

# **EXHIBIT 4**



Transcript of the Deposition of  
**Jon M. Shane, Ph.D.**  
**Case:** Ben Baker, et al. v. City of Chicago, et al.  
**Taken On:** April 23, 2024

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Ben Baker, et al. v. City of Chicago, et al.  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

|                  |   |                    |
|------------------|---|--------------------|
| BEN BAKER and    | ) |                    |
| CLARISSA GLENN,  | ) |                    |
|                  | ) |                    |
| Plaintiffs,      | ) |                    |
|                  | ) | Case No. 16 C 8940 |
| vs.              | ) |                    |
|                  | ) |                    |
| CITY OF CHICAGO, | ) |                    |
| et al.,          | ) |                    |
|                  | ) |                    |
| Defendants.      | ) |                    |

The deposition of JON M. SHANE, Ph.D.,  
taken via videoconference, in the above-entitled  
cause, for the purpose of discovery before Diane  
DeVito, Certified Shorthand Reporter, on the 23rd  
day of April, 2024, at the time of 9:30 a.m.,  
pursuant to Notice.

Reported By: Diane DeVito, CSR  
License No.: 084-004075

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2 WITNESS EXAMINATION

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8

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10 E X H I B I T S

11 NUMBER INTRODUCED

12 Deposition

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18 Exhibit No. 12 244

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|--------|--|--------|--|
| Page 5 | <p>1 JON M. SHANE, Ph.D.,</p> <p>2 called as a witness herein, having been first</p> <p>3 duly sworn, was examined and testified via</p> <p>4 videoconference as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MS. EKL:</p> <p>7 Q. Good morning, Dr. Shane. My name is</p> <p>8 Elizabeth Ekl and I represent the City of</p> <p>9 Chicago. How are you this morning?</p> <p>10 A. Hello. Nice to meet you. I'm very</p> <p>11 well. Thank you.</p> <p>12 Q. Good. For the record, could you please</p> <p>13 state your first and your last name and spell</p> <p>14 your last name.</p> <p>15 A. First name is Jon, J-o-n. Last name is</p> <p>16 Shane, S-h-a-n-e.</p> <p>17 MS. EKL: And for the record, this</p> <p>18 deposition is being taken in the case of</p> <p>19 Ben Baker and Clarissa Glenn versus Chicago,</p> <p>20 Case No. 16 CV 8940. It's filed in the Northern</p> <p>21 District of Illinois. The deposition is being</p> <p>22 taken pursuant to notice and the Federal Rules</p> <p>23 of Civil Procedure, as well as the local rules</p> <p>24 in the Northern District of Illinois.</p> | Page 7 | <p>1 A. Yes, I have.</p> <p>2 Q. All right. So just a couple of quick</p> <p>3 reminders. First off, obviously, because it's</p> <p>4 Zoom, sometimes there might be a lapse in wifi</p> <p>5 or some other reason that something gets</p> <p>6 disturbed. So we'll have to be conscious of</p> <p>7 that. If for some reason, my question cuts out,</p> <p>8 please make sure that you let me know. I want</p> <p>9 to make sure that you hear my complete question</p> <p>10 before you answer. Is that fair?</p> <p>11 A. Okay. Yes.</p> <p>12 Q. Likewise, even if you understand where</p> <p>13 I'm going with a question, I just ask that you</p> <p>14 let me get the entire question out so that we</p> <p>15 have a complete record, and I'll do my best --</p> <p>16 very best to do the same with you in terms of</p> <p>17 your answers. Fair?</p> <p>18 A. Yes. Thank you.</p> <p>19 Q. If you answer any of my questions, I</p> <p>20 will assume that you heard them completely and</p> <p>21 that you understood them. If you don't hear</p> <p>22 that -- hear something completely or don't</p> <p>23 understand, make sure that you let me know,</p> <p>24 okay?</p> |
| Page 6 | <p>1 BY MS. EKL:</p> <p>2 Q. Dr. Shane, do you go by doctor or</p> <p>3 should I call you Mr. Shane?</p> <p>4 A. Jon is fine. That's okay.</p> <p>5 Q. Okay.</p> <p>6 A. No need for formalities.</p> <p>7 Q. Where are you currently located today?</p> <p>8 A. Caldwell, New Jersey, in my home.</p> <p>9 Q. And this deposition is being taken</p> <p>10 pursuant to -- or over Zoom, correct?</p> <p>11 A. Yes, it is.</p> <p>12 Q. Is anyone else in the room with you</p> <p>13 today?</p> <p>14 A. No. No one in the house today.</p> <p>15 Q. Okay. And do you have any documents in</p> <p>16 front of you?</p> <p>17 A. No.</p> <p>18 Q. Do you have any documents on your</p> <p>19 computer screen that you're able to see as you</p> <p>20 testify, other than something that I may present</p> <p>21 to you over the Zoom?</p> <p>22 A. I have nothing, no. Nothing is open.</p> <p>23 Q. All right. You've given depositions in</p> <p>24 the past, correct?</p>  | Page 8 | <p>1 A. Okay. I will.</p> <p>2 Q. I expect this deposition will be fairly</p> <p>3 long today, and I will do my best to take</p> <p>4 regular breaks. But if at some point you need a</p> <p>5 break, just let us know. As soon as you answer</p> <p>6 whatever pending question is out there, we can</p> <p>7 accommodate you, okay?</p> <p>8 A. Okay. Thank you.</p> <p>9 Q. Great. How many times have you given a</p> <p>10 deposition in the past?</p> <p>11 A. I don't know the total number.</p> <p>12 Maybe -- maybe 10 or 15.</p> <p>13 Q. And in each of those depositions, was</p> <p>14 it in your capacity as a retained expert?</p> <p>15 A. I remember being -- well, are you</p> <p>16 talking about in my entire life?</p> <p>17 Q. Right.</p> <p>18 A. I remember being deposed at least once</p> <p>19 when I was a member of the Newark Police</p> <p>20 Department.</p> <p>21 Q. And what was the nature of that</p> <p>22 testimony?</p> <p>23 A. I had taken a car accident report and I</p> <p>24 believe there was some litigation that ensued.</p>   |

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| <p style="text-align: right;">Page 9</p> <p>1 I don't think I was named in the litigation, but</p> <p>2 I was the one that wrote the police report.</p> <p>3 <b>Q. Okay. So were you a witness in -- was</b></p> <p>4 <b>it a criminal or a civil action that you</b></p> <p>5 <b>testified in?</b></p> <p>6 A. I think that was a civil action.</p> <p>7 <b>Q. Let's go and jump right in. I'm going</b></p> <p>8 <b>to show you -- share my screen with you.</b></p> <p>9 <b>(Exhibit No. 1 was</b></p> <p>10 <b>introduced.)</b></p> <p>11 BY MS. EKL:</p> <p>12 <b>Q. We will mark what I'm showing you --</b></p> <p>13 <b>are you able to see a document on the screen</b></p> <p>14 <b>right now? Probably pretty small.</b></p> <p>15 A. Yes. I can see Appendix E. Looks like</p> <p>16 my CV.</p> <p>17 <b>Q. All right. We'll go ahead and mark</b></p> <p>18 <b>this as Exhibit 1.</b></p> <p>19 <b>And is this, Appendix E, the appendix</b></p> <p>20 <b>that you attached to your expert report that you</b></p> <p>21 <b>provided in this case in relation to Baker's and</b></p> <p>22 <b>Glenn's cases?</b></p> <p>23 A. Yes, looks like it is, yes.</p> <p>24 <b>Q. And to the best of your knowledge, as</b></p> | <p style="text-align: right;">Page 11</p> <p>1 <b>fair?</b></p> <p>2 A. Yes, that's correct.</p> <p>3 <b>Q. At any point in time in your career,</b></p> <p>4 <b>have you taught any classes in -- on the subject</b></p> <p>5 <b>of statistics?</b></p> <p>6 A. Yes.</p> <p>7 <b>Q. And when was that?</b></p> <p>8 A. Well, I currently teach one. It's been</p> <p>9 that way for probably about, I would say, close</p> <p>10 to the last ten years.</p> <p>11 <b>Q. What's the title of that class?</b></p> <p>12 A. The -- the actual term for it is Using</p> <p>13 Computers in Social Science.</p> <p>14 <b>Q. And what does that entail?</b></p> <p>15 A. Basically it's a statistics course.</p> <p>16 The university or the department couldn't call</p> <p>17 it a statistics course because I think there was</p> <p>18 another element of the CUE system that had</p> <p>19 something defined as statistics. So they didn't</p> <p>20 want to have overlap. So essentially they</p> <p>21 called it Using Computers in Social Science.</p> <p>22 <b>Q. Is there anything in the description</b></p> <p>23 <b>that's provided by the college that refers to</b></p> <p>24 <b>this as a statistics class?</b></p> |
| <p style="text-align: right;">Page 10</p> <p>1 <b>of today's date, is it complete and accurate?</b></p> <p>2 A. I believe so. I don't think there's</p> <p>3 been anything added since then.</p> <p>4 <b>Q. Your Appendix E, which is basically</b></p> <p>5 <b>your CV, indicates that you have academic</b></p> <p>6 <b>qualifications in criminal justice, correct?</b></p> <p>7 A. Yes, correct.</p> <p>8 <b>Q. You attended -- you received your</b></p> <p>9 <b>bachelor degree in criminal justice from</b></p> <p>10 <b>Rutgers, your master's from Rutgers, and your</b></p> <p>11 <b>Ph.D. from Rutgers, all in criminal justice,</b></p> <p>12 <b>correct?</b></p> <p>13 A. Yes. That's correct.</p> <p>14 <b>Q. Do you have any degrees in statistics</b></p> <p>15 <b>or statistical analysis?</b></p> <p>16 A. No.</p> <p>17 <b>Q. Do you have any degrees in mathematics?</b></p> <p>18 A. No.</p> <p>19 <b>Q. You also list in Exhibit 1 various</b></p> <p>20 <b>teaching positions and instructional</b></p> <p>21 <b>responsibilities, correct?</b></p> <p>22 A. Yes.</p> <p>23 <b>Q. And you are currently a professor at</b></p> <p>24 <b>John Jay College of Criminal Justice, is that</b></p>                 | <p style="text-align: right;">Page 12</p> <p>1 A. I don't know what the course</p> <p>2 description looks like. I don't know if it</p> <p>3 actually defines it as that. I haven't seen</p> <p>4 that course description in a while.</p> <p>5 <b>Q. And do you -- in the course of your</b></p> <p>6 <b>class, do you teach any of the principles of</b></p> <p>7 <b>statistics in that class?</b></p> <p>8 A. Yes, some basic things --</p> <p>9 <b>Q. I'm sorry. I didn't hear that last</b></p> <p>10 <b>part.</b></p> <p>11 A. I said some basic things and some</p> <p>12 software applications.</p> <p>13 <b>Q. Is the course basically geared towards</b></p> <p>14 <b>showing how the software can perform the</b></p> <p>15 <b>statistical analysis for the user?</b></p> <p>16 A. Yes. It's a little bit of both. It's</p> <p>17 a little bit of that with an explanation of and</p> <p>18 interpretation of the statistics.</p> <p>19 <b>Q. Do you teach the students in the class</b></p> <p>20 <b>how to actually perform the statistical</b></p> <p>21 <b>analysis?</b></p> <p>22 A. Yes.</p> <p>23 <b>Q. And is that used through the computer?</b></p> <p>24 A. Yes.</p>                                       |

6 (Pages 9 to 12)



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| <p style="text-align: right;">Page 13</p> <p>1 Q. And the computer actually does the<br/>2 generating of the statistics, correct?<br/>3 A. Yes, that's correct.<br/>4 Q. You also have a background in law<br/>5 enforcement. Is that fair to say?<br/>6 A. Yes, that's right.<br/>7 Q. Your entire law enforcement career was<br/>8 while you were at the Newark Police Department<br/>9 that's in New Jersey. Is that correct?<br/>10 A. Well, as a sworn officer. There were a<br/>11 couple years before that where I was a civilian<br/>12 working in another police department.<br/>13 Q. Was that Camden Police Department?<br/>14 A. Clifton.<br/>15 Q. Clifton, okay. I thought I saw a<br/>16 reference to Camden Police Department. Did you<br/>17 ever work for Camden Police Department?<br/>18 A. No, but I did some independent work<br/>19 with the Camden Police Department, not working<br/>20 for them.<br/>21 Q. Okay. What were the years that you<br/>22 worked for the Newark Police Department?<br/>23 A. March 1989 until December of 2005.<br/>24 Q. And so you're not including time that</p> | <p style="text-align: right;">Page 15</p> <p>1 Q. Okay. Were you ever promoted to deputy<br/>2 chief?<br/>3 A. No. I had left the organization before<br/>4 that.<br/>5 Q. Okay. And then what's the purpose of<br/>6 putting in your report that you were notified<br/>7 that you were eligible and qualified to be<br/>8 deputy chief?<br/>9 A. Able to give a better and complete<br/>10 accurate record of my standing in the<br/>11 organization.<br/>12 Q. You were never promoted to that<br/>13 position within Newark, correct?<br/>14 A. That's correct. I was not.<br/>15 Q. Okay. Why did you leave Newark Police<br/>16 Department?<br/>17 A. To pursue my Ph.D.<br/>18 Q. And when you pursued your Ph.D., did<br/>19 you do that full time?<br/>20 A. I did, yes.<br/>21 Q. Throughout your time at Newark, did you<br/>22 receive training in various topics?<br/>23 A. I did, yes.<br/>24 Q. And did you receive any of that</p>  |
| <p style="text-align: right;">Page 14</p> <p>1 you worked at the Newark Police Department as a<br/>2 police dispatcher. Is that fair to say?<br/>3 A. No, no, that was -- that was time when<br/>4 I was in Clifton Police Department.<br/>5 Q. Okay. Okay.<br/>6 A. You asked me about Newark.<br/>7 Q. Yes, I did.<br/>8 A. Okay.<br/>9 Q. During any of the time period between<br/>10 19 -- March of 1989 and 2005, did you hold any<br/>11 position with any internal affairs division<br/>12 within the Newark Police Department?<br/>13 A. No.<br/>14 Q. Let me take down this exhibit.<br/>15 I saw a reference -- and I'll show you<br/>16 your report in a moment, but a reference to you<br/>17 saying that on January 21st of 2005, you were<br/>18 notified by the New Jersey Department of<br/>19 Personnel that you were eligible and qualified<br/>20 to be promoted to deputy chief. Do you recall<br/>21 writing that in your report? I can show you if<br/>22 you don't recall.<br/>23 A. I believe that's -- yeah, that's in --<br/>24 in the report.</p>  | <p style="text-align: right;">Page 16</p> <p>1 training -- was it -- strike that.<br/>2 Was any of the training specific to<br/>3 your internal affairs investigations?<br/>4 A. Yes.<br/>5 Q. And when did you receive that training?<br/>6 A. When I was first promoted to sergeant.<br/>7 So I guess -- I don't know what the date is<br/>8 offhand. I'd have to say maybe June -- I'm<br/>9 doing this off the top of my head -- June of '95<br/>10 that I was promoted to sergeant.<br/>11 Q. What did that entail?<br/>12 A. I conducted internal affairs<br/>13 investigations as a supervisor, what things to<br/>14 look for during an internal affairs<br/>15 investigation.<br/>16 Q. How many times, if any, did you conduct<br/>17 an internal affairs investigation during your<br/>18 time at Newark? And I'm not talking about<br/>19 reviewing someone else's investigation. I'm<br/>20 asking how many times did you personally conduct<br/>21 the investigation?<br/>22 A. I don't know exact number, but if I'm<br/>23 estimating, I'd have to say fewer than 50.<br/>24 Q. And during what years?</p> |

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| <p style="text-align: right;">Page 17</p> <p>1 A. Between the time I was promoted, which<br/>2 was June of '95, until the time I left the<br/>3 organization, which was December of '05.<br/>4 <b>Q. During those time periods, did the<br/>5 Newark Police Department have an independent<br/>6 standing internal affairs division?</b><br/>7 A. Yes, they did.<br/>8 <b>Q. And when you say you were promoted,<br/>9 you're talking about your first promotion to<br/>10 sergeant through the various promotions until<br/>11 you left, correct?</b><br/>12 A. Yes.<br/>13 <b>Q. You were never a supervisor over that<br/>14 internal affairs division, correct?</b><br/>15 A. That's correct.<br/>16 <b>Q. In what circumstances would you be --<br/>17 did you investigate an internal affairs<br/>18 allegation as opposed to it being investigated<br/>19 in the internal affairs division?</b><br/>20 A. Well, the internal affairs process in<br/>21 the Newark Police Department was bifurcated. So<br/>22 internal affairs would retain certain things,<br/>23 and then they would delegate certain things out<br/>24 to supervisors.</p> | <p style="text-align: right;">Page 19</p> <p>1 mean?<br/>2 <b>Q. Correct.</b><br/>3 A. It was just related to demeanor.<br/>4 <b>Q. So other than it including an<br/>5 allegation that an officer was rude or -- let's<br/>6 say rude to a citizen, what other examples can<br/>7 you give me of something that would constitute a<br/>8 demeanor complaint?</b><br/>9 A. Using foul language, ethnic or racial<br/>10 slurs, inappropriate hand gestures, you know,<br/>11 commonly giving somebody the finger. I'm sure<br/>12 we're all familiar with something like that.<br/>13 <b>Q. Have you ever been qualified in a court<br/>14 as an expert?</b><br/>15 A. I have, yes.<br/>16 <b>Q. How many times?</b><br/>17 A. I'm not sure. I think twice. No, let<br/>18 me -- maybe three times that I can think of off<br/>19 the top of my head.<br/>20 <b>Q. And in what areas have you been<br/>21 qualified as an expert in court?</b><br/>22 A. Internal affairs. I think -- I think<br/>23 one -- I think it might have all been related to<br/>24 internal affairs. I mean, statistical work that</p> |
| <p style="text-align: right;">Page 18</p> <p>1 <b>Q. And what type of allegations were<br/>2 delegated to supervisors?</b><br/>3 A. Well, I don't know all the categories.<br/>4 I don't know if there was a -- I don't know if<br/>5 there was a standard practice that they used,<br/>6 but I can remember that I did some theft<br/>7 investigations. I did car accident<br/>8 investigations. I don't recall if there were<br/>9 any other -- there might have been some minor<br/>10 things like demeanor complaints, things like<br/>11 that.<br/>12 <b>Q. When you say "demeanor complaints,"<br/>13 what are you referring to?</b><br/>14 A. The way in which officers interact with<br/>15 the public. The way they speak to somebody.<br/>16 <b>Q. And are demeanor complaints a way in<br/>17 which complaints were categorized within the<br/>18 Newark Police Department?</b><br/>19 A. Yes.<br/>20 <b>Q. Other than including the way someone<br/>21 would talk -- a police officer would talk to a<br/>22 member of the public, what else, if anything,<br/>23 did it include?</b><br/>24 A. The demeanor complaint itself, you</p>   | <p style="text-align: right;">Page 20</p> <p>1 I did in another case was kind of wrapped into<br/>2 that. So, I mean, I don't know that I was<br/>3 actually qualified as a statistician, if you<br/>4 will, but it was related to internal affairs<br/>5 cases.<br/>6 <b>Q. I'm looking for what was the actual<br/>7 expertise that the judge found you qualified to<br/>8 testify about?</b><br/>9 A. I think internal affairs.<br/>10 <b>Q. And when was the first time that you<br/>11 were qualified as an expert in internal affairs?</b><br/>12 MR. HILKE: Objection, form.<br/>13 You can answer.<br/>14 THE WITNESS: I'm not sure. I would say<br/>15 within the last -- I'm really guessing at this.<br/>16 I don't know. Probably within the last ten<br/>17 years in federal court in Camden.<br/>18 BY MS. EKL:<br/>19 <b>Q. Let's go back to Exhibit No. 1.<br/>20 For the record, I'm showing you<br/>21 Page 160 of your report, which is the second<br/>22 page of Appendix E where it is titled Deposition<br/>23 and Trial Experience.</b><br/>24 A. Can you raise that one more?</p>        |

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| Page 21 | <p>1       <b>Q. Sure.</b></p> <p>2       A. Yeah, that's perfect. Thank you.</p> <p>3       <b>Q. Okay. You're able to see this</b></p> <p>4       <b>document?</b></p> <p>5       A. Yeah. If you scroll down a little,</p> <p>6       there should be something on Camden with</p> <p>7       Jennifer Bonjean.</p> <p>8       <b>Q. Why don't we go through it when we get</b></p> <p>9       <b>to it. I'm not going to go through all of it.</b></p> <p>10       <b>I just want to ask you a couple of questions.</b></p> <p>11       <b>If you see it, let me know.</b></p> <p>12       There are, and I'll just represent to</p> <p>13       you, let's see, nine references within your</p> <p>14       deposition and trial experience to internal</p> <p>15       affairs. So I want to focus on asking you some</p> <p>16       questions about that.</p> <p>17       A. Okay.</p> <p>18       <b>Q. Looking at the most recent which</b></p> <p>19       <b>occurred on -- according to this document, on</b></p> <p>20       <b>January 10th of 2024, it indicates that you gave</b></p> <p>21       <b>a deposition in relation to internal affairs.</b></p> <p>22       <b>Is that correct?</b></p> <p>23       A. Yes.</p> <p>24       <b>Q. Was that in case Carr versus County of</b></p> | Page 23 | <p>1       <b>Q. And that's in relation to deposition</b></p> <p>2       <b>testimony you gave on August 29th of 2023.</b></p> <p>3       A. Yes.</p> <p>4       <b>Q. Was that in the case Waddy versus City</b></p> <p>5       <b>of Chicago?</b></p> <p>6       A. I believe that's correct, yes.</p> <p>7       <b>Q. And the Waddy case is a case that is</b></p> <p>8       <b>related to the lawsuit that you're here to</b></p> <p>9       <b>testify about today, correct?</b></p> <p>10       A. I believe it is, yes.</p> <p>11       <b>Q. On August -- I'm sorry, on May 26th,</b></p> <p>12       <b>2023, you also list deposition testimony in</b></p> <p>13       <b>relation to internal affairs. Do you see that?</b></p> <p>14       A. Yes.</p> <p>15       <b>Q. And that is a case with Jennifer</b></p> <p>16       <b>Bonjean.</b></p> <p>17       A. Yes, correct.</p> <p>18       <b>Q. What is the name of that case?</b></p> <p>19       A. I believe that case is Maysonet,</p> <p>20       M-a-y-s-o-n-e-t.</p> <p>21       <b>Q. And do you have a case number for that?</b></p> <p>22       A. I don't. That's why I don't have it</p> <p>23       listed here. When I added this to my CV, I</p> <p>24       didn't have the case number. That's not to say</p> |
| Page 22 | <p>1       <b>Essex?</b></p> <p>2       A. Yes, it is.</p> <p>3       <b>Q. And is it fair to say that the nature</b></p> <p>4       <b>of that lawsuit was about a hostile work</b></p> <p>5       <b>environment and first amendment violations?</b></p> <p>6       A. I think that is part of the claim. The</p> <p>7       part that I was examining was a propriety of the</p> <p>8       internal affairs investigation that took place</p> <p>9       within -- I guess within her claim of a hostile</p> <p>10       work environment. I was not opining on her</p> <p>11       hostile work environment.</p> <p>12       <b>Q. Okay. You have not given testimony in</b></p> <p>13       <b>a court of law in relation to that case,</b></p> <p>14       <b>correct?</b></p> <p>15       A. No. That case has not gone to trial</p> <p>16       yet.</p> <p>17       <b>Q. And just for the court reporter, Carr</b></p> <p>18       <b>is C-a-r-r, correct?</b></p> <p>19       A. Yes, correct.</p> <p>20       <b>Q. Okay. The next case you have listed in</b></p> <p>21       <b>relation to internal affairs, you just say</b></p> <p>22       <b>Circuit Court of Cook County, and that's docket</b></p> <p>23       <b>19 L 10035, correct?</b></p> <p>24       A. Yes.</p>                 | Page 24 | <p>1       that it may not be in one of the documents that</p> <p>2       I have today, but I didn't have it at the time I</p> <p>3       updated my CV.</p> <p>4       <b>Q. Is there any reason why you didn't put</b></p> <p>5       <b>the case names associated with this various</b></p> <p>6       <b>testimony?</b></p> <p>7       A. No. No particular reason.</p> <p>8       <b>Q. Jennifer Bonjean is the plaintiff's</b></p> <p>9       <b>attorney, correct, in that case?</b></p> <p>10       A. Yes.</p> <p>11       <b>Q. You also list testimony on March 10th</b></p> <p>12       <b>of 2023 where you identify internal affairs as</b></p> <p>13       <b>the topic of your deposition, correct?</b></p> <p>14       A. Yes.</p> <p>15       <b>Q. And that's another case with Jennifer</b></p> <p>16       <b>Bonjean.</b></p> <p>17       A. Correct.</p> <p>18       <b>Q. And she also represented the plaintiff</b></p> <p>19       <b>in that case, correct?</b></p> <p>20       A. Yes.</p> <p>21       <b>Q. What's the name of the case that you</b></p> <p>22       <b>testified in on March 10th of 2023?</b></p> <p>23       A. That is also Maysonet. There was --</p> <p>24       there were two depositions related to that --</p>                             |

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| Page 25 | <p>1 that case.</p> <p>2 <b>Q. What was the reason for you being</b></p> <p>3 <b>presented for two depositions?</b></p> <p>4 A. If I remember correctly, during the</p> <p>5 first deposition in March, there was some kind</p> <p>6 of -- let me call it a debate between the</p> <p>7 attorneys about discovery materials and -- you</p> <p>8 know, forgive me, I don't know all the legalese</p> <p>9 about this, but something was going back and</p> <p>10 forth between the attorneys. And they agreed to</p> <p>11 pause the deposition and then restart it.</p> <p>12 <b>Q. Okay. So it's really -- what you've</b></p> <p>13 <b>listed as May 26th, 2023, and March 10th, 2023,</b></p> <p>14 <b>that all relates to the same deposition,</b></p> <p>15 <b>correct?</b></p> <p>16 A. Yes, correct.</p> <p>17 <b>Q. Just on two different dates.</b></p> <p>18 A. You are correct.</p> <p>19 <b>Q. Okay. And what was the nature of your</b></p> <p>20 <b>deposition testimony as it related to internal</b></p> <p>21 <b>affairs in relation to the Maysonet case?</b></p> <p>22 A. Much of the same sort of thing that</p> <p>23 we're talking about here when we're talking</p> <p>24 about in Waddy, patterns that emerged with</p> | Page 27 | <p>1 no. That's not -- wait a minute. Actually, I</p> <p>2 don't know the answer to that. I think the</p> <p>3 answer is no. If it did go to trial, I was not</p> <p>4 part of it. I can tell you that. They did --</p> <p>5 well, I shouldn't say a trial. They had -- they</p> <p>6 had some kind of hearing. I don't think it went</p> <p>7 to trial.</p> <p>8 <b>Q. What's the name of that case in Bergen</b></p> <p>9 <b>County?</b></p> <p>10 A. It is Ingrasselino,</p> <p>11 I-n-g-r-a-s-a-l-l-i-n-o [sic] -- I believe</p> <p>12 that's the spelling -- versus Elmwood Park New</p> <p>13 Jersey Police Department.</p> <p>14 <b>Q. And were you hired by the plaintiff in</b></p> <p>15 <b>that case?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. And what was the nature of the internal</b></p> <p>18 <b>affairs testimony that you provided in that</b></p> <p>19 <b>case? If you could describe more about what</b></p> <p>20 <b>internal affairs testimony you provided.</b></p> <p>21 A. It was about the propriety of the</p> <p>22 investigation and the quality of not just the</p> <p>23 investigation, but the measures that they used</p> <p>24 to build their case against Ingrasselino, who</p>  |
| Page 26 | <p>1 complaints, how the investigations were</p> <p>2 conducted, what the supervisory practices were</p> <p>3 at that time.</p> <p>4 <b>Q. And the Maysonet case was another case</b></p> <p>5 <b>against the City of Chicago, correct?</b></p> <p>6 A. It is, yes.</p> <p>7 <b>Q. Looking down -- scroll down here -- on</b></p> <p>8 <b>July 19th of 2021, you identify testimony in the</b></p> <p>9 <b>Superior Court, Bergen County, New Jersey. Is</b></p> <p>10 <b>that correct?</b></p> <p>11 A. Yes, correct.</p> <p>12 <b>Q. And you identify the topic as internal</b></p> <p>13 <b>affairs, and that was testified to during your</b></p> <p>14 <b>deposition, correct?</b></p> <p>15 A. Yes, correct.</p> <p>16 <b>Q. Did you ever testify in court on that</b></p> <p>17 <b>particular case?</b></p> <p>18 A. No. That case has -- excuse me. That</p> <p>19 case has not gone -- I believe it's been -- it's</p> <p>20 been a very, very long time, but I believe there</p> <p>21 is some kind of appeal pending in the court</p> <p>22 system on behalf of the plaintiff.</p> <p>23 <b>Q. Do you know if that case went to trial?</b></p> <p>24 A. No, I don't think it has gone to trial,</p>                                  | Page 28 | <p>1 was a police officer there at the time.</p> <p>2 <b>Q. And what criticisms, if any, did you</b></p> <p>3 <b>provide related to the propriety of the</b></p> <p>4 <b>investigation that was against in -- I can't</b></p> <p>5 <b>even say -- Ingrasselino?</b></p> <p>6 A. Ingrasselino is the name.</p> <p>7 If I remember correctly, the</p> <p>8 methodology that they used was improper in that</p> <p>9 they relied on a faulty measuring system for the</p> <p>10 GPS -- GPS being the global positioning system</p> <p>11 is what it stands for; that the town had</p> <p>12 installed GPS monitors in the police cars, and</p> <p>13 they accused the officer of not logging a</p> <p>14 certain number of miles on his vehicle. And</p> <p>15 they relied on the GPS to tell them that, and</p> <p>16 the GPS system itself could not do that. It</p> <p>17 could not do what they relied on.</p> <p>18 And then there was deep flaws within</p> <p>19 the types of documents that they collected and</p> <p>20 the way they -- the way they measured the amount</p> <p>21 of miles that the vehicle traveled. I remember</p> <p>22 that it was so flawed that you could not</p> <p>23 reliably estimate the number of miles. And,</p> <p>24 therefore, the charges that they brought against</p> |

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| Page 29 | <p>1 him were unreliable, should not have happened.</p> <p>2 <b>Q. In that case, were you testifying that</b></p> <p>3 <b>basically the evidence that was used against</b></p> <p>4 <b>Ingrassellino -- Ingrassellino was insufficient to</b></p> <p>5 <b>sustain the charges that they were bringing</b></p> <p>6 <b>against him?</b></p> <p>7 A. Yes.</p> <p>8 <b>Q. And so your testimony was, at least in</b></p> <p>9 <b>part, in relation to the quality of that</b></p> <p>10 <b>investigation, correct?</b></p> <p>11 A. Yes, correct.</p> <p>12 <b>Q. What was the outcome of the</b></p> <p>13 <b>investigation that you were opining about? And</b></p> <p>14 <b>what I'm getting at, was the officer fired? Was</b></p> <p>15 <b>he disciplined? Do you know what their</b></p> <p>16 <b>investigation -- I'm sorry, do you know what the</b></p> <p>17 <b>outcome was of that investigation?</b></p> <p>18 A. Well, the outcome of the investigation</p> <p>19 was that it was sustained and the officer was --</p> <p>20 was terminated.</p> <p>21 <b>Q. Looking at the next page, Page 161, and</b></p> <p>22 <b>ask you to take a look at the March 25th to 26th</b></p> <p>23 <b>and April 1st of 2019 entry. You have written</b></p> <p>24 <b>on here, "Trial testimony (qualified as an</b></p> | Page 31 | <p>1 <b>Q. And what was the nature of her</b></p> <p>2 <b>allegations in that case?</b></p> <p>3 A. Well, it was multi-faceted, but my</p> <p>4 involvement in that case was that the Atlantic</p> <p>5 City Police Department had initiated discipline</p> <p>6 against her that was disproportionate to much of</p> <p>7 the other officers who were similarly situated.</p> <p>8 <b>Q. Did you provide any sort of statistical</b></p> <p>9 <b>analysis in rendering your opinions in that</b></p> <p>10 <b>case?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. And what was the nature of the</b></p> <p>13 <b>statistical analysis?</b></p> <p>14 A. I don't recall specifically, but I</p> <p>15 think it is similar to what you see in the case</p> <p>16 before us today.</p> <p>17 <b>Q. And were you allowed -- I'm sorry.</b></p> <p>18 <b>Were you -- yeah, did the court allow you to</b></p> <p>19 <b>testify regarding that statistical analysis at</b></p> <p>20 <b>the trial?</b></p> <p>21 A. Yes.</p> <p>22 <b>Q. Was that testimony challenged before</b></p> <p>23 <b>trial, to your knowledge?</b></p> <p>24 A. I don't believe so. Not that I know</p>                            |
| Page 30 | <p>1 <b>expert in police internal affairs in discipline</b></p> <p>2 <b>and police policy and practices.)"</b></p> <p>3 <b>Is that the case that you were</b></p> <p>4 <b>referring to earlier?</b></p> <p>5 A. I forgot about that one. That was a</p> <p>6 different one. That was -- that was against the</p> <p>7 Atlantic City Police Department in New Jersey.</p> <p>8 <b>Q. What was the name of that case?</b></p> <p>9 A. Well, forgive me, I'm not sure. I</p> <p>10 believe that one -- I believe the trial</p> <p>11 testimony one was Zanes, Z-a-n-e-s, Zanes.</p> <p>12 Michelle Zanes was her name.</p> <p>13 I'm just trying to differentiate</p> <p>14 between that one and the next one. Maybe those</p> <p>15 were just -- you know what, it might be -- those</p> <p>16 might be the same -- I'm looking at the numbers.</p> <p>17 They might be the same case. I was deposed in</p> <p>18 that and went to trial. Maybe it didn't settle</p> <p>19 or something like that.</p> <p>20 <b>Q. You were hired by the plaintiff in that</b></p> <p>21 <b>case, Michelle Zanes?</b></p> <p>22 A. Yes.</p> <p>23 <b>Q. Was Michelle Zanes a police officer?</b></p> <p>24 A. Yes.</p>  | Page 32 | <p>1 of.</p> <p>2 <b>Q. You were not looking at the quality of</b></p> <p>3 <b>the investigation in that case. Is that</b></p> <p>4 <b>correct?</b></p> <p>5 A. I may have. I don't remember</p> <p>6 specifically. I may have done that as well.</p> <p>7 It's just been so long, I don't recall.</p> <p>8 Certainly the discipline end of it. There may</p> <p>9 have been some elements of the quality as well.</p> <p>10 <b>Q. Did you testify about sustained rates</b></p> <p>11 <b>during the course of your testimony in the Zanes</b></p> <p>12 <b>case?</b></p> <p>13 A. I think the answer is yes to that.</p> <p>14 Well, let me say this: When you say</p> <p>15 did I -- did I testify to the sustained rates,</p> <p>16 what I'm thinking of is that I believe I talked</p> <p>17 about sustained rates in my report. I don't</p> <p>18 know specifically if -- or I don't recall</p> <p>19 whether or not we actually talked about</p> <p>20 sustained rates at the trial.</p> <p>21 <b>Q. Do you keep copies of all of your prior</b></p> <p>22 <b>expert reports?</b></p> <p>23 A. No, not necessarily. I mean, I</p> <p>24 don't -- I have some. I don't know that I have</p> |

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| <p style="text-align: right;">Page 33</p> <p>1 them all.</p> <p>2 <b>Q. Do you have a copy of your expert</b></p> <p>3 <b>report in the Zanes case?</b></p> <p>4 A. I would have to look for it. I don't</p> <p>5 know the answer to that.</p> <p>6 <b>Q. Do you have a copy of your expert</b></p> <p>7 <b>report in the Ingrasselino case?</b></p> <p>8 A. I may.</p> <p>9 <b>Q. Do you have copies of transcripts of</b></p> <p>10 <b>any of your testimony in either of those cases?</b></p> <p>11 A. I don't think so, no.</p> <p>12 <b>Q. Looking down at March 6th of 2018, you</b></p> <p>13 <b>also referenced that you provided trial</b></p> <p>14 <b>testimony related to internal affairs in a case</b></p> <p>15 <b>in the United States District Court in the</b></p> <p>16 <b>District of New Jersey in Camden, correct?</b></p> <p>17 A. Yes, correct.</p> <p>18 <b>Q. And that was another case involving</b></p> <p>19 <b>Jennifer Bonjean, correct?</b></p> <p>20 A. Yes, correct.</p> <p>21 <b>Q. And she was the attorney for the</b></p> <p>22 <b>plaintiff in that case.</b></p> <p>23 A. Yes.</p> <p>24 <b>Q. What was the name of the case that you</b></p>  | <p style="text-align: right;">Page 35</p> <p>1 <b>Q. And it was yet another case involving</b></p> <p>2 <b>Jennifer Bonjean, correct?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. You've identified it as 14 CV 5092</b></p> <p>5 <b>correct?</b></p> <p>6 A. Okay. Yes.</p> <p>7 <b>Q. Do you recall the name of that case?</b></p> <p>8 A. No, I don't.</p> <p>9 <b>Q. You state on here that you were</b></p> <p>10 <b>qualified in federal court as an expert in</b></p> <p>11 <b>criminal investigations. Is that something</b></p> <p>12 <b>different from the times that you were qualified</b></p> <p>13 <b>as an expert in internal affairs?</b></p> <p>14 A. It was probably both of those things at</p> <p>15 that time related to that case.</p> <p>16 <b>Q. Do you have a specific recollection one</b></p> <p>17 <b>way or the other, or are you guessing when you</b></p> <p>18 <b>say "probably"?</b></p> <p>19 A. Well, because I wrote it, that's why I</p> <p>20 believe that it's both of those things.</p> <p>21 <b>Q. And what was the nature of that</b></p> <p>22 <b>testimony in terms of the general background?</b></p> <p>23 A. Forgive me. I don't know. I don't</p> <p>24 remember that case.</p> |
| <p style="text-align: right;">Page 34</p> <p>1 <b>testified in on March 6th of 2018?</b></p> <p>2 A. I don't recall. There were a couple</p> <p>3 around that time. When I say a couple, not a</p> <p>4 couple that I testified in, but there were a</p> <p>5 couple of cases that were ongoing at that time.</p> <p>6 So I'm not sure what that was.</p> <p>7 <b>Q. What was the nature of your expert</b></p> <p>8 <b>testimony in that case?</b></p> <p>9 A. It's much the same we're talking about</p> <p>10 here today, the quality of the investigations,</p> <p>11 how the investigations were conducted by the</p> <p>12 Atlantic City Police Department.</p> <p>13 <b>Q. And in -- specifically, do you know,</b></p> <p>14 <b>other than just generally internal affairs, did</b></p> <p>15 <b>the court qualify you as an expert in any</b></p> <p>16 <b>specific area related to internal affairs, or</b></p> <p>17 <b>just internal affairs generally?</b></p> <p>18 A. I think just internal affairs in</p> <p>19 general.</p> <p>20 <b>Q. There's another case out of Camden that</b></p> <p>21 <b>you identify having testified in on</b></p> <p>22 <b>September 5th of 2017. Do you see that on your</b></p> <p>23 <b>list?</b></p> <p>24 A. Yes.</p> | <p style="text-align: right;">Page 36</p> <p>1 <b>Q. The December 2016 case below that is</b></p> <p>2 <b>yet another case with Jennifer Bonjean, correct?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. And that was 13 CV 6667.</b></p> <p>5 A. Yes.</p> <p>6 <b>Q. That was another case out of United</b></p> <p>7 <b>States District Court, District of New Jersey in</b></p> <p>8 <b>Camden, correct?</b></p> <p>9 A. Yes.</p> <p>10 <b>Q. Do you remember the name of that case?</b></p> <p>11 A. No, I do not.</p> <p>12 <b>Q. You state on here that you were</b></p> <p>13 <b>qualified in federal court as an expert in</b></p> <p>14 <b>statistics, correct?</b></p> <p>15 A. Yes.</p> <p>16 <b>Q. What was the nature of the statistical</b></p> <p>17 <b>analysis that you provided in that case?</b></p> <p>18 A. Again, much that we see here, same</p> <p>19 thing.</p> <p>20 <b>Q. Well, can you be a little more specific</b></p> <p>21 <b>than saying "much of the same as we see here"?</b></p> <p>22 A. Meaning today's case. I opined on</p> <p>23 internal affairs cases, the sampling. We're</p> <p>24 looking for patterns.</p>   |

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| <p style="text-align: right;">Page 37</p> <p>1 <b>Q. What was the outcome of that case?</b><br/> 2 A. I don't recall. I don't even -- I'm<br/> 3 not even sure which case that was.<br/> 4 <b>Q. When you say you testified in federal</b><br/> 5 <b>court, was that at a trial or was that at some</b><br/> 6 <b>other type of hearing?</b><br/> 7 A. I believe that was at some kind of<br/> 8 hearing related to the -- related to the --<br/> 9 getting -- getting the data from the Atlantic<br/> 10 City Police Department.<br/> 11 <b>Q. This list that I've just shown you</b><br/> 12 <b>that's on -- I'll shrink it down a little bit so</b><br/> 13 <b>you can see the full list -- Pages 2 and 3 of</b><br/> 14 <b>Exhibit 1, is this -- as of today's date, is</b><br/> 15 <b>this a complete and accurate list of your prior</b><br/> 16 <b>deposition and trial experience?</b><br/> 17 A. Yes, it is.<br/> 18 MR. HILKE: Wait a second. Just object to<br/> 19 form.<br/> 20 You can answer.<br/> 21 THE WITNESS: Sorry. Yes, it is.<br/> 22 BY MS. EKL:<br/> 23 <b>Q. Have you ever provided testimony on</b><br/> 24 <b>behalf of a police department?</b></p> | <p style="text-align: right;">Page 39</p> <p>1 reviewed my report.<br/> 2 <b>Q. And when you say "plaintiffs' counsel,"</b><br/> 3 <b>who did that include?</b><br/> 4 A. Mr. Hilke and Mr. Rauscher.<br/> 5 <b>Q. How many times did you speak to them?</b><br/> 6 A. Maybe two or three times.<br/> 7 <b>Q. And when was the most recent?</b><br/> 8 A. Yesterday.<br/> 9 <b>Q. How long total did you speak to</b><br/> 10 <b>Mr. Hilke or Mr. -- and/or Mr. Rauscher in</b><br/> 11 <b>preparation for your deposition?</b><br/> 12 A. Probably a couple of hours.<br/> 13 <b>Q. And you said you reviewed your report?</b><br/> 14 A. I did, yes.<br/> 15 <b>Q. Did you review any other documents in</b><br/> 16 <b>preparation for your deposition?</b><br/> 17 A. I reviewed the Waddy report. I<br/> 18 reviewed -- over the course of time, I reviewed<br/> 19 all the documents that are in my -- in my<br/> 20 report.<br/> 21 <b>Q. Well, in preparation for the</b><br/> 22 <b>deposition, did you review all of the documents</b><br/> 23 <b>that were referenced in your report?</b><br/> 24 A. No, I did not go back through them</p>  |
| <p style="text-align: right;">Page 38</p> <p>1 A. Yes.<br/> 2 <b>Q. When was that?</b><br/> 3 A. I couldn't tell you when. I've had a<br/> 4 couple of cases throughout -- throughout my<br/> 5 years. I can't -- I've submitted reports in<br/> 6 cases on behalf of police departments.<br/> 7 <b>Q. Were any of the topics of those reports</b><br/> 8 <b>related to internal affairs?</b><br/> 9 A. I'm not sure. I would have to go back<br/> 10 and look at my files, but I can remember there<br/> 11 were a couple of use-of-force cases. I don't<br/> 12 recall specifically if it was related to<br/> 13 internal affairs.<br/> 14 <b>Q. Has any court ever found you</b><br/> 15 <b>unqualified to testify as to any expertise?</b><br/> 16 MR. HILKE: Just objection to form and<br/> 17 foundation.<br/> 18 But you can answer.<br/> 19 THE WITNESS: No, not that I'm aware of, no.<br/> 20 No one has ever told me that I couldn't testify.<br/> 21 BY MS. EKL:<br/> 22 <b>Q. What did you do to prepare for today's</b><br/> 23 <b>deposition?</b><br/> 24 A. I spoke with plaintiffs' counsel. I</p>   | <p style="text-align: right;">Page 40</p> <p>1 another time for that specific purpose, no.<br/> 2 <b>Q. I asked you questions earlier about the</b><br/> 3 <b>fact that you previously gave a deposition in</b><br/> 4 <b>relation to that Waddy report, correct?</b><br/> 5 A. I did, yes.<br/> 6 <b>Q. And since the time of your deposition,</b><br/> 7 <b>have you had a chance to review that deposition</b><br/> 8 <b>transcript?</b><br/> 9 A. No.<br/> 10 <b>Q. Do you believe, as you sit here today,</b><br/> 11 <b>that all of your answers in relation to that</b><br/> 12 <b>Waddy report were true and accurate?</b><br/> 13 MR. HILKE: Object to foundation.<br/> 14 But you can answer.<br/> 15 THE WITNESS: They're certainly true and<br/> 16 accurate, yes, as best as I can recall.<br/> 17 BY MS. EKL:<br/> 18 <b>Q. If I were to ask you any of the same</b><br/> 19 <b>questions you were asked during the course of</b><br/> 20 <b>your Waddy deposition, would you expect your</b><br/> 21 <b>answers to be the same?</b><br/> 22 MR. HILKE: Same objection.<br/> 23 You can answer.<br/> 24 THE WITNESS: I would say yes.</p> |

13 (Pages 37 to 40)

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|---------|--|---------|--|
| Page 41 | <p>1 BY MS. EKL:</p> <p>2 <b>Q. You're aware that for purposes of</b></p> <p>3 <b>today's deposition, you are here to answer</b></p> <p>4 <b>questions about your opinions as they relate to</b></p> <p>5 <b>Ben Baker and Clarissa Glenn, correct?</b></p> <p>6 MR. HILKE: I'll just make the same</p> <p>7 objection, Beth, that we expect to confirm the</p> <p>8 scope of three depositions for the same report</p> <p>9 in these cases.</p> <p>10 But you can answer, Dr. Shane.</p> <p>11 MS. EKL: And just for the record, we are</p> <p>12 not -- we did not notice this deposition nor did</p> <p>13 you provide a disclosure of his testimony in any</p> <p>14 case other than Baker and Glenn. So we would be</p> <p>15 objecting to using this deposition in whole as</p> <p>16 the deposition for any other case other than</p> <p>17 Baker and Glenn.</p> <p>18 MR. HILKE: I understand. Not to belabor</p> <p>19 it, but, you know, he reviewed materials from</p> <p>20 all three cases. He captioned all three cases</p> <p>21 on the report. I understand we may have a</p> <p>22 dispute, and we'll have to confer further about</p> <p>23 it.</p> <p>24 But, Dr. Shane, you can answer the</p> | Page 43 | <p>1 (Exhibit No. 5 was</p> <p>2 introduced.)</p> <p>3 BY MS. EKL:</p> <p>4 <b>Q. Do you see this document?</b></p> <p>5 A. Yes.</p> <p>6 <b>Q. And just for the record, what I've</b></p> <p>7 <b>marked as Deposition Exhibit No. 5 is 121 pages.</b></p> <p>8 <b>It goes through Page 125 that has a signature</b></p> <p>9 <b>page, and then it contains an index of the</b></p> <p>10 <b>appendices but not the appendices themselves.</b></p> <p>11 <b>So it's Pages 1 through 126, I believe.</b></p> <p>12 <b>Do you see this last page that's dated</b></p> <p>13 <b>April 1st of 2024?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. And is that your electronic signature</b></p> <p>16 <b>on the last page of this report?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. And although this report identifies a</b></p> <p>19 <b>couple of other cases, this is the report that</b></p> <p>20 <b>you are rendering in relation to the case</b></p> <p>21 <b>Ben Baker and Clarissa Glenn versus City of</b></p> <p>22 <b>Chicago, et al., correct?</b></p> <p>23 A. Yes, correct.</p> <p>24 <b>Q. When were you first contacted about</b></p>   |
| Page 42 | <p>1 question.</p> <p>2 THE WITNESS: So the question was -- can you</p> <p>3 repeat it, please?</p> <p>4 BY MS. EKL:</p> <p>5 <b>Q. Sure. For purposes of today's</b></p> <p>6 <b>deposition, do you understand that you're here</b></p> <p>7 <b>to answer questions as it relates to Ben Baker</b></p> <p>8 <b>and Clarissa Glenn's claims?</b></p> <p>9 MR. HILKE: Object to form.</p> <p>10 You can answer.</p> <p>11 THE WITNESS: As they relate to the Chicago</p> <p>12 Police Department's internal affairs practices,</p> <p>13 supervisory practices, and the quality of</p> <p>14 investigations and the patterns that arose at</p> <p>15 that time.</p> <p>16 BY MS. EKL:</p> <p>17 <b>Q. When were you first contacted about</b></p> <p>18 <b>rendering any of the opinions contained in the</b></p> <p>19 <b>report that you've disclosed to -- let me just</b></p> <p>20 <b>let me strike that for a second. I think it</b></p> <p>21 <b>will be easier if I show you.</b></p> <p>22 <b>I'm going to show you what we'll mark</b></p> <p>23 <b>as Deposition Exhibit No. 5.</b></p> <p>24</p>  | Page 44 | <p>1 <b>rendering any of the opinions that are contained</b></p> <p>2 <b>within Deposition Exhibit No. 5?</b></p> <p>3 A. I don't recall. It's been probably</p> <p>4 about a year since discussions first began.</p> <p>5 (Exhibit No. 2 was</p> <p>6 introduced.)</p> <p>7 BY MS. EKL:</p> <p>8 <b>Q. I'm going to show you what we'll mark</b></p> <p>9 <b>as Deposition Exhibit No. 2.</b></p> <p>10 <b>For the record, this is a document</b></p> <p>11 <b>Bates-stamped Shane Subpoena Response No. 7.</b></p> <p>12 <b>It's a one-page document.</b></p> <p>13 <b>Do you recognize this document?</b></p> <p>14 A. It looks like an e-mail. It's limited.</p> <p>15 I don't recall that specific e-mail.</p> <p>16 <b>Q. Okay. Do you recall having -- do you</b></p> <p>17 <b>recall exchanging e-mails with Wally Hilke back</b></p> <p>18 <b>in November of 2022 related to the opinions that</b></p> <p>19 <b>you've provided in the Baker and Glenn case?</b></p> <p>20 A. I'm not sure if that's related to Baker</p> <p>21 and Glenn or if that's related to Waddy. It may</p> <p>22 have been both at that time. We may have had</p> <p>23 discussions about both of them at that time.</p> <p>24 <b>Q. Are there any documents that would give</b></p> |

14 (Pages 41 to 44)



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| <p style="text-align: right;">Page 45</p> <p>1 you -- that would refresh your memory as to when</p> <p>2 you first started discussing the opinions that</p> <p>3 you rendered in the Baker case?</p> <p>4 And I'm just -- for purposes of today,</p> <p>5 rather than continuing to refer to it as Baker</p> <p>6 and Glenn, I'll just call it the Baker case,</p> <p>7 that you understand I'm referring to the fact</p> <p>8 that it's both plaintiffs.</p> <p>9 A. That's fine.</p> <p>10 No, I don't think I do.</p> <p>11 Q. This particular document indicates --</p> <p>12 it says, "I will invoice at \$395 hour plus any</p> <p>13 incidental with receipts if necessary."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Is that the rate that you agreed to</p> <p>17 bill your time in this case for things other</p> <p>18 than testimony?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know whether or not there's --</p> <p>21 has that always been the rate that you charged</p> <p>22 in relation to your opinions in this case?</p> <p>23 A. I believe the answer is yes. I don't</p> <p>24 think there's any other rate. Yes.</p> | <p style="text-align: right;">Page 47</p> <p>1 A. I believe the answer is yes. It's</p> <p>2 related to Watts, and Watts is related to Baker</p> <p>3 and Glenn.</p> <p>4 Q. Do you have a copy of this agreement</p> <p>5 that contains initials from someone from Loevy &amp;</p> <p>6 Loevy and/or a signature from Loevy &amp; Loevy?</p> <p>7 A. I don't know. I'm not sure.</p> <p>8 Q. We received this document in response</p> <p>9 to a subpoena. Did you receive a copy of the</p> <p>10 subpoena that we sent to Mr. Hilke to provide to</p> <p>11 you in this case?</p> <p>12 A. Yes.</p> <p>13 Q. And did you look for the documents</p> <p>14 responsive to that subpoena?</p> <p>15 A. I did.</p> <p>16 Q. What did you do to look for documents</p> <p>17 responsive to the subpoena?</p> <p>18 A. I just checked my files.</p> <p>19 Q. Are all of your files stored</p> <p>20 electronically or do you also store hard copies</p> <p>21 of files?</p> <p>22 A. Electronically only.</p> <p>23 Q. Did you conduct any kind of e-mail</p> <p>24 search for documents responsive to the subpoena?</p>  |
| <p style="text-align: right;">Page 46</p> <p>1 Q. Showing you what -- sorry.</p> <p>2 Can you see this on the screen?</p> <p>3 A. Can you blow it up for me, please, a</p> <p>4 little bit? Zoom in.</p> <p>5 (Exhibit No. 3 was</p> <p>6 introduced.)</p> <p>7 BY MS. EKL:</p> <p>8 Q. Showing you what I'll mark as Exhibit</p> <p>9 No. 3. Do you see a document that's entitled</p> <p>10 Agreement For Services Between Jon M. Shane and</p> <p>11 Loevy &amp; Loevy?</p> <p>12 A. Yes.</p> <p>13 Q. And for the record, this is a two-page</p> <p>14 document Bates-stamped Shane Subpoena Response 1</p> <p>15 and 2.</p> <p>16 Do you see the last page of this</p> <p>17 document has an electronic signature on it and a</p> <p>18 date?</p> <p>19 A. Yes.</p> <p>20 Q. Is that your electronic signature?</p> <p>21 A. Yes, it is.</p> <p>22 Q. And is this an agreement between you</p> <p>23 and Loevy &amp; Loevy, Mr. Baker and Ms. Glenn's</p> <p>24 attorneys in this case?</p>   | <p style="text-align: right;">Page 48</p> <p>1 A. No, I don't think so, no.</p> <p>2 Q. Is there a reason why you didn't do</p> <p>3 that?</p> <p>4 A. Well, periodically I delete my Gmail</p> <p>5 bin. I only get a certain amount of free space</p> <p>6 in my Gmail bin that tells me that -- Gmail will</p> <p>7 send me a notice that it's full and that I'll</p> <p>8 have to go in and, you know, delete -- delete</p> <p>9 or -- what is the word I'm looking for -- delete</p> <p>10 deleted e-mails to make more space.</p> <p>11 Q. How frequently do you delete your</p> <p>12 deleted e-mails?</p> <p>13 A. Whenever I get the notification from</p> <p>14 Gmail that I'm out of space.</p> <p>15 Q. So approximately how often does that</p> <p>16 occur?</p> <p>17 A. I really don't know. Maybe a couple</p> <p>18 times a year.</p> <p>19 Q. And as a matter of course, do you</p> <p>20 delete -- have you deleted the e-mails that</p> <p>21 you've received from anyone at the law firm of</p> <p>22 Loevy &amp; Loevy in relation to your work on either</p> <p>23 Ben Baker's case or any other case involving</p> <p>24 Ronald Watts?</p> |

15 (Pages 45 to 48)

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|---|---|
| Page 49   | Page 51   |
| <p>1 MR. HILKE: Object to form.</p> <p>2 You can answer.</p> <p>3 THE WITNESS: Well, I would say I don't</p> <p>4 delete them specifically. They would get</p> <p>5 deleted with all the other e-mails or -- that</p> <p>6 get deleted. Anything that's in that -- in that</p> <p>7 deletion time period.</p> <p>8 BY MS. EKL:</p> <p>9 Q. Well, do you have some kind of --</p> <p>10 something set up within your e-mail system that</p> <p>11 causes it to automatically delete e-mails</p> <p>12 without you actually marking them to be deleted?</p> <p>13 A. No. What happens is, Gmail notifies</p> <p>14 you that your Gmail bin is full and it gives you</p> <p>15 some options to be able to go in and select the</p> <p>16 e-mails that are in different folders, like the</p> <p>17 deleted folder, and you can purge that folder</p> <p>18 and then free up the space.</p> <p>19 Q. I'm familiar with how Gmail works. So</p> <p>20 e-mail comes into your inbox, correct?</p> <p>21 A. Yes, correct.</p> <p>22 Q. And you have the option to either save</p> <p>23 it into a folder that you've created, or you can</p> <p>24 delete it, correct?</p> | <p>1 A. Yes.</p> <p>2 Q. And that \$395 per hour covers research,</p> <p>3 writing, meetings, telephone calls, and</p> <p>4 associated work in producing the expert report,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. There's a Paragraph 5 that also talks</p> <p>8 about depositions and courtroom testimony,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And the agreement is that that time</p> <p>12 will be billed at \$2,200 for an eight-hour day,</p> <p>13 and then any additional hour at a cost of</p> <p>14 \$395 per hour, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Is this the same contract that you</p> <p>17 utilized to perform your work in relation to the</p> <p>18 Waddy case?</p> <p>19 A. I believe the answer is yes.</p> <p>20 Q. One of the document requests that we</p> <p>21 made to you was for your invoices in relation to</p> <p>22 the Baker case. Do you recall seeing a request</p> <p>23 for that?</p> <p>24 A. Not specifically, but I'll trust that</p>                         |
| Page 50   | Page 52   |
| <p>1 A. I'm not sure about a folder. I don't</p> <p>2 have any folders. I just delete them and they</p> <p>3 go into the delete bin.</p> <p>4 Q. So I'll ask you, from this period of</p> <p>5 time forward, not to delete any of the e-mails</p> <p>6 that are in your inbox that relate to your --</p> <p>7 that relate to your work on not just Baker and</p> <p>8 Glenn's cases, but any of the Ronald Watts</p> <p>9 cases. Okay?</p> <p>10 A. All right. Let me just make a note of</p> <p>11 that, please.</p> <p>12 I will explore the option that you're</p> <p>13 talking about about creating folders and saving</p> <p>14 them. I'm not aware of that. Never did it.</p> <p>15 Q. Okay. I put back on the screen Exhibit</p> <p>16 No. 3.</p> <p>17 A. Okay.</p> <p>18 Q. This document, do you believe that this</p> <p>19 is the agreement that was executed between you</p> <p>20 and Loevy &amp; Loevy?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Okay. This document indicates that you</p> <p>23 have an hourly rate of \$395 per hour. We spoke</p> <p>24 briefly of that, correct?</p>   | <p>1 it's probably on the subpoena.</p> <p>2 Q. Did you provide copies of invoices to</p> <p>3 the defense in response to that subpoena?</p> <p>4 MR. HILKE: Sorry, do you mean to the</p> <p>5 plaintiff?</p> <p>6 MS. EKL: No. Did he provide invoices to us</p> <p>7 in response to the subpoena? I guess to you to</p> <p>8 provide to us, but...</p> <p>9 MR. HILKE: Okay. That's what I wanted to</p> <p>10 clarify.</p> <p>11 You can answer.</p> <p>12 THE WITNESS: I believe there were a few,</p> <p>13 yes. I don't recall specifically, but I believe</p> <p>14 there were a few.</p> <p>15 (Exhibit No. 4 was</p> <p>16 introduced.)</p> <p>17 BY MS. EKL:</p> <p>18 Q. I'll show you what I've marked as</p> <p>19 Exhibit No. 4.</p> <p>20 So, for the record, this is a four-page</p> <p>21 document. The Bates stamps are a little bit out</p> <p>22 of order. They have been rearranged to date</p> <p>23 order, so I'm just going to read the numbers:</p> <p>24 Shane Subpoena Response 6, Shane Subpoena</p> |

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|---------|---|---------|--|
| Page 53 | <p>1 <b>Response 3, Shane Subpoena Response 4, and Shane</b></p> <p>2 <b>Subpoena Response 5.</b></p> <p>3 <b>So looking at the first invoice, which</b></p> <p>4 <b>is Invoice No. 289, do you recognize this</b></p> <p>5 <b>document?</b></p> <p>6 A. It looks like an invoice that I</p> <p>7 submitted on or about -- it was initiated around</p> <p>8 November 28th, 2022.</p> <p>9 <b>Q. What do you mean by "initiated"?</b></p> <p>10 A. In the upper right corner, you can see</p> <p>11 the date 11/28/2022.</p> <p>12 <b>Q. And so is that in relation to work that</b></p> <p>13 <b>had already been performed by the date of</b></p> <p>14 <b>November 28th of 2022?</b></p> <p>15 A. I'm not sure. I think that's the</p> <p>16 initiation date going forward from that date, if</p> <p>17 memory serves me correctly.</p> <p>18 <b>Q. When you received the subpoena for your</b></p> <p>19 <b>invoices in relation to the Ben Baker case, is</b></p> <p>20 <b>this an invoice that you yourself pulled and</b></p> <p>21 <b>provided to Mr. Hilke in response to that</b></p> <p>22 <b>subpoena?</b></p> <p>23 A. I don't remember specifically all the</p> <p>24 individual invoices.</p> | Page 55 | <p>1 <b>Q. And there's no description given on</b></p> <p>2 <b>this invoice for the work that was conducted.</b></p> <p>3 A. That's right.</p> <p>4 <b>Q. Do you recall, as you sit here today,</b></p> <p>5 <b>what you did during any of those time periods</b></p> <p>6 <b>billed in Invoice 289?</b></p> <p>7 A. No, I don't.</p> <p>8 <b>Q. Can you say with certainty that the</b></p> <p>9 <b>time that you billed was in relation to the</b></p> <p>10 <b>opinions that you are providing in relation to</b></p> <p>11 <b>Ben Baker's case?</b></p> <p>12 MR. HILKE: Object to form.</p> <p>13 But you can answer.</p> <p>14 THE WITNESS: No, I can't say with</p> <p>15 certainty. I would imagine so, but I can't say</p> <p>16 with certainty.</p> <p>17 BY MS. EKL:</p> <p>18 <b>Q. The total for this invoice was</b></p> <p>19 <b>\$2,962.50, correct?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. And that's reflecting the total of</b></p> <p>22 <b>seven and a half hours of work?</b></p> <p>23 A. Three, four, five, six, seven and a</p> <p>24 half hours, yes.</p> |
| Page 54 | <p>1 <b>Q. Is this invoice redacted in any manner,</b></p> <p>2 <b>or is this the way in which you provided it to</b></p> <p>3 <b>Loevy &amp; Loevy at the time that you were</b></p> <p>4 <b>submitting it?</b></p> <p>5 A. I don't recall if there is -- I don't</p> <p>6 know if there's been anything taken out of that.</p> <p>7 <b>Q. Is it your practice to provide invoices</b></p> <p>8 <b>that do not reflect the dates in which the work</b></p> <p>9 <b>was conducted or describe in any manner the type</b></p> <p>10 <b>of work that was conducted?</b></p> <p>11 A. Well, usually I make an indication.</p> <p>12 <b>Q. And this particular invoice reflects</b></p> <p>13 <b>five entries, correct?</b></p> <p>14 A. Yes, it does.</p> <p>15 <b>Q. And there's a column for quantity,</b></p> <p>16 <b>correct?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. And quantity, is that a designation for</b></p> <p>19 <b>the amount of time that was spent?</b></p> <p>20 A. Yes, correct.</p> <p>21 <b>Q. In this case, it reflects one hour, one</b></p> <p>22 <b>and a half hours, one and a half hours, two and</b></p> <p>23 <b>a half hours, and one hour, correct?</b></p> <p>24 A. Yes.</p>   | Page 56 | <p>1 <b>Q. The case matter that's reflected on</b></p> <p>2 <b>here says Watts-Chicago PD, correct?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. What does that indicate to you about</b></p> <p>5 <b>what subject matter you were working on at that</b></p> <p>6 <b>time?</b></p> <p>7 MR. HILKE: Object to form. Just object to</p> <p>8 form.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: I know it was a Watts-related</p> <p>11 case.</p> <p>12 BY MS. EKL:</p> <p>13 <b>Q. Looking at the next page, the next</b></p> <p>14 <b>invoice chronologically is dated 12/4/2022, and</b></p> <p>15 <b>it has an invoice number of 292.</b></p> <p>16 <b>Do you see this document?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. This particular document gives a brief</b></p> <p>19 <b>description under the item column, correct?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. And it indicates meeting, reviewing,</b></p> <p>22 <b>conference, drafting, and conference, correct?</b></p> <p>23 A. Yes.</p> <p>24 <b>Q. And it also reflects the hours -- the</b></p>                             |

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|---|--|
| <p style="text-align: right;">Page 57</p> <p>1 hours spent doing that, correct?</p> <p>2 A. It does, yes.</p> <p>3 Q. This document again does not provide</p> <p>4 any further description of what you were doing</p> <p>5 in relation to those activities, correct?</p> <p>6 A. That's right, yes.</p> <p>7 Q. Do you believe that this document has</p> <p>8 been redacted from the version that you provided</p> <p>9 to Loevy &amp; Loevy, or is this document the same</p> <p>10 document that you provided to them?</p> <p>11 A. I don't recall. That's something I'd</p> <p>12 have to look back in my files for. I'm not</p> <p>13 sure.</p> <p>14 Q. What would you look for back in your</p> <p>15 files to make that determination?</p> <p>16 A. To see if I could find this document.</p> <p>17 Q. So do you recall providing this</p> <p>18 document to Mr. Hilke to produce in response to</p> <p>19 the subpoena or --</p> <p>20 A. Yeah. I mean, if he has it, I must</p> <p>21 have given it to him, yes.</p> <p>22 Q. Well, in response to the subpoena, did</p> <p>23 you go back into the files that you're saying</p> <p>24 you would have to look at now to see if you</p>   | <p style="text-align: right;">Page 59</p> <p>1 your file that is more descriptive than the one</p> <p>2 that's been produced to us?</p> <p>3 A. No. Probably not.</p> <p>4 Q. And same thing with the first page of</p> <p>5 this document on Invoice 289, you don't think</p> <p>6 there's a more -- there's another version that</p> <p>7 provides more of a description as to the work</p> <p>8 that was completed?</p> <p>9 A. I don't think so, no.</p> <p>10 Q. Is that your practice, to not provide</p> <p>11 descriptions of the work that you're completing?</p> <p>12 A. Well, sometimes I do, sometimes I</p> <p>13 don't. I mean, if -- if counsel asks me for</p> <p>14 something more descriptive, you know, I'll</p> <p>15 account for it.</p> <p>16 Q. What documents were you reviewing that</p> <p>17 are reflected on Invoice 292?</p> <p>18 A. Just documents in discovery.</p> <p>19 Q. What specific documents?</p> <p>20 A. I don't know off the top of my head.</p> <p>21 Q. What were you drafting for 4.25 hours</p> <p>22 that you invoiced in Invoice 292?</p> <p>23 MR. HILKE: One second, Jon.</p> <p>24 You can answer that.</p> |
| <p style="text-align: right;">Page 58</p> <p>1 provided all of the applicable invoices?</p> <p>2 A. Say that again. Would I have to go</p> <p>3 back to look at my files --</p> <p>4 Q. You indicated you'd have to go back in</p> <p>5 your files to see if this is a document that you</p> <p>6 provided to Loevy &amp; Loevy, meaning this form of</p> <p>7 this document, correct?</p> <p>8 A. Yes.</p> <p>9 Q. When you responded to the subpoena, did</p> <p>10 you rely on Mr. Hilke producing the invoices in</p> <p>11 his possession, or did you go back through your</p> <p>12 electronic files at that time to determine if</p> <p>13 all of the invoices that you had related to your</p> <p>14 work on the Ben Baker case were produced?</p> <p>15 A. Probably a little bit of both.</p> <p>16 Q. Well, when you say "probably," do you</p> <p>17 know one way or the other?</p> <p>18 A. No, I can't -- the subpoena called for</p> <p>19 a lot of documents. I don't recall specifically</p> <p>20 which ones I handed over. But I'm sure if it</p> <p>21 asked for invoices, I gave him what invoices I</p> <p>22 had.</p> <p>23 Q. And do you think that it's possible</p> <p>24 that there's another version of this document in</p> | <p style="text-align: right;">Page 60</p> <p>1 THE WITNESS: The report.</p> <p>2 BY MS. EKL:</p> <p>3 Q. When you say "the report," which</p> <p>4 report?</p> <p>5 A. Well, it was either the Waddy report or</p> <p>6 the -- or the current report that you have, the</p> <p>7 Watts report.</p> <p>8 Q. Do you have anything that would help</p> <p>9 you determine which report you were drafting?</p> <p>10 MR. HILKE: Object to form.</p> <p>11 You can answer.</p> <p>12 THE WITNESS: No, I don't think so.</p> <p>13 BY MS. EKL:</p> <p>14 Q. Do you have anything that would help</p> <p>15 you identify whether or not you were reviewing</p> <p>16 documents in discovery related to the Ben Baker</p> <p>17 case?</p> <p>18 MR. HILKE: Same objection.</p> <p>19 THE WITNESS: No, I don't think so.</p> <p>20 BY MS. EKL:</p> <p>21 Q. How do we know that the time that you</p> <p>22 spent that's reflected in Invoice No. 292 was in</p> <p>23 regard to your opinions in the Ben Baker case as</p> <p>24 opposed to the Waddy case or any other matter?</p>  |

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| Page 61 | <p>1 A. It would have to be one of those two</p> <p>2 things. Those are the only two things that I'm</p> <p>3 doing work for with Loevy &amp; Loevy.</p> <p>4 <b>Q. You understand they're two different</b></p> <p>5 <b>cases, and so our request is for documents</b></p> <p>6 <b>specific to the Ben Baker case, not the Waddy</b></p> <p>7 <b>case.</b></p> <p>8 <b>So what, if anything, can you review</b></p> <p>9 <b>that would help us distinguish whether or not</b></p> <p>10 <b>this related to the Ben Baker case or the Waddy</b></p> <p>11 <b>case?</b></p> <p>12 MR. HILKE: I'll object to form and</p> <p>13 foundation.</p> <p>14 You can answer.</p> <p>15 THE WITNESS: Well, if it's only related to</p> <p>16 Watts, then I would have to imagine that's the</p> <p>17 report that I was drafting at that time, Watts.</p> <p>18 The one that you have, what you call the Baker</p> <p>19 report.</p> <p>20 BY MS. EKL:</p> <p>21 <b>Q. This invoice, Invoice 292, is for</b></p> <p>22 <b>\$4,305.50, correct?</b></p> <p>23 A. Yes.</p> <p>24 <b>Q. I'll show you the next invoice, which</b></p> | Page 63 | <p>1 <b>Q. And you reflected that that was done on</b></p> <p>2 <b>January 27th of 2023.</b></p> <p>3 A. Correct.</p> <p>4 <b>Q. What CPD data was reviewed on that</b></p> <p>5 <b>date?</b></p> <p>6 A. I don't know the specific documents</p> <p>7 that were reviewed on that date.</p> <p>8 <b>Q. When you say "developing and</b></p> <p>9 <b>randomization," what do you mean by that?</b></p> <p>10 A. Well, I created a random sample of</p> <p>11 cases in this matter. So that's what I was</p> <p>12 doing. I was developing a randomization.</p> <p>13 <b>Q. Did you review CPD -- I'm sorry. Did</b></p> <p>14 <b>you review the CPD CR data before developing the</b></p> <p>15 <b>randomization procedure?</b></p> <p>16 MR. HILKE: Object to form, vague.</p> <p>17 You can answer.</p> <p>18 THE WITNESS: I did -- did I review the CR</p> <p>19 data before I developed the randomization? Is</p> <p>20 that what you said?</p> <p>21 BY MS. EKL:</p> <p>22 <b>Q. Correct.</b></p> <p>23 MR. HILKE: Same objection.</p> <p>24 THE WITNESS: Yes.</p>   |
| Page 62 | <p>1 <b>is Invoice No. 296, and it's dated December 4th</b></p> <p>2 <b>of 2022, correct?</b></p> <p>3 A. Yes, it is.</p> <p>4 <b>Q. This particular document reflects three</b></p> <p>5 <b>entries, correct?</b></p> <p>6 A. Yes, it does.</p> <p>7 <b>Q. In this document you give the quantity</b></p> <p>8 <b>of time for each of those three entries,</b></p> <p>9 <b>correct?</b></p> <p>10 A. I do.</p> <p>11 <b>Q. And you also provide the dates on which</b></p> <p>12 <b>work was conducted, correct?</b></p> <p>13 A. Yes.</p> <p>14 <b>Q. And this reflects work between</b></p> <p>15 <b>January 27th of 2023 and February 1st of 2023,</b></p> <p>16 <b>correct?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. And this particular document</b></p> <p>19 <b>provides -- does provide a description of the</b></p> <p>20 <b>work that was done, correct?</b></p> <p>21 A. Yes, it does.</p> <p>22 <b>Q. And that includes reviewing CPD CR data</b></p> <p>23 <b>and developing and randomization, correct?</b></p> <p>24 A. Yes.</p>  | Page 64 | <p>1 BY MS. EKL:</p> <p>2 <b>Q. When you say "CR data," what does --</b></p> <p>3 <b>what does that reference?</b></p> <p>4 A. Complaint register files.</p> <p>5 <b>Q. So did you have certain complaint</b></p> <p>6 <b>register files that you were reviewing then, or</b></p> <p>7 <b>were you reviewing basically a summary or a data</b></p> <p>8 <b>sheet related to those files?</b></p> <p>9 MR. HILKE: Same objection.</p> <p>10 You can answer.</p> <p>11 THE WITNESS: I had data. I just don't -- I</p> <p>12 don't remember when I -- when I received the</p> <p>13 data. And there were CR files in PDF form. I</p> <p>14 mean, I just don't -- I don't know exact</p> <p>15 sequencing of those things.</p> <p>16 BY MS. EKL:</p> <p>17 <b>Q. Okay. I just want to make sure that</b></p> <p>18 <b>we're very specific. So I'm talking about</b></p> <p>19 <b>January 27th of 2023. You've indicated that</b></p> <p>20 <b>part of that 4.3 hours was developing a</b></p> <p>21 <b>randomization plan. What I'm trying to get at</b></p> <p>22 <b>is, what else did you look at on that date of</b></p> <p>23 <b>January 27th, 2023?</b></p> <p>24 A. The only thing that I have listed here</p> |

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| Page 65 | <p>1 is that I was looking at Chicago Police</p> <p>2 Department CR data. I couldn't -- I couldn't</p> <p>3 tell you, you know, specifically what elements</p> <p>4 of that data.</p> <p>5 <b>Q. As of January 27th, 2023, had you been</b></p> <p>6 <b>provided any Excel spreadsheets containing data</b></p> <p>7 <b>related to CR files?</b></p> <p>8 MR. HILKE: Object to form.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: I don't recall when I got the</p> <p>11 Excel file specifically.</p> <p>12 BY MS. EKL:</p> <p>13 <b>Q. You indicated that you also had some</b></p> <p>14 <b>PDFs of the actual CR investigative files,</b></p> <p>15 <b>correct?</b></p> <p>16 A. Yes, that's correct.</p> <p>17 <b>Q. Do you remember initially how many CR</b></p> <p>18 <b>files you received?</b></p> <p>19 A. No, I don't. It's been a very long</p> <p>20 time and there's been -- there's been a lot of</p> <p>21 CR files over the course of time.</p> <p>22 <b>Q. Of the CR files that you reviewed, if</b></p> <p>23 <b>any, prior to developing the randomization, are</b></p> <p>24 <b>you able to give us any -- do you have</b></p>   | Page 67 | <p>1 A lot of them I think were uploaded to a -- to</p> <p>2 either a Dropbox or a Google Drive, that sort of</p> <p>3 thing.</p> <p>4 <b>Q. You indicate here that three days after</b></p> <p>5 <b>developing this randomization plan and reviewing</b></p> <p>6 <b>CR data, that you reviewed gaps in the CPD CR</b></p> <p>7 <b>data. Do you see that?</b></p> <p>8 A. Yes, yes.</p> <p>9 <b>Q. Can you describe the nature of that</b></p> <p>10 <b>work? What were you doing when you say you were</b></p> <p>11 <b>reviewing gaps?</b></p> <p>12 A. I remember there being gaps in the CR</p> <p>13 numbers. I remember there were gaps in CR</p> <p>14 numbers. And I didn't know why or how that</p> <p>15 happened.</p> <p>16 <b>Q. How did you determine that there were</b></p> <p>17 <b>gaps?</b></p> <p>18 A. Well, for the most part, the CR numbers</p> <p>19 are sequential, and there were -- there were --</p> <p>20 it didn't go sequentially. They were missing --</p> <p>21 there were missing numbers.</p> <p>22 <b>Q. Were you using some document to compare</b></p> <p>23 <b>the CRs that you actually received to know that</b></p> <p>24 <b>you had gaps?</b></p> |
| Page 66 | <p>1 <b>documented anywhere the number -- what those CR</b></p> <p>2 <b>files are in terms of what the CR number was?</b></p> <p>3 MR. HILKE: Object to form.</p> <p>4 You can answer.</p> <p>5 THE WITNESS: No, I don't think so, no.</p> <p>6 BY MS. EKL:</p> <p>7 <b>Q. How was it that you were receiving data</b></p> <p>8 <b>from plaintiffs' counsel in this case? What I'm</b></p> <p>9 <b>getting at, was it electronically? Was it via</b></p> <p>10 <b>U.S. Mail, or something else?</b></p> <p>11 A. I think -- I think -- I don't think I</p> <p>12 received anything by mail. Not that I recall.</p> <p>13 Most of it has come electronically via e-mail.</p> <p>14 <b>Q. Did you receive anything -- did you</b></p> <p>15 <b>retain the e-mails that transmitted the</b></p> <p>16 <b>information to you?</b></p> <p>17 A. Well, consistent with what I said to</p> <p>18 you last -- a moment ago about e-mails, I</p> <p>19 probably had them for some time, and then they</p> <p>20 were deleted as my Gmail outgrew its space.</p> <p>21 <b>Q. So as you received information over</b></p> <p>22 <b>Gmail, did you then save those files on your</b></p> <p>23 <b>computer?</b></p> <p>24 A. I think -- I may have. I don't recall.</p> | Page 68 | <p>1 MR. HILKE: Object to form, foundation.</p> <p>2 You can answer.</p> <p>3 THE WITNESS: I don't recall if that was --</p> <p>4 if I was looking at hard copy documents there or</p> <p>5 if I had some preliminary data, meaning in an</p> <p>6 Excel file.</p> <p>7 BY MS. EKL:</p> <p>8 <b>Q. Were you able to determine on</b></p> <p>9 <b>January 30th of 2023, or actually at any point</b></p> <p>10 <b>in time, why there were gaps?</b></p> <p>11 A. I don't think -- I don't think</p> <p>12 there's -- there was an answer provided for</p> <p>13 that, no.</p> <p>14 <b>Q. A couple days later on February 1st, it</b></p> <p>15 <b>says that you randomized CR data sent to Wally</b></p> <p>16 <b>Hilke, correct?</b></p> <p>17 A. Yes, okay.</p> <p>18 <b>Q. The hour and 75 minutes, 1.75 hours</b></p> <p>19 <b>that you spent doing that, what did that entail?</b></p> <p>20 A. If I remember correctly, that was when</p> <p>21 I created the randomization -- that was when I</p> <p>22 created the randomization schedule to pull a</p> <p>23 random sample of cases.</p> <p>24 <b>Q. And this bill, Invoice 296, is for</b></p>                                      |

20 (Pages 65 to 68)



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| Page 69 | <p>1 <b>\$3,081, correct?</b></p> <p>2 A. Yes, correct.</p> <p>3 MR. HILKE: If we could take a break in a</p> <p>4 second, I'd appreciate it.</p> <p>5 MS. EKL: Sure. Are you okay with me just</p> <p>6 finishing up the last page, or do you want to do</p> <p>7 it now?</p> <p>8 MR. HILKE: Jon, if you're good, we can</p> <p>9 finish the last page.</p> <p>10 THE WITNESS: Yes, sure, please do.</p> <p>11 BY MS. EKL:</p> <p>12 <b>Q. The last page of this document, which</b></p> <p>13 <b>is Exhibit No. 4, is Invoice No. 326 dated</b></p> <p>14 <b>July 25th of 2023. Do you see that?</b></p> <p>15 A. What's the date? I don't see the date.</p> <p>16 <b>Q. Sorry. July 25th of 2023.</b></p> <p>17 A. Okay, yes.</p> <p>18 <b>Q. Is this another invoice that you</b></p> <p>19 <b>provided in response to our subpoena request for</b></p> <p>20 <b>invoices related to your work on the Baker case?</b></p> <p>21 A. Yes, that looks familiar to me, yes.</p> <p>22 <b>Q. And the case or matter that's</b></p> <p>23 <b>identified here says, "150 plaintiffs versus</b></p> <p>24 <b>Watts," correct?</b></p> | Page 71 | <p>1 BY MS. EKL:</p> <p>2 <b>Q. Were you conducting work during the</b></p> <p>3 <b>time period reflected in this invoice on cases</b></p> <p>4 <b>other than just Ben Baker?</b></p> <p>5 MR. HILKE: Object to form and foundation.</p> <p>6 You can answer.</p> <p>7 THE WITNESS: This is related to the cases</p> <p>8 that are captured in my report.</p> <p>9 BY MS. EKL:</p> <p>10 <b>Q. This particular invoice captures time</b></p> <p>11 <b>between July 31st of -- I'm sorry, yeah,</b></p> <p>12 <b>July 31st, 2023, and March 30th of 2024,</b></p> <p>13 <b>correct?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. It references a number of conference</b></p> <p>16 <b>calls and video meetings with Mr. Hilke,</b></p> <p>17 <b>correct?</b></p> <p>18 A. Can you raise the Zoom just a little</p> <p>19 bit for me, please?</p> <p>20 <b>Q. Sure.</b></p> <p>21 A. Would you scroll -- would you scroll up</p> <p>22 a little? The other way. Yeah.</p> <p>23 So there was communication between</p> <p>24 myself and Wally Hilke, yes.</p>   |
| Page 70 | <p>1 A. Yes.</p> <p>2 <b>Q. And this is a change in the case matter</b></p> <p>3 <b>name, correct, from your previous invoices?</b></p> <p>4 A. Well, I don't -- is it? It all</p> <p>5 references Watts. I think they all reference</p> <p>6 Watts, don't they?</p> <p>7 <b>Q. So 296 references just Watts, correct?</b></p> <p>8 A. Yes.</p> <p>9 <b>Q. And 292 references Watts-Chicago,</b></p> <p>10 <b>correct?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. And 289 references Watts-Chicago PD,</b></p> <p>13 <b>correct?</b></p> <p>14 A. This is 289, Watts-Chicago PD.</p> <p>15 <b>Q. Okay. So going back to 326, why the</b></p> <p>16 <b>change to 150 plaintiffs versus Watts?</b></p> <p>17 MR. HILKE: Wait. Sorry, Jon. I'm going to</p> <p>18 advise you not to reveal the contents of</p> <p>19 communications between plaintiffs' attorneys and</p> <p>20 you. But you're free to answer. I'll just</p> <p>21 advise you not to provide that information which</p> <p>22 is privileged under Rule 26.</p> <p>23 THE WITNESS: So the answer is no particular</p> <p>24 reason.</p>                                    | Page 72 | <p>1 <b>Q. It also references a person by the name</b></p> <p>2 <b>of Noah Massillon, M-a-s-s-i-l-l-o-n, correct?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. Who is Noah Massillon?</b></p> <p>5 A. Noah works for the firm.</p> <p>6 <b>Q. When you say --</b></p> <p>7 A. Excuse me, I'm sorry, Loevy &amp; Loevy.</p> <p>8 <b>Q. Do you know what his role is at the law</b></p> <p>9 <b>firm Loevy &amp; Loevy?</b></p> <p>10 A. I believe he is a paralegal.</p> <p>11 <b>Q. And it also references meetings with</b></p> <p>12 <b>Scott Rauscher and Tess Kleinhaus, correct?</b></p> <p>13 A. Yes, correct.</p> <p>14 <b>Q. And those are other attorneys at</b></p> <p>15 <b>Loevy &amp; Loevy, correct?</b></p> <p>16 A. Yes, correct.</p> <p>17 <b>Q. On February 27th of 2024, it says,</b></p> <p>18 <b>"Analyzing CR data and drafting report." Do you</b></p> <p>19 <b>see that?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. Is that the first date that you began</b></p> <p>22 <b>drafting the report that we have before us that</b></p> <p>23 <b>we marked as Exhibit No. 5, or is there an</b></p> <p>24 <b>earlier date that you began drafting that</b></p> |

21 (Pages 69 to 72)

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|---|--|
| <p style="text-align: right;">Page 73</p> <p>1 <b>report?</b></p> <p>2 MR. HILKE: I'm sorry. Just object to form,</p> <p>3 asked and answered.</p> <p>4 You can answer.</p> <p>5 THE WITNESS: I believe there was some</p> <p>6 drafting before that.</p> <p>7 BY MS. EKL:</p> <p>8 <b>Q. When was it that you began drafting the</b></p> <p>9 <b>report?</b></p> <p>10 MR. HILKE: Object to form, foundation.</p> <p>11 THE WITNESS: I couldn't tell you a specific</p> <p>12 date. I don't know. It's been -- it's been in</p> <p>13 progress for a while.</p> <p>14 BY MS. EKL:</p> <p>15 <b>Q. This bill is for a total of \$24,509.75,</b></p> <p>16 <b>correct?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. And are the invoices that you provided</b></p> <p>19 <b>in response to the subpoena in the Baker case</b></p> <p>20 <b>different than the invoices you provided in</b></p> <p>21 <b>response to a subpoena in the Waddy case?</b></p> <p>22 A. I'm not sure what you mean by</p> <p>23 "different." What do you mean by "different"?</p> <p>24 <b>Q. Well, did you provide the same invoices</b></p>  | <p style="text-align: right;">Page 75</p> <p>1 <b>obviously had some prep time, correct?</b></p> <p>2 A. Yes.</p> <p>3 <b>Q. And do you know how many hours you've</b></p> <p>4 <b>spent preparing your testimony here?</b></p> <p>5 A. I do not. I have not -- I have not</p> <p>6 summed that up yet.</p> <p>7 <b>Q. And at the end of today, you will have</b></p> <p>8 <b>spent additional time testifying, correct?</b></p> <p>9 A. Yes, correct.</p> <p>10 <b>Q. Other than those two categories of</b></p> <p>11 <b>work, is there any other outstanding work that</b></p> <p>12 <b>you have yet to invoice for the Baker case?</b></p> <p>13 A. No, there's not.</p> <p>14 MS. EKL: This is probably a good place to</p> <p>15 take a break then. Do you want to take ten</p> <p>16 minutes or five minutes? What are you thinking,</p> <p>17 Wally?</p> <p>18 THE WITNESS: Five minutes is fine.</p> <p>19 MR. HILKE: That's fine.</p> <p>20 MS. EKL: Okay.</p> <p>21 (Short recess taken.)</p> <p>22 MS. EKL: Back on the record.</p> <p>23</p> <p>24</p>  |
| <p style="text-align: right;">Page 74</p> <p>1 <b>in response to a subpoena for the -- for</b></p> <p>2 <b>invoices related to Waddy that you provided in</b></p> <p>3 <b>response to the subpoena for invoices related to</b></p> <p>4 <b>the work you did in Baker?</b></p> <p>5 A. I don't remember if anybody asked me</p> <p>6 for invoices related to Waddy.</p> <p>7 <b>Q. I'll just represent to you that</b></p> <p>8 <b>totaling the invoices that we've looked at</b></p> <p>9 <b>today, those were a total of \$34,858.75. Does</b></p> <p>10 <b>that sound accurate to you?</b></p> <p>11 A. I mean, I trust your math is accurate.</p> <p>12 Okay.</p> <p>13 <b>Q. I'm just saying how these four invoices</b></p> <p>14 <b>total up. That's the amount that I came up</b></p> <p>15 <b>with.</b></p> <p>16 A. Okay.</p> <p>17 <b>Q. Do you believe that you've invoiced for</b></p> <p>18 <b>the Baker matter more than \$34,858.75?</b></p> <p>19 A. No, I don't think so, no.</p> <p>20 <b>Q. How much of that have you been paid to</b></p> <p>21 <b>date?</b></p> <p>22 A. I think all of it, with the exception</p> <p>23 of today and some -- and some deposition prep.</p> <p>24 <b>Q. After March 30th of 2024, you've</b></p> | <p style="text-align: right;">Page 76</p> <p>1 (Exhibit No. 6 was</p> <p>2 introduced.)</p> <p>3 BY MS. EKL:</p> <p>4 <b>Q. Dr. Shane, I'll show you what I marked</b></p> <p>5 <b>as Exhibit No. 6, which I'll represent is</b></p> <p>6 <b>Pages 118 through 124 of your report that are</b></p> <p>7 <b>also identified -- identified as exhibits.</b></p> <p>8 <b>Do you recognize this document?</b></p> <p>9 A. Yes, I do.</p> <p>10 <b>Q. And this document reads, "I have</b></p> <p>11 <b>consulted/been provided with the following</b></p> <p>12 <b>documents related to my opinions."</b></p> <p>13 <b>Did I accurately read that?</b></p> <p>14 A. Yes, correct.</p> <p>15 <b>Q. Okay. So my first question is, did</b></p> <p>16 <b>you -- are all of the documents that are listed</b></p> <p>17 <b>in Exhibit No. 6 documents that you were</b></p> <p>18 <b>provided in some format, meaning either</b></p> <p>19 <b>electronic or in hard copy form?</b></p> <p>20 A. Can you say that again? Are these all</p> <p>21 of the documents?</p> <p>22 <b>Q. No. My first question is, have all of</b></p> <p>23 <b>the things that you've identified in Exhibit 6</b></p> <p>24 <b>been provided -- were they provided to you in</b></p> |



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| Page 77 | <p>1 <b>the course of this litigation?</b></p> <p>2 A. On this exhibit page, these are</p> <p>3 documents that were provided to me, yes.</p> <p>4 <b>Q. Okay. Did you actually review each of</b></p> <p>5 <b>the documents that are identified in Exhibit</b></p> <p>6 <b>No. 6?</b></p> <p>7 A. I can't tell you that I read word for</p> <p>8 word, but, yes, I've seen them, yes.</p> <p>9 <b>Q. What do you mean by "seen them"?</b></p> <p>10 A. I know that they were there. I</p> <p>11 referenced them. I'm sure I skimmed them.</p> <p>12 <b>Q. Are there any documents listed in</b></p> <p>13 <b>Exhibit No. 6 -- and I can scroll up, down as</b></p> <p>14 <b>much as you need -- that you did not review,</b></p> <p>15 <b>meaning -- other than acknowledging their</b></p> <p>16 <b>existence, that you didn't actually read?</b></p> <p>17 A. Let me take a look. Can you go up a</p> <p>18 little bit, please? Right there. Would you go</p> <p>19 up, please? Scroll up, please. Is there more</p> <p>20 after this?</p> <p>21 <b>Q. There is.</b></p> <p>22 A. Okay. What I saw on there, it had my</p> <p>23 name on it, I assume they're referring to the</p> <p>24 deposition in Waddy. I don't remember reviewing</p> | Page 79 | <p>1 but I think that's privileged.</p> <p>2 MS. EKL: Well, you know, I don't really</p> <p>3 want to waste a bunch of time. I mean, you had</p> <p>4 an obligation on his behalf to produce a list of</p> <p>5 items that were reviewed by him in preparation</p> <p>6 for his report, and that does not appear to be</p> <p>7 the case. So I am going to ask that you amend</p> <p>8 his disclosures to comply with the federal</p> <p>9 rules.</p> <p>10 MR. HILKE: Yeah, you know, you can get his</p> <p>11 testimony on it, but I would say that all the</p> <p>12 sources he relied on are disclosed in his report</p> <p>13 and they have been disclosed to you.</p> <p>14 MS. EKL: That's not the question. That's</p> <p>15 not what's required under the rules. You're to</p> <p>16 identify all of the items that were reviewed,</p> <p>17 and here he's already identified one thing that</p> <p>18 he has not reviewed or relied upon.</p> <p>19 So to give us an overinclusive list is</p> <p>20 not in compliance with the rules. And I don't</p> <p>21 want -- we have a lot to go through today. I</p> <p>22 don't want to waste time debating it. I'm just</p> <p>23 asking that you amend the disclosures so that</p> <p>24 they accurately comply with the rules.</p>                                |
| Page 78 | <p>1 that one.</p> <p>2 <b>Q. Are you talking about --</b></p> <p>3 A. Back on Page 118.</p> <p>4 <b>Q. Okay. I won't go back to it.</b></p> <p>5 <b>So you did not review the deposition --</b></p> <p>6 <b>your own deposition transcript, correct?</b></p> <p>7 A. Right.</p> <p>8 <b>Q. Did you create -- so you did not create</b></p> <p>9 <b>this list. Is that fair to say?</b></p> <p>10 MR. HILKE: I'll object that anything</p> <p>11 regarding how this report was drafted is</p> <p>12 privileged and instruct him not to answer.</p> <p>13 MS. EKL: Well, it's not privileged to say</p> <p>14 that he did not draft it. I'm not --</p> <p>15 MR. HILKE: No, but in the --</p> <p>16 MS. EKL: That was my question. That was my</p> <p>17 sole question.</p> <p>18 BY MS. EKL:</p> <p>19 <b>Q. Is it fair to say you did not draft</b></p> <p>20 <b>this Exhibit No. 6?</b></p> <p>21 MR. HILKE: Yeah, I think I'm going to -- I</p> <p>22 think I'm going to stick to my instruction to</p> <p>23 him on that. I'm happy to say more about it on</p> <p>24 the record if you think it would be productive,</p>  | Page 80 | <p>1 MR. HILKE: I understand your position. And</p> <p>2 I won't take the time on the record now, but</p> <p>3 we'll be happy to confer about it.</p> <p>4 BY MS. EKL:</p> <p>5 <b>Q. Okay. Let me ask you this: There's a</b></p> <p>6 <b>number of deposition transcripts that are</b></p> <p>7 <b>identified in this document, and they continue</b></p> <p>8 <b>on till we get to Timothy Moore's transcript,</b></p> <p>9 <b>which is No. 128. And I know that you've</b></p> <p>10 <b>identified various portions of Timothy Moore's</b></p> <p>11 <b>transcript throughout your report. But as far</b></p> <p>12 <b>as all of the other deposition transcripts, can</b></p> <p>13 <b>you say that you have reviewed every single page</b></p> <p>14 <b>of every single one of these 100-plus deposition</b></p> <p>15 <b>transcripts that are identified in Exhibit</b></p> <p>16 <b>No. 6?</b></p> <p>17 A. I can tell you that -- well, when you</p> <p>18 say every single page of every single one, the</p> <p>19 answer is no. I certainly looked at them in</p> <p>20 brief form.</p> <p>21 <b>Q. And how is it that you determined</b></p> <p>22 <b>which -- were there certain ones that you looked</b></p> <p>23 <b>at in more detail than others?</b></p> <p>24 A. I mean, I don't know how to put a</p> |

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| Page 81 | <p>1 quantitative number on that. I cited to certain</p> <p>2 things in my report related to deposition</p> <p>3 testimony.</p> <p>4 <b>Q. That's not my question. My question</b></p> <p>5 <b>isn't about what you cited. My question is what</b></p> <p>6 <b>you actually reviewed in preparation for your</b></p> <p>7 <b>report.</b></p> <p>8 <b>So did you review these deposition</b></p> <p>9 <b>transcripts cover to cover?</b></p> <p>10 A. Yes, I did. Not -- and I'll go back to</p> <p>11 my first answer. I mean, I can't tell you line</p> <p>12 by line of every single one what they say or</p> <p>13 anything like that.</p> <p>14 <b>Q. In addition to the deposition</b></p> <p>15 <b>transcripts, there's a number of other items</b></p> <p>16 <b>that are -- that are listed in Exhibit No. 6.</b></p> <p>17 <b>I'm just going to briefly flip through them, but</b></p> <p>18 <b>they include things such as various task force</b></p> <p>19 <b>reports. There are some discovery materials.</b></p> <p>20 <b>145 lists all of the CRs provided by the City of</b></p> <p>21 <b>Chicago in this case.</b></p> <p>22 <b>Are these additional items other than</b></p> <p>23 <b>depositions -- well, let me back up.</b></p> <p>24 <b>Have you had a chance to go through</b></p> | Page 83 | <p>1 <b>the specific CRs that I identified from my</b></p> <p>2 <b>review of the spreadsheet provided to me and</b></p> <p>3 <b>discussed in detail in my report, and CRs</b></p> <p>4 <b>pertaining to the defendant officers involved in</b></p> <p>5 <b>the plaintiffs' arrests."</b></p> <p>6 <b>Did I read that correctly?</b></p> <p>7 A. Yes, you did.</p> <p>8 <b>Q. Okay. Is it your testimony that you</b></p> <p>9 <b>have knowledge of every single CR or were</b></p> <p>10 <b>provided with every single CR that was produced</b></p> <p>11 <b>in this litigation?</b></p> <p>12 A. As best -- as best as I can recall, the</p> <p>13 answer is yes.</p> <p>14 <b>Q. And you --</b></p> <p>15 A. I can't tell you what the CRs say, if</p> <p>16 that's what you mean. Do you mean can I point</p> <p>17 to specific CRs that say specific things, or</p> <p>18 that they disclosed?</p> <p>19 <b>Q. My question is, did you review them?</b></p> <p>20 <b>Did you read each of the CRs that was provided</b></p> <p>21 <b>in this case?</b></p> <p>22 A. The ones that were provided to me, I</p> <p>23 read, yes.</p> <p>24 <b>Q. Were you provided with every single CR</b></p> |
| Page 82 | <p>1 <b>Exhibit No. 6 to make sure that it accurately</b></p> <p>2 <b>includes every item that you've reviewed?</b></p> <p>3 A. Yeah, I think -- I think it's an</p> <p>4 accurate list, yes.</p> <p>5 <b>Q. Is it your testimony that you reviewed</b></p> <p>6 <b>everything that's contained in this list?</b></p> <p>7 MR. HILKE: Objection to form.</p> <p>8 You can answer.</p> <p>9 THE WITNESS: At one point or another, the</p> <p>10 answer is yes.</p> <p>11 BY MS. EKL:</p> <p>12 <b>Q. And did you rely on everything that you</b></p> <p>13 <b>reviewed, which is contained in Exhibit No. 6?</b></p> <p>14 A. Well, I may not have cited to it.</p> <p>15 <b>Q. What was the Newsome opinion that's</b></p> <p>16 <b>identified as 152?</b></p> <p>17 A. Well, that's what I'm saying to you. I</p> <p>18 couldn't tell you specifically what they say.</p> <p>19 I'm not that -- I'm not that intimately familiar</p> <p>20 with these documents.</p> <p>21 <b>Q. No. 145, it says, again, "All of the</b></p> <p>22 <b>CRs provided by the City of Chicago in this</b></p> <p>23 <b>case, including but not limited to the 127 I</b></p> <p>24 <b>sampled and reviewed in detail for quality work,</b></p>   | Page 84 | <p>1 <b>that was produced in this litigation, at least</b></p> <p>2 <b>to the best of your knowledge?</b></p> <p>3 MR. HILKE: Wait, wait. Object to</p> <p>4 foundation.</p> <p>5 You can answer.</p> <p>6 THE WITNESS: I believe the answer is yes.</p> <p>7 BY MS. EKL:</p> <p>8 <b>Q. How many total CRs? If you have to</b></p> <p>9 <b>estimate, let me know that. But how many total</b></p> <p>10 <b>CRs did you review in preparation for your</b></p> <p>11 <b>report in this case?</b></p> <p>12 A. Oh, gosh.</p> <p>13 MR. HILKE: Object to form.</p> <p>14 You can answer.</p> <p>15 THE WITNESS: A lot. Over 1,000.</p> <p>16 BY MS. EKL:</p> <p>17 <b>Q. And how did you identify the CRs that</b></p> <p>18 <b>you were going to review?</b></p> <p>19 MR. HILKE: Object to form.</p> <p>20 You can answer.</p> <p>21 THE WITNESS: Well, the CRs came -- they</p> <p>22 came in a -- in a spreadsheet. CRs were</p> <p>23 delivered in a spreadsheet, and I sampled from</p> <p>24 that spreadsheet.</p>  |

24 (Pages 81 to 84)

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|--|---|
| <p>1 BY MS. EKL:</p> <p>2 <b>Q. When you say "they came in a</b></p> <p>3 <b>spreadsheet," are you talking about the</b></p> <p>4 <b>information came in a spreadsheet, or did you</b></p> <p>5 <b>actually review, say, like a 150-page document</b></p> <p>6 <b>that contained the entire investigation?</b></p> <p>7 A. I'm saying both, actually. Before I</p> <p>8 say -- well, the data came to me in an Excel</p> <p>9 spreadsheet, and that's how I identified the</p> <p>10 cases. When I say "cases," the CR numbers that</p> <p>11 are used in the report.</p> <p>12 <b>Q. So maybe let's go back. What is your</b></p> <p>13 <b>understanding of what constitutes a CR?</b></p> <p>14 A. The completed internal affairs</p> <p>15 investigation.</p> <p>16 <b>Q. So that would include both, for</b></p> <p>17 <b>instance, a case initiation report, any</b></p> <p>18 <b>interview reports, any other documents that are</b></p> <p>19 <b>gathered in the course of the investigation, as</b></p> <p>20 <b>well as the findings and conclusions, correct?</b></p> <p>21 A. Yes, that's right.</p> <p>22 <b>Q. Okay. And so for every CR that you</b></p> <p>23 <b>reviewed that you said was provided to you in a</b></p> <p>24 <b>spreadsheet, was it attached? Was the CR itself</b></p> | <p>1 A. I did.</p> <p>2 <b>Q. Did you -- did you review them in their</b></p> <p>3 <b>entirety?</b></p> <p>4 A. Yeah. I mean, I'm reasonably certain</p> <p>5 that I did.</p> <p>6 <b>Q. And would you agree with me that there</b></p> <p>7 <b>are additional general orders identified in the</b></p> <p>8 <b>rest of this document on the next page, on the</b></p> <p>9 <b>sixth page, correct?</b></p> <p>10 A. Yes, those are additional general</p> <p>11 orders.</p> <p>12 <b>Q. And did you review those general</b></p> <p>13 <b>orders?</b></p> <p>14 A. Yes, I did. I remember seeing most of</p> <p>15 those.</p> <p>16 <b>Q. You were also provided with some arrest</b></p> <p>17 <b>reports and personnel files, correct?</b></p> <p>18 A. Yeah. I remember the arrest reports</p> <p>19 more than I remember the personnel files.</p> <p>20 <b>Q. As you sit here today, do you know</b></p> <p>21 <b>whether or not you reviewed the personnel files</b></p> <p>22 <b>that are identified in No. 190 through -- well,</b></p> <p>23 <b>it looks like 190 through 197, and then, again,</b></p> <p>24 <b>202 to 206?</b></p> |
| Page 86  | Page 88   |
| <p>1 <b>attached to the spreadsheet, or are you just</b></p> <p>2 <b>talking about data from the CRs was in a</b></p> <p>3 <b>spreadsheet?</b></p> <p>4 MR. HILKE: Wait. Just let me -- objection</p> <p>5 to form.</p> <p>6 You can answer.</p> <p>7 THE WITNESS: The CRs were given to me in --</p> <p>8 I believe they were PDF form.</p> <p>9 BY MS. EKL:</p> <p>10 <b>Q. Okay. And did you -- how many total</b></p> <p>11 <b>CRs -- again, not the Excel spreadsheet, but the</b></p> <p>12 <b>actual CR files were you provided?</b></p> <p>13 A. Over a thousand. I don't know the</p> <p>14 number.</p> <p>15 <b>Q. Your exhibit number -- Exhibit No. 6,</b></p> <p>16 <b>your document list, also includes -- looking at</b></p> <p>17 <b>167 and 169 through 172 -- a reference to</b></p> <p>18 <b>different CPD rules and regulations and general</b></p> <p>19 <b>orders, correct?</b></p> <p>20 A. Did you say 167 to 172?</p> <p>21 <b>Q. 167, and then 169 to 172.</b></p> <p>22 A. Those are CPD rules, regulations, and</p> <p>23 general orders.</p> <p>24 <b>Q. Did you review these items?</b></p>  | <p>1 A. I'm sure I reviewed them. I don't</p> <p>2 remember them in any great detail.</p> <p>3 <b>Q. And then you also identify, "All</b></p> <p>4 <b>materials reviewed in connection with my work in</b></p> <p>5 <b>Waddy versus City of Chicago."</b></p> <p>6 A. Yep.</p> <p>7 <b>Q. Are those additional materials</b></p> <p>8 <b>identified in your report that you produced in</b></p> <p>9 <b>the Waddy versus City of Chicago litigation?</b></p> <p>10 MR. HILKE: Object to form.</p> <p>11 You can answer.</p> <p>12 THE WITNESS: There may be some overlap with</p> <p>13 general orders and rules and regulations, things</p> <p>14 like that.</p> <p>15 BY MS. EKL:</p> <p>16 <b>Q. And then, finally, 208 states, "Any</b></p> <p>17 <b>document cited in my report," correct?</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. So you haven't independently provided</b></p> <p>20 <b>us with a list of certain documents that are in</b></p> <p>21 <b>your report that aren't otherwise on this list,</b></p> <p>22 <b>correct?</b></p> <p>23 MR. HILKE: Object to form.</p> <p>24 You can answer.</p>                                |

25 (Pages 85 to 88)

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|---------|---|---------|--|
| Page 89 | <p>1 THE WITNESS: The question was whether or</p> <p>2 not I provided you with the documents that are</p> <p>3 cited in my report that are not listed on here?</p> <p>4 BY MS. EKL:</p> <p>5 <b>Q. Let me ask it a different way.</b></p> <p>6 <b>Is 208 basically stating that there are</b></p> <p>7 <b>additional documents that are identified in your</b></p> <p>8 <b>report but that are not otherwise listed in this</b></p> <p>9 <b>Exhibit No. 6?</b></p> <p>10 A. Yeah, I think that's correct, yes.</p> <p>11 <b>Q. Are there documents that you requested</b></p> <p>12 <b>that you were not provided?</b></p> <p>13 A. No, I don't think so.</p> <p>14 <b>Q. How was it determined what documents</b></p> <p>15 <b>you'd be provided to review?</b></p> <p>16 MR. HILKE: And I'll just caution you again</p> <p>17 not to reveal what you said to us or what we</p> <p>18 said to you.</p> <p>19 With that said, you can answer if you</p> <p>20 can.</p> <p>21 THE WITNESS: Can you say that again,</p> <p>22 please?</p> <p>23 BY MS. EKL:</p> <p>24 <b>Q. Sure. How was it that it was</b></p>  | Page 91 | <p>1 <b>understanding about those?</b></p> <p>2 A. Well, I'm not sure exactly how his</p> <p>3 complaint reads, but I believe one of the</p> <p>4 complaints is that he was falsely arrested.</p> <p>5 <b>Q. And do you recall how many times he</b></p> <p>6 <b>claims he was falsely arrested?</b></p> <p>7 A. The number three comes to mind, but I</p> <p>8 don't -- I don't recall specifically.</p> <p>9 <b>Q. And same question in relation to</b></p> <p>10 <b>Ms. Glenn. What's the nature of her claims in</b></p> <p>11 <b>her civil lawsuit, to the best of your</b></p> <p>12 <b>knowledge?</b></p> <p>13 MR. HILKE: Object to form.</p> <p>14 You can answer.</p> <p>15 THE WITNESS: The same.</p> <p>16 BY MS. EKL:</p> <p>17 <b>Q. Do you have a belief, as you sit here</b></p> <p>18 <b>today, as to whether or not they were wrongfully</b></p> <p>19 <b>convicted of any crimes?</b></p> <p>20 A. Well, I didn't make a determination as</p> <p>21 to guilt or innocence. I can tell you that.</p> <p>22 <b>Q. Do you have a belief as to whether or</b></p> <p>23 <b>not they were framed for any crime?</b></p> <p>24 A. Same -- same answer. I didn't -- my</p>   |
| Page 90 | <p>1 <b>determined what documents you would review to</b></p> <p>2 <b>help you prepare for your report?</b></p> <p>3 MR. HILKE: Same instruction. You can</p> <p>4 answer if you can without revealing</p> <p>5 communications between you and plaintiffs'</p> <p>6 counsel.</p> <p>7 THE WITNESS: Yeah, well, it's my obligation</p> <p>8 to understand the nature of the case and to</p> <p>9 actually review the documents that are given to</p> <p>10 me.</p> <p>11 BY MS. EKL:</p> <p>12 <b>Q. Let's talk a little bit about that.</b></p> <p>13 <b>What is your understanding, general</b></p> <p>14 <b>understanding, of the allegations made in the</b></p> <p>15 <b>Baker complaint?</b></p> <p>16 A. Well, I opined on the Chicago Police</p> <p>17 Department's internal affairs practices --</p> <p>18 <b>Q. Let me -- sorry. I just want to make</b></p> <p>19 <b>sure I clarify my question before we get to your</b></p> <p>20 <b>opinions.</b></p> <p>21 <b>When I say "complaint," I'm talking</b></p> <p>22 <b>about the civil complaint filed by Mr. Baker in</b></p> <p>23 <b>court. So as far as the allegations that are</b></p> <p>24 <b>made in his civil complaint, what is your</b></p> | Page 92 | <p>1 opinion was not to determine whether or not they</p> <p>2 were framed or whether or not they were wrongly</p> <p>3 arrested. It was to opine on the propriety of</p> <p>4 the internal affairs investigations and</p> <p>5 supervisory practices.</p> <p>6 <b>Q. As it relates to -- again, we're</b></p> <p>7 <b>focusing on Mr. Baker and Ms. Glenn's cases. If</b></p> <p>8 <b>you had -- if you were to learn that they were</b></p> <p>9 <b>guilty of the crimes that they were arrested for</b></p> <p>10 <b>that were at the heart of the complaint -- we're</b></p> <p>11 <b>talking about former Sergeant Watts and the</b></p> <p>12 <b>other officers working for him -- if they had</b></p> <p>13 <b>arrested them for crimes that they had actually</b></p> <p>14 <b>committed, does that impact your opinions in any</b></p> <p>15 <b>way?</b></p> <p>16 MR. HILKE: Object to form.</p> <p>17 You can answer.</p> <p>18 THE WITNESS: Well, any new material, of</p> <p>19 course, is important to my opinion. I would</p> <p>20 have to see how that relates, you know, in</p> <p>21 complete context of the case.</p> <p>22 BY MS. EKL:</p> <p>23 <b>Q. I'm saying without -- just take as an</b></p> <p>24 <b>assumption, so without having to review a</b></p> |

26 (Pages 89 to 92)

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|---------|--|---------|---|
| Page 93 | <p>1 document to make a determination, if I tell you</p> <p>2 right now, hypothetically, taking as true, that</p> <p>3 Ben Baker was in possession of drugs on three</p> <p>4 occasions and he was rightfully arrested for</p> <p>5 these three possessions, does that impact your</p> <p>6 opinions in any way, under that assumption, if</p> <p>7 that assumption was true?</p> <p>8 MR. HILKE: I'll just object to asked and</p> <p>9 answered, and also ask that you let him finish</p> <p>10 his answer.</p> <p>11 But you can answer, Dr. Shane.</p> <p>12 THE WITNESS: So the answer is not</p> <p>13 necessarily. And one of the things that I was</p> <p>14 opining on was not guilt or innocence, but was,</p> <p>15 rather, the internal affairs practices of the</p> <p>16 Chicago Police Department, the supervisory</p> <p>17 practices of the Chicago Police Department, and</p> <p>18 the patterns of complaints that emerged over a</p> <p>19 particular period of time.</p> <p>20 BY MS. EKL:</p> <p>21 Q. And let me ask you something a little</p> <p>22 bit more specific. You do render some opinions</p> <p>23 in relation to the investigation of Mr. Baker</p> <p>24 and Ms. Glenn and whether or not these</p> | Page 95 | <p>1 and page -- and then we'll look at Page 12.</p> <p>2 It's the first Roman Numeral in your opinion.</p> <p>3 It states, "Conclusions and Opinion," correct?</p> <p>4 A. Yes.</p> <p>5 Q. And is this a general outline of the</p> <p>6 opinions that you provided in your report?</p> <p>7 A. Yes.</p> <p>8 Q. And just to kind of overview here, in</p> <p>9 general, you have -- you have in bold, "Did the</p> <p>10 Chicago Police Department follow accepted</p> <p>11 practices for conducting investigations into</p> <p>12 complaints of misconduct?" And then you say,</p> <p>13 "No."</p> <p>14 Is that what you wrote?</p> <p>15 A. Yes, you're right.</p> <p>16 Q. Okay. And is that -- so to summarize,</p> <p>17 that is one of your opinions in this case, that</p> <p>18 the Chicago Police Department did not follow</p> <p>19 accepted practices for conducting investigations</p> <p>20 into complaints of misconduct.</p> <p>21 A. Yes.</p> <p>22 Q. And is it fair to say that another of</p> <p>23 your opinions, looking at No. 2, is that the</p> <p>24 Chicago Police Department failed to supervise</p> |
| Page 94 | <p>1 investigations complied with CPD -- with</p> <p>2 accepted practices for investigations, correct?</p> <p>3 A. Yes, that's correct.</p> <p>4 Q. So again, in that context, if you took</p> <p>5 as true hypothetically that -- we'll just use</p> <p>6 Mr. Baker -- Mr. Baker was guilty of the</p> <p>7 offenses for which he was charged, would that</p> <p>8 impact your opinion as to whether or not in</p> <p>9 relation to Mr. Baker -- the investigation into</p> <p>10 Mr. Baker, that investigation was conducted</p> <p>11 according to accepted practices?</p> <p>12 MR. HILKE: Object to form and ambiguous.</p> <p>13 You can answer.</p> <p>14 THE WITNESS: No, because I'm not opining on</p> <p>15 guilt or innocence. I'm opining on the quality</p> <p>16 of the investigation.</p> <p>17 BY MS. EKL:</p> <p>18 Q. Let's look at your report again. So</p> <p>19 this is Exhibit No. 5. Directing you to</p> <p>20 pages --</p> <p>21 A. Can you zoom in, please?</p> <p>22 Q. Yeah, sorry. Let me just get to --</p> <p>23 A. Okay.</p> <p>24 Q. All right. So we're looking at Page 11</p>   | Page 96 | <p>1 officers through the internal affairs process</p> <p>2 consistent with accepted industry practices when</p> <p>3 complaints against the officers were generated?</p> <p>4 A. Can you just raise that up a little</p> <p>5 bit, please? I want to take a look at that.</p> <p>6 Q. Sure. Make it bigger?</p> <p>7 A. Just one level. Yeah, that's fine.</p> <p>8 So the answer is yes, you read that</p> <p>9 correctly, and that is what I said.</p> <p>10 Q. Okay. You've also rendered opinions in</p> <p>11 this case -- and, again, looking at your summary</p> <p>12 under No. 3 -- that a pattern of allegations</p> <p>13 emerged against CPD officers between 1999 and</p> <p>14 2011, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And when you're referring to CPD</p> <p>17 officers in this context, are you talking about</p> <p>18 all CPD officers, or is this in relation to</p> <p>19 specific officers?</p> <p>20 MR. HILKE: Object to form.</p> <p>21 You can answer.</p> <p>22 THE WITNESS: It's a sampling of officers</p> <p>23 across the Chicago Police Department between</p> <p>24 that time.</p>           |



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| Page 97 | <p>1 BY MS. EKL:</p> <p>2 <b>Q. And then No. 4, which is on the next</b></p> <p>3 <b>page, the question was did the -- that you've</b></p> <p>4 <b>identified here is, "Did the CPD officers'</b></p> <p>5 <b>actions fall below nationally accepted standards</b></p> <p>6 <b>for police with respect to the arrests of Ben</b></p> <p>7 <b>Baker, Clarissa Glenn, Leonard Gipson, and</b></p> <p>8 <b>Lionel White, Senior," correct?</b></p> <p>9 A. Yes.</p> <p>10 <b>Q. And then your answer to that was they</b></p> <p>11 <b>did.</b></p> <p>12 A. Yes.</p> <p>13 <b>Q. And for purposes of today, we'll only</b></p> <p>14 <b>be discussing Baker and Glenn, but when you</b></p> <p>15 <b>refer to the CPD officers in the context of</b></p> <p>16 <b>No. 4, are you talking about specific CPD</b></p> <p>17 <b>officers?</b></p> <p>18 A. The defendant officers.</p> <p>19 <b>Q. And all defendant officers or certain</b></p> <p>20 <b>defendant officers?</b></p> <p>21 A. Well, we're talking about the officers</p> <p>22 that were involved in the arrest.</p> <p>23 <b>Q. And who is that?</b></p> <p>24 A. I don't recall off the top of my head,</p>                                    | Page 99  | <p>1 If you're talking about just high-level</p> <p>2 generalization, the answer is that the CPD</p> <p>3 provided a list of CR files, and from those CR</p> <p>4 files, I sampled -- randomly sampled cases, and</p> <p>5 then subjected those cases to analysis and</p> <p>6 observed the patterns that emerged.</p> <p>7 <b>Q. Okay. So let's look at Page 14. On</b></p> <p>8 <b>Page 14, you talk about -- you say a total of</b></p> <p>9 <b>112,436 files were available for selection, and</b></p> <p>10 <b>then you have in parentheses the dates 1999 to</b></p> <p>11 <b>2011. Do you see that?</b></p> <p>12 A. Yes.</p> <p>13 <b>Q. Okay. So is this 112,436 files, is</b></p> <p>14 <b>that in reference to complaint register files,</b></p> <p>15 <b>or commonly referred to as CR files?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. What do you mean by that they were</b></p> <p>18 <b>available for selection?</b></p> <p>19 A. Well, after filtering for these years,</p> <p>20 1999 to 2011, and having removed any duplicate</p> <p>21 CR files, what was left was 112,436 files</p> <p>22 between that time period.</p> <p>23 <b>Q. So walk me through how it was that you</b></p> <p>24 <b>came up with the fact that there were -- taking</b></p> |
| Page 98 | <p>1 but it might be Kallatt Mohammed, it might be</p> <p>2 Alvin Jones, and Ronald Watts as the supervisor.</p> <p>3 <b>Q. In order to come to these conclusions,</b></p> <p>4 <b>can you kind of walk us through your</b></p> <p>5 <b>methodology?</b></p> <p>6 A. Of which one of the four points?</p> <p>7 <b>Q. All right. Let's -- you know,</b></p> <p>8 <b>actually, let's start with -- we'll start with</b></p> <p>9 <b>No. 3.</b></p> <p>10 <b>In terms of a pattern emerging against</b></p> <p>11 <b>CPD officers between 1999 and 2011, what</b></p> <p>12 <b>methodology did you utilize to render opinions</b></p> <p>13 <b>related to patterns of allegations?</b></p> <p>14 MR. HILKE: Object to form.</p> <p>15 You can answer.</p> <p>16 THE WITNESS: Well, that's laid out</p> <p>17 extensively in my report. Can we go to those</p> <p>18 relevant pages and I can take you through it?</p> <p>19 BY MS. EKL:</p> <p>20 <b>Q. Without looking at your report, you're</b></p> <p>21 <b>not able to set forth at least your general</b></p> <p>22 <b>methodology?</b></p> <p>23 A. Well, I can, but I want to give you the</p> <p>24 most complete and detailed answer as possible.</p> | Page 100 | <p>1 <b>aside that you're saying that you're eliminating</b></p> <p>2 <b>duplications, where did you -- where did you</b></p> <p>3 <b>receive this information to come up with your</b></p> <p>4 <b>total number of files? What were the sources</b></p> <p>5 <b>that you filtered?</b></p> <p>6 A. Well, that's spelled out in Appendix D,</p> <p>7 I believe it is, what the sources of those files</p> <p>8 were. Can we go to that?</p> <p>9 <b>Q. Sure. All right. So we'll mark as</b></p> <p>10 <b>Exhibit No. 11 -- actually, that's not it. It's</b></p> <p>11 <b>not Appendix D. Hold on.</b></p> <p>12 A. Appendix C maybe.</p> <p>13 (Exhibit No. 9 was</p> <p>14 introduced.)</p> <p>15 BY MS. EKL:</p> <p>16 <b>Q. So we'll mark as Exhibit No. 9</b></p> <p>17 <b>Appendix C, which is a four-page document that's</b></p> <p>18 <b>Pages 129 through 132 of your report.</b></p> <p>19 A. Okay.</p> <p>20 <b>Q. All right. So rather than read the</b></p> <p>21 <b>entire report into the record, is it fair to say</b></p> <p>22 <b>that you looked at a number of different sources</b></p> <p>23 <b>to try to come up with a global set of CR files</b></p> <p>24 <b>from which a sample could be derived?</b></p>                                |

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| Page 101 | <p>1 A. So the way that this was put together</p> <p>2 is that plaintiffs' counsel originally had asked</p> <p>3 CPD for a list of complaint register files, and</p> <p>4 they were not provided by CPD. So they --</p> <p>5 plaintiffs' counsel had three different sources,</p> <p>6 and they came to me in electronic format</p> <p>7 provided by plaintiffs' counsel.</p> <p>8 <b>Q. And you don't have any personal</b></p> <p>9 <b>knowledge in terms of what was requested from</b></p> <p>10 <b>CPD or what was not provided from CPD, correct?</b></p> <p>11 A. Do you mean from plaintiffs' counsel?</p> <p>12 <b>Q. I'm talking about you personally. You</b></p> <p>13 <b>don't know what plaintiffs' counsel requested</b></p> <p>14 <b>from CPD and what they did not provide other</b></p> <p>15 <b>than what you've been told by plaintiffs'</b></p> <p>16 <b>counsel, correct?</b></p> <p>17 MR. HILKE: Object to form.</p> <p>18 You can answer.</p> <p>19 THE WITNESS: I think that's correct, yes.</p> <p>20 BY MS. EKL:</p> <p>21 <b>Q. All right. So let's -- I want to try</b></p> <p>22 <b>to contain your answers to what you have</b></p> <p>23 <b>personal knowledge of.</b></p> <p>24 <b>So as far as the total universe of</b></p> | Page 103 | <p>1 <b>that's referenced here as being -- as posting on</b></p> <p>2 <b>the Invisible Institute, correct?</b></p> <p>3 A. Yes, that's correct.</p> <p>4 <b>Q. Okay. So basically from all these</b></p> <p>5 <b>different sources of CR files that you were</b></p> <p>6 <b>provided by plaintiffs' counsel, it's those</b></p> <p>7 <b>documents that you went through and tried to</b></p> <p>8 <b>identify unique CR file numbers, correct?</b></p> <p>9 A. Yes, correct.</p> <p>10 <b>Q. Meaning so that you didn't have</b></p> <p>11 <b>duplicates that may have crossed over among the</b></p> <p>12 <b>different lists, correct?</b></p> <p>13 A. That's correct.</p> <p>14 <b>Q. And did you do that yourself, or did</b></p> <p>15 <b>someone else go through and basically take out</b></p> <p>16 <b>the duplications for you?</b></p> <p>17 A. No, I did that.</p> <p>18 <b>Q. Okay. And at the conclusion of going</b></p> <p>19 <b>through those files and identifying files</b></p> <p>20 <b>between 1999 and 2011 and taking out the</b></p> <p>21 <b>duplications, you came up with 112,436 CR files,</b></p> <p>22 <b>correct?</b></p> <p>23 A. Yes, you're correct.</p> <p>24 <b>Q. Okay.</b></p>  |
| Page 102 | <p>1 <b>files that we start with where we got to 112,436</b></p> <p>2 <b>files, what you know is that you were provided</b></p> <p>3 <b>lists of CR files from plaintiffs' counsel that</b></p> <p>4 <b>came from different sources, correct?</b></p> <p>5 A. Yes, that's correct.</p> <p>6 <b>Q. Okay. And you were made -- you were</b></p> <p>7 <b>told that some of those files came in response</b></p> <p>8 <b>to a Freedom of Information Request made by</b></p> <p>9 <b>the -- by a reporter by the name of Sam</b></p> <p>10 <b>Stecklow, correct?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. And you were also told that some of the</b></p> <p>13 <b>files came in response to litigation in a case</b></p> <p>14 <b>called Kalven versus Chicago Police Department,</b></p> <p>15 <b>correct?</b></p> <p>16 MR. HILKE: Object to form. Sorry. Object</p> <p>17 to form.</p> <p>18 You can answer.</p> <p>19 THE WITNESS: Yes, that's correct.</p> <p>20 BY MS. EKL:</p> <p>21 <b>Q. And you also indicate in Exhibit No. 9</b></p> <p>22 <b>that you also obtained a list of 896 additional</b></p> <p>23 <b>CRs that were identified through a separate</b></p> <p>24 <b>FOIA, or Freedom of Information Act request</b></p>                           | Page 104 | <p>1 A. The better way to say it is, 112,436</p> <p>2 unique CR files.</p> <p>3 <b>Q. Okay. Fair enough.</b></p> <p>4 <b>According to your report, you used a --</b></p> <p>5 <b>something called a G*Power sample size</b></p> <p>6 <b>calculator to generate a sample size, correct?</b></p> <p>7 A. Yes.</p> <p>8 <b>Q. And you said that was based on</b></p> <p>9 <b>developing a multiple regression model, correct?</b></p> <p>10 A. Correct.</p> <p>11 <b>Q. What is a multiple regression model?</b></p> <p>12 A. So multiple regression is a statistical</p> <p>13 technique that enables you to model the outcome</p> <p>14 of a particular variable on a set of individual</p> <p>15 predictor variables. And that's a very robust</p> <p>16 model that requires a lot of data. So I modeled</p> <p>17 it at the highest level to ensure that I had the</p> <p>18 best sample size to do that.</p> <p>19 <b>Q. What do you mean by "the highest</b></p> <p>20 <b>level"?</b></p> <p>21 A. I said the highest sample size.</p> <p>22 <b>Q. I'm sorry. I misheard you, okay.</b></p> <p>23 <b>How was it that you came up with the</b></p> <p>24 <b>variables that you would utilize in the multiple</b></p> |

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| Page 105 | <p>1 <b>regression model?</b></p> <p>2 MR. HILKE: Object to form.</p> <p>3 You can answer.</p> <p>4 THE WITNESS: Well, let me be clear. I</p> <p>5 didn't -- I didn't identify variables because I</p> <p>6 didn't conduct a multiple regression model.</p> <p>7 What I did do was identify the number</p> <p>8 of predictors that I was conceptually thinking</p> <p>9 of using.</p> <p>10 Can you take me back to the G*Power</p> <p>11 page and I'll show it to you?</p> <p>12 BY MS. EKL:</p> <p>13 <b>Q. Are you talking about in your report?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. So showing you Page 14 of your report,</b></p> <p>16 <b>is this what you're referring to?</b></p> <p>17 A. No. Would you -- I think it is -- go</p> <p>18 down, maybe 15 a little bit. Keep going. There</p> <p>19 was a table on it. Yeah, right there. Right</p> <p>20 there.</p> <p>21 So Table 5 on Page 15 is how we arrived</p> <p>22 at the sample size. And you'll notice that the</p> <p>23 third item on the table is predictors, and</p> <p>24 there's a number 9 in there. So what I was</p>   | Page 107 | <p>1 A. Yeah, just as you see it there.</p> <p>2 So the first thing is the effect size.</p> <p>3 And an effect size is the strength of the</p> <p>4 relationship that you are looking to uncover.</p> <p>5 When you are trying to detect effects, you like</p> <p>6 to -- you like to detect effect at lower levels,</p> <p>7 which means you're able to detect an effect at</p> <p>8 some -- a smaller interval rather than waiting</p> <p>9 for something larger to occur. So that's why</p> <p>10 you see .02. That's a relatively low level. So</p> <p>11 able to -- able to uncover effects at the lowest</p> <p>12 level.</p> <p>13 The next is the desired power level.</p> <p>14 You want to have about 80 -- 80 percent power.</p> <p>15 That's just a standard statistical convention</p> <p>16 where you kick that power up because you want to</p> <p>17 have a sufficiently powered model. So 80</p> <p>18 percent is where the model is stationed.</p> <p>19 Now, if you manipulate the effect size</p> <p>20 and you raise the effect size and you lower the</p> <p>21 power level, you will get different sample</p> <p>22 sizes. So by statistical convention, I followed</p> <p>23 this model.</p> <p>24 The next one is what is known as the</p> |
| Page 106 | <p>1 estimating is that for a given outcome variable,</p> <p>2 I was going to use 9 predictors to model a</p> <p>3 multivariate regression. And using these 9</p> <p>4 predictors, I would have needed 791 cases to do</p> <p>5 that.</p> <p>6 <b>Q. And so what were the 9 predictors that</b></p> <p>7 <b>you at least estimated utilizing at the point in</b></p> <p>8 <b>time when you were running the G*Power software?</b></p> <p>9 A. That's what I was saying to you before.</p> <p>10 There are none. I never identified a specific</p> <p>11 variable like age, sex, or race or something</p> <p>12 like that. I only estimated 9 because knowing</p> <p>13 what I know about statistical modeling and</p> <p>14 knowing what I know about modeling the outcome</p> <p>15 of a variable and using multivariate regression,</p> <p>16 9 predictor variables is probably at the higher</p> <p>17 end. So that's why I modeled 9.</p> <p>18 <b>Q. So at that point you had not identified</b></p> <p>19 <b>what predictors would be utilized in any</b></p> <p>20 <b>further --</b></p> <p>21 A. I had not because eventually I never</p> <p>22 conducted a multivariate model.</p> <p>23 <b>Q. Okay. And the sample size of 791,</b></p> <p>24 <b>could you explain how that is calculated?</b></p> | Page 108 | <p>1 alpha level, also known as a p-value. So that</p> <p>2 means at the .05 level, I am able to say with</p> <p>3 5 chances out of 100 -- because you'll see that</p> <p>4 that's -- you know, 5 out of 100, .05 -- I am</p> <p>5 able to say that the -- that the result that I</p> <p>6 found did not happen by chance alone, that</p> <p>7 there's actually something to the phenomenon</p> <p>8 that's under study.</p> <p>9 Once you establish those parameters</p> <p>10 that you see there, including the predictors,</p> <p>11 you get a sample size of 791 cases.</p> <p>12 <b>Q. And that's utilized by plugging those</b></p> <p>13 <b>different numbers into the G*Power software,</b></p> <p>14 <b>correct?</b></p> <p>15 A. Yes, that's right.</p> <p>16 <b>Q. All right. And then you use an error</b></p> <p>17 <b>rate of 60 percent, and that's -- and using the</b></p> <p>18 <b>error rate, the sample size plus the error rate</b></p> <p>19 <b>gives us 1,265, correct?</b></p> <p>20 A. Yes, that's right.</p> <p>21 <b>Q. All right. Why did you use an error</b></p> <p>22 <b>rate of 60 percent?</b></p> <p>23 A. Well, I wanted to have a sufficiently</p> <p>24 large error rate to make sure that the sample</p>                      |

30 (Pages 105 to 108)



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| Page 109 | <p>1 was large enough to be able to draw inferences</p> <p>2 across the entire department. And, you know,</p> <p>3 giving Chicago PD the benefit of the doubt, I</p> <p>4 wanted a larger sample rather than a smaller</p> <p>5 sample because larger samples tend to better</p> <p>6 accurately reflect what's going on under</p> <p>7 observation.</p> <p>8 <b>Q. So the next part of the process after</b></p> <p>9 <b>you had identified that you wanted a sample of</b></p> <p>10 <b>1,265 was to -- you took all of your CRs for</b></p> <p>11 <b>112,436 and then you allocated them to the years</b></p> <p>12 <b>in which those complaints were filed, correct?</b></p> <p>13 A. Yes. That's called stratified</p> <p>14 sampling, correct.</p> <p>15 <b>Q. Okay. Once you do that, do you then</b></p> <p>16 <b>figure out a proportional draw for each year?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. Okay. And is that conducted for</b></p> <p>19 <b>basically figuring out if -- just hypothetically</b></p> <p>20 <b>to make it simpler, if, say, you had 1,000 CRs</b></p> <p>21 <b>and 20 of them were in the year 1999, you would</b></p> <p>22 <b>say, you know, what percentage of those thousand</b></p> <p>23 <b>CRs -- what percentage of the 20 CRs make up the</b></p> <p>24 <b>thousand, correct?</b></p> | Page 111 | <p>1 document that lists at the bottom, it says, "All</p> <p>2 CR IDs 1999 to 2011 combined," and then there's</p> <p>3 other tabs in here that break those numbers</p> <p>4 into -- into various years.</p> <p>5 A. Okay.</p> <p>6 <b>Q. Does this list of "All CR IDs 1999 to</b></p> <p>7 <b>2011," does that list include all the CR numbers</b></p> <p>8 <b>that make up the 112,436 CR files?</b></p> <p>9 A. Yes. If you look at the lower left</p> <p>10 corner of that spreadsheet, you will see that</p> <p>11 the last row is 112,437.</p> <p>12 <b>Q. Right. Obviously, there's also -- the</b></p> <p>13 <b>first row is just the titles, correct? So we</b></p> <p>14 <b>have 1,200 -- I'm sorry, 12,436 different</b></p> <p>15 <b>numbers in this list, correct?</b></p> <p>16 A. Yes. It's accounting for the header</p> <p>17 line.</p> <p>18 <b>Q. Right. Okay.</b></p> <p>19 <b>Then you took these numbers, you looked</b></p> <p>20 <b>at the dates, and these dates -- this is the</b></p> <p>21 <b>date that the complaint was filed; is that what</b></p> <p>22 <b>that date represents?</b></p> <p>23 A. Yes.</p> <p>24 <b>Q. Okay. And so when we look at the other</b></p> |
| Page 110 | <p>1 A. Yes.</p> <p>2 <b>Q. And then you would apply that to your</b></p> <p>3 <b>sample size to come up with the number that you</b></p> <p>4 <b>need for that particular year?</b></p> <p>5 A. Yeah. What you would do is you would</p> <p>6 take the number of cases that were available for</p> <p>7 that year and you would say, okay, well,</p> <p>8 there's -- I'm going to draw 1 percent of the</p> <p>9 cases available for that year, and that's what</p> <p>10 the proportional draw would be. So all of it --</p> <p>11 all of the cases that are drawn are proportional</p> <p>12 related to those that are available for that</p> <p>13 given year.</p> <p>14 <b>Q. Right. And so here, obviously, the</b></p> <p>15 <b>amount that was -- the number of cases available</b></p> <p>16 <b>each year wasn't the same, correct?</b></p> <p>17 A. Right. Exactly.</p> <p>18 <b>Q. Okay. I'm going to show you -- stop</b></p> <p>19 <b>that. Get the right one. Sorry.</b></p> <p>20 <b>(Exhibit No. 9B was</b></p> <p>21 <b>introduced.)</b></p> <p>22 BY MS. EKL:</p> <p>23 <b>Q. So showing you what we've marked as</b></p> <p>24 <b>Exhibit 9B, which is Appendix C-2, this is a</b></p>  | Page 112 | <p>1 tabs, then they're spread across. So any</p> <p>2 complaint that was filed in 1999 you have listed</p> <p>3 in this first tab. It looks like there's 5,749,</p> <p>4 correct?</p> <p>5 A. Yeah, that's what it looks like, yes.</p> <p>6 <b>Q. Okay. And then just using some other</b></p> <p>7 <b>samples here at the bottom of -- so the year</b></p> <p>8 <b>2000, for instance, there's 9,190 different</b></p> <p>9 <b>files. Is that correct?</b></p> <p>10 A. 9191.</p> <p>11 <b>Q. I'm sorry, 91?</b></p> <p>12 A. 9191.</p> <p>13 <b>Q. All right. And you did this -- you</b></p> <p>14 <b>went through the same process for every year,</b></p> <p>15 <b>correct?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. All right. And then to figure out the</b></p> <p>18 <b>proportional draw, did you take -- so just let's</b></p> <p>19 <b>use 1999 as the example. Was it at this point</b></p> <p>20 <b>that you used -- well, you then gave a number to</b></p> <p>21 <b>each of these CR files, correct, 1 through the</b></p> <p>22 <b>total? So in this case it would be 1 through</b></p> <p>23 <b>5,749, correct?</b></p> <p>24 A. Are you talking about the randomization</p>          |

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| Page 113 | <p>1 process?</p> <p>2 <b>Q. Right. Right. I'm talking about the</b></p> <p>3 <b>next step in the process was after you had --</b></p> <p>4 <b>after you had determined how many files were in</b></p> <p>5 <b>each year, you then assigned within the year a</b></p> <p>6 <b>unique number 1 through whatever the last number</b></p> <p>7 <b>was, correct?</b></p> <p>8 A. Yes.</p> <p>9 <b>Q. And that was so you could then run</b></p> <p>10 <b>randomization software to come up with the</b></p> <p>11 <b>number of files within that group that you would</b></p> <p>12 <b>use as your sample?</b></p> <p>13 A. Yes. And that would identify the</p> <p>14 individual CR numbers that were -- that were</p> <p>15 requested to go through, of the 12 -- of the</p> <p>16 1,265.</p> <p>17 <b>Q. Okay. So, for instance, if we look at</b></p> <p>18 <b>an exhibit we'll mark as Exhibit No. 9A.</b></p> <p>19 <b>(Exhibit No. 9A was</b></p> <p>20 <b>introduced.)</b></p> <p>21 BY MS. EKL:</p> <p>22 <b>Q. And it is your Appendix C-1.</b></p> <p>23 <b>Is it fair to say that this first page</b></p> <p>24 <b>here is the results using a program called the</b></p>  | Page 115 | <p>1 <b>2006.</b></p> <p>2 <b>According to your spreadsheet, there</b></p> <p>3 <b>are 7,717 total files, unique CR files within</b></p> <p>4 <b>that year, correct?</b></p> <p>5 A. Yes.</p> <p>6 <b>Q. And so if you had followed the process</b></p> <p>7 <b>that you followed in 1999, you would have asked</b></p> <p>8 <b>for a proportionate number of CR files from a</b></p> <p>9 <b>group of 7,717, correct?</b></p> <p>10 A. Yes.</p> <p>11 <b>Q. Okay. Let's go back to Exhibit 9A and</b></p> <p>12 <b>look at 2006.</b></p> <p>13 <b>Can you explain why you asked for a</b></p> <p>14 <b>range of 1 to 7,533 when, again, going back, the</b></p> <p>15 <b>total was 7,717?</b></p> <p>16 A. No. I'm not sure. I know that there</p> <p>17 were -- there were some instances where CR</p> <p>18 numbers may have been removed because they fell</p> <p>19 outside the date range, but I would have to</p> <p>20 double-check that.</p> <p>21 <b>Q. Well, if I told you that aside from</b></p> <p>22 <b>1999, every single one of the randomization</b></p> <p>23 <b>results -- the ranges differ on every single one</b></p> <p>24 <b>of the years except for 1999, and this being the</b></p>  |
| Page 114 | <p>1 <b>Research Randomizer that came up with a set of</b></p> <p>2 <b>65 unique numbers within that range we were</b></p> <p>3 <b>looking at between 1 and 5,749?</b></p> <p>4 A. Yes, you're correct.</p> <p>5 <b>Q. And basically what it does is, we see</b></p> <p>6 <b>Set #1, you ask it for one set of numbers within</b></p> <p>7 <b>that range -- to give you 65 unique numbers</b></p> <p>8 <b>within that range between 1 and 5,749, correct?</b></p> <p>9 A. Yes, correct.</p> <p>10 <b>Q. Okay. Is there any reason why -- and</b></p> <p>11 <b>did you -- did you continue that process for</b></p> <p>12 <b>each year, go through and ask the Research</b></p> <p>13 <b>Randomizer to give you one set of unique numbers</b></p> <p>14 <b>that was proportionate using the total range of</b></p> <p>15 <b>CR files that you attributed by date to a</b></p> <p>16 <b>particular year?</b></p> <p>17 A. I did that for each year, yes.</p> <p>18 <b>Q. Okay. And did you yourself run this</b></p> <p>19 <b>Research Randomizer, or did you have someone</b></p> <p>20 <b>else do that for you?</b></p> <p>21 A. I did it.</p> <p>22 <b>Q. I want to show you -- go back for a</b></p> <p>23 <b>second to Appendix C-2, which is Exhibit 9B, and</b></p> <p>24 <b>take a look at another example which is the year</b></p> | Page 116 | <p>1 <b>strongest example where it's off by 184 files,</b></p> <p>2 <b>can you -- can you explain why there might be a</b></p> <p>3 <b>variance?</b></p> <p>4 A. No. I would have to go back and take a</p> <p>5 look at the -- at the data set.</p> <p>6 <b>Q. Could it impact data if you're pulling</b></p> <p>7 <b>from files -- if your total set was, again, the</b></p> <p>8 <b>112,436 CR files but you eliminated 892 files</b></p> <p>9 <b>from the randomization process?</b></p> <p>10 A. Of the 112,000? We have 112,000 cases.</p> <p>11 <b>Q. Right. So would you expect that if I</b></p> <p>12 <b>were to go through and calculate for each of</b></p> <p>13 <b>these years, so if we go through -- which we</b></p> <p>14 <b>won't do -- but you're looking at your ranges,</b></p> <p>15 <b>you would expect that the last number here, this</b></p> <p>16 <b>5,749, if you totaled up every one of these</b></p> <p>17 <b>numbers, you know, the ranges for each year,</b></p> <p>18 <b>that should total 1,000 -- sorry, 112,436 CR</b></p> <p>19 <b>files, correct? Because you're pulling random</b></p> <p>20 <b>numbers from the global set.</b></p> <p>21 A. It should be 112,436 is the total</p> <p>22 number.</p> <p>23 <b>Q. Right. So if you add up each of these</b></p> <p>24 <b>years, the end number of the range, it should</b></p> |

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| Page 117 | <p>1 <b>end up with a total of 112,436, correct?</b></p> <p>2 A. Adding those together, that's correct,</p> <p>3 yes, for each year.</p> <p>4 <b>Q. Okay. And if I told you that the</b></p> <p>5 <b>numbers in Exhibit 9A, which is your</b></p> <p>6 <b>Appendix C-1, they total -- total number of CRs</b></p> <p>7 <b>that is 892 CRs less than the 112,436, can you</b></p> <p>8 <b>explain why -- why there are that many CR files</b></p> <p>9 <b>that were eliminated from being pulled?</b></p> <p>10 A. I just want to write these numbers</p> <p>11 down. 112,436 is the total, and you said you're</p> <p>12 missing 892?</p> <p>13 <b>Q. Correct.</b></p> <p>14 A. So let me see something. Okay.</p> <p>15 So the answer is, I'm not sure. I</p> <p>16 would have to look at the data just to</p> <p>17 double-check everything. That's number one.</p> <p>18 Number two, by excluding 892 files out</p> <p>19 of 112,000, that amounts to 8/10ths of 1 percent</p> <p>20 of the total. So it would not affect the</p> <p>21 results.</p> <p>22 <b>Q. Sorry. Go ahead.</b></p> <p>23 A. No, that's it.</p> <p>24 <b>Q. I didn't want to cut you off, so go</b></p>      | Page 119 | <p>1 <b>time periods and combined them into three</b></p> <p>2 <b>groups, correct, according to year?</b></p> <p>3 A. Wait. Say that again.</p> <p>4 <b>Q. Sure. So after you had determined a</b></p> <p>5 <b>random sample set for each year -- you did that</b></p> <p>6 <b>first, correct?</b></p> <p>7 A. Yes.</p> <p>8 <b>Q. To come up with the three sample sets,</b></p> <p>9 <b>you then, again, looked at the dates and pulled</b></p> <p>10 <b>all of the -- all of the CR files from the</b></p> <p>11 <b>sample sets from each of the dates within the</b></p> <p>12 <b>range that made up, for instance, 1999 to 2003.</b></p> <p>13 A. Well, the CR -- CR numbers, is that</p> <p>14 what you're saying?</p> <p>15 <b>Q. Right. The random CR numbers that you</b></p> <p>16 <b>had pulled for each year were then just combined</b></p> <p>17 <b>so that it was all the CRs, the random CR</b></p> <p>18 <b>numbers from between 1999 and 2003. That's how</b></p> <p>19 <b>you created those three sample sets.</b></p> <p>20 A. Maybe I'm missing something. The</p> <p>21 data -- the data go from '99 to 2011, and</p> <p>22 they -- the individual subsets contain the CR</p> <p>23 files within those years.</p> <p>24 <b>Q. Correct. From the samples that you had</b></p> |
| Page 118 | <p>1 <b>ahead.</b></p> <p>2 A. No. That was my throat.</p> <p>3 <b>Q. And is it safe to say that you can't</b></p> <p>4 <b>tell me anything about the 892 files that are --</b></p> <p>5 <b>that were excluded from the randomization</b></p> <p>6 <b>process?</b></p> <p>7 MR. HILKE: Wait. Object to form.</p> <p>8 You can answer.</p> <p>9 THE WITNESS: No, because I have to make</p> <p>10 sure that, you know, this actually happened or</p> <p>11 where those files are and whether or not they</p> <p>12 may have been included in some other form.</p> <p>13 BY MS. EKL:</p> <p>14 <b>Q. All right. So in the course of your</b></p> <p>15 <b>analyzation of the data, you looked at the</b></p> <p>16 <b>sample sets both by year, and then also by three</b></p> <p>17 <b>different time periods. Is that fair to say?</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. And the time periods were 1999 to 2003,</b></p> <p>20 <b>2004 to 2007, and 2008 to 2011, correct?</b></p> <p>21 A. Yes.</p> <p>22 <b>Q. And that was just -- those time</b></p> <p>23 <b>periods, you combined the files that -- the</b></p> <p>24 <b>random files that you pulled for each of those</b></p> | Page 120 | <p>1 <b>already pulled?</b></p> <p>2 A. Yes.</p> <p>3 <b>Q. That was my question.</b></p> <p>4 A. Okay.</p> <p>5 MR. HILKE: Beth, we're coming up on an</p> <p>6 hour. If we can take a break when you have a</p> <p>7 second, I'd appreciate it.</p> <p>8 MS. EKL: Yep. I think we can go ahead and</p> <p>9 do it now. I just wanted to check something.</p> <p>10 That's fine. We can go ahead and take a break.</p> <p>11 Let's go off the record.</p> <p>12 (Short recess taken.)</p> <p>13 BY MS. EKL:</p> <p>14 <b>Q. I'm going to share with you again your</b></p> <p>15 <b>report, Exhibit No. 5. And this is on Page 17.</b></p> <p>16 <b>This page reflects Table 6 showing the sample</b></p> <p>17 <b>sizes that you came up with for each study</b></p> <p>18 <b>period which were those year ranges that we</b></p> <p>19 <b>discussed, correct?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. Okay. And so after you had determined</b></p> <p>22 <b>the sample sizes and identified the random CRs</b></p> <p>23 <b>associated with those samples, was the next</b></p> <p>24 <b>thing that happened that coders were hired by</b></p>   |

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| <p style="text-align: right;">Page 121</p> <p>1 <b>plaintiffs' counsel to code the data within</b><br/>2 <b>those CR files?</b><br/>3 A. No, I think -- let me just make sure.<br/>4 Say that again, please.<br/>5 <b>Q. Sure.</b><br/>6 A. So I identified the samples; is that<br/>7 what you asked me?<br/>8 <b>Q. After you identified the samples so</b><br/>9 <b>that you now have for each year or each period</b><br/>10 <b>of years identified the CR files, you then, or</b><br/>11 <b>at least plaintiffs' counsel, hired individuals</b><br/>12 <b>who you referred to as coders, correct?</b><br/>13 A. I think before that the sample was<br/>14 given back to plaintiffs' counsel. They then<br/>15 went to the city to produce those CR files. And<br/>16 after the CR files were provided, then the<br/>17 coders were hired.<br/>18 <b>Q. Okay.</b><br/>19 A. Forgive me -- forgive me if my<br/>20 sequencing is off. I don't want to speak on<br/>21 behalf of plaintiffs' counsel, but I believe<br/>22 that's how it happened, or maybe those two<br/>23 things happened simultaneously.<br/>24 <b>Q. Okay. Let's just skip ahead.</b></p> | <p style="text-align: right;">Page 123</p> <p>1 <b>Q. How many coders were hired, if you</b><br/>2 <b>know?</b><br/>3 A. I want to say 12.<br/>4 <b>Q. And do you know if any of these coders</b><br/>5 <b>were individuals who previously worked for the</b><br/>6 <b>law firm Loevy &amp; Loevy or if these were</b><br/>7 <b>individuals hired specifically for this project?</b><br/>8 A. I'm speculating, but there may have<br/>9 been some overlap between Waddy coders and Watts<br/>10 coders.<br/>11 <b>Q. You say in here that plaintiffs'</b><br/>12 <b>counsel hired attorneys. So is it your</b><br/>13 <b>understanding that each of the data coders was</b><br/>14 <b>an attorney?</b><br/>15 A. That's my understanding, yes.<br/>16 <b>Q. Do you know the names of any of these</b><br/>17 <b>data coders?</b><br/>18 A. No, not off the top of my head I do<br/>19 not, no.<br/>20 <b>Q. Well, other than on the top of your</b><br/>21 <b>head, do you have a list somewhere that would</b><br/>22 <b>enable you to find out the names of these</b><br/>23 <b>coders?</b><br/>24 A. I don't know that I have a list. There</p>                  |
| <p style="text-align: right;">Page 122</p> <p>1 <b>At some point in time after -- after</b><br/>2 <b>these sample -- sorry, after these samples were</b><br/>3 <b>determined, coders were hired to go and go</b><br/>4 <b>through each of the CR files and code certain</b><br/>5 <b>information, correct?</b><br/>6 A. That's correct, yes.<br/>7 <b>Q. Okay. In your report, you say</b><br/>8 <b>"Plaintiffs' counsel hired attorneys," and then</b><br/>9 <b>in parentheses, data coders, "to code the data,"</b><br/>10 <b>correct?</b><br/>11 A. Yes, correct.<br/>12 <b>Q. All right. Did you assist in the</b><br/>13 <b>hiring of these data coders?</b><br/>14 A. No, I did not.<br/>15 <b>Q. Do you know the process by which these</b><br/>16 <b>data coders were selected?</b><br/>17 A. No, I do not.<br/>18 <b>Q. Do you know what the qualifications are</b><br/>19 <b>of any of the data coders?</b><br/>20 A. The qualifications to code the data?<br/>21 <b>Q. Correct.</b><br/>22 A. Well, it's a pretty basic, low-level<br/>23 sort of activity. I mean, the ability to read<br/>24 and write English I'm sure is a qualification.</p>     | <p style="text-align: right;">Page 124</p> <p>1 may be. I don't remember specifically.<br/>2 <b>Q. Do you know how much the coders were</b><br/>3 <b>paid to engage in the work that they did in</b><br/>4 <b>relation to the Baker case?</b><br/>5 A. No, I do not.<br/>6 <b>Q. Do you know if they were salaried</b><br/>7 <b>versus paid by the hour?</b><br/>8 A. No, no.<br/>9 <b>Q. Do you know -- I'm sorry, go ahead.</b><br/>10 A. I was just going to say no, I never<br/>11 inquired.<br/>12 <b>Q. Do you know if there was any contract</b><br/>13 <b>that was created between the coders and Loevy &amp;</b><br/>14 <b>Loevy in relation to how they would be</b><br/>15 <b>compensated?</b><br/>16 A. I do not know.<br/>17 <b>Q. Before you obtained and reviewed any of</b><br/>18 <b>the complaint register files in this case, were</b><br/>19 <b>you required to fill out or to review a</b><br/>20 <b>confidentiality order, protective order, and to</b><br/>21 <b>sign an acknowledgment that you would abide by</b><br/>22 <b>it?</b><br/>23 A. I don't recall specifically, but that<br/>24 does sound -- that does sound familiar. But</p> |

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| <p style="text-align: right;">Page 125</p> <p>1 again, I don't know if I'm -- if I'm commingling</p> <p>2 Watts and Waddy, but that does sound familiar.</p> <p>3 In any event, even if I didn't, I</p> <p>4 can -- I can tell you on the record that I have</p> <p>5 not spoken about this case to anybody other than</p> <p>6 counsel, and the people here today, of course.</p> <p>7 <b>Q. Do you know if the coders were required</b></p> <p>8 <b>to sign something acknowledging the</b></p> <p>9 <b>confidentiality of the information you were</b></p> <p>10 <b>reviewing?</b></p> <p>11 A. No, I do not.</p> <p>12 <b>Q. Do you know if any of the coders have a</b></p> <p>13 <b>financial interest in the outcome of this</b></p> <p>14 <b>litigation?</b></p> <p>15 A. I do not, no.</p> <p>16 <b>Q. I saw reference somewhere in all of the</b></p> <p>17 <b>documents that you produced to a person by the</b></p> <p>18 <b>name of Spencer Bishins, B-i-s-h-i-n-s,</b></p> <p>19 <b>referring to him as having managed the coding</b></p> <p>20 <b>process. Are you familiar with that individual?</b></p> <p>21 A. I don't know who that is, but I believe</p> <p>22 he was reporting to Noah, who had charge of all</p> <p>23 of the coders.</p> <p>24 <b>Q. And what was the difference in the role</b></p> | <p style="text-align: right;">Page 127</p> <p>1 <b>Q. No, I'm sorry. I was trying to clarify</b></p> <p>2 <b>my question.</b></p> <p>3 <b>Is there a way that you guarded against</b></p> <p>4 <b>bias by the coders in this case?</b></p> <p>5 A. Well, I went through and I checked 127</p> <p>6 random cases to make sure that the coding was</p> <p>7 proper as another check on that. I believe Noah</p> <p>8 also examined that data.</p> <p>9 <b>Q. When you say you believe that Noah also</b></p> <p>10 <b>examined that data, what leads you to believe</b></p> <p>11 <b>that?</b></p> <p>12 A. Because we talked -- we talked about</p> <p>13 how that would work. The completed -- the</p> <p>14 completed data would go to Noah who would review</p> <p>15 it, and then when it was completed, it came to</p> <p>16 me. I drew 127 random cases for quality</p> <p>17 control.</p> <p>18 <b>Q. And we'll get to that in a second in</b></p> <p>19 <b>more detail.</b></p> <p>20 <b>You created -- to assist in the process</b></p> <p>21 <b>in this case, you created a code book, correct?</b></p> <p>22 A. I did, yes.</p> <p>23</p> <p>24</p>             |
| <p style="text-align: right;">Page 126</p> <p>1 <b>between Spencer and Noah?</b></p> <p>2 A. I don't know that there was an</p> <p>3 authoritative role. I think it was more for</p> <p>4 efficiency and as a matter of communication. I</p> <p>5 think if the coders had an issue, they brought</p> <p>6 it to Spencer, who then brought it to -- to</p> <p>7 Noah, just to be able to, you know, manage human</p> <p>8 resources efficiently.</p> <p>9 <b>Q. If the coders had -- if any of the</b></p> <p>10 <b>coders had a financial interest in the outcome</b></p> <p>11 <b>of the Baker litigation, do you agree that that</b></p> <p>12 <b>could bias their work?</b></p> <p>13 A. Well, I think there's always potential</p> <p>14 for that sort of thing. But that happens in --</p> <p>15 the model that I set up here, happens in the</p> <p>16 research world all the time. Someone sponsors</p> <p>17 research. They sponsor a researcher. That</p> <p>18 researcher then goes out and hires people and</p> <p>19 somebody has to fund the research. That's why</p> <p>20 you need to guard against those things.</p> <p>21 <b>Q. Well, was there a manner in which you</b></p> <p>22 <b>guarded against bias in this case?</b></p> <p>23 A. Say -- I think I stepped on your last</p> <p>24 word.</p>        | <p style="text-align: right;">Page 128</p> <p>1 (Exhibit No. 8 was</p> <p>2 introduced.)</p> <p>3 BY MS. EKL:</p> <p>4 <b>Q. All right. Let's take a look at</b></p> <p>5 <b>Exhibit No. 8, which is Appendix A to your</b></p> <p>6 <b>report. And just for the record, it is a</b></p> <p>7 <b>34-page document.</b></p> <p>8 <b>What we've marked as Exhibit 8, this is</b></p> <p>9 <b>the code book that you created in relation to</b></p> <p>10 <b>your work in this case?</b></p> <p>11 A. Yes, it is.</p> <p>12 <b>Q. Did you ever create a code book for</b></p> <p>13 <b>the -- in any other -- in any other circumstance</b></p> <p>14 <b>in any other case?</b></p> <p>15 A. I believe so, yes, I did.</p> <p>16 <b>Q. And what other cases that you've worked</b></p> <p>17 <b>on have you created a code book?</b></p> <p>18 A. I think there was one in Waddy. I</p> <p>19 think there was one in -- in a case that I had</p> <p>20 in Atlantic City.</p> <p>21 <b>Q. What's name of that case?</b></p> <p>22 A. I don't -- I don't remember. I believe</p> <p>23 it was one of the cases with Jennifer Bonjean.</p> <p>24 <b>Q. Any other cases?</b></p> |

35 (Pages 125 to 128)



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| <p style="text-align: right;">Page 129</p> <p>1 A. I have to go through my list, but I</p> <p>2 don't think so off the top of my head.</p> <p>3 <b>Q. When did you create the code book that</b></p> <p>4 <b>was utilized --</b></p> <p>5 <b>Well, let me first ask you this: Is</b></p> <p>6 <b>the code book utilized here in the Baker case</b></p> <p>7 <b>different than the code book that you're</b></p> <p>8 <b>referencing that was used in Waddy?</b></p> <p>9 A. I don't -- I don't think so. There may</p> <p>10 be -- there may be some variables that we</p> <p>11 collected here that we didn't collect there, but</p> <p>12 I don't -- I don't recall specifically without</p> <p>13 seeing it side by side.</p> <p>14 <b>Q. Do you recall what variables you</b></p> <p>15 <b>collected in relation to the Baker case that you</b></p> <p>16 <b>did not collect in relation to the Waddy case?</b></p> <p>17 A. No, not off the top of my head I do</p> <p>18 not.</p> <p>19 <b>Q. When did you create the code book in</b></p> <p>20 <b>this case, in Baker?</b></p> <p>21 A. I couldn't tell you the date I created</p> <p>22 it, but I created it as -- as I was beginning to</p> <p>23 think through what data we wanted to collect and</p> <p>24 what data would be important to the case.</p>                               | <p style="text-align: right;">Page 131</p> <p>1 BY MS. EKL:</p> <p>2 <b>Q. You're not answering my question,</b></p> <p>3 <b>Mr. Shane. I think you've lost track of it.</b></p> <p>4 <b>The question was just, what</b></p> <p>5 <b>publications did you rely upon to assist you in</b></p> <p>6 <b>formulating the code book in this case?</b></p> <p>7 A. Oh, I apologize. I thought you were</p> <p>8 asking me for all my sources of knowledge. I</p> <p>9 apologize.</p> <p>10 Terrill was one and the Police</p> <p>11 Foundation was another one.</p> <p>12 <b>Q. How long did it take you to create this</b></p> <p>13 <b>code book?</b></p> <p>14 A. I don't know. Probably -- probably a</p> <p>15 week or two.</p> <p>16 <b>Q. And what is the purpose of the code</b></p> <p>17 <b>book, or, in particular, the code book that you</b></p> <p>18 <b>created in this case?</b></p> <p>19 A. To be able to document the process that</p> <p>20 we went through to identify the variables, what</p> <p>21 the conceptualization of those variables are,</p> <p>22 and what their measurement levels are.</p> <p>23 <b>Q. Take a look at the bottom of Page 1 of</b></p> <p>24 <b>the coding. You talk about under the coding</b></p>   |
| <p style="text-align: right;">Page 130</p> <p>1 <b>Q. How did you make that determination?</b></p> <p>2 A. Based on my long record in police work,</p> <p>3 my understanding and reading of previous studies</p> <p>4 on internal affairs that have been done and</p> <p>5 published by scholars and academics in my field.</p> <p>6 <b>Q. Can you identify some of these?</b></p> <p>7 A. Well, they're in my report --</p> <p>8 <b>Q. Any -- any that you relied upon to</b></p> <p>9 <b>assist you in creating this code book?</b></p> <p>10 MR. HILKE: Sorry. Jon, were you done with</p> <p>11 your answer?</p> <p>12 THE WITNESS: Well, I was just going to say,</p> <p>13 Bill Terrill is one. The Police Foundation</p> <p>14 Report was another one.</p> <p>15 And over the course of time, given my</p> <p>16 experience in a major police department and</p> <p>17 having written policy about internal affairs,</p> <p>18 worked with the Police Foundation in 1993 in the</p> <p>19 Newark Police Department when we adopted the</p> <p>20 risk analysis and management system, which was</p> <p>21 the national model that was coming into play at</p> <p>22 that time, I had a very strong understanding of</p> <p>23 the types of data elements that were collected</p> <p>24 in internal affairs and risk management systems.</p> | <p style="text-align: right;">Page 132</p> <p>1 instructions how there could be four different</p> <p>2 findings within a CR -- within the CR parlance,</p> <p>3 including sustained, not sustained, exonerated,</p> <p>4 and unfounded, correct?</p> <p>5 A. Yes.</p> <p>6 <b>Q. And you say there may be no finding</b></p> <p>7 <b>associated with a CR if it is not investigated.</b></p> <p>8 <b>How is -- how does the reason for why there</b></p> <p>9 <b>would not be a finding relevant to a coder in</b></p> <p>10 <b>instructing them in terms of what to do?</b></p> <p>11 A. Well, they had to have come across a CR</p> <p>12 that didn't have one of those four.</p> <p>13 <b>Q. Correct. So -- but as far as the</b></p> <p>14 <b>"why," so you say if it is not investigated. So</b></p> <p>15 <b>are you saying that they should make a judgment</b></p> <p>16 <b>call that something was not investigated and you</b></p> <p>17 <b>put it as a no finding?</b></p> <p>18 <b>What I'm trying to get at, what is the</b></p> <p>19 <b>relevance of advising them that there may be no</b></p> <p>20 <b>finding if the CR is not investigated?</b></p> <p>21 MR. HILKE: Wait, sorry. Objection to form.</p> <p>22 You can answer.</p> <p>23 THE WITNESS: Because they were instructed</p> <p>24 that these are the four standard dispositions</p> |

36 (Pages 129 to 132)

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| Page 133 | <p>1 that they're likely to see, but that also there</p> <p>2 are instances where cases were not investigated</p> <p>3 and they may not see one of these -- these four</p> <p>4 findings.</p> <p>5 BY MS. EKL:</p> <p>6 <b>Q. Would you agree that there are some</b></p> <p>7 <b>subjective elements to the process the coders</b></p> <p>8 <b>were going through in terms of making</b></p> <p>9 <b>determinations as to how to code certain things?</b></p> <p>10 MR. HILKE: Object to form.</p> <p>11 You can answer.</p> <p>12 THE WITNESS: I mean, if you can give me a</p> <p>13 specific example. I think it says objective</p> <p>14 as -- as possible. If there was any</p> <p>15 subjectivity in there, we tried to minimize it,</p> <p>16 if any.</p> <p>17 BY MS. EKL:</p> <p>18 <b>Q. Let's look, for instance, on Page 2 at</b></p> <p>19 <b>No. 8.</b></p> <p>20 A. Okay.</p> <p>21 <b>Q. Evidence variables are coded for the</b></p> <p>22 <b>presence or absence of the condition. And it</b></p> <p>23 <b>says, A, yes equals a CR file -- the CR file</b></p> <p>24 <b>indicates the action was taken; no, the CR file</b></p>  | Page 135 | <p>1 <b>of not properly wearing the uniform, then a</b></p> <p>2 <b>canvass of the scene, or surveillance video, or</b></p> <p>3 <b>interview of the complainant is not applicable</b></p> <p>4 <b>because the condition would not be expected</b></p> <p>5 <b>during that type of investigation," correct?</b></p> <p>6 A. Yes.</p> <p>7 <b>Q. And so does this determination require</b></p> <p>8 <b>a certain level of knowledge by the coder as to</b></p> <p>9 <b>what would be expected in a certain type of</b></p> <p>10 <b>investigation?</b></p> <p>11 A. Well, I delivered that during the</p> <p>12 training. I provided them with an example here,</p> <p>13 and I explained to them during the training that</p> <p>14 if there was any -- any discrepancy or they were</p> <p>15 not aware, that they should raise that issue</p> <p>16 with Noah and Noah would -- Noah would resolve</p> <p>17 it, and I would be the ultimate arbiter of</p> <p>18 anything. So it's not -- it's not as judgmental</p> <p>19 as you may think.</p> <p>20 <b>Q. Well, how many times was Noah</b></p> <p>21 <b>questioned about whether or not someone should</b></p> <p>22 <b>code something in a particular way?</b></p> <p>23 A. I don't know.</p> <p>24 <b>Q. And how many times did Noah elevate the</b></p> |
| Page 134 | <p>1 <b>indicates the action was not taken; and, C, N/A</b></p> <p>2 <b>equals the condition was not applicable.</b></p> <p>3 <b>So let's just -- what's an example of</b></p> <p>4 <b>what you're referring to as a condition?</b></p> <p>5 A. So let's talk -- just picking a random</p> <p>6 variable, let's talk about canvassing.</p> <p>7 Canvassing is something that you do during an</p> <p>8 investigation. You go back to the scene, you</p> <p>9 canvass. You look for witnesses, you look for</p> <p>10 evidence, you look for video, all sorts of</p> <p>11 things. That's the condition.</p> <p>12 <b>Q. Right. Sorry.</b></p> <p>13 A. If the condition is achieved, that they</p> <p>14 did canvass or they mentioned that they</p> <p>15 canvassed, yes is the correct answer.</p> <p>16 <b>Q. And if it indicates that a canvass was</b></p> <p>17 <b>not conducted, then you would -- the coder was</b></p> <p>18 <b>to put in there no, correct?</b></p> <p>19 A. That's right.</p> <p>20 <b>Q. So what I'm getting at is, terms of not</b></p> <p>21 <b>applicable, that requires a judgment call by the</b></p> <p>22 <b>coder to determine -- you have in here N/A</b></p> <p>23 <b>equals the condition was not applicable.</b></p> <p>24 <b>For example, "If an officer is accused</b></p> | Page 136 | <p>1 <b>question to you?</b></p> <p>2 A. I don't remember him giving me any</p> <p>3 questions regarding coding problems.</p> <p>4 <b>Q. What's Noah's background in terms of --</b></p> <p>5 <b>do you know whether or not he is a salaried</b></p> <p>6 <b>employee with Loevy &amp; Loevy?</b></p> <p>7 A. No, I don't know that.</p> <p>8 <b>Q. Do you know if he has any particular</b></p> <p>9 <b>financial interest in the outcome of this case?</b></p> <p>10 A. I do not know that.</p> <p>11 <b>Q. Do you know what his -- sorry.</b></p> <p>12 A. I said I don't believe he does, but I</p> <p>13 don't know that.</p> <p>14 <b>Q. Do you know if he has any background in</b></p> <p>15 <b>police investigations?</b></p> <p>16 A. No, I don't know that.</p> <p>17 <b>Q. So is it fair to say you don't know if</b></p> <p>18 <b>he has the knowledge to make a judgment call as</b></p> <p>19 <b>to whether or not a particular condition would</b></p> <p>20 <b>be expected in relation to a particular</b></p> <p>21 <b>investigation?</b></p> <p>22 A. No. I would say he does based on the</p> <p>23 training that I delivered, yes. If he was</p> <p>24 unclear on something, he could certainly always</p>  |

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| <p style="text-align: right;">Page 137</p> <p>1 contact me.</p> <p>2 <b>Q. The training you delivered was</b></p> <p>3 <b>90 minutes, correct?</b></p> <p>4 A. That sounds right, yes.</p> <p>5 <b>Q. And was it over Zoom or some</b></p> <p>6 <b>similar-type platform?</b></p> <p>7 A. Yeah, I believe it was, yes. We shared</p> <p>8 the code book during that period of time, yes.</p> <p>9 <b>Q. And did you discuss -- when you say</b></p> <p>10 <b>"the code book," you're talking about</b></p> <p>11 <b>Exhibit No. 8, correct?</b></p> <p>12 A. Yes, that's right.</p> <p>13 <b>Q. And so during that 90 minutes, you went</b></p> <p>14 <b>through all of the things that are included in</b></p> <p>15 <b>Exhibit No. 8, correct?</b></p> <p>16 A. I did. I went through this, yeah.</p> <p>17 <b>Q. And is it fair to say during that</b></p> <p>18 <b>90 minutes, in addition to going through</b></p> <p>19 <b>everything in the code book, you didn't have</b></p> <p>20 <b>time to explain your lifetime of experience in</b></p> <p>21 <b>terms of what was expected in relation to a</b></p> <p>22 <b>particular investigation?</b></p> <p>23 A. Well, I did deliver several examples,</p> <p>24 one of which I labeled here.</p>  | <p style="text-align: right;">Page 139</p> <p>1 Sometimes there were vague situations</p> <p>2 where they would mention a canvass, they would</p> <p>3 say something like "canvass the area, negative</p> <p>4 results" or something like that.</p> <p>5 And a true canvass occurs when there's</p> <p>6 generally a canvass form. In the absence of a</p> <p>7 canvass form, there would be a lengthy record of</p> <p>8 the canvass itself. So date, time, location,</p> <p>9 who you spoke to, when you move to the next</p> <p>10 spot. So there's a chronology or sequence of</p> <p>11 events that occurs on the canvass. And</p> <p>12 sometimes it said "canvass the area, negative</p> <p>13 results."</p> <p>14 So we erred on the side of caution and</p> <p>15 we said, you know what, give them credit for</p> <p>16 that. They said it. Maybe they did do it. And</p> <p>17 we avoided using the unclear designation.</p> <p>18 <b>Q. What do you mean by maybe they did it?</b></p> <p>19 <b>I mean, are you making a judgment call as to</b></p> <p>20 <b>whether they're being truthful when they say a</b></p> <p>21 <b>canvass was conducted based on the lack of</b></p> <p>22 <b>documentation?</b></p> <p>23 MR. HILKE: Object to form.</p> <p>24 You can answer. Go ahead.</p> |
| <p style="text-align: right;">Page 138</p> <p>1 <b>Q. But Noah didn't receive any special</b></p> <p>2 <b>training other than the same training the other</b></p> <p>3 <b>coders received, correct?</b></p> <p>4 A. Yes, that's right.</p> <p>5 <b>Q. Looking at -- going down in terms of</b></p> <p>6 <b>No. 8, there's actually a fourth possible answer</b></p> <p>7 <b>you have which is "unclear," and you state that</b></p> <p>8 <b>"Unclear equals the CR file mentions that the</b></p> <p>9 <b>condition may have occurred, but there is no</b></p> <p>10 <b>evidence in the CR file that it actually</b></p> <p>11 <b>occurred. For example, the narrative indicates</b></p> <p>12 <b>that a canvass was conducted, but there is no</b></p> <p>13 <b>narrative describing the who, what, where, when,</b></p> <p>14 <b>and how of the canvass." And then you say, "Try</b></p> <p>15 <b>to avoid using this field unless necessary."</b></p> <p>16 <b>Did I read that accurately?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. Why -- why are you instructing them to</b></p> <p>19 <b>try to avoid using that field?</b></p> <p>20 A. Because what we did, we felt that the</p> <p>21 better way to do things was to err on the side</p> <p>22 of the city, to give them the benefit of doubt</p> <p>23 that if they did mention something in the file</p> <p>24 that they -- that they get credit for that.</p> | <p style="text-align: right;">Page 140</p> <p>1 THE WITNESS: What I'm saying is that they</p> <p>2 mentioned it.</p> <p>3 BY MS. EKL:</p> <p>4 <b>Q. Sorry. You're not actually helping the</b></p> <p>5 <b>police department by giving them more positive</b></p> <p>6 <b>findings. You're just saying, we're not going</b></p> <p>7 <b>to inject our skepticism over the fact of</b></p> <p>8 <b>whether you conducted the canvass accurately or</b></p> <p>9 <b>fully documented it, correct?</b></p> <p>10 MR. HILKE: Object to form.</p> <p>11 Go ahead.</p> <p>12 THE WITNESS: Well, that's what I'm getting</p> <p>13 at. I'm getting at that unclear nature. I'm</p> <p>14 saying that they accounted for it in their</p> <p>15 report, but they didn't account for it to the</p> <p>16 degree that you would expect to see.</p> <p>17 BY MS. EKL:</p> <p>18 <b>Q. How would you expect --</b></p> <p>19 A. And that's why they got credit for it.</p> <p>20 <b>Q. How would you expect the coders to make</b></p> <p>21 <b>a judgment call as to whether or not it would be</b></p> <p>22 <b>documented in a different way or if there would</b></p> <p>23 <b>be some kind of discrepancy as to whether it was</b></p> <p>24 <b>really done?</b></p>   |

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| <p style="text-align: right;">Page 141</p> <p>1 A. Well, I explained that to them</p> <p>2 literally in just the way that I explained it to</p> <p>3 you, that -- you know, using canvassing as the</p> <p>4 example. And I said that if there's mention of</p> <p>5 a canvass, then give them credit for the</p> <p>6 canvass.</p> <p>7 <b>Q. You're not doing them any favors,</b></p> <p>8 <b>correct? They said they did the canvass and</b></p> <p>9 <b>then you marked in the coding they did the</b></p> <p>10 <b>canvass, correct?</b></p> <p>11 MR. HILKE: Object to form.</p> <p>12 Go ahead, Jon.</p> <p>13 THE WITNESS: I'm giving them credit for</p> <p>14 something that was -- rather than marking it as</p> <p>15 unclear is what I'm saying.</p> <p>16 BY MS. EKL:</p> <p>17 <b>Q. We can look at it in more detail, but I</b></p> <p>18 <b>want to use another example of a variable.</b></p> <p>19 <b>One of the variables that you reference</b></p> <p>20 <b>in your spreadsheet is in relation to interviews</b></p> <p>21 <b>with victims, correct?</b></p> <p>22 A. That sounds familiar, yes.</p> <p>23 <b>Q. And I believe you've designated two</b></p> <p>24 <b>different types of interviews, one that you</b></p>  | <p style="text-align: right;">Page 143</p> <p>1 <b>you about a couple more things on this document.</b></p> <p>2 <b>Looking at Page 4, this is where you've</b></p> <p>3 <b>listed complaint variables, correct?</b></p> <p>4 A. Yes.</p> <p>5 MR. HILKE: I'm sorry, is this Page 4 or 5?</p> <p>6 MS. EKL: Page 4.</p> <p>7 MR. HILKE: I'm sorry. You're right. Thank</p> <p>8 you.</p> <p>9 BY MS. EKL:</p> <p>10 <b>Q. How was it that you determined what</b></p> <p>11 <b>complaint variables should be coded?</b></p> <p>12 A. Well, my extensive experience in law</p> <p>13 enforcement since 1985, from my scholarship,</p> <p>14 from my reading of internal affairs materials to</p> <p>15 knowing how to answer particular questions with</p> <p>16 data.</p> <p>17 <b>Q. Let's look at Number G, Allegation</b></p> <p>18 <b>category.</b></p> <p>19 A. Okay.</p> <p>20 <b>Q. Would you agree with me that this</b></p> <p>21 <b>category is different from what you've titled</b></p> <p>22 <b>above it as Initial Complaint Category in D?</b></p> <p>23 A. Let me read these two, please.</p> <p>24 <b>Q. Sure.</b></p>   |
| <p style="text-align: right;">Page 142</p> <p>1 <b>refer to as a formalized interview that must</b></p> <p>2 <b>include a question-and-answer that's formal,</b></p> <p>3 <b>correct, that's written down?</b></p> <p>4 A. Are we talking about a statement?</p> <p>5 <b>Q. Correct.</b></p> <p>6 A. That's what a statement is, yes.</p> <p>7 <b>Q. So for purposes of your spreadsheet or</b></p> <p>8 <b>for purposes of coding, you've defined a</b></p> <p>9 <b>statement as a question-and-answer situation</b></p> <p>10 <b>where the questions and answers are written down</b></p> <p>11 <b>in written documentation, correct?</b></p> <p>12 A. That is a statement, yes.</p> <p>13 <b>Q. And are you differentiating that, what</b></p> <p>14 <b>you're calling a statement, from a situation</b></p> <p>15 <b>where there's not a question-and-answer</b></p> <p>16 <b>documented but it's just, here's a summary of</b></p> <p>17 <b>what someone said?</b></p> <p>18 A. Can you pull up the variables that</p> <p>19 you're talking about so I can see and show you</p> <p>20 the differentiation? I just want to make sure</p> <p>21 I'm answering you properly.</p> <p>22 <b>Q. Sure. I just want to check and see if</b></p> <p>23 <b>there was anything else I had before then. Let</b></p> <p>24 <b>me -- before we get to that, I just want to ask</b></p> | <p style="text-align: right;">Page 144</p> <p>1 A. Can you scroll up to the sub letters</p> <p>2 there? I'm sorry, the other direction. I see</p> <p>3 one and two. I just want to see what comes</p> <p>4 after that. Okay.</p> <p>5 So the answer is yes, those two things</p> <p>6 are different.</p> <p>7 <b>Q. So in D, you have coding that's done</b></p> <p>8 <b>for the initial complaint category, and this is</b></p> <p>9 <b>a number and letter combination that's actually</b></p> <p>10 <b>located on the CR form that's assigned by CPD,</b></p> <p>11 <b>correct?</b></p> <p>12 A. Yes, that's correct.</p> <p>13 <b>Q. Okay. And that's a categorization that</b></p> <p>14 <b>CPD uses, not something that you came up with,</b></p> <p>15 <b>correct?</b></p> <p>16 A. Yes, you're correct.</p> <p>17 <b>Q. And then that complaint category, in</b></p> <p>18 <b>addition to that, you also have E, which is the</b></p> <p>19 <b>Initial Complaint Category Title, and that</b></p> <p>20 <b>corresponds with the category code, correct?</b></p> <p>21 A. Yes.</p> <p>22 <b>Q. And, again, the complaint category</b></p> <p>23 <b>title is a title that is assigned by CPD and</b></p> <p>24 <b>utilized by CPD, correct?</b></p> |

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| <p style="text-align: right;">Page 145</p> <p>1 A. Let me just read this very briefly,<br/>2 please. Okay.<br/>3 The answer is yes, that's provided by<br/>4 CPD.<br/>5 <b>Q. Okay. And it's provided by the</b><br/>6 <b>investigator, correct?</b><br/>7 A. I don't know if that's provided by the<br/>8 investigator or a supervisor or someone in an<br/>9 administrative capacity that classifies the<br/>10 document. I'm not sure who provides that.<br/>11 <b>Q. Do you have any knowledge as to how the</b><br/>12 <b>initial complaint categories and the complaint</b><br/>13 <b>titles are determined within CPD?</b><br/>14 MR. HILKE: Object to form.<br/>15 You can answer.<br/>16 THE WITNESS: No, I'm not sure how that<br/>17 happens.<br/>18 BY MS. EKL:<br/>19 <b>Q. You've created another allegation</b><br/>20 <b>category in G, as you just stated, that's</b><br/>21 <b>different and separate from the initial -- is</b><br/>22 <b>separate from what we just talked about in D and</b><br/>23 <b>E, correct?</b><br/>24 A. Yes.</p>  | <p style="text-align: right;">Page 147</p> <p>1 handcuffing him; that Bob Bundt, No. 6, swore at<br/>2 him, and No. 7, falsely arrested him; and that<br/>3 Officer Carly Klein, No. 8, swore at him and his<br/>4 friend Jane Deer. Jane Deer, in parentheses,<br/>5 was not arrested.<br/>6 So the way that CPD lays out their CR<br/>7 investigations is like you see in this example.<br/>8 When you go through the summary, you see all<br/>9 these various allegations, who did what, what<br/>10 they did it, how they did it. Then they go<br/>11 through their investigation, and at the end of<br/>12 the investigation, they would -- they will go<br/>13 through each one of these eight different things<br/>14 and they'll say, okay, Adams, allegation No. 1,<br/>15 assault, not sustained. Adams, No. 2, pushed to<br/>16 the ground, exonerated. Adams, No. 3, swore at<br/>17 him, unfounded. Adams, No. 4, falsely arrested<br/>18 him. And so forth and so on. That's the<br/>19 convention that they use.<br/>20 So in order to accurately capture what<br/>21 someone is complaining about, you have to be<br/>22 able to capture all of the things that they come<br/>23 in and allege. And that's what this is. You<br/>24 won't see this fine detail in those other</p> |
| <p style="text-align: right;">Page 146</p> <p>1 MR. HILKE: Object to form.<br/>2 You can answer.<br/>3 THE WITNESS: Sorry. Yes.<br/>4 BY MS. EKL:<br/>5 <b>Q. And these are allegation categories --</b><br/>6 <b>well, they're basically a reclassification of</b><br/>7 <b>the category titles in E, correct?</b><br/>8 A. No, I wouldn't call them a<br/>9 reclassification. What I would say is that when<br/>10 you come across a CR, you will find that in the<br/>11 body of the CR, they list a series of<br/>12 allegations that they ultimately render<br/>13 dispositions for.<br/>14 So like, for example, if you go to the<br/>15 next page, I'll show you. So if you look at the<br/>16 top -- scroll back down. Right there at the<br/>17 top.<br/>18 In the example -- this is just a<br/>19 hypothetical. And let me read this. It says:<br/>20 CR No. 123456, Complainant John Doe stated that<br/>21 Officer Abe Adams, No. 1, hit him in the face<br/>22 and, No. 2, pushed him to the ground, No. 3,<br/>23 swore at him, No. 4, falsely arrested him, and<br/>24 No. 5, kicked him multiple times after</p> | <p style="text-align: right;">Page 148</p> <p>1 categories that we just talked about a moment<br/>2 ago.<br/>3 <b>Q. Well, the other categories include, for</b><br/>4 <b>instance, excessive force, correct?</b><br/>5 A. Yeah. Well, I mean, this could be one<br/>6 of them. Hit him in the face could be excessive<br/>7 force.<br/>8 <b>Q. So in the initial complaint category</b><br/>9 <b>title, in addition to what you've got here as</b><br/>10 <b>unlawful detention and intoxicated off duty,</b><br/>11 <b>would also -- there's also a complaint category</b><br/>12 <b>title within CPD, excessive force, correct?</b><br/>13 A. Yes.<br/>14 <b>Q. And actually speaking of -- when you're</b><br/>15 <b>talking about fine detail, CPD breaks down</b><br/>16 <b>excessive force into different types of force,</b><br/>17 <b>correct? There's not just one complaint</b><br/>18 <b>category for excessive force, it's actually</b><br/>19 <b>broken down.</b><br/>20 A. Yes, they have -- they've published a<br/>21 roster of those things. I've seen that before.<br/>22 <b>Q. You've seen, basically, kind of the</b><br/>23 <b>list of all the different complaint category</b><br/>24 <b>codes.</b></p>  |

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| <p style="text-align: right;">Page 149</p> <p>1 A. Yes.</p> <p>2 <b>Q. Did you provide that to the coders in</b></p> <p>3 <b>this case?</b></p> <p>4 A. I don't think I provided it, no. I</p> <p>5 think that they were -- I explained to them that</p> <p>6 they would take the coding from the -- from the</p> <p>7 CR.</p> <p>8 <b>Q. Okay. So for D and E, they would take</b></p> <p>9 <b>it from the CR.</b></p> <p>10 <b>Now for G, where you're using your own</b></p> <p>11 <b>allegation categories, did you provide them with</b></p> <p>12 <b>any kind of index for how they should determine</b></p> <p>13 <b>what falls into each category?</b></p> <p>14 A. That was -- that was part of the</p> <p>15 training. And that's what you see in that</p> <p>16 example there.</p> <p>17 <b>Q. And yours was actually more</b></p> <p>18 <b>generalized, right? So, for instance, when you</b></p> <p>19 <b>say "excessive force," that incorporates all the</b></p> <p>20 <b>subcategories that CPD has in terms of their</b></p> <p>21 <b>category codes.</b></p> <p>22 MR. HILKE: Object to form and foundation.</p> <p>23 You can answer.</p> <p>24 THE WITNESS: I think it's -- is it broader,</p> | <p style="text-align: right;">Page 151</p> <p>1 A. Yeah, so Page 5, one, two, three, the</p> <p>2 fourth entry, No. 3, it says -- it alleged that</p> <p>3 the accused swore at the complainant/victim.</p> <p>4 That's an example of the demeanor complaint.</p> <p>5 <b>Q. Okay. So that's one example. How did</b></p> <p>6 <b>the coders know what to use -- what to include</b></p> <p>7 <b>in demeanor other than the one example that you</b></p> <p>8 <b>gave them?</b></p> <p>9 MR. HILKE: Wait. It's okay. Object to</p> <p>10 form.</p> <p>11 You can answer.</p> <p>12 THE WITNESS: During the training, I</p> <p>13 explained those kinds of things. Using foul</p> <p>14 language is one of them.</p> <p>15 BY MS. EKL:</p> <p>16 <b>Q. Can you identify any other code books</b></p> <p>17 <b>that utilized this other category of</b></p> <p>18 <b>allegation -- this other allegation category</b></p> <p>19 <b>that you utilize in your code book here?</b></p> <p>20 A. It may be in Waddy. I don't recall</p> <p>21 exactly.</p> <p>22 <b>Q. Other than Waddy, can you think of</b></p> <p>23 <b>another code book where either you or someone</b></p> <p>24 <b>else came up with an allegation category</b></p>                        |
| <p style="text-align: right;">Page 150</p> <p>1 is that what you said? More generalized?</p> <p>2 BY MS. EKL:</p> <p>3 <b>Q. Correct.</b></p> <p>4 A. Yes.</p> <p>5 <b>Q. So this would include off duty, on</b></p> <p>6 <b>duty, domestic, as well as force of arrest? It</b></p> <p>7 <b>includes everything when you say excessive</b></p> <p>8 <b>force, correct? You're not breaking it down</b></p> <p>9 <b>into different scenarios.</b></p> <p>10 MR. HILKE: Sorry. Object to form.</p> <p>11 You can answer.</p> <p>12 THE WITNESS: That's right.</p> <p>13 BY MS. EKL:</p> <p>14 <b>Q. Demeanor, that's not a category code</b></p> <p>15 <b>that CPD uses, correct?</b></p> <p>16 A. I don't remember if that's on the list</p> <p>17 or not.</p> <p>18 <b>Q. And in terms of your categorization of</b></p> <p>19 <b>something as demeanor, what is included in that?</b></p> <p>20 <b>What types of acts?</b></p> <p>21 A. The thing that you see here. So take a</p> <p>22 look at this table that is -- what page are we</p> <p>23 on, 5?</p> <p>24 <b>Q. This is on Page 5.</b></p>   | <p style="text-align: right;">Page 152</p> <p>1 <b>different from the one utilized by the law</b></p> <p>2 <b>enforcement agency?</b></p> <p>3 A. No.</p> <p>4 MR. HILKE: Sorry. Object to form.</p> <p>5 You can answer.</p> <p>6 THE WITNESS: I gotta stop stepping on you</p> <p>7 like that, Wally. Sorry.</p> <p>8 No, not off the top of my head, no.</p> <p>9 BY MS. EKL:</p> <p>10 <b>Q. All right. So looking at some of the</b></p> <p>11 <b>other coding, for instance, Number H, you have,</b></p> <p>12 <b>"Was complaint investigated," yes or no, and you</b></p> <p>13 <b>explain, "Whether the CR was investigated. If</b></p> <p>14 <b>the investigator wrote that the complaint was</b></p> <p>15 <b>closed because of lack of cooperation or</b></p> <p>16 <b>affidavit - and did not try to gather more</b></p> <p>17 <b>evidence or talk to other witnesses - enter</b></p> <p>18 <b>'no.' If the investigator gathered evidence</b></p> <p>19 <b>and/or attempted to interview witnesses, enter</b></p> <p>20 <b>'yes.'"</b></p> <p>21 <b>What if you have a situation where</b></p> <p>22 <b>there were no witnesses?</b></p> <p>23 A. Then they have tried to do other</p> <p>24 things. They may have collected records. They</p> |

41 (Pages 149 to 152)

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| <p style="text-align: right;">Page 153</p> <p>1 may have canvassed the scene. Maybe they had</p> <p>2 video. What else did they do?</p> <p>3 <b>Q. Right. But if the complaint was</b></p> <p>4 <b>investigated to the extent that the investigator</b></p> <p>5 <b>attempted to get in touch with, say, the</b></p> <p>6 <b>complainant and the complainant refused to talk</b></p> <p>7 <b>to them or could not be located in order to find</b></p> <p>8 <b>out more information that would enable them to</b></p> <p>9 <b>investigate further, is it your categorization</b></p> <p>10 <b>that it wasn't investigated at all? They didn't</b></p> <p>11 <b>look and -- that it should just be no</b></p> <p>12 <b>investigation?</b></p> <p>13 MR. HILKE: Object to form.</p> <p>14 Go ahead.</p> <p>15 THE WITNESS: So if -- let me just make sure</p> <p>16 I got you correctly on that. If the -- if the</p> <p>17 investigation began by trying to contact the</p> <p>18 complainant and they were not able to actually</p> <p>19 contact the complainant, what -- was that marked</p> <p>20 no? Is that what you're asking me?</p> <p>21 BY MS. EKL:</p> <p>22 <b>Q. Correct.</b></p> <p>23 A. Yes, that's correct.</p> <p>24 <b>Q. So no matter how many attempts were</b></p> | <p style="text-align: right;">Page 155</p> <p>1 done. You can -- you can -- if they -- if the</p> <p>2 person says that this happened -- now, this is</p> <p>3 completely hypothetical, by the way.</p> <p>4 If the complainant says that this</p> <p>5 happened to him or her during their time in</p> <p>6 custody at the CPD in the Second District, and</p> <p>7 let's -- again, making this up -- let's say it</p> <p>8 was they got slapped around, was a case of</p> <p>9 excessive force, and you try to get ahold of the</p> <p>10 complainant, complainant never comes -- doesn't</p> <p>11 surface, that doesn't preclude them from going</p> <p>12 back to the Second District and finding out who</p> <p>13 was working at that time, interviewing those</p> <p>14 officers, collecting information. What time did</p> <p>15 the person come in? What time did they leave?</p> <p>16 Were they injured at all? Did they go to the</p> <p>17 hospital? Were there any EMS records? Is there</p> <p>18 any video?</p> <p>19 <b>Q. Doesn't that all presume that you know</b></p> <p>20 <b>the person's name and you know the time in which</b></p> <p>21 <b>this allegedly occurred?</b></p> <p>22 A. Well, now you're -- you're asking me</p> <p>23 whether or not it's an anonymous complaint. I</p> <p>24 mean, if Joe Smith came in and made a complaint,</p>                      |
| <p style="text-align: right;">Page 154</p> <p>1 <b>made or how those attempts were made to identify</b></p> <p>2 <b>the sole complainant in the case who could</b></p> <p>3 <b>provide information, that would be considered</b></p> <p>4 <b>not investigated if they weren't successful in</b></p> <p>5 <b>getting that person to cooperate?</b></p> <p>6 MR. HILKE: Object to form.</p> <p>7 Go ahead.</p> <p>8 THE WITNESS: Or having done anything else</p> <p>9 themselves.</p> <p>10 BY MS. EKL:</p> <p>11 <b>Q. Even if there was nothing else that</b></p> <p>12 <b>they would know to do because they haven't</b></p> <p>13 <b>talked to the complainant?</b></p> <p>14 A. Well, they --</p> <p>15 MR. HILKE: Wait, sorry. Just object to</p> <p>16 form.</p> <p>17 You can answer.</p> <p>18 THE WITNESS: They have the -- they have the</p> <p>19 allegations and there's other things that they</p> <p>20 can do.</p> <p>21 BY MS. EKL:</p> <p>22 <b>Q. Isn't it fact-specific to each case as</b></p> <p>23 <b>to whether or not something more could be done?</b></p> <p>24 A. Well, there's always things that can be</p>  | <p style="text-align: right;">Page 156</p> <p>1 then we know Joe Smith is the complainant,</p> <p>2 obviously. And we know --</p> <p>3 <b>Q. You have a name over -- over an unknown</b></p> <p>4 <b>period of time. You're saying that you should</b></p> <p>5 <b>investigate every day to determine if there's</b></p> <p>6 <b>some officer who hasn't been identified who</b></p> <p>7 <b>slapped Joe Smith at some point in time?</b></p> <p>8 A. I don't think I caught the first part</p> <p>9 of your -- your sentence.</p> <p>10 <b>Q. Sure. So Joe Smith comes into the</b></p> <p>11 <b>department and says, you know, I'm upset and I</b></p> <p>12 <b>was on the street and some officer called me a</b></p> <p>13 <b>racial slur.</b></p> <p>14 A. Okay.</p> <p>15 <b>Q. But he doesn't give a date and he</b></p> <p>16 <b>doesn't give an officer's name. All he gives is</b></p> <p>17 <b>his name. So if he's not associated with an</b></p> <p>18 <b>arrest, wouldn't that be an example of something</b></p> <p>19 <b>that they couldn't go out -- they're not going</b></p> <p>20 <b>to go out and check every single day every</b></p> <p>21 <b>single pod camera that's out on any street to</b></p> <p>22 <b>determine if there's, you know, interaction</b></p> <p>23 <b>between some officer and this person.</b></p> <p>24 A. No, okay. But naturally -- naturally,</p> |

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| Page 157 | <p>1 you have to be guided by what the complainant</p> <p>2 says. So if Joe Smith comes in and he doesn't</p> <p>3 give you a date and time, but he says that he</p> <p>4 was stopped and he was slapped around. If he</p> <p>5 gives you a location, you can go back to that</p> <p>6 location and you can canvass or video. You</p> <p>7 could canvass for witnesses. You could check to</p> <p>8 see if there were any self-initiated assignments</p> <p>9 by a radio car at that time at the location.</p> <p>10 You could check to see if there were any what we</p> <p>11 would call field interview cards that were</p> <p>12 documented at that time. Other than, you know,</p> <p>13 relying on Joe Smith's undocumented statement.</p> <p>14 So Joe Smith said, no, I want to</p> <p>15 complain, but I'm not giving you this, I'm not</p> <p>16 giving you that, I'm not -- I mean, those things</p> <p>17 could happen. Exceedingly rare. I mean, people</p> <p>18 come in to complain about the police. They</p> <p>19 sometimes will remain anonymous, but rarely.</p> <p>20 They will almost invariably have details about</p> <p>21 what it is that they're complaining about.</p> <p>22 <b>Q. What national standards can you point</b></p> <p>23 <b>to that say that the police in an IAD situation</b></p> <p>24 <b>have to conduct or attempt every type of</b></p> | Page 159 | <p>1 <b>sustained, exonerated, unfounded."</b></p> <p>2 <b>And then you have on here, none, not</b></p> <p>3 <b>investigated, or other. "If none of the above</b></p> <p>4 <b>categories apply, use 'other?'"</b></p> <p>5 <b>Is it fair to say that what you've</b></p> <p>6 <b>listed as "none" and "other," those are not</b></p> <p>7 <b>categories that CPD utilizes?</b></p> <p>8 A. They use -- I believe they use "not</p> <p>9 investigated."</p> <p>10 <b>Q. The words "none" and "other" are not</b></p> <p>11 <b>findings that CPD utilizes was my question.</b></p> <p>12 A. No, they do. I mean, sometimes it will</p> <p>13 say "none, not investigated." I've seen that on</p> <p>14 CRs.</p> <p>15 <b>Q. Is "other" a category that CPD</b></p> <p>16 <b>utilizes?</b></p> <p>17 A. I don't know if CPD actually uses that.</p> <p>18 I don't know.</p> <p>19 <b>Q. And would you agree this is another</b></p> <p>20 <b>subjective call by the coder to put "other" if</b></p> <p>21 <b>they don't think that any of the other</b></p> <p>22 <b>categories apply?</b></p> <p>23 MR. HILKE: Objection, form.</p> <p>24 THE WITNESS: No. It's not subjective. If</p>   |
| Page 158 | <p>1 <b>investigation on a -- on a -- to try to uncover</b></p> <p>2 <b>a complaint?</b></p> <p>3 MR. HILKE: Object to form.</p> <p>4 Go ahead.</p> <p>5 THE WITNESS: I think that the internal</p> <p>6 affairs guidelines issued by the International</p> <p>7 Association Chiefs of Police, in addition to the</p> <p>8 CPD's own guidelines that say, you know, all --</p> <p>9 all internal affairs complaints will be</p> <p>10 investigated.</p> <p>11 BY MS. EKL:</p> <p>12 <b>Q. And, again, that goes to what you</b></p> <p>13 <b>define as investigated, correct?</b></p> <p>14 A. Well, I mean, there are common elements</p> <p>15 to an investigation.</p> <p>16 <b>Q. Let me -- let me move on a bit.</b></p> <p>17 <b>So let's look down on Initial</b></p> <p>18 <b>Disposition Recommendation By the Investigator.</b></p> <p>19 <b>You've asked them to code, you say -- this is a</b></p> <p>20 <b>particular code that the coder is supposed to</b></p> <p>21 <b>put in, and you note that dispositions by CPD</b></p> <p>22 <b>are as follows, "and are usually located at the</b></p> <p>23 <b>end of the narrative portion of the</b></p> <p>24 <b>investigation." And you list "sustained, not</b></p>  | Page 160 | <p>1 there's nothing else, if it doesn't fall into</p> <p>2 one of those, it goes into "other."</p> <p>3 BY MS. EKL:</p> <p>4 <b>Q. Let's go to Page 9, which is -- and</b></p> <p>5 <b>look at G, going back to what I asked you about</b></p> <p>6 <b>earlier, which refers to statements taken from</b></p> <p>7 <b>complainants. And you say, "Whether the</b></p> <p>8 <b>investigator took a statement from any</b></p> <p>9 <b>complainant as part of the investigation. A</b></p> <p>10 <b>statement is a formal, transcribed question-and-</b></p> <p>11 <b>answer session between an investigator and the</b></p> <p>12 <b>complainant. The complainant is always given</b></p> <p>13 <b>the opportunity to review the statement before</b></p> <p>14 <b>it is concluded. An affidavit should not be</b></p> <p>15 <b>coded as a statement. If victim and complainant</b></p> <p>16 <b>are the same person, use the same value as</b></p> <p>17 <b>statement taken from victim. If the complainant</b></p> <p>18 <b>is not contacted, code this section as N/A."</b></p> <p>19 <b>So when you say the complainant is</b></p> <p>20 <b>always given the opportunity to review the</b></p> <p>21 <b>statement before it is concluded, are you saying</b></p> <p>22 <b>that if the complainant doesn't review a</b></p> <p>23 <b>statement, that it should not be coded as</b></p> <p>24 <b>statement taken -- excuse me -- statement taken</b></p> |



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| <p style="text-align: right;">Page 161</p> <p>1 from the complainant?</p> <p>2 A. No, I'm not saying that.</p> <p>3 Q. Then why is that statement included in</p> <p>4 your instructions?</p> <p>5 A. To be able to give them some clarity,</p> <p>6 give them an understanding of what a statement</p> <p>7 is and how it looks and what a statement</p> <p>8 actually consists of.</p> <p>9 Q. Would you agree that people can come in</p> <p>10 and talk to an investigator about a complaint</p> <p>11 without it being a formal question-and-answer?</p> <p>12 A. That might be an in-person interview as</p> <p>13 you see in letter H.</p> <p>14 Q. Okay. So in H, let's go to that one,</p> <p>15 you identify -- you say, "Whether the</p> <p>16 investigator conducted a formal, face-to-face</p> <p>17 interview with any complainant as part of the</p> <p>18 investigation." And this is where you're saying</p> <p>19 this one doesn't need to be transcribed or</p> <p>20 recorded, but you've -- but you've narrowed it</p> <p>21 to face-to-face interviews, correct?</p> <p>22 A. Correct.</p> <p>23 Q. So if someone calls over the phone,</p> <p>24 someone drops off a complaint form, is it your</p> | <p style="text-align: right;">Page 163</p> <p>1 that if the investigator tried to contact the</p> <p>2 victim but failed to make contact, that they</p> <p>3 should code this as a no, correct?</p> <p>4 A. Let me see, please. That they</p> <p>5 failed -- if they tried to contact the victim</p> <p>6 but failed to make contact, it is coded as no.</p> <p>7 Q. These categories you later utilized to</p> <p>8 question the quality of the investigations,</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. But yet, if an investigator makes every</p> <p>12 possible effort, for instance, to take a</p> <p>13 statement from a victim and the victim refuses,</p> <p>14 that is put in here as if they had never made</p> <p>15 any attempt at all, correct? Because it's coded</p> <p>16 as a no.</p> <p>17 MR. HILKE: Object to form.</p> <p>18 You can answer.</p> <p>19 THE WITNESS: Unless there's some -- unless</p> <p>20 there's something in the narrative that says</p> <p>21 that, whether they contacted the victim. If</p> <p>22 they never contacted the victim, then the answer</p> <p>23 is no.</p> <p>24</p>                                      |
| <p style="text-align: right;">Page 162</p> <p>1 position that that does not constitute an</p> <p>2 interview with the complainant?</p> <p>3 MR. HILKE: Object to form.</p> <p>4 You can answer.</p> <p>5 BY MS. EKL:</p> <p>6 Q. Sorry?</p> <p>7 A. The answer is no, it does not.</p> <p>8 Q. Okay. So over the phone, any calls</p> <p>9 into the hotline, those don't get categorized?</p> <p>10 MR. HILKE: Objection.</p> <p>11 BY MS. EKL:</p> <p>12 Q. I'm sorry?</p> <p>13 THE WITNESS: Wally, did you want to say</p> <p>14 something?</p> <p>15 MR. HILKE: I just said object to form.</p> <p>16 You can answer.</p> <p>17 THE WITNESS: They don't qualify as an</p> <p>18 in-person interview.</p> <p>19 BY MS. EKL:</p> <p>20 Q. Okay. But you don't have a separate</p> <p>21 category for phone interview, correct?</p> <p>22 A. I do not, no.</p> <p>23 Q. You also have under I, "Any Victim</p> <p>24 Contacted," and you've instructed the coders</p>   | <p style="text-align: right;">Page 164</p> <p>1 BY MS. EKL:</p> <p>2 Q. Right. But you're utilizing that to</p> <p>3 say that they didn't conduct complete</p> <p>4 investigations when, in fact, they made every</p> <p>5 attempt possible to contact the victim. It</p> <p>6 wasn't the fault of an investigation, it was the</p> <p>7 victim, correct?</p> <p>8 MR. HILKE: Object to form, incomplete</p> <p>9 hypothetical.</p> <p>10 You can answer.</p> <p>11 THE WITNESS: No, because there are many</p> <p>12 instances where you'll see that they sent a</p> <p>13 letter and they never went to the residence, or</p> <p>14 they made a phone call and they didn't send a</p> <p>15 letter, or they never followed up, never tried</p> <p>16 to find the person. Or, in one instance,</p> <p>17 someone moved. I believe it was -- I believe it</p> <p>18 was Clarissa Glenn. She moved. And in her</p> <p>19 letter, she said that she moved.</p> <p>20 So a lot of times what I would see is</p> <p>21 letter sent, and that's the end of it. Victim</p> <p>22 was never contacted.</p> <p>23 BY MS. EKL:</p> <p>24 Q. According to your coding, there's no</p> |



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| Page 165 | <p>1 way to differentiate between a situation where</p> <p>2 an investigator made one attempt or the</p> <p>3 investigator made 20 attempts, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And also, in each of those situations,</p> <p>6 it's coded the same, that no investigation was</p> <p>7 conducted.</p> <p>8 MR. HILKE: Object to form.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: No victim was contacted.</p> <p>11 BY MS. EKL:</p> <p>12 Q. No victim was contacted under that</p> <p>13 scenario?</p> <p>14 A. Right.</p> <p>15 Q. Under J where you say whether -- this</p> <p>16 is in relation to statement taken from any</p> <p>17 victim, you say, "Whether the investigator took</p> <p>18 a statement from any complainant as part of the</p> <p>19 investigation." Is that a typo?</p> <p>20 A. Whether the -- yeah. That should be</p> <p>21 victim, yes.</p> <p>22 Q. And same thing under M, Statement Taken</p> <p>23 From Any Witness, you say, "Whether the</p> <p>24 investigator took a statement from any</p>  | Page 167 | <p>1 the studies that I mentioned earlier that</p> <p>2 identify variables that are collected during an</p> <p>3 internal affairs -- an examination of internal</p> <p>4 affairs.</p> <p>5 BY MS. EKL:</p> <p>6 Q. Well, other than an examination of</p> <p>7 CPD's internal -- CPD conducting an</p> <p>8 investigation -- strike that.</p> <p>9 Can you name one other police</p> <p>10 department -- strike that -- one other instance</p> <p>11 in which a police department's internal affairs</p> <p>12 has been analyzed using the same variables that</p> <p>13 you used?</p> <p>14 MR. HILKE: Same objection.</p> <p>15 THE WITNESS: Say that again. Let me hear</p> <p>16 what you said again. Is there another police</p> <p>17 department across the country that utilizes</p> <p>18 these same variables?</p> <p>19 BY MS. EKL:</p> <p>20 Q. Correct, that has been -- where an</p> <p>21 expert has rendered opinions using the same</p> <p>22 variables that you've identified in this case.</p> <p>23 MR. HILKE: Sorry. Objection to form.</p> <p>24 You can answer.</p> |
| Page 166 | <p>1 complainant as part of the investigation,"</p> <p>2 correct?</p> <p>3 A. Yes, you're correct. If you look right</p> <p>4 down below, so the witness is always given an</p> <p>5 opportunity to review the statement. So, yeah,</p> <p>6 that's -- that's right.</p> <p>7 Q. So those are typos in the code book</p> <p>8 that the coders were relying on, correct?</p> <p>9 A. Are there typos in the code book? Is</p> <p>10 that what you said?</p> <p>11 Q. Right.</p> <p>12 A. Yes, that's a typo.</p> <p>13 Q. When was the data coding completed in</p> <p>14 this case?</p> <p>15 A. I don't know. I couldn't give you the</p> <p>16 date. Earlier this year.</p> <p>17 Q. I asked you whether or not you have</p> <p>18 used a similar code book in another case. Can</p> <p>19 you identify a single circumstance in which</p> <p>20 anyone has used a code book that identified</p> <p>21 these same -- these same factors to be coded?</p> <p>22 MR. HILKE: Object to form.</p> <p>23 THE WITNESS: I couldn't point to a code</p> <p>24 book, per se, but I could probably point you to</p> | Page 168 | <p>1 THE WITNESS: Not that I'm aware of.</p> <p>2 BY MS. EKL:</p> <p>3 Q. So is it fair to say that you don't</p> <p>4 have anything to compare your study to that used</p> <p>5 the same variables as you did --</p> <p>6 MR. HILKE: Same objection.</p> <p>7 BY MS. EKL:</p> <p>8 Q. -- in terms of another department?</p> <p>9 MR. HILKE: Same objection.</p> <p>10 THE WITNESS: Well, I didn't compare the CPD</p> <p>11 to anybody else.</p> <p>12 BY MS. EKL:</p> <p>13 Q. And you can't compare it to anyone else</p> <p>14 because there aren't any other studies that are</p> <p>15 conducted using the same variables, correct?</p> <p>16 A. No --</p> <p>17 MR. HILKE: Object to form.</p> <p>18 You can answer.</p> <p>19 THE WITNESS: I would not go that far. I</p> <p>20 don't know if there has been or has not.</p> <p>21 United States has 18,000 police</p> <p>22 departments at various levels. I mean, it's</p> <p>23 certainly possible that some are doing</p> <p>24 consulting projects somewhere where the federal</p>  |

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| Page 169 | <p>1 government, the U.S. Department of Justice or</p> <p>2 somebody has used some combination of these</p> <p>3 variables to assess the propriety of internal</p> <p>4 affairs investigations.</p> <p>5 BY MS. EKL:</p> <p>6 <b>Q. But you're not aware of any that you</b></p> <p>7 <b>could name today, correct?</b></p> <p>8 MR. HILKE: Same objection, vague.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: That's right. Not off the top</p> <p>11 of my head. That's correct.</p> <p>12 BY MS. EKL:</p> <p>13 <b>Q. One of the other instructions you gave</b></p> <p>14 <b>to the coders is that they should be coding on</b></p> <p>15 <b>the allegation level, correct?</b></p> <p>16 A. Yes, that's right.</p> <p>17 <b>Q. Would you agree that coding on the</b></p> <p>18 <b>allegation level results in a lower sustained</b></p> <p>19 <b>rate?</b></p> <p>20 MR. HILKE: Objection, form.</p> <p>21 You can answer.</p> <p>22 THE WITNESS: No. What do you mean it</p> <p>23 results in a lower sustained rate? They only</p> <p>24 sustain complaints when they can sustain them.</p>  | Page 171 | <p>1 percent of them would be sustained.</p> <p>2 <b>As opposed to, if you're looking at it</b></p> <p>3 <b>on a case level, you would say, well, the person</b></p> <p>4 <b>alleged excessive force, and we made a finding</b></p> <p>5 <b>of excessive force against an officer which</b></p> <p>6 <b>would be 100 percent in relation to each of the</b></p> <p>7 <b>three cases if they were able to identify the</b></p> <p>8 <b>officers and find there was evidence to support.</b></p> <p>9 <b>Do you agree?</b></p> <p>10 MR. HILKE: Object to form.</p> <p>11 THE WITNESS: That was a long way of getting</p> <p>12 somewhere. I'm not sure I followed you, because</p> <p>13 when an allegation occurs, if there's a</p> <p>14 one-to-one map, if there's a perfect one-to-one</p> <p>15 map, then it would be the same thing.</p> <p>16 BY MS. EKL:</p> <p>17 <b>Q. That's assuming there is a perfect</b></p> <p>18 <b>one-to-one map, correct?</b></p> <p>19 A. That's exactly my point. That's</p> <p>20 exactly my point, which is why you do it at the</p> <p>21 allegation level because almost invariably what</p> <p>22 happens is there are multiple officers at the</p> <p>23 scene and multiple -- multiple allegations.</p> <p>24 So to be fair, you have to look at it</p>  |
| Page 170 | <p>1 BY MS. EKL:</p> <p>2 <b>Q. Right. But if you look at -- for</b></p> <p>3 <b>instance, let's say there's three cases where</b></p> <p>4 <b>excessive force is alleged, and if you have five</b></p> <p>5 <b>officers accused in each of those cases -- let's</b></p> <p>6 <b>say five officers are accused because they don't</b></p> <p>7 <b>know the name of the perpetrator. They identify</b></p> <p>8 <b>five individual officers who were believed to be</b></p> <p>9 <b>at the scene as the accused in each of the three</b></p> <p>10 <b>cases.</b></p> <p>11 <b>At the end of the investigation, say</b></p> <p>12 <b>the investigation in each of the five -- each of</b></p> <p>13 <b>three cases, they're able to identify one</b></p> <p>14 <b>perpetrator, so you have one sustained finding</b></p> <p>15 <b>against one officer in each of those three</b></p> <p>16 <b>cases, and then you have four officers where</b></p> <p>17 <b>it's not sustained because the evidence doesn't</b></p> <p>18 <b>support that they engaged in the excessive</b></p> <p>19 <b>force.</b></p> <p>20 <b>So you'd have a -- in that situation,</b></p> <p>21 <b>you'd have a one in five sustained. So you</b></p> <p>22 <b>would have identified five officers, you would</b></p> <p>23 <b>have had one sustained, and four unsustained for</b></p> <p>24 <b>each case, so basically a 20 percent -- 20</b></p> | Page 172 | <p>1 from the allegation level because it's excessive</p> <p>2 force, unlawful entry, and demeanor. And we</p> <p>3 sustained the excessive force, but the unlawful</p> <p>4 entry and the demeanor -- the demeanor was</p> <p>5 unfounded and the unlawful entry was exonerated.</p> <p>6 That's the only way to properly</p> <p>7 calculate them. Because if you roll them up and</p> <p>8 collapse them into the larger unit of analysis</p> <p>9 which is the incident level, what gets -- what</p> <p>10 gets -- what's the disposition of the incident</p> <p>11 when you have three different dispositions?</p> <p>12 <b>Q. But my question was about whether or</b></p> <p>13 <b>not it increases or impacts the sustained rate</b></p> <p>14 <b>in relation to a particular type of incident --</b></p> <p>15 <b>I mean, a particular allegation.</b></p> <p>16 <b>So in my example of excessive force,</b></p> <p>17 <b>even though you have a finding of excessive</b></p> <p>18 <b>force in each of the cases, the perpetrator was</b></p> <p>19 <b>identified, evidence was uncovered through the</b></p> <p>20 <b>investigation, an IAD that determined that the</b></p> <p>21 <b>claim should be sustained, if we look at your</b></p> <p>22 <b>analysis, you would say, well, you didn't</b></p> <p>23 <b>sustain it against four of the officers,</b></p> <p>24 <b>correct?</b></p> |

46 (Pages 169 to 172)

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| <p style="text-align: right;">Page 173</p> <p>1 A. In a single case or four different</p> <p>2 cases?</p> <p>3 Q. I'm just saying in a single case. In a</p> <p>4 single case with five officers, all accused</p> <p>5 initially with excessive force, but there's a</p> <p>6 finding after an investigation of sustained</p> <p>7 against one.</p> <p>8 A. Okay. So these five officers are named</p> <p>9 by -- in a single event. Am I right so far?</p> <p>10 Q. Correct.</p> <p>11 A. One episode, one incident, five</p> <p>12 officers, five allegations of excessive force,</p> <p>13 one is sustained.</p> <p>14 Q. Right.</p> <p>15 A. Okay.</p> <p>16 Q. And you would say that 20 percent of</p> <p>17 those -- 20 percent, if you looked at that --</p> <p>18 there was -- 20 percent were sustained.</p> <p>19 20 percent of the allegations within that case</p> <p>20 were sustained as opposed to 100 percent.</p> <p>21 A. 20 percent of the allegations in that</p> <p>22 case, yes.</p> <p>23 Q. Right. And then if you multiplied that</p> <p>24 times other similar cases, you're going to have</p>   | <p style="text-align: right;">Page 175</p> <p>1 the complaint investigations is dependent on the</p> <p>2 reliability of the information in the</p> <p>3 spreadsheets?</p> <p>4 A. Say that again.</p> <p>5 Q. Let me phrase it a different way.</p> <p>6 Just to kind of get us back, we've</p> <p>7 talked at length about the coding process,</p> <p>8 correct?</p> <p>9 A. Correct, yes.</p> <p>10 Q. And the coders in this case took</p> <p>11 information from the identified complaint</p> <p>12 register files and they put it into</p> <p>13 spreadsheets, correct?</p> <p>14 A. Yes, correct.</p> <p>15 Q. And you relied on the information in</p> <p>16 those spreadsheets in rendering a number of your</p> <p>17 opinions in this case, correct?</p> <p>18 A. Correct.</p> <p>19 Q. And if the information contained in the</p> <p>20 spreadsheets was found to be inaccurate, do you</p> <p>21 concede that that could impact the reliability</p> <p>22 of your -- or could impact what your opinion is</p> <p>23 in this case?</p> <p>24 A. It is possible, yes.</p>  |
| <p style="text-align: right;">Page 174</p> <p>1 the same result. You're going to have</p> <p>2 20 percent. Not 100 percent, even though we've,</p> <p>3 again, investigated, identified. We would still</p> <p>4 end up with a sustained rate of 20 percent when,</p> <p>5 in reality, we had identified the perpetrator</p> <p>6 and sustained the allegation against that</p> <p>7 perpetrator for each time it occurred.</p> <p>8 MR. HILKE: Objection, incomplete</p> <p>9 hypothetical.</p> <p>10 MS. EKL: I'll just move on.</p> <p>11 Why don't we -- I think we're probably</p> <p>12 at a decent place to take a break and talk about</p> <p>13 when you want to take a longer break, if you do.</p> <p>14 THE WITNESS: Are you talking to me?</p> <p>15 MS. EKL: I'm talking to everyone in</p> <p>16 general.</p> <p>17 Let's go off the record for a second.</p> <p>18 (Recess taken.)</p> <p>19 BY MS. EKL:</p> <p>20 Q. Dr. Shane, is it fair to say that your</p> <p>21 analysis of the complaint investigations is --</p> <p>22 let me just -- sorry. Let me take this down and</p> <p>23 I'll re-ask. Sorry.</p> <p>24 Is it fair to say that your analysis of</p> | <p style="text-align: right;">Page 176</p> <p>1 Q. To help prevent -- to I guess -- to</p> <p>2 check to make sure that the coders were</p> <p>3 accurately coding at least in accordance with</p> <p>4 your instructions, you performed an audit,</p> <p>5 correct?</p> <p>6 A. I did, yes.</p> <p>7 Q. And that's where you looked at 127 CR</p> <p>8 files. And what did you do with those files to</p> <p>9 perform your audit?</p> <p>10 A. I randomized, I took the 127, and then</p> <p>11 I compared the data that was in the spreadsheet</p> <p>12 to the data that was in the CR file.</p> <p>13 Q. And did you look at -- for each of</p> <p>14 those 127 files, did you compare all of the data</p> <p>15 for each of those files that was in the</p> <p>16 spreadsheets, or did you kind of just compare</p> <p>17 some of it?</p> <p>18 A. No, I compared all of it. I was most</p> <p>19 interested in the variables that were of -- of</p> <p>20 interest where the -- where the analysis would</p> <p>21 take place. I didn't notice any errors, but, I</p> <p>22 mean, for example, it would be more important to</p> <p>23 me if I found an error in the evidence variables</p> <p>24 as opposed to, say, somebody's star number.</p> |

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| <p style="text-align: right;">Page 177</p> <p>1       <b>Q.</b> And so when you say the evidence</p> <p>2       variables, you're talking about variables such</p> <p>3       as, Did you conduct a canvass? Did you</p> <p>4       interview the victim? Those types of variables,</p> <p>5       correct?</p> <p>6       A. Yes, correct. The date that it was</p> <p>7       initiated, the date that it was completed, the</p> <p>8       disposition, yes.</p> <p>9       <b>Q.</b> And so, again, if there were errors in</p> <p>10      those types of variables, it would have a</p> <p>11      greater -- potentially have a greater impact on</p> <p>12      your opinion than if it was something like an</p> <p>13      error in transposing a CR number, correct?</p> <p>14      A. Yes, correct.</p> <p>15      <b>Q.</b> When you went through the 127 CRs, did</p> <p>16      you take any kind of notes?</p> <p>17      A. I did not, no.</p> <p>18      <b>Q.</b> There are places throughout your --</p> <p>19      throughout your expert report where you actually</p> <p>20      give summaries of different CR files, correct?</p> <p>21      A. Yeah, yes, there is.</p> <p>22      <b>Q.</b> You identify certain CR files as</p> <p>23      examples to support your conclusions, correct?</p> <p>24      A. Yes.</p>                   | <p style="text-align: right;">Page 179</p> <p>1       All right. So on Page 33, for</p> <p>2       instance, you say -- well, just because we're</p> <p>3       not talking specifics, but you identify some</p> <p>4       examples to support the conclusions that you</p> <p>5       have on that page, correct? And, for instance,</p> <p>6       you identify a CR number 1023657.</p> <p>7       A. Yes. And that -- and, for example,</p> <p>8       when we get down into ones where -- a little bit</p> <p>9       further down, they're just -- they're just</p> <p>10      pieces of evidence in the file that do just</p> <p>11      that, they support my position to be able to</p> <p>12      show -- that's why it says example. It's not</p> <p>13      everything. Just an example of them.</p> <p>14      <b>Q.</b> Right. But my question is, how did you</p> <p>15      identify the specific CR files as being</p> <p>16      supportive of your position? Since you didn't</p> <p>17      read cover to cover every single CR file, how</p> <p>18      were you able to pull these out and use them to</p> <p>19      support your conclusions?</p> <p>20      A. Because I had been through -- I had</p> <p>21      been through them. I had seen those. I was</p> <p>22      aware of them.</p> <p>23      <b>Q.</b> So if they're not in the 120 -- so I</p> <p>24      guess, first question, to make sure I'm not</p> |
| <p style="text-align: right;">Page 178</p> <p>1       <b>Q.</b> And for those CR files, were all of</p> <p>2       those that you identified included in the 127</p> <p>3       that you audited?</p> <p>4       A. No, I don't think -- I don't think</p> <p>5       there's a one-to-one map on those, no. There</p> <p>6       may be, but I'm -- I don't know if they're part</p> <p>7       of all 127.</p> <p>8       <b>Q.</b> How did you identify CR files that</p> <p>9       supported your conclusions that weren't within</p> <p>10      the 127 that you were auditing?</p> <p>11      A. Well, when I went through -- can you</p> <p>12      pull up the report so I can show you something?</p> <p>13      <b>Q.</b> You'll have to direct me to a</p> <p>14      particular section of it.</p> <p>15      A. Yeah, I will. I'll show you.</p> <p>16      <b>Q.</b> All right. We are currently on</p> <p>17      Page 17.</p> <p>18      A. Yeah. Go much further down to where</p> <p>19      I'm -- where I examine those files.</p> <p>20      <b>Q.</b> Here, let me find an example. It will</p> <p>21      be faster for me to look at the hard copy unless</p> <p>22      you have a page number that you're thinking of.</p> <p>23      I can tell you Page 34, 33 into 34</p> <p>24      there's some examples. So let me go there.</p> | <p style="text-align: right;">Page 180</p> <p>1       misstating your testimony, I thought -- you did</p> <p>2       not -- is it accurate that you did not review</p> <p>3       every single one of the basically just under</p> <p>4       1,500 files?</p> <p>5       A. No, I did. If you remember earlier</p> <p>6       when you asked me, I said that I looked at over</p> <p>7       a thousand CR files.</p> <p>8       <b>Q.</b> Okay. And in going through those, were</p> <p>9       you then able to identify ones that you thought</p> <p>10      supported your position and those are the ones</p> <p>11      that you then put into your report?</p> <p>12      A. Correct.</p> <p>13      MR. HILKE: Sorry. Just object to form.</p> <p>14      You can answer.</p> <p>15      THE WITNESS: Correct.</p> <p>16      BY MS. EKL:</p> <p>17      <b>Q.</b> What was -- as you were going through</p> <p>18      those CR files, did you take notes to flag the</p> <p>19      CR files that you thought might be helpful or</p> <p>20      supportive of your position?</p> <p>21      A. No.</p> <p>22      <b>Q.</b> You didn't take any notes?</p> <p>23      A. I didn't take any notes, no. I wrote</p> <p>24      down what you see in the report.</p>   |

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| <p style="text-align: right;">Page 181</p> <p>1       <b>Q. Okay. So at no point in time looking</b><br/> 2       <b>at any of the documents in this case did you</b><br/> 3       <b>take notes, is that -- is that what you're</b><br/> 4       <b>saying?</b><br/> 5       A. That's what I'm saying.<br/> 6       THE WITNESS: Sorry.<br/> 7       MR. HILKE: No, You're good.<br/> 8       THE WITNESS: Yes, you're correct.<br/> 9       BY MS. EKL:<br/> 10       <b>Q. Did you print out any of the documents</b><br/> 11       <b>that you reviewed in this case?</b><br/> 12       A. No, I don't think so. I think I have<br/> 13       them just all electronically. When I say I had<br/> 14       them all electronically, they were stored<br/> 15       electronically. I didn't print them. I just<br/> 16       read them on my computer screen.<br/> 17       <b>Q. Are you able to annotate PDF files on</b><br/> 18       <b>your computer?</b><br/> 19       A. Yeah, I think what I would have to do<br/> 20       in order to do that is save it to my desktop and<br/> 21       then convert it into a readable PDF and then I<br/> 22       could -- then I could add text.<br/> 23       <b>Q. Did you do that for any of the</b><br/> 24       <b>documents that you reviewed in this case?</b></p>     | <p style="text-align: right;">Page 183</p> <p>1       the Chicago Police Department's policies on<br/> 2       conducting investigations, in addition to my own<br/> 3       knowledge of having conducted and supervised<br/> 4       investigation -- internal affairs<br/> 5       investigations.<br/> 6       <b>Q. So is it fair to say that you're not</b><br/> 7       <b>rendering any -- any opinions that are critical</b><br/> 8       <b>of the Chicago Police Department's policies;</b><br/> 9       <b>your opinion is that they were not followed, is</b><br/> 10       <b>that -- is that an accurate summarization?</b><br/> 11       MR. HILKE: Object to form.<br/> 12       You can answer.<br/> 13       THE WITNESS: Do you mean do I consider any<br/> 14       of those policies inadequate? Is that what you<br/> 15       mean?<br/> 16       BY MS. EKL:<br/> 17       <b>Q. Not inadequate, but that they don't</b><br/> 18       <b>follow accepted policies within the country.</b><br/> 19       <b>Not just that they could have been better, but</b><br/> 20       <b>that they fall below some national standard.</b><br/> 21       A. The policy itself, you mean?<br/> 22       <b>Q. Correct.</b><br/> 23       A. Oh, okay. No, I think in some<br/> 24       instances, you know, they're a little vague.</p>  |
| <p style="text-align: right;">Page 182</p> <p>1       A. I did not, no.<br/> 2       <b>Q. I'm going to kind of jump around a</b><br/> 3       <b>little bit because you have a very detailed</b><br/> 4       <b>report. I don't think we need to just kind of</b><br/> 5       <b>rehash every word in your report. So I have</b><br/> 6       <b>some specific questions about some specific</b><br/> 7       <b>findings.</b><br/> 8       In general, though, you made a finding<br/> 9       that the Chicago Police Department did not<br/> 10       follow accepted practices for conducting<br/> 11       investigations into complaints for police<br/> 12       misconduct, correct?<br/> 13       A. Yes.<br/> 14       <b>Q. And what methodology did you utilize to</b><br/> 15       <b>render that opinion?</b><br/> 16       A. The one that's before you in the<br/> 17       report. I did a random sample of CR files. I<br/> 18       extracted the data from that. And I looked at<br/> 19       that, and then I compared that to what the<br/> 20       standards are for conducting internal affairs<br/> 21       investigations.<br/> 22       <b>Q. What standards did you utilize?</b><br/> 23       A. I utilized the International<br/> 24       Association of Chiefs of Police, and I utilized</p> | <p style="text-align: right;">Page 184</p> <p>1       And I pointed this out in I think in either<br/> 2       Waddy or Maysonet, that some of the policies<br/> 3       were vague. But I think they could -- I think<br/> 4       they could use a little bit more clarity.<br/> 5       <b>Q. And that's the opposite of my question.</b><br/> 6       <b>I said -- my question is not do you think the</b><br/> 7       <b>policies could have just been better or clearer.</b><br/> 8       <b>My question is, do you think that they failed to</b><br/> 9       <b>comply with national standards?</b><br/> 10       A. Well, you know, I have to tell you, I<br/> 11       wasn't retained to do that specific level of<br/> 12       analysis. And having looked at them, I think<br/> 13       there are some strong points, I think there are<br/> 14       some weak points. So I don't know that I can<br/> 15       answer you definitively without doing a much<br/> 16       more detailed analysis of that.<br/> 17       <b>Q. Let me -- let me try it a third way.</b><br/> 18       <b>You're not rendering opinions in this</b><br/> 19       <b>case today that any of the specific Chicago</b><br/> 20       <b>Police Department policy failed to comply with</b><br/> 21       <b>national accepted standards for whatever the</b><br/> 22       <b>policy is.</b><br/> 23       A. Yes, that's right.<br/> 24       <b>Q. Okay. In fact, you relied on, you just</b></p> |



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| Page 185 | <p>1 said, some of the CPD policies to see -- to</p> <p>2 render your opinion that the CPD didn't follow</p> <p>3 accepted practices, correct?</p> <p>4 A. Say that again. Did I rely on -- on</p> <p>5 their own practices?</p> <p>6 Q. Right. I asked you -- so you have</p> <p>7 rendered an opinion, the CPD did not follow</p> <p>8 accepted practices for conducting investigations</p> <p>9 into complaints of police misconduct. That's</p> <p>10 one of your opinions.</p> <p>11 A. Okay.</p> <p>12 Q. I asked you what accepted practices you</p> <p>13 relied upon in formulating that opinion, and you</p> <p>14 said one of the -- one of the -- one thing was</p> <p>15 the CPD policies.</p> <p>16 A. Yes.</p> <p>17 Q. Okay. So you would agree that the CPD</p> <p>18 policies you looked at were, in fact, accepted</p> <p>19 practices. Your criticism is that they weren't</p> <p>20 followed.</p> <p>21 A. Correct.</p> <p>22 MR. HILKE: Wait. Object to form.</p> <p>23 You can answer.</p> <p>24</p>                                    | Page 187 | <p>1 data. I couldn't tell you off the top of my</p> <p>2 head.</p> <p>3 Q. And when you say that the</p> <p>4 complainants -- they didn't follow their own</p> <p>5 policy because the complainants were not all</p> <p>6 contacted, what you mean is there was -- you're</p> <p>7 differentiating an attempt to contact from a</p> <p>8 successful contact, correct?</p> <p>9 A. An attempt is not the same thing as</p> <p>10 actual contact.</p> <p>11 Q. Okay. What in your opinion should be</p> <p>12 the goal or purpose of a complaint</p> <p>13 investigation?</p> <p>14 A. To uncover the truth.</p> <p>15 Q. And so would you agree that an</p> <p>16 investigation should not be conducted to just</p> <p>17 basically find some misconduct against an</p> <p>18 officer because you believe that they're a bad</p> <p>19 officer, but that you actually have to develop</p> <p>20 evidence that a specific violation occurred?</p> <p>21 A. I would agree with that.</p> <p>22 Q. You -- and this is on Page 52 of your</p> <p>23 report -- say that CPD focused almost all of its</p> <p>24 attention on operation and personnel violations.</p>   |
| Page 186 | <p>1 BY MS. EKL:</p> <p>2 Q. Okay. What specific practice in</p> <p>3 relation to the conducting of investigations</p> <p>4 into police misconduct are you finding was not</p> <p>5 followed?</p> <p>6 A. Well --</p> <p>7 MR. HILKE: Object to form.</p> <p>8 You can answer.</p> <p>9 THE WITNESS: Two things come to mind right</p> <p>10 away. The CPD policies and the national policy</p> <p>11 talk about that the investigations must be</p> <p>12 complete, they must be thorough. And they were</p> <p>13 not in many instances. They were missing</p> <p>14 component pieces.</p> <p>15 One of the CPD policies specifically</p> <p>16 states that all complainants must be contacted.</p> <p>17 And that wasn't the case in all of the</p> <p>18 instances.</p> <p>19 BY MS. EKL:</p> <p>20 Q. Did you find a single example where</p> <p>21 there was an -- where there was not an attempt</p> <p>22 to contact a complainant at all?</p> <p>23 A. I don't know off the top of my head.</p> <p>24 I'd have to -- I'd have to look through the</p> | Page 188 | <p>1 What are you referring to when you say</p> <p>2 operation and personnel violations?</p> <p>3 A. That's a category that they had. I</p> <p>4 don't know what goes into that. It sounds very</p> <p>5 vague to me. You could say that all excessive</p> <p>6 force complaints are personnel violation but not</p> <p>7 all personnel violations are excessive force.</p> <p>8 Q. Well, in terms of your opinion -- here</p> <p>9 let me pull it up. This is on Page 52.</p> <p>10 So this is the opinion that I'm</p> <p>11 referencing. And this is under your category of</p> <p>12 Trends Across All Time Periods and Conclusions</p> <p>13 Regarding Quality of Investigations.</p> <p>14 You say, "First, throughout all of</p> <p>15 those time periods," which is the time periods</p> <p>16 between 1999 and 2011, "the CPD focused almost</p> <p>17 all of its attention on operation and personnel</p> <p>18 violations." That's the opinion that you've</p> <p>19 got -- that you've identified in your report,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. And are you telling me that you don't</p> <p>23 know what is meant by operation and personnel</p> <p>24 violations?</p> |



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| <p style="text-align: right;">Page 189</p> <p>1 MR. HILKE: Objection, form.</p> <p>2 Go ahead.</p> <p>3 BY MS. EKL:</p> <p>4 Q. I'm just trying to understand what you</p> <p>5 just said.</p> <p>6 A. Yes. What I'm saying to you is that</p> <p>7 personnel and operation violations is a vague</p> <p>8 category, that any one of these categories could</p> <p>9 be a personnel or operational violation, but not</p> <p>10 any one of these categories -- let me back up a</p> <p>11 step.</p> <p>12 What I was saying before is that</p> <p>13 excessive force could be defined as an</p> <p>14 operational violation but that not all</p> <p>15 operational violations may necessarily be</p> <p>16 excessive force.</p> <p>17 You could tuck things into this</p> <p>18 category here and sustain a personnel or</p> <p>19 operational violation as opposed to sustaining</p> <p>20 something more serious like excessive force or</p> <p>21 an unlawful entry.</p> <p>22 Q. You go on to say that, "In other words,</p> <p>23 CPD was more concerned with allegations like</p> <p>24 failing to provide city business license</p>  | <p style="text-align: right;">Page 191</p> <p>1 sustained at a much higher rate.</p> <p>2 Q. What evidence do you have, if any, that</p> <p>3 CPD utilized more resources to investigate those</p> <p>4 types of allegations between 1999 and 2011?</p> <p>5 A. I don't know that they necessarily had</p> <p>6 more resources. It just means that they paid</p> <p>7 more attention to them.</p> <p>8 Q. Do you agree that violations like</p> <p>9 failing to display a vehicle registration</p> <p>10 sticker are easier to prove than something like</p> <p>11 excessive force?</p> <p>12 A. It's -- it's -- it's possible. I mean,</p> <p>13 you know, naturally, it depends on the facts of</p> <p>14 the case.</p> <p>15 Q. Do you agree, at least in general, that</p> <p>16 these types of allegations take the least amount</p> <p>17 of time to investigate?</p> <p>18 A. They may. It's possible.</p> <p>19 Q. Do you compare punishment for sustained</p> <p>20 violation of operation or personnel violations</p> <p>21 with that of sustained findings relating to</p> <p>22 citizens who are abused or mistreated by police</p> <p>23 officers?</p> <p>24 A. Well, go back to Table 39 for a moment.</p> |
| <p style="text-align: right;">Page 190</p> <p>1 information, improperly giving parking tickets,</p> <p>2 and failing to display a vehicle registration</p> <p>3 sticker than with allegations by citizens that</p> <p>4 they had been abused or mistreated by police</p> <p>5 officers."</p> <p>6 That was an opinion that you wrote in</p> <p>7 here, correct?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And so when you're looking</p> <p>10 at and what you're describing in terms of</p> <p>11 operation and personnel violations for purposes</p> <p>12 of this opinion, are you referring to those</p> <p>13 types of violations that you described; the</p> <p>14 business license information, improperly giving</p> <p>15 parking tickets, something like failing to live</p> <p>16 in the -- in the city, those types of</p> <p>17 violations? Correct?</p> <p>18 A. Yes. And if you look at Table 39,</p> <p>19 you'll see some comparisons.</p> <p>20 Q. Well, Table 39 is not comparing</p> <p>21 specifically -- or is it comparing specifically</p> <p>22 these operation and personnel violations?</p> <p>23 A. Things that were categorized that way,</p> <p>24 looking at sustained rates and others, they're</p> | <p style="text-align: right;">Page 192</p> <p>1 Let me show you.</p> <p>2 So if you look here, you'll notice that</p> <p>3 in the first row, we're looking at sustained</p> <p>4 rates. So for investigator recommendation for</p> <p>5 sustained for all other allegations, which</p> <p>6 includes things like unlawful entry and</p> <p>7 excessive force and those sorts of things, the</p> <p>8 sustained rate is much lower.</p> <p>9 Q. That -- my question wasn't about</p> <p>10 sustained rates. My question was about</p> <p>11 punishment.</p> <p>12 So assuming that there was a</p> <p>13 sustained -- a sustained violation for</p> <p>14 operation, personnel violations and a sustained</p> <p>15 complaint for excessive force, did you do a</p> <p>16 comparison of the punishment that is meted out</p> <p>17 for one versus the other?</p> <p>18 A. Oh, I'm sorry.</p> <p>19 No, I don't believe I did that.</p> <p>20 Q. And would you be surprised if</p> <p>21 punishment was greater for sustained findings of</p> <p>22 abuse or mistreatment as opposed to a sustained</p> <p>23 finding for an operations or personnel</p> <p>24 violation?</p>  |

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| <p style="text-align: right;">Page 193</p> <p>1 A. No, I think -- let me make sure I'm</p> <p>2 clear on that. I think I expect that.</p> <p>3 You're asking me if I -- if I would</p> <p>4 expect a higher -- a higher level of punishment</p> <p>5 that was meted out for an excessive force</p> <p>6 complaint versus a personnel complaint?</p> <p>7 <b>Q. Correct.</b></p> <p>8 A. I would expect to find that, yes.</p> <p>9 <b>Q. And would you -- would you agree that</b></p> <p>10 <b>the level of punishment is also an indicator of</b></p> <p>11 <b>the police department's concern with a certain</b></p> <p>12 <b>type of allegation?</b></p> <p>13 A. Yes, I would tend to agree with that,</p> <p>14 yes.</p> <p>15 <b>Q. And having a higher level of punishment</b></p> <p>16 <b>for sustained violations of excessive force as</b></p> <p>17 <b>opposed to, you know, perhaps if that was either</b></p> <p>18 <b>a loss of days or perhaps an officer would be,</b></p> <p>19 <b>you know, disciplined where they could be --</b></p> <p>20 <b>their job could be in jeopardy for an excessive</b></p> <p>21 <b>force would show that the department was more</b></p> <p>22 <b>concerned with them engaging in that type of an</b></p> <p>23 <b>allegation versus an operations or personnel</b></p> <p>24 <b>violation where they may just receive a warning.</b></p> | <p style="text-align: right;">Page 195</p> <p>1 <b>trying to recategorize an allegation or</b></p> <p>2 <b>recategorize a complaint so that an officer</b></p> <p>3 <b>would get less punishment.</b></p> <p>4 A. Nope. Not at this moment, no.</p> <p>5 <b>Q. Would you agree that subjecting</b></p> <p>6 <b>officers who engage in certain types of</b></p> <p>7 <b>misconduct like excessive force to a higher</b></p> <p>8 <b>level of punishment sends a message to the rest</b></p> <p>9 <b>of the department that abuse and treatment of</b></p> <p>10 <b>citizens is treated -- is taken seriously?</b></p> <p>11 MR. HILKE: Object to form.</p> <p>12 THE WITNESS: Although I think the</p> <p>13 punishment is important, it's also the</p> <p>14 frequency -- the frequency with which those</p> <p>15 complaints are sustained.</p> <p>16 Because what you're talking about is</p> <p>17 the severity of punishment versus the certainty</p> <p>18 of punishment.</p> <p>19 So if I use a criminological example,</p> <p>20 if I may, there's a long, long line of research</p> <p>21 that shows the certainty of punishment is more</p> <p>22 of a deterrent than the severity of the</p> <p>23 punishment. Long line of research on that.</p> <p>24 And that's what you're implying right</p>                               |
| <p style="text-align: right;">Page 194</p> <p>1 MR. HILKE: Object to form.</p> <p>2 You can answer.</p> <p>3 THE WITNESS: Although I agree with that, I</p> <p>4 think one of the other findings that I see here</p> <p>5 is that it's easier to tuck things into</p> <p>6 personnel and operational violations.</p> <p>7 So I can sustain an excessive force</p> <p>8 complaint, call it an operational or personnel</p> <p>9 violation, which means I sustain it against you,</p> <p>10 but it's a lower -- it's a lower penalty,</p> <p>11 knowing full well that you're going to get a</p> <p>12 lower penalty.</p> <p>13 BY MS. EKL:</p> <p>14 <b>Q. Can you give me one single example of</b></p> <p>15 <b>all the CRs that you looked at of a place where</b></p> <p>16 <b>an officer had a sustained excessive force that</b></p> <p>17 <b>was recategorized as an operations, personnel</b></p> <p>18 <b>violation?</b></p> <p>19 A. No, not without looking at the CR data,</p> <p>20 but that's -- that's what I tend to infer from</p> <p>21 some of this data, that that could be happening.</p> <p>22 <b>Q. But you don't have a particular example</b></p> <p>23 <b>that you can give nor a particular example that</b></p> <p>24 <b>you put into this report to suggest that CPD was</b></p>  | <p style="text-align: right;">Page 196</p> <p>1 here. What you're saying is that the department</p> <p>2 sanctions these things more severely, but maybe</p> <p>3 they do so more infrequently. So the certain --</p> <p>4 the severity of the punishment is higher, but</p> <p>5 the certainty of punishment is very low</p> <p>6 because -- very low sustained rates.</p> <p>7 (Simultaneous speaking.)</p> <p>8 THE WITNESS: Let me just finish.</p> <p>9 I was going to say, therefore, you --</p> <p>10 you don't send a message to the department that</p> <p>11 you're likely to have your complaint sustained.</p> <p>12 BY MS. EKL:</p> <p>13 <b>Q. Your -- the sustained rate that you're</b></p> <p>14 <b>referring to again is utilizing the situation</b></p> <p>15 <b>where, as you talked about before, your</b></p> <p>16 <b>categorizing given -- and I forgot now what it's</b></p> <p>17 <b>called -- where you're separating out each</b></p> <p>18 <b>allegation against each officer in relation to</b></p> <p>19 <b>each CR file. That's where you're coming up</b></p> <p>20 <b>with the sustained rate that you're referring</b></p> <p>21 <b>to, correct?</b></p> <p>22 A. Yes, based on allegations, correct.</p> <p>23 <b>Q. Based on allegations.</b></p> <p>24 <b>On Page 53 of your report, you say</b></p> |

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| Page 197 | <p>1 <b>that, "CPD's disciplinary system allowed for</b></p> <p>2 <b>lengthy delays that further reduced the</b></p> <p>3 <b>effectiveness of misconduct investigations and</b></p> <p>4 <b>discipline."</b></p> <p>5 <b>What do you mean by "delay"?</b></p> <p>6 A. Well, a number of those cases have</p> <p>7 very, very, very lengthy number of days between</p> <p>8 the time it was initiated and the time it was</p> <p>9 completed.</p> <p>10 <b>Q. And so in terms of delays, your</b></p> <p>11 <b>definition just looking at time initiated and</b></p> <p>12 <b>time completed without consideration of what</b></p> <p>13 <b>could have caused the length of time to be</b></p> <p>14 <b>longer or shorter.</b></p> <p>15 MR. HILKE: Object to form.</p> <p>16 THE WITNESS: Correct.</p> <p>17 BY MS. EKL:</p> <p>18 <b>Q. How was the length of time, in other</b></p> <p>19 <b>words, under your definition of delay,</b></p> <p>20 <b>calculated?</b></p> <p>21 MR. HILKE: Object to form.</p> <p>22 You can answer.</p> <p>23 THE WITNESS: Total number of days between</p> <p>24 the closure date and the initiation date.</p>              | Page 199 | <p>1 THE WITNESS: What I'm saying is the types</p> <p>2 of things that I just mentioned to you are the</p> <p>3 types of evidence that I'm referring to.</p> <p>4 BY MS. EKL:</p> <p>5 <b>Q. Would you expect a more robust</b></p> <p>6 <b>investigation would be required to prove or</b></p> <p>7 <b>disprove an allegation of -- disprove other</b></p> <p>8 <b>types of allegations? I'm saying other than</b></p> <p>9 <b>just an operation or personnel violation.</b></p> <p>10 MR. HILKE: Objection to form.</p> <p>11 THE WITNESS: I would expect a more robust</p> <p>12 investigation for a more serious type offense,</p> <p>13 specifically things that are violations of civil</p> <p>14 rights or crimes.</p> <p>15 BY MS. EKL:</p> <p>16 <b>Q. So, for instance, what factors do you</b></p> <p>17 <b>think might affect the length of time to</b></p> <p>18 <b>investigate something like a city sticker</b></p> <p>19 <b>violation?</b></p> <p>20 A. Well -- wait, repeat that again. I'm</p> <p>21 sorry. Say that again.</p> <p>22 <b>Q. Sure. What factors might affect the</b></p> <p>23 <b>length of time to investigate a city sticker</b></p> <p>24 <b>violation?</b></p>                     |
| Page 198 | <p>1 BY MS. EKL:</p> <p>2 <b>Q. Was that done by you or was that done</b></p> <p>3 <b>by the coders?</b></p> <p>4 A. No, I did that. The coders didn't do</p> <p>5 any analysis.</p> <p>6 <b>Q. What type of evidence might be</b></p> <p>7 <b>collected to prove or disprove an operation or</b></p> <p>8 <b>personnel violation?</b></p> <p>9 A. I'm not entirely clear what goes into</p> <p>10 such a violation. I mean, it's a very vague</p> <p>11 category. So it could be an officer's</p> <p>12 admission. It could be observation of someone.</p> <p>13 It could be a witness statement. All the -- all</p> <p>14 the same evidence that you would find in other</p> <p>15 cases are the same sort of things you would</p> <p>16 expect here.</p> <p>17 <b>Q. So you would expect all the same</b></p> <p>18 <b>evidence in every -- in an excessive force</b></p> <p>19 <b>allegation -- I mean investigation as you would</b></p> <p>20 <b>an investigation as to whether or not, for</b></p> <p>21 <b>instance, someone has a city sticker?</b></p> <p>22 A. No, no --</p> <p>23 MR. HILKE: Just objection to form.</p> <p>24 You can answer.</p> | Page 200 | <p>1 A. Identifying and validating whether or</p> <p>2 not the city sticker was issued, whether it fell</p> <p>3 off, whether it was, you know, displayed</p> <p>4 improperly, it was displayed but perhaps</p> <p>5 improperly.</p> <p>6 <b>Q. And in comparison, what factors might</b></p> <p>7 <b>affect the length of time to investigate a</b></p> <p>8 <b>bribery allegation?</b></p> <p>9 MR. HILKE: Object to form.</p> <p>10 THE WITNESS: Interviewing -- interviewing</p> <p>11 officers, collecting -- collecting evidence</p> <p>12 surrounding the allegation, interviewing --</p> <p>13 interviewing the -- interviewing the witnesses</p> <p>14 or the complainant or the victim.</p> <p>15 BY MS. EKL:</p> <p>16 <b>Q. "Collecting evidence surrounding the</b></p> <p>17 <b>allegation," that's pretty vague. So what</b></p> <p>18 <b>investigative steps might -- would need to be</b></p> <p>19 <b>taken that might affect the length of time to</b></p> <p>20 <b>investigate a bribery investigation?</b></p> <p>21 MR. HILKE: Object to form, vague.</p> <p>22 You can answer.</p> <p>23 THE WITNESS: Yeah. I mean, if you can lay</p> <p>24 out a bribery scenario for me, maybe I can walk</p> |

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| Page 201 | <p>1 you through something.</p> <p>2 BY MS. EKL:</p> <p>3 <b>Q. Okay. Let me ask you this more</b></p> <p>4 <b>directly. So, for instance, in a bribery</b></p> <p>5 <b>investigation or an investigation of a bribery</b></p> <p>6 <b>allegation, for instance, one of the things you</b></p> <p>7 <b>might do would be to cultivate and utilize</b></p> <p>8 <b>confidential informants, correct?</b></p> <p>9 A. You could do that.</p> <p>10 <b>Q. And would you agree that that's</b></p> <p>11 <b>something that takes some time to do?</b></p> <p>12 A. Maybe. I mean, it depends. A city --</p> <p>13 a city as big as Chicago -- the Chicago Police</p> <p>14 Department is the second largest police</p> <p>15 department in the country. I -- I believe, and</p> <p>16 based upon my knowledge of the Chicago Police</p> <p>17 Department, that they would have confidential</p> <p>18 informants readily available.</p> <p>19 Now, does that take longer than, you</p> <p>20 know, checking to determine whether or not a</p> <p>21 proper permit was filed? I think the answer is</p> <p>22 yes. But I can't imagine that something like</p> <p>23 that would extend into, you know, a hundred days</p> <p>24 or more.</p>  | Page 203 | <p>1 think there's probably more than two people</p> <p>2 dealing narcotics there.</p> <p>3 <b>Q. And the target of the bribery</b></p> <p>4 <b>investigation in this case was the police</b></p> <p>5 <b>officers, correct?</b></p> <p>6 A. Well, it was more like extortion.</p> <p>7 <b>Q. Let's call it an extortion</b></p> <p>8 <b>investigation. So the target of the extortion</b></p> <p>9 <b>investigation was the police officers who are</b></p> <p>10 <b>the defendants in this case, correct?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. And those are defendants that regularly</b></p> <p>13 <b>worked within that housing project, correct?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. And their job was to arrest people for</b></p> <p>16 <b>crimes, including the drug trade that was going</b></p> <p>17 <b>on within -- within the housing unit, correct?</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. And in order to catch them in some type</b></p> <p>20 <b>of extortion scenario, you would need to have a</b></p> <p>21 <b>person in that location where they regularly</b></p> <p>22 <b>worked, that they did not recognize, be the</b></p> <p>23 <b>person who was the confidential informant who</b></p> <p>24 <b>could provide information, correct?</b></p>  |
| Page 202 | <p>1 <b>Q. Let me ask -- I want to make sure I</b></p> <p>2 <b>understand what you're saying. You're not</b></p> <p>3 <b>actually saying you think that the Chicago</b></p> <p>4 <b>Police Department has like a list of</b></p> <p>5 <b>confidential informants that we can go to and</b></p> <p>6 <b>ask for their assistance in any type of</b></p> <p>7 <b>investigation where they might need their help.</b></p> <p>8 <b>Is that what you're saying?</b></p> <p>9 A. Yeah, absolutely. I'm answering --</p> <p>10 <b>Q. Okay. So in a circumstance looking at,</b></p> <p>11 <b>for instance, the background on this Baker case,</b></p> <p>12 <b>what we're talking about, drug trade that's</b></p> <p>13 <b>going on within a public housing unit, correct?</b></p> <p>14 A. Okay, yes.</p> <p>15 <b>Q. And do you know that that's the</b></p> <p>16 <b>circumstance of the arrest in this case?</b></p> <p>17 <b>Correct?</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. And that there are -- within that</b></p> <p>20 <b>public housing unit, there are a number of</b></p> <p>21 <b>individuals, whether you believe that Baker was</b></p> <p>22 <b>one of them or not, but that were dealing drugs,</b></p> <p>23 <b>correct?</b></p> <p>24 A. Well, public housing unit in Chicago, I</p> | Page 204 | <p>1 A. You could put -- you could put a</p> <p>2 informant in there or you could put an</p> <p>3 undercover operation in there.</p> <p>4 <b>Q. Right. So going back, are you saying</b></p> <p>5 <b>that we could have just picked someone off of a</b></p> <p>6 <b>list and put them into that housing project and</b></p> <p>7 <b>told them, gather information for us?</b></p> <p>8 A. Well, that's not really cultivating</p> <p>9 informants. If you have a list of informants,</p> <p>10 what you would be able to do is go to that list</p> <p>11 to see if anybody fits the ability to do those</p> <p>12 things you're talking about. It's distinctly</p> <p>13 possible that there might not be anybody, so</p> <p>14 that's when you can rely on other officers</p> <p>15 within the organization. You could go outside</p> <p>16 and get officers from, say, the prosecutor's</p> <p>17 office or the FBI or some other law enforcement</p> <p>18 agency to go in and do that.</p> <p>19 <b>Q. And all those things would take time to</b></p> <p>20 <b>find the right person to act as your</b></p> <p>21 <b>confidential informant. It would take more time</b></p> <p>22 <b>than it does to go check some records on whether</b></p> <p>23 <b>or not someone actually had a proper city</b></p> <p>24 <b>sticker, correct?</b></p> |

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| Page 205 | <p>1 A. Yeah, I'm not denying that it would</p> <p>2 take a little bit more time and there might be a</p> <p>3 little bit more effort involved. But what I am</p> <p>4 saying is that those kind of investigations</p> <p>5 don't have to take an exorbitant amount of time.</p> <p>6 <b>Q. And you did work for a period of time</b></p> <p>7 <b>when you were a police officer at Newark working</b></p> <p>8 <b>in undercover or -- was it in a tactical type</b></p> <p>9 <b>unit?</b></p> <p>10 A. Well, yeah, let me be clear on how</p> <p>11 you're using the terms. I just want to be</p> <p>12 clear.</p> <p>13 <b>Q. Right.</b></p> <p>14 A. So the equivalent that we had in Newark</p> <p>15 to Chicago's tactical narcotics teams we would</p> <p>16 call special enforcement. So I was in special</p> <p>17 enforcement, plain clothes, working out of a</p> <p>18 precinct.</p> <p>19 I then went to a citywide division that</p> <p>20 was responsible for those sorts of -- larger</p> <p>21 tactical operations in a citywide capacity.</p> <p>22 But a tactical team akin to, say, a</p> <p>23 SWAT team, I was also part of that. The Newark</p> <p>24 Police Department's equivalent of the</p> | Page 207 | <p>1 <b>Q. Okay. And did you have occasion to use</b></p> <p>2 <b>confidential informants when you were on that</b></p> <p>3 <b>team?</b></p> <p>4 A. Yes, I did.</p> <p>5 <b>Q. Were they part of a list that you would</b></p> <p>6 <b>go to and -- when you wanted a confidential</b></p> <p>7 <b>informant, would you refer to a list?</b></p> <p>8 A. We did have a confidential informant</p> <p>9 list in the precinct. And when I went to a</p> <p>10 larger citywide unit, which was known as TARGET,</p> <p>11 which is the Tactical Auto Theft Recovery Group</p> <p>12 and Enforcement Team, we had a list of people we</p> <p>13 would use. Around other divisions, they would</p> <p>14 also have lists. So the narcotics division</p> <p>15 would have a list of people. The homicide</p> <p>16 division would have people. The robbery squad</p> <p>17 would have a list of people that they could call</p> <p>18 upon.</p> <p>19 <b>Q. And if you're investigating in an</b></p> <p>20 <b>internal affairs setting police officers, is it</b></p> <p>21 <b>fair to say if you go to the list that's in each</b></p> <p>22 <b>of the departments, then the officers are going</b></p> <p>23 <b>to know -- they're going to know those</b></p> <p>24 <b>confidential informants, correct?</b></p> |
| Page 206 | <p>1 traditional SWAT team was known as the emergency</p> <p>2 response team. And a lot of times there's</p> <p>3 confusion about the terminology; were you on a</p> <p>4 tactical team? I like to make sure we're clear</p> <p>5 on the language. So my -- I was on a tactical</p> <p>6 team known as the emergency response team, but</p> <p>7 the Newark Police Department's equivalent of a</p> <p>8 tactical narcotics team was known as special</p> <p>9 enforcement.</p> <p>10 <b>Q. And I'm sorry, you were part of that</b></p> <p>11 <b>special enforcement group, the tactical team</b></p> <p>12 <b>that dealt with drug enforcement, or you</b></p> <p>13 <b>weren't?</b></p> <p>14 A. No. Just don't use the same terms,</p> <p>15 please. You're killing me.</p> <p>16 <b>Q. No, I'm trying to make sure that I</b></p> <p>17 <b>state it accurately.</b></p> <p>18 A. Okay. So in the Newark Police</p> <p>19 Department, our equivalent of Chicago's tactical</p> <p>20 narcotics teams, that Watts was a part of, was</p> <p>21 known as special enforcement.</p> <p>22 <b>Q. And were you a part of that team in</b></p> <p>23 <b>Newark?</b></p> <p>24 A. Yes, I was.</p>                         | Page 208 | <p>1 MR. HILKE: Object to form.</p> <p>2 THE WITNESS: No, not necessarily, because</p> <p>3 there was -- there was a lot of them. That's</p> <p>4 number one.</p> <p>5 And if we believe that the officers</p> <p>6 were -- you know, we wouldn't put a confidential</p> <p>7 informant out there that an officer knew.</p> <p>8 That's for sure. We would check to see if</p> <p>9 they -- if they made any arrests or we would put</p> <p>10 out -- if we believed that we couldn't find</p> <p>11 somebody, we would put out a decoy police</p> <p>12 officer.</p> <p>13 BY MS. EKL:</p> <p>14 <b>Q. Some of the other things that you --</b></p> <p>15 <b>some other factors that might affect the length</b></p> <p>16 <b>of time -- and, again, we're using as the</b></p> <p>17 <b>example an extortion investigation -- you might</b></p> <p>18 <b>utilize an overhearer, correct?</b></p> <p>19 A. How do you -- how are you using that</p> <p>20 term? What do you mean by that exactly?</p> <p>21 <b>Q. Like an eavesdropping device, that you</b></p> <p>22 <b>might utilize an eavesdropping device on someone</b></p> <p>23 <b>to overhear a conversation between the officer</b></p> <p>24 <b>and, in this case, in this example, a drug</b></p>  |



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| Page 209 | <p>1 <b>dealer, to see if they try to extort the drug</b></p> <p>2 <b>money?</b></p> <p>3 A. Let me just be clear on that term. You</p> <p>4 call it overhearer. Are you asking me would we</p> <p>5 put someone -- a human physically next to the</p> <p>6 person who we believe is going to be shaken down</p> <p>7 and then overhear and listen to what the officer</p> <p>8 is saying?</p> <p>9 <b>Q. I'm saying, yes, that -- would you</b></p> <p>10 <b>agree that that could be one of the tactics that</b></p> <p>11 <b>you could utilize in those types of</b></p> <p>12 <b>investigations?</b></p> <p>13 A. Yeah, you could do that. You could put</p> <p>14 a wire on the person that you believed was going</p> <p>15 to be shaken down.</p> <p>16 So, in other words, let's say the</p> <p>17 police officer catches -- I'm making this up for</p> <p>18 conversation purposes. Let's say Jon Shane is</p> <p>19 the drug dealer, and Watts comes walking through</p> <p>20 the front door of Ida B. Wells and sees</p> <p>21 Jon Shane in the hallway yet again, and there's</p> <p>22 three or four other people in that same hallway,</p> <p>23 and Watts takes Shane around to the back away</p> <p>24 from everybody, out of earshot of everybody, but</p> | Page 211 | <p>1 <b>office and get approval from them and we have to</b></p> <p>2 <b>go to a judge and get approval from them. Would</b></p> <p>3 <b>you agree that those are steps in that type of</b></p> <p>4 <b>investigation that would take time?</b></p> <p>5 A. That would add -- that would add some</p> <p>6 time to it, yes.</p> <p>7 <b>Q. And those are investigative steps that</b></p> <p>8 <b>you're not going to use to investigate someone</b></p> <p>9 <b>who, perhaps, failed to buy a city sticker,</b></p> <p>10 <b>correct?</b></p> <p>11 A. That's true.</p> <p>12 <b>Q. Okay. Same thing. If you're engaging</b></p> <p>13 <b>in an undercover operation in order to</b></p> <p>14 <b>investigate a case, there's resources that you</b></p> <p>15 <b>would have to obtain or that you may obtain,</b></p> <p>16 <b>like an undercover car or other types of</b></p> <p>17 <b>resources that, again, take approval at</b></p> <p>18 <b>different levels, correct?</b></p> <p>19 A. Those things -- those things likely</p> <p>20 come up, yes.</p> <p>21 <b>Q. And those are things that take more</b></p> <p>22 <b>time, correct?</b></p> <p>23 A. They take some more time, yes. Not an</p> <p>24 exorbitant amount of time.</p> |
| Page 210 | <p>1 he doesn't know that Shane is a wearing a wire.</p> <p>2 That's why you wire somebody up, so if they do</p> <p>3 have a confidential conversation that way, you</p> <p>4 can -- you can listen in on it.</p> <p>5 <b>Q. My point is those things take time,</b></p> <p>6 <b>correct?</b></p> <p>7 A. But they -- they don't take that much</p> <p>8 time.</p> <p>9 <b>Q. It's a yes-or-no answer. They take</b></p> <p>10 <b>time.</b></p> <p>11 A. They take some time. They take a</p> <p>12 little bit of time.</p> <p>13 <b>Q. You have to go to a court, correct, and</b></p> <p>14 <b>get approval?</b></p> <p>15 A. Well, I'm not sure on what Illinois law</p> <p>16 might allow, but, for example, in New Jersey,</p> <p>17 what we can do as long as one party to the</p> <p>18 conversation is aware of it, then it can be</p> <p>19 recorded.</p> <p>20 <b>Q. Our law is different in Illinois. It's</b></p> <p>21 <b>a two-party consent. So assuming --</b></p> <p>22 A. Okay.</p> <p>23 <b>Q. You have to go -- in Illinois, if we</b></p> <p>24 <b>want a wire, we have to go to the prosecutor's</b></p>   | Page 212 | <p>1 <b>Q. But they take more time than</b></p> <p>2 <b>investigations of operation or personnel</b></p> <p>3 <b>violations in the context of things like city</b></p> <p>4 <b>stickers and whether or not someone, you know,</b></p> <p>5 <b>is living in the -- within the city limits,</b></p> <p>6 <b>correct?</b></p> <p>7 MR. HILKE: Object to form.</p> <p>8 Go ahead and answer.</p> <p>9 THE WITNESS: Probably, yes.</p> <p>10 BY MS. EKL:</p> <p>11 <b>Q. Did you do any comparison of Chicago to</b></p> <p>12 <b>other cities in terms of the length of time it</b></p> <p>13 <b>takes to investigate various allegations?</b></p> <p>14 A. No.</p> <p>15 <b>Q. So your determination that the length</b></p> <p>16 <b>of time was too long, is that based on your</b></p> <p>17 <b>subjective belief that it took a long period of</b></p> <p>18 <b>time?</b></p> <p>19 A. It's based on my understanding of how</p> <p>20 internal affairs investigations are carried out</p> <p>21 and the reasonableness of those kinds of</p> <p>22 investigations.</p> <p>23 <b>Q. On what do you base your conclusion</b></p> <p>24 <b>that there is a correlation between the length</b></p>  |



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| Page 213 | <p>1 <b>of time of investigation and the effectiveness</b></p> <p>2 <b>of misconduct investigation and discipline?</b></p> <p>3 A. I don't know that -- I don't -- I'm not</p> <p>4 sure that I made a determination about its</p> <p>5 effectiveness. I said that its timeliness takes</p> <p>6 away from the public perception and legitimacy</p> <p>7 of the investigation and how the public</p> <p>8 perceives the police department.</p> <p>9 I think what's more important is that</p> <p>10 there's a certainty that if you are engaged in</p> <p>11 the kinds of behaviors that we're talking about,</p> <p>12 that you're going to be apprehended. That's</p> <p>13 more important than the length of time that it</p> <p>14 takes to get to that point and the ultimate</p> <p>15 punishment.</p> <p>16 <b>Q. Right. And the certainty that the</b></p> <p>17 <b>person is going to be -- allegation is going to</b></p> <p>18 <b>be sustained and the person is going to be</b></p> <p>19 <b>punished is based on the evidence that's</b></p> <p>20 <b>developed, correct?</b></p> <p>21 A. Yeah, I think that's -- I think that's</p> <p>22 a good way to look at it, yes. That also plays</p> <p>23 into the -- the ultimate discipline.</p> <p>24 <b>Q. If an investigation is expedited for</b></p> | Page 215 | <p>1 <b>that you're at the truth of whether or not the</b></p> <p>2 <b>allegation should be sustained or not sustained,</b></p> <p>3 <b>correct?</b></p> <p>4 A. Well, the answer is, it depends. It</p> <p>5 depends on what's happening. You wouldn't leave</p> <p>6 a police officer out there in the field harming</p> <p>7 people just to be able to get more information</p> <p>8 about what they're doing or what their crimes</p> <p>9 are in order to prosecute that person. If</p> <p>10 you've got enough information after a short</p> <p>11 period of time to terminate them based on policy</p> <p>12 violations, then you would do that and you would</p> <p>13 stop the harm.</p> <p>14 <b>Q. Isn't that the key, though, if you have</b></p> <p>15 <b>enough -- if you have enough information or</b></p> <p>16 <b>evidence? But if you don't have the information</b></p> <p>17 <b>and evidence to terminate them and you might</b></p> <p>18 <b>only give them a slap on the wrist for a policy</b></p> <p>19 <b>violation, like a sticker violation, then you're</b></p> <p>20 <b>not going to scoop them up and risk not ever</b></p> <p>21 <b>being able to prove the more harmful allegation</b></p> <p>22 <b>to the community, correct?</b></p> <p>23 MR. HILKE: Object to form. Wait, sorry.</p> <p>24 Incomplete hypothetical.</p> |
| Page 214 | <p>1 <b>the sheer purpose of just trying to make it</b></p> <p>2 <b>quicker, would you agree that you could</b></p> <p>3 <b>compromise the integrity of the investigation?</b></p> <p>4 MR. HILKE: Object to form.</p> <p>5 You can answer.</p> <p>6 THE WITNESS: I think you'd need a little</p> <p>7 bit more detail to know that. You wouldn't want</p> <p>8 to cut corners. You wouldn't want to use</p> <p>9 shortcuts. But you might prevent someone from</p> <p>10 taking vacation. So, in other words, you're</p> <p>11 scheduled to go on vacation next week and your</p> <p>12 vacation is canceled, so that investigation</p> <p>13 continues over that period of time that you</p> <p>14 would have been on vacation because what we're</p> <p>15 trying to do is expedite things.</p> <p>16 BY MS. EKL:</p> <p>17 <b>Q. But you're not going to cut an</b></p> <p>18 <b>investigation short just because it is taking</b></p> <p>19 <b>longer to gather the evidence. You're going to</b></p> <p>20 <b>continue the investigation to gather the</b></p> <p>21 <b>evidence that you need to be sufficient to get a</b></p> <p>22 <b>sustained finding, correct?</b></p> <p>23 Let me rephrase that. You're going to</p> <p>24 <b>gather enough evidence until you feel confident</b></p>                | Page 216 | <p>1 You can answer.</p> <p>2 THE WITNESS: The answer is, it depends. It</p> <p>3 depends on what you're dealing with. If you're</p> <p>4 dealing with someone who is harming -- a police</p> <p>5 officer who is harming people in the field,</p> <p>6 harming citizens, and you've been working to</p> <p>7 uncover more information and you don't get that</p> <p>8 information, you don't leave that police officer</p> <p>9 out there.</p> <p>10 Now, let's say, in your example you</p> <p>11 don't have enough information to prosecute them</p> <p>12 and you don't have enough information to fire</p> <p>13 them; take them out of the field, reassign them,</p> <p>14 and never let them see the light of day again</p> <p>15 and interact with the public, but stop the harm</p> <p>16 above all.</p> <p>17 BY MS. EKL:</p> <p>18 <b>Q. Don't you think that if you took an</b></p> <p>19 <b>officer out of a position and didn't let them</b></p> <p>20 <b>see the light of day because you believed they</b></p> <p>21 <b>did something that you couldn't prove, that they</b></p> <p>22 <b>would have a basis -- an employment action</b></p> <p>23 <b>against you?</b></p> <p>24 MR. HILKE: Object to form and foundation.</p>   |

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| Page 217 | <p>1 You can answer.</p> <p>2 THE WITNESS: I don't necessarily think</p> <p>3 that's correct. A police department gets to</p> <p>4 assign people where and when they want. And if</p> <p>5 you've got -- if you've got allegations and</p> <p>6 you've got, you know, some -- some idea that</p> <p>7 this person is doing these things and -- you can</p> <p>8 move them around. You can reassign them. You</p> <p>9 can dissolve the unit if you wanted to.</p> <p>10 BY MS. EKL:</p> <p>11 <b>Q. Sorry. Go ahead. I didn't mean to cut</b></p> <p>12 <b>you off.</b></p> <p>13 A. The Chicago Police Department can</p> <p>14 dissolve an organizational element as they see</p> <p>15 fit.</p> <p>16 <b>Q. Right. And what would stop the officer</b></p> <p>17 <b>from then continuing in misconduct in some other</b></p> <p>18 <b>capacity in the unit that they're moved to?</b></p> <p>19 A. Well, the answer is it might continue,</p> <p>20 and if it were to continue, you would then</p> <p>21 re-investigate. But you would want to make</p> <p>22 sure, perhaps, that the person doesn't come in</p> <p>23 contact with the community. You can put him in</p> <p>24 the communications center or the evidence room</p>  | Page 219 | <p>1 violation.</p> <p>2 If you had no evidence of either</p> <p>3 criminal wrongdoing or policy violations, you</p> <p>4 could move that person to another assignment.</p> <p>5 You could keep them in the field at another</p> <p>6 district, and then you could monitor their</p> <p>7 behavior there to see if the same sort of</p> <p>8 allegations arise at another place. And if they</p> <p>9 did, commence another investigation.</p> <p>10 And if that sort of thing continued,</p> <p>11 then you could take them out of the field and</p> <p>12 put them into an administrative assignment where</p> <p>13 they didn't have any contact with the public.</p> <p>14 BY MS. EKL:</p> <p>15 <b>Q. Is it your opinion that you could just</b></p> <p>16 <b>terminate someone for a policy violation?</b></p> <p>17 A. You can, yes.</p> <p>18 <b>Q. And what -- what type of policy</b></p> <p>19 <b>violation are you referring to?</b></p> <p>20 A. Well, I don't know how -- how it would</p> <p>21 necessarily work in the Chicago Police</p> <p>22 Department, but Chicago is no different than</p> <p>23 other places that can terminate people for</p> <p>24 policy violations.</p> |
| Page 218 | <p>1 or some other ancillary function where they're</p> <p>2 not in an enforcement capacity dealing with the</p> <p>3 public.</p> <p>4 <b>Q. So it's your solution that you would</b></p> <p>5 <b>just -- without the evidence to prove that</b></p> <p>6 <b>someone committed the violation, you would just</b></p> <p>7 <b>keep moving them around and so that they don't</b></p> <p>8 <b>have contact with the public.</b></p> <p>9 MR. HILKE: Object to form.</p> <p>10 THE WITNESS: Well, no, that's not what I</p> <p>11 said. What I said was if you had an</p> <p>12 investigation that was opened and you had</p> <p>13 criminal allegations that a particular officer</p> <p>14 or a group of officers was extorting people at</p> <p>15 the Ida B. Wells housing project, you would</p> <p>16 commence a criminal investigation. And that</p> <p>17 would take longer than looking at the sticker</p> <p>18 investigation.</p> <p>19 And you would let that go long enough</p> <p>20 to see whether or not you could collect criminal</p> <p>21 evidence against them. If you couldn't collect</p> <p>22 criminal evidence against them but you collected</p> <p>23 policy evidence against them, you could then</p> <p>24 move to terminate them based on a policy</p> | Page 220 | <p>1 <b>Q. Give me an example of a policy</b></p> <p>2 <b>violation that could subject someone to</b></p> <p>3 <b>termination in a hypothetical that you're aware</b></p> <p>4 <b>of. Tell me what department and what the policy</b></p> <p>5 <b>violation is that you could utilize to terminate</b></p> <p>6 <b>someone.</b></p> <p>7 MR. HILKE: Are you asking about Chicago or</p> <p>8 anywhere?</p> <p>9 MS. EKL: I just said anywhere.</p> <p>10 MR. HILKE: I thought you changed it in</p> <p>11 between. I'm sorry.</p> <p>12 You can answer, Jon.</p> <p>13 THE WITNESS: Use of force policy. The</p> <p>14 pursuit policy. Those are two that come off the</p> <p>15 top of my head.</p> <p>16 BY MS. EKL:</p> <p>17 <b>Q. Okay. So, for instance, in this</b></p> <p>18 <b>situation where -- let's just use Ronald</b></p> <p>19 <b>Watts -- was there a basis to find that he</b></p> <p>20 <b>engaged in the use -- evidence to support that</b></p> <p>21 <b>he engaged in the use of force policy that we</b></p> <p>22 <b>should have moved forward with because we</b></p> <p>23 <b>couldn't get him on extortion?</b></p> <p>24 MR. HILKE: Object to form and foundation.</p> |

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| Page 221 | <p>1 THE WITNESS: I don't know. I'd have to</p> <p>2 look through the specific CRs to determine</p> <p>3 whether or not that happened.</p> <p>4 But there were instances where there</p> <p>5 are allegations that he unlawfully entered</p> <p>6 people's homes. That would be a policy</p> <p>7 violation that you could terminate somebody for.</p> <p>8 BY MS. EKL:</p> <p>9 Q. And you would agree that you have to</p> <p>10 have evidence. Even if that was something that</p> <p>11 could subject somebody to termination, you agree</p> <p>12 that you have to have evidence to prove the</p> <p>13 policy violation as well, correct?</p> <p>14 A. I would agree with that, yes.</p> <p>15 Q. Okay. I want to go back for just a</p> <p>16 quick second to something you said earlier</p> <p>17 about -- and I didn't write it down so I'm not</p> <p>18 sure of the exact words, but you referred to</p> <p>19 basically like victims -- citizens being</p> <p>20 victimized, correct?</p> <p>21 A. Okay, yeah. We were talking about</p> <p>22 citizens being victimized by the officers?</p> <p>23 Q. Right. Right.</p> <p>24 A. Okay.</p>    | Page 223 | <p>1 it. It says, "The following are examples of</p> <p>2 investigations where I found substantial delays</p> <p>3 in misconduct investigation and discipline."</p> <p>4 Did I read that accurately, on Page 56?</p> <p>5 A. Yes.</p> <p>6 Q. And in terms of how these particular</p> <p>7 examples were identified, again, was this part</p> <p>8 of your just review of CR files -- well, let me</p> <p>9 ask you. How did you identify these particular</p> <p>10 CR files?</p> <p>11 A. Yeah. They came up -- they came up</p> <p>12 during my review.</p> <p>13 Q. And so, for instance -- I'm assuming</p> <p>14 you don't have these numbers memorized, but if I</p> <p>15 tell you that CR 259325 was not part of that</p> <p>16 audit, it would be your testimony that it was</p> <p>17 part of the larger group of CR files that you</p> <p>18 examined, correct?</p> <p>19 A. You're saying that it was not part of</p> <p>20 the 127 cases?</p> <p>21 Q. Correct.</p> <p>22 A. I would -- I don't know that to be the</p> <p>23 case, but if you're telling me that, then the</p> <p>24 answer is, yes, I got it from having reviewed</p> |
| Page 222 | <p>1 Q. In the case of -- in the Baker case,</p> <p>2 for instance, when you're talking about citizens</p> <p>3 being victimized, are you talking about the drug</p> <p>4 dealers in Ida B. Wells who are allegedly being</p> <p>5 shaken down to provide their drug money to</p> <p>6 Ronald Watts? Is that the victimization that</p> <p>7 you're talking about there?</p> <p>8 A. Yes.</p> <p>9 MR. HILKE: Object to form. That's okay.</p> <p>10 THE WITNESS: Drug dealers don't give up</p> <p>11 their Fourth Amendment Right.</p> <p>12 BY MS. EKL:</p> <p>13 Q. Well, is there a Fourth Amendment Right</p> <p>14 to -- never mind. Strike that.</p> <p>15 Pages 56 through 57 of your report is</p> <p>16 another example of -- is another place where you</p> <p>17 had examples of what you refer to as substantial</p> <p>18 delays. Let me just flip that up real quick.</p> <p>19 MR. HILKE: After this line, Beth, if we</p> <p>20 could take a break, I'd appreciate it.</p> <p>21 MS. EKL: Sure.</p> <p>22 BY MS. EKL:</p> <p>23 Q. I guess it actually starts on Page 57.</p> <p>24 But I'll go to 56 so you can see the header into</p> | Page 224 | <p>1 the CRs otherwise.</p> <p>2 MS. EKL: We can go ahead and take a quick</p> <p>3 break. Just five minutes?</p> <p>4 MR. HILKE: Fine with me. Is that okay,</p> <p>5 Jon?</p> <p>6 THE WITNESS: Sure.</p> <p>7 (Short recess taken.)</p> <p>8 BY MS. EKL:</p> <p>9 Q. On Page 58 and 59 of your report -- I</p> <p>10 think that's right -- you criticize the</p> <p>11 investigative quality or the -- you have a</p> <p>12 criticism of the quality of investigations</p> <p>13 conducted by CPD. I'm going to bring up</p> <p>14 Page 58.</p> <p>15 On the top of the page you say,</p> <p>16 "Chicago Police Department's General Order 93-3,</p> <p>17 Conduct of Investigations, states 'The ranking</p> <p>18 on-duty member of the unit which has initiated</p> <p>19 an investigation or to which an investigation</p> <p>20 has been assigned will immediately designate a</p> <p>21 command or supervisory member of the unit to</p> <p>22 conduct the investigation. Every effort will be</p> <p>23 made to ensure that the investigation is</p> <p>24 conducted by an impartial member.'"</p>   |

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| Page 225 | <p>1           <b>You go on to say that, "Analyzing the</b></p> <p>2 <b>CR files for evidence of investigative</b></p> <p>3 <b>dimensions that are commonly part of every</b></p> <p>4 <b>internal affairs investigation indicates the</b></p> <p>5 <b>investigations frequently contained missing</b></p> <p>6 <b>elements that could change the disposition of</b></p> <p>7 <b>the case."</b></p> <p>8           <b>So as an initial matter, would you</b></p> <p>9 <b>agree with me that CPD's General Order 93-3 is</b></p> <p>10 <b>in conformity with national standards?</b></p> <p>11       MR. HILKE: Object to form, foundation.</p> <p>12       Actually, just form.</p> <p>13       You can answer.</p> <p>14       THE WITNESS: Yes.</p> <p>15       BY MS. EKL:</p> <p>16       <b>Q. Your criticism is that the</b></p> <p>17 <b>investigations that you reviewed are containing</b></p> <p>18 <b>missing elements, or what you've identified as</b></p> <p>19 <b>variables, and it's your position that they</b></p> <p>20 <b>could change the disposition of the case. Am I</b></p> <p>21 <b>accurately restating your opinion?</b></p> <p>22       A. Yes.</p> <p>23       <b>Q. Would you agree with me that the fact</b></p> <p>24 <b>that an additional element, meaning an</b></p> | Page 227 | <p>1           <b>Q. Are you talking about one particular CR</b></p> <p>2 <b>investigation that was investigated by COPA in</b></p> <p>3 <b>relation to one of the plaintiffs in all of the</b></p> <p>4 <b>Watts cases?</b></p> <p>5       A. That's the one that I'm referring to</p> <p>6 that's in my report.</p> <p>7       <b>Q. Okay. Well, in your report on -- let</b></p> <p>8 <b>me ask you this: Direct me to where in your</b></p> <p>9 <b>report you're referring.</b></p> <p>10       A. Can you just search the word COPA and</p> <p>11 let's see where it comes up?</p> <p>12       <b>Q. Actually, let's just -- I'm going to</b></p> <p>13 <b>withdraw that question and ask you something</b></p> <p>14 <b>else.</b></p> <p>15       <b>Because in general, as a general</b></p> <p>16 <b>statement, you can't say that just because an</b></p> <p>17 <b>investigation is missing some what you call</b></p> <p>18 <b>"element," that it would necessarily change the</b></p> <p>19 <b>outcome of that investigation, correct?</b></p> <p>20       A. I can't say that it's definitive. I</p> <p>21 can say that it's possible.</p> <p>22       <b>Q. And you agreed earlier, or you would</b></p> <p>23 <b>agree with me now, that every investigation is</b></p> <p>24 <b>different, correct?</b></p> |
| Page 226 | <p>1 <b>additional investigative action, could change</b></p> <p>2 <b>the disposition is a speculative statement?</b></p> <p>3       MR. HILKE: Object to form.</p> <p>4       THE WITNESS: Yeah. Yes.</p> <p>5       BY MS. EKL:</p> <p>6       <b>Q. You can't say with any certainty that</b></p> <p>7 <b>if an additional investigative step had been</b></p> <p>8 <b>taken on any particular case that the</b></p> <p>9 <b>disposition would be different, correct?</b></p> <p>10       MR. HILKE: Object to form.</p> <p>11       THE WITNESS: Well, I think an illustrative</p> <p>12 example is the COPA investigation where they did</p> <p>13 a lot of reexamining the information that was</p> <p>14 available to them at the beginning. They went</p> <p>15 back and they got these witnesses, they examined</p> <p>16 the reports and things like that. That's one</p> <p>17 example. I don't know if there are any others</p> <p>18 or how many there may be.</p> <p>19       BY MS. EKL:</p> <p>20       <b>Q. When you say the "COPA investigation,"</b></p> <p>21 <b>what are you referring to?</b></p> <p>22       A. When COPA reinvestigated the allegation</p> <p>23 of the arrest that took place at two different</p> <p>24 places at two different times.</p>                    | Page 228 | <p>1       A. Well, what do you exactly mean by</p> <p>2 "different"?</p> <p>3       <b>Q. Allegations are different, evidence is</b></p> <p>4 <b>different, so what you have available to</b></p> <p>5 <b>investigate is going to be different in each</b></p> <p>6 <b>case, correct?</b></p> <p>7       A. Well, whether or not those things are</p> <p>8 available may differ, but the -- but the</p> <p>9 elements would be the same.</p> <p>10       So, in other words, you're going to</p> <p>11 canvass -- if you had two different excessive</p> <p>12 force complaints, you're still going to canvass</p> <p>13 the scene, you're still going to talk to the</p> <p>14 witnesses, you're still going to collect</p> <p>15 administrative reports, you're still going to</p> <p>16 interview the officers, things like that.</p> <p>17       Now, what you get from that may</p> <p>18 certainly differ across investigations.</p> <p>19       <b>Q. And may not change the outcome,</b></p> <p>20 <b>correct?</b></p> <p>21       A. They may -- they may both be sustained.</p> <p>22 They both -- they both may be unfounded, or one</p> <p>23 is sustained and one is exonerated. I mean, it</p> <p>24 could go a number of different ways based on how</p>  |

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| <p style="text-align: right;">Page 229</p> <p>1 the investigation plays itself out.</p> <p>2 <b>Q. Correct. So just because an</b></p> <p>3 <b>investigation may be missing an element, you</b></p> <p>4 <b>cannot say that there is any statistical or</b></p> <p>5 <b>other basis for finding a correlation that that</b></p> <p>6 <b>means that the outcome would have been different</b></p> <p>7 <b>if the element had been conducted -- or had</b></p> <p>8 <b>been --</b></p> <p>9 MR. HILKE: Object -- I'm sorry. Object to</p> <p>10 form, compound, vague.</p> <p>11 You can answer.</p> <p>12 THE WITNESS: No, and I said that. I said</p> <p>13 that -- if you look at the sentence that I have</p> <p>14 here, I said that it could change the</p> <p>15 disposition. I don't say that it definitively</p> <p>16 will.</p> <p>17 BY MS. EKL:</p> <p>18 <b>Q. On Page 33 and Page 36, you talk about</b></p> <p>19 <b>internal versus external sources. You have an</b></p> <p>20 <b>opinion that the sustained rate for internal</b></p> <p>21 <b>sources is -- these are your words -- higher</b></p> <p>22 <b>than expected.</b></p> <p>23 <b>And if you need me to pull it up, I</b></p> <p>24 <b>can.</b></p>                          | <p style="text-align: right;">Page 231</p> <p>1 I would expect that the -- the source</p> <p>2 of the allegation and the disposition are</p> <p>3 independent of one another. Where the</p> <p>4 disposition falls should not depend on the</p> <p>5 source.</p> <p>6 <b>Q. Well, would you agree that the higher</b></p> <p>7 <b>rate of sustaining internal complaints is not</b></p> <p>8 <b>unique to Chicago?</b></p> <p>9 A. Yeah, I think we did find some of that</p> <p>10 same -- same sort of finding in Atlantic City.</p> <p>11 <b>Q. Were you ever able to find any</b></p> <p>12 <b>departments that had lower rates internally</b></p> <p>13 <b>versus externally?</b></p> <p>14 A. Well, I haven't -- I haven't done this</p> <p>15 type of analysis. I don't know.</p> <p>16 <b>Q. Do you agree that it is well known that</b></p> <p>17 <b>internal complaints are sustained at a higher</b></p> <p>18 <b>rate than external complaints?</b></p> <p>19 A. What do you mean by "well known"?</p> <p>20 <b>Q. Within the literature, within the</b></p> <p>21 <b>community.</b></p> <p>22 A. I think that there's some empirical</p> <p>23 studies that probably find something similar.</p> <p>24 <b>Q. So what's the significance -- what's</b></p>  |
| <p style="text-align: right;">Page 230</p> <p>1 A. Okay. Please.</p> <p>2 <b>Q. So down at the bottom, Page 35, you</b></p> <p>3 <b>say, "If an allegation was generated from an</b></p> <p>4 <b>internal source, then the CPD investigators</b></p> <p>5 <b>recommended sustaining the allegation 42.8</b></p> <p>6 <b>percent of the time, which is higher than</b></p> <p>7 <b>expected."</b></p> <p>8 <b>Do you see where you said that?</b></p> <p>9 A. Yes.</p> <p>10 <b>Q. And when you say "internal source,"</b></p> <p>11 <b>you're basically saying -- are you referring to</b></p> <p>12 <b>like another police officer is the complainant</b></p> <p>13 <b>versus someone who is a citizen out on the</b></p> <p>14 <b>street? Is that what you mean by internal</b></p> <p>15 <b>versus external?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. Why do you expect the sustained rate to</b></p> <p>18 <b>be -- why did you -- why did you expect the</b></p> <p>19 <b>sustained rate for internal sources to be lower?</b></p> <p>20 A. I would expect that those things -- can</p> <p>21 you scroll up? I just want to see the table for</p> <p>22 a moment.</p> <p>23 I would expect -- no, the other</p> <p>24 direction. I'm sorry. Yeah.</p> | <p style="text-align: right;">Page 232</p> <p>1 <b>the statistical significance to rendering an</b></p> <p>2 <b>opinion in this case that internal sources have</b></p> <p>3 <b>a higher sustained rate than external if that is</b></p> <p>4 <b>something that is common?</b></p> <p>5 MR. HILKE: Just object to form, vague.</p> <p>6 You can answer.</p> <p>7 THE WITNESS: Well, I can only speak to this</p> <p>8 particular analysis that I did. And all things</p> <p>9 being equal, I don't know why the disposition</p> <p>10 would depend on the source.</p> <p>11 BY MS. EKL:</p> <p>12 <b>Q. Well, would you agree that internal</b></p> <p>13 <b>complainants are going to be more accessible</b></p> <p>14 <b>than external complainants?</b></p> <p>15 A. Maybe.</p> <p>16 <b>Q. And you would expect that an internal</b></p> <p>17 <b>complainant, a police officer, is going to have</b></p> <p>18 <b>a more -- a greater familiarity with policies</b></p> <p>19 <b>than a citizen.</b></p> <p>20 A. Well, not necessarily. Maybe. Maybe.</p> <p>21 <b>Q. Well, officers are trained on policies.</b></p> <p>22 <b>Whether or not every officer knows every policy</b></p> <p>23 <b>is a different story. But, in general, you</b></p> <p>24 <b>can't tell me that you think that citizens on</b></p> |

61 (Pages 229 to 232)



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| Page 233 | <p>1 the street have a better knowledge of policies</p> <p>2 than officers in the department, correct?</p> <p>3 A. Probably not, no.</p> <p>4 Q. Probably? Really?</p> <p>5 A. They probably do not, no.</p> <p>6 Q. Okay.</p> <p>7 A. I don't know that there are too many</p> <p>8 internal sources that are making complaints for</p> <p>9 things so egregious as excessive force and</p> <p>10 unlawful entry.</p> <p>11 Q. Well, when you're looking at the</p> <p>12 correlation between sustained rates and saying</p> <p>13 that they're higher for the internal sources, I</p> <p>14 thought the question was why -- why would you</p> <p>15 see those rates be higher than someone that is</p> <p>16 reporting things externally.</p> <p>17 Would you agree with me that someone in</p> <p>18 the department is going to be less motivated to</p> <p>19 provide a false complaint than someone that is</p> <p>20 external?</p> <p>21 MR. HILKE: Object to form.</p> <p>22 You can answer.</p> <p>23 THE WITNESS: I don't know about false</p> <p>24 complaint.</p>  | Page 235 | <p>1 transpired.</p> <p>2 Q. In contrast, a citizen on the street,</p> <p>3 you can't force them to come in and continue to</p> <p>4 pursue their complaint, correct?</p> <p>5 A. Correct.</p> <p>6 Q. To come to your conclusions in this</p> <p>7 example and in several others, you utilized a</p> <p>8 bivariate analysis, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And basically you have to -- bivariate</p> <p>11 analysis is looking at whether or not the reason</p> <p>12 is X or Y, correct?</p> <p>13 A. If we have a relationship between two</p> <p>14 things, yes.</p> <p>15 Q. Right. Right. Why not create a model</p> <p>16 that considered more factors?</p> <p>17 A. That's always -- that's always</p> <p>18 possible.</p> <p>19 Q. Why didn't you do it here?</p> <p>20 A. No particular reason.</p> <p>21 Q. I'm going to ask you some questions</p> <p>22 about an opinion you have on Page 30 that</p> <p>23 relates to your -- one second. Let's pull it</p> <p>24 up.</p>  |
| Page 234 | <p>1 BY MS. EKL:</p> <p>2 Q. Would you agree that a police officer</p> <p>3 who makes a complaint internally -- who is an</p> <p>4 internal complainant can be forced to</p> <p>5 participate in the -- in the investigation after</p> <p>6 making a complaint?</p> <p>7 A. Assuming that it's administrative. I</p> <p>8 mean, you can't be compelled to be a witness</p> <p>9 against yourself if it's a criminal allegation.</p> <p>10 Q. We're talking about the complainant.</p> <p>11 So I'm assuming no one is making a complaint</p> <p>12 against themselves and then refusing to --</p> <p>13 So I'm talking about Officer A makes a</p> <p>14 complaint against Officer B. Would you agree</p> <p>15 that Officer A can be compelled to give a</p> <p>16 statement and participate in the investigation</p> <p>17 of the complaint that they filed?</p> <p>18 A. I'm sorry. I misunderstood you. I</p> <p>19 thought you were talking about the other way</p> <p>20 around.</p> <p>21 Yeah, a person who makes a complaint</p> <p>22 from within the organization can be compelled to</p> <p>23 substantiate their complaint or at least lay out</p> <p>24 in a written report what they believe has</p> | Page 236 | <p>1 On Page 30 of your report, second</p> <p>2 paragraph, and this is in reference to Table 9,</p> <p>3 you say "shows the allegation categories based</p> <p>4 on frequency." And you say that, "eighty</p> <p>5 percent of the allegations emanate from 33</p> <p>6 percent of the categories." And you note that,</p> <p>7 "Excessive force is the leading allegation."</p> <p>8 Do you see that in your report?</p> <p>9 A. Yes.</p> <p>10 Q. Was that surprising to you, to make</p> <p>11 that finding?</p> <p>12 A. That excessive force was the leading</p> <p>13 allegation? Absolutely, yeah.</p> <p>14 Q. It was surprising? I'm sorry, did you</p> <p>15 say absolutely yes or no?</p> <p>16 A. Absolutely yes, yeah, yes.</p> <p>17 Q. So it's your opinion that excessive</p> <p>18 force being the leading allegation is unique to</p> <p>19 Chicago?</p> <p>20 MR. HILKE: Object to form.</p> <p>21 THE WITNESS: No, I can't say that. I can</p> <p>22 only say that given the comparison among all the</p> <p>23 other possible infractions that could occur out</p> <p>24 in the field, that it's hard -- it's hard to</p> |



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| Page 237 | <p>1 understand how excessive force continues to keep</p> <p>2 coming up.</p> <p>3 BY MS. EKL:</p> <p>4 <b>Q. Well, did you do any comparison of the</b></p> <p>5 <b>leading categories of complaints in Chicago in</b></p> <p>6 <b>this case, learning that it was excessive force,</b></p> <p>7 <b>in comparison to other departments of comparable</b></p> <p>8 <b>size?</b></p> <p>9 A. No, I didn't have data for other</p> <p>10 cities.</p> <p>11 <b>Q. So you don't know whether or not the</b></p> <p>12 <b>fact that excessive force is the leading</b></p> <p>13 <b>allegation really has any statistical</b></p> <p>14 <b>significance across other departments, correct?</b></p> <p>15 MR. HILKE: Object to form, vague.</p> <p>16 You can answer.</p> <p>17 THE WITNESS: What do you mean "statistical</p> <p>18 significance"? That it's not happening by</p> <p>19 chance alone?</p> <p>20 BY MS. EKL:</p> <p>21 <b>Q. Well, have you looked at any other</b></p> <p>22 <b>studies around the country that discuss the</b></p> <p>23 <b>prevalence of certain allegations?</b></p> <p>24 MR. HILKE: Object to form.</p>   | Page 239 | <p>1 saying is -- is excessive force meaningful</p> <p>2 compared to another major city. And I would say</p> <p>3 to you that -- so those things are different.</p> <p>4 You would have to have data on both cities, and</p> <p>5 you would have to run a model to determine</p> <p>6 whether it was statistically significant or not,</p> <p>7 meaning that it didn't happen by chance alone.</p> <p>8 But that's different than whether or</p> <p>9 not excessive force is a leading allegation in</p> <p>10 New York, Los Angeles, Detroit, and Chicago.</p> <p>11 That's -- that's a value judgment.</p> <p>12 I would find it troubling. If you're</p> <p>13 telling me that major cities across the country</p> <p>14 all suffer from the same thing, then policing is</p> <p>15 in worse shape than -- than we believe.</p> <p>16 <b>Q. But you don't know because you didn't</b></p> <p>17 <b>look at any other studies, correct?</b></p> <p>18 MR. HILKE: Object to form.</p> <p>19 You can answer.</p> <p>20 THE WITNESS: Although I didn't look at</p> <p>21 other cities, I do have data here in Chicago.</p> <p>22 The leading complaint could have been demeanor,</p> <p>23 it could have been unlawful entry, but it's not.</p> <p>24 It's excessive force.</p> |
| Page 238 | <p>1 THE WITNESS: I haven't looked at other</p> <p>2 cities. I don't have -- I don't have data for</p> <p>3 those cities like I do here.</p> <p>4 BY MS. EKL:</p> <p>5 <b>Q. Would you agree that if other cities of</b></p> <p>6 <b>comparable size have excessive force being their</b></p> <p>7 <b>leading allegation, then there's really no</b></p> <p>8 <b>statistical significance to excessive force</b></p> <p>9 <b>being the leading allegation in relation to CPD?</b></p> <p>10 MR. HILKE: Object to form.</p> <p>11 THE WITNESS: Let me -- let me rephrase what</p> <p>12 you're saying. Statistical significance is not</p> <p>13 the right terminology. I think what you're</p> <p>14 referring to is importance, meaningfulness,</p> <p>15 correct?</p> <p>16 BY MS. EKL:</p> <p>17 <b>Q. I'm talking about both.</b></p> <p>18 A. Well, statistical significance means</p> <p>19 something very specific in the social sciences.</p> <p>20 It means that you've analyzed a particular</p> <p>21 hypothesis at the .05 level that I showed you</p> <p>22 earlier and that the finding didn't happen by</p> <p>23 chance alone.</p> <p>24 That's a little bit different than</p> | Page 240 | <p>1 BY MS. EKL:</p> <p>2 <b>Q. You also note in that same table, in</b></p> <p>3 <b>Table 9, that demeanor is another leading</b></p> <p>4 <b>category at 19 percent, correct?</b></p> <p>5 A. Can you -- can you scroll down to the</p> <p>6 table? I just want to see the table.</p> <p>7 Yeah, that's another leading one, yeah.</p> <p>8 <b>Q. And, again, demeanor, we talked about</b></p> <p>9 <b>earlier, is not a category code that CPD uses,</b></p> <p>10 <b>correct?</b></p> <p>11 A. I don't know how they categorize their</p> <p>12 demeanor complaints, but I certainly know that</p> <p>13 it's demeanor based on the data that came from</p> <p>14 the CR files.</p> <p>15 <b>Q. You categorized it as demeanor and then</b></p> <p>16 <b>came up with the percent -- finding that the</b></p> <p>17 <b>percentage was almost 19 percent, correct?</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. Do you know of any other departments</b></p> <p>20 <b>that evaluate CRs using a demeanor category?</b></p> <p>21 A. I don't know that I could point to</p> <p>22 specific ones outside of Newark, but we did it</p> <p>23 all the time. Demeanor was one of the leading</p> <p>24 complaints of citizens in Newark.</p>   |

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| Page 241 | <p>1 <b>Q. Was it below -- was it a leading</b></p> <p>2 <b>complaint that was less than excessive force?</b></p> <p>3 A. No. I think demeanor complaints were</p> <p>4 higher than excessive force.</p> <p>5 <b>Q. Do you know for sure?</b></p> <p>6 A. Well, my time when I was there, the</p> <p>7 answer is yes.</p> <p>8 <b>Q. During what years was that?</b></p> <p>9 A. Well, 1989 to 2005.</p> <p>10 <b>Q. Do you remember who it was that</b></p> <p>11 <b>conducted the study to determine that demeanor</b></p> <p>12 <b>allegations were more prevalent than excessive</b></p> <p>13 <b>force?</b></p> <p>14 A. Well --</p> <p>15 MR. HILKE: Wait. Objection to form,</p> <p>16 foundation.</p> <p>17 You can answer.</p> <p>18 THE WITNESS: So the answer is, we did some</p> <p>19 of that in my division, and some of it was done</p> <p>20 by internal affairs.</p> <p>21 BY MS. EKL:</p> <p>22 <b>Q. On Page 31, the bottom of this page, in</b></p> <p>23 <b>Footnote 40, you say, "CPD made a conscious</b></p> <p>24 <b>decision to avoid thoroughly investigating those</b></p>   | Page 243 | <p>1 A. Well, I don't know what the individual</p> <p>2 CRs look like, but -- I'd have to go back to</p> <p>3 them. But, you know, for analysis purpose,</p> <p>4 there was 518 of them.</p> <p>5 <b>Q. You make several criticisms throughout</b></p> <p>6 <b>in general -- I'm not going to go through all of</b></p> <p>7 <b>them -- throughout the report about the</b></p> <p>8 <b>affidavit requirement, and you talk about that</b></p> <p>9 <b>somewhat on Pages 63 to 64. I guess I can jump</b></p> <p>10 <b>over there right now.</b></p> <p>11 I want to talk to you about that. On</p> <p>12 Page 63 you say, "Failure to fully investigate</p> <p>13 allegations of misconduct and the 'affidavit</p> <p>14 requirement.'"</p> <p>15 A. Can you just raise it a little, please?</p> <p>16 Zoom level I mean. I'm sorry. That's good.</p> <p>17 Thank you. Can I read this paragraph?</p> <p>18 <b>Q. I'd rather you just wait a moment here.</b></p> <p>19 <b>I have some specific questions to ask you. If</b></p> <p>20 <b>you need to reference it after I ask you the</b></p> <p>21 <b>questions, then you can, but --</b></p> <p>22 A. Okay.</p> <p>23 <b>Q. As a general matter, are you aware that</b></p> <p>24 <b>in Illinois during the relevant time period,</b></p> |
| Page 242 | <p>1 <b>allegations."</b></p> <p>2 <b>And if you need me to -- it's --</b></p> <p>3 A. What is Footnote 40 referring to? Let</p> <p>4 me just see.</p> <p>5 <b>Q. It's in Paragraph 4, Allegations by</b></p> <p>6 <b>Disposition. It says, "Table 11 shows</b></p> <p>7 <b>allegations by the disposition. Of the total</b></p> <p>8 <b>allegations, 4.6 received an initial recommended</b></p> <p>9 <b>disposition of 'sustained' from the</b></p> <p>10 <b>investigator; the remainder were not sustained,</b></p> <p>11 <b>not investigated, exonerated, unfounded, or</b></p> <p>12 <b>received another disposition or no disposition."</b></p> <p>13 A. Okay. So let me read the footnote.</p> <p>14 Okay.</p> <p>15 <b>Q. Can you explain what you mean by "CPD</b></p> <p>16 <b>made a conscious decision to avoid thoroughly</b></p> <p>17 <b>investigating those allegations"?</b></p> <p>18 A. Just that, that they had -- they had</p> <p>19 the allegation, they didn't investigate it. It</p> <p>20 was their decision not to investigate it and</p> <p>21 close it.</p> <p>22 <b>Q. What types of cases are you referring</b></p> <p>23 <b>to when you say that they made a conscious</b></p> <p>24 <b>decision to avoid thoroughly investigating?</b></p> | Page 244 | <p>1 <b>Illinois had a law, it was the Uniform Peace</b></p> <p>2 <b>Officers' Disciplinary Act, that required that</b></p> <p>3 <b>the complaint against a sworn peace officer be</b></p> <p>4 <b>accompanied by a sworn affidavit?</b></p> <p>5 A. I think that is the general language of</p> <p>6 the statute, but there's also -- there are also</p> <p>7 some exceptions to that. So the answer is yes,</p> <p>8 but it depends.</p> <p>9 <b>Q. Okay. So let's talk about that. So</b></p> <p>10 <b>first off, I'm going to pull up the Peace</b></p> <p>11 <b>Officers' Act from 2004. We can mark this as</b></p> <p>12 <b>Exhibit No. 12.</b></p> <p>13 <b>(Exhibit No. 12 was</b></p> <p>14 <b>introduced.)</b></p> <p>15 BY MS. EKL:</p> <p>16 <b>Q. Did you look at this act in the context</b></p> <p>17 <b>of your opinions?</b></p> <p>18 A. Can I see what you're referring to?</p> <p>19 <b>Q. I'm sorry. I thought you were looking</b></p> <p>20 <b>at it. There we go.</b></p> <p>21 A. Okay. Yes, I've seen this.</p> <p>22 <b>Q. And this is 50 ILCS 725/3.8.</b></p> <p>23 <b>And according to the statute, it's</b></p> <p>24 <b>talking about under Section B, "Anyone filing a</b></p>  |

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| <p style="text-align: right;">Page 245</p> <p>1 <b>complaint against a sworn peace officer must</b><br/> 2 <b>have the complaint supported by a sworn</b><br/> 3 <b>affidavit," correct?</b><br/> 4 A. Yes, it says that, yes.<br/> 5 <b>Q. And it was in effect as of January 1st</b><br/> 6 <b>of 2004, according to this statute, correct?</b><br/> 7 A. Yes.<br/> 8 MS. EKL: I'll mark this as exhibit No. 12.<br/> 9 MR. HILKE: Sorry. Wasn't that 12?<br/> 10 MS. EKL: That was 11. I'm sorry, you're<br/> 11 right. This will be 13. Thank you.<br/> 12 (Exhibit No. 13 was<br/> 13 introduced.)<br/> 14 BY MS. EKL:<br/> 15 <b>Q. The statute that I just showed you was</b><br/> 16 <b>superseded by this statute which adds some</b><br/> 17 <b>language to Paragraph B. So this paragraph also</b><br/> 18 <b>required that the complaint be filed -- or be</b><br/> 19 <b>accompanied by a sworn affidavit, but it gave</b><br/> 20 <b>additional language that, "Any complaint, having</b><br/> 21 <b>been supported by a sworn affidavit, and having</b><br/> 22 <b>been found, in total or in part, to contain</b><br/> 23 <b>knowingly false information, shall be presented</b><br/> 24 <b>to the appropriate State's Attorney's Office for</b></p> | <p style="text-align: right;">Page 247</p> <p>1 A. Yes.<br/> 2 <b>Q. And I believe you rendered an opinion</b><br/> 3 <b>that although state statute in general requires</b><br/> 4 <b>an affidavit, that CPD bargained away -- or</b><br/> 5 <b>CPD's collective bargaining agreement did not</b><br/> 6 <b>make it applicable, correct?</b><br/> 7 MR. HILKE: Object to form.<br/> 8 You can answer.<br/> 9 THE WITNESS: That's right, yes.<br/> 10 (Exhibit No. 15 was<br/> 11 introduced.)<br/> 12 BY MS. EKL:<br/> 13 <b>Q. I'm going to show you the collective</b><br/> 14 <b>bargaining agreement -- we'll mark this as 15 --</b><br/> 15 <b>from 2003 to 2007. This is an abstract of it,</b><br/> 16 <b>for the record. So it's CITY-BG-28384. Then it</b><br/> 17 <b>jumps to CITY-BG-28401 through 512. No, sorry.</b><br/> 18 <b>It's 28401 through 404, and then 28510 through</b><br/> 19 <b>512.</b><br/> 20 MR. HILKE: What exhibit will this be?<br/> 21 MS. EKL: This will be Exhibit 15.<br/> 22 MR. HILKE: Thanks.<br/> 23 BY MS. EKL:<br/> 24 <b>Q. Mr. Shane, you looked at this agreement</b></p>  |
| <p style="text-align: right;">Page 246</p> <p>1 <b>determination of prosecution," correct?</b><br/> 2 A. Yes.<br/> 3 <b>Q. And this statute went into effect,</b><br/> 4 <b>according to what I'm showing you, on</b><br/> 5 <b>August 22nd of 2011, correct?</b><br/> 6 A. Yes.<br/> 7 <b>Q. Okay. You referenced some exceptions,</b><br/> 8 <b>correct?</b><br/> 9 A. Yes, there were exceptions, yes.<br/> 10 (Exhibit No. 14 was<br/> 11 introduced.)<br/> 12 BY MS. EKL:<br/> 13 <b>Q. Okay. Showing you what I'll mark as</b><br/> 14 <b>Exhibit No. 14, which is the Statute 50 ILCS</b><br/> 15 <b>725/6. And it is titled Supersedure of</b><br/> 16 <b>provisions by collective bargaining agreements.</b><br/> 17 <b>Section 6 read, "The provisions of this act" --</b><br/> 18 <b>and it's referring to the Uniform Peace</b><br/> 19 <b>Officers' Disciplinary Act that we just looked</b><br/> 20 <b>at -- "apply only to the extent there is no</b><br/> 21 <b>collective bargaining agreement currently in</b><br/> 22 <b>effect dealing with the subject matter of this</b><br/> 23 <b>Act."</b><br/> 24 <b>Did I read that accurately?</b></p>   | <p style="text-align: right;">Page 248</p> <p>1 <b>as one of the documents in preparation for your</b><br/> 2 <b>report, correct?</b><br/> 3 MR. HILKE: You're not showing it again.<br/> 4 MS. EKL: Darn it. Thank you.<br/> 5 BY MS. EKL:<br/> 6 <b>Q. Okay. Are you able to see the document</b><br/> 7 <b>that I have on the screen?</b><br/> 8 A. Yes.<br/> 9 <b>Q. Okay. Did you look at this FOP</b><br/> 10 <b>agreement between the Fraternal Order of Police</b><br/> 11 <b>and City of Chicago? And this particular one is</b><br/> 12 <b>dated July 1st, 2003, to June 30th of 2007.</b><br/> 13 A. Yes.<br/> 14 <b>Q. Is it fair to say that despite the fact</b><br/> 15 <b>that state law requires an affidavit, the FOP</b><br/> 16 <b>and the Chicago Police Department entered into</b><br/> 17 <b>this agreement that states, under Section 6.1,</b><br/> 18 <b>"All complaints against an officer covered by</b><br/> 19 <b>this Agreement shall be processed in accordance</b><br/> 20 <b>with the procedures set forth in Appendix L"?</b><br/> 21 A. Okay. That reads that way.<br/> 22 <b>Q. Okay. Let me jump to Appendix L. And</b><br/> 23 <b>Appendix L specifically reads, "Affidavits in</b><br/> 24 <b>Disciplinary Investigations. No affidavit will</b></p> |

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| Page 249 | <p>1 be required in support of anonymous complaints</p> <p>2 of criminal conduct."</p> <p>3 And then it goes on to Bullet Point</p> <p>4 No. 5 to say, "A complaint which is supported by</p> <p>5 an affidavit will not require additional</p> <p>6 affidavits in support of additional allegations</p> <p>7 within the same complaint."</p> <p>8 In general, would you agree with me</p> <p>9 that this Appendix L allows for -- sorry. Hold</p> <p>10 on.</p> <p>11 Under No. 6, it says, "In all other</p> <p>12 cases, the Department will make a good faith</p> <p>13 effort to obtain an appropriate affidavit from</p> <p>14 the complainant within a reasonable time. An</p> <p>15 'appropriate affidavit' in the case of a citizen</p> <p>16 complainant is one where the complainant affirms</p> <p>17 under oath that the allegation(s) and</p> <p>18 statement(s) made by the complainant are true."</p> <p>19 And that agreement goes on to say on</p> <p>20 the next page, "When an appropriate affidavit</p> <p>21 cannot be obtained from a citizen complainant,</p> <p>22 the head of either OPS or IAD may sign an</p> <p>23 appropriate affidavit according to the following</p> <p>24 procedure. An 'appropriate affidavit' in the</p> | Page 251 | <p>1 A. Yes. And that evidence that you're</p> <p>2 referring to, some of those types are listed in</p> <p>3 No. 8 below.</p> <p>4 Q. Correct. Correct.</p> <p>5 A. Yeah.</p> <p>6 Q. Those things include things like</p> <p>7 videos, medical records, statements by witnesses</p> <p>8 and complainants, and photographs, correct?</p> <p>9 A. Yes, correct.</p> <p>10 Q. Doesn't allow -- it doesn't allow them</p> <p>11 to just proceed forward based on the word of a</p> <p>12 complainant, correct?</p> <p>13 MR. HILKE: Object to form.</p> <p>14 You can answer.</p> <p>15 THE WITNESS: You mean in the absence of an</p> <p>16 affidavit?</p> <p>17 BY MS. EKL:</p> <p>18 Q. In the absence of an affidavit,</p> <p>19 correct?</p> <p>20 MR. HILKE: Wait. Same objection to form.</p> <p>21 You can answer.</p> <p>22 THE WITNESS: In the absence of the</p> <p>23 affidavit, you would have to have some of this</p> <p>24 objective evidence that you're talking about.</p>   |
| Page 250 | <p>1 case of the head of either OPS or IAD is an</p> <p>2 affidavit wherein the agency head states he or</p> <p>3 she has reviewed objective verifiable evidence</p> <p>4 of the type listed below, the evidence (sic)</p> <p>5 will specify what evidence has been reviewed and</p> <p>6 in reliance upon that evidence, the agency head</p> <p>7 affirms that it is necessary and appropriate for</p> <p>8 the investigation to continue."</p> <p>9 You've read these paragraphs, correct,</p> <p>10 before today?</p> <p>11 A. Yes.</p> <p>12 Q. And have you heard them commonly</p> <p>13 referred to within -- well, actually, throughout</p> <p>14 the depositions as an affidavit override?</p> <p>15 A. I have, yes.</p> <p>16 Q. Would you agree with me that although</p> <p>17 state law requires an affidavit, in this</p> <p>18 particular case CPD actually bargained to allow</p> <p>19 them to move forward with investigations in</p> <p>20 certain circumstances?</p> <p>21 A. That's -- I'll agree with that, yes.</p> <p>22 Q. And that those circumstances required</p> <p>23 support by objective, verifiable evidence,</p> <p>24 correct?</p>   | Page 252 | <p>1 BY MS. EKL:</p> <p>2 Q. Are you aware of any other cities in</p> <p>3 Illinois, again during the time period when the</p> <p>4 statute was in effect that required an</p> <p>5 affidavit, that instituted an affidavit override</p> <p>6 similar to what Chicago did in their bargaining</p> <p>7 with the FOP?</p> <p>8 A. No, I am not.</p> <p>9 Q. When you were in Newark, what was the</p> <p>10 sustained rate when complainants did not</p> <p>11 cooperate?</p> <p>12 A. Forgive me, I don't know that level of</p> <p>13 detail. I don't know off the top of my head.</p> <p>14 Q. Do you know how it compares with any</p> <p>15 national sustained rate, if there is -- first</p> <p>16 off, do you know if there is a national</p> <p>17 sustained rate for when complainants don't</p> <p>18 cooperate?</p> <p>19 A. No, not with that level of detail, no.</p> <p>20 Q. Are you aware of any studies that</p> <p>21 reflect sustained rates when victims do not</p> <p>22 cooperate?</p> <p>23 A. No, not off the top of my head, no.</p> <p>24 Doesn't mean I haven't seen any. I just can't</p> |

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| Page 253 | <p>1 think of any right now.</p> <p>2 <b>Q. On Page 72 of your report, go back to</b></p> <p>3 <b>that. You talk about "Chicago Police</b></p> <p>4 <b>Department's Long-Term Notice of Poor Management</b></p> <p>5 <b>and Insufficient Investigations of Alleged</b></p> <p>6 <b>Misconduct," correct?</b></p> <p>7 A. Yes.</p> <p>8 <b>Q. Did you rely on any scientific data to</b></p> <p>9 <b>make -- to render your opinions that the Chicago</b></p> <p>10 <b>Police Department had poor management and</b></p> <p>11 <b>insufficient investigations of alleged</b></p> <p>12 <b>misconduct?</b></p> <p>13 MR. HILKE: Object to form, vague.</p> <p>14 You can answer.</p> <p>15 THE WITNESS: I pointed to various studies</p> <p>16 and I referenced those studies throughout the</p> <p>17 document.</p> <p>18 BY MS. EKL:</p> <p>19 <b>Q. You cite, for instance, on this page</b></p> <p>20 <b>the 1972 Metcalfe Report, correct? And that's</b></p> <p>21 <b>M-e-t-c-a-l-f-e.</b></p> <p>22 A. That's right, yes.</p> <p>23 <b>Q. And you state that according to the</b></p> <p>24 <b>Metcalfe Report, back at that time period up</b></p>   | Page 255 | <p>1 <b>in 2007, correct?</b></p> <p>2 A. Yes.</p> <p>3 <b>Q. And it was replaced by the Independent</b></p> <p>4 <b>Police Review Authority, also known as IPRA, or</b></p> <p>5 <b>I-P-R-A, correct?</b></p> <p>6 A. Yes.</p> <p>7 <b>Q. What is your understanding of the</b></p> <p>8 <b>purpose of IPRA?</b></p> <p>9 A. My understanding is that it is to serve</p> <p>10 as an -- excuse me, an investigative --</p> <p>11 independent investigative authority.</p> <p>12 <b>Q. Why was it created, to your knowledge?</b></p> <p>13 A. Well, I think if you look at the</p> <p>14 sentence right above that that ends the last</p> <p>15 paragraph -- that ends the first paragraph on</p> <p>16 that page, it says that, "OPS conducted sloppy</p> <p>17 investigations and they were vulnerable to</p> <p>18 pressure by the police union," and there's a</p> <p>19 Footnote 57. Let's take a quick look at 57.</p> <p>20 So what we say here is the report known</p> <p>21 as "Shielded from Justice: Police Brutality and</p> <p>22 Accountability in the United States. Chicago:</p> <p>23 Office of Professional Standards," that report</p> <p>24 "found that the disciplinary system was fraught</p>   |
| Page 254 | <p>1 <b>until 1972, that internal affair complaints were</b></p> <p>2 <b>almost universally rejected by the police</b></p> <p>3 <b>department's at that time self-investigation</b></p> <p>4 <b>system, correct?</b></p> <p>5 A. Yes.</p> <p>6 <b>Q. You would agree that at the point in</b></p> <p>7 <b>time when this self-investigation system was in</b></p> <p>8 <b>play, that was at a -- that was not during our</b></p> <p>9 <b>relevant time frame. That was a time period</b></p> <p>10 <b>before, correct?</b></p> <p>11 A. It is, correct.</p> <p>12 <b>Q. And you would agree that the city</b></p> <p>13 <b>responded to this report, and that by 1974, they</b></p> <p>14 <b>created the agency called the OPS, right, or the</b></p> <p>15 <b>Office of Professional Standards?</b></p> <p>16 A. I don't recall specifically if they</p> <p>17 created OPS as an outgrowth of the Metcalfe</p> <p>18 Report.</p> <p>19 <b>Q. What is your understanding of why OPS</b></p> <p>20 <b>was created?</b></p> <p>21 A. Probably to create an independent body</p> <p>22 to serve as a check and balance against the</p> <p>23 self-investigative system.</p> <p>24 <b>Q. On Page 73, you note that OPS dissolved</b></p> | Page 256 | <p>1 with long investigative delays, credibility</p> <p>2 issues with OPS staff, and rude staff, all of</p> <p>3 which contribute to a system that did not</p> <p>4 prioritize the complainant. The notion that OPS</p> <p>5 conducted 'sloppy investigations' is similar to</p> <p>6 what the data in the instant case reveal. Many</p> <p>7 investigations were incomplete and missing</p> <p>8 essential elements that rendered them</p> <p>9 unreliable," referring to Tables 45 to 58.</p> <p>10 <b>Q. You're just reading the footnote. I'm</b></p> <p>11 <b>asking you, what is your understanding of why</b></p> <p>12 <b>IPRA was created?</b></p> <p>13 A. For those reasons: Sloppy</p> <p>14 investigations, vulnerable to pressure. They</p> <p>15 dissolved OPS and created something new.</p> <p>16 <b>Q. And so would you agree that both the</b></p> <p>17 <b>action of changing from the self-investigation</b></p> <p>18 <b>system to OPS, and then later from OPS to IPRA,</b></p> <p>19 <b>were actions taken by the Chicago Police</b></p> <p>20 <b>Department at least to attempt to address</b></p> <p>21 <b>shortcomings that were identified by either</b></p> <p>22 <b>reports or other sources?</b></p> <p>23 MR. HILKE: Object to form, foundation.</p> <p>24 You can answer.</p> |



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| Page 257 | <p>1 THE WITNESS: Can you say that again? They</p> <p>2 were developed because of reports, did you say?</p> <p>3 BY MS. EKL:</p> <p>4 <b>Q. I'm saying -- sorry.</b></p> <p>5 <b>My question is: Would you agree that</b></p> <p>6 <b>these different systems were developed to try to</b></p> <p>7 <b>address any potential shortcomings in the prior</b></p> <p>8 <b>system?</b></p> <p>9 MR. HILKE: Object to form, foundation.</p> <p>10 You can answer.</p> <p>11 THE WITNESS: Yes, I think the iterations of</p> <p>12 that independent body were to address the</p> <p>13 shortcomings that were identified in those</p> <p>14 bodies, yes.</p> <p>15 BY MS. EKL:</p> <p>16 <b>Q. And it reflects actions by CPD to</b></p> <p>17 <b>improve or at least attempt to improve the</b></p> <p>18 <b>quality of the investigations, correct?</b></p> <p>19 MR. HILKE: Object to form, foundation.</p> <p>20 THE WITNESS: I don't know if I would say</p> <p>21 that it was CPD who created it. I think it was</p> <p>22 the city itself that created them.</p> <p>23 BY MS. EKL:</p> <p>24 <b>Q. You also reference farther down on this</b></p>   | Page 259 | <p>1 living in a cave not to -- not to have known</p> <p>2 about what happened here.</p> <p>3 I do agree with you, the intimate</p> <p>4 details of who, when, what, where, how, and why</p> <p>5 I'm not clear on. But, as a general theme, you</p> <p>6 know IPRA certainly came with some</p> <p>7 self-inflicted wounds that became publicly known</p> <p>8 at around this time.</p> <p>9 <b>Q. Would you agree that as a result of</b></p> <p>10 <b>this incident, there were criticisms to the</b></p> <p>11 <b>Chicago Police Department and its handling of</b></p> <p>12 <b>police discipline, at least in a general sense?</b></p> <p>13 <b>That was your understanding generally, correct?</b></p> <p>14 A. Yes, I would agree with that.</p> <p>15 <b>Q. And did you learn that as a result of</b></p> <p>16 <b>this incident, the city then took steps to form</b></p> <p>17 <b>the Police Accountability Task Force to look</b></p> <p>18 <b>into any potential shortfalls that were -- that</b></p> <p>19 <b>were present at that time?</b></p> <p>20 A. Yes, they did, yes. I think I</p> <p>21 reference that in here.</p> <p>22 <b>Q. You quote on Page 74, and I think</b></p> <p>23 <b>actually into 75, you quote some of the findings</b></p> <p>24 <b>or language in the Police Accountability Task</b></p> |
| Page 258 | <p>1 <b>page the 2015 incident involved Laquan McDonald,</b></p> <p>2 <b>correct?</b></p> <p>3 A. Yes, that's correct.</p> <p>4 <b>Q. You would agree that you have not</b></p> <p>5 <b>reviewed any investigative file related to that</b></p> <p>6 <b>particular case, correct?</b></p> <p>7 A. That's correct.</p> <p>8 <b>Q. And you -- do you also agree that you</b></p> <p>9 <b>don't have any basis to opine about the</b></p> <p>10 <b>particular incident or the officers involved in</b></p> <p>11 <b>that case?</b></p> <p>12 A. As it relates to this report, you mean?</p> <p>13 <b>Q. In relation to your report or any</b></p> <p>14 <b>opinions you're rendering in this case.</b></p> <p>15 A. Nothing more than what I've written</p> <p>16 here. I mean, I did not -- I did not review</p> <p>17 that investigation. I know that there was one</p> <p>18 officer that was sent to prison as a result of</p> <p>19 it. I mean, it's a national -- it's a national</p> <p>20 incident.</p> <p>21 For anybody in my position, you know,</p> <p>22 being a researcher, a scholar, a former police</p> <p>23 administrator, and a professor at a major urban</p> <p>24 university in New York City, you'd have to be</p> | Page 260 | <p>1 <b>Force Report, correct?</b></p> <p>2 A. Yes, I did.</p> <p>3 <b>Q. And you -- in particular, you also</b></p> <p>4 <b>reference in here Jerome Finnigan who was</b></p> <p>5 <b>involved in the incidents back leading up to</b></p> <p>6 <b>2006, correct?</b></p> <p>7 A. Wait. Say that again.</p> <p>8 <b>Q. Let me rephrase that.</b></p> <p>9 <b>At the bottom of Page 74, you reference</b></p> <p>10 <b>Officer Jerome Finnigan in relation to that</b></p> <p>11 <b>Police Accountability Task Force Report,</b></p> <p>12 <b>correct?</b></p> <p>13 A. Okay. Yes.</p> <p>14 <b>Q. And you have not personally conducted</b></p> <p>15 <b>any analysis of the complaints against Officer</b></p> <p>16 <b>Finnigan, correct?</b></p> <p>17 A. No. So -- well, I don't know -- I'm</p> <p>18 not sure if any of Finnigan's complaints or CR</p> <p>19 files came up in my -- in my selection.</p> <p>20 <b>Q. Do you know the nature of any of the</b></p> <p>21 <b>complaints against him?</b></p> <p>22 A. No, I don't recall.</p> <p>23 <b>Q. As you sit here right now, can you</b></p> <p>24 <b>speak to the quality of any particular</b></p>   |



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| Page 261 | <p>1 investigation of any complaint?</p> <p>2 A. Related to Finnigan?</p> <p>3 Q. Correct.</p> <p>4 A. Not off the top of my head, no. I</p> <p>5 would need more detail. No.</p> <p>6 Q. On the next page, on Page 75, you</p> <p>7 reference -- you cite to Corey Flagg's arrest.</p> <p>8 It says, "In 2005, another CPD officer, Corey</p> <p>9 Flagg," F-l-a-g-g, "was arrested for his part in</p> <p>10 a ring of five Englewood officers."</p> <p>11 What is the basis for your knowledge of</p> <p>12 Corey Flagg?</p> <p>13 A. Having been referenced in the report.</p> <p>14 Q. So that also came from that Police</p> <p>15 Accountability Task Force Report?</p> <p>16 A. Yes.</p> <p>17 Q. You state that Flagg received a number</p> <p>18 of lengthy suspensions during his career and was</p> <p>19 enrolled in the behavioral intervention program</p> <p>20 in 2003, correct?</p> <p>21 A. Where are you -- where are you reading</p> <p>22 from?</p> <p>23 Q. I'm looking at this paragraph --</p> <p>24 A. At the bottom. I'm sorry. Yeah, yes.</p> | Page 263 | <p>1 pending. Sorry, Jon, but just wait for a</p> <p>2 question.</p> <p>3 BY MS. EKL:</p> <p>4 Q. I have a couple questions regarding</p> <p>5 your opinions related to the early intervention</p> <p>6 systems, and then I want to take a quick break</p> <p>7 and find out where we are with time because I</p> <p>8 want to make sure I'm giving time to the</p> <p>9 co-defendants in this case.</p> <p>10 Let me just pull this up again real</p> <p>11 quick.</p> <p>12 At the bottom of Page 77, you say, "My</p> <p>13 review of the early intervention policies and</p> <p>14 the lack of evidence in discovery that early</p> <p>15 intervention was conducted in any effective or</p> <p>16 systematic manner is consistent with this later</p> <p>17 assessment."</p> <p>18 Did you review the city's early</p> <p>19 intervention policies in this case?</p> <p>20 A. I don't remember what those -- I don't</p> <p>21 remember what those policy numbers might be.</p> <p>22 And I might be conflating this case with Waddy</p> <p>23 and Maysonet that I've seen before. But I have</p> <p>24 seen the city's policies in the past, yes.</p>                |
| Page 262 | <p>1 I mean, yes, I wrote that, yes.</p> <p>2 Q. And, again, this information just comes</p> <p>3 straight out of the Police Accountability Task</p> <p>4 Force Report, correct?</p> <p>5 A. It does. It supports my position that</p> <p>6 there were -- there's a long history of these</p> <p>7 sorts of things that we're encountering.</p> <p>8 Q. Well, you also acknowledge in the</p> <p>9 following paragraph that police corruption cases</p> <p>10 in Chicago are not commonplace, correct?</p> <p>11 MR. HILKE: Object to form, foundation.</p> <p>12 You can answer.</p> <p>13 THE WITNESS: That's not my language.</p> <p>14 That's from the report.</p> <p>15 BY MS. EKL:</p> <p>16 Q. Oh, that language is from the report,</p> <p>17 okay. So the report itself acknowledges that</p> <p>18 police corruption cases in Chicago are not</p> <p>19 common?</p> <p>20 A. Yes.</p> <p>21 Q. Okay.</p> <p>22 A. So what I want to do is take -- you put</p> <p>23 it down already.</p> <p>24 MR. HILKE: I'm not sure there's a question</p>                   | Page 264 | <p>1 Q. Well, I'll represent to you that the</p> <p>2 policies that you may have seen, if they were in</p> <p>3 Waddy, would be the same policies that would</p> <p>4 apply in this case in relation to the early</p> <p>5 intervention systems.</p> <p>6 Would you agree that the city did, in</p> <p>7 fact, have policies that dealt with or that</p> <p>8 included early intervention systems?</p> <p>9 A. They did have policies in place, yes.</p> <p>10 Q. And you are not making findings here</p> <p>11 today in your report that any of those written</p> <p>12 policies were inconsistent with any national</p> <p>13 standards, correct?</p> <p>14 A. Not the policy itself, no.</p> <p>15 Q. Your criticism is with the application</p> <p>16 of those policies, is that fair to say?</p> <p>17 A. Yes, that's fair.</p> <p>18 Q. What do you rely upon in order to</p> <p>19 formulate your criticism with the application of</p> <p>20 those policies?</p> <p>21 A. The discovery record in the case here.</p> <p>22 (Simultaneous speaking.)</p> <p>23 A. Just what it says right here in this</p> <p>24 paragraph, that I didn't see any evidence how</p> |

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| Page 265 | <p>1 early intervention was implemented. I didn't</p> <p>2 see any reports, any improvement plans. I</p> <p>3 didn't see people enrolled in the behavioral</p> <p>4 concerns program. I didn't see reassignment to</p> <p>5 supervisors. I didn't see additional training.</p> <p>6 I didn't see anything that flagged this</p> <p>7 particular officer and then put a plan in place</p> <p>8 to monitor this officer consistent with what an</p> <p>9 early warning system is intended to do and what</p> <p>10 we would consider closing the loop.</p> <p>11 So, in other words, the loop would be</p> <p>12 that complaints were generated, an early warning</p> <p>13 system notation was generated by the internal</p> <p>14 system. Someone then reviewed those flags and</p> <p>15 brought that officer in for counseling, an</p> <p>16 improvement plan, referral to the behavioral</p> <p>17 concerns program, and then monitored that</p> <p>18 officer, retrained the officer until the loop</p> <p>19 was closed where you could consider that officer</p> <p>20 having successfully completed an improvement</p> <p>21 plan.</p> <p>22 <b>Q. You admit you have not reviewed all the</b></p> <p>23 <b>discovery in this case, correct?</b></p> <p>24 A. Well, I don't want to say "all." I can</p> | Page 267 | <p>1 <b>documents, correct?</b></p> <p>2 MR. HILKE: Same objection.</p> <p>3 THE WITNESS: Well, I'm not inferring beyond</p> <p>4 that. I'm referring to what I reviewed.</p> <p>5 BY MS. EKL:</p> <p>6 <b>Q. So when you say -- sorry. I didn't</b></p> <p>7 <b>mean to interrupt you.</b></p> <p>8 A. I'm merely saying that the evidence</p> <p>9 that I've been presented with does not support</p> <p>10 how an early intervention system would be</p> <p>11 applied or should be applied, is the better</p> <p>12 word.</p> <p>13 <b>Q. So your language "there's no evidence</b></p> <p>14 <b>in discovery," really what you mean is there's</b></p> <p>15 <b>no evidence that you've been provided to support</b></p> <p>16 <b>whatever it is that you're referring to.</b></p> <p>17 A. Yes. Just to be clear, you're right,</p> <p>18 I'm referring to the discovery materials that</p> <p>19 I've reviewed.</p> <p>20 <b>Q. Okay. Did you see anything one way or</b></p> <p>21 <b>the other in relation to the application of the</b></p> <p>22 <b>early inter- -- early intervention system,</b></p> <p>23 <b>excuse me, in this case?</b></p> <p>24 A. I don't remember seeing anything</p>   |
| Page 266 | <p>1 say that I reviewed what I was given and the</p> <p>2 documents that you see here.</p> <p>3 <b>Q. That's what I'm saying. You can't</b></p> <p>4 <b>represent that you've been provided with every</b></p> <p>5 <b>single piece of paper that's been exchanged in</b></p> <p>6 <b>discovery in this case, correct?</b></p> <p>7 A. I think that's probably fair.</p> <p>8 <b>Q. Throughout your report you say on</b></p> <p>9 <b>several occasions, you say there's no evidence</b></p> <p>10 <b>in discovery, just as you did a couple minutes</b></p> <p>11 <b>ago.</b></p> <p>12 Are you making the assumption, based on</p> <p>13 what you've been told about the discovery record</p> <p>14 by plaintiffs' counsel, that the information</p> <p>15 doesn't exist?</p> <p>16 MR. HILKE: Thank you. Object to form and</p> <p>17 foundation.</p> <p>18 You can answer.</p> <p>19 THE WITNESS: Yes, I'm making the</p> <p>20 determination based on the documents that I</p> <p>21 reviewed in discovery.</p> <p>22 BY MS. EKL:</p> <p>23 <b>Q. And you're making an assumption that</b></p> <p>24 <b>the information does not exist in any other</b></p>   | Page 268 | <p>1 related to that. It's possible that I did, I</p> <p>2 just don't recall.</p> <p>3 MS. EKL: Why don't we take like five</p> <p>4 minutes. I want to go offline. I want to find</p> <p>5 out how much time we have left, and I want to</p> <p>6 make sure that I'm giving everyone else time and</p> <p>7 I can streamline. I may just have a couple more</p> <p>8 questions left, or maybe not, but I just want to</p> <p>9 make sure I'm giving everyone time.</p> <p>10 (Short recess taken.)</p> <p>11 BY MS. EKL:</p> <p>12 <b>Q. On Page 83 of your report, which I will</b></p> <p>13 <b>bring up in just a second, you have criticisms</b></p> <p>14 <b>related to CPD's policies governing confidential</b></p> <p>15 <b>investigations. Could you explain to me in your</b></p> <p>16 <b>own words, without just reading straight from</b></p> <p>17 <b>the report, what your criticism is of CPD's</b></p> <p>18 <b>policies in relation to confidential</b></p> <p>19 <b>investigations?</b></p> <p>20 A. Well, let me just take a read through</p> <p>21 this. Can you scroll -- yeah, right there,</p> <p>22 please. Can you go to the next page? Okay.</p> <p>23 And your question again was?</p> <p>24 <b>Q. What are your criticisms of CPD's</b></p> |

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| Page 269 | <p>1 <b>policies as they relate to confidential</b></p> <p>2 <b>investigations?</b></p> <p>3 A. Well, if you -- if you refer back to</p> <p>4 the previous page, I laid out that there's a</p> <p>5 policy -- well, let me back up a step.</p> <p>6 A policy is intended to describe what</p> <p>7 is to be done. A procedure describes how it's</p> <p>8 to be done. So what is to be done is a</p> <p>9 confidential investigation. And the policies</p> <p>10 that they have promulgated talk very little</p> <p>11 about what exactly it is that they want or how</p> <p>12 to do it, the procedure elements of it.</p> <p>13 And you can see what I've written here</p> <p>14 refers me back to Moore's deposition that he,</p> <p>15 himself, has said that there was wide</p> <p>16 latitude -- he didn't say the words "wide</p> <p>17 latitude." He said that the department had the</p> <p>18 discretion to investigate leaks of confidential</p> <p>19 information or not to do so.</p> <p>20 And that's my general criticism. If</p> <p>21 you're leaking information related to a</p> <p>22 confidential investigation that could jeopardize</p> <p>23 someone's life, the police department should</p> <p>24 have a policy in place about how to deal with</p> | Page 271 | <p>1 <b>accepted standards or policies are you referring</b></p> <p>2 <b>to in this paragraph?</b></p> <p>3 A. I'm referring to the standard by which</p> <p>4 policies and procedures are developed. You'll</p> <p>5 notice that in many of the other policies that</p> <p>6 the police department has, they describe what is</p> <p>7 to be done and how it is to be carried out. And</p> <p>8 that's how -- that's how policies are crafted.</p> <p>9 <b>Q. So you can't identify a confidential</b></p> <p>10 <b>investigation policy that's required on the --</b></p> <p>11 <b>is nationally accepted that is different from</b></p> <p>12 <b>the policy that we have, correct?</b></p> <p>13 A. Although I'm not sure if there's a</p> <p>14 policy on confidential investigations per se, I</p> <p>15 can tell you that the internal affairs policy by</p> <p>16 the IACP implies that investigations are to be</p> <p>17 confidential regardless, and if there are leaks</p> <p>18 that come out of those things, that those leaks</p> <p>19 should be investigated.</p> <p>20 <b>Q. What is your understanding of what</b></p> <p>21 <b>constitutes a confidential investigation?</b></p> <p>22 MR. HILKE: Sorry. Object to form.</p> <p>23 You can answer.</p> <p>24 THE WITNESS: Confidential investigation is</p> |
| Page 270 | <p>1 those sorts of things, how to conduct a</p> <p>2 confidential investigation, and what to do in</p> <p>3 the event that that information is compromised.</p> <p>4 <b>Q. How is it that CPD's confidential</b></p> <p>5 <b>investigation policies failed to meet accepted</b></p> <p>6 <b>standards? So how did -- how did -- what</b></p> <p>7 <b>accepted standards are you referring to and how</b></p> <p>8 <b>did CPD's policies differ?</b></p> <p>9 A. Well, that's exactly what I'm saying.</p> <p>10 A policy lays out what is to be done, and a</p> <p>11 procedure lays out how it is to be done.</p> <p>12 The policy doesn't -- the policies that</p> <p>13 we're talking about here in this particular</p> <p>14 paragraph don't lay out what is to be done and</p> <p>15 how -- let me rephrase that.</p> <p>16 The policy doesn't lay out what they</p> <p>17 mean by confidential investigation and a</p> <p>18 procedure for how that investigation is to be</p> <p>19 carried out.</p> <p>20 <b>Q. My question --</b></p> <p>21 A. Particularly regarding the leaks in</p> <p>22 this sort of thing.</p> <p>23 <b>Q. My question was, what -- because I</b></p> <p>24 <b>think I did ask a compound question. What</b></p>                             | Page 272 | <p>1 one that is not widely known to the other</p> <p>2 members of the organization, that have</p> <p>3 confidential numbers assigned to them but no</p> <p>4 details. So if someone were to look at a</p> <p>5 complaint registry file, you might see that CR</p> <p>6 number 12345 was actually drawn for an</p> <p>7 investigation, but in its place, it will say</p> <p>8 "confidential investigation." There's a tighter</p> <p>9 level of integrity around those kinds of</p> <p>10 investigations than ordinary internal affairs</p> <p>11 files.</p> <p>12 <b>Q. When you say a tighter level of -- you</b></p> <p>13 <b>said tighter level of -- I'm sorry, of what?</b></p> <p>14 A. A tighter level of integrity around</p> <p>15 them, yes.</p> <p>16 <b>Q. Would you expect confidential</b></p> <p>17 <b>investigations would be known to a smaller group</b></p> <p>18 <b>of people than other investigations?</b></p> <p>19 A. Yes.</p> <p>20 <b>Q. Within the organization, correct?</b></p> <p>21 A. Within the entire organization and</p> <p>22 within the division itself.</p> <p>23 <b>Q. In this particular case, would you</b></p> <p>24 <b>agree that it is pure speculation that any</b></p>   |

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| <p style="text-align: right;">Page 273</p> <p>1 <b>information was leaked regarding Wilbert Moore?</b></p> <p>2 A. Can you back up and let me see what I</p> <p>3 have written on the previous page?</p> <p>4 <b>Q. Do you recall who Wilbert Moore is?</b></p> <p>5 A. Yeah, he was -- he was somebody in</p> <p>6 Ida B. Wells that was killed. I don't remember</p> <p>7 all the details surrounding it, but I believe he</p> <p>8 was shot and killed.</p> <p>9 <b>Q. According to your report, Wilbert Moore</b></p> <p>10 <b>was also known as Big Shorty, correct?</b></p> <p>11 A. Yeah, I believe I read that in -- don't</p> <p>12 hold me to it, but I think it was either an ATF</p> <p>13 report or DEA report. I thought it was an ATF</p> <p>14 report.</p> <p>15 <b>Q. Wilbert Moore was a drug dealer,</b></p> <p>16 <b>correct?</b></p> <p>17 A. I believe the answer is yes.</p> <p>18 <b>Q. And are you referring to an ATF report</b></p> <p>19 <b>that speculated that information had been leaked</b></p> <p>20 <b>about Wilbert Moore working with Sergeant Watts?</b></p> <p>21 MR. HILKE: Object to form.</p> <p>22 You can answer.</p> <p>23 THE WITNESS: I don't -- I don't know if</p> <p>24 they speculated.</p> | <p style="text-align: right;">Page 275</p> <p>1 You can answer.</p> <p>2 THE WITNESS: I don't know that it directly</p> <p>3 affects Baker and Glenn. I would have to think</p> <p>4 more hard about that. But I think it plays into</p> <p>5 the broader failure of the CPD's enforcement of</p> <p>6 their own policies.</p> <p>7 MS. EKL: Based on our earlier conversation,</p> <p>8 I'm going to reserve -- if there's any time left</p> <p>9 at the end, I may have a couple additional</p> <p>10 questions, but I want to make sure that the</p> <p>11 other counsel have time. So I'm going to pass</p> <p>12 on to them. Thank you.</p> <p>13 MR. ZECCHIN: I know I have questions so how</p> <p>14 about if I go? Will that work?</p> <p>15 MR. HILKE: Yep.</p> <p>16 EXAMINATION</p> <p>17 BY MR. ZECCHIN:</p> <p>18 <b>Q. Dr. Shane, first a question I want to</b></p> <p>19 <b>ask you about is in your report -- do you have a</b></p> <p>20 <b>copy of your report in front of you?</b></p> <p>21 A. No, I do not.</p> <p>22 <b>Q. Okay. Then I'll share my screen with</b></p> <p>23 <b>you. Hold on one second.</b></p> <p>24 A. Okay.</p>                                     |
| <p style="text-align: right;">Page 274</p> <p>1 BY MS. EKL:</p> <p>2 <b>Q. Is it your belief that leaked</b></p> <p>3 <b>information led to Wilbert Moore being shot and</b></p> <p>4 <b>killed?</b></p> <p>5 A. Yes.</p> <p>6 MR. HILKE: Object to form.</p> <p>7 Go ahead.</p> <p>8 THE WITNESS: That was my interpretation,</p> <p>9 yes.</p> <p>10 BY MS. EKL:</p> <p>11 <b>Q. Okay. So did you not see FBI reports</b></p> <p>12 <b>that talked about the Hobos Street Gang being</b></p> <p>13 <b>arrested and convicted for the killing of</b></p> <p>14 <b>Wilbert Moore?</b></p> <p>15 A. I don't remember those reports. I</p> <p>16 don't remember seeing that.</p> <p>17 <b>Q. Even if we take as true that CPD had</b></p> <p>18 <b>insufficient policies in relation to</b></p> <p>19 <b>confidential investigations that somehow led to</b></p> <p>20 <b>the leaking of information in relation to Watts</b></p> <p>21 <b>working with Wilbert Moore, how does any alleged</b></p> <p>22 <b>failure of the policies or how did it cause any</b></p> <p>23 <b>harm to Baker and Glenn in this case?</b></p> <p>24 MR. HILKE: Object to form.</p>   | <p style="text-align: right;">Page 276</p> <p>1 <b>Q. Hold on one second.</b></p> <p>2 <b>Can you see the screen in front of you,</b></p> <p>3 <b>my screen that I'm sharing?</b></p> <p>4 A. Yes.</p> <p>5 <b>Q. Okay.</b></p> <p>6 A. You're sharing Page 94?</p> <p>7 <b>Q. Yes. Okay. Great. Is it scrolling</b></p> <p>8 <b>down now?</b></p> <p>9 A. Yes. Up I guess is the other way.</p> <p>10 <b>Q. It's moving, correct?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. Okay. So I want to first go over to</b></p> <p>13 <b>Page 65. My first question for you is, looking</b></p> <p>14 <b>at this Footnote No. 53 at the bottom of 65, do</b></p> <p>15 <b>you see where I'm looking at?</b></p> <p>16 A. You're looking at Footnote 53?</p> <p>17 <b>Q. Correct. Do you see that?</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. Okay. And it states, "The Cook County</b></p> <p>20 <b>State's Attorney's Office promulgated a list of</b></p> <p>21 <b>CPD Brady/Giglio officers that they cannot call</b></p> <p>22 <b>to testify because of their dishonesty."</b></p> <p>23 <b>That document you reviewed -- and I can</b></p> <p>24 <b>bring it up for you -- what about that document</b></p> |

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| <p style="text-align: right;">Page 277</p> <p>1 <b>led you to the conclusion about dishonesty?</b></p> <p>2 A. Well, that's what -- that's what</p> <p>3 Brady/Giglio refers to. If you've been -- if</p> <p>4 you've been placed on a list like that, your</p> <p>5 candor and your honesty are what preclude you --</p> <p>6 or your lack of candor and honesty are what</p> <p>7 preclude you from testifying in court.</p> <p>8 <b>Q. Well, Brady specifically refers to a</b></p> <p>9 <b>failure to turn over exculpatory evidence to the</b></p> <p>10 <b>defense, isn't that correct?</b></p> <p>11 A. Yeah. And the evidence that we're</p> <p>12 talking about would be internal affairs files</p> <p>13 related to integrity or honesty and things like</p> <p>14 that.</p> <p>15 <b>Q. So yeah. You're lumping the honesty</b></p> <p>16 <b>part of it, though. The Brady component of it</b></p> <p>17 <b>actually pertains to disclosure of documents to</b></p> <p>18 <b>the defense, correct?</b></p> <p>19 MR. HILKE: Object. Just objection to form.</p> <p>20 You can answer it, Jon.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. ZECCHIN:</p> <p>23 <b>Q. And on that document, if you recall, it</b></p> <p>24 <b>also says "subject to change," correct?</b></p> | <p style="text-align: right;">Page 279</p> <p>1 <b>there's a way for the State's Attorney's Office</b></p> <p>2 <b>to reconsider this?</b></p> <p>3 A. Although that's possible, it's my</p> <p>4 understanding that it would be added to.</p> <p>5 <b>Q. Okay. So your interpretation of this</b></p> <p>6 <b>is that "subject to change" means they could add</b></p> <p>7 <b>more people, not remove them from the list?</b></p> <p>8 A. I suppose it could go in either</p> <p>9 direction. But I think that once you're on the</p> <p>10 list, I'm not -- I'm not quite sure how you</p> <p>11 would get off the list.</p> <p>12 <b>Q. Okay. But either way, you would agree</b></p> <p>13 <b>that it could be on-the-list or off-the-list</b></p> <p>14 <b>situation depending on the facts of the State's</b></p> <p>15 <b>Attorney's review, correct?</b></p> <p>16 A. I suppose that's possible.</p> <p>17 <b>Q. I'm going to go back to your report.</b></p> <p>18 <b>Okay, sir?</b></p> <p>19 A. Sure. Sure. Can you raise the zoom</p> <p>20 level just a little bit, please?</p> <p>21 <b>Q. Sure. How is that? Better?</b></p> <p>22 A. Maybe one more. Yeah, that's good.</p> <p>23 <b>Q. Sure. I'm going to a statement you</b></p> <p>24 <b>make on Page 71. You see it's Paragraph 6?</b></p> |
| <p style="text-align: right;">Page 278</p> <p>1 A. On the -- on this one here with the</p> <p>2 Bates number on it?</p> <p>3 <b>Q. The list that you reviewed. I can</b></p> <p>4 <b>bring the list up for you, if you'd like.</b></p> <p>5 A. If you would, that would be helpful. I</p> <p>6 don't remember what it says, exactly what you're</p> <p>7 talking about.</p> <p>8 <b>Q. I'm going to be honest here. I'm going</b></p> <p>9 <b>to have to get rid of this and bring the other</b></p> <p>10 <b>one up because I don't know how to bring up two</b></p> <p>11 <b>screens at once. So give me a moment, please.</b></p> <p>12 A. Okay.</p> <p>13 <b>Q. Okay. Can you see what I have up on</b></p> <p>14 <b>the screen now, Dr. Shane?</b></p> <p>15 A. Yeah. Let me just -- yes.</p> <p>16 <b>Q. And if you look after the Brady/Giglio</b></p> <p>17 <b>do not call list, there's an asterisk. Do you</b></p> <p>18 <b>see this?</b></p> <p>19 A. Yes.</p> <p>20 <b>Q. At the bottom of this page, there's an</b></p> <p>21 <b>asterisk that says "subject to change." Do you</b></p> <p>22 <b>see that?</b></p> <p>23 A. Yes, I do.</p> <p>24 <b>Q. So does that suggest to you that</b></p>  | <p style="text-align: right;">Page 280</p> <p>1 A. Okay.</p> <p>2 <b>Q. And you state, "There is no evidence</b></p> <p>3 <b>the officers submit reports accounting for their</b></p> <p>4 <b>actions separately without conferring on a</b></p> <p>5 <b>common story with each other beforehand."</b></p> <p>6 <b>Did I read that correctly?</b></p> <p>7 A. Yes, I did.</p> <p>8 <b>Q. So in this case you're saying there's a</b></p> <p>9 <b>lack of evidence, rather than affirmative</b></p> <p>10 <b>evidence, supporting this statement. Is that a</b></p> <p>11 <b>correct assessment of what you said there?</b></p> <p>12 A. I'm saying that I haven't reviewed</p> <p>13 anything that indicated that the officers, when</p> <p>14 they're submitting administrative reports, do so</p> <p>15 in a manner that controls their ability to</p> <p>16 confer on a common story.</p> <p>17 <b>Q. So when you say there's the ability to</b></p> <p>18 <b>confer, you're saying that they could confer</b></p> <p>19 <b>because there's nothing saying they can't</b></p> <p>20 <b>confer?</b></p> <p>21 MR. HILKE: Object to the form.</p> <p>22 You can answer.</p> <p>23 THE WITNESS: I'm saying that I haven't seen</p> <p>24 any mechanism that holds them from doing that.</p>                     |



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| <p style="text-align: right;">Page 281</p> <p>1 So let me give you an example. One way</p> <p>2 to prevent that from happening is not to send a</p> <p>3 preformatted list of questions via e-mail to the</p> <p>4 officers beforehand. The better way to do it is</p> <p>5 to bring them into the office and one by one</p> <p>6 talk to them individually and have them prepare</p> <p>7 their reports then and there.</p> <p>8 BY MR. ZECCHIN:</p> <p>9 <b>Q. So is your -- is this statement,</b></p> <p>10 <b>Paragraph 6 on Page 71 of your report, is that</b></p> <p>11 <b>limited to investigations into allegations of</b></p> <p>12 <b>misconduct, not reports that are being written</b></p> <p>13 <b>in connection with an arrest?</b></p> <p>14 A. Yeah, I'm talking about administrative</p> <p>15 reports regarding misconduct, yes.</p> <p>16 <b>Q. Okay. So you're -- basically you're</b></p> <p>17 <b>saying that because there's nothing that</b></p> <p>18 <b>prevents them from doing this, that that, in</b></p> <p>19 <b>your opinion, is a shortcoming?</b></p> <p>20 A. I'm saying that the internal affairs</p> <p>21 division doesn't control that like they should.</p> <p>22 That's what I'm saying. And because of that, if</p> <p>23 an officer is accused of criminal or -- a</p> <p>24 criminal infraction or an administrative</p> | <p style="text-align: right;">Page 283</p> <p>1 <b>Q. Okay. So with regard to the -- from</b></p> <p>2 <b>reading the reports in this case, did you ever</b></p> <p>3 <b>serve in the capacity that's similar to what was</b></p> <p>4 <b>being conducted in these cases?</b></p> <p>5 A. Yes. I would say those two elements</p> <p>6 that I mentioned to you are relatively similar,</p> <p>7 yes, special enforcement and TARGET.</p> <p>8 <b>Q. And how long did you serve in those</b></p> <p>9 <b>capacities? Was it a predetermined set of time</b></p> <p>10 <b>or was it an occasional time based on</b></p> <p>11 <b>assignments?</b></p> <p>12 A. Well, it's listed in my CV.</p> <p>13 Let me back up a second. So when you</p> <p>14 say how much time did I spend in those</p> <p>15 assignments, are you referring to -- and then</p> <p>16 you mentioned something else based on</p> <p>17 assignment. I'm not clear on what you mean.</p> <p>18 <b>Q. Well, in some instances, you know,</b></p> <p>19 <b>officers maybe get assigned, for example, to a</b></p> <p>20 <b>SWAT team as opposed to being a regular patrol</b></p> <p>21 <b>officer for -- maybe for six months and then</b></p> <p>22 <b>they go back to their normal assignment.</b></p> <p>23 <b>So I'm asking -- in this case, what I'm</b></p> <p>24 <b>asking you about is, did you serve for a</b></p> |
| <p style="text-align: right;">Page 282</p> <p>1 infraction, that when internal affairs doesn't</p> <p>2 control that, it enables the officers to confer</p> <p>3 beforehand and develop a common story instead of</p> <p>4 getting clean, independent recollections of</p> <p>5 their story.</p> <p>6 <b>Q. So in the documents you reviewed in</b></p> <p>7 <b>this case, you saw no evidence, though, of</b></p> <p>8 <b>officers conferring beforehand to get a similar</b></p> <p>9 <b>story, did you?</b></p> <p>10 MR. HILKE: Object to form.</p> <p>11 You can answer.</p> <p>12 THE WITNESS: No, I can't say that I can</p> <p>13 point to anything where it actually occurred. I</p> <p>14 can only point to the process.</p> <p>15 BY MR. ZECCHIN:</p> <p>16 <b>Q. And, Dr. Shane, when you were on the</b></p> <p>17 <b>job, did you ever work as a narcotics officer?</b></p> <p>18 A. I did not work in the narcotics</p> <p>19 division. I did narcotics work at the district</p> <p>20 and citywide level in those elements that I</p> <p>21 mentioned earlier, special enforcement, which</p> <p>22 was the precinct-based plain clothes team, and</p> <p>23 then the citywide team which was known as</p> <p>24 TARGET.</p>   | <p style="text-align: right;">Page 284</p> <p>1 <b>consistent amount of time like as an officer on</b></p> <p>2 <b>the TARGET team, for example, or was it</b></p> <p>3 <b>something that is in addition to another</b></p> <p>4 <b>responsibility you had as a police officer?</b></p> <p>5 A. Oh, okay, I see your point.</p> <p>6 So in the beginning when I was first</p> <p>7 assigned to the precinct, which was my first</p> <p>8 assignment, that was August of 1989, I was first</p> <p>9 assigned to uniformed motor patrol. And in that</p> <p>10 precinct, the one I'm telling you about, in that</p> <p>11 precinct, I then moved into a plain clothes</p> <p>12 capacity which was known as special enforcement</p> <p>13 during my time in that precinct.</p> <p>14 So from that -- from that time, I then</p> <p>15 went to a specialized division known as TARGET</p> <p>16 and spent time there before I went to the</p> <p>17 research and planning division for the first</p> <p>18 time.</p> <p>19 <b>Q. And --</b></p> <p>20 A. And let me just add to that. I want to</p> <p>21 make sure I'm answering you thoroughly. When</p> <p>22 you were talking about like kind of splitting</p> <p>23 your time between sort of an operational element</p> <p>24 and an administrative element, when I was</p>   |



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| <p style="text-align: right;">Page 285</p> <p>1 working in the -- in the planning division, the</p> <p>2 research and planning division, we were</p> <p>3 responsible for developing the emergency</p> <p>4 response team in the Newark Police Department.</p> <p>5 So we designed the policies, we created the</p> <p>6 training structure, everything related to it,</p> <p>7 and because of that, we were allowed to apply to</p> <p>8 become members of that team.</p> <p>9 Now, that team was what was known then</p> <p>10 as a part-time team. The Newark Police</p> <p>11 Department did not have a full-time SWAT</p> <p>12 element. Our SWAT team was known as the</p> <p>13 emergency response team, and you would serve in</p> <p>14 your ordinary, everyday capacity. And then if</p> <p>15 there was -- let's say there was a preplanned</p> <p>16 search warrant, the team would assemble and do</p> <p>17 that. If after work you went home, you know,</p> <p>18 the day finished at 5:00 and 9:00 at night there</p> <p>19 was a hostage situation or something, you would</p> <p>20 be paged out and you would come back in.</p> <p>21 <b>Q. Okay. And what percentage of the cases</b></p> <p>22 <b>when you were on the TARGET team were involved</b></p> <p>23 <b>in narcotics arrests or narcotics</b></p> <p>24 <b>investigations?</b></p>  | <p style="text-align: right;">Page 287</p> <p>1 supervision."</p> <p>2 <b>The list of investigative techniques</b></p> <p>3 <b>you list up there under the e.g., the undercover</b></p> <p>4 <b>operations, surveillance locations, secrecy,</b></p> <p>5 <b>search warrants, reverse sting operations, and</b></p> <p>6 <b>buying narcotics, those are all legitimate</b></p> <p>7 <b>investigative techniques that are used by</b></p> <p>8 <b>narcotics officers, correct?</b></p> <p>9 A. Yes, they are.</p> <p>10 <b>Q. And are you saying that the officers</b></p> <p>11 <b>who are involved in those for some reason are</b></p> <p>12 <b>going to be pushed towards engaging in dishonest</b></p> <p>13 <b>conduct?</b></p> <p>14 A. I'm saying that their exposure to</p> <p>15 chronic elements of those things, chronic</p> <p>16 exposure to guns and drugs all related to</p> <p>17 secrecy and working with informants, makes them</p> <p>18 more prone to succumbing to those temptations</p> <p>19 than other elements of the police department</p> <p>20 which is what requires additional supervision.</p> <p>21 <b>Q. Do you have any studies that have found</b></p> <p>22 <b>that? I didn't see any cited in this portion of</b></p> <p>23 <b>your report. Can you point me to the studies</b></p> <p>24 <b>that you rely on for that statement?</b></p> |
| <p style="text-align: right;">Page 286</p> <p>1 A. I don't know that I could put a firm</p> <p>2 number on something like that. There was a</p> <p>3 great mix of things, street surveillance related</p> <p>4 to narcotics, street surveillance related to gun</p> <p>5 possession, buying guns. We were working with</p> <p>6 the FBI on a joint bank robbery task force. So</p> <p>7 there was a mix of different things that were</p> <p>8 going on at that time. I mean, I really</p> <p>9 don't -- I really don't know the percentages.</p> <p>10 <b>Q. Okay. That's okay. If you do, you do.</b></p> <p>11 <b>If you don't, you don't. No big deal.</b></p> <p>12 <b>Now, I want to go to Page 79 bleeding</b></p> <p>13 <b>over into 80. It's up on the screen. The part</b></p> <p>14 <b>I want to ask you about is starting on 79 where</b></p> <p>15 <b>it says, and going onto 80, "The tactics that</b></p> <p>16 <b>must be used to enforce drug laws create an</b></p> <p>17 <b>impetus toward dishonesty (e.g., undercover</b></p> <p>18 <b>operations, surveillance operations (sic),</b></p> <p>19 <b>secrecy, search warrants, reverse sting</b></p> <p>20 <b>operations, buying narcotics). Police officers</b></p> <p>21 <b>assigned to tactical narcotics enforcement are</b></p> <p>22 <b>exposed to corruption hazards more frequently</b></p> <p>23 <b>and to a greater degree than other elements of</b></p> <p>24 <b>the police department, which requires additional</b></p> | <p style="text-align: right;">Page 288</p> <p>1 A. Yeah. I think I have some. Right</p> <p>2 there in the footnote above you in 64. Can you</p> <p>3 just come down a little bit and let me see what</p> <p>4 64 is related to?</p> <p>5 <b>Q. Sure.</b></p> <p>6 A. Hold right there for a moment, please.</p> <p>7 Yeah, so Footnote 64 are some of the</p> <p>8 studies that reference those things, and I think</p> <p>9 that goes down onto the next page. I think the</p> <p>10 footnote goes to the bottom of 80.</p> <p>11 <b>Q. And do you know which jurisdictions</b></p> <p>12 <b>were being studied in those reports you cited in</b></p> <p>13 <b>that footnote?</b></p> <p>14 A. No, I don't, no.</p> <p>15 <b>Q. Do you know if they were -- if they</b></p> <p>16 <b>were specifically looking at larger metropolitan</b></p> <p>17 <b>departments or smaller or mid-sized? Do you</b></p> <p>18 <b>have any knowledge of what those reports were</b></p> <p>19 <b>specifically looking at department-wise?</b></p> <p>20 A. I don't remember off the top of my</p> <p>21 head, no.</p> <p>22 <b>Q. And is there any other area of police</b></p> <p>23 <b>work that -- where the officers in that area are</b></p> <p>24 <b>subject to the same vulnerabilities or</b></p>   |

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| <p style="text-align: right;">Page 289</p> <p>1     <b>temptations, for example, like a person who is</b><br/> 2     <b>an undercover hit man?</b><br/> 3     A. Yeah, someone that's deep undercover.<br/> 4     Someone that works in vice because vice is<br/> 5     related to gambling, prostitution, alcohol.<br/> 6     Those assignments are often corruption prone.<br/> 7     <b>Q. Any other ones you can think of?</b><br/> 8     A. Auto theft, auto squad.<br/> 9     <b>Q. And is it your opinion that every</b><br/> 10    <b>person who works on a narcotics team is</b><br/> 11    <b>susceptible to these type of temptations, or do</b><br/> 12    <b>you ever consider the fact that an individual's</b><br/> 13    <b>moral character -- moral and character, you</b><br/> 14    <b>know, are something you have to also consider</b><br/> 15    <b>when looking at whether or not they're going to</b><br/> 16    <b>go that direction?</b><br/> 17    MR. HILKE: Wait. Just object to form.<br/> 18    You can answer.<br/> 19    THE WITNESS: The answer is that they're<br/> 20    exposed to those things. Now, whether they<br/> 21    succumb to those temptations or not, it's very<br/> 22    difficult to tell. I mean, police officers<br/> 23    undergo integrity training. You know, that --<br/> 24    that's why -- that's why the International</p> | <p style="text-align: right;">Page 291</p> <p>1           I remember being -- I remember being<br/> 2    the subject of what I perceived as an integrity<br/> 3    test in the same radio car that was used by<br/> 4    another team because the -- one of the people --<br/> 5    one of the officers on the other team was being<br/> 6    looked at. And that officer was ultimately<br/> 7    discharged from the department. In fact, his<br/> 8    partner I believe was also terminated for drug<br/> 9    use.<br/> 10   <b>Q. Okay.</b><br/> 11    A. They were working in the same precinct<br/> 12    in the same -- in the same assignment at the<br/> 13    same time that I was.<br/> 14    <b>Q. And now I'm looking on Page 80. It</b><br/> 15    <b>should be right in front of you, Subparagraph A,</b><br/> 16    <b>Involvement with illicit drugs. I want to go</b><br/> 17    <b>down to the second sentence --</b><br/> 18    <b>(Reporter clarification.)</b><br/> 19    BY MR. ZECCHIN:<br/> 20    <b>Q. So going back to Subparagraph A,</b><br/> 21    <b>Involvement with illicit drugs, it says,</b><br/> 22    <b>"Working closely with narcotics exposes officers</b><br/> 23    <b>to the illegal drug trade. The presence of</b><br/> 24    <b>large quantities of drugs, drug proceeds (i.e.,</b></p>   |
| <p style="text-align: right;">Page 290</p> <p>1    Association of Chiefs of Police have also come<br/> 2    out with a command rotation policy because they<br/> 3    know that officers are exposed to these things<br/> 4    and there is a temptation where that can happen.<br/> 5    BY MR. ZECCHIN:<br/> 6    <b>Q. So it's a preventative thing rather</b><br/> 7    <b>than something that's going to happen</b><br/> 8    <b>automatically. Is that fair to say?</b><br/> 9    A. Oh, absolutely. I mean, we can't say<br/> 10   that's automatically going to happen.<br/> 11        I mean, look, I will tell you right<br/> 12   here, right now, I'm under oath, and I -- I<br/> 13   didn't even take a free lemonade from anybody<br/> 14   because it was not my character. It was not my<br/> 15   nature. And I had no interest in that. I was<br/> 16   never motivated to do those sorts of things.<br/> 17        But meanwhile, I worked with a lot of<br/> 18   guys that did succumb to that.<br/> 19   <b>Q. How many would you estimate during your</b><br/> 20   <b>career did you see go down that path?</b><br/> 21    A. A number of officers went down that<br/> 22   path. I don't know if I can put a number on it.<br/> 23   I can name people that began stealing drugs,<br/> 24   using drugs.</p>   | <p style="text-align: right;">Page 292</p> <p>1   <b>cash, vehicles, weapons), and interactions with</b><br/> 2   <b>drug traffickers leave officers vulnerable to</b><br/> 3   <b>bribery, theft, drug-related offenses (i.e.,</b><br/> 4   <b>planting drugs; fabricating evidence;</b><br/> 5   <b>fabricating official reports; fabricating</b><br/> 6   <b>testimony under oath; selling drugs; conducting</b><br/> 7   <b>unlawful searches)."</b><br/> 8        <b>Did I read that correctly, sir?</b><br/> 9    A. Yes, correct. Yes, you did.<br/> 10   <b>Q. So when you're saying that, are you</b><br/> 11   <b>saying that by simply being on a narcotics team,</b><br/> 12   <b>that is something that will potentially affect</b><br/> 13   <b>the officer serving in that capacity?</b><br/> 14    A. What I'm saying is that officers<br/> 15   working in a narcotics capacity will be exposed<br/> 16   to those things more so than an officer in a<br/> 17   radio car and that they're vulnerable to<br/> 18   those -- to those things more so than an<br/> 19   officer, say, in a uniform capacity.<br/> 20   <b>Q. I guess I have a specific question.</b><br/> 21   <b>It's regarding the drug-related offenses portion</b><br/> 22   <b>of that sentence where it says i.e., and it</b><br/> 23   <b>lists planting drugs, fabricating evidence,</b><br/> 24   <b>et cetera. Are you saying that the officers on</b></p> |

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| Page 293 | <p>1 <b>the team would engage in that conduct or they're</b></p> <p>2 <b>going to be around that conduct being engaged?</b></p> <p>3 A. A little bit of both.</p> <p>4 <b>Q. Okay. So what would be the incentive</b></p> <p>5 <b>for an officer to fabricate evidence or</b></p> <p>6 <b>fabricate an official report?</b></p> <p>7 A. The intrinsic pressure to successfully</p> <p>8 conclude investigations that are given to you.</p> <p>9 The narcotics trade is a difficult one</p> <p>10 to penetrate. It's an intractable problem in</p> <p>11 many, many urban cities across the country,</p> <p>12 Newark being one of them, given my own personal</p> <p>13 experience. The city's awash in narcotics.</p> <p>14 And there's social pressure from the</p> <p>15 community and political pressure to alleviate</p> <p>16 the drug problem. People don't want to see drug</p> <p>17 dealers plying their trade and all the things</p> <p>18 that come with drug use such as gunfire and</p> <p>19 fighting and out-of-towners coming in to buy</p> <p>20 narcotics, prostitution. They don't want these</p> <p>21 things in their neighborhood. And so there's an</p> <p>22 intrinsic pressure to alleviate the drug</p> <p>23 problem.</p> <p>24 <b>Q. So did you read anything or review any</b></p> | Page 295 | <p>1 <b>correct? If you know.</b></p> <p>2 A. I don't know that it's a newspaper. I</p> <p>3 mean, I think it was some sort of publication.</p> <p>4 <b>Q. Well, it's not the same type of</b></p> <p>5 <b>publication like an official study commissioned</b></p> <p>6 <b>by a city or the federal government, correct?</b></p> <p>7 A. No. I think that's true.</p> <p>8 <b>Q. Okay. So aside from what you said, is</b></p> <p>9 <b>there any other motivation that would get --</b></p> <p>10 <b>that would make an officer involved in narcotics</b></p> <p>11 <b>actually engage in any of these kind of -- these</b></p> <p>12 <b>types of activities you list here? Anything</b></p> <p>13 <b>else?</b></p> <p>14 MR. HILKE: Object to form.</p> <p>15 Go ahead.</p> <p>16 THE WITNESS: I'm sorry.</p> <p>17 MR. HILKE: Go ahead.</p> <p>18 THE WITNESS: Did you get that out, Wally?</p> <p>19 MR. HILKE: I just said object to form.</p> <p>20 THE WITNESS: Okay. I'm sorry. There's a</p> <p>21 personal financial temptation. There's also</p> <p>22 personal career advancement.</p> <p>23 BY MR. ZECCHIN:</p> <p>24 <b>Q. Did you see anything any reports that</b></p>  |
| Page 294 | <p>1 <b>reports or documents in this case that suggested</b></p> <p>2 <b>or stated that there was intrinsic pressure or</b></p> <p>3 <b>pressure from the public in Chicago in early</b></p> <p>4 <b>2000s regarding the drug trade, or are you</b></p> <p>5 <b>speaking in a general sense about the drug trade</b></p> <p>6 <b>and the public response to it?</b></p> <p>7 MR. HILKE: Object to form.</p> <p>8 You can answer.</p> <p>9 THE WITNESS: I mean, I'm speaking</p> <p>10 generally, my knowledge of, you know, major</p> <p>11 urban U.S. cities. That's number one. My</p> <p>12 exposure to police professionals from major</p> <p>13 urban cities, Chicago being one of them over the</p> <p>14 course of my time.</p> <p>15 And there were -- there was -- there</p> <p>16 was a report that I read -- I'll think about the</p> <p>17 name of it now. The Intercept Report, I believe</p> <p>18 it was called, that dealt with the Ida B. Wells</p> <p>19 Homes and many of the conditions that were</p> <p>20 present at that time. Very, very, very similar</p> <p>21 to what we faced in Newark.</p> <p>22 BY MR. ZECCHIN:</p> <p>23 <b>Q. So when you talk about the Intercept</b></p> <p>24 <b>article, that's a newspaper or publication,</b></p>   | Page 296 | <p>1 <b>you reviewed that tied the number of arrests or</b></p> <p>2 <b>testifying in court to any type of promotion,</b></p> <p>3 <b>rise in the ranks?</b></p> <p>4 A. Not that I can recall, no.</p> <p>5 <b>Q. Now, I want to ask you some questions</b></p> <p>6 <b>about the material that you reviewed in this --</b></p> <p>7 <b>and I can go back to the materials reviewed, but</b></p> <p>8 <b>you might know off the top of your head.</b></p> <p>9 <b>When you say that you read COPA reports</b></p> <p>10 <b>and closure memos, are you saying you read the</b></p> <p>11 <b>entirety of the COPA investigation or just the</b></p> <p>12 <b>reports that you cite to specifically in your</b></p> <p>13 <b>report that you drafted in this case?</b></p> <p>14 MR. HILKE: Objection to form, foundation.</p> <p>15 You can answer.</p> <p>16 THE WITNESS: I'm referring to the reports</p> <p>17 that I saw that are related -- that are cited in</p> <p>18 my report here.</p> <p>19 BY MR. ZECCHIN:</p> <p>20 <b>Q. Okay. So if you reviewed and relied on</b></p> <p>21 <b>them, they would be cited to in your report,</b></p> <p>22 <b>correct?</b></p> <p>23 A. Yes.</p> <p>24 <b>Q. And you relied on closure memos for</b></p> |

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| Page 297 | <p>1 some of those log numbers, correct?</p> <p>2 A. Are you referring to COPA?</p> <p>3 Q. Correct, yes, COPA, I'm sorry.</p> <p>4 A. The log memos. That sounds familiar.</p> <p>5 Q. I'm sorry, sir, it's closure memos for</p> <p>6 certain logs.</p> <p>7 A. Closure memos. That sounds -- that</p> <p>8 sounds familiar. I mean, I can't point to</p> <p>9 anything specific. It doesn't jump out.</p> <p>10 Q. Let me go to your materials reviewed</p> <p>11 and maybe you can see what you wrote and that</p> <p>12 might indicate to you what you looked at.</p> <p>13 Okay. If you could take a look at</p> <p>14 No. 6, Dr. Shane. See where it says COPA</p> <p>15 reports and administrative closure memos?</p> <p>16 A. Yes.</p> <p>17 Q. And so what I was asking you about is,</p> <p>18 you reviewed those closure memos, and then any</p> <p>19 reports you reviewed, you would have included</p> <p>20 them in the citations within your opinion,</p> <p>21 correct?</p> <p>22 A. Well, I did -- I think I did mention</p> <p>23 the COPA report in my document.</p> <p>24 Q. As you see, there's one, two, three,</p> | Page 299 | <p>1 themselves. The report did.</p> <p>2 Q. Did you review any of the statements</p> <p>3 that were given to COPA by officers in that --</p> <p>4 in that investigation?</p> <p>5 A. I don't remember the statement itself,</p> <p>6 but there were -- there were references to</p> <p>7 statements in the COPA report.</p> <p>8 Q. So what you were reviewing was</p> <p>9 essentially like a summary or a citation to</p> <p>10 statements that you did not read. Is that an</p> <p>11 accurate way to put it?</p> <p>12 A. I think that's accurate, yes.</p> <p>13 Q. Is there any reason you wouldn't read</p> <p>14 the statements themselves yourself so that you</p> <p>15 could see exactly how the questions were asked</p> <p>16 for context, at least, and the answers for</p> <p>17 context?</p> <p>18 A. No, there's no reason why I didn't look</p> <p>19 at them, no.</p> <p>20 Q. So when you're reviewing that 30-page</p> <p>21 report and the closure memo, you're relying on,</p> <p>22 essentially, the version of the investigation</p> <p>23 that COPA is putting forth in those reports</p> <p>24 exclusively, correct?</p>                             |
| Page 298 | <p>1 four -- there's five different log numbers. So</p> <p>2 the report -- what do you define a report as?</p> <p>3 What do you consider the report to be that you</p> <p>4 listed here?</p> <p>5 A. I saw a report by COPA. It was -- I</p> <p>6 want to say 30 pages, or 34-, 35-page report,</p> <p>7 reinvestigating the two places at two times</p> <p>8 arrest.</p> <p>9 Q. Okay.</p> <p>10 A. And that's what I'm referring to as the</p> <p>11 COPA report.</p> <p>12 Q. Okay. So you're referring to that</p> <p>13 30-page document. And then was the</p> <p>14 administrative closure memo part of that 30-page</p> <p>15 document you reviewed?</p> <p>16 A. No. Those were separate, I believe.</p> <p>17 Q. So the 30-page COPA report and then the</p> <p>18 administrative closure memo as well, those are</p> <p>19 the two things you reviewed, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And do you recall those both pertained</p> <p>22 to the Baker/Glenn investigation?</p> <p>23 A. Well, the report itself did, but I</p> <p>24 don't remember about the closure memos</p>  | Page 300 | <p>1 A. Yes.</p> <p>2 Q. Now, on Page 91 of your report -- I'm</p> <p>3 just going to keep this up, if you don't mind.</p> <p>4 If you want me to take it down for some reason,</p> <p>5 let me know, but it's probably easier to do it</p> <p>6 this way, okay?</p> <p>7 A. Okay.</p> <p>8 Q. So on Page 91 -- sorry, starting on 90,</p> <p>9 this is -- Roman Numeral X on Page 90, you</p> <p>10 referenced the arrest from December 11th, 2005,</p> <p>11 in this paragraph. Do you see it? It starts,</p> <p>12 "If CPD had a properly functioning." Do you see</p> <p>13 that?</p> <p>14 A. Yes.</p> <p>15 Q. And then if you go to the second</p> <p>16 sentence in that paragraph, it says, "A striking</p> <p>17 example of this is found in the simultaneous</p> <p>18 arrest of suspects at 574 E. 36th Street and 511</p> <p>19 East Browning Avenue on December 11th, 2005."</p> <p>20 Now, I'm going to go to the next page,</p> <p>21 and this is part of your report that it appears</p> <p>22 was taken from a COPA report. If you look at</p> <p>23 the time of arrest for 511 East Browning, it</p> <p>24 says 12:12, and the time of arrest at 574 East</p> |

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| <p style="text-align: right;">Page 301</p> <p>1     <b>36th Street is 12:08. So that's not the exact</b><br/> 2     <b>same time, correct?</b><br/> 3         A. That's not the exact time, is that what<br/> 4     you're saying, those two times?<br/> 5         <b>Q. Yes. They're different, correct?</b><br/> 6         A. Yes.<br/> 7         <b>Q. So when people use the word</b><br/> 8     <b>"simultaneous," it typically means at the same</b><br/> 9     <b>time, doesn't it?</b><br/> 10        A. I think depending on how you -- in its<br/> 11     context it could mean that or, you know, closely<br/> 12     related thereto.<br/> 13        <b>Q. So you use the word "simultaneous" to</b><br/> 14     <b>mean close in time, not at the same time?</b><br/> 15        A. I generally use it to mean at the same<br/> 16     time. But I've seen in situations where they<br/> 17     say that something happened simultaneously, you<br/> 18     know, a minute here or a minute there.<br/> 19        <b>Q. So you would -- would you agree with me</b><br/> 20     <b>that in this case one could use the word</b><br/> 21     <b>"simultaneous" as you have, but one could also</b><br/> 22     <b>say they're not simultaneous arrests. They're</b><br/> 23     <b>equally valid ways of assessing the time, aren't</b><br/> 24     <b>they?</b></p> | <p style="text-align: right;">Page 303</p> <p>1     <b>correct?</b><br/> 2         MR. HILKE: Object to form.<br/> 3         You can answer.<br/> 4         THE WITNESS: Yeah, I don't recall seeing<br/> 5     any level of greater detail than this.<br/> 6     BY MR. ZECCHIN:<br/> 7         <b>Q. And so from that -- from what you</b><br/> 8     <b>reviewed, you don't know where Officer Jones was</b><br/> 9     <b>at when he made the observations of either what</b><br/> 10    <b>was going on by the 527 building -- I'm sorry,</b><br/> 11    <b>the 574 building or at the 5 --</b><br/> 12        A. 531?<br/> 13        <b>Q. Yeah, at the 511 East Browning</b><br/> 14    <b>building, correct?</b><br/> 15        MR. HILKE: Same objection.<br/> 16        THE WITNESS: That's right. I don't know<br/> 17    where he was physically situated.<br/> 18    BY MR. ZECCHIN:<br/> 19        <b>Q. And now I'm on Page 93. I'm about four</b><br/> 20    <b>lines down the middle. And in that, sentence,</b><br/> 21    <b>you said, "He tried to explain, 'we got the</b><br/> 22    <b>times wrong. I don't know who. I don't know</b><br/> 23    <b>how.'" Do you see that part there?</b><br/> 24        A. Yes, I see that.</p>                                  |
| <p style="text-align: right;">Page 302</p> <p>1         MR. HILKE: Object to form.<br/> 2         You can answer.<br/> 3         THE WITNESS: You mean because one happened<br/> 4     at 12:08 and one happened at 12:12 that they<br/> 5     happened simultaneously?<br/> 6     BY MR. ZECCHIN:<br/> 7         <b>Q. What I'm saying is a reasonable person</b><br/> 8     <b>could say that's not simultaneous just as much</b><br/> 9     <b>as a reasonable person could say they're</b><br/> 10    <b>simultaneous. Is that fair?</b><br/> 11        A. I think that's probably accurate.<br/> 12        <b>Q. And if you go to the next page, it's</b><br/> 13    <b>going to be the picture here, and I believe I</b><br/> 14    <b>could -- I have to make it a little smaller, but</b><br/> 15    <b>do you recall that circle, the red circle in the</b><br/> 16    <b>upper corner indicates the surveillance points</b><br/> 17    <b>that Officer Jones was at during this arrest?</b><br/> 18        A. Yes.<br/> 19        <b>Q. It's a fairly large area, would you</b><br/> 20    <b>agree, that was circled there?</b><br/> 21        A. Yes.<br/> 22        <b>Q. And there's nothing that you reviewed</b><br/> 23    <b>that pinpointed his location any more -- with</b><br/> 24    <b>any more specificity than this big red circle,</b></p>           | <p style="text-align: right;">Page 304</p> <p>1         <b>Q. Now, the citation after that is the</b><br/> 2    <b>summary report, correct?</b><br/> 3        A. Yes.<br/> 4        <b>Q. That would be the -- what you relied on</b><br/> 5    <b>for that quote, correct?</b><br/> 6        A. Yes.<br/> 7        <b>Q. So you did not review the</b><br/> 8    <b>question-answer exchange between the COPA</b><br/> 9    <b>investigators and Officer Jones to know what</b><br/> 10   <b>preceded and what followed that, or if there was</b><br/> 11   <b>any effort to explain himself any further. Is</b><br/> 12   <b>that correct?</b><br/> 13        MR. HILKE: Objection, asked and answered.<br/> 14        You can answer.<br/> 15        THE WITNESS: Yeah, that is -- I didn't look<br/> 16    at the statements themselves. I'm relying on<br/> 17    the summary report itself.<br/> 18    BY MR. ZECCHIN:<br/> 19        <b>Q. So it's fair to say that the universe</b><br/> 20    <b>of knowledge you have with regard to that</b><br/> 21    <b>specific line is going to be based on what COPA</b><br/> 22    <b>put in their summary report, not the</b><br/> 23    <b>question-answer exchange between COPA and</b><br/> 24    <b>Officer Jones, correct?</b></p> |



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| Page 305 | <p>1 MR. HILKE: Object to form.</p> <p>2 You can answer.</p> <p>3 THE WITNESS: Yeah, I'm relying on what they</p> <p>4 wrote in the summary report, yeah.</p> <p>5 BY MR. ZECCHIN:</p> <p>6 <b>Q. So did you do any independent analysis</b></p> <p>7 <b>of the COPA investigation with regard to the</b></p> <p>8 <b>officer's actions in this case?</b></p> <p>9 MR. HILKE: Object to form.</p> <p>10 THE WITNESS: What do you mean by</p> <p>11 "independent analysis"?</p> <p>12 BY MR. ZECCHIN:</p> <p>13 <b>Q. Well, when you cite to the COPA summary</b></p> <p>14 <b>report, are you accepting what is contained in</b></p> <p>15 <b>the summary report as true? Or did you do</b></p> <p>16 <b>anything -- review any other documents to verify</b></p> <p>17 <b>if what they were saying was, in fact, accurate?</b></p> <p>18 A. I accept what they have in there as</p> <p>19 accurate.</p> <p>20 <b>Q. And would you agree with me that</b></p> <p>21 <b>officers can make mistakes? They can put down</b></p> <p>22 <b>wrong times or they can do things that, you</b></p> <p>23 <b>know, later turn out to be inaccurate?</b></p> <p>24 A. That can happen.</p>  | Page 307 | <p>1 officers would be involved. That's what I would</p> <p>2 consider involved.</p> <p>3 <b>Q. So even if they have a role that's not</b></p> <p>4 <b>putting the cuffs on the guy, they still would</b></p> <p>5 <b>be -- they could be involved in the arrest</b></p> <p>6 <b>itself, correct?</b></p> <p>7 A. Well, I want to be clear on that. I</p> <p>8 think they're involved in the operation. They</p> <p>9 may not necessarily be involved in the arrest.</p> <p>10 <b>Q. Okay. How do you distinguish the</b></p> <p>11 <b>operation from the arrest?</b></p> <p>12 A. Well, okay. Let's say -- let's say,</p> <p>13 you know, me, you, and Wally are working a</p> <p>14 three -- what we would call a three-man car.</p> <p>15 You're going to drop me off at a location. I'm</p> <p>16 going to go up onto the second floor of an</p> <p>17 abandoned building and I'm going to conduct a</p> <p>18 surveillance. And you and Wally are going to</p> <p>19 remain in the car. And I'm going to set up my</p> <p>20 surveillance and I'm going to start to relay</p> <p>21 information to you via radio about what I see.</p> <p>22 And I describe for you, there's two guys. I</p> <p>23 give you age, race, clothing description, and</p> <p>24 that they're selling narcotics and telling you</p>                         |
| Page 306 | <p>1 <b>Q. And if an officer is involved in one</b></p> <p>2 <b>arrest and he's in close proximity, and after</b></p> <p>3 <b>that first arrest is over and he goes over to</b></p> <p>4 <b>help another team member with a second arrest,</b></p> <p>5 <b>there's nothing wrong with that, is there?</b></p> <p>6 A. There's nothing wrong with that, no.</p> <p>7 <b>Q. And in an arrest report, would you say</b></p> <p>8 <b>that anybody who was involved in an arrest could</b></p> <p>9 <b>be included on the report? For example, if they</b></p> <p>10 <b>were the inventory officer, would you say they</b></p> <p>11 <b>should be included on the report?</b></p> <p>12 A. Yeah, I just want to be clear on what</p> <p>13 you mean by "involved." Because I want to make</p> <p>14 sure we differentiate between being involved and</p> <p>15 just happened to be at the scene.</p> <p>16 So when we talk about somebody that's</p> <p>17 involved, I'm talking about somebody that has</p> <p>18 had some sort -- that took some sort of action</p> <p>19 related to that -- to that -- to that arrest.</p> <p>20 Like you're talking about one person is</p> <p>21 designated as the inventory officer, one officer</p> <p>22 was designated as the surveillance officer,</p> <p>23 these other three officers were identified as</p> <p>24 the take-down team, something like that. Those</p> | Page 308 | <p>1 about the transactions. I'm telling you that</p> <p>2 there's a vehicle that just pulled up, and give</p> <p>3 you the license plate number, if I can see it,</p> <p>4 and where the stash is. So I'm giving you all</p> <p>5 of the pertinent details of the surveillance.</p> <p>6 I'm the surveillance officer. I'm going to</p> <p>7 write that report.</p> <p>8 I then tell you to go take down these</p> <p>9 two guys. You two drive in, you take them down,</p> <p>10 and Wally cuffs up one of the guys and you cuff</p> <p>11 up the other guy. You're not both involved in</p> <p>12 each other's arrest. You're involved in your</p> <p>13 own individual arrests. I'm not involved in</p> <p>14 either of your arrests.</p> <p>15 <b>Q. So would there -- so you would write a</b></p> <p>16 <b>report as a surveillance officer. I would write</b></p> <p>17 <b>a separate report as the officer putting cuffs</b></p> <p>18 <b>on guy number one. Wally would write a separate</b></p> <p>19 <b>report on putting cuffs on guy number two. Is</b></p> <p>20 <b>that what you're saying?</b></p> <p>21 A. Yes. You're right. I would be the</p> <p>22 surveillance officer. I would document all my</p> <p>23 surveillance and the things that I relayed to</p> <p>24 you. And you locked up suspect number one and</p> |



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| <p style="text-align: right;">Page 309</p> <p>1 you do an arrest report. And Wally arrests<br/>2 suspect number two and he does an arrest report.<br/>3 He signs his, you sign yours, I sign the<br/>4 incident report.<br/>5 <b>Q. So what if I turned over my guy to one<br/>6 of my partners to transport back to the station,<br/>7 would he fill out a separate report as well?</b><br/>8 A. He would fill out what we would call<br/>9 either a supplemental or continuation report.<br/>10 I'm sorry. Go ahead.<br/>11 <b>Q. No, that's all right. You'd say that<br/>12 he transported him to the station?</b><br/>13 A. Right. Right.<br/>14 <b>Q. Okay.</b><br/>15 A. You want that protection yourself<br/>16 because now you've turned over your arrest to<br/>17 another officer. Let's say the guy comes out of<br/>18 the car and he's lumped up and he's got a broken<br/>19 nose now and this other officer hands him off to<br/>20 you and says, here, here's your prisoner. Well,<br/>21 wait a minute, what happened? He didn't have a<br/>22 broken nose when I handed him off to you.<br/>23 <b>Q. Okay. What about -- what if the guy I<br/>24 arrested had narcotics and I take the narcotics</b></p> | <p style="text-align: right;">Page 311</p> <p>1 narcotics and he would submit a different<br/>2 report. He would have nothing to do with the<br/>3 arrest reports. I would have nothing to do with<br/>4 the arrest reports either.<br/>5 BY MR. ZECCHIN:<br/>6 <b>Q. So you mentioned incident reports. So<br/>7 you're saying there's like an overarching report<br/>8 you think would be created that would include<br/>9 everybody's specific role?</b><br/>10 A. You would create what is called an<br/>11 incident report, yes. That is the main document<br/>12 that you create. We're going to create this<br/>13 document, and you're going to lay out exactly<br/>14 what you guys did. You set up an operation, who<br/>15 was involved, when, date, time, location, what<br/>16 you were doing. That's the main incident<br/>17 report.<br/>18 <b>Q. Now, incident reports aren't required<br/>19 under national standards, though, are they?</b><br/>20 MR. HILKE: Object to form.<br/>21 Go ahead.<br/>22 BY MR. ZECCHIN:<br/>23 <b>Q. What's the national standard that says<br/>24 you have to have an incident report?</b></p>                        |
| <p style="text-align: right;">Page 310</p> <p>1 <b>and hand them to a different officer and I say,<br/>2 can you inventory these for me? That officer I<br/>3 handed to inventory those narcotics, he would<br/>4 create his own report as well?</b><br/>5 A. Yes, correct. He writes a<br/>6 supplemental.<br/>7 <b>Q. Are there any of the players as I just<br/>8 gave examples of, any situation where they would<br/>9 be part of the same arrest report in your world?</b><br/>10 MR. HILKE: Objection to form.<br/>11 You can answer.<br/>12 THE WITNESS: I can't envision how they<br/>13 would be part of the same arrest report. They<br/>14 would all be named in the incident report as<br/>15 being supporting members, meaning I conducted<br/>16 the surveillance, and at the time we set up this<br/>17 operation, I was joined by Officer Anthony<br/>18 Zecchin, Officer Wally Hilke, and Officer John<br/>19 Doe that you just named that you passed off the<br/>20 narcotics to.<br/>21 So the four of us would all be listed<br/>22 as having set up this operation, but you<br/>23 arrested suspect number one, Wally arrested<br/>24 suspect number two, and Officer Doe handled your</p>              | <p style="text-align: right;">Page 312</p> <p>1 A. Well, report writing -- report writing<br/>2 would dictate how that goes.<br/>3 <b>Q. Well, report writing is different.<br/>4 That's more of a generic term.</b><br/>5 <b>What I'm saying, there's nothing that<br/>6 requires a department to have an overall report<br/>7 and then each individual officer has to create<br/>8 their own report. That's something that is not<br/>9 required if the individual department doesn't<br/>10 call for it, correct?</b><br/>11 A. Well, I would say no, I've never seen<br/>12 it done any other way. I wouldn't -- I wouldn't<br/>13 know how you would account for your individual<br/>14 actions if you're -- what reports would you be<br/>15 submitting?<br/>16 <b>Q. Well, so that's a topic for another<br/>17 day, sir.</b><br/>18 <b>What would you say then -- strike that.</b><br/>19 <b>So are you saying there's never an<br/>20 instance where there's co-arrestees made -- put<br/>21 together on the same report?</b><br/>22 A. What do you mean by co-arrestees? What<br/>23 do you mean?<br/>24 <b>Q. Well, given your hypothetical, me and</b></p> |

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| <p style="text-align: right;">Page 313</p> <p>1 <b>Wally putting cuffs on two guys, if -- you know,</b><br/> 2 <b>his guy is giving dope to my guy and we grab</b><br/> 3 <b>them at the same time, they're both under</b><br/> 4 <b>arrest, one for delivery, one for possession.</b><br/> 5 A. Yep.<br/> 6 <b>Q. There would not be -- in no</b><br/> 7 <b>hypothetical you could think of would they ever</b><br/> 8 <b>be listed on the same report under the national</b><br/> 9 <b>standards?</b><br/> 10 A. No, you'd have separate arrest reports<br/> 11 for each of them.<br/> 12 <b>Q. But where is that found? Is that part</b><br/> 13 <b>of IACP, as you mentioned before? What's your</b><br/> 14 <b>authority for that?</b><br/> 15 A. What my authority for that is the way<br/> 16 that police work is carried out nationally. The<br/> 17 individual accountability for everybody. You<br/> 18 just don't lump everybody into a single arrest<br/> 19 report because that's -- that's not how arrests<br/> 20 are carried out.<br/> 21 <b>Q. Can you point to me with any more</b><br/> 22 <b>specificity a standard or a model that I would</b><br/> 23 <b>be able to look at that would embody what you</b><br/> 24 <b>just explained?</b></p>   | <p style="text-align: right;">Page 315</p> <p>1 <b>Q. Let me circle back to that one. I'll</b><br/> 2 <b>find it for you because that was a little bit of</b><br/> 3 <b>an awkward question so we'll go back to that</b><br/> 4 <b>one, okay?</b><br/> 5 A. Okay, sure.<br/> 6 <b>Q. Now, on Page 100 of your report -- I'll</b><br/> 7 <b>get to the point for you. See Paragraph 5,</b><br/> 8 <b>Practices of false arrests?</b><br/> 9 A. Yes.<br/> 10 <b>Q. And is your report still sufficiently</b><br/> 11 <b>large enough for you to see?</b><br/> 12 A. I can see it, yes.<br/> 13 <b>Q. Okay. You said that "Defendant Alvin</b><br/> 14 <b>Jones testified at deposition that when he</b><br/> 15 <b>worked on Defendant Sergeant Watts's tactical</b><br/> 16 <b>squad, it was his practice to 'stop as many</b><br/> 17 <b>people as we can' when conducting a sweep of the</b><br/> 18 <b>buildings."</b><br/> 19 <b>Would you agree with me that the</b><br/> 20 <b>context of which that question was asked and the</b><br/> 21 <b>follow-up would be important in understanding</b><br/> 22 <b>what exactly was meant by that?</b><br/> 23 A. Well, yes, I don't want you to think<br/> 24 that I -- that I took it out of context. It's</p>                   |
| <p style="text-align: right;">Page 314</p> <p>1 A. I would have to look more -- more<br/> 2 thoroughly for something like that. Nothing,<br/> 3 you know, comes to the top -- right off the top<br/> 4 of my head for that sort of thing.<br/> 5 <b>Q. Okay. And based on your experience, if</b><br/> 6 <b>one officer relays to another officer what he</b><br/> 7 <b>observes -- a criminal act, for example -- that</b><br/> 8 <b>officer, he probably can rely on his officer's</b><br/> 9 <b>representation as to what he saw, correct?</b><br/> 10 A. That's true.<br/> 11 <b>Q. And that's an accepted part of law</b><br/> 12 <b>enforcement, right?</b><br/> 13 A. Right. Just as individual arrest<br/> 14 reports would be.<br/> 15 <b>Q. Now, I can find it in your report, but</b><br/> 16 <b>I'll represent to you there is a portion where</b><br/> 17 <b>you said that if COPA would have linked -- or</b><br/> 18 <b>CPD would have linked the allegations of a</b><br/> 19 <b>simultaneous arrest in the case that you</b><br/> 20 <b>discussed in the 511 and 574 buildings, that</b><br/> 21 <b>they would have found evidence of shaking down</b><br/> 22 <b>drug dealers. Do you remember putting that in</b><br/> 23 <b>your report?</b><br/> 24 A. I don't remember that specifically.</p> | <p style="text-align: right;">Page 316</p> <p>1 always important to understand, you know, the<br/> 2 context in which it is said.<br/> 3 <b>Q. Well, in this case, you have 14 lines</b><br/> 4 <b>cited here, but the only part you quote is seven</b><br/> 5 <b>words. And I'm asking you if what you recorded</b><br/> 6 <b>there, do you believe that it would be important</b><br/> 7 <b>to include anything additional in that cited</b><br/> 8 <b>portion in order to give context as to what</b><br/> 9 <b>Officer Jones meant?</b><br/> 10 MR. HILKE: Object to form.<br/> 11 Go ahead.<br/> 12 THE WITNESS: No, not in particular because<br/> 13 I think that that citation speaks for itself in<br/> 14 that context.<br/> 15 BY MR. ZECCHIN:<br/> 16 <b>Q. So, for example, in that same section</b><br/> 17 <b>of the deposition you cite, he said, when we see</b><br/> 18 <b>people we've seen there before and told them to</b><br/> 19 <b>leave and then grab as many of those people as</b><br/> 20 <b>possible, that would be different than just --</b><br/> 21 <b>as you cite here, just sweeping up as many</b><br/> 22 <b>people when doing a sweep of the buildings,</b><br/> 23 <b>wouldn't it?</b><br/> 24 A. No. Simply because someone has been</p> |

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| Page 317 | <p>1 seen in the building before doesn't give you a</p> <p>2 constitutional right to walk in and stop them</p> <p>3 just because they're there.</p> <p>4 <b>Q. Are you aware of the elements of</b></p> <p>5 <b>criminal trespass to land in Illinois?</b></p> <p>6 A. I wouldn't say I'm familiar with that</p> <p>7 specifically, but, in general, I'm familiar with</p> <p>8 trespassing.</p> <p>9 <b>Q. So if someone has been given notice to</b></p> <p>10 <b>leave and they don't live at a location, they're</b></p> <p>11 <b>trespassing, right?</b></p> <p>12 A. Not necessarily. They could be</p> <p>13 visiting someone. They could -- they can be</p> <p>14 making a delivery. There's a lot of reasons why</p> <p>15 they could be there.</p> <p>16 <b>Q. Well, let's assume they're not making a</b></p> <p>17 <b>delivery, they don't live there, they're not</b></p> <p>18 <b>visiting a resident, they're simply loitering,</b></p> <p>19 <b>let's say, on the property, and they're known to</b></p> <p>20 <b>police to not live there and they don't give an</b></p> <p>21 <b>excuse for why they're there, that you can</b></p> <p>22 <b>certainly stop and ask them voluntarily why</b></p> <p>23 <b>they're there, couldn't you?</b></p> <p>24 A. Well, you can approach them and talk to</p> | Page 319 | <p>1 <b>analyzing and being critical of the reports that</b></p> <p>2 <b>were written in connection with their arrest,</b></p> <p>3 <b>correct?</b></p> <p>4 MR. HILKE: Objection to form.</p> <p>5 You can answer.</p> <p>6 THE WITNESS: That is part of it. The</p> <p>7 broader task was for me to identify patterns of</p> <p>8 allegations of misconduct and supervisory</p> <p>9 practices.</p> <p>10 BY MR. ZECCHIN:</p> <p>11 <b>Q. And with regard to the Baker/Glenn</b></p> <p>12 <b>reports, you note that Officer Jones signed</b></p> <p>13 <b>Officer Mohammed's name on the report. Do you</b></p> <p>14 <b>remember that?</b></p> <p>15 A. I remember something to that effect,</p> <p>16 yes.</p> <p>17 <b>Q. Did you review the actual report, or</b></p> <p>18 <b>are you just relying on the deposition</b></p> <p>19 <b>testimony?</b></p> <p>20 A. I don't remember if I saw the actual</p> <p>21 report.</p> <p>22 <b>Q. And do you recall if -- if Officer</b></p> <p>23 <b>Jones tried to write in a manner that looked</b></p> <p>24 <b>like Officer Mohammed's handwriting, or was it</b></p>   |
| Page 318 | <p>1 them, yes.</p> <p>2 <b>Q. They don't have to talk to you, but</b></p> <p>3 <b>they don't also -- they could talk to you if</b></p> <p>4 <b>they want, can't they?</b></p> <p>5 A. Yes. But that's not what he says. He</p> <p>6 doesn't say that we -- that we would walk up to</p> <p>7 people and talk to them. He says we would stop</p> <p>8 them.</p> <p>9 <b>Q. Well, do you recall off your memory</b></p> <p>10 <b>what the entire context of that portion of the</b></p> <p>11 <b>deposition was based on seven words you quote in</b></p> <p>12 <b>your report?</b></p> <p>13 A. No, not off the top of my head I don't.</p> <p>14 <b>Q. So I'm going to ask you some questions</b></p> <p>15 <b>about the Baker/Glenn case. Are you assuming</b></p> <p>16 <b>that what Mr. Baker and Ms. Glenn testified</b></p> <p>17 <b>about their arrest is, in fact, true?</b></p> <p>18 A. No, I didn't make any determinations as</p> <p>19 to that.</p> <p>20 <b>Q. So you're not weighing in on whether or</b></p> <p>21 <b>not they're, in fact, guilty of the offenses for</b></p> <p>22 <b>which they were arrested, correct?</b></p> <p>23 A. That's right.</p> <p>24 <b>Q. And your report is exclusively</b></p>  | Page 320 | <p>1 <b>just, you know, basically he said that he signed</b></p> <p>2 <b>his name to it? In other words, there wasn't an</b></p> <p>3 <b>attempt to hide the fact that it was him signing</b></p> <p>4 <b>Mohammed's name, was there?</b></p> <p>5 MR. HILKE: Object to form and foundation.</p> <p>6 You can answer.</p> <p>7 THE WITNESS: I don't remember reading</p> <p>8 anything that indicated that it was deceptive.</p> <p>9 I do remember seeing something that it</p> <p>10 was not within policy, which was signing someone</p> <p>11 else's name, putting your initials and your star</p> <p>12 number next to it.</p> <p>13 BY MR. ZECCHIN:</p> <p>14 <b>Q. And with regard to your citation --</b></p> <p>15 <b>I'll bring it up here -- you were talking -- I'm</b></p> <p>16 <b>looking paragraph that says, "It appears that</b></p> <p>17 <b>the reports relating to Mr. Baker and</b></p> <p>18 <b>Ms. Glenn's arrest," do you see that?</b></p> <p>19 A. I do, yes.</p> <p>20 <b>Q. You go down several lines, it's going</b></p> <p>21 <b>to be down five lines where it says, "By all</b></p> <p>22 <b>accounts, he did not, and the signature is not</b></p> <p>23 <b>his actual signature."</b></p> <p>24 <b>I'm sorry. Going back to the sentence</b></p> |

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| <p style="text-align: right;">Page 321</p> <p>1 before that it's referring to Mohammed saying</p> <p>2 that Mohammed did not witness the event</p> <p>3 described in the report. Is that what you put</p> <p>4 in this section?</p> <p>5 A. Let me just read it down to that point.</p> <p>6 Q. Sure. I think I read it poorly, so go</p> <p>7 ahead and do that.</p> <p>8 A. Okay.</p> <p>9 MR. HILKE: After this section, if we could</p> <p>10 take a short break, I would appreciate it.</p> <p>11 MR. ZECCHIN: Sure.</p> <p>12 THE WITNESS: Okay.</p> <p>13 BY MR. ZECCHIN:</p> <p>14 Q. Yeah. Now you're citing Alvin Jones'</p> <p>15 deposition testimony for what Mohammed did or</p> <p>16 did not see. Wouldn't it have made more sense</p> <p>17 to cite whatever Mohammed said about what he saw</p> <p>18 or didn't see rather than a second person's</p> <p>19 assessment of what he may have seen?</p> <p>20 A. Well, I mean, I can go back to</p> <p>21 Mohammed. I don't think it -- I don't think it</p> <p>22 negates what I wrote in any way.</p> <p>23 Q. Well, if Alvin Jones did not remember</p> <p>24 what Mohammed's role was, that's certainly</p>                              | <p style="text-align: right;">Page 323</p> <p>1 an incorrect practice.</p> <p>2 Q. Well, incorrect is different than -- an</p> <p>3 inaccurate is different -- strike that.</p> <p>4 Inaccurate is different than something</p> <p>5 that's done that's not according to policy,</p> <p>6 correct?</p> <p>7 A. Not necessarily. Can you give me an</p> <p>8 example? I mean, it's inaccurate to say -- it's</p> <p>9 inaccurate and outside of policy for someone to</p> <p>10 sign the document that -- when they didn't</p> <p>11 witness anything.</p> <p>12 Q. I guess -- well, again, that's -- you</p> <p>13 know, that's -- you're saying if they testified</p> <p>14 they did not see something. But what I'm asking</p> <p>15 about is when people say "inaccurate," that</p> <p>16 usually means wrong.</p> <p>17 And I'm saying factually, if it's</p> <p>18 correct, would you still maintain that the</p> <p>19 report would be, in your opinion, inaccurate</p> <p>20 because of the signature not being noted as</p> <p>21 signed by someone else?</p> <p>22 A. No, no. I guess what I'm saying is</p> <p>23 that factually what was written in the narrative</p> <p>24 of the report may be correct, but that it's</p> |
| <p style="text-align: right;">Page 322</p> <p>1 different than saying he did not participate in</p> <p>2 the arrest, isn't it?</p> <p>3 A. If he doesn't recall, yeah, it might</p> <p>4 be.</p> <p>5 Q. So there's a difference between I don't</p> <p>6 remember what his role was and he was not</p> <p>7 involved. That's a fair distinction to make</p> <p>8 between those two statements, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And is it your position that this</p> <p>11 report was not accurate because Alvin Jones</p> <p>12 signed it and didn't indicate that he signed it?</p> <p>13 A. Well, that's not an accurate report,</p> <p>14 yes.</p> <p>15 Q. So you're saying that if the narrative</p> <p>16 was spot-on fact-wise and relayed exactly what</p> <p>17 was seen and what was done, you're saying</p> <p>18 because Jones signed for Mohammed and didn't</p> <p>19 indicate that expressly, that this is somehow an</p> <p>20 inaccurate report?</p> <p>21 A. Not that the factual body of the</p> <p>22 report -- you know, using your example, not that</p> <p>23 the body of the report is factually incorrect,</p> <p>24 but by signing someone else's name to it, that's</p> | <p style="text-align: right;">Page 324</p> <p>1 inaccurate to say that this person who signed it</p> <p>2 witnessed it when they didn't.</p> <p>3 Q. Okay. I think we're just using the</p> <p>4 word differently. I understand what you're</p> <p>5 saying now.</p> <p>6 MR. ZECCHIN: Wally, take five?</p> <p>7 MR. HILKE: That's good. Thanks.</p> <p>8 MR. ZECCHIN: Sure.</p> <p>9 (Short recess taken.)</p> <p>10 BY MR. ZECCHIN:</p> <p>11 Q. Dr. Shane, if I have to -- I'm going to</p> <p>12 ask you some questions. If you need to refer to</p> <p>13 your report, I will bring it back up for you.</p> <p>14 Just let me know. Okay?</p> <p>15 A. Okay. Sure.</p> <p>16 Q. One of the criticisms you have of the</p> <p>17 reports that were generated in the Baker/Glenn</p> <p>18 case was that, to put it simply, it doesn't</p> <p>19 state who did what during the arrest. Is that a</p> <p>20 fair summarization of what your -- one of the</p> <p>21 criticisms you have is?</p> <p>22 A. I remember saying about report writing,</p> <p>23 when we're talking about report writing, it's</p> <p>24 important to identify who did what, when they</p>  |

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| <p style="text-align: right;">Page 325</p> <p>1 did it, those sorts of things, who, what, when,<br/>2 where, how, why.<br/>3 <b>Q. Okay. So I was giving a very, very</b><br/>4 <b>cutdown version of what you said, but what I</b><br/>5 <b>said and what you just said is what you're</b><br/>6 <b>thinking the ideal report should contain,</b><br/>7 <b>correct?</b><br/>8 A. Yes, correct.<br/>9 <b>Q. And one of the reasons, I believe you</b><br/>10 <b>said, that was important is that the prosecutor</b><br/>11 <b>and defense attorney could know who did what</b><br/>12 <b>when the case is going to trial, correct?</b><br/>13 A. Yes, correct.<br/>14 <b>Q. As a police officer, did you prepare</b><br/>15 <b>with the prosecutors in the cases you made the</b><br/>16 <b>arrests in?</b><br/>17 A. Oh, yeah, all the time, sure.<br/>18 <b>Q. And are you familiar with how the</b><br/>19 <b>police officers and the State's Attorneys in</b><br/>20 <b>Cook County prepare for a trial, or for motions</b><br/>21 <b>for that matter?</b><br/>22 A. No, I could not articulate that<br/>23 process.<br/>24 <b>Q. Would you expect that the State's</b></p>  | <p style="text-align: right;">Page 327</p> <p>1 things earlier on in a written document, it<br/>2 leaves open the possibility, indeed perhaps the<br/>3 probability, that the officer is going to fill<br/>4 in gaps later on down the road to suit the<br/>5 prosecution.<br/>6 <b>Q. But that's just speculation. You have</b><br/>7 <b>no evidence that that happened in any of these</b><br/>8 <b>cases, do you?</b><br/>9 MR. HILKE: Object to form, compound.<br/>10 You can answer.<br/>11 THE WITNESS: I can't say that it happened<br/>12 in these cases, but that is one of the reasons<br/>13 why police reports document who did -- who,<br/>14 what, where, when, how, and why it occurred at<br/>15 the time the report is written so you can<br/>16 document who did it at that time, not -- not<br/>17 down the road some other time and fill in gaps.<br/>18 It's certainly an integrity issue as well.<br/>19 BY MR. ZECCHIN:<br/>20 <b>Q. Well, if an officer comes in to be</b><br/>21 <b>prepared for a hearing or a motion or something</b><br/>22 <b>related to the case, that is an instance where</b><br/>23 <b>the State's Attorney could ask questions and</b><br/>24 <b>would learn what each officer's role was. Is</b></p>                     |
| <p style="text-align: right;">Page 326</p> <p>1 <b>Attorney would ask questions and prepare the</b><br/>2 <b>officer before they put them on the stand for</b><br/>3 <b>trial?</b><br/>4 A. I would expect that to happen, yes.<br/>5 <b>Q. And would you -- and in your</b><br/>6 <b>experience, narcotics cases typically go to</b><br/>7 <b>trial much -- much closer in time to the arrest,</b><br/>8 <b>not ten years later. That's a fair statement,</b><br/>9 <b>too, isn't it?</b><br/>10 A. Probably. Look, I'm basing that on my<br/>11 experience in Newark, which is a mid-sized city,<br/>12 and I would say that the cases -- that the<br/>13 narcotics-related case went to trial quicker<br/>14 than burglaries, homicides, and robberies and<br/>15 other FBI prevalent crimes.<br/>16 <b>Q. And wouldn't you expect that when the</b><br/>17 <b>officer or officers are preparing with the</b><br/>18 <b>State's Attorney, that is when the State's</b><br/>19 <b>Attorney would find out who did what? Even if</b><br/>20 <b>it's not clearly delineated in the report, that</b><br/>21 <b>same information would be learned during that</b><br/>22 <b>prep session.</b><br/>23 A. Well, I'm sure they're going to learn<br/>24 it at that time. But by not identifying those</p> | <p style="text-align: right;">Page 328</p> <p>1 <b>that fair to say?</b><br/>2 A. Yeah, I'm not saying that that can't<br/>3 happen, but that's not the proper way to<br/>4 conduct -- that's not the proper way to write a<br/>5 police report.<br/>6 <b>Q. But if the officers relayed to the</b><br/>7 <b>State's Attorney that information that you're</b><br/>8 <b>concerned about, they've allied -- allayed your</b><br/>9 <b>issue with the prosecutor not knowing who did</b><br/>10 <b>what, and the defense attorney through discovery</b><br/>11 <b>the same thing, correct?</b><br/>12 A. I'd be more apt to rely on the accuracy<br/>13 of the information that was written at the time<br/>14 the report was written than a few months later<br/>15 down the road when the case goes to trial.<br/>16 <b>Q. But you can't say that the learning by</b><br/>17 <b>talking to the officer is not a valid way to</b><br/>18 <b>learn this information, can you?</b><br/>19 A. I can't say that it's not a valid way<br/>20 to learn the information, but it's certainly not<br/>21 consistent with accepted practices on report<br/>22 writing.<br/>23 <b>Q. I think you answered this question</b><br/>24 <b>before, but you make a distinction between</b></p> |



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| <p style="text-align: right;">Page 329</p> <p>1 someone not remembering something versus</p> <p>2 affirmatively saying that someone did not have a</p> <p>3 role in the arrest, correct?</p> <p>4 A. What do you mean? Can you say that --</p> <p>5 Q. Sure. If -- going back to me, you, and</p> <p>6 Wally making an arrest, if I say I don't</p> <p>7 remember what Jon's role was in that arrest,</p> <p>8 that's different than me saying, Jon was not</p> <p>9 there when we made this arrest, correct?</p> <p>10 A. Oh, yeah, those two things are</p> <p>11 different, yeah.</p> <p>12 Q. Okay. And the same holds true for</p> <p>13 testimony in this case, or any of these cases,</p> <p>14 if someone didn't remember, that's not the same</p> <p>15 as saying they weren't -- that somebody wasn't</p> <p>16 involved in an arrest, correct?</p> <p>17 A. Yes, I would agree with that.</p> <p>18 Q. If someone interviewed an arrestee at</p> <p>19 the station after the arrest, just asked</p> <p>20 questions about, you know, if you know anything</p> <p>21 about drugs or what were you doing out there</p> <p>22 that day, would that person, in your opinion, be</p> <p>23 someone who has to fill out a separate report in</p> <p>24 that case?</p> | <p style="text-align: right;">Page 331</p> <p>1 Department implemented probably in the mid '90s,</p> <p>2 I believe -- I believe we adopted the practice</p> <p>3 in '96 --</p> <p>4 Q. Dr. Shane, I don't mean to cut you off.</p> <p>5 I appreciate you want to give a full and</p> <p>6 complete answer, but if it's not really</p> <p>7 responsive to my question -- because we're</p> <p>8 getting close to the seven-hour mark. I</p> <p>9 appreciate your explaining things, but I just</p> <p>10 simply asked, you know, if you would have to</p> <p>11 create a separate report. That's all I really</p> <p>12 wanted to know.</p> <p>13 A. I was -- so the answer is yes to the</p> <p>14 question about Miranda. If you're going to ask</p> <p>15 them questions while he's in custody, that's</p> <p>16 number one. You should have Miranda warnings.</p> <p>17 And number two, if you're debriefing</p> <p>18 him or her, then you should have a debriefing</p> <p>19 report.</p> <p>20 Q. Okay. And do you agree with me that</p> <p>21 the word "false" can mean incorrect but not</p> <p>22 necessarily deliberate or intentional?</p> <p>23 A. I mean, I think it would have to be</p> <p>24 contextualized. So, for example, if a police</p>  |
| <p style="text-align: right;">Page 330</p> <p>1 A. So a police officer at the precinct</p> <p>2 where the arrest took place interviews the</p> <p>3 arrestee about -- about what?</p> <p>4 Q. Like, what were you doing out there</p> <p>5 that day? Were you selling dope? Stuff like</p> <p>6 that. Would that be something -- if they had a</p> <p>7 contact with the arrestee, would they have to</p> <p>8 generate a separate report like we discussed</p> <p>9 having to be done for everybody involved in the</p> <p>10 arrest?</p> <p>11 MR. HILKE: Object to form.</p> <p>12 You can answer.</p> <p>13 THE WITNESS: So I think the answer is going</p> <p>14 to be yes because you have someone that's in</p> <p>15 custody and you're putting accusatory questions</p> <p>16 to them. And when you're in custody and you</p> <p>17 have interrogation, which is what you're</p> <p>18 describing, you need Miranda, and Miranda should</p> <p>19 be documented.</p> <p>20 Now, it depends on -- it depends on</p> <p>21 what kinds of questions were asked. Let me give</p> <p>22 you an example.</p> <p>23 The Newark Police Department adopted a</p> <p>24 practice that the New York City Police</p>  | <p style="text-align: right;">Page 332</p> <p>1 officer submits a false report, agency rules and</p> <p>2 regulations -- agency rules and regulations are</p> <p>3 strict liability offenses. So you wouldn't need</p> <p>4 that. But to prosecute someone under a false</p> <p>5 report, you might have to prove culpability.</p> <p>6 Q. So -- hold on one second, sir.</p> <p>7 And what I'm asking about specifically</p> <p>8 is, you state in your report that when</p> <p>9 confronted with the discrepancy by COPA,</p> <p>10 Defendant Jones admitted that the reports could</p> <p>11 not be accurate and that he provided false</p> <p>12 testimony.</p> <p>13 So what I'm -- first, I want to ask</p> <p>14 you, did you review the entire question and</p> <p>15 answer that preceded and followed that alleged</p> <p>16 statement, or is that again relying on COPA's</p> <p>17 summary in their closure memo?</p> <p>18 A. I'm going to say that's the closure</p> <p>19 memo, not the entire statement.</p> <p>20 Q. And so if someone -- if Officer Jones,</p> <p>21 for example, hypothetically was incorrect about</p> <p>22 something and he wasn't doing it to be</p> <p>23 misleading or intentionally giving false</p> <p>24 information, that isn't false in a negative way.</p> |



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| <p style="text-align: right;">Page 333</p> <p>1     <b>That's simply misremembering something, correct?</b></p> <p>2         A. Well, I guess that has to be looked at</p> <p>3     in its context.</p> <p>4         <b>Q. Right. And in this case you didn't</b></p> <p>5     <b>look at the context so you can't opine as to</b></p> <p>6     <b>what he meant by that. Is that a fair</b></p> <p>7     <b>statement?</b></p> <p>8         A. I don't know that I can attach a level</p> <p>9     of culpability to it, but I can tell you that</p> <p>10    false reporting doesn't require culpability from</p> <p>11    an administrative rule violation.</p> <p>12         <b>Q. But what I'm saying is that you don't</b></p> <p>13    <b>know exactly what that self-testimony was in the</b></p> <p>14    <b>context because you didn't read the statement</b></p> <p>15    <b>that Jones gave either -- or the questions he</b></p> <p>16    <b>was asked before and after that alleged false</b></p> <p>17    <b>testimony was given, correct?</b></p> <p>18         A. Yeah, that's true.</p> <p>19         <b>Q. And you also noted that you saw no</b></p> <p>20    <b>evidence that the reports related to all three</b></p> <p>21    <b>arrests of Baker/Glenn were provided to the</b></p> <p>22    <b>prosecutor and the defense attorney. Do you</b></p> <p>23    <b>remember making that statement in your report?</b></p> <p>24         A. I don't, no. I don't remember that</p> | <p style="text-align: right;">Page 335</p> <p>1     BY MR. ZECCHIN:</p> <p>2         <b>Q. Sure, "the other arrests."</b></p> <p>3         You have no reason to believe, though,</p> <p>4     that they weren't provided to the State's</p> <p>5     Attorney's Office or the defense attorney. You</p> <p>6     simply don't -- you didn't see anything that</p> <p>7     indicated that happened, correct?</p> <p>8         A. Right. I could not verify that, yeah.</p> <p>9         <b>Q. And that was based on your reviewing</b></p> <p>10    <b>things that you were provided by Mr. Baker and</b></p> <p>11    <b>Ms. Glenn's civil attorneys in order to make</b></p> <p>12    <b>your review. So if they didn't provide it to</b></p> <p>13    <b>you, you, of course, wouldn't be able to look at</b></p> <p>14    <b>it either, correct?</b></p> <p>15         A. That's right.</p> <p>16         <b>Q. The last question I have is -- it's the</b></p> <p>17    <b>same paragraph. I'll leave the screen up for</b></p> <p>18    <b>you. You say, "According to their own testimony</b></p> <p>19    <b>from the criminal proceedings with respect to</b></p> <p>20    <b>one of the other arrests (Willie Robinson/</b></p> <p>21    <b>Roberson), the Vice Case Report of those other</b></p> <p>22    <b>arrests is not complete or accurate, in that it</b></p> <p>23    <b>says nothing about surveillance conducted by</b></p> <p>24    <b>Alvin Jones that led to the arrests."</b></p> |
| <p style="text-align: right;">Page 334</p> <p>1     specifically.</p> <p>2         <b>Q. Bear with me for a moment, Dr. Shane.</b></p> <p>3     <b>I'm almost there.</b></p> <p>4         A. Okay.</p> <p>5         <b>Q. I can show you your report, but I can</b></p> <p>6     <b>read to you from your report. What would you</b></p> <p>7     <b>prefer?</b></p> <p>8         A. I'd like to see it. I want to make</p> <p>9     sure that I can see what -- you know, before and</p> <p>10    after, if there's anything that I need.</p> <p>11         <b>Q. Sure. And the paragraph I'm referring</b></p> <p>12    <b>to, Dr. Shane, is "When confronted with these</b></p> <p>13    <b>discrepancies." If you go down to the middle --</b></p> <p>14    <b>I'm sorry, the third line down where it says,</b></p> <p>15    <b>"There is no evidence in discovery that the</b></p> <p>16    <b>reports documenting the arrests were provided to</b></p> <p>17    <b>the prosecution in the Baker/Glenn matter, or to</b></p> <p>18    <b>the criminal defense team."</b></p> <p>19         Do you see that?</p> <p>20         A. I see that, yes.</p> <p>21         MR. HILKE: I'm sorry. It says "the other</p> <p>22    arrests," not "the arrests." Just so the record</p> <p>23    is clear.</p> <p>24</p>   | <p style="text-align: right;">Page 336</p> <p>1         So is your -- does that statement, if</p> <p>2     I'm reading it correctly, mean that because you</p> <p>3     didn't say he was conducting surveillance, that</p> <p>4     report is inaccurate?</p> <p>5         A. I believe that it is, yes. It doesn't</p> <p>6     reflect the who, what, when, where, how, and why</p> <p>7     of what actually took place.</p> <p>8         <b>Q. So omitting something renders it</b></p> <p>9     <b>inaccurate to you?</b></p> <p>10         A. You just took the words right out of my</p> <p>11    mouth. I was going to say it's inaccurate by</p> <p>12    omission.</p> <p>13         <b>Q. Okay. And how would the fact that</b></p> <p>14    <b>there was surveillance being conducted be</b></p> <p>15    <b>relevant to arresting people for selling drugs?</b></p> <p>16         A. Because it establishes the entire basis</p> <p>17    for the operation, who did what, what they</p> <p>18    observed, whether or not they had probable</p> <p>19    cause.</p> <p>20         <b>Q. But isn't it a fact that the -- that</b></p> <p>21    <b>the observations of drug dealing is what would</b></p> <p>22    <b>be the basis for the arrest, not that you</b></p> <p>23    <b>observed it by way of surveillance?</b></p> <p>24         A. That -- well, if it took place by</p>  |

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| Page 337 | <p>1 surveillance, that's how it has to happen.</p> <p>2 That's how the documentation has to go.</p> <p>3 <b>Q. So without saying that there's</b></p> <p>4 <b>surveillance conducted, you would scratch his</b></p> <p>5 <b>full report then, basically?</b></p> <p>6 MR. HILKE: Object to form.</p> <p>7 THE WITNESS: Well, I don't know that you</p> <p>8 can scratch the entire report, but you can't</p> <p>9 certainly say that it's an accurate report.</p> <p>10 BY MR. ZECCHIN:</p> <p>11 <b>Q. And that's the only part you cited that</b></p> <p>12 <b>renders that report to be inaccurate, correct?</b></p> <p>13 A. That it doesn't say anything about how</p> <p>14 the surveillance was carried out that led to the</p> <p>15 arrests.</p> <p>16 <b>Q. Right. And there's nothing else that</b></p> <p>17 <b>you cite in your report that says that was an</b></p> <p>18 <b>inaccurate report other than that, correct?</b></p> <p>19 MR. HILKE: Objection.</p> <p>20 (Reporter clarification.)</p> <p>21 MR. HILKE: You have to answer it again.</p> <p>22 THE WITNESS: I think I said that's right.</p> <p>23 MR. ZECCHIN: Give me one minute. We don't</p> <p>24 even have to go off the record. Let me look. I</p>  | Page 339 | <p>1 convey information could render an officer's</p> <p>2 probable cause for an arrest null and void.</p> <p>3 <b>Q. Well, that's not what this report says,</b></p> <p>4 <b>though. It says that an unreliable report</b></p> <p>5 <b>defeats the officer's probable cause for arrest.</b></p> <p>6 <b>So is that something that you would</b></p> <p>7 <b>reword if you had to reword it, or are you</b></p> <p>8 <b>standing by your statement that a report defeats</b></p> <p>9 <b>probable cause?</b></p> <p>10 MR. HILKE: Object to form. Wait. Object</p> <p>11 to form and asked and answered.</p> <p>12 You can answer.</p> <p>13 THE WITNESS: I'm saying that an unreliable</p> <p>14 report could, could defeat an officer's probable</p> <p>15 cause, yes.</p> <p>16 BY MR. ZECCHIN:</p> <p>17 <b>Q. Okay. And I want to make it clear. It</b></p> <p>18 <b>doesn't say it could in here. It says it</b></p> <p>19 <b>defeats it. It doesn't say could, correct?</b></p> <p>20 A. Well, that's what I'm referring to.</p> <p>21 <b>Q. But that's not what it says, right?</b></p> <p>22 A. No, it says it defeats it.</p> <p>23 <b>Q. Okay.</b></p> <p>24 MR. ZECCHIN: I have no other questions for</p> |
| Page 338 | <p>1 think I might have one more question, but other</p> <p>2 than that, I'll be able to turn it back over to</p> <p>3 Beth.</p> <p>4 BY MR. ZECCHIN:</p> <p>5 <b>Q. I have a question for you. The last</b></p> <p>6 <b>issue I'm going to. I'm going to show you</b></p> <p>7 <b>Page 111. It should be up in front of you. Do</b></p> <p>8 <b>you see it?</b></p> <p>9 A. Yes, I see it.</p> <p>10 <b>Q. So you see the word "probable" is</b></p> <p>11 <b>highlighted. Go back to the beginning of that</b></p> <p>12 <b>sentence. It says, "It is not appropriate, and</b></p> <p>13 <b>falls far below nationally accepted standards,</b></p> <p>14 <b>to attribute quotes to a person arrested for a</b></p> <p>15 <b>crime when the person did not use the quoted</b></p> <p>16 <b>language. Doing so makes a report inaccurate;</b></p> <p>17 <b>an inaccurate report is unreliable, and an</b></p> <p>18 <b>unreliable report defeats the officers' probable</b></p> <p>19 <b>cause for arrest."</b></p> <p>20 <b>You're not rendering an opinion as to</b></p> <p>21 <b>whether or not there's probable cause for an</b></p> <p>22 <b>arrest based on that report, are you?</b></p> <p>23 A. No, but I'm saying an unreliable report</p> <p>24 when it doesn't -- when it doesn't factually</p> | Page 340 | <p>1 you, sir. Thank you for your time.</p> <p>2 THE WITNESS: Okay.</p> <p>3 MS. EKL: I don't have anything further.</p> <p>4 Thank you.</p> <p>5 THE WITNESS: Thank you.</p> <p>6 MR. HILKE: I have a few, unless any other</p> <p>7 defense counsel has questions right now.</p> <p>8 MR. GAINER: Nothing right now from me.</p> <p>9 MR. PALLES: Nothing from me.</p> <p>10 EXAMINATION</p> <p>11 BY MR. HILKE:</p> <p>12 <b>Q. Dr. Shane, I have just a few questions</b></p> <p>13 <b>for you.</b></p> <p>14 A. Okay.</p> <p>15 <b>Q. Do you recall being asked earlier</b></p> <p>16 <b>questions about whether the victims of the</b></p> <p>17 <b>allegations of bribery against Ronald Watts were</b></p> <p>18 <b>people dealing drugs in the Ida B. Wells</b></p> <p>19 <b>building?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. And are there any other victims you can</b></p> <p>22 <b>think of of those allegations of bribery, if</b></p> <p>23 <b>true?</b></p> <p>24 A. Well, naturally, the public in general</p>   |

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| <p style="text-align: right;">Page 341</p> <p>1 is victimized by allowing an officer that is</p> <p>2 doing those sorts of things to remain in the</p> <p>3 field.</p> <p>4 The prosecution would be -- could</p> <p>5 potentially be jeopardized, and that's not</p> <p>6 somebody that you want to have out there</p> <p>7 enforcing the law.</p> <p>8 <b>Q. I'm going to show you an exhibit. Do</b></p> <p>9 <b>you see in front of you the 2002 to 2007 FOP</b></p> <p>10 <b>contract that I believe was -- is Exhibit 15?</b></p> <p>11 A. Yes, I see it.</p> <p>12 <b>Q. And is it sharing any other part of my</b></p> <p>13 <b>screen, by the way?</b></p> <p>14 A. You broke up. What did you say again,</p> <p>15 please?</p> <p>16 <b>Q. Is any part of my screen other than</b></p> <p>17 <b>this PDF being shared with you right now?</b></p> <p>18 A. No. I just see the PDF.</p> <p>19 <b>Q. Okay. So I'm going to take you to</b></p> <p>20 <b>Appendix L about affidavits in disciplinary</b></p> <p>21 <b>actions.</b></p> <p>22 A. Yes.</p> <p>23 <b>Q. And the list of objective evidence that</b></p> <p>24 <b>the agency head must review and may rely upon in</b></p>  | <p style="text-align: right;">Page 343</p> <p>1 a quality investigation are the same thing that</p> <p>2 they're looking for to establish objective</p> <p>3 criteria.</p> <p>4 <b>Q. Okay. Let me take you over -- I'm now</b></p> <p>5 <b>showing you -- do you recognize -- this was</b></p> <p>6 <b>Exhibit 9, Appendix C to your report.</b></p> <p>7 A. Yes.</p> <p>8 <b>Q. And do you remember being asked about</b></p> <p>9 <b>why the list of -- do you remember being shown</b></p> <p>10 <b>all those PDFs of the randomizer process that</b></p> <p>11 <b>were attached to your report?</b></p> <p>12 A. Yes, I do.</p> <p>13 <b>Q. And do you remember being asked about</b></p> <p>14 <b>whether you could account for the 890 or so</b></p> <p>15 <b>difference in the CRs in your Excel sheet, which</b></p> <p>16 <b>I think was 112 something thousand, and in the</b></p> <p>17 <b>randomizer, which I think was 111 and something</b></p> <p>18 <b>thousand?</b></p> <p>19 A. Yes. There was a little over 800 some</p> <p>20 odd CRs that were not accounted for.</p> <p>21 <b>Q. Sure. So I'm showing you in your</b></p> <p>22 <b>Appendix C, it describes here obtaining a list</b></p> <p>23 <b>of 896 additional CRs identified through Freedom</b></p> <p>24 <b>of Information Act Requests. Do you see that</b></p> |
| <p style="text-align: right;">Page 342</p> <p>1 <b>considering an affidavit override in No. 8, it's</b></p> <p>2 <b>Page 7 of the exhibit, that may include arrest</b></p> <p>3 <b>and case reports, medical records, statements of</b></p> <p>4 <b>witnesses and complainants, video or audio</b></p> <p>5 <b>tapes, and photographs. Is that correct?</b></p> <p>6 A. Yes, that's correct.</p> <p>7 <b>Q. And that was illustrative as mentioned</b></p> <p>8 <b>here. It's not exclusive or exhaustive,</b></p> <p>9 <b>correct?</b></p> <p>10 A. Yes, that's correct.</p> <p>11 <b>Q. The list here, is there any</b></p> <p>12 <b>similarities between the list of examples of</b></p> <p>13 <b>records here and the data you asked to be coded</b></p> <p>14 <b>on the CR files you reviewed?</b></p> <p>15 A. Yes. What I find interesting is that,</p> <p>16 you know, two completely independent instances,</p> <p>17 myself and the development of this FOP contract.</p> <p>18 These are the very sorts of indicators of a</p> <p>19 quality investigation that you would expect.</p> <p>20 Those are the things that I was looking for, and</p> <p>21 those are the very same things that the FOP is</p> <p>22 saying they would like to see.</p> <p>23 So it's a -- it just establishes the</p> <p>24 fact that what I'm looking for as indicators of</p> | <p style="text-align: right;">Page 344</p> <p>1 <b>here?</b></p> <p>2 A. Yes.</p> <p>3 <b>Q. Does that refresh your recollection at</b></p> <p>4 <b>all as to what accounts for the difference</b></p> <p>5 <b>between the randomizer results you were shown</b></p> <p>6 <b>and the spreadsheet that you were shown?</b></p> <p>7 A. Yes, which is why earlier I had said</p> <p>8 when I was asked that question that I would have</p> <p>9 to go back and examine where -- where that came</p> <p>10 from, and you're pointing it out to me here.</p> <p>11 <b>Q. Okay. Did you -- did you rerun the</b></p> <p>12 <b>randomizer experiment after receiving those 896</b></p> <p>13 <b>additional CRs on the list?</b></p> <p>14 A. Absolutely.</p> <p>15 <b>Q. Okay. And is it your understanding</b></p> <p>16 <b>that the appendix you were shown of the</b></p> <p>17 <b>randomizer reflects an earlier and incorrect</b></p> <p>18 <b>version of the list you ultimately randomized</b></p> <p>19 <b>from?</b></p> <p>20 A. I think that is accurate, and that</p> <p>21 would certainly account for the discrepancy.</p> <p>22 <b>Q. Okay. One other question. Do you</b></p> <p>23 <b>recall being asked about, you know, these</b></p> <p>24 <b>various spreadsheets that made up what you</b></p>                                    |

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| Page 345 | <p>1 relied on as the population of CRs to be sampled</p> <p>2 from?</p> <p>3 A. Yes.</p> <p>4 Q. Now, did those spreadsheets come with</p> <p>5 documentation that showed where the data came</p> <p>6 from?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And did you review -- did you</p> <p>9 review those documents and identify like where</p> <p>10 those spreadsheets had initially been provided</p> <p>11 from?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And I'm going to move to -- so</p> <p>14 I'm sharing with you your code book, which was</p> <p>15 marked Exhibit 8. Do you see that here?</p> <p>16 A. I see -- I see Appendix A.</p> <p>17 Q. Appendix A. I'm sorry. And on Page 2</p> <p>18 of this exhibit starts the actual code book you</p> <p>19 wrote, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Now, do you remember giving testimony</p> <p>22 about the nature of operation and personnel</p> <p>23 violations?</p> <p>24 A. Yes.</p>  | Page 347 | <p>1 A. To the city.</p> <p>2 Q. I will -- I'll stop sharing this.</p> <p>3 Do you recall being asked questions</p> <p>4 about the relevance of investigation length in</p> <p>5 internal affairs investigations?</p> <p>6 A. Yes.</p> <p>7 Q. Did you -- okay.</p> <p>8 Now, are there principles of police</p> <p>9 investigations generally that also apply to</p> <p>10 internal affairs investigations?</p> <p>11 A. Yes. Many of them.</p> <p>12 Q. Are some of them the same as relates to</p> <p>13 the speed at which investigations occur?</p> <p>14 A. Yes. Generally centered around things</p> <p>15 like evidence collection, things like that, yes.</p> <p>16 Q. Okay. So what's the -- what's the</p> <p>17 relevance -- is it important to conduct a speedy</p> <p>18 investigation in internal affairs</p> <p>19 investigations?</p> <p>20 A. It's important to collect evidence in a</p> <p>21 speedy manner because evidence goes away,</p> <p>22 witnesses go away, things could be lost, things</p> <p>23 could be mislaid, just as they can in a criminal</p> <p>24 investigation, and that's why you move as</p> |
| Page 346 | <p>1 Q. And was that a term that you saw used</p> <p>2 in the city's own CR files, at some times that</p> <p>3 they referred to operation or personnel</p> <p>4 violations?</p> <p>5 A. Yes, it is.</p> <p>6 Q. And looking at your code book, if we go</p> <p>7 to Appendix 1 on Page 14, is there a list of the</p> <p>8 allegation category types you gave for the</p> <p>9 coders to use as they coded the data?</p> <p>10 A. Yes.</p> <p>11 Q. And one of those definitions is</p> <p>12 operation or personnel violations, correct?</p> <p>13 A. Yes.</p> <p>14 Q. So is it fair that -- so strike that.</p> <p>15 As you wrote the definition of</p> <p>16 operation or personnel violations, do you</p> <p>17 believe that this definition is unclear or</p> <p>18 lacking in terms of giving coders the guidance</p> <p>19 they need to identify the allegation types?</p> <p>20 A. No.</p> <p>21 Q. So when you were tasked to find about</p> <p>22 the lack of clarity in operation, personnel</p> <p>23 violations, that definition, you're referring to</p> <p>24 your own code book or to the city's definition?</p> | Page 348 | <p>1 quickly as you can.</p> <p>2 Q. I believe you testified before that one</p> <p>3 reason that you might need a long internal</p> <p>4 affairs investigation is because you need to</p> <p>5 conduct a sophisticated and complex</p> <p>6 investigation to fully investigate the alleged</p> <p>7 misconduct. Was that correct?</p> <p>8 A. That's accurate, yes.</p> <p>9 Q. Okay. Is that the trend you saw? When</p> <p>10 you looked at the city's CR files, were their</p> <p>11 investigations taking a long time because they</p> <p>12 were planning complex and sophisticated</p> <p>13 investigations of misconduct?</p> <p>14 A. No.</p> <p>15 Q. Okay. Do you recall being asked</p> <p>16 questions about comparisons to other police</p> <p>17 departments?</p> <p>18 A. Yes.</p> <p>19 Q. So this is Exhibit 5, the body of your</p> <p>20 report, and I'm at Page 16. Do you see that</p> <p>21 here?</p> <p>22 A. I do.</p> <p>23 Q. And it looks like in Footnote 7, one of</p> <p>24 studies you cite is an eight-city examination of</p>  |

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| Page 349 | <p>1 citizen complaints against police by Terrill.</p> <p>2 That's T-e-r-r-i-l. Is that the Terrill study</p> <p>3 you were referring to earlier in your testimony?</p> <p>4 A. Yes.</p> <p>5 Q. And on this page, Page 16, do you cite</p> <p>6 to other cities' internal affairs processes that</p> <p>7 you compared Chicago against?</p> <p>8 A. Yes, I did.</p> <p>9 Q. And you didn't -- you didn't have the,</p> <p>10 like, raw data from those cities' internal</p> <p>11 affairs processes to do -- to do comparisons to,</p> <p>12 is that correct?</p> <p>13 A. That's correct. I mean, that's what I</p> <p>14 was referring to before when I said I didn't</p> <p>15 make comparisons. I didn't have data from those</p> <p>16 other cities.</p> <p>17 Q. Were you able to rely on both like the</p> <p>18 city's own reports and some of the studies you</p> <p>19 cited here to make comparisons to other cities?</p> <p>20 A. Yes.</p> <p>21 Q. One second. Now, I want to refer to</p> <p>22 your code book for the data that was coded about</p> <p>23 the CRs analyzed. Are some of the variables</p> <p>24 that your code book reflects, meaning everything</p>  | Page 351 | <p>1 definitions of like contacting -- sorry. Let me</p> <p>2 ask you a question.</p> <p>3 One of the categories is like any</p> <p>4 victim contacted, on Page 9 of the code book.</p> <p>5 That's Item I. Do you see that here?</p> <p>6 A. Yes.</p> <p>7 Q. And you were asked some questions about</p> <p>8 phone interviews. If an investigator made phone</p> <p>9 contact with, you know, any witness, a victim, a</p> <p>10 complainant, a witness, would that phone contact</p> <p>11 be counted as a contact under the definitions</p> <p>12 you created?</p> <p>13 A. Yes.</p> <p>14 Q. One second.</p> <p>15 MR. HILKE: Those are all the questions I</p> <p>16 have, Dr. Shane.</p> <p>17 MS. EKL: Unfortunately, I do have some</p> <p>18 follow-ups. I don't know if anyone else does</p> <p>19 and wants to go first. Otherwise, I'll do mine</p> <p>20 first. Are you all good with it?</p> <p>21 FURTHER EXAMINATION</p> <p>22 BY MS. EKL:</p> <p>23 Q. Dr. Shane, counsel showed you what we</p> <p>24 marked as Exhibit 15, which was the FOP</p>  |
| Page 350 | <p>1 from date initiated and disposition, complaint</p> <p>2 type, officer, complainant, are some of those</p> <p>3 variables standard in internal affairs?</p> <p>4 A. Oh, yeah, that's almost all of them.</p> <p>5 That's data that's collected oftentimes when a</p> <p>6 complaint is made.</p> <p>7 Q. I want to ask about the -- I want to</p> <p>8 ask about the time that you billed for on this</p> <p>9 case. Do you believe that you billed for all</p> <p>10 the time that you spent working on this case?</p> <p>11 A. I'm sure I underbilled for the time</p> <p>12 that I spent on this case.</p> <p>13 Q. And why -- why don't your bills reflect</p> <p>14 all the time you spent working on this case?</p> <p>15 A. Well, I'm probably a better social</p> <p>16 scientist than I am a businessman. You know,</p> <p>17 when I get involved in a case and I'm working</p> <p>18 through it, sometimes I just lose track of the</p> <p>19 time, sometimes I'm not conscientious enough</p> <p>20 about that.</p> <p>21 Q. Let me show you -- I have just one more</p> <p>22 question about your code book, actually.</p> <p>23 I'm now showing you Exhibit 8 again.</p> <p>24 Do you recall being asked questions about the</p> | Page 352 | <p>1 contract. And you made some comments about this</p> <p>2 contract that were -- where you were saying that</p> <p>3 these -- the evidence that could be -- sorry --</p> <p>4 the evidence that could be relied upon is</p> <p>5 consistent with the things that you thought</p> <p>6 needed to be in an investigation, and you said</p> <p>7 that the FOP did a good job of putting those</p> <p>8 things in there, right?</p> <p>9 MR. HILKE: Just object to form.</p> <p>10 You can answer.</p> <p>11 THE WITNESS: I don't think I said that they</p> <p>12 did a good job of it. What I was just</p> <p>13 referencing was the fact that they were two</p> <p>14 completely independent individuals, myself and</p> <p>15 whomever drafted this contract, put those things</p> <p>16 in there because they're standard elements of an</p> <p>17 investigation.</p> <p>18 BY MS. EKL:</p> <p>19 Q. You understand this was a contract</p> <p>20 between the FOP and the City of Chicago,</p> <p>21 correct, or the Chicago Police Department?</p> <p>22 A. Yes.</p> <p>23 Q. Do you have any reason to believe that</p> <p>24 the FOP on behalf of the police officers would</p> |



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| Page 353 | <p>1 come up with a way to override the requirement</p> <p>2 for an affidavit that would make it more likely</p> <p>3 that a complaint would be investigated, or do</p> <p>4 you think it's more likely that it was the City</p> <p>5 of Chicago who requested this procedure whereby</p> <p>6 they could override a lack of an affidavit?</p> <p>7 MR. HILKE: Just object to foundation.</p> <p>8 You can answer.</p> <p>9 THE WITNESS: I think it's probably a</p> <p>10 combination of both. I think when you ask about</p> <p>11 whether or not it's more likely, I think that</p> <p>12 the city does play a role in that. But I also</p> <p>13 believe that the FOP, being seasoned police</p> <p>14 officers, recognize that these are objective</p> <p>15 indicators of evidence that might exist.</p> <p>16 BY MS. EKL:</p> <p>17 Q. My question is different. I'm not</p> <p>18 speaking specifically about these factors. I'm</p> <p>19 talking about the entire process that is</p> <p>20 delineated in Appendix L, Affidavits in</p> <p>21 Disciplinary Investigations.</p> <p>22 So we talked earlier about how the</p> <p>23 law -- the law at that time was that if a</p> <p>24 complaint was made and there was no affidavit,</p> | Page 355 | <p>1 officers don't necessarily want to be working</p> <p>2 next to somebody who's involved in some sort of</p> <p>3 corrupt activity, and that there has to be at</p> <p>4 least a modicum of ability to investigate that</p> <p>5 person. And so by negotiating something like</p> <p>6 this which offers some protections but at the</p> <p>7 same time offers an override, they probably saw</p> <p>8 as a reasonable compromise.</p> <p>9 BY MS. EKL:</p> <p>10 Q. Okay. So you think this was something</p> <p>11 that was offered by the FOP as opposed to the</p> <p>12 city. Is that your testimony?</p> <p>13 MR. HILKE: Object to form and foundation.</p> <p>14 THE WITNESS: No. I'm saying that it's a</p> <p>15 reasonable compromise.</p> <p>16 BY MS. EKL:</p> <p>17 Q. Counsel asked you, and I want to</p> <p>18 understand this, about what I had pointed out as</p> <p>19 the discrepancy of 892 files.</p> <p>20 So in your report, you talk about a</p> <p>21 universe of unique CR files that totals 112,436</p> <p>22 and that the samples were proportional --</p> <p>23 proportionate to -- were proportionate using</p> <p>24 that number.</p>                       |
| Page 354 | <p>1 that that was it, right? The law, without any</p> <p>2 exception, that was -- that was what -- the</p> <p>3 state of the law in Illinois, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And that the exception was if there was</p> <p>6 a collective bargaining agreement like this one</p> <p>7 that allowed for -- that addressed the same</p> <p>8 topic that was addressed in the statute,</p> <p>9 correct?</p> <p>10 A. Yes. Excuse me. Yes.</p> <p>11 Q. So when the FOP would be negotiating</p> <p>12 with the City of Chicago, can you think of any</p> <p>13 reason, as a police officer, that you would want</p> <p>14 to make it easier for complaints to be filed</p> <p>15 against you or other officers if you were the</p> <p>16 FOP representing them?</p> <p>17 A. I can't think of anything from a union</p> <p>18 perspective as I'm sitting here at the moment.</p> <p>19 Q. From a union perspective, you'd rather</p> <p>20 if there's no complaint, that then that's the</p> <p>21 end of it, correct?</p> <p>22 MR. HILKE: Objection, form.</p> <p>23 THE WITNESS: Not necessarily. You know, I</p> <p>24 think the union also recognizes that good police</p>   | Page 356 | <p>1 So explain to me what you're saying</p> <p>2 now. Is the total number of CR files actually</p> <p>3 something less? Was it 112,436 minus 892?</p> <p>4 A. No, it's including the 892. What I</p> <p>5 think you have is an inaccurate randomizer</p> <p>6 result.</p> <p>7 Q. Okay. So let me show you again, so we</p> <p>8 can understand this, what was identified as</p> <p>9 Exhibit 9A. And these are the randomizer</p> <p>10 results that you attached to your expert report</p> <p>11 as Appendix C-1. So what I have is what you</p> <p>12 gave us. Is this what you're saying is</p> <p>13 inaccurate?</p> <p>14 A. I think that's inaccurate, yes.</p> <p>15 Q. Okay. So these were the results that</p> <p>16 occurred prior to adding the additional 892</p> <p>17 cases which then made up the total of 112,436?</p> <p>18 A. Correct. And they were rerun, correct.</p> <p>19 Q. Okay. Can you please provide us with</p> <p>20 an updated -- with the updated data showing us</p> <p>21 the random numbers that you pulled. Because</p> <p>22 you're saying that Exhibit No. C-1 is not</p> <p>23 accurate, correct?</p> <p>24 A. Correct. I'll confer with Mr. Hilke</p> |



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|---|--|
| <p style="text-align: right;">Page 357</p> <p>1 and we'll make that happen.</p> <p>2 MR. HILKE: We will get it to you.</p> <p>3 BY MS. EKL:</p> <p>4 <b>Q. Okay. So these numbers could be</b></p> <p>5 <b>completely different than the numbers that we</b></p> <p>6 <b>have in the spreadsheet, correct?</b></p> <p>7 A. The CR numbers? What numbers are you</p> <p>8 referring to?</p> <p>9 <b>Q. I'm saying in the randomizer result,</b></p> <p>10 <b>for instance, just looking at the one that I</b></p> <p>11 <b>have up on the screen right now, the first</b></p> <p>12 <b>number says 1185. So 1185 corresponds to a CR</b></p> <p>13 <b>number in the spreadsheet, correct?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. And so right now if you give us -- or</b></p> <p>16 <b>if you give us the new results, 1185 might not</b></p> <p>17 <b>even be a CR number that was selected, correct?</b></p> <p>18 A. Yes, that's correct.</p> <p>19 <b>Q. Okay. Counsel asked you some questions</b></p> <p>20 <b>about speedy evidence collection, and you said</b></p> <p>21 <b>that the reasons that you believe speedy</b></p> <p>22 <b>evidence collection is important is because</b></p> <p>23 <b>things can go away. Is that accurate, that you</b></p> <p>24 <b>said something to that effect?</b></p> | <p style="text-align: right;">Page 359</p> <p>1 Go ahead.</p> <p>2 THE WITNESS: What I'm saying is that when</p> <p>3 an investigation of that length is carried out,</p> <p>4 there's an opportunity to miss things, that</p> <p>5 things are going to go away, people are going to</p> <p>6 disappear, witnesses are going to disappear,</p> <p>7 more opportunities to intimidate somebody to not</p> <p>8 come forward.</p> <p>9 BY MS. EKL:</p> <p>10 <b>Q. In this case you're aware of the fact</b></p> <p>11 <b>that Mohammed and Watts both pled guilty to</b></p> <p>12 <b>federal crimes, correct?</b></p> <p>13 A. Yes.</p> <p>14 <b>Q. And you're aware of the fact that they</b></p> <p>15 <b>are no longer Chicago police officers, correct?</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. And it's highly likely they will never</b></p> <p>18 <b>be police officers anywhere ever again for the</b></p> <p>19 <b>rest of their life, correct?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. Can you think of a better outcome than</b></p> <p>22 <b>the outcome that we have in this case in terms</b></p> <p>23 <b>of the disposition of those officers?</b></p> <p>24 <b>(Simultaneous speaking.)</b></p> |
| <p style="text-align: right;">Page 358</p> <p>1 A. That's correct, yes.</p> <p>2 <b>Q. Would you agree in relation to the</b></p> <p>3 <b>investigation of the officers involved here,</b></p> <p>4 <b>that the evidence did not go away over the time</b></p> <p>5 <b>that it took to gather the evidence that led to</b></p> <p>6 <b>their prosecution and ultimately their dismissal</b></p> <p>7 <b>from CPD? Correct?</b></p> <p>8 MR. HILKE: Object to form.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: No, I don't know that it did</p> <p>11 or didn't. I think that there may have been</p> <p>12 missed opportunities along the way to collect</p> <p>13 evidence. I don't know that they didn't miss</p> <p>14 anything.</p> <p>15 BY MS. EKL:</p> <p>16 <b>Q. Are you guessing that there were missed</b></p> <p>17 <b>opportunities along the way?</b></p> <p>18 A. It's a distinct possibility.</p> <p>19 <b>Q. Yeah, but you're guessing, correct?</b></p> <p>20 MR. HILKE: Object to form.</p> <p>21 Go ahead.</p> <p>22 THE WITNESS: Go ahead, Wally. What did you</p> <p>23 say?</p> <p>24 MR. HILKE: Object to form.</p>  | <p style="text-align: right;">Page 360</p> <p>1 THE COURT REPORTER: I didn't hear what</p> <p>2 either one of you said.</p> <p>3 MR. HILKE: Object to form.</p> <p>4 You go ahead, Jon.</p> <p>5 THE WITNESS: And I said fewer victims.</p> <p>6 BY MS. EKL:</p> <p>7 <b>Q. Counsel also asked you some questions</b></p> <p>8 <b>about the operation or personnel violations and</b></p> <p>9 <b>how that was referenced in your code book as a</b></p> <p>10 <b>variable, correct?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. And I believe he asked you whether or</b></p> <p>13 <b>not that category code was a category code of</b></p> <p>14 <b>the city's. Did I hear that correctly?</b></p> <p>15 A. Yes.</p> <p>16 <b>Q. I'm going to show you -- I'm not sure</b></p> <p>17 <b>if I actually marked this before, but if I</b></p> <p>18 <b>didn't, then -- so this is Appendix B to your</b></p> <p>19 <b>report. If I didn't mark it -- I don't think I</b></p> <p>20 <b>did. I did mark this as 7A before.</b></p> <p>21 <b>(Exhibit No. 7A was</b></p> <p>22 <b>introduced.)</b></p> <p>23 BY MS. EKL:</p> <p>24 <b>Q. So taking a look at -- I will tell you</b></p>                               |

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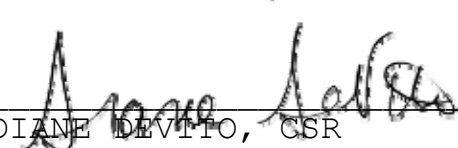
|          |  |          |  |
|----------|--|----------|--|
| Page 361 | <p>1 that while your counsel was questioning, I</p> <p>2 sorted this by allegation category, the</p> <p>3 spreadsheet, so that it would sort it and pull</p> <p>4 up the allegation categories for operation or</p> <p>5 personnel violations.</p> <p>6 And again, allegation category is the</p> <p>7 category we talked about that was the category</p> <p>8 that you came up with, correct?</p> <p>9 A. Yes.</p> <p>10 Q. All right. Can you -- if you look at</p> <p>11 allegation category and compare it -- well, let</p> <p>12 me ask you this first.</p> <p>13 Initial complaint category again is the</p> <p>14 complaint category code that was in the CR files</p> <p>15 that is the CPD's method of describing the</p> <p>16 conduct, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And would you agree that where it says</p> <p>19 operation or personnel violations, that does not</p> <p>20 say operation or personnel violations in initial</p> <p>21 complaint category. It's something different,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. I'm sorry. I didn't mean to cut you</p> | Page 363 | <p>1 investigations.</p> <p>2 Q. So in the narrative of some of these</p> <p>3 investigations, those words appear? That's what</p> <p>4 you're saying?</p> <p>5 A. Yes.</p> <p>6 Q. Have you seen those words defined by</p> <p>7 anyone from CPD?</p> <p>8 A. Not that I -- not that I know of.</p> <p>9 Q. Counsel asked you questions about the</p> <p>10 Terrill report, T-e-r-r-i-l-l. I just have a</p> <p>11 couple questions about that.</p> <p>12 Do you know how it is that the Terrill</p> <p>13 report determined sustained rates?</p> <p>14 A. No, not without going through it, I</p> <p>15 don't.</p> <p>16 Q. Do you know if it was -- if they</p> <p>17 were -- if the sustained rates were determined</p> <p>18 using the same methodology that you used here?</p> <p>19 A. No, I'm not sure.</p> <p>20 MS. EKL: I think I'm done because I can't</p> <p>21 read my writing from my last question. So I</p> <p>22 think you're getting off for that one. I don't</p> <p>23 have anything.</p> <p>24 Anyone else?</p> |
| Page 362 | <p>1 off.</p> <p>2 A. Yes. I was clearing my throat. Yes.</p> <p>3 Q. And, in fact, in the CPD categorization</p> <p>4 under initial complaint category, there are</p> <p>5 different things listed there. It's not all the</p> <p>6 same thing that equates to what you've put over</p> <p>7 here as operation or personnel violations,</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. So is it fair to say operation or</p> <p>11 personnel violations is not -- is not something</p> <p>12 that was defined -- as it's used here, is not</p> <p>13 what was defined by CPD, correct?</p> <p>14 A. Well, the CPD does use that</p> <p>15 terminology.</p> <p>16 Q. In what context?</p> <p>17 A. In the context of internal affairs</p> <p>18 investigations. They will say it's a personnel</p> <p>19 or operational violation.</p> <p>20 Q. That is not a complaint category code,</p> <p>21 though, correct?</p> <p>22 A. I don't recall if it's a complaint</p> <p>23 category. It may not be. But it certainly</p> <p>24 appears in the narrative of some of these</p>                           | Page 364 | <p>1 MR. PALLES: Not from me.</p> <p>2 MR. GAINER: No.</p> <p>3 MR. PALLES: Thank you for your time,</p> <p>4 Dr. Shane.</p> <p>5 THE WITNESS: Thank you, all. Nice to meet</p> <p>6 everyone.</p> <p>7 MR. PALLES: For Ms. Reporter, I'm not</p> <p>8 concerned about a copy at this time.</p> <p>9 THE COURT REPORTER: Anybody else?</p> <p>10 MR. PALLES: Wally, I will be talking to you</p> <p>11 about that issue with the guy earlier in the</p> <p>12 week.</p> <p>13 MR. HILKE: Let's finish up on the record.</p> <p>14 I don't need a copy right now. Thank</p> <p>15 you.</p> <p>16 MS. EKL: I'll take the original. Thank</p> <p>17 you.</p> <p>18 (Whereupon, the deposition</p> <p>19 concluded at 5:58 p.m.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>   |

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1 STATE OF ILLINOIS )  
2 ) SS:  
3 COUNTY OF C O O K )  
4

5 Diane DeVito, being first duly sworn,  
6 on oath says that she is a Certified Shorthand  
7 Reporter doing business in the State of  
8 Illinois; and that she reported in shorthand the  
9 proceedings of said deposition via  
10 videoconference, and that the foregoing is a  
11 true and correct transcript of her shorthand  
12 notes so taken as aforesaid, and contains the  
13 proceedings given at said deposition.

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DIANE DEVITO, CSR  
License No. 084-004075  
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