

EXHIBIT 53



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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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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5 By Mr. Zecchin 275

6 By Mr. Hilke 340

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10 E X H I B I T S

11 NUMBER INTRODUCED

12 Deposition

13 Exhibit No. 1 9

Exhibit No. 5 43

14 Exhibit No. 2 44

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15 Exhibit No. 4 52

Exhibit No. 6 76

16 Exhibit No. 9 100

Exhibit No. 9B 110

17 Exhibit No. 9A 113

Exhibit No. 8 128

18 Exhibit No. 12 244

Exhibit No. 13 245

19 Exhibit No. 14 246

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

5 (Pages 5 to 8)

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

6 (Pages 9 to 12)

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1 **Q. And the computer actually does the**
2 **generating of the statistics, correct?**
3 A. Yes, that's correct.
4 **Q. You also have a background in law**
5 **enforcement. Is that fair to say?**
6 A. Yes, that's right.
7 **Q. Your entire law enforcement career was**
8 **while you were at the Newark Police Department**
9 **that's in New Jersey. Is that correct?**
10 A. Well, as a sworn officer. There were a
11 couple years before that where I was a civilian
12 working in another police department.
13 **Q. Was that Camden Police Department?**
14 A. Clifton.
15 **Q. Clifton, okay. I thought I saw a**
16 **reference to Camden Police Department. Did you**
17 **ever work for Camden Police Department?**
18 A. No, but I did some independent work
19 with the Camden Police Department, not working
20 for them.
21 **Q. Okay. What were the years that you**
22 **worked for the Newark Police Department?**
23 A. March 1989 until December of 2005.
24 **Q. And so you're not including time that**

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1 **you worked at the Newark Police Department as a**
2 **police dispatcher. Is that fair to say?**
3 A. No, no, that was -- that was time when
4 I was in Clifton Police Department.
5 **Q. Okay. Okay.**
6 A. You asked me about Newark.
7 **Q. Yes, I did.**
8 A. Okay.
9 **Q. During any of the time period between**
10 **19 -- March of 1989 and 2005, did you hold any**
11 **position with any internal affairs division**
12 **within the Newark Police Department?**
13 A. No.
14 **Q. Let me take down this exhibit.**
15 I saw a reference -- and I'll show you
16 your report in a moment, but a reference to you
17 saying that on January 21st of 2005, you were
18 notified by the New Jersey Department of
19 Personnel that you were eligible and qualified
20 to be promoted to deputy chief. Do you recall
21 writing that in your report? I can show you if
22 you don't recall.
23 A. I believe that's -- yeah, that's in --
24 in the report.

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1 **Q. Okay. Were you ever promoted to deputy**
2 **chief?**
3 A. No. I had left the organization before
4 that.
5 **Q. Okay. And then what's the purpose of**
6 **putting in your report that you were notified**
7 **that you were eligible and qualified to be**
8 **deputy chief?**
9 A. Able to give a better and complete
10 accurate record of my standing in the
11 organization.
12 **Q. You were never promoted to that**
13 **position within Newark, correct?**
14 A. That's correct. I was not.
15 **Q. Okay. Why did you leave Newark Police**
16 **Department?**
17 A. To pursue my Ph.D.
18 **Q. And when you pursued your Ph.D., did**
19 **you do that full time?**
20 A. I did, yes.
21 **Q. Throughout your time at Newark, did you**
22 **receive training in various topics?**
23 A. I did, yes.
24 **Q. And did you receive any of that**

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1 **training -- was it -- strike that.**
2 **Was any of the training specific to**
3 **your internal affairs investigations?**
4 A. Yes.
5 **Q. And when did you receive that training?**
6 A. When I was first promoted to sergeant.
7 So I guess -- I don't know what the date is
8 offhand. I'd have to say maybe June -- I'm
9 doing this off the top of my head -- June of '95
10 that I was promoted to sergeant.
11 **Q. What did that entail?**
12 A. I conducted internal affairs
13 investigations as a supervisor, what things to
14 look for during an internal affairs
15 investigation.
16 **Q. How many times, if any, did you conduct**
17 **an internal affairs investigation during your**
18 **time at Newark? And I'm not talking about**
19 **reviewing someone else's investigation. I'm**
20 **asking how many times did you personally conduct**
21 **the investigation?**
22 A. I don't know exact number, but if I'm
23 estimating, I'd have to say fewer than 50.
24 **Q. And during what years?**

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (Pages 65 to 68)

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Page 69	1 \$3,081, correct? 2 A. Yes, correct. 3 MR. HILKE: If we could take a break in a 4 second, I'd appreciate it. 5 MS. EKL: Sure. Are you okay with me just 6 finishing up the last page, or do you want to do 7 it now? 8 MR. HILKE: Jon, if you're good, we can 9 finish the last page. 10 THE WITNESS: Yes, sure, please do. 11 BY MS. EKL: 12 Q. The last page of this document, which 13 is Exhibit No. 4, is Invoice No. 326 dated 14 July 25th of 2023. Do you see that? 15 A. What's the date? I don't see the date. 16 Q. Sorry. July 25th of 2023. 17 A. Okay, yes. 18 Q. Is this another invoice that you 19 provided in response to our subpoena request for 20 invoices related to your work on the Baker case? 21 A. Yes, that looks familiar to me, yes. 22 Q. And the case or matter that's 23 identified here says, "150 plaintiffs versus 24 Watts," correct?	Page 71
Page 70	1 A. Yes. 2 Q. And this is a change in the case matter 3 name, correct, from your previous invoices? 4 A. Well, I don't -- is it? It all 5 references Watts. I think they all reference 6 Watts, don't they? 7 Q. So 296 references just Watts, correct? 8 A. Yes. 9 Q. And 292 references Watts-Chicago, 10 correct? 11 A. Yes. 12 Q. And 289 references Watts-Chicago PD, 13 correct? 14 A. This is 289, Watts-Chicago PD. 15 Q. Okay. So going back to 326, why the 16 change to 150 plaintiffs versus Watts? 17 MR. HILKE: Wait. Sorry, Jon. I'm going to 18 advise you not to reveal the contents of 19 communications between plaintiffs' attorneys and 20 you. But you're free to answer. I'll just 21 advise you not to provide that information which 22 is privileged under Rule 26. 23 THE WITNESS: So the answer is no particular 24 reason.	Page 72

21 (Pages 69 to 72)

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

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

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

24 (Pages 81 to 84)

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Page 85	1 BY MS. EKL: 2 Q. When you say "they came in a 3 spreadsheet," are you talking about the 4 information came in a spreadsheet, or did you 5 actually review, say, like a 150-page document 6 that contained the entire investigation? 7 A. I'm saying both, actually. Before I 8 say -- well, the data came to me in an Excel 9 spreadsheet, and that's how I identified the 10 cases. When I say "cases," the CR numbers that 11 are used in the report. 12 Q. So maybe let's go back. What is your 13 understanding of what constitutes a CR? 14 A. The completed internal affairs 15 investigation. 16 Q. So that would include both, for 17 instance, a case initiation report, any 18 interview reports, any other documents that are 19 gathered in the course of the investigation, as 20 well as the findings and conclusions, correct? 21 A. Yes, that's right. 22 Q. Okay. And so for every CR that you 23 reviewed that you said was provided to you in a 24 spreadsheet, was it attached? Was the CR itself	Page 87	1 A. I did. 2 Q. Did you -- did you review them in their 3 entirety? 4 A. Yeah. I mean, I'm reasonably certain 5 that I did. 6 Q. And would you agree with me that there 7 are additional general orders identified in the 8 rest of this document on the next page, on the 9 sixth page, correct? 10 A. Yes, those are additional general 11 orders. 12 Q. And did you review those general 13 orders? 14 A. Yes, I did. I remember seeing most of 15 those. 16 Q. You were also provided with some arrest 17 reports and personnel files, correct? 18 A. Yeah. I remember the arrest reports 19 more than I remember the personnel files. 20 Q. As you sit here today, do you know 21 whether or not you reviewed the personnel files 22 that are identified in No. 190 through -- well, 23 it looks like 190 through 197, and then, again, 24 202 to 206?
Page 86	1 attached to the spreadsheet, or are you just 2 talking about data from the CRs was in a 3 spreadsheet? 4 MR. HILKE: Wait. Just let me -- objection 5 to form. 6 You can answer. 7 THE WITNESS: The CRs were given to me in -- 8 I believe they were PDF form. 9 BY MS. EKL: 10 Q. Okay. And did you -- how many total 11 CRs -- again, not the Excel spreadsheet, but the 12 actual CR files were you provided? 13 A. Over a thousand. I don't know the 14 number. 15 Q. Your exhibit number -- Exhibit No. 6, 16 your document list, also includes -- looking at 17 167 and 169 through 172 -- a reference to 18 different CPD rules and regulations and general 19 orders, correct? 20 A. Did you say 167 to 172? 21 Q. 167, and then 169 to 172. 22 A. Those are CPD rules, regulations, and 23 general orders. 24 Q. Did you review these items?	Page 88	1 A. I'm sure I reviewed them. I don't 2 remember them in any great detail. 3 Q. And then you also identify, "All 4 materials reviewed in connection with my work in 5 Waddy versus City of Chicago." 6 A. Yep. 7 Q. Are those additional materials 8 identified in your report that you produced in 9 the Waddy versus City of Chicago litigation? 10 MR. HILKE: Object to form. 11 You can answer. 12 THE WITNESS: There may be some overlap with 13 general orders and rules and regulations, things 14 like that. 15 BY MS. EKL: 16 Q. And then, finally, 208 states, "Any 17 document cited in my report," correct? 18 A. Yes. 19 Q. So you haven't independently provided 20 us with a list of certain documents that are in 21 your report that aren't otherwise on this list, 22 correct? 23 MR. HILKE: Object to form. 24 You can answer.

25 (Pages 85 to 88)

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

26 (Pages 89 to 92)

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

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

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

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

30 (Pages 105 to 108)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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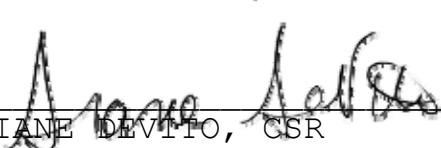
Page 361	1 that while your counsel was questioning, I 2 sorted this by allegation category, the 3 spreadsheet, so that it would sort it and pull 4 up the allegation categories for operation or 5 personnel violations. 6 And again, allegation category is the 7 category we talked about that was the category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

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2) SS:
3 COUNTY OF C O O K)
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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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