

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CIVIL ACTION - LAW

KEISHA JOHNSON : CIVIL ACTION
 : NO. 14-1123
Plaintiff :
vs. :
CITY OF PHILADELPHIA, : :
JERROLD BATES : :
STEPHEN JOHNSON, : :
ALICE MULVEY, : :
CAROL O'NEILL, : :
and : :
THREE JOHN DOES and : :
THREE JANE DOES : :
Defendants :

A P P E A R A N C E S

LAW OFFICES OF BRIAN M. PURICELLI
By: BRIAN M. PURICELLI, ESQUIRE
691 Washington Crossing Road
Newtown, Pennsylvania 18940
Representing Plaintiff

CITY OF PHILADELPHIA LAW DEPARTMENT
By: TOI SHIELDS, ESQUIRE
Senior Attorney
215-683-5046
One Parkway Building
1515 Arch Street
16th Floor
Philadelphia, Pennsylvania 19102
Representing Defendants

DEPOSITION

WITNESS: STAFF INSPECTOR JERROLD BATES
DATE: THURSDAY, FEBRUARY 26, 2015
TIME: 9:56 a.m.
LOCATION: 691 Washington Crossing Road
Newtown, Pennsylvania
REPORTER: LYNDA SCHESWOHL
Registered Professional Reporter and
Notary Public

I N D E X

WITNESS:
STAFF INSPECTOR JERROLD BATES
By: Mr. Puricelli Page 5, 304, 305
Ms. Shields 297, 305, 312

E X H I B I T S

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MS. SHIELDS: Usual stipulations pursuant
to the Rules of Federal Civil Procedure and the
Federal Rules of Evidence.

STIPULATION OF COUNSEL

It is stipulated by and between counsel for
the respective parties that the signing,
sealing, certification and filing are
waived; and that all objections, except as
to the form of the question, are reserved
to the time of trial; each counsel
reserving, however, the right to advise his
client or clients not to answer any
questions considered by counsel to be
improper.

STAFF INSPECTOR JERROLD BATES, having been duly
sworn, was examined and testified as follows:

BY MR. PURICELLI:
Q Staff Inspector, correct?
A That's correct.

1 Q If I refer to you as Mr. Bates, it's not
 2 meant for any disrespect.
 3 A Oh, no.
 4 Q Have you ever taken a deposition?
 5 A Yes.
 6 Q Federal?
 7 A No. An auto accident.
 8 Q I ask that only for the reason whether I
 9 should give you this long list of instructions or
 10 short list. But I will give you a short list,
 11 because they're really not that hard.
 12 We've agreed to general stipulations.
 13 That means basically if I ask a question, regardless
 14 if you hear an objection, you're going to answer the
 15 question, even if you think it's the most ridiculous
 16 question in the --
 17 A You say if I hear an objection, still
 18 answer?
 19 Q You're still going to answer.
 20 There are three exceptions to that,
 21 and we'll get to that in a second.
 22 The reason for that is the courts
 23 would rather have us get everything we can at one
 24 time than have to deal with the objection and you'd

1 have to come back; so, yeah, get it all done. And
 2 if it's a proper objection -- and objections, even
 3 if they're not raised, are not waived here.
 4 So if counsel re-reading the
 5 deposition and she really thinks a particular area
 6 we covered really isn't part of this case or she
 7 believes it shouldn't be part of this case, she
 8 still can go to the court and say I don't think that
 9 should come in.
 10 So because of those protections, the
 11 courts would rather have us ask the question, get
 12 the information, and then deal with the issue later.
 13 In that way, we're not running back and forth and
 14 creating more time.
 15 But like everything else in law,
 16 there are exceptions to the rule. Generally, those
 17 three. One is a privilege. If I ask a question --
 18 in this particular case, there are sensitive areas.
 19 Although counsel and I disagree on
 20 certain of them. The court is going to have to
 21 review them. We respect them. And that is
 22 attorney-client privilege.
 23 Now obviously anything you have
 24 spoken to Ms. Shields about is off limits. So if I

1 ask you did you speak with anybody, you can tell me
 2 I spoke with my counsel. I'm not going to ask you
 3 what did you talk about.
 4 A Okay.
 5 Q If you spoke to anybody else, you know,
 6 there's going to be a follow-up question: What did
 7 you guys talk about, what did you say.
 8 Now that's the gray area. There is
 9 an attorney called Alan Epstein. You more than
 10 likely spoke to him. It is that conversation that
 11 the judge is going to have to resolve later.
 12 So I'm not going to ask you in that
 13 particular area, because there will be a privilege
 14 objection. So we respect the privilege, resolve it.
 15 And if the judge says yes, it is privileged, no
 16 harm, no foul, because we didn't ask you anything.
 17 If he says no, based on the circumstances, you have
 18 to answer, unfortunately you will be coming back for
 19 that one.
 20 I don't see that as being a big
 21 problem in this case. We have a pretty good idea
 22 about everything, except what he was doing and even
 23 what he was doing we still have a pretty good idea
 24 what was going on.

1 Another area will be, aside from the
 2 privilege, will be objection to the form of the
 3 question. Now you may hear that one a lot. That
 4 one generally means that I have asked a question
 5 that your attorney may think it could be interpreted
 6 more than one way.
 7 It's an important objection because
 8 my question to you needs to be understood. My
 9 understanding of the question I'm giving is the
 10 controlling factor, which means you should listen
 11 always to my question.
 12 If it is at all confusing to you,
 13 which it could be -- it doesn't make sense to you or
 14 you would like it said a different way so you fully
 15 understand it, say so, even if your attorney doesn't
 16 say objection to the form of the question.
 17 However, if she does raise that
 18 objection, I'm going to ask you if you understand my
 19 question. I'm going to find out if we're both on
 20 the same page. Because it's you and me here that's
 21 important. So --
 22 MS. SHIELDS: And me.
 23 BY MR. PURICELLI:
 24 Q And not to put her off. The fact is as

1 long as you understand my question, it is your
 2 information that's important on this record.
 3 Now, there is an objection preserved
 4 and that is asked and answered. Some attorneys
 5 don't think so, but there is sufficient case law
 6 that says the job of the deposition here is not to
 7 harass you. It's not to beat you down. But it is
 8 also the job to test your memory and also to see if
 9 you're consistent.
 10 So if I ask a question an hour ago
 11 and we're two hours later or something like that and
 12 I ask the same question and your attorney says you
 13 asked that one already, it may not be there to
 14 harass you. It may be to test your memory to see if
 15 you would be consistent.
 16 Now in that line, I'm not here to
 17 browbeat you. I'm not here to trick you. I'm here
 18 to find out what your position is factually; find
 19 out who you talked to, and see if you can lead me to
 20 see who I can talk to, if I need to talk to somebody
 21 else.
 22 It's to go through this whole pile of
 23 paper with you to see if we can explain it or test
 24 it. But it's not to beat you up. It's not to trick

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1 you. It's not to embarrass you. And there is
 2 plenty in there that could cause embarrassment but
 3 the purpose is not to do that to you.
 4 With those basic instructions, I'm
 5 prepared to go on. It is important that I not
 6 interrupt you. Which means if I'm asking a
 7 question, let me get it all out.
 8 Because I may hesitate for a moment
 9 to make sure my question comes out the way I want it
 10 to come out and it's fully understood. You may
 11 already figure out what it is I'm going to ask and
 12 start to answer because you figured out the
 13 question.
 14 An example might be, you know, were
 15 you looking at the moon last night. You figured,
 16 okay, he's asking me about the moon. Before I get
 17 the moon, can you tell me what color it is, what
 18 size or where you were, you respond with some
 19 answer.
 20 So let me get the question out. Take
 21 a second or two to make sure you understand the
 22 question. It gives your attorney an opportunity to
 23 digest the question, as well to decide if there's a
 24 need to preserve some of the three objections or

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1 resolve them. And it gives you a chance to also
 2 answer.
 3 You don't have to guess. If you
 4 don't know an answer, it's perfectly all right to
 5 say I don't know. If you don't remember, it's
 6 perfectly all right to say I don't remember.
 7 If you need to approximate, say "I'm
 8 approximating." But most important, don't guess.
 9 Your attorney is not going to want you to guess.
 10 Because if you give me an answer, we're going to
 11 assume that answer is based on something you know or
 12 something somebody told you and you're not just
 13 guessing.
 14 An example of that might be if we're
 15 talking about the moon again and I start to talk
 16 about the geographical makeup and you say it's made
 17 of cheese.
 18 You would be guessing because you've
 19 never been to the moon. And if I asked if you did,
 20 you would tell me no, I've never been to the moon, I
 21 don't know what it's made of.
 22 The point being, don't guess. Tell
 23 me what you know. If I ask you if somebody told you
 24 something, tell me, Well, I know that because

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1 another person told me, and tell me who the person
 2 is. Okay?
 3 A Okay.
 4 MR. PURICELLI: Anything else you want
 5 to --
 6 MS. SHIELDS: No.
 7 BY MR. PURICELLI:
 8 Q With that short version of the
 9 instructions, let's get started.
 10 Mr. Bates, you know that you are a
 11 defendant in a case with Keisha Johnson?
 12 A Yes.
 13 Q Generally, I'm going to start with your
 14 background, your employment history.
 15 I have your Philadelphia Police
 16 Department history but I will ask you just to tell
 17 me: When you graduated high school, did you have
 18 any employment from the point of high school to the
 19 point you started with the Police Department?
 20 A Yes.
 21 Q What employment was that?
 22 A I served four years in the United States
 23 Marine Corps.
 24 Q Which explains the time lapse.

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1 A That's correct.
 2 Q When did you start in the Corps?
 3 A July of 1987.
 4 Q And what rank is the highest that you
 5 achieved?
 6 A Corporal.
 7 Q Did you have an honorable discharge?
 8 A Yes.
 9 Q And when was that?
 10 A July of 1991.
 11 Q What was your MOS?
 12 A 0121, which is administration.
 13 Q Were you in supply?
 14 A (Pause.)
 15 Q Were you in supply?
 16 A Administration.
 17 Q While in the Corps, did you have any types
 18 of courses for military police or anything of that
 19 nature?
 20 A No.
 21 Q When you left high school and went
 22 straight into the Corps, did you have any college
 23 training at that time?
 24 A No.

1 Q And I've got your college degree. We'll
 2 get into that in a second.
 3 When you left the Corps in 1991, you
 4 started with the Philadelphia Police Department?
 5 A November of 1991, November 4, 1991.
 6 Q I'm just going to ask you some basic
 7 questions. I have your personnel file. It's easier
 8 for me to see if you tell me something is correct
 9 based on the records than it is for me to have you
 10 explain your whole career.
 11 You're presently a Staff Inspector?
 12 A Yes.
 13 Q You have two Merit Awards in your career,
 14 both from 2005?
 15 A Yes, approximately.
 16 Q They were for armed robbery. I don't know
 17 if you remember them or not.
 18 Do you recall any other Merit Awards,
 19 other than the two that I see in your personnel
 20 file?
 21 A No.
 22 Q Aside from the two Merit Awards for the
 23 robberies, I see that you had generalized letters
 24 from citizens and things like that just saying, you

1 know, you were an aid to them in some form or
 2 another.
 3 Do you have anything other than the
 4 letters from civilians? Do you have anything from,
 5 for example, City Council, commendations, things
 6 like that? Other than the Merit Awards and these
 7 letters.
 8 A And commendatory citations, which is a
 9 level below the Merits. And I got various other
 10 letters of appreciation.
 11 Q I saw the letters. I didn't see anything
 12 about the citations.
 13 A Yeah. The citations, I mean I have --
 14 they're more generic in form. And I can't remember
 15 when they changed the wording on them. Because now
 16 you have a ribbon.
 17 Q Right. I also noticed -- and if you want
 18 to see any of these documents to refresh your
 19 memory, you go right ahead.
 20 I saw that you had gotten a letter of
 21 reference from Seamus McCaffery in 1995?
 22 A A letter of?
 23 Q Reference. Basically he was a sitting
 24 judge. He said you were in his courtroom. He said

1 you did a good job.
 2 A Yeah, that was like a letter of
 3 recognition, letter of appreciation, yeah.
 4 Q Seamus McCaffery I guess you know is the
 5 Supreme Court Justice who just retired?
 6 A Yes.
 7 Q Did you have any type of a relationship
 8 with him? I know he plays cards with some of the
 9 officers. So were you in that type of relationship
 10 with him?
 11 A No.
 12 Q So this letter would be the only real
 13 contact you had with him, unless he was a sitting
 14 judge and you were there as an officer?
 15 A Yes.
 16 Q I notice you also have employment
 17 evaluations from 2014 until actually you started,
 18 which was surprising I had all of them.
 19 The first one is a 2014. It
 20 indicates that you were being evaluated for a
 21 position called Audit and Inspections?
 22 A Rephrase the question.
 23 Q Sure. Your personnel package shows that
 24 you had annual employment or Performance Evaluations

1 from 2014 all the way to the time you started the
 2 force in 1991.
 3 A Right.
 4 Q I'm drawing your attention to a 2014
 5 evaluation, which indicated that you were being
 6 evaluated for a position with Audit and Inspections.
 7 A Not for the position. While I'm at the
 8 position that differentiates. That was just my
 9 assignment.
 10 Q And what did you do at Audit and
 11 Inspections?
 12 A Audit and Inspections, we're like the
 13 compliance. We're like auditors for the Police
 14 Department. We check for compliance, efficiency,
 15 and we conduct audit reviews.
 16 Q 2013 is an evaluation for Major Crimes?
 17 A Special Investigations, yes.
 18 Q Can you tell me what your duties were
 19 there?
 20 A I was administrative oversight Major
 21 Crimes. Handled bank robberies, economic crime.
 22 And we have officers detailed to the various federal
 23 agencies: The FBI, ATF, and at the U.S. Marshals.
 24 Q And then in 2012, you have an evaluation

1 for Management Team and Internal Affairs Division.
 2 And you were specifically, it indicates, to oversee
 3 the recruits and EEO investigations. Is that
 4 correct?
 5 A Among other duties, yes.
 6 Q What is a member of the management team in
 7 Internal Affairs?
 8 A The Captains and above. Captains,
 9 Inspectors, Chief Inspector, and the Deputy
 10 Commissioner. The Command Staff.
 11 Q And your rank in Internal Affairs was
 12 what?
 13 A Staff Inspector.
 14 Q Which meant there was a Captain below you,
 15 correct?
 16 A That's correct.
 17 Q Was there, indeed, a Captain below you?
 18 A I had two Captains below me.
 19 Actually three, excuse me. I had
 20 three Captains under me.
 21 Q What was your duty as a member of this
 22 management team?
 23 A I overseen two investigative teams that
 24 handles internal investigations. I oversaw the

1 Police Shooting Team. I oversaw all of the EEO
 2 investigations. I oversaw the recruit background
 3 investigations. And I also oversaw the Drug
 4 Screening Unit.
 5 Q You use the term oversee them. For me
 6 that means they did the work. They sent you
 7 documents to review.
 8 And you made sure they were doing
 9 something in accordance with the policies and
 10 procedures of Internal Affairs. And if not, you
 11 sent it back to them to say: You need to do the
 12 following things.
 13 And if they did everything fine, you
 14 then moved it forward, signed off on it, moved it
 15 forward to somebody else.
 16 Is that a fair description?
 17 A Yes.
 18 Q With respect to the Shooting Team, what
 19 would you do to oversee them?
 20 A Once they completed their investigation,
 21 they sent it up to their Captain for review,
 22 approvals, recommendations. Then he or she
 23 forwarded it up to me. And I would do the same
 24 thing.

1 And once I signed off on it, it went
 2 up through the chain of command.
 3 Q And the Shooting Team, correct me if I'm
 4 wrong, would be a team of investigators to determine
 5 whether police officer shootings were appropriate or
 6 not?
 7 A Well, they don't determine if it's
 8 appropriate or not. They collect facts. They're
 9 like the fact-finders.
 10 And the Management Team -- actually
 11 we have something called the Shooting and Review
 12 Board ultimately decides if it's a proper shooting
 13 or improper shooting.
 14 Q So the Shooting Team is the collector of
 15 facts?
 16 A Yes.
 17 Q And they create a report, much like an
 18 Internal Affairs investigator creates the facts?
 19 A Yes.
 20 Q The investigators don't reach the
 21 conclusion. They just collect the facts and they
 22 say these are the facts that we collected. Is that
 23 fair?
 24 A Well, when they submit their rough draft,

1 they will -- they pretty much write the report. If
 2 I agreed with the report as is, I signed off on it.
 3 If I wanted it worded a certain way
 4 or if I believe violations occurred or didn't occur,
 5 then I had the authority to overrule that, just like
 6 my bosses had the authority to overrule me.
 7 Q In a Shooting Team, in your oversight of
 8 the Shooting Teams, would you review their time
 9 sheets and DAR entries?
 10 A No.
 11 Q Who would do that?
 12 A The Captain.
 13 Q Who was the Captain in charge of that
 14 task, checking the DARs and the time actually worked
 15 versus the time that the Shooting Team said they
 16 worked?
 17 A When I first took over the Shooting Team,
 18 it was Captain Mark Everett. And maybe my last year
 19 or two there, it was Captain Carol Abrams.
 20 Q When was your last year there?
 21 A 2012.
 22 Q Some of the information I know. It's not
 23 to belabor the point. But the judge will read this
 24 eventually hopefully and he'll say, okay, what was

1 that year.
 2 A No problem.
 3 Q Do you know when Carol Abrams took over
 4 from Captain Everett?
 5 A No.
 6 Q You also said you took care of EEO,
 7 oversee.
 8 A That's correct.
 9 Q What did your tasks include to oversee
 10 EEO?
 11 A The same thing. The same as the other
 12 investigative teams. The investigators do the work.
 13 The Captain approves it. Sends it up to me and I
 14 send it up through the chain.
 15 Q Does the Captain sign off on the
 16 conclusion page or is that you who signs off on the
 17 conclusion page for EEOC investigation?
 18 A For all investigations, the conclusion
 19 page is signed off by the inspectors.
 20 Q Who actually prepares the conclusion page?
 21 A The investigators.
 22 Q Is there any reason you could tell me why,
 23 if the investigator is preparing the conclusion, why
 24 the investigator just doesn't sign it and everybody

1 else either agree or disagree with it?
 2 A I didn't write the policy of doing the
 3 Internal Affairs investigations. That's just the
 4 way it is.
 5 Q I didn't know if you knew there was some
 6 fundamental thought. Like I explained to you in the
 7 beginning of why you answer questions, the overall
 8 picture.
 9 I was just wondering if there was
 10 something similar to that for why --
 11 A I could see the rationale for the simple
 12 fact you may be overseeing thirty, forty
 13 investigators. You just don't have the time to sit
 14 there and write conclusions.
 15 However, there were occasions where I
 16 would personally just re-write the conclusion. That
 17 was rare, but there were occasions when I did,
 18 absolutely.
 19 But for the most part, they're
 20 trained, experienced investigators, good at what
 21 they did. And I would say 90 percent of the time
 22 there was no need to change the conclusion.
 23 Q There's also a 2012 evaluation that
 24 indicates it's signed off by Alice Mulvey. I'm

1 happy to show it to you. It's page 378 of your
 2 packet.
 3 It indicates that -- it's indicated
 4 from Alice Mulvey that you were suffering from some
 5 types of personnel issues that you would discuss
 6 with her. Is that correct?
 7 A Can I see it?
 8 Q Sure.
 9 A Okay.
 10 Q Have you had a chance to review it?
 11 A Yes.
 12 Q You see that I'm not trying to trick you
 13 here.
 14 A Yes.
 15 Q And your signature is on the bottom of
 16 this --
 17 A That's correct.
 18 Q You don't dispute -- you don't indicate
 19 anywhere that you dispute any part of that document;
 20 is that correct?
 21 A That's correct.
 22 Q This is signed May 8, 2012, by yourself.
 23 It's apparently Chief Inspector Alice Mulvey
 24 prepared on or about April 30th, 2012.

1 Did I describe that fairly?
 2 A Yes.
 3 Q As I told you, she had indicated in that
 4 second paragraph up in the comment section that you
 5 were faced with some very difficult personnel issues
 6 in the past year.
 7 So my question is: What were those
 8 personal difficulties that you were facing?
 9 MS. SHIELDS: Object to the form of the
 10 question. You used the word "personal" and in
 11 the report it says "personnel."
 12 MR. PURICELLI: Okay. I will rephrase it.
 13 BY MR. PURICELLI:
 14 Q You were facing some very difficult
 15 personnel issues?
 16 A Correct.
 17 Q Were you suffering at all any personal
 18 difficulties?
 19 A No.
 20 Q What were the personnel problems?
 21 A My aide, your client.
 22 Q You have to give her name.
 23 A Keisha Johnson.
 24 And there was the Shooting Team and

1 their Captain, there was friction between them that
 2 I had to mediate. And just the general working
 3 environment there involved with the Inspectors'
 4 aides.
 5 Q I'm sorry, the last one you said?
 6 A The general working environment involving
 7 the Inspectors' aides.
 8 Q Which Inspector are we talking about?
 9 A As a matter of fact, let me rephrase it.
 10 It's actually, because she was -- no, she was --
 11 police officer Lisa Pittoulas. She was actually the
 12 Deputy Commissioner's aide.
 13 In addition, there was one other
 14 officer. She retired. I can't remember her name.
 15 And the civilian clerk up there. Monica Frysinger.
 16 And that's pretty much it.
 17 Q What were the issues related to the --
 18 first let me ask, which Deputy Commissioner are you
 19 talking about?
 20 A Deputy Commissioner Stephen Johnson.
 21 Q Who was the Captain that the Shooting Team
 22 was having problems with?
 23 A Captain Abrams, Carol Abrams.
 24 Q Is she an African female?

1 A African American.
 2 Q Female, right?
 3 A Yes.
 4 Q Who on the shooting team was having
 5 difficulties with Carol Abrams?
 6 A Generally the entire team. But in
 7 particular, two investigators, Lieutenants Steve
 8 Nolan and John Prendergast.
 9 Q Could you give me the races of these two
 10 officers?
 11 A White males.
 12 Q What was the nature of the problems they
 13 were having or at least as they were explaining it,
 14 if they were explaining it to you?
 15 A Okay. It's kind of detailed.
 16 Apparently there was a practice on
 17 the part of the Shooting Team investigators where
 18 they would put themselves in a Daily Attendance
 19 Record as working, although they would be home on
 20 holidays.
 21 When you were working the two p.m. to
 22 ten p.m. and overnight shift -- well, two p.m. to
 23 ten p.m. the Shooting Team was on call for any
 24 incidents after two p.m., over the weekends or

1 holidays.
 2 A practice, that I was unaware of
 3 initially, they would -- on holidays, they would not
 4 come in to work. They would just stay home. And if
 5 they were called in, called out to a scene, they
 6 would respond.
 7 Labor Day 2011, the Captain came into
 8 work that day. She didn't see them. So the next
 9 day, the Tuesday, she saw the DARs had not been
 10 changed and she knew they weren't there.
 11 So she went and carried them
 12 vacation. They went behind her and changed it back
 13 to them working.
 14 Q What was the code for working?
 15 A The code for working?
 16 Q Yeah. I know V is vacation. S is for
 17 sick.
 18 A Oh, I don't remember.
 19 Q It was just a question that popped into my
 20 head.
 21 A It could have been G, but I'm not sure.
 22 It was G.
 23 Q That's a perfect example of a question
 24 that will come to my mind but it really means

1 nothing other than helps me with my notes.
 2 Okay. I'm familiar with that event.
 3 That seemed to be the problem that they were
 4 having --
 5 A Yes.
 6 Q -- this past practice?
 7 A Yes.
 8 Q Was there anything in the Police
 9 Department's policy, written policy, that said that
 10 they were to be carried as working in the DAR; when
 11 they actually weren't there working, they were at
 12 home on call?
 13 A No.
 14 Q There is a DAR policy --
 15 A Yes.
 16 Q -- that I guess you're familiar with. I'm
 17 not going to show it to you.
 18 Was there anything in the DAR policy
 19 that would indicate that the proper coding by -- I
 20 guess the Captain was doing the coding here and not
 21 a Lieutenant -- was to show them either as working
 22 or V as vacation or sick or something like that,
 23 when they were not actually working but in these
 24 on-call status?

1 A Can you rephrase the question?
 2 Q I'll shorten it up.
 3 Are you familiar with the DAR policy?
 4 A Very much.
 5 Q It's not a real detailed thing. Could we
 6 agree, without me showing you the document -- that
 7 the policy does not state that officers on call, the
 8 Shooting Team specifically, are to be carried in any
 9 particular status at all?
 10 A No, it doesn't.
 11 Q Now, who was the Captain for the Shooting
 12 Team?
 13 A Captain Carol Abrams.
 14 Q And Captain Carol Abrams' race is?
 15 A Black female. Race African American,
 16 black.
 17 Q It's not meant to be any more than
 18 descriptive.
 19 And are you telling me that Captain
 20 Abrams would show in this case these two white males
 21 as on vacation or working when, in fact, they were
 22 home on call and off?
 23 A Right. She changed it to them being on
 24 vacation because they weren't in the building. They

1 never came in to work.
 2 Q So she changed it?
 3 A She changed it.
 4 Q And did the white Shooting Team officers
 5 change it back? Did I hear you say that correctly?
 6 A That's correct.
 7 Q Did they go into the DAR system and change
 8 it back?
 9 A Yes.
 10 Q Did they indicate, when they went back,
 11 that they were the ones changing it?
 12 A Well, the record will reflect who was the
 13 last person who changed it.
 14 Q Just for the judge's edification. The DAR
 15 system is the Daily Attendance Record system,
 16 correct?
 17 A Right.
 18 Q And that's really a computerized system,
 19 correct?
 20 A Yes.
 21 Q And an officer or commander, anybody who
 22 is a sworn officer, can actually go into the DAR
 23 system itself, correct?
 24 A Yes. Anyone who has what's called sign-on

1 access to the system can enter. It has to be
 2 certified.
 3 Only a supervisor can certify it.
 4 Once it's certified, only a supervisor can go into
 5 the system to make changes.
 6 Q So in the particular case that we're
 7 talking about, Carol Abrams is a supervisor? She's
 8 a Commander, right?
 9 A Correct.
 10 Q When she changed it to vacation time, did
 11 she certify it?
 12 A It's already certified.
 13 Q So she --
 14 A She updated it.
 15 Q She updated it, she changed it, whatever.
 16 The officers that went back and
 17 changed it, was it the entire Shooting Team or one
 18 that did the updating?
 19 A One.
 20 Q Who was the one?
 21 A Lieutenant Nolan.
 22 Q And Lieutenant Nolan, because of his
 23 lieutenant status, would be able to update? He
 24 would have been able to make the changes in the

1 system?
 2 A Yes.
 3 Q Did Captain Abrams discover that her entry
 4 had been changed?
 5 A Yes.
 6 Q And were you involved in this process by
 7 either somebody telling you something was occurring
 8 or actually doing something?
 9 A Captain Abrams brought it to my attention
 10 either that Tuesday or that Wednesday.
 11 Q I'm going to cut to the chase.
 12 She told you that they were showing
 13 themselves working when they weren't there. Is that
 14 it in a nutshell?
 15 A Yes.
 16 Q What did you say to her in response to
 17 that?
 18 A We're going to change it back to them
 19 being on vacation. And I had a meeting with her and
 20 Lieutenant Nolan in my office.
 21 And he explained to me what was the
 22 past practice up there. And I immediately told him
 23 the practice is going to change. They're either
 24 going to come in to work or be carried vacation.

1 Q Have the Shooting Team members now been
 2 coming to work on vacation, when holidays are out
 3 and everybody else is off?
 4 A While I was there, we had no more issues.
 5 So they were either coming to work or being carried
 6 on vacation.
 7 Q Did any discipline arise from this event,
 8 they're not working, showing yourself working,
 9 changing to vacation, changing back to working? Did
 10 anybody get disciplined for this event?
 11 A No.
 12 Q Did an investigation start, an Internal
 13 Affairs investigation start?
 14 A No.
 15 Q So this was handled by Command Staff?
 16 A Yes.
 17 Q Were there any reports created of this
 18 Command Staff investigation?
 19 A There was no investigation.
 20 Q So basically everybody was just talking?
 21 A Yes.
 22 Q So unless you know about it, there's
 23 nothing I can read about it; is that correct?
 24 A That's correct.

1 Q I'm going to draw your attention to what
 2 was already marked, I believe, as Alice Mulvey-9.
 3 Could you tell me if you recognize
 4 this document, Mr. Bates?
 5 A If I could recognize what?
 6 Q The document itself. Just the document.
 7 Not the writing. Just the form of the document.
 8 A Internal Affairs Daily Time Sheet Squad 7,
 9 which is the Shooting Team.
 10 Q Have you seen a document like this before
 11 while you were overseeing the Shooting Team?
 12 A No.
 13 Q So you don't know whether this is how the
 14 Shooting Team prepares their reports working or not
 15 working, or how it gets entered into the DAR system?
 16 A No, right.
 17 Q The event that you were talking about, the
 18 September 2011 event, are the names on this document
 19 members of the Shooting Team?
 20 A Yes.
 21 Q And the Nolan that's down on the second
 22 one down, is that the Lieutenant Nolan that we've
 23 been talking about?
 24 A Yes.

1 Q And I think you mentioned one other
 2 officer.
 3 A Prendergast.
 4 Q Those were the two principally having the
 5 difficulties with Captain Abrams?
 6 A Yes.
 7 Q And McDonald, is he the Captain?
 8 A No.
 9 Q Who is McDonald?
 10 A He's a Lieutenant.
 11 Q And Scott-Abrams is the Captain we're
 12 talking about?
 13 A Yes.
 14 Q And Van, who was Van?
 15 A Van and Young were partners.
 16 Q Do you know his first name, Officer Van?
 17 A Dave.
 18 Q And about Mr. Young?
 19 A Mike, Michael.
 20 Q So this is the full team?
 21 A Yes.
 22 Q I suspect there's more than one team,
 23 correct?
 24 A No.

1 Q This is it?
 2 A This is it.
 3 Q And you've never seen that particular form
 4 before, have you?
 5 A No. Although each squad has what's called
 6 a sign-in sheet. I never -- it wasn't part of my
 7 duties to look at the squad sign-in sheets. But I
 8 know each squad had a sign-in sheet.
 9 Q I'm going to show you also a document 7.
 10 It's a document that's dated for April 4, 2012.
 11 Were you still overseeing -- were you
 12 still in Internal Affairs as of April 4, 2012?
 13 A Yes.
 14 Q I'm showing you a four-page document.
 15 MS. SHIELDS: You said four pages?
 16 MR. PURICELLI: Yes. Remember I gave you
 17 the one here, the fax.
 18 MS. SHIELDS: Okay.
 19 BY MR. PURICELLI:
 20 Q Mr. Bates, have you ever seen any of these
 21 documents before?
 22 A These particular documents or something
 23 similar?
 24 Q Something similar.

1 A Oh, yeah.
 2 Q Similar to the specifics of this document
 3 or similar in form to these documents?
 4 A Similar -- say it again.
 5 Q This is like a memorandum form.
 6 A No, this is it.
 7 Q So you have actually seen one similar that
 8 deals with the issue that's talking about the Police
 9 Finance issue in the "To"?
 10 A Yes.
 11 Q So this isn't -- this topic I'm going to
 12 go into about these DARs -- this isn't strange to
 13 you? Something you have a little bit of knowledge
 14 about?
 15 A Well, I don't know about these particular
 16 ones.
 17 Q This one is in regard to the entry in the
 18 DAR system for a Florence M. Tinsman. You'll see
 19 that on the second page.
 20 A Uh-huh.
 21 Q Do you know Florence Tinsman?
 22 A Yes. She was a civilian secretary.
 23 Q Do you know her race?
 24 A White female.

1 Q This indicates that there has to be a
 2 change in the DAR system by Lieutenant Long. Do you
 3 see that on the first page?
 4 A Yes.
 5 Q Are you familiar with the need to change
 6 this DAR system entry?
 7 A Not that particular one.
 8 Q Are you familiar with other entries in the
 9 DAR system that had to be changed?
 10 A If it affected somebody that reported
 11 under me, I would. But for the most part, they
 12 prepare these every day. DARs are -- mistakes are
 13 made in DARs every day. This is not unique.
 14 Q Mistakes, putting people in for one thing
 15 when they're not --
 16 A Yes.
 17 Q -- occur all the time?
 18 A Yes.
 19 Q Do you know of any investigations that
 20 ever came about for these mistakes in coding a
 21 particular employee's status for a particular date
 22 in the DAR system?
 23 A Well, only if -- like I've heard -- to
 24 answer this particular question, no. Because I was

1 ready to answer something else.
 2 No. To answer your question, no.
 3 Q I'm not going to go into that particular
 4 DAR with you right now, because that's related to --
 5 nothing to do with the shooting teams and stuff like
 6 that.
 7 I was going over your evaluations.
 8 And in 2011, you have an Internal Affairs evaluation
 9 done by Stephen Johnson.
 10 Do you recall that particular
 11 evaluation?
 12 A No.
 13 Q That would be 379.
 14 A Okay.
 15 Q You had a chance to review the document?
 16 A Yes.
 17 Q Does that help refresh your memory as to
 18 the events for that particular evaluation?
 19 A Yeah.
 20 Q He indicated to me that you were a great
 21 counsel to him. Correct?
 22 A Correct.
 23 Q Could you tell me what it was that you did
 24 counsel Deputy Commissioner Stephen Johnson?

1 A He was assigned to Internal Affairs in
 2 2010. And he had never really had an investigative
 3 background before.
 4 So he relied on me a lot, bounced
 5 things off me, his transition here, his
 6 investigations, things of that nature. We talked
 7 every day.
 8 Q Did you talk about EEO investigations?
 9 A If they came up. We talked about any
 10 investigation that was relevant to be brought to his
 11 attention.
 12 Q Is that a yes or a no?
 13 A Yes.
 14 Q Did you talk to him about any issues
 15 involving DARs being incorrectly entered by
 16 supervisors?
 17 A No.
 18 Q Did you talk to him in regards to
 19 personnel difficulties?
 20 A Yes.
 21 Can I go back to your previous
 22 question?
 23 Q You can.
 24 A About the DAR entry.

1 At the time of this? Or going
 2 forward as well?
 3 Q Well, that's a fair question.
 4 We're looking at right now a 2011.
 5 So anything he talks about in 2011 would be before
 6 that. So I wanted to know what you were talking
 7 about in order for this evaluation to be done.
 8 A Okay.
 9 Q I get what you want to say. And it won't
 10 appear to me that when we get to talking to people
 11 about things after this evaluation, that it's an
 12 inconsistent statement because I didn't ask you
 13 anything yet.
 14 Right now he's indicated on this
 15 April 28th, 2011 evaluation, that in the year prior
 16 to that date, you counseled him.
 17 A Right.
 18 Q And that's what we're really talking
 19 about. What did you guys talk about in the year
 20 2011 back to 2010?
 21 A Just the daily inner workings of internal
 22 investigations.
 23 Q Would your answer then still be the same
 24 as of the date of the evaluation? You had not

1 talked to him about this DAR event where, to use
 2 your words, regularly gets Coded wrong, mistakes?
 3 A No.
 4 Q Would it be fair to say that as of at
 5 least the date of this evaluation, this phenomenon
 6 you said DAR regularly gets coded wrong. That
 7 problem, it existed and existed from April of 2011
 8 back to April of 2010?
 9 MS. SHIELDS: I'm going to object to the
 10 form of the question.
 11 Can you rephrase?
 12 MR. PURICELLI: I can.
 13 BY MR. PURICELLI:
 14 Q Your testimony was that this DAR entry
 15 problem was not new; it wasn't a sudden, it suddenly
 16 popped up; that it occurs regularly. Did I hear
 17 that correctly?
 18 A Yes.
 19 Q What I'm looking now to see whether that
 20 problem, that you say regularly occurred, occurred
 21 in the year 2010?
 22 A Oh, yes.
 23 Q And I expected that to be the answer.
 24 It would be fair to say that in all

1 your years as a Commander -- we'll get to that when
 2 we get to your years of promotion -- that the DAR
 3 problem, this coding problem, was something that did
 4 exist. It isn't something that suddenly just popped
 5 up.
 6 A That's correct.
 7 Q Now, we were talking about what Deputy
 8 Commissioner Johnson -- Stephen Johnson, not to be
 9 confused with Sylvester Johnson -- talked to you
 10 about -- you talked to him for counsel.
 11 You have indicated to me there would
 12 be discussions on EEO investigations, no
 13 discussions on DAR issues, and personnel issues.
 14 Were there any personnel issues that
 15 you discussed with Deputy Commissioner Johnson,
 16 Stephen Johnson, that concerned any of the people
 17 that you mentioned before, his aides and Keisha
 18 Johnson --
 19 A I'm not sure.
 20 Q -- and the Shooting Team?
 21 A Right.
 22 I'm not sure. I don't recall.
 23 Q Could you tell me when it was that you
 24 started talking to Deputy Commissioner Johnson about

1 Keisha Johnson?
 2 MS. SHIELDS: I'm going to object to the
 3 form of the question because it's so
 4 open-ended. Can you --
 5 MR. PURICELLI: No. I just want to know
 6 what he talked about. He said earlier in this
 7 deposition that the three things that he had
 8 problems with, these personnel problems, one
 9 involved Keisha Johnson; one involved the
 10 Shooting Team and Carol Abrams; the other ones
 11 were his aides. And I need the names of the
 12 aides.
 13 I think on this record we know that he
 14 wasn't talking about these people in 2010
 15 because I've asked him about that for his
 16 evaluation.
 17 So we know whenever he talked to somebody,
 18 based on his testimony, it has to be after
 19 4/28/2011.
 20 BY MR. PURICELLI:
 21 Q Is that fair, Mr. Bates?
 22 A Yes.
 23 Q So what I want to know is: What were you
 24 talking to Deputy Commissioner Johnson about after

1 April 28th, 2011?
 2 MS. SHIELDS: It's a better question.
 3 BY MR. PURICELLI:
 4 Q Well, the next question will probably be
 5 can you pinpoint what it is --
 6 A Yes, I can pinpoint when I started talking
 7 about those issues. That was after Labor Day of
 8 2011.
 9 Q So we know after September of 2011, you
 10 started having -- so between April of 2011 to
 11 September of 2011, you had no discussions with
 12 Deputy Commissioner Stephen Johnson about Keisha
 13 Johnson that concerned Keisha Johnson?
 14 A Not that I recall.
 15 Q Not that you recall?
 16 A No.
 17 Q How about, did you have any discussions
 18 with him about the issue with the Shooting Team and
 19 Carol Abrams?
 20 A Between April and September?
 21 Q Right, because you already said you
 22 didn't --
 23 A No.
 24 Q Correct me if I'm wrong, you didn't have

1 any discussions with the Deputy Commissioner from
 2 April 2011 back to 2010 about the Shooting Team
 3 issue we discussed with Carol Abrams?
 4 A No.
 5 Q So now let's go forward to the time you
 6 left.
 7 Did you have any discussions with
 8 Deputy Commissioner Johnson about the Shooting Team
 9 incident with the DAR?
 10 A Yes.
 11 Q And I think we talked a little bit about
 12 it. That you went there and you decided you no
 13 longer were going to do what was done in the past,
 14 right?
 15 A Yes.
 16 Q Was that your decision or was that the
 17 Deputy Commissioner's decision?
 18 A It was my decision.
 19 Q And he concurred with it?
 20 A Yes.
 21 Q Did you have any types of discussions with
 22 the Deputy Commissioner that also involved either
 23 Carol Abrams or anybody on the Shooting Team on this
 24 DAR issue?

1 A Yes.
 2 Q I don't know if we talked about it. I
 3 really don't remember.
 4 Was that before or after you made the
 5 decision of how you were going to resolve this DAR
 6 entry issue?
 7 A After.
 8 Q So if I've got it correctly, Carol Abrams
 9 came to you. Told you about the problems. You said
 10 we'll put in back to vacation. They changed it.
 11 You said put it back and don't change it again. And
 12 then you went to the Deputy Commissioner?
 13 A I went to the Deputy right -- I went to
 14 the Deputy after I met with Captain Abrams and
 15 Lieutenant Nolan.
 16 Q And had already made the decision of how
 17 things would move from that point forward?
 18 A Yes.
 19 Q And what did you tell the Commissioner --
 20 the Deputy Commissioner?
 21 A I told him about the event. And told him
 22 how it was going to be. And he was okay with it.
 23 Q So would your answer be the same as it was
 24 before, there are no documents that show this

1 occurred?
 2 A Yes, that's correct.
 3 Q And that would include your discussions
 4 with Deputy Commissioner Johnson?
 5 A That's correct.
 6 Q Did it go past Deputy Commissioner
 7 Johnson, meaning did it go up to Charles Ramsey,
 8 this issue?
 9 A No.
 10 Q Did you have any discussions with Charles
 11 Ramsey about this?
 12 A No.
 13 Q Did he have any discussions with you about
 14 it?
 15 A No.
 16 Q Did he send you any type of e-mail or any
 17 electronic communication in regard to this issue?
 18 A No.
 19 Q Do you know if he even knows about this?
 20 A I do not know if he knows about this.
 21 Q Do you have any reason to believe he does
 22 know about it?
 23 A No.
 24 Q Are there Command meetings?

1 A Yes.
 2 Q Command Staff meetings. Is he part of
 3 that Command Staff meeting?
 4 A Oh, yes.
 5 Q And do you, at these Command Staff
 6 meetings, you personally or people like Stephen
 7 Johnson, when he was alive, discuss these types of
 8 issues at Command meetings?
 9 A No.
 10 Q No?
 11 A (Shaking head negatively.)
 12 Q Has Charles Ramsey, at any time in 2011
 13 and forward, discussed the DAR system?
 14 A No.
 15 Q Just so that my question is clear. I
 16 don't mean to pick on you about that.
 17 When I say "talked to you," I mean
 18 talk either at a Command Staff meeting that you were
 19 part of or some kind of formal meeting where you
 20 were part of, or you personally alone.
 21 A No.
 22 Q In 2010, you were supervised by Anthony
 23 DiLacqua?
 24 A Yes.

1 Q He retired and went over to the
 2 SugarHouse, the casino?
 3 A Yes.
 4 Q Is Anthony DiLacqua the same DiLacqua that
 5 was involved in the event where an officer drove off
 6 a parking garage while at DUI and kind of made the
 7 report disappear? Is that the same DiLacqua?
 8 MS. SHIELDS: I'm going to object to the
 9 form of the question.
 10 But you may answer it if you understand
 11 it.
 12 THE WITNESS: I have no idea.
 13 BY MR. PURICELLI:
 14 Q Now Anthony DiLacqua was a Chief
 15 Inspector, correct, in 2010?
 16 A Yes.
 17 Q And he supervised you, correct?
 18 A Yes.
 19 Q And he provided you with a performance
 20 report on your activities for 2009 to 2010?
 21 A Yes.
 22 Q I'll show you the document.
 23 Did you have a chance to read it?
 24 A Yes.

1 Q In 2010, he indicated that you were with
 2 the Office of Professional Responsibility. Is that
 3 correct?
 4 A Yes.
 5 Q And the Office of Professional
 6 Responsibility is in what bureau?
 7 A Internal Affairs falls under the umbrella
 8 of OPR.
 9 Q Were you assigned to specifically the
 10 Shooting Team then?
 11 A No. I was still -- they fell under me. I
 12 oversaw the investigations.
 13 Q I know the evaluation system OPR was
 14 reorganized and I'm trying to really get to that
 15 first.
 16 A Well, it's just a name change. Nothing
 17 changed.
 18 Q I recognize that. But people who don't
 19 know anything about the Police Department will hear
 20 all these different names and really won't get a
 21 functioning idea.
 22 They want to see things physically, a
 23 flow chart, so to say. So what I'm trying to do is
 24 paint a picture.

1 A The Office of Professional Responsibility
 2 now -- back then, it consisted of the Chief
 3 Inspector and his administrative staff, which would
 4 have been the Lieutenant, the Corporal, his
 5 secretary and his aide.
 6 They were under also a separate DAR
 7 code, and then Internal Affairs.
 8 So if you look at an organization
 9 chart, you see OPR, and under it you saw Internal
 10 Affairs Bureau. That's all.
 11 Q And where did you fit in that?
 12 A Internal Affairs.
 13 Q Because you've got somebody in charge of
 14 OPR; and then you then have your bureaus underneath
 15 it?
 16 A Right.
 17 Q And part of that bureau system was
 18 Internal Affairs and that's where you were?
 19 A Yes.
 20 Q And then inside the bureau, you had the
 21 Shooting Team?
 22 A Correct.
 23 Q And you oversaw the Shooting Team and
 24 other things; is that correct?

1 A Yes.
 2 Q And are those other things those we've
 3 already listed?
 4 A Yes.
 5 Q In 2009, could you tell me where you were
 6 in the department?
 7 A Internal Affairs.
 8 Q Internal Affairs.
 9 I show you your Performance
 10 Evaluation, 381.
 11 A Okay.
 12 Q It indicates, there's an identifier of
 13 BUCA.
 14 A A what?
 15 MS. SHIELDS: Where are you referring?
 16 MR. PURICELLI: Let me see if I can find
 17 it for you.
 18 BY MR. PURICELLI:
 19 Q It indicates you were in the Bureau,
 20 correct?
 21 A Correct.
 22 Q And which bureau is that?
 23 A Internal Affairs.
 24 Q If I gave you all of your evaluations,

1 would you agree with me they all show that you have
 2 ranked satisfactory with no adverse types of claims
 3 or evaluation statements?
 4 A Through my time in the Department?
 5 Q Since you got on the job.
 6 A Yes.
 7 Q And would it be fair for me to say that
 8 all of your evaluations don't indicate at any time
 9 that you were a rude individual?
 10 MS. SHIELDS: Wait a minute. Rephrase
 11 that.
 12 BY MR. PURICELLI:
 13 Q All of your evaluations, all the people
 14 doing your evaluations, have never indicated you
 15 were a rude individual?
 16 MS. SHIELDS: Are you saying rude?
 17 MR. PURICELLI: Rude.
 18 THE WITNESS: I don't believe that they --
 19 no.
 20 BY MR. PURICELLI:
 21 Q None of your evaluations indicate that you
 22 were an arrogant person, correct?
 23 A I don't recall any.
 24 Q I mean I'll let you look at it.

1 A All right.
 2 Q You're free to look at all of them to
 3 refresh your memory.
 4 A Okay.
 5 Q So like I say, you don't have to guess.
 6 A I'm not guessing.
 7 Q I'm just trying to get through all the
 8 forms real quick and see if you agree or you'll say
 9 I really need to see the documents to refresh my
 10 memory.
 11 Would it be fair to say that none of
 12 your reviewers, in reviewing your abilities,
 13 indicates that you lacked people skills?
 14 A I remember one quasi one. When I was a
 15 lieutenant, 39th District. So that would probably
 16 have been my 2002 evaluation.
 17 MS. SHIELDS: Let me see that.
 18 MR. PURICELLI: We can. There is no trick
 19 here.
 20 BY MR. PURICELLI:
 21 Q We got all of them here. This is the
 22 2002. It's Bates 390.
 23 A Okay.
 24 Q The evaluation forms, would you agree with

1 me, since you've been on the Department, are all
 2 laid out the same way. They have these performance
 3 factors one through zero?
 4 A One through ten.
 5 Q One through ten.
 6 A Yes.
 7 Q And you got two that were a couple years
 8 apart, so you can compare them.
 9 And number four is relationship with
 10 people?
 11 A Right.
 12 Q Ability to get along with others.
 13 Effectiveness in dealing with the public, other
 14 employees, patients or inmates.
 15 I have looked at all of your
 16 performance. And you run straight down the
 17 satisfactory column.
 18 A That's correct.
 19 Q And I couldn't find anything to
 20 indicate that --
 21 A I've never received an unsatisfactory in
 22 any area.
 23 Q I take it you've prepared these
 24 Performance Evaluations for your subordinates?

1 A Oh, yeah.
 2 Q Have you -- in the Comment section it
 3 generally says for these things if you're going to
 4 make an adverse or a negative remark, you have to
 5 back it up with facts.
 6 Is that a fair description of what it
 7 asks the evaluator to do?
 8 A Yes.
 9 Q Do you receive any type of training as a
 10 supervisor on how to fill out the Performance
 11 Evaluations?
 12 A I don't recall if they went over that with
 13 us when I first made sergeant. I don't recall.
 14 But the system is antiquated compared
 15 to other occupations, to other department
 16 performance reports I've seen. It's very
 17 antiquated.
 18 Q So when you're filling these out, is it
 19 your understanding that the Department requires you
 20 to be accurate and truthful?
 21 A Yes.
 22 Q So if an individual did, in fact, have
 23 people skill issues, they were rude, arrogant,
 24 didn't know how to talk to people, that should be

1 noted by the evaluator?
 2 A That's correct.
 3 Q Your personnel file indicates that you
 4 received sexual harassment training?
 5 A Correct.
 6 Q I'm going to show you what has been
 7 stamped page 422 of your personnel file.
 8 Okay. There it indicates the
 9 training was on or about November 29th, 2012.
 10 A That's wrong. 2011.
 11 Q 2011?
 12 A Yeah.
 13 Q I'm going to show you the date on the
 14 bottom.
 15 A I know. It's wrong.
 16 Q Why do you say it's wrong?
 17 A Because I know it's wrong.
 18 Q How do you know it's wrong?
 19 A Because 2012 is when all this started and
 20 they moved me from Internal Affairs. So that was --
 21 and I remember going down there. So it was 2011.
 22 Q You said that you know it's wrong because
 23 they moved you from Internal Affairs?
 24 A You know what, let me rephrase it, now

1 that I'm thinking about it.
 2 I've been down there a few -- okay.
 3 You know what, that may be correct, Counselor. I
 4 apologize there.
 5 Because I went down there previously
 6 the prior year when we were re-writing the policy.
 7 Now I recall -- I think -- I remember
 8 them coming up to the Police Academy for the Command
 9 Staff. So I stand corrected there.
 10 Q So we'll go through all of that.
 11 November 29th, 2012, the certificate
 12 indicates that Staff Inspector Jerrold Bates
 13 completed training from the Training and Development
 14 Division in regard to sexual harassment and Equal
 15 Employment Opportunity training.
 16 Did I correctly describe the
 17 document?
 18 A Yes.
 19 Q This particular training, was it part of
 20 your MPO training?
 21 A No.
 22 Q Why did you go to this training at this
 23 particular time?
 24 A It was mandated.

1 Q Who mandated it?
 2 A The Police Commissioner. The entire
 3 Command Staff was there.
 4 Q And Police Commissioner was Charles
 5 Ramsey?
 6 A Yes.
 7 Q You said it was mandated for the entire
 8 Command structure?
 9 A Yes.
 10 Q Prior to this particular mandate by
 11 Charles Ramsey, had he mandated the Command Staff
 12 attend any type of training for sexual harassment?
 13 Or is this the first?
 14 A I don't recall.
 15 Q You started the Command Staff as a
 16 lieutenant, correct?
 17 A Right.
 18 Q And we know that was 2002?
 19 A Yes.
 20 Q From 2002 --
 21 A Actually, Captain and above.
 22 Q Captain and above?
 23 A Yes.
 24 Q When did you become a Captain?

1 A April 2003.
 2 Q From 2003 to 2012, did Charles Ramsey send
 3 out any type of instructions for Command Staff
 4 city-wide for the sexual harassment policy?
 5 A I don't recall.
 6 Q Do you recall receiving any training on
 7 sexual harassment between 2003 and 2012?
 8 A Yes.
 9 Q Where did you get that training?
 10 A Down at MSB building, the Municipal
 11 Services Building.
 12 Q What year was the training?
 13 A When I made Captain, right after I made
 14 Captain, I went down there.
 15 And when I was in Internal Affairs,
 16 either 2010, 2011, we went down to the city's EEO
 17 office for training.
 18 Q Did you receive any type of certificates
 19 or documentation to indicate that you had this
 20 training?
 21 A Yes.
 22 Q What did you receive?
 23 A Just a certificate. It should be in my
 24 personnel folder.

1 Q We'll go through it but I don't think
 2 you're going to find it in there.
 3 Did you personally drop the
 4 certificate off to the Personnel Department?
 5 A I don't recall if I did personally. Did I
 6 send it down there? Did they send it over there?
 7 Like I didn't put this down there.
 8 Q That's fair. I won't know unless I ask
 9 the question.
 10 After 2003 and you became a Captain,
 11 did you receive any further instructions on sexual
 12 harassment?
 13 A I don't recall.
 14 Well, I did answer yes when I was in
 15 Internal Affairs, 2010 or 2011.
 16 Q In 2010 while you were at Internal Affairs
 17 were you in a position to oversee EEO
 18 investigations?
 19 A I don't know if that started 2010 or 2011.
 20 I want to say 2011.
 21 Q 2011 was a period of time that you were
 22 assigned to oversee the EEO investigations, correct?
 23 A Yes.
 24 Q And you say while there, you received

1 training on sexual harassment?
 2 A Yes.
 3 Q And where did you receive that training?
 4 A The Municipal Services Building.
 5 Q Who provided that training? The name of
 6 the person.
 7 A I think it was this guy.
 8 Q Lorey --
 9 A No. William Twardzik. He's the City's
 10 EEO officer, or at least he used to be.
 11 Q Did you receive any type of EEO training,
 12 whether it's about law or how to do your job from
 13 Jackie Daley?
 14 A Jackie -- yes, I forgot. Jackie did come
 15 up there also. And put up a workshop for the
 16 investigators and the Commanders, yes. That was
 17 2011.
 18 Q Did you receive any type of training
 19 material from her?
 20 A I'm sure.
 21 Q Did you keep that training material?
 22 A I'm sure I have it somewhere.
 23 Q Did you utilize that training material
 24 from 2011 to 2012?

1 A Of course.
 2 Q Did you review it?
 3 A Yes.
 4 Q Where did you keep it?
 5 A In my office.
 6 Q Where in your office?
 7 A In my desk.
 8 Q Did Jackie Daley's training involve
 9 conducting EEO investigations?
 10 A Yes.
 11 Q Did her training involve the law of EEO as
 12 it was in 2011?
 13 A Yes.
 14 Q Did that training involve supervisory
 15 liability?
 16 A Yes.
 17 Q Did that training involve Directive 97?
 18 A Yes.
 19 Q And for the record, Directive 97 is what?
 20 A Our policy on EEO.
 21 Q The Department's policy?
 22 A Yes.
 23 Q The city has one as well as. The City has
 24 a policy separate from Directive 97, doesn't it?

1 A Yes.
 2 Q It issued training on the City's policy?
 3 A I don't recall.
 4 Q Could you describe some of the materials
 5 that Jackie Daley provided you in this training
 6 workshop?
 7 A Case law. Steps on how to conduct proper
 8 investigations. She used to -- she commanded the
 9 EEO Unit prior to them becoming a part of Internal
 10 Affairs.
 11 Q At one point the EEO office was at Spring
 12 Garden?
 13 A Yes.
 14 Q And it then ultimately merged and went to
 15 Dugan Road where Internal Affairs is?
 16 A Yes.
 17 Q Do you know why that was done? Why EEO
 18 was then merged with Internal Affairs as opposed to
 19 being separate?
 20 A No, I don't.
 21 Q Do you know who made the decision to take
 22 the EEO Unit from a separate building on Spring
 23 Garden and merge it in with Internal Affairs?
 24 A I don't know. I would assume the Police

1 Commissioner.
 2 Q Is that assumption based on the fact that
 3 he is the one who makes the decision on how --
 4 A Correct. No one can change the
 5 organizational chart but him.
 6 Q Do you recall when that was done?
 7 A They first -- even when they first came to
 8 Dugan Road, they were still separate from Internal
 9 Affairs. That was like 2009, 2010.
 10 Q Can you explain to me how EEO matters are
 11 kept separate from Internal Affairs matters?
 12 A They went -- current, when I was there, or
 13 when they were there?
 14 Q Unless you know currently, let's just
 15 stick with 2011 and 2012, which is the period of
 16 time you were there.
 17 So we'll operate on your knowledge at
 18 that period. If it changed or you know it changed
 19 later, you can tell me that.
 20 A Really wasn't. It was treated as a
 21 typical internal investigation.
 22 Q In fact, you had the same Internal Affairs
 23 investigators doing EEO investigations, correct?
 24 A Yes.

1 Q Is it fair to say that there was no
 2 separate investigators for EEO that only did EEO,
 3 and separate Internal Affairs that did Internal
 4 Affairs investigations for criminal conduct of
 5 employees or rules violations, other than 97 rule
 6 violations?
 7 A Correct.
 8 Q So at one point, there was a separation,
 9 correct?
 10 A Yes.
 11 Q EEO guys just did EEO work, and Internal
 12 Affairs did everything but EEO work, correct?
 13 A Yes.
 14 Q And then it changed and they merged the
 15 two units and investigators started doing both
 16 matters, correct?
 17 A Correct.
 18 Q Do you know, aside from Jacqueline Daley's
 19 training, other training might have been provided by
 20 the city, by the Department, to the investigators
 21 when they made this merge?
 22 A No, I don't.
 23 Q Now in 2011, do you recall about when it
 24 was in 2011 that you actually got this workshop from

1 Jackie Daley?
 2 A No, I don't.
 3 Q In 2010, do you recall any training?
 4 A No.
 5 Q Do you recall any training from 2003 to
 6 2011, in that period of time?
 7 A No. No, I don't recall.
 8 Q 2001 and 2006, you attended Saint Joseph's
 9 University?
 10 A Yes.
 11 Q And you obtained a degree?
 12 A Yes.
 13 Q What is your degree in?
 14 A Bachelor's degree was in criminal justice.
 15 My Master's degree is in public safety
 16 administration.
 17 Q You have no minor in psychology?
 18 A A minor?
 19 Q A minor or any kind of degree.
 20 A No.
 21 Q And then you attended FBI Command School
 22 in 2002?
 23 A Repeat that.
 24 Q You attended the FBI National Academy in

1 2002?
 2 A No. 2004.
 3 Q And did you attend Northwestern University
 4 Command and Staff School?
 5 A Yes. That was in 2002.
 6 Q Penn State you attended in 1998?
 7 A Yes.
 8 Q What did you take at Penn State?
 9 A Police supervision course.
 10 Q Was that a degree program you were in or
 11 just a certification?
 12 A Yes, certificate.
 13 Q 2006 you acknowledge that you were subject
 14 to the Philadelphia Ethics Code?
 15 MS. SHIELDS: I'm sorry, I didn't hear the
 16 question.
 17 BY MR. PURICELLI:
 18 Q In 2006, you indicated that you were
 19 subject to the Philadelphia Ethics Code?
 20 A May I see it?
 21 Q Sure.
 22 MS. SHIELDS: Is that the document that's
 23 just signed off on?
 24 MR. PURICELLI: Yes.

1 THE WITNESS: Okay.
 2 MS. SHIELDS: Is that your signature?
 3 THE WITNESS: Yes.
 4 MR. PURICELLI: I assumed it was his.
 5 BY MR. PURICELLI:
 6 Q Do you actually know what's included in
 7 the Ethics Code?
 8 A No.
 9 Q I'll show you a document marked 436 on a
 10 city form. It's a 2003 document. But it sets forth
 11 appointment date -- promotion dates up to your
 12 Captain's position.
 13 Just let me know if they're accurate;
 14 I can rely on them as being accurate?
 15 A They're accurate.
 16 Q I'm going to show you three documents, 448
 17 to 450. And they're just the card indicating date
 18 of hire, promotions, transfers.
 19 Take a moment to look at that and
 20 tell me if those dates and that information is
 21 accurate.
 22 A Yeah. What they don't have is -- yeah,
 23 transfers, yes.
 24 Q I see your transfer records. We don't

1 have to worry too much about that.
 2 You didn't ask for a transfer or get
 3 a transfer because you had difficulty with a Command
 4 person on any assignments; is that fair?
 5 A Yes.
 6 Q Have we gone over in a very brief form
 7 your history with the Police Department, transfers
 8 and promotions?
 9 A Yes.
 10 Q Now, I realize that there's CAP issues,
 11 Citizens Complaint issues and PBI history and EEO
 12 history. We haven't gone over those.
 13 A No.
 14 -----
 15 (Exhibit Bates-1 marked for
 16 identification this date and is
 17 attached hereto.)
 18 -----
 19 BY MR. PURICELLI:
 20 Q We started this, you understand that
 21 you're one of the defendants named in the action,
 22 correct?
 23 A Yes.
 24 Q Have you had a chance to ever look at this

1 document we marked as Bates-1 before?
 2 A Oh, yes.
 3 Q When was the last time you reviewed this
 4 document?
 5 A A couple months ago.
 6 Q Was that the first time you saw it?
 7 A No.
 8 Q When was the first time you recall seeing
 9 it?
 10 A I don't recall. Maybe 2012.
 11 Q Before coming here today, did you review
 12 any documents to prepare for today's deposition?
 13 A Yes.
 14 Q What did you review?
 15 A Just some notes.
 16 Q What notes?
 17 A My personal notes as a reminder. It lists
 18 chronology that I had prepared.
 19 Q When did you prepare those notes?
 20 A Back in 2012.
 21 Q And have you kept them current to today's
 22 date?
 23 A Actually I have not.
 24 Q When do they end?

1 A They ended 2012.
 2 Q What do those notes include? What kind of
 3 activities?
 4 A It was a chronology of when I first met
 5 Ms. Johnson to when I was notified of this lawsuit.
 6 Q Are they something you created as a result
 7 of the lawsuit?
 8 A Yeah. It was like a -- yes to answer your
 9 question.
 10 Q So do they involve events predating from
 11 the date that you started the notes? Meaning if you
 12 started the notes when the lawsuit was started --
 13 because you said it involves 2012 and this lawsuit
 14 was started in 2014.
 15 Is it that you created these noted as
 16 your best recollection of the events in 2013 and
 17 2012?
 18 A You said this was in 2014?
 19 Q It's got a '14 date on it.
 20 A Okay. Then obviously I read this in 2014.
 21 Q It's one of those things where you give an
 22 answer and it really wasn't focusing on the answer
 23 that you said you read it in 2012.
 24 MS. SHIELDS: That's a de minimis --

1 THE WITNESS: I definitely -- to answer
 2 your question, I created that chronology log.
 3 Outside counsel that I was referring to
 4 recommended that I create a log, and that's
 5 what I did.
 6 BY MR. PURICELLI:
 7 Q So an attorney recommend you create this
 8 document?
 9 A Yeah.
 10 Q Did you see that attorney for legal
 11 advice?
 12 A I sure did.
 13 Q What is the name of the attorney?
 14 A Charles Gibbs, G-I-B-B-S.
 15 Q Did you see Charles Gibbs because of this
 16 lawsuit?
 17 A Well, because of the -- to answer your
 18 question, yes.
 19 Q I want to make sure you didn't see him
 20 before the lawsuit was filed or if you saw him
 21 before it was filed.
 22 A I saw him pretty much weeks after all this
 23 started. So July of 2012.
 24 Q You're saying all of this started. Just

1 so the record is clear, could you tell me what you
 2 mean by that?
 3 A When I first got wind of the EEO Complaint
 4 that was being filed, as well as the other related
 5 events that was created as a result of this.
 6 Q So you went to an attorney for legal
 7 advice because you were given information by
 8 someone -- it's not important at the moment -- that
 9 you were going to be the subject of an EEO charge,
 10 correct?
 11 A Correct.
 12 Q And that EEO charge was the one concerning
 13 Keisha Johnson's allegations that came to light
 14 through Gail Newsome-Middleton?
 15 MS. SHIELDS: I'm going to object to the
 16 form of the question.
 17 BY MR. PURICELLI:
 18 Q Do you understand the question?
 19 A Repeat it. I think I understand it.
 20 Q You said when all of this started. "All
 21 of this started," according to the paperwork, from
 22 Corporal Newsome going forward to Turpin. Okay.
 23 Is that what we're all talking the
 24 same thing here?

1 A Yes.
 2 Q And then someone contacted you and told
 3 you something is going to hit the fan. And you
 4 decided to go see a lawyer. Is that a fair way of
 5 describing it?
 6 A No, I didn't see the attorney until -- I
 7 didn't see the attorney until once I got removed
 8 from Internal Affairs.
 9 Q So you became aware of the events on or
 10 around July 2012, as you said. And it's subject to
 11 changing the date because as we flush things out,
 12 memories change.
 13 And then you got removed from
 14 Internal Affairs when?
 15 A I was first made aware of this on June
 16 29th, 2012 at 5:38 p.m. That was my Pearl Harbor.
 17 Q Who told you?
 18 A A source down at police headquarters.
 19 -----
 20 (Recess was taken.)
 21 (Deposition was resumed.)
 22 -----
 23 BY MR. PURICELLI:
 24 Q Okay. We were talking about notes and a

1 source.
 2 The notes that you have, you reviewed
 3 before you came here or within the last month?
 4 A Yeah.
 5 Q You have them before you came or -- that's
 6 the problem with a compound question.
 7 When was the last time you read your
 8 notes to prepare for this deposition?
 9 A Two weeks ago.
 10 Q Did you provide those notes to your
 11 attorney, Ms. Shields?
 12 A Yes. She has them.
 13 Q Could you describe what the notes look
 14 like? Are they chronological, the date, event,
 15 date, event?
 16 A Yes.
 17 MR. PURICELLI: Did you provide those
 18 notes?
 19 MS. SHIELDS: No. My position is they're
 20 attorney-client privilege. They were prepared
 21 for an attorney.
 22 MR. PURICELLI: Did you list them on the
 23 privilege log?
 24 MS. SHIELDS: I did not.

1 BY MR. PURICELLI:
 2 Q And you prepared those notes because an
 3 attorney recommended you prepare those notes,
 4 correct?
 5 A Correct.
 6 Q And the attorney that recommended that was
 7 not Ms. Shields, correct?
 8 A Correct.
 9 Q And these notes you say go back to when
 10 you first met Ms. Johnson?
 11 A Yes.
 12 Q Did you provide those notes to Internal
 13 Affairs?
 14 A No.
 15 Q Did you provide those notes to anybody
 16 doing an EEO investigation of the Keisha Johnson
 17 matter?
 18 A No.
 19 Q Who were the persons, other than
 20 Ms. Shields, that you provided those notes to?
 21 A Mr. Gibbs.
 22 Q Mr. Gibbs?
 23 A Yes.
 24 Q Who is Mr. Gibbs?

1 A Charles Gibbs.
 2 Q Charles Gibbs, the attorney?
 3 A Yes.
 4 -----
 5 (Exhibit Bates-2 marked for
 6 identification this date and is
 7 attached hereto.)
 8 -----
 9 BY MR. PURICELLI:
 10 Q I'm showing you what is marked as Bates-2
 11 and ask whether you have ever seen this document
 12 before.
 13 A I don't believe so.
 14 Q When you saw the Complaint, Exhibit 1, did
 15 you provide anybody with any information as to
 16 whether any of the paragraph numbers were true or
 17 false, correct or not correct?
 18 A No. I just read it.
 19 -----
 20 (Exhibit Bates-3 marked for
 21 identification this date and is
 22 attached hereto.)
 23 -----
 24

1 BY MR. PURICELLI:
 2 Q I'm showing you what has been marked
 3 Exhibit 3. Have you ever seen that document before?
 4 A No.
 5 MS. SHIELDS: Do you want to describe the
 6 document?
 7 MR. PURICELLI: Sure. This is a Demand
 8 for Request for Production of Documents.
 9 BY MR. PURICELLI:
 10 Q In the course of this litigation, you have
 11 never seen this before?
 12 A No.
 13 Q There's been some pictures that have been
 14 produced in the course of this case from a cell
 15 phone. Did you provide anybody with pictures from
 16 your cell phone?
 17 A Yes.
 18 Q Could you tell me what pictures you
 19 produced?
 20 A I had pictures that Ms. Johnson used to
 21 send to me; and a few pictures that -- or at least
 22 one picture I took of her.
 23 Q Do you know how many pictures you
 24 actually --

1 A How many?
 2 Q Yeah, how many you have of her?
 3 A I don't remember. I'm not sure how many
 4 there are.
 5 Q Is it more than ten? Less than ten?
 6 A Probably less than ten.
 7 Q More than five? Less than five?
 8 A Approximately between five and ten.
 9 Q Are they color? Black and white?
 10 A Color.
 11 Q Colored pictures.
 12 Can you describe, of the pictures
 13 that you gave, the ones you recall?
 14 A Sure. I have pictures of Ms. Johnson's
 15 vagina. Pictures of her breasts. Pictures of
 16 her -- just regular positions posing in underwear.
 17 And a picture of -- well, after I ejaculated onto
 18 her.
 19 Q How many pictures do you have of her
 20 vagina?
 21 A Maybe one.
 22 Q Of her breasts?
 23 A One.
 24 Q And her in her underwear?

1 A One or two.
 2 Q And of you ejaculating on her?
 3 A One.
 4 Q Any others that you recall?
 5 A Yes. She has -- it was maybe, I don't
 6 know, maybe about five pictures that she sent to me,
 7 she sent to me, her and Gail Middleton, Gail
 8 Newsome-Middleton. Pictures that she had sent to me
 9 of them two.
 10 Q Would it be fair to say that they're
 11 picture of her with Gail Middleton?
 12 A Yes.
 13 Q And you think there's five like that?
 14 A Yes.
 15 Q Any others that you can recall?
 16 A No.
 17 Q How did you come to be in possession of
 18 these pictures?
 19 A I took the one that she asked me to take
 20 of me ejaculating on her. The others she sent them
 21 to me.
 22 Q Did you ever ask her for any pictures --
 23 A Sure.
 24 Q -- of her?

1 A Yes.
 2 Q Did she send these pictures after you
 3 asked for them?
 4 A She sent me pictures after I asked.
 5 Q Could you tell me what year these pictures
 6 were taken?
 7 A Oh, no.
 8 The pictures that you have?
 9 Q Yeah.
 10 A Those pictures would be 2010, 2011.
 11 Q Was she your subordinate at the time these
 12 pictures were taken and sent to you?
 13 A Yes.
 14 Q Did you make a request for these pictures
 15 at the time that you were her superior?
 16 A Yes.
 17 Q Did you ask for these pictures at the time
 18 that you were married?
 19 A Yes.
 20 Q At any time that you asked for these
 21 pictures, were you separated from your wife?
 22 A No.
 23 Q Do you recall when it was you provided
 24 these pictures to your attorney? And by attorney I

1 mean Ms. Shields.
 2 A 2014.
 3 Q Can you break that down more?
 4 A I don't remember the date, no.
 5 Q Was it in the fall, winter, the spring,
 6 the summer?
 7 A Probably spring, summer.
 8 Q Springtime?
 9 A Yeah. I'm not sure.
 10 Q If you're not sure --
 11 A I'm not sure.
 12 Q My job is to pressure you as close as I
 13 can. But it's not to try to put words in your
 14 mouth.
 15 A I'm not sure, Counselor.
 16 Q Did you turn them over because you came
 17 across them? Or did you turn them over because you
 18 were being asked for them?
 19 A I turned them over because I had come
 20 across -- actually a friend, who I used to send
 21 pictures of Keisha to, he actually came upon them.
 22 Because I had dozens, if not over a
 23 hundred, pictures that Keisha sent to me over the
 24 years.

1 Unfortunately, I lost my phone in
 2 Mexico, August of 2011.
 3 In 2014, this friend, he found them
 4 in a hidden application he had on his phone. He
 5 forwarded them to me. And I provided them to my
 6 counsel.
 7 Q How did he forward them to you? In
 8 electronic form?
 9 A Yes.
 10 Q Like he didn't copy them and send them
 11 out, did he?
 12 A Not -- like a text.
 13 Q Like they were text?
 14 A Yes.
 15 Q Who is the friend?
 16 A Captain Nicholas Brown.
 17 Q Why did Captain Nicholas Brown have
 18 pictures of Keisha in these various stages of life?
 19 A That's what friends, guys, girls, they
 20 exchange pictures quite frequently.
 21 Q When you got these pictures -- that you
 22 had apparently on your cell phone, I take it?
 23 A Right.
 24 Q Am I correct about that?

1 A Right.
 2 Q The one you lost.
 3 You forwarded them to this Captain
 4 electronically.
 5 A Yes.
 6 Q Did you forward them to anybody else?
 7 A Not that I recall.
 8 Q Do you recall when it was you forwarded
 9 them electronically?
 10 A 2010, 2011, when I would get them.
 11 Q Did you have Keisha Johnson's permission
 12 to be forwarding these to other people?
 13 A No.
 14 Q What was the relationship between you and
 15 Nicholas Brown at the time that you were forwarding
 16 these pictures?
 17 A My buddy.
 18 Q He's your friend? Someone you socialized
 19 a lot with?
 20 A Yes.
 21 Q Were you telling him things you were or
 22 weren't doing with Keisha?
 23 A Of course.
 24 Q Did you tell him that she was your

1 subordinate, your aide?
 2 A Yes. He knew her.
 3 Q He knew her, too?
 4 A Yes.
 5 Q Did you tell him that Keisha was doing
 6 these things voluntarily with you?
 7 A Of course.
 8 Q Did he tell you anything at all you
 9 shouldn't be doing that because of your position?
 10 A No.
 11 Q Are you familiar with the requirements of
 12 Directive 97?
 13 A Yes.
 14 Q And when you were trained, did you receive
 15 any type of training in regards to whether a
 16 superior should be seeing subordinates in the manner
 17 that these pictures show?
 18 A I don't recall.
 19 Q Do you recall training at all about
 20 whether pictures, such as the ones you're
 21 describing, should be received by a superior from a
 22 subordinate?
 23 A No.
 24 Q Did you at any time tell Keisha Johnson

1 she should not be sending these types of pictures to
 2 you?
 3 A No.
 4 Q Do you know why Captain Brown contacted
 5 you about these pictures?
 6 A He was aware of this litigation.
 7 Q And how did he become aware of the
 8 litigation?
 9 A Well, it's not exactly secret, Counselor.
 10 Q I know it's been in the newspaper. I know
 11 it's been on Channel 10.
 12 A Yeah.
 13 Q Did you talk to him about this?
 14 A Of course.
 15 Q How many times did you talk to him about
 16 this?
 17 A He's my buddy.
 18 Q Would it be fair then to say all the time?
 19 A Quite often.
 20 Q What did you tell him?
 21 A Tell him about what?
 22 Q You talked about this event. What did you
 23 tell him?
 24 A We talked about everything. We talked

1 about just everything.
 2 Q I want to know everything that --
 3 A Everything as this is going on, when it
 4 first occurred.
 5 MS. SHIELDS: Explain it to him.
 6 THE WITNESS: Where do you want me to
 7 start?
 8 BY MR. PURICELLI:
 9 Q I'm going to save you some breath
 10 because --
 11 A Please do.
 12 Q It is my goal on this particular day to
 13 start when you first started meeting Keisha to the
 14 last conversation you may have talked to her.
 15 Would it be fair, since I'm going to
 16 ask you all about that, that these are the things
 17 that you talked to him about, too?
 18 A Oh, yeah.
 19 Q I'll go through it --
 20 MS. SHIELDS: Can I help?
 21 MR. PURICELLI: Absolutely.
 22 MS. SHIELDS: Explain to Mr. Puricelli the
 23 nature of the conversations that you had with
 24 Nicholas Brown. Not feelings.

1 But just what did you talk about when you
 2 both learned about this lawsuit.
 3 THE WITNESS: Just basically, again, how
 4 we thought it was bullshit. How I felt
 5 betrayed by what Keisha did.
 6 And then more especially did she forget
 7 about the group sex that she engaged in with
 8 me, myself, and Nick and her friend?
 9 BY MR. PURICELLI:
 10 Q Incidentally, is Nick married?
 11 A Yes.
 12 Q Was he married when you were having this
 13 alleged group sex?
 14 A Yes.
 15 Q And who was the group sex with? Who were
 16 the participants?
 17 A Myself, Nick Brown, Keisha Johnson, and
 18 her friend Aleka Berthau, A-L-E-K-A, B-E-R-T-H-A-U,
 19 something like that.
 20 Q And where did this alleged group sex
 21 occur?
 22 A The first occurrence occurred at the
 23 Roosevelt Inn on Roosevelt Boulevard. And that was
 24 in June of 2010. The second occasion was in

1 August 2010 at the Four Points, the Sheraton, at
 2 Roosevelt Boulevard and Grant Avenue.
 3 Q Are there any witnesses to these, other
 4 than people that you're saying were participants?
 5 A No.
 6 Q Did you tell anybody other than your best
 7 buddy about this group sex?
 8 A No.
 9 Q Did you take pictures of this group sex?
 10 A No.
 11 Q Did he take pictures of this group sex?
 12 A No, not that I'm aware of.
 13 Q You have a lost phone in Mexico, right?
 14 ----
 15 (Discussion held off the record.)
 16 ----
 17 BY MR. PURICELLI:
 18 Q Did anybody find -- you weren't diving,
 19 were you? It fell in the water?
 20 A I don't know where it is.
 21 Q It hasn't shown up on YouTube, at least I
 22 don't think it has.
 23 MR. PURICELLI: Anything else you want to
 24 clarify?

1 MS. SHIELDS: I'm fine.
 2 BY MR. PURICELLI:
 3 Q Well, we're going to go through the whole
 4 history. I'm just trying to get past this stuff
 5 here.
 6 So you got these photographs. You
 7 sent them to your attorney. She and I will talk
 8 about what I got.
 9 Aside from these photographs that
 10 your best buddy re-sent back to you, did he send you
 11 anything else? Any notes, any memos, anything else
 12 like that that had to deal with Keisha Johnson?
 13 A No.
 14 Q So just photographs?
 15 A Uh-huh.
 16 Q And he sent them to you because he knew
 17 you were going through this lawsuit?
 18 A Right.
 19 Q And he thought that it would help, is that
 20 it?
 21 A (Pause.)
 22 Q I mean you talk all the time.
 23 A I'm sure that's something that counsel
 24 should have. And I immediately contacted

1 Ms. Shields.
 2 Q Are there texts between the two of you
 3 that would show these -- or e-mails?
 4 A Between which two?
 5 Q Between Mr. Brown and yourself so I could
 6 see maybe perhaps what was going on in his mind why
 7 he decided to step in and say, oh, by the way, I've
 8 got these pictures you sent me?
 9 A No.
 10 Q He just sent the pictures with no
 11 information?
 12 A He called. We talked on the phone.
 13 Q And he said I have them and I'll send them
 14 to you?
 15 A Right.
 16 Q Did he send them to your personal phone or
 17 your city phone?
 18 A Definitely my personal.
 19 Q What is your personal -- do you have that
 20 personal phone?
 21 A Yes.
 22 Q Do you still have the documents on that
 23 personal phone?
 24 A No.

1 Q Why not?
 2 A Because I sent them over.
 3 They may be. You know, I think they
 4 may be on -- I'm not quite sure but I may have saved
 5 it in the cloud, my e-mail. As a matter of fact, I
 6 know I did. They may -- yeah. And maybe on a . . .
 7 Q And you can provide a copy of this
 8 electronic form on a disk for your attorney?
 9 A I think that's how I sent it, via an
 10 e-mail.
 11 MS. SHIELDS: Can I correct the record.
 12 We had a forensic person --
 13 MR. PURICELLI: I know what you're saying.
 14 But I have to find out from his point of view.
 15 You and I can talk about any differences
 16 there are later. I don't want to cloud this
 17 up. There's no sense beating him up about
 18 different facts and stuff. He's telling me
 19 what he believes things are.
 20 BY MR. PURICELLI:
 21 Q So you believe you have them on your
 22 private phone and you believe you also saved them on
 23 the cloud. And you believe you sent a disk to your
 24 counsel, correct?

1 A Disk or e-mail, via e-mail.
 2 Q Some electronic form?
 3 A Yes.
 4 Q And at any time during the course of this
 5 litigation, did you get any e-mails from Mr. Brown
 6 in regard to Keisha Johnson and all these things?
 7 A No.
 8 Q Did you get any from Keisha Johnson?
 9 A No.
 10 Q Did you send any out to anybody in regard
 11 to this litigation, other than your attorney?
 12 A No.
 13 Q To your two attorneys. I can count both
 14 of them.
 15 But you believe it's saved now on the
 16 cloud?
 17 A Uh-huh.
 18 Q Which cloud? I know there's Google.
 19 There's drop box. There's a whole bunch of them
 20 now.
 21 A I can check. It may be on my -- because
 22 it has to do with this litigation. I have a folder
 23 at work in relation to this.
 24 So I'm almost certain that's where I

1 saved it, in like a file I have at work.
 2 Q Is this an electronic file or paper file?
 3 A Electronic.
 4 Q Is it on a Department computer?
 5 A Yeah. It has to do with this litigation.
 6 So that's what it is.
 7 Q So you think the pictures are in this
 8 electronic file on a Department computer?
 9 A I know it is.
 10 Q Anything else in this electronic file in
 11 the Police Department's computer?
 12 A That's it. Just stuff relevant to this,
 13 pictures relevant to this --
 14 Q Aside from the pictures. I know you
 15 communicate with your attorney.
 16 A Right.
 17 Q Do you keep your attorney's communications
 18 in that file or if they're in electronic form?
 19 A I know I have this.
 20 Q "This" being the Complaint?
 21 A Right.
 22 No, I don't keep everything.
 23 Q I'm just trying to figure out what's in
 24 it --

1 A Just that.
 2 Q -- than what might be privileged. I have
 3 no business asking about.
 4 And if you get e-mails from your
 5 attorney and then you save them in that file,
 6 clearly if I ask for that file, which you know I'm
 7 going to, I don't want to say e-mails from her. I
 8 have to say, well, there's e-mails, I mean we'll
 9 deal with that issue.
 10 So if I say the file, excluding the
 11 communications you had with your attorney since you
 12 told me they're there and I have no business asking
 13 for them.
 14 A Right.
 15 Q So I only know right now that you have
 16 these pictures in this one and a scanned copy of the
 17 Complaint?
 18 A Right.
 19 Q That's all I know that's in there?
 20 A Right. That's the only thing I have on my
 21 work folder.
 22 Q How long have you had this electronic
 23 file?
 24 A Once I got officially notified of this

1 last year, I created that folder.
 2 Q So you created this once you learned there
 3 was this lawsuit?
 4 A Uh-huh, yes.
 5 Q I'm just going to show you this document.
 6 I'm really not going to mark it. It's the
 7 Interrogatories that were prepared in this case.
 8 Have you ever seen those before?
 9 A Oh, no, no, I never saw it.
 10 Q Would it be fair to say, since you never
 11 saw them, you never answered the questions that were
 12 in there?
 13 A So your question is -- I've never seen
 14 this.
 15 Q And I know you were pretty clear about
 16 that. I can tell you I received answers to those
 17 questions.
 18 My question then to you was: Would
 19 it be fair for me then to conclude, since you never
 20 saw those questions, you never provided answers to
 21 those questions before?
 22 A Right.
 23 MS. SHIELDS: My client and I have had
 24 many meetings. And I may -- I'll correct it

1 when I ask my client questions.
 2 BY MR. PURICELLI:
 3 Q Do you recall ever being asked to provide
 4 every phone number that you've used?
 5 A I believe so.
 6 Q In your answer to the question 2, you say
 7 discovery is early and that you will supplement the
 8 answer to 2.
 9 MR. PURICELLI: Is there any time that you
 10 plan to give a supplement to Interrogatory
 11 number 2?
 12 MS. SHIELDS: It's a little late now
 13 according to the Judge's Order, Brian.
 14 MR. PURICELLI: You have an obligation to
 15 do that. This is your answer.
 16 MS. SHIELDS: I will provide you with that
 17 information.
 18 BY MR. PURICELLI:
 19 Q I'll show you Interrogatory number 4. It
 20 asks whether you spoke with the plaintiff about her
 21 work, employment, work performances, and things like
 22 that. Do you see it? It's pretty lengthy.
 23 MS. SHIELDS: The plaintiff being Keisha
 24 Johnson, to explain the legalese.

1 BY MR. PURICELLI:
 2 Q Now, these were sent out June 16th, 2014.
 3 And I received an answer for you, which tells me
 4 specifically that there were conversations but there
 5 were too many and the matter is better suited for a
 6 deposition.
 7 We're at the deposition now. So can
 8 you tell me what your answer is to that question?
 9 A This is since when? What's the time
 10 frame?
 11 I haven't spoken to your client since
 12 June of 2012.
 13 Q Right. But this talks about work
 14 performance. So you obviously must have talked to
 15 her, because it says you did. You said you had lots
 16 of them, according to the answer.
 17 It says, "Defendant Bates and
 18 plaintiff were friends and colleagues since 2004.
 19 From October of 2007 to June of 2012, plaintiff
 20 served in the role as aide to Defendant Bates in
 21 IAD. Their conversations about work, work
 22 performance, personal issues, are too numerous to
 23 detail. This matter is better suited for
 24 deposition."

1 A Okay. Yeah, I mean I conversed with her.
 2 Q Since we're at the deposition, I have to
 3 get an answer to the question.
 4 A The answer is yes.
 5 Q And I asked you in the question to tell me
 6 about them.
 7 A Tell you about what? Conversations? We
 8 conversed about everything, Counselor.
 9 MS. SHIELDS: Let's break it down so you
 10 can give a uniform answer. I mean it's so
 11 open-ended.
 12 MR. PURICELLI: Well, you specifically
 13 told me to deal with it in a deposition. If he
 14 had taken -- he had all the time in the world
 15 to read it, break it down, or you could have
 16 broken it down. But I was told to wait until
 17 the deposition.
 18 THE WITNESS: Counselor --
 19 MS. SHIELDS: Let me do this.
 20 I think we can be more responsive and
 21 cooperative.
 22 Let's break it down.
 23 Did you have conversations with Keisha
 24 Johnson about her work?

1 THE WITNESS: Yes.
 2 BY MR. PURICELLI:
 3 Q And then the question says, "Tell me about
 4 it."
 5 MS. SHIELDS: What were the nature of
 6 those --
 7 BY MR. PURICELLI:
 8 Q What were those conversations about?
 9 A Just work-related issues. Work-related
 10 issues.
 11 Q Which would include what? Did you talk to
 12 her you don't have to come to work tomorrow but you
 13 have to come Thursday or you can take Friday off and
 14 come in --
 15 A No. Just work, everyday work. Admin --
 16 everyday work.
 17 Q Did that include -- let me try it this
 18 way.
 19 Were you the person who would assign
 20 her her duties?
 21 A For the most part, yes. Also, the
 22 Administrative Lieutenant could have assigned her
 23 duties.
 24 Q She was your aide, correct?

1 A Yes.
 2 Q What does the aide do? What does your
 3 aide do?
 4 A My aide in Internal Affairs at the time,
 5 the aides cleared your in-box. They input the
 6 investigations into the system. They run errands
 7 for you. They go -- I did my own typing. But just
 8 things of that nature.
 9 If I needed to have my car taken to
 10 the garage, she took my car to the garage. If I
 11 needed to go -- for the most part, she didn't drive
 12 me anywhere; I drove myself while I rode with a male
 13 Captain.
 14 But there were occasions, if I was
 15 going somewhere where parking was tight, she would
 16 drive me places.
 17 But for the most part, her job just
 18 consisted of coming in, getting investigations. We
 19 had a checklist that she had to do. She input the
 20 jobs.
 21 Q Would you create her schedule?
 22 A Yes, pretty much.
 23 Q Would you approve her time off?
 24 A Yes.

1 Q Would you approve any training she might
 2 want?
 3 A She didn't -- no.
 4 Q I know she didn't. I just wanted to
 5 know --
 6 A Yes, I'm sorry.
 7 Q I know some of the questions you may say,
 8 well, they didn't do that.
 9 A Yes.
 10 Q I'm looking for really your position and
 11 her position and what your position did to control
 12 her position. That's all. It's not tricky right
 13 here.
 14 So if Keisha needed to take vacation,
 15 would you be the one who would approve it or
 16 disapprove it?
 17 A If I was there, yes.
 18 Q And if you needed your clothes that were
 19 being dry cleaned -- I assume that you do do that,
 20 correct?
 21 A Yes.
 22 Q Would part of her duties be, if you needed
 23 to, to go pick up your clothes?
 24 A Yes, but -- yes, but I picked up my

1 clothes. I would.
 2 Q I understand. You're not the first person
 3 to have their aide go do errands.
 4 A Right.
 5 Q I've been around a while, so.
 6 Would you be able to approve overtime
 7 if overtime was available to her?
 8 A Yes.
 9 Q Interrogatory 4 talks about work. You
 10 told me the things that you talked about.
 11 Did you talk about problems she was
 12 having with her personal life?
 13 A Yes.
 14 Q What problems did she tell you she was
 15 having with her personal life?
 16 A Her engagement broke off and she was
 17 having financial issues, and with her daughter.
 18 Q Was her daughter ill?
 19 A Something -- I know she was -- I know she
 20 -- there was some type of litigation or she was
 21 talking about suing the daughter's doctor. But I
 22 don't remember the particular details.
 23 Q So did she talk to you about anything to
 24 do with her fiancé before she came and told you the

1 engagement was off?
 2 A Yes.
 3 Q What did she talk about?
 4 A Just all the time she was catching him
 5 cheating.
 6 Q Did you talk to her about your personal
 7 life?
 8 A Yeah.
 9 Q What did you tell her?
 10 A How my wife was cheating on me.
 11 Q Did you talk about whether you were having
 12 sex with your wife or not having enough?
 13 A Oh, yes. And she with me.
 14 Q Are these topics that would be discussed
 15 generally with other subordinates?
 16 A No.
 17 Q Relying on your training in sexual
 18 harassment, are these appropriate topics for a
 19 superior to be talking about with
 20 their subordinates?
 21 A With a typical subordinate, my answer
 22 would be no. But because Keisha and I was involved
 23 and was friends and was involved sexually, yes, it
 24 was appropriate.

1 Q We're going to get into how you met
 2 Keisha.
 3 So would it be fair then to say where
 4 the question asked about other employees, you didn't
 5 have the same type of discussions with other
 6 employees that you supervised?
 7 A No.
 8 Q Did you have these types of discussions
 9 with any other females?
 10 A No.
 11 Q Did you have these types of discussions
 12 with your best friend, Mr. Brown?
 13 A Yes.
 14 Q Question 5 asks whether or not you've ever
 15 been in a car with Keisha Johnson. You indicate
 16 yes. Everybody says no.
 17 And you, a moment ago, said that you
 18 would generally have her drive you for particular
 19 reasons; otherwise, you drove yourself. Did I
 20 understand that correctly?
 21 A That's correct.
 22 Q Did you ever have a ride with her to any
 23 other building where you had sex with her?
 24 A No.

1 Q Did you ever go to an apartment of a
 2 friend and have sex with her?
 3 A No.
 4 Q Did you ever have sex with her in your
 5 home?
 6 A Yes.
 7 Q Was it in the basement?
 8 A No.
 9 Q Where was it?
 10 A It was actually my previous home that I
 11 owned. It was June of 2006. And how do I remember
 12 the day? Because I had sold that house, hadn't gone
 13 to settlement yet, and it was the day before she was
 14 going to Aruba.
 15 Q Did you ever have sex with Keisha when she
 16 was your aide?
 17 A Yes.
 18 Q In 2006 was she your aide?
 19 A No.
 20 Q When did she become your aide?
 21 A Fall of 2007. Maybe November of 2007.
 22 Q The group sex that you were referring to,
 23 when did that occur? What year?
 24 A June 2010. August of 2010.

1 Q And she became your aide when?
 2 A November of 2007.
 3 Q So you had sex with her when she was your
 4 aide?
 5 A Yes.
 6 Q I just want to make sure I've got the
 7 dates right.
 8 Was Keisha over at your mother's home
 9 ever?
 10 A Once.
 11 Q Did you have sex with her there?
 12 A No.
 13 Q Did you ever have -- well, you named the
 14 sites in the Northeast on Roosevelt Boulevard.
 15 A Right.
 16 Q Did you ever have sex with Keisha at any
 17 place along Cottman Avenue?
 18 A No.
 19 Q Did you ever physically touch Keisha
 20 outside these sexual events that you've described?
 21 A What do you mean touch?
 22 Q Did you touch her breasts?
 23 A Outside of our sexual encounter?
 24 Q We'll break it down.

1 When she was working for you and you
 2 were in your office at Internal Affairs, did you
 3 ever touch her breasts?
 4 A No.
 5 Q Did you ask to see her breasts?
 6 A No.
 7 Q Did you ever touch her butt at work?
 8 A No.
 9 Q Did you have any of these heart-to-heart
 10 discussions, that we were talking about in
 11 Interrogatory number 3, in any vehicle?
 12 MS. SHIELDS: What was the question again?
 13 MR. PURICELLI: Number 3 talks about
 14 discussion.
 15 MS. SHIELDS: Or was it 4?
 16 MR. PURICELLI: Was it 4?
 17 MS. SHIELDS: I think it's 4.
 18 BY MR. PURICELLI:
 19 Q 4. Number 3 talks about your answers,
 20 which you said weren't your answers so I didn't ask
 21 you about it.
 22 On number 4 you said you had lots of
 23 talks. Did you have any of these talks that are
 24 outlined in 4 or in relations to the type that

1 you've described in your answer for 4, what I would
 2 call heart-to-heart talks?
 3 A Yeah.
 4 Q Did you ever have any of those in any
 5 cars?
 6 A Yes.
 7 Q Were they Police Department cars?
 8 A Yes.
 9 Q Was any of the sex that you had with
 10 Keisha while you were on duty?
 11 A No.
 12 Q Were any of these requests for pictures to
 13 Keisha, that you described, while the two -- that
 14 request made while the two of you were working?
 15 A I'm not sure.
 16 Q Were any of the pictures that you received
 17 from Keisha while you were working?
 18 A I'm pretty sure no.
 19 Q You're pretty sure there were?
 20 A I don't think -- or I don't recall. I
 21 don't recall receiving anything while we were on
 22 duty.
 23 Q Were any of the pictures that you
 24 forwarded to Mr. Brown while you were working?

1 A I don't recall.
 2 Q Do you recall sending to him these
 3 pictures while he was working?
 4 A I don't recall.
 5 Q Draw your attention to question 10. It
 6 talks about complaints against you by other
 7 employees.
 8 A Okay.
 9 Q Could you list for me any employees who
 10 made a complaint against you?
 11 A Oh, I've had several complaints. Had
 12 Complaints Against Police, which are public record,
 13 which I am sure you have copies of.
 14 Q That's a CAP. That's a citizen. This one
 15 is complaints by employees.
 16 A Employees or others.
 17 Q Oh, there's employees.
 18 A Oh, yeah, uh-huh.
 19 Q Did any the complaints by other employees
 20 of the Philadelphia Police Department about you
 21 concern inappropriate sexual conduct?
 22 A One did.
 23 Q What one was that?
 24 A That was a lieutenant. I was doing an

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1 inspection. I wouldn't even say sexual. It was
 2 improper -- a female officer didn't have her vest
 3 on.
 4 Q Tracey Davis?
 5 A No. Monaie Pistoria. She didn't have her
 6 vest on.
 7 And when I would do inspections, I
 8 used to go down, you know, pat people on their back
 9 to make sure they have a vest on.
 10 She didn't have her vest on. She
 11 actually had it over her uniform shirt.
 12 Q So in that particular event, she made a
 13 complaint that you touched her, correct?
 14 A Yes.
 15 Q Her complaint was specifically that you
 16 touched the front of her and ran your hand in her
 17 jacket, ran your hand down and touched her breasts,
 18 correct?
 19 A No, I didn't know that detail.
 20 Q What did you think --
 21 A It was just touching of the vest, which I
 22 did every day I did roll call.
 23 Q You checked vests every day?
 24 A Oh, yes. When I did formal roll calls,

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1 absolutely, sure.
 2 And she was trying -- there's a
 3 proper way you wear your vests. And she wasn't
 4 wearing her vest properly.
 5 Q She was wearing her bullet-proof vest over
 6 her uniform and jacket?
 7 A Right. Which at that time that was
 8 improper of policy. We've got so many uniforms now.
 9 But at the time she was wearing her
 10 vest improperly. Because what officers would do, it
 11 was real easy when you go on the street to take your
 12 vest off then. That's why.
 13 Q We'll get to that EEO charge.
 14 Any others?
 15 A I didn't know that was an EEO charge.
 16 You're educating me here, Counsel.
 17 And Tracey Davis, again, a sub-par
 18 employee. I caught her sleeping one night behind
 19 Gratz High School after her fellow coworkers told me
 20 where she was at.
 21 So instead of giving her formal
 22 discipline, like I probably should have, I put her
 23 on the prisoner wagon at Broad and Champlost.
 24 So she went to, I believe, Captain

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1 Long, oh, the lieutenant is messing with me because
 2 he wants to have sex with me.
 3 A year prior she lodged a complaint
 4 against a white male sergeant, the same thing.
 5 We wanted to take disciplinary action
 6 against her for cowardice, and the Captain did not
 7 back us on it. He did not support our request for
 8 disciplinary action. So she went to him, the
 9 sergeant is messing with me because he wanted to
 10 have sex with me. So that's that.
 11 Q You didn't know that was an EEO charge
 12 either?
 13 A No.
 14 Q Were you interviewed by anybody --
 15 A I don't recall.
 16 Q -- for those?
 17 A I don't recall.
 18 If I was, it would be there.
 19 Q We'll go through all this.
 20 A Let's do it.
 21 Q This particular one talks about an
 22 investigation where Peter Sandusky was the
 23 investigator. Do you recall that one?
 24 A No.

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1 Q I read Sandusky and thought that's not the
 2 name to have.
 3 A I know Pete.
 4 Q I meant the last name. Penn State issue.
 5 And this talked about your former
 6 wife, Danielle Bates.
 7 So when did you learn about these
 8 other complaints, the one by Pistoria and the one by
 9 Tracey Davis?
 10 A I was there. I was Lieutenant there.
 11 Q So you knew about them --
 12 A Yeah.
 13 Q -- well before June 16th, 2014?
 14 A Yeah.
 15 Q We're done all the background stuff.
 16 We're going to work on the file now.
 17 -----
 18 (Discussion held off the record.)
 19 -----
 20 BY MR. PURICELLI:
 21 Q Did there come a time that you learned
 22 that Keisha Johnson had made an EEO Complaint?
 23 A Yes.
 24 Q How did you learn about that?

1 A I was notified. A source down at police
 2 headquarters called me Friday, June 29th,
 3 approximately 5:38 p.m.
 4 Q Did you learn on or about March 21st, 2012
 5 about an EEO Complaint filed by Keisha Johnson?
 6 A Oh, yeah.
 7 Q How did you learn that one?
 8 A She told me. She's my aide. She told me.
 9 Q She gave you a memo?
 10 A I'm not sure.
 11 Q The June 29th date, what was the year
 12 again?
 13 A 2012.
 14 Q And you said a source at the Police
 15 Administration Building.
 16 A Right.
 17 Q Who is your source?
 18 A It was a Lieutenant Mel Williams. He
 19 works in Homicide.
 20 Q Did he tell you where he would have
 21 learned about an EEO Complaint against you?
 22 A Oh, if he tells me something, it's coming
 23 from Deputy Ross's office.
 24 Q Patricia Ross?

1 A No. Richard Ross.
 2 Q I'm sorry, I was thinking Fox.
 3 A Patricia Fox, right, right.
 4 Q And Richard Ross was Deputy Commissioner,
 5 correct?
 6 A Yes.
 7 Q And he was in charge of what areas?
 8 A Field Operations, which is just patrol
 9 investigations.
 10 Q He didn't oversee Internal Affairs at this
 11 time, right?
 12 A No.
 13 Q How could he possibly know about an EEOC
 14 matter since he was overseeing other matters?
 15 A He's the number two official in the
 16 Department. He knows everything.
 17 Q I beg your pardon?
 18 A He's the number two official in the
 19 Department. He knows everything.
 20 Q I know the workings of what goes on up on
 21 the Third Floor, but I have to put it on the record.
 22 When you say the number two, he knows
 23 everything. Are you saying it's because everybody
 24 runs everything through him before it gets to the

1 Commissioner?
 2 A Yes. He runs the day-to-day operations of
 3 the Department.
 4 Q Gaittens was still there, wasn't he, Jack?
 5 A Yes.
 6 Q Wasn't he the one just before the
 7 Commissioner or was Ross --
 8 A No, Ross. Ross has been the number two
 9 since Ramsey has been here.
 10 Q So from your knowledge, the hierarchy is
 11 that when it gets up to the Third Floor where the
 12 Deputy Commissioners are and the Commissioner is, it
 13 comes through the Deputy Commissioner, who oversees
 14 the Departments, in this case an EEO charge is --
 15 obviously, the Deputy Commissioner oversees Internal
 16 Affairs, correct?
 17 A Yes.
 18 Q And who was that at that time?
 19 A Deputy Commissioner Stephen Johnson.
 20 Q Stephen Johnson, rest in peace.
 21 A Yes.
 22 Q And Stephen Johnson, by protocol, will
 23 then go to Ross, fill him in; and then Ross,
 24 theoretically, is then supposed to go see the

1 Commissioner, correct?
 2 A Correct.
 3 Q And this is your understanding of how it
 4 actually worked?
 5 A I don't know how it worked.
 6 Q This is your understanding of how it is
 7 supposed to work or did work?
 8 A How it normally works.
 9 Q What is your basis for believing this is
 10 how it worked?
 11 A Because I'm a twenty four year veteran of
 12 the Department.
 13 Q Time and experience, is that what you're
 14 telling me?
 15 A Yes.
 16 Q With that many years on and the rank you
 17 have, I take it you meet with the Deputy
 18 Commissioners and the Inspectors and Chief
 19 Inspectors at these Command Meetings and stuff?
 20 A Yeah.
 21 Q In your interactions with these people, is
 22 this how you came to learn how things functioned,
 23 how things move through the pipeline to the
 24 Commissioner's Office?

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1 A Just I just know.
 2 Q I'm trying to set a basis. I'm not trying
 3 to trick you. A basis, so if someone says, well,
 4 he's just speculating. I'm trying to find out if it
 5 is, in fact, speculation that you're telling me or
 6 there's some factual basis for what you're telling
 7 me.
 8 A You're talking about investigation. It
 9 leaves Internal Affairs. It goes downtown
 10 through -- actually, when I was at Internal Affairs,
 11 it actually went through Deputy Fox. Then it went
 12 to Ramsey.
 13 But again, Ross was theoretically the
 14 number two official. He just knew everything going
 15 on in the Department.
 16 Q Are you saying then that Ross would talk
 17 to this lieutenant down in Homicide?
 18 A I doubt it. You were a police -- this is
 19 a Police Department.
 20 Q You know I was a police officer.
 21 A Absolutely.
 22 Q I'll tell you what Johnson told me. Not
 23 Stephen Johnson, but Sylvester Johnson, when I would
 24 talk to him a little bit like we're doing today,

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1 about leaks. And he used to tell me there are more
 2 leaks in Internal Affairs than a plumber in the
 3 Street Department fixes.
 4 A And I concur with him.
 5 Q It's not like I don't know.
 6 A I doubt it's Ross, but it's just the
 7 Police Department.
 8 Q Well, you've been around long enough to
 9 say what you know is one thing and what you prove is
 10 different. And we're in Federal Court. So the
 11 judge going to hold me to that task. Knowing
 12 something and proving something are two different
 13 things.
 14 So when you tell me something, I have
 15 to convince a judge that what you're telling me is
 16 factually supported and not just talk.
 17 A Got you.
 18 Q It's not that I am picking on you.
 19 So this Lieutenant calls and he tells
 20 you what?
 21 A He said, "Your aide has filed an EEO
 22 Complaint against you." I thought he had it wrong.
 23 I said, "No, she filed an EEO Complaint against
 24 Johnson and Mulvey." He said, "No, she added you,

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1 too." I said, "Are you sure?" He said, "You know
 2 my information is always good," which it is. I said
 3 okay.
 4 So that's when I called Keisha, who I
 5 could call Keisha twenty four hours seven days a
 6 week, she would always answer the phone.
 7 She didn't answer her phone. I sent
 8 her a text message to call me. She didn't respond.
 9 I called her again. She didn't answer.
 10 That's when the lightbulb finally
 11 went off. Okay, my last text with her was -- well,
 12 you have it.
 13 Q We're going to go through --
 14 A That was the last communication I had with
 15 your client.
 16 Q So you called her after you found out you
 17 were the subject of an EEO charge?
 18 A That I heard.
 19 Q That you heard that. And you wanted to
 20 confirm it with her?
 21 A Yeah. Because it wouldn't be the first
 22 time miscommunication occurred in the Philadelphia
 23 Police Department. Rumors run rampant.
 24 Q Can we set a date I know that you actually

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1 called her?
 2 A June 29th, 2012.
 3 Q And she had already left the Department?
 4 A Oh, yeah.
 5 Q And she was living in Georgia?
 6 A Yes.
 7 Q You called her cell phone number?
 8 A We spoke several times and I provided my
 9 phone records to my counsel. We spoke several times
 10 after she left.
 11 Q Did you initiate those calls or did she
 12 initiate those calls?
 13 A Both. I called her and she called me.
 14 Q When she called you, what did she talk
 15 about?
 16 A The first one, she was down in Georgia.
 17 She called me right after I got back from Mexico. I
 18 went to Mexico quite frequently.
 19 That she had called Internal Affairs
 20 and got into a verbal spat with Lisa Pittoulas and
 21 she wanted to file a racial complaint against Lisa
 22 Pittoulas. So back and forth.
 23 But we called, talked about she sent
 24 me pictures of the house. I asked her did she need

1 money. I mean we were still communicating.
 2 Q The pictures that she sent you of the
 3 house, do you still have them?
 4 A No.
 5 Q What happened to them?
 6 A There was no reason to keep them.
 7 Q They weren't on the phone that you lost in
 8 Mexico?
 9 A No. I lost the phone in Mexico in 2011.
 10 Q How did she send it to you? On your phone
 11 or your cloud?
 12 A Phone.
 13 Q On the phone.
 14 A Right.
 15 Q Which phone was that?
 16 A It was an iPhone.
 17 Q You don't have it anymore?
 18 A No. I think it wasn't even an iPhone.
 19 I don't have the phone anymore.
 20 Q You don't have anything but the Department
 21 phone?
 22 A I have a personal phone. But I've had
 23 several phones since then, but I don't have that
 24 phone anymore.

1 Q So the lieutenant tells you you're named
 2 in the EEO charge. You call Keisha.
 3 Is that all the Lieutenant tells you,
 4 you're just named?
 5 A Yeah, pretty much.
 6 Q Now, the next thing I was going to talk
 7 about was the socks and stuff, but that's in there
 8 so there's no sense going back to that. I will get
 9 to that piece of paper eventually.
 10 -----
 11 (Discussion held off the record.)
 12 -----
 13 (Exhibit Bates-4 marked for
 14 identification this date and is
 15 attached hereto.)
 16 -----
 17 BY MR. PURICELLI:
 18 Q I'm showing you what has been marked by
 19 your attorney as the Defendants' Concise Officer
 20 History.
 21 I know that's not an official
 22 Department document. But I keep things in the form
 23 I get them from your attorney, so if there is
 24 something missing we know it might probably be a

1 reproduction problem.
 2 I see from 1992 up basically to 1999,
 3 a lot of physical and verbal abuse in your Internal
 4 Affairs stuff.
 5 A Uh-huh.
 6 Q I also saw that out of every allegation
 7 against you -- it looks like eight or nine -- in
 8 every one you were either exonerated or it was
 9 unfounded.
 10 A I see a couple not sustained here, which
 11 is you can't prove or disprove it.
 12 But to answer your question, I've
 13 never been --
 14 Q There's no founded on you, right?
 15 A That is correct.
 16 Q A lot of them don't mean anything, like
 17 these physical abuse where you were supposed to be
 18 using excess force towards civilian. This case
 19 involves touching and stuff --
 20 MS. SHIELDS: This is Mulvey's.
 21 MR. PURICELLI: Mulvey is 2013. Well,
 22 Mulvey has one. That's the 2013 allegation of
 23 sexual misconduct. After that, the rest is
 24 him.

1 BY MR. PURICELLI:

2 Q And your Internal Affairs document is
3 right here. And it goes through all those.

4 Are there any allegations made
5 against you that don't appear in your history?

6 A I don't believe so. I don't believe so.

7 Q There was a 1998 entry. It talked about
8 the FBI being the Complainant.

9 A Where's that at?

10 Q Well, the whole report is in your Internal
11 Affairs --

12 A I see it now.

13 Q It's around 1434.

14 A I see it. I'm familiar with it.

15 Q I figured you would be.

16 Can you tell me what you recall of
17 that event?

18 A Sure.

19 At that time 1998, I left my previous
20 wife for my current wife. So as most divorces, it
21 got bitter.

22 And ironically, I found out that my
23 ex-wife wrote this letter to the FBI alleging -- I
24 was a police officer in the 39th District when the

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1 scandal occurred, like 1995 --

2 Q With the 39th?

3 A Yeah.

4 Q Everybody may not know what the scandal
5 is. So you can say in real short form so if the
6 judge says what scandal.

7 A Narcotics scandal.

8 And she wrote this letter, this

9 allegations that, you know, I was beating up people
10 and also --

11 Q Planting drugs?

12 A Planting drugs.

13 Q And they went back and checked and they
14 couldn't substantiate it, right?

15 A No, it was unfounded.

16 Q They blamed it on an ex-wife angry, right?

17 A Yeah.

18 Q If you go to 1992, there's an allegation
19 of physical abuse, Michael Gresham.

20 A 1992 . . .

21 Q It's a long time ago.

22 A Verbal abuse.

23 Q Verbal abuse. I'm not so much worried
24 about that, other than the fact that there is a lot

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1 of verbal and physical abuse that pops up in the EEO
2 allegation against you.

3 So in this particular case at page
4 1433 of your index, it indicates that the
5 disposition was withheld?

6 A Withdrawn.

7 Q You say it was withdrawn?

8 A Which one are you looking at? I'm sorry
9 to interrupt you, Counselor.

10 Q No, no. I read this late last night. It
11 could very well have said withdrawn.

12 A If you look at Michael Gresham -- are you
13 looking at the physical abuse or verbal abuse?

14 The physical abuse was withdrawn.
15 That was from -- yes, that was also December 1992.
16 Cheryl Smith was the complainant. Is that the one
17 you were talking about?

18 Q Yeah.

19 A That was an ex-girlfriend who I had been
20 dating since 1989. I was twenty three years old.
21 Found out that she have cheating on me.

22 We had just recently gotten engaged.
23 So I found out she was cheating. I wanted my ring
24 back. She told me no, so I took it.

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1 Q That was an allegation by her you were
2 physically abusive with her, right?

3 A Yeah.

4 Q Now, there's an August 7, 2012 sexual
5 misconduct; disposition, not sustained.

6 Is that the Keisha Johnson?

7 A Yes.

8 Q It says not sustained?

9 A Uh-huh.

10 Q In laymen's term, what is not sustained?

11 A We can't prove it or disprove it.

12 Q And the disposition date for this
13 particular one --

14 A April 7, 2014.

15 Q Did you get a disposition letter?

16 A No. You do not -- the accused officer
17 only gets notified if it's a Complaint Against
18 Police because they're public. They do not get
19 notified on internals.

20 It's ironic because I didn't know
21 until today, I was told it was unfounded. Now I'm
22 seeing it was not sustained.

23 Q In this internal investigation, were you
24 ever interviewed by EEO?

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1 A No.
 2 Q Did you provide EEO with any of the
 3 pictures that you received?
 4 A I was never contacted by EEO.
 5 Q Did you meet with an attorney named Alan
 6 Epstein about this matter?
 7 A Yes.
 8 Q Do you recall what day it was you met with
 9 him?
 10 A No. But I know it was January 2013.
 11 Q Did you receive a court notice to appear
 12 form?
 13 A Yes.
 14 Q And do you recall who issued the Court
 15 Notice?
 16 A City Solicitor's office.
 17 Q What was your understanding of the reason
 18 you were going to go see him?
 19 A In relation to the allegations.
 20 Q Was it your understanding you were going
 21 for a formal investigation?
 22 A No. It was because -- I know it was in
 23 relation to this matter because I spoke to the union
 24 about it.

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1 Q You mean the FOP?
 2 A FOP, yes. Because civilians do not
 3 investigate police officers. So I was told
 4 basically to go. It was more, maybe more of
 5 fact-finding, information. So I went down there.
 6 Q Who did you speak with at the FOP?
 7 A A couple of the vice presidents.
 8 Q McNesby?
 9 A No. John McGrody. He's the vice
 10 president, like the number two, and he's also an
 11 attorney.
 12 Q Did you say he's also an attorney?
 13 A Yes. He was present at my interview.
 14 Q He was present when you spoke with --
 15 A Epstein.
 16 Q Mr. Epstein?
 17 A Yes.
 18 Q What makes you think McGrody is an
 19 attorney?
 20 A I know he's an attorney. He graduated law
 21 school. He used to work for me.
 22 Q Does he have a law license?
 23 A Yes.
 24 Q Does he have a Bar license?

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1 A I'm not sure.
 2 Q There's a difference between a lawyer and
 3 an attorney.
 4 A What's the difference?
 5 Q The difference is you're an attorney if
 6 you have a law license. You are a lawyer if you
 7 graduated from law school.
 8 A Okay.
 9 Q So when you say he's an attorney, you're
 10 going to get me to ask does that mean he has a Bar
 11 license?
 12 A He's a lawyer.
 13 Q Right. Because without a Bar license, he
 14 can't represent anybody.
 15 A He didn't represent me. He just came
 16 there as -- you know, a union rep can sit in on the
 17 hearings.
 18 MR. PURICELLI: All right. I'm not going
 19 to touch it because I know you and I are going
 20 to fight about it. But the attorney-client
 21 privilege has been destroyed at this point.
 22 MS. SHIELDS: It's not been destroyed
 23 because --
 24 MR. PURICELLI: Well, that's going to be

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1 your position. I'm not going --
 2 MS. SHIELDS: The judge already made a
 3 ruling on it.
 4 MR. PURICELLI: He made a ruling about a
 5 report without certain other information that's
 6 coming. I'm not going to belabor this record.
 7 We'll battle that out with the judge.
 8 MS. SHIELDS: I don't see how -- well,
 9 we'll talk about it.
 10 MR. PURICELLI: It's no sense putting him
 11 through this. He wants to get out of here and
 12 get his kid.
 13 MS. SHIELDS: I don't think the judge is
 14 going to change his position.
 15 MR. PURICELLI: I've got my job. You've
 16 got your job. And he's got his job.
 17 MS. SHIELDS: Exactly.
 18 MR. PURICELLI: When we get done, no
 19 secret that it will go up to the Third Circuit,
 20 so.
 21 MS. SHIELDS: Go right ahead.
 22 ----
 23 (Exhibit Bates-5 marked for
 24 identification this date and is

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1 attached hereto.)
 2 -----
 3 BY MR. PURICELLI:
 4 Q Okay. We talked about your ex-wife.
 5 Exhibit 5. I'm showing you a big
 6 packet. There's not -- I understand that, you know,
 7 you had issues with your wife.
 8 I understand from reading this report
 9 that the two of you have gotten separated. I
 10 understand she made allegations against you. And
 11 there is no sense going through all that.
 12 Have you ever seen this document
 13 before?
 14 A No.
 15 Q Were you aware that she had signed out
 16 commitment papers under Section 302 of the Mental
 17 Health Act against you?
 18 A Commitment papers? No.
 19 Q There's an allegation here that was
 20 investigated by the Department that you went over to
 21 her home one evening to get your daughter. Is that
 22 factually correct?
 23 A Yes.
 24 Q There is an allegation in here that you

1 had your duty weapon with you?
 2 A Which I did not.
 3 Q You didn't have your duty weapon?
 4 A I'm pretty sure I had it on me but i
 5 remember -- right.
 6 Q So you did have the gun --
 7 A Yes, I keep my gun on me.
 8 Q Just listen to my question.
 9 Obviously she makes an allegation
 10 that you pointed the gun at yourself?
 11 A Right.
 12 Q And she specifically said at your head.
 13 And one of the investigators said that she said that
 14 you pointed it in your mouth. To be fair with you,
 15 it also said they asked you and you denied it.
 16 So I'm assuming factually the
 17 scenario I say is in the report is correct. I'm not
 18 saying you did point the gun --
 19 A Right.
 20 Q -- but I am saying these were the
 21 allegations and you denied them?
 22 A Yes.
 23 Q The report then goes on to say you were
 24 picked up and taken to a hospital?

1 A Right.
 2 Q And that happened, right?
 3 A Right. And again it was what, sixteen,
 4 seventeen years ago. I spoke to somebody -- it may
 5 have been -- it was a commander. I don't recall who
 6 it was. But just, you know, go down here, we make
 7 it go away, just cooperate. And I cooperated.
 8 Q And that's where I'm going.
 9 A But as far as a 302 commitment?
 10 Q I can draw your attention to page 1180.
 11 A Okay. Okay.
 12 Q And I can tell you that that's not the
 13 only page where everybody agrees that she had signed
 14 off papers for 302 commitment.
 15 Now, you're familiar with a 302?
 16 A Yes.
 17 Q Twenty four years, I'm sure you --
 18 And just in case the judge isn't but
 19 I'm sure he is, could you tell me what your
 20 understanding of a 302 commitment paper is?
 21 A Involuntary commitment.
 22 Q Mental health?
 23 A Yes.
 24 Q Requires you to involuntarily go in and be

1 evaluated, correct?
 2 A Yes.
 3 Q You told me you spoke to a commander. You
 4 don't remember his name.
 5 A Yeah. Now I'm thinking about it, it was
 6 Captain Castro.
 7 Q And he's the individual who lost his
 8 position in the last couple years?
 9 A Yes.
 10 Q Federally prosecuted?
 11 A Right.
 12 Q So we're on the same page of the same
 13 Castro.
 14 A Yeah. Okay.
 15 Q I think the allegations against him is he
 16 was going to hire a hitman because of a debt?
 17 A Yeah.
 18 Q I think he's convicted of that, so I'm
 19 safe to relay that information.
 20 Now, he was the commander that talked
 21 to you about this going out to the hospital, just
 22 cooperating, we'll make it go away, correct?
 23 A He and also -- he was an Inspector at that
 24 time, Blackburn.

1 Q Blackburn?
 2 A Yeah.
 3 Q And as an Inspector, he oversaw Narcotics,
 4 didn't he?
 5 A No, he was in the Detective Bureau.
 6 Q Detective Bureau at that time?
 7 A Yes.
 8 Q I'm familiar with him.
 9 Now, according to the paperwork, they
 10 take you to this hospital. And you agree you were
 11 taken to the hospital?
 12 A See -- all right, I remember going to the
 13 hospital. It wasn't at night though.
 14 MS. SHIELDS: You know what, can we give
 15 Inspector Bates time to look at this.
 16 MR. PURICELLI: Absolutely. It's twenty
 17 some pages.
 18 BY MR. PURICELLI:
 19 Q You will see some around 80 through 81 a
 20 mention of a detective. Maybe it will spark a
 21 memory.
 22 Okay. Have you had a chance to at
 23 least to read the pages to see if it fills in the
 24 blanks?

1 A Uh-huh.
 2 Q There was a detective that's indicated in
 3 the report that says he's the one who picked you up
 4 and took you to the hospital.
 5 A Yeah. Who was it? Ray Spraggins, yeah,
 6 Ray Spraggins.
 7 Q Now, if I read the report it says when you
 8 went to the hospital, the detective talked with the
 9 nurse. You were present. Do you remember that
 10 occurring?
 11 A No.
 12 Q When you were in the hospital, what did
 13 they do with you?
 14 A It was -- I mean, I'm not -- listen, I'm
 15 not trying to minimize it. It was a joke. And
 16 because the allegation -- I had no idea what was
 17 going on.
 18 We got into it at home. And I think
 19 I was home watching a movie when the Lieutenant from
 20 the 8th District came. And I was like, is this a
 21 joke?
 22 And then, you know, we were sitting
 23 there talking. At first I wasn't going to go. I
 24 said I'm not going anywhere. It was just, you know,

1 make it go away, cooperate. And that was it.
 2 Q So you --
 3 A But I don't recall talking to a nurse or
 4 anything that night.
 5 Q I'm not saying you did. I'm saying when
 6 you were there, did you see this detective talking
 7 to the nurse?
 8 A No.
 9 Q Did you see this detective talking to your
 10 estranged wife at --
 11 A I didn't see her.
 12 Q You didn't see her?
 13 A No.
 14 Q You didn't know she was at the hospital?
 15 A No.
 16 Q I take it you went to the hospital and you
 17 came back home?
 18 A Yes.
 19 Q And you saw no psychiatrist?
 20 A No.
 21 Q And you've been involved in 302
 22 commitments, correct?
 23 A Absolutely.
 24 Q Is that normally how it works for 302?

1 First it goes there and then comes back up?
 2 MS. SHIELDS: I'm going to object to the
 3 form of the question. You're asking him a
 4 mental health question and --
 5 BY MR. PURICELLI:
 6 Q In your experience. You've done 302s,
 7 haven't you?
 8 A Right. But my experience is you drop
 9 them -- the police, you drop them off and leave. So
 10 I don't know.
 11 Q You never took them back home after you
 12 dropped them off?
 13 A No.
 14 Q Did you ever hear of someone else taking
 15 them back home after the police officer dropped them
 16 off, the same day that you dropped them off?
 17 A I've heard of people sign themselves out.
 18 But no.
 19 Q They sign themselves out the same day that
 20 they're dropped off?
 21 A Yeah, you can, if you go in 301. But --
 22 Q I'm talking 302.
 23 A But this wasn't a 302.
 24 Q You didn't know this was a 302?

1 A If I was a 302 commitment --
 2 Q You couldn't have gone home, could you?
 3 A No. Not only that, I wouldn't be sitting
 4 here right now because I wouldn't be a police
 5 officer.
 6 Q Why?
 7 A Because if you're a 302 commitment, you
 8 cannot own a firearm.
 9 Q But you have never seen that report, have
 10 you?
 11 A No.
 12 Q And you don't know what was going on, do
 13 you?
 14 A No.
 15 Q Are Police Reports supposed to be true and
 16 accurate?
 17 A Of course.
 18 Q Is it your experience they always are?
 19 A Always? Come on.
 20 Q If I told you if you read that entire
 21 document that the detective talked to the nurse and
 22 then talked to your estranged wife and they
 23 convinced both of them that you would be sent to
 24 EAP. Would that be your understanding of how a 302

1 is supposed to occur?
 2 A I would say no.
 3 Q Did you go to EAP after this incident?
 4 A Yes.
 5 Q Did you go there voluntarily or were you
 6 recommended to go?
 7 A I was strongly recommended.
 8 Q Who strongly recommended that you --
 9 A Blackburn.
 10 Q Blackburn did?
 11 A Yeah, Inspector Blackburn.
 12 Q How long did you stay in the EAP program?
 13 A A day.
 14 Q One day. You saw the EAP psychiatrist?
 15 A They don't have psychiatrists. I saw an
 16 EAP counselor.
 17 Q That's confidential. I don't want to go
 18 there.
 19 MS. SHIELDS: Exactly.
 20 THE WITNESS: And again, you know what, I
 21 went through a bitter divorce, and that's the
 22 mother of my child and I don't want to sit here
 23 and disparage her.
 24 But I don't even want to read it because I

1 just don't and I'm not. I know what occurred.
 2 What the hell is in this report, I've never
 3 seen it before.
 4 BY MR. PURICELLI:
 5 Q I'm giving you the highlights. I'm not
 6 hiding anything.
 7 A But I left her in March of 1988.
 8 December 1998 this happened. Because had I known
 9 this, trust me, I wouldn't have been of great
 10 assistance to her in her career as I have been since
 11 this.
 12 Q Now, this is your Internal Affairs
 13 history. We went through the concise history. This
 14 is just all the records that go with it.
 15 There is a police officer named
 16 Rosenbaum?
 17 A Who?
 18 Q Rosenbaum.
 19 A No.
 20 Q Did you ever have an occasion where you
 21 went to two police officers, male and female, who
 22 had gotten involved in a domestic dispute? And you
 23 had the 75-18s, the Incident Report classified as
 24 something other than a domestic assault?

1 Does that help refresh your memory as
 2 to any event?
 3 A Yes.
 4 Q And that was in 2003.
 5 A It's a 75-48. And now I remember the
 6 incident.
 7 Q I will give you the packet to look at.
 8 But it basically starts at 1599 and goes on in the
 9 sixteen hundreds.
 10 If you want to read it, you can. I
 11 will give you the highlights.
 12 A I remember the incident now.
 13 Q And then a Captain got involved. Because
 14 Rosenbaum told you that you can't declassify it.
 15 This is a domestic. You wanted to call it a
 16 disturbance.
 17 A Right.
 18 Q Do you recall that?
 19 A Now I do.
 20 Q Am I accurately describing the event or
 21 have I got it all wrong?
 22 A That's an accurate description.
 23 Q As briefly as you can, tell me what
 24 happened.

1 A The two were living together. They got
 2 into an incident, a domestic incident. I went over
 3 there. The male police officer, I believe Fidler,
 4 he had recently been involved in a police shooting
 5 maybe within a week, week and-a-half. His partner
 6 got shot. So he was going through it. I think she
 7 had stated he'd been drinking a lot.
 8 But she also, after a while -- rather
 9 than, again, look at the totality of the
 10 circumstances, I made it a disturbance and told him
 11 to notify the Commanding Officers that morning. I
 12 believe I also notified my Captain or notified,
 13 whatever. But, yeah.
 14 Q Did you tell both of them to go file
 15 Protection from Abuse?
 16 A I don't remember.
 17 Q That's what it indicates.
 18 A If that's the case, I did.
 19 Q And when it came back to Rosenbaum, who
 20 was at OPS center, you told her to classify it as a
 21 disturbance and she said --
 22 A Rosenbaum is a guy, isn't it?
 23 Q Rosenbaum is female.
 24 A See, I'm thinking of another Rosenbaum.

1 Q If you don't remember, I'm not going to --
 2 I know the records are there.
 3 MS. SHIELDS: Or let us see the records.
 4 THE WITNESS: Yeah, let me see. Because I
 5 think Rosenbaum is a guy.
 6 MS. SHIELDS: I don't want him to
 7 testify to something --
 8 THE WITNESS: He's a Corporal.
 9 MS. SHIELDS: And we have the records
 10 here --
 11 MR. PURICELLI: That's what I said.
 12 MS. SHIELDS: -- to refresh our
 13 recollection.
 14 MR. PURICELLI: I've got hundreds of
 15 documents here.
 16 BY MR. PURICELLI:
 17 Q Dennis Rosenbaum.
 18 A So I was correct.
 19 Q You were correct.
 20 I'm giving you from 1599 to 1652 at
 21 the moment. I will look at the rest and see.
 22 Because these are memorandums and stuff involving an
 23 IAD investigation. It may be the same one.
 24 -----

1 (Discussion held off the record.)
 2 -----
 3 BY MR. PURICELLI:
 4 Q The few papers that you read, does it help
 5 to fill in the blanks now?
 6 A Uh-huh.
 7 Q The long and the short of it is you went
 8 to a domestic. Wanted to have it classified as a
 9 disturbance. And the Captain said no, this is
 10 domestic assault, correct?
 11 A That's right. He's the Captain. I'm
 12 lieutenant. That's the way it was.
 13 Q And the reason you wanted to have it
 14 classified differently is because you felt the male
 15 officer was going through a lot?
 16 A That. And I didn't see any obvious
 17 injuries. The only injuries was a couple scratches
 18 but he said it was unintentional. If they were
 19 civilians, we would have handled it the same way.
 20 That's why I handled it as such.
 21 Q Your Internal Affairs investigation.
 22 There is a 1998 event that shows up as a 2000
 23 Internal Affairs.
 24 Do you recall -- it's a fellow named

1 Orlando, I believe. 1449, I believe.
 2 Yeah, Orlando.
 3 It says you were harassing him,
 4 calling him a fat ass, things like that.
 5 A Honestly, I don't.
 6 Q It's not like it's, in the scheme of
 7 things, a serious complaint. But in this particular
 8 case there is allegations, you know, name calling
 9 and stuff like that, EEOC. That's why I'm going
 10 over this stuff. Okay?
 11 A What was the finding?
 12 Q Like all of yours, it was unfounded,
 13 unsubstantiated. I believe in this particular, it
 14 was unfounded because he said that he wasn't
 15 cooperating.
 16 A Okay.
 17 Q However, the reason I'm really looking at
 18 it is the fact that it was lost for two years.
 19 A It wasn't lost. That's not atypical for
 20 an investigation to take two years to --
 21 Q Actually, I will show you the document.
 22 It says the reason it's got a 2000 number for 1998
 23 incident --
 24 A No, trust me, it's typical. It takes some

1 time. Because I can see right here it was handled
 2 at what's called the District.
 3 District level complaint where it's
 4 assigned to the Commanding Officer of the District.
 5 And they took their time handling it. They were not
 6 a priority. They may have -- that's not atypical.
 7 Q So it's your understanding it wasn't lost.
 8 It just takes long?
 9 A Yes.
 10 Q When you were in Internal Affairs, I take
 11 it when a complaint comes, it gets a number?
 12 A Yes.
 13 Q Was the way you handled it the same way it
 14 was handled in 1998, internal -- CAPS.
 15 A For the most part.
 16 And maybe in 2010, they changed the
 17 process. It's much more efficient now.
 18 Q It can't get lost. It gets a number right
 19 away and then goes --
 20 A It's handled quicker. There's more
 21 accountability.
 22 The District, it was called District
 23 Level CAPS. They no longer will be assigned to the
 24 District Commanding Officer. Internal Affairs

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1 started handling everything.
 2 Q I'm going to show you 1449 under
 3 Investigation Analysis. I want you to read the
 4 first paragraph right after that.
 5 A That's not even me.
 6 Q I think if you read the whole thing. I
 7 thought so too when I --
 8 A I got you. I'm sorry.
 9 I don't remember this.
 10 Q Do you see where it says lost two years.
 11 A I see that.
 12 Q No tricks here.
 13 Would you agree with me that if you
 14 read the document in the paperwork, it does concern
 15 you?
 16 A Yes.
 17 Q It's an Internal Affairs investigation?
 18 A Uh-huh.
 19 Q It's got a 2000 number for a 1998
 20 complaint.
 21 A This is the number. But the investigation
 22 was finally submitted in 2000.
 23 Q And it reads, "In accordance with the
 24 Mayor's Executive Order 993, this investigation

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1 exceeded seventy five days because it was submitted
 2 and was lost" --
 3 A Right.
 4 Q -- "and had to be resubmitted."
 5 A Right.
 6 Q So it was lost, right?
 7 A That's what it says.
 8 Q And if you read the whole thing, it says
 9 it wasn't run through the course of action for a
 10 formal finding because the guy wouldn't cooperate?
 11 A He wouldn't cooperate.
 12 Q And it's your experience that Internal
 13 Affairs investigations don't get lost when they're
 14 submitted?
 15 A If the Complaint is handled by Internal
 16 Affairs, no, it won't get lost. When it was being
 17 sent back out to the Districts, yes.
 18 Q So I'll clean it.
 19 When the person files these CAPs,
 20 they go to the District generally, right? And the
 21 person, the officer is supposed to give them a CAP
 22 form to fill out --
 23 A Yes.
 24 Q -- right, the complaint form?

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1 A Right.
 2 Q And it gets a district number?
 3 A Right.
 4 Q And then that District number, the CAP
 5 form, then gets sent to Internal Affairs for an
 6 Internal Affairs number?
 7 A Correct.
 8 Q And is what you're telling me, it wasn't
 9 uncommon for the CAP, the complaint, to get lost at
 10 the District level?
 11 A Oh, no.
 12 Q That bears out in some of the other events
 13 here where people say they weren't given forms or
 14 basically they'll come back for forms.
 15 Do you remember a 1998 complaint by a
 16 Ronald Daniels alleging physical abuse and assault?
 17 A What was the location?
 18 Q 16th District it looks like.
 19 MS. SHIELDS: If you have a document,
 20 let's show it to the witness.
 21 MR. PURICELLI: I'm asking his memory
 22 first.
 23 THE WITNESS: I don't recall.
 24

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1 BY MR. PURICELLI:
 2 Q I'm going to show you a document 1594 to
 3 1595. It's an October 30th, 1998 memorandum from a
 4 Ron Daniels to a Lieutenant Martin, Internal
 5 Affairs.
 6 A Okay.
 7 Q Refresh your memory?
 8 A I remember this guy now. I remember this.
 9 I don't think I complained. Something happened in
 10 court. There was an incident over at court, 55th
 11 and Pine.
 12 And this guy was representing himself
 13 as a lawyer. And, I don't know, I think we threw
 14 him out of a building or something. It was strange.
 15 There was no Complaint Against Police filed though.
 16 It was strange.
 17 Q I take it in his memo he says he's not
 18 talking to Internal Affairs because he's been given
 19 the shuffle basically; they won't give me the
 20 complaint against you; they won't give me the forms;
 21 they keep sending me back.
 22 Is that a fair distillation of his
 23 memos and that he eventually said I have an
 24 attorney, he's going to file a criminal complaint

1 against you?
 2 Your attorney is pointing something
 3 out to you.
 4 A I'm reading it.
 5 MS. SHIELDS: It's really what you just
 6 said.
 7 MR. PURICELLI: I'm just trying to give
 8 him the gist of it.
 9 BY MR. PURICELLI:
 10 Q I'm saying these are the kinds of things
 11 that are in your Internal Affairs record.
 12 A It's public record.
 13 Q It seems complaints get lost against you
 14 and --
 15 A They don't get lost.
 16 You know what, Counselor -- where
 17 were you a police officer at?
 18 Q Morrisville.
 19 A Morrisville's a big difference than
 20 working in the inner City of Philadelphia. Although
 21 Morrisville Police Department is getting better --
 22 Q It's getting better.
 23 A But they had issues too. That we're both
 24 aware of.

1 Q Everybody does.
 2 A And I wasn't a police officer that sat on
 3 my butt. I got involved. I was a sergeant in
 4 charge of Narcotics Enforcement Team. So you know
 5 Narcotics tend to get dirty.
 6 So whatever you are trying to
 7 imply -- things got lost -- that's just the nature
 8 of the beast.
 9 But this guy, if you read this, the
 10 guy was a wacko. He never filed a formal complaint.
 11 He represented himself as an attorney, as an
 12 executive with the City of Philadelphia. Yet, you
 13 know --
 14 Q I'm not saying that that is founded. I'm
 15 simply saying he's saying I want to file a complaint
 16 against Officer Bates and I can't seem to get a
 17 CAP or --
 18 A I didn't work in the 7th District. I was
 19 in the ghetto. That's just the way it was.
 20 MS. SHIELDS: And these aren't allegations
 21 that are within the four corners of that
 22 complaint.
 23 MR. PURICELLI: This is in the complaint
 24 filed.

1 MS. SHIELDS: I had to produce everything
 2 that's in the complaint file.
 3 MR. PURICELLI: I understand that.
 4 MS. SHIELDS: I just think we're far
 5 afield of the allegations that you brought him
 6 to --
 7 THE WITNESS: Can I --
 8 MS. SHIELDS: There's no question before
 9 you.
 10 THE WITNESS: Can I ask something about --
 11 MR. PURICELLI: You can ask anything you
 12 want.
 13 MS. SHIELDS: If there's a question before
 14 you, then you may answer.
 15 THE WITNESS: I'm sorry.
 16 BY MR. PURICELLI:
 17 Q Just don't think I'm trying to shut you
 18 up. I will let you say anything that you want to
 19 say.
 20 There came a time that you -- well,
 21 let's bring it up to speed here.
 22 When did you first meet Keisha
 23 Johnson?
 24 A While I was sergeant in Southwest

1 Detectives. So it was either 1999, 2000.
 2 Q How did you meet her?
 3 A Just on the job. I worked in the
 4 Detective Division. She was in the 12th District.
 5 So, you know, you come up there job related. You
 6 get to know the police officers.
 7 Q Did you have any assignments with her at
 8 that time?
 9 A I'm sure, work related.
 10 Q Can you recall anything?
 11 A I can't remember, no.
 12 But let's say if I went out to a
 13 crime scene, she was at the scene, things of that
 14 nature.
 15 Q I understand. But I'm trying to find out
 16 if you have a specific recollection of the first
 17 time the two of you stopped and spoke.
 18 A No, not the exact, no.
 19 Q In 1999, were you married?
 20 A No.
 21 Q Did you ask Keisha Johnson to go out with
 22 you in 1999?
 23 A No.
 24 Q When do you recall the first time you

1 asking Keisha Johnson to go out with you or she
 2 asking you to go out with her?
 3 A That would have been in 2004.
 4 Q 2004?
 5 A Yes.
 6 Q And who was doing the asking? Because I
 7 know I gave it to you both ways.
 8 A I don't remember. But I remember how we
 9 really -- I remember how we started dating.
 10 Q Would it be fair for me to say then that
 11 in 2004 was the first time that the two of you went
 12 out?
 13 A Yes.
 14 Q In 2004 were you married?
 15 A Yes.
 16 Q Were you separated from your wife?
 17 A No.
 18 Q Okay. Before 2004, before you actually
 19 went out, how did you ultimately end up going out in
 20 2004?
 21 A You've got to rephrase.
 22 Q Sure. In 2004 we narrowed it down is the
 23 first time the two of you went out. Now I'm trying
 24 to find out how it occurred, what occurred, who did

1 what, who said what, for you to actually go out in
 2 2014. All?
 3 A Okay. All right. At that time, I -- I
 4 can't remember where I ran into her again. But I
 5 was in the process of going through the background
 6 process to become an FBI special agent.
 7 And as I was telling her this, I
 8 encouraged her to apply with the FBI because I knew
 9 she had a college degree, she was single and had
 10 kids.
 11 So that's how we reconnected through
 12 the process. I introduced her to the recruiter for
 13 the Philadelphia Division.
 14 And I remember our first date was
 15 at -- it's called Buffalo Wild Wings now but I
 16 believe they used to be a Champs at Grant and the
 17 Boulevard. That was our first date.
 18 Q That's your first date. And I'm going
 19 back. And if I understand what you're telling me,
 20 before you actually had your first date, you were
 21 going through the FBI process?
 22 A Yes.
 23 Q And I see that in your personnel file.
 24 Now if you first met Keisha in 1999,

1 and in 2004 you finally went out, do you recall
 2 whether you were having communications with her on a
 3 social event in any way between 1999 and 2004?
 4 A No.
 5 Q You weren't calling her?
 6 A No.
 7 Q She wasn't calling you?
 8 A No.
 9 Q Is it your testimony then during that
 10 period of time the interaction you would have had
 11 with her would have been if you were on the job
 12 together?
 13 A Very sporadic. Or seeing her in court.
 14 Very sporadic.
 15 Q Do you have any direct recollection of any
 16 event in between that period of time where the two
 17 of you actually sat and talked or --
 18 A Yes. One night when I was a lieutenant in
 19 the 39th, she was outside of a club at 21st and
 20 Hunting Park, and we just was talking.
 21 Q You were working?
 22 A Yes. I worked the midnight shift.
 23 Q How did you know she was at the club?
 24 A I saw her.

1 Q So you were out on patrol and you saw her?
 2 A Yeah. We would always be out there
 3 because there was a lot of incidents that occurred.
 4 Q I know what goes on at the clubs down
 5 there, so I get the picture of why you're in the
 6 area.
 7 So you're in the area for activity or
 8 prevent activity at the clubs?
 9 A Yes.
 10 Q And it's probably one or two o'clock in
 11 the morning?
 12 A Yeah.
 13 Q And you, by chance, see her at the club?
 14 A Yes.
 15 Q Who signals who?
 16 A I don't recall.
 17 Q And the two of you ultimately end
 18 up starting --
 19 A Right, started talking.
 20 Q You were on duty, right?
 21 A Yes.
 22 Q What do you talk about?
 23 A Just general conversation.
 24 Q Is there anything after this event that

1 you have a direct recollection before the two of you
 2 go out to the wings place?
 3 A No.
 4 Q Do you have any idea about when that was?
 5 A It was definitely the fall of 2004.
 6 Q This document that you created, does it
 7 have this event in it?
 8 A Yes.
 9 Q Does it have events before this?
 10 A Yeah, just the stuff, you know, when I
 11 first met her.
 12 Q So the fall of 2004 by chance you see her
 13 at a club. You talk.
 14 Is this when you arranged the meeting
 15 at the wings place or is there another event after
 16 this that ultimately leads to going to the wings
 17 place?
 18 A Repeat that.
 19 Q All right. In 2004 you said you were
 20 going through the background investigation with the
 21 FBI.
 22 A Uh-huh.
 23 Q You knew she was a single mom -- or she
 24 was not a single mom, she was single. So you

1 thought it would be a good job for her, too?
 2 A Right.
 3 Q And based on that, the two of you then go
 4 to the wings place?
 5 A Yeah, because then we started talking
 6 more.
 7 Q And that's what I'm trying to find out.
 8 A Yes.
 9 Q The history you've given me so far is that
 10 in 1999, you met her at the job?
 11 A Right.
 12 Q 2004, the fall of 2004, you see her by
 13 chance in the club?
 14 A No. I saw her in the club while I was a
 15 lieutenant. So that would have been between
 16 December 2000 and April of 2003.
 17 Again, I don't recall in 2004 how I
 18 reconnected with her.
 19 Q 2004 fall is when you actually go out for
 20 the first time?
 21 A Yes.
 22 Q December 2003 is your best recollection
 23 when you see her at the club?
 24 A No. I stated it was between December 2000

1 when I got promoted to lieutenant, and April of 2003
 2 when I got promoted to Captain. So it was between
 3 those thirty -- 28 months.
 4 Q So between 1999 and 2000, you don't have
 5 any direct recollection of having talks with her?
 6 A Yeah, but we never went out on a date.
 7 Q Where would the talks be?
 8 A Like I say, either when she came up to
 9 55th and Pine or if I went out to the 12th District
 10 on a crime scene.
 11 Q In 2004, you spoke to her at the wings
 12 place about going through the FBI process?
 13 A I don't recall where we re-established
 14 communication. But our first date was held -- it
 15 was called Champs at the time. Now it's called
 16 Buffalo Wild Wings, whatever.
 17 Q I got all that. I got all that.
 18 You only recall --
 19 MS. SHIELDS: Can we form the next
 20 question for him.
 21 MR. PURICELLI: We can but I don't want
 22 him to think that I'm lost.
 23 MS. SHIELDS: We don't. We just want to
 24 go to the next place.

1 BY MR. PURICELLI:

2 Q Well, I want to know, really, what
3 occurred that you decided you were going to go out
4 now, as before the prior times if you're just
5 talking.

6 And part of the problem is you said I
7 can't tell you why we re-connected.

8 The picture you're painting for me is
9 I met a girl on the job. We talked about work
10 stuff, general stuff, didn't really make a
11 difference. Only talked when we were on the job and
12 we happened to bump into each other.

13 A Right.

14 Q By chance, this big three-year period, I
15 happen to see her at a club. We didn't go out after
16 that.

17 Somehow between April 2003 and the
18 fall of 2004, something occurred because you decided
19 to go out --

20 A Right.

21 Q -- on that date. And I am now trying to
22 figure out --

23 A What caused us to go out?

24 Q Right.

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1 A I don't remember. We just went out.

2 Bottom line is we went out.

3 Q We might have the answer if we had your
4 chronology, wouldn't we?

5 MS. SHIELDS: That's an attorney-client
6 document.

7 MR. PURICELLI: We'll talk about that with
8 the judge.

9 BY MR. PURICELLI:

10 Q Now, in this 2004 -- I call it the wings
11 place. I know you said it was changed. It's now
12 called Wings. I've got the picture.

13 Did you actually have a date that
14 night or was it just a social event where the two of
15 you just got together and talked about the FBI
16 stuff?

17 A It was a date.

18 Q Okay. What happened, if anything?

19 A We went out, eat, a couple drinks. We
20 didn't have intercourse but we kissed.

21 Q Did she know you were married?

22 A Yes.

23 Q And you were still living -- you weren't
24 estranged from your wife?

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1 A No.

2 Q And you knew she was single?

3 A Yes.

4 Q And you knew she needed money, I think you
5 said?

6 A Not at that time, no.

7 Q She was just single and you thought the
8 FBI would be a better job?

9 A Oh, yes.

10 Q Is there any reason you didn't think she
11 could succeed at the Philadelphia Police Department,
12 much like Fox did and some of the other females --

13 A She actually expressed a desire, prior to
14 her moving to Atlanta, she already was talking about
15 it because she was, you know, college educated. She
16 worked out. I knew she worked out a lot.

17 And she always talked about
18 relocating from Philadelphia. So that's when I
19 thought the FBI would be a good place for her.

20 Q And you were either a Lieutenant or --

21 A I was Captain at this time.

22 Q And she was still a patrol officer?

23 A Yes.

24 Q Is it your experience at this point and

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1 still now, to this day, that superior officers go
2 out with subordinate police officers?

3 In other words, male, even female. I
4 don't want to sound sexist. Superior officers will
5 go out with their subordinates?

6 A She wasn't my subordinate at that time.

7 Q She was a police officer, right?

8 A Right.

9 Q So that's your first date.

10 Do you recall your next time that you
11 actually went out with Keisha?

12 A Yes. The first time we were intimate --
13 the second, second, third I remember we went to --
14 we used to go to Copa Banana, 1600 Grant Avenue.
15 It's now closed.

16 Q 6th and Grant?

17 A 1600. Right off of Grant and Bustleton,
18 Grant and Welsh.

19 Q That's right next to one of those
20 districts out there, isn't it?

21 A Yeah, the 7th District.

22 ----

23 (Discussion held off the record.)

24 ----

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1 BY MR. PURICELLI:
 2 Q We were talking about how I was trying to
 3 just get this chronology done so I could get to the
 4 documents and get us out of here.
 5 So then you were telling me that the
 6 Copa Banana with Barry Manilow. You met Keisha
 7 Johnson for the second time?
 8 A Second, third date.
 9 Q And how did this particular date get
 10 arranged?
 11 A One of us -- we both showed up there. I
 12 mean one of us, oh, let's just go hang out, Friday
 13 right.
 14 Q You don't recall how it happened but it
 15 just happened?
 16 A Just happened, yeah.
 17 Q Did anything happen after this date?
 18 A Oh, yes. It was the first time we were
 19 intimate at her house.
 20 Q And you're still married?
 21 A That's correct.
 22 Q Still not estranged with your wife?
 23 A No. But, you know, my marriage hit the
 24 rocks pretty early there.

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1 Q Do you have any kind of sense of what date
 2 the date was?
 3 A I just know it was fall of 2004.
 4 Q So we're still in 2004?
 5 A That's correct.
 6 Q We're still not at the point where she's
 7 your aide, correct?
 8 A That's correct.
 9 Q As you said, you're still not her direct
 10 supervisor?
 11 A That's correct.
 12 Q You are still though a superior to her,
 13 correct?
 14 A Yes.
 15 Q And are you talking about her job at all?
 16 A Not really.
 17 Q You were a Captain, right?
 18 A Yes.
 19 Q And you were Captain where?
 20 A 17th District.
 21 Q And you weren't asking her to come to the
 22 17th, right?
 23 A No.
 24 Q And she was working where?

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1 A 8th. Yeah, she was in 8th by then.
 2 Q You weren't suggesting to her that she
 3 should transfer to some other unit; you could help
 4 her?
 5 A She asked me.
 6 Q What did she ask you?
 7 A I remember her asking me can I help her
 8 get to the Court Liaison Unit, because it was a
 9 Monday through Friday daywork job.
 10 Q She still didn't have a child at this
 11 point yet, correct?
 12 A That's correct.
 13 Q So it was just Mondays through Fridays
 14 that she wanted?
 15 A That's correct.
 16 Q What did you tell her?
 17 A I probably told her I would help her.
 18 Obviously, I didn't.
 19 Q But you did tell her that you would help
 20 her?
 21 A I'm sure I did.
 22 Q And that night you had sex?
 23 A Well, I mean this was like ongoing. I
 24 don't know if we did that night we're talking about

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1 Court Liaison. But this was the first night we were
 2 intimate, yes, to answer your question.
 3 You know I remember, as a matter of
 4 fact, I can tell you what exact date it was because
 5 I remember -- you know how just weird oddities --
 6 that was the night -- I don't know if you're a
 7 basketball fan.
 8 Q I'm not.
 9 A But that was the night, I remember, that
 10 was the night it was the famous Detroit Pistons and
 11 Indiana Pacers brawl.
 12 I remember sitting there watching and
 13 I couldn't believe what I was watching. So I could
 14 probably pinpoint the date then.
 15 But I remember us sitting there
 16 watching the game and watching the brawl because I
 17 never saw anything like that in professional sports
 18 before.
 19 Q It was professional. It wasn't college,
 20 right?
 21 A Yeah, you're not a basketball fan. The
 22 Indiana Pacers versus Detroit Pistons. It occurred
 23 at the Detroit Palace.
 24 Q The closest I get to basketball is about

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1 March Madness month.
 2 -----
 3 (Discussion held off the record.)
 4 -----
 5 BY MR. PURICELLI:
 6 Q So I can Google it and find out the date?
 7 A Absolutely.
 8 Q So that's the first night. And we're
 9 still early on. Let me try and speed it up a little
 10 bit.
 11 A Okay.
 12 Q Because like I said, it would have been
 13 easier to have the chronology, but I don't at the
 14 moment.
 15 When did she become your aide?
 16 A It was either October or November 2007.
 17 Q From this date for the brawl, which we
 18 know is in 2004, to 2007, how often would you go out
 19 with Keisha?
 20 A We did it -- we were probably a couple
 21 times a month up until whenever her eventual fiancé
 22 moved in with her. I don't know if that was 2005,
 23 2006.
 24 We were still friends. And we would,

1 you know, meet up with each other occasionally.
 2 Whenever he went back to Jamaica or if he went out
 3 of state, she would invite me over to her house and
 4 I would go over there and we would engage in sexual
 5 relations.
 6 Q I know it's a lot, you said between 2004
 7 and 2007 there were intimate times that you would
 8 see each other?
 9 A Yes.
 10 Q Every time that you met her, was there
 11 sex?
 12 A Not every time, no.
 13 Q How often would sex occur in this big
 14 spectrum?
 15 A Before he moved in, maybe like twice a
 16 month. And after he moved in, a couple times a
 17 year.
 18 There was a couple of occasions she
 19 got a hotel room at the Sheraton at Grant and the
 20 Boulevard. She had a friend who used to come down
 21 from New York.
 22 So she would get a hotel room for the
 23 girl. I would go over there before the girl came
 24 here to Philly. We would have sex in there and then

1 I would leave.
 2 Q As you can see, I'm writing everything
 3 down.
 4 The Sheraton you said was at Grant
 5 and the Boulevard, right?
 6 A Yes.
 7 Q And I'm familiar with the area. The room
 8 was actually being obtained for a friend from New
 9 York coming down?
 10 A Yes.
 11 Q But you utilized the room yourself?
 12 A Yes.
 13 Q And was the friend there when you had sex?
 14 A No.
 15 Q Was the friend down from New York by that
 16 time?
 17 A No.
 18 Q Do you recall who the friend is?
 19 A No. Never met her.
 20 Q How do you know there actually was a
 21 friend?
 22 A That's what she told me.
 23 Q She told you that?
 24 A Right. And I saw a picture of the girl.

1 Q You saw a picture of a girl?
 2 A Yes. Kind of heavysset female. Yeah, I
 3 saw pictures of the girl.
 4 Q Because she showed you a picture and said
 5 this is my friend?
 6 A Yeah.
 7 Q Aside from Keisha Johnson saying -- or I
 8 should say aside from you saying Keisha Johnson said
 9 that, you have no other reason to believe that there
 10 was this friend? I know it's kind of long way
 11 around but . . .
 12 A I had no reason to think there wasn't a
 13 friend.
 14 Q So now we're getting to the point where
 15 Keisha is going to become your aide.
 16 Who was the person who suggested she
 17 become your aide?
 18 A She would.
 19 Let me add. Again, because she was
 20 going through the process for the FBI but she didn't
 21 have any investigative experience. So she asked to
 22 be my aide so she can show that she had, you know,
 23 an investigative background. Although she would not
 24 have been doing investigations up there, but just to

1 show to the FBI that she was in an investigative
 2 unit.
 3 I'll also add. She got engaged
 4 either the spring or summer of 2007. So when she
 5 came to become my aide, the intent was this was
 6 probably going to be six months until she would get
 7 hired by the FBI. But also, we were not intimate at
 8 that time because she was engaged and we were still
 9 friends.
 10 Q When did the intimacy stop?
 11 A Shortly before she had gotten engaged.
 12 Even then it was very sporadic but we were still
 13 friends. But once she had gotten engaged, we cut it
 14 off.
 15 Q Did you have a discussion about it?
 16 A Oh, yeah.
 17 Q Where did the discussion take place?
 18 A When she got engaged, she called me on the
 19 phone. I remember. I was there for her.
 20 Q Is this phone call that you're referring
 21 to in the records that we're going to look at
 22 eventually?
 23 A No, no.
 24 Q You don't remember the date. So it was

1 before that. So I'll ask her.
 2 A It was definitely 2007.
 3 Q And was this when you were -- where were
 4 you at the time of this discussion? Where were you
 5 assigned?
 6 A Internal Affairs.
 7 Q So you were already in Internal Affairs?
 8 A Yes.
 9 Q At Internal Affairs, what was your job?
 10 The same as we talked about earlier?
 11 A Yes. I didn't have as much
 12 responsibility. I just had maybe two teams then.
 13 Q Were you doing EEO investigations?
 14 A No, they were not part of EEO.
 15 Q She was still at the 8th?
 16 A Yes.
 17 Q Was she saying she was having any problems
 18 with work?
 19 A Not that I recall.
 20 Q And you're saying she asked you to make
 21 her your aide?
 22 A Absolutely.
 23 Q And you did that, correct?
 24 A Yes.

1 Q And did you fill out any paperwork for
 2 that?
 3 A Yeah.
 4 Q And what paperwork was it that you filled
 5 out?
 6 A You do a transfer request. It's called a
 7 Commander's Request. And you send it through the
 8 chain requesting. That's how the Commanders get
 9 aides.
 10 Q I understand that you pick the person you
 11 want.
 12 A Right.
 13 Q So there is paperwork. On that paperwork
 14 that you have to complete, would that go in her
 15 personnel file? See, I've got all of your
 16 transfers.
 17 A That's a good question. I would say so.
 18 I think all of our transfer requests stay in the
 19 file. So I would say so.
 20 Q I'm just making sure that there wasn't
 21 some unique commander transfer, you get a special
 22 route, they go to a special file.
 23 A No, no. There's paperwork that gets
 24 approved through the Police Commissioner.

1 Q Is that done by the Commissioner or does
 2 it have to go to the Transfer Board?
 3 A No, no. Commander's Request goes to the
 4 Police Commissioner.
 5 Q And the Commissioner was at that time?
 6 A Johnson.
 7 Q Sylvester Johnson?
 8 A Yes.
 9 Q And did you know Sylvester Johnson?
 10 A Not personally.
 11 Q You know him only as the Commissioner?
 12 A Yes.
 13 Q You at that time were in Internal Affairs.
 14 I think you were a Captain by then, weren't you?
 15 A No, Staff Inspector.
 16 Q Staff Inspector?
 17 A Yes.
 18 Q As a Staff Inspector, would you go to the
 19 Command meetings?
 20 A Oh, yes.
 21 Q And did Sylvester Johnson go or did he
 22 send his aides?
 23 A No. Commands meetings are chaired by the
 24 Police Commissioner.

1 Q Right. Well, they sometimes send a
 2 delegate too, right?
 3 A No. Every Captain and above must attend.
 4 He's there.
 5 Q I could tell you stories of Captain that
 6 send aides, so.
 7 A Not to a Staff. Because you have to sign
 8 in. You don't go FTA from a command meeting. They
 9 take roll.
 10 Q So I guess the only interaction you had
 11 then with Sylvester Johnson as Commissioner then
 12 would be at the Staff Command meetings?
 13 A Yeah. You know, we're a little bigger
 14 than Morrisville.
 15 Q I know you are.
 16 A So I'm at this meeting. There's probably
 17 a hundred fifty Command Staff. So I don't have
 18 personal contact with the Police Commissioner. I
 19 mean, I've seen him over the years. He knows who I
 20 am.
 21 Q I ask this question because I do know that
 22 there are parties and he did associate within the
 23 Department. I want to know whether you were one of
 24 them.

1 A No. Look at my career assignments. I
 2 wasn't in that crowd.
 3 Q In the paperwork that you completed, there
 4 would be a basis that you request a person. Do you
 5 recall that?
 6 A Yeah.
 7 Q Do you recall what you said the basis was
 8 to ask for her, with no investigative experience
 9 before, why you wanted her out of the whole Police
 10 Department to be your aide?
 11 A Number one, on the request, you keep it
 12 short and simple. You request a person, their
 13 payroll number, that's it. They're Commanders. The
 14 aide they get. It's not in-depth.
 15 Most aides tend to be police
 16 officers. You don't bring detectives up as an aide.
 17 So they tend to be police officers. Though they're
 18 not doing investigations.
 19 Again, we just thought, that's why
 20 she lobbied to come here, it would look good to the
 21 FBI that she was assigned to Internal Affairs,
 22 although she did no investigations.
 23 Q I understand that. She was your aide. We
 24 talked about what her job was. She wasn't assigned

1 to do investigations in Internal Affairs.
 2 A It was just like a one-line memo, thank
 3 you for your consideration. Short and simple.
 4 Q When I go through her personnel file, if I
 5 find the memo, I'm going to see: I want this
 6 person, this payroll number, and that's it?
 7 A That's it.
 8 Q And is it your testimony then that the
 9 reason you were asking her to be your aide was to
 10 help her get into the FBI?
 11 A Absolutely.
 12 Q It had nothing to do with the sex?
 13 A Not at all.
 14 Q So she started with you in 2007, right?
 15 A Correct.
 16 Q And you listed her duties. And did you
 17 have any problems with her dress before she became
 18 your aide? I mean she was in uniform, right?
 19 A Right.
 20 Q And you knew how she was dressing off
 21 duty, correct?
 22 A Correct.
 23 Q Did you have any problems with that dress
 24 style?

1 A No.
 2 Q When she came to work for you in 2004, did
 3 you provide her with any kind of guidance as to what
 4 was appropriate and not appropriate dress style?
 5 A Yes.
 6 Q What did you give her?
 7 A Typical business attire. You can't come
 8 to work in jeans. You can't come to work in
 9 sneakers. Just typical business attire.
 10 It's MPO attire. You couldn't wear
 11 jeans or sneakers. Just something appropriate for
 12 the business place.
 13 Q I think you told me at this point she was
 14 engaged and there was no sex, correct?
 15 A That's correct.
 16 Q And did sex start up when she was your
 17 aide?
 18 A It resumed in 2010 when her engagement
 19 fell off. By that time, my marriage was just on
 20 paper only pretty much.
 21 So her engagement fell off. My
 22 marriage hit the rocks. And in June 2010, we
 23 resumed.
 24 Q Before June of 2010, did you have any

1 problems with Keisha in the way she was performing
2 her work?

3 A There was a couple occasions. Just, and
4 again, typical mundane.

5 Just one thing that stands out, she
6 was suspected of leaking information about an
7 investigation to a coworker in the 8th District.

8 Q What, a leak in Internal Affairs? Shock.

9 A Exactly. So am I.

10 But Chief Inspector DiLacqua called
11 me to the office. The Captain was there. The
12 allegation was made by the Captain of the 8th
13 District at the time that she had information that
14 Keisha had leaked information.

15 Q Who was that Captain?

16 A Captain Debbie Kelly.

17 So I said okay. I said I'll ask her.

18 I asked her did she do it. She said
19 no. I didn't believe her. But I told her, okay,
20 can't prove it; but I said if we catch you leaking
21 on the job, you're out of here.

22 Q And obviously, you never caught her,
23 right?

24 A Couldn't prove it.

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1 Q Couldn't prove it. You just had one

2 Captain saying --

3 A Right.

4 Q -- she believed it was Keisha?

5 A Right.

6 Q What did the Captain tell you her proof
7 was?

8 A I think it was like word through the

9 District that went out. It was a coworker, black
10 male coworker. And they believed Keisha gave him
11 information about the job, this and that.

12 So I mean I got called into the
13 office. It's a serious allegation.

14 Q It wouldn't be the first time something
15 got leaked out from Internal Affairs, right?

16 A No.

17 Q And Keisha wasn't the only leak --

18 A That's correct.

19 Q -- believed, correct?

20 A That's correct.

21 Q How many leaks in your experience were
22 tracked down to the actual person?

23 A I know of one.

24 Q One? In how many years?

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1 A Twenty four years.

2 Q Twenty four years?

3 A Five years there.

4 I know of one. And they transferred
5 the girl.

6 Q And, in fact, you're part of that leaking
7 system, aren't you? The Internal Affairs, the
8 EEO -- I'm not saying you're a leak.

9 A You did say that.

10 Q I'm going to explain this to you.

11 MS. SHIELDS: You're going to rephrase
12 that question.

13 MR. PURICELLI: I'm going to.

14 BY MR. PURICELLI:

15 Q Unless you want to tell me you are or you
16 aren't.

17 EEO investigations are confidential,
18 aren't they?

19 A Correct.

20 Q In fact, according to your policy, even
21 more confidential than an Internal Affairs
22 investigation, aren't they?

23 A Supposed to be.

24 Q Supposed to be. And yet a homicide

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1 lieutenant knew about the EEO investigation or at
2 least the complaint that Keisha reported against
3 you, didn't he?

4 A Yes.

5 Q And he knew it within one day, didn't he?

6 A Yes.

7 Q And nobody, nobody tracked that leak down,
8 did they? Had meetings to see if there was a leak,
9 did they?

10 A No.

11 Q And this lieutenant -- by the way, what is
12 his race?

13 A Black.

14 Q He's a black male?

15 A Uh-huh.

16 Q So Keisha is suspected by Captain Kelly.
17 And Captain Kelly's race is what?

18 A White female.

19 Q I want to make sure I have the right
20 Captain Kelly. Could you describe her? Color of
21 her hair?

22 A I'm sorry?

23 Q Color of her hair?

24 A Black hair.

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1 Q I want to make sure I wasn't thinking of
 2 the wrong person again.
 3 So Captain Kelly contacts you and
 4 says I think you have a leak, and I think it's your
 5 aide.
 6 And she told you she thought that
 7 because of why? What facts did she actually have?
 8 A Because how we worked at the time, that
 9 was during the time where what's called District
 10 Level complaints were handled by the District
 11 Captain; and then it came up to me. It went up to a
 12 captain. He reviews it.
 13 And then it came to me to review it.
 14 And I oversaw 8th District at the time. So Keisha
 15 saw every investigation that I saw. It was very few
 16 that I didn't let her see.
 17 Q She was your aide. Why wouldn't --
 18 A Oh, there was some ones that she just
 19 couldn't see.
 20 So they suspected -- she called the
 21 guy, told I think the contents of the interviews,
 22 things of that nature.
 23 So again, like I said, I asked her.
 24 She denied it. I told her that if we find that you

1 did it, you're going to get transferred. She said
 2 okay.
 3 Q Well, that still doesn't explain what this
 4 Captain Kelly told you about --
 5 A Keisha contacted the alleged officer and
 6 told him the contents of what was in the interview.
 7 Because I believe the officer also had, say, another
 8 police officer -- as a matter of fact, I know a
 9 police officer who gave a statement not in support
 10 of that officer. The officer winded up getting
 11 disciplined too. I believe he confronted the other
 12 officer. So how did he find out?
 13 Q So they --
 14 A They surmised -- Keisha is from the 8th
 15 District. She worked with this guy. It was her.
 16 Q So they deduced the fact that Keisha would
 17 have knowledge of that investigation?
 18 A Right.
 19 Q Keisha at least knew the officer who told
 20 the target officer --
 21 A Right.
 22 Q -- whatever it was that was told.
 23 That target officer confronted the
 24 other officer about how he might even know that.

1 And the Captain found out about that and then called
 2 you?
 3 A Well, she called Chief Inspector DiLacqua,
 4 yes.
 5 Q DiLacqua, who was your boss, who called
 6 you?
 7 A Yes.
 8 Q I see.
 9 The investigation though was being
 10 performed by a different person, correct? It wasn't
 11 Keisha investigating this officer.
 12 A Right.
 13 Q So it was only the mere fact that it went
 14 through her to you that it was believed she was the
 15 leak?
 16 A Right.
 17 Q Did anybody ever determine whether the
 18 investigator talked to anybody in his -- up in
 19 Internal Affairs about this investigation?
 20 A No.
 21 Q Is it your experience that investigators
 22 talk with another one about investigations?
 23 A No, it's kind of a -- you're not supposed
 24 to.

1 Q I know what you're not supposed to do.
 2 But what really goes on --
 3 A At least not on another team, no.
 4 Normally, you don't.
 5 Q But team members do talk with other team
 6 members?
 7 A Yes.
 8 Q And there were several teams up there,
 9 right --
 10 A Yes.
 11 Q -- for this wheel that goes around, so to
 12 say?
 13 A Right.
 14 Q I'm just saying it's not believed that all
 15 the leaks coming out of Internal Affairs are aides
 16 to the bosses?
 17 A No, no. You've got Commanders.
 18 Q It comes all over the place?
 19 A Right.
 20 Q So Keisha was suspected of this. Nothing
 21 ever came of it. There's not a single piece of
 22 paper I should ask for to say this actually
 23 occurred, right?
 24 A That's right.

1 Q So Keisha works for you. There was no
 2 problem. She wants to go to the FBI. You're
 3 helping her.
 4 Was she still going through the FBI
 5 process when she was your aide?
 6 A Yes.
 7 Q Did she ever talk to you about that
 8 process?
 9 A Yes.
 10 Q Did you ever write a letter for her about
 11 that process?
 12 A Yes.
 13 Q Did you contact the FBI?
 14 A Yes. I went to the recruiter. And the
 15 applicant coordinator down there, uh-huh.
 16 Q And she ultimately didn't get that job,
 17 correct?
 18 A That's correct.
 19 Q Do you know why?
 20 A Yes.
 21 Q What was the reason?
 22 A When she showed up to take her polygraphic
 23 examination, she made some pre-polygraph admissions
 24 that was not placed into her booklet, her background

1 investigation book.
 2 And the admissions were -- this is
 3 what she told me -- that she told them when she was
 4 going to college at Penn State, she used to go to
 5 the mall. And a few occasions, she stole clothing.
 6 So they didn't give her the polygraph.
 7 So when she came back to work, she
 8 was crying, upset. I called up there. Called the
 9 recruiter. I wrote the letter. But it was a done
 10 deal.
 11 Q And you didn't get into the FBI, right?
 12 A I declined it.
 13 Q You declined it?
 14 A Yeah. I wasn't rejected. I declined it
 15 when I got promoted.
 16 Q So you're saying the sex with Keisha then
 17 started up when her engagement fell apart?
 18 A That's correct.
 19 Q And at the time her engagement fell apart,
 20 was the decision about the FBI over or still
 21 occurring?
 22 A She got -- that occurred 2008. Definitely
 23 2008 that she got rejected by the FBI.
 24 Q When did her engagement break up?

1 A 2010.
 2 Q So there was no activity between you of
 3 any type with her between 2008 and 2010, other than
 4 she came to work and you came to work and she did
 5 the paperwork?
 6 A Right.
 7 Q And you had no counseling sessions with
 8 her between 2008 and 2010?
 9 A Counseling?
 10 Q Problems with her dress, problems with her
 11 coming late, problems with her calling in sick too
 12 much?
 13 A I'm sure, absolutely.
 14 Q Do you have any documentation to indicate
 15 between 2008 and 2010, you had --
 16 A Written down, no. But tardiness was a
 17 problem. There was a few occasions where I got on
 18 her about her dress.
 19 Q Did you record them down?
 20 A No.
 21 Q Do you have any document that she signed,
 22 even though you may not have, to indicate you
 23 actually had these discussions?
 24 A There was one, there's one formal

1 Counseling Memo in there.
 2 Q Between 2008 and 2010?
 3 A No. It was 2012.
 4 Q I'm just looking at this period of time.
 5 We're going to get you past 2010.
 6 A Got you.
 7 To answer your question, no.
 8 Q I'm trying to find out if there were some
 9 kind of problems during the period of time where you
 10 said you were having no real sex with her at all.
 11 You weren't seeing her between 2008
 12 and 2010, were you?
 13 A No.
 14 Q So we're now in 2010. You're telling me
 15 the sex starts up?
 16 A Right.
 17 Q She is still your aide?
 18 A Yes.
 19 Q The FBI is out of the picture, right?
 20 A Out of the picture.
 21 Q And I know I asked you this question.
 22 The sex starts up because her
 23 engagement falls apart and your marriage is on the
 24 rocks?

1 A My marriage was on the rocks. Her
 2 engagement fell apart. And he's --
 3 Q Are you calling Keisha at home?
 4 A I never called her at home.
 5 Q You never called her at home?
 6 A No.
 7 Q So any discussions that you've ever had
 8 with her were when the two of you were working?
 9 A Yeah. And occasionally -- no.
 10 Occasionally, sometimes on the weekend or --
 11 occasionally on the weekends we would call one
 12 another just, you know, what are you doing this
 13 weekend and this and that, yeah. Or if one of us
 14 was on vacation, hadn't seen each other a couple
 15 weeks, we'll call.
 16 Q Are you asking her to provide you with any
 17 pictures --
 18 A No.
 19 Q -- at this time?
 20 A I'm not sure. But once we -- the picture
 21 exchange and all that started once we got intimate
 22 again.
 23 Q Did you ever ask her to send you pictures
 24 of her feet?

1 A Oh, yeah.
 2 Q Why would you ask to have pictures of her
 3 feet?
 4 A Just like some guys like breasts. Some
 5 guys like ass. Some guys just like nice bodies.
 6 Excuse my language.
 7 That was one of my prerequisites. I
 8 like a woman to have nice feet. I don't like a
 9 woman that smokes.
 10 Q Between 2008 and 2010, did you ever have
 11 to admonish, is the word I'm going to use, you might
 12 have raised your voice at her?
 13 A Sure.
 14 Q Did you do that in front of other
 15 coworkers?
 16 A Probably.
 17 Let me add. I've admonished other
 18 subordinates publicly as well. On occasions, I was
 19 a hothead.
 20 Q Would you agree with me that when you had
 21 a problem with a subordinate, the general teachings
 22 are not to do it in front of other subordinates?
 23 A Absolutely. Praise in public, criticize
 24 in private.

1 Q And that was part of the training you got
 2 at the Northwestern?
 3 A Northwestern. All your promotional books.
 4 But, again --
 5 Q You didn't necessarily follow that
 6 particular --
 7 A No, I do follow most of the time but I am
 8 human. I'm human. Not perfect. I'm not perfect.
 9 So we on occasion stray off the highway.
 10 Q Did Keisha ever tell you she was
 11 embarrassed by being admonished in public?
 12 A Yeah, I remember one particular bad
 13 incident.
 14 Q And could you describe it?
 15 A I don't know -- you know what it was. She
 16 showed up to work with her daughter. But she didn't
 17 tell me beforehand. And you just couldn't do it.
 18 And then she kept her there. You just couldn't do
 19 it.
 20 I got on her pretty bad. And I felt
 21 bad because she did kind of -- you know, she had a
 22 rough day. She was struggling. But I also remember
 23 apologizing to her.
 24 Q So you admonished her. Did you admonish

1 her in front of her daughter?
 2 A I'm not sure. I'm not sure.
 3 Q And what other employees did you admonish
 4 publicly?
 5 A I had a captain. I got on him all the
 6 time.
 7 Q What would you admonish a captain about?
 8 A Really?
 9 Q Yeah, really.
 10 A Pick a letter.
 11 One particular captain, just often
 12 times I went looking for him and I couldn't find
 13 him. If I'm looking for a report or if I'm reading
 14 a report I believe incomplete staff work. If I find
 15 too many mistakes I would send it back: Did you
 16 read this? My job isn't to read your work. He
 17 would say sometimes, no, I didn't read it. Why the
 18 heck did you send it to me?
 19 I have one captain, I got him all the
 20 time. But he was thick-skinned. He handled it.
 21 Occasionally I had investigators I would get on, you
 22 know, shady investigations. I was kind of a
 23 hothead.
 24 Q Well, it doesn't say that in your

1 evaluations.
 2 A My superiors don't see that.
 3 Q Kind of keep that from them?
 4 A Listen, I'm a Marine.
 5 Q Once a Marine, always a Marine.
 6 A That's right.
 7 -----
 8 (Recess was taken.)
 9 (Deposition was resumed.)
 10 -----
 11 BY MR. PURICELLI:
 12 Q So we have sex starting up again in 2010.
 13 After 2010, does there come a time
 14 when this dress attire becomes an issue?
 15 A Yes.
 16 Q How was Keisha dressing before 2010?
 17 A For the most part, 99 percent of the time,
 18 I was okay with it. There would be a few occasions,
 19 like anything else, where you have to correct a
 20 subordinate.
 21 But just like I had to correct her a
 22 few times, there was also male subordinates I had to
 23 correct about their attire. So it wasn't much of a
 24 problem.

1 2011, we got new leadership there.
 2 And Mulvey gets promoted to Chief Inspector. So now
 3 prior to that --
 4 Q Just for the record, Alice Mulvey?
 5 A Alice Mulvey.
 6 Q Because I don't want the judge to think
 7 it's a male.
 8 A Alice Mulvey.
 9 So now we report directly to her
 10 instead of to Johnson. So obviously, females --
 11 you've got to adjust to your superiors.
 12 Prior to that we had all male
 13 superiors. So maybe we didn't scrutinize the female
 14 dresses as closely as the female would.
 15 Q Was it you who started being more critical
 16 about dress or was it Alice Mulvey?
 17 A Oh, Chief Mulvey.
 18 Q So unless Chief Mulvey was actually not
 19 making a deal about dress policies, things kind of
 20 ran a lot smoother about dressing issues?
 21 A Yes.
 22 Q Would it be fair to say that before Alice
 23 Mulvey was promoted, there really was no discussions
 24 among the personnel about wearing high heels to

1 work?
 2 A Correct.
 3 Q Stilettos as some people call them?
 4 A Correct.
 5 Q I'm trying to think of the word she used.
 6 Like a girdle-type --
 7 MS. SHIELDS: Corset.
 8 MR. PURICELLI: Corset?
 9 MS. SHIELDS: Bustier.
 10 BY MR. PURICELLI:
 11 Q Bustier, that's the word she used.
 12 Do you know what that is?
 13 A No.
 14 Q That was described to me like a corset
 15 type of thing, like a woman's corset --
 16 A Keep her tight.
 17 Q Yeah. And she said she was wearing those
 18 things -- Keisha.
 19 A I didn't notice if she did.
 20 Q You didn't notice that. Okay.
 21 So Alice Mulvey -- was there actually
 22 an official Police Department dress code policy?
 23 A No.
 24 Q And was there anything that indicated that

1 the Commissioner said Department heads or Commanders
 2 could create their own dress code?
 3 A I guess it was left to the Commanders.
 4 There was always, just like in the Detective Bureau.
 5 There's always -- I don't know if it's a written
 6 policy.
 7 You just knew, you were a detective.
 8 Just have a tie and a suit jacket available; female,
 9 business attire.
 10 I mean you can walk around the office
 11 like that, but don't show up to a crime scene
 12 without a tie on. So Internal Affairs operates the
 13 same way.
 14 And, again, when they get a little
 15 loose, that's where the superiors would get on. I'm
 16 big on the guys about make sure they had a tie.
 17 Females, again, just sometimes a little too -- like
 18 straighten it up.
 19 But it wasn't much of an issue. You
 20 know, it wasn't much of an issue. There weren't a
 21 lot of complaints.
 22 Q Could I equate -- you know how there was
 23 this practice about the Shooting Team being home?
 24 A Right.

1 Q Would it be fair to say that there was
 2 more of a practice like that? Not necessarily the
 3 paying issue. But as to the dress code. It wasn't
 4 really written, but it was just done this way?
 5 A Right, absolutely, especially in
 6 investigative units.
 7 Q So Alice Mulvey becomes the boss and she
 8 wants --
 9 A She wanted to tighten up the way the
 10 females were dressing.
 11 Q I'm sitting here. You know this big thing
 12 going on now with the Fashion Police issue, about
 13 the Fashion Police Disney girl. I don't know if you
 14 know about it.
 15 MS. SHIELDS: Zendaya.
 16 MR. PURICELLI: Yeah. I don't know her
 17 name.
 18 BY MR. PURICELLI:
 19 Q Do you know about it?
 20 MS. SHIELDS: Off the record.
 21 ----
 22 (Discussion held off the record.)
 23 ----
 24

1 BY MR. PURICELLI:
 2 Q So Alice Mulvey becomes the boss. She's a
 3 little more critical about the dress code, correct?
 4 A Correct.
 5 Q And she's the boss, so she goes downhill,
 6 right?
 7 A That's right.
 8 Q So you speak to Keisha about MPO standards
 9 business attire?
 10 A Right.
 11 Q Would it be fair to say -- I mean we can
 12 look at the policies here. There's nothing about
 13 socks being mentioned; there has to be a particular
 14 type of sock; it has to be black; it has to be
 15 white. Correct?
 16 A That's correct.
 17 Q Would it be fair to say that you've gone
 18 to court and you've seen officers with suits with
 19 white socks on?
 20 A See, I was a stickler on the uniform.
 21 Not -- I haven't too often.
 22 Q You haven't observed it?
 23 A Absolutely, I have seen officers a couple
 24 times. When I used to do my inspections, I would

1 make the officers show me their socks. So yeah, a
 2 few times.
 3 Q Did you make the officer change into a
 4 black sock?
 5 A Absolutely.
 6 Q This you've probably have seen.
 7 A Yes.
 8 Q And, in fact, I didn't even mark it
 9 because we have it. It talks a lot about a stormy
 10 affair and stuff like that. And to tell you the
 11 truth, I went through -- we went through your
 12 history.
 13 Where did the newspaper ever come up
 14 with you had a, quote, "stormy career"?
 15 A Good question.
 16 Q So you don't --
 17 A You know, you got writers there. Headline
 18 writers. Sales.
 19 Q We already marked these. This is number
 20 3. I think Mulvey number 3. 2 and 3. I'll show
 21 you 2 first. I showed this to Alice Mulvey.
 22 Is there anything wrong with that
 23 dress? That's a picture of Keisha, obviously?
 24 A Correct me if I'm wrong. Was this the

1 incident --
 2 Q The black pants issue?
 3 A Right.
 4 Q We'll get to that.
 5 A My opinion, I didn't have a problem with
 6 this.
 7 Q And I have asked Alice Mulvey directly
 8 about these pictures.
 9 You flip to the next one. The next
 10 picture. Do you know who the person is sitting in
 11 that picture?
 12 A It looks like, yeah, Monica.
 13 Q Frysinger?
 14 A Frysinger. Yes, Frysinger.
 15 Q Any problem with that dress, what she's
 16 wearing for the workplace?
 17 A I don't have a problem with it.
 18 Q And the last picture, do you know who that
 19 person is, the back of the head?
 20 A Yes.
 21 Q Who is that person?
 22 A That's -- she just made sergeant. That
 23 was the Chief's aide, Rose Sweeney.
 24 Q What about her dress? Anything wrong

1 about her dress attire?
 2 A No, I don't have any problem with it.
 3 Q Looking at Mulvey-3.
 4 A Yeah.
 5 Q We have dress codes. Now these are by
 6 memorandum. They're not Directives. Correct?
 7 A That's correct.
 8 Q And these aren't approved by the
 9 Commissioner, any Commissioner, right?
 10 A That's correct.
 11 Q If you look at the three of them. Is
 12 there anything that talks about corsets, bustiers?
 13 A No.
 14 Q Slacks, women's pants. We call them
 15 pants. They call them slacks. Correct?
 16 A You said is there anything about slacks in
 17 here?
 18 Q Yeah.
 19 A Yeah, I see right here: Females in
 20 blouses, business-type dresses or slacks.
 21 Q Are approved, right?
 22 A Are approved.
 23 Q They are approved?
 24 A Yes.

1 Q In your mind, is there a difference
 2 between jeans and a slack?
 3 A Yes.
 4 Q For women. I mean obviously men wear
 5 pants.
 6 So jeans themselves are disapproved,
 7 correct?
 8 A Yes.
 9 Q But slacks for women are approved.
 10 Is there a time that Alice Mulvey
 11 came to you complaining about Keisha Johnson wearing
 12 dark-colored jeans?
 13 A Yes.
 14 Q And did you investigate or have knowledge
 15 of what Keisha was wearing that day?
 16 A No.
 17 Q You didn't tell Alice Mulvey they're not
 18 jeans, they're black slacks?
 19 A I can't recall it.
 20 Q You don't recall --
 21 A I remember the incident.
 22 Q Tell me what you remember.
 23 A I thought they were slacks. I didn't
 24 think they were jeans. Because they may have

1 been -- to this day I don't remember the results:
 2 Were they jeans or were they slacks? If they were
 3 jeans, they were very thin.
 4 But I thought they were appropriate
 5 because they were dark and I just didn't -- they
 6 weren't blue jeans. And they weren't even black
 7 jeans where you would say oh, those are jeans.
 8 If they were jeans, I couldn't tell.
 9 Because another duty I had was becoming part of the
 10 fashion police.
 11 Q In your recollection of that particular
 12 event, do you remember whether the pants themselves
 13 were covered with rivets or -- what was the word she
 14 used?
 15 MS. SHIELDS: Rivets.
 16 MR. PURICELLI: Something silvery.
 17 MS. SHIELDS: Like brass.
 18 BY MR. PURICELLI:
 19 Q Like silver, brass buttons all over it?
 20 A No.
 21 MS. SHIELDS: Rivets on the pockets.
 22 THE WITNESS: I don't recall.
 23 BY MR. PURICELLI:
 24 Q So that particular event you told Alice

1 Mulvey that they look appropriate to me?
 2 A Correct.
 3 Q And what was Alice Mulvey's reaction to
 4 that?
 5 A She probably -- she obviously disagreed
 6 with me or probably disagreed with me.
 7 Q She had you counsel Keisha about the
 8 appropriate attire again?
 9 A I don't recall if she did.
 10 Q Do you recall talking to Keisha about it?
 11 A Oh, yes.
 12 Q What do you recall about that
 13 conversation?
 14 A Just probably just telling her that the
 15 Chief was commenting on her pants. And that I
 16 didn't have a problem with it.
 17 And just -- you know, she lived close
 18 by. I don't even know if I told her to go home and
 19 change or just be cognizant of it in the future.
 20 Q Was there some kind of friction between
 21 Keisha and Alice Mulvey?
 22 A I wouldn't say friction between -- no, I
 23 wouldn't say that.
 24 I just think the Chief, as a female,

1 she just wanted to tighten it up. So I wouldn't
 2 think it was personal.
 3 But the fact that Keisha's desk was
 4 outside of her office, she probably would just tend
 5 to see Keisha more often.
 6 Because there was other investigators
 7 who were on the other end of the building. Because
 8 Keisha would tell me, Look at what such and such is
 9 wearing. So if it was one of my subordinates, I
 10 would tell them to change.
 11 Q Alice Mulvey never came to you about any
 12 other subordinates that Keisha was pointing out,
 13 correct?
 14 A Correct.
 15 Q Now, did there come a time that Alice
 16 Mulvey commented about socks that Keisha was
 17 wearing?
 18 A I remember I got on Keisha one time about
 19 socks. I don't recall Mulvey ever coming to me
 20 about Keisha's socks.
 21 Q What were the socks that you commented to
 22 Keisha about?
 23 A They were maybe Hello Kitty.
 24 Q What color were they?

1 A They were like a loud sky blue. Like the
 2 picture of that globe there. And they were short
 3 like the ankle socks. She had boots on. They were
 4 ankle socks. And they was just sky blue and they
 5 were like Hello Kitty socks. They just weren't
 6 appropriate for the workplace.
 7 Q Did you tell her to go change the socks?
 8 A That's the only time I gave her a
 9 Counseling Memo. I actually gave her a written
 10 Counseling Memo for that because --
 11 Q Of Hello Kitty socks?
 12 A Yeah. It was just hideous.
 13 Q But you said she had boots --
 14 A She had boots on, too. So you could
 15 barely -- they just didn't go with the boots either.
 16 Q That's what I'm thinking. You say they
 17 were ankle socks and she had boots on.
 18 A Maybe they were low-cut boots. But they
 19 were definitely boots. I mean as soon as I walked
 20 in and saw them, they jumped out at me.
 21 And two other Commanders came to
 22 me -- as a matter of fact, Deputy Turpin was one of
 23 them. She was a Staff Inspector. She said, Jerry,
 24 did you see Keisha's socks? I said yes, I have and

1 I will address it.
 2 Q So she says something.
 3 What was the relationship like
 4 between Turpin and Keisha?
 5 A Very good.
 6 Q Did Turpin have any other complaints about
 7 Keisha other than the one day that Keisha had the
 8 Hello Kitty blue socks on?
 9 A No. In fact, Keisha told me that she
 10 didn't have a lot of business attire; that she
 11 mostly only had jeans. And I knew she was
 12 struggling financially.
 13 So I had sent her to Turpin one day,
 14 just as a black woman to black woman to sit down and
 15 just talk to her about dressing appropriately.
 16 So I sent her to Turpin, you know,
 17 just talk to her. They had a really good
 18 relationship.
 19 Q How about did you give Keisha any money so
 20 she could buy proper attire?
 21 A Several times.
 22 Q Did you give her a credit card?
 23 A I gave her my Neiman Marcus card. And
 24 another occasion I gave her maybe two, three hundred

1 bucks and she went to the Marshall's up at Welsh
 2 Road and the Boulevard.
 3 Q And bought clothes?
 4 A Yes, she bought business attire.
 5 Q When you gave her the money, were you
 6 having sex with her?
 7 A I don't think so because I believe this
 8 was -- as a matter of fact, I know it was 2012. I'm
 9 almost certain it was after the initial Complaint
 10 was filed.
 11 Q After the initial EEO Complaint?
 12 A Yeah. Her and I stopped being intimate in
 13 the fall of 2011.
 14 Q Did you at any time talk to Keisha about
 15 Gail Newsome-Middleton?
 16 A In what regards?
 17 Q Her dress, how she dressed, how Gail
 18 dressed?
 19 A Well, Gail was -- everyone talked about
 20 the way Gill dressed. It was common knowledge.
 21 Q How did Gail dress?
 22 A Very provocative at times. Very maybe
 23 inappropriate at times.
 24 Q Did Alice Mulvey talk about --

1 A Oh, yes.
 2 Q -- Gail's dress?
 3 A Yes.
 4 Q Did you counsel Gail?
 5 A Gail wasn't a -- she didn't report to me.
 6 Q Who did she report to?
 7 A Turpin.
 8 Q Did Turpin ever talk to --
 9 A Yes.
 10 Q Did Turpin say she was counseling Gail?
 11 A Yes.
 12 Q Did you at any time ever tell Keisha to
 13 dress more like Gail?
 14 A No.
 15 Q Did you ever give Keisha any money for
 16 clothing?
 17 A Yes, I did.
 18 Q What other reasons did you give Keisha
 19 money for?
 20 A Oh, I gave her money to buy clothes, to
 21 buy food, to buy her daughter diapers. I gave her
 22 money -- I'll never forget she was sitting in my
 23 office crying because -- this is between her getting
 24 child support from the daughter's father. He left

1 her.
 2 And she was telling me she had \$88
 3 every two weeks to survive on. And she was sitting
 4 in my office crying. And I told her, you know, I
 5 will help you out.
 6 Whenever we had collections, like,
 7 you know, Thanksgiving, officers are required to buy
 8 Thrill Show tickets. I told her every collection I
 9 will put her money in.
 10 One time I think she may have even
 11 bought me lunch one time, and I got on her. I said
 12 didn't I tell you don't spend any money.
 13 I would give her gas money. Because
 14 she bought this BMW that I told her not to. And she
 15 couldn't afford the gas. I bought her a cell phone.
 16 She couldn't afford a cell phone.
 17 Again, there was no quid pro quo. It
 18 was my friend and she was struggling financially.
 19 Q Did there come a time that dress
 20 memorandum system changed -- that the list or
 21 description of prohibited and permitted clothing
 22 under the memorandum changed?
 23 A May I refer to this?
 24 Q You can refer to anything.

1 A Because this is August 10. This is
 2 March 12th.
 3 Yes. They added Capri pants.
 4 Q They're pants that are dress looking but
 5 just come up above the ankle, aren't they?
 6 A Sleeveless blouses, sleeveless dresses,
 7 right, this was added.
 8 Number five is added about boots or
 9 stiletto heels.
 10 Q And who made the change?
 11 A It's signed by Deputy Commissioner
 12 Johnson.
 13 Q Who made the change though? Who was
 14 pushing for the change?
 15 A I can't answer that.
 16 Q Is it true that you and Johnson were
 17 really good friends?
 18 A We were.
 19 Q And, in fact, you like talked to each over
 20 all the time, right?
 21 A Yes. He was also my superior when I was a
 22 Captain.
 23 Q There was also a rumor out there that
 24 Johnson was protecting you. Isn't that true?

1 A That's not true.
 2 Q That's why I classified it as a rumor.
 3 A That's not true.
 4 Q The point being is the perception was that
 5 Johnson and you were really good friends.
 6 A We weren't friends. We never hung out off
 7 duty.
 8 Q Never?
 9 A He came to an event I got honored at. But
 10 other than that, no, we weren't -- we never hung out
 11 socially besides one occasion.
 12 Q When he sent out the memo, or at least the
 13 memo came out in his authority, did you talk to him
 14 about it?
 15 A I'm sure I did.
 16 Q Do you recall him telling you why that
 17 memo was coming out?
 18 A As you see -- and I think this is
 19 important -- this memo here he had just got assigned
 20 there. So he put this memo out. Because he came
 21 in. He's a uniform guy. He also thought we needed
 22 to tighten things up also.
 23 So he also was about the dress
 24 attire. The men, too. But, you know, objectively

1 speaking, when Mulvey -- we reported -- she became
2 more the females.

3 Q So you don't know whether or not Mulvey
4 went to Johnson and said we need to change the
5 policy?

6 A No, I don't have direct knowledge of that.
7 Because there is nothing that would have prevented
8 her from putting this memo out. She could have put
9 this out.

10 Q When we started, we started out with the
11 DARs. And I told you we would get back to them.
12 There came a time that Keisha was put
13 under investigation for a DAR incident, correct?

14 A Correct.

15 Q And do you recall whether or not this
16 incident involving this DAR entry, there had been,
17 prior to the entry, any telephone calls from Keisha
18 to you about her being sick?

19 A She called me. I was at -- I know I was
20 at a training seminar at the Fire Academy. She
21 called me and told me she was taking off but she
22 stated her daughter was sick.

23 So I informed her to contact
24 Lieutenant Long, who was the Administrative

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1 Lieutenant, so he can, you know, enter it into the
2 DAR or just document it so no one is looking for
3 her. So that was it.

4 Q Do you recall about what time this was?

5 A It had to be between eight and nine in the
6 morning.

7 Q And you told her to call Lieutenant Long?

8 A Yes.

9 Q Was there anybody else that she should
10 have called other than Lieutenant Long?

11 A No. He was the Administrative Lieutenant.
12 Or she could have called the corporal. But I told
13 her to call Lieutenant Long.

14 Q She should have called the corporal if
15 Long wasn't in, right?

16 A Right.

17 Q Did you believe Lieutenant Long would be
18 in at the time that she was speaking to you on the
19 phone?

20 A Yes.

21 Q What was Long's hours?

22 A Kevin normally worked seven to five, eight
23 to six.

24 Q So it was your belief that he actually

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1 would have been at work to receive her phone call?

2 A Yes.

3 Q If he's not in, hypothetically he's not
4 in, he has a system to record the phone call,
5 correct?

6 A Yes.

7 Q Do you know how he got those messages that
8 were recorded?

9 A I assume he -- you dial your access code
10 6854700 and put in your pin code.

11 Q You're saying you're assuming. I know
12 that if I wanted to call him and --

13 A You know what, also I believe Civilian
14 Frysinger would check his messages.

15 Q And that's where I'm going.

16 A Yes.

17 Q Civilian Frysinger was his aide?

18 A No. Lieutenants don't have aides.

19 Q That's true. Bad choice of words there.

20 Frysinger was a subordinate civilian
21 employee whose one of the tasks was to listen to the
22 phone messages for the Lieutenant?

23 A Yes.

24 Q Are you aware of whether or not Keisha

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1 left a voice message for the Lieutenant that day?

2 A I don't recall if she left a message or if
3 she talked to someone.

4 Q And ultimately, there was an Internal
5 Affairs investigation about that incident, right?

6 A (Nodding affirmatively.)

7 Q You have to answer yes.

8 A Yes, yes.

9 Q And the Internal Affairs investigation
10 concerned an incorrect entry for Keisha that day as
11 being shown as funeral leave, correct?

12 A Correct.

13 Q At any time when Keisha was talking to you
14 about calling in because her daughter was sick, did
15 she also say, oh, and by the way, somebody died in
16 my family and I want to --

17 A No.

18 Q When is the first you learned that there
19 was an entry for her as funeral leave?

20 A When she got her Court Notice about the
21 investigation.

22 Q Did she ask you to come to the PBI and
23 testify for her?

24 A Yes.

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1 Q And did you agree to do it?
 2 A No.
 3 Q Why not?
 4 A Because she wanted me to -- I would have
 5 been required -- if I would have testified, I was
 6 going to testify to Department policy.
 7 She wanted me to take the stand and
 8 testify against Department policy. And I told her
 9 there's no way I was going to do that.
 10 Q Did she ask you to testify that she made
 11 the phone call?
 12 A No.
 13 Q Did she ask you to testify to say that she
 14 was calling and saying her daughter was sick and she
 15 was going to call out sick?
 16 A No. She --
 17 Q Did she ask you -- if you want to explain,
 18 I don't mean to shut you off. I'm just trying to
 19 get us out of here too. So if I interrupt you, I
 20 don't mean to.
 21 A I remember what she wanted. She wanted me
 22 to testify that it was an extended Police Department
 23 practice that you can use your sick time if your
 24 child's sick.

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1 Q And I understand there's rules that say
 2 you can't.
 3 A Right.
 4 Q Do you know what slide time is?
 5 A Have I heard of slide time?
 6 Q Do you know what it is?
 7 A I've heard of it, yes.
 8 Q I didn't ask if you approved it. I didn't
 9 ask if you did it. I'm not going to ask you that.
 10 I'm not going to put you in a position like that. I
 11 just want to know if you know what it is.
 12 A Yes.
 13 Q And just so that you know. It's basically
 14 giving an officer time off that he's not supposed to
 15 have off because he did something else and either
 16 didn't get paid or -- it's a reward, like comp time.
 17 A Yes.
 18 Q Would that be a fair description of it?
 19 A Correct.
 20 Q So we're both on the same page talking
 21 about slide time.
 22 Slide time is not permitted under the
 23 policy, is it?
 24 A No.

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1 Q I know you're bound as a Commander to
 2 punish those people who violate policy, right,
 3 according to the policy, right?
 4 A Right.
 5 Q You're not supposed to look the other way,
 6 right?
 7 A Right.
 8 Q Do you know whether or not slide time
 9 continues to this day in the Department in violation
 10 of the policy?
 11 MS. SHIELDS: Only if you know.
 12 BY MR. PURICELLI:
 13 Q I'll tell you right now, I'm not going to
 14 ask you where you know it from. I'm just going to
 15 ask you a straight, honest question.
 16 A Yes.
 17 Q I'm not going to make you start naming
 18 names.
 19 A Okay.
 20 Q I know it goes on. I know who knows it
 21 goes on. I just wanted a straight answer. That's
 22 all.
 23 So things happen in the Department
 24 that aren't supposed to happen, correct?

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1 A Correct.
 2 Q The DAR system is not a full-proof system,
 3 is it?
 4 A Not at all.
 5 Q So when Keisha says, look, I know people
 6 call up sick that aren't sick because their kids are
 7 sick and they get sick time. That statement itself
 8 isn't false, is it?
 9 A No.
 10 Q Now, you didn't testify for Keisha because
 11 you didn't want to testify contrary to policy,
 12 correct?
 13 A Correct. My testimony would not have
 14 assisted her.
 15 Q The testimony you thought she was going to
 16 ask, right?
 17 A The testimony that she told me. I met
 18 with her attorney, too.
 19 Q And that was Brian --
 20 A Right.
 21 Q -- McMonigle?
 22 A Not McMonigle.
 23 MS. SHIELDS: McLaughlin.
 24

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1 BY MR. PURICELLI:
 2 Q McLaughlin, yes. And he told you the
 3 things he was going to ask you?
 4 A Right. And the FOP rep was there and we
 5 came to an agreement that I will not testify.
 6 Q Was Keisha there when you were all
 7 talking?
 8 A No.
 9 Q So you really don't know whether they went
 10 back and said --
 11 A I don't know what they told her.
 12 Q And you don't know whether her belief is
 13 that you just flat out refused to testify, correct?
 14 A I'm sorry?
 15 Q Let me put it this way.
 16 When you guys talked after that --
 17 because you did say you guys continued to talk,
 18 right?
 19 A Right.
 20 Q Did she ever ask you why wouldn't you
 21 testify for me?
 22 A She asked me to testify a few days before
 23 the hearing. And she told me what. And I said I'm
 24 not going to testify, so.

1 Q I got that and then you said --
 2 A But she never asked me afterwards. But
 3 she knew why.
 4 Q My point was she never asked you after her
 5 hearing why didn't you testify for me?
 6 A No.
 7 Q There was a Family Medical Leave request
 8 by Keisha. Do you recall that?
 9 It's marked but I'll just turn to the
 10 page.
 11 You don't remember that right off the
 12 bat?
 13 A Is that after the PBI hearing?
 14 Q Yes, and Alice Mulvey first said no and
 15 then Alice Mulvey --
 16 A Oh, yes, yes, I do now.
 17 MS. SHIELDS: I have it.
 18 MR. PURICELLI: Why don't you show it to
 19 him. I forget what I marked it as.
 20 BY MR. PURICELLI:
 21 Q But I know you approved it. And I already
 22 spoke to Alice Mulvey about this and Alice Mulvey
 23 then said no and then Alice Mulvey said yes.
 24 Were you aware of the reasons Alice

1 Mulvey said no?
 2 We're looking at this memo. And it's
 3 dated 2011, September 2011?
 4 A Yes.
 5 Q So it's right after this DAR incident?
 6 A Yes.
 7 Q And was Keisha taking a lot of time off
 8 before September 2011?
 9 A Nothing -- I would say no.
 10 Q Nothing that you would start a sick abuse
 11 notice or anything like that?
 12 A Right.
 13 Q So she indicates she needs Family Medical
 14 Leave. Did she talk to you about it?
 15 A Yes.
 16 Q What do you recall her telling you?
 17 A I wasn't -- I wasn't sure if she could use
 18 FMLA either. Because I was always under the
 19 assumption it has to be long term.
 20 But she had called down and spoke to
 21 the FMLA coordinator personnel who told her this was
 22 proper. And I tried to explain that to Mulvey. But
 23 it got disapproved.
 24 Q That's true. I asked her about that.

1 What do you remember Mulvey telling you why it's
 2 going to get stamped disapproved?
 3 A She gave me a reason why. And I knew she
 4 was wrong. And I think she wanted me -- I think
 5 Personnel may have called up there or maybe I went
 6 and showed her the policy.
 7 Q Ultimately it looks like you prevailed
 8 because she then stamped it approved?
 9 A Right.
 10 Q Do you recall whether or not between the
 11 time Mulvey said no and the time she said yes -- and
 12 they're both stamped the same day, so you must have
 13 been talking real quick.
 14 A We were. And I may have called Personnel
 15 too. And I remember showing her like -- yeah.
 16 Q In between the time that it left your
 17 hands to go to Mulvey, did Keisha bring you more
 18 documentation or a policy or something?
 19 A Yes.
 20 Q What did Keisha bring?
 21 A It was the -- she showed me something. I
 22 think -- I'm almost certain I called Personnel and
 23 spoke to the woman. And I think that's -- when
 24 Keisha showed me, that's when I went and showed

1 Mulvey.
 2 Q The policy?
 3 A Right.
 4 Like I said, I didn't know you could
 5 use FMLA for such a short duration either. So I was
 6 ignorant to that also.
 7 Q That's okay. There's a lot of laws out
 8 there. It says Police on the side there, not Human
 9 Resources.
 10 A Right.
 11 Q That's why they send us to training,
 12 right?
 13 A Right.
 14 Q So ultimately you convinced Mulvey it was
 15 permitted by policy. Mulvey then gave the stamp of
 16 approval and the matter was over, right?
 17 A Correct.
 18 Q You don't by chance happen to know a guy
 19 by the name of Michael Paige, do you?
 20 A I've heard of him.
 21 Q Worked in Fairmount?
 22 A Yes.
 23 Q What did you hear about him?
 24 A One of my teams had the investigation from

1 the Fairmount Park incident.
 2 Q Is it you just know a little bit about it?
 3 Or because it was your team investigating, do you
 4 have a pretty good idea what was going on in his
 5 investigation?
 6 A Yes.
 7 Q There was a DNA test done, isn't that
 8 true, in his case?
 9 A Yes.
 10 Q And DNA came back positive for
 11 spermatozoid?
 12 A (Pause.)
 13 Q You don't have to guess. If you don't
 14 remember, you can tell me that.
 15 A Yeah, I don't recall.
 16 Q Do you know whether he was fired because
 17 of having sex on duty?
 18 MS. SHIELDS: Only if you know.
 19 THE WITNESS: See, I don't know.
 20 BY MR. PURICELLI:
 21 Q You don't have to guess.
 22 A I know he got fired as a result of the
 23 investigation. He got arrested too.
 24 Q He got arrested and he got cleared on that

1 one, too, right?
 2 A Yeah.
 3 Q Got fired, got his job back too?
 4 A Yes.
 5 Q You just don't remember all the
 6 particulars?
 7 If I told you he was alleged to have
 8 forced sex on another --
 9 A I remember the job.
 10 Q I was lucky enough, I was the attorney in
 11 the Civil Rights case for him. I'm not against him.
 12 I'm representing him. I was wearing a defense cap
 13 that day.
 14 There came a time that there was an
 15 examination done in your office, correct?
 16 A Correct.
 17 Q And there was a chair examined.
 18 When you took over, was the furniture
 19 in that office there already?
 20 A Most of it, yeah. The only thing I
 21 probably brought in there was my personal chair.
 22 Q There was an allegation from Keisha that
 23 you would masturbate in your office.
 24 A Right.

1 Q And is it your position that that's not
 2 true?
 3 A I never masturbated in my office.
 4 Q So when the lab people, who were
 5 investigating Keisha's claim, went in they found
 6 semen on the chair, two spots. Are you saying it's
 7 not your semen?
 8 A It's absolutely not my semen.
 9 Q And did anybody ask you about the lab
 10 results of the examination of your office?
 11 A No.
 12 Q And Turpin was doing that investigation,
 13 do you know?
 14 A I don't know who was doing it.
 15 Q You don't know who was doing it?
 16 A No.
 17 Q I pulled this out last time. We looked at
 18 it real quickly. You said you knew about it.
 19 This is marked already Mulvey-7. We
 20 looked at it real quick earlier. We were talking
 21 about Keisha's DAR incident. And we already looked
 22 at the one where Long -- not Long. We talked about
 23 the Shooting Team.
 24 This document here deals with a

1 correction of a DAR. And I think you told me that
2 happens. We're not going to go through all that
3 again.

4 This one is for an incorrect funeral
5 leave entry. Kevin Long is to correct it.

6 A Uh-huh.

7 Q Do you know whether or not -- first, do
8 you know anything about this?

9 A No.

10 Q While you were there, were you there in
11 April?

12 A Yes, but she was not in my -- she didn't
13 work for me. So I wouldn't have seen this.

14 Q If this event that is described in this
15 document were improper and there was an Internal
16 Affairs investigation, would that investigation go
17 through you for review?

18 A It depends who would have been assigned to
19 the investigation.

20 Q So the mere fact that this subordinate
21 wasn't in your chain of command --

22 A That's why I didn't see this.

23 Q Well, I realize you didn't see this.

24 A I said that's why I didn't this.

1 Q Right. Because she wasn't --

2 But I'm more interested: If there
3 were an Internal Affairs investigation started about
4 this event, would you have been the person who would
5 have seen that investigation report for the
6 conclusion?

7 A It depends who would have been assigned
8 the investigation, what team. If it was a team that
9 reported to me, the answer would have been yes.

10 Q Who would have been the person who would
11 supervise Lieutenant Long?

12 A He actually worked -- he reported directly
13 to Deputy Johnson.

14 Q And no one ever talked to you before at
15 any time about the DAR system, that there are
16 mistakes being made by Lieutenant Long?

17 A No.

18 -----
19 (Exhibit Bates-6 marked for
20 identification this date and is
21 attached hereto.)
22 -----

23 BY MR. PURICELLI:

24 Q I'm showing you what's been marked as

1 Bates-6. Do you recognize the document?

2 A Actually, I don't. I mean if I've seen it
3 before, it's not something -- I mean it's mundane.
4 I'm familiar with the content.

5 Q But this particular document you're not.
6 From 2011 and 2012, could you
7 describe Keisha Johnson's demeanor to you, the
8 things you observed were going on for her?

9 A Her demeanor towards me?

10 Q At the workplace. Did she appear to be,
11 for example, full of life, energy, and laughing all
12 the time? Or --

13 A Once after the -- it started around, I
14 remember, it was around Labor Day.

15 MS. SHIELDS: What year?

16 THE WITNESS: 2011, I'm sorry.

17 Everything kind of snowballed. She showed
18 up -- as a matter of fact, I was still up at
19 that same training at the Fire Academy.

20 She showed up to the range. Number one,
21 she was late. And even Commanders, you have to
22 show up to the range on time.

23 So she showed up late. And apparently,
24 she showed up and she had a thong widely

1 exposed.

2 A female supervisor, you know, grabbed
3 her, talked to her.

4 So I got a phone call from Deputy Johnson
5 who told me about the incident. He was getting
6 tired of Keisha.

7 So I called Keisha. And, you know, she
8 told me she was having a rough morning with her
9 daughter; she had to drop her off.

10 And again, it wasn't, to me, a crime of
11 the century. You know, she said she was
12 struggling. I know she was struggling. So I
13 said no problem; just be more cognizant of your
14 time.

15 But this was then. And then when the
16 investigation -- the investigation, we didn't
17 find out about the investigation until
18 November, I believe.

19 And when I found out that an investigation
20 was undertaken against my aide without my
21 knowledge, I went ballistic, and I requested a
22 transfer that day.

23 They didn't transfer me. But I didn't
24 want to work there anymore because I thought it

1 was very -- and I haven't changed my opinion.
 2 They should not have done an internal
 3 investigation --
 4 BY MR. PURICELLI:
 5 Q Who is "they"?
 6 A Deputy Commissioner Johnson.
 7 Should not have commissioned an
 8 investigation into a DAR entry. So once that
 9 happened, and then the other, you know, the dress
 10 attire, I didn't want to be there anymore.
 11 And again, I saw it was weighing on
 12 Keisha. And it started weighing on me because I've
 13 got to protect my aide. So it was wearing on me as
 14 well.
 15 Q Did Keisha seem to have a loss of interest
 16 in work anymore from this that point on?
 17 A I wouldn't say a loss of interest but I
 18 could see it was affecting her, yes.
 19 Q She appeared to be more in a depressed
 20 state or appeared to be more herself?
 21 A No. She was definitely more reserved.
 22 And I even told her that she could hang out in the
 23 front of the building more; that way she wasn't
 24 around the other aides.

1 Q I know you deny there was any sexual
 2 contact with her at work. I know your position is
 3 there was sexual contact but it was all consensual
 4 after work. Do I got that right?
 5 A That's correct.
 6 Q Did, at any time, Keisha tell you to stop;
 7 don't do it anymore?
 8 A No. Most -- let me add, please.
 9 Q Sure, go ahead.
 10 A Most sexual contact between us was
 11 initiated by Keisha.
 12 Q Did you ever tell Keisha that you wanted
 13 her to approach Gail Newsome-Middleton, add Gail
 14 Newsome-Middleton as a threesome?
 15 A No. Keisha, in 2010, Keisha told me that
 16 she had a membership to a swinger's club in Atlantic
 17 City called Coliguia. I never heard of it. I've
 18 never been there.
 19 And I also knew, just from prior
 20 conversations, I knew Keisha occasionally liked to
 21 have sex with women.
 22 So Keisha once told me -- she would
 23 ask me, Do you find this woman attractive? Do you
 24 find this woman?

1 Now Keisha also knows I liked women
 2 were big breasts. Corporal Gail has breast
 3 implants, nice breasts.
 4 I also -- Keisha knew too -- as a
 5 matter of fact, I didn't tell Keisha. Keisha
 6 figured out that Corporal Newsome-Middleton was
 7 having an affair with my friend, Nick Brown.
 8 Keisha told me one time, Corporal
 9 Gail let her grope her breasts in the ladies' room
 10 inside of Internal Affairs.
 11 So there was, you know, you have sex,
 12 you have wild talk. But Keisha wanted to have sex
 13 with Corporal Gail.
 14 But I never told Keisha to get her
 15 drunk so we can have a three-some with her.
 16 I've only been out with them, outside
 17 of the job, off duty one time. That was it. Bennie
 18 the Bums at Red Lion and Bustleton.
 19 There was another sergeant there.
 20 And I was there maybe twenty minutes. I didn't
 21 drink. I think I brought them a round of drinks and
 22 I left.
 23 Q Did you get any picture of the group
 24 there?

1 A Yes. They took pictures. They were
 2 sending me pictures. But again, just all having
 3 fun.
 4 Q Do you still have those pictures?
 5 A Yes. And I also provided them to my
 6 counsel.
 7 Q And when you speak of your counsel,
 8 Ms. Shields?
 9 A Yes.
 10 Q Do you recall when you gave them to
 11 Ms. Shields?
 12 A Sometime between -- 2014, obviously.
 13 2014. I don't recall the exact day.
 14 Q You indicated that you were familiar with
 15 the content here. I got this from your attorney. I
 16 asked for the training materials for sexual
 17 harassment.
 18 A Uh-huh.
 19 Q Self-evident. Why would I ask for that.
 20 I am familiar with 97.
 21 This training material that you're at
 22 least familiar with, do you remember whether or not
 23 this was the type of training material that you got
 24 in 2012?

1 A I don't recall. It could be. I don't
 2 recall. I don't know if this has since been revised
 3 since then. So I just don't recall.
 4 Q And do you recall being trained about quid
 5 pro quo types of conduct?
 6 A Yes.
 7 Q Do you recall being trained that it most
 8 often occurs between a superior and a subordinate?
 9 A No.
 10 Q You don't?
 11 A I'm sorry?
 12 Q Do you recall being trained that under a
 13 quid pro quo sexual harassment system, it most
 14 often, quid pro quo harassment, occurs between a
 15 superior --
 16 A Oh, yes, yes, I'm sorry.
 17 Q That's okay. I just didn't ask it
 18 clearly.
 19 -----
 20 (Exhibit Bates-7 marked for
 21 identification this date and is
 22 attached hereto.)
 23 -----
 24

1 with him.
 2 So I separated them. I had her at
 3 one end of the District. Because I noticed that she
 4 was always following him on jobs, showing up on his
 5 jobs. And then, you know, through my sources in the
 6 platoon, told me why.
 7 And I actually talked to the police
 8 officer who told me. So I separated them. And
 9 eventually, I got her out of my platoon.
 10 -----
 11 (Recess was taken.)
 12 (Deposition was resumed.)
 13 -----
 14 BY MR. PURICELLI:
 15 Q Well, I'll cut right to the chase with
 16 her.
 17 Did you ever solicit her for sex?
 18 A No.
 19 Q Did you ever ask her out?
 20 A No. I didn't like her.
 21 Q I'm showing you what's an EEO exchange,
 22 actually the Facebook exchange, August 1, 2012,
 23 between Keisha Johnson and Nona Sissy Elizabeth
 24 Stokes.

1 BY MR. PURICELLI:
 2 Q Do you know a Norma Stokes?
 3 A Norma Stokes?
 4 Q Yes.
 5 A Yes.
 6 Q Tell me about Norma Stokes. How you know
 7 her?
 8 A She was a police officer under my -- she
 9 was in my platoon when I was a lieutenant at the
 10 39th. I think she was a below-par police officer.
 11 And I'm pretty certain --
 12 Q Pardon.
 13 (Interruption in deposition.)
 14 (Deposition was resumed.)
 15 BY MR. PURICELLI:
 16 Q We were talking about Norma Stokes.
 17 A Yeah. So when I first got assigned to
 18 39th as a lieutenant, she was assigned to my
 19 platoon.
 20 I thought she was a below-par police
 21 officer. She had attendance issues.
 22 And then I received information,
 23 direct information, that she often times would meet
 24 up with a male police officer and provide oral sex

1 Is the person indicated as Nona Sissy
 2 Elizabeth Stokes the same person we've been talking
 3 about as Norma --
 4 A Yes.
 5 Q She indicates that she was the one that
 6 you, meaning Bates, harassed and stalked in the
 7 39th. Obviously, I'm taking it from your testimony
 8 that that is denied?
 9 A Yes.
 10 Q Did you do anything to Ms. Stokes to cause
 11 her to dislike you?
 12 A Let's see.
 13 Q When I say do something, I don't
 14 necessarily mean it in a negative way. To
 15 discipline her or transfer or --
 16 A Yes, I am sure -- yes, I got her kicked
 17 off of "Last Out." I got her removed off of my
 18 platoon. Because "Last Out" is the midnight shift.
 19 They tend to be understaffed anyway. And she didn't
 20 come to work.
 21 Q Would there be any documentation to show
 22 that she was a poor performer?
 23 A Oh, yeah.
 24 Q Would it have been --

1 A Per her attendance records. And each year
 2 when you -- each year you've got to justify --
 3 whenever you remove somebody off the midnight shift,
 4 you have to justify why. So that was my
 5 justification, because she didn't come to work.
 6 Q She says you were 302 twice here. We know
 7 there was at least one that you didn't even know
 8 about.
 9 A Right.
 10 Q Was there any other time that you were
 11 taken to the hospital in somewhat type similar
 12 situation to the one we talked about this morning?
 13 A No.
 14 Q Monaie Pistoria.
 15 A Uh-huh.
 16 Q We alluded to all this this morning. We
 17 talked about it. I didn't want to go into a whole
 18 lot of it this morning.
 19 But there was an EEO investigation by
 20 the Department in 2003. Did you know about that?
 21 A Yes.
 22 Q Now, this is about ballistics vest. So
 23 your discussion this morning was correct about what
 24 her allegation was, at least involving the vest.

1 There were several police officers
 2 interviewed about the roll call event. And I take
 3 it you've never seen this EEO investigation?
 4 A No.
 5 MS. SHIELDS: What numbers does that start
 6 with, Brian?
 7 MR. PURICELLI: 2003 --
 8 MS. SHIELDS: The Bates stamps.
 9 MR. PURICELLI: 1880. And I have it to
 10 1918.
 11 -----
 12 (Exhibit Bates-8 marked for
 13 identification this date and is
 14 attached hereto.)
 15 -----
 16 BY MR. PURICELLI:
 17 Q I'll tell you the long and short of it,
 18 Mr. Bates, is that she makes basically two
 19 allegations in this; three, if you want to count it
 20 in totality.
 21 One, she says in roll call in
 22 December, you touched her inappropriately in
 23 inspection of --
 24 A Uh-huh.

1 Q -- inspection for vests.
 2 Second of all, she said there was
 3 another time at a Sunoco station, you touched her
 4 inappropriately checking her vest.
 5 And then she said you sent her a
 6 multiple -- an MDL message saying you missed her
 7 when the two of you were on vacation.
 8 A Hold on. Who is this?
 9 Q Monaie --
 10 A Pistoria?
 11 Q Pistoria.
 12 A Okay.
 13 Q You can read the whole thing if you want.
 14 But it really comes down -- I mean, you know
 15 Internal Affairs. You could probably just go back
 16 to the Conclusion page and see the allegations and
 17 the findings and save yourself a lot of reading.
 18 But that's essentially what this is
 19 examining, and the interviews with all the officers.
 20 Now, do you recall, in your sexual
 21 harassment training, them going over the fact that a
 22 lot of times in these EEO investigations by the
 23 Department, officers say: I didn't see anything?
 24 They just say, No, I didn't see.

1 And then when the officer gets called
 2 to Federal Court, suddenly they remember everything,
 3 seeing everything; and therefore, supervisors should
 4 be careful about the way they talk to people and
 5 approach people and touch people?
 6 A No.
 7 Q Do you recall that coming out in your
 8 training?
 9 A No.
 10 Q I'll tell you it's in the training
 11 material.
 12 In this particular investigation, I'm
 13 going to tell you there was a roll call. And you
 14 were checking for vests.
 15 Do you agree that there had been a
 16 roll call involving her check for vests?
 17 A Yes.
 18 Q And this morning you said you believed she
 19 was wearing the vest on the outside of her shirt,
 20 correct?
 21 A Correct.
 22 Q Did she at any time tell you during that
 23 roll call that she was wearing her vest?
 24 A Yes.

1 Q Was the purpose of checking the vest to
2 make sure the officers are actually wearing the
3 vest?

4 A Wearing the vest and wearing it
5 appropriately. Which at that time you had to wear
6 it -- you had to wear it under your shirt; or if you
7 had a carrier.

8 She didn't haven't it under her
9 shirt; she did not have a carrier. She was not in
10 full uniform.

11 Q You saw that, right?

12 A I saw it.

13 Q You knew it. So it didn't make a
14 difference one way or the other about this event
15 because you could see she wasn't wearing it
16 according to what you say regulation was, correct?

17 A Right.

18 Q She was wearing it on the outside and that
19 was violation. And that's all that had to be done,
20 correct?

21 A I'm sorry?

22 Q Since you knew that you could see that it
23 was on the outside of the shirt and not where it
24 belonged, there was no need to insist that she do

1 anything because you could actually see the
2 violation, correct?

3 A Actually, she had her jacket zippered all
4 the way up where I couldn't see it. Because if she
5 had the zipper down, I would have seen she wasn't
6 wearing it appropriately. And I knew she wasn't
7 wearing it appropriately.

8 Q You knew it or you were just guessing at
9 it?

10 A I was guessing, and I guessed correctly.

11 Q Well, did you dismiss her from the roll
12 call?

13 A Is that what it says? I don't recall.

14 Q It does.

15 A Okay, if it's in here.

16 Q Now, did she at any time -- and you can
17 read the report -- hit her chest and say I'm wearing
18 my vest, Lieutenant, I'm wearing my vest?

19 A I don't recall.

20 Q Do you recall telling her to unzip her
21 jacket?

22 A Yes.

23 Q Do you recall her not unzipping her
24 jacket?

1 A Yes.

2 Q Do you recall where you were at the time
3 you asked her to unzip her jacket?

4 A I was standing in front of her.

5 Q When you do -- how often do you do roll
6 call?

7 A I would do roll calls, what's called
8 formal inspection, at least once a week.

9 Q Was there any change in the policy or
10 something that somebody wanted you to start checking
11 vests?

12 A You're supposed to check vests every day.
13 That's your -- you are actually supposed to do
14 formal inspections every day.

15 Do you know how many times I've had
16 officers come to work, left their weapon at home?
17 I've had officers show up with fourteen bullets.
18 You're supposed to have eighteen.

19 So that's the purpose of an
20 inspection. And as I told -- I used to tell my
21 sergeants, if I ever get an officer hurt out there
22 because you didn't make sure they had their vests
23 on, there's going to be problems.

24 Q So the vest check was something common?

1 A Officer safety.

2 Q That was the standard when this particular
3 check was going on?

4 A Yes.

5 Q When you were standing in front of her and
6 she wouldn't unzip the jacket, did you place your
7 hands inside her jacket?

8 A No. I grabbed the zipper and zippered it
9 down.

10 Q When you grabbed the zipper to zipper it
11 down, what did she do?

12 A She backed away.

13 Q She backed away?

14 A Yes.

15 Q Did you ultimately apologize for startling
16 her?

17 A I don't recall. I don't see why I would
18 apologize.

19 Q Would you be surprised to see --

20 A Okay.

21 Q -- that's what you told the Internal
22 Affairs investigator that you later apologize to her
23 for startling her?

24 A I don't recall apologizing to her.

1 Q You said I don't recall --
 2 A If it's in here, then I did. But I don't
 3 recall apologizing to her.
 4 Q Do you recall receiving a memo on the
 5 proper way to check for a vest --
 6 A I don't --
 7 Q -- the way the department wanted you to
 8 check for vests?
 9 A I don't know if it was a memo. There was
 10 something I believe Inspector DiLacqua, inspector of
 11 the division, he sent out something, yes.
 12 Q Do you recall whether or not you were
 13 being taught as a supervisor checking officers for
 14 vests that you were to check from the back of the
 15 officer?
 16 A The department never -- I don't recall
 17 ever getting trained on how to check for vests.
 18 Q Do you recall any Captain telling you if
 19 you're going to check a vest, aside from checking on
 20 the back, you're not to touch the officer?
 21 A After this incident, that's when Inspector
 22 DiLacqua put out something.
 23 Q So you --
 24 A Prior to this, no.

1 Q So you can go through this. It's going to
 2 be in here, that comment. That's why I'm asking
 3 about it.
 4 But your explanation is that that
 5 wasn't what was being taught before this incident.
 6 That was something after?
 7 A Yes.
 8 Q So all I have to do is look at the date of
 9 the memo then?
 10 A Yes.
 11 Q Officer Pistoria also talks about a Sunoco
 12 station check. I think you said you never checked
 13 her vest at a Sunoco station?
 14 A I don't recall. I saw something here.
 15 Let me look at my interview.
 16 Q It took a while for me to figure it out.
 17 It does mention it, but you have to go almost all
 18 the way to the back --
 19 A My interview or hers?
 20 Q -- for me to figure out what was going on
 21 with this Sunoco station.
 22 A Is this my interview or --
 23 Q All of them. All the officers in that
 24 roll call. That's the complete examination or

1 investigation.
 2 A Let me look at mine.
 3 MS. SHIELDS: Do you have a page number?
 4 I saw something in here but it's hard to --
 5 MR. PURICELLI: What do you want to know?
 6 The page number?
 7 MS. SHIELDS: Yes.
 8 MR. PURICELLI: The allegations you'll
 9 find on nineteen six. The memo that we're
 10 talking about is at nineteen ten.
 11 BY MR. PURICELLI:
 12 Q And there's -- the event is January 3,
 13 2003 and that will show up on Bates number 1883.
 14 And this event at the Sunoco station apparently
 15 occurs December 28th -- it's 1891, I think, 1892.
 16 A All right.
 17 Q Have you had a chance to read your
 18 statement?
 19 A Yes.
 20 Q Does it refresh your memory?
 21 A Uh-huh, yes.
 22 Q I think you mentioned in your statement
 23 you apologized and --
 24 A And that was the first incident actually.

1 Q At the Sunoco?
 2 A No. The first incident was at roll call.
 3 I don't see anything in my interview about a Sunoco.
 4 As a matter of fact, my answer is I
 5 do not recall.
 6 Q Right.
 7 A But the second incident where she made the
 8 complaint, I didn't talk to her again. I excused
 9 her from roll call.
 10 Q You didn't talk to her and then there was
 11 this check where she was and it turned out to be a
 12 miscommunication or something?
 13 A I don't remember. It was twelve years
 14 ago.
 15 Q Do you remember me going through all your
 16 evaluations, said they were always good,
 17 satisfactory?
 18 A Yes.
 19 Q In this particular EEO Complaint that was
 20 being investigated, I don't know why they did it,
 21 but they did talk about you as a Commander and you
 22 were to be talked to about it.
 23 I take it no one talked to you about
 24 this EEO investigation conclusion?

1 A Let me read the conclusion.
 2 Okay.
 3 Q I thought it was kind of interesting, the
 4 EEO conclusion.
 5 So I take it no one talked to you
 6 about begin an unfair, arrogant individual, rude? I
 7 take it no one ever told you that?
 8 A I've heard that about me and worse. It
 9 comes with the territory.
 10 Q Did you have any -- I keep using the word
 11 conclusion problem personality issues or employment
 12 problems with Captain Benjamin Walker?
 13 A No, not at all. As a matter of fact, I
 14 saw his comment and it's the greatest compliment he
 15 ever gave me. He didn't have to worry about working
 16 the midnight shift.
 17 Q How about --
 18 A He needs to work on his people skills. I
 19 don't disagree with that. I need to improve my
 20 people skills.
 21 I was very -- you know, the previous
 22 lieutenant before me was lackadaisical. And I came
 23 there, I was the total opposite. And the party was
 24 over and they had to adjust to me. And eventually

1 they did.
 2 Q So were the other people, such at
 3 Bonita --
 4 A Bonita Jones-Wiggins got fired. Police
 5 Officer Michael Hale wind up getting fired for
 6 testing hot for cocaine. Corporal Michael Harris I
 7 gave him all unsatisfactory Performance Reports, and
 8 I got him removed from the 39th District.
 9 Q So they all have a reason --
 10 A Come on.
 11 Q -- to say something --
 12 A Of all these people, I'm the only one that
 13 hasn't been disciplined. It's ironic.
 14 Q You're the only one who hasn't, right. I
 15 agree. You're the only one who hasn't.
 16 But they describe you as arrogant,
 17 which you say okay, I am.
 18 A I wouldn't say arrogant. I'm an
 19 introvert. I didn't come in here and talk to
 20 people.
 21 I came in here and did my job. I
 22 didn't hang around them. I'm very introvert. I
 23 don't play with them.
 24 Q They said you would yell at officers in

1 front of other people. So that was true, right?
 2 You agreed you --
 3 A Absolutely. At times, yes.
 4 Q Did -- I don't remember the guy's name,
 5 Rodgers --
 6 A William Rodgers.
 7 Q Sergeant William Rodgers was under you in
 8 this District when this incident we're talking about
 9 happened?
 10 A Right.
 11 Q Did you ask Sergeant Rodgers to go see if
 12 Officer Pistoria was wearing a vest?
 13 A I don't recall.
 14 Q Do you recall telling Officer Pistoria,
 15 since she wouldn't show you her vest, that you were
 16 going to send her home?
 17 A Yes.
 18 Q Did she break down and cry?
 19 A It's possible. If she said it, it's
 20 possible. She was a crier.
 21 Q There's two other officers who said she
 22 was crying.
 23 A She probably -- yeah, that might be the
 24 night she called the Captain. But you cannot go on

1 the street without your vest. So if you didn't have
 2 it, you were going home to get it.
 3 Q But she had it on. She had it on wrong,
 4 according to you?
 5 A Exactly. If she wasn't going to wear it
 6 in conformance with our policies, she was going
 7 home, absolutely. All she had to do was put it
 8 under her shirt.
 9 Q I think this occurred in March -- January
 10 two thousand --
 11 A January.
 12 Q So it was cold outside?
 13 A Yeah.
 14 Q Actually had her duty jacket zipped up,
 15 right?
 16 A That's correct.
 17 Q If she was on the street, you wouldn't see
 18 the vest anyhow?
 19 A That's correct.
 20 Q Did you tell Officer Pistoria unless she
 21 unzipped her jacket, she would be suspended?
 22 A Suspended?
 23 Q Suspended.
 24 A No. I don't have the authority to

1 suspend. Lieutenants don't have the authority to
 2 suspend someone.
 3 I could send her home, vacation or
 4 holiday.
 5 Q So you don't deny that the report says you
 6 said, I'm going to send you home --
 7 A Absolutely.
 8 Q -- that occurred?
 9 A If she was not going to comply with
 10 policy, she was going home.
 11 Q If the report indicates that she was
 12 told -- or she says you said that she was going to
 13 be suspended if she didn't comply --
 14 A That's not true.
 15 Q That's not true?
 16 A No.
 17 Q I take it you haven't seen this report
 18 before? I think I asked you that before.
 19 A No.
 20 Q And you had mentioned this is the event
 21 where she called the Captain that night. So
 22 probably you remember something about it.
 23 Did the Captain ever tell you to
 24 check for vests from the back and using a finger

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1 only?
 2 A It's possible. After all that was going
 3 on, yes, it's possible.
 4 Q Well, the memo is at 1910.
 5 A 1910, all right, here we go.
 6 Q And our incident -- there's two of them
 7 12/28/02 and 1/3/03.
 8 Is it your testimony that the roll
 9 call incident was the December 28th, 2002 incident?
 10 A The first one. The second one -- the
 11 second one would have been this night, yeah, 1/3/03.
 12 Q The second one where she wouldn't unzip
 13 her jacket?
 14 A That's correct.
 15 Q So the memo is dated 1/2/03 --
 16 A Right.
 17 Q -- the day before?
 18 A Day before.
 19 Q And the memo tells you how to
 20 properly vest check?
 21 A Believe it or not, I didn't get this.
 22 Because I remember this. Because I
 23 worked the midnight shift. Communication, I didn't
 24 get this until after the fact. I remember I spoke

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1 with DiLacqua afterwards and I apologized. He
 2 was -- it was no biggy.
 3 Q Did anyone ever apologize to the officer
 4 that, yeah, I made a mistake?
 5 A I didn't.
 6 Q You didn't?
 7 A No.
 8 -----
 9 (Exhibit Bates-9 marked for
 10 identification this date and is
 11 attached hereto.)
 12 -----
 13 BY MR. PURICELLI:
 14 Q Do you remember the complaint Tracey Davis
 15 made?
 16 A Um --
 17 Q I know you can read it if you want.
 18 A Believe it or not, I don't. I'm trying
 19 to -- let me see if I see my interview.
 20 I don't. I don't.
 21 Q Long story short, she said you were
 22 picking on her because you wouldn't go out with her.
 23 And that that was the friction.
 24 And then you sent her an MDT message.

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1 I believe you said that you found her sleeping.
 2 A Uh-huh.
 3 Q So she's making this up. I think you said
 4 she made the same complaint against another officer
 5 one time?
 6 A Yes, the sergeant.
 7 Q She claims that you sent her a message, an
 8 MDT message that I missed you when were you off two
 9 days.
 10 A Right.
 11 Q There's an officer that gets interviewed.
 12 And he said he didn't read the MDT.
 13 A Exactly.
 14 Q And there's a system called S and L system
 15 within the Police Department, isn't there?
 16 A S and L?
 17 Q S and L. If something broke down, you get
 18 a log?
 19 A S and R.
 20 Q S and R?
 21 A Sending and Receiving sheet.
 22 Q Sending and Receiving. And that S and R
 23 is done daily, if I remember correctly. Is that
 24 true?

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1 A Yes.
 2 Q The purpose of that is a variety of
 3 different reasons. One of them is to record when
 4 there's problems that need to be addressed.
 5 For example, the Police
 6 Administration Building has the surveillance system.
 7 If the surveillance system goes down, they write
 8 down whatever camera is broken or recorder is
 9 broken. And it gets then -- that message gets sent
 10 and is received by somebody who is supposed to fix
 11 it. And then S and R says the camera is fixed.
 12 A Right.
 13 Q Is that a fair way to describe the S and R
 14 system?
 15 A Among other things, yes.
 16 Q I know it has a lot of functions. But for
 17 something that's broken.
 18 A Yes, that's true.
 19 Q So if a computer system, that records all
 20 the Multiple -- MDT?
 21 A Mobile Data Terminal.
 22 Q Mobile Data Terminal.
 23 A Yes.
 24 Q And they have these in cars, right?

1 A Right.
 2 Q It's a computer screen?
 3 A Yes.
 4 Q Like a laptop. You do your look-ups from
 5 there. If you need to, you can send messages back
 6 and forth. Some Police Departments dispatch calls
 7 that way.
 8 Is that a fair description of the MDT
 9 system?
 10 A Yes.
 11 Q In Philadelphia, what's the purpose of the
 12 MDT?
 13 A Radio can dispatch calls to it. You can
 14 communicate with other cars. You can run record
 15 checks. As a supervisor, I can communicate with
 16 subordinates, communicate with other supervisors.
 17 It's a very valuable tool.
 18 Q So if it were alleged you sent a message
 19 to the MDT --
 20 A It could have been retrieved, especially
 21 within this time frame.
 22 Q And how many times in your twenty four
 23 years have you been told that the MDT system went
 24 down and you couldn't retrieve the information?

1 A I don't recall. But if the system goes
 2 down -- and I know this from Internal Affairs -- you
 3 still can retrieve the information. The information
 4 is out there forever.
 5 Q In fact, if it went down, the first place
 6 you would look to see if there was a problem with
 7 it, it would be noted on S and R, wouldn't you? Go
 8 to the S and R to see if there was a reported
 9 problem with it?
 10 A Not necessarily.
 11 Q No?
 12 A Not necessarily.
 13 Q So what happens -- how can Internal
 14 Affairs recover it?
 15 A Easy. Contact Communications Division.
 16 They contact Verizon. I don't know -- Verizon used
 17 to be the administrator. It's like a cell phone.
 18 It's like pulling an e-mail.
 19 Q Well, as you know, obviously if someone
 20 made an accusation against you that you used that
 21 device, you would want them to check?
 22 A Exactly. And EEO would have been very
 23 easy to retrieve that.
 24 Q So it seems kind of odd to me. Did it

1 seem odd to you that they would tell me that they
 2 couldn't retrieve it because the computers were
 3 defective that one day?
 4 A Yeah, they should have been able to
 5 retrieve it.
 6 Q I agree with you.
 7 So obviously you deny her allegation
 8 that you wanted to go out with her, true?
 9 A True.
 10 Q I got the same -- was Davis in the same
 11 squad or same district as, what's her name,
 12 Pastoria?
 13 A Yeah, all 3 Platoon.
 14 Q So it would be the same people that would
 15 have the bad comments about you that --
 16 A Police Officer Davis, and I forgot about
 17 the incident when she got caught sleeping behind
 18 Randolph Skill Center at Henry Avenue and Roberts
 19 Avenue.
 20 And as she tried to kick off, the car
 21 got stuck back there and we had to call for a tow
 22 truck to remove the car.
 23 And again, I requested disciplinary
 24 action against her and the Captain denied it.

1 Q Who was the Captain?
 2 A Captain Aaron Horne.
 3 Q Aaron Horne?
 4 A Yes, who right now has problems.
 5 Q I wasn't going to say is he the same one
 6 who is going to get arrested, indicted, or is
 7 indicted?
 8 A Yes.
 9 Q Rumor is that the arrest is coming down
 10 very shortly.
 11 -----
 12 (Discussion held off the record.)
 13 -----
 14 THE WITNESS: She was a below par officer.
 15 And again, had they taken proper action against
 16 her, maybe she would have got better. Caught
 17 asleep several times.
 18 And as I'm reading my interview, the
 19 police officers were complaining about her
 20 falling asleep on car stops. I mean she was a
 21 disgrace as a police officer.
 22 Actually, if this comes from data
 23 processing, this is legitimate.
 24

1 BY MR. PURICELLI:
 2 Q This is, I believe, Mulvey-6. I think I
 3 talked about the lab reports. And you already told
 4 me you were never interviewed at all about this.
 5 A No.
 6 Q And we looked on your Concise History and
 7 it says it was unfounded, I think?
 8 A Not sustained.
 9 Q Let me draw your attention to 1060 of this
 10 report. Can you tell me what that is?
 11 A Yes.
 12 Q What is it?
 13 A It's a check I wrote to Keisha for her
 14 daughter's birthday.
 15 Q You didn't find anything inappropriate
 16 about that?
 17 A No. I bought her daughter gifts for
 18 Christmas and birthday. That was the last gift that
 19 I got her. And just like she bought my kids gifts.
 20 Q When you learned about this EEO
 21 investigation I think you said you got transferred
 22 out of Internal Affairs.
 23 Was the transfer out of Internal
 24 Affairs at your request?

1 A It wasn't at my request.
 2 Q Because I know you said you sent a memo
 3 when you found out about them doing an
 4 investigation. I'm just wondering if they acted
 5 on --
 6 A I didn't send a memo. I told Deputy
 7 Johnson on several occasions I wanted to get
 8 transferred, me and my aide.
 9 Q So when the transfer came down after this,
 10 it wasn't because you asked to be transferred?
 11 A Oh, no. It was a result of this.
 12 Q It was a result of this?
 13 A Absolutely.
 14 Q Who ordered the transfer?
 15 A Police Commissioner Ramsey.
 16 Q Did he have any discussions with you?
 17 A No. It was told to me by Deputy
 18 Commissioner Johnson.
 19 Q What did Johnson tell you?
 20 A Ramsey is moving you. It was Monday,
 21 July 2.
 22 Q Do you know whether or not decisions that
 23 you had made on EEO matters were reviewed after your
 24 transfer?

1 A Yes.
 2 Q And what matters -- let me ask you how you
 3 found out about that.
 4 A How I found out about it?
 5 Q Yes.
 6 A You hear things through the grapevine.
 7 Q I know there's a grapevine.
 8 So a grapevine kind of thing you
 9 heard they were reviewing your decisions?
 10 A Yes. And not one of them had been
 11 overturned.
 12 Q Do you recall reviewing any EEO
 13 investigations involving a Jamie Miles, patrol
 14 officer Jamie Miles?
 15 A No.
 16 Q Do you recall at all making any
 17 conclusions in an EEO investigation involving Jamie
 18 Miles?
 19 Specifically, finding that her
 20 allegations that she was being sexually harassed by
 21 her corporal was an unfounded --
 22 A I don't recall.
 23 Q You don't recall that?
 24 A No.

1 Q Aside from hearing from the Lieutenant
2 that you were added to it, and aside no investigator
3 asked you about it, did anybody ask you, other than
4 your attorney and Mr. Epstein, about Keisha
5 Johnson's allegations?

6 In other words, did Johnson or Ramsey
7 or Mulvey come up to you and say this is what the
8 allegations are; what do you have to say?

9 A Johnson, that Monday, Johnson showed me
10 the memorandum that Corporal Newsome wrote.

11 It was then that I revealed to him
12 that Keisha and I, we had a long-standing sexual
13 relationship. And he just shrugged his shoulders,
14 like so what.

15 And I read the letter, laughed about
16 it. Then later on that afternoon, he called me back
17 into the office, said Ramsey -- I was ordered, I was
18 being moved. So I had about ninety minutes to pack
19 up my stuff.

20 Q Did Johnson tell you whether or not he had
21 spoken to Ramsey about this matter?

22 A Yes.

23 Q What did he say?

24 A That morning -- every morning the

1 Commissioner has a meeting with the Deputies. That
2 morning they discussed it.

3 Q They've got a white paper, a memo that
4 comes up from Internal Affairs or something about
5 all the complaints against police officers every
6 day, and they meet and talk about them and decide
7 what they're going to do, right?

8 A Yes.

9 Q And you were among that discussion, I take
10 it?

11 A No. It would have been -- no, the Deputy.

12 Q So Johnson would have taken this matter
13 when he got the memo to Ramsey?

14 A Right. In Internal Affairs, yeah, the
15 Command Staff would. But I never met with Ramsey.

16 Q And Ramsey never talked to you about it?

17 A No.

18 Q You only know what Johnson told you?

19 A Correct.

20 Q And Johnson basically said this is the
21 memo; what do you got to say? You explained what
22 you said. And then that was the end of it?

23 A Yes.

24 Q And then sometime later the same day, did

1 Johnson call you back or he just called you --

2 A He called me into the office. Told me I
3 was being moved. Told him I disagreed with it but
4 okay.

5 And Deputy Commissioner Fox drove up
6 from Police Headquarters. She came to my office.
7 She sat down and she talked to me, and I appreciated
8 it.

9 Q What did Fox tell you?

10 A She told me just hang in there, just focus
11 on your family and just keep your head up. And, you
12 know, hopefully this will be over and you'll be
13 back. Haven't been back.

14 Q Do you know Theresa Levins?

15 A Yes.

16 Q Do you know her brother?

17 A Her brother?

18 Q Yeah. Doesn't she have a brother, Captain
19 Levins?

20 A It's her brother-in-law.

21 Q Brother-in-law?

22 A Yes. She married his brother.

23 Q Did Patricia Fox ever tell you that she
24 had conversations with the brother Levins -- I'm

1 trying to think of his first -- was it Gerald
2 Levins?

3 A Gerard.

4 Q Gerard Levins.

5 A No, I never had discussions about Levins a
6 day in my life.

7 Q I take it it's not an unusual event for an
8 officer to be given like a memo about discipline or
9 something like that? In other words, it's not
10 unusual about --

11 A No.

12 Q Is there any reason you know of why a
13 person would be taking a picture of Keisha Johnson
14 when they were delivering a memo to her?

15 A No.

16 Q Did you ever have any discussions about
17 Keisha Johnson, any punishment as a result that
18 might be imposed on her about the DAR incident?

19 A Can you clarify that?

20 Q Sure. The DAR incident involved what was
21 classified as, you know, fraudulent entry.

22 A Right.

23 Q Would that be fair to say?

24 A Yes.

1 Q Somebody said they put her in as Family --
 2 A Funeral.
 3 Q Funeral leave, and she never asked for
 4 funeral leave. And that her and Gail conspired this
 5 up, so she could get the day's pay?
 6 A Yes.
 7 Q That's pretty much it in a nutshell?
 8 A Yes.
 9 Q Did you know what the punishment range was
 10 for that, if that were true?
 11 A I'd be guessing. I would say no more than
 12 a reprimand to five days.
 13 Q What about a transfer?
 14 A No, I've never seen anyone in my twenty
 15 four years, except for this transfer as a result of
 16 a reprimand.
 17 Q Do you know who actually recommended the
 18 transfer?
 19 A Yes.
 20 Q Who?
 21 A Deputy Commissioner Johnson.
 22 Q How did you learn that?
 23 A Because he told me.
 24 Q Did he tell you why?

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1 A Listen, it was time. Like she needed to
 2 be transferred. She needed to be transferred.
 3 Q Was she being transferred for this or was
 4 she being transferred for another reason?
 5 A She got transferred as a result of the
 6 discipline.
 7 But at that time, I did not want her
 8 as my aide anymore. If I did want her as my aide,
 9 she probably wouldn't have gotten transferred, or at
 10 least I probably could have at least prevented that
 11 much.
 12 But because -- so with her not being
 13 my aide, there was no other reason she could serve
 14 in Internal Affairs.
 15 Q I take it you've never seen the memo by
 16 the Commissioner?
 17 A For request transfer?
 18 Q (Nodding affirmatively.)
 19 A No.
 20 Q 324 of O'Neill-1. Page 324.
 21 A Okay. Never saw it.
 22 Q As of April 25th, 2012, were you and
 23 Keisha still involved in any kind of sexual --
 24 A No.

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1 Q I know I marked this but I don't remember
 2 what I marked it as, with Alice Mulvey. It's the
 3 e-mails.
 4 MS. SHIELDS: The texts, whatever you call
 5 them.
 6 MR. PURICELLI: Do you have a number on
 7 the bottom?
 8 MS. SHIELDS: I don't.
 9 I have them as Mulvey-11. Give them to
 10 him?
 11 MR. PURICELLI: Yeah.
 12 BY MR. PURICELLI:
 13 Q I know you're going to go through them.
 14 I'm going to ask you: Did you send those texts and
 15 get those texts back?
 16 A Which?
 17 Q Well, we received these from Keisha. She
 18 said these texts are from you.
 19 A Every one?
 20 Q Other than the ones where she answers.
 21 A Which ones are from me?
 22 Because all of them are sent from
 23 her.
 24 Q All of them are sent from her to her so

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1 she could forward them to me so I could use them in
 2 this case.
 3 A Let's go page by page.
 4 Q You see a number on the bottom 22. These
 5 are numbered because these are documents I sent to
 6 your attorney.
 7 The first one on the bottom page is
 8 page 22. It's an April 23, 2012. At the bottom
 9 you'll see a number down here.
 10 A Okay.
 11 Q Did you receive a text from her indicating
 12 that she was tired of disparate treatment?
 13 A Yes.
 14 Q When she wrote that to you, did you ask
 15 her what she meant by it?
 16 A No. My answer is on page twenty five. I
 17 believe that's my answer. Hold on. It actually
 18 starts on page twenty. It actually starts before
 19 that. It's a long-running text.
 20 Q I probably got the wrong one anyway. I've
 21 just got loose ones here.
 22 A Page 16.
 23 Q We'll operate off of Mulvey-11, because I
 24 know that packet is put together. We'll just use

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1 that.
 2 Are there any texts back and forth
 3 that you would say aren't back and forth from you
 4 and Keisha? All I'm trying to do is authenticate --
 5 A I can tell you which ones. Keisha and I
 6 engaged in sexting.
 7 So, yes, this is her and I going back
 8 and forth.
 9 Q I just want to make sure that there aren't
 10 any in there that you really don't think weren't
 11 back and forth between the two of you. Like put in
 12 someone else by accident or --
 13 A These are the accurate dates. It was the
 14 ones that look like she -- like these back and
 15 forth, July, it shows my reply but it doesn't show
 16 hers, which I expect that.
 17 But, yes, these are my replies.
 18 Q I think what I've done, I just put them as
 19 I got them. I didn't try to move anything around.
 20 A So you just see my replies but you don't
 21 see hers.
 22 Q You don't see what she says to you?
 23 A Of course. It's a one-sided. It's cool
 24 though.

1 But yes, to answer your question I
 2 sent those.
 3 This right here I can't confirm this.
 4 I don't know --
 5 Q Which page?
 6 A Page number 7.
 7 I don't know if I sent this, she sent
 8 that. Because I have no reference, no idea what
 9 she's talking about there.
 10 Q Which one?
 11 A It just says just come in as usual. But
 12 it's dated Sunday, July 15th, 2012.
 13 Q Probably nothing even on its face it means
 14 much.
 15 A So I can't confirm this or validate page
 16 number 6 either.
 17 So page 4 and 5 --
 18 Q It's not all that important.
 19 Keisha testified that you sent them.
 20 I just want to see what we're fighting over. That's
 21 all.
 22 -----
 23 (Exhibit Bates-10 marked for
 24 identification this date and is

1 attached hereto.)
 2 -----
 3 BY MR. PURICELLI:
 4 Q I'm giving you 10. We started talking
 5 about these. You said that these are your cell
 6 numbers.
 7 A Yes.
 8 Q Are these just showing the calls back and
 9 forth on certain days between you and her?
 10 A Yes.
 11 Q Is that all that this is showing?
 12 A Right.
 13 Q Is there any particular date that is of
 14 significance to you?
 15 A Well, yeah. If you go on June 15th, I
 16 went to Mexico. 1427, I believe. Call number 33.
 17 I went to Mexico and I changed planes
 18 in Atlanta. As you know, she was down there by that
 19 time. And we talked for fourteen minutes.
 20 Q Do you remember what you talked about?
 21 A Just general talk, how are you doing. I
 22 remember her saying -- because I may have had like a
 23 two, three-hour layover in Atlanta.
 24 And I remember her saying, If this

1 was before 911 -- because I asked how far she lives
 2 from the airport -- if this was before 911, I could
 3 have -- my wife was with me. We could have came and
 4 visited her at her house and came back to the
 5 airport.
 6 And the 21st you see we talked for --
 7 that was the day I came back from vacation. We
 8 talked for 26 minutes.
 9 Q Do you remember what you talked about?
 10 A Yes. That was the day she called stating
 11 she was going to make a complaint against Lisa
 12 Pittoulas.
 13 And I mean that was the conversation
 14 and I remember saying, Keisha, I really think you
 15 need help. Because it was just anger. She was
 16 making a lot of racial comments.
 17 Q Keisha was making racial comments?
 18 A Yes.
 19 Q What was she saying?
 20 A You know, she used to always state, you
 21 know, I'm siding with the white mother fuckers; that
 22 white people do this, they get away with it,
 23 everyone picks on her.
 24 I told her, Keisha, why -- because

1 she called Lisa. I said why did you call her? Stop
 2 calling her. I said you called her; then she cursed
 3 you out; so be it; don't call her anymore.
 4 But she wanted to make a complaint.
 5 But she called Lisa. I said then don't call her
 6 anymore.
 7 Well, she's a racist, blah, blah,
 8 blah. You know, it was a long conversation. But
 9 that was -- right after that I remember that was the
 10 day she sent me maybe thirty picture of her house.
 11 And the last time I saw Keisha -- I
 12 don't recall the exact day -- she was unkempt. Her
 13 daughter was unkempt. And she just looked bad.
 14 And I remember that day I said send
 15 me a picture of your daughter. Do you all have
 16 anything to eat? Do you need any money?
 17 And she wouldn't answer me.
 18 The last time I saw her, especially
 19 her daughter, she actually had looked older too,
 20 because they were talking about it at work. I said,
 21 "Send me a picture of Keyla," to see how she looks.
 22 And she wouldn't respond to me.
 23 I said, "Do you need me to send you
 24 money?" She said, "I got money coming from my

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1 separation check. I'm okay."
 2 So she never would send me a picture
 3 to see how they were looking. She just showed me
 4 pictures of the house.
 5 Q Did you at all contact Human Services or
 6 Child Welfare to see if the child was in danger?
 7 A No.
 8 Q But you were concerned for the child's
 9 safety?
 10 A Yes.
 11 Q But not enough to --
 12 A But if she would have sent me a picture,
 13 if the child --
 14 Q She didn't. So wouldn't that be even more
 15 of a concern?
 16 A No. I would not call -- no, I wouldn't
 17 have called.
 18 Q This was marked D-5 in this packet. Do
 19 you remember having D-5? I don't think we marked --
 20 MS. SHIELDS: We never marked the
 21 pictures.
 22 BY MR. PURICELLI:
 23 Q These are the four pictures that your
 24 attorney has given me. You identified a lot more.

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1 Could you tell me if these four
 2 pictures -- because we didn't mark them in this case
 3 either. We just left them out.
 4 Are those the pictures that were sent
 5 to you by Mr. Brown?
 6 A It was -- no, I don't think it was these.
 7 Q So just for the record, these --
 8 A I don't know where they came from.
 9 Q -- would be a picture of Keisha with some
 10 pink and brown top thing. Would that be a fair
 11 description?
 12 A That's her, but I didn't take these.
 13 Q And the second thing as you described is
 14 Keisha in a white top with some kind of a deck with
 15 a barbecue in the back?
 16 A I didn't --
 17 Q Well, I know you said these two pictures
 18 weren't among the ones Mr. Brown --
 19 A Right.
 20 Q -- gave you. But I needed to separate
 21 them for the record.
 22 A Okay.
 23 Q It's nothing what you're saying. Just so
 24 if anybody reads the record and they looked at the

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1 picture, they could say which are the "these" you're
 2 talking about.
 3 So that leaves two pictures, one
 4 Keisha, I think --
 5 A But there were some --
 6 Q -- as Toi described, with red underwear.
 7 Is that a pole in the picture?
 8 A Which one?
 9 Q Right here.
 10 A No. That's like a divider in the mirror.
 11 But this is her sofa in her living room.
 12 Q And the second one is the one you
 13 described already?
 14 A She asked me to -- because when we had
 15 intercourse, we used protection. And she wanted me
 16 to shoot it on her.
 17 Q So it's you actually taking this picture?
 18 A Yes.
 19 Q We don't have any problem with
 20 authenticating.
 21 So of the pictures you sent to your
 22 attorney that you got from Mr. Brown, the one with
 23 Keisha in her underwear with the divider and the
 24 rear-end shot, I'm going to call it, are two of

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1 them. So there's all these others still to go,
 2 right?
 3 A Yeah.
 4 MS. SHIELDS: Off the record.
 5 -----
 6 (Discussion held off the record.)
 7 -----
 8 BY MR. PURICELLI:
 9 Q Mr. Bates, I think I've gone through my
 10 entire pile. I apologize I didn't get you done by
 11 two thirty, but I'm pretty close to my 3:30.
 12 A No, you're going on 4:30.
 13 Q I even more apologize then.
 14 -----
 15 (Discussion held off the record.)
 16 -----
 17 MR. PURICELLI: I'm done with you right
 18 now. He's all yours.
 19 -----
 20 BY MS. SHIELDS:
 21 Q Inspector Bates, did you ever require sex
 22 from the plaintiff, Keisha Johnson, as a condition
 23 of her keeping her job as your aide?
 24 A No.

1 Q Did Keisha Johnson ever initiate sex dates
 2 with you?
 3 A Yes.
 4 Q Can you approximate how many and when and
 5 where?
 6 A I would say --
 7 Q It's a three-part question but it --
 8 A The answer is yes. I would say seventy
 9 five percent of the time we had contact, it was
 10 initiated by her. And an overwhelming majority of
 11 times it was at her residence.
 12 Q I think you testified earlier that she
 13 never said no?
 14 A Never.
 15 Q Or did she ever say, "I don't want to do
 16 this anymore"?
 17 A No.
 18 Q Did she ever say, "I want you to leave me
 19 alone"?
 20 A No.
 21 Q Did you ever meet Keisha Johnson's family
 22 members?
 23 A I met her mother -- I met her mother maybe
 24 2004, 2005 while I was over there.

1 Q So that's a yes?
 2 A The answer is yes, I'm sorry.
 3 Q And did you ever meet her daughter?
 4 A Several times, yes.
 5 Q Did she ever invite you to visit in her
 6 new home in Atlanta, Georgia?
 7 A Yes.
 8 Q Did she ever send you pictures of her
 9 house in Atlanta, Georgia?
 10 A Yes.
 11 Q Did you have contact with Keisha Johnson
 12 either by phone or text after she resigned from the
 13 Police Department in 2012?
 14 A Yes.
 15 Q And can you tell us the form of those
 16 communications?
 17 A Cell phone and text messages.
 18 Q We talked at length about the Shooting
 19 Team, as there being a past practice of them being
 20 carried on the DAR as working.
 21 How long was that past practice in
 22 effect, if you know?
 23 A I don't know.
 24 Q Would you say it was more than a month?

1 A Oh, absolutely. Years.
 2 Q Years?
 3 A Yes.
 4 Q And you also testified earlier that the
 5 first time you had a conversation with Keisha
 6 Johnson about the disciplinary process involving her
 7 DAR entry was when she got a court notice; is that
 8 accurate?
 9 A Yes, that's accurate.
 10 Q What was the nature of that conversation
 11 with Keisha Johnson about that fraudulent DAR entry?
 12 A She asked -- she didn't know what the
 13 court notice was for, nor did I. Then when I
 14 pulled -- I was able to pull up the control number
 15 and I saw it was an investigation of the DAR entry.
 16 And that's when I went ballistic.
 17 Q Did you ask Keisha Johnson whether or not
 18 there was, indeed, a funeral that she attended?
 19 A Yes.
 20 Q What was her response?
 21 A She told me, yes, it was her mother's
 22 boyfriend's cousin.
 23 Q Did she actually go to that funeral?
 24 A No. I asked her. She didn't even know

1 his name.
 2 I asked her did she have an obituary,
 3 something we could provide that she went. She did
 4 not. And I told her like this is serious. This is
 5 an investigation. It was serious.
 6 Q Did Keisha Johnson ever send nude photos
 7 of herself voluntarily?
 8 A Yes.
 9 Q Did you ever have sex with Keisha Johnson
 10 at other locations, such as an apartment?
 11 A Yes.
 12 Q Do you remember or know the location of
 13 that apartment?
 14 A Yes.
 15 Q Why didn't you want Keisha Johnson to no
 16 longer serve as your aide?
 17 A She stopped listening to my orders, my
 18 work-issued orders.
 19 Q And when you say she stopped listening to
 20 your work orders, what were those orders?
 21 A She called the Police Commissioner's
 22 office to inquire about the knowledge of her
 23 complaint against Mulvey and Johnson.
 24 I told her beforehand do not call

1 down there. Even I do not call down there. She did
 2 it anyway.
 3 And the final straw was when she
 4 filed a Police Report against police officer
 5 Pittoulas for terroristic threats. That was Friday,
 6 April 20th of 2012.
 7 She told me she was going to do it.
 8 And she was going to call from Internal Affairs.
 9 And I told her she'd better not call Internal
 10 Affairs for a Police Report.
 11 Q Why didn't you want her to file that
 12 complaint against Police Officer Lisa Pittoulas?
 13 A Because there was no terroristic threat.
 14 Look at the Pennsylvania Crimes Code.
 15 That didn't meet the criteria of a terroristic
 16 threat.
 17 Q What was the nature of the interaction
 18 between Keisha Johnson and Lisa Pittoulas that
 19 caused her to want to file a complaint against Lisa
 20 Pittoulas?
 21 A It was an argument over a shredder. And,
 22 you know, Lisa is a little brusque. And Lisa told
 23 her -- I think Lisa mocked her, said, "Go ahead and
 24 file another complaint." And Keisha, she made a

1 Police Report.
 2 Q Just one minute and hopefully we can be
 3 done.
 4 So it is fair to say that after she
 5 resigned from the force in June 2012, that you
 6 continued to have contact with her and continued to
 7 text her; is that accurate?
 8 A Yes.
 9 Q And at what time did your contacts with
 10 the plaintiff end?
 11 A Friday, June 29th, after I received
 12 knowledge of this. I have not contacted her since
 13 she -- I believe October 2012, she sent my wife some
 14 weird e-mail via Facebook.
 15 And initially, you know, my wife was
 16 going to respond, not in a nice way. I told her,
 17 no, that's probably what she wants. We'll just save
 18 it.
 19 So we never responded to her message
 20 on Facebook.
 21 She has contacted other friends of
 22 mine in the Department via Facebook. They all
 23 ignore her.
 24 Q Did Keisha Johnson suggest the foursome

1 sexual arrangements?
 2 A Yes, she did.
 3 Q So that was her idea?
 4 A Yes.
 5 She -- if I may add. She had told me
 6 prior to that night that her and her friend, Aleka,
 7 had had, you know, sex with each other on a couple
 8 of occasions. And that she had also had a threesome
 9 with Aleka and her boyfriend at her house.
 10 So the night we met, it was at
 11 Chuck's at Rising Sun and Cottman. We met there.
 12 Told me she was bringing Aleka and for me to bring a
 13 friend. And I called a friend.
 14 MS. SHIELDS: I have no further questions.
 15 -----
 16 BY MR. PURICELLI:
 17 Q Who was the friend?
 18 A Nick Brown.
 19 Q The same one that sent you the
 20 photographs?
 21 A Yes.
 22 Q The Facebook -- I'm going to call it an
 23 in-box message. They have Instant Messaging, too.
 24 But it was an in-box message?

1 A In-box message.
 2 Q And you said you were going to save it?
 3 A Yes. I'll check with my wife, because
 4 that was in like October of 2012.
 5 Q We can probably find -- on Facebook, on
 6 the left-hand side there's an archive system.
 7 A Right.
 8 Q And you can go years back.
 9 A Right.
 10 MS. SHIELDS: One final question.
 11 MR. PURICELLI: Go ahead.
 12 -----
 13 BY MS. SHIELDS:
 14 Q What was the length of time of your
 15 relationship with Keisha Johnson?
 16 The time frame. Not just sex. But
 17 your relationship.
 18 A Friendship. Perceived friendship, I would
 19 say the fall of 2004 to June 29th, 2012.
 20 MS. SHIELDS: That's all I have.
 21 -----
 22 BY MR. PURICELLI:
 23 Q But you still communicated with her in
 24 2015, fourteen and thirteen? You said she called

1 you?
 2 A I haven't had contact with her since.
 3 Q Since 2012?
 4 A Yes.
 5 Q And who are the other people she contacted
 6 on Facebook?
 7 A Nick Brown. My niece. I have a niece on
 8 the job. Shamaia Allen.
 9 How many names do you want?
 10 Q Is it a lot?
 11 A Yes.
 12 Q And are they showing you anything that
 13 she's trying to reach to them?
 14 A They all ignore her requests.
 15 Q Was her request a friend request or an
 16 instant message?
 17 A She in-boxed Captain Brown. That was
 18 probably within the last three months, she in-boxed
 19 him.
 20 Q Did they tell you what she says in the
 21 in-box?
 22 A She just said hey. And he ignored her.
 23 Q So she doesn't say anything. She just
 24 tries to strike up a communication?

1 A She's very aware of me and Nick Brown's
 2 relationship.
 3 Q I'm trying to find out what she's saying.
 4 A That's all. He didn't respond to her.
 5 Q She just said hey?
 6 A I reported it to Ms. Shields, I believe
 7 the next day, because he didn't respond to her.
 8 Q She doesn't say anything in these messages
 9 specifically about this case, does she?
 10 A No one responds to her.
 11 Q I know nobody responds to her. I'm trying
 12 to find out what she's saying.
 13 A Nothing.
 14 Q I want to know if it's a general, hey, how
 15 are you doing kind of thing? Or if she said hey,
 16 you know, I've got this lawsuit.
 17 I'm trying to figure out what she
 18 trolling for, if she's trolling for anything at all.
 19 A Got you.
 20 Q The Lisa Pittoulas thing, this police
 21 report she wrote.
 22 The long and short of it, isn't that
 23 a dispute about turning the shredder on or off?
 24 A Yes.

1 Q And Lisa allegedly said something and she
 2 said something back and go ahead and file a
 3 complaint?
 4 A Right.
 5 Q And you're saying, of what you know about
 6 this transpiring, it didn't reach to the level of
 7 terroristic threat?
 8 A Not at all.
 9 Q Did you see the Police Report?
 10 A Yes.
 11 Q And I take it criminal charges weren't
 12 pursued?
 13 A No.
 14 Q But you couldn't have her filing Police
 15 Reports?
 16 A That was the final straw. And she didn't
 17 tell me she did it. We found out maybe two weeks
 18 later. The 2nd District did an audit and they saw
 19 it and notified us of the report.
 20 Q Did you tell anybody that's the final
 21 straw; she's got to go?
 22 A Yes.
 23 Q Who did you tell?
 24 A When we got a copy of the report, there

1 was a meeting with myself, Deputy Johnson, and Chief
 2 Mulvey. So I stated to them if she's found guilty
 3 at PBI, I have no problem with her being
 4 transferred.
 5 Q Did you know that there was already a
 6 request by Johnson to already transfer her or did
 7 his request for transfer come after you talked?
 8 A No. According to the memo, it was before
 9 then.
 10 Q Which was before? The memo?
 11 A Yeah. The memo was done April 25th.
 12 But, again, I did not object. If I
 13 objected to her being transferred, she probably
 14 could have stayed.
 15 Q Keisha Johnson -- did she tell you she was
 16 going to resign?
 17 A No.
 18 Q Did she --
 19 A Can I add?
 20 Q Sure.
 21 A I knew eventually because she had the
 22 house in Georgia. But she did not tell me that day
 23 she was resigning, no. I found out I think when it
 24 came on teletype.

1 Q When did you learn she had a house in
 2 Georgia?
 3 A When she was in the process. They called
 4 me for validation of employment. So that would have
 5 been -- it was right around when the daughter was
 6 born.
 7 MS. SHIELDS: What year?
 8 THE WITNESS: May, June 2009.
 9 BY MR. PURICELLI:
 10 Q That's when you knew she had a house in
 11 Georgia?
 12 A Yes.
 13 Q Do you know where her mother lived?
 14 A Where she lived in Philadelphia? Yes. Or
 15 general area. Somewhere around 2nd and the
 16 Boulevard.
 17 Q Did her mother move over to the Georgia
 18 house?
 19 A I have no idea.
 20 Q Do you know where her mother is now?
 21 A No.
 22 Q Do you know when her mother moved, if she
 23 moved to Georgia?
 24 A No.

1 Q You just know in 2009, there was a Georgia
 2 property owned by Ms. Johnson, correct?
 3 A Correct.
 4 Q And she left employment with the Police
 5 Department when?
 6 A June 2012.
 7 Q Three years later?
 8 A Yes.
 9 Q And in those three years that she bought
 10 the home and eventually moved over to Georgia, she
 11 also tried to reach out to the FBI for employment;
 12 is that correct?
 13 A No. She was already --
 14 Q That already was a done deal?
 15 A Yes.
 16 Q Did Ms. Johnson ask you for any kind of
 17 recommendation for any employment outside of the
 18 Philadelphia Police Department and the FBI?
 19 A Oh, yeah.
 20 Q What was that?
 21 A I can't remember what department it was.
 22 It could have been Cobb County. It was a department
 23 in Georgia.
 24 Q Was it before or after she left?

1 A Before.
 2 Q Was it before or after she was
 3 transferred?
 4 A Before.
 5 Q Did she ever express to you the need to
 6 stay as an aide with you so that she could work
 7 Monday through Friday for her job?
 8 A No.
 9 MR. PURICELLI: I have nothing further.
 10 ----
 11 BY MS. SHIELDS:
 12 Q I have two more questions.
 13 You testified earlier that Keisha
 14 Johnson approached you and asked you to testify on
 15 her behalf in connection with her DAR disciplinary
 16 hearing?
 17 A Correct.
 18 Q And you declined?
 19 A Correct.
 20 Q And what was her response when you
 21 declined?
 22 A She, um --
 23 Q Was she angry?
 24 A She weren't angry -- because I saw her

1 there. She knew I wasn't -- she wasn't angry but
 2 she --
 3 Q Not at the hearing. Listen to my
 4 question.
 5 When she asked you to testify on her
 6 behalf and you declined, what was her response?
 7 A I know that she was disappointed. And as
 8 I told her, I cannot take the stand and testify
 9 against policy. So my testimony would not have
 10 helped her.
 11 MS. SHIELDS: No further questions.
 12 MR. PURICELLI: We're done.
 13 -----
 14 (Deposition was concluded.)
 15 -----
 16
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 24

1 -----
 2 C E R T I F I C A T I O N
 3 I hereby certify that the
 4 foregoing oral testimony was taken
 5 stenographically by me after the witness
 6 was duly sworn or affirmed prior to the
 7 commencement of his/her testimony; and
 8 that this deposition transcript is a
 9 true and correct transcript of the same,
 10 fully transcribed under my direction, to
 11 the best of my ability and skill.
 12 I further certify that I am
 13 not a relative or employee of any of the
 14 parties in this action; that I am not a
 15 relative or employee of any attorney in
 16 this action; and that I am not
 17 financially interested in the event of
 18 this action.
 19
 20 **Lynda Scheswohl**
 21 **Registered Professional Reporter**
 22 **Notary Public**
 23
 24

<p>\$</p> <p>888 [1] 222/2</p>	<p>170/10 174/3 174/4 177/18 178/6 188/2 298/24 305/19 2005 [3] 14/14 177/22 298/24</p>	<p>39th [8] 56/15 129/24 130/2 164/19 250/40 250/48 252/7 266/8 3:30 [1] 297/11</p>
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