

\*\*\* CONFIDENTIAL \*\*\*

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IN RE:

INDEPENDENT INVESTIGATION INTO THE  
CITY OF ROCHESTER'S RESPONSE, et al.

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December 10, 2020

9:34 a.m.

Videoconference deposition of JUSTIN ROJ taken via Zoom remote video conferencing software, pursuant to Notice, before CELESTE A. GALBO, a Registered Professional Reporter, Registered Merit Reporter and Notary Public within and for the State of New York.

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1  
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4  
5  
6  
7

## INDEX

WITNESS	PAGE
JUSTIN ROJ	
BY MS. KATOVICH	5

8  
9

## E X H I B I T S

ROJ	DESCRIPTION	PAGE
Exhibit 1	Rochester Communications Bureau web page	9
Exhibit 2	email chain	13
Exhibit 3	email chain	18
Exhibit 4	email chain	27
Exhibit 5	email dated August 17, 2020	24
Exhibit 6	email chain	32
Exhibit 7	email chain	71
Exhibit 8	email dated April 10, 2020	34
Exhibit 9	email dated April 10, 2020	59
Exhibit 10	email chain	90
Exhibit 12	email	105
Exhibit 13	news release	114
Exhibit 14	email	120
Exhibit 17	email	124
Exhibit 19	email	128

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

E X H I B I T S (continued)

ROJ	DESCRIPTION	PAGE
	Exhibit 20 email	143
	Exhibit 21 email	145
	Exhibit 25 typed statement	153
	Exhibit 26 email chain	158
	Exhibit 27 email chain	64
	Exhibit 29 Justin Roj's Instant Messages	99
	Exhibit 30 text message chain	94
	Exhibit 31 text exchange	67
	Exhibit 32 document entitled Instant Messages	124

(Original exhibits retained by Ms. Katovich.)

1 THE COURT REPORTER: Will counsel  
2 please stipulate to me swearing in the witness  
3 remotely.

4 MS. KATOVICH: Yes, from Celli.

5 MS. COHEN: Yes.

6 JUSTIN ROJ, stating a business address of 30 Church  
7 Street, Room 202A, Rochester, New York, New York  
8 14614, having been duly sworn remotely by the Notary  
9 Public, was examined and testified as follows:

10 EXAMINATION

11 BY MS. KATOVICH:

12 Q. All right. Good morning, Mr. Roj.

13 A. Good morning.

14 Q. My colleague already told you, my name  
15 is Scout Katovich, and I'm an attorney at the law  
16 firm Emery Celli Brinkerhoff Abady Ward & Maazel. As  
17 you may know, our law firm has been retained by the  
18 Rochester City Council to conduct an independent  
19 investigation of the city's handling of the death of  
20 Daniel Prude. So it's in the context of this  
21 investigation that I'm going to be asking you  
22 questions today.

23 Have you ever been deposed before?

24 A. I have.

25 Q. You have. So you likely know a little

1 bit about how this will go and what sort of basic  
2 guidelines are. I'll just remind you to speak  
3 slowly, to try to not speak over me and I'll try not  
4 to speak over you. If you don't understand anything  
5 I ask you, just tell me that and I can try to  
6 rephrase the question. I'll also ask that when you  
7 answer, please give an oral affirmative vocal answer,  
8 yes, no, not um-hum or nodding or shaking your head.

9 Do you have any questions before we  
10 jump in?

11 A. No.

12 Q. Great. So, Mr. Roj, what is your  
13 current position?

14 A. I'm the director of communications and  
15 special events for the City of Rochester.

16 Q. And how long have you held that  
17 position?

18 A. For approximately two years.

19 Q. And prior to this position, what were  
20 you doing for employment?

21 A. I was the director of operations for  
22 Popli Design Group.

23 Q. And is that your first position in  
24 Rochester city government?

25 A. Yes.

1 Q. Who do you report to as director of  
2 communications?

3 A. Mayor Warner.

4 Q. And is the Communication Bureau within  
5 the mayor's office?

6 A. Correct.

7 Q. And how long have you worked with Mayor  
8 Warren just since being appointed to communications  
9 director or had you previously worked with her?

10 A. This is my first time working for her.

11 Q. I want to understand a little bit  
12 better the structure of the mayor's office. So you  
13 report directly to Mayor Warren, that's right?

14 A. Correct.

15 Q. And are you part of any teams or  
16 committees within the mayor's office?

17 A. Within the city I'm a member of the  
18 senior management team.

19 Q. And is that a team that's within the  
20 mayor's office or intradepartmental?

21 A. That's intradepartmental. It's various  
22 department heads and bureau heads and I'm technically  
23 a bureau head.

24 Q. Who else is on that team?

25 A. All city department and bureau heads.

1 Q. About how large is it?

2 A. Approximately 20 people.

3 Q. What are your duties as the director of  
4 communications for the City of Rochester?

5 A. My primary duties are to convey to the  
6 public Mayor Warren's views and policies and the  
7 actions of city government. The Bureau of Special  
8 Events coordinates special events; concerts, you  
9 know, parades, festivals, 5Ks, you know, other  
10 special events with community groups. I also, you  
11 know, handle media relations for the city as well as  
12 oversight of the FOIL process.

13 Q. I'm going to be showing you a few  
14 exhibits today, and I believe that you have these  
15 exhibits already through your counsel; is that  
16 correct?

17 A. I do.

18 Q. Okay. So I'm going to be sharing my  
19 screen so that we can be sure we're looking at the  
20 same thing.

21 A. Great.

22 Q. If you need to look at something for  
23 longer, just let me know or to scroll, just tell me.

24 A. Okay.

25 Q. Okay. Do you see my screen here?



1 A. I do.

2 (Roj Exhibit 1, Rochester  
3 Communications Bureau web page, was deemed  
4 marked for identification.)

5 Q. What I have up is what I believe to be  
6 the Rochester Communications Bureau web page; is that  
7 correct?

8 A. Yes.

9 Q. And did you write the descriptions for  
10 the Communications Bureau?

11 A. No, this was pre-existing before my  
12 arrival.

13 Q. Okay. So I realize that this is a  
14 little bit cut off here because of the way the PDF  
15 was created but it reads on the website between sort  
16 of pages 1 and 2 here, "We can't do that out of sight  
17 of the public we serve. Government requires  
18 collaboration, which requires communication that is  
19 open and honest."

20 Does that sound familiar to you?

21 A. I've seen it before.

22 Q. And so you said that one of your duties  
23 is communicating policies and news from the City of  
24 Rochester to the public; is that right?

25 A. That's correct.

1 Q. And when you say communicating policies  
2 and news from the City of Rochester, is that  
3 exclusively from Mayor Warren's office?

4 A. In other city departments with the  
5 exception of fire department and the police  
6 department which have their own public information  
7 officers.

8 Q. Okay. Who is the public information  
9 officer for the police department?

10 A. Currently I believe that's Investigator  
11 Jackie Shuman, Jacqueline Shuman.

12 Q. And do you work closely with  
13 Ms. Shuman?

14 A. When circumstances require, yes.

15 Q. How would you describe the division of  
16 labor in terms of communication to the public between  
17 yourself and Ms. Shuman?

18 A. Ms. Shuman would communicate regarding  
19 almost all police activities, investigations,  
20 arrests, incidents, as well as, you know, their  
21 community-based activities, you know, collections of  
22 coats, things of that sort.

23 We would interact primarily when the  
24 mayor was going to speak to either a police policy or  
25 an incident where, you know, she was required or

1 wished to comment.

2 Q. What do you mean when you say "police  
3 policy"?

4 A. I'll give an example of the recently  
5 proposed residency requirement for police officers.  
6 She would speak to that policy as it relates to the  
7 change in the potential hiring practices of the  
8 department.

9 Q. What about with regard to police  
10 incidents involving civilians, would you ever  
11 communicate to the public about those?

12 A. Depending on the nature of the event,  
13 yes.

14 Q. What type of event would you comment  
15 on?

16 A. I know we've commented previously as it  
17 relates to the Christopher Pate matter, as well as I  
18 believe discussed the handcuffing of a ten-year old  
19 girl earlier this year.

20 Q. Is there any policy or protocol in  
21 place regarding which types of incidents you would  
22 communicate about?

23 A. A written policy?

24 Q. Either written or informal.

25 A. I think the division of labor is as I

1 described previously.

2 Q. So who makes the decision regarding  
3 whether or not you or Mayor Warren's administration  
4 will speak to the public about police incidents?

5 A. The mayor and myself.

6 Q. You said earlier in your response that  
7 you are also responsible or -- I'm forgetting your  
8 exact language -- but you oversee the Freedom of  
9 Information Law process in the City of Rochester, is  
10 that right?

11 A. I oversee it I would say jointly with  
12 the law department and the responsive departments,  
13 yes.

14 Q. Are you the FOIL officer for the City  
15 of Rochester?

16 A. I am the records access officer, yes.

17 Q. So we were just talking about  
18 communications between the City and the public. As  
19 director of communications do you have any role or  
20 responsibilities with regard to communication between  
21 City government departments?

22 A. Can you clarify?

23 Q. So, for example, would you have any  
24 role or duty in communicating certain information  
25 from the mayor's office to a different department or

1 to the City Council?

2 A. In terms of conveying management of  
3 policy, no. I mean we typically send out emails from  
4 the mayor as it relates to, you know, employee  
5 communications; whether that's a holiday  
6 communication, whether that's communication regarding  
7 COVID safety protocols. But I don't communicate  
8 management decisions and policy to other department  
9 heads.

10 Q. Okay. Turning now to Exhibit 2. Can  
11 you see that?

12 A. Yep.

13 (Roj Exhibit 2, email chain, was deemed  
14 marked for identification.)

15 Q. So this is an email that is between  
16 yourself and Mayor Warren, Ted Capuano, and James  
17 Smith is cc'd and it's dated March 25, 2020.

18 Do you recall this email chain?

19 A. I do.

20 Q. So scrolling down to the bottom of it,  
21 it begins with an email from Mayor Warren to  
22 President Scott and the City Council and Vice  
23 President Lightfoot as well as B.J. Scanlon, James  
24 Smith and Josanne Reaves. Who is Josanne Reaves?

25 A. Josanne Reaves is the liaison between

1 the Mayor's Office and City Council.

2 Q. Does she work for the mayor's office?

3 A. Correct.

4 Q. So as I read this email chain, Mayor  
5 Warren was updating the city about a quarantine of a  
6 city employee; is that correct?

7 A. From my reading of the email, yes.

8 Q. And then President Scott responds on  
9 Tuesday, March 24th at 5:14 p.m. and she thanks the  
10 mayor for the information and then says, "I trust  
11 that we will be able to get ahead of the spread of  
12 misinformation by receiving accurate, timely reports  
13 of the emerging concerns." Mayor Warren then that  
14 same day forwards this email to you, Ted Capuano, cc  
15 James Smith, and she said, "The press release about  
16 the DRYS employee should not have gone out without  
17 first contacting Council." She goes on with the last  
18 sentence and says, "Nothing has changed as it  
19 pertains to how we operate."

20 Was this the first time that you had  
21 had any discussion with Mayor Warren about protocol  
22 for informing City Council of certain information?

23 A. Mayor Warren's wish is that before a  
24 press release goes out regarding, I guess, a  
25 quote/unquote major announcement, that it be shared

1 with City Council before release to the public.

2 Q. And when you say wish, what does that  
3 mean exactly?

4 A. She'd like us to send a press -- send a  
5 copy of the press release or a draft of the press  
6 release to City Council before it's released to the  
7 media.

8 Q. And is that part of a formal policy or  
9 protocol?

10 A. There is nothing written. That's the  
11 mayor's desire she's communicated to me.

12 Q. And is that her desire for you to  
13 communicate with City Council, am I right that that  
14 only arises when you're going to put out a press  
15 release?

16 A. That is correct.

17 Q. Does the Communications Bureau provide  
18 any trainings to other departments or branches of  
19 city government?

20 A. No.

21 Q. What about with FOIL?

22 A. No.

23 Q. So I want to turn to your  
24 responsibilities with regard to FOIL. Could you just  
25 explain to me how the FOIL process works generally in

1 Rochester?

2 A. The FOIL process works in the following  
3 manner: There is requests that come in primarily  
4 online through our website. There is two employees  
5 in my office who are the initial reviewers of those  
6 requests. They pass those requests along via our  
7 Laserfiche kind of custom built system, computer  
8 system for that. Those departments then receive  
9 those requests. They fulfill those requests,  
10 transmit the information back to my staff who then  
11 closes out the request and sends the relevant  
12 information to the requester.

13 Q. And so for a FOIL that is seeking  
14 records from the Rochester Police Department, your  
15 employees would receive that request and then through  
16 this Laserfiche application assign the FOIL to  
17 someone at RPD; is that right?

18 A. That is correct. And for -- yes,  
19 that's correct.

20 Q. Would a request for RPD records always  
21 go directly to RPD?

22 A. It would go to RPD, yes.

23 Q. Would this process be any different for  
24 requests for body-worn camera footage?

25 A. They would go to RPD as well.



1 Q. Does the Communications Bureau play any  
2 role in determining what information can be withheld  
3 from a FOIL request under the Public Officers Law?

4 A. No.

5 Q. Who makes those determinations?

6 A. The Law Department.

7 Q. So you said that taking the RPD  
8 example, your employees would send the request to  
9 RPD.

10 A. Correct.

11 Q. How would the Law Department become  
12 involved?

13 A. On FOIL requests that would involve the  
14 RPD, the Law Department is -- you know, requests that  
15 they be forwarded to the Law Department as well for  
16 their review of the requests.

17 Q. So for an RPD request, those requests  
18 will go to RPD and to the Law Department at the same  
19 time; is that right?

20 A. Correct.

21 Q. And does the communications department  
22 have any involvement in FOIL requests between that  
23 time and -- and by that time, I mean sending the  
24 request to the department and the Law Department if  
25 applicable, and the time when you receive the records

1 for release from those departments?

2 A. The only involvement would be if there  
3 was a follow-up from a requester asking for an  
4 update. Occasionally those would come to us and we  
5 would forward them to the, you know, to the relevant  
6 departments.

7 Q. Okay.

8 (Roj Exhibit 3, email chain, was deemed  
9 marked for identification.)

10 Q. Turning to Exhibit 3 now. This is an  
11 email chain between Trevor Newton and James Nobles  
12 which you're copied on; is that right?

13 A. Correct.

14 Q. Do you remember this email?

15 A. I do.

16 Q. Who is Trevor Newton?

17 A. Trevor Newton was an employee, former  
18 employee of our office who was assisting with FOIL  
19 requests.

20 Q. So he -- did he report directly to you?

21 A. Yes.

22 Q. So this email chain is -- the last  
23 email is dated April 27th. But I'm going to scroll  
24 down to the beginning which is an email from Trevor  
25 Newton on March 10th, and it looks there like Trevor

1 Newton is providing a YouTube link to requested  
2 body-worn camera footage and he explains in that  
3 email that "Per Rochester Police Department  
4 procedure, Freedom of Information Law requests for  
5 body-worn camera footage are responded to in the  
6 first instance by providing a complete redaction  
7 using full-screen blur and with no audio, posted on  
8 YouTube for no charge. A copy of the BWC footage  
9 with limited redactions as allowed under the Public  
10 Officers Law is available for payment."

11 Do you know if this is still the  
12 practice of RPD when responding to FOIL requests for  
13 body-worn camera footage?

14 A. My understanding is it is, yes.

15 Q. Are FOIL requests for body-worn camera  
16 footage always released via YouTube?

17 A. I don't know off the top of my head.

18 Q. And you said that your department or  
19 your bureau is not involved in determining what  
20 should be withheld from FOIL releases, correct?

21 A. Correct.

22 Q. So am I -- is it right for me to assume  
23 that Trevor Newton and -- Trevor Newton was not  
24 involved in determining redactions in this case; is  
25 that right?

1 A. That's correct.

2 Q. And no one else from Communications was  
3 either --

4 A. Correct.

5 Q. -- right?

6 So moving up in this chain, the next  
7 day James Nobles, who is an attorney, who is the  
8 requester here, he says, "Thank you, Trevor. Is  
9 there a way the injured party or us through HIPPA  
10 release can request the non-redacted footage? We are  
11 her personal injury lawyers." And then he follows up  
12 again on April 27th and he asks, "Is there a special  
13 release you need from our client to get those  
14 released?"

15 Trevor Newton then responds the same  
16 day and says, "I apologize. A standard HIPAA release  
17 form signed by the patient receiving the medical  
18 attention would be needed to release the un-redacted  
19 version."

20 Do you remember what the body-worn  
21 camera footage depicted in this case?

22 A. I don't. I never viewed it.

23 Q. Do you know why Mr. Newton refers to a  
24 patient receiving medical attention?

25 A. I do not.

1 Q. What is your understanding -- actually  
2 withdrawn.

3 Was this the first time to your  
4 knowledge that a HIPAA release form was used to  
5 authorize the release of un-redacted body-worn camera  
6 footage in response to a FOIL request?

7 A. I'm not aware if it was the first time  
8 or if it was a numerous time.

9 Q. Have you encountered HIPAA requests  
10 being used in this way in other cases?

11 A. Not that have come to my attention, no.

12 Q. Do you have any understanding of  
13 HIPAA's application to body-worn camera footage?

14 A. No. I would refer to the Law  
15 Department for guidance on that.

16 Q. And do you know if the Law Department  
17 was involved in this case here?

18 A. I do not.

19 Q. Do you know who determined whether  
20 HIPAA applied in this case?

21 A. I would assume the Law Department but I  
22 don't know that.

23 Q. Do you know if your employees in the  
24 Communications Bureau ever asked FOIL requesters for  
25 HIPAA releases?

1 A. Beyond this case?

2 Q. Well, in this case it looks like from  
3 my reading that the attorney suggested it and then  
4 your employee said it would be required. So, yes, in  
5 addition to this case.

6 A. My employees don't make a determination  
7 about whether or not a HIPAA release or other  
8 paperwork is required. They would get that guidance  
9 from the Law Department.

10 Q. So I'm going to return to the last  
11 email that we were looking at. This is Exhibit 2.  
12 So in this case Mayor Warren was -- would you agree  
13 that Mayor Warren was expressing some frustration  
14 with your bureau regarding communicating with the  
15 City Council?

16 A. I think she was reiterating that we  
17 need to provide copies of press releases on major  
18 announcements to council before the release to the  
19 media.

20 Q. Okay. And had this been a problem in  
21 the past?

22 A. I think it had been raised on two other  
23 occasions related to announcements.

24 Q. Do you recall what those occasions  
25 were?

1           A.       I believe one was related to the  
2 announcement the regarding the Summer Soul Festival  
3 which President Scott takes a personal interest. And  
4 I don't recall the second.

5           Q.       I want to look at the March 24 email  
6 here from Mayor Warren to you and Ted Capuano. She  
7 says in the second sentence, "I am absolutely tired  
8 of telling you guys the same thing over and over  
9 again."

10                        Would you agree that this is Mayor  
11 Warren showing some exasperation?

12           A.       I would say she has told us before and  
13 she wants us to follow through on her edict that we  
14 share copies of press releases with City Council on  
15 major announcements before they're released to the  
16 media.

17           Q.       Did you have any further discussions  
18 with Mayor Warren about communicating information to  
19 City Council following this email exchange?

20           A.       Not that I recall.

21           Q.       Since this incident, did Mayor Warren  
22 ever express concern with you or somebody in your  
23 department not communicating information to City  
24 Council?

25           A.       No.

1 Q. What about with the Prude incident?

2 A. No.

3 Q. Was a failure to inform City Council  
4 about Prude part of the reason for your suspension?

5 A. No.

6 MS. COHEN: Just, Scout, so the record  
7 is clear, it's failing to inform the City Council of  
8 a press release, not about information that he's been  
9 talking about.

10 MS. KATOVICH: Understood.

11 Q. I'm going to turn now to Exhibit 5, and  
12 this is going back to the FOIL process.

13 (Roj Exhibit 5, email dated August 17,  
14 2020, was deemed marked for identification.)

15 Q. So here this is an August 17th email  
16 from you to Amalia Bellucci and copying Ted Capuano.  
17 Who is Amalia Bellucci?

18 A. Amalia Bellucci is one of the two  
19 employees who handles FOIL requests in our office.

20 Q. And what about Ted Capuano?

21 A. Ted Capuano is my deputy.

22 Q. And is he responsible for the FOIL  
23 process within your bureau?

24 A. He shares responsible with oversight  
25 with me as my deputy.



1 Q. So it looks here from this email at  
2 11:05 a.m. on August 17th from Amalia Bellucci that  
3 she is seeking your review of body-worn camera video  
4 and photos for a FOIL request; is that correct?

5 A. That's correct.

6 Q. Was it protocol for communications  
7 department employees to seek your approval before  
8 releasing all FOIL responses?

9 A. No.

10 Q. Why did she seek your approval in this  
11 case?

12 A. As it relates to media requests for --  
13 via FOIL, I'd like to be aware of what the media is  
14 requesting and what the response is before release.

15 Q. So is it accurate to say that it is  
16 your bureau's practice for you to review FOIL  
17 releases that are going to the media before they're  
18 released?

19 A. In some instances. I don't review them  
20 all depending on the nature of the request for  
21 information.

22 Q. How do you decide which ones to review?

23 A. By level of importance. I mean,  
24 sometimes the media may ask for travel expenses, what  
25 have you, minor things that I don't feel the need to

1 review. You know, by the nature of it, I may choose  
2 to review it before I approve it for release.

3 Q. Would you review all body-worn camera  
4 footage that's released to the media?

5 A. No.

6 Q. How would Ms. Bellucci or other  
7 Communications employees know that you needed to  
8 review something before they released it?

9 A. They would send it to me, I think,  
10 regardless of content and then, you know, if I felt  
11 the need to review it, I would; if not, I'd simply  
12 send an email like this one, approved to release.

13 Q. So is it accurate to say that the  
14 Communications employees who work on FOIL send you  
15 every release before it's released?

16 A. No, that's not accurate.

17 Q. Every media release before it's  
18 released? Is that accurate?

19 A. I'd say most media releases.

20 Q. But it sounds like it's up to them to  
21 determine which ones to send to you.

22 A. I would think they would send most  
23 unless they were rote.

24 Q. Okay. I'm going to turn to Exhibit 4  
25 now. This is an email dated June 22 from you to Ted

1 Capuano, Trevor Newton, Amelia Bellucci and Joseph  
2 Alessi.

3 (Roj Exhibit 4, email chain, was deemed  
4 marked for identification.)

5 Q. Do you remember this email?

6 A. I do.

7 Q. So this email chain begins just below  
8 that -- not begins, but the email prior to the one  
9 that you sent was an email from Tim Curtin to you on  
10 June 22nd which says, "Please instruct your folks to  
11 forward all RPD discipline FOILs to us upon receipt.  
12 It's just not happening and 'Elliot Shields' is  
13 making a living off appealing FOILs where we are now  
14 obligated to pay his fee."

15 At the time that Mr. Curtin sent this,  
16 was it protocol for Communications to forward all RPD  
17 discipline FOILs to the Law Department?

18 A. I would say all RPD requests for  
19 information go to the Law Department as well.

20 Q. So not -- this was not something that  
21 was limited to discipline FOILs, correct?

22 A. Correct.

23 Q. And it sounds like Mr. Curtin is  
24 expressing or is informing you that that practice has  
25 not been followed; is that right?

1 A. Correct.

2 Q. Had that been a problem in your bureau  
3 consistently prior to this?

4 A. Not that I'm aware of, no.

5 Q. Was this the first time that you had  
6 talked to Mr. Curtin about your employees not  
7 forwarding those FOILs?

8 A. I think this was the first time it was  
9 shared with me, yes.

10 Q. Are that other types of FOILs that  
11 would be forwarded to the Law Department?

12 A. I believe that there was a thought that  
13 it would potentially result in litigation,  
14 potentially it would be sent to the Law Department  
15 for review as well.

16 Q. How would your employees determine  
17 whether a FOIL resulted in litigation?

18 A. I think if they saw that it, you know,  
19 involved an attorney asking for an accident report,  
20 let's say, with a city vehicle, something along those  
21 lines, they may or may not make that determination.  
22 It may come from the other responding department as  
23 well.

24 Q. What do you think that Mr. Curtin meant  
25 here by Elliot Shields is making a living off

1 appealing FOILs?

2 MS. COHEN: Scout, I'm sorry. He can't  
3 know what Curtin said. You can ask him --

4 MS. KATOVICH: I asked what does he  
5 think.

6 MS. COHEN: Sorry, Scout, I'm not going  
7 to allow him to guess about what other people  
8 intended. You can ask him what he understood from  
9 it. That's fine.

10 Q. Okay. What did you understand from  
11 this phrase?

12 A. I understood that Tim Curtin wanted us  
13 to forward RPD FOIL requests to his staff for review.

14 Q. Had you discussed Elliot Shields with  
15 Mr. Curtin prior to this email?

16 A. No.

17 Q. Do you know why Mr. Curtin put Elliot  
18 Shields in quotes here?

19 A. I do not.

20 Q. Moving up to the email that you sent to  
21 your team, you say, "Ted, et al., simply put, see  
22 below and get this right. We can't have any more  
23 unforced errors." What did you mean by "unforced  
24 errors"?

25 A. The Laserfiche system at times has

1 technical problems where a department will close out  
2 its part of the process and it doesn't get forwarded  
3 back to us for review, or we close out the case and  
4 the system auto-generates an email or should  
5 auto-generate an email back to the respondent or the  
6 requester party with the documents. And we were  
7 having and continue to have issues with that  
8 occurring.

9 Q. And is this a problem with regard to  
10 the FOIL deadlines?

11 A. It's a technical problem with the  
12 process where the documents are supposed to move from  
13 one queue to other and have not moved, so...

14 Q. At the time that you received this  
15 email, in addition to the technical problems you've  
16 described, were you also concerned about other errors  
17 that your team was making?

18 A. No, I was concerned about this set of  
19 errors.

20 Q. And so this set of errors you're  
21 describing here are the technical errors; is that  
22 right?

23 A. No, it was the error that Tim Curtin  
24 had asked me to address which was making sure that  
25 the discipline FOILs were forwarded to the Law

1 Department.

2 Q. So that was a concern in addition to  
3 the technical Laserfiche concerns that you described?

4 A. Correct. Correct.

5 Q. And had that been a problem prior to  
6 this?

7 A. Not that I was aware of but I didn't  
8 want to have any errors in the process. I wanted to  
9 make sure that all documents -- excuse me, all  
10 requests were properly forwarded.

11 Q. Understood. Is it correct that  
12 Rochester operates a FOIL reading room on its  
13 website?

14 A. It does.

15 Q. Is your department in charge of  
16 updating that?

17 A. Yes.

18 Q. Do all FOIL responses get uploaded to  
19 that reading room?

20 A. I believe most do. There may be some  
21 that don't for whatever reason.

22 Q. What might be a reason that something  
23 doesn't get uploaded?

24 A. The minor nature of the request  
25 probably is probably the predominant factor.

1 Q. What do you mean by "minor nature"?

2 A. An attorney requesting an accident  
3 report on behalf of a client for an MVA.

4 Q. What is MVA? Sorry.

5 A. Motor vehicle accident.

6 Q. And who determines whether to put a  
7 FOIL response up on the reading room?

8 A. That would be my staff, Amalia and Joe,  
9 primarily.

10 Q. How quickly do they usually put  
11 documents up on the reading room after releasing a  
12 response?

13 A. I don't know that off the top of my  
14 head.

15 Q. Do videos that are released in response  
16 to a FOIL request also get put in the reading room?

17 A. I'd have to double-check. I don't  
18 know.

19 Q. Okay. Turn now to Exhibit 6.

20 (Roj Exhibit 6, email chain, was deemed  
21 marked for identification.)

22 Q. And I'm going to go all the way to the  
23 bottom of this email chain. So this email chain  
24 begins with an email on April 3rd from  
25 requestnoreply@cityofrochester to Elliot Shields.



1 And that is -- it looks like this is an email signed  
2 in your name as records access officer acknowledging  
3 receipt of Mr. Shields' FOIL request for BWC  
4 recording and all documentation of incident involving  
5 Daniel Prude.

6 Have you seen this email before?

7 A. I have not.

8 Q. Are you aware that these kind of  
9 acknowledgment emails are sent out in your name?

10 A. The system auto-generates them. It's a  
11 computer-generated email to any FOIL request.

12 Q. Okay. And it says in the second  
13 paragraph, "The City will supply either the requested  
14 material or an updated response within approximately  
15 20 business days. We will notify you in writing  
16 should additional time be needed."

17 Do you know if the City responded to  
18 this request within 20 business days?

19 A. I do not.

20 Q. How does the Communications Bureau make  
21 sure that FOIL requests are responded to within this  
22 20-day period?

23 A. The staff involved work with the  
24 departments to keep track of the timelines and either  
25 provide the documents or request an extension.

1 Q. So is it accurate to say that your  
2 staff are responsible for making sure that this  
3 20-day deadline is complied with?

4 A. My staff in conjunction with the  
5 department that receives the request.

6 Q. Do you have a system in place for  
7 keeping track of these 20-day deadlines in FOIL  
8 requests?

9 A. Within the Laserfiche system.

10 Q. And have you had problems with this  
11 deadline in the past?

12 A. No.

13 Q. You described some technical issues  
14 with the Laserfiche system. Have those technical  
15 issues affected your bureau's ability to respond  
16 within the 20-day deadline?

17 A. In general, no. As it relates to  
18 specific requests, I would believe so, yes.

19 Q. Okay. So scrolling up, the next email  
20 in this chain is -- you know what, actually I'm going  
21 to come back to this.

22 I'm going to turn now to Exhibit 8.  
23 This is an April 10th email from La'Ron Singletary to  
24 you with the subject FYI.

25 (Roj Exhibit 8, email dated April 10,

1           2020, was deemed marked for identification.)

2           Q.       Do you remember receiving this email?

3           A.       Now I do, yes.

4           Q.       So just starting like the first  
5 sentence he says, Singletary says, "Just wanted to  
6 loop you in on an in custody incident that occurred."

7                   Was it common practice for Chief  
8 Singletary to email you about RPD incidents?

9           A.       No.

10          Q.       Were you surprised when you got this  
11 email?

12          A.       No.

13          Q.       Did it strike you as unusual?

14          A.       No.

15          Q.       Can you think of any other times when  
16 Chief Singletary emailed you about RPD incidents?

17          A.       Off the top of my head, no.

18          Q.       When you received this, why did you  
19 think he had emailed you about this?

20                   MS. COHEN: Again, Scout, he can't  
21 guess about why someone did something.

22          Q.       What were you thinking about why Mr. --  
23 why Chief Singletary may have sent you this when you  
24 received it?

25          A.       I believe he -- what I believe is I was

1 made aware of this because potentially there would be  
2 a media inquiry.

3 Q. So continuing down in this email, Chief  
4 Singletary says, "Quick summary: On 3/23 officers  
5 arrested 42-year-old Daniel Prude for mental hygiene  
6 arrest and criminal mischief as he was walking around  
7 naked acting irrational. After Prude was taken into  
8 custody, he attempted to thrash around on the ground  
9 attempting to get up saying he was going to take an  
10 officer's gun. Officers did stabilize the individual  
11 on the ground. While doing so, he did stop  
12 breathing. AMR began CPR. Prude was transported to  
13 Strong where he remained in ICU for a week. He  
14 passed away from his injuries on 3/30.

15 "Today the M.E.'s office ruled on  
16 Prude's death and determined such to be a homicide  
17 with the below attributing factors: PCP in his  
18 system per toxicology reports, excited delirium,  
19 resisting arrest."

20 Was this the first time you had heard  
21 of Daniel Prude?

22 A. Yes.

23 Q. When you read this, what did you  
24 understand Chief Singletary meant by resisting  
25 arrest?

1           A.       Exactly that, that he had resisted  
2 arrest.

3           Q.       Do you agree that the term resisting  
4 arrest implies that there is some kind of hands-on  
5 altercation between a police officer and the person  
6 resisting arrest?

7                   MS. COHEN: I'm going to object to  
8 that, Scout. I don't understand the question.

9                   MR. CELLI: We're not really objecting  
10 in this context. I mean, she can ask the question  
11 that she wants to ask. This is fair game.

12                  MS. COHEN: Okay, Andy, but I don't  
13 understand the question.

14                  MR. CELLI: Okay, but your  
15 understanding is really -- it's up to the witness to  
16 say if he doesn't understand. And if he doesn't,  
17 she'll rephrase it.

18                  MS. COHEN: Andy, it's also up to me to  
19 make sure I understand the question so I can protect  
20 the City's interest.

21 BY MS. KATOVICH:

22           Q.       Mr. Roj, do you understand the  
23 question? Would you like me to rephrase?

24           A.       I'd like you to restate it.

25           Q.       Sure. So the term resisting arrest, do

1 you agree that that term implies a hands-on  
2 interaction between a police officer and a person  
3 being arrested?

4 A. No, not necessarily. It could  
5 potentially include that.

6 Q. What do you think of when you hear the  
7 term "resisting arrest"?

8 A. Like an attempt to flee, the person  
9 attempting to flee, otherwise being non-cooperative.  
10 I -- you know, I can see it being a number of  
11 factors.

12 Q. Had you dealt with other RPD incidents  
13 involve resisting arrest prior to this?

14 A. No.

15 Q. Do you remember what your reaction was  
16 when you read this email?

17 A. When I read this email, the relevant  
18 paragraph was paragraph 3 where, you know, it was  
19 explained that Mr. Prude died due to, in essence,  
20 having drugs within his body, having a drug overdose.

21 Q. So you -- when you say that he died  
22 because of a drug overdose, what in this email made  
23 you think that?

24 A. PCP in his system and excited delirium.

25 Q. What about the word homicide, is that

1 an overdose?

2 A. I understand -- I understand homicide  
3 from a medical examiner to be a medical examiner  
4 determination and not a criminal determination. I'm  
5 familiar with that term.

6 Q. What is the difference between those  
7 two determinations in your understanding?

8 A. One, my understanding is that homicide  
9 from a medical perspective is where another person is  
10 necessarily engaged with someone when they pass away  
11 versus, you know, the criminal definition that they  
12 were responsible for that death.

13 Q. So you understood based on that  
14 definition that there was another person involved in  
15 Mr. Prude's death, correct?

16 A. Correct, that there were people present  
17 when he passed, certainly.

18 Q. And you understood that there was force  
19 used on Mr. Prude, correct?

20 A. No.

21 Q. What did you understand by excited  
22 delirium?

23 A. That he was acting irrationally or, you  
24 know, or otherwise in a mentally disturbed manner.

25 Q. So other than PCP in his system, was

1     there anything else that this email contained that  
2     indicated to you that an overdose had occurred?

3             A.       The fact that Mr. Prude passed.

4             Q.       Returning to the second paragraph here.  
5     Chief Singletary says, "Officers did stabilize the  
6     individual on the ground."

7                     Did you understand from that that there  
8     had been force involved in this encounter?

9             A.       No.

10            Q.       Did you understand from that that  
11    officers laid their hands on Mr. Prude?

12            A.       I don't -- I believe that they  
13    stabilized him. I don't know if they -- at that  
14    point I do not know if they had simply cuffed,  
15    handcuffed and hobbled, if you will, Mr. Prude or  
16    otherwise restrained him. I did not know how they  
17    stabilized him.

18            Q.       But you understood that there was some  
19    restraint imposed on Mr. Prude by the police  
20    officers?

21            A.       Yes.

22            Q.       This email goes on to say that, "The  
23    incident is on body-worn camera. The family about a  
24    week ago reached out to the Law Department for a  
25    preservation request on all documentation and video.



1 The night it occurred, we treated it -- we treated  
2 such as an in-custody death and conducting a criminal  
3 investigation by Major Crimes and once the criminal  
4 is complete, an internal will be conducted as is  
5 protocol."

6 At the time you received this, had you  
7 dealt with an in-custody death already?

8 A. No.

9 Q. How common is it for in-custody deaths  
10 to occur in Rochester?

11 A. This is the first during my tenure that  
12 I'm aware of.

13 Q. So this must have struck you as a big  
14 deal, right?

15 A. No.

16 Q. You didn't think it was noteworthy that  
17 there had been an in-custody death in Rochester?

18 A. Noteworthy from the standpoint of me  
19 needing to take action, no.

20 Q. Noteworthy from any other perspective?

21 MS. COHEN: Scout, I don't understand.  
22 From what perspective, his job or something? He  
23 already answered as to his job.

24 Q. Was there any other part of your job  
25 that you thought this email and the in-custody death

1 was noteworthy for?

2 A. No.

3 Q. Chief Singletary says, informs you here  
4 that there is a criminal investigation by Major  
5 Crimes that's taking place, correct?

6 A. Correct.

7 Q. Did you understand that a criminal  
8 investigation would be warranted by an overdose?

9 A. I'm not a law enforcement professional.

10 Q. I understand. What was your  
11 understanding at the time?

12 A. As it relates to my responsibilities,  
13 criminal investigations and communications such to  
14 the public are handled by the RPD's PIO, not the  
15 Department of Communications.

16 Q. If that's true, why do you think Chief  
17 Singletary was telling you about it?

18 MS. COHEN: Same objection, Scout. He  
19 can't put himself in someone else's mind.

20 MS. KATOVICH: Let me rephrase. I  
21 apologize, Carrie.

22 Q. What was your understanding of why  
23 Chief Singletary was telling you about an  
24 investigation that's handled by the RPD?

25 A. That there may be a media inquiry that

1 comes to my office directly as opposed to the PIO  
2 directly.

3 Q. Did you understand from this email that  
4 the criminal investigation was an investigation of  
5 police officers?

6 A. Can you rephrase?

7 Q. So this email says Chief Singletary  
8 says that they're conducting a criminal investigation  
9 by Major Crimes, and once the criminal is complete,  
10 an internal will be conducted as is protocol.

11 Did you understand that these  
12 investigations were investigations of police  
13 officers? That they were investigating police  
14 officers rather than a civilian?

15 A. I had no knowledge one way or another.

16 Q. Prior to this email had you been looped  
17 in on any other RPD internal investigations?

18 A. Yes -- well, no. Prior to this email,  
19 no.

20 Q. From a Communications standpoint, were  
21 there any protocols in place for handling an  
22 in-custody death?

23 A. As it relates to my department, no.

24 Q. So your department didn't have --  
25 didn't have a policy or protocol whether formal or

1 informal for how to deal with the media about  
2 in-custody deaths; is that right?

3 A. Correct.

4 Q. And what about with internal RPD  
5 investigations, was there any communications,  
6 practice or protocol in place?

7 A. Since my tenure, no.

8 Q. And internal refers to internal to RPD;  
9 is that correct?

10 A. That's a question for Chief Singletary.

11 Q. Did you understand it to mean internal  
12 to RPD?

13 A. That was my assumption, yes.

14 Q. And was that -- was your assumption  
15 also that that would be an investigation of police  
16 officers?

17 A. I believe that's the definition of  
18 internal investigation, yes.

19 Q. Okay. So next in this email Chief  
20 Singletary says, "The mayor has been in the loop on  
21 such since 3/23. Law is in the loop. I am just  
22 waiting for the mayor to call me back to give her the  
23 update on the M.E.'s ruling."

24 Was it common for Chief Singletary to  
25 provide information to the mayor about medical

1 examiner rulings in your experience?

2 A. I don't have any information one way or  
3 another on that. That's a question for --

4 Q. Okay. So you had never been involved  
5 or heard of RPD informing the mayor of an M.E. ruling  
6 prior to this?

7 A. Correct.

8 Q. And when you received this email, what  
9 was your understanding concerning whether --  
10 concerning the mayor's knowledge of the incident  
11 described to you here by Chief Singletary?

12 A. What was my understanding after I  
13 received this email or prior to receiving this email?  
14 Sorry.

15 Q. After receiving this email.

16 A. My understanding is as stated in this  
17 email, that the former chief states that he's kept  
18 the mayor in the loop.

19 Q. And as you sit here today, what is your  
20 understanding of the mayor's knowledge concerning  
21 this incident?

22 A. My understanding of the mayor's  
23 knowledge related to this incident is that Chief  
24 Singletary was never fully forthcoming with the full  
25 nature of what occurred on Jefferson Avenue that

1 evening.

2 Q. Is your understanding today that Chief  
3 Singletary communicated something about this incident  
4 to the mayor on March 23rd?

5 A. Correct.

6 Q. What is your understanding today about  
7 what Chief Singletary meant here by the mayor being  
8 in the loop?

9 A. I believe that that's him conveying to  
10 me that she's aware of what has occurred as he's  
11 described it here.

12 Q. You said that now your understanding is  
13 that Chief Singletary was never fully forthcoming  
14 about the incident; is that correct?

15 A. In my opinion, yes.

16 Q. Where did you hear this or how did  
17 you -- what makes you think that he was not fully  
18 forthcoming?

19 A. After watching the body-worn camera  
20 footage from the incident that related to -- that  
21 resulted in Mr. Prude's death, I don't believe that  
22 Mr. -- excuse me, former Chief Singletary was fully  
23 forthcoming as it relates to what happened that  
24 evening.

25 Q. What is your understanding of what Mr.

1 or what Chief Singletary said about what happened?

2 A. I'm sorry? That question doesn't make  
3 much sense to me to be honest.

4 Q. I understand. I apologize. I'll try  
5 to rephrase it.

6 So you said that it's your belief that  
7 Chief Singletary was not forthcoming. What do you  
8 understand -- what is your understanding of what  
9 Chief Singletary told the mayor?

10 A. That Mr. Prude died as a result of an  
11 overdose on PCP while in police custody -- well, died  
12 and then his death resulted from his overdose from  
13 PCP.

14 Q. Where did you hear this?

15 A. This is what I've seen or, excuse me,  
16 he writes in this email and subsequent conversations  
17 with the mayor and the chief and the deputy mayor.

18 Q. Do you remember when those  
19 conversations were with the mayor and the chief?

20 A. That would have been after the video  
21 initially came to light on September, whatever that  
22 was, where it came to light publicly in September.

23 Q. On September 2nd, is that what you're  
24 thinking of?

25 A. That's the approximate date, yeah, from

1 my recollection, correct.

2 Q. And was that the first time you spoke  
3 with Mayor Warren about her conversation with Chief  
4 Singletary about the Prude incident?

5 A. Yes.

6 Q. Did you ever hear a different account  
7 of what Chief Singletary told Mayor Warren?

8 A. No.

9 Q. So no one ever told you anything other  
10 than that Chief Singletary told Mayor Warren that it  
11 was an overdose; is that right?

12 A. I believe I think it would have been  
13 September 6th or 7th Chief Singletary alluded to the  
14 fact that he supposedly told the mayor more but never  
15 was definitive in that.

16 Q. And was that a conversation you had  
17 with Chief Singletary on September 6th or 7th?

18 A. Correct.

19 Q. Was that a conversation just between  
20 the two of you?

21 A. Correct.

22 Q. And you said that he alluded to saying  
23 something different; is that right?

24 A. Correct.

25 Q. Do you remember exactly what he said?



1 A. Word for word, no.

2 Q. How would you describe the gist of what  
3 he said?

4 A. That he disagreed with Mayor Warren's  
5 recollection of events.

6 Q. Did he provide an alternate  
7 recollection of events?

8 A. He did not.

9 Q. And was this concerning specifically  
10 the conversation that Chief Singletary refers to here  
11 in this email occurring on March 23rd?

12 A. My impression was that in general he --  
13 that his recollection of -- his recollection of their  
14 conversations was different.

15 Q. Their conversations. So that the  
16 conversation you had with Chief Singletary on  
17 September 6th or 7th concerned multiple conversations  
18 between Chief Singletary and Mayor Warren; is that  
19 correct?

20 A. I think his recollection of the  
21 entirety of their conversations regarding Mr. Prude's  
22 death, correct.

23 Q. How many conversations did they have to  
24 your knowledge?

25 A. I do not know.

1 Q. Did he describe more than two  
2 conversations in that September 6th or 7th  
3 conversation you had with him?

4 A. No, he didn't reference specific  
5 conversations or a number of conversations.

6 Q. And aside from this September 6th or  
7 7th conversation with Chief Singletary, did anyone  
8 else ever allude to conversations between Chief  
9 Singletary and Mayor Warren being different than as  
10 she described to you?

11 A. No.

12 Q. So going back to this email, Chief  
13 Singletary also says, "Law is in the loop."

14 When you received this email, what was  
15 your understanding of what he meant by "Law is in the  
16 loop"?

17 A. That he had shared the same information  
18 he had shared here.

19 Q. And what is your understanding now  
20 about what information he shared with Law?

21 A. I think my understanding is what he  
22 shared was what's consistent with what's in this  
23 email. I don't believe he shared anything different.

24 Q. After you received this email, did you  
25 discuss the email with anyone else?

1 A. No.

2 Q. Not with Mayor Warren?

3 A. No.

4 Q. Not with the Law Department?

5 A. No.

6 Q. Did you ever follow up with Chief  
7 Singletary if Mayor Warren had been updated on the  
8 medical examiner's ruling?

9 A. No. I trusted Tim to do his duty.

10 Q. Did you tell Mayor Warren that you had  
11 received this email?

12 A. No.

13 Q. Did you share any of the information  
14 you received here in the email with Mayor Warren?

15 A. No.

16 Q. At any point?

17 A. At any point, no.

18 Q. So you never showed Mayor Warren this  
19 email?

20 A. I never showed Mayor Warren this email.  
21 No, I did not recall actually receiving this email  
22 until Tim Curtin made me aware of it sometime after  
23 September -- after September 3rd, 2nd or 3rd.

24 Q. So you said earlier that you assumed  
25 that you received this email from Chief Singletary

1 because there might be a media inquiry about this; is  
2 that correct?

3 A. Correct.

4 Q. Did you take any steps after receiving  
5 this email to prepare for a media inquiry about this  
6 incident?

7 A. I did. I replied to this email and I  
8 believe in that reply I mentioned to the chief that I  
9 would work with Frank Camp who was then the Acting  
10 PIO for the police department to handle any  
11 inquiries.

12 Q. Other than that, did you take any steps  
13 to prepare for any media inquiries?

14 A. No.

15 Q. Did you flag this for anyone on the  
16 Communications team?

17 A. No.

18 Q. Did you read the two reports that were  
19 attached to this email?

20 A. No.

21 Q. Did you open them?

22 A. No.

23 Q. Do you remember why?

24 A. As I read through this email, the way  
25 it was categorized by the chief, it appeared that

1 nothing -- that there had been no wrongdoing or  
2 anything I needed to be aware of, so I took the chief  
3 at his word and left it at that.

4 Q. So you said that you, besides reaching  
5 out -- besides replying to this email and informing  
6 the chief that you would work with RPD on any media  
7 responses, you didn't take any steps after receiving  
8 this email?

9 A. Correct. I mean, the RPD PIO would be  
10 the lead to respond to any media inquiries as it  
11 relates to an ongoing investigation. That would not  
12 be -- that's not my office's responsibility.

13 Q. Did you understand your office to have  
14 any responsibilities related to this incident?

15 A. Beyond the action I took, no.

16 Q. Beyond replying to the email?

17 A. Correct.

18 Q. Why didn't you take any other steps  
19 besides replying to the email after getting this  
20 email?

21 A. Because as I read through this email,  
22 there was no sense of urgency, there was no  
23 indication from Chief Singletary that anything wrong  
24 had occurred in terms of the actions of anyone in  
25 City government including, you know, his officers and

1 that he had also, you know, already informed the  
2 mayor and the Law Department of what occurred, so  
3 therefore there was not a need for me to do so.

4 Q. You described being a part of a  
5 leadership team in City government, correct?

6 A. Correct.

7 Q. Does this team have regular meetings?

8 A. Yes, weekly.

9 Q. What sort of things are discussed at  
10 those meetings?

11 A. Major projects primary. You know, city  
12 budget, you know, recently it's been largely COVID  
13 related response.

14 Q. Would you ever discuss an incident  
15 involving the police department at one of these  
16 meetings?

17 A. No.

18 Q. Would you discuss community or media  
19 responses to government action at this meeting?

20 A. We would discuss -- we have discussed,  
21 you know, the state of the City address, you know,  
22 the upcoming ribbon cuttings or major press  
23 announcements regarding initiatives, but not -- we  
24 don't discuss day-to-day, you know, blocking and  
25 tackling as it relates to media inquiries.

1 Q. What at the time in April of 2020, what  
2 was the -- your office's practice for responding to  
3 media inquiries about RPD incidents?

4 A. Typically what would happen if there  
5 was an inquiry regarding a crime or an investigation  
6 that came to my office, I would refer it to RPD for a  
7 response. If it were particularly high profile,  
8 let's say we had a number of shootings over the  
9 course of a weekend and there was a need to respond  
10 in a general sense to the level of violence in the  
11 community or what-have-you, I'd coordinate between  
12 the mayor and the police chief on a media response.

13 Q. Would you consider an in-custody death  
14 to be high profile?

15 A. I would not consider an in-custody  
16 death to be high profile due to, unfortunately, the  
17 large number of overdose deaths that occur in the  
18 city of Rochester on an annual basis.

19 Q. Are you saying that you -- are you  
20 saying that all in-custody deaths are overdose  
21 deaths?

22 A. No, what I'm saying here is that the  
23 way this was conveyed to me that this was an  
24 overdose, this happened to be, the way it was  
25 conveyed to me, an overdose that happened in police

1 custody as opposed to the police responding to an  
2 overdose after the fact.

3 Q. Was it unusual for an overdose to occur  
4 in police custody?

5 A. Yes.

6 Q. And you said before that this was the  
7 first in-custody death you had encountered while  
8 serving as Communications director, correct?

9 A. Correct.

10 Q. But despite that, you still wouldn't  
11 consider it to be high profile; is that right?

12 A. It -- my primary responsibilities do  
13 not include dealing with police response to crimes or  
14 potential crimes. That is the role of the RPD PIO.  
15 So in this, I would defer to them to take lead as it  
16 relates to any media inquiries related to an  
17 in-custody death.

18 Q. So a couple days later on April 13th,  
19 do you recall a virtual press conference concerning  
20 violence that Mayor Warren and Chief Singletary  
21 participated in?

22 A. Yes.

23 Q. And did you help arrange this press  
24 conference?

25 A. I did.



1 Q. Did you attend the press conference?

2 A. I attended virtually, I believe. I  
3 helped conduct the press conference via Zoom from  
4 this office.

5 Q. And where were Mayor Warren and Chief  
6 Singletary?

7 A. Mayor Warren and Chief Singletary were  
8 in our digital studio down in the basement of City  
9 Hall.

10 Q. And would that be one of these  
11 instances of high profile RPD news or incidents that  
12 you would be involved in?

13 A. Yes. I mean, in this particular  
14 instance we had seen an uptick in crime, you know, at  
15 the beginning of kind of the COVID pandemic, you  
16 know, lock down or isolation, if you will. And the  
17 mayor and the police chief and I believe there were a  
18 City Council member as well as a community member  
19 present were talking about efforts to address the  
20 violence and, hopefully, you know, stem the amount of  
21 violence in the community.

22 Q. Following the press conference, did you  
23 speak with Mayor Warren or Chief Singletary?

24 A. No. At the conclusion of the press  
25 conference, I was in my office. I conducted the Q&A

1 virtually from my office.

2 Q. Understood. Going back to this email  
3 that we were looking at from April 10th, at the end  
4 of the second paragraph Chief Singletary says, "He  
5 passed away from his injuries on 3/30."

6 You didn't understand that to be a  
7 reference to overdose, did you?

8 A. I didn't interpret it one way or  
9 another.

10 Q. Would you ordinarily consider an  
11 overdose to be an injury?

12 A. Yes.

13 Q. Okay. This might be a good moment to  
14 take a break. Does that sound good for you all?

15 A. Sure. I could go for a cup of coffee.

16 MS. KATOVICH: Great. Maybe Carrie  
17 will have her third.

18 (Recess taken.)

19 BY MS. KATOVICH:

20 Q. All right. Mr. Roj, I'm going to again  
21 share my screen and show you another exhibit. This  
22 is Exhibit 9 which is your response on April 10th to  
23 the Chief Singletary email that we've been  
24 discussing; is that right?

25 A. That's correct.

1 (Roj Exhibit 9, email dated April 10,  
2 2020, was deemed marked for identification.)

3 Q. So here you say, "Chief, thanks for --  
4 "Thank for making me aware. No one has reached out  
5 to me from the media yet. I will coordinate with  
6 Frank on any inquiries. I appreciate you letting me  
7 know."

8 Now you said he earlier this morning  
9 that Mayor Warren had expressed her wish to you that  
10 you inform City Council of important events before  
11 the media is involved; is that right?

12 A. That's incorrect. What I stated was is  
13 that before major press releases were put out to the  
14 media, that I share that press release with City  
15 Council. It's that narrow.

16 Q. Only with press releases?

17 A. Yes, correct. Any major media  
18 announcement from the City of Rochester would entail  
19 a press release.

20 Q. Was it your understanding here that  
21 prior to speaking to the media about this incident,  
22 you should inform City Council?

23 A. No.

24 Q. Was it your understanding that you  
25 should speak to anyone in local government prior to

1 speaking to the media about this?

2 A. If there was a media inquiry on this, I  
3 would have informed Mayor Warren.

4 Q. I'm going to turn now back to Exhibit  
5 6. We've looked at this before. This is an email  
6 chain that started with the automatic response to  
7 Mr. Shields' FOIL request.

8 A. Um-hum.

9 Q. So moving up, after the initial  
10 response on April 3rd, the next email is an email  
11 from Elliot Shields to Stephanie Prince and Shani  
12 Mitchell in the Law Department and he says, "I'm  
13 writing to appeal the constructive denial of the  
14 attached FOIL request. It has been nearly two months  
15 and I have not received any communications related to  
16 this request."

17 Do you know why Mr. Shields contacted  
18 the Law Department directly to appeal this request?

19 A. I do not.

20 Q. Do you know if anyone in the  
21 Communications Bureau communicated with Mr. Shields  
22 about this request between April 3rd and May 28?

23 A. I'm not aware of any communication, no.

24 Q. Do you know why Mr. Shields had not  
25 received any communications about his request between

1 April 3rd and May 28th?

2 A. No.

3 Q. That would be beyond the 20-day  
4 deadline, right?

5 A. Correct.

6 Q. And who would be, in your department  
7 would be responsible for making sure that Mr. Shields  
8 got a request within the 20-day deadline?

9 A. With FOIL requests that involve the Law  
10 Department, the Law Department many times assumes  
11 responsibility for the fulfillment of the request and  
12 communicates back when documents are available or  
13 will be available to our staff, either to convey to  
14 the requester or they convey it directly to the  
15 requester and our staff. They assume ownership of  
16 the process.

17 Q. So in this case because this was a FOIL  
18 request for RPD records, is it accurate to say that  
19 you assumed that RPD and the Law Department were  
20 responsible for complying with the 20-day deadline?

21 A. Yes, they had lead on responding to the  
22 request and would utilize our staff as needed.

23 Q. The next email here is an email of June  
24 9th from Stephanie Prince responding "You're still  
25 not copied on this." And then scrolling up we have

1 an exchange and then the last email here is from June  
2 11th and this is an email from Stephanie Prince to  
3 Mr. Shields and it copies you and also adds in I  
4 think Shani Mitchell and Kristin O'Neill. Do you  
5 know who Kristin O'Neill is?

6 A. I do not.

7 Q. Have you seen her name before?

8 A. No.

9 Q. It looks like she is the Department of  
10 State, is that correct, DOS?

11 A. I believe she's a city government  
12 employee. That's a state government email in my  
13 experience.

14 Q. In your experience is it unusual for a  
15 state government employee to be copied on a FOIL  
16 response from the City of Rochester?

17 A. I've not seen that before.

18 Q. Do you know why Ms. Prince copied you  
19 on this email?

20 A. I do not and I had no recollection of  
21 seeing this email until it was shared with me by Ms.  
22 Cohen yesterday.

23 Q. Had you discussed the response to this  
24 FOIL request with Ms. Prince prior to June 11th?

25 A. No.

1 Q. When you -- you say you don't recall  
2 receiving this email?

3 A. Correct.

4 MS. COHEN: Scout, just so the record  
5 is clear, when Mr. Roj said he didn't recall seeing  
6 it until I showed it to him, my showing it to him was  
7 just sending the exhibits you sent me. It was not my  
8 work product.

9 MS. KATOVICH: I understand. I  
10 understand.

11 Q. So when you saw this email for the  
12 first time or remember seeing it for the first time a  
13 couple days ago, did you know that this email  
14 concerned the same incident that Chief Singletary  
15 described to you on April 10th?

16 A. Can you rephrase?

17 Q. When you first looked at this email or  
18 remember looking at this email, did you know that  
19 this concerned the same Prude incident that was  
20 described to you in the April 10th email from Chief  
21 Singletary?

22 A. When I saw this, I believe it was  
23 yesterday, when I saw this email yesterday, it was  
24 the first time I recall ever seeing it and certainly  
25 at that point yesterday I knew it was regarding the

1 Prude matter.

2 Q. Okay. So between April 10th and June  
3 11th, did you discuss the Prude incident with anyone?

4 A. No.

5 Q. When you were copied on this email, did  
6 you -- once you received it, did you share this email  
7 with anyone?

8 A. Again, no. I don't recall receiving  
9 this email until it was shown to me yesterday.

10 Q. Okay. Now I'm going to pull up a  
11 different exhibit. This is Exhibit 27.

12 (Roj Exhibit 27, email chain, was  
13 deemed marked for identification.)

14 Q. This is an email exchange the same day,  
15 June 11th, between yourself, Stephanie Prince and Tim  
16 Curtin. So do you recall receiving this email?

17 A. I do.

18 Q. Do you remember this -- this email the  
19 subject is "Three requests for arrested ten-year  
20 old".

21 Do you recall the FOIL requests that  
22 this email is referring to?

23 A. I recall that there was a substantial  
24 number of media inquiries regarding this case,  
25 including interactions between the media and mayor



1 regarding this case. And the mayor shared that the  
2 body-worn camera footage related to the handcuffing  
3 of this young lady would be released.

4 Q. Okay. So scrolling down to what I  
5 think you're discussing, at 9:08 on Thursday, June  
6 11th, you write an email to Stephanie Prince copying  
7 Tim Curtin and you say, "Stephanie, Mayor Warren  
8 stated at a press event yesterday that we would  
9 release this footage. My understanding is that the  
10 footage has been redacted and shared with you.  
11 Please call me at your earliest convenience to  
12 discuss."

13 You say there that Mayor Warren stated  
14 at a press event that the footage would be released.  
15 Was Mayor Warren the person who made the decision to  
16 release this footage?

17 A. Correct.

18 Q. Was it common for Mayor Warren to be  
19 involved in releasing body-worn camera footage to the  
20 public?

21 A. No, it was not. I believe she did so  
22 in this case because the media had made requests of  
23 her to do so.

24 Q. Prior to her press announcement where  
25 she said she would release the footage, had you

1 discussed releasing the footage with Mayor Warren?

2 A. I don't recall so, no.

3 Q. So in the follow-up email to this  
4 Stephanie Prince says it's her understanding that  
5 "Matt Ehlers is currently worked shared, so he's only  
6 working four hours a day daily. How quickly do we  
7 want to release the footage?" And then Tim Curtin  
8 responds and says, "Please send the newly redacted to  
9 me and I will coordinate with Justin."

10 How common was it for Corporation  
11 Counsel Curtin to be involved in FOIL releases?

12 A. It wasn't -- well, it's not necessarily  
13 all that common but in this instance it was a  
14 function of the fact that the media was aware of this  
15 incident related to this young lady and the mayor's  
16 desire to have the footage released.

17 Q. So is it accurate to say that where the  
18 media is already aware of an incident, the process  
19 for deciding whether and how to release body-worn  
20 camera footage is different than it would ordinarily  
21 be?

22 A. Not necessarily. I'd say that it's  
23 accurate when there is a media inquiry regarding the  
24 actions of city government that I would get involved  
25 and depending on the nature of it, Tim Curtin would

1 get involved.

2 Q. I'm going to pull up another exhibit  
3 here. This is Exhibit 31.

4 (Roj Exhibit 31, text exchange, was  
5 deemed marked for identification.)

6 Q. And it looks like this is a text  
7 exchange between yourself and Tim Curtin. So there  
8 are three different text messages that appear here.  
9 The first is between Tim Curtin, the mayor, you,  
10 Chief Singletary and James Smith; is that correct?

11 A. Correct.

12 Q. And in that text message Tim Curtin is  
13 talking about ten-year-old body-worn camera footage;  
14 is that correct?

15 A. Correct.

16 Q. Is that the same footage that was being  
17 discussed in the email we just looked at with  
18 Stephanie Prince?

19 A. I believe so, yes.

20 Q. In the text message that follows, this  
21 is a text message just between yourself, Tim Curtin  
22 and Chief Singletary. And Chief Singletary says,  
23 "I've relayed the message of the shift from the  
24 Jefferson Ave. incident to the ten-year-old redaction  
25 video. Matt is in today at 1 p.m. and will begin to

1 work on the redaction. They will notify me once  
2 complete and I will notify you guys."

3 Do you know what he's referring to  
4 here?

5 A. No, at the time I did not. I had no  
6 idea what he was referring to in terms of the  
7 Jefferson Avenue incident.

8 Q. Did you -- what did you know about what  
9 he was referring to here?

10 A. That he was complying with the mayor's  
11 request that we get this footage out the door.

12 Q. Do you know why Chief Singletary sent  
13 this message to you and Tim Curtin?

14 MS. COHEN: Scout, objection. He can't  
15 know why other people did things.

16 MS. KATOVICH: He could say no.

17 MS. COHEN: It would be inaccurate  
18 because he would have no idea why someone did  
19 something.

20 Q. When you received this message, what  
21 was your understanding about why Mr. -- why Chief  
22 Singletary sent you this text message?

23 A. Again --

24 MS. COHEN: I have the same objection.  
25 He can answer but you don't want inadequate things --

1 MS. KATOVICH: You've told me before to  
2 ask for his understanding and I did that here, so...

3 MS. COHEN: Not his understanding of  
4 why someone did something, his understanding of what  
5 it says. But he can answer if he understands the  
6 question.

7 A. My impression of reading this email was  
8 that Chief Singletary was complying again. He was  
9 complying with the mayor's direction that we finish  
10 the redaction of the ten-year-old and release that  
11 footage.

12 Q. Did you know who Chief Singletary was  
13 referring to when he said Matt?

14 A. I did not.

15 Q. Do you recall what text messages if any  
16 were sent by yourself or Tim Curtin in response to  
17 this?

18 A. I do not.

19 Q. Had you been a part of any discussions  
20 prior to this text message about a shift from one  
21 body-worn camera video to this ten-year-old redaction  
22 video?

23 A. No.

24 Q. Did you discuss the redaction of the  
25 ten-year-old video, ten-year-old body-worn camera

1 video with Mayor Warren?

2 A. Yes.

3 Q. What did you discuss about it with her?

4 A. My recollection is we discussed the  
5 need to get the video out to show the community what  
6 happened.

7 Q. So it sounded like from the email with  
8 Stephanie Prince the same day as well as this text  
9 message that there was some concern about finishing  
10 the production or finishing the redaction of the  
11 video; is that correct?

12 A. Of the ten-year-old?

13 Q. Um-hum.

14 A. Yes, there was a desire to get it done  
15 as quickly as possible.

16 Q. And had you -- did you discuss what  
17 that would entail with Mayor Warren?

18 A. No.

19 Q. Would you consider the ten-year-old  
20 incident a high profile incident?

21 A. It was a high profile incident due to  
22 the family going to the media to complain about how  
23 they were treated and therefore the corresponding  
24 media requests of the City.

25 Q. Go back to exhibit -- actually this is

1 the first time we're seeing Exhibit 7. This is an  
2 email from Elliot Shields on July 23rd to Stephanie  
3 Prince and it copies you as well. Do you recall  
4 receiving this email?

5 A. I do not.

6 (Roj Exhibit 7, email chain, was deemed  
7 marked for identification.)

8 Q. Here Mr. Shields says he "watched most  
9 of the video the other day at the Attorney General's  
10 Office. I didn't see anything that could be redacted  
11 under any FOIL exemption."

12 Did you discuss this email with anyone  
13 after receiving it?

14 A. No.

15 Q. Did you ever discuss whether redactions  
16 to the body-worn camera footage of Mr. Prude was  
17 appropriate?

18 A. No.

19 Q. As of July 23rd, when this email was  
20 sent, had you watched the Prude body-worn camera  
21 footage?

22 A. No.

23 Q. When did you watch that for the first  
24 time?

25 A. I believe that was the day after Mayor

1 Warren had watched it for the first time when  
2 presented it by corporation counsel, so that was  
3 either August 4th or August 5th. Whatever the day  
4 following Mayor Warren seeing the footage.

5 Q. Was it common for you to be copied on  
6 exchanges between FOIL requesters and the Law  
7 Department?

8 A. Yes.

9 Q. Could you estimate how many of those  
10 you received in an average week?

11 A. In an average week, I mean it would  
12 vary week to week, but I would say over the course of  
13 a month, it could be a dozen or more. It's  
14 definitely dozens over the course of a year.

15 Q. So you might not have thought anything  
16 of this email?

17 A. Correct.

18 Q. So you said that on August 6th or 5th  
19 you watched the body-worn camera footage of Mr. Prude  
20 for the first time, right?

21 A. Correct. It was the morning after  
22 Mayor Warren had seen it for the first time, yes.

23 Q. Did you watch it with Mayor Warren?

24 A. No, I watched it at Patrick Beath,  
25 Deputy Corporation Counsel's office.



1 Q. How you did come to watch the video in  
2 his office?

3 A. After the deputy mayor had viewed the  
4 video I believe with the mayor and the corporation  
5 counsel, he called me and asked me to view it and  
6 provide my opinion of it. I had left early that day  
7 and stated to him, you know, should I come in to view  
8 it or should I view it first thing in the morning.  
9 He said it would be fine if I viewed it first thing  
10 in the morning but please make an effort to do so,  
11 even though I was supposed to be off that day. So I  
12 came into the office that morning specifically to  
13 watch the video.

14 Q. And was it just you and Mr. Beath  
15 present when you watched the video?

16 A. That's correct.

17 Q. When Deputy Mayor Smith called you the  
18 night before, did he tell you why he wanted you to  
19 watch the video?

20 A. No, he did not. He intentionally went  
21 out of his way not to tell me, not to talk to me  
22 about the details of the video. I remember him  
23 saying he wanted me to watch it free of any, you  
24 know, free of any kind of other notions.

25 Q. That evening when Deputy Mayor Smith

1 called you, did you have any exchange with anyone  
2 else about the video?

3 A. No.

4 Q. And this was all by phone; is that  
5 correct?

6 A. That's correct.

7 Q. Did Deputy Mayor Smith tell you that  
8 Mayor Warren had watched the video?

9 A. I don't recall. I believe -- I believe  
10 he may have but I honestly don't recall.

11 Q. So that the next morning when you came  
12 in to watch the video in Mr. Beath's office, did Mr.  
13 Beath say anything to you about the video?

14 A. No, I told -- I told him why I was  
15 there. You know, he -- you know, I believe he  
16 brought the video up on his computer, closed his door  
17 and we watched the video.

18 Q. Did you have any discussion with him  
19 after watching the video?

20 A. I did.

21 Q. What did you guys talk about?

22 A. I told him what I saw I thought was  
23 awful, that the officers involved all of them should  
24 be -- shouldn't be on the street anymore I think is  
25 the way I phrased it.

1 Q. What did -- did Mr. Beath respond to  
2 that?

3 A. He concurred.

4 Q. Did you guys talk about what would  
5 happen next?

6 A. To the best of my recollection, no. I  
7 think I, at that point I wanted to share my opinion  
8 with corporation counsel and share the fact that I  
9 thought the officers should be off the street.

10 Q. And when you say corporation counsel,  
11 do you mean the office or Tim Curtin?

12 A. Tim Curtin.

13 Q. So after that, did you speak with Tim  
14 Curtin?

15 A. I did briefly.

16 Q. And was this also in person?

17 A. Yes.

18 Q. And what did you say to Tim Curtin?

19 A. I said I just watched a video and that  
20 we need to take action to remove those officers from  
21 the street and that I was, you know, coming to him  
22 because I was going to speak to the mayor and deputy  
23 mayor about it as well.

24 Q. And what did Mr. Curtin say in  
25 response?

1           A.       At that point, you know, I believe he  
2 alluded to me that our hands were tied, you know, due  
3 to the ongoing AG's investigation.

4           Q.       And why did you believe after watching  
5 the video that the officers should be off the street?

6           A.       Because I thought that they showed a  
7 lack of empathy and regard for Mr. Prude who was  
8 obviously in peril and further Officer Vaughn I  
9 believe in particular drove Mr. Prude's head into the  
10 street I believe unnecessarily, and that resulted in,  
11 you know, from my perspective resulted in his  
12 passing.

13          Q.       And when you watched this video on  
14 August 5th, I think it is --

15          A.       Um-hum.

16          Q.       -- did you remember at that point the  
17 April 10th email that you had gotten from Chief  
18 Singletary?

19          A.       No.

20          Q.       So when you watched this on August 5th,  
21 at that time did you believe that this was the first  
22 time you were hearing or seeing of this incident?

23          A.       Correct.

24          Q.       Did you know when you watched it that  
25 it had occurred in March?

1           A.       The exact day, I knew that it had  
2 occurred during cold weather. You can tell by the  
3 nature of the video that it occurred during cold  
4 weather but whether it was March or not, no.

5           Q.       And did you ask Mr. Beath or Mr. Curtin  
6 why you were just seeing this video now?

7           A.       I believe upon watching the video, I  
8 was furious with the fact that nobody had shared the  
9 video with me as well as the mayor, the deputy mayor  
10 sooner.

11          Q.       You would have expected it to be shared  
12 sooner?

13          A.       Yes, I would expect if Chief Singletary  
14 saw that -- former Chief Singletary saw that video,  
15 that he would put it on a thumb drive, walked it over  
16 to City Hall, sat down with the mayor and showed her  
17 the video and said that it needed to be addressed.

18          Q.       Were had Mr. Singletary, Chief  
19 Singletary done that in other incidents?

20          A.       No.

21          Q.       What made you think that that was how  
22 he should proceed?

23          A.       Because of if he saw one of his  
24 officers and -- well, one of his officers and their  
25 colleagues show callous disregard in that use of

1 force on Mr. Prude, I would hope that it would  
2 disturb him and cause him to want to bring that to  
3 the mayor's attention to be addressed.

4 Q. When you watched this video, did you  
5 believe that this was something that needed to be  
6 shared with the public?

7 A. Yes.

8 Q. Why?

9 A. Because that -- because there -- a man  
10 had passed and what it appears to be due to the  
11 callus actions of the Rochester Police Department  
12 officers who responded.

13 Q. Did you believe the City had an  
14 obligation to share this information in the video  
15 with the public?

16 A. As soon as possible, yes.

17 Q. When you watched the video, did you  
18 know that it was the subject of a FOIL request?

19 A. No. At that time, no.

20 Q. After you watched the video, what did  
21 you do?

22 A. After I watched the video, I spoke with  
23 Deputy Corporation Counsel Patrick Beath as stated.  
24 I spoke to Tim Curtin as stated. I then went to my  
25 office, collected myself for a minute or two and then

1 I believe I called the deputy mayor. I don't recall  
2 if he was in the office or not but we spoke by phone  
3 from my office phone. And I told him my concerns and  
4 my desire that these officers not be on the street  
5 and that we should act accordingly. And I was again  
6 told, you know, that we were in essence precluded  
7 from acting, you know, do due to the ongoing criminal  
8 investigation by the Attorney General.

9 Q. That was Deputy Mayor Smith told you  
10 that?

11 A. Yes. That was the third time I was  
12 told that. I was told that by Mr. Beath, Mr. Curtin  
13 and then again by Mr. Smith.

14 Q. And when you were informed by these  
15 three people that the AG's investigation precluded  
16 you from acting on it, did you understand them to be  
17 referring to the release -- just the release of the  
18 video to the public?

19 A. No. It was definitely related to --  
20 that was actually secondary in my mind. My primary  
21 concern, I guess, as a human being, as somebody in  
22 the leadership team in the City of Rochester was to  
23 see those officers not be on the street.

24 Q. So the conversation was more about the  
25 investigation precluding you from acting with regard

1 to the employment of those officers; is that correct?

2 A. That's correct.

3 Q. In those conversations did Mr. Beath or  
4 Mr. Curtin or Deputy Mayor Smith say anything about  
5 your ability to communicate about the incident with  
6 the public?

7 A. Yes. I mean, we were -- my -- the way  
8 it was -- from our conversations, my understanding  
9 was we were precluded from taking any public action  
10 due to the ongoing criminal investigation by the  
11 Attorney General.

12 Q. Any public action. Was that ever  
13 explained to you?

14 A. I don't think we went into detail but  
15 it was we couldn't release information kind of per  
16 the existing policy as it relates to not releasing  
17 information for pending criminal investigations which  
18 was long-standing at that point before my tenure as  
19 well as any actions against the employees.

20 Q. What are you referring to with the  
21 existing policy about not releasing information  
22 related to criminal investigations?

23 A. My -- the way I have been informed by  
24 counsel in the past is that for any criminal  
25 investigation, we cannot re -- ongoing criminal



1 investigation or perceived even, we cannot release  
2 information, including body-worn camera footage.

3 Q. And where did you get that  
4 understanding?

5 A. That first came to my attention as it  
6 relates to the Christopher Pate matter, a separate  
7 case where two officers were ultimately tried and I  
8 believe found guilty and dismissed from the employ,  
9 that we did not release the body-worn camera footage  
10 in that case until my tenure, even though it happened  
11 well before my tenure, due to the fact that there was  
12 an ongoing criminal investigation and proceeding.  
13 It's also my understanding that the District Attorney  
14 was upset when that footage was released because it  
15 was released before sentencing. My understanding is  
16 her impression was that, you know, that policy and  
17 procedure was such that such information would not be  
18 released until the entirety of the matter, I guess  
19 the full disposition of the matter.

20 Q. And was this -- is your understanding  
21 that this was a policy in place between the Monroe  
22 County District Attorney and the City of Rochester?

23 A. Correct.

24 Q. And in this particular incident with  
25 Prude, you understood that there was no Monroe County

1 investigation currently underway; is that correct?

2 A. Correct. I was aware of the fact that  
3 at that point, right, I was made aware of the fact  
4 that the AG was -- that the AG had a criminal  
5 investigation ongoing and that the constraints on us  
6 were the same as if it was a District Attorney's  
7 investigation. That was what was conveyed to me by  
8 all parties after viewing the video.

9 Q. By all parties, do you mean Mr. Beath,  
10 Mr. Curtin and Deputy Mayor Smith?

11 A. Correct.

12 Q. And in the Pate matter you said that  
13 because of the ongoing investigation, you didn't  
14 release the footage until much after the event. Did  
15 the City make any public announcements about the Pate  
16 incident even though they didn't release the video  
17 prior to that?

18 A. I believe so, yeah. Prior to my tenure  
19 I do believe that the mayor did so.

20 Q. So was your understanding that an  
21 ongoing criminal investigation did not preclude the  
22 City from making announcements about an incident?

23 A. I wasn't here to know the particulars,  
24 so I can't speak to why the mayor spoke in that  
25 instance versus this case.

1           Q.       But you knew as of July -- as of August  
2 5th, you knew that the mayor had made statements  
3 about the Pate incident during an ongoing criminal  
4 investigation, correct?

5           A.       I believe that the Pate investigation  
6 was ongoing at that point but I cannot say that  
7 definitively. I was not here. I was not in the  
8 employ of the city at that point. But I was aware  
9 that she had spoke regarding the Pate matter  
10 previously.

11          Q.       When Mr. Beath and Mr. Curtin and  
12 Deputy Mayor Smith explained to you that the criminal  
13 investigation precluded the City from taking certain  
14 actions, did you question them about this?

15          A.       I raised where I thought that we needed  
16 to take immediate action. I thought that not taking  
17 immediate action, you know, would eventually draw  
18 criticism and, you know, and I shared that with all  
19 of them and, you know, basically was told we all wish  
20 we could do more but there is nothing we can do  
21 because of the AG's investigation.

22          Q.       Did you discuss the video with Mayor  
23 Warren that day?

24          A.       I did, after my phone call with Deputy  
25 Mayor Smith.

1 Q. Was that in person?

2 A. It was in person, just the two of us,  
3 yes.

4 Q. And what was discussed?

5 A. Similar conversation. I said that I  
6 had seen the video, that I -- you, my belief is we  
7 should take action to get those officers off the  
8 streets. You know, my impression was she was upset  
9 that, you know, involved the video as well certainly  
10 but also she conveyed that due to what we had been --  
11 what had been conveyed to us, you know, from the  
12 Attorney General, you know, via Corporation Counsel,  
13 we could not take action.

14 Q. Did you discuss with the mayor in that  
15 conversation informing other parts of Rochester city  
16 government about the video?

17 A. No, because that -- again, my  
18 responsibility about informing other parts of  
19 government including City Council relates to making  
20 them aware of press announcements before they're  
21 made.

22 Q. I understand that it may have been  
23 outside the purview of your job responsibilities but  
24 it sounds like the conversation you had with Mayor  
25 Warren was not just about your job but generally

1 about what should happen. Was any part of that  
2 discussion about informing anyone else about the  
3 incident?

4 A. No.

5 Q. Did you think that any other members of  
6 government should be informed?

7 A. No.

8 Q. Why not?

9 A. From my perspective, it's incumbent  
10 upon the mayor to take the action she feels is  
11 necessary, and I thought the necessary action for her  
12 to take in that case, if not precluded from doing so,  
13 was to address the police department directly. She's  
14 the -- she's in charge.

15 Q. Understood. It seems like, you know,  
16 in the past you had maybe had some conflicts with the  
17 mayor. I'm thinking of the March 23rd email where  
18 she seems sort of frustrated. Would you say that you  
19 guys were aligned on this?

20 A. Aligned, how so, on the desire to take  
21 action? I'm sorry, if you could -- aligned on what?

22 Q. Aligned on what should happen next.

23 A. I believe the entirety of everyone I  
24 spoke to that had seen the video all wanted to take  
25 action related to the officer's involved and were all

1 frustrated by what was our belief and understanding  
2 that we could not due to the AG's investigation.

3 Q. And did Mayor Warren ask you whether  
4 you knew anything about this incident prior to  
5 watching the video?

6 A. No.

7 Q. Did you discuss with Mayor Warren  
8 whether she knew anything about the incident prior to  
9 watching the video?

10 A. No.

11 Q. Did you discuss with Mayor Warren the  
12 release of this video via FOIL?

13 A. No.

14 Q. Did you discuss that with Mr. Beath or  
15 Mr. Curtin?

16 A. I think -- my understanding is -- yes,  
17 we had a brief discussion about we could not take any  
18 action, whether it's the release of information or  
19 affirmative action against the officers involved due  
20 to the AG's investigation. Basically, in essence, it  
21 was a hard stop for us until the AG acted.

22 Q. So if I'm understanding you correctly,  
23 in those conversations Mr. Beath and Mr. Curtin were  
24 saying that the FOIL -- the body-worn camera footage  
25 could not be released via FOIL until the AG's

1 investigation was completed; is that right?

2 A. Correct. Right. That we could not  
3 share information until the AG's investigation was  
4 completed, correct. My understanding is that the  
5 city was being very cautious as to not hamper the  
6 AG's investigation.

7 Q. But you knew at that time that the Law  
8 Department was engaged in discussions with  
9 Mr. Shields about releasing redacted version of the  
10 video, correct?

11 A. No, I was not. I don't have any  
12 recollection of that email. It's one of the dozens  
13 of FOIL emails I get on a regular basis.

14 Q. And Mr. Beath and Mr. Curtin did not  
15 discuss with you that process for releasing the  
16 body-worn camera footage to Mr. Shields?

17 A. Correct.

18 Q. Did you discuss with Mr. Beath or  
19 Mr. Curtin a timeline for when they expected this  
20 footage to be released?

21 A. My recollection, no.

22 Q. When you watched this video, did you  
23 anticipate that there would be significant media  
24 interest in the incident?

25 A. Absolutely.

1 Q. And did you consider coming up with a  
2 communications plan for when that happened?

3 A. I did initially, yes.

4 Q. What did you consider?

5 A. I just -- how would we release the  
6 footage and then ultimately to what the mayor would  
7 say in response to the footage and the outcome of any  
8 investigation, you know, at that point. Because my  
9 belief at that point was that there would be no  
10 release of information until the AG took action.

11 Q. And did you speak with anyone about  
12 this possible communications plan?

13 A. No. My personal internal planning for  
14 that day.

15 Q. So when you left the conversations with  
16 Mr. Beath and Mr. Curtin, was it your impression that  
17 the video would not be released to the public any  
18 time soon?

19 A. Correct.

20 Q. And as the public -- the FOIL officer  
21 in the city, did you expect that you would be looped  
22 in on any FOIL release of this video?

23 A. Yes.

24 Q. And were you looped in on the release?

25 A. To my recollection, no.



1           Q.       Between August 5th and the release of  
2 the video to Mr. Shields, did you have any further  
3 discussion about the FOIL process for this video with  
4 anyone?

5           A.       No.

6           Q.       It seems -- earlier we looked at an  
7 email that you described as a high-profile incident  
8 where one of your employees, Amalia Bellucci, sought  
9 your approval on the release of a video. Do you  
10 remember that?

11          A.       I do. I don't know if it was a high  
12 profile case, though, but I do believe, right, that  
13 she forwarded me -- she forwarded me a response for  
14 approval. But whether or not it was high profile, I  
15 honestly don't recall on that.

16          Q.       Understood. Did you expect that your  
17 approval would be sought before the Prude video was  
18 released?

19          A.       Not necessarily because it wasn't being  
20 released due to media requests. My involvement in  
21 FOIL requested footage or documents related to RPD is  
22 usually in relation to when the requester is a member  
23 of the media.

24          Q.       Got it. I'm going to move now to  
25 Exhibit 10.

1                   (Roj Exhibit 10, email chain, was  
2                   deemed marked for identification.)

3           Q.       This is an email that begins -- the  
4 chain begins with an email from Meg O'Connor to  
5 Media.Request@cityofrochester.gov. And this is sent  
6 on September 1 at 8:04 p.m., and the subject is  
7 "Urgent request for comments re death of Daniel  
8 Prude."

9                   It looks like this email is then  
10 forwarded from Jacqueline Shuman to Mark Mura the  
11 next morning, who then forwards it on to Chief  
12 Singletary, and then at 7:46 a.m. on September 2nd  
13 Chief Singletary forwards that email to Tim Curtin,  
14 and he cc's you and Mark Mura. And he says, "FYI on  
15 an inquiry we received from a staff writer from 'The  
16 Appeal.' I've never heard of them but I Googled  
17 them. The internal investigation is obviously still  
18 ongoing as well as the criminal investigation by the  
19 NYS Attorney General's Office. I also believe the  
20 family has filed a lawsuit, correct? I know when we  
21 met with the mayor a few weeks ago, this was still  
22 under investigation by the AG's Office."

23                   Did you know what Chief Singletary was  
24 referring to when he said "when we met with the mayor  
25 a few weeks ago"?

1 A. No.

2 Q. Had you been in a meeting with Chief  
3 Singletary and the mayor when the Prude incident was  
4 discussed?

5 A. No.

6 Q. Had you discussed the Prude incident  
7 with Chief Singletary at all prior to this email?

8 A. No.

9 Q. To your knowledge was this the first  
10 time that the media had inquired about the Prude  
11 incident?

12 A. Correct. And I'd like to clarify, the  
13 media inquiry email does not go to my office. That's  
14 actually an email that goes to RPD.

15 Q. Understood.

16 Were you at all surprised having  
17 watched the video that this was the first time the  
18 media was inquiring about this incident?

19 A. No, I wasn't surprised. After watching  
20 the video, I assumed at some point the media would be  
21 made aware of it, but I wasn't surprised. No, I  
22 wasn't surprised.

23 Q. So this meeting that Chief Singletary  
24 references with the mayor a few weeks ago, were you  
25 aware that such a meeting had taken place?

1 A. No.

2 Q. You weren't aware of any meeting  
3 between the mayor and Chief Singletary about the  
4 Prude incident?

5 A. Correct.

6 Q. So you had never discussed with the  
7 mayor her speaking with Chief Singletary about the  
8 incident?

9 A. Prior to September 2nd?

10 Q. Yeah.

11 A. No, I had never had a conversation with  
12 the mayor. I think beyond the initial conversation  
13 where I expressed my desire for us to take action  
14 against the officers, no, I didn't have any  
15 conversation regarding Daniel Prude with the mayor  
16 until September 2nd.

17 Q. What about with Tim Curtin?

18 A. To my recollection, no.

19 Q. When you received this email from Chief  
20 Singletary, did you know that the body-worn camera  
21 footage that you watched had been released?

22 A. Did I know? No. I assumed so after I  
23 read this email.

24 Q. So moving up on this thread, Tim Curtin  
25 responds at 7:53 a.m. and says, "The family has filed

1 a notice of claim. I'm guessing this reporter got  
2 her information from their attorney who has the  
3 video. You can refer her inquiry to me and I will  
4 work with Justin on a reply."

5 After this email did you work with Tim  
6 Curtin on a reply to this reporter?

7 A. I believe that got preempted by the  
8 meeting that was called by the mayor to discuss this  
9 matter later in the day.

10 Q. Did you have any discussion with Tim  
11 Curtin about the incident or the response to the  
12 media between this email and the meeting that you're  
13 describing?

14 A. I don't recall any conversation but  
15 potentially.

16 Q. Did you discuss this press inquiry with  
17 anyone else? Did you forward it to the mayor?

18 A. I believe I shared the -- I believe I  
19 shared the inquiry with the mayor and the deputy  
20 mayor.

21 Q. That morning?

22 A. Yes.

23 Q. Did you forward the email to them?

24 A. I don't believe I forwarded the email.  
25 I may have sent them a text message. I don't

1 directly recall how but I do remember making them  
2 aware of the media inquiry.

3 Q. And at that point is it correct to  
4 assume that you were considering this incident one of  
5 the high profile RPD incidents that you would be  
6 involved in the media response to, correct?

7 A. Correct.

8 Q. And had you ever discussed your  
9 involvement in media response to this incident with  
10 the mayor before this email?

11 A. No.

12 Q. What about with RPD?

13 A. No.

14 Q. What about with Tim Curtin?

15 A. No.

16 Q. I'm going to turn now to Exhibit 30.  
17 (Roj Exhibit 30, text message chain,  
18 was deemed marked for identification.)

19 Q. This is another text message chain.  
20 And this one is -- that we're looking up at the top  
21 is from Tim Curtin on September 2nd at 9:13 a.m. to  
22 mayor, you, Chief Singletary and James Smith. And he  
23 says, "Daniel Prude death in the media - we should  
24 discuss."

25 Was this the first time that you were

1 part of a communication with the mayor on Daniel  
2 Prude being in the media?

3 A. I may -- again, I may have reached out  
4 to them earlier in the morning but it could very well  
5 have been that Tim beat me to the punch here.

6 Q. So the conversation you were describing  
7 having with -- you thought you may have had with  
8 Mayor Warren and Deputy Mayor Smith may or may not  
9 have taken place before this text message; is that  
10 accurate?

11 A. Yes, it would have been shortly before  
12 this text message if it occurred, yeah.

13 Q. Do you know -- had -- prior to this  
14 text message had the five of you discussed Daniel  
15 Prude before?

16 A. No. Together, no. I mean, with those  
17 individuals individually that I mentioned before. I  
18 talked to Tim Curtin, Patrick Beath and James Smith  
19 the day I saw the video. That was the last time I  
20 you discussed it.

21 Q. And was it common for the five of you  
22 to communicate via text message about other matters?

23 A. The five of us collectively?

24 Q. Yeah.

25 A. It wasn't regular. I would regularly

1 text with Mr. Curtin, some subset of that group, yes.

2 Q. But this wasn't sort of like an  
3 informal committee or anything like that?

4 A. No, not at all.

5 Q. To your knowledge did anyone else in  
6 the mayor's administration know about the Daniel  
7 Prude incident at this point?

8 A. To my knowledge, no.

9 Q. So in response to this text message  
10 thread at 9:34 p.m. you said, "I would set up a Zoom  
11 for 10:30 a.m. Those that are in City Hall can  
12 participate in person."

13 Was it your idea to set up a meeting in  
14 response to this news?

15 A. I believe so, yes.

16 Q. Why did you think it was important to  
17 have a meeting?

18 A. To coordinate a response to the press  
19 conference as well as the need to share information  
20 regarding the incident.

21 Q. So at 9:40 a.m. you say, "10:30 Mayor's  
22 Office."

23 Does that text message mean that you  
24 had decided that the meeting would take place in  
25 person rather than in Zoom?



1 A. Correct.

2 Q. Why did you decide that?

3 A. I believe just because I was aware that  
4 all parties could attend in person and should attend  
5 in person.

6 Q. And at 10:30 did the five of you meet?

7 A. Yes.

8 Q. Was anyone else present?

9 A. The chief may have brought some of his  
10 command staff but I don't believe anybody else from  
11 city government was present.

12 Q. Do you remember what command staff he  
13 brought?

14 A. I do not.

15 Q. And what was discussed at this meeting?

16 A. I believe what occurred and then what  
17 our response was going to be to the ongoing press  
18 conference being held by the family and its counsel.

19 Q. And did you come up with a plan?

20 A. Yes. I mean, I advised that I be given  
21 some time to review what the family had said, prepare  
22 remarks for the mayor and prepare a response. The  
23 mayor's opinion and direction was that she would  
24 immediately hold a presser after the family's presser  
25 and to invite the media into City Hall to do so.

1           Q.       So if I'm understanding you correctly,  
2 your suggestion was to take more time before  
3 responding but the mayor wanted to respond with a  
4 press conference more immediately; is that correct?

5           A.       Yes. I wanted to hear -- I wanted to  
6 be able to review what the family and their counsel  
7 had said and respond accordingly. The mayor's desire  
8 was to have an immediate response without prepared  
9 remarks or any other documentation down in the --  
10 down in the -- well, basically down in the atrium of  
11 City Hall.

12          Q.       And did you express your disagreement  
13 with her desire?

14          A.       No. I stated my opinion. She stated  
15 what her direction was going to be and I took action  
16 to comply.

17          Q.       Why did you think it would have been  
18 better to have more time to prepare remarks?

19          A.       To -- well, I wanted to understand what  
20 the family's assertions were, what the counsel, the  
21 family's assertion were so that we could respond to  
22 them and we could respond in a factual manner as to  
23 what we understood occurred that evening as well as  
24 our response after that evening.

25          Q.       Turn now to Exhibit 29.

1                   (Roj Exhibit 29, Justin Roj's Instant  
2                   Messages, was deemed marked for  
3                   identification.)

4                   Q.       This exhibit contains text messages  
5                   that were taken from your personal cell phone.

6                   A.       Um-hum.

7                   Q.       And just to orient you, it looks like  
8                   there is a "from" column -- first there is a number  
9                   which is the number of text messages we'll be  
10                  referring. A "from" column, "to" column,  
11                  "direction", "body" and "time stamp".

12                  Now, I'm going down to text message  
13                  No. 47. And can you see that okay?

14                  A.       Yes, that's better. Thank you.

15                  Q.       Yeah. So it looks like this is a text  
16                  message that was sent from Mayor Warren to your  
17                  Hotmail and telephone. I'm not sure if that's --

18                  A.       For some reason my phone comes up with  
19                  that name but that's --

20                  Q.       But that's you?

21                  A.       Yeah.

22                  Q.       And then also James Smith and Alex  
23                  Yudelson are on that message; is that right?

24                  A.       Correct.

25                  Q.       And that message is sent at 9:34 a.m.

1 and Mayor Warren says, "Tell him this is the case I  
2 spoke to Loretta about. Guy high off PCP naked in  
3 the middle of Jefferson Avenue in March. Complied  
4 with police and while waiting for ambulance was  
5 spitting. They put spit sock on him. He tried to  
6 get up. One officer restrained him from getting  
7 up -- restrained from getting up. He ended up  
8 throwing up and losing consciousness and they took to  
9 hospital. He later died. All things were  
10 contributing factors."

11 Do you recall the context in which this  
12 text message was sent to you?

13 A. No.

14 Q. Do you know who Mayor Warren was  
15 referring to when she said "him"?

16 A. No.

17 Q. Do you -- was -- had you spoken to  
18 Mayor Warren prior to receiving this text message  
19 about a conversation she had with President Scott?

20 A. Can you say that again? My apologies.

21 Q. Prior to receiving this text message,  
22 had you spoken to Mayor Warren about a conversation  
23 she had with President Scott about Daniel Prude?

24 A. No.

25 Q. So when you received this message at

1 9:30 on September 2nd, you had no idea what she was  
2 saying by "tell him this is the case I spoke to  
3 Loretta about"?

4 A. I don't know -- pardon me. I don't  
5 know who "him," the "him" she is referring to is and  
6 I had no knowledge of Mayor Warren and President  
7 Scott having a conversation.

8 Q. The description that Mayor Warren  
9 provides here, "guy high off PCP. Complied with  
10 police. Tried to get up. Officer restrained from  
11 getting up," is this description consistent with how  
12 Mayor Warren described the incident in her earlier  
13 conversation with you on August 5th about the  
14 body-worn camera footage?

15 A. We never spoke as to -- we never spoke  
16 as to the description of the incident that night or  
17 anything along those lines. Our conversation on  
18 August 5th was about primarily how we would respond  
19 as it relates to addressing the officers involved  
20 and, again, was told, you know, we could not take  
21 action due to the AG's investigation.

22 Q. But you said that you were quite  
23 bothered on August 5th by this video and described  
24 seeing it as, you know, officers applying force and  
25 causing Mr. Prude's death, correct?

1 A. Correct.

2 Q. And that doesn't seem to be how Mayor  
3 Warren is describing it here. Would you agree?

4 A. Correct. I don't think she's -- she  
5 states that there was excessive force used here.

6 Q. Do you think that Mayor Warren --  
7 withdrawn.

8 In your conversation on August 5th with  
9 Mayor Warren, had you discussed excessive force being  
10 used?

11 A. Our conversation, again, you know, I  
12 told her I had seen the video. I told her I thought  
13 it was important that, you know, we take action and  
14 get the officers off the streets. It wasn't a  
15 lengthy conversation. I can tell she was certainly  
16 disturbed by what she had seen and what was going on  
17 and I think frustrated by the fact that she could --  
18 I believe she could not take action, you know, due to  
19 the AG's investigation.

20 Q. And when you discuss taking officers  
21 off the street, that was because you agreed that they  
22 had acted improperly here?

23 A. Yes, I believe they acted improperly.  
24 Yes.

25 Q. And was that because -- and was it your

1 understanding that Mayor Warren agreed with you that  
2 they had acted improperly?

3 A. Yes, I believe she agreed with me.  
4 Yes.

5 Q. Did she say that they had acted  
6 improperly?

7 A. From my recollection she expressed  
8 her -- expressed frustration that there was -- you  
9 know, that in essence there was nothing we could do,  
10 that we had -- that we were -- that we had to wait  
11 for the AG to complete their investigation.

12 Q. I understand the frustration part of  
13 it. The desire to take action was prompted by seeing  
14 these officers use excessive force, though, correct?

15 A. Yes. Her desire to take action, yes,  
16 was based on her response to seeing the video, yeah.

17 Q. So when she says here that "he ended up  
18 throwing up and losing consciousness," does that  
19 strike you as omitting the excessive force that  
20 bothered her in your August 5th conversation?

21 A. I mean, I think she's trying to respond  
22 in the context in a quick period of time. I don't  
23 think she's trying to provide a full account of the  
24 incident. I don't think she's by any means excusing  
25 the actions of the officers in this text message.

1 Q. I'm not suggesting she's excusing any  
2 actions, but it doesn't seem like she's saying much  
3 about the officers here besides he tried to get up,  
4 one officer restrained from getting up.

5 MS. COHEN: Scout, if you could just  
6 ask him questions. I don't want to get into a debate  
7 about what she thought or didn't think with the  
8 witness.

9 Q. When Mayor Warren sent this text  
10 message to you, James Smith and Alex Yudelson, was  
11 this the first discussion you had had with that group  
12 about Mr. Prude?

13 A. As a group?

14 Q. Yes.

15 A. I believe so, yes.

16 Q. Had you discussed the incident  
17 individually with Alex Yudelson prior to this  
18 message?

19 A. No.

20 Q. Was Mr. Yudelson aware of the August  
21 4th viewing of the body-worn camera footage?

22 A. I don't know.

23 Q. On August 2nd did you have any further  
24 discussions with Mayor Warren about communicating  
25 with President Scott?



1 A. Not that I recall, no.

2 Q. Turning now to Exhibit 12.

3 (Roj Exhibit 12, email, was deemed  
4 marked for identification.)

5 Q. This is an email from the next day,  
6 September 3rd. And here this is an email from Tim  
7 Curtin to you, Mayor Warren, James Smith, Alex  
8 Yudelson and Archie Cephas.

9 A. Cephas Archie.

10 Q. Cephas Archie, sorry. That one gets me  
11 every time.

12 This email is entitled "Timeline" and  
13 Tim Curtin says, "Timeline for Law Department  
14 involvement and Daniel Prude matter."

15 What was the context for Tim Curtin  
16 sending this email to this group of people?

17 A. To the best of my recollection at this  
18 point I think there was some question about the  
19 interaction with the AG's Office and the handling of  
20 the FOIL request. So I believe Tim and Stephanie  
21 prepared this in response to that.

22 Q. And was this the first time you saw  
23 this timeline?

24 A. To my recollection, yes.

25 Q. When you saw this timeline, do you

1 recall receiving the July 23rd email related to this  
2 FOIL request?

3 A. No.

4 Q. What about the June 11th response?

5 A. No.

6 Q. And this email -- this timeline didn't  
7 refresh your recollection about those?

8 A. No.

9 Q. Did this email refresh your  
10 recollection about the April 10th email that you  
11 received from Chief Singletary?

12 A. No.

13 Q. Did this group who received this email  
14 have any further discussions together about the  
15 Daniel Prude FOIL?

16 A. About the FOIL, no.

17 Q. About the matter generally?

18 A. I believe on that -- this is -- when is  
19 this? This is at noon on Thursday, September 3rd or  
20 is that 12 a.m.?

21 Q. That's a good question. I think that  
22 that's noon because the prior email is from 11:52  
23 a.m.

24 A. Yeah. I believe there was a meeting  
25 that involved -- that involved this group prior to

1 these emails which I -- yeah.

2 Q. And what was that meeting about?

3 A. During that meeting I think there was a  
4 discussion about the follow-up from the Wednesday  
5 press conference and then the preparation for the  
6 Thursday press conference that Mayor Warren had on  
7 the incident.

8 Q. And so that would be the press  
9 conference this same day, correct?

10 A. Correct.

11 Q. And what did this group determine  
12 should be said at that press conference?

13 A. I think that's in the content of the  
14 press release and remarks that went out later that  
15 day.

16 Q. Was everyone in the group in agreement  
17 with that result?

18 A. With that result, meaning the content  
19 of the press conference?

20 Q. Exactly.

21 A. Yes, with the content of the press  
22 conference, yes.

23 Q. Was there other disagreements among  
24 this group as to how Mayor Warren or the  
25 administration should proceed?

1           A.       There was conversation about the  
2 dismissal of La'Ron Singletary as police chief.

3           Q.       Who was part of that discussion,  
4 everyone here?

5           A.       Everyone on the email, yes. I mean,  
6 Tim Curtin, the mayor, deputy mayor, myself, Alex  
7 Yudelson and Dr. Archie, yes.

8           Q.       And what were the different views about  
9 dismissal of La'Ron Singletary?

10          A.       The deputy and I advocated for his  
11 dismissal.

12          Q.       And what were the other views?

13          A.       Dr. Archie and Mr. Yudelson advocated  
14 for his retention. Tim Curtin was noncommittal.

15          Q.       And did Mayor Warren weigh in?

16          A.       She ultimately said that she was not  
17 going to dismiss Chief Singletary.

18          Q.       Why did you believe Chief Singletary  
19 should be dismissed?

20          A.       Because I don't believe he was  
21 forthright in terms of what occurred in sharing the  
22 appropriate information, including immediately  
23 sharing the body-worn camera footage with Mayor  
24 Warren after the incident, and that the prior day he  
25 had failed to acknowledge that he had failed to do

1 so.

2 Q. What are you referring to on the prior  
3 day?

4 A. I believe during the press conference  
5 on -- excuse me, on September 2nd, you know, that  
6 he -- that in essence -- that the mayor's -- that the  
7 timeline of events as described by the mayor which,  
8 you know, I have no reason to doubt the mayor's  
9 veracity, that he basically did not fully inform her  
10 of what occurred and the best way to do that would  
11 have been to share the video immediately so she could  
12 have seen for herself what occurred.

13 Q. So the remarks that you had heard then  
14 Chief Singletary make on September 2nd, you thought  
15 did not align with your understanding of what had  
16 happened through conversations with Mayor Warren; is  
17 that correct?

18 A. Correct. Correct. I think that he had  
19 obfuscated at best and was, you know, was false in  
20 his sharing of information at worst with her as it  
21 relates to the incident. And he doubled down on that  
22 in his commentary in September.

23 Q. And the reason that you believed he was  
24 not being forthcoming is because you did not doubt  
25 Mayor Warren's veracity; is that correct?

1           A.       That's partially why. The other reason  
2 why is when you read through the April 10th email, I  
3 think there is a concerted effort to obfuscate what  
4 occurred.

5           Q.       So by this September 3rd meeting, you  
6 had found the April 10th email and read it?

7           A.       I apologize. No, at that point I had  
8 not. My understanding really at this point the fact  
9 that he had not shared the video and that he refused  
10 to acknowledge he should have shared the video and  
11 been more forthright is why he should have been  
12 terminated. My apologies.

13          Q.       No, no. No worries.

14                   And you said that Dr. Cephas and Mr.  
15 Yudelson disagreed and did not agree -- disagreed  
16 that he should be dismissed; is that correct?

17          A.       Correct.

18          Q.       Did they express why they held these  
19 views?

20          A.       They -- their belief was while he had  
21 erred, he was an African-American police chief and  
22 that to dismiss him would -- it would be the wrong  
23 thing to do primarily for that reason.

24          Q.       Do you know if Mr. Yudelson and Dr.  
25 Cephas -- Dr. Archie, sorry, also agreed that Chief

1 Singletary had been less than forthcoming with the  
2 mayor?

3 A. Yes. I believe everybody in the room  
4 believed that Chief Singletary had been, yes, had  
5 been less than forthcoming in your words.

6 Q. And do you know why Mr. Curtin  
7 abstained from an opinion on this topic?

8 A. I do not.

9 Q. Did Mr. Curtin contribute anything to  
10 the discussion?

11 A. As it relates to the conversation of  
12 the dismissal of Chief Singletary?

13 Q. Yes.

14 A. I don't believe he shared -- that he  
15 shared anything in that regard.

16 Q. From a communications and media  
17 perspective, did you have concerns about Chief  
18 Singletary's statements not aligning with Mayor  
19 Warren's statements?

20 A. Yes.

21 Q. Could you describe why that concerned  
22 you, for media and communications purposes?

23 A. Sure. It concerned me because the  
24 mayor had stated definitively that she was not aware  
25 of the full extent of what happened to Mr. Prude

1 until seeing the video. The chief, the chief not  
2 being direct and forthcoming in terms of validating  
3 her, you know, her version of events, you know, put  
4 them in conflict and I think, you know, put the  
5 City -- not just them as individuals, but put the  
6 City and the police department's reputation at risk.

7 Q. And that risk you see as being mostly  
8 tied to a potential perception that Mayor Warren was  
9 not being truthful?

10 A. No. I think -- yes, that is a concern.  
11 My concern was overall that the public had a right to  
12 know what happened and that if you have a police  
13 chief and a mayor who are in conflict of about what  
14 happened, the community has a concern about the  
15 veracity of its police department, the veracity of  
16 its overall leadership and, quite frankly, its public  
17 safety.

18 Q. Understood. So the concern was more  
19 about the issues that having different narratives  
20 coming out of different parts of the city created; is  
21 that accurate?

22 A. Correct.

23 MS. COHEN: I think you're just  
24 misstating what he said.

25 THE WITNESS: Well, yeah.



1 MS. KATOVICH: He said that was  
2 accurate.

3 Q. Did you -- do you want to have that  
4 read back and confirm whether that was accurate?

5 A. Yeah, sure. Go ahead.

6 MS. KATOVICH: Could you read that back  
7 to us, please.

8 (Record read.)

9 A. I wouldn't say it that way. I guess I  
10 would, rather than paraphrase it as Scout did, I  
11 would go back to my previous statement and say that  
12 it stands on its own.

13 Q. Okay. So this discussion earlier in  
14 the day and the morning of September 3rd about  
15 whether or not the police chief should be dismissed,  
16 you said -- was that resolved by the end of the  
17 meeting?

18 A. Yes, the mayor was definitive that she  
19 was not going to fire Chief Singletary.

20 Q. The concerns that you expressed about  
21 the different information that was being conveyed to  
22 the media, did those remain present despite the  
23 mayor's decision not to terminate Chief Singletary?

24 A. Can you say the question again? I  
25 apologize.

1 Q. The concerns that you expressed about  
2 from a media and communications perspective, the  
3 problems that were created by Chief Singletary having  
4 one narrative and Mayor Warren having another,  
5 were -- did those concerns remain after this decision  
6 not to terminate Chief Singletary was made?

7 A. My concern was that we should have --  
8 that we should tell the truth and the truth should be  
9 fully conveyed. And I believed that Mayor Warren was  
10 being truthful and my concern about her veracity as  
11 well as the veracity of the police department and  
12 overall city government remained, yes.

13 Q. Did you talk with Mayor Warren or  
14 anyone else at the meeting about how to address that  
15 concern given that you had decided or she had decided  
16 not to dismiss Chief Singletary?

17 A. Yes, and I think those decisions are  
18 reflected in the press release and remarks we  
19 provided later that day.

20 Q. Okay. Well, let's turn to that now.  
21 That's Exhibit 13.

22 (Roj Exhibit 13, news release, was  
23 deemed marked for identification.)

24 Q. Can you point me to what in this press  
25 release addressed those concerns in particular?

1 A. Sure. Can you pan down?

2 Let's see here. Keep going down to the  
3 second page, please. So go up. Response Timeline.  
4 Let's see I think you can go to that section.

5 Q. Um-hum. So I see --

6 A. That's here and I think in her  
7 commentary she talks about her disappointment in him,  
8 the actual remarks.

9 Q. So here -- the timeline says that  
10 "After the police department responded to the 911  
11 call on March 23rd, Mayor Warren was informed later  
12 that day by Police Chief La'Ron Singletary that  
13 Mr. Prude had an apparent drug overdose while in  
14 custody. Chief Singletary never informed Mayor  
15 Warren of the actions his officers took to forcibly  
16 restrain Mr. Prude. She was made aware of the  
17 officers' actions by Corporation Counsel Tim Curtin  
18 on August 4 after he reviewed the video while  
19 fulfilling a FOIL request for Mr. Prude's attorney.  
20 At no time prior to August 4 did Chief Singletary nor  
21 anyone else make Mayor Warren aware or show her video  
22 of the actions of the RPD officers involved in  
23 Mr. Prude's death."

24 That's what you're referring to?

25 A. There may be additional commentary

1 further down, I apologize, where she addresses the  
2 chief directly in a quote. So -- yes, this here, at  
3 the top of page 3.

4 Q. Um-hum. "Experiencing and ultimately  
5 dying from a drug overdose while in police custody as  
6 I was told by the chief is entirely different than  
7 what I ultimately witnessed on the video provided to  
8 me by the Law Department."

9 That's what you're referring to?

10 A. Yeah. And then if you go through it, I  
11 think that she also -- the entirety of that quote.

12 Q. Right. "I have addressed with Police  
13 Chief La'Ron Singletary" --

14 A. I wouldn't omit this -- I wouldn't omit  
15 the attorney point. I would omit it after Law  
16 Department.

17 Q. "I have since ordered the chief to  
18 provide me with video within 24 hours of any  
19 in-custody death or use-of-force incident, continued  
20 Mayor Warren. I have address with Police Chief  
21 La'Ron Singletary how deeply disappointed I am in him  
22 personally and professionally for failing to fully  
23 and accurately inform me about what occurred to  
24 Mr. Prude. He knows he needs to do better to truly  
25 protect and serve our community and I know he will."

1 A. Right.

2 Q. Did you write this press release?

3 A. I wrote this press release with -- and  
4 additional language for Mayor Warren.

5 Q. And the information that we've just --  
6 the sections of the press release that we've just  
7 read concerning the timeline and then here what Chief  
8 Singletary told Mayor Warren, did that information  
9 come directly from Mayor Warren?

10 A. Right, that's -- I drafted these quotes  
11 based off of what Mayor Warren told me what was  
12 shared with her by former Chief Singletary.

13 Q. And when you drafted this press release  
14 with Mayor Warren, had you seen any text messages or  
15 phone records related to the conversations between  
16 Mayor Warren and Chief Singletary that are described  
17 in this response timeline?

18 A. No. This was based off of her  
19 retelling her recollection of those conversations and  
20 messages.

21 Q. Okay. And before -- had you spoken  
22 with Chief Singletary about this response timeline  
23 prior to drafting and putting out this press release?

24 A. I believe that -- let's see. No, I  
25 don't believe I had a further conversation with him

1 on September 3rd. I think I spoke with him on  
2 September 2nd but not about his performance in the  
3 press conference that day and I don't believe I spoke  
4 to him again until that Sunday, whenever it was the  
5 6th or 7th.

6 Q. So you said on September 2nd you spoke  
7 to him about the press conference?

8 A. I don't believe I spoke to him after  
9 the press conference, no.

10 Q. So you did not have a conversation with  
11 him on September 2nd?

12 A. Well, after the press conference.  
13 Certainly before but not after the press conference,  
14 no.

15 Q. And in those conversations you had  
16 before the press conference with Chief Singletary,  
17 did you discuss these conversations that he had with  
18 Mayor Warren?

19 A. That was -- the conversations with  
20 Chief Singletary were in the context of that broader  
21 group meeting that we discussed earlier. So they  
22 weren't one-on-one conversations. They were part of  
23 that group conversation.

24 Q. And at that group conversation -- in  
25 that group conversation did you discuss these

1 conversations between Mayor Warren and Chief  
2 Singletary about Mr. Prude?

3 A. Yes, I believe we did. Yes.

4 Q. And do you recall what Chief Singletary  
5 said about those conversations then?

6 A. In detail, no. On the 2nd I believe  
7 that the commentary was mostly about the timeline of  
8 how he started the internal investigations and then  
9 how those investigations were then assumed by the DA  
10 and subsequently the AG.

11 Q. Did in that September 2nd group  
12 conversation, did Mayor Warren express disappointment  
13 in Chief Singletary's failure to communicate certain  
14 facts to her?

15 A. I don't recall with that detail. I  
16 believe so but I can't say for sure.

17 Q. When you wrote these remarks for the  
18 September 3rd press release and press conference,  
19 were you aware of a conversation that Chief  
20 Singletary and Mayor Warren had following the M.E.'s  
21 ruling about Mr. Prude?

22 A. No.

23 Q. So when you wrote these remarks, is it  
24 accurate to say that you were only aware of a March  
25 23rd conversation and a March 30th conversation

1 between Mayor Warren and Chief Singletary?

2 A. I can't say day and date which  
3 conversations I'm aware of and what the content of  
4 those individual conversations were. I mean, I was  
5 aware of the overall narrative that Chief Singletary  
6 had not provided the full extent of what happened to  
7 Mayor Warren.

8 Q. And that overall narrative was  
9 something that was conveyed to you by Mayor Warren,  
10 correct?

11 A. Correct.

12 (Roj Exhibit 14, email, was deemed  
13 marked for identification.)

14 Q. Exhibit 14 is another media statement,  
15 media release that you sent out that day on September  
16 3rd at 10:36 p.m. and this addresses the AG's  
17 investigation. You say -- you put out a quote  
18 attributable to yourself.

19 A. Um-hum.

20 Q. "On June 4th Stephanie Prince, an  
21 attorney for the City's Law Department, spoke with  
22 Assistant Attorney General Jennifer Sommers, who  
23 confirmed that there is an ongoing investigation.  
24 Ms. Sommers also stated that while she cannot legally  
25 advise us what to do, she is asks that the City



1 withhold the release of information, including the  
2 body-worn camera footage, as the release will  
3 interfere with the Attorney General's ongoing  
4 investigation. The City complied with the Attorney  
5 General's Office request."

6 Did you write this release and quote?

7 A. Yes, I did.

8 Q. And what information was this based on?

9 A. It was based on the timeline provided  
10 by Tim Curtin, I believe, earlier that day. The  
11 timeline -- yeah, the timeline that we reviewed  
12 previously.

13 Q. Did you speak with Stephanie Prince  
14 prior to releasing this quote?

15 A. I don't know if I did. I believe -- I  
16 know I spoke with Tim Curtin. I know Tim Curtin  
17 approved this quote.

18 Q. And do you remember what prompted you  
19 to put out this media release?

20 A. I believe earlier that day the Attorney  
21 General stated that it was her opinion that we could  
22 take action and that her ongoing investigation did  
23 not preclude us from taking action and, sorry, and  
24 that such information was never shareable.

25 Q. And was it your idea to put out this

1 press release?

2 A. I honestly don't recall. I believe it  
3 was in response to the AG's statement.

4 Q. Now I'm going to turn to -- back to  
5 your personal cell phone.

6 A. Um-hum.

7 Q. And there is up to text message No. 43.  
8 This a text message that you received on September  
9 3rd at 7:05 p.m., and this is from Roj Danika, I  
10 assume that's Danika Roj.

11 A. That's correct.

12 Q. Who is Danika Roj?

13 A. It's my sister. So I don't know how  
14 this is relevant.

15 Q. She said "What! She was told was it was  
16 a drug overdose! WTF!"

17 Do you know what she was referring to?

18 A. Yeah, she's referring to the Prude  
19 matter and how the mayor was misled.

20 Q. And do you know if she's reacting to  
21 something you told her or things she's read in the  
22 media?

23 A. I think she's reacting to what she  
24 reads in the media. She lives in Nashville,  
25 Tennessee.

1 Q. Got it. And is it your understanding  
2 that when she says she was told it was a drug  
3 overdose, that is information that she gleaned from  
4 news articles?

5 A. Yes.

6 Q. I'm turning now to Exhibit 17.

7 (Roj Exhibit 17, email, was deemed  
8 marked for identification.)

9 Q. So now we're on to the next day,  
10 September 4th. And this is an email forwarded to you  
11 by Tim Curtin. And the subject is "Is this our  
12 standard for conduct?"

13 Do you remember seeing this email?

14 A. I do.

15 Q. So it seems like Tim Curtin is  
16 forwarding you an email from a city employee  
17 expressing concern about the Prude incident. Is that  
18 accurate?

19 A. Yes.

20 Q. Do you know why Tim Curtin forwarded it  
21 to you?

22 A. No.

23 Q. Did you discuss this email with Tim  
24 Curtin either before or after he forwarded it to you?

25 A. I don't believe so.

1 Q. Did you know who the person -- the  
2 employee who wrote this email was, Marlana Zink?

3 A. No.

4 Q. So Tim Curtin just forwarded you a  
5 random email from an employee you didn't know with no  
6 comment and you never discussed it?

7 A. Correct.

8 Q. And you have no idea why he did that?

9 A. No.

10 Q. Did you ask him?

11 A. No.

12 Q. Did you read this email?

13 A. I glanced through it and then decided  
14 it was irrelevant and moved on with my day.

15 Q. Now I'm going to turn to Exhibit 32.

16 (Roj Exhibit 32, document entitled  
17 Instant Messages, was deemed marked for  
18 identification.)

19 Q. Now, this is records that are taken  
20 from your City cell phone. So starting with -- I'm  
21 wondering if you can give us a little bit of  
22 background on when you use your City cell phone as  
23 opposed to your personal cell phone?

24 A. My City cell phone is primarily for  
25 media inquiries that come into me as well as

1 information, you know, from city departments about  
2 water main breaks. I believe I get homicide  
3 notifications on my phone as well.

4 Q. Do you communicate with -- besides  
5 these alerts that you've just described, do you  
6 communicate with other city employees on your city  
7 cell phone?

8 A. On occasion, yes.

9 Q. And do you -- is it that you  
10 communicate with certain employees on your city cell  
11 phone and certain employees on your personal cell  
12 phone?

13 A. No, some employees have my personal  
14 number for whatever reason or they have my city  
15 number, so I'll respond. I respond to both.

16 Q. Okay. And I'm going to scroll down to  
17 what is Row 432. I'll zoom in a little bit so you  
18 can see this.

19 So this is a message that, you know,  
20 it's -- do you recognize this number, [REDACTED] ?

21 A. Yes, I think that's Brian Sharp at the  
22 D&C but I'm not sure.

23 Q. And moving up a little to Row 429, do  
24 you recognize numbers, [REDACTED] ?

25 A. I don't.

1 Q. So it looks like, just in case this  
2 helps you figure out who it is, this person says  
3 or -- let's see -- you say to this person, "Listening  
4 to Mayor on DKX. I will call you when she's done."  
5 And then he responds "Just called you. Call my when  
6 you're free." And it looks like you say "Please call  
7 me back. Mayor wants you guys to do a presser today  
8 and share what really happened last night." And this  
9 is sent on September 4th at 8:54 a.m.

10 Do you know what this is referring to?

11 A. It may be related to the protests last  
12 night. I don't know that exact -- that number.

13 Q. And you don't recall who you were  
14 discussing putting out a presser with about --

15 A. It's probably -- it's probably somebody  
16 in the police department. I'm sure, I'm sure, you  
17 know, if I were to look through my phone, I could  
18 figure that out.

19 Q. Okay. But to the best of your  
20 recollection, this is probably about the protests,  
21 right?

22 A. I would think so, yes.

23 Q. Okay. And do you have any idea what  
24 you mean by "what really happened last night"?

25 A. There was a lot of back and forth about

1    how the, I guess the engagement re the protestors and  
2    RPD occurred in terms of, you know, just engaged  
3    between the protestors and RPD occurred and who, in  
4    essence, you know, acted first and the mayor had  
5    desire to share, you know, to share the nar -- share  
6    what had happened.

7           Q.       And at that point RPD was not sharing  
8    anything or was sharing false information?

9           A.       I don't -- I think they were -- I think  
10   they weren't sharing -- they weren't sharing  
11   information. They weren't sharing, you know, kind of  
12   the, I guess, details of how the protests were  
13   occurring.

14          Q.       Turning now to Exhibit 19.

15                   (Roj Exhibit 19, email, was deemed  
16   marked for identification.)

17          Q.       This is an email that you sent on  
18   Sunday, September 6th at 1:03 p.m. to Mayor Warren  
19   that's titled "Prude remarks 9/6/20," and that  
20   attaches what looks like remarks prepared for her  
21   September 6th press conference; is that correct?

22          A.       Yes.

23          Q.       And did you draft these remarks?

24          A.       Yes.

25          Q.       It looks like there is, you know,

1 obviously from this highlighted in yellow sentence or  
2 two, that there is a concern -- you had a concern in  
3 drafting these remarks with calls for her  
4 resignation; is that correct?

5 A. Correct.

6 Q. At the time did you feel like there was  
7 a real risk that Mayor Warren might resign?

8 A. No.

9 Q. What was your concern with the calls  
10 for resignation?

11 A. That she'd have a response to questions  
12 regarding her potential resignation.

13 Q. And did you feel like you had a role as  
14 communications director in preventing calls for her  
15 resignation?

16 A. No, I wanted her to have -- I wanted  
17 her to have a stock response at the ready to answer  
18 any questions regarding whether or not she was going  
19 to resign.

20 Q. Okay. And did you attend the press  
21 conference where Mayor Warren gave these remarks?

22 A. I did.

23 Q. And it looks like from the remarks that  
24 this is a joint press conference with Chief  
25 Singletary; is that correct?



1 A. That is correct.

2 Q. And at the conclusion of this press  
3 conference, did you speak with Mayor Warren?

4 A. Yes.

5 Q. What about with Chief Singletary?

6 A. Yes.

7 Q. Did you speak with them together or  
8 separately?

9 A. I think initially together and then  
10 again separately.

11 Q. What was discussed together?

12 A. My continued concern, strong concern  
13 that they continued to -- it appeared to be  
14 contradicting each other as it relates to the  
15 timeline of what happened and what information was  
16 shared with the mayor and when.

17 Q. And you -- when you expressed this  
18 concern to them, did you ask one or the other to do  
19 something differently?

20 A. No.

21 Q. So it was just an expression that to  
22 you it was concerning that they were saying different  
23 things; is that accurate?

24 A. Correct.

25 Q. And how did they respond to your

1 statements of concern?

2 A. They both agreed to have a further  
3 conversation to, you know, to, in essence, align and  
4 try to understand where each other was coming from so  
5 that there was, you know, in essence a -- you know,  
6 that what the truth of the matter was so they could  
7 both convey the truth. And I believe, again, I  
8 should say my concern was that Chief Singletary  
9 continued to refuse to acknowledge the truth as I  
10 understood it from Mayor Warren.

11 Q. So is it accurate to say that the  
12 conversation between yourself, Mayor Warren and Chief  
13 Singletary concluded with their agreement to talk  
14 further in order to understand each other?

15 A. No, I think the initial conversation  
16 concluded indecisively and then after the follow up  
17 individual conversations they agreed to have a  
18 further conversation between the two of them.

19 Q. And what -- so, you said the  
20 conversation that the three of you had concluded --  
21 was inclusive in how it ended?

22 A. It was inclusive and there were other  
23 people present during that conversation. I believe  
24 there may have been individuals from the command  
25 staff as well as my communications staff in that

1 brief meeting after the press conference.

2 Q. Got it. So then you said after that  
3 meeting you met individually with Mayor Warren and  
4 with Chief Singletary, right?

5 A. Correct.

6 Q. And who did you meet with first?

7 A. With Mayor Warren.

8 Q. Was that in person?

9 A. In person.

10 Q. And what did you discuss with Mayor  
11 Warren?

12 A. Just that I -- you know, that, again, I  
13 was tired, I was angered by and I thought, you know,  
14 by the chief's inability to validate her story which,  
15 again, I believe to be true. And, you know, and that  
16 he needed to do so and she stated, you know, that it  
17 was troublesome to her as well. And I let her know  
18 that I was going to speak to Chief Singletary about,  
19 you know, their inability to agree on that.

20 Q. And in that conversation with Mayor  
21 Warren, did she continue to reiterate that Chief  
22 Singletary had not conveyed all the details of the  
23 interaction to her in their earlier conversation?

24 A. Correct. Correct. No one shared the  
25 video with her, correct, in that he did not share the

1 video with her, correct.

2 Q. So that conversation with Mayor Warren  
3 was just primarily -- she was primary concerned with  
4 his failure to show the video to her; is that right?

5 A. Well, both, that he failed to be  
6 forthright and honest about what he had shared -- the  
7 extent of what he had shared with her and the fact  
8 that he had failed to show her the video.

9 Q. So at that time on September 6th, did  
10 Mayor Warren continue to say that Chief Singletary  
11 told her it was an overdose?

12 A. I don't think we got into the  
13 particulars whether it was an overdose but the extent  
14 of the police interaction with Mr. Prude.

15 Q. And why did you decide that you should  
16 speak with Chief Singletary about this?

17 A. Because, as I stated previously, I  
18 mean, it was my concern that people need to have  
19 confidence in the information coming from the police  
20 chief, the information coming from the mayor, and  
21 outside of the individuals have confidence in, you  
22 know, the information coming from their city and from  
23 their police department and how that affected their  
24 opinion of public safety in the community.

25 Q. And was it your belief that you might

1 be able to persuade Chief Singletary to take a  
2 different approach?

3 A. Correct. And I was also concerned that  
4 he failed to support the plan to put Ehlers in place  
5 to calm down the protest that day. He failed to  
6 fully endorse that. I raised both issues with him.

7 Q. And did Mayor Warren agree that you  
8 should speak with Chief Singletary about these  
9 issues?

10 A. Yes. I told her I was going to and she  
11 said -- and she agreed.

12 Q. When you spoke with Mayor Warren, what  
13 did she say about the extent of the interactions she  
14 had had with Chief Singletary about Mr. Prude in  
15 March and April?

16 A. We didn't get into that at that point  
17 in that conversation. It was simply at this point  
18 what he had said at the previous press conference.

19 Q. Okay.

20 A. Or failed to say.

21 Q. And so after you had this meeting with  
22 Mayor Warren, did you reach out to Chief Singletary?

23 A. I did.

24 Q. And did you end up meeting with him?

25 A. I did.

1 Q. Where was that meeting?

2 A. In his office at the public safety  
3 building.

4 Q. And what did you discuss at that  
5 meeting?

6 A. Just the fact that, you know, he needed  
7 to, you know, support her and tell the truth as it  
8 relates to the timeline, accept that there were  
9 failures in his behavior and, however, he was going  
10 to remain the police chief and it was time to get  
11 past, you know, whatever, you know, anger he had and,  
12 you know, tell the truth as it relates to the  
13 timeline in this case.

14 Q. And how did he respond to that?

15 A. He implied that he was being truthful  
16 and, you know, and basically said that, you know,  
17 that, you know, that people have to sometimes agree  
18 to disagree was kind of the extent of where he was.

19 Q. So did he -- he continued to assert to  
20 you that what he had said about his conversations  
21 with Mayor Warren was truthful; is that accurate?

22 A. Yes. Yeah. Yes, he asserted that he  
23 had been forthright and truthful, yes.

24 Q. Did he say anything about you and the  
25 mayor's belief that he was refusing to acknowledge

1 his -- to acknowledge the mayor's story?

2 A. He -- sorry, can you repeat the  
3 question?

4 Q. Yeah. Yeah.

5 Did he say anything about -- how did he  
6 respond to what sounds like you expressing to him  
7 that you and the mayor believed that he was refusing  
8 to acknowledge parts of the interactions that he had  
9 with the mayor?

10 A. That he -- that basically he -- that  
11 he -- he conveyed that he believed he had been  
12 truthful throughout.

13 Q. Um-hum. And you don't know what Chief  
14 Singletary told the mayor, right?

15 A. I only know the -- I mean -- I don't  
16 know. I was not a party in the room. I only know  
17 what the two parties say occurred.

18 Q. Right. You just know what the mayor  
19 told you and what Singletary told you; is that  
20 correct?

21 A. Correct. That's correct.

22 Q. And what exactly did Chief Singletary  
23 tell you he told the mayor?

24 A. He did not get into detail. He simply  
25 said that he had been honest with her throughout.

1 And I conveyed to them that the two of them should  
2 meet and, you know, get on the same page and rectify  
3 whatever their disagreements were.

4 Q. And did you believe when you made that  
5 suggestion that there was a real disagreement about  
6 what had been said at that meeting?

7 A. At what meeting?

8 Q. Sorry. About what had been said  
9 between Chief Singletary and Mayor Warren.

10 Let me rephrase that.

11 A. Sure.

12 Q. Did you at that time when you suggested  
13 that Mayor Warren and Chief Singletary should meet  
14 and work this out, did you believe that one of them  
15 was lying about what had occurred in their  
16 conversations?

17 A. At that point after seeing the video, I  
18 believed that Chief Singletary was less than honest  
19 with Mayor Warren.

20 Q. In the context of the conversation that  
21 you had with Chief Singletary, did he ever say  
22 that -- did he ever express to you that he wouldn't  
23 lie for anyone or words to that effect?

24 A. I think he had said that in that  
25 meeting and in the past. And I certainly conveyed to



1 him that I would never ask him to lie.

2 Q. And do you know what he thought he was  
3 being asked to lie about?

4 A. I do not.

5 Q. Did he express to you what he thought  
6 he was being asked to lie about?

7 A. No.

8 Q. And when you said he had earlier said  
9 something to that effect, do you recall when that  
10 was?

11 A. Said, sorry?

12 Q. When he said something that he wouldn't  
13 lie for anyone, you said he said that to you at that  
14 meeting on September 6th and you believed that he had  
15 said that earlier also a well.

16 A. I think he may have conveyed that in  
17 one of the prior meetings, you know, from September  
18 2nd through, you know, through that whatever date  
19 that was, the September 6th or 7th that he had stated  
20 that previously.

21 Q. And these are the group meetings that  
22 you were describing earlier with Mayor Warren and  
23 Deputy Mayor Smith; is that correct?

24 A. Yes. Among others, yes.

25 Q. And when -- do you recall in those

1 earlier meetings what he was saying that in response  
2 to?

3 A. From my recollection it was about the  
4 fact that he had not shared the complete narrative of  
5 what happened or accurately conveyed what happened to  
6 Mayor Warren.

7 Q. Okay. And you said that this -- the  
8 meeting that you had with Chief Singletary on  
9 September 6th was in his office; is that correct?

10 A. Correct.

11 Q. And is it accurate that his office is  
12 in the public safety building and yours is in City  
13 Hall?

14 A. Correct.

15 Q. And the press conference that had taken  
16 place earlier that day, that was at City Hall as  
17 well?

18 A. Correct.

19 Q. And do you know if following this  
20 conversation chief -- I think that was just someone  
21 dropping off.

22 Do you know if following this  
23 conversation Chief Singletary and Mayor Warren did  
24 meet and speak about the issues that you have just  
25 described?

1 A. My understanding is that they did, yes.

2 Q. Do you know when they met?

3 A. I don't off hand. I believe it was  
4 later that day.

5 Q. And did you speak with Mayor Warren  
6 again about the conversation that occurred later that  
7 day with Chief Singletary?

8 A. Yes, I believe -- yeah, later that  
9 evening I do believe that I spoke with her, yes.

10 Q. What did she tell you about their  
11 conversation?

12 A. That he sees and recalls things  
13 differently than she did.

14 Q. Was that all she said?

15 A. That -- I mean, in sum and substance,  
16 yes.

17 Q. And what was your reaction to hearing  
18 that?

19 A. Frustration.

20 Q. Why were you frustrated?

21 A. Because I just really wanted an end to  
22 the back and forth in terms of the narrative of what  
23 the mayor was told.

24 Q. And it was clear to you from your  
25 conversation with Mayor Smith (sic) that Mayor Smith

1 and Chief Singletary were not going to reach  
2 agreement?

3 A. Mayor Warren, you mean?

4 Q. Right. Sorry.

5 A. It was clear to me, yes, that they  
6 weren't going to reach agreement, correct.

7 Q. And in that conversation that you had  
8 with Mayor Warren, did you discuss next steps or a  
9 plan?

10 A. I think it was to, you know, just to  
11 further refine a timeline so that, you know, she  
12 could clearly, concisely state what she knew when.

13 Q. And that would be different from the  
14 timeline that you laid out in the press release  
15 earlier that day?

16 A. I don't think it would be different  
17 than that timeline, no. I think in one of your  
18 exhibits you have a separate document that was the  
19 result of that conversation.

20 Q. And why did mayor -- why did you and  
21 Mayor Warren believe it was important to put out  
22 another document on the timeline here?

23 A. It wasn't -- I don't believe that  
24 document was for public consumption. That document  
25 was for her to have a one-page set of notes so where

1 she concisely, you know, could have in front of her,  
2 you know, what happened and when, due -- you know, so  
3 that if questioned or if asked, she could accurately  
4 convey what occurred and concisely do so.

5 MS. KATOVICH: Can we go off the record  
6 for just a second, please?

7 (Discussion off the record.)

8 (Recess taken.)

9 BY MS. KATOVICH:

10 Q. All right. So, just to reorient us, we  
11 were talking about the September 6th conversations  
12 you had. I now want to turn to September 7th. And  
13 can you still see my screen here?

14 A. I can.

15 Q. Okay. Great. So turning to Exhibit  
16 29. This is your -- exhibit with your personal cell  
17 phone text messages that were extracted.

18 A. Okay.

19 Q. There is a text message -- I'm going  
20 down to No. 26, text message from September 7th at  
21 6:56 p.m. between -- it looks like it's a text  
22 message with James Smith. And the text message  
23 reads, "Weird. Press conference about homicides that  
24 had Wanda in it was on April 13 before the M.E.'s  
25 report came out."

1 Do you remember this text message?

2 A. No.

3 Q. Do you remember texting with James  
4 Smith about an April 13th press conference?

5 A. Particularly, no, I do not.

6 Q. Do you remember discussing a press  
7 conference with James Smith in the context of the  
8 M.E.'s report?

9 A. I do not.

10 Q. Do you know now why you would have  
11 discussed the M.E.'s report in the context of an  
12 April 13 press conference?

13 A. I don't. I don't doubt that I got this  
14 text. I don't recall the context.

15 Q. Okay. But the difficulties with these  
16 phone extractions is we don't always get the text  
17 messages before and after. So we're in the dark.  
18 We're all in the dark here.

19 And do you now know when the M.E.'s  
20 report did come out?

21 A. I do not off the top of my head, no.

22 Q. But you do remember that in the April  
23 10th email that we are looking at from Chief  
24 Singletary he described at least the M.E.'s findings  
25 being released; is that right?

1 A. Yes, in that email, yes, he did.

2 Q. All right. So moving now to September  
3 8th and Exhibit 20.

4 (Roj Exhibit 20, email, was deemed  
5 marked for identification.)

6 Q. So this is an -- it looks like another  
7 media release that you put out on September 8  
8 about -- with a statement from Mayor Warren regarding  
9 RPD retirements.

10 A. Um-hum.

11 Q. Do you remember putting out this  
12 statement?

13 A. Yes. This was I think a -- the text  
14 version of the statement she provided in the  
15 in-person on that day.

16 Q. And am I correct in recalling that the  
17 statement she provided in person was at a previously  
18 scheduled press conference?

19 A. It was at a press conference scheduled  
20 in the immediate aftermath of the former chief's  
21 resignation.

22 Q. So the press conference -- I was  
23 incorrect. The press conference was entirely, I  
24 guess -- you decided to put on a press conference  
25 because of the announcements of the retirements,

1 correct?

2 A. Correct.

3 Q. When did you first learn that Chief  
4 Singletary was retiring?

5 A. I think it was around 3 or 4:00 that  
6 day. I was on the Zoom meeting related to the  
7 briefings on the protest and then was made aware at  
8 -- I believe I saw an email from then I believe  
9 Deputy Chief Mura that said personnel changes or  
10 something like that. So I clicked on it and then  
11 read the resignation letter from Chief Singletary.

12 Q. And do you know why he decided to  
13 retire?

14 A. I do not.

15 Q. Did you ever discuss his decision to  
16 retire with him?

17 A. No.

18 Q. Did you discuss, once you saw this  
19 email, did you discuss it with Mayor Warren?

20 A. I believe via text message since she  
21 was in the Zoom meeting on the council with counsel  
22 regarding the protest, I believe I texted her and the  
23 deputy mayor to make them aware if they weren't  
24 already that he had resigned.

25 Q. And you put out this written press



1 statement after her oral or her actual press  
2 conference?

3 A. Correct. I believe this is, this is in  
4 essence the word for word a copy of the remarks. She  
5 may have ad-libbed. But this is word for word the  
6 prepared remarks that she was provided for that day.

7 Q. Okay. Moving on to Exhibit 21. This  
8 is an email from September 8th as well, from Tim  
9 Curtin to you, and the title is "Lawsuit in Prude  
10 case."

11 (Roj Exhibit 21, email, was deemed  
12 marked for identification.)

13 Q. So scrolling down it looks like that  
14 same day a reporter from WXX -- a news director from  
15 WXXI emailed you about the Prude lawsuit to see if  
16 you had comments. And you forwarded this to Tim  
17 Curtin and had an exchange where he said, "We've not  
18 been served yet but we're reviewing a copy." You  
19 responded, "Have you informed the mayor or should I?"  
20 And he said, "We have not been served yet. You can  
21 tell her if you see her first. Thanks."

22 At the time were there any protocol or  
23 practices in place for notifying the mayor when  
24 lawsuits were filed against the City?

25 A. Typically that would happen for the Law

1 Department. And I think in this case I took the  
2 initiative to ask if I should or not.

3 Q. Do you recall if you ended up being the  
4 one to inform her of the lawsuit?

5 A. I don't.

6 Q. Did you find it odd that Mr. Curtin had  
7 not already told her about the lawsuit?

8 A. Again, typically if a lawsuit was filed  
9 against the City, the Corporation Counsel's office  
10 would inform the mayor not Communications.

11 Q. So it was unusual here that he was  
12 suggesting that you could inform her?

13 A. It was a little unusual. I think it  
14 was just a matter of expediency. I don't think  
15 anybody was trying to skirt any duty.

16 Q. Okay. And when he says, "You can tell  
17 her if you see her first," did you understand that to  
18 mean that she should be told in person?

19 A. No. I think honestly Tim was just  
20 saying if you can see her, you can tell her, if I see  
21 her, I'll tell her. I don't think there was any, any  
22 -- really any kind of structure involved.

23 Q. Understood. So I'm turning now to an  
24 email you sent the next day on September 9th to James  
25 Smith titled "Daniel Prude Timeline" and you say,

1 "James, see attached as discussed. I will forward  
2 Law's timeline separately."

3 And attached to it is the document I  
4 think that you were describing earlier that you said  
5 you and the mayor decided to put together recounting  
6 the timeline of her knowledge of the incident. Is  
7 that correct, that this is what that document  
8 represents?

9 A. Correct.

10 Q. And do you remember when you drafted  
11 this document?

12 A. It probably was either that day or the  
13 day before.

14 Q. And was Deputy Mayor Smith involved in  
15 the decision to write up this document?

16 A. I believe so. This might have been  
17 around the time separate from any conversations I had  
18 where I think the mayor empowered him to, you know,  
19 conduct his investigation.

20 Q. So do you -- were you forwarding it to  
21 him now in his role as conducting that investigation?

22 A. I honestly don't recall.

23 Q. Okay. And did you write the timeline?

24 A. I did.

25 Q. How did you compile the information?

1           A.       Based on, I think, our prior  
2       conversations as well as our prior, prior -- you  
3       know, prior press releases and what-have-you we put  
4       out regarding the -- regarding the Prude matter.

5           Q.       So are all of the quotes here quotes  
6       that had been previously released to the public?

7           A.       No, I believe that I put these in  
8       quotes just as suggested language for the mayor, you  
9       know, that was consistent with what she had shared  
10      with me and what we had shared previously.

11          Q.       Got it. So here there are two dates  
12      prior to August 4th, March 23rd and March 30th. Was  
13      it your understanding when you drafted this timeline  
14      that those were the only two dates on which Mayor  
15      Warren had communicated with Chief Singletary about  
16      Daniel Prude?

17          A.       Correct.

18          Q.       Is that -- is it your understanding now  
19      that those are the only two dates prior to August 4th  
20      that Mayor Warren and Chief Singletary communicated  
21      about Daniel Prude?

22          A.       I believe that the mayor recalls some  
23      type of conversation on April 13th after the presser  
24      with Chief Singletary but Lovely remembers that  
25      conversation quite differently than Chief Singletary.

1 Q. And at the time, at the time you were  
2 drafting this, did Mayor Warren say anything about an  
3 April 13th conversation with Chief Singletary?

4 A. To my recollection, no.

5 Q. At that time had Chief Singletary made  
6 statements about an April 13th conversation?

7 A. To me, no.

8 Q. Publicly, do you know?

9 A. Publicly, I don't know, no.

10 Q. So, there is a section here titled "Why  
11 haven't you fired the chief?" Was this section  
12 written prior to Chief Singletary's retirement?

13 A. I believe so. The initial draft, yes.  
14 Because by the time I emailed this, right, he had, I  
15 believe, he had announced his resignation.

16 Q. And this last section "Why hasn't the  
17 chief simply agreed with you?" What is this  
18 referring to?

19 A. Well, agreed, well, agreed with the  
20 mayor's -- agreed with the mayor in terms of telling  
21 the truth.

22 Q. And to your knowledge how was this  
23 document that you put together used?

24 A. I don't know if it ever was.

25 Q. After you drafted it, did you send it

1 to Mayor Warren?

2 A. I don't recall.

3 Q. Do you recall why you sent it to Deputy  
4 Mayor Smith?

5 A. I believe at that point, again, he may  
6 have been empowered to do the overall investigation.  
7 I was sharing the timeline with him as I understood  
8 it.

9 Q. Was that in response to a request from  
10 him to --

11 A. Yeah, I believe so. I believe there is  
12 a phone call where he asked me for that timeline,  
13 yes.

14 Q. Okay. And on the same day now looking  
15 at Exhibit 24, you put out a press statement  
16 concerning President Scott's comments in a WXXI show;  
17 is that correct?

18 A. I did.

19 Q. Did you write this statement?

20 A. I did, with the input of Mayor Warren.

21 Q. And where did the information contained  
22 in the statement come from?

23 A. The first paragraph certainly as it  
24 relates was from Mayor Warren in terms of her -- what  
25 she -- her telling me what she did in that case. And

1 then I think, you know, I think actually I think the  
2 second paragraph as it relates to that, either her --  
3 I believe that was her as well.

4 Q. Okay. So is it accurate to say that  
5 prior to writing this statement, Mayor Warren had  
6 told you that she had briefed President Scott on the  
7 Prude incident, the notice of claim, the medical  
8 examiner's findings and the AG investigation?

9 A. Yes.

10 Q. Do you remember when Mayor Warren first  
11 told you about her conversation about this with  
12 President Scott?

13 A. It was after I made her aware of  
14 President Scott's assertions on the WXXI Connections.

15 Q. So prior to see the WXXI Connections  
16 show, you had no idea that Mayor Warren had a  
17 conversation with President Scott about this?

18 A. Correct.

19 Q. And how did you raise this with Mayor  
20 Warren once you saw the show?

21 A. I believe I stopped into her office and  
22 I believe showed her a tweet or something along the  
23 lines of what was -- what President Scott had said on  
24 the show.

25 Q. And how did she react?

1           A.        You know, she -- I think she basically  
2       stated that that wasn't true and that she had done so  
3       and then shared the information similar to what's in  
4       this statement with me.

5           Q.        Did she seem upset about President  
6       Scott's statements on WXXI?

7           A.        I don't think it's fair for me to try  
8       to imply what her mental state was.

9           Q.        I don't want to imply what her mental  
10      state was but I'm just wondering how she seemed to  
11      you.

12          A.        Seemed matter-of-fact.

13          Q.        Okay.  And following this exchange with  
14      Mayor Warren about her conversation with President  
15      Scott, did you do anything else besides putting out  
16      this press statement?

17          A.        No.

18          Q.        Did you speak with anyone at City  
19      Council?

20          A.        I may have made them aware that the  
21      statement was going out, but I honestly don't recall.

22          Q.        And did you ever have any further  
23      conversations with Mayor Warren about her briefing of  
24      President Scott?

25          A.        No.  After I put out the statement, no.



1 Q. Now I'm going to turn to Exhibit 25  
2 which is the statement that you put out regarding  
3 your suspension on September 14th.

4 (Roj Exhibit 25, typed statement, was  
5 deemed marked for identification.)

6 Q. Does this look to you like that  
7 statement?

8 A. It is.

9 Q. When did you first learn that Mayor  
10 Warren was suspending you?

11 A. I believe it was that morning. The  
12 Monday morning the 14th, that's when I found out.

13 Q. Did she tell you in person?

14 A. Yes. Yes, she called Tim Curtin and I  
15 into her office and told us both at the same time.

16 Q. Did she explain to you why she was  
17 suspending you?

18 A. No.

19 Q. Did you ask why?

20 A. I was told that deputy mayor had  
21 prepared a summary of his investigation and that that  
22 was the basis for the suspension.

23 Q. Did this come as a surprise to you?

24 A. Yes.

25 Q. How did you react?

1           A.       I believe I stated I wanted to read the  
2 summary document before I accepted the suspension. I  
3 took the document, read it, didn't see anything I  
4 thought to be inaccurate and, you know, I think  
5 wrapped up a few other things and let them know I  
6 would be available via my personal phone if there was  
7 a need.

8           Q.       So after you read the report, did you  
9 believe that your suspension was warranted?

10          A.       I accepted it.

11          Q.       Why did you accept it?

12          A.       I think for the reasons in the  
13 statement.

14          Q.       And I assume that by this time you had  
15 been made aware of your April 10th email with Chief  
16 Singletary; is that correct?

17          A.       Correct.

18          Q.       When did you become aware of that  
19 email?

20          A.       I believe it may have been the Thursday  
21 prior, so that was the 10th, 9th or 10th. Somewhere  
22 around there.

23          Q.       How were you made aware of that?

24          A.       Tim Curtin asked me to come see him.

25          Q.       And what did Tim Curtin say to you when

1 he showed you the email?

2 A. He just said are you aware of this  
3 email and I looked at it, quite frankly, was shocked  
4 to see it, said I don't recall ever getting it, let  
5 me, you know, see what I did and then I, you know,  
6 reviewed it and noted that I responded to it but,  
7 again, until September 9th or 10th, whenever Tim  
8 brought me in his office to show me it, I didn't  
9 recall receiving it.

10 Q. And in the conversations that you had a  
11 few days earlier on September 6th with Chief  
12 Singletary, did Chief Singletary ever raise the  
13 email?

14 A. No.

15 Q. In addition -- so once Tim Curtin made  
16 you aware of the April 10th email, did you discuss it  
17 with Mayor Warren?

18 A. I did.

19 Q. What was discussed?

20 A. I apologized that I didn't have a  
21 recollection of it and that I wish I did, you know,  
22 and that I could understand if she would be upset  
23 with the fact that I didn't remember that I had  
24 received such an email in retrospect.

25 Q. And how did she respond?

1           A.       She expressed her disappointment but  
2 also that, you know, that, you know, in reviewing the  
3 email, that it was clear that he wasn't forthright in  
4 the email.

5           Q.       Did you discuss with her what about the  
6 email she thought showed that he wasn't forthright?

7           A.       No. It was a brief conversation.

8           Q.       And was that conversation the same day  
9 you thought, the Thursday or Friday before September  
10 14th?

11          A.       Correct. Correct. It was the same --  
12 within, within hours of Tim sharing the email with  
13 me.

14          Q.       So despite having seen the email and  
15 having this conversation with Mayor Warren, you were  
16 still surprised when you were suspended on September  
17 14th; is that correct?

18          A.       Yes.

19          Q.       And why is that? Why did you -- why --

20          A.       Well, I mean, because since there was a  
21 number of days between where I was involved in a  
22 number of conversations related to, you know, related  
23 to city business including the -- you know, including  
24 conversations with now the current police chief and  
25 executive deputy chief up to the day before my

1 suspension.

2 Q. Okay. And do you have any idea why  
3 based on your reading of the report and your  
4 conversations with Mayor Warren, is there anything  
5 besides the April 10th email that you understood to  
6 be a contributing factor in her decision to suspend  
7 you?

8 A. No.

9 Q. Did you discuss -- after this September  
10 14th conversation with Mayor Warren, did you discuss  
11 the -- her suspension of you with anyone else?

12 A. Within city government?

13 Q. Yes.

14 A. I think before I left I had a brief  
15 conversation with my staff to kind of, you know, pass  
16 off and transition things. You know, let the deputy  
17 mayor know again that if there were something, you  
18 know, that, you know, even despite my suspension,  
19 where, you know, where he needed to reach out to me,  
20 that, you know, he could do so and that was it.

21 Q. And how long was your suspension?

22 A. 30 days, calendar days.

23 Q. And since returning to city government,  
24 have you had any further discussions with Mayor  
25 Warren about her decision to suspend you?

1 A. No.

2 Q. Did you have any discussions with Tim  
3 Curtin about his suspension?

4 A. I think briefly the day of the  
5 suspension we both kind of consoled each other to say  
6 hey, you know, you know, I still think highly of you  
7 and I'll see you in a month and left it at that.

8 Q. I'm going to now turn to one last  
9 exhibit.

10 A. The last one, are you sure? Hasn't  
11 this been fun for you too?

12 Q. Oh, it's so fun. We're doing this all  
13 week too.

14 A. There you go. Very good.

15 Q. Okay. So turning away from the Prude  
16 incident now, we're looking at an email from June  
17 30th that you sent to Lieutenant Perkowski in RPD?

18 A. Yep.

19 (Roj Exhibit 26, email chain, was  
20 deemed marked for identification.)

21 Q. And this exchange concerns a FOIL  
22 request for I think documents and body-worn camera  
23 footage or maybe just footage of an incident that  
24 occurred on Bay Street, a medical health arrest. Do  
25 you recall this incident and the FOIL request for it?

1 A. I do.

2 Q. What do you recall about it?

3 A. I recall that I -- that I conflated two  
4 events here. I conflated the handcuffing of the  
5 10-year-old with the Bay Street arrest and, you know,  
6 understood why in retrospect that the Bay Street  
7 arrest because it was part of an ongoing  
8 investigation that the documentation and footage  
9 regarding that would not be made available consistent  
10 with our policy.

11 Q. And as side from this email, do you  
12 remember having discussions about the release of the  
13 Bay Street incident footage with Lieutenant Perkowski  
14 or others?

15 A. No.

16 Q. Did you ever have a press release or a  
17 press briefing about the Bay Street incident?

18 A. I believe we did. I believe RPD may  
19 have.

20 Q. And would this have been one of those  
21 incidents that you and the mayor were involved in the  
22 media strategy for?

23 A. I don't believe the mayor was involved  
24 in the media strategy here. I believe there are  
25 media requests regarding it and that they were

1 handled by RPD's PIO and the chief and his staff.

2 Q. Okay. And were you looped into those  
3 plans or it was completely separate from you?

4 A. I think I was made aware of what they  
5 were doing but I don't believe I provided much advice  
6 or counsel if at all as it relates to their response.

7 Q. Okay. So here just getting back to the  
8 FOIL request itself, you were -- let's see, I'm  
9 trying to find the -- so I'm looking now at an email  
10 on page 3 that was sent on June 29 at 3:26 p.m. And  
11 that's an email being sent from Joseph Fratta to you  
12 and it says, "I just received a response and  
13 Laserfiche from RPD 'denied as an ongoing law  
14 enforcement investigation.' May I officially close  
15 this out via Laserfiche with that response?"

16 Was -- am I understanding it correctly  
17 that based on the Laserfiche system, RPD or whichever  
18 department received the FOIL request would be the one  
19 to determine whether to deny or grant the request?

20 A. My understanding would be that RPD  
21 could convey that and if there was any question  
22 involved, whether or not it was an ongoing  
23 investigation or any other legal concern, that Paul  
24 would weigh in as well.

25 Q. And would it be your department that



1 would decide whether or not there was a question of  
2 whether there was an ongoing investigation?

3 A. No, no. That information would be  
4 provided to us.

5 Q. Okay. So you respond "that response is  
6 dubious."

7 A. And that's because I conflated the two  
8 concerns. I thought that we were discussing not the  
9 Bay Street arrest but the arrest -- excuse me, the  
10 handcuffing of the ten-year-old young lady and  
11 therefore that matter was closed and, you know, and  
12 denying information on that matter to me would have  
13 been dubious but certainly was not for the Bay  
14 Street, you know, based on my understanding that it  
15 was an ongoing investigation.

16 Q. And what knowledge -- so what made you  
17 think that the handcuffing of the ten-year-old was  
18 not an ongoing investigation?

19 A. Because it was a traffic stop with the  
20 issuance of tickets which closed the matter.

21 Q. Okay. And was it common practice for  
22 you to kind of check over these types of denials to  
23 make sure that they were not dubious?

24 A. No, no. This is in response to a media  
25 request.

1 Q. Okay. And so this would be sort of in  
2 the same category as the response we looked at  
3 earlier where you approved Amalia Bellucci's FOIL  
4 response before it went out; is that correct?

5 A. Yes, because I believe that was a media  
6 request as well. Correct.

7 Q. Okay. So if a FOIL request were denied  
8 by RPD in a case that was not of interest to the  
9 media, it wasn't being requested by a member of the  
10 media, you wouldn't necessarily weigh in on whether  
11 their denial was appropriate; is that correct?

12 A. Correct. Even if it was a media one  
13 where a member of the media had not expressed the  
14 concern to me, I wouldn't intervene there as well. I  
15 only kind of serve in that oversight role when there  
16 is a -- you know, when there is a question or concern  
17 raised.

18 Q. Okay. And someone in the media had  
19 raised a concern about the ten-year-old handcuffing  
20 being -- not being an ongoing investigation?

21 A. Well, here if you look at the original  
22 email in this chain, I believe it's from Patti Singer  
23 regarding the FOIL request above. She doesn't  
24 provide details. From what had been going on, I had  
25 determined, you know, from what -- I had made the

1 wrong determination that it was regarding the  
2 ten-year-old when it was not.

3 Q. Okay. I understand. And then so once  
4 it's made clear to you that this is about the Bay  
5 Street investigation, you respond to Lieutenant  
6 Perkowski and you say, "It's completely  
7 understandable that the footage is not available due  
8 to the ongoing investigation." Was what -- at that  
9 time what was the ongoing investigation of the Bay  
10 Street incident?

11 A. That's a question for RPD.

12 Q. So you just knew that they told you  
13 there was an ongoing investigation?

14 A. Right. I don't make a value judgment  
15 on that. They -- you know, either Law or RPD tell me  
16 the investigation is ongoing.

17 Q. But if they were to telling you there  
18 is an ongoing investigation for a traffic stop,  
19 issuing a ticket, you might make an evaluation,  
20 right?

21 A. Well, if a member of the media had  
22 asserted such. Like, you know, I don't make that  
23 independent call, right? If I get an inquiry saying,  
24 hey, this got denied because you guys are claiming  
25 it's an ongoing criminal investigation, this was a

1 traffic stop, can you look into this, you know, then  
2 I would be in my role as, you know, communications  
3 director, I would respond to that media inquiry.

4 Q. Okay. I understand. And just one  
5 final question about this. Lieutenant Perkowski,  
6 what is Lieutenant Perkowski's role in the FOIL  
7 process?

8 A. You know what, that's -- I believe  
9 he's -- I know he's a RPD lieutenant who oversees  
10 portions of the process. His exact role, I don't  
11 know. I don't know if he manages Mr. Ehlers or  
12 others. That's fundamental a question for RPD.

13 Q. That brings me to the end of my  
14 questions for you. And is there anything that you  
15 want to -- any answers you've given that you want to  
16 supplement or anything you want to go back to?

17 A. No.

18 Q. Okay. Well, I really appreciate your  
19 willingness to spend so much time with me today and  
20 answer all my questions. We really appreciate your  
21 cooperation. So thank you.

22 A. You're welcome.

23 Take care everybody. Appreciate it.  
24 Have a great day.

25 (Witness excused.)

(Time noted 1:51 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK )  
:ss.  
COUNTY OF NEW YORK )

I, CELESTE A. GALBO, a Registered Professional Reporter, Register Merit Reporter and Notary Public of the State of New York and State of New Jersey, do hereby certify:

THAT JUSTIN ROJ, the witness whose deposition is hereinbefore set forth, was remotely duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of \_\_\_\_\_ 2020.

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CELESTE A. GALBO

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DEPOSITION ERRATA SHEET

Case Caption:

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

\_\_\_\_\_  
(Witness name)

Subscribed and sworn to on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me.

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Notary Public,  
In and for the State of New York

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DEPOSITION ERRATA SHEET

Case Caption: In re: Independent Investigation into  
the City of Rochester's Response

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have  
read the entire transcript of my Deposition taken in  
the captioned matter or the same has been read to me,  
and the same is true and accurate, save and except  
for changes and/or corrections, if any, as indicated  
by me on the DEPOSITION ERRATA SHEET hereof, with the  
understanding that I offer these changes as if still  
under oath.

\_\_\_\_\_  
(Witness name)

Subscribed and sworn to on the \_\_\_\_ day of \_\_\_\_\_,  
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DEPOSITION ERRATA SHEET

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DEPOSITION ERRATA SHEET

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Reason for change: \_\_\_\_\_

Page No. \_\_\_ Line No. \_\_\_ Change to: \_\_\_\_\_

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Page No. \_\_\_ Line No. \_\_\_ Change to: \_\_\_\_\_

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Page No. \_\_\_ Line No. \_\_\_ Change to: \_\_\_\_\_

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Reason for change: \_\_\_\_\_

Page No. \_\_\_ Line No. \_\_\_ Change to: \_\_\_\_\_

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Reason for change: \_\_\_\_\_

Page No. \_\_\_ Line No. \_\_\_ Change to: \_\_\_\_\_

\_\_\_\_\_

Reason for change: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

<b>A</b>	116:23	115:22	88:10	85:19,20
<b>a.m</b> 1:11	138:5	<b>activities</b>	103:11	85:21,22
25:2 90:12	141:3	10:19,21	119:10	<b>aligning</b>
92:25	<b>acelli@e...</b>	<b>actual</b> 115:8	151:8	111:18
94:21	2:9	145:1	<b>AG's</b> 76:3	<b>allow</b> 29:7
96:11,21	<b>acknowledge</b>	<b>ad-libbed</b>	79:15	<b>allowed</b> 19:9
99:25	108:25	145:5	83:21 86:2	<b>allude</b> 50:8
106:20,23	110:10	<b>addition</b>	86:20,25	<b>alluded</b>
126:9	130:9	22:5 30:15	87:3,6	48:13,22
<b>Abady</b> 2:5	134:25	31:2	90:22	76:2
5:16	135:1,8	155:15	101:21	<b>altercation</b>
<b>ability</b>	<b>acknowle...</b>	<b>additional</b>	102:19	37:5
34:15 80:5	33:2	33:16	105:19	<b>alternate</b>
<b>able</b> 14:11	<b>acknowle...</b>	115:25	120:16	49:6
98:6 133:1	33:9	117:4	122:3	<b>Amalia</b> 24:16
<b>absolutely</b>	<b>act</b> 79:5	<b>address</b> 5:6	<b>ago</b> 40:24	24:17,18
23:7 87:25	<b>acted</b> 86:21	30:24	63:13	25:2 32:8
<b>abstained</b>	102:22,23	54:21	90:21,25	89:8 162:3
111:7	103:2,5	57:19	91:24	<b>ambulance</b>
<b>accept</b> 134:8	127:4	85:13	<b>agree</b> 22:12	100:4
154:11	<b>acting</b> 36:7	114:14	23:10 37:3	<b>Amelia</b> 27:1
<b>accepted</b>	39:23 52:9	116:20	38:1 102:3	<b>amount</b> 57:20
154:2,10	79:7,16,25	<b>addressed</b>	110:15	<b>AMR</b> 36:12
<b>access</b> 12:16	<b>action</b> 41:19	77:17 78:3	131:19	<b>and/or</b>
33:2	53:15	114:25	133:7	167:11
<b>accident</b>	54:19	116:12	134:17	168:11
28:19 32:2	75:20 80:9	<b>addresses</b>	<b>agreed</b>	<b>ANDREW</b> 2:8
32:5	80:12	116:1	102:21	<b>Andy</b> 37:12
<b>account</b> 48:6	83:16,17	120:16	103:1,3	37:18
103:23	84:7,13	<b>addressing</b>	110:25	<b>anger</b> 134:11
<b>accurate</b>	85:10,11	101:19	130:2,17	<b>angered</b>
14:12	85:21,25	<b>adds</b> 62:3	133:11	131:13
25:15	86:18,19	<b>administ...</b>	149:17,19	<b>announced</b>
26:13,16	88:10	12:3 96:6	149:19,20	149:15
26:18 34:1	92:13	107:25	<b>agreement</b>	<b>announce...</b>
61:18	98:15	<b>advice</b> 160:5	107:16	14:25 23:2
66:17,23	101:21	<b>advise</b>	130:13	59:18
95:10	102:13,18	120:25	140:2,6	65:24
112:21	103:13,15	<b>advised</b>	<b>ahead</b> 14:11	<b>announce...</b>
113:2,4	121:22,23	97:20	113:5	22:18,23
119:24	166:15	<b>advocated</b>	<b>al</b> 1:5 29:21	23:15
123:18	<b>actions</b> 8:7	108:10,13	<b>alerts</b> 125:5	54:23
129:23	53:24	<b>affirmative</b>	<b>Alessi</b> 27:2	82:15,22
130:11	66:24	6:7 86:19	<b>Alex</b> 99:22	84:20
134:21	78:11	<b>African-...</b>	104:10,17	143:25
138:11	80:19	110:21	105:7	<b>annual</b> 55:18
151:4	83:14	<b>aftermath</b>	108:6	<b>answer</b> 6:7,7
167:10	103:25	143:20	<b>align</b> 109:15	68:25 69:5
168:10	104:2	<b>AG</b> 82:4,4	130:3	128:17
<b>accurately</b>	115:15,17	86:21	<b>aligned</b>	164:20

<b>answered</b>	59:6	56:23	51:24	24:13,15
41:23	164:18,20	<b>arrest</b> 36:6	61:19	25:2 72:3
<b>answers</b>	164:23	36:19,25	91:20	72:3,18
164:15	<b>approach</b>	37:2,4,6	92:22	76:14,20
<b>anticipate</b>	133:2	37:25 38:7	119:9	83:1 89:1
87:23	<b>appropriate</b>	38:13	<b>assumes</b>	101:13,18
<b>anybody</b>	71:17	158:24	61:10	101:23
97:10	108:22	159:5,7	<b>assumption</b>	102:8
146:15	162:11	161:9,9	44:13,14	103:20
<b>anymore</b>	<b>approval</b>	<b>arrested</b>	<b>atrium</b> 98:10	104:20,23
74:24	25:7,10	36:5 38:3	<b>attached</b>	115:18,20
<b>apologies</b>	89:9,14,17	64:19	52:19	148:12,19
100:20	<b>approve</b> 26:2	<b>arrests</b>	60:14	<b>authorize</b>
110:12	<b>approved</b>	10:20	147:1,3	21:5
<b>apologize</b>	26:12	<b>arrival</b> 9:12	<b>attaches</b>	<b>auto-gen...</b>
20:16	121:17	<b>articles</b>	127:20	30:5
42:21 47:4	162:3	123:4	<b>attempt</b> 38:8	<b>auto-gen...</b>
110:7	<b>approximate</b>	<b>aside</b> 50:6	<b>attempted</b>	30:4 33:10
113:25	47:25	<b>asked</b> 21:24	36:8	<b>automatic</b>
116:1	<b>approxim...</b>	29:4 30:24	<b>attempting</b>	60:6
<b>apologized</b>	6:18 8:2	73:5 137:3	36:9 38:9	<b>available</b>
155:20	33:14	137:6	<b>attend</b> 57:1	19:10
<b>apparent</b>	<b>April</b> 3:18	141:3	97:4,4	61:12,13
115:13	3:19 18:23	150:12	128:20	154:6
<b>appeal</b> 60:13	20:12	154:24	<b>attended</b>	159:9
60:18	32:24	<b>asking</b> 5:21	57:2	163:7
<b>Appeal.</b> '	34:23,25	18:3 28:19	<b>attention</b>	<b>Ave</b> 67:24
90:16	55:1 56:18	<b>asks</b> 20:12	20:18,24	<b>Avenue</b> 2:6
<b>appealing</b>	58:3,22	120:25	21:11 78:3	45:25 68:7
27:13 29:1	59:1 60:10	<b>assert</b>	81:5	100:3
<b>appear</b> 67:8	60:22 61:1	134:19	<b>attorney</b>	<b>average</b>
<b>appeared</b>	63:15,20	<b>asserted</b>	5:15 20:7	72:10,11
52:25	64:2 76:17	134:22	22:3 28:19	<b>aware</b> 21:7
129:13	106:10	163:22	32:2 71:9	25:13 28:4
<b>appearing</b>	110:2,6	<b>assertion</b>	79:8 80:11	31:7 33:8
2:2	133:15	98:21	81:13,22	36:1 41:12
<b>appears</b>	141:24	<b>assertions</b>	84:12	46:10
78:10	142:4,12	98:20	90:19 93:2	51:22 53:2
<b>applicable</b>	142:22	151:14	115:19	59:4 60:23
17:25	148:23	<b>assign</b> 16:16	116:15	66:14,18
<b>application</b>	149:3,6	<b>Assistant</b>	120:21,22	82:2,3
16:16	154:15	120:22	121:3,4,20	83:8 84:20
21:13	155:16	<b>assisting</b>	<b>Attorney's</b>	91:21,25
<b>applied</b>	157:5	18:18	82:6	92:2 94:2
21:20	<b>Archie</b> 105:8	<b>assume</b> 19:22	<b>attribut...</b>	97:3
<b>applying</b>	105:9,10	21:21	120:18	104:20
101:24	108:7,13	61:15 94:4	<b>attributing</b>	111:24
<b>appointed</b>	110:25	122:10	36:17	115:16,21
7:8	<b>arises</b> 15:14	154:14	<b>audio</b> 19:7	119:19,24
<b>appreciate</b>	<b>arrange</b>	<b>assumed</b>	<b>August</b> 3:15	120:3,5

144:7,23	159:5,6,13	67:19	159:23,24	69:21,25
151:13	159:17	71:25 73:4	160:5	71:16,20
152:20	161:9,13	74:9,9,15	162:5,22	72:19 81:2
154:15,18	163:4,9	76:1,4,9	164:8	81:9 86:24
154:23	<b>beat</b> 95:5	76:10,21	<b>believed</b>	87:16
155:2,16	<b>Beath</b> 72:24	77:7 78:5	109:23	92:20
160:4	73:14	78:13 79:1	111:4	101:14
<b>awful</b> 74:23	74:13 75:1	81:8 82:18	114:9	104:21
	77:5 78:23	82:19 83:5	135:7,11	108:23
<b>B</b>	79:12 80:3	85:23	136:18	121:2
<b>B</b> 3:7 4:1	82:9 83:11	89:12	137:14	158:22
<b>B.J</b> 13:23	86:14,23	90:19 93:7	<b>Bellucci</b>	<b>bothered</b>
<b>back</b> 16:10	87:14,18	93:18,18	24:16,17	101:23
24:12 30:3	88:16	93:24	24:18 25:2	103:20
30:5 34:21	95:18	96:15 97:3	26:6 27:1	<b>bottom</b> 13:20
44:22	<b>Beath's</b>	97:10,16	89:8	32:23
50:12 58:2	74:12	102:18,23	<b>Bellucci's</b>	<b>branches</b>
60:4 61:12	<b>began</b> 36:12	103:3	162:3	15:18
70:25	<b>beginning</b>	104:15	<b>best</b> 75:6	<b>break</b> 58:14
113:4,6,11	18:24	105:20	105:17	<b>breaks</b> 125:2
122:4	57:15	106:18,24	109:10,19	<b>breathing</b>
126:7,25	<b>begins</b> 13:21	108:18,20	126:19	36:12
139:22	27:7,8	109:4	<b>better</b> 7:12	<b>Brian</b> 125:21
160:7	32:24 90:3	111:3,14	98:18	<b>brief</b> 86:17
164:16	90:4	117:24,25	99:14	131:1
<b>background</b>	<b>behalf</b> 32:3	118:3,8	116:24	156:7
124:22	<b>behavior</b>	119:3,6,16	<b>beyond</b> 22:1	157:14
<b>based</b> 39:13	134:9	121:10,15	53:15,16	<b>briefed</b>
103:16	<b>belief</b> 47:6	121:20	61:3 92:12	151:6
117:11,18	84:6 86:1	122:2	<b>big</b> 41:13	<b>briefing</b>
121:8,9	88:9	123:25	<b>bit</b> 6:1 7:11	152:23
148:1	110:20	125:2	9:14	159:17
157:3	132:25	130:7,23	124:21	<b>briefings</b>
160:17	134:25	131:15	125:17	144:7
161:14	<b>believe</b> 8:14	136:4,14	<b>blocking</b>	<b>briefly</b>
<b>basement</b>	9:5 10:10	139:3,8,9	54:24	75:15
57:8	11:18 23:1	140:21,23	<b>blood</b> 166:15	158:4
<b>basic</b> 6:1	28:12	144:8,8,20	<b>blur</b> 19:7	<b>BRINCKER...</b>
<b>basically</b>	31:20	144:22	<b>body</b> 38:20	2:5
83:19	34:18	145:3	99:11	<b>bring</b> 78:2
86:20	35:25,25	147:16	<b>body-worn</b>	<b>brings</b>
98:10	40:12	148:7,22	16:24 19:2	164:13
109:9	44:17 46:9	149:13,15	19:5,13,15	<b>Brinkerhoff</b>
134:16	46:21	150:5,11	20:20 21:5	5:16
135:10	48:12	150:11	21:13 25:3	<b>broader</b>
152:1	50:23 52:8	151:3,21	26:3 40:23	118:20
<b>basis</b> 55:18	57:2,17	151:22	46:19 65:2	<b>brought</b>
87:13	62:11	153:11	65:19	74:16 97:9
153:22	63:22	154:1,9,20	66:19	97:13
<b>Bay</b> 158:24	65:21	159:18,18	67:13	155:8

<b>budget</b> 54:12	19:15	126:1	150:23	44:19,24
<b>building</b>	20:21 21:5	134:13	161:13	45:11,17
134:3	21:13 25:3	145:10	<b>certify</b>	45:23 46:2
138:12	26:3 40:23	146:1	166:9,14	46:7,13,22
<b>built</b> 16:7	46:19 65:2	150:25	<b>chain</b> 3:12	47:1,7,9
<b>bureau</b> 3:10	65:19	162:8	3:13,14,16	47:17,19
7:4,22,23	66:20	167:3	3:17,20	48:3,7,10
7:25 8:7	67:13	168:2	4:7,8,10	48:13,17
9:3,6,10	69:21,25	<b>cases</b> 21:10	13:13,18	49:10,16
15:17 17:1	71:16,20	<b>categorized</b>	14:4 18:8	49:18 50:7
19:19	72:19 81:2	52:25	18:11,22	50:8,12
21:24	81:9 86:24	<b>category</b>	20:6 27:3	51:6,25
22:14	87:16	162:2	27:7 32:20	52:8,25
24:23 28:2	92:20	<b>cause</b> 78:2	32:23,23	53:2,6,23
33:20	101:14	<b>causing</b>	34:20 60:6	55:12
60:21	104:21	101:25	64:12 71:6	56:20 57:5
<b>bureau's</b>	108:23	<b>cautious</b>	90:1,4	57:7,17,23
25:16	121:2	87:5	94:17,19	58:4,23
34:15	158:22	<b>cc</b> 14:14	158:19	59:3 63:14
<b>business</b> 5:6	<b>Camp</b> 52:9	<b>cc'd</b> 13:17	162:22	63:20
33:15,18	<b>Caption</b>	<b>cc's</b> 90:14	<b>change</b> 11:7	67:10,22
156:23	167:3	<b>ccohen@m...</b>	169:2,4,5	67:22
<b>BWC</b> 19:8	168:2	2:18	169:7,8,10	68:12,21
33:3	<b>captioned</b>	<b>CELESTE</b> 1:16	169:11,13	69:8,12
	167:9	166:6,23	169:14,16	76:17
<b>C</b>	168:9	<b>cell</b> 99:5	169:17,19	77:13,14
<b>C</b> 2:1 166:1	<b>Capuano</b>	122:5	169:20,22	77:18
166:1	13:16	124:20,22	169:23,25	90:11,13
<b>calendar</b>	14:14 23:6	124:23,24	170:2,4,5	90:23 91:2
157:22	24:16,20	125:7,10	170:7,8,10	91:7,23
<b>call</b> 44:22	24:21 27:1	125:11	170:11,13	92:3,7,19
65:11	<b>care</b> 164:23	141:16	170:14,16	94:22 97:9
83:24	<b>Carrie</b> 2:18	<b>Celli</b> 2:5,8	170:17,19	106:11
115:11	42:21	5:4,16	170:20,22	108:2,17
126:4,5,6	58:16	37:9,14	<b>changed</b>	108:18
150:12	<b>case</b> 19:24	<b>Cephas</b> 105:8	14:18	109:14
163:23	20:21	105:9,10	<b>changes</b>	110:21,25
<b>called</b> 73:5	21:17,20	110:14,25	144:9	111:4,12
73:17 74:1	22:1,2,5	<b>certain</b>	167:11,13	111:17
79:1 93:8	22:12	12:24	168:11,13	112:1,1,13
126:5	25:11 30:3	14:22	<b>charge</b> 19:8	113:15,19
153:14	61:17	83:13	31:15	113:23
<b>callous</b>	64:24 65:1	119:13	85:14	114:3,6,16
77:25	65:22 81:7	125:10,11	<b>check</b> 161:22	115:12,14
<b>calls</b> 128:3	81:10	<b>certainly</b>	<b>chief</b> 35:7	115:20
128:9,14	82:25	39:17	35:16,23	116:2,6,13
<b>callus</b> 78:11	85:12	63:24 84:9	36:3,24	116:17,20
<b>calm</b> 133:5	89:12	102:15	40:5 42:3	117:7,12
<b>camera</b> 16:24	100:1	118:13	42:16,23	117:16,22
19:2,5,13	101:2	136:25	43:7 44:10	118:16,20

119:1,4,13	15:1,6,13	11:10	<b>collections</b>	161:21
119:19	15:19	<b>claim</b> 93:1	10:21	<b>communicate</b>
120:1,5	22:15	151:7	<b>collecti...</b>	10:18
128:24	23:14,19	<b>claiming</b>	95:23	11:11,22
129:5	23:23 24:3	163:24	<b>column</b> 99:8	13:7 15:13
130:8,12	24:7 28:20	<b>clarify</b>	99:10,10	80:5 95:22
131:4,18	33:13,17	12:22	<b>come</b> 16:3	119:13
131:21	53:25 54:5	91:12	18:4 21:11	125:4,6,10
132:10,16	54:11,21	<b>clear</b> 24:7	28:22	<b>communic...</b>
132:20	55:18 57:8	63:5	34:21 73:1	15:11 46:3
133:1,8,14	57:18	139:24	73:7 97:19	60:21
133:22	59:10,14	140:5	117:9	148:15,20
134:10	59:18,22	156:3	124:25	<b>communic...</b>
135:13,22	62:11,16	163:4	142:20	61:12
136:9,13	66:24	<b>clearly</b>	150:22	<b>communic...</b>
136:18,21	70:24	140:12	153:23	9:23 10:1
138:8,20	77:16	<b>clicked</b>	154:24	12:24
138:23	78:13	144:10	<b>comes</b> 43:1	22:14
139:7	79:22	<b>client</b> 20:13	99:18	23:18,23
140:1	81:22	32:3	<b>coming</b> 75:21	104:24
142:23	82:15,22	<b>close</b> 30:1,3	88:1	<b>communic...</b>
144:3,9,11	83:8,13	160:14	112:20	7:4 9:18
148:15,20	84:15,19	<b>closed</b> 74:16	130:4	10:16
148:24,25	87:5 88:21	161:11,20	132:19,20	12:20 13:6
149:3,5,11	96:11	<b>closely</b>	132:22	13:6 60:23
149:12,17	97:11,25	10:12	<b>command</b>	95:1
154:15	98:11	<b>closes</b> 16:11	97:10,12	<b>communic...</b>
155:11,12	112:5,6,20	<b>coats</b> 10:22	130:24	3:10 6:14
156:24,25	114:12	<b>coffee</b> 58:15	<b>comment</b> 11:1	7:2,8 8:4
160:1	120:25	<b>Cohen</b> 2:18	11:14	9:3,6,10
<b>chief's</b>	121:4	5:5 24:6	124:6	12:18,19
131:14	123:16	29:2,6	<b>commentary</b>	13:5 15:17
143:20	124:20,22	35:20 37:7	109:22	17:1,21
<b>choose</b> 26:1	124:24	37:12,18	115:7,25	20:2 21:24
<b>Christopher</b>	125:1,6,6	41:21	119:7	25:6 26:7
11:17 81:6	125:10,14	42:18	<b>commented</b>	26:14
<b>Church</b> 5:6	132:22	62:22 63:4	11:16	27:16
<b>circumst...</b>	138:12,16	68:14,17	<b>comments</b>	33:20
10:14	145:24	68:24 69:3	90:7	42:13,15
<b>city</b> 1:5	146:9	104:5	145:16	43:20 44:5
2:13 5:18	152:18	112:23	150:16	52:16 56:8
6:15,24	156:23	<b>cold</b> 77:2,3	<b>committee</b>	60:15,21
7:17,25	157:12,23	<b>collabor...</b>	96:3	60:25 88:2
8:4,7,11	168:3	9:18	<b>committees</b>	88:12
9:23 10:2	<b>city's</b> 5:19	<b>colleague</b>	7:16	111:16,22
10:4 12:9	37:20	5:14	<b>common</b> 35:7	114:2
12:14,18	120:21	<b>colleagues</b>	41:9 44:24	128:14
12:21 13:1	<b>civilian</b>	77:25	65:18	130:25
13:22 14:1	43:14	<b>collected</b>	66:10,13	146:10
14:5,6,22	<b>civilians</b>	78:25	72:5 95:21	164:2

<b>community</b>	160:23	57:1,3,22	56:11	129:12,13
8:10 54:18	162:14,16	57:25	58:10	130:9
55:11	162:19	96:19	70:19 88:1	134:19
57:18,21	<b>concerned</b>	97:18 98:4	88:4	<b>continuing</b>
70:5	30:16,18	107:5,6,9	<b>considering</b>	36:3
112:14	49:17	107:12,19	94:4	<b>contradi...</b>
116:25	63:14,19	107:22	<b>consistent</b>	129:14
132:24	111:21,23	109:4	50:22	<b>contribute</b>
<b>communit...</b>	132:3	118:3,7,9	101:11	111:9
10:21	133:3	118:12,13	148:9	<b>contribu...</b>
<b>compile</b>	<b>concerning</b>	118:16	159:9	100:10
147:25	45:9,10,20	119:18	<b>consiste...</b>	157:6
<b>complain</b>	49:9 56:19	127:21	28:3	<b>convenience</b>
70:22	117:7	128:21,24	<b>consoled</b>	65:11
<b>complete</b>	129:22	129:3	158:5	<b>conversa...</b>
19:6 41:4	150:16	131:1	<b>constraints</b>	48:3,16,19
43:9 68:2	<b>concerns</b>	133:18	82:5	49:10,16
103:11	14:13 31:3	138:15	<b>construc...</b>	50:3,7
138:4	79:3	141:23	60:13	79:24 84:5
<b>completed</b>	111:17	142:4,7,12	<b>consumption</b>	84:15,24
87:1,4	113:20	143:18,19	140:24	92:11,12
<b>completely</b>	114:1,5,25	143:22,23	<b>contacted</b>	92:15
160:3	158:21	143:24	60:17	93:14 95:6
163:6	161:8	145:2	<b>contacting</b>	100:19,22
<b>complied</b>	<b>concerted</b>	<b>conferen...</b>	14:17	101:7,13
34:3 100:3	110:3	1:15	<b>contained</b>	101:17
101:9	<b>concerts</b> 8:8	<b>confidence</b>	40:1	102:8,11
121:4	<b>concisely</b>	132:19,21	150:21	102:15
<b>comply</b> 98:16	140:12	<b>CONFIDEN...</b>	<b>contains</b>	103:20
<b>complying</b>	141:1,4	1:1	99:4	108:1
61:20	<b>concluded</b>	<b>confirm</b>	<b>content</b>	111:11
68:10 69:8	130:13,16	113:4	26:10	117:25
69:9	130:20	<b>confirmed</b>	107:13,18	118:10,23
<b>computer</b>	<b>conclusion</b>	120:23	107:21	118:24,25
16:7 74:16	57:24	<b>conflated</b>	120:3	119:12,19
<b>computer...</b>	129:2	159:3,4	<b>context</b> 5:20	119:25,25
33:11	<b>concurred</b>	161:7	37:10	130:3,12
<b>concern</b>	75:3	<b>conflict</b>	100:11	130:15,18
23:22 31:2	<b>conduct</b> 5:18	112:4,13	103:22	130:20,23
70:9 79:21	57:3	<b>conflicts</b>	105:15	131:20,23
112:10,11	123:12	85:16	118:20	132:2
112:14,18	147:19	<b>conjunction</b>	136:20	133:17
114:7,10	<b>conducted</b>	34:4	142:7,11	136:20
114:15	41:4 43:10	<b>Connections</b>	142:14	138:20,23
123:17	57:25	151:14,15	<b>continue</b>	139:6,11
128:2,2,9	<b>conducting</b>	<b>consciou...</b>	30:7	139:25
129:12,12	41:2 43:8	100:8	131:21	140:7,19
129:18	147:21	103:18	132:10	148:23,25
130:1,8	<b>conference</b>	<b>consider</b>	<b>continued</b>	149:3,6
132:18	56:19,24	55:13,15	4:1 116:19	151:11,17



152:14	55:11 59:5	58:25	150:17	<b>COURT</b> 1:25
156:7,8,15	66:9 96:18	59:17 61:5	151:18	5:1
157:10,15	<b>coordinates</b>	62:10 63:3	154:16,17	<b>COVID</b> 13:7
<b>conversa...</b>	8:8	65:17	156:11,11	54:12
47:16,19	<b>copied</b> 18:12	67:10,11	156:17	57:15
49:14,15	61:25	67:14,15	162:4,6,11	<b>CPR</b> 36:12
49:17,21	62:15,18	70:11	162:12	<b>created</b> 9:15
49:23 50:2	64:5 72:5	72:17,21	<b>corrections</b>	112:20
50:5,5,8	<b>copies</b> 22:17	73:16 74:5	167:11	114:3
80:3,8	23:14 62:3	74:6 76:23	168:11	<b>crime</b> 55:5
86:23	71:3	80:1,2	<b>correctly</b>	57:14
88:15	<b>copy</b> 15:5	81:23 82:1	86:22 98:1	<b>crimes</b> 41:3
109:16	19:8 145:4	82:2,11	160:16	42:5 43:9
117:15,19	145:18	83:4 87:2	<b>correspo...</b>	56:13,14
118:15,17	<b>copying</b>	87:4,10,17	70:23	<b>criminal</b>
118:19,22	24:16 65:6	88:19	<b>council</b> 5:18	36:6 39:4
119:1,5	<b>corporation</b>	90:20	13:1,22	39:11 41:2
120:3,4	66:10 72:2	91:12 92:5	14:1,17,22	41:3 42:4
130:17	72:25 73:4	94:3,6,7	15:1,6,13	42:7,13
134:20	75:8,10	97:1 98:4	22:15,18	43:4,8,9
136:16	78:23	99:24	23:14,19	79:7 80:10
141:11	84:12	101:25	23:24 24:3	80:17,22
147:17	115:17	102:1,4	24:7 57:18	80:24,25
148:2	146:9	103:14	59:10,15	81:12 82:4
152:23	<b>correct</b> 7:6	107:9,10	59:22	82:21 83:3
155:10	7:14 8:16	109:17,18	84:19	83:12
156:22,24	9:7,25	109:18,25	144:21	90:18
157:4	14:3,6	110:16,17	152:19	163:25
<b>convey</b> 8:5	15:16	112:22	<b>counsel</b> 5:1	<b>criticism</b>
61:13,14	16:18,19	120:10,11	8:15 66:11	83:18
130:7	17:10,20	122:11	72:2 73:5	<b>cuffed</b> 40:14
141:4	18:13	124:7	75:8,10	<b>cup</b> 58:15
160:21	19:20,21	127:21	78:23	<b>current</b> 6:13
<b>conveyed</b>	20:1,4	128:4,5,25	80:24	156:24
55:23,25	25:4,5	129:1,24	84:12	<b>currently</b>
82:7 84:10	27:21,22	131:5,24	97:18 98:6	10:10 66:5
84:11	28:1 31:4	131:24,25	98:20	82:1
113:21	31:4,11	132:1	115:17	<b>Curtin</b> 27:9
114:9	39:15,16	133:3	144:21	27:15,23
120:9	39:19 42:5	135:20,21	160:6	28:6,24
131:22	42:6 44:3	135:21	<b>Counsel's</b>	29:3,12,15
135:11	44:9 45:7	137:23	72:25	29:17
136:1,25	46:5,14	138:9,10	146:9	30:23
137:16	48:1,18,21	138:14,18	<b>County</b> 81:22	51:22
138:5	48:24	140:6	81:25	64:16 65:7
<b>conveying</b>	49:19,22	143:16	166:4	66:7,11,25
13:2 46:9	52:2,3	144:1,2	<b>couple</b> 56:18	67:7,9,12
<b>cooperation</b>	53:9,17	145:3	63:13	67:21
164:21	54:5,6	147:7,9	<b>course</b> 55:9	68:13
<b>coordinate</b>	56:8,9	148:17	72:12,14	69:16

75:11,12	95:14 96:6	145:6,14	1:10	<b>definitely</b>
75:14,18	100:23	146:24	<b>decide</b> 25:22	72:14
75:24 77:5	105:14	147:12,13	97:2	79:19
78:24	106:15	150:14	132:15	<b>definition</b>
79:12 80:4	146:25	156:8,25	161:1	39:11,14
82:10	148:16,21	158:4	<b>decided</b>	44:17
83:11	<b>Danika</b> 122:9	164:24	96:24	<b>definitive</b>
86:15,23	122:10,12	166:19	114:15,15	48:15
87:14,19	<b>dark</b> 142:17	167:18	124:13	113:18
88:16	142:18	168:18	143:24	<b>definiti...</b>
90:13	<b>date</b> 47:25	<b>day-to-day</b>	144:12	83:7
92:17,24	120:2	54:24	147:5	111:24
93:6,11	137:18	<b>days</b> 33:15	<b>deciding</b>	<b>delirium</b>
94:14,21	170:24	33:18	66:19	36:18
95:18 96:1	<b>dated</b> 3:15	56:18	<b>decision</b>	38:24
105:7,13	3:18,19	63:13	12:2 65:15	39:22
105:15	13:17	155:11	113:23	<b>denial</b> 60:13
108:6,14	18:23	156:21	114:5	162:11
111:6,9	24:13	157:22,22	144:15	<b>denials</b>
115:17	26:25	<b>deadline</b>	147:15	161:22
121:10,16	34:25 59:1	34:3,11,16	157:6,25	<b>denied</b>
121:16	<b>dates</b> 148:11	61:4,8,20	<b>decisions</b>	160:13
123:11,15	148:14,19	<b>deadlines</b>	13:8	162:7
123:20,24	<b>day</b> 14:14	30:10 34:7	114:17	163:24
124:4	20:7,16	<b>deal</b> 41:14	<b>DECLARATION</b>	<b>deny</b> 160:19
145:9,17	64:14 66:6	44:1	167:5	<b>denying</b>
146:6	70:8 71:9	<b>dealing</b>	168:5	161:12
153:14	71:25 72:3	56:13	<b>declare</b>	<b>department</b>
154:24,25	73:6,11	<b>dealt</b> 38:12	167:7	7:22,25
155:15	77:1 83:23	41:7	168:7	10:5,6,9
158:3	88:14 93:9	<b>death</b> 5:19	<b>deemed</b> 9:3	11:8 12:12
<b>custody</b> 35:6	95:19	36:16	13:13 18:8	12:25 13:8
36:8 47:11	105:5	39:12,15	24:14 27:3	16:14 17:6
56:1,4	107:9,15	41:2,7,17	32:20 35:1	17:11,14
115:14	108:24	41:25	59:2 64:13	17:15,18
116:5	109:3	43:22	67:5 71:6	17:21,24
<b>custom</b> 16:7	113:14	46:21	90:2 94:18	17:24 19:3
<b>cut</b> 9:14	114:19	47:12	99:2 105:3	19:18
<b>cuttings</b>	115:12	49:22	114:23	21:15,16
54:22	118:3	55:13,16	120:12	21:21 22:9
	120:2,15	56:7,17	123:7	23:23 25:7
<b>D</b>	121:10,20	90:7 94:23	124:17	27:17,19
<b>D&amp;C</b> 125:22	123:9	101:25	127:15	28:11,14
<b>DA</b> 119:9	124:14	115:23	143:4	28:22 30:1
<b>daily</b> 66:6	133:5	116:19	145:11	31:1,15
<b>Daniel</b> 5:20	138:16	<b>deaths</b> 41:9	153:5	34:5 40:24
33:5 36:5	139:4,7	44:2 55:17	158:20	42:15
36:21 90:7	140:15	55:20,21	<b>deeply</b>	43:23,24
92:15	143:15	<b>debate</b> 104:6	116:21	51:4 52:10
94:23 95:1	144:6	<b>December</b>	<b>defer</b> 56:15	54:2,15

60:12,18	137:23	156:14	140:13,16	50:25
61:6,10,10	144:9,23	157:18	<b>differently</b>	54:14,18
61:19 62:9	147:14	<b>detail</b> 80:14	129:19	54:20,24
72:7 78:11	150:3	119:6,15	139:13	64:3 65:12
85:13 87:8	153:20	135:24	148:25	69:24 70:3
105:13	156:25	<b>details</b>	<b>difficul...</b>	70:16
112:15	157:16	73:22	142:15	71:12,15
114:11	<b>describe</b>	127:12	<b>digital</b> 57:8	83:22
115:10	10:15 49:2	131:22	<b>direct</b> 112:2	84:14 86:7
116:8,16	50:1	162:24	<b>direction</b>	86:11,14
120:21	111:21	<b>determin...</b>	69:9 97:23	87:15,18
126:16	<b>described</b>	22:6 28:21	98:15	93:8,16
132:23	12:1 30:16	39:4,4	99:11	94:24
146:1	31:3 34:13	163:1	<b>directly</b>	102:20
160:18,25	45:11	<b>determin...</b>	7:13 16:21	118:17,25
<b>departme...</b>	46:11	17:5 39:7	18:20 43:1	123:23
112:6	50:10 54:4	<b>determine</b>	43:2 60:18	131:10
<b>departments</b>	63:15,20	26:21	61:14	134:4
10:4 12:12	89:7	28:16	85:13 94:1	140:8
12:21	101:12,23	107:11	116:2	144:15,18
15:18 16:8	109:7	160:19	117:9	144:19
18:1,6	117:16	<b>determined</b>	<b>director</b>	155:16
33:24	125:5	21:19	6:14,21	156:5
125:1	138:25	36:16	7:1,9 8:3	157:9,10
<b>depending</b>	142:24	162:25	12:19 56:8	<b>discussed</b>
11:12	<b>describing</b>	<b>determines</b>	128:14	11:18
25:20	30:21	32:6	145:14	29:14 54:9
66:25	93:13 95:6	<b>determining</b>	164:3	54:20
<b>depicted</b>	102:3	17:2 19:19	<b>disagree</b>	62:23 66:1
20:21	137:22	19:24	134:18	67:17 70:4
<b>deposed</b> 5:23	147:4	<b>died</b> 38:19	<b>disagreed</b>	84:4 91:4
<b>deposition</b>	<b>description</b>	38:21	49:4	91:6 92:6
1:14	3:9 4:3	47:10,11	110:15,15	94:8 95:14
166:11,12	101:8,11	100:9	<b>disagree...</b>	95:20
167:1,8,12	101:16	<b>difference</b>	98:12	97:15
168:1,8,12	<b>descript...</b>	39:6	136:5	102:9
169:1	9:9	<b>different</b>	<b>disagree...</b>	104:16
170:1	<b>Design</b> 6:22	12:25	107:23	118:21
<b>deputy</b> 24:21	<b>desire</b> 15:11	16:23 48:6	136:3	124:6
24:25	15:12	48:23	<b>disappoi...</b>	129:11
47:17	66:16	49:14 50:9	116:21	142:11
72:25 73:3	70:14 79:4	50:23	<b>disappoi...</b>	147:1
73:17,25	85:20	64:11	115:7	155:19
74:7 75:22	92:13 98:7	66:20 67:8	119:12	<b>discussing</b>
77:9 78:23	98:13	108:8	156:1	58:24 65:5
79:1,9	103:13,15	112:19,20	<b>discipline</b>	126:14
80:4 82:10	127:5	113:21	27:11,17	142:6
83:12,24	<b>despite</b>	116:6	27:21	161:8
93:19 95:8	56:10	129:22	30:25	<b>discussion</b>
108:6,10	113:22	133:2	<b>discuss</b>	14:21

74:18 85:2	147:15	<b>drove</b> 76:9	140:15	29:15,20
86:17 89:3	149:23	<b>drug</b> 38:20	147:4	30:4,5,15
93:10	154:2,3	38:22	155:11	32:20,23
104:11	<b>document...</b>	115:13	162:3	32:23,24
107:4	33:4 40:25	116:5	<b>earliest</b>	33:1,6,11
108:3	98:9 159:8	122:16	65:11	34:19,23
111:10	<b>documents</b>	123:2	<b>early</b> 73:6	34:25 35:2
113:13	30:6,12	<b>drugs</b> 38:20	<b>edict</b> 23:13	35:8,11
141:7	31:9 32:11	<b>DRYS</b> 14:16	<b>effect</b>	36:3 38:16
<b>discussions</b>	33:25	<b>dubious</b>	136:23	38:17,22
23:17	61:12	161:6,13	137:9	40:1,22
69:19 87:8	89:21	161:23	<b>effort</b> 73:10	41:25 43:3
104:24	158:22	<b>due</b> 38:19	110:3	43:7,16,18
106:14	<b>doing</b> 6:20	55:16	<b>efforts</b>	44:19 45:8
157:24	36:11	70:21 76:2	57:19	45:13,13
158:2	85:12	78:10 79:7	<b>Ehlers</b> 66:5	45:15,17
159:12	158:12	80:10	133:4	47:16
<b>dismiss</b>	160:5	81:11	164:11	49:11
108:17	<b>door</b> 68:11	84:10 86:2	<b>either</b> 10:24	50:12,14
110:22	74:16	86:19	11:24 20:3	50:23,24
114:16	<b>DOS</b> 62:10	89:20	33:13,24	50:25
<b>dismissal</b>	<b>double-c...</b>	101:21	61:13 72:3	51:11,14
108:2,9,11	32:17	102:18	123:24	51:19,20
111:12	<b>doubled</b>	141:2	147:12	51:21,25
<b>dismissed</b>	109:21	163:7	151:2	52:5,7,19
81:8	<b>doubt</b> 109:8	<b>duly</b> 5:8	163:15	52:24 53:5
108:19	109:24	166:12	<b>Elliot</b> 27:12	53:8,16,19
110:16	142:13	<b>duties</b> 8:3,5	28:25	53:20,21
113:15	<b>dozen</b> 72:13	9:22	29:14,17	58:2,23
<b>disposition</b>	<b>dozens</b> 72:14	<b>duty</b> 12:24	32:25	59:1 60:5
81:19	87:12	51:9	60:11 71:2	60:10,10
<b>disregard</b>	<b>Dr</b> 108:7,13	146:15	<b>else's</b> 42:19	61:23,23
77:25	110:14,24	<b>dying</b> 116:5	<b>email</b> 3:12	62:1,2,12
<b>District</b>	110:25		3:13,14,15	62:19,21
81:13,22	<b>draft</b> 15:5	<b>E</b>	3:16,17,18	63:2,11,13
82:6	127:23	<b>E</b> 2:1,1 3:7	3:19,20,21	63:17,18
<b>disturb</b> 78:2	149:13	4:1 166:1	3:23,24,25	63:20,23
<b>disturbed</b>	<b>drafted</b>	166:1	4:4,5,7,8	64:5,6,9
39:24	117:10,13	<b>earlier</b>	13:13,15	64:12,14
102:16	147:10	11:19 12:6	13:18,21	64:16,18
<b>division</b>	148:13	51:24 59:8	14:4,7,14	64:22 65:6
10:15	149:25	89:6 95:4	18:8,11,14	66:3 67:17
11:25	<b>drafting</b>	101:12	18:22,23	69:7 70:7
<b>DKX</b> 126:4	117:23	113:13	18:24 19:3	71:2,4,6
<b>document</b>	128:3	118:21	22:11 23:5	71:12,19
4:12	149:2	121:10,20	23:19	72:16
124:16	<b>draw</b> 83:17	131:23	24:13,15	76:17
140:18,22	<b>drive</b> 77:15	137:8,15	25:1 26:12	85:17
140:24,24	<b>dropping</b>	137:22	26:25 27:3	87:12 89:7
147:3,7,11	138:21	138:1,16	27:5,7,8,9	90:1,3,4,9

90:13 91:7	14:16	116:11	<b>everybody</b>	164:25
91:13,14	18:17,18	<b>entitled</b>	111:3	<b>excusing</b>
92:19,23	22:4 62:12	4:12	164:23	103:24
93:5,12,23	62:15	105:12	<b>exact</b> 12:8	104:1
93:24	123:16	124:16	77:1	<b>executive</b>
94:10	124:2,5	<b>ERRATA</b> 167:1	126:12	156:25
105:3,5,6	<b>employees</b>	167:12	164:10	<b>exemption</b>
105:12,16	16:4,15	168:1,12	<b>exactly</b> 15:3	71:11
106:1,6,9	17:8 21:23	169:1	37:1 48:25	<b>exhibit</b> 3:10
106:10,13	22:6 24:19	170:1	107:20	3:12,13,14
106:22	25:7 26:7	<b>erred</b> 110:21	135:22	3:15,16,17
108:5	26:14 28:6	<b>error</b> 30:23	<b>EXAMINATION</b>	3:18,19,20
110:2,6	28:16	<b>errors</b> 29:23	5:10	3:21,22,23
120:12	80:19 89:8	29:24	<b>examined</b> 5:9	3:24,25
123:7,10	125:6,10	30:16,19	<b>examiner</b>	4:4,5,6,7
123:13,16	125:11,13	30:20,21	39:3,3	4:8,9,10
123:23	<b>employment</b>	31:8	45:1	4:11,12
124:2,5,12	6:20 80:1	<b>ESQ</b> 2:8,10	<b>examiner's</b>	9:2 13:10
127:15,17	<b>empowered</b>	2:18,19	51:8 151:8	13:13 18:8
142:23	147:18	<b>essence</b>	<b>example</b> 11:4	18:10
143:1,4	150:6	38:19 79:6	12:23 17:8	22:11
144:8,19	<b>encounter</b>	86:20	<b>exaspera...</b>	24:11,13
145:8,11	40:8	103:9	23:11	26:24 27:3
146:24	<b>encountered</b>	109:6	<b>exception</b>	32:19,20
154:15,19	21:9 56:7	127:4	10:5	34:22,25
155:1,3,13	<b>ended</b> 100:7	130:3,5	<b>excessive</b>	58:21,22
155:16,24	103:17	145:4	102:5,9	59:1 60:4
156:3,4,6	130:21	<b>estimate</b>	103:14,19	64:11,11
156:12,14	146:3	72:9	<b>exchange</b>	64:12 67:2
157:5	<b>endorse</b>	<b>et</b> 1:5 29:21	4:11 23:19	67:3,4
158:16,19	133:6	<b>evaluation</b>	62:1 64:14	70:25 71:1
159:11	<b>enforcement</b>	163:19	67:4,7	71:6 89:25
160:9,11	42:9	<b>evening</b> 46:1	74:1	90:1 94:16
162:22	160:14	46:24	145:17	94:17
<b>emailed</b>	<b>engaged</b>	73:25	152:13	98:25 99:1
35:16,19	39:10 87:8	98:23,24	158:21	99:4 105:2
145:15	127:2	139:9	<b>exchanges</b>	105:3
149:14	<b>engagement</b>	<b>event</b> 11:12	72:6	114:21,22
<b>emails</b> 13:3	127:1	11:14 65:8	<b>excited</b>	120:12,14
33:9 87:13	<b>entail</b> 59:18	65:14	36:18	123:6,7
107:1	70:17	82:14	38:24	124:15,16
<b>emerging</b>	<b>entire</b> 167:8	<b>events</b> 6:15	39:21	127:14,15
14:13	168:8	8:8,8,10	<b>exclusively</b>	141:15,16
<b>Emery</b> 2:5	<b>entirely</b>	49:5,7	10:3	143:3,4
5:16	116:6	59:10	<b>excuse</b> 31:9	145:7,11
<b>empathy</b> 76:7	143:23	109:7	46:22	150:15
<b>employ</b> 81:8	<b>entirety</b>	112:3	47:15	153:1,4
83:8	49:21	159:4	109:5	158:9,19
<b>employee</b>	81:18	<b>eventually</b>	161:9	<b>exhibits</b>
13:4 14:6	85:23	83:17	<b>excused</b>	4:15 8:14

8:15 63:7	<b>extension</b>	<b>familiar</b>	63:12,17	66:11
140:18	33:25	9:20 39:5	63:24 67:9	71:11 72:6
<b>existing</b>	<b>extent</b>	<b>family</b> 40:23	71:1,23	78:18
80:16,21	111:25	70:22	72:1,20,22	86:12,24
<b>expect</b> 77:13	120:6	90:20	73:8,9	86:25
88:21	132:7,13	92:25	76:21 81:5	87:13
89:16	133:13	97:18,21	91:9,17	88:20,22
<b>expected</b>	134:18	98:6	94:25 99:8	89:3,21
77:11	<b>extracted</b>	<b>family's</b>	104:11	105:20
87:19	141:17	97:24	105:22	106:2,15
<b>expediency</b>	<b>extractions</b>	98:20,21	127:4	106:16
146:14	142:16	<b>fee</b> 27:14	131:6	115:19
<b>expenses</b>		<b>feel</b> 25:25	144:3	158:21,25
25:24	<b>F</b>	128:6,13	145:21	160:8,18
<b>experience</b>	<b>F</b> 166:1	<b>feels</b> 85:10	146:17	162:3,7,23
45:1 62:13	<b>fact</b> 40:3	<b>felt</b> 26:10	150:23	164:6
62:14	48:14 56:2	<b>Festival</b>	151:10	<b>FOILs</b> 27:11
<b>Experien...</b>	66:14 75:8	23:2	153:9	27:13,17
116:4	77:8 81:11	<b>festivals</b>	<b>five</b> 95:14	27:21 28:7
<b>explain</b>	82:2,3	8:9	95:21,23	28:10 29:1
15:25	102:17	<b>Fifth</b> 2:6	97:6	30:25
153:16	110:8	<b>figure</b> 126:2	<b>flag</b> 52:15	<b>folks</b> 27:10
<b>explained</b>	132:7	126:18	<b>flee</b> 38:8,9	<b>follow</b> 23:13
38:19	134:6	<b>filed</b> 90:20	<b>FOERSTER</b>	51:6
80:13	138:4	92:25	2:14	130:16
83:12	155:23	145:24	<b>FOIL</b> 8:12	<b>follow-up</b>
<b>explains</b>	<b>factor</b> 31:25	146:8	12:14	18:3 66:3
19:2	157:6	<b>final</b> 164:5	15:21,24	107:4
<b>express</b>	<b>factors</b>	<b>find</b> 146:6	15:25 16:2	<b>followed</b>
23:22	36:17	160:9	16:13,16	27:25
98:12	38:11	<b>findings</b>	17:3,13,22	<b>following</b>
110:18	100:10	142:24	18:18	16:2 23:19
119:12	<b>facts</b> 119:14	151:8	19:12,15	57:22 72:4
136:22	<b>factual</b>	<b>fine</b> 29:9	19:20 21:6	119:20
137:5	98:22	73:9	21:24	138:19,22
<b>expressed</b>	<b>failed</b>	<b>finish</b> 69:9	24:12,19	152:13
59:9 92:13	108:25,25	<b>finishing</b>	24:22 25:4	<b>follows</b> 5:9
103:7,8	132:5,8	70:9,10	25:8,13,16	20:11
113:20	133:4,5,20	<b>fire</b> 10:5	26:14	67:20
114:1	<b>failing</b> 24:7	113:19	28:17	<b>footage</b>
129:17	116:22	<b>fired</b> 149:11	29:13	16:24 19:2
156:1	<b>failure</b> 24:3	<b>firm</b> 5:16,17	30:10	19:5,8,13
162:13	119:13	<b>first</b> 6:23	31:12,18	19:16
<b>expressing</b>	132:4	7:10 14:17	32:7,16	20:10,21
22:13	<b>failures</b>	14:20 19:6	33:3,11,21	21:6,13
27:24	134:9	21:3,7	34:7 60:7	26:4 46:20
123:17	<b>fair</b> 37:11	28:5,8	60:14 61:9	65:2,9,10
135:6	152:7	35:4 36:20	61:17	65:14,16
<b>expression</b>	<b>false</b> 109:19	41:11 48:2	62:15,24	65:19,25
129:21	127:8	56:7 63:12	64:21	66:1,7,16

66:20	108:21	139:20	166:6,23	164:16
67:13,16	110:11	<b>frustration</b>	<b>game</b> 37:11	<b>goes</b> 14:17
68:11	132:6	22:13	<b>general</b>	14:24
69:11	134:23	103:8,12	34:17	40:22
71:16,21	156:3,6	139:19	49:12	91:14
72:4,19	<b>forward</b> 18:5	<b>fulfill</b> 16:9	55:10 79:8	<b>going</b> 5:21
81:2,9,14	27:11,16	<b>fulfilling</b>	80:11	8:13,18
82:14	29:13	115:19	84:12	10:24
86:24	93:17,23	<b>fulfillment</b>	120:22	15:14
87:16,20	147:1	61:11	121:21	18:23
88:6,7	<b>forwarded</b>	<b>full</b> 45:24	<b>General's</b>	22:10
89:21	17:15	81:19	71:9 90:19	24:11,12
92:21	28:11 30:2	103:23	121:3,5	25:17
101:14	30:25	111:25	<b>generally</b>	26:24 29:6
104:21	31:10	120:6	15:25	32:22
108:23	89:13,13	<b>full-screen</b>	84:25	34:20,22
121:2	90:10	19:7	106:17	36:9 37:7
158:23,23	93:24	<b>fully</b> 45:24	<b>getting</b>	50:12 58:2
159:8,13	123:10,20	46:13,17	53:19	58:20 60:4
163:7	123:24	46:22	100:6,7	64:10 67:2
<b>force</b> 39:18	124:4	109:9	101:11	70:22
40:8 78:1	145:16	114:9	104:4	75:22
101:24	<b>forwarding</b>	116:22	155:4	89:24
102:5,9	28:7	133:6	160:7	94:16
103:14,19	123:16	<b>fun</b> 158:11	<b>girl</b> 11:19	97:17
<b>forcibly</b>	147:20	158:12	<b>gist</b> 49:2	98:15
115:15	<b>forwards</b>	<b>function</b>	<b>give</b> 6:7	99:12
<b>forgetting</b>	14:14	66:14	11:4 44:22	102:16
12:7	90:11,13	<b>fundamental</b>	124:21	108:17
<b>form</b> 20:17	<b>found</b> 81:8	164:12	<b>given</b> 97:20	113:19
21:4	110:6	<b>furious</b> 77:8	114:15	115:2
<b>formal</b> 15:8	153:12	<b>further</b>	164:15	122:4
43:25	<b>four</b> 66:6	23:17 76:8	166:13	124:15
<b>former</b> 18:17	<b>Frank</b> 52:9	89:2	<b>glanced</b>	125:16
45:17	59:6	104:23	124:13	128:18
46:22	<b>frankly</b>	106:14	<b>gleaned</b>	131:18
77:14	112:16	116:1	123:3	133:10
117:12	155:3	117:25	<b>go</b> 6:1 16:21	134:9
143:20	<b>Frat</b>	130:2,14	16:22,25	140:1,6
<b>forth</b> 126:25	160:11	130:18	17:18	141:19
139:22	<b>free</b> 73:23	140:11	27:19	152:21
166:11	73:24	152:22	32:22	153:1
<b>forthcoming</b>	126:6	157:24	58:15	158:8
45:24	<b>Freedom</b> 12:8	166:14	70:25	162:24
46:13,18	19:4	<b>FYI</b> 34:24	91:13	<b>good</b> 5:12,13
46:23 47:7	<b>Friday</b> 156:9	90:14	113:5,11	58:13,14
109:24	<b>front</b> 141:1		115:3,4	106:21
111:1,5	<b>frustrated</b>		116:10	158:14
112:2	85:18 86:1	<b>G</b>	141:5	<b>Googled</b>
<b>forthright</b>	102:17	<b>GALBO</b> 1:16	158:14	90:16

<b>gotten</b> 76:17	101:9	111:25	70:20,21	<b>I</b>
<b>government</b>	<b>guys</b> 23:8	112:12,14	89:11,14	<b>ICU</b> 36:13
6:24 8:7	68:2 74:21	120:6	94:5 100:2	<b>idea</b> 68:6,18
9:17 12:21	75:4 85:19	126:8,24	101:9	96:13
15:19	126:7	127:6	<b>high-pro...</b>	101:1
53:25 54:5	163:24	129:15	89:7	121:25
54:19		138:5,5	<b>highlighted</b>	124:8
59:25	<b>H</b>	141:2	128:1	126:23
62:11,12	<b>H</b> 2:18 3:7	<b>happening</b>	<b>highly</b> 158:6	151:16
62:15	4:1	27:12	<b>HIPAA</b> 20:16	157:2
66:24	<b>Hall</b> 57:9	<b>hard</b> 86:21	21:4,9,20	<b>identifi...</b>
84:16,19	77:16	<b>head</b> 6:8	21:25 22:7	9:4 13:14
85:6 97:11	96:11	7:23 19:17	<b>HIPAA's</b>	18:9 24:14
114:12	97:25	32:14	21:13	27:4 32:21
157:12,23	98:11	35:17 76:9	<b>HIPPA</b> 20:9	35:1 59:2
<b>grant</b> 160:19	138:13,16	142:21	<b>hiring</b> 11:7	64:13 67:5
<b>great</b> 6:12	<b>hamper</b> 87:5	<b>heads</b> 7:22	<b>hobbled</b>	71:7 90:2
8:21 58:16	<b>hand</b> 139:3	7:22,25	40:15	94:18 99:3
141:15	166:19	13:9	<b>hold</b> 97:24	105:4
164:24	<b>handcuffed</b>	<b>health</b>	<b>holiday</b> 13:5	114:23
<b>ground</b> 36:8	40:15	158:24	<b>homicide</b>	120:13
36:11 40:6	<b>handcuffing</b>	<b>hear</b> 38:6	36:16	123:8
<b>group</b> 6:22	11:18 65:2	46:16	38:25 39:2	124:18
96:1	159:4	47:14 48:6	39:8 125:2	127:16
104:11,13	161:10,17	98:5	<b>homicides</b>	143:5
105:16	162:19	<b>heard</b> 36:20	141:23	145:12
106:13,25	<b>handle</b> 8:11	45:5 90:16	<b>honest</b> 9:19	153:5
107:11,16	52:10	109:13	47:3 132:6	158:20
107:24	<b>handled</b>	<b>hearing</b>	135:25	<b>immediate</b>
118:21,23	42:14,24	76:22	136:18	83:16,17
118:24,25	160:1	139:17	<b>honestly</b>	98:8
119:11	<b>handles</b>	<b>held</b> 6:16	74:10	143:20
137:21	24:19	97:18	89:15	<b>immediately</b>
<b>groups</b> 8:10	<b>handling</b>	110:18	122:2	97:24 98:4
<b>guess</b> 14:24	5:19 43:21	<b>help</b> 56:23	146:19	108:22
29:7 35:21	105:19	<b>helped</b> 57:3	147:22	109:11
79:21	<b>hands</b> 40:11	<b>helps</b> 126:2	152:21	<b>implied</b>
81:18	76:2	<b>hereinbe...</b>	<b>hope</b> 78:1	134:15
113:9	<b>hands-on</b>	166:11	<b>hopefully</b>	<b>implies</b> 37:4
127:1,12	37:4 38:1	<b>hereof</b>	57:20	38:1
143:24	<b>happen</b> 55:4	167:12	<b>hospital</b>	<b>imply</b> 152:8
<b>guessing</b>	75:5 85:1	168:12	100:9	152:9
93:1	85:22	<b>hereunto</b>	<b>Hotmail</b>	<b>importance</b>
<b>guidance</b>	145:25	166:18	99:17	25:23
21:15 22:8	<b>happened</b>	<b>hey</b> 158:6	<b>hours</b> 66:6	<b>important</b>
<b>guidelines</b>	46:23 47:1	163:24	116:18	59:10
6:2	55:24,25	<b>high</b> 55:7,14	156:12	96:16
<b>guilty</b> 81:8	70:6 81:10	55:16	<b>HUDSON</b> 1:25	102:13
<b>gun</b> 36:10	88:2	56:11	<b>human</b> 79:21	140:21
<b>guy</b> 100:2	109:16	57:11	<b>hygiene</b> 36:5	<b>imposed</b>



40:19	91:18 92:4	<b>INDEX</b> 3:1	109:20	64:24
<b>impression</b>	92:8 93:11	<b>indicated</b>	113:21	124:25
49:12 69:7	94:4,9	40:2	117:5,8	<b>inquiring</b>
81:16 84:8	96:7,20	167:11	121:1,8,24	91:18
88:16	101:12,16	168:11	123:3	<b>inquiry</b> 36:2
<b>improperly</b>	103:24	<b>indication</b>	125:1	42:25 52:1
102:22,23	104:16	53:23	127:8,11	52:5 55:5
103:2,6	107:7	<b>individual</b>	129:15	60:2 66:23
<b>in-custody</b>	108:24	36:10 40:6	132:19,20	90:15
41:2,7,9	109:21	120:4	132:22	91:13 93:3
41:17,25	116:19	130:17	147:25	93:16,19
43:22 44:2	123:17	<b>individu...</b>	150:21	94:2
55:13,15	147:6	95:17	152:3	163:23
55:20 56:7	151:7	104:17	161:3,12	164:3
56:17	158:16,23	131:3	<b>informed</b>	<b>instance</b>
116:19	158:25	<b>individuals</b>	54:1 60:3	19:6 57:14
<b>in-person</b>	159:13,17	95:17	79:14	66:13
143:15	163:10	112:5	80:23 85:6	82:25
<b>inability</b>	<b>incidents</b>	130:24	115:11,14	<b>instances</b>
131:14,19	10:20	132:21	145:19	25:19
<b>inaccurate</b>	11:10,21	<b>inform</b> 24:3	<b>informing</b>	57:11
68:17	12:4 35:8	24:7 59:10	14:22	<b>Instant</b> 4:9
154:4	35:16	59:22	27:24 45:5	4:12 99:1
<b>inadequate</b>	38:12 55:3	109:9	53:5 84:15	124:17
68:25	57:11	116:23	84:18 85:2	<b>instruct</b>
<b>incident</b>	77:19 94:5	146:4,10	<b>informs</b> 42:3	27:10
10:25	159:21	146:12	<b>initial</b> 16:5	<b>intended</b>
23:21 24:1	<b>include</b> 38:5	<b>informal</b>	60:9 92:12	29:8
33:4 35:6	56:13	11:24 44:1	130:15	<b>intentio...</b>
40:23	<b>including</b>	96:3	149:13	73:20
45:10,21	53:25	<b>information</b>	<b>initially</b>	<b>interact</b>
45:23 46:3	64:25 81:2	10:6,8	47:21 88:3	10:23
46:14,20	84:19	12:9,24	129:9	<b>interaction</b>
48:4 52:6	108:22	14:10,22	<b>initiative</b>	38:2
53:14	121:1	16:10,12	146:2	105:19
54:14	156:23,23	17:2 19:4	<b>initiatives</b>	131:23
59:21	<b>inclusive</b>	23:18,23	54:23	132:14
63:14,19	130:21,22	24:8 25:21	<b>injured</b> 20:9	<b>interact...</b>
64:3 66:15	<b>incorrect</b>	27:19	<b>injuries</b>	64:25
66:18	59:12	44:25 45:2	36:14 58:5	133:13
67:24 68:7	143:23	50:17,20	<b>injury</b> 20:11	135:8
70:20,20	<b>incumbent</b>	51:13	58:11	<b>interest</b>
70:21	85:9	78:14	<b>input</b> 150:20	23:3 37:20
76:22 80:5	<b>indecisi...</b>	80:15,17	<b>inquired</b>	87:24
81:24	130:16	80:21 81:2	91:10	162:8
82:16,22	<b>independent</b>	81:17	<b>inquiries</b>	<b>interested</b>
83:3 85:3	1:4 2:4	86:18 87:3	52:11,13	166:16
86:4,8	5:18	88:10 93:2	53:10	<b>interfere</b>
87:24 89:7	163:23	96:19	54:25 55:3	121:3
91:3,6,11	168:2	108:22	56:16 59:6	<b>internal</b>

43:17 44:4	163:18,25	<b>irrelevant</b>	<b>Joseph</b> 27:1	161:22
44:8,8,11	168:2	124:14	160:11	162:15
44:18	<b>investig...</b>	<b>isolation</b>	<b>JR</b> 2:8	<b>knew</b> 63:25
88:13	160:14	57:16	<b>judgment</b>	77:1 83:1
90:17	<b>investig...</b>	<b>issuance</b>	163:14	83:2 86:4
119:8	10:19	161:20	<b>July</b> 71:2,19	86:8 87:7
<b>interpret</b>	42:13	<b>issues</b> 30:7	83:1 106:1	140:12
58:8	43:12,12	34:13,15	<b>jump</b> 6:10	163:12
<b>intervene</b>	43:17 44:5	112:19	<b>June</b> 26:25	<b>know</b> 5:17,25
162:14	80:17,22	133:6,9	27:10	8:9,9,11
<b>intradep...</b>	119:8,9	138:24	61:23 62:1	8:23 10:20
7:20,21	<b>Investig...</b>	<b>issuing</b>	62:24 64:2	10:21,25
<b>investig...</b>	10:10	163:19	64:15 65:5	11:16 13:4
43:13	<b>invite</b> 97:25		106:4	17:14 18:5
<b>investig...</b>	<b>involve</b>	<b>J</b>	120:20	19:11,17
1:4 2:4	17:13	<b>Jackie</b> 10:11	158:16	20:23
5:19,21	38:13 61:9	<b>Jacqueline</b>	160:10	21:16,19
41:3 42:4	<b>involved</b>	10:11	<b>Justin</b> 1:14	21:22,23
42:8,24	17:12	90:10	3:3 4:9	26:1,7,10
43:4,4,8	19:19,24	<b>James</b> 13:16	5:6 66:9	28:18 29:3
44:15,18	21:17	13:23	93:4 99:1	29:17
53:11 55:5	28:19	14:15	166:10	32:13,18
76:3 79:8	33:23	18:11 20:7		33:17
79:15,25	39:14 40:8	67:10	<b>K</b>	34:20
80:10,25	45:4 57:12	94:22	<b>Katovich</b>	38:10,18
81:1,12	59:11	95:18	2:10 3:3	39:11,24
82:1,5,7	65:19	99:22	4:15 5:4	40:13,14
82:13,21	66:11,24	104:10	5:11,15	40:16
83:4,5,13	67:1 74:23	105:7	24:10 29:4	49:25
83:21 86:2	84:9 85:25	141:22	37:21	53:25 54:1
86:20 87:1	86:19 94:6	142:3,7	42:20	54:11,12
87:3,6	101:19	146:24	58:16,19	54:21,21
88:8 90:17	106:25,25	147:1	63:9 68:16	54:24
90:18,22	115:22	<b>Jefferson</b>	69:1 113:1	57:14,16
101:21	146:22	45:25	113:6	57:20 59:7
102:19	147:14	67:24 68:7	141:5,9	60:17,20
103:11	156:21	100:3	<b>keep</b> 33:24	60:24 62:5
120:17,23	159:21,23	<b>Jennifer</b>	115:2	62:18
121:4,22	160:22	120:22	<b>keeping</b> 34:7	63:13,18
147:19,21	<b>involvement</b>	<b>Jersey</b> 166:9	<b>kept</b> 45:17	68:3,8,12
150:6	17:22 18:2	<b>job</b> 41:22,23	<b>kind</b> 16:7	68:15
151:8	89:20 94:9	41:24	33:8 37:4	69:12 73:7
153:21	105:14	84:23,25	57:15	73:24
159:8	<b>involving</b>	<b>Joe</b> 32:8	73:24	74:15,15
160:23	11:10 33:4	<b>joint</b> 128:24	80:15	75:21 76:1
161:2,15	54:15	<b>jointly</b>	127:11	76:2,11,24
161:18	<b>irrational</b>	12:11	134:18	78:18 79:6
162:20	36:7	<b>Josanne</b>	146:22	79:7 81:16
163:5,8,9	<b>irration...</b>	13:24,24	157:15	82:23
163:13,16	39:23	13:25	158:5	83:17,18

83:19 84:8	142:10,19	<b>language</b>	<b>leadership</b>	<b>lines</b> 28:21
84:9,11,12	144:12	12:8 117:4	54:5 79:22	101:17
85:15 88:8	147:18	148:8	112:16	151:23
89:11	148:3,9	<b>large</b> 8:1	<b>learn</b> 144:3	<b>link</b> 19:1
90:20,23	149:8,9,24	55:17	153:9	<b>Listening</b>
92:20,22	151:1	<b>largely</b>	<b>left</b> 53:3	126:3
95:13 96:6	152:1	54:12	73:6 88:15	<b>litigation</b>
100:14	154:4,5	<b>Laserfiche</b>	157:14	28:13,17
101:4,5,20	155:5,5,21	16:7,16	158:7	<b>little</b> 5:25
101:24	156:2,2,22	29:25 31:3	<b>legal</b> 160:23	7:11 9:14
102:11,13	156:23	34:9,14	<b>legally</b>	124:21
102:18	157:15,16	160:13,15	120:24	125:17,23
103:9	157:17,18	160:17	<b>lengthy</b>	146:13
104:22	157:18,19	<b>law</b> 5:15,17	102:15	<b>lives</b> 122:24
109:5,8,19	157:20	12:9,12	<b>let's</b> 28:20	<b>living</b> 27:13
110:24	158:6,6	17:3,6,11	55:8	28:25
111:6	159:5	17:14,15	114:20	<b>LLP</b> 2:5
112:3,3,4	161:11,14	17:18,24	115:2,4	<b>local</b> 59:25
112:12	162:16,25	19:4,10	117:24	<b>lock</b> 57:16
116:25	163:15,22	21:14,16	126:3	<b>long</b> 6:16
121:15,16	164:1,2,8	21:21 22:9	160:8	7:7 157:21
121:16	164:9,11	27:17,19	<b>letter</b>	<b>long-sta...</b>
122:13,17	164:11	28:11,14	144:11	80:18
122:20	<b>knowledge</b>	30:25	<b>letting</b> 59:6	<b>longer</b> 8:23
123:20	21:4 43:15	40:24 42:9	<b>level</b> 25:23	<b>look</b> 8:22
124:1,5	45:10,20	44:21	55:10	23:5
125:1,19	45:23	50:13,15	<b>liaison</b>	126:17
126:10,12	49:24 91:9	50:20 51:4	13:25	153:6
126:17	96:5,8	54:2 60:12	<b>lie</b> 136:23	162:21
127:2,4,5	101:6	60:18 61:9	137:1,3,6	164:1
127:11,25	147:6	61:10,19	137:13	<b>looked</b> 60:5
130:3,5,5	149:22	72:6 87:7	<b>lieutenant</b>	63:17
131:12,13	161:16	105:13	158:17	67:17 89:6
131:15,16	<b>knows</b> 116:24	116:8,15	159:13	155:3
131:17,19	<b>Kristin</b> 62:4	120:21	163:5	162:2
132:22	62:5	145:25	164:5,6,9	<b>looking</b> 8:19
134:6,7,11		160:13	<b>light</b> 47:21	22:11 58:3
134:11,12	<b>L</b>	163:15	47:22	63:18
134:16,16	<b>La'Ron</b> 34:23	<b>Law's</b> 147:2	<b>Lightfoot</b>	94:20
134:17	108:2,9	<b>lawsuit</b>	13:23	142:23
135:13,15	115:12	90:20	<b>LILY</b> 2:19	150:14
135:16,16	116:13,21	145:9,15	<b>limited</b> 19:9	158:16
135:18	<b>labor</b> 10:16	146:4,7,8	27:21	160:9
136:2	11:25	<b>lawsuits</b>	<b>Line</b> 169:2,5	<b>looks</b> 18:25
137:2,17	<b>lack</b> 76:7	145:24	169:8,11	22:2 25:1
137:18	<b>lady</b> 65:3	<b>lawyers</b>	169:14,17	33:1 62:9
138:19,22	66:15	20:11	169:20,23	67:6 90:9
139:2	161:10	<b>lead</b> 53:10	170:2,5,8	99:7,15
140:10,11	<b>laid</b> 40:11	56:15	170:11,14	126:1,6
141:1,2,2	140:14	61:21	170:17,20	127:20,25

128:23	<b>manages</b>	106:17	77:9,16	129:3,16
141:21	164:11	122:19	79:1,9	130:10,12
143:6	<b>manner</b> 16:3	130:6	80:4 82:10	131:3,7,10
145:13	39:24	146:14	82:19,24	131:20
<b>loop</b> 35:6	98:22	148:4	83:2,12,22	132:2,10
44:20,21	<b>March</b> 13:17	161:11,12	83:25	132:20
45:18 46:8	14:9 18:25	161:20	84:14,24	133:7,12
50:13,16	23:5 46:4	166:17	85:10,17	133:22
<b>looped</b> 43:16	49:11	167:9	86:3,7,11	134:21
88:21,24	76:25 77:4	168:9	88:6 90:21	135:7,9,14
160:2	85:17	<b>matter-o...</b>	90:24 91:3	135:18,23
<b>Loretta</b>	100:3	152:12	91:24 92:3	136:9,13
100:2	115:11	<b>matters</b>	92:7,12,15	136:19
101:3	119:24,25	95:22	93:8,17,19	137:22,23
<b>losing</b> 100:8	133:15	<b>mayor</b> 7:3,7	93:20	138:6,23
103:18	148:12,12	7:13 8:6	94:10,22	139:5,23
<b>lot</b> 126:25	<b>Mark</b> 90:10	10:3,24	95:1,8,8	139:25,25
<b>Lovely</b>	90:14	12:3,5	97:22 98:3	140:3,8,20
148:24	<b>marked</b> 9:4	13:4,16,21	99:16	140:21
<b>lwesterg...</b>	13:14 18:9	14:4,10,13	100:1,14	143:8
2:20	24:14 27:4	14:21,23	100:18,22	144:19,23
<b>lying</b> 136:15	32:21 35:1	22:12,13	101:6,8,12	145:19,23
	59:2 64:13	23:6,10,18	102:2,6,9	146:10
<b>M</b>	67:5 71:7	23:21	103:1	147:5,14
<b>M.E</b> 45:5	90:2 94:18	44:20,22	104:9,24	147:18
<b>M.E.'s</b> 36:15	99:2 105:4	44:25 45:5	105:7	148:8,14
44:23	114:23	45:18 46:4	107:6,24	148:20,22
119:20	120:13	46:7 47:9	108:6,6,15	149:2,20
141:24	123:8	47:17,17	108:23	150:1,4,20
142:8,11	124:17	47:19 48:3	109:7,16	150:24
142:19,24	127:16	48:7,10,14	109:25	151:5,10
<b>Maazel</b> 2:5	143:5	49:4,18	111:2,18	151:16,19
5:16	145:12	50:9 51:2	111:24	152:14,23
<b>main</b> 125:2	153:5	51:7,10,14	112:8,13	153:9,20
<b>major</b> 14:25	158:20	51:18,20	113:18	155:17
22:17	<b>Marlana</b>	54:2 55:12	114:4,9,13	156:15
23:15 41:3	124:2	56:20 57:5	115:11,14	157:4,10
42:4 43:9	<b>marriage</b>	57:7,17,23	115:21	157:17,24
54:11,22	166:16	59:9 60:3	116:20	159:21,23
59:13,17	<b>material</b>	64:25 65:1	117:4,8,9	<b>mayor's</b> 7:5
<b>making</b> 27:13	33:14	65:7,13,15	117:11,14	7:12,16,20
28:25	<b>Matt</b> 66:5	65:18 66:1	117:16	12:25 14:1
30:17,24	67:25	67:9 70:1	118:18	14:2 15:11
34:2 59:4	69:13	70:17	119:1,12	45:10,20
61:7 82:22	<b>matter</b> 11:17	71:25 72:4	119:20	45:22
84:19 94:1	64:1 81:6	72:22,23	120:1,7,9	66:15
<b>man</b> 78:9	81:18,19	73:3,4,17	122:19	68:10 69:9
<b>management</b>	82:12 83:9	73:25 74:7	126:4,7	78:3 96:6
7:18 13:2	93:9	74:8 75:22	127:4,18	96:21
13:8	105:14	75:23 77:9	128:7,21	97:23 98:7

109:6,8	64:24,25	110:5	141:22,22	<b>move</b> 30:12
113:23	65:22	113:17	142:1	89:24
134:25	66:14,18	114:14	144:20	<b>moved</b> 30:13
135:1	66:23	118:21	<b>messages</b> 4:9	124:14
149:20	70:22,24	131:1,3	4:12 67:8	<b>moving</b> 20:6
<b>mean</b> 11:2	87:23	133:21,24	69:15 99:2	29:20 60:9
13:3 15:3	89:20,23	134:1,5	99:4,9	92:24
17:23	91:10,13	136:6,7,25	117:14,20	125:23
25:23	91:18,20	137:14	124:17	143:2
29:23 32:1	93:12 94:2	138:8	141:17	145:7
37:10	94:6,9,23	144:6,21	142:17	<b>multiple</b>
44:11 53:9	95:2 97:25	<b>meetings</b>	<b>met</b> 90:21,24	49:17
57:13	111:16,22	54:7,10,16	131:3	<b>Mura</b> 90:10
72:11	113:22	137:17,21	139:2	90:14
75:11 80:7	114:2	138:1	<b>middle</b> 100:3	144:9
82:9 95:16	120:14,15	<b>Meg</b> 90:4	<b>mind</b> 42:19	<b>MVA</b> 32:3,4
96:23	121:19	<b>member</b> 7:17	79:20	
97:20	122:22,24	57:18,18	<b>minor</b> 25:25	<hr/>
103:21	124:25	89:22	31:24 32:1	<b>N</b>
108:5	143:7	162:9,13	<b>minute</b> 78:25	<b>N</b> 2:1
120:4	159:22,24	163:21	<b>mischief</b>	<b>naked</b> 36:7
126:24	159:25	<b>members</b> 85:5	36:6	100:2
132:18	161:24	<b>mental</b> 36:5	<b>misinfor...</b>	<b>name</b> 5:14
135:15	162:5,9,10	152:8,9	14:12	33:2,9
139:15	162:12,13	<b>mentally</b>	<b>misled</b>	62:7 99:19
140:3	162:18	39:24	122:19	167:16
146:18	163:21	<b>mentioned</b>	<b>misstating</b>	168:16
156:20	164:3	52:8 95:17	112:24	<b>nar</b> 127:5
<b>meaning</b>	<b>Media.Re...</b>	<b>Merit</b> 1:17	<b>Mitchell</b>	<b>narrative</b>
107:18	90:5	166:7	60:12 62:4	114:4
<b>means</b> 103:24	<b>medical</b>	<b>message</b> 4:10	<b>moment</b> 58:13	120:5,8
<b>meant</b> 28:24	20:17,24	67:12,20	<b>Monday</b>	138:4
36:24 46:7	39:3,3,9	67:21,23	153:12	139:22
50:15	44:25 51:8	68:13,20	<b>Monroe</b> 81:21	<b>narratives</b>
<b>media</b> 8:11	151:7	68:22	81:25	112:19
15:7 22:19	158:24	69:20 70:9	<b>month</b> 72:13	<b>narrow</b> 59:15
23:16	<b>meet</b> 97:6	93:25	158:7	<b>Nashville</b>
25:12,13	131:6	94:17,19	<b>months</b> 60:14	122:24
25:17,24	136:2,13	95:9,12,14	<b>morning</b> 5:12	<b>nature</b> 11:12
26:4,17,19	138:24	95:22 96:9	5:13 59:8	25:20 26:1
36:2 42:25	<b>meeting</b>	96:23	72:21 73:8	31:24 32:1
44:1 52:1	54:19 91:2	99:12,16	73:10,12	45:25
52:5,13	91:23,25	99:23,25	74:11	66:25 77:3
53:6,10	92:2 93:8	100:12,18	90:11	<b>nearly</b> 60:14
54:18,25	93:12	100:21,25	93:21 95:4	<b>necessarily</b>
55:3,12	96:13,17	103:25	113:14	38:4 39:10
56:16 59:5	96:24	104:10,18	153:11,12	66:12,22
59:11,14	97:15	122:7,8	<b>MORRISON</b>	89:19
59:17,21	106:24	125:19	2:14	162:10
60:1,2	107:2,3	141:19,20	<b>Motor</b> 32:5	<b>necessary</b>
				85:11,11

<b>need</b> 8:22 20:13 22:17 25:25 26:11 54:3 55:9 70:5 75:20 96:19 132:18 154:7	18:25 19:1 19:23,23 20:15,23 27:1 <b>night</b> 41:1 73:18 101:16 126:8,12 126:24 <b>Nobles</b> 18:11 20:7 <b>nodding</b> 6:8 <b>non-coop...</b> 38:9 <b>non-reda...</b> 20:10 <b>noncommi...</b> 108:14 <b>noon</b> 106:19 106:22 <b>Notary</b> 1:18 5:8 166:8 167:22 168:22 <b>noted</b> 155:6 165:1 <b>notes</b> 140:25 <b>noteworthy</b> 41:16,18 41:20 42:1 <b>notice</b> 1:16 93:1 151:7 <b>notifica...</b> 125:3 <b>notify</b> 33:15 68:1,2 <b>notifying</b> 145:23 <b>notions</b> 73:24 <b>number</b> 38:10 50:5 55:8 55:17 64:24 99:8 99:9 125:14,15 125:20 126:12 156:21,22	125:24 <b>numerous</b> 21:8 <b>NYS</b> 90:19 <hr/> <b>O</b> <hr/> <b>O'Connor</b> 90:4 <b>O'Neill</b> 62:4 62:5 <b>oath</b> 167:14 168:14 <b>obfuscate</b> 110:3 <b>obfuscated</b> 109:19 <b>object</b> 37:7 <b>objecting</b> 37:9 <b>objection</b> 42:18 68:14,24 <b>obligated</b> 27:14 <b>obligation</b> 78:14 <b>obviously</b> 76:8 90:17 128:1 <b>occasion</b> 125:8 <b>Occasion...</b> 18:4 <b>occasions</b> 22:23,24 <b>occur</b> 41:10 55:17 56:3 <b>occurred</b> 35:6 40:2 41:1 45:25 46:10 53:24 54:2 76:25 77:2 77:3 95:12 97:16 98:23 108:21 109:10,12 110:4 116:23	127:2,3 135:17 136:15 139:6 141:4 158:24 <b>occurring</b> 30:8 49:11 127:13 <b>odd</b> 146:6 <b>offer</b> 167:13 168:13 <b>office</b> 7:5 7:12,16,20 10:3 12:25 14:1,2 16:5 18:18 24:19 36:15 43:1 53:13 55:6 57:4,25 58:1 71:10 72:25 73:2 73:12 74:12 75:11 78:25 79:2 79:3 90:19 90:22 91:13 96:22 105:19 121:5 134:2 138:9,11 146:9 151:21 153:15 155:8 <b>office's</b> 53:12 55:2 <b>officer</b> 10:9 12:14,16 33:2 37:5 38:2 76:8 88:20 100:6 101:10 104:4 <b>officer's</b>	36:10 85:25 <b>officers</b> 10:7 11:5 17:3 19:10 36:4,10 40:5,11,20 43:5,13,14 44:16 53:25 74:23 75:9 75:20 76:5 77:24,24 78:12 79:4 79:23 80:1 81:7 84:7 86:19 92:14 101:19,24 102:14,20 103:14,25 104:3 115:15,22 <b>officers'</b> 115:17 <b>officially</b> 160:14 <b>Oh</b> 158:12 <b>okay</b> 8:18,24 8:25 9:13 10:8 13:10 18:7 22:20 26:24 29:10 32:19 33:12 34:19 37:12,14 44:19 45:4 58:13 64:2 64:10 65:4 99:13 113:13 114:20 117:21 125:16 126:19,23 128:20 133:19 138:7
-------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

141:15,18	163:8,9,13	55:17,20	<b>parades</b> 8:9	39:17 40:3
142:15	163:16,18	55:24,25	<b>paragraph</b>	58:5 78:10
145:7	163:25	56:2,3	33:13	<b>passing</b>
146:16	<b>online</b> 16:4	58:7,11	38:18,18	76:12
147:23	<b>open</b> 9:19	115:13	40:4 58:4	<b>Pate</b> 11:17
150:14	52:21	116:5	150:23	81:6 82:12
151:4	<b>operate</b>	122:16	151:2	82:15 83:3
152:13	14:19	123:3	<b>paraphrase</b>	83:5,9
157:2	<b>operates</b>	132:11,13	113:10	<b>patient</b>
158:15	31:12	<b>oversee</b> 12:8	<b>pardon</b> 101:4	20:17,24
160:2,7	<b>operations</b>	12:11	<b>part</b> 7:15	<b>Patrick</b>
161:5,21	6:21	<b>oversees</b>	15:8 24:4	72:24
162:1,7,18	<b>opinion</b>	164:9	30:2 41:24	78:23
163:3	46:15 73:6	<b>oversight</b>	54:4 69:19	95:18
164:4,18	75:7 97:23	8:12 24:24	85:1 95:1	<b>Patti</b> 162:22
<b>old</b> 11:18	98:14	162:15	103:12	<b>Paul</b> 160:23
64:20	111:7	<b>ownership</b>	108:3	<b>pay</b> 27:14
<b>omit</b> 116:14	121:21	61:15	118:22	<b>payment</b>
116:14,15	132:24		159:7	19:10
<b>omitting</b>	<b>opposed</b> 43:1	<b>P</b>	<b>partially</b>	<b>PCP</b> 36:17
103:19	56:1	<b>P</b> 2:1,1	110:1	38:24
<b>once</b> 41:3	124:23	<b>p.m.</b> 14:9	<b>participate</b>	39:25
43:9 64:6	<b>oral</b> 6:7	67:25 90:6	96:12	47:11,13
68:1	145:1	96:10	<b>particip...</b>	100:2
144:18	<b>order</b> 130:14	120:16	56:21	101:9
151:20	<b>ordered</b>	122:9	<b>particular</b>	<b>PDF</b> 9:14
155:15	116:17	127:18	57:13 76:9	<b>penalty</b>
163:3	<b>ordinarily</b>	141:21	81:24	167:5,7
<b>one-on-one</b>	58:10	160:10	114:25	168:5,7
118:22	66:20	165:1	<b>particul...</b>	<b>pending</b>
<b>one-page</b>	<b>orient</b> 99:7	<b>page</b> 3:2,9	55:7 142:5	80:17
140:25	<b>original</b>	3:11 4:3	<b>particulars</b>	<b>people</b> 8:2
<b>ones</b> 25:22	4:15	9:3,6	82:23	29:7 39:16
26:21	162:21	115:3	132:13	68:15
<b>ongoing</b>	<b>outcome</b> 88:7	116:3	<b>parties</b> 2:2	79:15
53:11 76:3	166:17	136:2	82:8,9	105:16
79:7 80:10	<b>outside</b>	160:10	97:4	130:23
80:25	84:23	169:2,5,8	135:17	132:18
81:12 82:5	132:21	169:11,14	166:15	134:17
82:13,21	<b>overall</b>	169:17,20	<b>parts</b> 84:15	<b>perceived</b>
83:3,6	112:11,16	169:23	84:18	81:1
90:18	114:12	170:2,5,8	112:20	<b>perception</b>
97:17	120:5,8	170:11,14	135:8	112:8
120:23	150:6	170:17,20	<b>party</b> 20:9	<b>performance</b>
121:3,22	<b>overdose</b>	<b>pages</b> 9:16	30:6	118:2
159:7	38:20,22	<b>pan</b> 115:1	135:16	<b>peril</b> 76:8
160:13,22	39:1 40:2	<b>pandemic</b>	<b>pass</b> 16:6	<b>period</b> 33:22
161:2,15	42:8 47:11	57:15	39:10	103:22
161:18	47:12	<b>paperwork</b>	157:15	<b>perjury</b>
162:20	48:11	22:8	<b>passed</b> 36:14	167:5,7

168:5,7	124:23,24	105:18	<b>Popli</b> 6:22	98:8
<b>Perkowski</b>	125:3,7,11	110:7,8	<b>portions</b>	105:21
158:17	125:12	114:24	164:10	127:20
159:13	126:17	116:15	<b>position</b>	145:6
163:6	141:17	127:7	6:13,17,19	153:21
164:5	142:16	133:16,17	6:23	<b>present</b>
<b>Perkowski's</b>	150:12	136:17	<b>possible</b>	39:16
164:6	154:6	150:5	70:15	57:19
<b>person</b> 37:5	<b>photos</b> 25:4	<b>police</b> 10:5	78:16	73:15 97:8
38:2,8	<b>phrase</b> 29:11	10:9,19,24	88:12	97:11
39:9,14	<b>phrased</b>	11:2,5,9	<b>posted</b> 19:7	113:22
65:15	74:25	12:4 16:14	<b>potential</b>	130:23
75:16 84:1	<b>PIO</b> 42:14	19:3 37:5	11:7 56:14	<b>presented</b>
84:2 96:12	43:1 52:10	38:2 40:19	112:8	72:2
96:25 97:4	53:9 56:14	43:5,12,13	128:12	<b>preserva...</b>
97:5 124:1	160:1	44:15	<b>potentially</b>	40:25
126:2,3	<b>place</b> 11:21	47:11	28:13,14	<b>President</b>
131:8,9	34:6 42:5	52:10	36:1 38:5	13:22,23
143:17	43:21 44:6	54:15	93:15	14:8 23:3
146:18	81:21	55:12,25	<b>practice</b>	100:19,23
153:13	91:25 95:9	56:1,4,13	19:12	101:6
<b>personal</b>	96:24	57:17	25:16	104:25
20:11 23:3	133:4	78:11	27:24 35:7	150:16
88:13 99:5	138:16	85:13	44:6 55:2	151:6,12
122:5	145:23	100:4	161:21	151:14,17
124:23	<b>plan</b> 88:2,12	101:10	<b>practices</b>	151:23
125:11,13	97:19	108:2	11:7	152:5,14
141:16	133:4	110:21	145:23	152:24
154:6	140:9	112:6,12	<b>pre-exis...</b>	<b>press</b> 14:15
<b>personally</b>	<b>planning</b>	112:15	9:11	14:24 15:4
116:22	88:13	113:15	<b>preclude</b>	15:5,5,14
<b>personnel</b>	<b>plans</b> 160:3	114:11	82:21	22:17
144:9	<b>play</b> 17:1	115:10,12	121:23	23:14 24:8
<b>perspective</b>	<b>please</b> 5:2	116:5,12	<b>precluded</b>	54:22
39:9 41:20	6:7 27:10	116:20	79:6,15	56:19,23
41:22	65:11 66:8	126:16	80:9 83:13	57:1,3,22
76:11 85:9	73:10	132:14,19	85:12	57:24
111:17	113:7	132:23	<b>precluding</b>	59:13,14
114:2	115:3	134:10	79:25	59:16,19
<b>persuade</b>	126:6	156:24	<b>predominant</b>	65:8,14,24
133:1	141:6	<b>policies</b> 8:6	31:25	84:20
<b>pertains</b>	<b>point</b> 40:14	9:23 10:1	<b>preempted</b>	93:16
14:19	51:16,17	<b>policy</b> 10:24	93:7	96:18
<b>phone</b> 74:4	63:25 75:7	11:3,6,20	<b>preparation</b>	97:17 98:4
79:2,3	76:1,16	11:23 13:3	107:5	107:5,6,8
83:24 99:5	80:18 82:3	13:8 15:8	<b>prepare</b> 52:5	107:12,14
99:18	83:6,8	43:25	52:13	107:19,21
117:15	88:8,9	80:16,21	97:21,22	109:4
122:5	91:20 94:3	81:16,21	98:18	114:18,24
124:20,22	96:7	159:10	<b>prepared</b>	117:2,3,6



117:13,23	56:12	30:1,15	127:1,3	91:3,6,10
118:3,7,9	79:20	34:10	<b>protests</b>	92:4,15
118:12,13	132:3	114:3	126:11,20	94:23 95:2
118:16	<b>Prince</b> 60:11	<b>procedure</b>	127:12	95:15 96:7
119:18,18	61:24 62:2	19:4 81:17	<b>protocol</b>	100:23
122:1	62:18,24	<b>proceed</b>	11:20	104:12
127:21	64:15 65:6	77:22	14:21 15:9	105:14
128:20,24	66:4 67:18	107:25	25:6 27:16	106:15
129:2	70:8 71:3	<b>proceeding</b>	41:5 43:10	111:25
131:1	120:20	81:12	43:25 44:6	115:13,16
133:18	121:13	<b>process</b> 8:12	145:22	116:24
138:15	<b>prior</b> 6:19	12:9 15:25	<b>protocols</b>	119:2,21
140:14	27:8 28:3	16:2,23	13:7 43:21	122:18
141:23	29:15 31:5	24:12,23	<b>provide</b>	123:17
142:4,6,12	38:13	30:2,12	15:17	127:19
143:18,19	43:16,18	31:8 61:16	22:17	132:14
143:22,23	45:6,13	66:18	33:25	133:14
143:24	59:21,25	87:15 89:3	44:25 49:6	145:9,15
144:25	62:24	164:7,10	73:6	146:25
145:1	65:24	<b>product</b> 63:8	103:23	148:4,16
148:3	69:20	<b>production</b>	116:18	148:21
150:15	82:17,18	70:10	162:24	151:7
152:16	86:4,8	<b>professi...</b>	<b>provided</b>	158:15
159:16,17	91:7 92:9	1:17 42:9	114:19	<b>Prude's</b>
<b>presser</b>	95:13	166:7	116:7	36:16
97:24,24	100:18,21	<b>professi...</b>	120:6	39:15
126:7,14	104:17	116:22	121:9	46:21
148:23	106:22,25	<b>profile</b> 55:7	143:14,17	49:21 76:9
<b>preventing</b>	108:24	55:14,16	145:6	101:25
128:14	109:2	56:11	160:5	115:19,23
<b>previous</b>	115:20	57:11	161:4	<b>public</b> 1:18
113:11	117:23	70:20,21	<b>provides</b>	5:9 8:6
133:18	121:14	89:12,14	101:9	9:17,24
<b>previously</b>	137:17	94:5	<b>providing</b>	10:6,8,16
7:9 11:16	148:1,2,2	<b>projects</b>	19:1,6	11:11 12:4
12:1 83:10	148:3,12	54:11	<b>Prude</b> 5:20	12:18 15:1
121:12	148:19	<b>prompted</b>	24:1,4	17:3 19:9
132:17	149:12	103:13	33:5 36:5	42:14
137:20	151:5,15	121:18	36:7,12,21	65:20 78:6
143:17	154:21	<b>properly</b>	38:19	78:15
148:6,10	<b>probably</b>	31:10	39:19 40:3	79:18 80:6
<b>primarily</b>	31:25,25	<b>proposed</b>	40:11,15	80:9,12
10:23 16:3	126:15,15	11:5	40:19	82:15
32:9	126:20	<b>protect</b>	47:10 48:4	88:17,20
101:18	147:12	37:19	63:19 64:1	112:11,16
110:23	<b>problem</b>	116:25	64:3 71:16	132:24
124:24	22:20 28:2	<b>protest</b>	71:20	134:2
132:3	30:9,11	133:5	72:19 76:7	138:12
<b>primary</b> 8:5	31:5	144:7,22	78:1 81:25	140:24
54:11	<b>problems</b>	<b>protestors</b>	89:17 90:8	148:6

166:8	83:14	<b>reached</b>	110:1,23	<b>received</b>
167:22	105:18	40:24 59:4	125:14	30:14
168:22	106:21	95:3	169:4,7,10	35:18,24
<b>publicly</b>	113:24	<b>reaching</b>	169:13,16	41:6 45:8
47:22	135:3	53:4	169:19,22	45:13
149:8,9	160:21	<b>react</b> 151:25	169:25	50:14,24
<b>pull</b> 64:10	161:1	153:25	170:4,7,10	51:11,14
67:2	162:16	<b>reacting</b>	170:13,16	51:25
<b>punch</b> 95:5	163:11	122:20,23	170:19,22	60:15,25
<b>purposes</b>	164:5,12	<b>reaction</b>	<b>reasons</b>	64:6 68:20
111:22	<b>questioned</b>	38:15	154:12	72:10
<b>pursuant</b>	141:3	139:17	<b>Reaves</b> 13:24	90:15
1:15	<b>questions</b>	<b>read</b> 14:4	13:24,25	92:19
<b>purview</b>	5:22 6:9	36:23	<b>recall</b> 13:18	100:25
84:23	104:6	38:16,17	22:24 23:4	106:11,13
<b>put</b> 15:14	128:11,18	52:18,24	23:20	122:8
29:17,21	164:14,20	53:21	51:21	155:24
32:6,10,16	<b>queue</b> 30:13	92:23	56:19 63:1	160:12,18
42:19	<b>quick</b> 36:4	110:2,6	63:5,24	<b>receives</b>
59:13	103:22	113:4,6,8	64:8,16,21	34:5
77:15	<b>quickly</b>	117:7	64:23 66:2	<b>receiving</b>
100:5	32:10 66:6	122:21	69:15 71:3	14:12
112:3,4,5	70:15	124:12	74:9,10	20:17,24
120:17	<b>quite</b> 101:22	144:11	79:1 89:15	35:2 45:13
121:19,25	112:16	154:1,3,8	93:14 94:1	45:15
133:4	148:25	167:8,9	100:11	51:21 52:4
140:21	155:3	168:8,9	105:1	53:7 63:2
143:7,24	<b>quote</b> 116:2	<b>reading</b> 14:7	106:1	64:8,16
144:25	116:11	22:3 31:12	119:4,15	71:4,13
147:5	120:17	31:19 32:7	122:2	100:18,21
148:3,7	121:6,14	32:11,16	126:13	106:1
149:23	121:17	69:7 157:3	137:9,25	155:9
150:15	<b>quote/un...</b>	<b>reads</b> 9:15	142:14	<b>Recess</b> 58:18
152:25	14:25	122:24	146:3	141:8
153:2	<b>quotes</b> 29:18	141:23	147:22	<b>recognize</b>
<b>putting</b>	117:10	<b>ready</b> 128:17	150:2,3	125:20,24
117:23	148:5,5,8	<b>real</b> 128:7	152:21	<b>recollec...</b>
126:14		136:5	155:4,9	48:1 49:5
143:11	<b>R</b>	<b>realize</b> 9:13	158:25	49:7,13,13
152:15	<b>R</b> 2:1 166:1	<b>really</b> 37:9	159:2,3	49:20
	<b>raise</b> 151:19	37:15	<b>recalling</b>	62:20 70:4
	155:12	110:8	143:16	75:6 87:12
	<b>raised</b> 22:22	126:8,24	<b>recalls</b>	87:21
	83:15	139:21	139:12	88:25
	133:6	146:22	148:22	92:18
	162:17,19	164:18,20	<b>receipt</b>	103:7
	<b>random</b> 124:5	<b>reason</b> 24:4	27:11 33:3	105:17,24
	<b>reach</b> 133:22	31:21,22	<b>receive</b> 16:8	106:7,10
	140:1,6	99:18	16:15	117:19
	157:19	109:8,23	17:25	126:20

138:3	122:17,18	87:13	8:11	86:25
149:4	126:10	95:25	<b>relayed</b>	87:20
155:21	149:18	<b>regularly</b>	67:23	88:17
<b>record</b> 24:6	<b>refers</b> 20:23	95:25	<b>release</b> 3:22	89:18,20
63:4 113:8	44:8 49:10	<b>reiterate</b>	14:15,24	92:21
141:5,7	<b>refine</b>	131:21	15:1,5,6	142:25
166:13	140:11	<b>reiterating</b>	15:15 18:1	148:6
<b>recording</b>	<b>reflected</b>	22:16	20:10,13	<b>releases</b>
33:4	114:18	<b>related</b>	20:16,18	19:20
<b>records</b>	<b>refresh</b>	22:23 23:1	21:4,5	21:25
12:16	106:7,9	45:23	22:7,18	22:17
16:14,20	<b>refuse</b> 130:9	46:20	24:8 25:14	23:14
17:25 33:2	<b>refused</b>	53:14	26:2,12,15	25:17
61:18	110:9	54:13	26:17	26:19
117:15	<b>refusing</b>	56:16	59:14,19	59:13,16
124:19	134:25	60:15 65:2	65:9,16,25	66:11
<b>recounting</b>	135:7	66:15	66:7,19	148:3
147:5	<b>regard</b> 11:9	79:19	69:10	<b>releasing</b>
<b>rectify</b>	12:20	80:22	79:17,17	25:8 32:11
136:2	15:24 30:9	85:25	80:15 81:1	65:19 66:1
<b>redacted</b>	76:7 79:25	89:21	81:9 82:14	80:16,21
65:10 66:8	111:15	106:1	82:16	87:9,15
71:10 87:9	<b>regarding</b>	117:15	86:12,18	121:14
<b>redaction</b>	10:18	126:11	88:5,10,22	<b>relevant</b>
19:6 67:24	11:21 12:2	144:6	88:24 89:1	16:11 18:5
68:1 69:10	13:6 14:24	156:22,22	89:9	38:17
69:21,24	22:14 23:2	166:14	107:14	122:14
70:10	49:21	<b>relates</b> 11:6	114:18,22	<b>remain</b>
<b>redactions</b>	54:23 55:5	11:17 13:4	114:25	113:22
19:9,24	63:25	25:12	117:2,3,6	114:5
71:15	64:24 65:1	34:17	117:13,23	134:10
<b>refer</b> 21:14	66:23 83:9	42:12	119:18	<b>remained</b>
55:6 93:3	92:15	43:23	120:15	36:13
<b>reference</b>	96:20	46:23	121:1,2,6	114:12
50:4 58:7	128:12,18	53:11	121:19	<b>remarks</b>
<b>references</b>	143:8	54:25	122:1	97:22 98:9
91:24	144:22	56:16	140:14	98:18
<b>referring</b>	148:4,4	80:16 81:6	143:7	107:14
64:22 68:3	153:2	84:19	159:12,16	109:13
68:6,9	159:9,25	101:19	<b>released</b>	114:18
69:13	162:23	109:21	15:6 19:16	115:8
79:17	163:1	111:11	20:14	119:17,23
80:20	<b>regardless</b>	129:14	23:15	127:19,20
90:24	26:10	134:8,12	25:18 26:4	127:23
99:10	<b>Register</b>	150:24	26:8,15,18	128:3,21
100:15	166:7	151:2	32:15 65:3	128:23
101:5	<b>Registered</b>	160:6	65:14	145:4,6
109:2	1:16,17	<b>relation</b>	66:16	<b>remember</b>
115:24	166:6	89:22	81:14,15	18:14
116:9	<b>regular</b> 54:7	<b>relations</b>	81:18	20:20 27:5

35:2 38:15	5:1 93:1,6	20:8 30:6	<b>resisted</b>	60:10
47:18	145:14	61:14,15	37:1	62:16,23
48:25	166:7,7	89:22	<b>resisting</b>	69:16
52:23	<b>REPORTING</b>	<b>requesters</b>	36:19,24	75:25 88:7
63:12,18	1:25	21:24 72:6	37:3,6,25	89:13
64:18	<b>reports</b>	<b>requesting</b>	38:7,13	93:11 94:6
73:22	14:12	25:14 32:2	<b>resolved</b>	94:9 96:9
76:16	36:18	<b>requestn...</b>	113:16	96:14,18
89:10 94:1	52:18	32:25	<b>respond</b>	97:17,22
97:12	<b>Represent...</b>	<b>requests</b>	34:15	98:8,24
121:18	2:4,13	16:3,6,6,9	53:10 55:9	103:16
123:13	<b>represents</b>	16:9,24	75:1 98:3	105:21
142:1,3,6	147:8	17:13,14	98:7,21,22	106:4
142:22	<b>reputation</b>	17:16,17	101:18	115:3
143:11	112:6	17:22	103:21	117:17,22
147:10	<b>request</b>	18:19 19:4	125:15,15	122:3
151:10	16:11,15	19:12,15	129:25	128:11,17
155:23	16:20 17:3	21:9 24:19	134:14	138:1
159:12	17:8,17,24	25:12	135:6	150:9
<b>remembers</b>	20:10 21:6	27:18	155:25	160:6,12
148:24	25:4,20	29:13	161:5	160:15
<b>remind</b> 6:2	31:24	31:10	163:5	161:5,24
<b>remote</b> 1:15	32:16 33:3	33:21 34:8	164:3	162:2,4
<b>remotely</b> 2:2	33:11,18	34:18 61:9	<b>responded</b>	168:3
5:3,8	33:25 34:5	64:19,21	19:5 33:17	<b>responses</b>
166:11	40:25 60:7	65:22	33:21	25:8 31:18
<b>remove</b> 75:20	60:14,16	70:24	78:12	53:7 54:19
<b>reorient</b>	60:18,22	89:20	115:10	<b>responsi...</b>
141:10	60:25 61:8	159:25	145:19	12:20
<b>repeat</b> 135:2	61:11,18	<b>require</b>	155:6	15:24
<b>rephrase</b> 6:6	61:22	10:14	<b>respondent</b>	42:12
37:17,23	62:24	<b>required</b>	30:5	53:14
42:20 43:6	68:11	10:25 22:4	<b>responding</b>	56:12
47:5 63:16	78:18 90:7	22:8	19:12	84:23
136:10	105:20	<b>requirement</b>	28:22 55:2	<b>responsi...</b>
<b>replied</b> 52:7	106:2	11:5	56:1 61:21	53:12
<b>reply</b> 52:8	115:19	<b>requires</b>	61:24 98:3	61:11
93:4,6	121:5	9:17,18	<b>responds</b>	84:18
<b>replying</b>	150:9	<b>residency</b>	14:8 20:15	<b>responsible</b>
53:5,16,19	158:22,25	11:5	66:8 92:25	12:7 24:22
<b>report</b> 7:1	160:8,18	<b>resign</b> 128:7	126:5	24:24 34:2
7:13 18:20	160:19	128:19	<b>response</b> 1:5	39:12 61:7
28:19 32:3	161:25	<b>resignation</b>	12:6 21:6	61:20
141:25	162:6,7,23	128:4,10	25:14 32:7	<b>responsive</b>
142:8,11	<b>requested</b>	128:12,15	32:12,15	12:12
142:20	19:1 33:13	143:21	33:14	<b>restate</b>
154:8	89:21	144:11	54:13 55:7	37:24
157:3	162:9	149:15	55:12	<b>restrain</b>
<b>reporter</b>	<b>requester</b>	<b>resigned</b>	56:13	115:16
1:17,17	16:12 18:3	144:24	58:22 60:6	<b>restrained</b>

40:16	<b>reviewing</b>	55:18	<b>Row</b> 125:17	<b>sat</b> 77:16
100:6,7	145:18	59:18	125:23	<b>save</b> 167:10
101:10	156:2	62:16	<b>RPD</b> 16:17,20	168:10
104:4	<b>ribbon</b> 54:22	78:11	16:21,22	<b>saw</b> 28:18
<b>restraint</b>	<b>right</b> 5:12	79:22	16:25 17:7	63:11,22
40:19	7:13 9:24	81:22	17:9,14,17	63:23
<b>result</b> 28:13	12:10	84:15	17:18	74:22
47:10	15:13	<b>Rochester's</b>	19:12	77:14,14
107:17,18	16:17	1:5 168:3	27:11,16	77:23
140:19	17:19	<b>Roj</b> 1:14 3:3	27:18	95:19
<b>resulted</b>	18:12	3:9 4:3	29:13 35:8	105:22,25
28:17	19:22,25	5:6,12	35:16	144:8,18
46:21	20:5 27:25	6:12 9:2	38:12	151:20
47:12	29:22	13:13 18:8	42:24	<b>saying</b> 36:9
76:10,11	30:22	24:13 27:3	43:17 44:4	48:22
<b>retained</b>	41:14 44:2	32:20	44:8,12	55:19,20
4:15 5:17	48:11,23	34:25	45:5 53:6	55:22
<b>retelling</b>	56:11	37:22	53:9 55:3	73:23
117:19	58:20,24	58:20 59:1	55:6 56:14	86:24
<b>retention</b>	59:11 61:4	63:5 64:12	57:11	101:2
108:14	72:20 82:3	67:4 71:6	61:18,19	104:2
<b>retire</b>	87:1,2	90:1 94:17	89:21	129:22
144:13,16	89:12	99:1 105:3	91:14 94:5	138:1
<b>retirement</b>	99:23	114:22	94:12	146:20
149:12	112:11	120:12	115:22	163:23
<b>retirements</b>	116:12	122:9,10	127:2,3,7	<b>says</b> 14:10
143:9,25	117:1,10	122:12	143:9	14:18 20:8
<b>retiring</b>	126:21	123:7	158:17	20:16 23:7
144:4	131:4	124:16	159:18	27:10
<b>retrospect</b>	132:4	127:15	160:13,17	33:12 35:5
155:24	135:14,18	143:4	160:20	35:5 36:4
159:6	140:4	145:11	162:8	40:5 42:3
<b>return</b> 22:10	141:10	153:4	163:11,15	43:7,8
<b>returning</b>	142:25	158:19	164:9,12	44:20
40:4	143:2	166:10	<b>RPD's</b> 42:14	50:13 58:4
157:23	149:14	<b>Roj's</b> 4:9	160:1	60:12 66:4
<b>review</b> 17:16	163:14,20	99:1	<b>ruled</b> 36:15	66:8 67:22
25:3,16,19	163:23	<b>role</b> 12:19	<b>ruling</b> 44:23	69:5 71:8
25:22 26:1	<b>risk</b> 112:6,7	12:24 17:2	45:5 51:8	90:14
26:2,3,8	128:7	56:14	119:21	92:25
26:11	<b>Rochester</b>	128:13	<b>rulings</b> 45:1	94:23
28:15	2:13 3:10	147:21	<hr/> <b>S</b> <hr/>	100:1
29:13 30:3	5:7,18	162:15	<b>S</b> 2:1 3:7	103:17
97:21 98:6	6:15,24	164:2,6,10	4:1	105:13
<b>reviewed</b>	8:4 9:2,6	<b>room</b> 5:7	<b>safety</b> 13:7	115:9
115:18	9:24 10:2	31:12,19	112:17	123:2
121:11	12:9,15	32:7,11,16	132:24	126:2
155:6	16:1,14	111:3	134:2	146:16
<b>reviewers</b>	19:3 31:12	135:16	138:12	160:12
16:5	41:10,17	<b>rote</b> 26:23		<b>Scanlon</b>

<b>scheduled</b>	29:21	<b>sending</b>	105:6	131:25
143:18,19	38:10	17:23 63:7	106:19	<b>shareable</b>
<b>Scott</b> 13:22	71:10	105:16	109:5,14	121:24
14:8 23:3	79:23	<b>sends</b> 16:11	109:22	<b>shared</b> 14:25
100:19,23	99:13	<b>senior</b> 7:18	110:5	28:9 50:17
101:7	112:7	<b>sense</b> 47:3	113:14	50:18,20
104:25	115:2,4,5	53:22	118:1,2,6	50:22,23
151:6,12	117:24	55:10	118:11	62:21 65:1
151:17,23	125:18	<b>sent</b> 27:9,15	119:11,18	65:10 66:5
152:15,24	126:3	28:14	120:15	77:8,11
<b>Scott's</b>	141:13	29:20 33:9	122:8	78:6 83:18
150:16	145:15,21	35:23 63:7	123:10	93:18,19
151:14	146:17,20	68:12,22	126:9	110:9,10
152:6	146:20	69:16	127:18,21	111:14,15
<b>Scout</b> 2:10	147:1	71:20 90:5	132:9	117:12
5:15 24:6	151:15	93:25	137:14,17	129:16
29:2,6	154:3,24	99:16,25	137:19	131:24
35:20 37:8	155:4,5	100:12	138:9	132:6,7
41:21	158:7	104:9	141:11,12	138:4
42:18 63:4	160:8	120:15	141:20	148:9,10
68:14	<b>seeing</b> 62:21	126:9	143:2,7	152:3
104:5	63:5,12,24	127:17	145:8	<b>shares</b> 24:24
113:10	71:1 72:4	146:24	146:24	<b>sharing</b> 8:18
<b>screen</b> 8:19	76:22 77:6	150:3	153:3	108:21,23
8:25 58:21	101:24	158:17	155:7,11	109:20
141:13	103:13,16	160:10,11	156:9,16	127:7,8,10
<b>scroll</b> 8:23	112:1	<b>sentence</b>	157:9	127:10,11
18:23	123:13	14:18 23:7	<b>serve</b> 9:17	150:7
125:16	136:17	35:5 128:1	116:25	156:12
<b>scrolling</b>	<b>seek</b> 25:7,10	<b>sentencing</b>	162:15	<b>Sharp</b> 125:21
13:20	<b>seeking</b>	81:15	<b>served</b>	<b>she'd</b> 15:4
34:19	16:13 25:3	<b>separate</b>	145:18,20	128:11
61:25 65:4	<b>seen</b> 9:21	81:6	<b>serving</b> 56:8	<b>she'll</b> 37:17
145:13	33:6 47:15	140:18	<b>set</b> 30:18,20	<b>SHEET</b> 167:1
<b>second</b> 23:4	57:14 62:7	147:17	96:10,13	167:12
23:7 33:12	62:17	160:3	140:25	168:1,12
40:4 58:4	72:22 84:6	<b>separately</b>	166:11,18	169:1
115:3	85:24	129:8,10	<b>shaking</b> 6:8	170:1
141:6	102:12,16	147:2	<b>Shani</b> 60:11	<b>Shields</b>
151:2	109:12	<b>September</b>	62:4	28:25
<b>secondary</b>	117:14	47:21,22	<b>share</b> 23:14	29:14,18
79:20	156:14	47:23	51:13	32:25
<b>section</b>	<b>sees</b> 139:12	48:13,17	58:21	60:11,17
115:4	<b>send</b> 13:3	49:17 50:2	59:14 64:6	60:21,24
149:10,11	15:4,4	50:6 51:23	75:7,8	61:7 62:3
149:16	17:8 26:9	51:23 90:6	78:14 87:3	71:2,8
<b>sections</b>	26:12,14	90:12 92:9	96:19	87:9,16
117:6	26:21,22	92:16	109:11	89:2
<b>see</b> 8:25	66:8	94:21	126:8	<b>Shields'</b>
13:11	149:25	101:1	127:5,5,5	27:12 33:3

60:7	34:23 35:5	129:5	146:25	131:18
<b>shift</b> 67:23	35:8,16,23	130:8,13	147:14	132:16
69:20	36:4,24	131:4,18	150:4	133:8
<b>shocked</b>	40:5 42:3	131:22	<b>sock</b> 100:5	138:24
155:3	42:17,23	132:10,16	<b>software</b>	139:5
<b>shootings</b>	43:7 44:10	133:1,8,14	1:15	152:18
55:8	44:20,24	133:22	<b>somebody</b>	<b>speaking</b>
<b>shortly</b>	45:11,24	135:14,19	23:22	59:21 60:1
95:11	46:3,7,13	135:22	79:21	92:7
<b>show</b> 58:21	46:22 47:1	136:9,13	126:15	<b>special</b> 6:15
70:5 77:25	47:7,9	136:18,21	<b>Sommers</b>	8:7,8,10
115:21	48:4,7,10	138:8,23	120:22,24	20:12
132:4,8	48:13,17	139:7	<b>soon</b> 78:16	<b>specific</b>
150:16	49:10,16	140:1	88:18	34:18 50:4
151:16,20	49:18 50:7	142:24	<b>sooner</b> 77:10	<b>specific...</b>
151:24	50:9,13	144:4,11	77:12	49:9 73:12
155:8	51:7,25	148:15,20	<b>sorry</b> 29:2,6	<b>spend</b> 164:19
<b>showed</b> 51:18	53:23	148:24,25	32:4 45:14	<b>spit</b> 100:5
51:20 63:6	56:20 57:6	149:3,5	47:2 85:21	<b>spitting</b>
76:6 77:16	57:7,23	154:16	105:10	100:5
151:22	58:4,23	155:12,12	110:25	<b>spoke</b> 48:2
155:1	63:14,21	<b>Singleta...</b>	121:23	78:22,24
156:6	67:10,22	111:18	135:2	79:2 82:24
<b>showing</b> 8:13	67:22	119:13	136:8	83:9 85:24
23:11 63:6	68:12,22	149:12	137:11	100:2
<b>shown</b> 64:9	69:8,12	<b>sister</b>	140:4	101:2,15
<b>Shuman</b> 10:11	76:18	122:13	<b>sort</b> 6:1	101:15
10:11,13	77:13,14	<b>sit</b> 45:19	9:15 10:22	118:1,3,6
10:17,18	77:18,19	<b>skatovic...</b>	54:9 85:18	118:8
90:10	90:12,13	2:11	96:2 162:1	120:21
<b>sic</b> 139:25	90:23 91:3	<b>skirt</b> 146:15	<b>sought</b> 89:8	121:16
<b>side</b> 159:11	91:7,23	<b>slowly</b> 6:3	89:17	133:12
<b>sight</b> 9:16	92:3,7,20	<b>Smith</b> 13:17	<b>Soul</b> 23:2	139:9
<b>SIGNATURE</b>	94:22	13:24	<b>sound</b> 9:20	<b>spoken</b>
170:24	106:11	14:15	58:14	100:17,22
<b>signed</b> 20:17	108:2,9,17	67:10	<b>sounded</b> 70:7	117:21
33:1	108:18	73:17,25	<b>sounds</b> 26:20	<b>spread</b> 14:11
<b>significant</b>	109:14	74:7 79:9	27:23	<b>ss</b> 166:3
87:23	111:1,4,12	79:13 80:4	84:24	<b>stabilize</b>
<b>similar</b> 84:5	113:19,23	82:10	135:6	36:10 40:5
152:3	114:3,6,16	83:12,25	<b>speak</b> 6:2,3	<b>stabilized</b>
<b>simply</b> 26:11	115:12,14	94:22 95:8	6:4 10:24	40:13,17
29:21	115:20	95:18	11:6 12:4	<b>staff</b> 16:10
40:14	116:13,21	99:22	57:23	29:13 32:8
133:17	117:8,12	104:10	59:25	33:23 34:2
135:24	117:16,22	105:7	75:13,22	34:4 61:13
149:17	118:16,20	137:23	82:24	61:15,22
<b>Singer</b>	119:2,4,20	139:25,25	88:11	90:15
162:22	120:1,5	141:22	121:13	97:10,12
<b>Singletary</b>	128:25	142:4,7	129:3,7	130:25,25

157:15	153:2,4,7	163:5,10	134:7	36:18
160:1	154:13	<b>streets</b> 84:8	<b>supposed</b>	38:24
<b>stamp</b> 99:11	<b>statements</b>	102:14	30:12	39:25
<b>standard</b>	83:2	<b>strike</b> 35:13	73:11	160:17
20:16	111:18,19	103:19	<b>supposedly</b>	
123:12	130:1	<b>strong</b> 36:13	48:14	<b>T</b>
<b>standpoint</b>	149:6	129:12	<b>sure</b> 8:19	<b>T</b> 3:7 4:1
41:18	152:6	<b>struck</b> 41:13	30:24 31:9	166:1,1
43:20	<b>states</b> 45:17	<b>structure</b>	33:21 34:2	<b>tackling</b>
<b>stands</b>	102:5	7:12	37:19,25	54:25
113:12	<b>stating</b> 5:6	146:22	58:15 61:7	<b>take</b> 36:9
<b>started</b> 60:6	<b>stem</b> 57:20	<b>studio</b> 57:8	99:17	41:19 52:4
119:8	<b>Stephanie</b>	<b>subject</b>	111:23	52:12 53:7
<b>starting</b>	60:11	34:24	113:5	53:18
35:4	61:24 62:2	64:19	115:1	56:15
124:20	64:15 65:6	78:18 90:6	119:16	58:14
<b>state</b> 1:18	65:7 66:4	123:11	125:22	75:20
54:21	67:18 70:8	<b>Subscribed</b>	126:16,16	83:16 84:7
62:10,12	71:2	167:18	136:11	84:13
62:15	105:20	168:18	158:10	85:10,12
140:12	120:20	<b>subsequent</b>	161:23	85:20,24
152:8,10	121:13	47:16	<b>surprise</b>	86:17
166:2,8,8	<b>steps</b> 52:4	<b>subseque...</b>	153:23	92:13
167:23	52:12 53:7	119:10	<b>surprised</b>	96:24 98:2
168:23	53:18	<b>subset</b> 96:1	35:10	101:20
<b>stated</b> 45:16	140:8	<b>substance</b>	91:16,19	102:13,18
59:12 65:8	<b>stipulate</b>	139:15	91:21,22	103:13,15
65:13 73:7	5:2	<b>substantial</b>	156:16	121:22
78:23,24	<b>stock</b> 128:17	64:23	<b>suspend</b>	133:1
98:14,14	<b>stop</b> 36:11	<b>suggested</b>	157:6,25	164:23
111:24	86:21	22:3	<b>suspended</b>	<b>taken</b> 1:14
120:24	161:19	136:12	156:16	36:7 58:18
121:21	163:18	148:8	<b>suspending</b>	91:25 95:9
131:16	164:1	<b>suggesting</b>	153:10,17	99:5
132:17	<b>stopped</b>	104:1	<b>suspension</b>	124:19
137:19	151:21	146:12	24:4 153:3	138:15
152:2	<b>story</b> 131:14	<b>suggestion</b>	153:22	141:8
154:1	135:1	98:2 136:5	154:2,9	167:8
<b>statement</b>	<b>strategy</b>	<b>sum</b> 139:15	157:1,11	168:8
4:6 113:11	159:22,24	<b>summary</b> 36:4	157:18,21	<b>takes</b> 23:3
120:14	<b>street</b> 2:15	153:21	158:3,5	<b>talk</b> 73:21
122:3	5:7 74:24	154:2	<b>swearing</b> 5:2	74:21 75:4
143:8,12	75:9,21	<b>Summer</b> 23:2	<b>sworn</b> 5:8	114:13
143:14,17	76:5,10	<b>Sunday</b> 118:4	166:12	130:13
145:1	79:4,23	127:18	167:18	<b>talked</b> 28:6
150:15,19	102:21	<b>supplement</b>	168:18	95:18
150:22	158:24	164:16	<b>system</b> 16:7	<b>talking</b>
151:5	159:5,6,13	<b>supply</b> 33:13	16:8 29:25	12:17 24:9
152:4,16	159:17	<b>support</b>	30:4 33:10	57:19
152:21,25	161:9,14	133:4	34:6,9,14	67:13



141:11	69:25,25	122:7,8	96:16	28:12
<b>talks</b> 115:7	70:12,19	141:17,19	98:17	41:25
<b>team</b> 2:4	161:10,17	141:20,21	102:4,6,17	72:15
7:18,19,24	162:19	141:22	103:21,23	74:22 75:9
29:21	163:2	142:1,14	103:24	76:6 83:15
30:17	<b>Tennessee</b>	142:16	104:7	83:16
52:16 54:5	122:25	143:13	105:18	85:11 95:7
54:7 79:22	<b>tenure</b> 41:11	144:20	106:21	102:12
<b>teams</b> 7:15	44:7 80:18	<b>texted</b>	107:3,13	104:7
<b>technical</b>	81:10,11	144:22	109:18	109:14
30:1,11,15	82:18	<b>texting</b>	110:3	131:13
30:21 31:3	<b>term</b> 37:3,25	142:3	112:4,10	137:2,5
34:13,14	38:1,7	<b>thank</b> 20:8	112:23	154:4
<b>technically</b>	39:5	59:4 99:14	114:17	156:6,9
7:22	<b>terminate</b>	164:21	115:4,6	161:8
<b>Ted</b> 13:16	113:23	<b>thanks</b> 14:9	116:11	<b>thrash</b> 36:8
14:14 23:6	114:6	59:3	118:1	<b>thread</b> 92:24
24:16,20	<b>terminated</b>	145:21	122:23	96:10
24:21	110:12	<b>thing</b> 8:20	125:21	<b>three</b> 64:19
26:25	<b>terms</b> 10:16	23:8 73:8	126:22	67:8 79:15
29:21	13:2 53:24	73:9	127:9,9	130:20
<b>telephone</b>	68:6	110:23	129:9	<b>throwing</b>
99:17	108:21	<b>things</b> 10:22	130:15	100:8
<b>tell</b> 6:5	112:2	25:25 54:9	132:12	103:18
8:23 51:10	127:2	68:15,25	136:24	<b>thumb</b> 77:15
73:18,21	139:22	100:9	137:16	<b>Thursday</b>
74:7 77:2	149:20	122:21	138:20	65:5
100:1	150:24	129:23	140:10,16	106:19
101:2	<b>testified</b>	139:12	140:17	107:6
102:15	5:9	154:5	143:13	154:20
114:8	<b>testimony</b>	157:16	144:5	156:9
134:7,12	166:13	<b>think</b> 11:25	146:1,13	<b>ticket</b>
135:23	<b>text</b> 4:10,11	22:16,22	146:14,19	163:19
139:10	67:4,6,8	26:9,22	146:21	<b>tickets</b>
145:21	67:12,20	28:8,18,24	147:4,18	161:20
146:16,20	67:21	29:5 35:15	148:1	<b>tied</b> 76:2
146:21	68:22	35:19 38:6	151:1,1,1	112:8
153:13	69:15,20	38:23	152:1,7	<b>Tim</b> 27:9
163:15	70:8 93:25	41:16	154:4,12	29:12
<b>telling</b> 23:8	94:17,19	42:16	157:14	30:23 51:9
42:17,23	95:9,12,14	46:17	158:4,6,22	51:22
149:20	95:22 96:1	48:12	160:4	64:15 65:7
150:25	96:9,23	49:20	161:17	66:7,25
163:17	99:4,9,12	50:21 62:4	<b>thinking</b>	67:7,9,12
<b>ten-year</b>	99:15	65:5 74:24	35:22	67:21
11:18	100:12,18	75:7 76:14	47:24	68:13
64:19	100:21	77:21	85:17	69:16
<b>ten-year...</b>	103:25	80:14 85:5	<b>third</b> 58:17	75:11,12
67:13,24	104:9	86:16	79:11	75:13,18
69:10,21	117:14	92:12	<b>thought</b>	78:24

90:13	132:9	164:19	36:12	98:25
92:17,24	134:10	<b>told</b> 5:14	<b>travel</b> 25:24	114:20
93:5,10	136:12	23:12 47:9	<b>treated</b> 41:1	122:4
94:14,21	145:22	48:7,9,10	41:1 70:23	124:15
95:5,18	147:17	48:14 69:1	<b>Trevor</b> 18:11	141:12
105:6,13	149:1,1,5	74:14,14	18:16,17	153:1
105:15,20	149:14	74:22 79:3	18:24,25	158:8
108:6,14	153:15	79:6,9,12	19:23,23	<b>turning</b>
115:17	154:14	79:12	20:8,15	13:10
121:10,16	163:9	83:19	27:1	18:10
121:16	164:19	101:20	<b>tried</b> 81:7	105:2
123:11,15	165:1	102:12,12	100:5	123:6
123:20,23	<b>timeline</b>	116:6	101:10	127:14
124:4	87:19	117:8,11	104:3	141:15
145:8,16	105:12,13	122:15,21	<b>troublesome</b>	146:23
146:19	105:23,25	123:2	131:17	158:15
153:14	106:6	132:11	<b>true</b> 42:16	<b>tweet</b> 151:22
154:24,25	109:7	133:10	131:15	<b>two</b> 6:18
155:7,15	115:3,9	135:14,19	152:2	16:4 22:22
156:12	117:7,17	135:19,23	166:12	24:18 39:7
158:2	117:22	139:23	167:10	48:20 50:1
<b>time</b> 7:10	119:7	146:7,18	168:10	52:18
14:20	121:9,11	151:6,11	<b>truly</b> 116:24	60:14
17:19,23	121:11	153:15,20	<b>trust</b> 14:10	78:25 81:7
17:23,25	129:15	163:12	<b>trusted</b> 51:9	84:2 128:2
21:3,7,8	134:8,13	<b>top</b> 19:17	<b>truth</b> 114:8	130:18
27:15 28:5	140:11,14	32:13	114:8	135:17
28:8 30:14	140:17,22	35:17	130:6,7,9	136:1
33:16	146:25	94:20	134:7,12	148:11,14
36:20 41:6	147:2,6,23	116:3	149:21	148:19
42:11 48:2	148:13	142:21	<b>truthful</b>	159:3
55:1 63:12	150:7,12	<b>topic</b> 111:7	112:9	161:7
63:12,24	<b>timelines</b>	<b>toxicology</b>	114:10	<b>type</b> 11:14
68:5 71:1	33:24	36:18	134:15,21	148:23
71:24 72:1	<b>timely</b> 14:12	<b>track</b> 33:24	134:23	<b>typed</b> 4:6
72:20,22	<b>times</b> 29:25	34:7	135:12	153:4
76:21,22	35:15	<b>traffic</b>	<b>try</b> 6:3,3,5	<b>types</b> 11:21
78:19	61:10	161:19	47:4 130:4	28:10
79:11 87:7	<b>tired</b> 23:7	163:18	152:7	161:22
88:18	131:13	164:1	<b>trying</b>	<b>typically</b>
91:10,17	<b>title</b> 145:9	<b>trainings</b>	103:21,23	13:3 55:4
94:25	<b>titled</b>	15:18	146:15	145:25
95:19	127:19	<b>transcript</b>	160:9	146:8
97:21 98:2	146:25	167:8	<b>Tuesday</b> 14:9	
98:18	149:10	168:8	<b>turn</b> 15:23	<hr/> <b>U</b> <hr/>
99:11	<b>today</b> 5:22	<b>transition</b>	24:11	<b>ultimately</b>
103:22	8:14 36:15	157:16	26:24	81:7 88:6
105:11,22	45:19 46:2	<b>transmit</b>	32:19	108:16
115:20	46:6 67:25	16:10	34:22 60:4	116:4,7
128:6	126:7	<b>transported</b>	94:16	<b>um-hum</b> 6:8

60:8 70:13	68:21 69:2	54:22	<b>Vice</b> 13:22	73:3,9
76:15 99:6	69:3,4	<b>update</b> 18:4	<b>video</b> 1:15	<b>viewing</b> 82:8
115:5	80:8 81:4	44:23	1:25 25:3	104:21
116:4	81:13,15	<b>updated</b>	40:25	<b>views</b> 8:6
120:19	81:20	33:14 51:7	47:20	108:8,12
122:6	82:20 86:1	<b>updating</b>	67:25	110:19
135:13	86:16,22	14:5 31:16	69:21,22	<b>violence</b>
143:10	87:4 98:1	<b>uploaded</b>	69:25 70:1	55:10
<b>un-redacted</b>	103:1	31:18,23	70:5,11	56:20
20:18 21:5	109:15	<b>upset</b> 81:14	71:9 73:1	57:20,21
<b>understand</b>	110:8	84:8 152:5	73:4,13,15	<b>virtual</b>
6:4 7:11	123:1	155:22	73:19,22	56:19
29:10	139:1	<b>uptick</b> 57:14	74:2,8,12	<b>virtually</b>
36:24 37:8	148:13,18	<b>urgency</b>	74:13,16	57:2 58:1
37:13,16	160:16,20	53:22	74:17,19	<b>vocal</b> 6:7
37:19,22	161:14	<b>Urgent</b> 90:7	75:19 76:5	
39:2,2,21	167:13	<b>use</b> 77:25	76:13 77:3	<hr/> <b>W</b> <hr/>
40:7,10	168:13	103:14	77:6,7,9	<b>wait</b> 103:10
41:21 42:7	<b>understands</b>	124:22	77:14,17	<b>waiting</b>
42:10 43:3	69:5	<b>use-of-f...</b>	78:4,14,17	44:22
43:11	<b>understood</b>	116:19	78:20,22	100:4
44:11 47:4	24:10 29:8	<b>usually</b>	79:18 82:8	<b>walked</b> 77:15
47:8 53:13	29:12	32:10	82:16	<b>walking</b> 36:6
58:6 63:9	31:11	89:22	83:22 84:6	<b>Wanda</b> 141:24
63:10	39:13,18	<b>utilize</b>	84:9,16	<b>want</b> 7:11
79:16	40:18 58:2	61:22	85:24 86:5	15:23 23:5
84:22	81:25	<hr/> <b>V</b> <hr/>	86:9,12	31:8 66:7
98:19	85:15	<b>VALENTINE</b>	87:10,22	68:25 78:2
103:12	89:16	2:19	88:17,22	104:6
130:4,14	91:15	<b>validate</b>	89:2,3,9	113:3
146:17	98:23	131:14	89:17	141:12
155:22	112:18	<b>validating</b>	91:17,20	152:9
163:3	130:10	112:2	93:3 95:19	164:15,15
164:4	146:23	<b>value</b> 163:14	101:23	164:16
<b>understa...</b>	150:7	<b>various</b> 7:21	102:12	<b>wanted</b> 29:12
163:7	157:5	<b>vary</b> 72:12	103:16	31:8 35:5
<b>understa...</b>	159:6	<b>Vaughn</b> 76:8	109:11	73:18,23
19:14 21:1	<b>underway</b>	<b>vehicle</b>	110:9,10	75:7 85:24
21:12	82:1	28:20 32:5	112:1	98:3,5,5
37:15 39:7	<b>unforced</b>	<b>veracity</b>	115:18,21	98:19
39:8 42:11	29:23,23	109:9,25	116:7,18	128:16,16
42:22 45:9	<b>unfortun...</b>	112:15,15	131:25	139:21
45:12,16	55:16	114:10,11	132:1,4,8	154:1
45:20,22	<b>unnecess...</b>	<b>version</b>	136:17	<b>wants</b> 23:13
46:2,6,12	76:10	20:19 87:9	<b>Videocon...</b>	37:11
46:25 47:8	<b>unusual</b>	112:3	1:14	126:7
50:15,19	35:13 56:3	143:14	<b>videos</b> 32:15	<b>Ward</b> 2:5
50:21	62:14	<b>versus</b> 39:11	<b>view</b> 73:5,7	5:16
59:20,24	146:11,13	82:25	73:8	<b>Warner</b> 7:3
65:9 66:4	<b>upcoming</b>		<b>viewed</b> 20:22	<b>warranted</b>

42:8 154:9	130:10,12	72:19,24	40:24	5:2 37:15
<b>Warren</b> 7:8	131:3,7,11	73:15 74:8	72:10,11	104:8
7:13 13:16	131:21	74:17	72:12,12	112:25
13:21 14:5	132:2,10	75:19	158:13	164:25
14:13,21	133:7,12	76:13,20	<b>weekend</b> 55:9	166:10,13
22:12,13	133:22	76:24 78:4	<b>weekly</b> 54:8	166:18
23:6,11,18	134:21	78:17,20	<b>weeks</b> 90:21	167:16
23:21 48:3	136:9,13	78:22	90:25	168:16
48:7,10	136:19	87:22	91:24	<b>witnessed</b>
49:18 50:9	137:22	91:17	<b>weigh</b> 108:15	116:7
51:2,7,10	138:6,23	92:21	160:24	<b>wondering</b>
51:14,18	139:5	<b>watching</b>	162:10	124:21
51:20	140:3,8,21	46:19	<b>Weird</b> 141:23	152:10
56:20 57:5	143:8	74:19 76:4	<b>welcome</b>	<b>word</b> 38:25
57:7,23	144:19	77:7 86:5	164:22	49:1,1
59:9 60:3	148:15,20	86:9 91:19	<b>went</b> 73:20	53:3 145:4
65:7,13,15	149:2	<b>water</b> 125:2	78:24	145:4,5,5
65:18 66:1	150:1,20	<b>way</b> 9:14	80:14	<b>words</b> 111:5
70:1,17	150:24	20:9 21:10	107:14	136:23
72:1,4,22	151:5,10	32:22	162:4	<b>work</b> 10:12
72:23 74:8	151:16,20	43:15 45:2	<b>weren't</b> 92:2	14:2 26:14
83:23	152:14,23	52:24	118:22	33:23 52:9
84:25 86:3	153:10	55:23,24	127:10,10	53:6 63:8
86:7,11	155:17	58:8 73:21	127:11	68:1 93:4
95:8 99:16	156:15	74:25 80:7	140:6	93:5
100:1,14	157:4,10	80:23	144:23	136:14
100:18,22	157:25	109:10	<b>West</b> 2:15	<b>worked</b> 7:7,9
101:6,8,12	<b>Warren's</b> 8:6	113:9	<b>WESTERGAARD</b>	66:5
102:3,6,9	10:3 12:3	166:16	2:19	<b>working</b> 7:10
103:1	14:23 49:4	<b>we'll</b> 99:9	<b>what-hav...</b>	66:6
104:9,24	109:25	<b>we're</b> 8:19	55:11	<b>works</b> 15:25
105:7	111:19	37:9 71:1	148:3	16:2
107:6,24	<b>wasn't</b> 66:12	94:20	<b>WHEREOF</b>	<b>worries</b>
108:15,24	82:23	123:9	166:18	110:13
109:16	89:19	142:17,18	<b>whichever</b>	<b>worst</b> 109:20
112:8	91:19,21	145:18	160:17	<b>wouldn't</b>
114:4,9,13	91:22	158:12,16	<b>willingness</b>	56:10
115:11,15	95:25 96:2	<b>we've</b> 11:16	164:19	113:9
115:21	102:14	58:23 60:5	<b>wish</b> 14:23	116:14,14
116:20	140:23	117:5,6	15:2 59:9	136:22
117:4,8,9	152:2	145:17	83:19	137:12
117:11,14	156:3,6	<b>weather</b> 77:2	155:21	162:10,14
117:16	162:9	77:4	<b>wished</b> 11:1	<b>wrapped</b>
118:18	<b>watch</b> 71:23	<b>web</b> 3:11 9:3	<b>withdrawn</b>	154:5
119:1,12	72:23 73:1	9:6	21:2 102:7	<b>write</b> 9:9
119:20	73:13,19	<b>website</b> 9:15	<b>withheld</b>	65:6 117:2
120:1,7,9	73:23	16:4 31:13	17:2 19:20	121:6
127:18	74:12	<b>Wednesday</b>	<b>withhold</b>	147:15,23
128:7,21	<b>watched</b> 71:8	107:4	121:1	150:19
129:3	71:20 72:1	<b>week</b> 36:13	<b>witness</b> 3:2	<b>writer</b> 90:15

<b>writing</b> 33:15 60:13 151:5	<b>Yep</b> 13:12 158:18	<b>10:30</b> 96:11 96:21 97:6	<b>158</b> 4:7	153:1, 4
<b>written</b> 11:23, 24 15:10 144:25 149:12	<b>yesterday</b> 62:22 63:23, 23 63:25 64:9 65:8	<b>10:36</b> 120:16 <b>10019-9601</b> 2:16	<b>17</b> 3:15, 24 24:13 123:6, 7	<b>250</b> 2:15 <b>26</b> 4:7 141:20 158:19
<b>wrong</b> 53:23 110:22 163:1	<b>York</b> 1:18 2:6, 6, 16 2:16 5:7, 7 166:2, 4, 8 167:23 168:23	<b>10020</b> 2:6 <b>105</b> 3:21 <b>10th</b> 18:25 34:23 58:3 58:22 63:15, 20 64:2 76:17 106:10 110:2, 6 142:23 154:15, 21 154:21 155:7, 16 157:5	<b>17th</b> 24:15 25:2 <b>18</b> 3:13 <b>19</b> 3:25 127:14, 15	<b>27</b> 3:14 4:8 64:11, 12 <b>27th</b> 18:23 20:12 <b>28</b> 60:22 <b>28th</b> 61:1 <b>29</b> 4:9 98:25 99:1 141:16 160:10 <b>2nd</b> 47:23 51:23 90:12 92:9 92:16 94:21 101:1 104:23 109:5, 14 118:2, 6, 11 119:6, 11 137:18
<b>wrongdoing</b> 53:1	<b>young</b> 65:3 66:15 161:10	<b>11:05</b> 25:2 <b>11:52</b> 106:22 <b>114</b> 3:22 <b>11th</b> 62:2, 24 64:3, 15 65:6 106:4	<b>2</b> <b>2</b> 3:12 9:16 13:10, 13 22:11 <b>20</b> 4:4 8:2 33:15, 18 143:3, 4 167:19 168:19	<b>20</b> 4:9 98:25 99:1 141:16 160:10 <b>2nd</b> 47:23 51:23 90:12 92:9 92:16 94:21 101:1 104:23 109:5, 14 118:2, 6, 11 119:6, 11 137:18
<b>wrote</b> 117:3 119:17, 23 124:2	<b>YouTube</b> 19:1 19:8, 16	<b>11:05</b> 25:2 <b>11:52</b> 106:22 <b>114</b> 3:22 <b>11th</b> 62:2, 24 64:3, 15 65:6 106:4	<b>20-day</b> 33:22 34:3, 7, 16 61:3, 8, 20 <b>2020</b> 1:10 3:15, 18, 19 13:17 24:14 35:1 55:1 59:2 166:19	<b>20</b> 4:4 8:2 33:15, 18 143:3, 4 167:19 168:19 <b>20-day</b> 33:22 34:3, 7, 16 61:3, 8, 20 <b>2020</b> 1:10 3:15, 18, 19 13:17 24:14 35:1 55:1 59:2 166:19
<b>WTF</b> 122:16	<b>Yudelson</b> 99:23 104:10, 17 104:20 105:8 108:7, 13 110:15, 24	<b>11:05</b> 25:2 <b>11:52</b> 106:22 <b>114</b> 3:22 <b>11th</b> 62:2, 24 64:3, 15 65:6 106:4	<b>2020</b> 1:10 3:15, 18, 19 13:17 24:14 35:1 55:1 59:2 166:19	<b>2020</b> 1:10 3:15, 18, 19 13:17 24:14 35:1 55:1 59:2 166:19
<b>WXX</b> 145:14	<b>Z</b>	<b>12</b> 3:21 105:2, 3 106:20	<b>202A</b> 5:7	<b>3</b>
<b>WXXI</b> 145:15 150:16 151:14, 15 152:6	<b>Zink</b> 124:2	<b>120</b> 3:23 <b>124</b> 3:24 4:12 <b>128</b> 3:25 <b>13</b> 3:12, 22 114:21, 22 141:24 142:12 <b>13th</b> 56:18 142:4 148:23 149:3, 6 <b>14</b> 3:23 120:12, 14 <b>143</b> 4:4 <b>145</b> 4:5 <b>14614</b> 5:8 <b>14th</b> 153:3 153:12 156:10, 17 157:10 <b>153</b> 4:6	<b>21</b> 4:5 145:7 145:11 <b>212-468-...</b> 2:17 <b>212-763-...</b> 2:7 <b>22</b> 26:25 <b>22nd</b> 27:10 <b>23rd</b> 46:4 49:11 71:2 71:19 85:17 106:1 115:11 119:25 148:12 <b>24</b> 3:15 23:5 116:18 150:15 <b>24th</b> 14:9 <b>25</b> 4:6 13:17	<b>3</b> <b>3</b> 3:13 18:8 18:10 38:18 116:3 144:5 160:10 <b>3/23</b> 36:4 44:21 <b>3/30</b> 36:14 58:5 <b>3:26</b> 160:10 <b>30</b> 4:10 5:6 94:16, 17 157:22 <b>30th</b> 119:25 148:12 158:17 <b>31</b> 4:11 67:3 67:4 <b>32</b> 3:16 4:12 124:15, 16 <b>34</b> 3:18
<b>X</b>	<b>zoom</b> 1:15 57:3 96:10 96:25 125:17 144:6, 21	<b>12</b> 3:21 105:2, 3 106:20	<b>202A</b> 5:7 <b>21</b> 4:5 145:7 145:11 <b>212-468-...</b> 2:17 <b>212-763-...</b> 2:7 <b>22</b> 26:25 <b>22nd</b> 27:10 <b>23rd</b> 46:4 49:11 71:2 71:19 85:17 106:1 115:11 119:25 148:12 <b>24</b> 3:15 23:5 116:18 150:15 <b>24th</b> 14:9 <b>25</b> 4:6 13:17	<b>3</b> <b>3</b> 3:13 18:8 18:10 38:18 116:3 144:5 160:10 <b>3/23</b> 36:4 44:21 <b>3/30</b> 36:14 58:5 <b>3:26</b> 160:10 <b>30</b> 4:10 5:6 94:16, 17 157:22 <b>30th</b> 119:25 148:12 158:17 <b>31</b> 4:11 67:3 67:4 <b>32</b> 3:16 4:12 124:15, 16 <b>34</b> 3:18
<b>x</b> 1:2, 8 3:7 4:1	<b>0</b>	<b>13</b> 3:12, 22 114:21, 22 141:24 142:12 <b>13th</b> 56:18 142:4 148:23 149:3, 6 <b>14</b> 3:23 120:12, 14 <b>143</b> 4:4 <b>145</b> 4:5 <b>14614</b> 5:8 <b>14th</b> 153:3 153:12 156:10, 17 157:10 <b>153</b> 4:6	<b>202A</b> 5:7 <b>21</b> 4:5 145:7 145:11 <b>212-468-...</b> 2:17 <b>212-763-...</b> 2:7 <b>22</b> 26:25 <b>22nd</b> 27:10 <b>23rd</b> 46:4 49:11 71:2 71:19 85:17 106:1 115:11 119:25 148:12 <b>24</b> 3:15 23:5 116:18 150:15 <b>24th</b> 14:9 <b>25</b> 4:6 13:17	<b>3</b> <b>3</b> 3:13 18:8 18:10 38:18 116:3 144:5 160:10 <b>3/23</b> 36:4 44:21 <b>3/30</b> 36:14 58:5 <b>3:26</b> 160:10 <b>30</b> 4:10 5:6 94:16, 17 157:22 <b>30th</b> 119:25 148:12 158:17 <b>31</b> 4:11 67:3 67:4 <b>32</b> 3:16 4:12 124:15, 16 <b>34</b> 3:18
<b>Y</b>	<b>1</b>	<b>13th</b> 56:18 142:4 148:23 149:3, 6 <b>14</b> 3:23 120:12, 14 <b>143</b> 4:4 <b>145</b> 4:5 <b>14614</b> 5:8 <b>14th</b> 153:3 153:12 156:10, 17 157:10 <b>153</b> 4:6	<b>202A</b> 5:7 <b>21</b> 4:5 145:7 145:11 <b>212-468-...</b> 2:17 <b>212-763-...</b> 2:7 <b>22</b> 26:25 <b>22nd</b> 27:10 <b>23rd</b> 46:4 49:11 71:2 71:19 85:17 106:1 115:11 119:25 148:12 <b>24</b> 3:15 23:5 116:18 150:15 <b>24th</b> 14:9 <b>25</b> 4:6 13:17	<b>3</b> <b>3</b> 3:13 18:8 18:10 38:18 116:3 144:5 160:10 <b>3/23</b> 36:4 44:21 <b>3/30</b> 36:14 58:5 <b>3:26</b> 160:10 <b>30</b> 4:10 5:6 94:16, 17 157:22 <b>30th</b> 119:25 148:12 158:17 <b>31</b> 4:11 67:3 67:4 <b>32</b> 3:16 4:12 124:15, 16 <b>34</b> 3:18
<b>yeah</b> 47:25 82:18 92:10 95:12, 24 99:15, 21 103:16 106:24 107:1 112:25 113:5 116:10 121:11 122:18 134:22 135:4, 4 139:8 150:11	<b>1</b> 3:10 9:2 9:16 67:25 90:6 <b>1-800-31...</b> 1:25 <b>1:03</b> 127:18 <b>1:51</b> 165:1 <b>10</b> 1:10 3:18 3:19, 20 34:25 59:1 89:25 90:1	<b>13th</b> 56:18 142:4 148:23 149:3, 6 <b>14</b> 3:23 120:12, 14 <b>143</b> 4:4 <b>145</b> 4:5 <b>14614</b> 5:8 <b>14th</b> 153:3 153:12 156:10, 17 157:10 <b>153</b> 4:6	<b>24</b> 3:15 23:5 116:18 150:15 <b>24th</b> 14:9 <b>25</b> 4:6 13:17	<b>31</b> 4:11 67:3 67:4 <b>32</b> 3:16 4:12 124:15, 16 <b>34</b> 3:18
<b>year</b> 11:19 72:14	<b>10-year-old</b> 159:5	<b>153</b> 4:6	<b>24th</b> 14:9 <b>25</b> 4:6 13:17	<b>31</b> 4:11 67:3 67:4 <b>32</b> 3:16 4:12 124:15, 16 <b>34</b> 3:18
<b>years</b> 6:18				
<b>yellow</b> 128:1				

<b>3rd</b> 32:24 51:23,23 60:10,22 61:1 105:6 106:19 110:5 113:14 118:1 119:18 120:16 122:9 <hr/> <b>4</b> <hr/> <b>4</b> 3:14 26:24 27:3 115:18,20 <b>4:00</b> 144:5 <b>42-year-old</b> 36:5 <b>429</b> 125:23 <b>43</b> 122:7 <b>432</b> 125:17 <b>47</b> 99:13 <b>4th</b> 72:3 104:21 120:20 123:10 126:9 148:12,19 <hr/> <b>5</b> <hr/> <b>5</b> 3:3,15 24:11,13 <b>5:14</b> 14:9 <b>55th</b> 2:15 <b>5853704575</b> 125:24 <b>5858027199</b> 125:20 <b>59</b> 3:19 <b>5Ks</b> 8:9 <b>5th</b> 72:3,18 76:14,20 83:2 89:1 101:13,18 101:23 102:8 103:20 <hr/> <b>6</b> <hr/>	<b>6</b> 3:16 32:19 32:20 60:5 <b>6:56</b> 141:21 <b>600</b> 2:6 <b>64</b> 4:8 <b>67</b> 4:11 <b>6th</b> 48:13,17 49:17 50:2 50:6 72:18 118:5 127:18,21 132:9 137:14,19 138:9 141:11 155:11 <hr/> <b>7</b> <hr/> <b>7</b> 3:17 71:1 71:6 <b>7:05</b> 122:9 <b>7:46</b> 90:12 <b>7:53</b> 92:25 <b>71</b> 3:17 <b>7th</b> 48:13,17 49:17 50:2 50:7 118:5 137:19 141:12,20 <hr/> <b>8</b> <hr/> <b>8</b> 3:18 34:22 34:25 143:7 <b>8:04</b> 90:6 <b>8:54</b> 126:9 <b>8th</b> 143:3 145:8 <hr/> <b>9</b> <hr/> <b>9</b> 3:11,19 58:22 59:1 <b>9/6/20</b> 127:19 <b>9:08</b> 65:5 <b>9:13</b> 94:21 <b>9:30</b> 101:1 <b>9:34</b> 1:11 96:10 99:25 	<b>9:40</b> 96:21 <b>90</b> 3:20 <b>911</b> 115:10 <b>94</b> 4:10 <b>99</b> 4:9 <b>9th</b> 61:24 146:24 154:21 155:7 		
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------	--	--