. 17 Nobody saw me until April the 4th, you know. 18 April the 4th. No, the 5th. Excuse me. It was 19 April 5th when I was first seen by medical staff. 20 And I believe that Ms. Bufmack was indifferent, 21 you know. I think she knew that I was hurt and 22 just didn't care. 23 She said she was going to return to 24 examine me and never returned. That's another 25 reason I thought there might have been a</p>	<p style="text-align: right;">204</p> <p>1 that that had been reversed. He made in his 2 chronological log that he received a disposition 3 charge showing that the charge had been either 4 reversed or dismissed. I can't remember. But he 5 added those points knowing that, refused to 6 correct it, which has me classified as closed 7 custody and a high risk. 8 Then he accused me of having escape 9 paraphernalia, wrote an incident report on that. 10 Again, high risk. And I believe that he 11 retaliated against me because of the -- my 12 complaints that he intentionally lost my 13 grievance, step three. Had something to do with 14 it. And my other complaints about the custody 15 score and stuff too. 16 Q Okay. 17 A All of a sudden I've got escape 18 paraphernalia. I never had escape paraphernalia, 19 so -- 20 Q When Sergeant Clinkenbeard originally 21 said she was going to cuff you, if you would have 22 allowed her to cuff you and walked over to 23 medical, do you think you would have been injured? 24 MR. LAMPIASI: Objection. Form. 25 Foundation.</p>
<p style="text-align: right;">203</p> <p>1 conspiracy. 2 Q She was going to return what day? 3 A I saw her on the 3rd of March and I 4 showed her my back. 5 Q Okay. 6 A I showed her my wrists. And she said 7 that she was gonna return and do another 8 examination. And she admits that I asked her and 9 she admits that she didn't return. Why? 10 Q Michael Benovedez, B-E-N-A-V-E-D-E-Z 11 [sic], Sergeant Michael Benovedez, why is he in 12 this lawsuit, sir? 13 A He was identified as one of the 14 people that was bending my wrists and pulling my 15 elbows after I had already been handcuffed, 16 shackled, and strapped to a backboard. And I 17 think that that was unreasonable and unnecessary. 18 He injured me. 19 Q And Aubrey Bell you had mentioned 20 before. Anything in addition to -- any additional 21 reasons why Aubrey Bell should be a -- case 22 manager Aubrey Bell should be a defendant in this 23 case? 24 A I believe that he retaliated against 25 me by adding the points onto my score when he knew</p>	<p style="text-align: right;">205</p> <p>1 Q BY MR. CAIN: Do you think you would 2 have experienced any of these injuries you're 3 claiming? 4 MR. LAMPIASI: Same objection. 5 THE WITNESS: No. 6 Q BY MR. CAIN: All right. With regard 7 to -- and just to say clarify, from the time you 8 went down on the floor on your knees and then onto 9 your stomach, you talked about the time that you 10 were lifted up and then dropped back on the floor. 11 But I want to clarify between when Sergeant 12 Clinkenbeard first said I'm going to cuff you to 13 the time you got to medical. Did you ever stand 14 up on your own accord? 15 A No. 16 Q That's a "no"? 17 A No. Never did. 18 Q Okay. 19 A I did that intentionally. 20 Q Okay. The TASER marks, have those 21 left scarring on your back or do you know what 22 their status is right now? 23 A They disappeared, but they were there 24 for awhile. 25 Q About how long did --</p>

<p style="text-align: right;">206</p> <p>1 A They are gone now.</p> <p>2 Q -- that take?</p> <p>3 A About 45 days, I think, afterwards.</p> <p>4 Q And with regard to your face being</p> <p>5 pressed against the concrete that you mentioned,</p> <p>6 that was only one time. First, you went down and</p> <p>7 hit your forehead, and then you believe your face</p> <p>8 -- your teeth were pushed into the floor one time?</p> <p>9 A Yeah. Well, what do you mean one</p> <p>10 time?</p> <p>11 Q Well, was that only one incident or</p> <p>12 did they move you a little and then they put your</p> <p>13 face back into the floor?</p> <p>14 A No. After they -- after I was</p> <p>15 released here (indicating) this far off the</p> <p>16 ground, and I just knew my face was getting ready</p> <p>17 to hit the ground, and I couldn't break my fall</p> <p>18 because I'm handcuffed. So I just -- my forehead</p> <p>19 hit. And then once I was on the ground, that's</p> <p>20 when the pressure came in my -- my face was</p> <p>21 pressed. My teeth were on the ground. One</p> <p>22 incident, I believe.</p> <p>23 Q Have you had any work done on those</p> <p>24 chipped teeth or are they still in the same</p> <p>25 condition?</p>	<p style="text-align: right;">208</p> <p>1 electrical shocks, the tingling, and so forth.</p> <p>2 Said that would eventually go away. But he was</p> <p>3 saying that this may never come back (indicating),</p> <p>4 you know.</p> <p>5 Q The thumb, the base of the thumb?</p> <p>6 A Base of the thumb.</p> <p>7 Q And that's the numbness or what is</p> <p>8 that?</p> <p>9 A That's no feeling. It's like it's</p> <p>10 dead.</p> <p>11 Q In your left thumb.</p> <p>12 A Yeah, in the left thumb.</p> <p>13 Q Okay.</p> <p>14 A And the atrophy in the thumb, he said</p> <p>15 that might come back. He said don't even expect</p> <p>16 it, so --</p> <p>17 Q Okay. Are there any particular</p> <p>18 things you can't do now after this February 29th,</p> <p>19 2012, incident that you could do before?</p> <p>20 A There's -- there's a lot of things</p> <p>21 that I couldn't do when my hands were injured, you</p> <p>22 know, when bones and stuff were hurting. I</p> <p>23 couldn't do push-ups. I couldn't pour coffee. It</p> <p>24 would hurt to brush my teeth. I couldn't pull</p> <p>25 myself up on my bunk. And that's -- my celly,</p>
<p style="text-align: right;">207</p> <p>1 A No. There was -- the dentist saw me</p> <p>2 on April -- I think it was like the 19th or</p> <p>3 something, and she restored the two chipped teeth.</p> <p>4 Q Okay. And how did she do that? Did</p> <p>5 she just kind of grind them off or did she put a</p> <p>6 -- patch them somehow, or what's your</p> <p>7 understanding?</p> <p>8 A Composite, I guess. Put some</p> <p>9 composite on the corners and grinding them down.</p> <p>10 Q Okay. What permanent injuries do you</p> <p>11 think you've experienced from the February 29th,</p> <p>12 2012, incident, if any?</p> <p>13 A Man, I think I have some. I'm gonna</p> <p>14 have a mental breakdown. The -- just the Tasing</p> <p>15 thing. Just -- just, it was just crazy. I think</p> <p>16 the most permanent damage I have is to this thumb</p> <p>17 here, sir (indicating).</p> <p>18 Q That you just had surgery on</p> <p>19 recently?</p> <p>20 A Yeah. The feeling still hasn't come</p> <p>21 back. I was explaining that to Dr. Romero. I</p> <p>22 told him that I'm getting some feeling and stuff</p> <p>23 here (indicating).</p> <p>24 Q Fingers?</p> <p>25 A In the fingers, but still feeling the</p>	<p style="text-align: right;">209</p> <p>1 Arthur Smith, he's very well aware of that, you</p> <p>2 know.</p> <p>3 And so now, it's just -- I can't feel</p> <p>4 to tie my shoes. I can't --</p> <p>5 Q With either hand?</p> <p>6 A -- untie knots. You know, at first,</p> <p>7 it was with both hands. You know, now I'm getting</p> <p>8 the feeling and stuff back in here (indicating).</p> <p>9 Q In your left hand?</p> <p>10 A Yeah, my left hand.</p> <p>11 Q Okay.</p> <p>12 A I can't -- I can't write. Remember I</p> <p>13 was talking about the writing? My writing is</p> <p>14 terrible now. I can't even grip this pen.</p> <p>15 Q With your right hand?</p> <p>16 A With the right hand. And I can't</p> <p>17 write prolonged, you know, legibly. So it's just</p> <p>18 a lot of stuff.</p> <p>19 Q Okay. Now, in -- let me go back a</p> <p>20 little bit. You said with regard to climbing into</p> <p>21 your bunk. You were having problems doing that</p> <p>22 before this incident or after?</p> <p>23 A No, it was after the incident.</p> <p>24 Q Did you ever have any problems</p> <p>25 climbing into your bunk and falling before this</p>

<p style="text-align: right;">210</p> <p>1 accident?</p> <p>2 A No.</p> <p>3 Q Before -- and when I say "accident,"</p> <p>4 I mean the incident of February 29th, 2012.</p> <p>5 A Have I had an incident of falling?</p> <p>6 Q Problems climbing up into your --</p> <p>7 A No.</p> <p>8 Q It's all been after this incident --</p> <p>9 A Yes, sir.</p> <p>10 Q -- that you have problems climbing</p> <p>11 into your bunk, that type of thing?</p> <p>12 A Yeah. And that lasted -- if I could</p> <p>13 say, that lasted -- it took these bones</p> <p>14 (indicating) to heal, it was like a year and</p> <p>15 something.</p> <p>16 Q The bones on the top of your hand?</p> <p>17 A Yes, sir.</p> <p>18 Q Okay. And with regard to push-ups,</p> <p>19 can you do push-ups now?</p> <p>20 A I can now.</p> <p>21 Q You can now?</p> <p>22 A A little bit.</p> <p>23 Q Did you ever have any problems doing</p> <p>24 push-ups before this incident of February 29th,</p> <p>25 2012?</p>	<p style="text-align: right;">212</p> <p>1 here, you know? I can -- on the tape, you know,</p> <p>2 I'm telling Cordova while I'm in medical, look,</p> <p>3 man. I hadn't done anything wrong. You know, I</p> <p>4 just -- I wanted to talk to you.</p> <p>5 There was no need to cuff me up or --</p> <p>6 you know, she could see that I didn't have --</p> <p>7 there was nothing on me. What am I -- what am I</p> <p>8 -- I don't have anything. I told her I just put</p> <p>9 it in my cell, you know. I wasn't being -- even</p> <p>10 though I was being voiceperous [phonetic], I don't</p> <p>11 have -- you know, I wasn't trying to hurt or harm</p> <p>12 or any of that stuff anybody. You know, I been in</p> <p>13 situations. Never have I assaulted any staff like</p> <p>14 that, you know, and I wouldn't do that.</p> <p>15 So I just feel that it's like they</p> <p>16 didn't care, you know. I complained about my</p> <p>17 wrist and my hand and the cuffs being too tight</p> <p>18 and the damage it already had. It's like nobody</p> <p>19 cared. They didn't want to hear it. And so</p> <p>20 that's what made me kind of just turn off.</p> <p>21 But even when I turned off, I wasn't</p> <p>22 -- I might have said some smart, snide things, but</p> <p>23 I wasn't trying to hurt or harm or any of that</p> <p>24 stuff. I wasn't, you know, being -- I don't know</p> <p>25 how to say it. I just -- I think what they did</p>
<p style="text-align: right;">211</p> <p>1 A Before?</p> <p>2 Q Before.</p> <p>3 A No.</p> <p>4 Q Okay.</p> <p>5 A No.</p> <p>6 Q Okay.</p> <p>7 A I -- yeah, I could do some certain</p> <p>8 things.</p> <p>9 Q Okay. Okay. Anything else from this</p> <p>10 incident? You know, this is my chance to talk to</p> <p>11 you. You're not my client. I can't sit down and</p> <p>12 talk to you like your attorney can. So anything</p> <p>13 else that you'd want me to know, as the attorney</p> <p>14 on the other side of this, to try to evaluate</p> <p>15 what's going on with your case that we haven't</p> <p>16 already discussed? Not to say we haven't</p> <p>17 discussed a lot.</p> <p>18 A We've discussed a lot.</p> <p>19 Q Okay.</p> <p>20 A I just -- what can I say? You know,</p> <p>21 I don't -- I feel what was done to me was wrong.</p> <p>22 I received injuries and, you know, got hurt as a</p> <p>23 result. The whole situation could have been, you</p> <p>24 know, avoided. I just asked Mrs. Clinkenbeard,</p> <p>25 hey, can we wait till the shift commander gets</p>	<p style="text-align: right;">213</p> <p>1 was wrong, and I think that they tried to hide and</p> <p>2 cover it up. And I think most of the evidence,</p> <p>3 you know, tends to show that.</p> <p>4 I don't think it was right. The</p> <p>5 force was excessive. They didn't have to bend my</p> <p>6 wrists. They didn't have to pull on my elbow.</p> <p>7 They could have loosened those cuffs at any time</p> <p>8 after I was subdued, you know, and I asked them</p> <p>9 to. They didn't do it, so I just -- okay. Well,</p> <p>10 if you're not gonna do it, then you carry me.</p> <p>11 That's the punishment you're gonna have,</p> <p>12 basically. I'm sorry for that, but, hey, I was</p> <p>13 like, wow, man. It was just unbelievable. It was</p> <p>14 unbelievable.</p> <p>15 Q I think that's all the questions I</p> <p>16 have. Obviously, I'm representing the defendants</p> <p>17 in this case, but --</p> <p>18 A Yeah.</p> <p>19 Q -- do you feel the questioning here</p> <p>20 today has been at least respectful?</p> <p>21 A Yeah.</p> <p>22 Q Okay. Well, I appreciate your</p> <p>23 participation here today, even though you kind of</p> <p>24 had to as a party in this suit. So, thank you</p> <p>25 very much.</p>

<p style="text-align: right;">214</p> <p>1 A You're very welcome.</p> <p>2 MR. CAIN: Anything else?</p> <p>3 MR. LAMPIASI: Nothing from me.</p> <p>4 THE COURT REPORTER: Mr. Lampiasi,</p> <p>5 would you like your transcript four to a page or</p> <p>6 full size or both?</p> <p>7 MR. LAMPIASI: Four to a page is</p> <p>8 fine.</p> <p>9 THE COURT REPORTER: Would you like</p> <p>10 an e-tran?</p> <p>11 MR. LAMPIASI: Please. Can you do it</p> <p>12 by PDF?</p> <p>13 THE COURT REPORTER: Yes. Would you</p> <p>14 like a copy of the exhibits?</p> <p>15 MR. LAMPIASI: Yes.</p> <p>16 (The deposition concluded at</p> <p>17 4:51 p.m.)</p> <p style="text-align: right;">215</p>	<p style="text-align: right;">216</p> <p>1 REPORTER'S CERTIFICATE</p> <p>2 I, JANICE DOYLE, Certified Court Reporter</p> <p>3 and Notary Public within Colorado, appointed to</p> <p>4 take the deposition of WILLIAM RAYMOND STEVENSON,</p> <p>5 do certify that before the deposition he was duly</p> <p>6 sworn to testify to the truth; that the deposition</p> <p>7 was taken by me on September 15, 2015; then</p> <p>8 reduced to typewritten form herein; that the</p> <p>9 foregoing is a true and accurate transcript of the</p> <p>10 questions asked, testimony given, and proceedings</p> <p>11 had.</p> <p>12 I further certify that I am not related to</p> <p>13 any party herein or their counsel and have no</p> <p>14 interest in the result of this litigation.</p> <p>15 In witness hereof, I have hereunto set my</p> <p>16 hand this 29th day of September, 2015.</p> <p>17 My commission expires January 6, 2019.</p> <p>18</p> <p>19 _____</p> <p>20 Janice Doyle, Certified Court</p> <p>21 Reporter and Notary Public</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">215</p> <p>1 SIGNATURE OF WITNESS</p> <p>2</p> <p>3 I, WILLIAM RAYMOND STEVENSON, the witness</p> <p>4 in the above deposition, do certify that I have</p> <p>5 read the above and foregoing deposition and that</p> <p>6 the same is a true and accurate transcript of my</p> <p>7 testimony, to the best of my knowledge and belief,</p> <p>8 except for attached amendments, if any.</p> <p>9 Amendments attached () Yes () No</p> <p>10</p> <p>11 _____</p> <p>12 WILLIAM RAYMOND STEVENSON</p> <p>13</p> <p>14</p> <p>15 Subscribed and sworn to before me this</p> <p>16 _____ day of _____, 2015.</p> <p>17</p> <p>18 _____</p> <p>19 Notary Public</p> <p>20 My Commission Expires:</p> <p>21 _____</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">217</p> <p>1 J.D. REPORTING SERVICES INC.</p> <p>2 P.O. Box 15756</p> <p>3 Colorado Springs, Colorado 80935-5756</p> <p>4 (719) 494-8488</p> <p>5</p> <p>6 AMENDMENT SHEET</p> <p>7</p> <p>8 The witness, WILLIAM RAYMOND STEVENSON, wishes to</p> <p>9 make the following changes in the testimony as</p> <p>10 originally given:</p> <p>11</p> <p>12 William R. Stevenson v. R. Cordova, et al.</p> <p>13</p> <p>14 PAGE LINE CORRECTION & REASON</p> <p>15</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22</p> <p>23 Signature of Witness</p> <p>24 Subscribed and sworn to before me this _____ day</p> <p>25 of _____, 2015.</p> <p>My Commission Expires:</p> <p>_____</p> <p>Notary Public</p>

55 (Pages 214 to 217)

<p>1 J.D. Reporting Services Inc. P.O. Box 15756 2 Colorado Springs, Colorado 80935 (719) 494-8488 3 4 September 29, 2015 5 Brett Lamplasi, Esq. P.O. Box 347 Hatfield, Massachusetts 01038 6 7 Re: William R. Stevenson v. R. Cordova, et al. 8 9 Deposition of: WILLIAM RAYMOND STEVENSON 10 11 The deposition in the above-entitled matter is ready for reading and signing. Please attend to this matter by complying with ALL blanks checked below: 12 _____ arranging with us at the number listed below to read and sign the deposition in our office. 13 _XXX_ having the witness read your copy and sign amendment sheets, if any (original signature page enclosed). 14 _____ reading enclosed deposition, signing signature page and correction sheets, if any. 15 _XXX_ within 35 days of the date of this letter. 16 17 _____ by _____ due to trial date of _____. 18 19 Please be sure that the signature page and amendment sheets, if any, are signed before a notary public and returned to our office. If this matter has not been taken care of within said period of time, the deposition will be filed unsigned pursuant to the Rules of Civil Procedure. 20 J.D. Reporting Services Inc. 21 cc: Counsel of Record 22 23 24 25</p>	218
<p>1 J.D. Reporting Services Inc. P.O. Box 15756 2 Colorado Springs, Colorado 80935 (719) 494-8488 3 4 Craig W. Cain, Esq. Cain & White, LLP 1555 Quail Lake Loop, Suite 100 5 Colorado Springs, Colorado 80906 6 Re: William R. Stevenson v. R. Cordova, et al. 7 Dear Mr. Cain: 8 Enclosed is the deposition of: WILLIAM RAYMOND STEVENSON 9 10 _____ Previously filed. Forwarding signature page and amendment sheets. 11 _____ Previously filed. Signature page and amendment sheets were not returned within 35 days. 12 _____ Signed, no changes. 13 _____ Signed, with changes, copy enclosed. 14 _XXX_ Unsigned, notice duly given September, 29, 2015, pursuant to the Rules of Civil 15 Procedure. 16 _____ No signature required. 17 _____ Signature waived. 18 _____ To be signed in court. 19 _____ Signature pages/amendment sheets to be returned to court on date of trial. 20 21 _XXX_ Sent by Federal Express on September 29, 22 2015. 23 J.D. Reporting Services Inc. 24 cc: Counsel of Record 25</p>	219

56 (Pages 218 to 219)

(719) 494-8488

J.D. REPORTING SERVICES INC.

jdreporting@comcast.net

116

A	5: 2	29: 11	120: 3	anat...	appo...	42: 17	155: 11
ability	59: 6	51: 23	204: 22	120: 10	216: 3	73: 16	160: 12
7: 17	59: 16	58: 21	allo...	170: 1	appr...	75: 11	175: 17
7: 21	123: 7	60: 20	192: 14	anec...	20: 13	75: 12	177: 22
7: 24	123: 10	62: 15	allows	146: 17	213: 22	81: 8	179: 16
able	126: 15	64: 23	72: 8	anec...	appr...	81: 23	183: 11
26: 25	127: 21	112: 10	alri...	146: 4	57: 9	94: 19	183: 12
28: 12	adding	117: 5	185: 13	ankle	57: 10	95: 9	190: 1
73: 4	203: 25	125: 23	alte...	97: 19	appr...	97: 7	190: 5
104: 1	addi...	146: 23	186: 24	97: 21	183: 3	107: 22	190: 7
abov...	30: 8	152: 19	alte...	181: 22	appr...	arra...	199: 23
218: 8	200: 5	168: 10	187: 7	183: 2	27: 13	218: 11	201: 16
abra...	200: 8	171: 15	amen...	ankles	62: 23	arrive	201: 22
42: 15	203: 20	176: 10	217: 3	172: 12	143: 12	74: 1	201: 23
171: 16	addi...	176: 19	218: 13	172: 13	181: 23	arri ved	202: 3
171: 19	30: 4	aid 16: 4	218: 20	172: 16	april	71: 21	203: 8
171: 25	48: 19	aint	219: 10	answer	33: 12	74: 3	211: 24
172: 2	107: 22	106: 2	219: 11	8: 24	36: 1	78: 14	213: 8
173: 21	118: 22	air	219: 20	9: 6	202: 17	arthur	216: 10
200: 20	118: 25	71: 18	amen...	10: 12	202: 18	32: 23	asking
abso...	149: 13	71: 24	215: 8	80: 1	202: 19	33: 10	8: 18
200: 24	183: 7	72: 11	215: 9	165: 25	207: 2	33: 15	9: 15
acci...	192: 6	72: 23	amount	answ...	arbi...	35: 21	24: 18
210: 1	200: 17	73: 11	24: 7	10: 7, 9	143: 3	37: 7	30: 7
210: 3	203: 20	73: 14	26: 3	answ...	146: 9	209: 1	37: 1
accord	address	100: 9	26: 25	9: 7	area	arts	37: 20
205: 14	169: 20	al 217: 6	28: 12	ante...	34: 18	13: 13	67: 6
accu...	addr...	218: 6	200: 18	181: 22	39: 12	arvel	71: 20
159: 21	89: 16	219: 6	anat...	anybody	44: 23	31: 13	73: 19
183: 4	adds	al dri ch	5: 9	20: 4	45: 6	184: 16	76: 8
215: 6	157: 2	60: 12	103: 17	35: 1	47: 23	aside	81: 15
216: 9	adeq...	61: 12	111: 2	35: 13	65: 13	186: 23	82: 12
accuse	158: 24	99: 12	113: 2	94: 20	66: 5	asked	82: 22
198: 8	admi...	154: 18	115: 15	101: 20	174: 17	10: 6	83: 8
accused	61: 16	155: 14	115: 23	138: 7	175: 5	10: 13	83: 17
192: 9	admi...	189: 13	118: 22	138: 7	175: 24	53: 18	88: 19
204: 8	199: 19	al dr...	119: 22	140: 3	194: 3	54: 11	99: 13
acqu...	199: 23	61: 14	120: 2	163: 5	areas	57: 12	105: 14
96: 12	admi ts	al i ke	120: 8	166: 18	68: 21	57: 13	112: 3
action	203: 8	108: 6	120: 25	212: 12	176: 1	63: 2, 6	134: 12
1: 2	203: 9	al l e...	121: 2	anyway	arent	63: 10	134: 12
12: 1	advi se	103: 5	122: 6	99: 23	105: 20	74: 4	142: 6
actions	167: 5	al l e...	122: 13	156: 19	124: 13	80: 18	160: 6
58: 8	affect	193: 6	144: 6	179: 15	124: 22	85: 15	assault
93: 22	7: 21	al l ege	159: 21	180: 24	arm	85: 25	135: 7
94: 1	7: 23	52: 11	173: 24	apol...	40: 15	86: 1, 8	154: 8
acti...	157: 22	al l eged	176: 13	119: 11	40: 17	87: 7	196: 17
148: 19	afford	37: 22	176: 22	appa...	40: 23	88: 22	200: 1
acti...	9: 6	135: 8	177: 5	25: 8	42: 14	88: 23	assa...
17: 24	afte...	al l en	177: 8	159: 10	81: 10	89: 21	78: 20
46: 13	6: 18	23: 19	177: 15	appeal	81: 13	92: 18	178: 12
actual	6: 19	24: 18	177: 16	156: 19	81: 14	94: 9	187: 2
18: 3	ago	24: 19	177: 21	appeal s	81: 20	95: 19	196: 19
120: 4	132: 12	24: 23	178: 3	14: 15	81: 20	95: 23	212: 13
159: 24	agree	25: 3, 6	178: 8	appe...	82: 4, 9	95: 25	assa...
187: 23	168: 19	26: 4	179: 9	3: 1	82: 11	104: 3	197: 5
acute	171: 4	27: 1	179: 17	appears	82: 15	111: 1	assa...
176: 15	171: 5	al l ow	179: 23	179: 3	82: 16	111: 2	154: 24
add	171: 11	57: 24	180: 2	180: 17	82: 24	111: 5	assa...
29: 22	171: 21	72: 10	182: 22	199: 13	83: 6, 9	111: 22	197: 3
added	171: 23	78: 24	182: 24	appe...	100: 17	119: 21	asse...
154: 6	172: 10	79: 4	192: 6	14: 13	108: 23	131: 21	153: 14
156: 10	agreed	96: 25	192: 12	14: 14	136: 8	131: 23	asse...
204: 5	6: 3	190: 6	192: 15	appl i ed	arms	145: 19	153: 11
adde...	ahead	al l owed	200: 16	148: 18	42: 16	155: 8	assi...

137: 12	atti...	18: 4	165: 20	154: 9	46: 20	182: 17	159: 15
assist	71: 1	18: 10	165: 21	154: 10	49: 19	beli...	198: 20
26: 19	atto...	19: 12	170: 19	157: 11	58: 7	159: 19	203: 10
100: 19	8: 9, 14	30: 5	172: 23	basi...	59: 6	bel l 2: 2	203: 11
195: 1	8: 19	33: 21	174: 4	8: 9, 13	77: 2	7: 6	bent
assi...	9: 23	34: 22	174: 4	88: 17	77: 25	26: 16	39: 9
37: 24	10: 19	34: 23	174: 16	88: 20	79: 22	137: 4	best
assume	14: 22	35: 10	174: 17	93: 9	83: 10	137: 14	7: 16
10: 7	37: 24	38: 12	176: 2	105: 7	90: 20	138: 1	21: 16
52: 16	60: 25	39: 18	176: 7	115: 20	97: 15	138: 6	29: 25
77: 22	166: 14	39: 19	179: 12	125: 16	102: 3	153: 25	215: 7
96: 2	211: 12	40: 1	179: 16	130: 5	107: 20	154: 2	bet
166: 18	211: 13	45: 23	181: 19	138: 23	108: 20	154: 6	16: 20
assumed	atto...	49: 7	182: 14	213: 12	113: 10	154: 14	better
87: 6, 6	8: 12	49: 11	182: 16	bat 8: 11	118: 24	154: 16	48: 23
assu...	144: 23	49: 14	183: 2	bates	120: 2	155: 4	160: 9
14: 17	aubrey	49: 24	185: 13	61: 2	121: 6	155: 10	164: 18
15: 6	7: 6	50: 9	189: 10	159: 9	121: 19	156: 5	beyond
20: 19	153: 25	54: 8	191: 1	beef	122: 11	156: 9	172: 19
32: 8	203: 19	56: 4, 5	191: 7	192: 13	127: 6	156: 22	187: 5
38: 7	203: 21	57: 2	200: 19	began	127: 9	156: 22	bi ble
66: 11	203: 22	61: 18	202: 11	114: 21	128: 24	157: 1	13: 24
83: 5	audi bly	62: 3	203: 4	begl...	134: 16	157: 9	bi la...
92: 18	8: 24	66: 9	205: 10	24: 5	137: 10	203: 19	94: 7, 8
104: 6	auth...	71: 5, 8	205: 21	84: 3	137: 22	203: 21	birth
150: 20	73: 25	78: 2, 3	206: 13	behal f	137: 25	203: 22	12: 18
170: 2	190: 20	78: 3, 3	207: 21	2: 12	140: 8	bell s	bi t 8: 25
172: 10	auth...	80: 20	208: 3	beha...	140: 9	143: 23	17: 9
174: 6	159: 21	81: 6, 8	208: 15	154: 24	140: 15	156: 17	29: 10
assure	180: 1	81: 13	209: 8	bel i ef	151: 8	157: 14	52: 9
167: 23	auth...	81: 14	209: 19	21: 7	156: 19	bel ly	54: 3
atrophy	69: 1	82: 24	back...	215: 7	156: 21	110: 18	58: 23
48: 1	avcf	88: 17	110: 16	bel i eve	157: 10	ben a...	62: 2
208: 14	25: 8	90: 23	110: 21	7: 4	157: 13	7: 6	65: 12
attach	avoi ded	92: 6	131: 9	8: 18	158: 12	203: 10	125: 18
22: 14	211: 24	94: 3	131: 9	11: 5, 7	158: 12	bend	125: 19
27: 18	aware	95: 6, 7	131: 16	11: 11	158: 14	213: 5	126: 13
28: 17	8: 13	98: 2, 4	131: 17	20: 21	158: 16	bendi ng	176: 8
atta...	15: 20	98: 11	203: 16	21: 19	160: 15	34: 5	193: 4
21: 19	20: 9	98: 24	back...	26: 12	170: 5	34: 12	209: 20
21: 20	53: 12	99: 24	16: 14	27: 14	170: 20	34: 17	210: 22
23: 21	154: 17	101: 24	backi ng	28: 19	170: 24	39: 5, 6	bl ack
26: 10	163: 25	108: 21	193: 4	29: 14	171: 5	39: 18	159: 22
61: 9	164: 1	111: 8	bad	29: 22	174: 11	39: 19	bl am...
62: 6, 8	166: 15	111: 24	158: 9	30: 12	174: 15	39: 19	3: 6
66: 10	175: 8	113: 15	bag	30: 14	185: 5	39: 25	bl anks
165: 24	195: 24	119: 10	156: 3	30: 19	192: 16	97: 6	218: 9
215: 8	198: 24	119: 25	156: 6	30: 24	198: 16	107: 2	bl ee...
215: 9	202: 12	120: 1	bal l...	31: 6	198: 18	108: 15	84: 20
atta...	209: 1	122: 3	32: 17	33: 2, 6	199: 7	109: 4	123: 5
125: 12	awhile	126: 14	133: 24	33: 25	200: 12	109: 9	123: 6
attempt	50: 5	127: 2	bandage	34: 3	201: 1	109: 23	172: 4
94: 19	134: 2	128: 21	44: 8	35: 10	201: 12	124: 8	172: 5
97: 13	205: 24	129: 22	barnes	35: 23	202: 20	131: 22	172: 6
135: 7		134: 14	189: 15	36: 7	203: 24	195: 21	172: 7
201: 2	B	141: 8	base	37: 15	204: 10	203: 14	172: 19
atte...	b 4: 6	145: 10	44: 22	38: 20	206: 7	beneath	bl ess
13: 16	6: 7	147: 16	173: 9	39: 1	206: 22	73: 16	154: 20
77: 7	59: 11	151: 19	174: 3	40: 19	bel i...	75: 11	bl ock
atte...	152: 25	152: 7	208: 5	42: 6, 7	79: 13	beno...	157: 24
55: 8	158: 22	152: 16	208: 6	42: 8	91: 16	2: 1	bl ood
attend	165: 21	157: 14	based	43: 14	121: 22	7: 5	84: 9
218: 9	back	159: 13	22: 24	45: 13	137: 4	108: 1	84: 13
atte...	17: 8	159: 18	27: 24	45: 14	139: 7	108: 21	179: 14
137: 1	17: 21	160: 8	146: 16	46: 4	174: 19	159: 15	bl oody

board	bottom	34: 19	69: 22	64: 15	126: 1	cal l	1: 21
107: 16	17: 12	35: 2		64: 25	126: 8	53: 9	1: 23
107: 18	37: 18	brought	C	66: 4	126: 12	53: 12	1: 24
108: 18	43: 17	131: 14	c 1: 13	67: 14	126: 14	70: 5	2: 2, 3
110: 2	61: 2	131: 15	4: 10	69: 21	129: 17	cal l ed	captai n
110: 5	82: 22	bru i sed	6: 7	70: 20	130: 12	8: 12	1: 7, 8
110: 9	110: 22	33: 24	12: 5	72: 16	132: 11	45: 8	19: 15
boards	114: 1	brush	57: 14	72: 19	136: 6	54: 4	19: 24
110: 12	118: 11	208: 24	59: 3	72: 22	137: 23	56: 3	20: 1, 2
body	122: 15	brus. . .	59: 13	73: 3, 9	138: 3	65: 7	20: 3
41: 15	134: 24	57: 6	59: 14	74: 19	139: 9	67: 3	25: 25
42: 3	136: 12	bufmack	59: 19	74: 24	139: 12	188: 21	30: 4
42: 11	136: 22	1: 23	62: 5, 7	77: 5	139: 17	cal m	56: 12
82: 7	136: 25	7: 5	62: 13	77: 11	142: 4	133: 11	66: 20
95: 10	138: 14	30: 17	71: 9, 9	77: 15	142: 13	camera	66: 21
98: 4	149: 12	87: 14	71: 10	78: 17	142: 19	106: 11	74: 4, 6
98: 13	156: 18	103: 11	77: 20	79: 16	142: 23	173: 18	110: 23
98: 23	175: 23	118: 10	81: 6	79: 21	143: 10	cameras	122: 5
106: 11	190: 8	118: 12	94: 4	83: 24	143: 17	66: 2	123: 14
127: 3	bounds	118: 15	107: 12	85: 18	144: 15	canon	127: 25
bodys	167: 11	119: 8	118: 19	86: 16	144: 21	2: 14	128: 5
97: 9	box 3: 3	119: 11	120: 14	88: 2	144: 24	cant	140: 18
bone	217: 1	122: 19	122: 4	89: 18	145: 2	31: 1	162: 8
84: 19	218: 1	159: 1	146: 14	89: 23	145: 5	41: 18	179: 9
bones	218: 5	159: 11	157: 7	90: 17	149: 8	41: 24	182: 23
33: 22	219: 1	159: 17	162: 1	91: 24	152: 21	43: 24	189: 17
33: 23	boy	160: 3	162: 1	92: 22	154: 22	68: 4, 6	189: 18
34: 19	69: 24	162: 10	185: 4	93: 17	162: 19	68: 14	191: 9
34: 22	70: 2, 4	162: 15	185: 9	93: 22	163: 25	69: 6	195: 22
35: 2, 9	70: 6	164: 6	c1 4: 19	94: 23	164: 23	69: 10	197: 4
35: 14	152: 25	176: 7	60: 20	95: 21	165: 1	75: 23	capt. . .
38: 12	boys	198: 19	60: 21	95: 24	165: 7	76: 3, 3	141: 6
208: 22	131: 23	202: 4	60: 24	96: 7	166: 21	76: 4	189: 18
210: 13	bracket	202: 20	62: 4	96: 10	166: 24	102: 10	capt. . .
210: 16	159: 7	bufmark	62: 10	96: 16	167: 4	125: 12	159: 16
book	159: 8	170: 15	cage	96: 19	167: 9	140: 11	care
188: 10	166: 4	181: 1	103: 14	97: 11	167: 13	140: 21	16: 4
188: 16	166: 5	bui l . . .	cai n 3: 9	102: 13	167: 16	141: 15	89: 13
188: 20	169: 5	130: 23	3: 9, 21	105: 16	167: 25	141: 21	158: 24
188: 23	169: 5	130: 25	6: 17	106: 7	168: 5	142: 2	202: 22
189: 1	brand	131: 1	6: 20	106: 9	168: 8	143: 2	212: 16
189: 5	189: 25	bumps	6: 21	106: 21	168: 10	150: 14	218: 21
189: 6	break	170: 19	16: 20	109: 19	168: 20	150: 25	cared
189: 7	10: 12	170: 20	16: 23	110: 8	168: 21	155: 22	69: 19
189: 10	10: 15	170: 21	20: 9	110: 12	169: 12	160: 17	212: 19
189: 11	61: 23	176: 1	29: 25	110: 19	176: 17	188: 8	careful
189: 14	62: 2	bunch	31: 13	111: 19	176: 19	188: 21	196: 19
189: 16	126: 9	9: 22	32: 11	112: 11	176: 25	204: 4	196: 21
189: 19	126: 13	bunk	38: 21	112: 16	178: 17	208: 18	carl 7: 2
189: 23	144: 20	208: 25	41: 21	112: 20	178: 20	209: 3	23: 17
189: 25	152: 8	209: 21	41: 24	112: 22	178: 23	209: 4	197: 16
190: 6	160: 2	209: 25	42: 7	114: 20	178: 24	209: 12	197: 16
190: 20	206: 17	210: 11	43: 1, 3	115: 4	181: 15	209: 12	carpal
191: 1	brea. . .	busi . . .	45: 7	115: 19	181: 17	209: 14	34: 21
191: 7	207: 14	13: 14	46: 5	116: 2	184: 4	209: 16	38: 11
191: 11	brett	13: 14	50: 2, 4	116: 6	193: 3	211: 11	44: 15
born	3: 3, 6	bust	50: 13	117: 15	194: 4	capa. . .	45: 8
12: 21	218: 4	126: 2	58: 16	117: 20	205: 1	1: 8, 9	45: 10
boss	bri ng	busti ng	59: 5	117: 24	205: 6	1: 11	46: 19
102: 16	58: 1	125: 2	59: 13	124: 9	214: 2	1: 12	47: 2
102: 17	81: 12	125: 6	59: 15	124: 11	219: 3	1: 14	49: 13
102: 18	81: 14	125: 17	59: 18	124: 21	219: 4	1: 15	85: 16
102: 25	82: 24	butl er	60: 23	125: 15	219: 7	1: 17	94: 8
both. . .	broken	155: 15	62: 1, 3	125: 22	cai n. . .	1: 18	121: 17
178: 12	33: 23	byth. . .	64: 5, 9	125: 25	3: 12	1: 20	166: 6

carried	196: 22	cel l y	chi p	cl ai m	65: 1	com 3: 6	179: 8
92: 7	caused	36: 8	180: 18	78: 20	cl ose	3: 12	comm. . .
105: 19	34: 1	208: 25	181: 4	158: 25	146: 11	come	215: 20
107: 16	39: 2	center	chipped	173: 24	159: 8	26: 19	216: 17
176: 23	40: 4	185: 10	103: 6	cl ai . . .	166: 5	49: 11	217: 24
carry	40: 20	cent. . .	103: 7	36: 18	169: 5	53: 8	comm. . .
86: 15	42: 14	170: 19	103: 10	205: 3	182: 15	56: 13	13: 2, 6
86: 18	43: 13	cent. . .	103: 12	cl ai ms	cl o sed	56: 15	13: 7
88: 20	45: 2	13: 6	103: 16	57: 23	23: 12	57: 2	comp. . .
89: 5	136: 10	certain	103: 18	138: 18	25: 25	63: 19	60: 2
91: 14	148: 5	56: 20	103: 19	cl ari fy	28: 2	64: 1, 2	comp. . .
92: 16	149: 13	135: 13	122: 16	205: 7	157: 3	64: 6	39: 24
92: 19	159: 18	137: 17	122: 18	205: 11	204: 6	99: 16	107: 10
92: 23	174: 11	149: 18	122: 21	cl ass	cl o thes	147: 16	comp. . .
93: 1, 5	174: 20	162: 14	122: 24	13: 14	115: 21	162: 2	85: 5
93: 10	197: 3	182: 7	171: 2	cl asses	115: 24	166: 11	85: 22
101: 3	197: 10	211: 7	171: 6	13: 11	117: 21	176: 14	104: 2
105: 11	causi ng	cert. . .	171: 7	cl as. . .	118: 3	178: 4	109: 11
105: 21	39: 9	16: 17	180: 21	154: 14	118: 3	191: 13	123: 19
106: 2	43: 4	38: 16	181: 1	155: 7	118: 6	207: 20	124: 5
124: 14	84: 9	105: 17	181: 8	cl as. . .	118: 8	208: 3	124: 7
124: 22	108: 15	126: 8	184: 13	154: 24	coffee	208: 15	127: 22
125: 12	149: 23	165: 9	206: 24	155: 17	208: 23	comes	157: 8
127: 19	cc	170: 7	207: 3	155: 25	coll . . .	156: 14	158: 18
135: 6	218: 24	cert. . .	chi ps	204: 6	164: 16	comf. . .	202: 10
213: 10	219: 24	216: 1	184: 8	clear	col l ege	19: 24	212: 16
case 2: 2	ccai n	cert. . .	184: 19	162: 25	13: 2, 3	comi ng	comp. . .
10: 1	3: 12	2: 16	184: 24	cl ient	13: 6, 7	57: 7	107: 8
11: 6	cel l	216: 2	choi ce	211: 11	col or	68: 10	122: 5
11: 12	55: 3	216: 19	70: 16	cl ients	159: 24	99: 13	123: 24
14: 3, 4	56: 8	certi fy	chops	11: 6	col o. . .	176: 7	130: 2
14: 7	56: 25	215: 4	125: 2	153: 19	1: 1, 7	202: 1	130: 8
14: 16	57: 2, 3	216: 5	125: 6	cl i m. . .	1: 8, 10	comm. . .	131: 20
14: 21	63: 9	216: 12	125: 17	209: 20	1: 11	63: 23	comp. . .
19: 17	68: 3, 8	chai n	126: 3	209: 25	1: 13	63: 24	174: 1
19: 18	68: 9	140: 21	chri . . .	210: 6	1: 14	66: 14	comp. . .
30: 25	68: 16	chance	143: 24	210: 10	1: 16	66: 17	4: 10
31: 6	68: 19	8: 10	chro. . .	cl i n. . .	1: 17	66: 20	4: 17
33: 3, 8	80: 6, 6	74: 7	204: 2	5: 8	1: 19	71: 21	4: 21
35: 23	80: 15	211: 10	ci rcle	cl i n. . .	1: 20	72: 4, 5	5: 4
37: 24	80: 23	change	175: 24	7: 4	1: 22	72: 9	10: 21
54: 16	81: 1, 4	47: 9	ci rc. . .	cl i n. . .	1: 23	72: 15	18: 16
54: 21	88: 14	changed	84: 25	1: 16	2: 1, 2	73: 20	21: 21
153: 15	99: 13	157: 23	ci rc. . .	7: 3	2: 15	76: 9	21: 24
153: 25	103: 14	changes	138: 4	52: 15	3: 10	76: 10	62: 5, 7
154: 12	113: 21	217: 5	138: 12	57: 8	3: 10	76: 17	62: 8
166: 12	118: 24	219: 13	142: 24	62: 23	5: 7	78: 14	66: 10
170: 5	157: 24	219: 14	193: 1	67: 6, 9	6: 24	79: 5	186: 18
170: 8	173: 25	chap. . .	199: 6	71: 5, 6	14: 10	82: 13	186: 19
188: 21	176: 21	188: 20	199: 7	79: 12	14: 13	83: 18	comp. . .
191: 20	177: 21	190: 19	200: 11	79: 23	14: 23	87: 8	19: 23
203: 21	188: 24	charge	201: 13	138: 20	187: 5	134: 13	124: 6
203: 23	212: 9	156: 25	ci rc. . .	139: 2	216: 3	179: 9	204: 12
211: 15	cel l . . .	157: 1	198: 23	192: 19	217: 2	182: 23	204: 14
213: 17	33: 11	204: 3	199: 5	192: 19	217: 2	211: 25	comp. . .
cases	36: 1, 5	204: 3	cl ty	192: 24	218: 2	comm. . .	106: 13
15: 12	36: 13	check	2: 15	193: 18	218: 2	145: 16	167: 14
cat 59: 3	36: 15	22: 1	ci vi l	195: 1	219: 2	145: 24	comp. . .
caught	36: 20	26: 15	1: 2	195: 10	219: 2	146: 9	168: 3
157: 25	37: 5, 6	59: 21	2: 14	195: 11	219: 5	comment	178: 8
158: 3	37: 14	60: 19	6: 5	198: 1	219: 5	176: 12	182: 23
cause	cel l . . .	checked	14: 21	204: 20	col o. . .	comm. . .	comp. . .
149: 16	36: 23	218: 9	93: 25	205: 12	43: 25	105: 20	89: 15
194: 4	cel l s	chi l . . .	218: 22	211: 24	col ored	173: 22	115: 17
194: 12	69: 8	15: 19	219: 15	cl i n. . .	164: 5	178: 2	116: 13

comply	cons...	31: 23	182: 24	150: 22	82: 6	168: 14	90: 25
85: 19	138: 4	112: 3	183: 12	155: 11	96: 6	cover	91: 20
85: 24	138: 10	190: 14	195: 14	155: 13	114: 8	62: 4	96: 22
112: 6	cons...	conv...	195: 16	157: 18	122: 23	159: 1	96: 23
112: 13	177: 3	29: 17	195: 22	161: 7	122: 25	159: 7	96: 24
115: 9	177: 15	29: 21	197: 1	161: 11	151: 23	185: 14	97: 12
115: 11	179: 6	31: 5	198: 19	170: 22	151: 25	192: 10	97: 13
115: 12	180: 11	31: 19	199: 21	172: 12	190: 10	198: 8	97: 15
115: 14	180: 15	conv...	212: 2	173: 10	206: 17	199: 1	185: 16
116: 10	180: 19	154: 12	217: 6	173: 15	208: 21	199: 8	185: 18
116: 13	181: 24	154: 15	218: 6	174: 8	208: 23	201: 2	186: 11
138: 15	cons...	coop...	219: 6	175: 13	208: 23	213: 2	186: 12
comp...	159: 7	111: 1	cord...	175: 18	208: 24	covered	192: 22
218: 9	198: 7	111: 6	197: 1	175: 19	counsel	24: 6	193: 11
comp...	198: 14	111: 9	197: 4	175: 20	153: 2	craig	204: 21
207: 8	198: 17	111: 13	corner	177: 1	166: 12	3: 9	204: 22
207: 9	198: 22	111: 16	73: 15	181: 5	166: 17	6: 20	205: 12
conc...	199: 8	111: 21	176: 23	187: 24	216: 13	219: 3	212: 5
19: 19	200: 12	111: 25	177: 10	193: 8	218: 24	crazy	cuffed
conc...	201: 1	114: 18	178: 10	193: 13	219: 24	207: 15	73: 19
17: 22	203: 1	115: 7	corners	195: 12	count	168: 23	78: 25
20: 17	cons...	coop...	207: 9	196: 9	163: 20	168: 23	79: 2, 4
21: 4	137: 4	114: 13	correct	197: 24	179: 15	168: 23	81: 24
27: 17	cons...	114: 17	12: 14	204: 6	counted	148: 23	82: 10
29: 20	137: 7	114: 21	16: 18	corr...	119: 25	148: 23	82: 16
31: 20	138: 7	115: 5	29: 15	118: 23	163: 7	cried	83: 9
33: 13	159: 1	115: 7	34: 25	corr...	163: 11	123: 25	88: 3, 7
165: 23	consult	116: 7	36: 3	157: 10	couple	14: 8	90: 13
conc...	52: 4	117: 10	37: 9	corr...	136: 25	14: 8	90: 18
214: 16	contact	117: 14	37: 13	5: 2	152: 4	cross	94: 13
conc...	6: 23	117: 16	49: 15	25: 12	175: 2	86: 16	96: 13
98: 5	18: 21	copd	71: 6	135: 8	course	crowd	98: 1
100: 7	198: 3	154: 15	72: 25	217: 7	67: 18	143: 4	141: 4
149: 15	cont...	copies	73: 5	218: 15	145: 20	cry	141: 5
206: 5	66: 24	53: 19	80: 21	corr...	157: 16	194: 8	cuffing
cond...	66: 25	copy	81: 1	1: 7, 9	168: 3	ctcf	82: 10
121: 16	67: 5	16: 16	82: 25	1: 10	courses	17: 13	cuffs
168: 25	189: 13	60: 24	85: 1	1: 12	13: 2	20: 14	83: 5
206: 25	cont...	153: 9	105: 1	1: 13	court	22: 13	83: 14
conduct	192: 20	155: 6	105: 8	1: 15	1: 1	25: 8	83: 15
4: 17	cont...	214: 14	107: 18	1: 16	2: 16	30: 10	84: 21
4: 21	86: 4	218: 13	112: 1	1: 18	6: 8	31: 3	85: 16
62: 5	cont...	219: 14	113: 16	1: 19	9: 10	31: 14	86: 2, 4
139: 22	13: 17	cordera	113: 24	1: 21	14: 9	32: 24	86: 5
144: 10	201: 17	122: 12	114: 13	1: 22	14: 10	33: 1	86: 18
cond...	cont...	cordova	116: 3	1: 24	14: 13	33: 10	86: 23
113: 3	190: 11	1: 7	116: 16	2: 1, 3	14: 15	cuff	88: 10
122: 6	cont...	7: 1	119: 13	71: 11	15: 3, 4	62: 24	88: 13
conf...	54: 20	30: 4	119: 22	71: 12	15: 5	63: 1	88: 23
146: 10	57: 25	66: 20	120: 5	72: 12	60: 22	63: 10	88: 25
confirm	58: 3, 8	66: 22	123: 12	89: 24	167: 22	63: 11	89: 24
40: 12	79: 8	76: 12	126: 20	corr...	168: 18	63: 21	89: 25
conf...	79: 13	110: 23	127: 14	1: 20	169: 2	66: 12	90: 3
76: 24	79: 24	110: 24	128: 18	1: 22	214: 4	67: 6	94: 7
conf...	80: 8	122: 6	129: 19	4: 15	214: 9	71: 24	96: 25
56: 11	189: 8	123: 14	130: 19	4: 19	214: 13	79: 8	97: 2
188: 24	cont...	127: 25	132: 6	5: 8	216: 2	81: 10	104: 2
consent	4: 16	128: 6	133: 1	6: 25	216: 19	81: 14	104: 12
165: 25	4: 20	128: 7	138: 4	185: 12	219: 19	81: 16	105: 14
166: 3	cont...	129: 3	138: 24	corwin	219: 20	81: 21	105: 15
cons...	17: 3	162: 8	142: 25	45: 21	cour...	82: 3, 3	107: 15
116: 6	46: 22	162: 13	145: 22	couldnt	9: 6	82: 5	109: 8
155: 1	47: 2	179: 10	147: 2	75: 16	cour...	83: 6	111: 3
cons...	conv...	179: 11	147: 9	78: 5, 7	9: 22	87: 8	111: 23
44: 14	29: 14	179: 22	149: 7	81: 8	courts	89: 16	111: 25

112: 4	185: 4	217: 22	153: 11	50: 17	73: 18	203: 9	di scuss
113: 23	185: 4	days	153: 19	52: 22	73: 19	212: 6	8: 10
114: 2	185: 9	123: 11	192: 18	68: 22	74: 7	212: 16	27: 21
114: 3	185: 9	175: 2	213: 16	83: 20	77: 7	212: 19	29: 3
114: 7	217: 1	206: 3	defiant	160: 10	77: 17	213: 5	32: 2
114: 7	218: 1	218: 17	89: 11	172: 15	78: 14	213: 6	145: 1
114: 9	218: 23	219: 12	117: 6	187: 11	78: 15	213: 9	di sc...
114: 11	219: 1	dead	117: 7	desc...	78: 24	di ff...	8: 19
114: 19	219: 23	208: 10	defi...	172: 15	79: 6, 7	165: 2	23: 24
114: 23	damage	deal	15: 11	desc...	79: 8	di ff...	26: 21
114: 23	33: 16	145: 18	43: 25	4: 1	82: 2	32: 14	27: 6
125: 10	33: 20	145: 25	56: 1	5: 1	85: 12	65: 18	28: 21
127: 23	33: 21	deal ing	del i...	175: 25	87: 13	105: 17	32: 12
128: 23	38: 12	146: 3	60: 15	desc...	87: 14	105: 18	32: 17
128: 23	47: 18	188: 21	deni ed	31: 20	99: 7	137: 21	49: 8
130: 9	48: 19	deal t	158: 23	deserve	99: 21	155: 21	51: 20
135: 5	85: 17	118: 11	191: 24	138: 22	105: 21	157: 23	128: 20
173: 4	94: 8	dear	191: 25	dese...	108: 21	157: 24	169: 10
195: 17	173: 7	219: 7	denti st	145: 19	111: 24	165: 3	198: 2
195: 24	207: 16	dece...	185: 1	destroy	112: 5	177: 11	211: 16
212: 17	212: 18	88: 18	185: 3	190: 8	115: 22	186: 17	211: 17
213: 7	damaged	92: 6	185: 7	dest...	116: 13	187: 15	211: 18
cul i...	44: 18	143: 18	207: 1	189: 24	117: 4	di ff...	di sc...
13: 13	48: 13	144: 8	denver	detail	121: 1	29: 11	90: 11
curious	48: 14	146: 1	15: 5	37: 21	121: 2	155: 18	128: 23
96: 12	date	147: 1	185: 10	52: 7	124: 14	187: 20	167: 18
current	2: 15	deci ded	deny	52: 10	124: 19	187: 24	di sc...
31: 14	12: 18	197: 24	106: 14	138: 15	129: 22	188: 3	133: 19
32: 24	52: 13	deci...	depa...	143: 20	129: 23	188: 4	di sc...
33: 10	70: 13	105: 10	4: 15	deta...	129: 23	di ff...	8: 13
166: 3	218: 17	191: 16	4: 19	58: 24	131: 14	69: 13	10: 18
168: 25	218: 18	191: 16	5: 7	detail s	139: 15	di g 43: 9	22: 25
custody	219: 20	192: 22	6: 25	141: 16	141: 4	di rect	168: 12
154: 7	dated	decr...	185: 12	141: 17	143: 3	54: 22	169: 16
157: 3	4: 4, 9	38: 10	depo...	142: 3	146: 20	137: 1	di sm...
157: 10	4: 12	deep	2: 7, 11	143: 21	149: 2	139: 8	136: 16
200: 2	5: 4, 9	38: 10	3: 19	144: 1	152: 9	139: 11	154: 13
204: 7	62: 16	43: 12	7: 7	dete...	155: 9	139: 14	154: 16
204: 14	123: 11	43: 16	8: 6	136: 18	155: 13	139: 25	154: 17
cut	179: 4	84: 18	9: 20	168: 18	155: 14	140: 4	157: 1
84: 18	day	172: 1	10: 18	di ag...	162: 21	141: 10	157: 2
85: 1	27: 22	172: 17	10: 20	166: 7	175: 21	199: 12	191: 2
123: 3	47: 14	173: 5	54: 2	di agram	180: 20	di re...	204: 4
158: 1	54: 16	defe...	61: 1	172: 11	182: 11	185: 16	di sobey
cuts	67: 1, 9	6: 24	214: 16	182: 17	184: 3	185: 18	139: 25
38: 10	67: 12	148: 17	215: 4	di am...	189: 12	di re...	di so...
40: 14	67: 17	149: 9	215: 5	181: 23	190: 20	127: 25	139: 8
44: 1	67: 17	159: 1	216: 4	di ctate	191: 14	177: 4	di so...
172: 1	67: 20	159: 11	216: 5	86: 13	192: 9	di sa...	54: 22
	67: 23	159: 14	216: 6	89: 2	194: 16	158: 20	139: 11
	68: 4	159: 17	218: 7	104: 21	194: 18	205: 23	139: 14
	87: 14	159: 20	218: 8	di ct...	194: 23	di sa...	140: 4
d 1: 8	87: 21	191: 19	218: 11	104: 24	195: 4	137: 20	199: 12
3: 17	119: 15	194: 16	218: 15	di dnt	195: 19	di sc...	di sp...
5: 2	162: 11	194: 20	218: 21	19: 24	195: 22	169: 19	176: 15
6: 7	162: 11	196: 2	219: 8	25: 16	196: 20	169: 20	di sp...
23: 19	162: 12	196: 14	depr...	29: 6	196: 22	di sc...	204: 2
59: 9	162: 12	197: 17	191: 4	53: 3	196: 23	35: 11	di srupt
59: 16	162: 23	203: 22	desc...	55: 11	197: 10	di sc...	53: 4
62: 5	170: 16	defe...	37: 21	55: 11	197: 10	50: 6	di sr...
120: 14	183: 17	2: 4, 13	38: 22	56: 10	197: 20	di sc...	52: 20
123: 8	202: 14	3: 8	41: 16	58: 14	198: 9	10: 22	53: 10
126: 15	203: 2	4: 3, 7	45: 3	63: 8	202: 9	10: 23	63: 14
127: 21	215: 16	6: 25	48: 13	69: 11	202: 16	161: 17	63: 16
146: 14	216: 16	14: 20	48: 18	71: 1	202: 22	169: 3	63: 20
157: 7							

di sr...	150: 13	90: 22	169: 12	127: 10	174: 7	80: 4	138: 12
52: 19	152: 14	91: 8	177: 10	127: 17	204: 3	80: 12	146: 17
53: 1	155: 5	92: 1	177: 17	149: 20	209: 5	80: 14	159: 6
di sr...	209: 21	92: 21	177: 19	150: 19	el bow	80: 17	159: 13
140: 15	210: 23	92: 25	181: 13	152: 5	34: 8	80: 20	196: 18
144: 16	domi...	93: 20	182: 11	205: 10	34: 10	enve...	197: 13
196: 18	47: 6	101: 12	185: 18	drop...	39: 20	58: 17	198: 21
di ssi ng	donal d	102: 10	187: 14	100: 1	109: 12	80: 13	201: 21
125: 17	7: 1	104: 21	188: 6	149: 14	109: 13	err	213: 2
125: 19	dont	104: 23	188: 18	150: 25	109: 24	167: 20	exac...
di stal	8: 14	105: 24	191: 24	due	124: 10	escape	49: 17
180: 18	8: 20	106: 6	194: 15	35: 15	213: 6	156: 4	49: 21
di st...	9: 15	106: 14	195: 7	44: 8	el bows	156: 5	exactly
176: 15	10: 18	106: 15	195: 8	188: 16	195: 21	157: 5	53: 13
di st...	22: 11	106: 19	199: 24	191: 5	203: 15	157: 5	128: 16
1: 1, 1	27: 10	112: 2	201: 19	218: 18	el ec...	204: 8	133: 22
15: 5	28: 6	113: 6	208: 15	dul y	51: 11	204: 17	134: 3
doc 4: 16	32: 18	113: 7	211: 21	6: 12	51: 18	204: 18	142: 7
4: 20	33: 5	117: 2	212: 8	216: 5	208: 1	espe...	160: 17
doctor	35: 5	118: 13	212: 10	219: 15	el even	146: 8	181: 3
49: 8	35: 11	124: 16	212: 24	duty	11: 8	168: 14	181: 6
51: 21	36: 13	124: 25	213: 4	64: 15	email	198: 8	exam...
51: 22	38: 22	126: 5	door	64: 19	3: 6, 12	espl...	3: 21
174: 7	41: 7	127: 6	21: 1	65: 1	empl...	1: 17	6: 16
174: 7	44: 12	128: 13	23: 2, 9	65: 22	4: 16	7: 4	88: 11
doctors	48: 18	128: 16	23: 12		4: 20	76: 20	166: 7
121: 21	49: 20	129: 7	24: 5	E	empl...	76: 24	172: 4
docu...	50: 16	129: 14	26: 2	e 3: 17	146: 14	159: 15	176: 5
61: 3, 6	50: 23	130: 5	28: 2	5: 7	empl...	179: 20	203: 8
docu...	52: 3	130: 21	176: 14	6: 7	15: 22	186: 10	exami ne
38: 17	52: 22	131: 25	178: 4	159: 9	encl...	198: 19	176: 21
103: 9	53: 13	133: 5	doors	169: 24	218: 14	201: 3	202: 24
119: 2	60: 5	133: 16	25: 25	175: 23	218: 15	201: 4	exam...
docu...	60: 16	133: 22	double	earl i er	219: 8	201: 8	6: 13
4: 8	60: 24	134: 3	26: 15	116: 18	219: 14	201: 10	46: 18
6: 23	64: 4	135: 10	175: 22	earl y	ended	esq 3: 3	exampl e
153: 2	64: 10	136: 7	doubt	91: 14	137: 20	3: 9	39: 8
169: 25	64: 12	140: 1	159: 20	easi er	endo...	218: 4	68: 2
doesnt	66: 1	141: 9	159: 22	97: 2	23: 19	219: 3	exam...
197: 9	66: 19	141: 13	down...	116: 14	29: 10	esse...	187: 16
dog	67: 7	141: 14	53: 8	116: 17	endo...	31: 7	187: 21
123: 8	68: 23	142: 7	63: 19	easy	22: 13	62: 5	199: 6
126: 15	70: 1, 2	142: 21	65: 21	116: 8	28: 8	86: 10	exams
dogp...	77: 19	143: 1	doyl e	edge	31: 3	115: 23	119: 1
74: 12	81: 22	143: 6	2: 16	180: 18	enti re	173: 24	excess
74: 13	82: 20	143: 21	216: 2	edmonds	166: 1	et 217: 6	20: 20
75: 10	83: 13	144: 1	216: 19	13: 5, 6	166: 2	218: 6	exce...
75: 18	83: 14	144: 7	dr 45: 18	educ...	enti...	219: 6	4: 11
dogp...	83: 19	149: 4	168: 23	13: 1	17: 4, 6	etran	5: 3
74: 20	83: 22	149: 10	207: 21	13: 17	enve...	214: 10	20: 16
doi ng	83: 23	150: 23	dressed	effect	53: 19	eval...	20: 21
8: 23	83: 24	151: 8	58: 12	158: 4	54: 6	211: 14	27: 16
9: 4	83: 25	151: 11	108: 10	effort	54: 14	event	29: 8
19: 14	86: 13	151: 20	dri nk	84: 6	54: 24	188: 10	34: 3
34: 17	86: 13	153: 23	126: 7	egg	54: 25	even...	60: 14
45: 22	86: 20	154: 4	drop	169: 24	55: 5, 8	81: 10	77: 22
53: 8	87: 4	155: 19	100: 8	175: 23	55: 12	84: 11	78: 1
63: 19	87: 25	155: 23	150: 21	ei ght	55: 14	86: 1	131: 24
94: 18	88: 12	158: 1	dropped	11: 8	55: 18	208: 2	159: 2
98: 8	89: 2, 3	164: 14	99: 5, 6	ei ther	55: 25	ever...	166: 9
98: 10	89: 13	164: 16	101: 8	13: 17	56: 5, 6	164: 1	193: 1
109: 10	89: 22	164: 21	101: 11	28: 9	56: 7	169: 18	198: 6
125: 13	90: 15	166: 22	126: 17	154: 13	57: 1	evi d...	201: 2
139: 4	90: 20	167: 8	126: 18	157: 22	58: 15	137: 6	213: 5
150: 13	90: 22	168: 12	126: 23	163: 4	63: 7, 8	138: 11	exch...

189: 5	208: 15	126: 19	29: 9	44: 9	47: 23	103: 8	130: 3
189: 9	expe...	149: 15	57: 20	47: 10	49: 6	106: 1	130: 17
excuse	51: 10	149: 16	62: 7	49: 18	51: 8	121: 15	130: 25
26: 1	87: 24	150: 24	112: 11	49: 25	60: 6	191: 13	131: 1
31: 12	145: 15	151: 2	113: 9	52: 8	155: 4	193: 5	133: 20
53: 23	146: 3	152: 1	119: 10	58: 25	207: 20	findi ng	133: 24
77: 13	146: 17	190: 21	123: 23	62: 22	207: 22	197: 13	133: 25
101: 19	147: 1	195: 20	139: 18	67: 18	207: 25	199: 25	134: 2
106: 17	160: 24	196: 5	149: 9	70: 11	208: 9	fi ne	145: 17
110: 7	expe...	206: 4	149: 10	74: 25	209: 8	46: 10	149: 15
112: 10	50: 5	206: 7	183: 6	87: 21	feel ...	86: 15	152: 12
131: 15	205: 2	206: 13	facts	88: 18	50: 23	89: 4	152: 13
154: 19	207: 11	206: 16	140: 16	90: 18	feel s	126: 9	153: 23
171: 12	expe...	206: 20	153: 14	119: 12	51: 18	146: 24	161: 22
183: 22	147: 4	faced	159: 3	147: 2	feet	158: 2	169: 1
183: 23	expert	201: 14	factual	153: 21	97: 3	167: 16	170: 13
202: 18	160: 22	faci ...	197: 2	158: 15	126: 19	167: 19	176: 4
exer...	expi res	88: 8	fai r	166: 9	178: 11	187: 14	177: 14
46: 16	215: 20	88: 10	10: 9	170: 6	178: 11	214: 8	177: 16
exhaust	216: 17	90: 13	10: 10	183: 22	fel l	fi ngers	177: 21
153: 14	217: 24	faci ...	102: 25	183: 25	151: 21	50: 20	184: 16
exha...	expl ai n	1: 7, 9	102: 25	184: 20	fel t	50: 21	191: 4
137: 5	52: 10	1: 10	103: 2	185: 2	66: 12	50: 24	201: 16
138: 1	99: 2	1: 12	fall	185: 22	79: 1, 9	50: 25	202: 19
exhi bi t	138: 15	1: 13	193: 13	186: 22	84: 13	51: 1, 2	205: 12
4: 1	150: 14	1: 15	206: 17	188: 9	165: 16	51: 3	206: 6
5: 1	154: 5	1: 16	fall en	207: 11	femal e	85: 1	209: 6
6: 7	155: 22	1: 18	175: 7	208: 18	71: 6	207: 24	fi ve
16: 15	expl ...	1: 19	fall ing	210: 4	127: 4	207: 25	11: 8
21: 20	60: 12	1: 21	209: 25	210: 24	femal es	fi ng...	50: 25
36: 10	86: 5	1: 22	210: 5	federal	72: 24	45: 24	99: 23
37: 18	156: 5	1: 24	fami ...	2: 13	fi ght	46: 1	149: 11
43: 12	expl ...	2: 1, 3	166: 25	6: 5	167: 19	49: 7	164: 18
58: 22	60: 13	15: 23	far 8: 24	14: 10	167: 24	50: 23	165: 3
59: 3, 9	144: 2	15: 24	9: 4	219: 21	fi gh...	51: 8, 8	165: 5
59: 16	207: 21	16: 12	10: 17	feel	144: 16	51: 12	201: 19
59: 19	expl ...	18: 23	19: 8	7: 15	fi gured	fi ni sh	fi xed
60: 20	78: 9	19: 1	39: 18	19: 24	56: 11	9: 5	157: 20
60: 21	express	28: 5	51: 5	48: 15	73: 3	fi ni ...	fi at
62: 4, 7	219: 21	52: 11	58: 6	48: 16	fi le	177: 20	73: 15
71: 9	expr...	52: 19	65: 19	49: 13	93: 22	fi rm	fi oor
77: 20	125: 3	52: 20	65: 22	78: 21	93: 25	6: 21	65: 18
81: 6	extent	53: 2, 4	67: 4	79: 6, 7	166: 1	fi rst	65: 21
94: 4	37: 21	53: 10	95: 13	79: 11	166: 2	4: 3, 7	74: 17
107: 12	120: 4	63: 15	135: 16	84: 5, 7	fi led	6: 12	75: 2
118: 19	159: 12	63: 17	173: 2	84: 13	15: 1, 4	17: 12	78: 10
122: 4	160: 3	63: 20	173: 16	84: 25	153: 10	37: 6	78: 13
123: 8	160: 4	70: 15	195: 10	93: 4	218: 21	52: 14	81: 7
126: 15	extra	71: 23	196: 4	117: 8	219: 9	59: 15	98: 6
127: 21	84: 5	72: 25	196: 8	119: 7	219: 11	60: 15	99: 7
134: 16	extr...	88: 5, 6	198: 6	122: 21	fi ling	61: 3	100: 7
136: 13	84: 3	90: 19	200: 10	122: 23	153: 16	65: 20	103: 4
145: 11	84: 22	91: 4	200: 21	123: 2	159: 4	71: 13	128: 3
152: 25	84: 22	92: 4	206: 15	142: 9	fi lled	81: 3	128: 5
158: 22	86: 6	120: 13	fax 3: 5	158: 10	61: 8	81: 11	128: 10
165: 21	ezeki el	120: 14	3: 11	167: 6	61: 11	82: 6	128: 18
169: 24	31: 2	140: 7	febr...	188: 3	fi lm	85: 21	130: 4
175: 23	F	140: 15	4: 5, 9	209: 3	111: 7	86: 9	131: 7
exhi ...	face	144: 16	20: 22	211: 21	115: 20	87: 17	131: 11
214: 14	57: 7	146: 8	22: 21	212: 15	fi nal ly	87: 21	131: 16
exi st	99: 6	185: 17	32: 8	213: 19	104: 1	124: 21	152: 6
153: 15	100: 7	187: 12	35: 16	feel ing	114: 2	128: 8	176: 13
159: 4	101: 18	196: 17	36: 19	45: 23	189: 11	128: 9	176: 14
191: 14	fact	22: 3	38: 8	45: 24	192: 9	128: 17	178: 3
expect	101: 25		43: 23	47: 19	fi nd	129: 18	193: 2

195: 20	198: 6	110: 6	97: 5	78: 9	23: 22	125: 23	93: 10
205: 8	201: 2	110: 10	102: 9	98: 3	39: 8	126: 15	93: 14
205: 10	213: 5	111: 10	106: 5	214: 6	53: 18	127: 12	94: 25
206: 8	forc. . .	112: 8	112: 19	furi ous	53: 19	134: 18	95: 1
206: 13	109: 9	112: 21	114: 15	114: 5	54: 19	136: 21	101: 1
flow	forc. . .	114: 25	117: 12	further	55: 11	140: 1	103: 24
84: 10	34: 13	115: 16	129: 13	12: 11	63: 8	141: 5	105: 11
84: 13	34: 17	116: 1	136: 5	76: 23	68: 2	145: 7	108: 13
fol der	34: 18	117: 11	141: 25	182: 24	81: 19	146: 23	110: 17
65: 9	forc. . .	117: 17	142: 16	216: 12	139: 10	147: 16	110: 17
fol ks	34: 15	124: 4	144: 14	furton	143: 17	148: 10	111: 1
11: 9	fore. . .	124: 18	162: 18	189: 17	143: 20	149: 14	111: 3
11: 12	215: 5	125: 14	163: 24	G	148: 12	149: 23	111: 8
17: 10	216: 9	125: 21	181: 12	g	187: 16	152: 6	111: 9
28: 13	fore. . .	132: 8	194: 2	g 1: 19	187: 21	152: 18	111: 25
32: 25	152: 9	137: 9	204: 25	gal l . . .	189: 5	153: 5	112: 5
33: 2	152: 11	139: 6	four	122: 12	190: 11	158: 20	112: 13
70: 14	152: 15	141: 24	11: 8	gel lar	190: 20	158: 21	119: 10
72: 24	206: 7	143: 7	27: 8	37: 23	199: 6	168: 10	120: 1
92: 12	206: 18	143: 14	29: 10	169: 17	gi ven	175: 22	122: 3
147: 8	forget	149: 6	51: 1, 2	general	18: 15	176: 10	127: 13
153: 18	66: 19	152: 18	51: 3	37: 24	58: 8	176: 19	129: 10
170: 21	forgot	176: 9	99: 17	49: 5	63: 6	178: 13	130: 9
197: 6	99: 19	192: 23	99: 20	139: 24	73: 4	185: 13	133: 3
199: 8	form 5: 9	204: 24	126: 24	186: 11	82: 23	189: 8	134: 14
200: 13	20: 8	216: 8	165: 7	186: 16	201: 13	189: 21	137: 14
fol low	29: 24	formal	165: 17	gene. . .	202: 5	193: 4	138: 21
17: 9	31: 11	9: 24	172: 9	13: 12	216: 10	202: 9	138: 22
167: 17	32: 10	form. . .	201: 19	27: 24	217: 5	208: 2	140: 13
169: 17	38: 19	13: 17	214: 5	140: 17	219: 15	209: 19	140: 22
fol l . . .	41: 17	former	214: 7	187: 10	gi vi ng	goes	141: 6
6: 1	42: 5	17: 13	four. . .	gene. . .	46: 21	50: 22	141: 7
19: 13	42: 23	20: 14	181: 23	155: 11	46: 24	155: 1	141: 8
56: 3	45: 4	22: 13	fourth	gent. . .	46: 25	189: 10	142: 10
217: 5	46: 3	25: 8	127: 22	112: 14	54: 8	goi ng	143: 4
fol lows	50: 10	30: 10	frac. . .	getgo	138: 17	10: 7	143: 25
6: 14	58: 10	31: 3	33: 25	129: 2	139: 13	14: 5	144: 12
fol l . . .	62: 11	33: 1	34: 1, 2	getti ng	199: 13	16: 15	145: 10
169: 8	65: 24	forth	35: 2, 9	29: 9	gl ances	17: 8	145: 18
192: 14	67: 13	111: 8	35: 14	41: 12	159: 14	19: 25	148: 12
food	69: 17	132: 3	freed	45: 23	gl as. . .	29: 22	149: 11
16: 1	70: 18	208: 1	81: 10	46: 24	65: 13	37: 19	151: 18
force	73: 1, 6	forward	freq. . .	49: 6	66: 5	52: 6	151: 19
4: 12	74: 18	40: 1	68: 15	51: 17	go 20: 12	52: 16	152: 24
5: 3	77: 1	forw. . .	fri end	58: 17	29: 11	52: 23	161: 1
20: 16	77: 12	219: 9	18: 17	98: 24	29: 11	52: 24	167: 24
20: 20	78: 11	found	18: 20	100: 19	37: 17	54: 19	168: 21
20: 21	79: 15	137: 16	front	141: 18	51: 23	54: 20	182: 2
27: 16	79: 25	155: 2	23: 9, 9	144: 22	52: 5, 6	59: 5	182: 14
29: 8	83: 21	155: 3	23: 14	164: 17	57: 20	60: 23	187: 5
34: 3	85: 14	159: 8	23: 18	164: 18	58: 21	63: 12	189: 14
52: 12	86: 11	159: 14	26: 2	165: 2	59: 9	66: 3, 9	193: 3
60: 14	87: 23	170: 21	98: 5	206: 16	60: 6	70: 5	202: 1
91: 13	89: 17	196: 17	98: 14	207: 22	60: 20	71: 8	202: 23
120: 4	90: 14	196: 24	127: 1	209: 7	62: 15	74: 1, 6	203: 2
131: 24	91: 22	foun. . .	151: 16	gi l more	64: 23	81: 6	204: 21
136: 1	92: 20	50: 1, 3	171: 3	27: 15	87: 13	84: 14	205: 12
138: 17	93: 12	58: 11	180: 17	27: 21	94: 3	85: 24	211: 15
159: 2	93: 19	64: 3, 8	182: 4	36: 7, 8	99: 23	87: 9	gonna
166: 9	94: 21	64: 22	184: 9	36: 8	101: 2	87: 20	52: 4
173: 25	96: 14	65: 25	184: 11	36: 11	101: 18	87: 25	54: 15
174: 21	105: 12	72: 13	frozen	gi l m. . .	107: 11	88: 17	97: 8, 9
174: 23	106: 4	80: 1	75: 24	27: 19	112: 10	88: 20	106: 2
197: 8	106: 18	95: 17	82: 7	gi ve 9: 5	117: 5	92: 6	107: 5
197: 9	109: 17	96: 4	ful l	11: 18	123: 7	93: 9	115: 13

132: 2	18: 4	62: 19	hal f	94: 15	38: 12	68: 1	156: 11
152: 2	18: 10	68: 20	191: 11	98: 10	38: 25	hard	156: 12
157: 18	18: 12	73: 22	hal fway	98: 21	42: 2	98: 5	159: 12
184: 2	19: 9, 9	93: 5	54: 2	109: 21	60: 6	98: 12	159: 17
189: 2	19: 15	103: 2	hal l	109: 24	71: 17	harm	160: 15
203: 7	19: 16	114: 11	57: 12	110: 18	71: 24	116: 24	heari ng
207: 13	20: 5	126: 1	75: 7	115: 12	72: 11	212: 11	41: 13
213: 10	54: 6	145: 20	178: 10	143: 19	72: 23	212: 23	146: 4
213: 11	54: 15	145: 21	hal l way	145: 16	73: 14	harmi ng	147: 8
good	54: 18	175: 17	75: 2, 7	145: 24	84: 10	197: 5	196: 16
6: 18	55: 15	187: 18	hand	150: 11	84: 14	hasnt	hear...
6: 19	56: 4, 7	191: 21	34: 22	203: 15	84: 25	207: 20	10: 1
60: 2, 4	56: 7	197: 24	39: 9	206: 18	97: 3	hatf...	hears
62: 19	56: 14	207: 8	39: 25	hand...	98: 2	3: 4	10: 5
62: 21	57: 1	guil t	42: 2	46: 17	98: 11	218: 5	hearsay
102: 22	80: 14	200: 1	44: 8	95: 23	101: 24	haul	56: 22
106: 12	153: 10	guil ty	44: 17	120: 15	109: 2	147: 15	hed
190: 15	191: 3	196: 17	44: 18	143: 22	127: 2	haul i ng	189: 8
gotten	191: 18	196: 24	44: 20	hand...	128: 24	147: 14	heel
18: 14	gri eve	gungho	44: 21	34: 20	179: 12	havent	48: 4
48: 23	70: 10	69: 19	46: 2	39: 2	193: 10	18: 21	hei ght
86: 18	gri nd	69: 21	47: 3, 8	39: 11	193: 12	42: 19	73: 5
139: 21	207: 5	70: 8	47: 12	39: 16	196: 8	56: 16	hel d
gr	gri n...	gurney	48: 4, 9	40: 20	197: 20	63: 16	54: 17
122: 10	103: 4	107: 16	48: 22	40: 22	208: 21	106: 12	hel p
grabbed	123: 2	107: 17	49: 4, 6	41: 4, 6	209: 7	120: 10	11: 19
41: 13	207: 9	110: 16	50: 8	41: 9	hand...	202: 7	65: 12
grab...	gri p	110: 20	50: 19	41: 12	60: 1, 3	211: 15	110: 1
42: 1	60: 5	110: 21	50: 20	41: 14	61: 5	211: 16	hel ped
109: 1	209: 14	128: 4	50: 21	41: 20	hanson	head	93: 18
grad...	ground	130: 19	50: 22	42: 1, 2	1: 20	46: 9	93: 21
44: 5	8: 5	130: 20	51: 13	42: 9	57: 9	98: 2	henry
grad...	98: 14	130: 24	51: 14	42: 11	71: 10	101: 24	7: 3
12: 23	100: 4	131: 6	51: 15	42: 13	71: 12	174: 13	12: 7
grasp	101: 19	131: 7	51: 19	42: 20	71: 17	182: 3	197: 23
150: 8	101: 25	131: 10	51: 24	42: 21	79: 12	194: 3	201: 7
gray	135: 15	131: 15	54: 25	43: 14	79: 23	headed	hereof
68: 21	149: 16	132: 10	55: 5, 8	43: 15	193: 8	158: 7	216: 15
gri eb	149: 23	guy	60: 7	84: 2	194: 15	heal	hereto
30: 19	150: 11	69: 22	109: 3	94: 25	194: 18	210: 14	165: 24
30: 22	150: 17	140: 20	110: 1	96: 21	195: 8	heal i ng	here...
103: 17	151: 1	201: 6	110: 15	99: 5	hansons	179: 13	216: 15
122: 9	151: 4	guys	195: 23	100: 12	71: 13	179: 13	hes 8: 10
122: 11	151: 5	105: 20	209: 5	100: 16	happen	180: 9	22: 12
178: 25	151: 7	124: 13	209: 9	106: 22	56: 21	180: 13	23: 19
178: 25	151: 14	124: 22	209: 10	107: 2	happ...	181: 23	25: 7, 8
179: 2	151: 17	gym	209: 15	116: 18	18: 6	182: 16	28: 15
179: 3	151: 19	15: 25	209: 16	186: 7	19: 17	183: 1	31: 2
179: 24	151: 21	H	210: 16	196: 6	23: 5	hear 9: 2	31: 14
180: 3	152: 1	h 1: 14	212: 17	handed	26: 22	10: 6	31: 15
gri e...	152: 5	136: 15	216: 16	17: 20	58: 24	39: 23	32: 23
99: 8	152: 9	136: 19	hand...	18: 3	72: 23	101: 22	135: 10
99: 25	152: 10	hadnt	43: 4	18: 10	91: 6	111: 14	150: 12
153: 14	152: 12	57: 16	44: 17	19: 12	142: 8	155: 14	197: 24
153: 16	152: 15	79: 2	45: 2	hand...	147: 12	160: 4	209: 1
156: 24	174: 14	102: 19	72: 20	195: 12	158: 9	212: 19	hey 85: 7
157: 9	206: 16	103: 1	92: 24	198: 4	176: 24	heard	104: 25
158: 19	206: 17	137: 12	121: 12	hands	188: 19	47: 25	105: 6
158: 19	206: 19	137: 15	121: 20	33: 17	196: 4	69: 24	124: 2
159: 5	206: 21	138: 25	hand...	33: 19	happ...	80: 10	130: 5
191: 22	grud...	157: 25	34: 6	33: 21	19: 20	93: 5, 6	190: 5
191: 24	113: 22	158: 3	34: 12	34: 23	202: 3	125: 3	198: 25
204: 13	guess	180: 25	34: 14	35: 15	happens	130: 12	202: 1
gri e...	37: 1	212: 3	34: 16	36: 15	147: 24	138: 6	202: 2
17: 21	47: 25		78: 15	38: 11	hara...	138: 9	211: 25

213: 12	7: 1	28: 7, 7	34: 9	168: 13	99: 7	153: 21	51: 22
hi dden	113: 7	28: 10	37: 1	170: 2	inca. . .	154: 9	133: 8
159: 25	113: 10	hussers	38: 7	171: 12	187: 7	154: 10	166: 14
hi de	118: 24	28: 21	39: 7	171: 14	inci. . .	156: 2	indi. . .
58: 14	162: 6	hvac	41: 12	171: 14	17: 25	156: 7	11: 14
120: 3	196: 1	8: 25	41: 13	171: 15	18: 7	156: 10	26: 9
159: 2	196: 3		42: 24	172: 10	19: 5	156: 13	35: 8
159: 8	hope	I	45: 23	173: 20	20: 6	156: 16	132: 24
192: 11	147: 21	id 7: 9	46: 11	174: 6	22: 21	156: 18	137: 14
213: 1	147: 22	17: 8	47: 7	174: 7	23: 1	156: 23	indi. . .
hi gh	hopi ng	91: 8	48: 9	176: 21	24: 4, 8	158: 15	12: 8
12: 23	144: 4	189: 4	49: 6	178: 17	24: 16	162: 23	22: 12
155: 25	horton	idea	52: 6	178: 18	25: 24	173: 25	150: 3
204: 7	31: 13	53: 6	53: 25	181: 21	26: 25	174: 11	indi. . .
204: 10	31: 14	102: 6	54: 20	182: 2	27: 6	174: 25	39: 12
hi gh. . .	31: 24	iden. . .	59: 5	185: 21	28: 12	175: 5	39: 19
155: 1	32: 1, 3	6: 8	59: 11	188: 1	35: 15	175: 19	40: 9
155: 18	103: 13	60: 22	66: 11	190: 25	36: 3	184: 19	40: 16
157: 4	161: 23	iden. . .	67: 14	191: 6	36: 19	185: 2	40: 16
157: 6	184: 16	184: 12	77: 3	191: 17	37: 3, 6	186: 22	44: 16
hi ghway	hosp. . .	203: 13	80: 2	194: 19	38: 8	196: 25	44: 17
2: 14	45: 19	iden. . .	82: 20	194: 20	43: 23	199: 14	44: 19
hi l d. . .	46: 19	7: 10	82: 22	205: 12	44: 10	199: 16	47: 24
191: 10	121: 10	idi o. . .	83: 5, 8	206: 18	44: 16	199: 25	48: 20
hi paa	121: 12	69: 16	88: 16	207: 13	46: 17	204: 9	50: 24
169: 2	121: 16	ignored	92: 18	207: 22	46: 17	206: 11	101: 16
hi t 52: 9	hour	195: 16	96: 11	209: 7	47: 11	206: 22	135: 1
101: 19	47: 14	ill 9: 6	97: 18	212: 2	49: 18	207: 12	151: 16
151: 14	hours	16: 16	97: 24	212: 2	49: 21	208: 19	152: 1
152: 9	7: 20	20: 11	98: 10	213: 12	49: 25	209: 22	173: 4
152: 10	8: 1	26: 15	98: 10	213: 16	52: 9	209: 23	173: 6
152: 11	house	29: 24	102: 5	imagine	52: 13	210: 4	173: 7
152: 15	173: 25	59: 2	104: 6	106: 25	53: 16	210: 5	173: 8
161: 1	hows	60: 24	107: 5	108: 11	66: 24	210: 8	173: 18
161: 5	45: 22	104: 25	107: 5	148: 22	67: 1	210: 24	173: 19
206: 7	hurt	112: 13	109: 5	imme. . .	68: 5	211: 10	197: 2
206: 17	75: 25	126: 15	109: 20	16: 8	85: 23	incl. . .	206: 15
206: 19	85: 7	135: 1	109: 24	85: 4	90: 3	90: 12	207: 17
hol d	102: 11	143: 1	110: 3	imme. . .	90: 10	93: 23	207: 23
110: 15	105: 21	152: 25	110: 15	47: 10	90: 19	93: 24	208: 3
hol di ng	109: 15	166: 20	110: 17	48: 12	90: 23	118: 4	209: 8
41: 9	115: 13	167: 5	110: 18	48: 12	91: 7	188: 1	210: 14
110: 1	116: 24	178: 18	110: 21	48: 14	91: 11	188: 5	indi. . .
127: 8	117: 9	179: 18	112: 18	74: 12	91: 12	incl ude	202: 20
hol e	120: 20	200: 7	115: 11	81: 12	91: 14	185: 22	indi. . .
87: 3	120: 22	ille. . .	125: 24	82: 24	118: 5	incl. . .	1: 7, 9
147: 21	124: 14	169: 5	126: 6	101: 23	118: 12	156: 17	1: 10
hol es	124: 19	im 6: 20	134: 14	104: 2	118: 15	incl. . .	1: 12
30: 5	135: 23	7: 6	136: 4	138: 16	119: 15	6: 25	1: 13
119: 25	175: 7	9: 14	139: 3	152: 6	120: 15	74: 3	1: 15
160: 8	202: 21	14: 2	143: 15	193: 20	121: 5	inde. . .	1: 16
160: 10	208: 24	14: 16	143: 16	immi. . .	121: 13	172: 9	1: 18
200: 18	211: 22	14: 21	144: 5	146: 12	121: 20	173: 6	1: 19
hol i day	212: 11	15: 6	144: 19	146: 21	128: 11	inde. . .	1: 21
113: 6	212: 23	15: 20	145: 6	impo. . .	129: 15	38: 10	1: 23
hol i er	hurti ng	16: 14	146: 22	9: 19	135: 23	43: 13	1: 24
76: 2, 3	96: 9	16: 18	150: 1	10: 4	138: 17	43: 16	2: 1, 3
76: 3, 7	96: 11	20: 19	150: 10	impo. . .	141: 9	172: 1	12: 1
107: 7	96: 18	22: 1, 2	150: 11	178: 1	141: 11	172: 16	109: 10
hol l. . .	109: 11	22: 3	150: 11	impr. . .	143: 12	172: 17	infer
85: 6	150: 16	24: 18	152: 24	121: 23	143: 22	inde. . .	200: 2
133: 9	208: 22	24: 18	160: 22	132: 4	143: 22	119: 20	infe. . .
133: 12	hurts	24: 22	164: 1	impr. . .	145: 6	inde. . .	158: 24
hol l. . .	124: 3	32: 7	166: 12	192: 4	147: 2	165: 14	info. . .
1: 10	husser	33: 5, 9	166: 25	inad. . .	148: 17	indi. . .	9: 20

info...	207: 10	102: 11	58: 22	27: 17	12: 1	192: 18	125: 1
13: 18	211: 22	intent	134: 19	29: 20	201: 3	198: 1	125: 2
info...	injury	93: 8	136: 13	33: 13	201: 3	keep	125: 11
12: 8	36: 15	150: 4	136: 23	102: 14	201: 8	137: 5	125: 11
17: 9	36: 17	150: 12	138: 13	118: 14	201: 10	138: 1	125: 17
17: 11	36: 18	inte...	145: 13	157: 11	jeeters	190: 18	125: 17
17: 21	36: 25	157: 14	148: 13	170: 8	25: 17	190: 21	126: 16
18: 1, 2	38: 11	inte...	inte...	188: 13	27: 4, 7	kenneth	135: 1
20: 13	39: 10	98: 16	62: 20	items	jeff	7: 2	135: 3
20: 17	42: 14	98: 18	117: 5	58: 18	22: 12	196: 13	145: 22
27: 17	45: 2	101: 14	inte...	68: 10	jenn...	kept	146: 23
29: 19	46: 14	inte...	146: 23	68: 11	6: 22	73: 19	147: 12
33: 13	120: 9	98: 1, 8	inte...	68: 13	jessi ca	76: 8	150: 3
33: 14	149: 13	98: 9	197: 22	68: 17	71: 15	82: 3	155: 23
33: 16	159: 12	101: 10	inte...	68: 18	71: 16	99: 12	160: 2
35: 22	159: 18	107: 21	191: 23	ive	25: 7	101: 1	169: 8
145: 7	159: 25	109: 15	inve...	10: 13	26: 6, 6	108: 14	178: 14
166: 4	160: 4	135: 17	123: 22	15: 24	27: 7	115: 7	187: 14
169: 1	176: 15	135: 20	inve...	15: 25	job	134: 12	192: 17
182: 25	196: 22	164: 7	191: 10	16: 1	102: 17	190: 9	193: 4
initial	197: 10	181: 18	inve...	21: 3	key	140: 21	193: 5
132: 14	inmate	192: 10	137: 12	65: 10	119: 8	141: 19	194: 10
132: 20	17: 14	204: 12	137: 15	69: 24	jobs	141: 23	194: 25
198: 2	20: 15	205: 19	137: 17	93: 5	15: 22	142: 1	200: 2
198: 3	22: 13	inte...	191: 21	103: 9	155: 23	142: 1	207: 5
init...	30: 10	21: 9, 9	inve...	120: 10	jocu...	142: 2	212: 20
12: 10	31: 3	inte...	11: 13	204: 17	54: 2	142: 6	213: 23
75: 12	31: 14	216: 14	12: 11	J	jody 7: 5	kick	ki te
75: 14	32: 24	inte...	76: 24	J	202: 4	135: 20	202: 13
155: 9	33: 11	154: 25	invo...	j 1: 17	johnson	198: 9	knee
165: 19	58: 18	inte...	10: 1	1: 20	37: 15	198: 10	98: 4
201: 18	74: 16	95: 14	12: 2	1: 22	jones	199: 24	135: 8
injure	75: 1	inte...	15: 13	1: 23	20: 14	ki cked	135: 11
196: 23	105: 25	138: 24	136: 19	217: 1	20: 15	199: 22	151: 18
injured	119: 25	139: 5	138: 2	218: 1	20: 24	199: 22	152: 7
91: 10	163: 19	inte...	166: 2	218: 23	22: 10	ki ckl ng	152: 16
93: 24	176: 13	105: 6	170: 8	219: 1	22: 14	95: 12	174: 16
120: 13	178: 3	109: 14	186: 24	219: 23	25: 15	135: 14	kneel
175: 11	inmates	125: 2	187: 19	jail	25: 16	135: 17	132: 20
192: 20	33: 1	125: 19	198: 14	120: 18	25: 21	198: 9	kneel ed
193: 15	57: 21	161: 10	198: 16	121: 3	27: 1	ki ddi ng	130: 3
196: 22	146: 5	inte...	201: 4	121: 4	judge	108: 10	132: 21
197: 9	146: 10	168: 24	201: 9	121: 13	9: 22	ki ds	132: 23
203: 18	146: 18	inte...	202: 6	jance	jump	15: 20	133: 18
204: 23	147: 8	4: 4	invo...	156: 7	58: 21	ki ll	133: 25
208: 21	187: 3	25: 10	18: 9	jances	112: 25	147: 20	knee...
inju...	187: 8	26: 11	invo...	156: 16	127: 20	ki lled	128: 14
30: 3	insi de	37: 25	150: 3	jani ce	134: 14	140: 21	129: 18
37: 22	21: 1	134: 15	invo...	2: 16	166: 20	141: 18	130: 18
38: 6	55: 15	148: 11	153: 10	216: 2	jumped	ki nd 9: 1	130: 18
119: 18	55: 17	199: 19	188: 10	216: 19	74: 14	26: 16	131: 4
120: 4	55: 23	inte...	isnt	jani ...	jumpi ng	37: 11	132: 14
120: 11	173: 15	10: 24	104: 24	13: 13	138: 13	48: 3	knees
121: 12	184: 10	16: 17	140: 24	january	165: 20	49: 24	193: 13
135: 25	insp...	16: 21	issue	91: 13	171: 14	56: 21	205: 8
136: 2	186: 11	21: 25	89: 16	91: 24	jurors	59: 9	knel t
159: 23	186: 16	22: 15	92: 24	92: 1, 3	9: 22	65: 12	73: 15
166: 8	inst...	23: 21	144: 23	92: 3	just...	69: 10	127: 25
170: 18	44: 24	28: 18	148: 23	216: 17	52: 12	69: 22	128: 2
175: 24	47: 17	37: 18	167: 22	jarred	K	69: 24	128: 6
180: 8	75: 20	37: 20	170: 4	123: 17	k 1: 11	74: 14	128: 17
182: 15	inst...	38: 5	191: 7	jason	1: 16	109: 16	129: 9
197: 8	22: 18	43: 11	issues	7: 4, 5	karen	111: 8	129: 15
200: 25	146: 14	52: 6	17: 22	11: 20	7: 3	113: 12	knew
205: 2	inte...	57: 22	20: 17	11: 25		115: 23	48: 12

48: 14	87: 4, 5	155: 24	211: 22	45: 4	124: 4	194: 12	82: 24
65: 19	87: 25	156: 11	211: 24	46: 3	124: 18	late	83: 6, 9
65: 22	89: 1	157: 11	212: 1	50: 1, 3	125: 14	32: 8	103: 18
67: 9	92: 22	158: 6	212: 1	50: 10	125: 21	law 6: 21	108: 25
67: 20	93: 20	162: 19	212: 3	58: 10	125: 23	13: 14	135: 7
87: 20	96: 8	162: 21	212: 6	59: 4	126: 4	lawful	135: 11
87: 25	97: 8, 9	163: 12	212: 9	59: 11	126: 6	57: 24	149: 21
102: 1	98: 7, 9	163: 15	212: 11	59: 14	129: 12	lawsuit	150: 8
103: 19	101: 12	164: 10	212: 12	59: 17	130: 7	17: 12	157: 19
157: 1	101: 13	164: 12	212: 14	64: 3, 8	132: 8	187: 13	163: 13
184: 13	101: 15	164: 14	212: 16	64: 11	136: 4	201: 4	173: 10
189: 2	102: 10	164: 15	212: 24	64: 22	137: 9	201: 9	180: 9
202: 21	105: 6	164: 16	212: 24	65: 24	139: 6	202: 6	180: 17
203: 25	105: 24	167: 21	213: 3	67: 13	141: 24	203: 12	180: 24
206: 16	107: 6	174: 12	213: 8	69: 17	142: 12	lay 78: 9	181: 4
knots	107: 8	176: 3	knowi ng	70: 18	142: 15	195: 23	181: 9
209: 6	107: 25	177: 10	19: 25	72: 13	143: 7	197: 20	181: 22
know	108: 21	180: 4	204: 5	73: 1, 6	143: 14	layi ng	182: 3
7: 10	109: 25	180: 20	know. . .	74: 18	144: 13	98: 25	182: 4
10: 12	112: 12	181: 7	29: 25	74: 21	144: 19	110: 18	182: 7
11: 9	113: 7	181: 13	31: 17	77: 1	144: 22	193: 2	182: 8
14: 9	113: 7	182: 9	139: 24	77: 10	144: 25	leave	205: 21
14: 12	114: 6	182: 11	144: 15	77: 12	149: 6	28: 4	208: 11
16: 2	114: 11	186: 3	148: 19	78: 11	152: 18	30: 11	208: 12
17: 16	115: 3	186: 15	215: 7	79: 15	154: 19	88: 12	209: 9
19: 9	115: 8	187: 14	known	79: 18	162: 17	161: 2	209: 10
27: 9	116: 21	188: 6	67: 17	79: 25	163: 23	190: 17	legal
30: 20	116: 23	189: 12	155: 22	83: 21	164: 20	leavi ng	14: 2
33: 5	117: 2	189: 24	159: 3	85: 14	165: 4	27: 12	153: 13
33: 24	122: 8	189: 25	knows	86: 11	166: 20	led	192: 8
35: 5	123: 25	190: 6	169: 19	87: 23	166: 22	137: 21	legi bly
35: 13	125: 5	190: 24		89: 17	166: 25	137: 25	209: 17
35: 25	126: 5	191: 1	L	89: 20	167: 5	140: 13	legs
46: 12	126: 22	191: 4	label ed	90: 14	167: 10	148: 6	94: 19
46: 15	128: 13	191: 12	155: 24	91: 22	167: 14	149: 19	95: 8
48: 18	128: 16	191: 15	157: 3	92: 20	167: 23	179: 10	97: 20
49: 20	129: 9	193: 2	159: 9	93: 12	168: 1	left	100: 20
50: 17	129: 14	193: 23	label s	93: 19	168: 6	18: 23	100: 23
52: 3	130: 14	194: 10	157: 6	94: 21	168: 9	19: 1	135: 14
53: 13	131: 24	194: 18	lace. . .	95: 16	168: 19	21: 2	135: 19
53: 15	133: 14	194: 23	171: 4	96: 3	169: 11	23: 18	199: 22
53: 17	133: 16	194: 24	171: 8	96: 14	176: 9	23: 22	letter
56: 23	134: 19	195: 7	lack	97: 5	178: 16	25: 22	60: 13
60: 16	135: 10	195: 8	50: 16	102: 8	178: 18	27: 9	61: 9
63: 7	135: 17	196: 8	160: 9	105: 12	178: 21	27: 10	61: 21
64: 4	135: 22	199: 24	lady	106: 4	181: 11	27: 11	62: 13
64: 10	136: 2	199: 24	155: 15	106: 17	184: 1	28: 9	66: 10
64: 12	136: 6	200: 4	laid	109: 17	192: 23	36: 12	155: 12
64: 25	136: 9	200: 14	73: 15	110: 4	194: 1	44: 1, 8	155: 12
66: 1, 1	138: 8	201: 19	78: 12	110: 6	204: 24	44: 17	191: 8
66: 16	139: 15	201: 25	193: 20	110: 10	205: 4	44: 20	218: 17
66: 23	139: 17	202: 2	lake	111: 10	214: 3	44: 21	letters
66: 25	139: 25	202: 14	3: 10	112: 8	214: 4	46: 2	200: 17
67: 4, 4	140: 3	202: 17	219: 4	112: 10	214: 7	47: 2, 5	letting
68: 23	147: 24	202: 21	lamp. . .	112: 15	214: 11	47: 8	117: 21
69: 1	149: 2	205: 21	3: 3	112: 18	214: 15	47: 12	127: 12
69: 12	149: 3	208: 4	16: 19	112: 21	218: 4	48: 4, 9	level
70: 1, 2	149: 4	208: 22	20: 8	114: 14	landed	48: 22	144: 11
70: 4	149: 8	209: 2	29: 24	114: 25	126: 18	49: 1, 2	level s
70: 23	150: 2	209: 6	31: 11	115: 16	lang. . .	49: 4	105: 18
71: 13	150: 7	209: 7	32: 10	116: 1	57: 13	51: 18	lie 75: 7
71: 14	150: 11	209: 17	38: 19	116: 5	lasted	81: 12	118: 2
76: 11	150: 23	211: 10	41: 17	117: 11	210: 12	81: 14	lieu. . .
81: 9	155: 8	211: 13	42: 5	117: 17	210: 13	82: 15	1: 10
83: 23	155: 19	211: 20	42: 23	117: 22	lasting	82: 16	1: 11

1: 13	106: 10	look	105: 14	116: 7	91: 18	179: 2	126: 8
1: 14	liti...	11: 19	107: 15	117: 20	113: 16	mary...	172: 10
23: 17	166: 3	16: 17	111: 3	176: 14	119: 17	45: 20	172: 24
26: 1	216: 14	38: 15	111: 23		122: 5	marys	meant
66: 18	little	59: 19	111: 25	M	123: 11	45: 18	24: 22
113: 10	8: 25	60: 9	112: 4	m 1: 10	154: 14	122: 8	73: 22
197: 12	16: 14	61: 19	113: 22	2: 1, 9	154: 15	mass...	104: 19
197: 16	17: 9	62: 4	114: 18	2: 15	170: 6	3: 4	182: 8
197: 23	29: 10	62: 15	116: 17	61: 24	179: 4	218: 5	medical
lieu...	36: 2	63: 22	125: 10	61: 25	180: 21	mass...	110: 23
74: 3, 5	52: 9	66: 2	128: 23	62: 23	183: 18	46: 21	111: 12
lift	54: 2, 3	108: 6	135: 4	126: 10	183: 19	46: 24	111: 14
100: 9	58: 23	108: 11	195: 17	126: 11	183: 21	46: 25	111: 17
lifted	62: 2	168: 11	195: 25	145: 3	202: 13	mate...	119: 1
41: 14	65: 12	170: 13	loos...	145: 4	203: 3	10: 22	121: 2
205: 10	76: 1	176: 7	89: 18	176: 5	marched	10: 24	132: 2
lifting	125: 18	176: 8	104: 3	176: 6	145: 16	13: 25	133: 4
41: 14	125: 19	178: 20	127: 24	177: 16	145: 21	math	133: 14
42: 10	126: 13	178: 24	130: 11	179: 4	145: 24	13: 14	133: 15
100: 21	176: 8	212: 2	213: 7	214: 17	148: 6	matter	158: 24
100: 22	182: 3	looked	loos...	mail	178: 9	218: 8	165: 24
109: 2	193: 4	10: 21	86: 4	192: 8	marc...	218: 9	166: 1
109: 16	206: 12	44: 23	loos...	mail n	145: 21	218: 21	166: 4
126: 23	209: 20	108: 20	114: 23	192: 13	mark 7: 1	matters	166: 16
127: 5	210: 22	162: 16	lose	maj or	161: 2	166: 2	167: 2
liked	ilp 3: 9	163: 18	84: 9	191: 9	196: 1	mcbri de	168: 25
68: 25	219: 4	179: 18	losi ng	maki ng	196: 3	188: 22	169: 4
limi t	lock	looki ng	47: 19	105: 19	marked	188: 24	169: 7
189: 3	146: 10	37: 17	47: 22	106: 20	6: 8	189: 4	174: 7
189: 3	log	59: 18	138: 8	193: 6	16: 15	mean	179: 19
limi ted	166: 16	138: 3	157: 9	man	59: 2	10: 24	179: 21
166: 5	166: 23	159: 16	lost	107: 5	60: 21	20: 2	183: 13
limp	192: 8	162: 22	84: 13	125: 10	152: 25	20: 21	184: 21
100: 24	204: 2	163: 10	204: 12	155: 22	155: 23	38: 7	184: 23
101: 1	logged	164: 4	lot	190: 5	marks	41: 10	202: 13
101: 2	192: 7	188: 3	42: 20	190: 17	160: 16	47: 19	202: 19
line	logs	looks	50: 5	190: 25	161: 4	52: 22	204: 23
71: 9	167: 15	37: 23	59: 22	207: 13	161: 10	53: 15	205: 13
217: 7	long	118: 21	70: 14	212: 3	161: 11	68: 8	212: 2
lines	11: 4	176: 4	108: 11	213: 13	161: 21	71: 10	medi ...
136: 25	16: 11	176: 25	116: 14	manager	162: 15	73: 5	7: 25
148: 14	45: 25	178: 14	116: 17	2: 2	163: 13	74: 13	medi ...
148: 15	68: 6	187: 22	124: 6	19: 18	163: 14	84: 6	7: 20
149: 12	84: 12	187: 22	149: 3	54: 16	163: 16	94: 14	meet
lip	103: 1	187: 23	164: 18	54: 21	179: 12	96: 24	38: 3
123: 3	117: 8	loop	187: 18	61: 17	179: 14	98: 16	meeting
171: 4	128: 11	3: 10	208: 20	153: 25	179: 16	105: 5	200: 3
171: 17	128: 13	219: 4	209: 18	188: 22	180: 9	105: 19	members
lisa	133: 18	loos...	211: 17	203: 22	180: 13	117: 4	138: 16
200: 23	133: 20	114: 3	211: 18	manhood	182: 16	122: 1	memory
list	133: 22	114: 7	loud 9: 1	125: 12	182: 18	140: 23	21: 17
11: 4	133: 24	114: 9	lower	manner	182: 19	147: 11	27: 25
11: 18	133: 25	114: 10	40: 23	201: 18	183: 1	148: 23	75: 13
170: 18	134: 3	loosen	171: 4	mans	205: 20	150: 4	76: 19
175: 24	134: 4	85: 15	171: 17	182: 3	marri ed	150: 14	113: 12
180: 8	134: 11	86: 1, 8	lyi ng	march	15: 15	158: 1	114: 21
182: 14	135: 3	86: 24	73: 22	4: 12	15: 17	161: 5	123: 17
listed	136: 24	88: 23	73: 24	5: 4	marti n	206: 9	127: 8
17: 10	160: 1	88: 25	74: 16	32: 8	16: 10	210: 4	130: 6
33: 1	162: 9	89: 24	75: 2	37: 4	16: 10	meani ng	143: 9
161: 13	174: 24	89: 25	75: 10	59: 12	mary	84: 2	170: 15
218: 11	193: 17	90: 5	81: 12	62: 16	122: 7	means	177: 3
listen	205: 25	94: 6	82: 23	90: 24	161: 11	52: 16	179: 6
106: 13	longer	104: 12	115: 20	91: 1	161: 12	59: 21	180: 11
list...	61: 21	105: 13	116: 2	91: 17	178: 25	96: 25	180: 15

180: 19	200: 3	58: 9	54: 8	25: 12	192: 8	nowak	192: 7
181: 25	mi ni . . .	58: 19	80: 11	63: 22	199: 14	22: 12	192: 14
mental	181: 16	64: 16	80: 20	78: 21	199: 20	24: 8	198: 19
207: 14	200: 18	65: 1, 4	80: 25	79: 7	199: 21	24: 17	200: 18
ment i on	200: 19	65: 23	mul t . . .	105: 7	199: 22	24: 25	nurse
184: 2	mi ni . . .	66: 17	180: 10	144: 19	202: 24	25: 1	1: 23
ment . . .	159: 2	74: 25	180: 14	144: 25	204: 18	26: 3	30: 16
8: 24	159: 8	80: 3	182: 15	151: 1	205: 17	27: 1	30: 16
18: 16	160: 4	88: 18	muscl e	153: 13	208: 3	numb	30: 19
25: 15	mi ni . . .	mot i on	47: 23	184: 1	212: 13	50: 22	87: 14
31: 9	159: 12	150: 12	48: 6	201: 17	new	60: 6	87: 16
54: 5	159: 18	159: 7		212: 5	143: 24	number	87: 21
58: 2	160: 3	mot i . . .	N	nega . . .	189: 25	6: 24	88: 3, 8
100: 25	181: 18	153: 20	n 3: 17	175: 22	news	11: 7	88: 9
132: 12	mi nute	mouth	name	nego . . .	62: 19	30: 5	103: 11
174: 15	134: 5	184: 10	6: 20	104: 15	62: 21	32: 25	103: 17
200: 13	134: 6	move	7: 11	104: 19	ni col e	37: 20	118: 10
202: 9	134: 10	75: 13	7: 12	104: 24	37: 23	38: 5	118: 11
202: 10	mi nutes	76: 4	7: 13	104: 25	ni ght	134: 19	118: 15
203: 19	129: 16	78: 7	12: 4	105: 7	19: 12	136: 23	119: 7
206: 5	132: 12	81: 8	14: 16	nei ther	ni ne	138: 14	119: 11
metal	134: 4	93: 9	14: 17	174: 8	11: 8	145: 13	122: 7
43: 3	134: 5	96: 6	15: 6, 9	184: 18	80: 5	148: 13	122: 19
meyers	159: 10	96: 20	16: 10	nerve	107: 1	153: 8	160: 3
53: 9	159: 10	97: 9	30: 21	38: 12	ni ne . . .	153: 12	161: 11
53: 12	177: 1	110: 13	37: 15	44: 18	58: 15	156: 23	161: 20
57: 14	177: 13	151: 23	66: 19	47: 18	ni nety	158: 22	161: 22
63: 4, 5	177: 23	152: 1	66: 20	48: 13	87: 12	165: 22	161: 25
64: 2	190: 15	206: 12	71: 13	48: 14	nobl es	168: 3	162: 4
66: 7	mi rror	moved	122: 8	85: 17	189: 15	171: 2	162: 9
67: 16	103: 22	33: 2, 7	154: 1	94: 8	nodd ed	171: 19	162: 15
68: 5	mi sp . .	36: 12	188: 25	173: 8	8: 2, 16	172: 9	164: 6
69: 18	189: 12	37: 16	189: 6	never	46: 6, 9	175: 25	170: 14
135: 9	mi ssi ng	movi ng	names	56: 23	113: 19	181: 22	176: 6
199: 13	56: 13	94: 19	11: 4	58: 2	nonb . . .	218: 11	179: 1
mi chael	56: 15	94: 19	20: 12	80: 18	171: 3	numb . . .	180: 3
7: 5	60: 16	95: 3, 8	nasty	89: 14	171: 11	4: 13	181: 1
17: 13	156: 25	95: 10	150: 4	90: 9	171: 16	4: 17	nurses
20: 13	188: 23	95: 13	nature	111: 8	norm . . .	4: 21	30: 3
20: 14	mi stake	96: 11	37: 21	114: 17	139: 10	5: 5, 10	30: 13
25: 7	142: 14	96: 13	neater	120: 13	144: 10	numb . . .	119: 24
25: 15	mobi . . .	96: 15	59: 22	121: 7	nos 6: 7	46: 1	161: 13
25: 17	38: 11	97: 3	neck	121: 24	notary	48: 17	161: 18
26: 6	moment	97: 20	98: 4	121: 25	2: 17	50: 16	162: 1
27: 6	159: 17	98: 23	98: 12	135: 13	6: 13	50: 18	163: 19
203: 10	moments	127: 16	151: 19	135: 18	215: 18	51: 5, 7	nuts . . .
203: 11	118: 23	135: 16	152: 7	138: 6	216: 3	51: 10	11: 23
mi ch . . .	money	135: 19	152: 16	138: 9	216: 20	208: 7	12: 13
26: 16	189: 16	151: 6	174: 1	147: 16	217: 25	nunez	18: 9
mi ddl e	month	151: 8	174: 2	156: 11	218: 20	1: 8	91: 6
108: 14	35: 7	151: 14	174: 3	156: 12	note	7: 1	188: 18
113: 1	36: 2	151: 20	174: 5	157: 19	32: 25	19: 16	195: 14
122: 4	47: 15	151: 21	174: 11	163: 21	124: 12	20: 3	
mi l l . . .	189: 10	152: 14	174: 16	167: 24	note . . .	118: 25	0
17: 14	months	mul l . . .	174: 20	168: 1	61: 1	140: 18	o 3: 3
17: 15	175: 2	17: 13	174: 24	175: 7	noted	159: 20	12: 5
17: 16	montoya	17: 14	175: 4	175: 9	176: 16	188: 12	57: 14
53: 20	200: 24	17: 15	175: 11	175: 11	noti ce	188: 14	62: 5
53: 21	morni ng	17: 17	175: 13	175: 12	2: 11	190: 3	71: 9
53: 22	17: 24	17: 18	175: 18	175: 18	16: 23	190: 4	71: 10
mi nd	18: 6, 9	20: 5	194: 3	187: 1	21: 3	190: 9	120: 14
86: 17	19: 10	53: 22	198: 4	190: 16	44: 7	190: 12	146: 14
102: 11	19: 13	53: 23	202: 11	191: 12	219: 15	191: 19	157: 7
133: 16	19: 18	53: 24	need	191: 22	noti . . .	191: 21	162: 1
150: 8	21: 10	53: 25	10: 11	191: 23	154: 18	191: 22	162: 1

217: 1	125: 21	occu. . .	72: 12	15: 12	38: 3, 5	60: 9	87: 18
218: 1	132: 8	166: 9	74: 12	15: 21	38: 15	60: 16	88: 7
218: 5	136: 4	october	75: 12	16: 5	38: 21	61: 8	88: 17
219: 1	137: 9	185: 4	76: 20	16: 14	39: 1, 4	61: 11	89: 6
obey	139: 6	185: 4	76: 25	16: 23	39: 6	61: 18	89: 12
141: 10	141: 24	offe. . .	77: 6, 8	17: 2, 8	39: 15	62: 10	90: 17
object	143: 14	16: 4	81: 9	17: 12	39: 22	62: 15	90: 23
20: 8	152: 18	155: 2	85: 19	17: 18	39: 25	62: 19	91: 6
29: 24	176: 9	155: 18	85: 24	17: 20	40: 3	62: 21	91: 10
31: 11	178: 16	157: 4	89: 24	18: 8	40: 14	63: 25	91: 16
32: 10	192: 23	157: 7	90: 2	18: 17	40: 19	64: 5	92: 6
38: 19	obj e. . .	179: 10	94: 16	19: 2, 8	40: 25	64: 15	92: 15
41: 17	50: 3	182: 24	96: 20	20: 1, 4	41: 5, 8	64: 18	92: 18
42: 5	64: 11	182: 25	112: 12	20: 19	41: 21	64: 25	93: 3
42: 23	74: 21	183: 2	116: 9	20: 24	42: 13	65: 6	93: 17
45: 4	79: 18	offe. . .	119: 24	21: 7	42: 16	66: 9	94: 3, 5
46: 3	89: 20	146: 14	127: 4	21: 12	43: 21	66: 23	95: 11
50: 1	95: 16	offense	132: 25	21: 16	44: 2, 7	67: 8	95: 13
50: 10	96: 3	139: 1	135: 23	21: 21	44: 12	67: 16	96: 7
58: 10	102: 8	139: 16	135: 25	21: 23	45: 1, 7	68: 7	96: 19
64: 3, 8	112: 18	offer	offi . . .	22: 1, 1	45: 17	68: 17	97: 11
64: 22	114: 14	82: 4, 9	1: 8, 9	22: 7, 9	45: 22	68: 24	97: 20
65: 24	116: 5	82: 16	1: 11	22: 12	45: 25	69: 3, 7	97: 25
67: 13	117: 22	83: 9	1: 12	22: 20	46: 5	69: 12	98: 15
69: 17	126: 4	offered	1: 14	23: 4, 6	46: 23	70: 2	100: 2
70: 18	129: 12	57: 20	1: 15	23: 11	47: 1	70: 10	100: 5
72: 13	130: 7	offhand	1: 17	23: 13	47: 13	70: 14	100: 13
73: 1, 6	142: 12	11: 18	1: 18	23: 19	47: 21	70: 20	100: 16
74: 18	142: 15	143: 11	1: 20	24: 7	48: 3, 8	70: 23	100: 19
77: 1	143: 7	offi ce	1: 21	24: 15	48: 11	71: 5	101: 2
77: 10	144: 13	65: 20	1: 23	25: 2, 7	48: 21	71: 16	101: 8
77: 12	149: 6	141: 6	1: 24	25: 18	49: 9	72: 6	102: 3
78: 11	162: 17	145: 17	2: 2, 3	25: 20	49: 12	72: 10	103: 3
79: 15	163: 23	145: 25	oh 24: 19	25: 23	49: 17	72: 16	103: 8
79: 25	164: 20	218: 12	36: 2	26: 15	49: 23	72: 19	103: 20
83: 21	165: 4	218: 20	97: 18	26: 17	50: 7	73: 9	103: 24
85: 14	181: 11	offi cer	98: 21	26: 24	50: 18	73: 13	104: 9
86: 11	194: 1	1: 20	105: 20	27: 5, 9	50: 25	73: 21	104: 22
87: 23	204: 24	1: 22	124: 13	27: 12	51: 9	74: 9	105: 3
89: 17	205: 4	23: 8	124: 22	27: 15	51: 12	74: 11	105: 5
90: 14	obj e. . .	23: 13	126: 17	28: 4, 7	51: 17	74: 15	105: 10
91: 22	182: 22	57: 9	155: 9	28: 20	51: 22	75: 6, 9	106: 7
92: 20	187: 23	65: 1	164: 7	28: 25	52: 1, 5	75: 21	106: 14
93: 12	obl i . . .	66: 7	199: 19	29: 3, 7	53: 5	76: 13	106: 21
93: 19	167: 1	67: 5	okay 7: 8	30: 6, 9	53: 11	76: 19	107: 9
94: 21	obse. . .	69: 19	7: 15	30: 18	53: 15	76: 23	107: 11
96: 14	65: 3	71: 11	9: 17	30: 23	53: 21	77: 5	108: 2
97: 5	obtai n	71: 13	9: 18	31: 2	54: 11	77: 15	108: 5
105: 12	23: 23	71: 23	10: 4	31: 13	55: 4, 7	78: 4, 6	108: 7
106: 4	169: 6	79: 12	10: 11	32: 2, 6	55: 13	78: 24	108: 7
106: 17	183: 3	79: 12	10: 16	32: 23	56: 2, 9	79: 11	108: 13
109: 17	183: 7	79: 22	10: 17	33: 20	56: 14	80: 16	108: 19
110: 4	obta. . .	79: 23	10: 23	34: 1, 7	56: 17	81: 6	109: 1
110: 10	169: 2	81: 2	11: 2	34: 11	56: 20	81: 17	109: 14
111: 10	obvi . . .	135: 8	12: 6	34: 14	56: 25	82: 14	110: 22
112: 8	100: 8	162: 2	12: 10	34: 18	57: 10	84: 1	111: 19
112: 15	213: 16	162: 5	12: 17	35: 1, 8	57: 15	84: 16	112: 25
114: 25	oca 16: 1	188: 12	12: 18	35: 13	57: 19	84: 24	113: 1
115: 16	16: 3, 6	193: 8	13: 16	35: 21	57: 22	85: 3, 6	114: 1
116: 1	102: 18	195: 1	13: 20	36: 14	58: 4	85: 9	114: 20
117: 11	103: 1	195: 11	14: 1, 4	36: 24	58: 16	85: 12	116: 19
117: 17	occa. . .	196: 16	14: 9	37: 1, 5	58: 21	85: 18	117: 1
124: 4	32: 14	offi . . .	14: 19	37: 10	59: 1	85: 23	117: 8
124: 18	occu. . .	21: 9	14: 24	37: 14	59: 18	86: 3, 7	118: 18
125: 14	89: 14	39: 17	15: 6	37: 17	59: 24	86: 16	119: 4

119: 7	144: 3	175: 12	209: 19	orig...	107: 11	194: 5	part...
120: 1	144: 18	175: 21	210: 18	218: 13	110: 22	194: 13	41: 15
120: 12	145: 5	175: 22	211: 4	orig...	112: 25	202: 11	part...
120: 12	145: 10	176: 17	211: 6	26: 13	118: 11	202: 12	7: 16
120: 17	146: 7	177: 6	211: 9	204: 20	118: 18	202: 12	7: 21
120: 19	147: 5	177: 12	211: 9	217: 5	119: 10	97: 8	113: 23
120: 24	147: 11	177: 18	211: 19	ouch	120: 1	105: 15	part...
121: 9	147: 17	177: 20	213: 9	124: 1	122: 3	105: 17	213: 23
121: 11	148: 8	177: 25	213: 22	194: 8	127: 20	194: 7	part...
121: 18	148: 10	178: 13	once	outside	134: 18	19: 14	19: 14
122: 3	148: 12	179: 8	24: 15	105: 23	136: 12	48: 3	46: 13
122: 12	149: 8	179: 18	25: 3	172: 7	136: 14	58: 13	46: 14
122: 15	149: 11	179: 25	83: 13	172: 19	136: 22	80: 4	65: 10
123: 1	150: 7	180: 8	84: 7	173: 11	138: 14	116: 16	69: 15
123: 7	150: 15	180: 23	87: 8	over...	145: 10	116: 16	99: 18
123: 15	151: 3	181: 7	110: 23	29: 13	153: 5	103: 25	208: 17
123: 18	152: 3	181: 15	114: 21	29: 22	165: 21	103: 25	partner
124: 9	152: 11	181: 20	140: 8	30: 14	165: 21	103: 25	6: 21
125: 1	152: 14	182: 14	140: 10	30: 24	165: 21	103: 25	parts
126: 12	152: 21	182: 21	141: 5	31: 5, 7	170: 13	107: 20	42: 3
126: 14	153: 5	183: 9	145: 15	31: 19	175: 23	108: 13	party
126: 25	153: 7	183: 15	151: 1	31: 25	176: 4	113: 1	213: 24
127: 7	154: 3	183: 24	151: 5	over...	176: 4	114: 2	216: 13
128: 8	154: 11	184: 23	151: 6	198: 25	178: 13	122: 4	pass
128: 15	154: 22	185: 1	154: 24	over...	178: 15	127: 21	158: 7
129: 2	157: 17	185: 6	155: 17	168: 7	182: 21	134: 25	passed
130: 1	158: 5	185: 11	155: 25	over...	214: 5	136: 24	177: 23
130: 3	158: 17	185: 20	160: 23	125: 15	214: 7	149: 12	passive
130: 17	160: 14	186: 4	176: 18		217: 7	73: 24	73: 24
130: 23	160: 18	186: 6	176: 20	P	218: 14	97: 10	93: 5
131: 8	160: 21	186: 8	191: 22	p 2: 9, 15	218: 15	76: 4	patch
131: 12	161: 9	186: 13	193: 20	3: 3	218: 19	156: 3	207: 6
132: 4	161: 14	186: 21	206: 19	61: 24	219: 10	156: 4	pdf
132: 16	161: 24	187: 3	ones	61: 25	219: 11	156: 6	214: 12
132: 18	162: 3	187: 10	17: 15	126: 10	pages	157: 6	pen
132: 23	162: 7	187: 15	17: 16	126: 11	99: 20	204: 9	209: 14
133: 7	162: 14	188: 7	open	145: 3	99: 23	204: 18	people
133: 13	163: 3	192: 1	146: 10	145: 4	219: 20	204: 18	17: 11
133: 13	163: 5	193: 3	159: 7	214: 17	189: 19	204: 18	31: 8
133: 17	163: 9	193: 10	166: 4	217: 1	218: 1	204: 18	56: 17
133: 21	163: 17	193: 17	168: 11	218: 1	38: 9	146: 11	56: 23
134: 5	164: 6	193: 22	169: 4	218: 5	38: 11	182: 15	69: 19
134: 7	165: 18	194: 8	182: 15	219: 1	38: 16	182: 15	69: 24
134: 24	165: 20	194: 12	oppo...	page	50: 6	146: 12	105: 17
135: 2	166: 24	194: 15	106: 13	3: 19	95: 4, 5	10: 5	126: 22
135: 22	167: 9	194: 25	order	4: 1	96: 17	35: 6	139: 25
136: 9	167: 13	195: 14	54: 22	5: 1	105: 18	41: 15	146: 3
136: 12	167: 16	195: 18	139: 8	16: 24	106: 21	43: 3	163: 18
136: 14	167: 25	196: 11	139: 14	17: 8	106: 23	50: 20	184: 13
136: 21	168: 5	197: 16	139: 25	17: 12	106: 24	50: 20	187: 19
136: 21	169: 20	197: 23	140: 4	20: 14	106: 24	50: 20	188: 21
137: 2	169: 24	198: 1	141: 11	36: 9	108: 15	99: 1, 4	193: 7
137: 23	170: 10	198: 11	169: 2	37: 18	123: 25	114: 4	203: 14
138: 13	170: 13	199: 5	189: 14	37: 20	149: 17	114: 21	people
139: 9	170: 24	201: 3	199: 12	43: 12	174: 1	119: 1	147: 3
139: 12	171: 2	201: 20	ordered	60: 15	174: 2	124: 22	percent
139: 17	171: 18	203: 5	168: 14	61: 3	174: 11	127: 4	87: 12
140: 12	171: 18	204: 16	189: 17	82: 14	174: 13	138: 23	141: 6
140: 19	173: 12	205: 18	189: 19	82: 18	174: 20	150: 24	period
141: 2	173: 22	205: 20	orders	82: 19	174: 24	155: 2	32: 4
141: 8	174: 6	207: 4	57: 24	82: 20	175: 4	157: 14	137: 13
142: 4	174: 15	207: 10	138: 16	82: 22	175: 12	161: 17	197: 11
142: 9	174: 19	208: 13	ordi...	83: 4	175: 18	168: 22	218: 21
142: 23	174: 22	208: 17	74: 16	84: 1			perm...
143: 17	175: 4	209: 11	75: 1, 5	94: 3			207: 10

207: 16	42: 8	159: 19	89: 8, 9	pose	present	70: 11	67: 25
person	99: 5	165: 25	89: 11	146: 21	37: 14	74: 19	69: 9
12: 7	100: 11	168: 24	92: 13	poses	81: 23	78: 8	102: 19
98: 24	135: 6	pl ai ...	94: 22	146: 12	pres...	80: 24	118: 16
101: 15	178: 9	4: 2, 6	95: 18	posi ...	16: 5	82: 10	192: 21
104: 20	pi cki ng	33: 11	105: 11	38: 13	press	88: 3	209: 21
108: 3	41: 19	145: 15	106: 16	61: 14	151: 2	90: 12	209: 24
109: 1	41: 25	158: 25	110: 20	64: 6	pressed	90: 18	210: 6
121: 2	pi ctu re	159: 13	111: 21	65: 3	98: 1	94: 23	210: 10
126: 18	173: 5	159: 18	114: 12	73: 25	174: 14	94: 25	210: 23
144: 11	pi ct...	159: 23	117: 3	81: 7	206: 5	95: 1	proc...
145: 15	30: 7	169: 4	125: 6	81: 11	206: 21	95: 22	2: 14
149: 4	103: 23	pl ea...	132: 10	82: 23	pres...	98: 24	6: 5
184: 17	162: 23	17: 22	133: 6	posi ...	98: 5	102: 14	114: 4
pers...	163: 10	20: 18	135: 1	55: 20	100: 7	102: 20	218: 22
146: 16	164: 5	27: 18	137: 8	55: 22	149: 16	111: 14	219: 16
pers...	182: 25	29: 20	143: 19	56: 1	150: 24	118: 12	proc...
69: 10	183: 3	33: 14	151: 9	57: 17	195: 20	121: 24	6: 1, 4
pers...	183: 5	158: 25	152: 2	97: 23	196: 5	127: 16	216: 10
138: 11	183: 7	pl eas	169: 18	97: 24	pres...	140: 8	process
195: 7	183: 13	195: 16	193: 15	102: 5	104: 1	143: 5	191: 5
persons	183: 17	pl ease	193: 18	149: 25	107: 22	143: 11	produce
108: 1	183: 19	7: 12	193: 24	150: 1	109: 12	150: 21	153: 9
pers...	184: 3	9: 16	195: 4	151: 6	192: 25	151: 18	165: 23
50: 4	184: 5	88: 25	poi n...	152: 22	193: 18	153: 2	prod...
58: 6	184: 6	136: 22	44: 23	184: 18	193: 24	166: 17	159: 23
58: 25	192: 12	153: 6	173: 9	poss...	195: 4	175: 18	166: 17
164: 19	192: 15	153: 9	173: 14	156: 8	206: 20	178: 15	170: 5
165: 3	200: 15	154: 5	poi nts	156: 9	pretty	184: 19	179: 24
182: 8	200: 17	164: 25	137: 5	poss...	28: 2	184: 24	prod...
182: 9	pi nky	165: 23	154: 6	79: 17	50: 8	185: 2	167: 2
phon...	131: 21	214: 11	155: 7	95: 14	70: 8	pri son	prod...
30: 16	132: 24	218: 9	157: 2	poss...	87: 9	186: 24	4: 8
142: 6	pl ace	218: 19	200: 1	19: 21	97: 8	187: 8	10: 25
156: 7	17: 24	pl us	203: 25	47: 4	98: 18	187: 11	153: 2
179: 22	18: 5	110: 16	204: 5	post	102: 22	pri v...	153: 8
189: 17	20: 22	174: 1	poi l cy	176: 12	108: 12	8: 12	158: 22
189: 22	24: 5	pocket	72: 8	178: 2	136: 24	8: 21	165: 22
191: 10	36: 25	189: 1	72: 10	pote...	150: 4	166: 19	167: 3
212: 10	40: 14	pod 21: 2	157: 7	144: 23	185: 15	166: 23	profane
phot...	46: 18	23: 3, 7	190: 9	pote...	193: 14	pro	57: 13
30: 5	113: 22	23: 16	190: 10	7: 21	198: 4	pro	profura
179: 17	120: 16	23: 18	190: 10	31: 7	202: 5	prob...	179: 22
192: 6	156: 24	28: 10	190: 11	31: 18	prevent	8: 10	prog...
photos	pl aced	36: 12	190: 12	145: 8	87: 7	8: 19	47: 16
118: 22	39: 11	57: 21	190: 16	pour	prev...	15: 10	prog...
119: 1	pl aces	65: 15	190: 18	208: 23	142: 19	32: 13	47: 20
122: 16	187: 6	65: 16	190: 19	powe...	168: 25	32: 21	prog...
159: 23	pl aci ng	65: 23	191: 13	56: 12	prev...	64: 13	47: 12
159: 24	96: 21	poi nt	pool e	pre	32: 25	75: 4	47: 13
phys...	pl ai ...	11: 6	189: 22	144: 5	219: 9	86: 20	prol...
186: 24	1: 5	25: 9	190: 7	prec...	219: 11	87: 4	209: 17
187: 7	3: 2	31: 1	pop	138: 16	pri m...	87: 20	prone
phys...	17: 20	35: 19	15: 10	preh...	95: 6	87: 25	193: 2
187: 2	18: 4	40: 24	32: 6	146: 10	pri or	125: 16	prongs
physi cs	29: 13	40: 25	popu...	prepare	20: 5	134: 6	160: 19
73: 5	29: 17	61: 15	32: 5	10: 20	36: 5	probl em	163: 20
pi ck	38: 7, 8	63: 9	32: 15	prep...	36: 13	54: 1, 1	163: 20
127: 19	52: 15	64: 20	32: 16	25: 21	36: 20	145: 2	pron...
131: 14	57: 23	75: 15	146: 11	111: 13	66: 24	202: 2	27: 7
143: 4	135: 5	81: 24	148: 2	111: 16	67: 5	prob...	pron...
pi cked	137: 5	83: 10	porti on	prep...	67: 17	49: 22	119: 18
41: 3, 5	138: 19	83: 15	42: 10	10: 17	67: 20	49: 24	proper
41: 8, 8	149: 14	84: 20	99: 18	pres...	67: 22	67: 11	119: 8
41: 12	158: 23	87: 6	106: 11	173: 23	68: 4	67: 22	prop...

189: 20	101: 25	9: 5, 15	78: 2	125: 13	187: 9	36: 9	125: 9
189: 22	pushups	10: 6, 8	rate	127: 13	reca...	refe...	regard
191: 4	208: 23	10: 13	106: 23	149: 20	30: 2	173: 23	9: 14
prop...	210: 18	43: 2	raymond	150: 8	rece...	refe...	22: 9
37: 25	210: 19	52: 10	2: 7, 12	155: 3	35: 6	154: 14	28: 20
protect	210: 24	74: 1, 4	3: 20	156: 20	48: 21	155: 7	31: 9
164: 15	put 52: 4	74: 23	6: 11	156: 21	53: 19	refe...	46: 23
prov...	55: 2	79: 19	215: 3	159: 20	80: 10	183: 2	47: 8
28: 15	56: 4, 7	89: 22	215: 12	159: 22	80: 20	190: 16	67: 8
publ i c	57: 1	125: 24	216: 4	202: 25	80: 25	refe...	82: 15
2: 17	65: 9	126: 1	217: 4	217: 7	123: 13	53: 5, 6	135: 11
6: 13	69: 12	148: 25	218: 7	reas...	135: 25	61: 3	141: 11
215: 18	69: 13	168: 15	219: 8	89: 7	154: 18	77: 22	145: 5
216: 3	69: 14	178: 22	reach	96: 1	197: 8	147: 1	153: 21
216: 20	71: 24	ques...	71: 18	reas...	204: 2	169: 13	160: 2
217: 25	72: 11	213: 19	72: 11	105: 14	211: 22	171: 14	166: 16
218: 20	72: 22	ques...	73: 4	reasons	rece...	182: 16	185: 15
puebl o	80: 5, 6	9: 14	73: 10	103: 23	6: 23	190: 9	192: 14
45: 19	80: 14	10: 14	73: 14	141: 4	rece...	190: 13	192: 18
pul l	80: 22	61: 20	read	202: 5	185: 10	190: 18	198: 13
115: 21	83: 6	126: 16	11: 4	203: 21	recess	190: 19	205: 6
118: 3	84: 2, 7	145: 19	13: 22	recal l	61: 24	191: 14	206: 4
208: 24	84: 12	148: 11	17: 2	22: 11	126: 10	reflect	209: 20
213: 6	85: 3	192: 17	18: 15	27: 10	145: 3	62: 2	210: 18
pul l ed	90: 2	201: 16	19: 12	28: 6	reco...	126: 13	rega...
39: 9	96: 25	201: 23	19: 16	30: 3, 7	165: 15	refl...	22: 21
54: 13	97: 2	213: 15	20: 4	31: 1	record	83: 12	30: 3, 4
54: 16	97: 21	216: 10	215: 5	32: 18	16: 2	refresh	52: 8
61: 1	99: 7	qui ck	218: 11	35: 11	20: 2	113: 12	54: 5
pul l i ng	99: 19	61: 19	218: 13	36: 13	46: 7	143: 8	66: 25
34: 8	99: 25	84: 15	readi ng	41: 7	62: 1	refr...	168: 24
34: 10	101: 23	84: 17	13: 20	41: 18	71: 10	91: 9	173: 24
34: 17	107: 17	126: 7	13: 24	66: 19	126: 13	refusal	186: 17
39: 5, 7	109: 12	qui ckl y	123: 16	68: 6	145: 8	183: 16	195: 15
39: 20	114: 10	185: 15	218: 9	68: 14	166: 14	refuse	rel ate
97: 7	131: 7	qui t	218: 15	69: 6	181: 14	178: 6	17: 23
107: 2	131: 9	200: 7	ready	77: 19	185: 8	refused	46: 13
107: 21	131: 16	qui te	206: 16	81: 22	218: 24	57: 24	related
109: 13	147: 20	134: 10	218: 9	83: 22	219: 24	66: 11	17: 11
109: 23	152: 16		real	83: 24	reco...	90: 24	33: 3, 8
124: 8	154: 4	R	106: 12	83: 25	103: 11	90: 25	35: 22
195: 21	155: 9	r 1: 4, 7	real l y	90: 15	records	91: 20	35: 23
203: 14	178: 9	7: 13	73: 7	91: 8	145: 9	91: 20	44: 9
puni...	182: 11	185: 4	96: 6	92: 1	145: 9	91: 25	44: 13
213: 11	189: 7	185: 9	98: 12	92: 21	165: 24	105: 13	46: 15
purc...	193: 10	217: 6	102: 23	92: 25	166: 17	107: 14	188: 6
189: 25	193: 11	217: 6	106: 12	92: 25	167: 2	107: 15	216: 12
purpose	202: 12	218: 6	111: 8	106: 6	169: 4	113: 22	rel ates
109: 21	206: 12	218: 6	136: 19	106: 19	184: 21	113: 23	158: 25
157: 12	207: 5	219: 6	141: 1	112: 24	184: 23	135: 4	rel a...
191: 3	207: 8	219: 6	194: 23	118: 13	recr...	135: 5	33: 16
purp...	212: 8	rai sed	195: 19	124: 25	15: 25	138: 15	53: 16
108: 15	putti ng	17: 22	195: 23	133: 22	red	159: 20	166: 6
purs...	98: 3	20: 17	reason	136: 7	170: 19	176: 1	rel a...
2: 11	107: 22	27: 17	7: 15	140: 11	176: 2	176: 3	102: 22
2: 13	186: 7	29: 20	9: 16	140: 21	reduced	183: 8	102: 24
6: 4		33: 13	11: 23	141: 13	216: 8	183: 10	187: 11
218: 22	Q	71: 17	19: 14	141: 14	refer	195: 25	rel a...
219: 15	qual i	73: 13	33: 2, 3	141: 21	43: 12	199: 19	42: 22
pursued	3: 10	170: 18	33: 6, 7	142: 2	69: 25	199: 20	rel axed
71: 17	219: 4	176: 1	58: 7	143: 1	108: 14	204: 5	194: 11
pushed	qual i fy	randy	77: 9	143: 2	refe...	refuses	rel a...
206: 8	172: 7	7: 1	80: 7	160: 6	126: 17	176: 13	8: 15
pushi ng	ques...	195: 14	110: 14	160: 17	181: 8	178: 3	rel ease
98: 12	8: 17	rapi dl y	120: 2	177: 19	refe...	refu...	45: 8

165: 23	124: 24	60: 10	138: 8	76: 14	135: 6	23: 16	93: 25
166: 1	127: 1	60: 15	199: 13	85: 9	135: 25	24: 12	ring
166: 4	127: 2	99: 14	199: 16	101: 20	166: 8	24: 13	143: 23
169: 2	127: 7	99: 14	202: 9	129: 6	197: 8	24: 23	rings
169: 7	129: 7	99: 15	repr. . .	192: 10	211: 23	24: 24	26: 16
rel e. . .	129: 17	99: 19	16: 16	resp. . .	216: 14	24: 25	119: 20
104: 1	131: 4	123: 13	152: 25	25: 10	resu. . .	27: 4	173: 3
149: 20	132: 1	123: 17	repr. . .	38: 1	127: 13	28: 9	rise
169: 1	133: 5	134: 3	6: 24	76: 16	reta. . .	28: 10	138: 17
206: 15	134: 3	135: 24	213: 16	85: 11	153: 12	30: 13	144: 11
rel e. . .	134: 12	137: 11	request	85: 21	156: 22	30: 25	154: 3
17: 21	140: 12	137: 15	4: 7	104: 4	158: 14	36: 12	risk
18: 2	140: 16	139: 11	10: 25	resp. . .	203: 24	49: 12	156: 1
20: 16	140: 22	139: 11	61: 12	129: 7	204: 11	49: 14	204: 7
27: 17	141: 9	139: 14	66: 11	200: 17	reta. . .	49: 20	204: 10
29: 19	141: 15	140: 1	72: 9	resp. . .	153: 13	49: 22	road
30: 24	141: 17	148: 17	76: 16	4: 2	153: 17	50: 2, 8	10: 6
31: 6	142: 2	148: 20	81: 13	23: 21	153: 20	50: 19	robert
33: 13	142: 5	155: 11	89: 25	38: 6	157: 12	51: 15	28: 25
166: 2	142: 7	156: 3	153: 1	43: 12	158: 11	51: 23	robles
170: 7	143: 11	156: 8	153: 8	52: 6	reti red	60: 7	12: 4, 4
rel ied	143: 18	156: 10	158: 21	52: 14	157: 19	61: 19	12: 5
196: 25	143: 25	156: 10	165: 22	57: 23	return	70: 7	108: 4
rel ief	144: 1	156: 13	169: 3	58: 22	202: 23	72: 5, 7	rode
48: 22	144: 7	156: 15	180: 2	71: 23	203: 2	81: 10	45: 2
54: 3	151: 13	156: 16	182: 23	81: 13	203: 7	81: 20	rolling
114: 4	151: 15	156: 16	196: 5	82: 1, 2	203: 9	81: 20	145: 22
rel i. . .	151: 20	156: 17	199: 15	85: 4	retu. . .	82: 4, 9	romero
13: 25	175: 10	156: 18	199: 21	85: 22	27: 11	82: 11	45: 18
rel ying	176: 6	178: 15	requ. . .	89: 24	118: 24	84: 3	207: 21
147: 7	177: 17	196: 25	63: 24	93: 3	191: 11	101: 17	room
remain	179: 5	197: 1	66: 13	94: 9	202: 24	101: 18	84: 23
159: 25	186: 1	197: 4	92: 16	94: 11	218: 20	103: 11	177: 7
reme. . .	186: 5	197: 7	114: 9	111: 2	219: 11	110: 8	189: 8
11: 18	186: 9	199: 14	118: 21	134: 19	219: 20	115: 14	189: 20
23: 13	186: 14	199: 25	127: 24	136: 23	reve. . .	126: 18	189: 22
24: 11	204: 4	204: 9	130: 10	137: 13	148: 17	127: 8	rounds
30: 11	209: 12	repo. . .	155: 4	138: 19	reve. . .	127: 11	29: 19
37: 23	reme. . .	44: 16	155: 6	145: 13	154: 13	134: 14	rout. . .
41: 2, 3	22: 3	repo. . .	159: 22	148: 13	154: 16	149: 19	146: 9
41: 19	remove	2: 16	179: 9	153: 12	155: 15	149: 21	rudni ck
68: 4	146: 11	6: 8	182: 25	158: 22	156: 19	158: 21	30: 16
69: 3	removed	8: 24	183: 5	168: 3	204: 1	161: 16	161: 25
77: 11	148: 1	9: 10	184: 7	168: 22	204: 4	167: 4	rule
77: 14	repeat	9: 24	192: 5	192: 8	revi ew	168: 20	131: 21
77: 16	74: 23	60: 22	requ. . .	resp. . .	154: 7	171: 2	132: 24
83: 12	79: 20	214: 4	135: 4	4: 6	200: 23	175: 23	rules
83: 19	164: 24	214: 9	requ. . .	10: 24	revi . . .	177: 9	2: 13
91: 25	repe. . .	214: 13	219: 17	10: 25	167: 22	180: 13	6: 5
92: 7	135: 4	216: 2	resi . . .	16: 17	rfp	181: 1	8: 5
100: 11	repe. . .	216: 20	93: 6	16: 22	146: 11	181: 8	167: 11
106: 3	96: 22	repo. . .	resi . . .	21: 25	146: 25	190: 21	218: 22
106: 15	reph. . .	216: 1	194: 10	22: 16	rfpd	190: 22	219: 15
108: 16	9: 16	repo. . .	resi . . .	28: 18	146: 20	200: 9	runi ns
108: 24	repl ace	217: 1	83: 15	37: 19	ri ght	205: 6	102: 14
111: 7	114: 8	218: 1	resol ve	136: 13	6: 18	205: 22	rushi ng
112: 16	repl . . .	218: 23	190: 25	153: 1	7: 7	209: 15	99: 9
112: 22	114: 3	219: 1	191: 6	rest. . .	8: 15	209: 16	99: 11
113: 5	114: 6	219: 23	resp. . .	207: 3	8: 23	213: 4	
115: 19	114: 22	reports	213: 20	rest. . .	9: 2, 8	ri gh. . .	S
118: 14	repl . . .	67: 2	respond	61: 22	10: 15	47: 5	sadi . . .
119: 2	190: 1	94: 16	55: 7	resul t	14: 5	47: 7	150: 2
123: 24	report	101: 1	75: 21	46: 20	18: 25	48: 10	150: 3
124: 11	25: 16	103: 9	75: 24	121: 19	23: 2, 3	23: 16	150: 23
124: 16	35: 12	129: 15	76: 13	121: 22	23: 16	rights	150: 25

sadi . . .	190: 19	106: 23	199: 21	125: 18	87: 9	16: 10	shake
149: 14	197: 12	107: 3	sear . . .	126: 16	87: 13	23: 16	68: 7
149: 15	197: 20	scar . . .	58: 2	130: 21	87: 19	25: 25	68: 15
150: 21	198: 13	38: 10	68: 10	134: 13	88: 1	62: 23	69: 8
sat	198: 25	43: 21	seattle	143: 10	88: 13	65: 2	shak . . .
26: 21	200: 19	43: 22	12: 22	143: 22	103: 12	67: 5, 8	188: 23
116: 15	208: 3	205: 21	second	147: 12	111: 15	71: 6	188: 25
save	says	scars	103: 16	147: 13	111: 20	76: 20	shaker
190: 7	17: 13	43: 25	119: 21	147: 19	113: 4	76: 24	68: 16
saw	17: 14	scen . . .	120: 2	148: 5	113: 21	101: 23	68: 25
21: 17	17: 20	113: 21	122: 6	148: 10	138: 21	102: 14	shaki ng
22: 22	18: 3	school	127: 21	162: 24	138: 22	138: 20	68: 3, 9
22: 25	20: 15	12: 24	130: 18	163: 1	139: 1	139: 2	share
24: 3, 4	20: 19	sci ence	132: 23	164: 7	139: 3	179: 20	60: 25
26: 22	25: 7	13: 14	133: 17	173: 5	139: 23	189: 22	shawn
27: 22	27: 15	scope	134: 9	173: 19	140: 2	192: 19	23: 19
28: 1, 2	29: 12	166: 6	134: 25	177: 22	140: 4	201: 3	sheet
28: 8	30: 9	167: 2	138: 23	182: 3	140: 6	203: 11	62: 4
29: 3	31: 2	score	143: 18	182: 24	140: 13	204: 20	217: 3
83: 12	35: 25	154: 7	145: 14	184: 8	140: 22	205: 11	sheets
108: 21	40: 3	157: 10	148: 12	184: 10	140: 24	series	218: 13
119: 11	43: 21	200: 2	153: 5	184: 11	141: 12	10: 14	218: 15
119: 12	62: 6	203: 25	155: 12	202: 13	142: 10	seri ous	218: 20
121: 7	62: 21	204: 15	156: 2	202: 16	143: 5	140: 24	219: 10
155: 7	66: 11	scott	162: 11	212: 6	144: 1	servi ce	219: 11
161: 11	73: 13	28: 7	166: 12	seei ng	144: 6	16: 1	219: 20
161: 20	73: 21	69: 24	176: 6	75: 1	144: 8	serv . . .	shes
162: 10	74: 11	70: 4	180: 1	144: 5	144: 12	5: 8	71: 6
163: 12	77: 21	scout	seconds	147: 10	145: 18	61: 16	172: 11
190: 4	81: 7	70: 2, 6	84: 24	147: 11	146: 1	217: 1	172: 11
195: 11	83: 4	scrapped	159: 11	179: 5	186: 3	218: 1	193: 23
202: 17	103: 25	41: 23	secr . . .	187: 19	segr . . .	218: 23	202: 5
203: 3	104: 11	100: 17	168: 24	seen	139: 15	219: 1	shi ft
207: 1	107: 14	scrapes	secti on	21: 14	send	219: 23	63: 22
sayi ng	110: 22	42: 15	176: 12	75: 6	189: 23	set 4: 3	63: 24
11: 21	113: 1	100: 15	secu . . .	103: 10	sense	20: 25	66: 14
12: 12	114: 2	172: 1	146: 13	109: 5	9: 12	131: 16	66: 17
70: 17	122: 4	173: 3	183: 2	125: 16	9: 21	186: 22	66: 20
75: 9	122: 15	173: 17	183: 6	153: 3	9: 24	216: 15	71: 20
79: 14	129: 15	173: 19	see	159: 11	39: 7	sets	72: 3, 4
82: 3	133: 13	scratch	17: 15	161: 19	152: 4	159: 6	72: 9
85: 6	134: 3	136: 8	21: 18	162: 15	sent	seven	72: 15
101: 20	135: 3	180: 9	26: 24	170: 1	139: 23	11: 8	73: 20
106: 3	137: 3	180: 13	27: 24	170: 10	140: 24	148: 14	76: 8
106: 15	138: 14	181: 24	28: 12	170: 16	219: 21	148: 15	76: 10
111: 15	144: 5	183: 1	43: 24	185: 1	sent . . .	seventh	76: 17
112: 17	148: 16	scra . . .	55: 9	201: 10	52: 14	162: 12	78: 14
112: 23	153: 9	38: 9	61: 20	202: 19	137: 3	severe	79: 5
115: 7	168: 22	40: 3, 4	62: 6	seg	138: 23	94: 7	82: 13
124: 2	171: 19	40: 5	63: 24	52: 16	145: 14	108: 15	83: 18
124: 17	176: 1	136: 3	64: 1, 2	63: 12	146: 7	shackl e	87: 8
124: 24	179: 8	scra . . .	66: 2	63: 13	160: 1	97: 13	134: 13
125: 12	180: 8	42: 19	66: 13	141: 7	sept . . .	shac . . .	145: 16
128: 21	181: 4	42: 21	73: 20	segr . . .	2: 8	94: 15	145: 24
129: 3	182: 4	43: 5, 8	80: 16	29: 13	45: 13	98: 10	146: 9
130: 5	182: 7	scre . . .	82: 12	31: 4	216: 7	98: 19	179: 9
139: 3	182: 22	107: 4	82: 20	32: 4, 7	216: 16	98: 22	182: 23
146: 22	193: 11	se 168: 4	83: 17	32: 14	218: 3	115: 11	211: 25
146: 25	196: 25	search	87: 8	37: 2	219: 15	150: 12	shi rt
154: 7	197: 4	15: 9	87: 14	37: 10	219: 21	203: 16	116: 15
160: 5	199: 22	57: 24	106: 1	52: 17	serg . . .	shac . . .	shocks
161: 9	199: 24	199: 15	111: 12	52: 25	1: 16	95: 1	51: 11
161: 19	scabbed	199: 16	119: 19	60: 12	1: 17	96: 21	51: 18
172: 12	179: 13	199: 20	119: 20	62: 17	1: 19	97: 19	208: 1
173: 20	scal e	199: 20	121: 2	62: 21	2: 1	97: 21	shoes

209: 4	24: 10	simple	55: 16	145: 11	161: 4	some...	speaks
short	26: 4, 5	33: 4	55: 19	147: 6	161: 20	42: 1	145: 17
10: 14	27: 3	simply	55: 24	148: 14	164: 7	some...	spec...
shorter	36: 12	33: 4	56: 19	149: 12	170: 18	97: 6	35: 12
73: 8	49: 15	56: 3	57: 18	150: 6	170: 22	some...	137: 6
shortly	84: 19	124: 2	59: 8	152: 13	176: 1	43: 5	spec...
80: 19	101: 15	199: 6	59: 18	152: 20	182: 18	97: 9	31: 25
shou...	101: 17	single	60: 8	152: 23	si xpage	133: 11	35: 14
127: 8	101: 18	74: 4	61: 4, 7	153: 3	62: 6, 8	soon	41: 2
149: 19	127: 11	202: 3	61: 10	158: 1	66: 10	75: 18	69: 3
149: 21	167: 21	si r 6: 18	61: 13	158: 16	si ze	111: 22	80: 13
shou...	211: 14	7: 15	62: 3	161: 3	214: 6	sooner	90: 16
168: 17	si des	8: 7	62: 11	164: 9	ski n	86: 19	193: 7
191: 12	40: 7	11: 2	62: 12	168: 21	43: 8, 9	sorry	spell
201: 5	40: 18	11: 10	64: 17	170: 1	43: 25	22: 2	7: 11
201: 6	43: 17	11: 24	65: 17	170: 11	84: 18	24: 18	30: 20
shove	si ght	12: 15	66: 6, 8	170: 16	172: 7	24: 22	154: 1
61: 18	23: 7	12: 19	66: 10	172: 21	172: 9	34: 9	spoke
show	si gn	12: 25	66: 15	172: 22	172: 16	46: 11	22: 10
16: 15	167: 11	13: 23	70: 9	174: 2	172: 20	53: 25	29: 18
59: 2, 5	167: 12	15: 13	70: 12	175: 6	sl id	59: 11	32: 13
60: 18	218: 11	16: 7	73: 23	176: 4	42: 13	64: 24	127: 24
60: 24	218: 13	16: 25	78: 23	179: 1	100: 16	67: 14	128: 7
152: 24	si gn...	18: 7	81: 5	180: 16	sl iding	71: 4	131: 17
184: 21	16: 24	18: 13	85: 2	182: 1	40: 23	101: 21	186: 15
213: 3	156: 15	18: 19	87: 10	182: 10	41: 1	110: 11	190: 15
showed	215: 1	19: 11	91: 5	183: 5	sl ip	112: 18	191: 23
12: 11	217: 21	20: 23	94: 4	190: 13	189: 1	117: 4	spri ngs
54: 17	218: 14	20: 25	94: 22	196: 2	sl i pped	125: 24	3: 10
54: 24	218: 15	21: 5	96: 16	196: 15	42: 17	126: 6	217: 2
55: 21	218: 19	21: 22	100: 7	197: 17	smal l	136: 4	218: 2
81: 2	219: 9	24: 3, 9	101: 9	198: 15	54: 25	144: 19	219: 2
119: 23	219: 11	26: 14	104: 10	198: 23	170: 18	146: 23	219: 5
152: 3	219: 17	27: 2	104: 13	199: 2	180: 18	171: 12	sque...
162: 5	219: 18	28: 19	104: 17	199: 4	181: 22	178: 17	84: 8
179: 11	219: 20	30: 1	106: 10	201: 4	smal ler	178: 18	st 45: 18
203: 4	si gned	31: 22	107: 12	201: 9	48: 6	188: 1	45: 20
203: 6	16: 24	32: 9	107: 13	203: 12	smart	213: 12	staff
shower	165: 23	33: 15	107: 19	207: 17	212: 22	sort	15: 25
58: 13	169: 6	34: 13	107: 24	210: 9	smi th	58: 8	29: 18
showi ng	218: 20	34: 24	110: 25	210: 17	32: 23	155: 25	31: 5
103: 15	219: 13	36: 4	113: 1	si t 50: 7	33: 10	166: 15	52: 11
162: 15	219: 14	37: 8	118: 12	115: 22	33: 11	soto	57: 24
162: 20	219: 19	37: 12	118: 18	211: 11	33: 15	1: 22	69: 20
162: 22	si gn...	38: 13	122: 3	si tti ng	35: 22	7: 5	74: 2
182: 18	165: 1	38: 25	123: 8	9: 21	37: 7	11: 20	91: 14
184: 24	si gni ng	39: 3	126: 14	si tu...	209: 1	11: 25	99: 12
204: 3	218: 9	39: 24	126: 21	93: 16	smooth	12: 1	135: 6
shown	218: 15	40: 2	127: 15	93: 18	42: 22	108: 4	135: 7
115: 2	si mi lar	40: 18	128: 4	120: 7	43: 5, 7	201: 7	138: 16
shows	22: 13	40: 24	128: 19	128: 25	sni de	sound	145: 17
103: 17	24: 7	42: 18	129: 5	145: 23	212: 22	177: 15	153: 11
128: 14	26: 3	43: 8	132: 22	146: 20	sol el y	sounds	154: 7
151: 11	26: 25	43: 20	134: 15	201: 24	41: 25	41: 11	154: 25
201: 21	28: 8	43: 23	134: 17	211: 23	100: 20	160: 22	155: 21
si c 7: 6	31: 3, 8	44: 4	135: 12	si tu...	100: 22	169: 9	156: 14
25: 17	31: 19	44: 11	135: 18	78: 19	some...	spea k	163: 19
27: 4	50: 8	44: 21	135: 21	212: 13	59: 25	72: 4, 9	173: 25
170: 15	108: 12	45: 11	137: 1	si x 11: 8	86: 12	78: 5	183: 3
179: 24	169: 10	45: 16	138: 5	148: 13	137: 25	134: 1	183: 7
181: 1	170: 21	45: 21	140: 2	148: 15	141: 18	166: 18	186: 25
189: 15	si mi ...	47: 6	140: 13	160: 8	161: 10	186: 10	187: 2
203: 11	23: 20	48: 25	142: 8	160: 8	184: 14	spea ...	187: 8
si de	43: 13	49: 16	143: 1	160: 9	191: 16	30: 2, 4	187: 11
23: 3	120: 22	55: 6	144: 15	160: 16	198: 24	30: 14	195: 20

196: 21	13: 10	178: 14	71: 17	subdued	171: 10	167: 17	16: 17
197: 7	119: 18	178: 25	73: 11	94: 14	171: 16	169: 11	18: 5
198: 9	127: 22	182: 21	73: 14	94: 14	171: 19	169: 18	38: 15
200: 1	145: 14	190: 22	87: 13	94: 17	171: 25	171: 13	49: 10
202: 19	199: 16	215: 3	stra...	94: 24	172: 2	173: 1	53: 24
212: 13	stated	215: 12	136: 8	98: 1	173: 21	178: 23	55: 11
stairs	104: 14	216: 4	187: 14	109: 24	200: 20	185: 21	59: 19
55: 2	127: 9	217: 4	187: 17	115: 12	supe...	188: 8	61: 19
57: 8	stat...	217: 6	stra...	150: 11	195: 19	191: 17	61: 23
80: 23	21: 20	218: 6	108: 17	213: 8	supe...	199: 10	62: 15
stand	22: 4, 5	218: 7	110: 15	subject	16: 8	218: 19	81: 20
85: 12	22: 15	219: 6	110: 16	17: 25	66: 14	surface	82: 11
85: 25	22: 18	219: 8	203: 16	53: 11	66: 16	181: 24	86: 23
86: 9	23: 20	stev...	straps	70: 24	66: 18	183: 1	87: 3
87: 1	23: 23	5: 12	163: 13	153: 17	196: 3	surgery	87: 16
88: 19	25: 16	stev...	stre...	subj...	196: 12	44: 14	87: 19
88: 22	25: 21	5: 13	50: 17	38: 17	197: 18	44: 15	112: 13
88: 24	26: 10	stev...	stress	subp...	supe...	45: 8	115: 24
90: 25	26: 18	5: 11	187: 18	169: 3	201: 25	48: 22	117: 21
91: 20	26: 19	stev...	stre...	subs...	support	48: 24	118: 3
91: 25	26: 23	5: 10	178: 9	215: 15	199: 7	51: 19	118: 5
92: 19	27: 18	stev...	strike	217: 22	200: 12	51: 20	126: 9
94: 9	28: 15	5: 12	135: 8	subs...	supp...	51: 23	132: 2
94: 10	28: 21	stev...	135: 11	146: 13	197: 13	207: 18	133: 4
94: 20	28: 22	61: 2	strip	sudden	supp...	surr...	144: 11
100: 10	28: 24	stev...	113: 3	199: 18	155: 5	94: 16	148: 22
100: 20	29: 1	5: 5	113: 21	204: 17	supp...	suspect	168: 10
104: 6	52: 7	stev...	113: 23	sue	68: 18	141: 22	178: 20
104: 7	58: 24	5: 6	114: 4	137: 15	168: 13	susp...	178: 24
105: 7	71: 9	stev...	114: 22	suff...	sure	35: 18	181: 19
115: 22	77: 20	4: 18	115: 15	38: 7, 9	11: 20	susp...	184: 3
129: 24	106: 20	4: 22	115: 18	sugg...	25: 14	142: 24	200: 15
132: 5	113: 9	stev...	116: 10	107: 16	33: 5, 9	sust...	200: 16
188: 21	113: 18	4: 13	117: 18	113: 2	41: 11	166: 8	206: 2
205: 13	148: 24	stev...	117: 25	113: 5	43: 1	sweat	216: 4
stan...	197: 1	4: 14	117: 25	sugg...	59: 20	58: 13	taken
86: 3	stat...	stev...	176: 12	147: 20	61: 23	80: 4	2: 12
86: 17	31: 8	167: 1	177: 7	147: 23	74: 24	swel...	6: 4
staples	states	stip...	178: 2	194: 19	77: 3	38: 9	7: 19
28: 25	1: 1	6: 3	strong	sui t	79: 21	38: 17	8: 7
29: 12	126: 20	stomach	105: 20	196: 15	83: 11	38: 18	23: 7
30: 9	status	73: 16	124: 13	197: 17	83: 16	38: 22	61: 24
30: 23	205: 22	75: 11	124: 22	213: 24	83: 19	119: 19	88: 3, 8
31: 4, 9	stay	176: 14	stru...	sui te	88: 15	119: 20	88: 10
31: 20	64: 7	205: 9	95: 15	3: 10	88: 16	swol l en	89: 18
31: 24	step	stood	95: 25	219: 4	90: 21	38: 25	116: 15
start	57: 12	23: 9	study	sui l...	97: 17	sworn	118: 22
7: 9	137: 19	23: 14	13: 24	1: 19	97: 18	6: 12	126: 10
11: 5	158: 19	23: 17	stuff	101: 23	98: 19	9: 25	145: 3
20: 6	204: 13	26: 1	14: 2	102: 1	99: 3	63: 3	156: 24
114: 16	ster...	89: 15	49: 7	102: 4	99: 22	215: 15	162: 23
124: 21	91: 5	190: 17	55: 2	102: 5	109: 5	216: 6	176: 20
started	92: 4	stop	68: 1, 4	102: 14	125: 20	217: 22	179: 19
46: 5	92: 10	53: 8	69: 1	104: 14	140: 10	symp...	182: 25
46: 12	stev...	63: 18	120: 20	148: 18	143: 15	47: 9	183: 14
47: 18	1: 4	stopped	144: 16	149: 9	143: 16		183: 17
47: 22	2: 7, 12	97: 14	198: 8	149: 13	144: 21	T	183: 19
114: 12	3: 20	109: 12	200: 25	149: 19	144: 24	table	189: 6
128: 12	6: 11	158: 10	204: 15	149: 24	145: 2	46: 21	191: 12
177: 14	7: 13	158: 12	207: 22	149: 24	145: 6	take 7: 7	200: 25
177: 16	7: 14	201: 15	208: 22	summary	150: 25	9: 11	216: 7
star...	159: 9	stops	209: 8	178: 15	151: 10	10: 11	218: 21
49: 14	168: 4	76: 6	209: 18	supe...	163: 14	10: 15	tal k 9: 1
state	170: 14	stra...	212: 12	171: 3	164: 23	13: 4	21: 12
7: 11	175: 24	63: 23	212: 24	171: 8	166: 21	13: 11	22: 20

24: 15	123: 24	195: 5	106: 24	136: 21	151: 15	197: 2	86: 20
63: 22	124: 6	teeth	154: 6	213: 24	155: 3	200: 14	88: 12
70: 21	124: 12	57: 6	155: 7	thats	156: 18	201: 24	88: 12
70: 24	212: 1	98: 5	157: 2	10: 10	156: 21	201: 25	89: 22
72: 15	tase	98: 14	161: 20	12: 14	158: 2	202: 4	90: 22
75: 15	77: 7	103: 3	162: 15	13: 10	160: 1	208: 20	95: 14
75: 16	201: 13	103: 4	162: 25	13: 15	161: 7	208: 20	96: 1
76: 8	201: 17	103: 5	163: 4	14: 13	164: 4	theyre	101: 10
76: 17	tased	103: 6	163: 6	14: 22	165: 12	10: 7	103: 4
79: 5	74: 10	103: 15	163: 8	14: 25	167: 16	115: 21	103: 13
83: 17	75: 16	103: 16	163: 13	16: 24	167: 19	127: 12	105: 23
104: 2	75: 19	103: 19	163: 22	29: 14	168: 8	147: 13	112: 2
128: 1	75: 22	151: 16	164: 2	32: 21	169: 8	188: 3	112: 11
128: 2	75: 23	151: 19	164: 8	38: 16	169: 22	theyve	123: 14
128: 6	76: 5	152: 6	170: 21	40: 8	169: 23	44: 3	123: 19
128: 18	76: 21	152: 10	170: 25	41: 22	173: 17	90: 9	127: 9
129: 10	76: 25	171: 6	182: 15	46: 7	174: 19	188: 2	136: 7
129: 10	78: 2	171: 7	182: 18	46: 10	175: 15	thi ng	140: 14
129: 16	90: 25	182: 10	182: 18	47: 19	178: 1	69: 11	140: 18
129: 18	91: 21	182: 12	200: 1	53: 25	179: 2	125: 11	142: 21
129: 22	96: 6	184: 3	tend	57: 8	182: 16	154: 25	151: 11
130: 4	97: 12	184: 5	63: 19	59: 22	184: 13	155: 22	152: 4
133: 18	97: 16	184: 7	tends	60: 17	185: 10	155: 25	153: 18
166: 23	149: 3	184: 8	213: 3	62: 16	186: 14	156: 2	154: 17
169: 9	149: 9	184: 14	term	62: 20	191: 17	167: 24	161: 25
183: 9	160: 7	200: 15	93: 5, 6	63: 10	192: 13	168: 2	162: 25
201: 8	160: 13	206: 8	160: 9	71: 3, 4	201: 25	177: 9	164: 3
211: 10	164: 17	206: 21	terms	73: 5	202: 24	202: 3	164: 6
211: 12	164: 18	206: 24	167: 1	83: 2	205: 16	207: 15	166: 22
212: 4	165: 2	207: 3	terr...	87: 7	206: 19	210: 11	168: 15
tal ked	165: 16	208: 24	209: 14	89: 4	208: 7	thi ngs	168: 16
25: 2	201: 11	tell	terr...	92: 16	208: 9	13: 22	169: 12
36: 14	taser	8: 18	1: 7, 8	97: 8	208: 25	69: 15	181: 17
56: 17	30: 5	10: 18	1: 10	98: 16	212: 20	137: 21	188: 2
70: 15	77: 7, 8	18: 8	1: 11	99: 6	213: 11	137: 24	188: 22
91: 19	77: 17	44: 12	1: 13	100: 3	213: 15	155: 6	191: 24
105: 24	148: 18	44: 24	1: 14	100: 6	theory	156: 24	192: 2
129: 22	159: 19	46: 9	1: 16	100: 14	153: 13	157: 21	192: 3
131: 21	160: 8	47: 17	1: 17	103: 19	theres	157: 22	196: 6
181: 1	160: 16	48: 18	1: 19	104: 9	8: 12	185: 14	198: 7
205: 9	160: 22	50: 13	1: 21	104: 17	14: 21	200: 2	200: 6
tal ki ng	160: 25	63: 1	1: 22	105: 3	50: 15	200: 21	200: 8
9: 7	161: 20	74: 5, 7	1: 23	108: 17	50: 15	208: 18	202: 8
65: 11	163: 14	85: 12	2: 1, 2	108: 21	50: 16	208: 20	202: 11
95: 19	163: 16	86: 13	187: 6	110: 23	70: 14	211: 8	202: 21
123: 23	179: 15	89: 3	test...	111: 17	79: 11	212: 22	203: 17
129: 25	182: 19	96: 20	6: 13	115: 2	98: 13	thi nk	204: 23
131: 5	205: 20	104: 23	170: 21	116: 9	99: 1	13: 5	205: 1
132: 17	tasered	108: 7	testi fy	122: 9	103: 4	13: 10	206: 3
134: 12	160: 23	112: 12	23: 20	122: 19	104: 14	16: 2	207: 2
135: 10	tasers	153: 23	29: 10	124: 2	110: 14	17: 17	207: 11
138: 7	160: 19	171: 23	216: 6	126: 9	129: 14	25: 5	207: 13
142: 17	tasi ng	174: 10	test...	126: 20	130: 18	27: 6	207: 15
186: 2	77: 23	188: 18	9: 25	131: 22	136: 22	30: 25	212: 25
209: 13	97: 7	190: 17	22: 14	131: 23	136: 23	32: 12	213: 1
tal ks	97: 13	telli ng	59: 24	139: 1	137: 21	33: 14	213: 2
38: 6	196: 6	128: 22	129: 21	139: 15	154: 25	53: 21	213: 4
tall	201: 11	128: 24	215: 7	139: 19	156: 13	60: 19	213: 15
72: 2	207: 14	129: 3	216: 10	139: 21	167: 6	67: 7	thi n...
tall est	tech...	131: 25	217: 5	139: 24	167: 18	69: 14	122: 17
72: 24	35: 5	132: 1	thank	140: 1	167: 22	72: 6	171: 15
tape	tech...	158: 3	12: 17	140: 3	168: 15	73: 9	thi rd
39: 23	192: 25	212: 2	16: 19	140: 23	170: 2	80: 7	127: 23
111: 13	193: 19	ten 11: 8	59: 4	141: 3	181: 7	83: 13	162: 12
111: 18	193: 25	106: 23	59: 17	144: 2	188: 5	83: 14	thi r...

80: 5	46: 1	78: 16	180: 20	51: 4	171: 3	tran...	135: 17
thongs	49: 1	79: 21	182: 18	title	180: 17	22: 17	135: 20
58: 13	51: 1	81: 16	189: 18	189: 7	180: 21	tran...	138: 1
thought	173: 10	82: 17	195: 23	today	180: 24	110: 1	151: 21
12: 10	207: 16	87: 12	197: 20	7: 7, 11	181: 2	trapped	166: 13
40: 9	208: 5	94: 12	205: 7	7: 17	181: 4	75: 12	169: 6
42: 21	208: 5	96: 5	205: 9	7: 22	181: 8	treat	190: 25
43: 5	208: 6	98: 3	205: 13	11: 11	181: 9	187: 20	191: 6
46: 15	208: 11	98: 20	206: 6	20: 7	182: 3	treated	192: 10
72: 17	208: 12	98: 22	206: 8	22: 3	182: 4	155: 18	212: 11
77: 7	208: 14	102: 7	206: 10	31: 15	182: 8	188: 2	212: 23
79: 23	tie	102: 18	213: 7	38: 13	top	trea...	tshl rt
101: 4	209: 4	103: 1	218: 21	44: 7	20: 13	187: 24	58: 13
101: 6	tied	106: 9	timely	50: 7	34: 23	trea...	80: 4
108: 3	200: 21	106: 22	158: 23	60: 1, 3	37: 19	35: 6	tunnel
113: 6	tier	108: 22	times	213: 20	40: 6, 8	166: 7	44: 15
119: 4	29: 12	113: 3	25: 5	213: 23	40: 17	202: 14	45: 8
120: 12	31: 4	114: 5	27: 5, 8	told	43: 17	treats	45: 11
122: 1	tight	114: 11	32: 6, 7	8: 11	60: 9	155: 21	46: 19
126: 24	39: 14	122: 17	32: 11	21: 18	82: 14	trial	47: 2
132: 11	43: 6, 7	123: 24	39: 21	26: 22	82: 18	10: 2	49: 13
137: 8	44: 18	126: 23	85: 22	35: 14	84: 1	218: 18	85: 16
137: 14	45: 5	127: 22	99: 16	36: 20	107: 11	219: 20	94: 8
165: 17	84: 3	127: 23	99: 17	52: 15	112: 25	tried	121: 17
168: 8	84: 22	128: 8	123: 20	52: 19	118: 18	54: 25	166: 6
178: 21	85: 4	128: 9	123: 21	52: 24	156: 17	55: 5	turn
180: 25	86: 6	128: 17	124: 7	53: 3	210: 16	77: 8	54: 20
187: 13	90: 3	128: 22	149: 3	53: 14	topic	152: 8	63: 10
188: 12	92: 23	129: 18	152: 4	54: 14	10: 14	156: 4	63: 11
192: 25	109: 8	130: 3	160: 6	54: 18	topliss	213: 1	63: 21
201: 18	124: 2	131: 5	160: 7	57: 16	1: 11	true	118: 19
202: 25	127: 23	131: 13	160: 12	62: 23	7: 2, 2	120: 3	212: 20
threat	130: 10	131: 18	160: 16	63: 5, 7	196: 13	137: 17	turned
146: 13	195: 25	131: 19	161: 5	63: 9	196: 14	161: 7	137: 11
146: 21	212: 17	132: 23	164: 17	63: 21	196: 16	178: 4	212: 21
thre...	9: 5	133: 17	164: 18	80: 6	197: 12	215: 6	turning
191: 5	78: 13	133: 19	165: 2	80: 13	198: 18	216: 9	19: 17
thre...	211: 25	133: 20	165: 3	85: 16	total	truj...	54: 15
116: 23	time	133: 24	165: 5	88: 20	185: 17	31: 2	turn...
three	9: 11	133: 25	165: 6	94: 6	total ly	31: 21	33: 4
11: 7	13: 21	134: 2	165: 7	100: 11	49: 20	31: 24	turns
32: 13	18: 18	134: 9	165: 8	104: 6	66: 13	truly	108: 4
44: 2	22: 8	137: 16	165: 10	118: 24	148: 7	117: 14	twelve
123: 11	22: 10	137: 18	165: 10	138: 20	touch	truth	11: 9
126: 19	25: 9	140: 12	165: 15	162: 13	73: 18	216: 6	twice
126: 25	26: 3	142: 11	165: 16	179: 16	78: 14	try 9: 1	24: 16
137: 19	27: 1	142: 19	171: 20	184: 14	78: 18	55: 8	24: 17
158: 19	28: 13	142: 20	185: 15	184: 15	78: 21	70: 23	25: 6
160: 7	32: 5	143: 5	185: 19	189: 6	196: 20	157: 14	128: 7
160: 16	32: 16	146: 1	185: 25	189: 23	196: 21	211: 14	two 11: 7
161: 5	36: 23	146: 20	186: 9	190: 2	197: 11	trying	11: 14
164: 17	37: 25	152: 15	192: 7	190: 3	touched	39: 7	11: 16
165: 2	42: 12	153: 16	201: 19	196: 19	84: 19	71: 23	14: 19
165: 6	47: 9	154: 13	timothy	202: 7	176: 23	86: 22	15: 20
165: 8	47: 18	159: 4	168: 23	207: 22	178: 11	86: 23	32: 1
165: 10	47: 22	162: 16	tngles	212: 8	187: 1	86: 24	72: 24
171: 19	49: 10	162: 21	50: 22	tony	train	87: 7	83: 4
172: 25	58: 18	169: 14	ting...	37: 15	131: 23	96: 2, 8	85: 21
180: 17	62: 17	172: 4	46: 1	tooth	132: 25	97: 12	98: 5
185: 19	65: 14	177: 10	48: 17	103: 10	tran...	97: 15	98: 14
204: 13	66: 2	177: 17	50: 15	103: 12	9: 25	97: 21	103: 25
thumb	74: 25	177: 19	50: 19	103: 18	10: 5	109: 15	120: 25
44: 22	76: 11	177: 20	51: 11	122: 16	214: 5	116: 24	123: 20
45: 2	76: 12	179: 5	208: 1	122: 18	215: 6	117: 9	123: 21
45: 24	76: 18	179: 12	tips	122: 20	216: 9	120: 3	126: 19

127: 2	unbe. . .	78: 1	val i d l y	32: 23	205: 11	127: 18	54: 23
127: 4	213: 13	79: 2	79: 24	33: 10	211: 13	129: 10	214: 1
129: 15	213: 14	149: 17	vari ous	219: 3	212: 19	133: 12	wel ts
134: 5	unco. . .	203: 17	29: 19	wai t 9: 5	wanted	133: 20	160: 9
135: 24	194: 6	unre. . .	39: 17	71: 20	40: 10	134: 4	160: 10
149: 5	unde. . .	4: 11	39: 20	78: 13	51: 23	134: 11	went
151: 16	8: 21	52: 21	137: 5	211: 25	55: 10	137: 14	22: 5
160: 19	9: 15	66: 13	146: 9	wai ted	72: 4	137: 18	55: 1
165: 10	10: 2, 3	72: 18	verge	73: 25	78: 13	161: 12	56: 25
171: 2	45: 10	77: 21	190: 22	wai t i n g	81: 9	169: 13	73: 15
171: 3	164: 21	78: 1	veri . . .	72: 3	87: 1	189: 3	83: 5
171: 6	166: 13	79: 10	103: 20	72: 15	101: 3	201: 5	87: 14
171: 7	169: 6	89: 10	veri fy	wai ved	103: 23	212: 9	111: 12
171: 8	unde. . .	91: 15	16: 18	219: 18	104: 5	212: 11	111: 20
171: 16	22: 24	92: 12	21: 13	wal k	104: 7	212: 21	121: 10
171: 20	24: 2	93: 4	35: 1	87: 2	114: 18	212: 23	121: 11
171: 25	25: 11	101: 5	versus	88: 19	127: 18	212: 24	141: 12
172: 2	28: 11	101: 7	165: 2	88: 22	129: 24	watch	144: 7
173: 20	42: 24	119: 5	vi d	88: 24	167: 17	64: 19	145: 25
175: 3	45: 9	129: 3	159: 9	92: 19	176: 21	watched	179: 23
180: 13	55: 14	201: 12	vi deo	104: 6	186: 11	21: 3, 4	186: 3
184: 13	56: 2	203: 17	21: 4, 5	104: 7	212: 4	106: 10	188: 24
185: 18	58: 23	unre. . .	23: 15	104: 12	want i n g	106: 10	189: 9
185: 25	59: 20	93: 1	83: 11	106: 2	130: 13	155: 24	189: 9
189: 9	63: 1	93: 14	105: 19	107: 15	132: 5	watc. . .	189: 10
197: 7	64: 1, 9	128: 25	106: 10	129: 24	132: 13	65: 23	189: 21
207: 3	64: 19	unsi . . .	106: 11	130: 6	154: 4	water	205: 8
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67: 25	160: 21	upset	151: 11	191: 2	191: 9	43: 18	119: 1
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69: 22	169: 25	116: 20	160: 5	wal ker	196: 20	51: 4	197: 24
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144: 10	198: 5	56: 8	vi ew i n g	193: 12	warrant	123: 21	whats
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69: 8	115: 22	27: 16	8: 20	20: 12	12: 22	175: 8	21: 16
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216: 8	108: 11	131: 24	94: 1	53: 24	46: 18	197: 5	24: 2
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58: 17	25: 8	138: 17	53: 7	56: 10	121: 5	47: 15	45: 8, 9
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whoops	42: 24	139: 10	4: 16	41: 1	142: 25	125: 7	37: 10
101: 21	43: 2	139: 13	4: 20	41: 22	195: 15	125: 25	53: 12
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,
J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,
M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and
A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF KAREN CLINKINBEARD

STATE OF COLORADO §
 §
COUNTY OF Fremont §

BEFORE ME, the undersigned official, on this day personally appeared KAREN CLINKINBEARD and first being duly sworn according to law, upon her oath, deposed and said:

My name is Karen Clinkinbeard and I have been working for the Colorado Department of Corrections for 9 years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

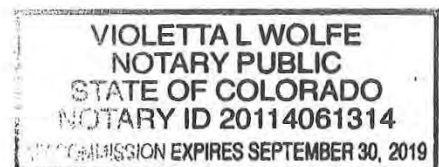
1. Attached hereto as **Exhibit 1** is a true and correct copy of my incident report and statement related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. This incident report and statement accurately reflect what I witnessed regarding that incident.

DATED this 12th day of November, 2015.

Karen Clinkinbeard
KAREN CLINKINBEARD

SUBSCRIBED AND SWORN to before me this 12th day of November, 2015.

Violetta L Wolfe
Notary Public
My Commission Expires: Sept 30, 2019



Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **1** by **CLINKINBEARD, KAREN M (kmclinki)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:30 AM**Shift: **Days**Work Unit: **Custody/Control**Days Off: **Fr/Sa**Suspected Gang Related: ☐Evidence: ☐

Docno:

Name:

Living Unit:

Pod Tier Cell Bunk

110913**STEVENSON, WILLIAM R****CTCF/SEG****RFP**Report Rejected: ☐Report Approved: ☒Report Voided: ☐**Parole/Community/****Shift Commander:** **CORDOVA, RANDY (:rzcordov)****Date Approved:** **02/29/12 01:05 PM****Report**Needs Approval: ☒Submitted: **02/29/12 12:52 PM****Duty Officer's Initiation of Investigation**Charge: ☐

Duty Officer:

Informational: ☐

Reviewed:

Detailed Report on following Page**EXHIBIT 1****147**

STEVENSON-00684

Incident# 529889**Report 1 detail by CLINKINBEARD, KAREN (kmclinky) for Incident 529889**

On February 29, 2012 at approximately 6:30 a.m. I, Sgt. Clinkinbeard, responded to a call from CH-1 Upper Control calling for block staff to report upstairs. When arriving I was informed offender Stevenson, William #110913 was seen receiving a manila envelope from another pod and when asked to relinquish the item he refused. C/O Hanson and myself entered 3/4 Left and asked offender Stevenson to step out into the Upper Vestibule. He complied and started explaining his side of the story. He admitted to receiving the item, but said he had grievances in the envelope so he will not give them up. I tried to explain to him that any item passed in a facility between offenders, may be confiscated and turned in as evidence if staff observe. Stevenson stated that wasn't going to happen and he will not turn it over. I told him to turn around so restraints could be applied and he became passive resistive. He stepped back and threw his hands straight up saying he would not cuff up. Officer Meyers called for first responders and C/O Hanson and myself guided offender Stevenson to face the wall. I had the offender by his right shoulder and upper arm and he was presenting defensive resistance. He dropped to his knees and then face down. I tried loud verbal commands and Mandibular Angle with pressure to get the offender to put his hands behind his back for restraints to be applied. Officer Hanson had his left arm, and I maintained control of the head and right arm. Sgt. Espinoza arrived giving verbal directive to cuff up or he would tase Stevenson. Stevenson refused three orders of to do so when Sgt. Espinoza tased him. The offender still refused saying he's done to much time for that to bother him. Sgt. Sullivan took over control of the head. Ankle and wrist restraints were applied. Staff attempted to stand Stevenson up, but he refused to walk and struggled. The offender went back to the ground. I helped maintain control of the left leg at this point, my left hand on the tibia and right hand at the ankle. The offender was lifted and placed on a backboard and straps secured. No further force occurred within CH-1. Offender was taken to Medical for an anatomical, CH-3 and RFP'd.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and

A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

EXHIBIT D-1 TO DEFENDANTS R. CORDOVA, M. HOLLOWAY, C. WILLIAMS, K. CLINKINBEARD, J. ESPINOZA, AND M. BENAVIDEZ'S MOTION FOR SUMMARY JUDGMENT

UPPER VESTIBULE VIDEO FOOTAGE

EXHIBIT D-1

This exhibit is conventionally submitted on DVD, and concurrently served upon counsel for the parties, pursuant to DISTRICT OF COLORADO ECFCIVIL PROCEDURES VERSION 6.0, at Section 4.8(f).

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and

A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

EXHIBIT D-2 TO DEFENDANTS R. CORDOVA, M. HOLLOWAY, C. WILLIAMS, K. CLINKINBEARD, J. ESPINOZA, AND M. BENAVIDEZ'S MOTION FOR SUMMARY JUDGMENT

BODY CAM VIDEO

This exhibit is conventionally submitted on DVD, and concurrently served upon counsel for the parties, pursuant to DISTRICT OF COLORADO ECFCIVIL PROCEDURES VERSION 6.0, at Section 4.8(f).

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: 02/29/2012

Approx Time: 06:30 AM

Status: Open

Incident Type: Use of Force

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: Upper Vestibule

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 1 by HANSON, JESSICA R (jrhanson) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F/

Approximate Time of Incident: 06:30 AM

Shift: Days

Work Unit: Custody/Control

Days Off: thu/fri

Suspected Gang Related: ☐Evidence: ☐

Docno:

Name:

Living Unit:

Pod Tier Cell Bunk

110913

STEVENSON, WILLIAM R

CTCF/SEG

RFPReport Rejected: ☐Report Approved: ☒Report Voided: ☐**Report**Needs Approval ☒

Submitted: 03/03/12 08:06 AM

Parole/Community/**Shift Commander:** CORDOVA, RANDY (rzcordov)**Date Approved:** 03/05/12 12:52 PM**Duty Officer's Initiation of Investigation**Charge: ☒ **Duty Officer:** FAZZINO, ROBERT K. (ctrkf)Informational: ☐ **Reviewed:** 03/06/12 07:10 AM**Detailed Report on following Page**

Incident# 529889**Report 1 detail by HANSON, JESSICA (jrhanson) for Incident 529889**

On February 29, 2012 at approximately 0630 I was called by Officer Meyers to report to the Upper Vestibule of CHI to deal with Offender Stevenson # 110913 regarding passing property to another Offender. Sgt. Clickenbeard and I ordered Offender Stevenson out to the Upper Foyer. Sgt. Clinkenbeard began counseling him on passing property and disobeying orders. Offender Stevenson began to become verbally abusive and refused to comply. Sgt. Clickenbeard told Offender Stevenson that he was going into cuffs. I attempted to place wrist restraints on Offender Stevenson, at which point he put his arms above his head and said he was not going to cuff up. I took hold of his left arm and Sgt. Clickenbeard took hold of his right arm and we attempted to direct him to the wall. Offender Stevenson turned around. I ordered Offender Stevenson to comply and cuff up or I would use OC. Offender Stevenson fell on his knees. I again attempted to place wrist restraints on him, at which point he layed face down on the floor in a prone position and locked all of his limbs. I ordered Offender Stevenson again to comply at which point he responded, " Fuck you." First Responders were called to the scene. I was able to place Offender Stevenson in wrist restraints with the help of the First Responders. Offender Stevenson refused to comply and stand up to be escorted after many direct orders from staff. He began to stand up and began to become physically aggressive again, at which point we directed him to the floor for his safety and ours. I was holding his left leg when he continued to attempt to kick at staff and continued to refuse orders to comply and cooperate. Offender Stevenson kept responding, " Fuck you, I am not standing up for you! You will have to carry me!" Offender Stevenson was then placed on a backboard for his safety and put on a gurney and taken to the infirmary for an anatomical exam.

AR Form 300-16RDD (07/15/10)

**DEPARTMENT OF CORRECTIONS
DOC EMPLOYEE/CONTRACT WORKER CONDUCT COMPLAINT**

Date: _____ Person Receiving Allegation: _____

Subject of Allegation: _____

Name: _____ Position: _____ DOB: _____

Home Address: _____ Phone: _____

Business Address: _____ Phone: _____

COMPLAINANTName: WILLIAM R. STEVENSON Position: INMATE DOB: 1-29-62Home Address: P.O. Box 1010, Canon City, CO 81215 Phone: N/ABusiness Address: N/A Phone: N/A**SECOND COMPLAINANT**

Name: _____ Position: _____ DOB: _____

Home Address: _____ Phone: _____

Business Address: _____ Phone: _____

Allegations: UNNECESSARY, UNREASONABLE AND EXCESSIVE FORCE.Date, Time, and Place of Occurrence: 2/29/12, 7:00AM, CTCF - CH 1, MEDICAL, SEGREGATION.Injuries: Yes ☒ No ☐ Photos: Yes ☒ No ☐ (SOME)

Witness: _____

Details of Allegation: SEE ATTACHED 6 PAGE COMPLAINT.Name/Signature of Complainant(s) William R. Stevenson

Name/Signature of Person Completing Report _____

Distribution: Original-Inspector General 2nd Copy-Investigating Officer 4th Copy - Use of Force packet
 1st Copy-Appointing Authority 3rd Copy-Complainant(s)

Attachment "D"
Page 1 of 1

WILLIAM R. STEVENSON, Doc # 110913

COMPLAINT OF UNNECESSARY, UNREASONABLE AND EXCESSIVE FORCE
MARCH 14, 2012

ON FEBRUARY 29, 2012, IN UNIT 1, AT APPROXIMATELY 7:00 AM SGT. CLINKENBEARD TOLD ME TO CUFF UP. I REFUSED BECAUSE I FELT SHE WAS BEING TOTALLY UNREASONABLE, AND REQUESTED TO SEE A SUPERVISOR OR SHIFT COMMANDER. WHEN SHE AND C/O HANSON PURSUED ME, I RAISED MY HANDS STRAIGHT IN THE AIR OUT OF THEIR REACH, WENT TO THE CORNER, KNELT DOWN, AND LAYED FLAT ON MY STOMACH WITH MY ARMS BENEETH ME. WHY LYING IN THIS PASSIVE POSITION, I WAITED FOR SOMEONE WITH AUTHORITY TO ARRIVE AND QUESTION WHAT WAS GOING ON.

WHEN OTHER STAFF ARRIVED, INCLUDING SEVERAL LIEUTENANTS AND A CAPTAIN, NO ONE ASKED A SINGLE QUESTION. INSTEAD, I WAS IMMEDIATELY DOG-PILED BY SEVERAL OFFICERS, AND SINCE I WAS LYING ON MY STOMACH WITH MY ARMS BENEETH ME, THE WEIGHT OF THE OFFICERS INITIALLY TRAPPED MY ARMS SO I COULD NOT MOVE. IN THIS POSITION, I WAS TAZED FIVE TIMES IN RAPID SUCCESSION, I BELIEVE BY TWO DIFFERENT INDIVIDUALS, ONE BEING SGT. ESPINOZA. THIS WAS UNNECESSARY, UNREASONABLE AND EXCESSIVE. IN THIS POSITION, WITH THE WEIGHT ON MY BACK, I COULDN'T MOVE MY ARMS IF I WANTED TO. THE OFFICERS HAD TO KNOW THIS. EVENTUALLY, MY RIGHT ARM WAS FREED AND CUFFED, AND THEN THE OTHER, BUT AT FIRST, IN THE POSITION I WAS LYING IN, I COULD NOT IMMEDIATELY BRING MY LEFT ARM BACK.

WHEN THE CUFFS WENT ON, THEY WERE PUT ON EXTREMELY TIGHT RIGHT FROM THE BEGINNING. I COULD FEEL THE EXTRA EFFORT. THE STEEL CUT DEEP INTO MY SKIN AND TOUCHED BONE ON EACH SIDE. THERE WAS NO ROOM TO MOVE. WITHIN SECONDS I COULD FEEL THE CIRCULATION IN MY HANDS AND FINGERS BEING CUT OFF. THIS WAS ESPECIALLY PAINFUL BECAUSE I ALREADY SUFFER MODERATE TO SEVERE BI-LATERAL CARPAL TUNNEL AND NERVE DAMAGE IN BOTH HANDS, AND WEAR WRIST SPLINTS. THIS WAS UNNECESSARY, UNREASONABLE AND EXCESSIVE. AFTER I WAS CUFFED AND SUBDUED, SOMEONE INTENTIONALLY PRESSED ON THE BACK OF MY HEAD WITH BOTH HANDS, WHILE AT THE SAME TIME PUTTING THE FULL WEIGHT OF THEIR BODY (USING THEIR KNEE) ON MY NECK AND BACK, PRESSING MY TWO FRONT TEETH HARD INTO THE CONCRETE FLOOR. AS HE SHIFTED POSITIONS, I COULD FEEL MY TEETH GRINDING ON THE FLOOR. I BELIEVE THIS WAS SGT. SULLIVAN. AGAIN, THIS WAS UNNECESSARY, UNREASONABLE AND EXCESSIVE.

WHEN THE PRESSURE WAS RELEASED AND I WAS FINALLY ABLE TO TALK, I IMMEDIATELY COMPLAINED ABOUT THE CUFFS AND ASKED THAT THEY BE LOOSENED. NO ONE RESPONDED, THEY WANTED ME TO STAND AND WALK. I SAID THAT I WOULD WALK IF THEY WOULD LOOSEN THE CUFFS. SULLIVAN STATED, "THERE'S NO NEGOTIATING HERE." SOMEONE ELSE REPLIED, "YOU DONT DICTATE TO US." I SAID, "FINE, THEN YOU CARRY ME," AND ACCUSED THEM OF USING THE CUFFS AS WEAPONS. THERE WAS NO NEED FOR THE CUFFS TO BE THAT TIGHT. IT VIOLATES THE PINKY-RULE. IT WAS UNREASONABLE FOR THEM NOT TO LOOSEN THE CUFFS WHEN ASKED. THEY INTENTIONALLY REFUSED.

SINCE THEY REFUSED TO LOOSEN THE CUFFS AND I REFUSED TO WALK, SOMEONE SUGGESTED THAT I BE CARRIED ON THE GURNEY BOARD. WHILE LYING FACE DOWN ON THE FLOOR WAITING FOR SOMEONE TO GET THE BOARD, I COMPLAINED DIRECTLY TO CAPTAIN CORDOVA [AS HE KNELT DOWN] ABOUT THE CUFFS HURTING AND BEING TOO TIGHT, AND INQUIRED ABOUT THE PINKY-RULE. WHILE TALKING, SOMEONE WAS INTENTIONALLY PULLING ON MY ARMS AND PUTTING ADDITIONAL PRESSURE ON MY WRISTS. I ASKED CORDOVA, "IS THIS HOW YOU TRAIN YOUR BOYS, TO USE THE CUFFS TO INFLECT PAIN?" AGAIN, IT WAS UNREASONABLE FOR HIM NOT TO LOOSEN THE CUFFS, OR DIRECT THAT THEY BE LOOSENED.

WHEN PLACED ON THE GURNEY BOARD AND STRAPED DOWN, I AGAIN ASKED THAT THE CUFFS BE LOOSENED. AT THIS POINT [WITH THE STRAPS ACROSS THE UPPER, MIDDLE AND LOWER PART OF MY BODY] THERE WAS NO WAY THAT I COULD POSSIBLY BE CONSIDERED A THREAT OR EVEN A POTENTIAL THREAT, AND IT WAS UNREASONABLE NOT TO LOOSEN THE CUFFS. WHILE LYING ON THE BOARD, SOMEONE IN THE MIDDLE KEPT PURPOSELY BENDING MY WRIST, CAUSING SEVERE PAIN. WHEN I YELLED, THE PERSON RELEASED MY HAND, BUT WENT BACK TO PULLING ON MY ARM NEAR THE ELBOW, STILL PUTTING PRESSURE ON MY WRISTS AND CAUSING PAIN. I BELIEVE THIS WAS SGT. BENEVEDEZ.

ONCE AT MEDICAL, CORDOVA ASKED IF I WAS GOING TO COOPERATE WITH THE ANATOMICAL. I ASKED IF THEY WERE GOING TO LOOSEN THE CUFFS. HE ASKED AGAIN IF I WOULD COOPERATE. I SAID I WOULD COOPERATE IF THEY AGREED TO LOOSEN THE CUFFS AND TAKE PHOTOS OF THE EXCESSIVE FORCE. THIS WENT ROUND AND ROUND.

HERE I WAS, STILL STRAPPED TO THE BOARD, SURROUNDED BY AT LEAST EIGHT MALE OFFICERS, AND THEY STILL REFUSED TO LOOSEN THE CUFFS! AGAIN, IN THIS POSITION I POSED NO THREAT OR EVEN A POTENTIAL THREAT TO ANYONE. IT WAS TOTALLY UNREASONABLE FOR THEM NOT TO LOOSEN THE CUFFS.

SOMEONE SUGGESTED THAT THE ANATOMICAL AND THE STRIP BE CONDUCTED AT THE SAME TIME IN SEGREGATION. I BELIEVE THIS WAS LT. HOLLOWAY. AFTER BEING WHEELED TO THE SEGREGATION STRIP-CELL, THE SAME SCENARIO TOOK PLACE. SINCE THEY GRUDGINGLY REFUSED TO LOOSEN THE CUFFS, I REFUSED TO PARTICIPATE IN THE STRIP. I ACCUSED THEM OF VIOLATING CIVIL RIGHTS, USING EXCESSIVE FORCE, AND INTENTIONALLY MISUSING THE CUFFS AS WEAPONS. THE CUFFS WERE FINALLY REPLACED WITH OTHER MORE LOOSE FITTING CUFFS, AS PART OF THE STRIP PROCEDURE. RELIEF AT LAST! BUT BY THIS TIME, I WAS FURIOUS.

NEXT, LT. HOLLOWAY TOOK PHOTOS, AND NURSE BUFFMARK CONDUCTED THE ANATOMICAL. WHETHER INTENTIONAL OR NOT, BUFFMARK INITIALLY ONLY COUNTED SIX TAZER HOLES, WHEREAS LATER, SEVERAL OTHER NURSES AND SEVERAL OFFICERS COUNTED TEN HOLES. ON MARCH 2, 2012 WHEN THE INJURIES WERE MORE PRONOUNCED AND VISIBLE, AND ONE COULD SEE THE SWELLING AND INDENTED RINGS AROUND MY WRISTS, AND AFTER DETERMINING THAT I HAD BEEN TAZED FIVE TIMES NOT THREE, I REQUESTED, VIA LT. HOLLOWAY, THAT ADDITIONAL PHOTOS BE TAKEN AND THE ANATOMICAL CORRECTED.

MOMENTS LATER HE RETURNED TO MY CELL AND TOLD ME THAT "NUNEZ SAID THERE WILL BE NO ADDITIONAL PHOTOS OR MEDICAL EXAMS, THAT WE'VE DONE OUR PART, WE DOCUMENTED." I FELT THAT THIS TOO WAS UNREASONABLE, AND THAT MY LEGITIMATE REQUEST WAS BEING DENIED FOR NO OTHER REASON THAN TO HIDE THE TRUE EXTENT OF INJURY AND ACTUAL FORCE USED. SINCE THEN I HAVE LOGGED AND MAILED SEVERAL WRITTEN REQUESTS BUT HE HAS NEVER RESPONDED TO A SINGLE ONE.

ON MARCH 7, 2012, AFTER COMPLAINING TO CAPTAIN CORDOVA, A SECOND ANATOMICAL WAS CONDUCTED BY NURSE MARY IN MEDICAL, IN THE PRESENCE OF C/O CORDERA AND C/O GALLEGOS. I AM NOW REQUESTING THAT ADDITIONAL PHOTOS OF MY WRISTS AND BACK BE TAKEN AS WELL, WHICH WILL MORE ACCURATELY REFLECT THE INJURIES CAUSED, AS THE ORIGINAL PHOTOS, TAKEN WHEN THE INJURIES WERE FRESH, COULD NOT CAPTURE OR ACCURATELY REFLECT THE FULL EXTENT OF THE FORCE USED. I WOULD ALSO LIKE PHOTOS OF THE CHIPPED TOOTH, AS THERE WAS NONE TAKEN.

FOUR TIMES THEY REFUSED TO LOOSEN THE HANDCUFFS. EACH TIME, THEIR REFUSAL WAS UNREASONABLE, ESPECIALLY SINCE I WAS ALREADY SUBDUED, SURROUNDED BY NUMEROUS MALE OFFICERS, (ALL WEIGHING OVER 200 POUNDS) AND/OR STRAPPED ACROSS THE BACK, MID-SECTION AND ANKLES TO A GURNEY BOARD. HOW MORE SAFE COULD THEY FEEL?

IT WOULD HAVE BEEN EASY FOR LT. HOLLOWAY AND CAPT. CORDOVA TO EXERCISE THEIR AUTHORITY, AND ORDER THE OFFICERS TO LOOSEN THE CUFFS AND OTHERWISE USE APPROPRIATE FORCE. THIS DID NOT HAPPEN. AS IT STANDS, AS SUPERVISORS, THEY KNEW OF, CONDOINED, AND/OR APPROVED OF THE WRONGFUL ACTS - NOT ONLY THE EXCESSIVE TAZING, BUT ALSO THE MISUSE OF THE HAND CUFFS, THE PRESSING MY FACE INTO THE CONCRETE, AND THE INTENTIONAL PULLING AND BENDING OF MY WRISTS WHILE SUBDUED. THE STAFF'S CONDUCT IN THIS CASE WAS RECKLESS, KNOWING, INTENTIONAL, WILLFUL AND WANTON.

AS A RESULT OF THEIR UNREASONABLE REFUSAL TO LOOSEN THE CUFFS, I SUFFERED UNNECESSARY PAIN AND INJURY, RESULTING IN DEEP GASHES AND CUTS TO MY WRISTS (LEAVING PERMANENT SCARS) AND NERVE DAMAGE TO MY LEFT THUMB. NOT TO MENTION SCARS ON MY BACK FROM THE TAZER AND RECURRING NIGHTMARES OF BEING SHOT IN THE BACK AT CLOSE RANGE, AS WELL AS DAMAGE TO MY TOOTH.

I TRUST THAT THE DVD IS COMPLETE AND FAITHFULLY DEPICTS THE ENTIRE INCIDENT AS IT OCCURRED AT EACH STAGE - FROM BEGINING TO END IN CELL-HOUSE ONE, FROM BEGINING TO END IN MEDICAL, AND FROM BEGINING TO END IN SEGREGATION. I WILL NEED TO REVIEW THE DVD TO BE SURE THAT I HAVE CORRECTLY IDENTIFIED EACH OFFENDER AND POINT OUT EACH INSTANCE OF EXCESSIVE FORCE.

William R. Stevenson, #110913

MARCH 14, 2012

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,
J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,
M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and
A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF JASON ESPINOZA

STATE OF COLORADO §
 COUNTY OF Fremont §
 §

BEFORE ME, the undersigned official, on this day personally appeared JASON ESPINOZA and first being duly sworn according to law, upon his oath, deposed and said:

My name is Jason Espinoza and I have been working for the Colorado Department of Corrections for 17 years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

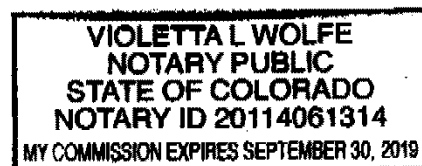
1. Attached hereto as **Exhibit 1** is a true and correct copy of my incident report and statement related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. This incident report and statement accurately reflect what I witnessed regarding that incident.

DATED this 12th day of November, 2015.


 JASON ESPINOZA

SUBSCRIBED AND SWORN to before me this 12th day of November, 2015.


 Notary Public
 My Commission Expires: Sept 30, 2019



Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **1** by **ESPINOZA, JASON B (ctjbe)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:46 AM**Shift: **Days**Work Unit: **Custody/Control**Days Off: **F-S**Suspected Gang Related: ☐Evidence: ☐Docno:
110913Name:
STEVENSON, WILLIAM RLiving Unit:
CTCF/SEG

Pod Tier Cell Bunk

RFP

Parole/Community/ Shift Commander: CORDOVA, RANDY (rzcordov) Date Approved: 02/29/12 12:52 PM	Report Rejected: <input type="checkbox"/> Report Approved: <input checked="" type="checkbox"/> Report Voided: <input type="checkbox"/>	Report Needs Approval <input checked="" type="checkbox"/> Submitted: 02/29/12 12:18 PM
	Duty Officer's Initiation of Investigation Charge: <input type="checkbox"/> Duty Officer: _____ Informational: <input type="checkbox"/> Reviewed: _____	

Detailed Report on following Page

Incident# 529889**Report 1 detail by ESPINOZA, JASON (ctjbe) for Incident 529889**

On 2-29-12 at approx. 0646 a.m., I Sgt. Espinoza was working in the south dining hall during offender breakfast. I received a call via pack set from cell house one staff requesting yards to assist with an offender not cuffing up for staff. Officer Moschetti and myself responded from the dining hall and was directed to the upper vestibule in cell house one. On arrival I seen Sgt. Clinkenbeard and Officer Hansen wrestling with Offender Stevenson, William # 110913 on the floor. Offender Stevenson was resisting direct orders from staff to cuff up. I gave Offender Stevenson orders to comply with directives and cuff up. Offender Stevenson continued to resist and stated he was not going to comply. Other staff were giving pressure point tactics to Offender Stevenson with no compliant results from the offender. I directed Offender Stevenson to comply or I was going to use the taser on him. Offender Stevenson continued to wrestle with staff and I did use the Taser X26 on Offender Stevenson's upper back. I directed again for Offender Stevenson to put his hands behind his back. Offender Stevenson had no visual indications that the Taser was working. I checked the taser to make sure it was on and again tried the taser on Offender Stevenson's upper back. Offender Stevenson rolled to one side making the Taser slip off his back. I again used the taser on Offender Stevenson's back and decided the taser was not affective on the offender. I placed the taser back into the holster and used strength techniques to assist in getting Offender Stevenson's right arm behind his back. Hand restraints were placed on the offender and he was instructed to be escorted down the stairs. Offender Stevenson verbally refused to comply with instruction to be escorted and dropped himself to the floor. A back board was used to place the offender on. Staff carried Offender Stevenson down the stairs and he was placed on a gurney in the lower vestibule. Offender Stevenson was then taken on the gurney to the clinic. Offender Stevenson refused to comply with requests to have an anatomical so he was taken to cell house three. Offender Stevenson was carried on the back board into the strip out room. In the cell house three strip out room Offender Stevenson refused to comply with directives to have an anatomical or be strip searched. I assisted other staff in changing out the offender into strip out restraints and the offender then complied for the anatomical and strip out except for the check of his anus. Sgt. Weaver spread Offender Stevenson's butt cheeks to check this area. I had control of Offender Stevenson's left arm during the strip out procedure and anatomical. Once Offender Stevenson was asked to be escorted to the segregation cell he verbally stated he was not and he dropped himself to the floor. Staff placed Offender Stevenson back onto the back board and gurney and he was taken to the segregation cell. Once in the Offenders assigned segregation cell Offender Stevenson refused verbally to staffs request to back up to the cell door and allow staff to take his wrist restraints off. I was assigned the offenders right arm. It was decided to exit the cell in a force cell fashion, exiting one at a time and staging on the door. All restraints were removed. Staff exited and I exited last from the cell. Offender Stevenson remained prone on the floor while staff exited and the cell was secured.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
H. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,
J. SOTO, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,
J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,
M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and
A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF DOMINIC MOSCHETTI

STATE OF COLORADO §
 §
COUNTY OF FREMONT §

BEFORE ME, the undersigned official, on this day personally appeared DOMINIC MOSCHETTI and first being duly sworn according to law, upon his oath, deposed and said:

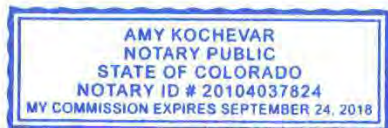
My name is Dominic Moschetti and I have been working for the Colorado Department of Corrections for 4½ years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

1. Attached hereto as **Exhibit 1** is a true and correct copy of my incident report and statement related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. This incident report and statement accurately reflect what I witnessed regarding that incident.

DATED this 12th day of November, 2015.

Dominic Moschetti
DOMINIC MOSCHETTI

SUBSCRIBED AND SWORN to before me this 12th day of November, 2015.



Amy Kochevar
Notary Public
My Commission Expires: 9-24-18

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: **02/29/2012**Approx Time: **06:30 AM**

Status: Open

Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **1** by **MOSCHETTI, DOMINIC A (damosche)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:30 AM**Shift: **Days**Work Unit: **Custody/Control**Days Off: **M/T**Suspected Gang Related: ☐Evidence: ☐Docno:
110913Name:
STEVENSON, WILLIAM RLiving Unit:
CTCF/SEG

Pod Tier Cell Bunk

RFP

Parole/Community/ Shift Commander: CORDOVA, RANDY (rzcordov) Date Approved: 02/29/12 12:54 PM	Report Rejected: <input type="checkbox"/> Report Approved: <input checked="" type="checkbox"/> Report Voided: <input type="checkbox"/>	Report Needs Approval: <input checked="" type="checkbox"/> Submitted: 02/29/12 12:23 PM
	Duty Officer's Initiation of Investigation Charge: <input type="checkbox"/> Duty Officer: _____ Informational: <input type="checkbox"/> Reviewed: _____	

Detailed Report on following Page

Incident# 529889**Report 1 detail by MOSCHETTI, DOMINIC (damosche) for Incident 529889**

On 2/29/12 at approximately 6:30 am I Officer Moschetti Responded to a first responder call for cell house 1 upper vestibule. upon arrival I witnessed Officer Hansen and Sgt. Clinkinbeard attempting to restrain offender Stevenson.# 110913. At that time myself and sgt. Espinoza moved in to assist the other officers. I used both hands to restrain offender Stevenson left wrist. Offender Stevenson was given direct orders to stop resisting, to comply and cuff up. After numerous failed attempts Sgt. Espinoza then applied the taser to offender Stevenson's' back. The taser had little to no affect on the offender. At that time strength techniques were used to cuff the offender. The offender would not walk to the infirmary so he was placed on a backboard. We then strapped him to the backboard and escorted him to the lower clinic for an anatomical. I then returned to food service and assisted in feeding. After feeding was finished I was sent to CCOM to have a cut looked at that I sustained during the incident.

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **1** by **SULLIVAN, GARY W (g06067)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:30 AM**Shift: **Days**Work Unit: **Custody/Control**Days Off: **Sun/Mon**Suspected Gang Related: ☐Evidence: ☐

Docno:

Name:

Living Unit:

Pod Tier Cell Bunk

110913**STEVENSON, WILLIAM R****CTCF/SEG****RFP**

Parole/Community/ Shift Commander: Date Approved:	Report Rejected: <input type="checkbox"/> Report Approved: <input checked="" type="checkbox"/> Report Voided: <input type="checkbox"/>	Report Needs Approval: <input checked="" type="checkbox"/> Submitted: 02/29/12 01:58 PM
	CORDOVA, RANDY (rzcordov) 02/29/12 02:09 PM	Duty Officer's Initiation of Investigation Charge: <input type="checkbox"/> Duty Officer: Informational: <input type="checkbox"/> Reviewed:

Detailed Report on following Page

Incident# 529889**Report 1 detail by SULLIVAN, GARY (g06067) for Incident 529889**

On 2/29/2012 at approximately 0630 am first responders was called to ch-1 upper vestibule, when I arrived Sgt Clinkenbeard and officer Hanson was wrestling with an offender identified as Stevenson, William #110109 on the floor. I Sgt Sullivan secured the offender's head and applied the mandible angle I also placed the taser on his shoulder blade close to the base of his neck to gain compliance but did not activate it, giving the offender verbal directions to stop resisting and let the officer's place restraints on him. The offender kept resisting even with other pressure points being applied by other officers. The offender was being passive resistance and would not stand up and walk, we had to place him on a back board and a gurney to transport him to the clinic for an anatomical, He was still combative so we decided to take him to cell house three and strip him out were he was still being combative and non compliant. He finally allowed us to strip him out ,but went limp and would not walk to his cell , we placed him back on the back board and took him to his cell. he still would not comply to verbal orders and stand up and come to the door to be unrestrained. The shift commander implemented a emergent exit strategy to leave the cell. One at a time we exited the cell leaving him on the floor in boxers. The shift commander was on scene. The offender was placed on RFP status in cell house three.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and

A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF RANDY CORDOVA

STATE OF COLORADO §
 COUNTY OF Fremont §

BEFORE ME, the undersigned official, on this day personally appeared RANDY CORDOVA and first being duly sworn according to law, upon his oath, deposed and said:

My name is Randy Cordova and I have been working for the Colorado Department of Corrections for 22 years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

1. Attached hereto as **Exhibit 1** is a true and correct copy of my incident report and statement related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. This incident report and statement accurately reflect what I witnessed regarding that incident.

DATED this 12th day of November, 2015.


 RANDY CORDOVA

SUBSCRIBED AND SWORN to before me this 12th day of November, 2015.


 Notary Public

My Commission Expires: Sept. 30, 2019

VIOLETTA L WOLFE
 NOTARY PUBLIC
 STATE OF COLORADO
 NOTARY ID 20114061314
 MY COMMISSION EXPIRES SEPTEMBER 30, 2019

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M

Closed: By:

Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **2** by **CORDOVA, RANDY (rzcordov)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:30 AM**Shift: **Days**Work Unit: **Custody/Control**Days Off: **FS**Suspected Gang Related: ☐Evidence: ☐Docno:
110913Name:
STEVENSON, WILLIAM RLiving Unit:
CTCF/SEG

Pod Tier Cell Bunk

RFPReport Rejected: ☐Report Approved: ☒Report Voided: ☐**Report**Needs Approval ☒

Submitted: 02/29/12 03:32 PM

**Parole/Community/
Shift Commander:**

BERGMAN, DAVID C. (dcbergm

Date Approved: 02/29/12 03:36 PM

Duty Officer's Initiation of InvestigationCharge: ☐

Duty Officer:

Informational: ☐

Reviewed:

Detailed Report on following Page

Incident# 529889**Report 2 detail by CORDOVA, RANDY (rzcordov) for Incident 529889**

On 2-29-12, a/a 0630, I Captain Randy Cordova responded to cellhouse one for 1st responders call due to an inmate (William Stephenson # 110913) resisting staff attempts to get him into wrist restraints. Upon arrival, staff were on the floor of the upper vestibule wrestling with the inmate. Staff were ordering him to stop resisting and cuff up. At this time, I saw Sgt. Espinoza applying a taser to his upper back and the offender continued to resist as other staff responding engaged. Staff used strength techniques to apply both leg and wrist restraints. At this time, I asked the offender if he was going to walk down the stairs and replied, "no your going to have to carry me." Staff attempted to pick him up and he started to resist, kicking his legs. They placed him back on the floor. I ordered for a back board to be brought up to the vestibule. Staff then placed him on the board utilizing all straps, carried him down the stairs and placed him on a gurney. He was then escorted to the clinic where he continued to say he was wasn't going to be compliant. He then complained the hand cuffs were to tight and that there is suppose to be a pinky distance between his wrist and cuff. I replied, he needed to be compliant, that staff had to wrestle to get them on and that's why they were so tight. I asked him to be compliant with the anatomical and we would adjust them. He replied he wasn't going to comply with nothing. I then ordered the offender be moved to cell house three and to complete the anatomical and strip out at the same time. Upon arrival to cellhouse three, he was carried on the back board into the strip out room. He was asked again if he was going to comply with the strip out and he said no and complained about the cuffs again. I had the cuffs transitioned out utilizing strip out restraints. Staff had to remove his clothing and he became a little more compliant. He then refused to comply with orders to spread his cheeks and allowing his buttocks area to be searched visually. Because the offender refused to comply, staff was given permission to spread his cheeks to check this area. Medical completed an anatomical and pictures were taken of his wrists and back. He was placed in boxers and stated he was still not going to be compliant or walk to his cell. As staff started to walk him out of the cell he went limp onto his knees onto the floor. He was then placed on the back board and on the gurney to be taken to A1R8. He was carried into the cell on the board. He was then removed from the board and leg irons were removed. I asked if he was going to back up to the cell door and allow staff to remove the restraints. He stated he wasn't going to comply. He remained in the prone position, face down stated he was not going to move. Staff exited in a force cell fashion. once the wrist restraints were removed. Staff staged at the door as they exited. The cell was secured without incident. RN, Bufmack attempted to get him to come to the door and recheck him after we carried him to the cell. Inmate Stevenson refused to get up from the floor and talk to medical. All notifications were made. Two staff received injuries as a result of the use of force and were seen by CCOM and returned to work.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
H. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,
J. SOTO, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,
J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,
M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and
A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF MICHAEL BENAVIDEZ

STATE OF COLORADO §
COUNTY OF Fremont §

BEFORE ME, the undersigned official, on this day personally appeared MICHAEL BENAVIDEZ and first being duly sworn according to law, upon his oath, deposed and said:

My name is Michael Benavidez and I have been working for the Colorado Department of Corrections for 17 years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

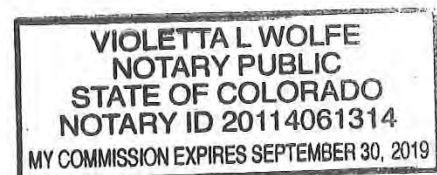
1. Attached hereto as **Exhibit 1** is a true and correct copy of my incident report and statement related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. This incident report and statement accurately reflect what I witnessed regarding that incident.

DATED this 12 day of November, 2015.

Michael Benavidez
MICHAEL BENAVIDEZ

SUBSCRIBED AND SWORN to before me this 12th day of November, 2015.

Violetta L. Wolfe
Notary Public
My Commission Expires: Sept. 30, 2019



Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **1** by **BENAVIDEZ, MICHAEL (ctmzb)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:30 AM**Shift: **Days**Work Unit: **Maintenance**Days Off: **Sat/Sun**Suspected Gang Related: ☐Evidence: ☐Docno:
110913Name:
STEVENSON, WILLIAM RLiving Unit:
CTCF/SEG

Pod Tier Cell Bunk

RFPReport Rejected: ☐Report Approved: ☒Report Voided: ☐**Report**Needs Approval: ☒Submitted: **02/29/12 12:52 PM****Parole/Community/
Shift Commander:** **CORDOVA, RANDY (rzcordov)****Date Approved:** **02/29/12 01:09 PM****Duty Officer's Initiation of Investigation**Charge: ☐ **Duty Officer:**Informational: ☐ **Reviewed:****Detailed Report on following Page**

Incident# 529889**Report 1 detail by BENAVIDEZ, MICHAEL (ctmzb) for Incident 529889**

At 0630 am on 02/29/2012 I Sergeant Benavidez responded to a first responder call in Cell House One. When I arrived up the stairs in front of Upper Control Center inmate Stevenson William #110913 was on the floor he was resisting staff while they were trying to restrain him. I fell to my knees and proceeded to hold Stevenson's legs. I had to put my body on his legs to keep him from kicking. I asked Lieutenant Holloway to get some Leg Restraints he did and secured Stevenson's legs. When Stevenson was completely restrained he was asked to walk down the stairwell. Stevenson would not comply and let his body go limp and he went to the ground with staff assistance. Stevenson was then placed on the Medical backboard and I assisted by holding the lower right side of the backboard by his right leg I helped move him down the stairwell. I then again assisted in the Clinic by guiding the Gurney with Stevenson on it over to Cell House Three. Stevenson mentioned many times that he was going to file a lawsuit against staff. He was uncooperative when asked if he would comply with strip out instructions. He did comply with most of the strip out except when it was time to have his buttocks checked. He was stripped out and an anatomical was completed. I was holding on to the right arm of Stevenson when we proceeded to leave the holding cell in Cell House Three. I asked him to walk to a Segregation Cell and he said hell walk your just gonna have to carry me. He then again went limp and was assisted to the floor. We placed him on the backboard and then the Gurney. He was placed on the floor by staff from the Gurney and backboard in cell A 1right 8. I moved out after the restraints were removed in order like a forced cell entry was completed and was staged at the door of the cell. Stevenson did not move while the door closed.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

H. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. SOTO, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and

A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF MARK HOLLOWAY

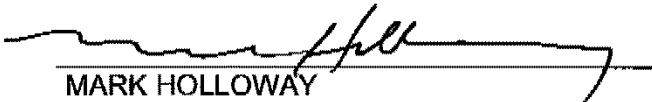
STATE OF COLORADO §
 COUNTY OF Fremont §
 §

BEFORE ME, the undersigned official, on this day personally appeared MARK HOLLOWAY and first being duly sworn according to law, upon his oath, deposed and said:

My name is Mark Holloway and I have been working for the Colorado Department of Corrections for 16 years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

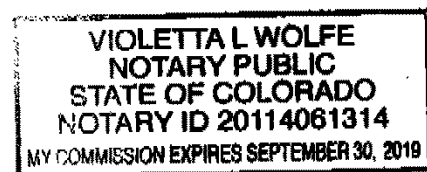
1. Attached hereto as **Exhibit 1** is a true and correct copy of my incident report and statement related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. This incident report and statement accurately reflect what I witnessed regarding that incident.

DATED this 12th day of November, 2015.


 MARK HOLLOWAY

SUBSCRIBED AND SWORN to before me this 12th day of November, 2015.


 Notary Public
 My Commission Expires Sept 30, 2019



Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **1** by **HOLLOWAY, MARK E (m08363)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:30 AM**Shift: **Days**Work Unit: **Custody/Control**Days Off: **S/M**Suspected Gang Related: ☐Evidence: ☐

Docno:

Name:

Living Unit:

Pod Tier Cell Bunk

110913**STEVENSON, WILLIAM R****CTCF/SEG****RFP**Report Rejected: ☐Report Approved: ☒Report Voided: ☐**Report**Needs Approval: ☒Submitted: **02/29/12 01:34 PM****Parole/Community/****Shift Commander:****CORDOVA, RANDY (rzcordov)****Date Approved: 02/29/12 01:55 PM****Duty Officer's Initiation of Investigation**Charge: ☐

Duty Officer:

Informational: ☐

Reviewed:

Detailed Report on following Page

Incident# 529889**Report 1 detail by HOLLOWAY, MARK (m08363) for Incident 529889**

On Wednesday, February 29th, 2012, at approximately 6:30 AM. I, Lt Holloway responded to a first responded call to Cell House One. When I arrived, I observed inmate Stevenson, William # 110913 prone out on the floor of the upstairs vestibule, he was in hand restraints with staff surrounding him. Inmate Stevenson was non compliant with staff's orders and directives. I retrieved leg restraints from CH1 upper control and placed them on inmate Stevenson. After several minutes of speaking with Captain Cordova, inmate Stevenson was ordered to stand up, which he stated "you all are going to have to carry me, I'm not standing up". Staff aided Stevenson to stand up and I attempted to apply pressure to his mandibular angle to no avail. A backboard from the lower vestibule was retrieved. Inmate Stevenson was lifted up off the floor and placed onto the backboard by staff, all straps were placed on him and tightened. I assisted with carrying inmate Stevenson down the stairs to the lower vestibule, where he was placed onto a gurney, the straps were placed over him and tightened and he was escorted to the lower clinic. Once at the lower clinic, inmate Stevenson stated he would not stand up for an anatomical exam. Capt Cordova decided that inmate Stevenson would be taken to segregation and be given the anatomical in conjunction with being stripped out. I was directed to get a camera to document inmate Stevenson's claim of injuries. Once at Cell House Three inmate Stevenson was stripped out by Sgt. Weaver. Stevenson was noncompliant during much of the strip out. He received an anatomical exam by Nurse Bufmack in the strip out room of Cell House Three. I took several pictures during the anatomical exam. Inmate Stevenson was compliant during the exam. After the strip out and anatomical exam, inmate Stevenson's boxers were placed back on him, as he refused to dress himself. Inmate Stevenson was asked if he was going to walk to his cell, at which time he became passive resistant and went down to his knees in the strip out room. Inmate Stevenson was placed onto a backboard and I assisted carrying the inmate out of the strip out room. He was placed back onto the gurney, where he was then escorted to cell A1R8 by staff. Inmate Stevenson was then taken off the gurney and carried into cell A1R8 using the back board, the back board was placed on the floor. Inmate Stevenson was taken off of the back board and placed on the floor and given directives to stand up and come to the cell door so that the restraints could be removed. Inmate Stevenson was non compliant, and refused to stand up and uncuff at the cell door. Inmate Stevenson just lay on the floor. As restraints were removed, staff exited the cell one at a time in force cell fashion as inmate Stevenson stayed on the floor. Staff reassembled outside the door in force cell fashion until the cell door was secure.

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **1** by **ROBLES, JEROD A (jarobles)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:30 AM**Shift: **Days**Work Unit: **Custody/Control**Days Off: **Th/ Fri**Suspected Gang Related: ☐Evidence: ☐

Docno:

Name:

Living Unit:

Pod Tier Cell Bunk

110913**STEVENSON, WILLIAM R****CTCF/SEG****RFP**Report Rejected: ☐Report Approved: ☒Report Voided: ☐**Report**Needs Approval: ☒Submitted: **02/29/12 12:59 PM****Parole/Community/
Shift Commander:****CORDOVA, RANDY (rzcordov)****Duty Officer's Initiation of Investigation**Charge: ☐ Duty Officer:**Date Approved: 02/29/12 01:03 PM**Informational: ☐ Reviewed:**Detailed Report on following Page**

Incident# 529889**Report 1 detail by ROBLES, JEROD (jarobles) for Incident 529889**

On 2/29/12 at approximately 0630 I Officer Robles responded to a First Responder call in the upper vestibule in CH-1. When I arrived I observed staff on the ground with inmate Stevenson, William #110913. At this time I assisted in the restraining process by holding the inmates left leg in place. The inmate was then placed onto a backboard due to him being non-compliant and then onto the cell house gurney. We then escorted the inmate to the lower clinic on a gurney where he refused to be compliant while medical staff attempted to perform an anatomical. From there we escorted the inmate to CH-3 to be stripped out and then in to a segregation cell. After arriving at ch-3, the inmate was brought into the strip out cell while on the backboard by responding staff and then he was stripped out by ch-3 staff. During the strip out procedure the inmate was again non-compliant resulting in cell house 3 staff having to manually remove the inmate's clothes in order to finish the strip out. The inmate was placed back onto the back board and then on to the gurney where he was taken to his cell due to the inmate refusing to walk. Once staff enter the cell, the inmate was placed onto the floor while remaining on the backboard. The inmate was removed from the back board and the leg restraints were removed. The inmate refused to walk to the slider to have the wrist restraints removed by staff forcing staff to remove the restraints in the cell. Once the restraints were removed, staff exited the cell in a stacked formation being cautious and ready to re-enter the cell if need be. All staff exited the cell and the inmate remained lying face down until the cell slider closed. Shift Commander was on scene.

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITYCreated: Feb 29, 2012 08:23 am
Closed:By: CLINKINBEARD, KAREN M
By:Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **1** by **FONTENOT, VIRGIL L (v07646)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:30 AM**Shift: **Days**Work Unit: **Custody/Control**Days Off: **Fri/Sat**Suspected Gang Related: ☐Evidence: ☐Docno:
110913Name:
STEVENSON, WILLIAM RLiving Unit:
CTCF/SEG

Pod Tier Cell Bunk

RFP

Parole/Community/ Shift Commander: CORDOVA, RANDY (rzcordov) Date Approved: 02/29/12 01:07 PM	Report Rejected: <input type="checkbox"/> Report Approved: <input checked="" type="checkbox"/> Report Voided: <input type="checkbox"/>	Report Needs Approval <input checked="" type="checkbox"/> Submitted: 02/29/12 12:07 PM
	Duty Officer's Initiation of Investigation Charge: <input type="checkbox"/> Duty Officer: _____ Informational: <input type="checkbox"/> Reviewed: _____	

Detailed Report on following Page

Incident# 529889**Report 1 detail by FONTENOT, VIRGIL (v07646) for Incident 529889**

On Wednesday, February 29th, 2012, at approximately 6:30 AM. I, Sgt. Fontenot responded to a first responded call to Cell House One. When I arrived I observed inmate Stevenson, William # 110913 prone out on the floor of the upstairs vestibule, he was in hand restraint and leg irons, being non compliant with staff's orders. After several minutes of speaking with Captain Cordova, inmate Stevenson # 110913 was ordered to stand up, which he stated " you all are going to have to carry me, I'm not standing up". A backboard from the lower vestibule was retrieved. Inmate Stevenson was lifted up off the floor and placed onto the backboard by staff, all straps where placed on him and tightened. I assisted with carrying inmate Steveson #110913 down the stairs to the lower vestibule, where he was place onto a gurney, the straps where placed over him and tightened and he was escorted to the lower clinic. Once at the lower clinic, it was decided that inmate Stevenson # 110913 would be taken to segregation and be given the anatomical there while being stripped out by Captain Cordova. Once at Cell House Three inmate Stevenson # 110913 was stripped out by Sgt. Weaver and given an anatomical by Nurse Jodi Bufmack in the strip out room of Cell House Three, at which time inmate Steveson #110913 was being compliant. After the strip out and anatomical, inmate Stevenson's # 110913 boxers were placed back on him. Inmate Steveson #110913 was asked if he was going to walk to his cell, at which time he became passive resistant and went down to his knees in the strip out room. I retrieved the back board from outside the strip out room and inmate Steveson #110913 was placed onto it and then carried out of the strip out room and placed back onto the gurney, where he was then escorted to cell A1R8. Inmate Steveson #110913 was then taken off the gurney and carried into cell A1R8 using the back board, the back board was placed on the floor. Inmate Steveson #110913 was taken off of the back board and placed on the floor and given directives to come to the cell door so that the restraints could be removed. Inmate Stevenson #110913 was be non compliant about standing up so that the restraints could be removed, he just laid on the floor. Staff assembled in force cell fashion as inmate Steveson #110913 lie on the floor, I had control of his right leg. The leg irons where taken off by Sgt. Weaver, myself and C/O Robles exited the cell. Once all staff exited the cell, staff reassembled out side the door in force cell fashion until the cell door was shut.

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **1** by **SNOW, CAROL L (clsnow)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:30 AM**Shift: **Days**Work Unit: **Custody/Control**Days Off: **thur/fri**Suspected Gang Related: ☐Evidence: ☐Docno:
110913Name:
STEVENSON, WILLIAM RLiving Unit:
CTCF/SEG

Pod Tier Cell Bunk

RFP

Parole/Community/ Shift Commander: CORDOVA, RANDY (rzcordov) Date Approved: 02/29/12 12:51 PM	Report Rejected: <input type="checkbox"/> Report Approved: <input checked="" type="checkbox"/> Report Voided: <input type="checkbox"/>	Report Needs Approval: <input checked="" type="checkbox"/> Submitted: 02/29/12 12:19 PM
	Duty Officer's Initiation of Investigation Charge: <input type="checkbox"/> Duty Officer: _____ Informational: <input type="checkbox"/> Reviewed: _____	

Detailed Report on following Page

Incident# 529889**Report 1 detail by SNOW, CAROL (clsnow) for Incident 529889**

On 2-29-2012 at approximately 630 I C/O Snow was a first responder to a call from cell house 1. When I arrived offender Stevenson # 116913 was already placed in wrist and leg restraints on the ground out in the upper vestibule . He was being argumentative with staff and refusing to cooperate . He was refusing to walk on his own therefore being passively resistive by going limp. I was then instructed to retrieve the back board and did so. Offender Stevenson # 110913 was then placed upon the backboard taken downstairs put on the gurney then taken to medical. I then reported back to the dinning hall to assist with the completion of breakfast.

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **1** by **WEAVER, ANDREW L (alweaver)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **07:10 AM**Shift: **Days**Work Unit: **Custody/Control**Days Off: **Fri/Sat**Suspected Gang Related: ☐Evidence: ☐

Docno:

Name:

Living Unit:

Pod Tier Cell Bunk

110913**STEVENSON, WILLIAM R****CTCF/SEG****RFP**Report Rejected: ☐Report Approved: ☒Report Voided: ☐**Parole/Community/****Shift Commander:** **CORDOVA, RANDY (rzcordov)****Date Approved:** **02/29/12 12:50 PM****Report**Needs Approval: ☒Submitted: **02/29/12 12:26 PM****Duty Officer's Initiation of Investigation**Charge: ☐ **Duty Officer:**Informational: ☐ **Reviewed:****Detailed Report on following Page**

Incident# 529889**Report 1 detail by WEAVER, ANDREW (alweaver) for Incident 529889**

On 02/29/2012 at approximately 0710hrs I, Sergeant Weaver, assisted in processing Offender Stevenson, William 110913 into Segregation for Removal From Population. Stevenson arrived in the cellhouse secured to a backboard with velcro straps and being carried by Sergeant Sullivan, Sergeant Fontenot, Sergeant Benavidez, Sergeant Espinoza, and Officer Robles. Stevenson was wearing hand and leg restraints in addition to his t-shirt, sweatpants, boxers and socks. Stevenson was placed in stripout restraints before staff and I assisted in removing his clothes. Stevenson was verbally non-compliant through the stripout process making statements such as "I'm not going to lift my foot, you do it.", but Stevenson did physically comply with my directions until the last step of the stripout process. When I directed Stevenson to separate the cheeks of his bottom so I could verify he did not have any contraband Stevenson stated that he was not going to comply and that staff would have to spread the cheeks of his bottom. Stevenson refused three direct orders to spread the cheeks of his bottom before I, after approval from Captain Cordova, spread Stevenson's cheeks for him. It should be noted that Stevenson kept repeating, "you do it" after each direct order to spread his cheeks. At this time Nurse Bufmack looked at Stevenson's body while talking to Stevenson to complete an anatomical form and Lieutenant Holloway took photos of various parts of Stevenson's body. After the stripout process was completed, Stevenson refused to put his boxers back on. I assisted Stevenson in putting his boxers back on after the stripout restraints were removed. When directed to move from the holding cell to his Segregation cell, Stevenson stated that he was not going to go anywhere unless staff carried him. At this time Stevenson was placed on the backboard and secured with straps before being carried to cell A1R8. Once in the Segregation cell Stevenson was removed from the back board. I removed the leg restraints from Stevenson while Captain Cordova was talking with him. Stevenson indicated that he was not going to come to the cell door to be uncuffed once staff left the room. Captain Cordova directed me to remove the handcuffs and staff then left the cell one at a time and stood at the cell door. Stevenson was given his socks, jumpsuit, and shoes after being placed in the cell.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and

A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF JODY BUFMACK

STATE OF COLORADO §
 §
 COUNTY OF Fremont §

BEFORE ME, the undersigned official, on this day personally appeared JODY BUFMACK and first being duly sworn according to law, upon her oath, deposed and said:

My name is Jody Bufmack and I have been working for the Colorado Department of Corrections for ____ years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

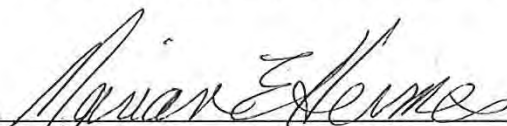
1. Attached hereto as **Exhibit 1** are a true and correct copies of my two (2) incident reports and statements related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. These two (2) incident reports and statements accurately reflect what I witnessed regarding that incident.

DATED this 12 day of November, 2015.


 JODY BUFMACK

SUBSCRIBED AND SWORN to before me this 12 day of November, 2015.




 Notary Public
 My Commission Expires: 6-27-2016

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: 02/29/2012

Approx Time: 06:30 AM

Status: Open

Incident Type: Use of Force

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: Upper Vestibule

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 1 by BUFMACK, JODY K (jkbufmac) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F/

Approximate Time of Incident: 07:30 AM

Shift: Days

Work Unit: Clinical Services

Days Off: Sun, Mon, Tues Wed

Suspected Gang Related: ☐Evidence: ☐

Docno:

Name:

Living Unit:

Pod Tier Cell Bunk

110913

STEVENSON, WILLIAM R

CTCF/SEG

RFPReport Rejected: ☐Report Approved: ☒Report Voided: ☐**Report**Needs Approval: ☒

Submitted: 02/29/12 08:46 AM

**Parole/Community/
Shift Commander:**

CORDOVA, RANDY (rzcordov)

Date Approved: 02/29/12 11:58 AM

Duty Officer's Initiation of InvestigationCharge: ☐

Duty Officer:

Informational: ☐

Reviewed:

Detailed Report on following Page

EXHIBIT 194

STEVENSON-00706

Incident# 529889**Report 1 detail by BUFMACK, JODY (jkbufmac) for Incident 529889**

At approximately 0730 I, Jody Bufmack Rn performed an anatomical in Cell House 3 in the strip out cell on offender Stevenson 110913 due to him being involved in a use of force incident with staff. He was uncooperative with security staff but cooperative with the anatomical. The yellow copy of the anatomical was given to Captain Cordova.

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am

By: CLINKINBEARD, KAREN M

Closed:

By:

Incident Date: 02/29/2012

Approx Time: 06:30 AM

Status: Open

Incident Type: Use of Force

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: Upper Vestibule

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 2 by BUFMACK, JODY K (jkbufmac) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F

Approximate Time of Incident: 07:45 AM

Shift: Days

Work Unit: Clinical Services

Days Off: Sun, Mon, Tues Wed

Suspected Gang Related: ☐Evidence: ☐

Docno:

Name:

Living Unit:

Pod Tier Cell Bunk

110913

STEVENSON, WILLIAM R

CTCF/SEG

RFPReport Rejected: ☐Report Approved: ☒Report Voided: ☐**Report**Needs Approval: ☒

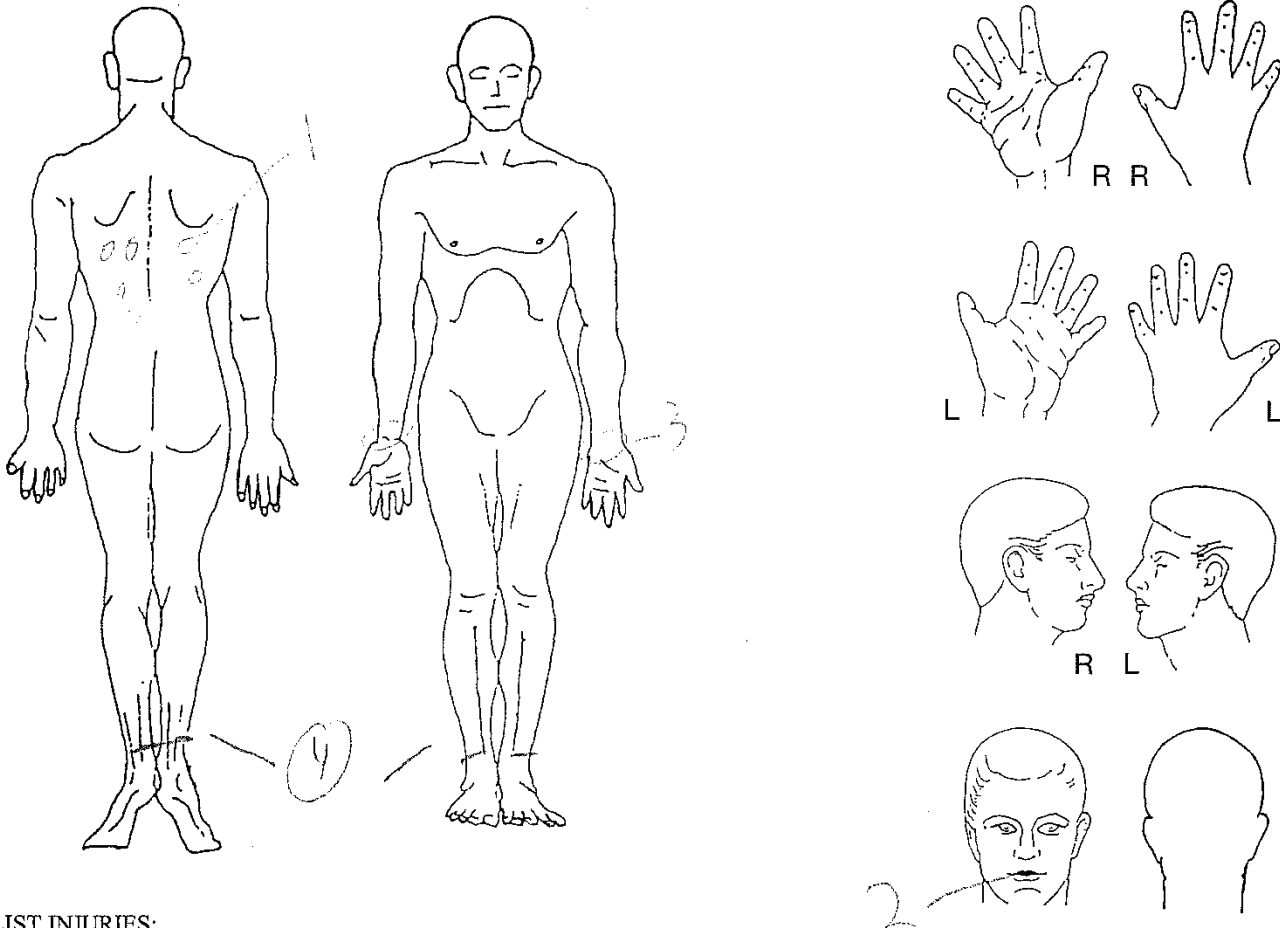
Submitted: 02/29/12 08:55 AM

Parole/Community/**Shift Commander:** CORDOVA, RANDY (rzcordov)**Date Approved:** 02/29/12 01:05 PM**Duty Officer's Initiation of Investigation**Charge: ☐ Duty Officer: ☐Informational: ☐ Reviewed: ☐**Detailed Report on following Page**

Incident# 529889**Report 2 detail by BUFMACK, JODY (jkbufmac) for Incident 529889**

At approximately 0745 I, Jody Bufmack RN attempted to perform a post use of force Anatomical on offender Stevenson 110913 in the Segregation unit at the cell door. Inmate Stevenson 110913 refused to get off the floor and come to the door so I could assess him. He was lying on his stomach on the floor voicing his displeasure, and was in no acute distress.

**COLORADO DEPARTMENT OF CORRECTIONS
CLINICAL SERVICES
ANATOMICAL FORM**

**LIST INJURIES:**

Circle area above and number according to description.

1. 6 Small raised red bumps < 1cm each on Back
2. chipped (R) front tooth, 2 Superficial non bleeding lacerations on finger
3. Superficial abrasions x 2 both wrists
4. Indentation of skin. pedal pulse strong, reg. abrasion
5. _____
6. _____

COMMENTS: pre seg anatomical pt use of force incident in cell house with staff. 4 of above plus neck pain

Wes Bufmark R (Bufmark)

Health Provider Name

Stevenson, William

Patient's Name

Date: 2-27-12 Time: 0705

110 913

DOC Number

Facility: CTCF Living Unit: CH 1

**COLORADO TERRITORIAL CORRECTIONAL
FACILITY**

NEW ARRIVAL INMATE ORIENTATION HANDBOOK



Pamela J. Ploughe

Pamela J. Ploughe, Warden
July 1, 2010

EXHIBIT T

INMATE ORIENTATION HANDBOOK

SECTION	TITLE	PAGE
1.	COPD	4
2.	INMATE MAIL	4
3.	TELEPHONE REGULATIONS	5
4.	VISITING PROGRAM	5
5.	INDIGENT ASSISTANCE	6
6.	CANTEEN	7
7.	CASE MANAGEMENT AND RE-ENTRY	7
8.	CLINICAL SERVICES –MEDICAL, DENTAL, OPTOMETRY, CO-PAYMENT	8
9.	MENTAL HEALTH	9
10.	PRISON RAPE ELIMINATION PROCEDURE	10
11.	GRIEVANCE PROCEDURES	10
12.	AMERICAN'S WITH DISABILITIES ACT	10
13.	LEGAL ACCESS	10
14.	LIFE/FIRE SAFETY AND EMERGENCY EVACUATION	11
15.	DRESS CODE	11
16.	LAUNDRY	11
17.	PROPERTY	11
18.	SEARCHES AND CONTRABAND CONTROL	12
19.	INMATE ASSIGNMENTS AND PAY	12
20.	MOVEMENT	13
21.	COUNTS	13
22.	EMERGENCY NOTIFICATION	14
23.	FOOD SERVICE	14
24.	IDENTIFICATION CARDS	14
25.	PROGRAMS (RELIGIOUS, LIBRARY, RECREATION, EDUCATION)	14
26.	SECURITY THREAT GROUPS	16
27.	NON-DISCRIMINATION	17
28.	MONEY MATTERS	17
29.	HOUSING	17
30.	READING MATERIAL	18

MISSION

The mission of the Colorado Territorial Correctional Facility (CTCF) is to:

Protect the general public by confining inmates within the standards of Levels III, IV, and V security status by meeting and maintaining the highest correctional standards possible within available resources.

Provide Community Standard Medical and Mental Health care for inmates assigned to CTCF and support the needs of all other Department of Corrections facilities by providing on-site medical and mental health services at CTCF.

Provide temporary housing, release, and intake functions for the entire Department of Corrections as well as private correctional facilities.

Provide meaningful, needs-specific academic, vocational and cognitive based life skills, educational programs and volunteer programs to facilitate inmates' reintegration into less secure facilities and/or society.

Provide centralized support functions (i.e., Business Offices, Purchasing, Time Release, Clinical Services, and Business Technologies/Communications) that benefit the entire Department of Corrections.

Develop, support and empower professional correctional staff to manage the diverse inmate population; manage the various support functions provided by CTCF; and become members of an effective team in achieving the mission of CTCF.

FOREWORD

This handbook is intended to orient inmates with the programs and operations of CTCF. A variety of information, rules, and guidance can be found throughout this handbook which will prove useful to inmates during their period of incarceration at CTCF. It is each inmate's responsibility to read and become familiar with the contents of this publication. The information contained inside will assist in understanding what will be expected of each inmate and is designed to provide an orderly and safe environment for inmates, staff, and visitors of this facility.

It is impossible to cover every aspect of the facility in this handbook. Therefore, inmates are encouraged to ask any staff member for more specific information not covered. Substantial modifications to existing regulations and procedures; announcements of new regulations and procedures; or operational and schedule changes may be posted on the cable TV system (Channel 14).

Written policy and procedure governing the control of personal property (AR/IA 850-6) and funds belonging to inmates (AR/IA 200-2) are reviewed annually and updated as needed and are available for review in the General Library [4-4292].

1. COPD

Inmates are responsible to read the Code of Penal Discipline Handbook (AR/IA 150-1, COPD). Inmates are further advised to be aware of and comply with posted operational rules governing conduct and behavior within specific areas of Colorado Territorial Correctional Facility and for becoming familiar with the non-restricted DOC ARs and facility IA/OMs which are available for inmate review in the General Library. The DOC provides written guidelines to ensure inmates comply with the expectations of reasonable behavior and to ensure the welfare and safety of all persons living and working within the institutions.

2. Mail and Packages

Outgoing Mail: All first-class letters must have the proper postage applied. Inmates may write as many letters as they wish. All outgoing letters may be sealed, but the envelope must have the full return address and "Department of Corrections" stamped in the upper left hand corner of the envelope. For example:

Department of Corrections
(Full Committed Name and DOC Number)
P.O. Box 1010-(Cellhouse Number)
Canon City, CO 81215-1010

Excluding weekends and holidays, both incoming and outgoing CTCF mail and packages are picked up and delivered to the Canon City branch of the United States Post Office daily. Both incoming and outgoing mail are held no longer than 48 hours and packages no more than 72 hours.

Restricted Inspection Outgoing Mail: Outgoing mail to the courts must be taken to movement control for logging the time and date of mailing. Other restricted inspection mail must be submitted to cellhouse staff by 1300 hours Monday through Friday for stamping and logging.

Incoming Mail: All incoming mail and packages come through the facility mailroom and will be inspected for contraband. Mail is picked up by the cellhouse staff after 1400 each regular working day (holidays excluded) and will be distributed per cellhouse procedure. A list of inmates receiving mail is posted in the cellhouse Monday through Friday and mail distribution takes place after 1530 in the cellhouse. The names of inmates with incoming packages will be posted daily in the cellhouse after 1400. If an inmate's name appears on the incoming package list, he may pick up the package at the CTCF property room by showing his DOC ID card. Items received through the mail will be inscribed and added to the inmate's property list (A copy of the mailing slip will serve as a permit prior to being sent the new cell permit). All CTCF non-privileged letters and packages are opened and inspected to intercept cash, checks, money orders, and contraband items. Approved certified checks and money orders removed from incoming mail by mail room staff is sent to inmate accounts where they are added to the inmate's account. The envelope from which checks or money orders are taken is marked with the amount, date and staff member initials. Electronic money orders are accepted from Western Union, Money Gram, and JPay. Funds will be recorded by Inmate Accounts and receipts will be printed each business day by the mailroom and forwarded to the cellhouses. Rejected items in letters/packages may be returned to the sender at the expense of the inmate or disposed of at the discretion of staff. Inmates will not be allowed to receive money from other inmates or other inmate's families; former inmates or their families; volunteers, DOC employees or former volunteers and DOC employees.

Incoming Restricted Inspection Mail: Mail (courts, attorneys/agent of record, elected public government officials/buildings, confining authority, paroling authority, administrators of the offender grievance system, ADA Inmate Coordinator, and/or legitimate health-care providers or facilities/physicians/hospitals or clinics) sent to inmates shall be opened only in the presence of the inmate addressee, unless waived in writing and only for the purpose of inspecting this mail for contraband. If contraband is discovered or if it is determined that the mail is not restricted in nature and contains other extraneous material, the inmate may be charged with a disciplinary violation.

Forwarding Mail: After the inmate paroles or discharges, first-class letters and packages will be forwarded if an address is known. If not, they will be returned to the sender.

Packages: All packages shipped out or received go through property. Incoming packages will be inventoried, and logged.

Reference: IA 300-38, 750-1

Identification/Dress Code/Allowable Items for Visitors:

Visitors to the facility are expected to present a valid picture ID upon their arrival, and must be dressed in appropriate, conservative clothing. No camouflage, orange or solid green clothing; no gray sweat clothing; no gang-related or obscene designs or messages; no provocative, suggestive or revealing clothing; no hats except for religious hats or headgear will be permitted. Further clarification regarding approved visiting attire is available in AR 300-1, Offender Visiting Program. Inmates are responsible to ensure their visitors are knowledgeable of the dress code requirements. Visitors may bring the following items into the visiting room: one plastic, one-piece comb (no rat-tail); Canteen Services debit card; wedding ring; (1) religious medal; (1) medical alert tag; photo identification card; and car keys/keyless remote. Prescription medication needed by visitors will be checked at the visiting entrance and placed in the visitor locker. No items are to be exchanged between visitors and inmates other than vending machine items.

Children:

Visitors must supervise and maintain control over their minor children. No physical discipline is permitted on DOC property. Minor children must be listed on the cumulative visitor's record, but will not be counted toward the eleven approved visitors.

Special Visits:

Special visits (for example, family emergencies) are arranged through the case manager at least ten days prior to the visit by completing a Special Visit Request form to be approved by the Custody Control Manager.

Visitors will be excluded from the visiting list with authorization from the Administrative Head if they:

- a. Are the victim of the sex offender they are attempting to visit, except under circumstances approved in advance and in writing by the sex offender treatment staff;
- b. Are under the age of eighteen (18) visiting an offender who has been convicted at any time of sexual assault on a child, incest, or aggravated incest unless approved in advance and in writing by the sex offender treatment staff;
- c. Are victims of the offender or are children under the age of eighteen (18) years of age, if such visits would be contrary to the rehabilitation of the offender as documented by mental health staff who will evaluate the offender and make recommendations regarding visits which may be detrimental to the offender's rehabilitation.

Disabled Accommodations:

Inmates with disabilities which require assistance to access visiting via the outside elevator will notify the movement control officer for staff assistance.

Pens, paper, and magnifying sheets will be provided for communication purposes when necessary.

Inmates who may need extra consideration for restroom breaks should refer to Administrative Regulation 300-1 regarding appropriate procedures.

Reference: CTCF IA 300-1

5. Indigent Assistance

Definition: An unemployed inmate declaring indigence in accordance with DOC AR 850-14, whose available account balance in the preceding thirty (30) days has been reduced below the following, qualifying, designated dollar amount or has not reached the specified amount:

1. For basic hygiene items, \$4.60;
2. For personal letters (social correspondence to family and friends) \$4.60, one personal letter per week with postage not to exceed \$2.00 per month.

Legal Photocopies: Through the CTCF law library, an indigent inmate shall be allowed a reasonable number of copies of legal documents related to his own active legal case as outlined in DOC Administrative Regulation 750-1, "Legal Access."; **Legal Mail:**

Restricted Inspection Mail. CTCF will pay the postage for mail addressed to a court, state licensed attorney or the authorized paralegal of a licensed attorney, or a state/federal government official in order to ensure timely mailing. However, the postage will be charged against the inmate's DOC account. An indigent inmate shall be responsible to clearly mark the envelope as restricted inspection mail, and it will be appropriately processed.

what the parole board expects of them. The inmate's institutional record, cellhouse ratings, job ratings, disciplinary record, programs participation, and criminal recidivism will have a significant bearing on the parole board's decision.

Earned Time: Definition: Earned Time (ET). Time that may be deducted from the inmate's sentence provided certain conditions are met; not to exceed ten (10) days per calendar month. Any conviction of COPD violation will result in no consideration for ET for the following time frames: Class I: The month of the conviction and the following two months; Class II: The month of the conviction and the following month; Class III: The month of the conviction.

An inmate's behavior within the cellhouse along with cell cleanliness will be rated by the case manager based upon first-hand knowledge as well as information provided by staff familiar with the inmate's attitude, behavior, work habits, etc. The maximum award is two days per month.

Employment/academic/vocational supervisor will ensure work evaluations are completed monthly via Master Program Scheduling (MPS). The evaluation scale is rated from "1" to "5" with "5" being the lowest. The maximum award is two days per month.

The case manager will evaluate the overall compliance of the inmate with his diagnostic program and/or needs assessment, his program participation, his participation in self help groups and recommend zero to one day for MGT or zero to five days for ET. The case manager will also award one day (ET only) for not contacting or harassing a witness or a victim. The case manager will review with the inmate the MGT/ET awards and explain their denial of any MGT/ET withheld. Earned time awarded for participation in the academic/vocational program will be awarded by the academic/vocational program in accordance with C.R.S. 17-22.5-302.

Re-Entry: The Pre-Release Specialist will pull PED and MRD lists at least once per month and will coordinate with case management to determine eligibility based on individual needs.

Reference: CTCF IA 250-65, 500-1, 550-1, 600-1

8. Clinical Services (medical, dental, optometry, co-payment procedures)

Primary Health Services: Primary health services includes emergency services, sickline, physician extenders (referral to a staff physician), nursing services, dental services, optometric services (prescription glasses), mental health services, routine physical examinations, pharmacy services, referral to outside health agencies and consultants, infirmary care/acute care hospitalization, and a comprehensive, confidential health record.

Med Lines, insulin med lines, and self med-card exchange and pickup are posted in CTCF Operational Schedule (IA 300-55 A).

Segregation inmates are seen by clinical services twice a day for meds.

Sickline: Sicklines are conducted every weekday. To be seen on sickline, the inmate must obtain a request for sickline slip from the cellhouse staff and submit it at the "kite" box located next to the medication window. After receiving the request, the medical department will schedule an appointment for the first available time. The inmate will receive an appointment slip from the cellhouse staff. Inmates should report to medical appointments at the movement time prior to the appointment

Emergency Services: If an inmate has been injured or if an inmate feels seriously afflicted, he should immediately contact the nearest staff member for possible escort to the infirmary.

CRS 17-1-113. CRS 17-1-113 provides that inmates must pay a co-pay charge for certain medical services. The exact conditions and services covered by this law shall be posted by medical services. All inmates are responsible to read and become familiar with the charges that they may encounter. Further information concerning the specific charges may be directed to the medical staff. Primary health services are provided at no cost to the inmate.

Pharmacy Services: Aspirin, Tylenol, Gelusil, etc. are available from canteen services. Inmates with chronic medication problems may be eligible for the self-medication program. It will be the responsibility of any inmate on the self-medication program to take the medication as prescribed. Unused or outdated medications are to be returned to medical services. Unauthorized medications and/or medications not in their issued, labeled container(s) are unauthorized and considered contraband. Authorized glucose tabs, inhalers, and nitro tablets may be carried on an inmate's person in limited quantities. Otherwise, meds must be secured in the inmate's cell.

10. Prison Rape Elimination Procedures

The Colorado Department of Corrections has policies and procedures addressing sexual assault/rape, sexual abuse, and sexual misconduct while inmates are under the jurisdiction/custody of the CDOC as outlined in Administrative Regulation 100-40, Prison Rape Elimination Procedure. Inmates have the right to be safe from sexual assault and can help prevent such incidents. Inmate housed at CTCF may report any act of sexual abuse, assault/rape or sexual misconduct to any staff member, contract or volunteer, or the Office of the Inspector General without fear of retaliation. Incidents may also be reported by calling the confidential pre-programmed CIPS number at 1-877-DOC-TIPS-0 or toll free at 1-877-DOC-TIPS. Counseling is available. [4-4281-1]

11. Grievance Procedure

General: Grievance forms are available from the case manager. A grievance is a formal complaint concerning an incident or condition. Most valid grievances can be resolved quickly through direct contact with the staff who is responsible in the particular area of the problem. Informal remedy is the recommended course of action and inmates should work with their case manager to accomplish this. Staff awareness and prompt attention to these routine requests will minimize the use of formal grievance procedures.

The purpose of the inmate ADA grievance procedure is to provide inmates a legitimate method of settlement or request for accommodation under ADA when an inmate has been unable to resolve issues related to his disability. Inmates may file an emergency grievance based upon a denial that he has a qualifying disability pursuant to ADA or failure to accommodate a qualifying disability. The Office of the AIC is the official custodian of all ADA grievances.

All medical co-pay issues may only be resolved through the grievance process.

Reference: CTCF IA 850-4

12. American's With Disabilities Act

Inmates who contend they have a qualifying disability must submit the fully completed Request for Accommodation (DC Form 850-4C and 850-4D) and signed and witnessed Medical Release to the office of the ADA Inmate Coordinator (AIC). The office of the AIC in conjunction with the Chief Medical Officer or his designee will determine on a case-by-case basis what accommodations if any, will be made. CTCF has been designated to house inmates with qualifying disabilities requiring special placement pursuant to the Montez Remedial Plan. Inmates with diabetes, permanent mobility, hearing or vision impairments and other disabilities or compound conditions severe enough to require special housing and programming may be assigned to CTCF.

Schedules of routine movements will be posted in the cellhouses for inmates with hearing disabilities so that they can participate in routine movements and activities. If there are any unusual announcements, they will be personally notified by the living unit staff or an inmate messenger. Inmates with hearing impairments will be personally notified of an alarm by a staff member. Hearing impaired inmates will be given all orientation materials in written form. A staff member who can communicate with the inmate will be made available for the inmate to clarify any comprehension issues they may have. A professional sign language interpreter may be obtained if necessary.

Sight-impaired inmates will be provided orientation material in verbal format and video titler messages will be provided in verbal format. Sight-impaired inmates will be provided a sighted Offender Care Aide (OCA) to assist with their daily needs when necessary.

Copies of the Montez Remedial Plan and subsequent stipulations are available for review in the general library and a copy may be obtained by writing to the Office of the AIC, 2165 S. Circle Drive, Colorado Springs, Colorado 80906

13. Legal Access/Law Library

Access: General population inmates are required to submit a DOC Form 144 "Request for Legal Assistance" to be scheduled for legal access. Assistance will be provided by the facility legal assistant.

Legal assistance forms are available from the cellhouse staff. Properly completed forms are to be deposited in the drop-off slot next to the law library door.

all purchase receipts, money orders receipts, etc. indicating the purchase of any inventoried items. Inmates coming from other facilities are not allowed any "grand fathered" property. The property inventory sheet must be posted in the cell as this is the cell permit.

Canteen Catalog: Electrical appliances will be inventoried. Serial numbers of the property and the inmate's DOC number will be etched on a pre-registered blue tag. The tag will be placed on a permanent area of the appliance.

Reference: CTCF IA's 850-6

18. Searches and Contraband Control

Definition: Contraband may be defined as any item, article, instrument, or substance not issued by the facility, not purchased through the canteen or other approved sources, or authorized for issue by a staff member. Authorized items may be considered contraband when found in excess of expressed limits or defined as contraband by regulations or rules, or when the original design or condition has been altered or modified.

Shakedowns: Any DOC staff member has the absolute right to search an inmate, cell, or job area at any time. Frequent random searches are conducted throughout the facility. For this reason, inmates should carefully examine their cell when they first move in, to check for items that may have been left or damage done by a previous occupant. Inmates will be held responsible for everything in their cell.

Disposition of Contraband: Property defined as contraband may be disposed of as follows:

1. If the item is determined not to be contraband, it may be returned to the inmate.
2. The item may be declared contraband, and if so will be disposed of. If this option is used, it will be at the inmate's expense. A Confiscated Inmate Property/Disposition Option form (IA 850-6A) or a Notice of Rejection/Disposition of Mail slip (DC 300-38D) or a shakedown slip will act as written notice that the inmate has 10 days from that date to provide property control officer with desired disposition. If the inmate who is allowed this option fails to comply with the specified time limits, the contraband will be disposed of according to Nos. 3 and 4 below.
3. The disposition of the contraband may be left to the facility. If the item is determined to be of some useful value, it will be disposed of by donation to local charities.
4. The contraband may be destroyed by the facility or rendered useless.
5. Contraband used as evidence in COPD or legal proceedings will not be destroyed until conclusion of the administrative/legal proceedings. Disposition of these items will be in accordance with IA 850-6 and IA 300-6.

Reference: CTCF IA's 300-6, 300-38; 850-6

19. Inmate Assignments and Pay

Work/Program Assignment: Initial job/program referrals, including referral to a mental health program, will be made by the case manager through master program scheduling (MPS). Information concerning job referrals is available from the cellhouse staff or the prospective work/program supervisor. A list of assignments available at CTCF is posted in the general library and job descriptions with physical requirements are available for review. Inmates must be compliant with program requirements in accordance with Administrative Regulation 600-5, Restriction of Offenders' Privileges in Correctional Facilities. Inmates will have ten working days from the date of being assigned a permanent case manager to become compliant. If the inmate fails to become compliant, the Restriction of Privileges process will be initiated by the inmate's case manager.

Inmate Pay: It is the policy of CTCF to provide work, vocational, and academic assignments to all inmates in order to improve job skills and develop good work habits. All inmates are paid on a monthly basis. Those inmates assigned jobs or paid programs will be paid for the days they worked or participated in assigned programs for the month. Those inmates unassigned to either jobs or programs will be paid 23 cents per day. All inmate pay is input and processed on the last day of each month, but will not be posted and available for use for up to eight (8) days.

Reference: IA 300-23, 850-3

notification. Upon hearing this warning or seeing the flashing of the pod lights, inmates are to proceed to their cell and remain there until the count has been cleared. Not being in the proper location for the count is a serious disciplinary infraction.

If a routine count cannot be cleared for any reason or if the shift commander has reason to suspect the existence of a problem, the control center will call for a head count. When a head count is called, all inmates will, regardless of their job assignment, report immediately to their assigned cell for count and be prepared to stand and present their DOC ID to counting staff.

Reference: CTCF IA 300-4

22. Emergency Notifications

Should the facility be notified of a family emergency, the volunteer chaplain or duty administrative head will be notified and will in turn notify the inmate. Should the inmate become aware of a family emergency, the inmate may consult the appropriate case manager, who will attempt to assist upon verifying the emergency. It is imperative the inmate keeps his case manager apprised of any emergency. Should an inmate have a problem within the facility, it is the inmate's responsibility to notify any staff member of the problem immediately. Emergency escorted leave is explained in DOC Administrative Regulation 300-17.

Reference: CTCF IA 300-17, 800-7

23. Food Service

Three meals are served each day. Times are posted in Offender Movement Schedule, IA 300-55 A.

There are two dining rooms, the South and the North.

The first three rows of tables in the North dining room as well as some first row seats in the South dining room are reserved for physically challenged inmates and seating in this area is restricted. OCA's or food service workers will assist physically challenged inmates as needed with trays, etc. Seating is on a row by row basis for the remainder of the population as directed by staff. Inmates will have approximately 20 minutes to complete their meal and must leave the dining hall and return to their cellhouse or work assignment when they finish their meal.

Inmates must dress in DOC approved clothing, no sweat suits, shorts, or shower shoes allowed. Posted operational rules are posted in each dining room.

The food service department follows the approved DOC Six-Week Cycle Menu. Menus are posted in the cellhouses as well as in the dining rooms. The DOC menu provides a meatless alternate entree. Anyone wanting an alternate entree must request the substitute prior to receiving a tray. Both dining rooms contain an information center. Inmates can obtain menu and nutritional information.

Reference: CTCF IA 300-55, 1550-2

24. Identification Cards

Inmates must have a DOC identification card in their possession as prescribed by DOC ARs and CTCF IAs. An inmate ID card will be needed during formal counts, to pick up packages, canteen, to check out library books and athletic equipment, for notary services, to receive medication, and for attendance at some programs. If an inmate does not have a permanent ID card, he should contact his case manager for immediate replacement. A fee will be charged for replacement of lost, damaged, or destroyed ID cards.

25. Programs

Religious: CTCF has volunteer led weekly programs for the following faith groups:

Protestant - Prison Fellowship, Turning Points Bible Study, Grace Fellowship, Chapel Services
 Catholic - Renewal Bible Study, Monthly Catholic Mass (when possible)
 Jehovah Witness - Saturday Service, Wednesday Book Study
 Latter Day Saints - Sunday Service

There are also weekly services for American Indians, Muslims, Orthodox Jews, and Messianic Jews. Other volunteer programs that are offered on a more limited basis include; Promise Keepers, Kairos, Shekinah Ministries, Heritage Christian Center, various

1. Be assigned to CTCF for at least six (6) consecutive months.
2. Have no Class I convictions of the Code of Penal Discipline (COPD) for 12 months, or Class II convictions of the Code of Penal Discipline for the past six months, to include probated sanctions.
3. Have a job assignment and be in compliance with recommended programs or be actively engaged in required programs.
4. Have standard or above work evaluation ratings for ninety (90) days prior to assignment and maintain "1" or "2" ratings.
5. Overall behavior, classification, and security status indicating whether the inmate will conduct himself in a responsible manner.
6. Has not been terminated from the Hobby Shop for abuse of the program.
7. Inmates who are unable to participate in programs, work assignments, or other prerequisites due to a qualifying disability shall not be refused a hobby permit solely on these grounds.

The only allowable craft for cellhouse hobby work is drawing/sketching. Criteria to participate in cellhouse hobby work are:

1. Be assigned to CTCF for at least 90 days.
2. Have no Class I or Class II conviction of the COPD in the past 90 days, to include probated sanctions.
3. Be employed or classified as medically unassigned as determined by the classification committee.
4. Have standard or above work evaluation ratings for ninety (90) days prior to approval and maintain "1" or "2" work rating.
5. Have overall behavior, classification and security status indicating inmate will conduct himself in a responsible manner.
6. Inmates who are unable to participate in programs, work assignments, or other prerequisites due to a qualifying disability shall not be refused a cellhouse hobby permit solely on these grounds.

Reference: CTCF IA's 300-9, 1000-2

Academic School: A student is referred to educational programs, which are paid work assignments, by his case manager. Students must enroll in either one full day program or two half day programs to complete a full day work assignment. Those wishing to work on GED skills independently may check out study materials from the library. GED qualification testing is conducted by the school on alternating months with the Official GED test.

Classes available are: Adult Basic Education (ABE).
General Education Development (GED).
Healthy Living
Community Reintegration

Vocational Programs: Basic Janitorial
Advanced Janitorial
Culinary Arts
Basic Computer Operations
Cosmetology

Reference: CTCF IA's 500-1, 1050-1

26. Security Threat Groups

It is the policy of the DOC to prohibit and eliminate any offender participation in security threat groups. Any display or possession of security threat group colors, symbols, signs or insignias, and/or recruitment efforts is unauthorized and shall be interpreted under the Code of Penal Discipline (COPD) with the appropriate violation.

Cell Keys: Inmates assigned to cellhouses requiring cell keys to be issued will be responsible for the key. Any lost or stolen keys must be reported to the cellhouse staff immediately. The inmate is financially responsible for any lost or intentionally damaged key/locks.

Cell Inspections: Cell inspections are conducted daily in the cellhouses and an inmate need not be present during the search of their cell. Inmates are responsible for items found in their cell, in their lockers, or on their shelves or bunks.

Bulletin Boards: All posted/displayed material must be on and within the borders of the brown painted squares located on the wall and secured with tape. The posting of loose or altered photos from magazines/newspapers is prohibited. Only one Calendar no larger than 12"x 12" folded once, per inmate is allowed.

Medical Lay-in: An inmate on a medical lay-in shall remain in his assigned cell for the duration of the lay-in except for scheduled medical, dental, and mental health appointments. Unless the medical lay-in specifically prescribes meals be sent to the cellhouse, the inmate will also be allowed out of cell for meals.

Issuance of Cell Cleaning Supplies: Each cellhouse has designated times when cleaning supplies are available to maintain cell cleanliness. All cell cleaning supplies are rated "0" and are not toxic, caustic, corrosive, or hazardous.

Segregation: All segregation inmates will be housed in Cellhouse 3 on the segregation tiers.

1. Punitive segregation is a sanction imposed on an inmate by the hearing officer/board as a result of a guilty finding under the COPD.
2. Removal from population inmates have been removed from the general population of the facility pursuant to DOC Administrative Regulation 600-1 for reasons identified therein.
3. Administrative segregation inmates have been reviewed and recommended for administrative segregation in accordance with DOC Administrative Regulation 600-2 and are awaiting transfer to a maximum security facility.

Inmates assigned to a segregation status will have their property searched and inventoried by the property officer and property allowed in segregation will be returned to the inmate. Tokens, soda pop, and soda pop bottles are considered contraband in the segregation wing. Purchase of canteen items in segregation is limited. Posted operational rules are posted in the segregation wings.

Reference: CTCF OM 650-101

30. **Reading Material**

Magazines and Newspapers: Reading material may be denied if it contains any diagram, formula, or instructions for the creation of weapons, chemicals, or controlled substances or intoxicants; any publication which advocates hatred or contempt of other persons; any publication produced or distributed by security threat groups, or depicting association or membership in security threat groups; sexually explicit material, if Mental Health or the Sex Offender Treatment Program have directed the inmate not to subscribe or to possess as they are contrary to rehabilitation goals; or materials primarily devoted to bestiality, pedophilia, sadism, masochism, or necrophilia, discharge of bodily fluids, penetration, sexual intercourse, oral sex or masturbation may be prohibited. Periodicals must be new, rather than used, and sent from a subscription or authorized book store.

Newspapers will be ordered on a monthly basis, and the cost of the subscription will be deducted from the inmate's account by a newspaper order form supplied by the cellhouse staff. Once submitted, a subscription cannot be canceled for that month. The order must be placed by the 17th of each month and will begin on the first of the following month. Subscriptions must be to daily newspaper publications; no weekend-only newspaper subscriptions will be allowed.

Reference: IA 300-26, 300-38