

# EXHIBIT Q



**NO. 19 L 10035**

**ALVIN WADDY**

**V.**

**CITY OF CHICAGO, ET AL.**

**DEPONENT:**  
**JEFFREY NOBLE**

**DATE:**  
**October 10, 2023**



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1                   IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
2                   COUNTY DEPARTMENT, LAW DIVISION  
3                   NO. 19 L 10035

4  
5                   ALVIN WADDY,  
6                   Plaintiff

7  
8                   V.  
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10                  CITY OF CHICAGO, ET AL.,  
11                  Defendants

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23                  DEPONENT: JEFFREY NOBLE  
24                  DATE: OCTOBER 10, 2023  
25                  REPORTER: ESTHER HEATH

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1 STIPULATION  
2  
3

4 The deposition of JEFFREY NOBLE was taken at KENTUCKIANA  
5 COURT REPORTERS, 110 NORTH WACKER DRIVE, SUITE 2500,  
6 CHICAGO, ILLINOIS 60606, via videoconference in which  
7 all participants attended remotely, on TUESDAY the 10th  
8 day of OCTOBER 2023 at approximately 10:03 a.m. CT; said  
9 deposition was taken pursuant to the ILLINOIS Rules of  
10 Civil Procedure. The oath in the matter was administered  
11 remotely as permitted by Illinois Supreme Court Order  
12 No. 30370 which amended Civil Rule 206(h).

13 It is agreed that ESTHER HEATH, being a Notary Public  
14 and Digital Reporter for the State of ILLINOIS, may  
15 swear the witness and that the reading and signing of  
16 the completed transcript by the witness is not waived.

## 1 PROCEEDINGS

2 THE REPORTER: Will all parties, except for the  
3 witness, state your appearance and how you're  
4 attending?

5 MR. RAUSCHER: Scott Rauscher for Plaintiff  
6 Alvin Waddy, attending remotely.

7 MR. PALLE: Eric Palles for Kallatt Mohammed,  
8 attending remotely from Chicago.

9 MR. BAZAREK: William E. Bazarek for certain  
10 individual defendants. I'm with Hale & Monico. I'm  
11 attending remotely.

12 MS. MIAN: Aleeza Mian, attending remotely for  
13 Defendant Watts.

14 MR. NOLAND: And Daniel Noland for the City of  
15 Chicago, attending remotely.

16 THE REPORTER: Thank you. Mr. Noble, will you  
17 state your name?

18 MR. NOBLE: Jeff Noble.

19 THE REPORTER: And do all parties agree that  
20 the witness is, in fact, Jeff Noble or agree to  
21 continue?

22 MR. RAUSCHER: Yes.

23 THE REPORTER: Okay.

24 MR. BAZAREK: Yes.

25 MR. NOLAND: Yeah.

1 MR. PALLES: Yes.

2 MS. MIAN: Yes.

3 THE REPORTER: And Mr. Noble, would you raise  
4 your right hand? Do you solemnly swear or affirm  
5 that the testimony you're about to give will be the  
6 truth, the whole truth, and nothing but the truth?

7 MR. NOLAND: I do.

8 THE REPORTER: Okay. We may begin.

9 MR. RAUSCHER: We're recording, right?

10 THE REPORTER: Oh, I can record through Zoom.  
11 Do you want me to go back and re-begin? I'm sorry.  
12 This isn't a video-noticed deposition, correct?

13 MR. RAUSCHER: I thought -- it's not? Oh, I  
14 thought it was.

15 THE REPORTER: I didn't get that on my  
16 notification, but I can do a video read-on and  
17 everything, if you prefer that.

18 MR. RAUSCHER: Yeah. I -- if that's a -- if --  
19 it sounds like we made a mistake on that one. We  
20 meant for it to be a video dep.

21 THE REPORTER: Okay.

22 MR. RAUSCHER: I don't know. I guess I --

23 MR. PALLES: What's the -- what's the notice  
24 say? Let me look at the notice a minute.

25 MR. RAUSCHER: Yeah. I mean, let me -- we have

1 to go back to --

2 THE REPORTER: Let me go off the record. We're  
3 off the record.

4 (OFF THE RECORD)

5 THE REPORTER: We are back on the record.

6 MR. NOLAND: Are we back on?

7 THE REPORTER: Oh, yes. Could you-all not hear  
8 me?

9 MR. RAUSCHER: Oh, sorry. I'm sorry. I  
10 thought I was waiting for you. Okay.

11 THE REPORTER: Oh, I'm sorry.

12 MR. RAUSCHER: So we're good to start?

13 THE REPORTER: Yes, we're on the record.

14 DIRECT EXAMINATION

15 BY MR. RAUSCHER:

16 Q. All right. Can you say and spell your name,  
17 please?

18 A. Jeff Noble, N-O-B-L-E.

19 Q. And what is your role in this case?

20 A. I've been retained by the City of Chicago as  
21 an expert witness.

22 Q. An expert witness to do what?

23 MR. NOLAND: Objection. Form. Go ahead.

24 A. Provide testimony on the City of Chicago's  
25 policies and practices and to address some of the

1       opinions of Dr. Shane, who alleged a failure to  
2       supervise and discipline the defendant officers in this  
3       case, the reasonableness of the internal investigatory  
4       procedures of the Chicago Police Department in general  
5       and specifically as related to Watts and Mohammad and  
6       other team members, that tactical team, and to rebut  
7       some of Dr. Shane's testimony.

8       BY MR. RAUSCHER:

9           **Q. And what specific parts of Dr. Shane's**  
10       **testimony were you hired to rebut?**

11           MR. NOLAND: Objection. Form. Objection.

12           Form. Overly broad. Go ahead.

13           A. I -- you know, I -- I don't think that when I  
14       was hired, I was told that, you know, I am to rebut a  
15       particular part of his testimony. Rather, you know, I  
16       would refer you to all of my opinions that were outlined  
17       in the disclosure in this case.

18       BY MR. RAUSCHER:

19           **Q. How much have you been paid so far in this**  
20       **case?**

21           A. A little over \$11,000.

22           **Q. Have you billed anything that you haven't been**  
23       **paid for yet?**

24           A. Yeah. So one -- I think one of the invoices  
25       that -- an invoice for \$6,300, I think that was paid,

1 and another invoice for 5,850 has not yet been paid.

2 Q. So why don't we do this for record keeping.  
3 You -- you're aware there's a disclosure that's been  
4 issued for you in this case, right?

5 A. Yes.

6 MR. RAUSCHER: Why don't -- we're going to mark  
7 that as Exhibit 1, and that includes Exhibits 1 and  
8 2 to that disclosure.

9 (EXHIBIT 1 MARKED FOR IDENTIFICATION)

10 MR. RAUSCHER: And then let's mark as Exhibit  
11 2, the two invoices that I think you just referred  
12 to. We can do it together. So let's -- we can say  
13 2A is the August 31st one, which is Waddy- Noble,  
14 127 to 129, and then 2B is Waddy-Noble, 131 to 132.

15 (EXHIBIT 2A MARKED FOR IDENTIFICATION)

16 (EXHIBIT 2B MARKED FOR IDENTIFICATION)

17 BY MR. RAUSCHER:

18 Q. So do you have those two invoices in front of  
19 you?

20 A. I do.

21 Q. You said you've been paid a little over  
22 \$11,000, but do you mean you've invoiced the City for  
23 over 11,000 or is there something else out there?

24 A. Yeah, no. I -- I -- I've invoiced for a  
25 little over 11 for the -- I -- I've invoiced for these

1 two bills.

2 Q. Got it. Are there any -- have you sent any  
3 other invoices?

4 A. No.

5 Q. And then you get paid a flat fee for today; is  
6 that right?

7 A. Yes.

8 Q. How much will you be paid for today?

9 A. \$3,000.

10 Q. And you understand the City pays for that, not  
11 the plaintiff?

12 A. No. I didn't understand that, but I guess it  
13 doesn't make any difference to me. So --

14 Q. Someone is paying you \$3,000 for today. That's  
15 your view?

16 A. Yes.

17 Q. You'll send that invoice to the City?

18 A. Yes.

19 Q. And then do you have any -- did you spend any  
20 time preparing for your deposition today?

21 A. Yes.

22 Q. How much time did you spend preparing for your  
23 deposition today?

24 A. About four-and-a-half hours.

25 Q. And is that part of your \$3,000 flat fee or is

1 **that billed separately?**

2 A. That's billed separately.

3 Q. **What did you spend that four-and-a-half hours**  
4 **doing?**

5 A. Going back over my notes, reviewing the  
6 disclosure. I spoke with Dan Noland for about an hour,  
7 hour-and-a-half. Generally, that would be it.

8 Q. **How did you speak with Mr. Nolan? Was it by**  
9 **telephone, by Zoom, in person?**

10 A. By telephone.

11 Q. **How'd you set that meeting up?**

12 A. I'm sorry. How did I set the meeting up?

13 Q. **Was that meeting set up, or did one of you**  
14 **just call each other? Did you e-mail to set it up? That**  
15 **-- that's what I'm asking.**

16 A. I don't remember. It may have just been a  
17 phone call or it may have been an e-mail. I just don't  
18 recall.

19 Q. **What did you and Mr. Noland talk about during**  
20 **that hour, hour-and-a-half?**

21 A. We went over the -- the disclosure.

22 Q. **What specifically did you go over?**

23 MR. NOLAND: Objection. Objection. Overly  
24 broad. Go ahead.

25 A. Yeah. I -- I couldn't tell you specifically

1 line for line while we went over, but we went, you know,  
2 basically through the disclosure.

3 BY MR. RAUSCHER:

4 Q. You can't tell me anything specifically that  
5 you discussed?

6 MR. NOLAND: Objection. Argumentative. Go  
7 ahead.

8 A. You know, again, it was a -- a lengthy  
9 conversation where we went over the -- the disclosure in  
10 its totality.

11 BY MR. RAUSCHER:

12 Q. Did you ask him, Mr. Noland, any questions  
13 during that meeting?

14 A. I'm sure I did.

15 Q. Do you remember any of the questions you asked  
16 him?

17 A. No.

18 Q. When did you have -- when was this hour,  
19 hour-and-a-half conversation with Mr. Noland?

20 A. Yesterday.

21 Q. What time yesterday?

22 A. Gosh, I -- I -- you know, I don't even  
23 remember. It was yesterday afternoon. I think it was,  
24 like, at 1:30 in the afternoon, California time.

25 Q. Did Mr. Noland ask you any questions during

1 the meeting?

2 A. I'm sure he did.

3 Q. Do you remember any of the questions that  
4 Mr. Noland asked you?

5 A. No. Again, it was a long conversation.

6 Q. Did you look at any documents during your  
7 conversation with Mr. Noland?

8 A. Just the disclosure.

9 Q. How much -- how many cases do you currently  
10 have where you're an expert for the City of Chicago?

11 A. Well, I mean, that's sort of hard to say. So  
12 the way I -- I view that is, you know, I -- I look at my  
13 cases of -- of the case that I have outstanding reports  
14 on. So I'm -- I am working on one other case for the  
15 City of Chicago where I am working on a report, but once  
16 reports are done, you know, cases tend to sit for, you  
17 know, often, a very long period of time prior to a  
18 deposition or trial. And, you know, I -- I could not  
19 tell you how many of Chicago cases are -- are sitting  
20 waiting on, you know, deposition, trial or, you know,  
21 some kind of resolution.

22 Q. You presumably -- you have a record of that,  
23 right? You're just saying you can't tell me today as we  
24 sit here?

25 A. Well, yeah. I -- I certainly have a -- a

1 list, you know, in my CV of, you know, and -- and a list  
2 of all the cases I've been involved in. So I certainly  
3 have a list of cases with Chicago, but, you know, I'd  
4 have to look at each individual case, trying to figure  
5 out where it -- where it's at.

6 **Q. This CV was attached as Exhibit 1 to your  
7 disclosure; is that right?**

8 A. You know, I -- I -- I don't have that in front  
9 of me. I mean, I'm sure it was attached. I

10 **Q. Well, did you look at the CV -- your CV before  
11 it was attached to your disclosure?**

12 A. I -- I certainly sent Mr. Noland a copy of my  
13 CV with the case list, yes.

14 **Q. Does your CV have a full list of the cases  
15 where you've been retained by the City of Chicago?**

16 A. Yes.

17 **Q. All right. It says --**

18 A. Well no -- I -- I. Excuse me. I'm sorry. No,  
19 it doesn't. And -- and the reason it doesn't is that my  
20 CV goes back, you know, probably five plus years, you  
21 know, and I've been doing this for, you know, close to  
22 18 years. So -- and you know, I -- my first case was  
23 with Chicago, so I had a case from Chicago 18 years ago,  
24 and that's not on there, so

25 **Q. What did -- does your CV have all of your**

1 **current cases with the City of Chicago?**

2 A. Yeah. My CV has all the cases, I -- I think,  
3 back to, like, 2018. So everything I've been involved  
4 in since 2018, yes.

5 Q. All right. You said your first case as an  
6 expert was with the City of Chicago; is that right?

7 A. Yes.

8 Q. Which case was that?

9 A. Hobley.

10 Q. Did you testify at trial on that case?

11 A. No.

12 Q. How many cases over the years have you been an  
13 expert for the City of Chicago for?

14 A. Somewhere between 25 and 30.

15 Q. Do you know how much money you've made for  
16 this -- from working with the City of Chicago for the --  
17 this year?

18 A. For this year?

19 Q. Yeah.

20 A. This -- you know, the invoices in this case,  
21 and I have -- I think there's one other case. Well, I  
22 know I have one other case that I'm working on a report  
23 right now, but I don't know what my -- my invoices for  
24 that case are off the top of my head.

25 Q. Is that the Gibson case?

1 A. Oh, no. So that -- I did that --

2 --

3 MR. NOLAND: So hold on. Hold on. So Jeff, I  
4 caution you that if you are working on a report and  
5 it hasn't been disclosed, you're still just a  
6 consultant, so you can talk about that generally,  
7 but don't reveal the content of what that case would  
8 be. The Gibson case, go ahead. You gave a dep in  
9 that case.

10 A. Yeah. So I -- I did -- I did have that case  
11 in this year.

12 BY MR. RAUSCHER:

13 Q. So there's Gibson and then one other case  
14 where you haven't disposed to report?

15 A. Yes.

16 Q. How much have you been paid so far in the  
17 Gibson case this year?

18 A. I don't know.

19 Q. You don't know?

20 A. I don't know.

21 Q. And how much have you been paid for the other  
22 case where you haven't disclosed a report yet, this  
23 year?

24 A. I don't think I've been paid anything in that  
25 case yet.

1           **Q. What's the Gibson case?**

2           A. You know, I -- I have a lot of cases, and I  
3 hesitate to try and comment on cases when I haven't  
4 opened them up and glanced at them and -- to refresh my  
5 memory. I mean, I -- I know that was a case involving  
6 Monell allegations, but I can't give you details.

7           **Q. All right. Do you know how much you've been  
8 paid by the City of Chicago for the last two years?**

9           A. I have no idea.

10           **Q. What about the last five years?**

11           A. I have no idea.

12           **Q. Do you know the most you've been paid by the  
13 City of Chicago in any given year?**

14           A. No.

15           **Q. You don't know?**

16           THE REPORTER: I'm sorry. That cut out for me.  
17 Your response?

18           A. No, I don't know.

19 BY MR. RAUSCHER:

20           **Q. Did you work on something called the Arias  
21 case, A-R-I-A-S?**

22           A. I -- I believe so. That was a long time ago.

23           **Q. What do you -- what can you tell me about your  
24 work on that case?**

25           A. I can't tell you anything. I -- I mean, the

1 name of the case sounds familiar, but beyond that, I  
2 don't know.

3 **Q. What about Craft (phonetic)?**

4 A. I -- I -- I believe I worked on that case as  
5 well.

6 **Q. What can you tell me about your work on that**  
7 **case?**

8 A. That was, you know, again, many years ago. I  
9 don't know.

10 **Q. Gilfand?**

11 A. Yes.

12 **Q. What can you tell me about your work on**  
13 **Gilfand?**

14 A. Nothing.

15 **Q. What about Johnson? You work on a case called**  
16 **Johnson?**

17 A. I -- it's possible, but I don't recognize the  
18 name off the top of my head.

19 **Q. You can't tell me anything about your work on**  
20 **the Johnson case?**

21 A. No.

22 **Q. What about Obrycka or Brycka; you know that**  
23 **name?**

24 A. Yes.

25 **Q. What can -- did you work on that case?**

1 A. Yes.

2 Q. What can you tell me about your work on that  
3 case?

4 A. Again, it's been -- it's been a very long  
5 time. I know I worked on that case, but I can't give  
6 you details of what my opinions were.

7 Q. What about Ramirez?

8 A. Yes.

9 Q. What can you tell me about your work on the  
10 Ramirez case?

11 A. I don't recall.

12 Q. And what about Moore, M-O-O-R-E?

13 A. Yes.

14 Q. What can you tell me about your work on the  
15 Moore case?

16 A. I don't recall that.

17 Q. What about Adams?

18 A. I believe so.

19 Q. All right. What can you tell me about your  
20 work on the Adams case?

21 A. I -- I couldn't tell you anything.

22 Q. Do you know -- you mentioned there's one case  
23 currently where you have been retained by the City, but  
24 haven't written a report yet, and so it sounds like that  
25 one's not on your CV; is that right?

1 A. That's correct.

2 Q. Do you know if there are any other cases that  
3 you've had with the City of Chicago over the last five  
4 years that are not listed on your CV?

5 A. I don't think so.

6 Q. Do you know of any cases where courts have  
7 held that your opinions can't -- well, let me rephrase  
8 that. Do you know of any cases where courts have  
9 excluded your testimony in whole or in part?

10 A. No.

11 Q. No one has ever sent you an opinion that  
12 showed a judge saying you couldn't testify about certain  
13 things that were in an expert report that you disclosed?

14 A. So the only thing I'm aware of is in -- in, I  
15 think, a couple cases, I've been told that, you know, I  
16 couldn't use the term "objectively reasonable," like, in  
17 a use of force case, or that I, you know, could use the  
18 term "generally accepted police practices," and that --  
19 that's the only thing I've been told.

20 Q. No one's told you that a judge has said you  
21 can't issue -- you can't give opinions because your  
22 report just had a bunch of conclusions and no backup?

23 A. No.

24 Q. In part of your work in this case, did you  
25 make a determination that Alvin Waddy was guilty of the

1       **crime he was convicted of from 2007?**

2           A.    He -- he pled guilty.  He -- he said in open  
3       court that he was guilty.  So yeah, it is my opinion  
4       that -- that he's guilty because -- based on his plea.

5           Q.    **And then what about -- you must be aware that**  
6       **he's received a certificate of innocence. A Court has**  
7       **told that he didn't commit that crime and he's innocent,**  
8       **right?**

9           MR. NOLAND:  Object to the form.  Go ahead.

10          A.    I understand that that's true, yes.

11          BY MR. RAUSCHER:

12          Q.    **So why are you picking the first thing that**  
13       **happened and not the latest thing that happened?**

14          A.    Well --

15          MR. NOLAND:  Objection to form.  Argumentative.  
16        Go ahead.

17          A.    Mr. Waddy was represented by an attorney.  He  
18        was questioned by a judge, and he pled guilty to the --  
19        to the charges that were against him.

20          BY MR. RAUSCHER:

21          Q.    **And so what do you make of the fact that he**  
22       **got a COI from a court in Cook County, same court**  
23       **system?**

24          MR. NOLAND:  Object to the form.  Go ahead.

25          A.    Well, I -- I think, you know, based on the

1       circumstances of -- of the convictions of Watts and  
2       Mohammad, that the court system, you know, made a  
3       determination for whatever reason, and I don't know what  
4       their reasoning is specifically, and overturned a -- a -  
5       - my understanding is a -- a number of convictions  
6       against a number of people.

7       BY MR. RAUSCHER:

8           **Q. All right. Would you agree that it's not the**  
9       **role -- it's not your role to make credibility**  
10      **determinations?**

11       **A. I agree with that.**

12       **Q. And to not decide disputed factual issues?**

13       **A. I'm sorry. You broke out. I couldn't hear**  
14      **you.**

15       **Q. Would you agree it's not your role to decide**  
16      **disputed factual issues?**

17       **A. Yeah, I think that's a jury role.**

18       **Q. All right. Well, do you consider -- well, all**  
19      **right. That's -- I don't need to ask the next question.**  
20      **What was your -- well, did you draft a -- did you issue**  
21      **an expert report in this case?**

22       **A. No.**

23       **Q. Why did you not issue an expert report?**

24       **A. I wasn't asked to.**

25       **Q. So what are you relying on for your opinions?**

1           A. I am relying on the materials that I reviewed.

2           **Q. Anything else?**

3           A. My training and experience, my knowledge of --  
4 of -- of police practices.

5           **Q. Did you -- is there a written document that  
6 memorializes your opinions?**

7           A. Yes.

8           **Q. What is that written document?**

9           A. It's the City's expert disclosure.

10          **Q. All right. And that's what -- we called that  
11 Exhibit 1. Do -- you said you don't have a copy of that  
12 in front of you, or you do?**

13          A. Oh, I -- I -- yeah, I do.

14          **Q. Is it just that you didn't have the CV that  
15 was attached to it as the -- in front of you? Is that  
16 what the -- we were saying earlier?**

17          A. Yeah. I mean, you were -- I -- I mean, I -- I  
18 -- I received an e-mail with all -- with the -- the  
19 documents, but I don't have that e-mail in front of me.  
20 So you were asking what exhibit numbers certain  
21 documents were, and I -- I don't know what the, you  
22 know, the exhibit numbers were listed, but I have the  
23 documents.

24          **Q. How many pages is the disclosure that you have  
25 in front of you?**

1 A. Thirty-six.

2 Q. And is it signed with electronic signature  
3 from Daniel M. Noland at the end?

4 A. Yes.

5 Q. And then confidential is stamped across the  
6 top of each page?

7 A. Yes.

8 Q. Let me just share a screen, just to make sure  
9 we are looking at the same document. All right. Do you  
10 see your disclosure up on my screen or on the screen  
11 now?

12 A. Yes.

13 Q. So I've got -- let's skip ahead. That's Page  
14 1. You've got the caption and it starts that's the one  
15 you're looking at?

16 A. Yes.

17 Q. Skipping ahead. 36 pages. Same for you?

18 A. Yes.

19 Q. All right. And then Exhibit 1 to that  
20 disclosure is -- this is your CV?

21 A. Yes.

22 Q. All right. Did you prepare that CV yourself?

23 A. Yes.

24 Q. All right. Then we're going to skip ahead a  
25 little bit more. Exhibit 2, which starts at Page 58 of

1 this PDF, is a interrogatory response; you see that?

2 A. Yes.

3 Q. And you've seen that before?

4 A. Yes.

5 Q. All right. Do you have that interrogatory  
6 response with you today?

7 A. I'm sure it's on my computer. I don't have a  
8 -- a printed-out copy in front of me.

9 Q. Okay. What was your role in drafting the  
10 disclosure?

11 A. Conversations with Mr. Noland.

12 Q. Who drafted the disclosure?

13 A. Mr. Noland.

14 Q. One of your lawyer -- one of the City's  
15 lawyers?

16 A. Yes.

17 Q. Did you draft any of the disclosure, or did  
18 the lawyer draft the whole thing?

19 A. So he drafted the whole thing, but, you know,  
20 I'll tell you that there are sections of this that were  
21 taken from prior reports that I have drafted.

22 Q. Which sections were taken from prior reports  
23 and which reports?

24 A. I can't tell you which reports because I've  
25 done a -- you know, a number of reports with the City,

1 but, you know, generally, you know, the first section on  
2 -- on the reasonable policies and procedures, that's  
3 language that -- that I drafted for another report. You  
4 know, the -- the -- the second heading on reasonable and  
5 appropriate steps.

6 **Q. Can you actually just -- I'm sorry. Can we**  
7 **slow down for one second? Let's put page numbers on**  
8 **where you're looking for the -- it'll be cleaner for the**  
9 **record, I think.**

10 A. Sure. So, you know, I -- I think most of the  
11 -- the text, you know, after the middle part of Page 10  
12 and down, Pages 11 -- 11 through 16, and then, you know,  
13 portions of Page 17 or -- yeah, Page 17 would've been  
14 drafted by Mr. Noland.

15 **Q. Sorry. So Page 17 was drafted by Noland --**  
16 **Mr. Noland?**

17 A. Well, I'm -- I'm kind of flipping through. So  
18 17 through 20, but on Page 20, where it begins with the  
19 bold heading, "There is no evidence that the Chicago  
20 Police Department in some systemic way fails to  
21 discipline," that's language I've written in other  
22 reports. On Page 21, the standard of -- the section on  
23 the Standard of Review, that's language I've written in  
24 other reports. The next section, beginning on Page 22  
25 on the -- the heading is "Dr. Shane's Conclusion on the

1 Sustained Rate," much of that was taken from prior  
2 reports. The -- the portions that specifically related  
3 to Shane's statements were drafted by Mr. Noland.

4 **Q. All right. What else?**

5 A. So it -- it looks like most of the rest was  
6 written by Mr. Noland, but there may be portions that  
7 came from prior reports that I've written.

8 **Q. Well, which one -- which parts came from prior**  
9 **reports that you've written and which came from Mr.**  
10 **Noland?**

11 A. On Page 25, the affidavit requirement was  
12 written by Mr. Noland. The section that says, "Early  
13 Identification and Intervention Systems," that appears  
14 to be mostly written by Mr. Noland, but it may have --  
15 those bullet points may have been something I wrote in a  
16 prior report. I just don't recall. On Page 26, at the  
17 bottom, the heading, "The Chicago Police Department Did  
18 Make Reasonable Efforts to Investigate," that entire  
19 section from Page, what, 26 through 31 was written by  
20 Mr. Noland. The section on Page 31 that starts the  
21 heading is "Dr. Shane's Opinion at Deposition," that was  
22 written by Mr. Noland. On Page 33, the heading that  
23 starts with "The CPD Took Reasonable Steps to Receive,  
24 Investigate, and Resolve Complaints," that appears to be  
25 written by Mr. Noland. On Page 34, under the heading, it

1 starts with "There is no Evidence that the CPD Acted  
2 with Deliberate Indifference," that first paragraph may  
3 have been in part written by me in prior reports, and it  
4 also may have been written by Mr. Noland. I just -- I  
5 don't know, and that's it.

6 **Q. And you said you went over this disclosure in**  
7 **calls with Dan Noland?**

8 A. Yes. Yes.

9 **Q. Did you bill the City for those calls?**

10 A. I will.

11 **Q. You will?**

12 A. No. I mean, I -- I -- I thought you were  
13 referring to our discussion yesterday.

14 **Q. Okay. Let's -- right. Not that. I'm not**  
15 **talking about yesterday because, obviously, your**  
16 **disclosure -- well, you -- do you know when your**  
17 **disclosure was issued?**

18 A. No, I don't -- I don't have a date. I don't  
19 know offhand.

20 **Q. All right. Well, you know, it wasn't**  
21 **yesterday, right?**

22 A. I do know that.

23 **Q. It -- do you have the documents in front of**  
24 **you that -- do you know what documents the City produced**  
25 **in response to a subpoena relating to your disclosure?**

1           A. I received an e-mail with -- with some  
2 documents. I didn't go over it thoroughly, but I -- I  
3 got that yesterday.

4           Q. You know your disclosure was provided in  
5 September, right?

6           A. I -- yeah, I just told you I don't recall when  
7 it was given to me.

8           Q. All right. Well, have you -- did you bill the  
9 City for all the calls that you had with Mr. Noland to  
10 discuss the disclosure before it was issued?

11          A. I don't know.

12          Q. You might -- do you think you maybe did some  
13 free work for the City in this case?

14          A. Yeah. I mean, that's kind of common in a lot  
15 of my cases. You know, if I get a phone call or, you  
16 know -- I mean, I don't log every phone call. I don't  
17 bill for every, you know, short conversation. Is -- if  
18 it was a lengthy conversation, it's -- it was probably  
19 billed for, but I don't know.

20          Q. So you -- what -- do you have a rule about  
21 when you bill for work or when you do it for free or not  
22 really?

23          A. No. I don't have any rules. I mean, I -- you  
24 know, I work for myself. I've been doing this for a  
25 long time. I, you know, I -- I -- I generally log my

1 work as much as I can, but, you know, a lot of times I'm  
2 -- I'm traveling, I'm away, I'm doing different things,  
3 and, you know, it's a short call. I don't generally  
4 bill for short phone calls. If there's a longer call,  
5 I'm -- I'm at my desk, I -- I will generally write it  
6 down, but, you know, sometimes I don't.

7 Q. Well, presumably, if you had a call to discuss  
8 your 36-page disclosure with Mr. Noland, you would've  
9 written it down, right?

10 A. I may or may not have. I don't know.

11 Q. You might not have billed them for a call to  
12 talk about the disclosure in the case?

13 A. Yeah, it's possible. Again, you know, like,  
14 you know, I've been traveling a lot lately and -- and,  
15 you know, I don't always remember to include everything  
16 in every bill.

17 Q. How many calls did you have with Mr. Noland to  
18 discuss your disclosure with him?

19 A. Oh, I don't know.

20 Q. Well, five, ten, one, 20? What do you --  
21 what's your best estimate?

22 A. Honestly, I don't know. I mean, it would  
23 probably less than five, but I don't know.

24 Q. Did you ever go over the disclosure -- did you  
25 ever look at the disclosure by Zoom or Google Meet or

1 any video conference?

2 A. Not by video conference. I did receive a copy  
3 of the disclosure before he disclosed it.

4 Q. And how many copies did you receive in the  
5 disclosure before it was submitted?

6 A. I remember one.

7 Q. Did you talk -- had you talked to Mr. Noland  
8 about what was going to be in the disclosure before you  
9 got that copy?

10 A. I'm sure I did, but I don't recall.

11 Q. Why are you sure you did?

12 A. Because, I mean, you know, that's kind of  
13 normal. I mean, that's the process you go through, is,  
14 you know, these are the kinds of things that I'm  
15 thinking about.

16 Q. "These are the kinds of things I'm thinking."  
17 What do you mean, "These are the kinds of things I'm  
18 thinking about?"

19 A. Well, I would've read the materials, and, you  
20 know, and I would've read Dr. Shane's disclosure and --  
21 and his, you know, at that time, I believe I read -- had  
22 read his deposition, you know, so I would've been  
23 talking to him about, you know, generally what my  
24 opinions would be.

25 Q. And did you bill for all your time reviewing

1       **the material, or did you do some of that for free?**

2       A.     Again, you know, my billings are -- you know,  
3     I -- I try bill for things. I mean, that's what I do,  
4     but again, I -- you know, it is not unusual if -- if --  
5     if I spend a short amount of time for -- to not bill for  
6     something.

7       Q.     But I guess one thing I want to follow up on  
8     is one of the things you just mentioned. You do try to  
9     bill for all your time, right?

10      A.     Yeah. I think, generally, I -- you know, I  
11     will bill for my time, but, you know, again, if -- if  
12     they're short phone calls or -- or things that just, you  
13     know, take less than a half an hour, often I will not  
14     bill for it.

15      Q.     Any significant amount of time you would've  
16     billed for?

17      A.     Yeah. I think if I spent more than an hour on  
18     something, yes, I would've billed for that.

19      Q.     Do you keep an electronic calendar?

20      A.     Yes.

21      Q.     Do you write down the times of your calls in  
22     that calendar?

23      A.     No.

24      Q.     What do you use the calendar for?

25      A.     You know, generally, because I have so many

1 dates that I need to hold for depositions or trials, I  
2 mean, I -- I maintain a calendar to, you know, keep  
3 track of my availability.

4 Q. And so let me clarify. I may have asked you a  
5 poorly worded question. When I said you keep track of  
6 the time of your calls, I didn't mean do you use that as  
7 a timekeeping method. What I meant was: If you have a  
8 call set up with Mr. Noland, do you write that down in  
9 your calendar to keep -- make -- to make sure you don't  
10 double book yourself?

11 A. Yeah. You know, I mean, generally, if I -- if  
12 I -- you know, if -- you know, if -- if I schedule a  
13 call with somebody for Friday, I will -- you know, at a  
14 certain time, I will -- I will put that in my calendar.  
15 Yes.

16 Q. And do you have any calls in your calendar  
17 relating to this case, from any time since you started  
18 working on the Waddy matter?

19 A. I can look at my calendar. I don't know.

20 Q. Yeah. Why don't you look at your calendar and  
21 let me know.

22 A. No. The only thing I have on my calendar is  
23 that I held July 30th through August 2nd for Mr. Noland  
24 and for -- that was when I traveled to Chicago to give  
25 my deposition in the Gibson case.

1           Q. Nothing September 8th, 9th, 10th, 11th 12th.

2 Anything -- nothing around that time period?

3           A. No, I don't have anything else in my calendar.

4 Again -- again, most of my calendar, though, is just  
5 simply, you know, holding dates for depositions and  
6 trials.

7           Q. So when I -- when you say nothing, you mean  
8 your calendar is like -- literally, it's empty for those  
9 dates, September 8th, 9th, 10th, 11th?

10          A. September 8th, 9th, 10th, 11th. So the --  
11 yeah, the -- the 8th is a Friday. The 9th and 10th were  
12 the weekend and the 11th was a Monday, and I don't have  
13 anything listed on those dates, except for the birth of  
14 my granddaughter.

15          Q. Oh, well, congratulations.

16          MR. NOLAND: Congratulations, Jeff. Wow.

17          THE WITNESS: Thank you.

18 BY MR. RAUSCHER:

19          Q. And do you recall any conversations with  
20 Mr. Noland or any other lawyer about the written  
21 disclosure before it was submitted to Plaintiff and  
22 Plaintiff's counsel?

23          A. No. Again, I know I -- I know I spoke with  
24 Mr. Noland, and I know that I spoke with him on the  
25 phone, and I know that -- and I may have spoken with --

1 when I was there, you know, on the Gibson case. I may  
2 have -- I, you know, I met with him quite a bit, and --  
3 and I -- it is very likely we discussed that during  
4 those meetings as well, but I would've -- I wouldn't  
5 have billed them for that because I was billing him for  
6 Gibson.

7 Q. Sure. So take a look at what we call 2B,  
8 which was your October 11th invoice, which is Waddy  
9 Noble 131 to 132.

10 A. You said October 11th, but you mean October  
11 1st?

12 Q. You're right. I misspoke. Thank you.

13 A. Okay.

14 Q. All right. The last line on Page 2, the last  
15 row -- not the last line on the document, but the last  
16 row in the invoice, you see that one?

17 A. Yes.

18 Q. Says, "Review supplemental materials, expert  
19 disclosure, conference call Dan Nolan." It's --

20 A. Yes.

21 Q. And then -- so that's -- it looks like that's  
22 just a typo, though, "Nolan," you're talking about,  
23 obviously, the same person, Dan Noland, the lawyer that  
24 is on this call?

25 A. Yeah.

1 Q. And that -- during -- what do you remember  
2 about that call, if anything?

3 A. I -- I'm sure it was discussing the expert  
4 disclosure.

5 Q. But do you remember any specific parts of the  
6 disclosure that you discussed?

7 A. No.

8 Q. And then I see you have two hours you bill for  
9 those three things, review supplemental materials,  
10 expert disclosure conference call, Dan Noland, right?

11 A. Yes.

12 Q. How much time did you spend on each of those  
13 things?

14 A. I have no idea.

15 Q. No way to recreate that?

16 A. No.

17 Q. Did you keep any notes of your call with  
18 Mr. Noland?

19 A. No.

20 Q. If you look at both 2A and 2B, you list, you  
21 know, blocks of time, things that you reviewed?

22 A. Yes.

23 Q. Is there any way to recreate how much time you  
24 may have spent on any individual block or either --

25 A. No.

1 Q. -- any of those blocks? No?

2 A. No.

3 Q. And is it safe to say that if you don't list  
4 something on one of these invoices, you didn't review  
5 it?

6 MR. NOLAND: Objection.

7 A. Again, no. You know, not necessarily. Again,  
8 sometimes I don't -- I don't invoice for everything, so  
9 it's certainly possible that I receive something and I  
10 just didn't add it to my invoice.

11 BY MR. RAUSCHER:

12 Q. Is it -- is there anything you know of that  
13 you reviewed, but didn't include in your invoice?

14 A. Not that I know of.

15 Q. All right. And if you want to take your time  
16 and look through the invoice or invoices, let me know if  
17 that changes. That's fine also.

18 A. Yeah, I -- I don't know. Well, I'd be happy  
19 to look through them, but again, these are, you know,  
20 long lists of materials.

21 MR. NOLAND: Scott, do you want him to take a  
22 look at the invoices?

23 MR. RAUSCHER: Only if he wants to. It's up to  
24 him. I mean, I asked a question --

25 MR. NOLAND: It's your deposition -- it's your

1 deposition. I mean, I --

2 MR. RAUSCHER: If he has documents that he  
3 thinks he can identify that he may have reviewed,  
4 then he can do it. Otherwise, we can keep going. I  
5 thought he wasn't doing it. I thought he said no,  
6 he can't do that.

7 MR. NOLAND: Object to the form, if it's a  
8 question.

9 BY MR. RAUSCHER:

10 Q. That's fine. Would reviewing your documents  
11 let you know whether there things you looked at -- I'm  
12 sorry. Would reviewing your invoices let you know if  
13 there are things you looked at, but didn't record?

14 A. No.

15 Q. Were you comfortable letting your lawyers  
16 write -- letting the City's lawyers write a report --  
17 write a disclosure in this case, instead of you writing  
18 a report?

19 A. So I will tell you that, you know, in -- in  
20 the vast majority of my cases, I, --you know, most of my  
21 cases are in federal court, so I've always written my  
22 own reports in the past, you know. So, you know, it's  
23 different, but, you know, it's a -- a different kind of  
24 case, so I don't have a problem with somebody else  
25 writing it, as long as I get a chance to review it. And

1 in this case, I did review it, and I -- I agreed with  
2 everything that was written.

3 **Q. Would you agree that you relied on the**  
4 **lawyer's work, in part?**

5 MR. NOLAND: Object to the form. Go ahead.

6 A. No. Again, I -- I -- I think what the -- what  
7 Mr. Noland did was he put together, you know, a report  
8 of the -- of -- of what -- you know, what my -- you  
9 know, if I were asked to testify at trial, what my  
10 opinions would be to -- you know, to share those with --  
11 with, you know, you and your client. And so I reviewed  
12 that and, you know, and consistent -- and again, you  
13 know, you know, many sections of that were work that I  
14 had done in the past. And then, you know, I was looking  
15 at it with an eye of the materials that I had reviewed,  
16 you know, to ensure -- you know, because ultimately I  
17 knew I would be testifying to what was written in that  
18 report, so I wanted to be comfortable with -- with the  
19 things in that report.

20 BY MR. RAUSCHER:

21 **Q. And would you agree that, based on the**  
22 **evidence that we all have, that the first time you saw**  
23 **the report was -- the first time you saw it and the**  
24 **first time you discussed it would've been September**  
25 **11th?**

1 A. No, I -- I think -- I think we discussed -- I  
2 know we discussed it that time, but I also believe we  
3 discussed it in -- before then. And I -- I don't recall  
4 when I first received that -- that document.

5 Q. Do you recall how you first received it?

6 A. Probably by e-mail, but, you know, I don't --  
7 I don't have a specific memory of it.

8                   MR. RAUSCHER: All right. Well, let's -- I'm  
9                   going to bring up another document. This is a --  
10                   the list, Dan, that you sent me with all the dates  
11                   of when things were provided. We can call this  
12                   Exhibit 3.

13 (EXHIBIT 3 MARKED FOR IDENTIFICATION)

14 BY MR. RAUSCHER:

15 Q. Do you see a document up on your screen,  
16 Mr. Noble?

17 A. Yes.

18 Q. All right. Have

19 before?

20 A

21 | Page All rights reserved

22 this is a document I received from your -- well, I'm  
23 saying your lawyers, but you're not represented here  
24 today, right?

25 A. Correct.

1           Q. And what I mean when I'm saying that is the  
2 City lawyers; do you understand that?

3           A. Yes.

4           Q. Okay. So this is a list that the City's --  
5 City lawyers sent me with when you -- what documents you  
6 received and when you received them. I'm going to show  
7 you -- and someone can correct me if I'm wrong. You can  
8 correct me if I'm wrong, but I see -- scrolling down,  
9 September 11th, you received a draft disclosure of  
10 Noble. I'm on Page 6 of this document.

11          A. Okay.

12          Q. You see that?

13          A. Yes.

14          Q. So seeing that document, do you have any  
15 reason to believe you actually got the draft disclosure  
16 before September 11th?

17          A. I just don't recall. I don't know when I got  
18 it.

19          Q. All right. Well, have you been able to review  
20 your e-mails in this case?

21          A. What do you mean?

22          Q. Before your deposition today, did you review  
23 any e-mails you received from the City?

24          A. No, I didn't go through my e-mails. No.

25          Q. If the City has represented to us that the

1 list of documents they gave us yesterday, the one that I  
2 just showed you that we called Exhibit 3, is accurate,  
3 do you have any reason to believe it isn't accurate?

4 A. No.

5 Q. You don't have any specific reason to think  
6 you actually got the disclosure before September 11th,  
7 right?

8 A. Correct.

9 Q. All right. And if that's right, and if we  
10 look at your invoice for your time, it means that you  
11 spent less than two hours looking at the disclosure  
12 before it was issued to us, correct?

13 A. It's -- it's possible.

14 Q. Well, how would it be any other way? You have  
15 an invoice for two hours that lists three things, review  
16 - discuss and review supplemental materials. So when  
17 you say it's possible, what do you mean?

18 A. You know, again, it -- it just depends on when  
19 I -- I wrote this down and -- and, you know, how many  
20 hours I billed for it. So, you know, I -- I can --  
21 generally, it's probably pretty accurate, but, you know,  
22 I can't -- I can't tell you with, you know, exactness  
23 because that's just not how I bill. I mean, I -- I  
24 review documents and -- and then, you know, sometimes I  
25 put in those billing amounts the day I do it. Sometimes

1 I -- you know, I rely on memory and go back and do it  
2 later, but that's probably -- probably close.

3 Q. Yeah. I mean, it's maybe a little bit off,  
4 but we're not talking about hours difference?

5 A. Probably not.

6 Q. And you don't remember anything you --  
7 specifically you discussed during the conversation with  
8 Mr. Noland on September 11th?

9 A. No.

10 Q. Do you remember getting something called the  
11 Privacy Act Order relating to FBI documents in this  
12 case?

13 A. I don't remember -- well, it seems to me I  
14 received some kind of non-disclosure document in this  
15 case, but I -- I don't remember specifically.

16 Q. It -- I believe you got it in September, and  
17 it relates to the confidentiality of FBI documents; is  
18 that right?

19 A. I don't remember.

20 Q. And then it was dated with an effective date  
21 of, I think, August 4th. Do you remember putting the  
22 date on there?

23 A. No.

24 Q. You don't?

25 A. No.

1           Q. Do you know why you would've signed off on a  
2 confidentiality agreement that it was listed with an  
3 effective date more than a month earlier than you  
4 actually received the document to sign?

5           A. If -- if that's accurate, I mean, I -- then  
6 obviously, I just wrote down the wrong date. I mean, I  
7 -- you know, I wouldn't have -- you know, if I -- if I  
8 received it, I -- you know, I -- I get those kinds of  
9 documents kind of frequently. I usually print them out.  
10 I -- I sign them. I date them. I scan them. I send  
11 them back. So if I if -- if I received it on one date  
12 and the date I wrote on there is a month earlier, then  
13 it means I made a mistake.

14           Q. It wasn't -- you didn't write effective date  
15 on there to suggest you had received it in August?

16           A. No.

17           MR. NOLAND: Hold -- it -- that assumes facts  
18 not in evidence, who put the effective date on  
19 there.

20 BY MR. RAUSCHER:

21           Q. Okay. So did you put the effective date or  
22 did your lawyer put the -- did the City's lawyer put the  
23 effective date?

24           A. You -- you'd have to show me the document. Is  
25 it written in there? Is it my handwriting?

1 Q. It's not handwritten at all. I'm just asking  
2 what you remember.

3 A. I -- and I -- and I'm telling you, I don't --  
4 I mean, I vaguely remember receiving some kind of  
5 non-disclosure document in this case, vaguely, but  
6 without seeing the document, I couldn't tell you.

7 Q. Do you recall discussing the non-disclosure  
8 agreement with Mr. Noland or any other lawyers?

9 A. No.

10 Q. Do you have the documents -- so -- and maybe  
11 this is a question for Mr. Noland, but there's about 130  
12 pages of documents that were disclosed to us in  
13 connection with the subpoena we issued. They're labeled  
14 Waddy-Noble, 1 to 130. Do you have those? If not, I  
15 can share -- show you a page of it.

16 A. Yeah. Just show it to me.

17 MR. RAUSCHER: All right. So this is  
18 Waddy-Noble 84 to 85. And we can call this Exhibit  
19 4.

20 (EXHIBIT 4 MARKED FOR IDENTIFICATION)

21 BY MR. RAUSCHER:

22 Q. Tell me when you're ready for me to scroll to  
23 the next page.

24 A. I said go ahead. I don't know that you heard  
25 me.

1           **Q. All right. Do you remember this document now?**

2           A. Yeah. So is -- it -- it -- it's my  
3 handwriting where it says "Noble Consulting" and the  
4 address and my -- and that's my signature. I -- I did  
5 not put in that date. That was on the document.

6           **Q. Did you look at the -- sorry, go ahead. Did -**  
7 **- do you remember that date being on there when you**  
8 **signed it?**

9           A. I mean, I -- I -- I don't have a memory of it.  
10 It is obviously there. It just shows an effective date.  
11 It's not the date of my signature. It just says  
12 effective date.

13           **Q. Do you know what it -- do you know what it**  
14 **means to say effective date on there?**

15           A. Yeah, I -- I assume that was the -- the -- the  
16 date that that agreement was -- was prepared, but I  
17 didn't ask specifically.

18           MR. RAUSCHER: All right. I'm going to bring  
19 up Exhibit 5, which is a response to a subpoena, or  
20 a letter response to a subpoena.

21           (EXHIBIT 5 MARKED FOR IDENTIFICATION)  
22 BY MR. RAUSCHER:

23           **Q. Unless you have it in front of you, I will --**  
24 **I'm going to share my screen again. Have you seen this**  
25 **document before?**

1 A. I believe I received that recently, yes.

2 Q. Okay. So I want you to take a look at Number  
3, the first request.

4 A. Okay.

5 Q. And then there's a -- there's some objections,  
6 and then there are documents, 1 to 130, which I'd showed  
7 you a couple of, and I want to know: Is there anything  
8 in this request that you are aware of that wasn't  
9 produced that would be responsive? Any notes, charts,  
10 summaries, anything like that? Any exhibits?

11 A. Well, I -- I mean, I did prepare notes and,  
12 you -- you know, and I sent those notes and my  
13 understanding is those notes were produced.

14 Q. Yeah. I do have notes from you, so I'm just  
15 asking if you -- if you're aware of anything that wasn't  
16 produced.

17 A. I'm not aware of anything.

18 Q. Well, I should say I assume they're your  
19 notes. I will ask you that, but I -- I'm just -- right.  
20 I'm asking if you know if anything wasn't produced.

21 A. I -- I don't know.

22 Q. I want to point you to 14, which is here.

23 A. Okay.

24 Q. I can represent to you that I don't believe I  
25 received any reports from other cases in Waddy-Noble 1

1 to 130, but I believe you've testified that there --  
2 your disclosure in this case was copied from other  
3 reports, correct?

4 A. Yeah. I think portions of it, yes.

5 Q. And can you tell me which cases those portions  
6 of reports were copied from?

7 A. I'd have to go back and look again. I've  
8 done, you know, 25 to 30 cases with the City, so that --  
9 some of that language, I've used in, you know, a lot of  
10 those reports.

11 Q. What's your best estimate for how many reports  
12 that language appears in the language that was copied  
13 from the reports?

14 A. I have no idea. I have to go back and look.  
15 You know, some of those -- a lot of my reports in -- for  
16 City of Chicago cases are very similar. I mean, they're  
17 -- they're similar issues, so it's not -- you know, it's  
18 certainly not surprising to me that, you know, I would  
19 use similar language in -- in different reports when I'm  
20 addressing the identical issues.

21 Q. And then just to -- I -- you may have already  
22 answered this, but I'm not sure if it's completely  
23 clear. You did say that language was copied from other  
24 reports -- I'm sorry, from other reports. Did  
25 Mr. Noland copy that language from other reports, or do

1 you copy the language into your disclosure?

2 A. Mr. Noland.

3 Q. And do you know if anyone worked on this  
4 disclosure other than Mr. Noland?

5 A. I have no idea.

6 MR. NOLAND: I can say -- yeah.

7 BY MR. RAUSCHER:

8 Q. I mean, I -- he can ask -- I can ask.

9 A. Yeah.

10 Q. I'm sorry. Did you answer that question?

11 A. Yeah. I said I have no idea.

12 Q. Okay. Did you talk to anybody about this  
13 report other than Mr. Noland?

14 A. No.

15 Q. Have you communicated with any of the other  
16 lawyers involved in the Waddy case or the Watts cases,  
17 other than lawyers at Reiter Burns?

18 A. I've only spoken with Mr. Noland.

19 Q. Do you recall any substantive e-mails -- do  
20 you recall exchanging any substantive e-mails with  
21 Mr. Noland about the Waddy case?

22 A. No.

23 Q. Did Mr. Noland or anyone else tell you not to  
24 send substantive e-mails in the Waddy case?

25 A. Not that I recall. That -- you know, that's -

1 - you know, that's a common thing that attorneys will  
2 ask me not to do, but I -- I don't recall him asking me  
3 that.

4 Q. All right. Have you prepared or reviewed any  
5 potential trial exhibits for the Waddy case?

6 A. No.

7 Q. All right. I got -- I'm going to ask you some  
8 questions about your disclosure now. The first question  
9 relates to that, which is: Have you ever worked on a  
10 joint investigation with local and federal department --  
11 agencies?

12 A. Yes.

13 Q. How many of such investigations have you  
14 worked on?

15 A. Probably two or three, maybe more.

16 Q. What are the two or three you remember?

17 A. They were drug cases in the late 80s, early  
18 90s.

19 Q. And where were you working?

20 A. The City of Irvine.

21 Q. Were those joint investigations into police  
22 officers?

23 A. No, they were drug investigations.

24 Q. So drug investigations of civilians?

25 A. Yes.

1           Q. Have you ever worked on a joint investigation  
2 into a police officer?

3           A. No.

4           Q. Have you ever worked for the FBI?

5           A. No.

6           Q. Do you remember reviewing a memorandum of  
7 understanding or an MOU with the FBI and the City of  
8 Chicago?

9           A. Yes.

10          Q. And tell me what you remember about that.

11          A. I recall that -- you know, that -- that there  
12 was an MOU that was established between the FBI and the  
13 City regarding the investigation that outlined many of  
14 the responsibilities between the two agencies.

15          Q. Was it -- is it your opinion in this case that  
16 the City of Chicago was not permitted to take  
17 administrative action against Watts or Mohammed while  
18 the joint investigation was ongoing?

19          A. It is my opinion that -- that, as I recall,  
20 there was a specific paragraph in that document that  
21 specifically talked about administrative investigations  
22 and that the City would have to contact the FBI prior to  
23 initiating an administrative holding against the  
24 officers, taking some kind of action. And I believe  
25 there was also some discussion in that document that the

1 investigative materials were in the control of the FBI,  
2 not the Chicago Police Department.

3 Q. Can you answer the question yes or no? Was it  
4 your opinion that the City of Chicago was prohibited  
5 from taking administrative action against Watts or  
6 Mohammed while the investigation was ongoing?

7 MR. NOLAND: Object to the form. Go ahead.

8 Asked and answered.

9 A. Yeah, I'm not -- I'm not sure I can answer  
10 that yes or no. Again, I -- I think you have to look at  
11 the plain language of the document. And it seemed to  
12 me, I -- I think the plain language said that you had to  
13 contact -- you know, you had to speak with the FBI  
14 prior, so that it wasn't clear that you could not do  
15 something, but there were other provisions that limited  
16 their access to materials. So, you know -- so again, I  
17 don't -- I don't think I can give you a straight yes or  
18 no answer to that.

19 BY MR. RAUSCHER:

20 Q. So it -- it's not clear that they couldn't not  
21 do it? I -- I'm not sure I followed the end of that  
22 answer.

23 MR. NOLAND: Object to the form.

24 A. I -- I think that the -- the -- the documents  
25 made it clear that you needed to collaborate with the

1      FBI prior to taking any action and that there were  
2      provisions in the document that effectively would've  
3      prohibited the agency from taking action due to not  
4      having access to materials.

5      BY MR. RAUSCHER:

6            Q. Explain what you mean by the end of that,  
7      "there are provisions in the document that would  
8      effectively prohibit them from taking action due to lack  
9      of access to materials."

10        A. Well, so the investigative materials were  
11      controlled by the FBI. The FBI was in control of the  
12      investigation, so they had control of the informants.  
13      They had control of the investigative reports, because  
14      those are all reports that were being prepared by the  
15      FBI. So lacking, you know, the evidence, lacking the  
16      investigative materials and access to the FBI agents,  
17      who, you know, were involved in conducting surveillances  
18      and conducting the investigation that, you know, it  
19      would've been impossible for them to move forward  
20      without that information.

21            Q. So is it your testimony that CPD was given no  
22      evidence of Watts or Mohammad's wrongdoing during the  
23      joint investigation?

24            MR. NOLAND: Object to the form. Go ahead.

25        A. Well, it depends on what time you're talking

1 about. So, you know, again, their -- their officers  
2 were -- were participating -- you know, they had  
3 knowledge, but, you know, that -- you know, they -- they  
4 generally knew what was happening in the investigation  
5 as the investigation proceeded, but they didn't have the  
6 ability to use that information to -- to go forward  
7 administratively, and they certainly didn't have any  
8 information prior to Mr. Waddy's arrest, other than  
9 allegations.

10 BY MR. RAUSCHER:

11 Q. I'm sorry, say -- I'm sorry. I cut you off. I  
12 didn't mean to. I thought you were done.

13 A. Yeah, I'm sorry. I -- I just said other than  
14 allegations.

15 Q. And you said they didn't have -- they didn't  
16 have the ability to use the information. So when they -  
17 - when they found out that Watts was taking -- or I'm  
18 sorry. When they found out that Mohammed was taking  
19 bribes in 2008, your testimony is they didn't have the  
20 ability to use that information?

21 A. So that information -- right. I mean, that --  
22 that information was being controlled by the FBI. So  
23 the FBI was conducting a criminal investigation and, you  
24 know, to -- to use that that information -- first, you  
25 know, they didn't have access to the informants. They

1 didn't have access to the FBI agents, and they would've  
2 been obstructing the FBI's criminal investigation to use  
3 that information, you know. So if you file  
4 administrative charges, you have to let the employee  
5 know what the charges are based on, you know. So you  
6 would have to provide that information to the employee,  
7 and then you'd have to -- and then if the employee  
8 challenged it, if they filed a grievance or an -- or an  
9 arbitration, or they went to court, you know, you have  
10 to be able to prove up your case, and they wouldn't have  
11 had access to that information to -- to prove up their  
12 case.

13       **Q. How do you know that?**

14       A. How do I know what?

15       **Q. How do you know they wouldn't have access to  
16 the information?**

17       A. Well, I know it through my own experience. I  
18 know it through the depositions of, for example, through  
19 Juan Rivera and Debra Kirby, that -- where they said  
20 that they were, you know, trying to proceed with the  
21 investigation, but they couldn't go forward because they  
22 would be obstructing the FBI's criminal investigation,  
23 which took precedence.

24       **Q. All right. So I get that -- I understand the  
25 part where you're saying you're relying on the**

1 **testimony. You said your own experience. What -- what**  
2 **part of your own experience supports your conclusion**  
3 **here?**

4 A. Because I've worked with the FBI in the past,  
5 and when the FBI is in control of the criminal  
6 investigation, their investigation was going to take  
7 precedence over an administrative action by the agency.

8 **Q. When did you work -- sorry, go ahead.**

9 A. You know, I -- I'm -- I'm, you know, basing  
10 this on my knowledge and training, is that -- that when  
11 -- when the FBI's conducting a criminal investigation  
12 and that if you obstruct that -- the investigation by  
13 providing the target of the investigation with, you  
14 know, materials that -- of -- of that investigation,  
15 that you would be obstructing a -- a -- a criminal  
16 investigation.

17 **Q. And what experience of your own are you basing**  
18 **that conclusion on?**

19 A. Yeah, I'm -- I'm basing that on -- I -- I --  
20 again, I've never worked with the FBI in this -- while  
21 they were investigating a police officer, but I have  
22 worked with the FBI in conducting investigations, and I  
23 am aware of how they, you know, closely hold materials.

24 **Q. All right. Well, you told me that part of the**  
25 **reason for your answer was based on your experience**

1 working with the FBI. So are you now saying that you  
2 don't have any relevant experience that would lead you  
3 to the conclusion that the FBI would consider an  
4 obstruction of justice for the CPD to have taken action  
5 against Watts or Muhammad on their own?

6 MR. NOLAND: Objection. Form, argumentative.

7 Asked and answered. Go ahead.

8 A. Yeah. No, that's not what I'm saying at all.  
9 So what I'm saying is that I have worked with the FBI.  
10 I'm familiar with how the FBI works in the cases where  
11 I've personally worked with them. And -- and it's my  
12 experience that the FBI holds materials closely, that --  
13 that while they are very willing to accept materials  
14 from other agencies, they are almost always unwilling to  
15 share their materials back to those agencies.

16 BY MR. RAUSCHER:

17 Q. So -- all right. Then let's -- let me ask you  
18 this: Let's assume that CPD had enough information where  
19 it felt comfortable proceeding with administrative  
20 action. So set aside the -- your concern that the FBI  
21 holds materials too closely, okay? Assume CPD says, we  
22 have enough evidence to move administratively. Is there  
23 anything you can identify that prohibited them from  
24 doing that?

25 MR. NOLAND: Objection. Form. Woefully

1                   incomplete hypothetical, lacking any facts or  
2                   details. Go ahead.

3                   A. So generally speaking, if an agency has  
4                   information where an officer has engaged in serious  
5                   misconduct and they are able to pursue, you know, that  
6                   particular case and they have sufficient evidence to  
7                   sustain allegations, generally speaking, yes, they --  
8                   you know, they should -- you know, they should pursue  
9                   that. They should move forward. You know, it just --  
10                  it depends on the facts and circumstances of the  
11                  individual case.

12                  BY MR. RAUSCHER:

13                  Q. **What I'm saying is: In this particular**  
14                  **investigation, if you assume that CPD was able to get**  
15                  **enough information that it could proceed**  
16                  **administratively, are you aware of any prohibition, from**  
17                  **the FBI or anywhere else, against them moving**  
18                  **administratively while the investigation was going on?**

19                  A. So -- well, first, there is an agreement in  
20                  the MOU that they would need to contact the FBI and  
21                  consult with the FBI prior to moving forward, and then  
22                  there's also the -- the issue that they may be  
23                  obstructing a criminal investigation by moving forward  
24                  with that information and providing that information to  
25                  the employee in the midst of a criminal investigation.

1 Q. Are you aware of any incident or any instance  
2 ever where a municipality was -- or anyone working from  
3 a municipality was charged with obstruction of justice  
4 for taking administrative -- official administrative  
5 action against their employee while an investigation was  
6 ongoing?

7 A. No.

8 Q. All right. Let's take a look at the MOU. I'm  
9 going to pull that up.

10 MR. RAUSCHER: We can call it Exhibit 6.

11 (EXHIBIT 6 MARKED FOR IDENTIFICATION)

12 BY MR. RAUSCHER:

13 Q. You see it up here?

14 A. Yes.

15 Q. All right. 23. That's the paragraph talking  
16 about -- that you've been alluding to, right?

17 A. Can -- can you make a -- a little smaller?

18 Because it's going over the screen. There you go.

19 MR. NOLAND: I'm going to object to the form of  
20 the question, the paragraph he's been alluding to.

21 He's alluded to other paragraphs.

22 BY MR. RAUSCHER:

23 Q. Is this the paragraph you have been alluding  
24 to that talks about CPD giving notice if they're going  
25 to take administrative action?

1           A. That's the paragraph about -- you know, about,  
2 you know, having them, you know, consult in advance, but  
3 there are other portions that we discussed earlier as  
4 well.

5           Q. Okay. So just read this paragraph out loud  
6 into the record.

7           A. "The FBI recognizes that the CPD will often  
8 need or desire to take concurrent administrative action  
9 against a CPD employee engaging in misconduct or  
10 criminal behavior. In the event a particular CPD  
11 employee is the focus of an active or ongoing CG City  
12 PCTF investigation, the CG City PCTF should be consulted  
13 in advance of any administrative action taking place  
14 whenever possible."

15           Q. You know what the word concurrent means,  
16 right?

17           A. Yes.

18           Q. All right. What does the word concurrent  
19 mean?

20           A. At the same time.

21           Q. Okay. So this is expressly recognizing that  
22 CPD will often need or desire to take administrative  
23 action against a CPD employee at the same time that the  
24 investigation into their criminal behavior is ongoing,  
25 correct?

1 A. Yes.

2 Q. All right. And all it says here is that if  
3 that's going to happen, the City should consult with the  
4 federal agencies whenever possible, right?

5 A. Yes.

6 MR. NOLAND: Object -- objection.

7 BY MR. RAUSCHER:

8 Q. It doesn't --

9 MR. NOLAND: Hold on. Hold on. Objection.

10 Argumentative. All it --

11 BY MR. RAUSCHER:

12 Q. It doesn't --

13 MR. RAUSCHER: Sorry, Daniel.

14 MR. NOLAND: Go ahead.

15 BY MR. RAUSCHER:

16 Q. It doesn't say that the City is not allowed to  
17 take administrative action?

18 A. In that paragraph, no.

19 Q. Where does it say anywhere that the City is  
20 not allowed to take administrative action? Which  
21 paragraph says that?

22 A. So I don't think a paragraph specifically says  
23 the City is not allowed, but there are -- my reading of  
24 that document and my understanding is that -- that the  
25 FBI controlled the investigation, controlled the -- the

1 -- the investigative materials, including the reports,  
2 that they controlled the informants, and that -- that  
3 they were conducting a concurrent criminal  
4 investigation, and that -- two things. One, that by  
5 moving forward, they would be obstructing a criminal  
6 investigation. While they had information on Mohammed,  
7 they did not have information at -- on Watts, and they  
8 did not have information on whether other members of  
9 that tactical team were possibly involved. And they  
10 were conducting a conspiracy investigation into the  
11 group, rather than into a single individual, and that  
12 they couldn't move forward for two things. One, they  
13 didn't have access to the evidence that they would need  
14 in order to, you know, uphold an -- a disciplinary  
15 action, and that by -- by bringing allegations forward,  
16 that they would be signaling to the officers that they  
17 are being criminally investigated.

18       **Q. All right. I'm going to move to strike that**  
19 **answer as non-responsive to the question that was asked.**

20       MR. NOLAND: I'm going to just -- I'm going to  
21 raise an objection to the question. Are -- the  
22 Waddy case is from April of 2007. This MOU is from  
23 January '11, and there's some reference to some type  
24 of bribery in '08. So it's a standing objection to  
25 any questions regarding this document.

1 BY MR. RAUSCHER:

2 Q. Have you seen reports -- have you seen any CPD  
3 reports about the joint investigation with the federal  
4 government?

5 A. There are memorandums in part of the -- the CR  
6 that's involved in this case.

7 Q. Right. There are memorandum of Mohammed  
8 taking bribes. There are reports about discussions with  
9 informants, correct?

10 A. Yes.

11 Q. And the CPD had the relationship with the  
12 informants, at least some of them, right?

13 MR. NOLAND: Objection. Form. Foundation.

14 Incomplete hypothetical. Go ahead.

15 A. Well, I think the CPD initially developed the  
16 informants, but then the informants were provided to the  
17 FBI. So the informants were -- again, once they begin  
18 working for the FBI, then the FBI takes control.

19 BY MR. RAUSCHER:

20 Q. You've been using the word obstructing the  
21 investigation. You've said obstructing or obstruction,  
22 right?

23 A. Yes.

24 Q. When you say that, are you saying that they  
25 would've -- the CPD would've exposed itself to a charge

1 of obstruction of justice, or are you using that in some  
2 other way, to mean, like, it might have impacted the  
3 investigation?

4 A. So I'm using it in both ways. So -- so first,  
5 you know, they -- they -- by -- by bringing it forward,  
6 they certainly would have, you know, interfered with the  
7 investigation by -- by alerting officers that they --  
8 they are being investigated. And I'm also using it in a  
9 sense that in a -- in a criminal sense, that a criminal  
10 investigation was ongoing, that by sharing that  
11 information would have -- may have prevented the FBI  
12 from continuing their investigation, you know, in a  
13 criminal sense. So yeah, I'm -- I'm using it in both  
14 ways.

15 Q. All right. How do you square the idea that  
16 there was -- that CPD could have -- should have been  
17 concerned or exposed itself to obstruction of justice  
18 charge with the paragraph in a joint document between  
19 the FBI and the CPD that expressly acknowledges that CPD  
20 was allowed to act on its own?

21 MR. NOLAND: Object to the form. Go ahead.

22 A. Well, I don't think that that paragraph says  
23 that they're allowed to act on their own. I think that  
24 what that paragraph says is that -- you know, that they  
25 should be consulting the -- the FBI, and, you know, and

1 -- and it's a -- it's an MOU. It's not -- you know,  
2 it's not complete. I mean, the -- the CPD, you know,  
3 still has to look at, you know, the law and -- and the -  
4 - and -- and things outside that MOU. The MOU is not,  
5 you know, the -- you know, the -- the complete  
6 background to this. I mean, you have to look at -- at -  
7 - at, you know, their knowledge of what obstruction is.

8 BY MR. RAUSCHER:

9       **Q. The MOU is not complete? What is it missing?**

10      A. Well, so, you know, the -- yeah, you're right.  
11 I mean, the MOU does not talk about things like  
12 obstructing the investigation, but I think that, you  
13 know, police officers and police agencies are aware that  
14 -- that, you know, they can't obstruct a -- a federal  
15 criminal investigation. And that's not in the -- in the  
16 document, but, certainly, a reasonable police supervisor  
17 or police manager and police department would be aware  
18 of.

19       **Q. Well, right. Of course. I think everyone**  
20 **would agree that, as a general matter, you are not**  
21 **allowed to obstruct an investigation, right? That seems**  
22 **noncontroversial.**

23      A. It seems that way to me.

24       **Q. Well, so --**

25      MR. NOLAND: Me, too.

1 BY MR. RAUSCHER:

2 Q. All right. So we're all -- we're all on board  
3 with that general principle. It doesn't affect --

4 MR. NOLAND: We'll take that -- we'll take that  
5 as an admission by the plaintiff. Thank you.

6 MR. RAUSCHER: I don't agree with that. Let's  
7 go to the next question.

8 BY MR. RAUSCHER:

9 Q. Doesn't the fact that they specifically give  
10 an example of something CPD is allowed to do here, take  
11 concurrent administrative action, suggest that that  
12 specific action that the MOU allows is not obstruction  
13 of justice?

14 A. Well --

15 MR. NOLAND: Objection. Argumentative. Asked  
16 and answered. Go ahead.

17 A. Yeah, they're not -- they're -- that paragraph  
18 does not say that they're allowed to do something. It  
19 says that they recognize that -- that the CPD may need  
20 or -- or have a desire to take administrative action and  
21 that -- you know, that they should be consulted in  
22 advance, and that -- so it's certainly not saying that  
23 the FBI would agree with them that they can take  
24 administrative action. That's not -- that -- I don't  
25 read it that way at all.

1 BY MR. RAUSCHER:

2 Q. So you don't -- it says if, you know, need to  
3 do something, if they're going to do it, they should  
4 tell the FBI in advance whenever possible. That is --  
5 it's your testimony that that doesn't give CPD the  
6 authority to do the thing it talks about?

7 MR. NOLAND: Objection. Argumentative.

8 Argumentative. Asked and answered. Go ahead.

9 A. Yeah. It doesn't say that they should tell  
10 the FBI that they're going to do it. That's not what it  
11 says at all. It says they should consult in advance,  
12 you know, and that's very different. Consulting means  
13 that you're going to have a discussion about it, where  
14 the FBI is, you know, more than likely, you know, going  
15 to say no --

16 BY MR. RAUSCHER:

17 Q. All right.

18 A. -- because they're in the midst of a criminal  
19 investigation. So it doesn't say you get -- you get to  
20 just unilaterally do this. Just tell us. We just want  
21 to know. That's not what it says at all.

22 Q. The part where it says the FBI is like -- more  
23 than likely going to say no, that's silent?

24 MR. NOLAND: Objection. Form. Go ahead.

25 A. Yeah. Well, it -- it -- it -- you know, look,

1 it does not say that you can -- you just -- just tell us  
2 and go ahead. That -- it doesn't say that. It says you  
3 can consult with us. And even if they consulted with  
4 them, you know, they -- they -- you know, they don't  
5 have access to the evidence unless the FBI is willing to  
6 provide that.

7 BY MR. RAUSCHER:

8 **Q. Well, you don't know that, but that's a**  
9 **different issue, isn't it? Whether they have access to**  
10 **the evidence is a -- is there -- that's -- seems like**  
11 **that's CPD's issue, not the FBI's issue, right?**

12 MR. NOLAND: I don't know if there was a  
13 question in there other than an argument or  
14 accusation, but object to the form.

15 A. Well, it -- I agree with you. It's CPD's  
16 issue that they don't have access to the evidence, so --

17 BY MR. RAUSCHER:

18 **Q. I didn't --**

19 A. I -- I -- I absolutely read it that -- that  
20 they -- they did not have access to the evidence, and -  
21 - and without the evidence, you can't move forward.

22 **Q. I never said they didn't have access to the**  
23 **evidence, and I think you probably know that.**

24 A. I -- I -- well, I mean, the -- the -- it'll  
25 speak for itself.

1 BY MR. RAUSCHER:

2 Q. All right. Well --

3 MR. NOLAND: Objection. Form. Go ahead.

4 BY MR. RAUSCHER:

5 Q. To be clear, then, for the record, I am not  
6 agreeing with you that CPD didn't have access to enough  
7 evidence to take administrative action. I'm asking you  
8 questions about what would happen in certain situations.  
9 Is there -- is there anywhere in this document where it  
10 says that FBI has the power to veto the CPD's decision  
11 to take administrative action after the consultation  
12 that is contemplated in paragraph 23?

13 A. I -- I would have to go back and review the  
14 entire document. I don't know.

15 Q. Go ahead and take your time to review it,  
16 then.

17 A. Why don't you scroll to Page 1? Let's review  
18 it for me in its entirety.

19 Q. All right. Do you have the document, or do  
20 you need me to --

21 A. Yeah.

22 Q. -- scroll?

23 A. Well --

24 Q. It will probably be easier to just look at it  
25 on your own instead of me scrolling each page on your

1 screen, but if that's how you want to do it, then that's  
2 how we can do it.

3 A. Let me see if I have a -- I'm sorry. I -- I  
4 can't find the document on my computer right real quick,  
5 so I'll just have to ask you to scroll through when I'm  
6 reading it.

7 Q. You know what, we're going to come back to  
8 this, maybe later. I want to make sure we cover some  
9 other things.

10 A. Okay.

11 Q. Your report talks about a document called,  
12 "Standards and Guidelines for Internal" -- I'm sorry,  
13 not your report. The disclosure in this case talks  
14 about a document called, "Standards and Guidelines for  
15 Internal Affairs: Recommendation from a  
16 Community of Police," right?

17 A. Yes.

18 Q. Do you recall what your disclosure says about  
19 that document?

20 A. Not off the top of my head. I believe that  
21 was a document that Shane referred to in his report or  
22 his deposition. I think it was in his deposition he  
23 referred to that.

24 Q. You think -- so you think that's in your  
25 disclosure because it's something Shane talked about?

1           A. I -- can you point to where my disclosure,  
2 that's at, and I can --

3           **Q. I'm just asking what you remember for now.**

4           A. Okay. Yeah. I -- my -- my memory is that  
5 Shane identified that specific document in his  
6 deposition to support one of his opinions.

7           **Q. What do you know -- do you know anything about  
8 that document?**

9           A. Yes.

10           **Q. What do you know about it?**

11           A. So that was -- that document was produced  
12 after a number of -- of group meetings of -- that --  
13 that came together through a COPS Office grant, where  
14 the heads of the top -- I think the -- the largest 20  
15 agencies in the country, the heads of their Internal  
16 Affairs units, and a number of independent experts met  
17 in order to take a look at -- at practices of Internal  
18 Affairs investigations. I was one of the Internal -- I  
19 was one of the experts that met with that group, and I  
20 was -- chaired the investigation section of that report.  
21 That report was ultimately prepared by one of the  
22 consultants after discussion and collaboration through  
23 this large group.

24           **Q. And then what was your role as chair of the  
25 investigation section?**

1           A.    So I facilitated a number of meetings among  
2 the -- the individuals. This group went on for a couple  
3 -- as I recall, at least a year, probably two years  
4 before that report was prepared. And again, what we  
5 were trying to do is -- is, you know, reach consensus of  
6 -- you know, of terminology, of practices, of -- for  
7 Internal Affairs investigations across the country and  
8 disciplinary actions. You know, so we would have  
9 meetings amongst smaller subset of groups and then bring  
10 the entire group back together. The subsets would  
11 present materials and findings and -- for input from the  
12 larger group.

13           **Q.    Did you ever read the final report that was**  
14 **prepared?**

15           A.    Oh, yeah.

16           **Q.    Did you -- were you part of writing the final**  
17 **report?**

18           A.    I think I -- I certainly gave input to it, but  
19 I think that was all written by -- I can picture him. I  
20 just can't think of his name off the top of my head, but  
21 I -- I -- it was -- it was written by one of -- one of  
22 the consultants.

23           **Q.    And would you say that document represents a**  
24 **generally accepted standard for conducting Internal**  
25 **Affairs reviews?**

1           A. I -- you know, I -- I think, generally, again,  
2 it -- it came about through consensus, so I'm -- I'm  
3 certain -- it's been a while since I've looked at it.  
4 The document was published more than 10 years ago. You  
5 know, I -- I'm certain there's sections in there I may  
6 disagree with, but I think generally, it -- it  
7 represents some generally accepted standards across the  
8 country at that time.

9           Q. Sure. Do you know what -- are there any  
10 things you can identify that have changed in generally  
11 accepted standards since this was written?

12          A. Again, it's been some time since I've looked  
13 at the document, and I -- I -- I wouldn't be able to  
14 tell you without reviewing it in -- in full.

15          Q. When was the last time you looked at this  
16 document?

17          A. You know, I -- I may have looked at it for  
18 parts of the document in the last year, but I don't  
19 think I've read it in its totality in -- in several  
20 years.

21          Q. Did you review the Guidelines for Internal  
22 Affairs document in connection with the Waddy case?

23          A. I don't recall.

24          Q. Did you try to apply any of its sections to  
25 the Waddy case, or did you review --

1 A. Yeah. It's --

2 Q. **Yeah. Sorry, go ahead.**

3 A. Yeah, I apologize. I -- I -- again, it seemed  
4 to me that -- and without knowing what's, you know, in  
5 the -- in the disclosures, that -- that that was  
6 something that -- that Dr. Shane brought up, and -- and  
7 it seems to me I did look at that, you know, and -- and  
8 I -- I don't think that it supported the point that he  
9 was trying to make.

10 Q. **But you're not sure what that point was?**

11 A. Not off the top of my head.

12 Q. **Do you recall the section in that guidelines  
13 about joint investigations with federal local  
14 authorities?**

15 A. No.

16 Q. **All right.**

17 MR. RAUSCHER: Let's take a look at it, and  
18 then we can mark this as Exhibit 7.

19 (EXHIBIT 7 MARKED FOR IDENTIFICATION)

20 BY MR. RAUSCHER:

21 Q. **And I'll share it. Unless you have it with  
22 you, I can share my screen. I can make it better so you  
23 can read it, but do you see -- is this the document,  
24 Standards, and Guidelines for Internal Affairs, that you  
25 refer to in your report or your disclosure?**

1 A. Yeah. I think it was published in 2009. Yes.

2 Q. And I don't know if you can see it okay, but  
3 let's -- we are looking at Page 8 over here. It's in my  
4 left-hand screen. You say -- it says, "Particularly in  
5 the early and middle stages of this project, many  
6 contributed to the discourse and ideas," and it looks  
7 like you're the first name on there?

8 A. Yes.

9 Q. And you participated in the way that you've  
10 already described; is that right?

11 A. Yes.

12 Q. And then you see Lieutenant Susan Clark,  
13 Chicago Police Department listed there?

14 A. Yes.

15 Q. Do you know who Lieutenant Susan Clark is?

16 A. I met her during that -- I met her and Debra  
17 Kirby during this -- during these meetings.

18 Q. And what were -- what was Susan Clark and  
19 Debra Kirby's role in this -- the creation of this  
20 document?

21 A. Oh, I don't remember. I mean, they certainly  
22 participated like everybody did.

23 Q. But you don't know anything specifically they  
24 did?

25 A. No. No, I can't remember. It was too long

1 ago.

2 Q. Any committees that they were on?

3 A. I don't recall.

4 Q. So -- and can you take a look? There's a  
5 section about -- go to 2.4. About holding  
6 administrative complaints in abeyance during criminal  
7 proceedings?

8 A. Yes.

9 Q. Do you recall seeing this section of the  
10 report before?

11 A. Yes.

12 Q. Okay. Tell me what it -- well, before you  
13 tell me what it says, is there anything you recall  
14 disagreeing with in this section?

15 MR. NOLAND: Object to the form.

16 A. I -- I'd have to reread it to tell you what I  
17 disagreed in. I don't recall.

18 BY MR. RAUSCHER:

19 Q. Yeah, but I -- what I want to know before you  
20 read it is, do you remember looking at this and saying,  
21 huh, that isn't right?

22 A. Again, I -- I -- I don't remember anything.

23 Q. You don't remember anything it says in this  
24 section, or you don't remember disagreeing with anything  
25 it says, or both?

1           A. I -- I -- I certainly remember we had lengthy  
2 discussions about administrative -- holding  
3 administrative complaints in abeyance during criminal  
4 proceedings, to the extent that that was a -- a topic  
5 area that -- that I included when I wrote my textbook on  
6 how to write -- conduct Internal Affairs investigations.  
7 So, you know, that is certainly a -- an issue that I'm  
8 very familiar with. I don't recall exactly what was  
9 written in that document without rereading it.

10           Q. **So tell me about the lengthy discussions you**  
11 **had during this process about holding administrative**  
12 **complaints in abeyance during criminal proceedings.**

13           A. So some agencies would not interview subject  
14 officers regarding criminal allegations while there are  
15 criminal charges pending on the officer for, you know,  
16 those particular issues, and they -- and they wouldn't  
17 do that for concern that their interview of the officer  
18 would impact the officer's Garrity rights and may impact  
19 the criminal investigation. So what was happening is  
20 that officers were being often put on administrative  
21 leave for literally years during the pendency of a  
22 criminal investigation or for where criminal charges --  
23 where criminal charges have been filed, but the trial  
24 has not yet occurred. And so agencies would be, you  
25 know, pay -- often paying -- you know, in many

1 jurisdictions, you can put -- you can suspend somebody,  
2 but you're paying them full pay, essentially, to stay at  
3 home, where they may have committed a crime and where  
4 there may be evidence that -- that would allow the  
5 agency to move forward. So we had a lot of discussions  
6 about Garrity and the impact of the Garrity decision on  
7 those administrative investigations and whether or not,  
8 you know, the Garrity decision actually impacted the  
9 ability of the organization to move forward. So that --  
10 that was, you know, something that -- that was, you  
11 know, discussed at length during those meetings.

12 **Q. Anything else that you remember discussion --**  
13 **discussing about administrative action while criminal**  
14 **investigations were pending?**

15 A. No. No. The -- the -- those discussions were  
16 -- you know, I don't recall any discussions about, you  
17 know, different agencies having access to the evidence,  
18 but rather, those discussions were where the -- the  
19 agency actually had access to the complete criminal file  
20 and where the officers were charged with some kind of  
21 crime. So they would actually have had access. So, you  
22 know, it wouldn't have been a case where there was a  
23 concern about obstructing an investigation. Rather, the  
24 criminal investigation had been completed, but the  
25 administrative investigation was being placed on hold.

1           Q. And were you part of the committee that worked  
2 on what ultimately became Section 2.4 in the report?

3           A. You know, I -- I don't -- I don't remember  
4 where that originated from, but, again, all those -- all  
5 those individual committees would report back to the  
6 group, and the group as a whole would have input.

7           Q. Do you recall a discussion about how some  
8 agencies proceed with -- or some departments would  
9 proceed with administrative action while criminal  
10 investigations were pending and not wait for the  
11 criminal investigations to conclude?

12           MR. NOLAND: Objection.

13           A. Right.

14           MR. NOLAND: Objection. Form. Foundation. Go  
15 ahead.

16           A. Right. Yeah. So, you know, and -- and -- you  
17 know, and I discussed that again in my textbook, is  
18 that, you know, there are appropriate ways to be able to  
19 move forward in cases where the investigation is not --  
20 it -- you know, generally, the discussions in -- for  
21 that section was about cases where the criminal  
22 investigation had been completed and charges were  
23 pending, not what -- in cases where there was a pending  
24 criminal investigation that had not yet been brought to  
25 the prosecutor.

1 BY MR. RAUSCHER:

2 Q. All right. Well, why don't we look at what it  
3 says, then? In particular, look at this last paragraph  
4 over here. And we're in Section 2.4 in the commentary  
5 to that section, Pages 24 to 25.

6 A. Okay. I've read that last paragraph.

7 Q. All right. Well, that does talk about how  
8 some departments will take administrative action while  
9 investigations are ongoing and charges have not been  
10 filed yet, correct?

11 A. Well, it -- no, it -- it is talking about, you  
12 know, where -- when the case has been presented to the  
13 prosecutor. Yes.

14 Q. So are you disagreeing with me or agreeing  
15 with me?

16 A. Well, maybe I misunderstood your question.

17 MR. NOLAND: Hey. Hey, Scott, can you blow  
18 that up? I -- my eyes aren't as good as --

19 MR. RAUSCHER: Yeah, I don't think -- I don't  
20 think I --

21 MR. NOLAND: -- what they used to be.

22 MR. RAUSCHER: I don't know how to get it right  
23 for everybody, so

24 THE WITNESS: No, that's -- that's fine. Made  
25 it better for me.

1 BY MR. RAUSCHER:

2 Q. Are you still reading, or are you waiting for  
3 a question?

4 A. I'm waiting for a question.

5 Q. I thought that you were considering a  
6 question, so maybe there is no question pending. Do you  
7 agree that this --

8 A. I may leave that to you.

9 Q. Do you agree that this paragraph talks about  
10 how some departments will take administrative action  
11 before a decision has been made about what direction the  
12 criminal investigation is going?

13 MR. NOLAND: Object to the form. Go ahead.

14 A. I -- I -- I certainly agree that some agencies  
15 will take administrative actions before a prosecutor has  
16 made a filing decision. Yes.

17 BY MR. RAUSCHER:

18 Q. It's your position that that only can take  
19 place when the investigation has concluded?

20 A. It -- you know, it -- it just depends on the  
21 case. It depends on the investigation. It depends on  
22 the facts and circumstances of a particular  
23 investigation.

24 Q. All right. We can take that down. Would you  
25 agree that whatever opinions you're going to offer in

1 this case lose a lot of force if it turns out that my  
2 clients and the other people who are suing who have had  
3 their convictions vacated are all telling the truth?

4 MR. NOLAND: Object to the form. Incomplete  
5 hypothetical. But go ahead.

6 MR. BAZAREK: Join. Lacks foundation.

7 A. Yeah. I'm not even sure I understand the  
8 question. I mean, I -- I -- I don't think so. I think  
9 my -- my opinions are -- are -- wouldn't change.

10 BY MR. RAUSCHER:

11 Q. So even if 220 convictions or so had been  
12 vacated correctly because people were innocent, your  
13 opinions wouldn't change at all?

14 MR. NOLAND: Object --

15 A. No.

16 MR. NOLAND: Object to -- object to the form.  
17 Go ahead.

18 MR. BAZAREK: Join.

19 BY MR. RAUSCHER:

20 Q. No, they wouldn't or --

21 A. No.

22 Q. -- yes, they would?

23 A. No, they wouldn't change. I mean -- you know,  
24 I mean, the -- the -- the fact that -- that -- that the  
25 -- the Chicago Police Department didn't have the

1 evidence to move forward, the fact that -- you know,  
2 that they would've been obstructing an investigation,  
3 that would not change.

4 Q. I am not talking about that particular opinion  
5 about what they could have done during the joint  
6 investigation. I mean, in general, you've said -- you  
7 made some number of conclusions, including there were no  
8 problems with the disciplinary system, nothing wrong  
9 with the watch crew, things like that, right?

10 MR. NOLAND: Object to the -- object to the  
11 form.

12 A. I -- I don't think I ever said there was  
13 nothing wrong with the Watts crew.

14 BY MR. RAUSCHER:

15 Q. All right. That's fair. You did not --  
16 you're right. I misspoke on that one. That was me  
17 being a little too loose with the words. But you did  
18 say that there was really nothing wrong with CPD's  
19 disciplinary system, right?

20 A. I said that there was no pattern and practice  
21 of -- of -- of failures in the disciplinary system. I  
22 mean, you know, in any disciplinary system, you know, is  
23 it possible that, you know, you know, a particular  
24 instance could -- you know, discipline should have been  
25 greater, discipline should have been less, that there

1 could be errors, no, I -- I didn't say that. I -- I --  
2 I said there's no, you know, pattern, practice, custom  
3 of the Chicago Police Department to, you know, fail to  
4 investigate and discipline officers who engage in  
5 misconduct.

6 **Q. Did you review all of the CRs that were filed  
7 by individuals against the Watts team or members of the  
8 Watts team who have now had their convictions vacated?**

9 A. I reviewed the CRs that are listed in my  
10 billing statements.

11 **Q. All right. Are you aware that a number of  
12 people filed complaints against the Watts crew or  
13 members of the Watts crew contemporaneously with their  
14 arrests saying I've been framed?**

15 MR. NOLAND: Object to the form. Go ahead.

16 A. I am -- I am aware that there were some  
17 allegations, yes.

18 BY MR. RAUSCHER:

19 **Q. And if those allegations are true, is it your  
20 testimony that none of your opinions change about the  
21 validity of CPD's investigative and disciplinary system?**

22 MR. NOLAND: Object to the form. Go ahead.

23 A. Yeah. My opinions would not change.

24 BY MR. RAUSCHER:

25 **Q. And why is that?**

1           A. Well, again, because, you know, just because  
2 allegations were raised at the time, even if they're  
3 later proven to be accurate, you know, you have to look  
4 at whether -- what the ability of the agency was to  
5 investigate those allegations at that time. I mean, you  
6 can't look in retrospect, you know. You have to look at  
7 the reasonableness of the investigation that was  
8 conducted at the time and what information was available  
9 to the agency at the time.

10           Q. Let's talk about the Ben Baker, Clarissa Glenn  
11 CR, because that is one that you specifically talk  
12 about. Do you know who those people are?

13           A. Yes.

14           Q. All right. So you understand that there was a  
15 CR by Clarissa Glenn back in the mid-2000s, right?

16           A. Yes.

17           Q. And you understand that COPA has since gone  
18 and done a reinvestigation, correct?

19           A. I believe so. Yes.

20           Q. I mean, you -- it's cited in your disclosure,  
21 right?

22           A. Yes.

23           Q. All right. So tell me what the differences  
24 are in how those investigations were done, and,  
25 specifically, what did COPA do that CPD couldn't have

1 done originally?

2 MR. NOLAND: Objection. Form. Overly broad.

3 Go ahead.

4 A. Yeah. But I -- I would have to take some time  
5 and take a look at my notes and take a look at those two  
6 investigations to answer that question for you.

7 BY MR. RAUSCHER:

8 Q. All right. Why don't you look at Page 19 to  
9 20 of your disclosure?

10 MR. RAUSCHER: I think we lost someone.

11 THE REPORTER: Yeah. I think we lost Aleeza.

12 MR. RAUSCHER: Yeah. We lost Watt's lawyer.

13 THE REPORTER: Do you want me to go off-  
14 record?

15 MR. RAUSCHER: I'm going to defer to the  
16 defendants. I guess we probably should, right?

17 MR. NOLAND: Yeah. Let's -- why don't we --

18 MR. BAZAREK: Take a break.

19 MR. NOLAND: -- take a five-minute break, take  
20 a bathroom break. Yeah.

21 MR. RAUSCHER: All right. Let's make it 10, if  
22 that's okay?

23 MR. NOLAND: Yep.

24 MR. RAUSCHER: Okay. Thanks.

25 THE REPORTER: Oh. She's joining back now,

1 just so you know.

2 MR. RAUSCHER: Oh. Well, I'm fine to keep  
3 going then, if you want to. It's up to you-all, or  
4 we can take a break. It's been, you know, close to  
5 two hours.

6 MR. BAZAREK: I'd say take a break for 10  
7 minutes.

8 MR. RAUSCHER: Okay.

9 MR. NOLAND: All right. Ten-minute break? Back  
10 at --

11 MR. RAUSCHER: Yes, sir.

12 MR. NOLAND: -- 11:57.

13 MR. RAUSCHER: Aleeza, we're going to take a  
14 10-minute break in case you didn't hear.

15 MS. MIAN: All right. Thank you.

16 (OFF THE RECORD)

17 THE REPORTER: We're back on the record.

18 BY MR. RAUSCHER:

19 Q. All right. Before we went off, you were  
20 looking at -- I had asked you to look at Pages 19 to 20  
21 of your disclosure, about the Baker Glenn CR?

22 A. Yes.

23 Q. Did you have a chance to do that?

24 A. Yes.

25 Q. What do you remember about what COPA found

1 during its reinvestigation?

2 A. Well, my memory is that what COPA investigated  
3 was, you know, Sergeant Jones and whether or not, you  
4 know, their investigation into his -- Sergeant Jones  
5 were -- his reports, where, in essence, that he was in  
6 two different places at once.

7 Q. And have you been able to identify anything  
8 that COPA did during its investigation and that CPD  
9 couldn't have done in the mid-2005s, when the CR was  
10 opened?

11 MR. NOLAND: Objection.

12 BY MR. RAUSCHER:

13 Q. Sorry. Not mid-2005s, mid-2000s.

14 MR. NOLAND: Object to the form. Go ahead.

15 A. Well, yeah. I -- I -- I'd have to go back and  
16 look at the -- the -- the totality of the  
17 investigations. It seems like that we're talking about  
18 two different things here, you know. I mean, we have,  
19 you know, Baker and Glenn came forward with allegations  
20 that -- you know, that there was no affidavit, that they  
21 weren't cooperating with the investigation, yet the CPD  
22 continued, and ultimately they were -- or Glenn was  
23 interviewed, which led to developing some informants,  
24 which continued on with the case, which ultimately led  
25 to the conclusion of the case and led to the arrest of

1 Watts and Mohammed. And Jones' investigation, you know,  
2 is -- is incorporated into that, but -- but, you know,  
3 Jones was being interviewed regarding an incident that  
4 happened some 15 years prior, you know, where -- where  
5 his -- he had these reports where -- where COPA made the  
6 determination that he was untruthful, yet Jones was  
7 claiming -- as I recalled it, he was claiming that, you  
8 know, it -- it could have just simply been an error,  
9 that he grieved it, that the grievance sent the  
10 investigation back to COPA for further investigation,  
11 and then during that time, Jones resigned or retired.  
12 So I -- I can't -- I can't tell you off the top of my  
13 head what information they had, you know, initially,  
14 that it was somehow different, that I -- without, you  
15 know, thoroughly looking at both the investigations.

16 BY MR. RAUSCHER:

17 Q. Well, did you look -- thoroughly look at both  
18 the investigations before this disclosure was issued?

19 A. Well, I've read them, but your question is,  
20 you know, about something I -- I -- I hadn't thought  
21 about, so, you know, I mean, you know, I'd have to go,  
22 you know -- to answer your question, I'd have to go back  
23 and look.

24 Q. I'm just asking: Did you thoroughly look at  
25 both investigations before this disclosure was issued to

1 us?

2 A. I read them, yes.

3 Q. All right. Is read them differently than --  
4 different than thoroughly investigate them? Or sorry,  
5 thoroughly review them?

6 A. Yeah, I -- I -- I read them. I mean, you  
7 know, I -- you know, when you say "thoroughly reviewed,"  
8 you're asking me -- you're -- you're now asking me  
9 specific questions about them and -- and I -- I -- all I  
10 can tell you is I just don't recall it. I have to go  
11 back and look.

12 Q. All right. So what's the purpose of your  
13 paragraph about Baker Glenn? What's the purpose of that  
14 being in the disclosure?

15 A. Well, the purpose of that is that, you know,  
16 there was a section in Dr. Shane's report, in -- in one  
17 of his footnotes, that said that, you know, there were  
18 14 CR files that were not -- simply not investigated.  
19 And that was identified as one of those files that he  
20 said was not investigated, yet that investigation, that  
21 CR, it was -- was investigated. And that particular  
22 investigation, you know, led to, you know, the  
23 separation of -- of Watts and Mohammed and -- and the  
24 arrests.

25 Q. But you're not saying that the specific

1 investigation into the Baker Glenn CR led to Watts and  
2 Mohammed's arrest, are you?

3 A. Well, so, you know, again, we're -- we're --  
4 we're -- we're separating this. You have an  
5 administrative investigation. You have a criminal  
6 investigation. So that information was brought forward  
7 to the department. The department forwarded that  
8 information to the FBI, which led to, you know, or -- or  
9 Debra Kirby, you know, directed Sergeant Barnes and --  
10 and the FBI, and they ended up investigating. So you  
11 have some overlap between the investigation. Certainly,  
12 the criminal investigation is what led to their arrest,  
13 not the administrative, but they're -- they're  
14 connected, you know. So they're -- they're -- they're  
15 part of one another.

16 Q. What do you mean? How are they connected?

17 A. Well, when you have a criminal investigation,  
18 you incorporate that criminal investigation into your  
19 administrative investigation. So, you know, and -- and  
20 in this case, you know, information was brought forward  
21 where, you know, a -- a CR was closed based on a lack of  
22 affidavit and a lack of cooperation. Yet even though it  
23 was closed, Deb Kirby, you know, continued -- directed  
24 her staff to continue this investigation, which led to,  
25 you know, an interview of Clarissa -- I -- I'm

1 mispronouncing her name, Ms. Glenn, which led to the  
2 development of informants, which led to, ultimately, the  
3 criminal conviction.

4 Q. Right. So acknowledging that Clarissa Glenn  
5 was interviewed, you don't mean that she just never  
6 cooperated, right? I mean, there was some concern at  
7 some point that she wasn't going to cooperate and then  
8 she did cooperate, right?

9 A. Well, you know, it wasn't just some concern.  
10 You know, my memory is that they -- you know, they  
11 talked to the lawyers from Loevy & Loevy and -- and they  
12 were told that, you know, they couldn't talk to her, and  
13 they didn't file an affidavit. So when, you know,  
14 somebody's lawyer prevents you from talking to their  
15 client, you know, you know, they're bringing an  
16 allegation forward, but without the ability to interview  
17 that individual, it's really, you know, depending on the  
18 investigation, but often it makes it almost impossible  
19 to conduct an investigation.

20 Q. So your testimony today is that Loevy & Loevy  
21 said that CPD couldn't talk to Clarissa Glenn, and then  
22 Debra Kirby subsequently talked to her?

23 MR. NOLAND: Object to the form.

24 A. You know, I don't --

25 MR. NOLAND: Mischaracterizes. Go ahead.

1           A. Yeah. My -- my understanding is that -- that  
2 Loevy & Loevy initially did not allow the -- the --  
3 their clients to be interviewed, which was Baker and  
4 Glenn, that ultimately they were interviewed. And I  
5 don't recall what the process was that did that, but,  
6 you know, I mean, generally when a -- when a case comes  
7 forward and -- and you have no affidavit and no  
8 cooperation, you know, that's often the end of that  
9 investigation, but in this case, the CPD continued  
10 forward.

11 BY MR. RAUSCHER:

12           Q. What's the time period when Loevy & Loevy  
13 refused to make Clarissa Glenn and Ben Baker available,  
14 in your opinion, or what's your understanding?

15           A. I don't recall.

16           Q. You have no idea?

17           A. I -- I don't recall. I -- you know, again, I  
18 -- I've read a lot of material. I -- you know, you're  
19 asking me for dates and timeframes, and I don't recall.

20           Q. 2005, 2006, 2007, 2023?

21           A. I don't recall.

22           Q. Okay. No idea of that 18-year period when  
23 Loevy & Loevy was involved?

24           A. Yeah, I don't recall.

25           Q. All. Right. You talk about, in your report

1 or in your disclosure, how it is important as an  
2 investigative step, to canvass the area to get witness  
3 statements where appropriate, right?

4 A. Where appropriate.

5 Q. All right. When is it appropriate, when is it  
6 not appropriate to try to get witness statements?

7 A. So --

8 MR. NOLAND: Object to the form. Go ahead.

9 A. You know, it really depends on the  
10 investigation and -- and -- and the facts and  
11 circumstances of the case. So sometimes, allegations  
12 come from an incident that happens, for example, inside  
13 a home, where the allegations, you know, are of the type  
14 that somebody outside the home would not have been able  
15 to see it or -- or hear it. Certainly, a -- a canvass  
16 in a case like that would not produce any meaningful  
17 results. You know, if -- if there was some evidence  
18 where it was possible that somebody passing by or a  
19 neighbor could have seen or heard something that may  
20 tend to corroborate the, you know, claims, then -- then  
21 a canvass may be appropriate. So it -- it -- it just  
22 depends. And then other cases, you know, allegations  
23 are made a year, two years, some significant period of  
24 time after the incident, and going back and conducting a  
25 -- a canvass just wouldn't be meaningful. So you have

1 to look at each individual case. Sometimes canvasses  
2 are -- are appropriate and sometimes they're not.

3 BY MR. RAUSCHER:

4 **Q. And what is a canvass?**

5 A. So generally, a canvass is, you know, an  
6 officer will go into the area where some incident  
7 occurred. You know, if it's a business district, they  
8 may go talk to, you know, people who were likely there  
9 at that period of time when the incident occurred, you  
10 know. So they would talk to employees in the area, you  
11 know, because you're likely not to find just a random  
12 passerby, but you are like -- you -- you may find a --  
13 you know, a resident in the area or, you know, some --  
14 an employee of a business, if it's in a business area,  
15 who may have witnessed something. So the idea is to get  
16 out and try and -- you're -- you're trying to locate  
17 witnesses.

18 **Q. And so the idea is that a canvass is useful if**  
19 **it happens relatively soon after the incident because**  
20 **five, ten, 15 years later, you wouldn't necessarily**  
21 **expect the same people to be in the area; is that right?**

22 A. I -- I think generally, yes.

23 **Q. But would you agree that, even if a canvass**  
24 **isn't available, you should still try to talk to**  
25 **witnesses if you have a reasonable ways to find them?**

1 MR. NOLAND: Objection. Form. Incomplete  
2 hypothetical. Go ahead.

3 A. So again, everything depends on the facts and  
4 circumstances of the case, but if you -- if you are  
5 aware of a witness and you have the ability to locate a  
6 witness, then generally you should talk to the witness.

7 BY MR. RAUSCHER:

8 **Q. What are some instances where someone would  
9 file a CR, you know, as the department, that there are  
10 witnesses you can find, but that it wouldn't make sense  
11 to talk to those witnesses?**

12 A. So, I mean, I -- you know, I can't -- I mean,  
13 I -- I'm sure that there are probably examples of that.  
14 I can't think of one off the top of my head. It -- it  
15 just depends. Again, you have to look at the facts and  
16 circumstances of the case.

17 **Q. All right. But it would be pretty typical to  
18 go -- that you should go try to talk to witnesses in  
19 investigating a CR, right?**

20 MR. NOLAND: Object to the form. Go ahead.

21 A. So again, it -- it depends on the facts and  
22 circumstances. You -- you know, you may -- a witness  
23 may have seen something, but the investigation may be  
24 able to conclusively, show it without the aid of that  
25 witness. So there may be -- there may be circumstances

1 where, you know, you may know about a witness, but based  
2 on the facts and circumstances of that particular  
3 investigation, it's not necessary to talk to them.

4 BY MR. RAUSCHER:

5 Q. Well, let's look at the Baker Glenn  
6 investigation. Are you aware that COPA went and  
7 interviewed a number of witnesses?

8 A. You know, it's been -- it's been more than a  
9 month since I reviewed this case, and I reviewed a lot  
10 of material, so I can't recall the details.

11 Q. All right. Can you think of any reason why  
12 COPA interviewed witnesses, but those interviews --  
13 those witnesses were not interviewed originally?

14 A. I -- I'd have to go back and look at the  
15 investigations.

16 Q. But you don't -- as you sit here today, when  
17 your chance to testify about it, you can't think of a  
18 reason; is that fair?

19 MR. NOLAND: Object to the form. Go ahead.

20 A. As I, you know -- you know, I -- you know, my  
21 chance to testify, you know, as I sit here today, I  
22 don't recall. I'd have to go back and look.

23 BY MR. RAUSCHER:

24 Q. Did you -- do you think that COPA got it wrong  
25 in its report about the Baker Glenn CR?

1 MR. NOLAND: Object to the form. Foundation.

2 Go ahead.

3 MR. BAZAREK: Yeah. Join. Join the objection.

4 A. So my memory is that what -- what, you know,  
5 that -- that COPA was at -- looking at Sergeant Jones  
6 and -- and that Sergeant Jones grieved it, and obviously  
7 there was enough information there that caused them to  
8 send the -- the case back to COPA. Because, you know,  
9 the -- it certainly could have been, you know, a mistake  
10 in memory over a -- a lengthy period of time, not  
11 necessarily, you know, a -- you know, a -- a false  
12 report, and then -- then Sergeant Jones resigned or  
13 retired in the interim. So I -- I can't tell you  
14 whether COPA got it wrong or got it right.

15 BY MR. RAUSCHER:

16 Q. You have no opinion on whether COPA got it  
17 wrong or got it, right?

18 A. Well, I -- I -- I think -- I think that there  
19 are alternative -- I mean, you -- I -- I just don't  
20 know. I mean, part of it is a credibility issue. Part  
21 of it is somebody's memory from an incident that  
22 happened, you know, many years prior. And ultimately,  
23 you know, obviously, COPA found that, but -- but the  
24 grievance sent the case back for further investigation  
25 that was not completed.

1           **Q. And what have you seen that says that the**  
2 **grievance sent it back for further investigation?**

3           A. That's just -- that's my memory of the case,  
4 is that -- that -- that COPA sustained the allegations,  
5 that Jones grieved the disciplinary action, that -- that  
6 it was not completed, that it was sent back to COPA, and  
7 then Jones, I believe he retired or resigned.

8           **Q. Were you able to identify any problems with**  
9 **COPA's investigation?**

10           MR. NOLAND: I'd object to the form of the  
11 question. Vague. Ambiguous.

12           MR. BAZAREK: Yeah. And objection. Form.  
13 Foundation. Go ahead.

14           A. Yeah. I -- I don't recall having an issue,  
15 but I'd have to go back and re-review it to -- to answer  
16 that.

17 BY MR. RAUSCHER:

18           **Q. Well, if you would've had an issue with it,**  
19 **would you have discussed that issue in this disclosure?**

20           A. I think what -- what I was --

21           MR. NOLAND: Hold on. Objection. Objection.  
22 Form. Foundation. Calls for speculation. You can  
23 answer.

24           A. My -- my point for adding the discussion on  
25 that particular CR in this disclosure was that it was

1 one of 14 CRs that Mr. -- or that Dr. Shane identified  
2 as not being investigated. So I wasn't, you know,  
3 reviewing that case in a sense of whether or not it was  
4 investigated properly or not, but you know, it was  
5 simply his conclusion that there was no investigation at  
6 all conducted.

7 BY MR. RAUSCHER:

8 **Q. What value will you bring in to the jury if**  
9 **you're not going to give an opinion on whether a CR was**  
10 **investigated properly? You're just literally saying**  
11 **there was some investigation done?**

12 MR. NOLAND: So objection. Argumentative.

13 Mischaracterizes the report. Go ahead.

14 A. Well, certainly, I believe that there's value,  
15 you know, to the jury to know that -- that when one  
16 expert says that cases were not investigated at all, and  
17 then there's evidence that -- that those cases were, in  
18 fact, investigated or investigated to the extent that  
19 they could be. You know, for example, several of those  
20 investigations, you know, there was no affidavit. Dr.  
21 Shane was not aware, as I read his deposition, of the --  
22 the law in Illinois that, you know, that impacts  
23 affidavits on complaint investigations.

24 BY MR. RAUSCHER:

25 **Q. Well, let's -- sorry, but let's stick to the**

1 question, please. I mean, that's not at all responsive.

2 You're started talking about other standards.

3 A. Well --

4 Q. I'm asking about a specific one.

5 MR. NOLAND: So -- so hold on. That's -- I  
6 believe, in my opinion, that's incorrect, Scott. You  
7 asked him what value he brings to the jury. It was  
8 your question that is eliciting this answer, and I  
9 would ask Mr. Noble to continue his answer to your  
10 question. If you don't want to ask questions like  
11 that, don't. You probably shouldn't, but you asked  
12 it. So go ahead, Mr. Noble.

13 MR. RAUSCHER: I just don't agree. It was a  
14 specific question about Baker Glenn.

15 MR. NOLAND: Go ahead, Mr. Noble. And please  
16 don't interrupt the witness. That's not your role,  
17 Scott.

18 A. So again, what -- what -- what my point is  
19 that -- is that Dr. Shane is -- was -- made a statement  
20 that -- that certain cases were not investigated, and  
21 it's my opinion that they, in fact, were investigated.  
22 And I think that that has value for the jury. And  
23 whether or not I testify to that or what I'm asked at  
24 trial is not up to me.

25 BY MR. RAUSCHER:

1           Q. All right. Well, what can you tell us today  
2 as to how the Baker Glenn CR was investigated, either  
3 originally or by COPA?

4           MR. NOLAND: Just object to the extent it's  
5 been asked and answered, but go ahead.

6           A. Well, and again, initially, the allegations  
7 were brought forward. There was no affidavit. The --  
8 the individuals weren't -- through their attorneys, were  
9 -- would not cooperate with the investigation. Debra  
10 Kirby directed her staff and supported to the  
11 confidential section to continue the investigation,  
12 despite the lack of affidavit and despite the lack of  
13 cooperation. That continued investigation ultimately  
14 resulted in an interview of -- of both Glenn and Baker,  
15 and ultimately resulted in, you know, identifying  
16 informants that ultimately led to or assisted in the --  
17 the criminal investigation that -- that led to the  
18 arrest and conviction of Watts and Mohammed. You know,  
19 and -- and there -- there was certainly an investigation  
20 into Sergeant Jones as well, so -- you know, so those  
21 things were investigated.

22 BY MR. RAUSCHER:

23           Q. And when was the investigation into Sergeant  
24 Jones?

25           A. That was -- that was -- that was later.

1 Q. That was by COPA?

2 A. Yes.

3 Q. And that wasn't just an investigation into  
4 Sergeant Jones, was it?

5 A. I mean, in -- in part, it was an investigation  
6 into Sergeant Jones. I can't -- I can't recall the  
7 details of this. Again, it was one of multiple CRs that  
8 I reviewed amongst a -- a -- a large amount of material.

9 Q. All right. You've talked about an affidavit  
10 requirement a little bit now. And I think in this last  
11 one, you said this was investigated and despite the fact  
12 that there was no affidavit, and you're also criticizing  
13 Dr. Shane for not talking about the affidavit  
14 requirement; is that right?

15 A. Well, I'm criticizing for not talking about it  
16 and for not knowing about it.

17 Q. All right. So there is no requirement that a  
18 CR can't be investigated unless it is signed -- unless  
19 there is an affidavit from the complainant who brought  
20 the CR, right?

21 MR. NOLAND: Objection. Form. Go ahead.

22 BY MR. RAUSCHER:

23 A. Yeah. So the -- the law requires that a  
24 complainant or a witness to the misconduct sign -- and  
25 my memory that -- of the statute is that the complainant

1 or a witness to misconduct.

2 Q. So your memory -- your understanding of the  
3 statute is that a CPD officer could not say, based on  
4 what I have heard about this, I can sign an affidavit  
5 for that? You think it has to be a first-hand witness  
6 or the complainant?

7 A. No, a -- a CPD officer can't unilaterally just  
8 sign -- sign affidavits, saying, you know, somebody came  
9 forward and made this allegation and now I'm going to  
10 sign the affidavit, without having any knowledge of it  
11 and proceed, because that would that would vitiate the  
12 law. I mean, there would be no point in that. And, you  
13 know, it's simply that you would have somebody from CPD  
14 who would just sign affidavits all day. You know, I  
15 mean, that -- that's not the point of it, is that, you  
16 know, they -- the law was -- is intended to get truthful  
17 statements from individuals in order to conduct an  
18 investigation. And the CPD crafted it, you know, an  
19 exception where they can create an override to the  
20 affidavit requirement in certain circumstances.

21 Q. So let -- let's, just for the record, who can  
22 sign the affidavit that you're talking about?

23 A. The complainant, the person who brings the  
24 allegation forward can sign it. The victim or witness  
25 involved in the case can sign an affidavit, and then

1 there is an override procedure.

2 Q. All right. And then so who's the complainant  
3 in this that you've just talked about?

4 A. In the Baker Glenn allegations?

5 Q. No, no. Sorry, just in general. You just  
6 said a complainant can sign it, the victim or witness  
7 can, or there's an override. So what does "complainant"  
8 mean in that context?

9 A. The complainant is the person who brought the  
10 allegation forward to CPD.

11 Q. All right. So that doesn't have to be someone  
12 with first-hand knowledge?

13 A. No.

14 Q. But that they can still sign an affidavit to  
15 start the process?

16 A. Yes.

17 Q. And that complaint should then be  
18 investigated?

19 A. Yes.

20 Q. And who -- what's the override process?

21 A. The override process allows, in certain cases,  
22 where the -- the -- the director of IPRA or COPA can  
23 meet with the superintendent and override the -- the no  
24 affidavit under certain circumstances. And I'm just  
25 sort of blanking on what those circumstances are at the

1 top of my head right now, but they can -- there -- there  
2 is a provision to allow them override, although the law  
3 does not, you know, set a provision for the override.  
4 The law is clear that you need an affidavit.

5 **Q. So what's the authority that CPD has to**  
6 **override the law?**

7 A. You know, I've actually wondered about that  
8 myself, you know, and I'm -- I am honestly not clear on  
9 that. But the CPD does that, you know, in order to, you  
10 know -- you know, I -- I think that that shows the CPD  
11 is willing and interested to conduct investigations,  
12 even in cases where they're having to override a state  
13 law that would otherwise hinder or -- or impede their  
14 ability to conduct that investigation.

15 **Q. So CPD is conducting illegal investigations?**

16 A. I -- I -- I -- I'm not willing to say that  
17 they're conducting illegal investigations. I -- maybe  
18 it's my understanding of the law, but I -- I -- in  
19 reading that provision, I don't see a provision in the  
20 law that -- that creates an ability for an override, but  
21 I'm very aware that they do have an override process.  
22 And my understanding is that they created that override  
23 process through contract negotiations with the -- the --  
24 the employee groups.

25 **Q. So either you're misunderstanding the law or**

1 CPD is doing something illegal, right?

2 A. I didn't say that.

3 Q. I know -- I don't see -- I'm not suggesting  
4 you said it. I'm asking you a question.

5 MR. NOLAND: No. I made an objection.

6 Argumentative at this point. I think his answer is  
7 pretty clear about his understanding. Go ahead.

8 MR. RAUSCHER: Right.

9 BY MR. RAUSCHER:

10 Q. You can answer. The question is: Either CPD  
11 is doing something illegal by using the override or  
12 you're misunderstanding the law, right?

13 MR. NOLAND: Objection. Argumentative. Go  
14 ahead.

15 A. No, I -- I -- I'm just telling you I don't  
16 know the legal process behind the override. That's all  
17 I'm saying.

18 BY MR. RAUSCHER:

19 Q. Well, what are the other alternatives to CPD  
20 is doing something illegal or you're not understanding  
21 the law correctly?

22 A. Well, I -- I've said that over and over again.

23 MR. NOLAND: Objection. Asked -- objection.  
24 Asked and answered. Go ahead.

25 A. Yeah. I've said over and over again. I don't

1 know what the -- the -- the -- the legal basis  
2 for them for having an override is. I don't know. So  
3 it is not that -- you know, me not understanding the law  
4 correctly. I don't know what the basis is.

5 BY MR. RAUSCHER:

6 **Q. But it's your understanding that there is no**  
7 **provision in the law that lets a department override the**  
8 **law, right?**

9 MR. NOLAND: Objection.

10 A. My -- I -- in reading that particular section,  
11 but that doesn't tell me that there's not some other  
12 section that -- that allows it. I don't recall seeing  
13 that in the -- in the -- in the affidavit section of the  
14 law.

15 BY MR. RAUSCHER:

16 **Q. Have you looked for the other section that**  
17 **might allow it?**

18 A. No.

19 Q. Why not?

20 A. It hasn't been an issue before.

21 Q. Have you opined about the affidavit  
22 requirement in other cases?

23 A. Yes.

24 Q. And no one -- has anyone ever asked you about  
25 the source of the override?

1 A. No.

2 Q. And you've never asked anybody about it?

3 A. Again, I've done a lot of cases. I can't  
4 recall all my conversations. I may have. I just don't  
5 remember.

6 Q. All right. In all those cases, though, you  
7 have never identified what the source of allowing CPD to  
8 override that law is, correct?

9 A. That's correct.

10 Q. You talk about Marcus Gibbs and Philip Thomas  
11 on Page 20 of your report?

12 A. Yes.

13 Q. What's your understanding of the status of  
14 those investigations?

15 A. I -- I think I just cited it to indicate that  
16 -- that there were different -- that they were  
17 duplicates and they had different CR numbers and that  
18 the investigation was under -- you know, was under that  
19 different CR number. So I don't -- I don't know what  
20 the status of those cases are.

21 Q. You're not sure one way or the other whether  
22 they are being investigated?

23 A. No. All I know is that -- that it -- that the  
24 CR number was a -- a duplicate.

25 Q. And I think you've already said you don't

1 know, but I want to ask you again to make sure. Do you  
2 know what the -- when CPD can override the affidavit  
3 requirement?

4 A. Yeah. I -- I'm just blanking on that. I  
5 mean, it's certainly something I've written about in the  
6 past and testified about in the past, and I'm just not  
7 recalling it off the top of my head.

8 Q. So of all the cases you listed here, you said,  
9 you know, criticizing Shane for not acknowledging that  
10 there was no affidavit in here, but can you tell me one  
11 way or the other whether CPD had the authority to  
12 override the affidavit requirement in any of those  
13 cases?

14 MR. NOLAND: Objection. Asked -- objection.  
15 Confusing. Go ahead.

16 A. Yeah. I -- and again, I -- I don't recall the  
17 exact standard for the override, but I don't believe  
18 those cases would've fallen into that standard. It --  
19 you know, I -- I just -- I -- you know, again, when I  
20 reviewed it, I just -- I just can't recall off the top  
21 of my head.

22 BY MR. RAUSCHER:

23 Q. So you're saying you don't believe they would  
24 have, but give me why -- give me the reasons why you  
25 don't believe that.

1           A. I -- I would have to go back and look at what  
2 the override standard is. Again, I just -- I'm not  
3 recalling it at this moment during this -- at this time.

4           Q. And I'm looking specifically, there are cases  
5 you list at Page 18 to 19. You list -- or you list a  
6 bunch of them and talk about no affidavit. You don't  
7 give any reasons in there as to whether -- or as to  
8 whether or not the override could have been put into  
9 place; do you agree with that?

10          A. I agree I did not include that in there, yes.

11          Q. Right. And you don't have any today, either?

12          A. No.

13          Q. No, you're agreeing with me, right? I mean,  
14 you're not saying -- you have -- all right. I want --  
15 that was like a -- I asked a question. You said no. I  
16 want the -- it's not video, so I want to be clear. You  
17 have not today offered any reason one way or the other  
18 as to whether the affidavit override could have applied  
19 to any of those cases?

20          A. That's true.

21          Q. All right. On Page 21 of the disclosure, you  
22 say that, "The standard of review for an investigation  
23 is -- Internal Affairs investigation is one of  
24 reasonableness"; you see that?

25          A. Yes.

1           **Q. What is that statement based on?**

2           A. Well, it's -- it's based on, you know,  
3 conducting internal affairs investigations, is -- is,  
4 you know, it -- it -- that's what the standard is. I  
5 mean, so, you know, we're -- we have a limited amount of  
6 resources, you know, so not in every investigation will,  
7 you know, have the -- the -- you know, the depth of, you  
8 know, a major investigation, you know. So, you know,  
9 it's whether it falls within a reasonable range of  
10 conduct for conducting administrative investigations.  
11 It's not -- it's not whether, hey, I -- you know, this  
12 could -- this -- these questions could have been asked  
13 better or differently; therefore, it's an unreasonable  
14 investigation. You look at the totality of the  
15 investigation and see whether or not it's reasonable on  
16 its whole, not whether some component part may be  
17 missing.

18           **Q. Do you look at whether any component parts  
19 were reasonable or not reasonable? Is that part of the  
20 analysis?**

21           A. I think part of the analysis is you look at  
22 the investigation at -- in this whole. You certainly  
23 look at, you know, each step of the investigation, but  
24 you don't render an investigation unreasonable because a  
25 particular step may not have been completed or -- or

1 could have been done better in some way.

2 Q. You don't or you don't necessarily?

3 A. Well, again --

4 Q. Like, you're not saying there's not a blanket  
5 rule that you don't -- like, if you didn't -- if you  
6 skipped a really important step, you're not saying  
7 there's a blanket rule that says, well, just because  
8 it's one step, it's not -- the whole investigation is  
9 still reasonable?

10 A. Yeah. I -- I mean, I -- I can certainly  
11 envision a case where missing one step would render the  
12 investigation unreasonable. You know, so, you know,  
13 ignoring a -- a significant piece of evidence that --  
14 that would resolve the case, you know, one way or the  
15 other, that may -- that one step could render a  
16 -- a case unreasonable, but, you know, often what's --  
17 what's being opined upon is that, you know, a -- a -- a  
18 witness wasn't interviewed properly or -- or certain  
19 questions weren't asked or -- or in a way, you know. So  
20 again, you have to look at it's -- in its totality to  
21 determine reasonableness.

22 Q. Would you think it's important to determine if  
23 police officers are filing report saying they're in two  
24 places at the same time as part of a CR investigation?

25 MR. BAZAREK: I -- I'd object to the form of

1                   the question and the incomplete hypothetical and  
2                   lacks foundation.

3                   A. So if there was an allegation where an officer  
4                   had written reports where they claimed that they were in  
5                   two places at the same time, and they, you know, are --  
6                   are citing material evidence in both of those cases  
7                   based on, you know, their presence, I think that that's  
8                   something that -- that it -- you know, is appropriate to  
9                   investigate, but it doesn't necessarily mean the officer  
10                  engaged in misconduct.

11                  BY MR. RAUSCHER:

12                  Q. **What if the officer is -- so if the officer is**  
13                  **claiming that they were in two places at one time, they**  
14                  **may not have engaged in misconduct?**

15                  MR. BAZAREK: Object to the form --

16                  A. I --

17                  MR. BAZAREK: -- of the question. Incomplete  
18                  hypothetical. Lacks foundation.

19                  A. Yeah. So -- so absolutely. So, you know --  
20                  you know, in a -- in reports, you know -- you know,  
21                  human beings can make mistakes. So they -- they could  
22                  have written a report where they gave the same date and  
23                  the same time, and they were mistaken about the date or  
24                  the time, you know, in -- in one or both of the reports.  
25                  So there's -- there's a difference between an

1      intentional malicious act where an officer's  
2      intentionally preparing a false report to the detriment  
3      of somebody to get them convicted of a crime versus  
4      simply making a mistake. So, you know, that's what an  
5      investigation is -- is designed to do, is to ferret out,  
6      whether somebody was making an intentional act designed,  
7      you know, to materially harm somebody or whether, you  
8      know, it's a simple mistake, because mistakes get made.

9      BY MR. RAUSCHER:

10        Q.    So it's important to do a thorough  
11      investigation to determine whether something was a  
12      mistake or whether something was misconduct, right?

13        A.    It's certainly important to investigate it, if  
14      -- if allegations are brought forward, yes.

15        Q.    Well, and when you say the allegations are  
16      brought forward, does the investigating agency, such as  
17      COPA, IPRA, IAD, have any independent obligation to look  
18      at police reports and see that officers were saying they  
19      were in two places at the same time when someone files a  
20      CR?

21        MR. BAZAREK:   Object to the form.   Lacks  
22      foundation.

23        MR. NOLAND:   Yeah.   Objection.   Form.

24        A.    So --

25        MR. NOLAND:   Yeah.   One second, Jeff.   Just add

1 incomplete hypothetical. Go ahead.

2 A. Yeah. So -- so your question kind of led with  
3 one way and then ended with when -- when somebody files  
4 a CR, so that kind of answers that -- that somebody's  
5 made an allegation when they file a CR. Do they have a  
6 duty to, you know, audit police reports to see whether  
7 officers are saying they're in two places at the same  
8 time? No, because, you know, there's just hundreds of  
9 thousands of police reports that come in every year.  
10 There's no practical way of completing that.

11 BY MR. RAUSCHER:

12 Q. So-- right. Okay. Let's stick to the CR. If  
13 someone makes an allegation in a CR that, let's say, for  
14 example, I was framed, should the investigating agency,  
15 such as IAD, OPS, IPRA, COPA, look to see whether the  
16 officers who were involved in that filed police reports  
17 saying they were somewhere else at that same time?

18 MR. NOLAND: Objection. Form of the question.

19 Incomplete hypothetical. Go ahead. Foundation.

20 A. So I don't believe that a reasonable  
21 investigator who was investigating an allegation that  
22 somebody was framed would automatically go and pull all  
23 that officer's reports to see if there's this remote  
24 possibility that they filed another report somewhere  
25 that -- where they claimed that they were in the same

1 place at the same time. I mean, I -- I just don't think  
2 that -- that, you know, that's something that a  
3 reasonable investigator would have, you know, foreseen  
4 to talk -- think about to -- to conduct an investigation  
5 of. There was an allegation that there's two reports  
6 out there, then certainly they should have looked at it,  
7 but I -- I -- I don't think that would be a routine --  
8 something that I would expect an investigator to  
9 automatically do, and, in fact, I don't think I've ever  
10 seen an investigator just say, you know, gosh, we've got  
11 this allegation. It's possible that, you know, this  
12 officer wrote another report somewhere that they were at  
13 the same -- that they were someplace else at the same  
14 place and same time of this and go pull the reports.  
15 I've never seen that occur, absent allegation.

16 BY MR. RAUSCHER:

17 Q. **You've never seen it occur, ever?**

18 MR. NOLAND: Objection. Asked and answered. Go  
19 ahead.

20 A. So -- so certainly, that -- that was the case  
21 here, is that those two reports came forward, but I --  
22 you know, other than -- than in this case, I've  
23 -- I've never seen that type of an allegation, no. And  
24 I've never seen an -- and what I'm talking about is I've  
25 never seen a case where, you know, an officer -- where -

1 - where Internal Affairs has received a complaint that  
2 somebody was framed, and then they would automatically  
3 go out and pull all the officers other reports. No,  
4 never seen that.

5 BY MR. RAUSCHER:

6 Q. Have you seen the spreadsheet from COPA where  
7 they talk about the incidents where they believe the  
8 officers were saying they were in two places at once?

9 A. I may have. I don't recall.

10 Q. Do you have a reason -- is there any reason  
11 why CPD's sustained rates for CRs should be different  
12 than any other large police department?

13 A. There --

14 MR. NOLAND: Objection.

15 A. Oh, I'm sorry. Go ahead.

16 MR. NOLAND: Objection. Form. Foundation. Go  
17 ahead.

18 A. So there -- there are a lot of reasons why  
19 sustained rates between departments are -- are -- are  
20 different, and there's no standard in policing regarding  
21 sustained rates. So, you know, different agencies  
22 accept complaints in different ways. They investigate  
23 them in different ways. They -- they -- they log them  
24 and -- and document them in different ways. And there's  
25 -- and -- and this was an issue that specifically was

1 looked at that -- that -- that Community of Practice,  
2 that group that produced the Standards for Internal  
3 Affairs. And we found early on, and actually, one of  
4 the things, if you read that report and the preface of  
5 the report, is how the language and terms are used  
6 differently, you know, dramatically differently among  
7 agencies across the country. So I'm not surprised that  
8 all that different agencies have different sustained  
9 rates because, you know, the data sets are different.

10 BY MR. RAUSCHER:

11 **Q. No way for you to -- no way to compare what**  
12 **sustained rates should be across departments; that's**  
13 **your testimony?**

14 A. Yeah. Absolutely. Yeah. Yeah. There's no -  
15 - there's no way to make -- draw comparisons between  
16 agencies based on sustained rates.

17 Q. When investigating a CR against an officer,  
18 again, for example, who is alleged to have framed  
19 someone, is it a good idea to have an understanding of  
20 what the officer claims to have been doing the day that  
21 they're alleged to have framed someone?

22 MR. NOLAND: Objection. Form. Incomplete  
23 hypothetical. Go ahead.

24 A. I -- I certainly think it would be a good idea  
25 to conduct an investigation, to ask questions. You

1 know, it -- is it important for them to know everything  
2 that officer did during that day? You know, probably  
3 not. I mean, there are certainly portions, I mean, if  
4 portions are relevant to the incident. You know, it  
5 just depends. Yeah. You -- you know, with an  
6 investigation, you kind of have to follow the evidence.

7 BY MR. RAUSCHER:

8 Q. So you'd want to know, at least during the  
9 claimed periods where they are alleged to have been  
10 framing, what else were they saying they were doing that  
11 day, right?

12 MR. NOLAND: Objection. Mischaracterizes. Go  
13 ahead. And asked and answered.

14 A. Yeah. I -- I -- I can -- I -- I'm not sure I  
15 understand the question. Can you ask that again?

16 BY MR. RAUSCHER:

17 Q. Sure. If someone's alleged to have -- if an  
18 officer is alleged to have framed someone, would you, as  
19 an investigator of a CR, want to know what else that  
20 officer has said they were doing during the time period  
21 where they have been alleged to be framing someone?

22 MR. NOLAND: Objection. Asked and answered. Go  
23 ahead.

24 A. During that timeframe, I -- you know, I would  
25 be asking that officer questions about what -- what was

1 happening. Yes.

2 BY MR. RAUSCHER:

3       **Q. And then would you want to -- if there was**  
4 **objective evidence out there to test what the officer**  
5 **was saying, would you want to review that evidence?**

6           MR. NOLAND: Objection. Form. Seems like  
7 intentionally vague. Foundation. Incomplete  
8 hypothetical. Go ahead.

9       A. I think as part of any investigation, you  
10 would want to review the evidence.

11 BY MR. RAUSCHER:

12       **Q. What's a SPAR?**

13       A. Is a -- a summary punishment action request.  
14 It's essentially designed to give a level of -- take a  
15 level of disciplinary action somewhere between, you  
16 know, a letter of reprimand and up to a three-day  
17 suspension for misconduct that's identified by the  
18 agency. These are -- SPARs are often related to things  
19 like coming to work too late -- late, not showing up at  
20 court, you know, abusing department equipment. You  
21 know, they're -- they're generally allegations that are  
22 -- well, they're -- they're always allegations that are  
23 generated by somebody within the department of -- about  
24 an officer. They're not -- they're not complaints made  
25 externally.

1           Q. And were you reading something for that  
2 answer? Were you referring to something when you gave  
3 that answer?

4           A. No.

5           Q. Okay.

6           A. No, I've dealt with SPARs for many years, so I  
7 -- you know, I'm very familiar with him. And -- and  
8 generally, I -- I've written about SPARs in -- in a lot  
9 of my reports when there are allegations of code of  
10 silence, because in my experience, the -- you know, the  
11 number of SPARs are -- in the Chicago Police Department  
12 are very high, many thousands a year. Chicago is the  
13 only agency I've ever seen where you can actually get a  
14 three-day suspension and you can't -- you can't appeal  
15 the suspension. I mean, you -- you're -- that's --  
16 that's it. You get a SPAR, it's -- there's no appeal  
17 process. And they're only -- you know, you only get a  
18 SPAR from a supervisor coming forward and making an  
19 allegation about you. So, you know -- so what I've  
20 looked at SPARs in the past about is that, you know,  
21 that -- you know, when -- when there's allegations of a  
22 code of silence, that to say, look, here's thousands of  
23 cases a year where other employees -- other officers and  
24 supervisors have brought forward an allegation about a  
25 particular officer. They sustain it. They discipline

1 the officer, and the officer can't even, you know, so --  
2 so there is, you know, strong evidence that officers  
3 will speak up. Because, you know, if you think about  
4 it, you know, if you -- if you come in late to a  
5 briefing or you show up late to work, only your  
6 supervisor knows about it. If there's a code of  
7 silence, it would be so easy for the supervisor just to  
8 do nothing, you know. So if I'm going to protect --  
9 blindly protect my fellow officers, I wouldn't expect  
10 hardly any SPARs. But the -- you know, the evidence in  
11 their annual reports is that there are many thousands, a  
12 year.

13 **Q. SPARs our -- that's just for lower-level  
14 discipline, lower level alleged wrongdoing, right?**

15 A. Yeah. Generally, that's exactly what they  
16 are, but -- but, you know, I mean, generally, you know,  
17 we're sending messages, if you can't get away with the  
18 little stuff, you can't get away with the big stuff.

19 **Q. Like the broken windows theory of policing?**

20 A. Yeah. I -- I think that's very true.

21 **Q. That's how you think of SPARs?**

22 A. In part. I mean, there -- there -- I  
23 think there is a -- it's a solid management tool. I --  
24 it -- you know, other agencies don't have SPARs, but  
25 they, you know, have similar processes. But, you know,

1 if -- if you don't take care of the little stuff, then  
2 you're going to send a message that maybe you can get  
3 away with big stuff. And again, we're not talking to,  
4 you know, a few hundred. We're talking many thousands  
5 of spars being sustained every year in Chicago.

6 **Q. You said there are an average of 66 employees**  
7 **per year between 2003 and 2007 who resigned while under**  
8 **investigation? That's Page 21?**

9 A. Yes. Yeah.

10 Q. **Where did that statistic come from?**

11 A. Their annual reports.

12 Q. **And what's the significance of that to you?**

13 A. So what it means to me is that if people are  
14 resigning while they're under investigation, that they  
15 know that the investigation will be completed, that  
16 it'll likely be sustained, and they -- they're probably  
17 going to get fired or a significant amount of  
18 disciplinary action. So they're resigning in order to  
19 avoid the investigation from coming to a conclusion. And  
20 people will do that because, you know, if -- if you're  
21 going to apply for a new job and you were a -- you know,  
22 a Chicago police officer and you got fired, it may be  
23 difficult for you to get a job. But if you know you've  
24 engaged in misconduct and you know that they're going to  
25 sustain it, you know, you want to get -- you know, you

1 want to resign. You want to get out of the organization  
2 before they sustain it, before they discipline you, you  
3 know, to enhance your opportunities with other  
4 employment. So what it -- what it says to me is that,  
5 you know, officers know that they're being investigated,  
6 that they know that the investigation is likely to be  
7 sustained and they're likely to be seriously disciplined  
8 or fired, so they're -- they're leaving to avoid that  
9 because they know the system works.

10 **Q. And here you're not talking about just people  
11 under their investigation for potential SPARs, right?**

12 A. No. I'm talking about people under  
13 investigation -- not, you know, not for SPARs, actually  
14 for, you know, cases that are being investigated by IAD,  
15 IPRA, OPS, whichever oversight was in -- in function at  
16 the time, or COPA.

17 **Q. And your testimony here is -- you mentioned it  
18 for 2003 to 2007, but do you believe that same rationale  
19 still applies?**

20 A. Oh, yes --

21 MR. NOLAND: Hold on. Just applies in 2023?

22 MR. RAUSCHER: Still applies today. He said,  
23 oh, yes --

24 MR. NOLAND: Applies today. All right. Well,  
25 I mean, I object outside the relevant timeframe,

1 but, of course, go ahead.

2 BY MR. RAUSCHER:

3 Q. You just said yes, right?

4 A. I did.

5 Q. Like Al Jones, for example, resigned under  
6 investigation while these cases are pending?

7 A. Yeah. So, you know, look, I -- you know, I  
8 can't say that in every single case, that -- that --  
9 that they're -- they're resigning or retiring, but, you  
10 know, I -- I think that when you have -- you -- large  
11 numbers, like 66, yeah, some people may just have chosen  
12 to retire at that time because they were going to retire  
13 at that time anyway.

14 Q. Well --

15 A. So there may be some outliers, but the reality  
16 is the -- the majority of them are -- are resigning to  
17 avoid the investigation.

18 Q. How many of the Watts team members have  
19 resigned while under investigation?

20 A. I don't know.

21 Q. What's your -- how many -- what's the  
22 percentage of the average employees who resign while  
23 under investigation who are doing so because they know  
24 that the disciplinary system works and they are going to  
25 get discipline action taken against them?

1                   MR. NOLAND: Object to the form of the  
2                   question. Calls for speculation. Lacking  
3                   foundation. Incomplete hypothetical.

4                   A. So there's no way for me to give you a  
5                   percentage. Again, the reason I cite these numbers is -  
6                   - is as a general proposition that -- that employees  
7                   will often do this, but I can't tell you that every  
8                   single employee or a certain percentage every year, you  
9                   know, are people who would not have, you know, they --  
10                  who didn't already have their retirement plan or weren't  
11                  already, you know, deciding to leave the organization  
12                  for different reasons. I wouldn't know.

13                  BY MR. RAUSCHER:

14                  Q. Well, would you agree that the rationale  
15                  applies to members of the Watts team the same way it  
16                  applies to anybody else?

17                  A. Yeah, I -- I -- I -- I certainly agree that --  
18                  yeah, I mean, there may have been members of the Watts  
19                  team who had already planned on -- on resigning or  
20                  retiring for whatever reason, and just because an  
21                  investigation may have been pending against them, that  
22                  they were going to -- they were going to leave the  
23                  organization at that time or they -- or, you know,  
24                  alternatively, they may be resigning to avoid a -- a  
25                  finding. And -- and -- but I can't tell you -- I can't

1 tell you whether -- what -- what's in their mind.

2 Q. It would be unusual to have something unique  
3 about every member of the Watts team who resigned while  
4 under investigation different from everyone else who you  
5 have analyzed over the years, right?

6 A. Again, I'm not saying that there anything is  
7 different. I'm saying that different people have  
8 different reasons, but as a general proposition, I cite  
9 that number as a general proposition to show that the -  
10 -- the system generally works.

11 Q. Right, meaning that people -- in your opinion,  
12 people who resign while under investigation are doing so  
13 because they know that CPD is going to discipline them  
14 for engaging in wrongdoing?

15 A. Yes, that's the general proposition, but  
16 again, I'm not saying that every single one of them is  
17 doing it for that reason. I'm saying that -- that it -  
18 -- it provides a general sense of that.

19 Q. You're not trying to have it both ways by  
20 saying that applies as a general rule, but didn't apply  
21 to the members of the Watts team, are you?

22 A. I -- yeah, I don't -- I don't know why members  
23 of the Watts team may have resigned or -- or -- or  
24 sought retirement during a particular time. I can't --  
25 I'm -- I'm not applying to this to any individual.

1 Rather, I'm applying it as a group.

2 Q. All right. You haven't seen anything that  
3 suggests the Watts team members who resigned while  
4 investigation did so because they had long-planned  
5 retirement plans separate from being under  
6 investigation, have you?

7 A. No.

8 Q. One of the things you say on Page 21 is that  
9 "supervisors and managers are very aware of financial  
10 burdens placed on employees when a suspension is part of  
11 discipline and that employees rely on their compensation  
12 to pay rent or mortgage, buy food and deal with other  
13 economic essentials of life"; do you see that?

14 A. Yes.

15 Q. All right. You're not making a specific point  
16 based on knowledge you have of CPD, are you?

17 A. I -- I'm making a -- a -- a specific point in  
18 general that -- that -- that suspensions are meaningful,  
19 that suspensions cost money. Now, CPD and other  
20 agencies will allow, you know -- you know, for example,  
21 if you get a one-day suspension, they -- they -- you can  
22 give up a day of vacation time. That certainly still  
23 has an economic effect on the employee.

24 Q. You're not saying that you know of specific  
25 individuals who are thinking about the economic impacts

1 of their decisions when you make this statement, are  
2 you?

3 A. What I'm saying by -- when I make this  
4 statement is that supervisors are aware that -- you  
5 know, unlike other organizations where people may not be  
6 suspended, when you're suspending somebody without pay,  
7 that that's a significant disciplinary action, that  
8 you're -- you're -- you're -- you're gaining several  
9 things out of it. You're gaining a -- a sustained  
10 allegation. You're gaining a step in the progressive  
11 discipline by -- by giving a suspension that -- you  
12 know, this is more than just sending somebody home, that  
13 there's an actual cost to this, that -- that, you know,  
14 that -- that generally police officers are not wealthy  
15 people, and if you get suspended for a week and you lose  
16 a week's pay, that's a lot of money. I mean, it's a big  
17 fine that goes along with everything else, you know. So  
18 what I'm -- I'm -- what I'm suggesting is that  
19 suspensions are a big deal.

20 Q. You say on Page 17 of your report that it's  
21 your -- the disclosure, it's your "opinion that the  
22 overwhelming number of administrative and criminal  
23 investigations conducted by the CPD, IAD, and OPS are  
24 reasonable." That's in the second full paragraph; do  
25 you see that?

1 A. On Page 17?

2 Q. Yep.

3 A. Yes, I see that.

4 Q. So how many of them -- how many of them are  
5 not reasonable?

6 A. So I have reviewed CPD investigations where I  
7 found the investigation not to be reasonable. I mean, I  
8 can't give you a number, but it's a small number, you  
9 know. And -- and again, I -- you know, based on the --  
10 the large number of cases I've had with the City of  
11 Chicago over the years, you know, that I have reviewed  
12 many hundreds of administrative investigations, and I  
13 find overwhelmingly that the vast majority of them are  
14 reasonable.

15 Q. Which -- do you remember any specific ones you  
16 found were not reasonable?

17 A. I -- not off the top of my head, but I  
18 definitely had reports where I found that certain  
19 investigations were not reasonable.

20 Q. And you've disclosed that in your reports and  
21 your testimony?

22 A. Yes.

23 Q. And then were any of the investigations you  
24 reviewed in connection with the Waddy case unreasonable?

25 A. Not that I reviewed.

1 Q. When you said the -- when you say the  
2 overwhelming number of criminal investigations conducted  
3 by CPD, are you talking about CRs there, or are you  
4 talking about CPD investigating crimes not involving  
5 officers also?

6 A. I -- I wasn't -- I wasn't limiting it to  
7 criminal investigations. I was limiting it -- I was  
8 talking about CR investigations, administrative and  
9 criminal.

10 Q. Sorry, but I want to make sure -- I guess I  
11 want to understand. The sentence talks about it's based  
12 on review of CR investigations. So you're not saying  
13 that -- you're not making -- offering an opinion about  
14 CPD generally investigating crimes? You're talking  
15 about just -- you're talking about CRSSs here, whether  
16 criminal --

17 A. Yes.

18 Q. -- administrative?

19 A. Yes.

20 Q. Okay. All right. Page 14, you say there is  
21 -- the first bullet point here, "There is no evidence  
22 that the Chicago Police Department failed to accept or  
23 document complaints of officer misconduct." Do you see  
24 that?

25 A. Yes.

1           **Q. Do you stand by that statement?**

2           A. Yeah. I -- again, I reviewed -- they have a  
3 very open complaint process where you can file a  
4 complaint through a variety of ways, including, you  
5 know, the outside oversight agency that was being  
6 affected at the time, whether it's OPS, IPRA, or COPA.  
7 And I -- you know, in all the cases I've reviewed, I --  
8 I've -- I've -- I've not seen complaints that -- I mean,  
9 I have seen complaints that individual supervisors may  
10 not have initially accepted a complaint, but there is a  
11 remedy in that they are able to go to the outside  
12 organization and -- and that generally CPD has a very  
13 open complaint process where they accept everything.

14           **Q. So it's not really true that there is no  
15 evidence that it failed to accept or document complaints  
16 of officer misconduct?**

17           MR. NOLAND: Objection. Argumentative. Go  
18 ahead.

19           A. Well, I -- you know, I -- I think that -- you  
20 know, in my mind, there -- there's -- you know, there's  
21 no evidence of a systemic practice of not accepting  
22 complaints. I am aware of some allegations where  
23 allegations were made that a particular supervisor  
24 didn't accept a complaint, but obviously that complaint  
25 got accepted by someone else because it was ultimately

1 investigated.

2 BY MR. RAUSCHER:

3 Q. So when you said there's no evidence, what you  
4 meant is there's no evidence of systemic problem?

5 A. Yeah, I -- I -- you know, that -- that wording  
6 may probably be better, if I went back and thought about  
7 it, you know.

8 Q. There is evidence in this case that Watts  
9 tried to discourage people from filing complaints,  
10 right?

11 A. I -- I don't recall that.

12 Q. All right. Well, if that is true, would that  
13 change your opinion about your conclusion about there  
14 being no evidence?

15 A. Well, again, you know, I -- I think, you know,  
16 the word systemic is -- is probably a better word. But  
17 in the cases I've reviewed in the past, where a  
18 supervisor didn't accept it, that complaint was  
19 ultimately accepted by -- by -- by somebody, and -- and  
20 an investigation was conducted. So even the cases that  
21 I'm aware of where a supervisor didn't accept it, it got  
22 accepted by somebody else.

23 Q. Why did you say five years before April 4,  
24 2007 was the right time period, the -- sorry, the  
25 relevant time period?

1           A. I've worked on, you know, a lot of Monell  
2 cases, a lot of cases where you're looking at a pattern  
3 of practice, and -- and generally, you're looking at the  
4 five years before an incident to -- to make a  
5 determination of whether or not the information was  
6 known to the agency at the time of the incident.

7           Q. When you said Monell in there, you looked --  
8 is that what you said, you worked on a lot of Monell  
9 cases?

10          A. Yeah. And I'm aware this is a state case and  
11 it's not a federal case and there's no Monell  
12 allegation, but that's -- that's generally the practice  
13 I would look at.

14          Q. Yeah, that's all right.

15          A. You know, I mean, I -- I think you -- you  
16 can't go back 20 years. You know, you have to look at a  
17 reasonable timeframe.

18          Q. And you basically borrowed the five years from  
19 the federal Monell cases?

20          A. Yeah, I think that's fair.

21          Q. There is -- I want to go back to Page 17. Look  
22 at the first bullet point. Toward the end of that, it  
23 says -- the end of the last sentence says, "Their  
24 ultimate exit from the CPD due to their misconduct,"  
25 talking about Watts and Mohammed.

1 A. Right.

2 Q. Who put that language in?

3 A. Mr. Noland wrote that section.

4 Q. All right. Did you see it, the final, before  
5 the disclosure was made?

6 A. Yes.

7 Q. All right. Did you -- that language wasn't in  
8 the draft that I saw. Do you have any recollection of  
9 discussing that last part about their ultimate exit from  
10 CPD due to their misconduct?

11 A. I don't -- I don't remember.

12 MR. RAUSCHER: Can we go off for just five  
13 minutes?

14 THE REPORTER: Off record.

15 (OFF THE RECORD)

16 THE REPORTER: We're on the record.

17 BY MR. RAUSCHER:

18 Q. Have you offered opinions in cases about the  
19 special operations section of the Chicago Police  
20 Department, SOS?

21 A. I think so.

22 Q. And what do you remember about those opinions?

23 A. It's been too long. I really don't recall.

24 Q. All right. I'm going to look at one --  
25 another CR that you mentioned, Robert Forney. If you

1 look back at Page -- I think we're at 18 to 19. Sorry.

2 He's at 17 to 18. Do you see that?

3 A. Yes.

4 Q. Do you know anything about that CR or about  
5 Robert Forney, other than what he was -- what's written  
6 in this paragraph?

7 A. You know, I -- I just recall that was, you  
8 know, an -- an allegation where I -- I think he claimed  
9 that he was, you know, being framed, but he ultimately  
10 went to court and pled guilty, and that based on his  
11 plea, the investigator closed the -- closed the  
12 investigation because the plea was inconsistent with his  
13 claim. So there was no further investigation. The case  
14 was closed based on that.

15 Q. Do you know whether he has had a conviction  
16 vacated?

17 A. I don't know.

18 Q. Do you at least leave open the possibility  
19 that people could plead guilty, even if they were  
20 framed?

21 MR. NOLAND: Object to the form, foundation,  
22 incomplete hypothetical. Go ahead.

23 MR. BAZAREK: Join. Join.

24 A. You know, certainly, I -- I guess it's -- it's  
25 possible that somebody could plead guilty, but, you

1 know, it -- you know, it does make a lot of -- you know,  
2 I -- I -- you know, I don't know. I don't know.

3 BY MR. RAUSCHER:

4 Q. Are you familiar with any literature on false  
5 guilty pleas?

6 A. I am certainly familiar with literature on --  
7 on false confessions, not on false guilty pleas.

8 Q. Do you agree that the system places  
9 significant pressure on people to plead guilty?

10 MR. NOLAND: Objection. Form. Foundation.

11 Incomplete hypothetical.

12 MR. BAZAREK: Join.

13 MR. NOLAND: Go ahead.

14 A. Yeah. Again, that's not -- that's not an area  
15 of my expertise. I wouldn't know.

16 BY MR. RAUSCHER:

17 Q. You criticize -- well, you don't. I shouldn't  
18 say that. The disclosure made on your behalf criticizes  
19 Shane for relying on work that may have been prepared by  
20 Plaintiff Alvin Waddy's lawyers; are you familiar with  
21 that?

22 A. Yeah.

23 Q. You're not saying that there's something  
24 inherently wrong with relying on a client's lawyers, are  
25 you?

1           A. Well, what -- I think what I'm saying in that  
2 is that, you know, rather than to review the CRs  
3 himself, I mean, he's -- he's an expert, you know, that  
4 -- that, you know, he should at least do some type of  
5 reasonable audit. And -- and -- and it doesn't seem  
6 like he did that, and he didn't review the CRs himself.  
7 So yeah, I mean, you know, I -- I don't think you want  
8 to blindly accept what the lawyers give you. I think  
9 you need to -- you know, as an expert, you need to, you  
10 know, review some of that yourself.

11           **Q. Do you know how much time that Shane spent**  
12 **reviewing work done by lawyers in the first instance?**

13           A. I -- I don't know.

14           **Q. Do you think that would be a relevant**  
15 **consideration for determining whether his review is**  
16 **reasonable?**

17           A. I think that may be one factor, but I think  
18 his testimony that he didn't review the CRs is probably  
19 more important.

20           **Q. How many CRs did you personally review in this**  
21 **to -- in connection with this disclosure?**

22           A. You know, I know, I -- I reviewed the 14. And  
23 then I have to look at my invoices. I -- but I think --  
24 I think it was probably that number, but I -- you  
25 know, and I'm also relying on the, you know, hundreds

1 and hundreds of CRs I've reviewed in other cases in the  
2 past.

3 Q. And on -- and those, you're just going based  
4 on memory?

5 A. Memory, yes.

6 Q. I do want to bring up your -- the documents  
7 that were produced in response to your subpoena. And  
8 there are a bunch of notes, and I want to try to quickly  
9 just have you look at them. So I'm going to share  
10 screen. Why don't we mark this as Exhibit 8? And this  
11 is -- starts at Waddy-Noble 91. And you see there's an  
12 e-mail from you. It says, "Notes." Do you see that?

13 (EXHIBIT 8 MARKED FOR IDENTIFICATION)

14 A. Yes.

15 BY MR. RAUSCHER:

16 Q. And then it runs -- I'm just going to scroll  
17 down. Are these notes that you took in connection with  
18 this case?

19 A. Yes.

20 Q. All right. I'm going to scroll through. It  
21 runs to Waddy-Noble 126, I believe. Do you see that?

22 A. Yes.

23 Q. Are these the -- are these all of the notes  
24 you took in this case?

25 A. Yes.

1           Q. And how did you decide what documents you  
2 would take notes on and what documents you wouldn't take  
3 notes on?

4           A. I mean, I -- I don't think it was a conscious  
5 decision. I think, you know, as I was reviewing  
6 documents, I would take notes. I mean, I certainly  
7 didn't take notes on every document I reviewed, because  
8 there was an overwhelming amount of documents. So, you  
9 know, that's what I took notes on.

10          Q. Did you take any notes on the documents  
11 themselves?

12          A. No. No, because I'm reading it on a computer.

13          Q. Got it. It looks like here this page,  
14 Waddy-Noble 116, starts your notes about CRs; is that  
15 right?

16          A. Looks like it.

17          Q. 300778, your note is Watts CR?

18          A. Yes.

19          Q. All right. Did -- was there any particular  
20 method to what you decided to write down versus what you  
21 didn't write down about the CRs?

22          A. No. They're notes. I mean, again, you know,  
23 the documents are often -- you know, can be hundreds of  
24 pages long, so, you know, I mean, I'm not trying to  
25 recreate what's in the document. I'm just, you know,

1 trying to create some reference for myself that -- as  
2 I'm reading it.

3 Q. So the -- there's two that mentioned Loevy &  
4 Loevy on this page, on 118, and one that just says --  
5 well one says Loevy and -- well, two Loevy & Loevy, and  
6 then two would have the name Scott Rauscher on them.

7 What was the significance of that, if any?

8 A. You know, since I didn't -- I've never met you  
9 and I didn't know you were doing my deposition, I -- you  
10 know, I, you know, I don't -- I don't remember why I  
11 wrote that down, but I certainly did.

12 Q. Was there a significance, the fact that it was  
13 a lawyer, or were you just writing a name because you  
14 didn't know the name, or something else?

15 A. You know, I -- I -- maybe I was just  
16 referencing the name of -- because it looks like above,  
17 I -- I referenced Elizabeth Mazur. I mean, I've had  
18 cases with -- with your firm for many years, so I've met  
19 a lot of lawyers, but I've never met you. So I -- I  
20 just don't -- honestly, I don't remember why I wrote  
21 that down.

22 Q. Okay. Do you ever represent plaintiffs in  
23 wrongful conviction cases?

24 A. Yes.

25 Q. How often have you represented plaintiffs in

1       **wrongful conviction cases?**

2       A.     You know, I --

3            MR. NOLAND: Hold on. Objection to the word  
4            represented, but I think we know what you mean. Go  
5            ahead.

6       BY MR. RAUSCHER:

7       Q.     **You're right. Served as an expert for  
8            plaintiffs in wrongful conviction cases?**

9       A.     So about -- about half my cases are plaintiff  
10      cases, so I can't -- I can't break it down for wrongful  
11      conviction cases, but I've had quite a few wrongful --  
12      or cases where it was an allegation of wrongful  
13      conviction on the plaintiff side, you know, quite a few.

14       Q.     **And have you ever done such a case where you  
15      were adverse to the City of Chicago?**

16       A.     No.

17       Q.     **Have you ever been an expert in a case where  
18      someone has been suing the -- have you ever -- have you  
19      ever served as an expert for a party suing the City of  
20      Chicago?**

21       A.     No.

22       Q.     **What source of opinions do you offer in the  
23      cases where you are an expert for plaintiffs in wrongful  
24      conviction cases?**

25            MR. NOLAND: I object to the form of

1 foundation. Go ahead.

2 A. You know, I -- you know, generally those kinds  
3 of cases look at, you know, the criminal investigative  
4 process. And so -- so often that, you know, almost  
5 always, I -- I would think that, you know, I'm offering  
6 opinions regarding the -- the criminal investigative  
7 process. Sometimes those cases involve, you know,  
8 allegations that Brady materials were not provided  
9 during the course of the -- during the course of the  
10 case. So it just -- it depends on the case.

11 BY MR. RAUSCHER:

12 Q. **How often, if ever, are you opining that a  
13 municipality's citizen complaint or complaint system or  
14 disciplinary system is insufficient?**

15 A. I -- I certainly have applied that in cases in  
16 the past. I can't tell you how often, but I have had  
17 cases with certain agencies where I believe that their --  
18 -- their processes were insufficient.

19 Q. **Can you identify the agencies?**

20 A. Boy, I -- you know, it's -- it's been -- it's  
21 been a while. And I have, you know, I've -- I've done  
22 close to 400 cases at this point, so I just can't -- I --  
23 I don't recall, but I -- I've certainly -- there's a  
24 number of them.

25 Q. **A number where you've identified that the**

1       **agencies had insufficient disciplinary or similar**  
2       **systems?**

3       A.     Yes.

4       Q.     **But you don't recall any of the agencies?**

5       A.     Not off the top of my head, no.

6       Q.     **Do you recall any of the cases where you made**  
7       **that determination?**

8       A.     No.

9       Q.     **Do you recall how many times you've made or**  
10      **you've offered an opinion like that one?**

11      A.     You know, again, I -- I know I've done it. I  
12      mean, I know I've done -- I've done it more than, you  
13      know, probably five or ten times, but I -- I -- I would  
14      just be guessing.

15      Q.     **You reviewed the CR filed on behalf of Alvin**  
16      **Waddy, correct?**

17      A.     You broke out. I reviewed it on Waddy?

18      Q.     **You reviewed the CR that was filed on behalf**  
19      **of Alvin Waddy, correct?**

20      A.     Yes.

21      Q.     **And do you recall what steps were taken to**  
22      **investigate that CR?**

23      A.     No. I'd have to go back and look again. I --  
24      you know, I didn't take in-depth notes, and I -- I -- I  
25      would have to go back and look at it to tell you what

1 steps were taken.

2 Q. You know who Alvin Waddy is, right?

3 A. Yes.

4 Q. Who's Alvin Waddy?

5 A. Alvin Waddy's the plaintiff in this case. He's  
6 the individual who was arrested and -- and who -- who  
7 pled guilty to -- to possessing cocaine, crack cocaine.

8 Q. And then also his conviction was vacated,  
9 right?

10 A. That's my understanding, yes.

11 Q. And declared innocent?

12 MR. NOLAND: Object to the form. Go ahead.

13 A. I believe so, yes.

14 BY MR. RAUSCHER:

15 Q. Do you know if the -- do you know who  
16 investigated the Waddy CR?

17 A. No.

18 Q. Do you know if the potential witnesses were  
19 interviewed?

20 A. No, I don't remember.

21 Q. Do You know if the officers were interviewed?

22 A. I don't remember.

23 Q. Do you know if the CR identifies the officers  
24 who are accused of wrongdoing?

25 A. Again, it's been too long since I've reviewed

1 it. I don't remember the details of that case.

2 Q. Do you recall any CRs that you reviewed in  
3 connection with the Waddy case or this disclosure where  
4 the officers were -- the alleged officers were not  
5 identified in the CR?

6 A. I -- I'm sorry. I -- I -- I -- I -- can you  
7 repeat that? I -- I didn't get all that.

8 Q. Yeah. Do you recall reviewing any CRs in  
9 connection with the disclosure made in the Waddy case,  
10 where alleged -- where there were allegations of  
11 wrongdoing, but the CR didn't make accusations against  
12 an officer, so it didn't identify an accused officer?

13 A. No, I don't recall that.

14 Q. I want you to look at -- I'm going to bring  
15 back page -- your notes. Got a question about that. All  
16 right. What does it say at the top of Page 98, which I  
17 brought to the screen right here? Not the top, but  
18 right under it.

19 A. It says Jasmin Ramic depo.

20 Q. Do you know who that is?

21 A. No. I -- I, you know -- (clears throat) --  
22 excuse me. And, you know, that was confusing. I think  
23 that was, you know, on the -- the depo, but I think the  
24 depo, and that's why I wrote in that -- Calvin Holliday,  
25 that, you know, there was some confusion on who was

1 being deposed, in my mind.

2 Q. Do you know who Calvin Holliday is?

3 A. He -- he -- somebody who worked for the  
4 Chicago Police Department, worked in the confidential  
5 section of Internal Affairs.

6 Q. And do you remember his deposition testimony -  
7 - well, do you remember a CR where Watts was alleged to  
8 have been in a car accident and discouraged someone from  
9 filing a complaint about it?

10 A. Vaguely, yes.

11 Q. Do you remember what Calvin Holliday said  
12 about that?

13 A. No.

14 Q. Do you know who Theotis or Thetas (phonetic)  
15 Coker is, C-O-K-E-R?

16 A. The name sounds familiar, but I -- no, I don't  
17 -- can't place it.

18 Q. All right. I'm showing you what's Page Waddle  
19 -- sorry, Waddy-Noble 126. And it looks like these are  
20 notes of -- your notes from John Shane's deposition; is  
21 that right?

22 A. Looks like it, yes.

23 Q. All right. You've got an asterisk where it  
24 says -- can you read what it says on that line where the  
25 asterisk is?

1           A. "Doesn't know if obstruction of justice to  
2 disclose information from an FBI investigation."

3           Q. **Why did you put an asterisk next to that?**

4           A. I -- I don't remember.

5           Q. **Do you recall Debra Kirby talking about the**  
6 **possibility -- well, actually let me strike that. You**  
7 **referenced how some of the CPD employees or former**  
8 **employees talked about how it could be an obstruction of**  
9 **justice to interfere with the joint investigation or to**  
10 **bring administrative charges?**

11          A. Yes.

12          Q. **Do you recall them giving any examples of**  
13 **municipalities charged with obstruction under certain**  
14 **certain -- under similar circumstances?**

15          A. No.

16           MR. RAUSCHER: All right. Can we -- can you  
17 tell me how much time I have left on the record?

18           THE REPORTER: We are at two hours, 58 minutes,  
19 or two hours, 59 minutes.

20           THE WITNESS: Make it a good one.

21           MR. RAUSCHER: Well, I'm not going to promise  
22 that, but -- you know what, I don't have any other  
23 questions. I'll save a minute.

24           MR. NOLAND: Anybody else?

25           MR. RAUSCHER: Not from me.

1 MS. MIAN: No. Thank you.

2 MR. BAZAREK: For me. Thank you, Mr. Noble.

3 MR. RAUSCHER: Can I use my minute a different  
4 day, then? I'm just kidding.

5 MR. NOLAND: I'd like to divvy up with all the  
6 defendants, too. All right. We'll reserve  
7 signature. Thank you.

8 MR. RAUSCHER: All right. Thank you.

9 THE REPORTER: Okay.

10 MR. RAUSCHER: Bye.

11 THE REPORTER: Sounds good.

12 MR. BAZAREK: Thank you.

13 THE REPORTER: Do you want -- does anyone need  
14 -- does anyone need to order the transcript at this  
15 time before everyone logs out?

16 MR. RAUSCHER: I don't need it just yet.

17 THE REPORTER: Okay.

18 MR. RAUSCHER: Not me.

19 MR. NOLAND: No, thank you.

20 THE REPORTER: Okay. There's a few spellings  
21 that I might just e-mail you -- or Scott already  
22 left. Okay. Well, never mind.

23 MR. NOLAND: Yeah. Esther, yeah, e-mail Scott  
24 and I.

25 THE REPORTER: Okay. Okay. Thank you so much.

1 MR. NOLAND: We can -- we -- all right. See  
2 you.

3 THE REPORTER: Okay. Bye.

4 (DEPOSITION CONCLUDED AT 2:22 P.M. CT)

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## 1 CERTIFICATE OF DITIGAL REPORTER

## 2 STATE OF ILLINOIS

3

4 I do hereby certify that the witness in the foregoing

5 transcript was taken on the date, and at the time and

6 place set out on the Title page hereof, by me after

7 first being duly sworn to testify the truth, the whole

8 truth, and nothing but the truth; and that the said

9 matter was recorded digitally by me and then reduced to

10 typewritten form under my direction, and constitutes a

11 true record of the transcript as taken, all to the best

12 of my skill and ability. I certify that I am not a

13 relative or employee of either counsel and that I am in

14 no way interested financially, directly or indirectly,

15 in this action.

16

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22 ESTHER HEATH,

23 DIGITAL REPORTER/NOTARY

24 MY COMMISSION EXPIRES: 01/09/2024

25 SUBMITTED ON: 10/19/2023

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