



KENTUCKIANA
— COURT REPORTERS —

CASE NO.: 20-CI-3643

**SEMONE CARTER, INDIVIDUALLY AND AS
ADMINISTRATOR OF THE ESTATE OF SHELBY GAZAWAY
V.
LOUISVILLE METRO POLICE DEPARTMENT, ET AL.**

**DEPONENT:
STEVE CONRAD**

**DATE:
MARCH 14, 2023**



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1 JEFFERSON CIRCUIT COURT

2 DIVISION 12

3 JUDGE SUSAN GIBSON

4 CASE NO.: 20-CI-3643

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7 SEMONE CARTER, INDIVIDUALLY AND AS
8 ADMINISTRATOR OF THE ESTATE OF SHELBY GAZAWAY,
9 Plaintiff

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11 V.

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13 LOUISVILLE METRO POLICE DEPARTMENT, ET AL.,
14 Defendants

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23 DEPONENT: STEVE CONRAD

24 DATE: MARCH 14, 2023

25 REPORTER: BETHANY BELLOFATTO

1 APPEARANCES Page 2 2 3 ON BEHALF OF THE PLAINTIFF, SEMONE CARTER, INDIVIDUALLY 4 AND AS ADMINISTRATOR OF THE ESTATE OF SHELBY GAZAWAY: 5 Gregory D. Simms, Esquire 6 Murphy & Associates, PLC 7 513 South Second Street 8 Louisville, Kentucky 40202 9 Telephone No.: (502) 618-4949 10 E-mail: greg@attorneysimms.com 11 12 ON BEHALF OF THE DEFENDANTS, LOUISVILLE METRO POLICE 13 DEPARTMENT, OFFICER NORTON, DETECTIVE DUGAN, AND CHIEF 14 STEVE CONRAD: 15 James McKiernan, III, Esquire 16 Assistant Jefferson County Attorney 17 200 South Fifth Street 18 Suite 300N 19 Louisville, Kentucky 40202 20 Telephone No.: (502) 574-6303 21 E-mail: james.mckiernan@louisvilleky.gov 22 23 Also Present: Byron Summers, Videographer; 24 Semone Carter, Plaintiff; Abigail Kenyon, Law Clerk 25	1 STIPULATION Page 4 2 3 The video deposition of STEVE CONRAD was taken at THE 4 LAW OFFICE OF DAVID B. MOUR, 513 SOUTH SECOND STREET, 5 LOUISVILLE, KENTUCKY 40202, on TUESDAY, the 14th day of 6 MARCH, 2023, at 9:59 a.m. (ET); said video deposition 7 was taken pursuant to the KENTUCKY Rules of Civil 8 Procedure. 9 10 It is agreed that BETHANY BELLOFATTO, being a Notary 11 Public and Court Reporter for the State of KENTUCKY, may 12 swear the witness. 13 14 15 16 17 18 19 20 21 22 23 24 25
1 INDEX Page 3 2 Page 3 PROCEEDINGS 5 4 DIRECT EXAMINATION BY MR. SIMMS 6 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 PROCEEDINGS Page 5 2 VIDEOGRAPHER: Good morning. My name is Byron 3 Summers. I'm the videographer today and Bethany 4 Bellofatto is the court reporter. Today is the 14th 5 day of March, 2023. The time is 9:57 a.m. We're at 6 the offices of David B. Mour to take the deposition 7 of Steve Conrad in the matter of Semone Carter 8 versus Louisville Metro Police Department, et al., 9 pending in the Circuit Court of Jefferson County, 10 Kentucky, Case number 20-CI-3643. Will counsel 11 please identify themselves for the record? 12 MR. SIMMS: Greg Simms for the plaintiff. 13 MR. MCKIERNAN: James McKiernan for Chief 14 Conrad. 15 VIDEOGRAPHER: Okay. Mr. Conrad, would you 16 please raise your right hand to be sworn in by the 17 reporter? 18 THE WITNESS: (witness complies.) 19 COURT REPORTER: Do you solemnly swear or 20 affirm, that the testimony you're about to give, 21 will be the truth, the whole truth, and nothing but 22 the truth? 23 THE WITNESS: I do. 24 COURT REPORTER: Thank you. 25 DIRECT EXAMINATION

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1 BY MR. SIMMS:

2 Q Chief Conrad, my name is Greg Simms.

3 I represent Semone Carter in the capacity of the estate
4 of Shelby Gazaway in this matter. You have been deposed
5 many times before, correct?

6 A Yes, sir.

7 Q Okay. Even though you've been deposed many
8 times, and I know that you know all of the rules of a
9 deposition, I'm going to go over them anyway.
10 My anticipation is, I'll probably be going over a lot of
11 things you already know today.

12 A Yes, sir.

13 Q I'd ask you to just bear with me, please.

14 A Yes, sir.

15 Q Generally, as we go through a deposition, your
16 answers need to be verbal and audible. We're recording
17 this matter, so I would ask that you say yes, or no, or
18 I don't know whenever applicable, instead of shaking
19 your head yes or no, or saying uh-huh or uh-uh; is that
20 acceptable?

21 A Yes, sir.

22 Q At any time, we can take a break for any
23 reason, really. All I may ask is that if there's a
24 question on the table, you may answer the question
25 before we take that break, okay?

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1 A Yes, sir.

2 Q Sometimes there may be objections as we go
3 through this. The general rule on objections is that I
4 would ask a question, then someone would state an
5 objection, and then you answer the question.
6 Occasionally, rarely, a lawyer may instruct a witness
7 not to answer a question. For example, if I ask,
8 "What did you and your lawyer talk to about this
9 subject," that could be calling for attorney-client
10 privilege and would be something that you could be
11 instructed not to answer, but generally there's a
12 question, an objection would be stated, and then you
13 answer the question, okay?

14 A Yes, sir.

15 Q If at any time I ask a question that is
16 unclear, that is my fault, not yours. I would ask you
17 to ask me to restate or rephrase the question if
18 anything at all is unclear; is that fair?

19 A Yes, sir.

20 Q If I ask a question and you answer it, I will
21 assume that you understood the question; is that fair?

22 A Yes, sir.

23 Q I want to talk about just your role as Chief
24 of Police at Louisville Metro Police Department briefly.
25 During what time span were you Chief of Police?

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1 A I started in 2012, March 19th of 2012.

2 And I was relieved of that job on June 1st of 2020.

3 Q You were the chief policymaker for LMPD during
4 that period of time, correct?

5 MR. MCKIERNAN: Objection to form. You can
6 answer.

7 A I was responsible for the policies that were
8 made in the -- in the department.

9 Q To be more specific, you were responsible for
10 the implementation of standard operating procedures at
11 Louisville Metro Police Department?

12 A Yes, sir.

13 Q You were responsible for the training and
14 supervision on those standard operating procedures,
15 correct?

16 MR. MCKIERNAN: Objection to form. Answer.

17 A Yes, sir.

18 Q Okay. And for instances in the standard
19 operating procedures that involved, for example, use of
20 force, if an officer does not follow the standard
21 operating procedures, someone could be killed or hurt as
22 a result?

23 MR. MCKIERNAN: Objection --

24 Q That fair?

25 MR. MCKIERNAN: Objection to form.

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1 A That -- that could be an occurrence.
2 Yes, sir.

3 Q Okay. The standard operating procedures for
4 Louisville Metro Police Department are rules that the
5 officers in your employ as chief must follow, correct?

6 A No, sir.

7 Q The standard operating procedures are not
8 rules that the officers can choose to disobey, correct?

9 A Yes, sir. However, the -- the preface of the
10 standard operating procedure manual, does allow for
11 deviation from a policy or a procedure, but the officer
12 would need to justify their reason for that variation
13 from whatever the policy says.

14 Q Are the parameters that allow deviation set
15 forth in the standard operating procedures?

16 A Yes, sir. It is laid out in the preface of
17 the standard operating procedure manual.

18 Q And can you explain that? What is the -- what
19 are the parameters for deviating from the standard
20 operating procedures that you knew of during your stint
21 as chief -- and specific -- more specifically, in
22 November of 2019; if you know?

23 MR. MCKIERNAN: Objection to form. You can
24 answer if you know.

25 A I would need to see the preface page from the

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1 standard operating procedure. I haven't looked at that
2 material since 2020. I -- I wouldn't have an
3 opportunity to remember it specifically. But that
4 variation or the -- the -- the information that I'm
5 referring to is -- is in that preface.

6 **Q If someone did deviate from the standard
7 operating procedures, what would they need to do?**

8 A They would need to be in a position to explain
9 the reason for their deviation to their commanding
10 officer.

11 **Q Okay. And is that a situation where the
12 commanding officer would be the individual who would
13 either approve or disapprove of the deviation?**

14 A It would depend on the deviation, the reason
15 for the deviation. That -- that would be something
16 that, you know, in -- in a minor situation, a minor
17 policy, I think a sergeant could understand it and --
18 and explain it and -- and allow it. In use of force
19 situation, particularly involving someone's death, that
20 -- that deviation or request for a deviation would be
21 escalated and would be considered through the
22 investigation that was completed in -- in terms of
23 either a -- a professional standards investigation or a
24 public integrity investigation.

25 **Q Do you know why generally you are here today?**

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1 A Yes, sir.

2 **Q Why is that?**

3 A I -- I'm -- I'm here because of the death of -
4 - of a man at the hands of -- of two Louisville Metro
5 Police Officers in -- in 2019.

6 **Q Do you know who the individual is who is
7 deceased?**

8 A I -- I -- I do not.

9 **Q Does the name Shelby Gazaway mean anything to
10 you?**

11 A I recognize it from the litigation.

12 **Q Can -- do you understand why you personally
13 are involved in this lawsuit?**

14 A It is my understanding that I'm here because I
15 was the Chief of Police at the time of the incident.

16 **Q Have you read any of the documents that are
17 involved in the litigation?**

18 A I have not.

19 **Q Did you do anything to prepare for today?**

20 A Other than a conversation with my counsel.
21 No, sir.

22 **Q You didn't review any of the legal documents
23 for this case to prepare for today?**

24 A Correct.

25 **Q You did not watch any video to prepare for**

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1 **today?**

2 A Correct.

3 **Q Do you know if you've ever watched any video
4 in regard to the shooting of Shelby Gazaway?**

5 A I did see the video from the shooting.

6 **Q In addition to implementing, training, and
7 supervising on the standard operating procedures as
8 Chief of Police, there was a degree of deterring and
9 incentivizing specific behaviors for police, correct?**

10 A I don't understand your --

11 MR. MCKIERNAN: Objection to form.

12 A I'm sorry.

13 MR. MCKIERNAN: Yeah. Objection to form.

14 A I -- I don't understand the question, sir.

15 **Q Well, so with regard to supervising on SOPs,
16 officers could be punished and terminated for violation
17 of SOPs, correct?**

18 A That is possible. Yes, sir.

19 **Q And in addition to that, there were certain
20 things that you could do as far as, like, commendations
21 or awards that you could give officers, correct?**

22 A Yes, sir.

23 **Q Okay. And the general overarching and
24 probably oversimplified version of that is that there
25 are things that you can do as chief to sort of**

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1 **incentivize the behaviors that are -- that you want to
2 see and punish and deter the behaviors that you don't
3 want to see, fair?**

4 MR. MCKIERNAN: Objection to form. You can
5 answer if you understand.

6 A I think that taking any sort of action in a
7 situation where someone has violated SOP, the purpose
8 for that penalty, punishment, whatever it might be,
9 whether it's a written reprimand all the way up to a
10 suspension, that is intended to do a couple of things.
11 Obviously, change that particular employee's behavior in
12 the future. Or in -- in terms of a termination, to have
13 that, you know, officer leave the department, where we
14 don't have any additional problems from that officer.
15 In terms of the awards and commendations, that was all
16 delegated. I usually learned of the awards the day of
17 the awards banquet. I didn't personally, with maybe a
18 couple of exceptions, write any of the commendations or
19 -- or actually give any of the awards, other than the
20 presentation portion of it. So I don't know that -- that
21 the incentivizing anything by way of commendation or
22 award is -- is -- is accurate. It was not a means I
23 ever used for motivation.

24 **Q Well, I think one of the things that we're
25 getting caught up in here is the purpose for doing it or**

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1 -- versus maybe the effect that it has. And let me try
2 to make myself a little bit more clear. Earlier, you
3 had indicated that whenever someone violated SOPs, there
4 would be several different possible reasons for
5 punishing that, or for the repercussions for violating
6 SOPs. Could be for changing that individual's behavior.
7 In the case of termination, it could be to make sure
8 that that person is not an officer anymore, correct?

9 A Yes, sir.

10 Q But in addition, when you punish those for
11 violations of SOPs, it has the effect of letting other
12 officers know that that conduct is not tolerated,
13 correct?

14 A Yes, sir.

15 Q So it's not -- the function of that is not
16 just for the officer who violated the SOPs. It has a
17 function that is a little broader, that can have an
18 effect on the rest of the department, fair?

19 MR. MCKIERNAN: Objection to form. You can
20 answer.

21 A It -- it could.

22 Q Same for the presentation of awards or
23 commendations; is that correct? I mean, it -- the
24 purpose could be for that individual as far as that
25 person is rewarded or let known that their behavior was

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1 appropriate or beneficial. But in addition to that, it
2 had -- can have an effect on the rest of the department
3 as in showing the others what a behavior is appropriate
4 or rewarded, fair?

5 MR. MCKIERNAN: Objection.

6 A I guess it could. I don't know that that
7 message would be received by everyone in the department,
8 but I would certainly believe it would be by members of
9 the department who attended the -- the banquet when the
10 awards were -- were given.

11 Q Or anyone who got wind of it through media or
12 other sources; is that fair?

13 A Potentially. Yes, sir.

14 Q I want to move on to some general questions
15 about police training. You've been through numerous
16 instances of training as an officer yourself, correct?

17 A Yes, sir.

18 Q Generally speaking, when it comes to police
19 work, police are trained when they're questioning
20 witnesses to separate witnesses, correct?

21 A Honestly, I -- I don't know that. That is --
22 that is a -- a standard practice when you're trying to
23 solicit information from a -- from a witness. But --
24 but I don't know if that's a part of the SOP. It -- it
25 likely is, but I don't know that.

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1 Q Okay. It's standard practice to separate
2 witnesses, and then interview them close to the event as
3 possible; is that fair?

4 A Yes, sir.

5 Q And the purpose for that is, so that witnesses
6 don't either intentionally or unintentionally get their
7 story together, correct?

8 A I don't know whether that's the reason or --
9 or not the reason. You're trying to get truthful
10 information about what occurred. There are -- in -- in
11 the case of an officer-involved shooting, there is an
12 opportunity to -- to have a -- a conversation with
13 counsel prior to giving a statement. But -- but yes.

14 Q Okay. Generally speaking, if you have
15 witnesses to an event, if they are together, they can
16 get a story together, correct?

17 MR. MCKIERNAN: Objection to form.

18 Q And if you separate them, it helps to remove
19 that possibility, fair?

20 A That -- that -- that potential is there and --
21 and yes, separating them would lessen the potential for
22 that to occur.

23 Q And for the most part, when you interview
24 witnesses -- I'm -- and I'm not talking about an
25 officer-involved shooting. But the standard practices

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1 to interview them as quickly after the event as
2 possible, because it's generally well known that
3 people's memories can change over time, fair?

4 A Again, I don't know that there -- that is laid
5 out in policy, that it must be done immediately or -- or
6 right away. But yes, as a -- as a -- as a practice --
7 as a good practice, I -- I would agree with you.

8 Q Okay. And the general rule for officers
9 gathering evidence in a case is to gather the evidence,
10 weigh the evidence, and then make some sort of
11 determination, as opposed to making the determination,
12 and then gathering the evidence to support their
13 determination, correct?

14 MR. MCKIERNAN: Objection to form.

15 A I think you have to complete an investigation
16 before you can come to a conclusion. Yes, sir.

17 Q Okay. What does "identifying yourself as an
18 officer" mean to you?

19 A I --

20 Q I will be asking several stupid questions
21 through the course of this deposition.

22 A No. That's not stupid at all. No, sir.
23 I think identifying yourself as an officer would be
24 letting another person know that you are, in fact, a
25 police officer. That might be obvious from wearing a

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1 uniform. It may not from an officer that's wearing
2 plain clothes. But if you're getting ready to -- to --
3 to do something, identifying yourself as an officer is a
4 good way to let people know that you are, in fact, a
5 police officer.

6 Q Why is it a -- why is that a good practice?

7 A It -- it -- I think it's important to let,
8 again, people know that you are a police officer.
9 However, again, an officer in uniform, it's -- it's --
10 it's a pretty plain situation. Officer that's not in
11 uniform, I think that's a much more standard practice or
12 a standard statement to make if -- to make sure that the
13 person you're dealing with understands that you are, in
14 fact, a police officer.

15 Q There could also be other instances where an
16 officer is in uniform. For example, if there's a door
17 between them and another person, or a wall, or whatever
18 other object or circumstance that could prevent them for
19 -- from seeing the officer or from seeing the
20 identifying information. That could also be something
21 that would benefit the officer and the public for
22 identifying themselves as an officer; is that fair?

23 A In -- in most situations, yes. I would agree
24 with that.

25 Q Okay. What does the term "de-escalation" mean

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1 to you?

2 A De-escalation, and -- and I've heard that term
3 specifically with the use of force is, it is an attempt
4 to try to change the outcome of a situation by -- by
5 trying to calm the person you're dealing with down, to
6 try to use comments or -- or words that will cause a
7 person to relax or at least maybe change their course of
8 potential conduct by -- by -- by trying to talk them
9 down, if that -- if that makes sense.

10 Q Okay. Are there any tactics in the course of
11 doing exactly what you're talking about that you can
12 speak on that are standard of practice?

13 A Again, I've -- I've not reviewed the -- the
14 standard operating procedure in -- in -- in a long time.
15 That is laid out in the standard operating procedure.
16 There are different methods for trying to de-escalate
17 situations. And I know that is described in the
18 department's use of force policy and is trained in basic
19 training and also in -- in many of the continuing
20 education.

21 Q What about using a calm voice? Is that part
22 of the standard practice of de-escalation?

23 MR. MCKIERNAN: Objection to form.

24 A It can be.

25 Q Well, is there -- is there ever an -- a

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1 standard practice that you know of where a -- screaming
2 or shouting would be a part of de-escalation?

3 MR. MCKIERNAN: Objection to form.

4 A I don't think it's a part of de-escalation,
5 but it may be important in the situation depending on
6 other sounds that are -- are happening. But --

7 Q Sure. I'm just asking about -- I'm sorry, I
8 stepped on your words there. I did not -- I'm just
9 talking about de-escalation specifically. And I think
10 what you're getting at is, there could be times when
11 de-escalation is either not appropriate or not
12 available, right?

13 A Yes, sir.

14 Q But when it is, what I'm talking about is,
15 when there is -- when the possibility of de-escalation,
16 using a calm voice is always preferable to shouting or
17 screaming.

18 MR. MCKIERNAN: Objection to form.

19 A I -- I believe it would be helpful, yes.

20 Q Also, giving a person time and space is a part
21 of de-escalation, correct?

22 MR. MCKIERNAN: Objection to form.

23 A Typically, yes.

24 Q If an officer sees a weapon in someone's hand,
25 and they want the person to drop that weapon, is there

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1 any standard practice for what the officer should say?

2 A Not that I'm aware of.

3 Q Have you ever heard officers give commands to
4 drop a weapon?

5 A I'm sure that I have.

6 Q That's something that's pretty common, fair?
7 If officers see a weapon to tell someone to drop that
8 weapon?

9 MR. MCKIERNAN: Objection. You can answer.

10 A Generally, yes.

11 Q Are you familiar with open carry law in
12 Kentucky?

13 A I -- I know that -- that it is allowed in
14 Kentucky. I don't know the -- the law specifically.

15 Q Okay. But generally, you would agree with the
16 statement that carrying a gun out in the open in public
17 in Kentucky is not unlawful?

18 A Unless you're a convicted felon, yes.

19 Q There are other circumstances as well.

20 If somebody's too young to have a handgun, that could --

21 A Sure. Sure.

22 Q -- also be illegal. If the gun is defaced or
23 stolen, that could be illegal as well. But just the
24 general idea without any other additional information,
25 carrying a gun in the -- out in the open in Kentucky is

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1 not a sign of unlawful behavior, fair?

2 A That is correct. Yes, sir.

3 Q I want to take you through, just generally,
4 what you know about this case and when you learned the
5 information that you received. And I'll purport to you
6 that Shelby Gazaway was shot on November 7 of 2019
7 outside of a Kroger in Louisville, Kentucky. Do you
8 have any dispute with what I've just told you?

9 A No, sir.

10 Q Okay. Take us through when you learned about
11 this and how you learned about it.

12 A I received a telephone call from Assistant
13 Chief Josh -- Josh Judah that there had been a shooting
14 at the Kroger store in Portland. I responded to the
15 scene. This was at some point, you know, well after the
16 shooting when I finally arrived.

17 Q Do you know when you got that contact from
18 Chief Josh Judah?

19 A No, sir. It was in the evening, but I don't
20 know the specific time.

21 Q Okay. If I indicated to you that Mr. Gazaway
22 was shot sometime around 6:30 p.m., would you have any
23 dispute with that?

24 A No, sir. It -- it was in the evening and --
25 and -- and -- and dark, I know when I arrived.

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1 Q And it was November, and it would tend to get
2 dark a little earlier in November than it does now, for
3 example, as we sit here in March?

4 A Yes, sir.

5 Q So you get this call from Josh Judah.
6 Where were you at the time that you got that call?

7 A I was at police headquarters.

8 Q Okay. Do you recall what he said?

9 A I do not.

10 Q He indicated that there was a shooting at
11 Kroger. Any other information that you recall getting
12 from him?

13 A I'm sure there was more to the conversation
14 than that, but I -- I don't know that.

15 Q Was that call documented in any way?

16 A No, sir.

17 Q Did the call come in on your cell phone, or
18 work phone, or through dispatch? How did you get that
19 contact?

20 A It was a cell phone call.

21 Q Okay. Did you have any text messages with
22 Assistant Chief Josh Judah?

23 A Not that I recall.

24 Q Did you ever text Josh Judah?

25 MR. MCKIERNAN: Objection.

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1 A I'm -- I'm sure that -- that there were
2 opportunities for me to exchange texts with Assistant
3 Chief Judah, but I -- I don't remember anything specific
4 to this case.

5 Q Okay. Officers would, for official
6 communications with other officers, frequently use
7 dispatch, but then they also frequently use cell phone
8 communications as well, fair?

9 A I would assume so, yes.

10 Q And you don't recall any specific text
11 messages with Assistant Chief Judah, but it's possible
12 that that did happen?

13 MR. MCKIERNAN: Objection to form.

14 A It -- it is possible, but I -- I don't recall
15 any.

16 Q Okay. And this was on the evening of November
17 7, 2019?

18 A Yes, sir.

19 Q And obviously at some point he told you which
20 Kroger it was, fair?

21 A Yes, sir. He -- he told me that information
22 during the -- the call.

23 Q Did he indicate which officers, or how many
24 officers, were involved in the shooting?

25 A I don't recall the specifics. I -- I -- I

Page 25

1 don't believe so.

2 Q Do you recall if he indicated who the person
3 was who was shot and killed, or why they were shot and
4 killed, or any specifics about that person?

5 MR. MCKIERNAN: Objection to form. You can
6 answer.

7 A There was no -- no information beyond the fact
8 that there had been an officer-involved shooting at that
9 location --

10 Q Okay.

11 A -- that -- that -- that I recall.

12 Q Was it standard practice for you to respond to
13 the scene for every officer-involved shooting?

14 A Almost every one of them. Yes, sir.

15 Q When it was possible?

16 A Yes, sir.

17 Q So take us through, what did you do in
18 response to that call?

19 A I -- I drove to the location. Once I was
20 there, I -- I had an opportunity to speak with a couple
21 of the commanding officers who were there. I had an
22 opportunity to speak briefly with the two officers who
23 were involved in the shooting. I had then a meeting
24 with folks from our public information office. And one
25 of the assistant -- and one of the other assistant

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1 chiefs. And although I'm not 100 percent sure, I
2 believe we did a short press event there where -- where
3 I spoke briefly to the media. But -- but I'm not sure
4 that occurred. I -- I think it did. It -- it did in
5 most situations, but -- but I can't specifically
6 remember that -- that particular briefing.

7 **Q** So at the scene, you spoke with several
8 commanding officers. Do you know who those officers
9 were?

10 **A** I do not.

11 **Q** Is there any -- would there be any
12 documentation of you speaking with those commanding
13 officers?

14 **A** No documentation that I made. I don't know if
15 they -- they made any documentation of it or not.

16 **Q** Is there any reason why they wouldn't document
17 that?

18 **MR. MCKIERNAN:** Objection to form.

19 **A** I -- I don't know that there would necessarily
20 need to be a documentation of someone interacting with
21 me, but that could have occurred.

22 **Q** What were the substance of those
23 communications?

24 **A** I don't recall the specifics, other than
25 checking on officers, and -- and that would've been

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1 about the extent of it.

2 **Q** What do you mean "checking on officers?"

3 **A** Checking on the -- essentially, the safety of
4 the officers that had been involved.

5 **Q** Okay. It was through your communication with
6 commanding officers that you obtained the identity of
7 Norton and Dugan who were involved in the shooting?

8 **A** Yes, sir.

9 **Q** Okay. And through that communication with the
10 commanding officers that led you to the identities and
11 the location of Norton and Dugan, and then led you to go
12 speak with them?

13 **A** Correct.

14 **Q** Aside from the substance that we've just
15 talked about, about them referring you essentially to
16 Norton and Dugan, do you recall any other substance of
17 conversation with commanding officers when you first
18 arrived on the scene November 7th?

19 **A** I do not.

20 **Q** Okay. So then you went to speak with Norton
21 and Dugan, correct?

22 **A** Yes.

23 **Q** Where were you physically when you spoke with
24 Norton and Dugan?

25 **A** It was near the Kroger, just -- just east of

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1 the Kroger building itself.

2 **Q** Outside?

3 **A** They were sitting inside police cars, as they
4 were separated. But no, they -- they were -- they were
5 sitting in the passenger side of -- of the respective
6 cars that they were sitting in.

7 **Q** So are you telling me that Dugan was in one
8 car and Norton was in a different car?

9 **A** Correct.

10 **Q** Who did you speak with first?

11 **A** Honestly, I don't remember.

12 **Q** Did you speak with both of those officers?

13 **A** I did.

14 **Q** What was the substance of the conversation
15 that you had with them?

16 **A** Again, I don't remember all of the specifics,
17 but it was -- and this is typically the -- the things
18 that I say when I have conversations or when I had
19 conversations with officers that had been involved in
20 shootings. I ask them if they're okay. I ask them if
21 they had had an opportunity to speak with family.
22 And that is typically the extent of that conversation.
23 I don't recall anything different in the conversations
24 with these two officers.

25 **Q** Your only conversation with them would have

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1 been to ask if they're okay, and sort of assess that
2 from their perspective, and then ask if they've had a
3 chance to speak with family?

4 **A** Correct.

5 **Q** And that's all that you would have a
6 conversation with them about?

7 **A** Yes, sir. That -- that is -- that is all I
8 recall. And again, not only in this situation, but in
9 the vast majority of other officer-involved shootings.

10 **Q** Do you recall what they indicated to you on
11 November 7th?

12 **A** I -- I don't, sir.

13 **Q** Nothing at all?

14 **A** Other than -- than indicating that they were -
15 - they were fine, and they had talked to family. I -- I
16 don't recall any specifics.

17 **Q** They both indicated that they were fine, and
18 they had spoken with their family?

19 **A** That was an indication. Again, I -- I don't
20 know any specifics of what they said -- or don't recall
21 any specifics of what they may have said, but --

22 **Q** Without knowing the exact verbiage, that's
23 what they indicated to you?

24 **A** Yes, sir.

25 **Q** What did you do after speaking with Norton and

Page 30

1 Dugan?

2 A That was when I had the opportunity to meet
3 with the Public Information person that I was dealing
4 with and the other assistant chief.

5 Q And who was that person from Public

6 Information?

7 A It was Jessie Halladay.

8 Q Jessie Halladay with PIU?

9 A No. She -- she is with -- she was a special
10 advisor on my command staff that -- that essentially was
11 responsible for public information.

12 Q She's essentially a PR person?

13 A No. She -- I mean, she was -- was a -- a --
14 an advisor to me and it did involve dealings with the
15 media and -- and also sometimes dealings with -- with
16 the public, but I wouldn't -- public relations isn't --
17 wasn't her -- her job necessarily.

18 Q But at least a part of her job was advising
19 you on, for lack of a better phrase, how to interact
20 with the public?

21 A With the public and with the media. Yes, sir.

22 Q Okay. Is there any difference between that
23 and what you understand public relations to be?

24 MR. MCKIERNAN: Objection to form.

25 A I -- I don't know what -- public relations, I

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1 always take it as a way to, you know, change people's
2 minds about who you are and what you are, like, you're
3 trying to sell something, and I don't -- that -- that's
4 what I see -- or at least what I -- what I took away
5 from public relations and -- and that's not necessarily
6 the same thing in -- at least in my mind.

7 Q Okay. You associate a negative connotation of
8 spin with public relations?

9 MR. MCKIERNAN: Objection to form.

10 A That would be one of my concerns, yes.

11 Q Okay. But Jessie Halladay, at least, a
12 portion of her job, was to assist and advise you on
13 interacting with the public and media, correct?

14 A Yes.

15 Q Okay. Who was the assistant chief that you
16 spoke with along with Jessie Halladay?

17 A That was Shara Parks.

18 Q Shara?

19 A S-H-A-R-A Parks.

20 Q What was the substance of the conversation
21 with Jessie Halladay?

22 A I don't recall any of the specifics.

23 Q Do you remember anything generally?

24 A No.

25 Q What are the types of things -- you indicated

Page 32

1 that there was essentially, for lack of a better word, a
2 "spiel" that you would give to officers after they were
3 involved in an officer-involved shooting, "Are you okay,
4 have you been able to speak with family members,"
5 correct?

6 MR. MCKIERNAN: Objection to form. You can
7 answer.

8 A That -- that is -- that is what I just
9 testified to, yes.

10 Q Okay. Was there anything like that with
11 Jessie Halladay? Did she have essentially a spiel of
12 this is what we say, or this is what we do when there's
13 an officer-involved shooting, these are the things that
14 she would say to you?

15 MR. MCKIERNAN: Objection to form, and also for
16 the use of spiel.

17 MR. SIMMS: That's probably fair.

18 A Yeah -- yeah. I -- again, I -- I don't recall
19 the specifics of the conversation. I believe that we
20 spent our time talking to prepare for the comments that
21 I made to the media on the scene. But again, I'm not
22 100 percent sure that occurred, but I -- I believe that
23 was -- that did happen and that was my reason for the
24 conversations with Lieutenant Colonel Parks and -- and -
25 - and Jessie Halladay.

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1 Q What were the type of things that she would
2 say in that regard, as far as how to interact with the
3 public and the media?

4 A Again, I -- I don't recall any of the
5 specifics.

6 Q Do you recall anything generally? Did she
7 generally advise you to keep things vague? Did she
8 generally advise you to not talk about specifics or
9 anything at all you remember generally?

10 A No, sir.

11 Q But what was the purpose of talking to Jessie
12 Halladay?

13 A Essentially, she would help me get together
14 the -- the comments that I would make that were
15 preliminary in nature of -- of a shooting that had
16 happened -- that had just happened.

17 Q Essentially, how to present the narrative of
18 the story of what happened?

19 MR. MCKIERNAN: Objection to form.

20 A I think essentially giving me, more or less, a
21 script to -- to be able to describe what occurred.

22 Q Okay. And that essentially, this story or
23 script, however you want to use that term, would have
24 come from who -- that Jessie Halladay spoke with?

25 A I couldn't tell you who Jessie Halladay spoke

Page 34

1 with.
 2 Q Okay. What was the norm for Jessie Halladay,
 3 as far as in that sort of position? I guess my question
 4 is: Would Jessie Halladay have gotten her information
 5 from Norton and Dugan, or would Jessie Halladay have
 6 gotten her information from lawyers, or would Jessie
 7 Halladay have gotten her information from other officers
 8 who were intermediaries between her and Norton and
 9 Dugan, is I guess, what I'm getting at?

10 MR. MCKIERNAN: Objection --

11 Q I don't really know how to ask that, but do
 12 you know how she would get her information?

13 A No. I assume conversations with -- with
 14 someone probably from the Public Integrity Unit, but --
 15 but I'm not sure who.

16 Q Jessie Halladay wouldn't be interviewing Dugan
 17 and Norton herself, would she?

18 A No, sir.

19 Q Okay. That would be reserved -- in fact,
 20 Norton and Dugan giving official statements would not
 21 occur on November 7, 2019, fair?

22 A Correct.

23 Q Okay. But at some point, in unofficial
 24 statements, there are officers on November 7th who get
 25 the rundown, for lack of a better term, from Norton and

Page 35

1 Dugan?

2 MR. MCKIERNAN: Objection to form.

3 A I'm not sure what information was exchanged in
 4 this situation.

5 Q Do you recall what you told the media about
 6 this case?

7 A I do not.

8 Q But at some point, Jessie Halladay has to get
 9 the information of the script of what happened from
 10 someone who presumably got that information from Norton
 11 and Dugan, fair?

12 MR. MCKIERNAN: Objection to form. You can
 13 answer if you know.

14 A I -- I don't know that. I'm -- that what
 15 you're saying is a -- is an assumption and -- and I
 16 generally agree with it.

17 Q Okay. You have nothing to point to in order
 18 to disagree with that in this particular circumstance?

19 MR. MCKIERNAN: Objection to form.

20 Q Fair?

21 A I believe so.

22 Q Okay. And then Shara Parks was present as
 23 well?

24 A Yes, sir.

25 Q What would Shara Parks' role have been in that

Page 36

1 conversation?

2 A I -- I -- I don't -- I don't recall. I don't
 3 recall her -- I -- she was part of the conversation, but
 4 I -- I don't recall any specifics.

5 Q Okay. Were Norton and Dugan wearing body cam
 6 through these events after the shooting?

7 A I don't know that, sir.

8 Q Would they have had body cam on when they
 9 spoke with you?

10 A I don't know that, sir.

11 Q Would your conversation have -- with Norton
 12 and Dugan have been documented in any way?

13 A I don't know that, sir. It was not documented
 14 by me.

15 Q Should it have been?

16 MR. MCKIERNAN: Objection to form.

17 A And I don't know that, sir. I -- I -- I've
 18 never documented that in -- in the situations that I've
 19 been in before.

20 Q Do you know if the emergency equipment in the
 21 vehicles where Norton and Dugan were sitting was
 22 activated?

23 A I have no idea, sir.

24 Q Do you recall if the lights were running? I
 25 mean, the flashing lights?

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1 A I don't believe they were, but I -- I don't --
 2 I don't specifically recall.

3 Q Generally, in the cruisers they ran a digital
 4 recording system, correct?

5 A I don't know that, sir.

6 Q Are you not familiar with the recording
 7 systems in the cruisers during the time period when you
 8 were chief?

9 A Well, they had a video camera that was in the
 10 police car, and then the officers had body cameras on -
 11 - on their person. I don't know that everything in the
 12 car was recorded, that -- that's -- that's not my
 13 recollection of how that occurred unless the -- the
 14 camera was running at the time.

15 Q Are you familiar with the functioning of the
 16 arbitrator recording system?

17 A Not specifically. No, sir.

18 Q Okay. Are you familiar with the functioning
 19 of the recording system in the cruisers at the time
 20 insofar as when the emergency lights are activated, that
 21 it would go back 30 seconds and record from 30 seconds
 22 prior to the activation of emergency lights?

23 A I -- I am aware of some sort of buffer, but I
 24 -- I don't know the specifics that you're -- you're
 25 suggesting. I -- I -- I don't doubt what you're saying.

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1 Q So I -- I'll purport to you that in those
2 cruisers, the digital system was always running, but
3 when they activated emergency lights, it would go back
4 30 seconds to start recording in order to record,
5 presumably, the reason for turning on the emergency
6 lights; does that sound familiar to you?
7 A That -- yes, sir, that -- that's familiar.
8 Q Okay. And then that system would keep
9 recording until the emergency lights were deactivated?
10 A I -- I would assume that's the way it was
11 supposed to work. Yes, sir.
12 Q Okay. Do you know, as we sit here today, if
13 you recall when you arrived on the scene, November 7th,
14 if you saw police lights?
15 A I -- I don't recall. I'm sure there -- there
16 were cars there with their lights on.
17 Q It was still an active crime scene, correct?
18 A Yes, sir.
19 Q Okay. Or at least an investigative scene,
20 fair? I mean nobody got charged with a crime, right?
21 A Yes, sir.
22 Q Okay. After speaking with Jessie Halladay and
23 Shara Parks, what did you do next?
24 A My recollection, and again, I believe I gave a
25 statement to members of the media, but as I've said a

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1 couple of times, I'm -- I'm not 100 percent sure I did
2 that. I believe that's what occurred.
3 Q Okay. And whatever statement you would've
4 given to the media, or at least the substance of the
5 statement, would've come from Jessie Halladay, fair?
6 A She would've scripted it for me, yes.
7 Q Okay. And you, at that point, would have no
8 idea whether the information was accurate or not?
9 MR. MCKIERNAN: Objection to form.
10 Q Is that fair?
11 A That is fair. And I would've couched any
12 statement that I made to the media as -- as saying this
13 information is preliminary.
14 Q Okay.
15 A Always subject to change.
16 Q Assuming you spoke with the media on November
17 7, 2019, do you recall what you did after that?
18 A Other than going home. No, sir.
19 Q That would've really been the purpose or the
20 substantive purpose of you going out and responding to
21 an officer-involved shooting at the time, correct?
22 A Yes, sir.
23 Q Okay. Just presenting that, essentially being
24 the mouthpiece for LMPD and presenting that to the
25 media?

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1 MR. MCKIERNAN: Objection to form and the word
2 mouthpiece.
3 A Yes, sir.
4 Q Have you seen the body cam video in this case?
5 A I have.
6 Q Do you know when you watched that?
7 A I would've seen it either later that evening
8 or early the next morning in preparation for a press
9 briefing.
10 Q From the body cam of both Norton and Dugan?
11 A Honestly, I -- I believe both, but I -- I
12 don't recall.
13 Q Okay. What do you recall from the body cam?
14 A It's been three years since I've seen it, to
15 be honest with you, I don't remember much. Officers
16 were behind some sort of -- of a wall and -- and were
17 firing shots, that's about the extent that I recall.
18 Q Do you recall seeing any aggressive behavior
19 from Shelby Gazaway?
20 A I don't recall the specifics of the video at
21 all.
22 Q Well, you may not recall all the specifics of
23 the video, but you do recall seeing the officers behind
24 a wall or a concrete pillar or some sort of barrier,
25 correct?

Page 41

1 A Yes.
2 Q And you recall that the officers at the time
3 did have their service weapons pulled, correct?
4 A I don't know that, sir.
5 Q Well, you indicated, I think that you saw the
6 officers firing weapons, correct?
7 A Yes. I don't recall if it was pistols or
8 rifles.
9 Q Okay. But you recall seeing guns and that
10 those guns were fired by the officers, fair?
11 A Yes, sir.
12 Q Okay. And from your recollection, at this
13 time, you can't articulate anything physically
14 aggressive from Shelby Gazaway's perspective, fair?
15 MR. MCKIERNAN: Objection to form. You can
16 answer if you know.
17 A I -- I have no specific recollection of -- of
18 Mr. Gazaway in -- in the video.
19 Q Okay. Do you recall as we sit here today,
20 seeing anything in that body cam that justified the
21 officers' use of force?
22 MR. MCKIERNAN: Objection to form. You can
23 answer if you remember.
24 A I don't know that, sir.
25 Q Okay. If there was anything, you can't

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1 articulate that at this time; is that fair?

2 A That's correct.

3 Q Okay. Do you know if during your conversation
4 with Norton and Dugan, if they indicated that they were
5 in danger at any point?

6 MR. MCKIERNAN: Objection to form.

7 A No, sir. Again, my conversations with those
8 two officers stuck with, "Are you okay and have you had
9 an opportunity to speak with family?" The conversations
10 went nowhere beyond that.

11 Q Okay. And we spoke earlier a little bit about
12 Norton and Dugan's official statements wouldn't come
13 until later after November 7, 2019, fair?

14 A Yes.

15 Q About when would be normal for officers to be
16 interviewed in the context of use of lethal force?

17 MR. MCKIERNAN: Objection to form. You can
18 answer.

19 A I don't know.

20 Q It would be days or weeks after the event,
21 fair?

22 A It -- it could be.

23 Q Okay. Which is typically different than how
24 normal witnesses are interviewed, fair?

25 MR. MCKIERNAN: Objection.

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1 A True.

2 Q But at some point, prior to their official
3 statements, Norton and Dugan give some sort of
4 information to someone who gave that information to
5 Jessie Halladay who gave that information to you?

6 A The information was given to me by Jessie
7 Halladay, the basic information of what occurred, and I
8 don't know her source of that information.

9 Q The -- what I'm getting at is, at some point,
10 Dugan and Norton are talking about what happened on
11 November 7, 2019, and I think that's fair to assume,
12 correct?

13 MR. MCKIERNAN: Objection to form.

14 A I think that's a fair assumption, yes.

15 Q My question is: In what way would that have
16 been documented? Body cam, cruiser cam, police report,
17 any of the ways that are typical for documentation, what
18 -- how would that have been done?

19 A Again. I don't know, sir.

20 Q Well, what should have been done as far as
21 documenting those preliminary conversations and getting
22 that information from Dugan and Norton?

23 MR. MCKIERNAN: Objection to form. You can
24 answer.

25 A Again, I have -- I was acting as the police

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1 chief. I have never investigated on my own an

2 officer-involved shooting. I have never worked on the
3 police department in that capacity. I am not able to
4 articulate the procedure or policies that should have
5 been followed that may or may not have been followed in
6 this situation.

7 Q Okay. Would you agree that as far as the
8 documentation that we have, when Shelby Gazaway walked
9 out of Kroger, that he was walking and not running?

10 MR. MCKIERNAN: Objection to form. You can
11 answer if you know.

12 A I -- I'm unable to answer that question.
13 I don't know what Mr. Gazaway was doing.

14 Q If you saw it in the body cam video the night
15 of the shooting, you don't recall, that's fair?

16 A That's correct.

17 Q Do you ever recall Mr. Gazaway pointing a gun
18 at any individual?

19 A Again, I -- I don't recall that. I have not
20 seen the video since 2019. I -- I don't recall the
21 contents of the video beyond what I've described.

22 Q Okay. So we discussed some of the context of
23 what happened after the shooting, and we've gone up to
24 at -- within 24 hours after the shooting, you indicated
25 that you watched the body cam video and that was to

Page 45

1 prepare for what?

2 A Again, the press conference that we held with
3 the media, the -- the day following the -- the shooting.

4 Q Okay. Aside from watching the body camera,
5 did you do anything else to prepare for that press
6 conference?

7 A The Lieutenant of the Public Integrity Unit
8 would've prepared a narrative, a brief narrative of --
9 of what had occurred. That information would've been
10 shared with me, and I would've gotten a draft statement
11 from one of the Public Information officers that was
12 based on the information that the Public Integrity
13 Lieutenant had provided. I would read through that --
14 that draft, make some potential changes. I don't recall
15 any specific changes that I made in this one, but -- but
16 I would always make something and -- and then that would
17 be the script that I would follow during the press
18 briefing.

19 Q So in order to prepare for the press
20 conference, you would have spoken with a lieutenant from
21 PIU, and I have been going through, this the entire
22 time, under the assumption that both you and I know what
23 PIU is. Can you explain that for the record, please?

24 A Yes, sir. PIU, the -- the acronym stands for
25 the Public Integrity Unit. The Public Integrity Unit

Page 46 1 was responsible for investigating potential crimes 2 involving metro police officers, metro employees, and - 3 - and I -- I think that that's essentially the extent of 4 it. They were responsible for criminal investigations 5 involving employees and -- and as opposed to 6 Professional Standards, which would be more focused in 7 on violations of policy. 8 Q And that's the difference between PIU and PSU? 9 A Correct. 10 Q The profession -- both of those units are 11 supposed to be unbiased units that examine, in some 12 cases, the conduct of an officer? 13 A Yes, sir. 14 Q And the ultimate result of a PIU investigation 15 can be either to bring a criminal charge, or to not 16 bring a criminal charge? 17 A Yes, sir. 18 Q And the ultimate result of a PSU investigation 19 can be to either absolve an officer of any sort of 20 culpability for violating a standard, or it can be to 21 discipline the officer in some way, correct? 22 A Correct. 23 Q Unless they retire? 24 A They could retire, you're right. Leave the 25 department prior to some sort of punishment. Yes, sir.	Page 48 1 special -- all special investigations. He had oversight 2 over PIU and -- and PSU. And then it was either the 3 Major or the Lieutenant who would actually go into the 4 specifics of what occurred. 5 Q You wouldn't -- your role was to make any 6 changes you saw fit, and ultimately, approve the 7 narrative that would be given to whoever it was from 8 PIU, who would deliver the statement to the press? 9 MR. MCKIERNAN: Objection to form. 10 A No, sir. I had no input into making changes 11 in the narrative of what occurred. That was something 12 that was shared with me to -- to tell me what -- what 13 they thought had occurred at that early point in the 14 investigation, but I would not make changes in their 15 statements. I would make change -- changes in the -- in 16 the comments that I was making that were -- were 17 essentially at the beginning of the press conference. 18 What actually occurred, at least is based on what we 19 knew at that time, was information that was prepared by 20 someone in Public Integrity. 21 Q Okay. That was the statement that you would 22 or would not alter, is the one that you would be giving? 23 A The one that I was giving, yes. 24 Q Okay. But they would share the narrative that 25 PIU was giving with you, correct?
Page 47 1 Q The day after the shooting on November 8, you 2 would have watched the body cam videos and you had 3 spoken to PIU -- a lieutenant from PIU. Do you recall 4 who that was? 5 A I don't. I believe it was Ted Eidem. 6 Q How do you spell Eidem? 7 A E-I-D-E-M or it may have been the Major, 8 Jamie Schwab, S-C-H-W-A-B, I believe. I'm not sure 9 which -- whether it was Schwab or Eidem that talked 10 during the press statement. 11 Q Okay. 12 A I'm not sure which I can't -- I just can't 13 recall. 14 Q And then they would give you a prepared 15 narrative of what happened, and then you would be able 16 to make any change -- read the script, make any changes 17 that you saw appropriate? 18 A Yes. However, let me clarify. I was not 19 typically the one during the press briefing that 20 described what occurred. I would provide information 21 about the importance of -- of providing information 22 about what occurred, why we were doing it, what we could 23 and couldn't say, and then I would turn it over to 24 either the Lieutenant of Public Integrity, or I think in 25 this case, Major Schwab who was responsible for all man	Page 49 1 A Yes, sir. 2 Q Okay. What was the purpose of sharing that 3 with you if you weren't going to -- if you weren't in a 4 position to make any changes? 5 A It gave me the opportunity to understand what 6 had occurred. I had gotten preliminary information 7 verbally at the scene, and then this is some number of 8 hours later where they've had the opportunity, "they" 9 being Public Integrity Unit members, have had the 10 opportunity to have a better sense of what occurred -- a 11 more accurate sense of what occurred. 12 Q By reviewing body cam? 13 A Again, I would defer to Public Integrity to -- 14 to -- I -- I have no idea what their -- what their 15 process was, but yes, I think that would be obviously 16 one of the steps they would take. 17 Q Well, the body cam was available by that time 18 because you'd -- you had watched it, correct? 19 A Yes. 20 Q Was there any other evidence available that 21 you knew of at that time? 22 MR. MCKIERNAN: Objection to form. You can 23 answer if you remember. 24 Q Besides the officer's body cam? 25 A I -- I would assume that there were witnesses

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1 involved. I -- I recall a bus being brought in with a
2 number of people being housed in the bus to keep them
3 warm, who we're going to be witnesses that were
4 interviewed. So there was -- there was significantly
5 more to this than just the body cameras.

6 Q When did that occur, the people being put in
7 the bus? That would've been on the 7th, correct?

8 A Yes, sir. That was in place when I arrived.

9 Q Okay. So this is additional information of
10 what you witnessed on the 7th. We hadn't talked about
11 this previously, so I want to go back to that.

12 A Sure.

13 Q At some point when you're out on the scene on
14 the 7th, you are made aware that there is -- there are a
15 substantial -- some sort of number of witnesses to the
16 events, correct?

17 A Yes, sir.

18 Q Okay. And that those people were, at the time
19 you were there on the 7th, located inside a bus?

20 A Correct.

21 Q Okay. Any other information that you recall
22 from the night of the 7th that we haven't talked about?

23 A There could be, but again, I -- I don't have
24 any recollection.

25 Q None that you recall at this time that we

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1 haven't spoken about?

2 A Correct.

3 Q Do you recall what the narrative was as far as
4 what any witnesses said as far as how the altercation
5 inside Kroger occurred?

6 A I don't recall.

7 Q Were you aware that there was supposed to be
8 some sort of altercation inside Kroger?

9 A That was my recollection, yes.

10 Q Okay. Do you recall anything other than that,
11 that -- as far as there was a -- there was some sort of
12 altercation in Kroger, any other information about that?

13 A My -- my recollection is that there were shots
14 fired inside the Kroger and I -- I got that, I believe,
15 from Assistant Chief Judah.

16 Q Okay. When do you think you got that
17 information?

18 A It would've been during that phone call with
19 him when he first made me aware of the shooting.

20 Q Okay.

21 A And, again, that's my recollection. I could
22 be mistaken, but that's -- that's what I believe he had
23 told me.

24 Q Any other information that you can recall that
25 Judah gave you in that initial phone call prior to you

Page 52

1 arriving on the scene?

2 A Not that -- not that I'm aware of. There --
3 there could have been more to it, but that's the basis
4 of what I recall.

5 Q Okay. Did you end up watching any of the news
6 stories or press coverage about these events?

7 A Not that I recall, sir.

8 Q I'm going to ask to take a -- if we can do a
9 ten-minute break, bathroom break. Is that okay with
10 everybody if we go off the record for just a bit?

11 MR. MCKIERNAN: Sure.

12 VIDEOGRAPHER: We're off record. The time is
13 11:02.

14 (OFF THE RECORD)

15 VIDEOGRAPHER: We are back on record. The time
16 is 11:12.

17 BY MR. SIMMS:

18 Q Chief, do you recognize yourself to still be
19 under oath at this time?

20 A Yes, sir.

21 Q On the night of the 7th, you -- when you got
22 the call from Assistant Chief Judah, you indicated that
23 essentially, he told you that there was shots fired at
24 Kroger, that there was an officer-involved shooting, and
25 he gave you the location of the incident, and then you

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1 went out to the scene, correct?

2 A Yes, sir. I believe that is the information
3 that I shared.

4 Q And you indicated that in addition to the --
5 it's being an officer-involved shooting, Judah had
6 indicated that there were shots fired in the Kroger,
7 correct?

8 A Yes, sir. That is what I testified to.
9 That is my recollection of what he shared.

10 Q Okay. Any idea where Judah got that
11 information?

12 A I don't know that, sir.

13 Q Would that be documented anywhere that you
14 know of?

15 A I don't know that, sir.

16 Q Okay. I am going to show you a brief clip of
17 a body cam footage from this case and ask if this is
18 what you recall seeing when you reviewed the body cam
19 footage. And I can rewind this a couple of times as far
20 as logistics are concerned if we need to, but this comes
21 from -- I don't have an actual copy of the body cam just
22 yet. This clip is from a news report, and I can give
23 the full web address of the news report here in just a
24 bit if that will assist.

25 MR. MCKIERNAN: Are you making this an exhibit?

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1 MR. SIMMS: Not yet. I won't -- we may end up
2 doing that. We may just literally put the URL in as
3 the exhibit. But the clip comes up quickly and it's
4 only several seconds.

5 BY MR. SIMMS:

6 Q So I wanted to let you know that before I
7 start playing this. It's 0:56 on the little tab at the
8 bottom, and it starts at, like, 0:58 or 0:59. So I
9 mean, we're talking about literally just a couple of
10 seconds into this, is when the body cam footage starts.
11 If it will acknowledge my finger. Oh, my God.

12 (VIDEO PLAYED)

13 (VIDEO STOPPED)

14 MR. SIMMS: I'm going to show you one more
15 time.

16 (VIDEO PLAYED)

17 (VIDEO STOPPED)

18 BY MR. SIMMS:

19 Q Earlier you had indicated that the body cam
20 footage that you recall watching included the officers
21 being behind some sort of concrete -- a wall, or pillar,
22 or something like that, correct?

23 A Yes, sir.

24 Q That clip that you just saw, is that a portion
25 of the body cam that you watched within 24 hours after

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1 the shooting on November 7th?

2 A I believe it is, but I -- but I can't say that
3 for sure. I've not seen those videos since 2019.

4 Q I'll purport to you that the person who was
5 walking away from the Kroger in the red jacket or hoodie
6 is Shelby Gazaway. Do you have any reason to dispute
7 that?

8 A I have no reason to dispute what you're
9 telling me. I don't know how -- how accurate it is, but
10 if that's who you say it was, that's who it was.

11 Q Did you see anything in watching that clip
12 today as far as Shelby Gazaway engaging physically in a
13 threatening manner to the police?

14 MR. MCKIERNAN: Let me just note my objection
15 that it's a spliced video that you're showing him of
16 maybe two seconds. You can answer if you saw.

17 BY MR. SIMMS:

18 Q Let me back up a second and let's clarify
19 that. What I just showed you is a few seconds long from
20 one particular perspective, correct?

21 A That's what you represented it to me.
22 Again, I -- I don't recall this specific video. If you
23 were representing that, was it? Yes. That's just that
24 one officer's perspective from his body camera.

25 Q That -- I'm reporting to you that is what that

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1 is. That is body camera from the footage from this
2 incident, from the shooting of Shelby Gazaway.

3 A Yes, sir.

4 Q In no way am I saying that that is all the
5 complete information in this case.

6 A Of course.

7 Q From that body camera footage from -- and that
8 body cam footage obviously is there to show the
9 perspective of the officer, correct?

10 MR. MCKIERNAN: Objection on form. You can
11 answer.

12 A It -- it was there to document what occurred
13 from that camera's perspective, yes.

14 Q And the -- that camera would physically be
15 attached to the clothing of that officer, fair?

16 A Yes, sir.

17 Q Okay. And from that perspective, you didn't
18 see any aggressive behavior from Shelby Gazaway, did
19 you?

20 MR. MCKIERNAN: Note my same objection.

21 You can answer if you can.

22 A Again, when I watched the video, I was paying
23 more attention to the officer. I did not know until you
24 told me that the person in the red was Mr. Gazaway. I --
25 I -- I don't recall what his actions were or were not.

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1 He was walking, it appeared to be away from the officer.

2 Q Okay.

3 A That's what I recall from the video.

4 Q Did you see the weapon in his hand?

5 A I don't recall that.

6 Q Okay. I -- I'm going to show you this again.
7 It's -- it again -- it's fast and there's a lot going on
8 that I'm going to ask you about. At any time, if you
9 want to watch it again, I'm happy to show it to you
10 again.

11 (VIDEO PLAYED)

12 (VIDEO STOPPED)

13 BY MR. SIMMS:

14 Q Were you able to see the person in the red?

15 A I -- I was.

16 Q Okay. In this, I've been referring to it as
17 concrete, appears to be a brick pillar or wall; is that
18 correct, that the officer's behind?

19 A Yes, sir.

20 Q Okay. From that perspective, you don't see
21 Shelby Gazaway turn even in the direction of the
22 officers, do you?

23 MR. MCKIERNAN: Objection. Video speaks for
24 itself. You can answer.

25 A In -- in that video, no. The -- the officer

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1 at -- before he starts shooting, pulls back and then
2 starts firing. And at that point, the -- the -- the
3 camera went from where you could see Mr. Gazaway to --
4 to where you couldn't. That -- that view was obscured
5 by the pillar.

6 Q The view, once the officer starts to change
7 his body positioning behind that brick wall or pillar,
8 shows the gun itself that the officer is firing, but it
9 doesn't include Shelby Gazaway in the screen anymore,
10 does it?

11 MR. MCKIERNAN: Same objection.

12 A No, sir. What I would take from that would be
13 an officer trying to get cover.

14 Q And the video that we've watched, I'll purport
15 to you, shows the very first interaction between Shelby
16 Gazaway and any officer, that as he walks out of the
17 Kroger with his weapon in his right hand pointed down to
18 the ground, the very first interaction with an officer
19 is what you've just seen.

20 MR. MCKIERNAN: I'm going to object to that.
21 Again, this is the only video you've seen? I'm just
22 asking because you're using a WAVE, I think, 3 story
23 that's literally spliced both -- it looks like
24 Kroger camera footage that goes into body cam
25 footage, correct?

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1 BY MR. SIMMS:

2 Q So what I'm talking about is, I'm just
3 concentrating on the body cam footage. Any footage that
4 we've seen from Kroger is literally just because my fat
5 finger can't stop it on the exact moment prior to seeing
6 just body cam footage.

7 A Yes, sir.

8 Q And in addition to that, if I did start
9 exactly on the body cam footage, within one second,
10 that's when the officer yells, "Hey," and you -- it
11 would be possible that we've missed that, and I don't
12 want to do that. So please ignore the Kroger footage
13 from -- for the purpose of this conversation. But when
14 this officer yells, "Hey," that's the first interaction
15 that officers have with Shelby Gazaway. Do you have any
16 information to dispute that?

17 MR. MCKIERNAN: And I'm going to object. That's
18 misrepresenting because I think there is other body
19 cam footage.

20 BY MR. SIMMS:

21 Q What I'm saying is, interaction with any
22 police officers.

23 A I don't know that, sir.

24 Q Okay. As we sit here today, do you know of
25 any other interaction that Shelby Gazaway had with

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1 police officers prior to this officer yelling, "Hey"?

2 A Again, I have not seen video since 2019.

3 I do not recall the specifics. I -- I can't answer your
4 question.

5 Q And regardless of whether there is or there
6 isn't, you don't know of any; is that fair?

7 MR. MCKIERNAN: Objection. That's misleading.

8 Q Of any interaction that Mr. Gazaway, as we sit
9 here today, you just don't recall any other interaction
10 he had with police prior to this incident; is that fair?

11 A I can answer that I do not recall.

12 Q Okay. And assuming that this is the first
13 interaction that Gazaway has with any officers, the
14 first thing that an officer says to Mr. Gazaway is that
15 he yells the word "Hey" twice, and then you hear
16 shooting, correct?

17 MR. MCKIERNAN: Objection. Video speaks for
18 itself. You can answer.

19 A I heard the officer say, "Hey," I saw the
20 officer step to the left as in an effort to take cover,
21 and then started firing shots.

22 Q Okay. Did you see anything from Mr. Gazaway's
23 perspective that justified the use of deadly force in
24 that video?

25 MR. MCKIERNAN: Objection.

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1 A I did not see enough of the video to be able
2 to say whether or not that would justify the use of
3 force. And the video in and of itself wouldn't
4 necessarily give you that information.

5 Q Well, I think we're going to be on the same
6 page here. I guess my point is, if there is evidence
7 that justifies the use of force, it's not in that video.

8 MR. MCKIERNAN: Objection to form.

9 A It -- it doesn't appear to be in the video
10 that I saw, with the exception of the officer moving to
11 the left, and what appeared to me to be an effort to
12 take cover behind something that would be bullet --
13 somewhat bullet resistant.

14 Q Okay. I think you'll agree with me that the
15 officer did not identify himself as police, fair?

16 MR. MCKIERNAN: Objection to form.

17 A I -- I didn't hear it in that video. No, sir.

18 Q In the course of your reviewing information
19 regarding this case, did you get any information
20 contrary to that, that police officers did identify
21 themselves as police officers prior to shooting Shelby
22 Gazaway?

23 MR. MCKIERNAN: Objection. Form. You can
24 answer if you know.

25 A I -- I have no recollection one way or the

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1 other, sir, it's been -- been too long.
 2 Q And in the video that you watched, obviously
 3 nobody asks Mr. Gazaway to drop his weapon at any time,
 4 do they?
 5 MR. MCKIERNAN: Objection to form. The video
 6 speaks for itself. You can answer.
 7 A I did -- sorry, sir. I did not hear that in
 8 the -- in the video you shared with me.
 9 Q And in circumstances where an officer is out
 10 in the open displaying their badge, uniform, insignia as
 11 a police officer, it can be obvious that someone is a
 12 police officer, correct?
 13 A Yes, sir.
 14 Q And if somebody goes behind a wall to use it
 15 for cover as a shield, for example, as in this
 16 circumstance, that can conceal the insignia and the
 17 identifying information that that person is an officer,
 18 correct?
 19 MR. MCKIERNAN: Objection to form. You can
 20 answer.
 21 A Potentially. Yes, sir.
 22 Q Okay. I want to show it to you one more time
 23 and I'm going to ask if you to -- I'm going to ask you
 24 to watch Mr. Gazaway in the red hoodie, and after I show
 25 it to you again, I'm going to ask you if you saw any

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1 change of movement as Gazaway's walking away from the
 2 Kroger.
 3 (VIDEO PLAYED)
 4 (VIDEO STOPPED)
 5 BY MR. SIMMS:
 6 Q Do you see Mr. Gazaway change his direction at
 7 any point as he's walking away from the Kroger?
 8 MR. MCKIERNAN: Again, same objection.
 9 The video speaks for itself. You can answer.
 10 A I didn't see it.
 11 Q Okay. Prior to the officer -- what we can't
 12 see is the split-second right before the officer shoots,
 13 right? Because he goes for cover and that obscures the
 14 view of Mr. Gazaway, fair?
 15 A Yes, sir.
 16 Q But prior to the officer taking cover to
 17 shoot, you don't see Mr. Gazaway change his direction,
 18 correct?
 19 A Correct.
 20 Q Okay. Sorry, I've got, like, six different
 21 piles. You would agree that officers Patrick Norton and
 22 Alex Dugan were at all times relevant to this action
 23 employed as LMPD police officers, correct?
 24 A Yes, sir.
 25 Q And that in doing so, they were acting in the

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1 scope of their employment and under state law?
 2 A Yes, sir.
 3 Q You would agree that Mr. Gazaway, Shelby
 4 Gazaway, the plaintiff in this action, was shot and
 5 killed by Norton and Dugan on November 17 [sic], 2019,
 6 in Jefferson County, correct?
 7 MR. MCKIERNAN: Objection to form. You can
 8 answer if you know.
 9 A Again, I'm not sure who fired which shots
 10 which led to his death, but -- but the shooting resulted
 11 in his death, whether it was Dugan or the other officer,
 12 I don't know.
 13 Q To be fair, that's not been determined yet,
 14 has it?
 15 A I -- I -- I don't know that, sir.
 16 Q If it has, you don't have that information?
 17 A Correct.
 18 Q Okay. Regardless of whether he was ultimately
 19 killed by a bullet from Dugan or a bullet from Norton,
 20 it was Norton and Dugan shooting at Mr. Gazaway when
 21 Mr. Gazaway was killed by gunshot wounds, correct?
 22 A Yes, sir.
 23 Q Okay. Anyone else that we know of who could
 24 possibly have been the individual who killed
 25 Mr. Gazaway?

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1 A No, sir.
 2 Q Okay. And I -- I've been assuming this, but
 3 I'm not really sure. Were Norton and Dugan in the same
 4 cruiser or do we know?
 5 A They were in different cars, at least that's
 6 my recollection.
 7 Q Okay. But they just both, so happened to be
 8 pretty close to that Kroger at the time the call came
 9 in?
 10 A That, I don't know.
 11 Q Okay.
 12 A I -- I'm not sure the response times, but they
 13 were in separate cars.
 14 Q Okay. Regardless, on November 7, 2019, it was
 15 Norton and Dugan who they did respond to reports of a
 16 shooting at the Kroger grocery store, correct?
 17 A I assume that was a reason for their response,
 18 yes.
 19 Q Okay. We don't have any information to
 20 contradict that, fair?
 21 A Yes, sir.
 22 Q That Kroger grocery store is located on North
 23 35th Street in the Portland neighborhood; is that
 24 correct?
 25 A Yes, sir.

Page 66 1 Q Do you know if -- when officers arrived on the 2 scene, that Shelby Gazaway was inside or outside the 3 Kroger? 4 A I do not. 5 Q Okay. Regardless, the officers at some point 6 observed Shelby Gazaway walking away from the Kroger, 7 fair? 8 MR. MCKIERNAN: Objection to form. You can 9 answer. 10 A He would've been walking away from the Kroger. 11 Yes, sir. 12 Q And not in the direction of Norton and Dugan? 13 MR. MCKIERNAN: Objection to form. 14 Q Correct? 15 A Based on the video you showed me and what 16 recollection I have of the videos, yes. 17 Q Okay. My understanding is that Norton is the 18 officer who was shouting, "Hey, hey." Do you have any 19 information to the contrary? 20 A No. 21 Q Okay. But you would agree that Norton called 22 out the word, "Hey," a total of two times in quick 23 succession toward Shelby, correct? 24 MR. MCKIERNAN: Objection to form. 25 A I saw that in the video you just shared with	Page 68 1 correct. They did not. 2 Q Do you recall anyone identifying themselves as 3 an officer or instructing Shelby Gazaway to drop his gun 4 from any of the videos that you've watched at any time 5 in this situation? 6 MR. MCKIERNAN: Objection to form. You can 7 answer if you remember. 8 A Again, I haven't seen those videos since 2019. 9 I don't recall their content. And what you've shown me 10 is all I've really got to comment on. 11 Q Both officers discharged their firearms at 12 Shelby Gazaway, correct? 13 A That is my understanding. Yes, sir. 14 Q And regardless of any conversation or video 15 that may exist prior to what we just watched, both 16 officers discharged their firearms at Shelby Gazaway 17 immediately after Norton shouted, "Hey," twice in quick 18 succession? 19 MR. MCKIERNAN: Objection to form. You can 20 answer if you know. 21 A I -- I don't know that. 22 Q Well, in the video, you -- I think you agreed 23 that Norton shouts twice, "Hey," in quick succession, 24 and then immediately after that there are gunshots, 25 correct?
Page 67 1 me. And again, I -- I don't recall the contents of the 2 two body cameras, so there -- there could have been 3 other things said before and after, but I -- I don't 4 recall. 5 Q As we sit here, do you have any information to 6 contradict that? 7 A Again, I -- I have no recollection to 8 contradict that. 9 Q Okay. Did you ever receive any information or 10 indication that officers did identify themselves as 11 police officers prior to firing their weapons? 12 A I don't recall, sir. 13 Q But in the video that you watched, they 14 certainly did not, correct? 15 A In the video you just showed me, that's 16 correct. 17 Q Any information that you received or any 18 indication that officers gave Shelby Gazaway 19 instructions to drop his gun prior to firing on Shelby 20 Gazaway? 21 A Not that I recall. Could have occurred, but I 22 -- I don't remember. 23 Q And in the video that you watched, they 24 certainly did not? 25 A The one you just showed me, yes. That is	Page 69 1 A At that point, you -- in the video you see 2 Officer Norton shooting. I don't know what Dugan was 3 doing or when he -- when he started shooting. It's my - 4 - my point. You can't tell. 5 Q Sure. And I appreciate that. Thank you for 6 clarifying. But the shots happened immediately after 7 Norton shouts, "Hey," twice, correct? 8 A Norton shots, yes. 9 Q Okay. Have you seen any footage of Shelby 10 Gazaway firing a weapon prior to officers shooting him 11 that you know of? 12 MR. MCKIERNAN: Objection to form. You can 13 answer if you remember. 14 A I -- I don't recall. 15 Q To be fair, that would be the kind of thing 16 that would stick out in a video like that, right? 17 MR. MCKIERNAN: Objection to form. You can 18 answer. 19 A Again, I don't know if you're speaking of 20 video inside the Kroger or the officer-involved body 21 cameras. I'm -- I'm not sure which. 22 Q I'm talking about body cameras and I'm talking 23 about Shelby Gazaway's actions toward the police, if he 24 shot any -- if he ever discharged his firearm toward 25 police or in the presence of police?

Page 70 1 MR. MCKIERNAN: Objection to form. You can 2 answer if you know. 3 A I don't know that. 4 Q Okay. Well, earlier, I asked before we 5 watched the video clip, I asked what you recalled from 6 watching the body cam, and prior to watching this body 7 cam footage today, this clip, you indicated that you 8 recalled officers standing behind some sort of pillar or 9 wall, correct? 10 A I don't know if they were standing, but yes, 11 they were standing in that video you just showed me, but 12 they were behind some sort of cover. 13 Q And that you also recalled from your watching 14 of the video, again, prior to us watching this today, 15 your recollection of what you saw was that the officers 16 were covered behind a wall of some sort and that the 17 officers were firing their weapons, correct? 18 A Yes. 19 Q Okay. And that was essentially the extent of 20 what you remembered prior to us watching this clip, 21 correct? 22 A Yes, sir. 23 Q Okay. Do you recall ever watching any video 24 where Shelby Gazaway pointed his weapon at either 25 officer?	Page 72 1 chief's office who would've -- have written a 2 commendation with the help of -- of one of the 3 secretaries that worked in that office. And that 4 would've been given to them at -- at some point, sent to 5 them probably by -- by e-mail. But it was never a 6 letter I wrote, and in most cases, a letter I'd never 7 seen. 8 Q Would it have been a letter that you would 9 have reviewed and had the opportunity to change? 10 A No, sir. They -- they went out. I never saw 11 them. 12 Q Would it have -- would it have your signature 13 on it? 14 A It would've had an electronic signature on it. 15 Q Would this electronic signature be Chief 16 Conrad's signature? 17 A It -- it -- it was a signature that I had made 18 that could be cut and pasted into a letter. 19 Q And the delegating -- the delegated party who 20 would be doing this had your authority to do that, 21 correct? 22 A Correct. 23 Q Okay. Thereby awarding a commendation on your 24 behalf? 25 MR. MCKIERNAN: Objection to form. You can
Page 71 1 A Not that I recall. Again, I -- I have no 2 direct recollection of the -- the body camera footage 3 beyond what you've just shared in that small clip. 4 Q You agree that at the time in November 7, 5 2019, you were responsible for the implementation, 6 training, and supervising on the standard operating 7 procedures, correct? 8 A I was ultimately responsible for all of that. 9 Yes, sir. 10 Q On January 28, 2020, you awarded letters of 11 commendation to Norton and Dugan, correct? 12 A No, sir. 13 Q Do you know if Norton and Dugan received 14 letters of commendation? 15 A I have no idea. 16 Q So are you saying that you did not do that or 17 are you saying you don't recall? 18 A I'm saying I don't do that. 19 Q Okay. 20 A I did not do that. It was delegated, it 21 would've been written by a lieutenant in the chief's 22 office or someone in the chief's office based on -- 23 typically, it's a -- it's a letter or a memorandum from 24 someone in that officer's chain of command. It would've 25 gone to the lieutenant that was an assistant in the	Page 73 1 answer. 2 A It -- it was a letter of commendation that 3 appears to have been signed by me. Yes. 4 Q Would it have been signed by anyone else? 5 A It was -- the signature on there was my 6 electronic signature that was cut and pasted and added 7 to that letter. 8 Q Would it have been signed by anyone else? 9 A No, sir. 10 Q Do you know if Norton and Dugan were awarded 11 letters of commendation? 12 A I do not, sir. 13 Q Does what you've seen today in that clip of 14 the body cam footage concern you? 15 MR. MCKIERNAN: Objection to form. 16 A I can't form a conclusion on that one way or 17 the other. Based on what, you know, you've shown me, 18 it's been a, maybe -- maybe two seconds worth of -- of 19 video. I saw an officer crouching behind a wall and 20 then firing shots. That I would conclude was that 21 officer seeing a threat and responding with deadly 22 force. But that's the conclusion I'm drawing. I did 23 not see that in the video. That's what I -- that's the 24 conclusion I drew from watching that video. 25 Q Well, to be fair, if it's -- if it's not

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1 something you -- a threat you saw in the video, it's an
2 assumption that the officer felt threatened. It's not
3 something you saw, correct?

4 MR. MCKIERNAN: Objection to form. You can
5 answer.

6 A All I can testify to, and all I am testifying
7 to, is the video you shared with me, and that was Norton
8 moving to his left to take cover, and then firing shots,
9 which -- which I would surmise was due to a threat.

10 Q And so I think the -- my question was, in the
11 -- after watching the clip that you saw, does it concern
12 you and I think your answer is no, it does not concern
13 you; is that fair?

14 MR. MCKIERNAN: Objection to form.

15 A It -- it -- I -- I -- I -- I -- I guess I
16 misunderstand, or I'm misunderstanding what you're
17 asking me about the concern. I mean, there -- there's a
18 concern that an officer had to fire shots at that point,
19 but beyond that concern, I -- you know, I don't know.
20 I -- I -- I guess I'm not really understanding your
21 question. I'm sorry.

22 Q Well, if there's anything you saw in that clip
23 that would lead you to the conclusion that the officers
24 had to fire on Shelby Gazaway, please let me know what
25 that is?

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1 A And -- and -- and again, you're asking me to
2 form a conclusion on two seconds of -- of a video.
3 What I believe I just said, and I'll say again, it
4 appeared to me that Norton moved to his left to take
5 cover, and then started taking fire at -- at -- at
6 Mr. Gazaway, but I -- I can't come to a -- a final
7 conclusion based on that two-second clip because there
8 was -- there was more to it. And you know, I never
9 ended up coming to the conclusion one way or the other
10 about what was right or wasn't right, because the Public
11 Integrity and PSU investigations were ongoing after I
12 left the department.

13 Q You're right. I -- you started this by
14 saying, you're asking me to talk about my interpretation
15 of, or my conclusion, based on a very quick clip?

16 A Yes, sir.

17 Q That's exactly what I'm asking. I'm asking
18 from what you saw. And knowing that today, your
19 testimony when watching that video was that you did not
20 see Shelby Gazaway turn toward the officers prior to
21 Norton taking cover and shooting, and that you didn't
22 see any physical threat to those officers; does that
23 concern you?

24 MR. MCKIERNAN: Objection.

25 A I -- I didn't say that. I think Norton moved

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1 because he was seeing a physical threat and he was
2 firing to protect his life, which he's allowed to do
3 under state law and the policies of the department.
4 That -- that's what it appeared -- what you showed me,
5 that's what it appears to me, but I'm drawing conclusion
6 with -- without any additional video to look at, and
7 then without the opportunity to review the complete
8 investigation.

9 Q You don't see Shelby Gazaway turn toward the
10 officers at any point prior to Norton taking cover, do
11 you?

12 MR. MCKIERNAN: Objection to form.

13 Q In that video?

14 A You don't see that because Norton, in his
15 effort to move cover, or to take cover, blocked the
16 video of what Mr. Gazaway was doing.

17 Q And why was he taking cover?

18 MR. MCKIERNAN: Objection to form. You can
19 answer if you know.

20 A I have -- I have no idea, but I would assume,
21 based on what I saw Norton do, that he was trying to
22 take cover from some sort of threat.

23 Q And he would take cover in the anticipation
24 that he would be shooting, correct?

25 A He would take cover in anticipation that

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1 someone was getting ready to shoot him.

2 Q But you didn't see any indication of that in
3 the video, that someone was getting ready to shoot him?

4 MR. MCKIERNAN: Objection to form. Video
5 speaks for itself of what he's been shown.

6 A Again, I -- I -- I saw him -- I saw Norton
7 react to some threat, to something which prompted him to
8 move to his left, which blocked the view of Mr. Gazaway.
9 There's no -- there's no way for me to conclude what
10 Mr. Gazaway did or didn't do in the video. Norton
11 would've been the person that would've had that
12 perspective as -- as -- as maybe the other officer did
13 as well. I don't know.

14 Q Well, you keep saying that you saw Norton
15 react to a threat?

16 A I saw Norton react, and I -- I'm making an
17 assumption because I don't know. It -- it --

18 Q That's exactly what I was getting at.

19 A But it -- but it was a quick reaction, which
20 appeared to me to be some sort of reaction to some sort
21 of threat. But -- but they -- but that is a complete
22 and total assumption on my part. I -- I don't know
23 that.

24 Q I'm going to show you a longer version.
25 This clip is three minutes and 14 seconds of body camera

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1 footage, and includes the clip that we just watched at
2 one point.

3 A Yes, sir.

4 MR. SIMMS: This is body cam from the --
5 Dugan's perspective, which is --

6 (VIDEO PLAYED)

7 (VIDEO STOPPED)

8 BY MR. SIMMS:

9 Q So in watching Dugan's body cam footage, the -
10 - his view is obscured substantially, correct?

11 A Yes.

12 Q Why is that?

13 A He was taking cover behind a wall or behind
14 that pillar.

15 Q I believe he has a rifle as well, correct?

16 A That's correct.

17 Q And that also obscures the view of the camera,
18 correct?

19 A It -- it -- to an extent, yes.

20 Q Okay. Is there any other video footage that
21 you know of prior to Shelby Gazaway being shot?

22 MR. MCKIERNAN: Objection to form. You can
23 answer if you know.

24 A I believe there is video of his actions inside
25 the Kroger, but -- but I -- I don't remember the

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1 specifics of the video.

2 Q Okay. From the -- from police perspective, is
3 there any other video that you know of prior -- of the
4 police interaction with Shelby Gazaway prior to that?

5 MR. MCKIERNAN: Objection. You can answer if
6 you know.

7 A Not that I know of.

8 Q Okay. In any of the videos that we have
9 watched today, did you see Shelby Gazaway act in a way
10 that was physically aggressive to officers?

11 MR. MCKIERNAN: Objection to form. You can
12 answer.

13 A I did not see it. Other than the reaction of
14 -- of the one officer when he moved back behind the
15 pillar, and again, that wasn't the actions of -- of
16 Gazaway, per se, but that was what it appears that
17 officer saw that caused him to react and move to his
18 left behind that pillar.

19 Q Well, we can see Gazaway's actions up to and
20 as the officer moves away, correct?

21 A Up to when the officer moves away, yes.

22 Q Okay. And there's nothing that Shelby Gazaway
23 has done up to that point when the officer turns in that
24 you can see that would justify deadly force?

25 MR. MCKIERNAN: Objection to form.

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1 Q From that video perspective?

2 A From the video perspective, and again, what
3 you showed me in the video was Norton moving to his left
4 to take cover, and then start firing, which leads me to
5 the conclusion that Norton saw some threat that prompted
6 him to do that, and it would've been from Mr. Gazaway.
7 But again, that -- that's me drawing a conclusion based
8 on what I saw on the video.

9 Q That's an assumption?

10 A Yes, sir. It is an assumption.

11 Q Okay. I am going to ask that we go off the
12 record and it is right at noon. I think we've still got
13 a couple hours left, so I'm going to ask that it's lunch
14 break time and come back in 45; is that okay?

15 A Yes, sir.

16 VIDEOGRAPHER: Okay. We're off the record.

17 The time is 11:55.

18 (OFF THE RECORD)

19 VIDEOGRAPHER: We are back on record. The time
20 is 1:03.

21 BY MR. SIMMS:

22 Q Chief Conrad, do you recognize yourself to be
23 under oath at this time still?

24 A Yes, sir.

25 Q We were talking about the events of November 7

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1 and discussing there was a portion of those events we
2 were talking about wherein Shelby Gazaway was inside the
3 Kroger and something happened there that caused officers
4 to be dispatched to shots fired, fair?

5 A Yes, sir. That is my recollection.

6 Q Okay. I want to talk about that moment -- the
7 moments inside the Kroger. You don't know exactly what
8 happened in there; is that fair?

9 A Yes, sir. I do not know.

10 Q Okay. My understanding is that there was a
11 witness who indicated another man pulled a knife,
12 brandished a knife to Shelby Gazaway, and that Shelby
13 Gazaway pointed a gun at the ceiling and fired off one
14 round, and then everyone essentially ran. Is that
15 information that you have encountered that you've heard
16 as well?

17 A I honestly don't recall, sir.

18 Q Okay. Let's assume that for a moment, let's
19 assume if that happened, if a man approached Shelby
20 Gazaway in Kroger, there was a verbal argument and that
21 man brandished a knife, and then Shelby Gazaway fired a
22 shot into the ceiling at Kroger, what crime, if any,
23 would that be on the part of Shelby Gazaway?

24 MR. MCKIERNAN: Objection to form. You can
25 answer.

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1 A Yeah. I'm honestly not sure whether it would
2 even be a chargeable offense. I think a gun being shot
3 in a Kroger store would certainly cause panic, alarm for
4 the other people who were there.

5 Q Sure. And did. I would say that the evidence
6 in this case is that it did cause alarm for people who
7 were inside the Kroger; is that fair?

8 A Yes, sir. I would -- I would believe so.
9 Yes, sir.

10 Q Do you know if that alleged person with the
11 knife was ever identified by LMPD through any means?

12 A I -- until you told me about the person with
13 the knife, I had forgotten about any of that, so no, I -
14 - I don't have any additional information.

15 Q Okay. Does it ring a bell though, at this
16 point as far as some stuff that you recall from the
17 time, some sort of information to that sort?

18 A I -- I honestly don't recall. I'm sorry.

19 Q Okay. Do you know if ballistics or any tests
20 of any kind were ever done on the gun that was in Shelby
21 Gazaway's possession?

22 A I would assume that would've occurred as -- as
23 part of the PIU investigation, but again, that was
24 ongoing when I left the department.

25 Q You would agree that Norton and Duncan were

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1 commended by LMPD prior to -- excuse me, I said Duncan.
2 Dugan. Norton and Dugan were commended by LMPD prior to
3 the PIU investigation's completion?

4 A If you represent it as so, I -- I believe you.

5 Q Do you see any problem or concern with that as
6 far as LMPD commending officers for conduct that is
7 currently under investigation?

8 MR. MCKIERNAN: Objection to form. You can
9 answer.

10 A That is -- in my opinion, I -- I agree with
11 you. I think it's problematic and a -- a -- again, I
12 think had that process been coming to me and there were
13 about 600 commendation letters any given year, that --
14 that there could have been some process put in place to
15 -- to stop that. It's a -- it's a good point. It may
16 still be going on today. I don't know.

17 Q From the perspective of somebody in your
18 employee who is working on the PIU investigation, if
19 they learn that officers were commended by LMPD, that
20 reasonably could influence what they're doing in the PIU
21 investigation?

22 MR. MCKIERNAN: Objection to form. You can
23 answer if you know.

24 Q Wouldn't you think?

25 A I -- I -- I don't know that, sir.

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1 Q Well, earlier when you indicated you would
2 agree that it could be problematic, what do you mean by
3 that? Why would you agree that it could be problematic?

4 A It -- I'm sorry. In -- in my -- a PIU
5 investigation is someone in -- following up with an
6 investigation and -- and I think a -- a commendation
7 letter is -- is not evidence. It is -- it is a -- a
8 that investigator's responsibility to gather information
9 and -- and to make a determination based on evidence,
10 and I don't think that letter would've represented
11 evidence, but I -- I can see how that could have
12 potentially impacted someone's opinion, but not
13 necessarily where the evidence led them to.

14 Q Okay. Are you familiar with the Department of
15 Justice report that came out last week?

16 A I -- I'm aware of it. I am not familiar with
17 it.

18 Q Have you read it?

19 A I have not.

20 Q Have you read portions of it?

21 A I have not.

22 Q In the complaint in this case, paragraph 33 of
23 the complaint -- amended complaint filed here in October
24 1, 2020 states and the plaintiffs allege in paragraph
25 33, "Prior to November 7, 2019, Defendant Conrad had

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1 actual knowledge of LMPD officers violating the civil,
2 constitutional, and human rights of numerous citizens,
3 including violations via the unlawful and improper use
4 of force, which Officer [sic] Conrad refused to
5 discipline. By refusing to discipline the officers for
6 violating the citizen's rights as aforementioned, Conrad
7 created and fostered an atmosphere at LMPD wherein the
8 violation of citizen's rights was acceptable, and in
9 fact encouraged and became the norm. And the Department
10 of Justice" -- first of all, I guess, let me break that
11 down and see what parts of that you disagree with.
12 Would you agree that there were officers prior to
13 November 7, 2019 who had violated the civil,
14 constitutional, or human rights of citizens in Jefferson
15 County?

16 MR. MCKIERNAN: Objection to form. You can
17 answer.

18 A It may have occurred.

19 Q Would you agree that you had actual knowledge
20 of some of those instances where LMPD officers violated
21 constitutional rights of citizens in Louisville?

22 MR. MCKIERNAN: Objection to form. You can
23 answer.

24 A Not that I'm aware of, and if I was aware of
25 them, we should have taken action to address it from a

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1 disciplinary point of view.

2 Q So as -- if there were constitutional right
3 violations prior to November 7, 2019 on your watch at
4 LMPD, you did not know of any specific instances; is
5 that fair?

6 A Yes, sir.

7 Q Okay. And -- but you are in agreement that if
8 it comes to the attention of LMPD that an officer has
9 violated someone's constitutional rights, that needs to
10 be addressed from a disciplinary standpoint?

11 A Yes, sir.

12 Q Okay. I'm going to refer to a previous case,
13 Amanda Carver, and Amanda Price, excuse me, Gary Carver
14 and Amanda Price versus Louisville, Jefferson County,
15 Louisville Metro Government et al., including officers
16 Charles Meek and Michael Trevino; do you recall that
17 case?

18 A No.

19 Q You were a party to that case, and in June of
20 2014 -- June 19, 2014, Judge Heyburn wrote a summary
21 judgment order, which in part for you -- for your
22 perspective, released you from that lawsuit. It was
23 ordered that the "Defendant's motion for summary
24 judgment was sustained in part, and the following claims
25 were dismissed, including all claims against Conrad and

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1 Burke's, all the claims against Louisville Metro
2 Government and Louisville Metro Police. The summary
3 judgment motion was denied with respect to all of Gary
4 Carver's claims against Meek and Trevino and Amanda
5 Price's claim against Meek for unlawful search and
6 seizure." In that order, which relieved you of any
7 responsibility in that case, Judge Heyburn specifically
8 found on page 1 of the Memorandum Opinion and Order --
9 one, two, three -- fourth full paragraph, "The main
10 problem with defendant's claims for summary judgment
11 arise with the claims against Meek, Officer Charles
12 Meek. The objective evidence contradicts much of his
13 deposition testimony and could lead a reasonable Jury to
14 completely disbelieve him." Do you know who Charles
15 Meek is?

16 A I do not. I recognize the name, but I don't
17 know him.

18 Q This stems from an incident in October, or
19 excuse me, "wherein Gary Carver was approached by
20 Charles Meek and Michael Trevino. Both officers
21 testified in a District Court hearing in front of Judge
22 Katie King, and they testified that Carver began yelling
23 obscenities as they approached him. A digital audio
24 tape of that incident was recorded by Carver and
25 revealed that those statements by those officers were

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1 untrue, that they had lied about Carver saying --
2 screaming obscenities as they approached. And
3 Louisville Metro paid out \$96,000 for a -- the stop and
4 frisk and false arrest of Gary Carver." Do you know if
5 anything disciplinary-wise happened to Charles Meek or
6 Michael Trevino, as a result of that incident?

7 MR. MCKIERNAN: Objection to form. You can
8 answer if you know.

9 A I don't know. I would assume that would've
10 been shared with the Professional Standards Unit and an
11 investigation would've happened, but I don't know that.

12 Q Okay. Who all can initiate one of those
13 investigations?

14 A The -- a Professional Standards can be --
15 which would be an internal investigation, could be
16 initiated by any person who files an affidavit alleging
17 misconduct on the part of an officer, or it can be
18 initiated based on an order from the chief.

19 Q What about a PIU investigation?

20 A A Public Integrity Unit investigation is -- is
21 a criminal investigation and it does not require
22 initiation on the part of -- of the chief or -- or
23 anyone. It's essentially a follow-up on some sort of
24 potential investigation involving a member of the
25 department, or in some cases, other members of Metro

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1 Government.

2 Q Okay. But you would agree in a case that --
3 like this, that we're talking about Gary Carver versus
4 Charles Meek and Michael Trevino, that based on the
5 outcome of that case and this memorandum and opinion
6 from Judge Heyburn, there should have been some sort of
7 disciplinary action initiated against Charles Meek and
8 Michael Trevino?

9 MR. MCKIERNAN: Objection to form. You can
10 answer.

11 A And I think I had said as much before that --
12 that that would've, in my mind, resulted in some sort of
13 a follow-up investigation, the potential for discipline.

14 Q Okay. And ultimately, you would've been the
15 one who is responsible for implementing, training, and
16 supervising on the standard operating procedures?

17 A Yes, sir. I was responsible for those duties
18 albeit them delegated to other people in the department
19 to make that happen, but it was ultimately my
20 responsibility.

21 Q Okay. Regarding the Department of Justice
22 investigation, would you agree that within the time span
23 where you were Chief at Louisville Metro Police,
24 "LMPD used excessive force including unjustified neck
25 restraints and unreasonable use of police dogs and

Page 90 1 tasers?" 2 MR. MCKIERNAN: Objection to form. You can 3 answer if you know. 4 A I'm sure that there were times when that 5 occurred. 6 Q Would you agree that "LMPD conducted search 7 warrants based on invalid warrants?" 8 MR. MCKIERNAN: Objection to form. You can 9 answer if you know. 10 A I don't know, but if it's in there, I -- I 11 assume it happened. 12 Q Would you agree that "LMPD unlawfully executed 13 search warrants without knocking and announcing?" 14 MR. MCKIERNAN: Objection to form. You can 15 answer if you know. 16 A I'm sure there were situations where that 17 occurred. Yes. 18 Q Would you agree that "LMPD unlawfully stopped, 19 searched, detained, and arrested people during street 20 enforcement activities, including traffic and pedestrian 21 stops?" 22 MR. MCKIERNAN: Objection to form. You can 23 answer if you know. 24 A I'm sure that occurred on some occasions. 25 Q Would you agree that "LMPD unlawfully	Page 92 1 MR. MCKIERNAN: Objection to form. You can 2 answer. 3 A That could have occurred. 4 Q The mayor appoints the LMPD chief, correct? 5 A Correct. 6 Q You were the Chief from 2012 to 2020? 7 A Correct. 8 Q Would you agree that "Louisville Metro and 9 LMPD engaged in a pattern or practice of conduct that 10 derived people of their rights under the Constitution 11 and federal law?" 12 MR. MCKIERNAN: Objection to form. You can 13 answer if you know. 14 A I -- I don't know that, but it's, again, in 15 the report and I don't think the Department of Justice 16 would've included it if they did not have sufficient 17 evidence to -- to make that statement. 18 Q Okay. Is that -- this may cut off all of the 19 rest of the questioning regarding the report. Would you 20 defer to the report for their findings and for the 21 specific instances of conduct that they found? 22 MR. MCKIERNAN: Objection to form. You can 23 answer. 24 A Yes, sir. I am. The Department of Justice 25 knows what they're doing and -- and I don't doubt their
Page 91 1 discriminated against Black people in its enforcement 2 activities?" 3 MR. MCKIERNAN: Objection to form. You can 4 answer if you know. 5 A I'm sure that happened in certain cases and 6 individual circumstances, yes. 7 Q Would you agree that "LMPD violated the rights 8 of people engaged in protected speech critical of 9 policing?" 10 MR. MCKIERNAN: Objection to form. You can 11 answer if you know. 12 A It would not surprise me if that occurred. 13 Q Did you know of specific incidents of that 14 occurring? 15 A I do not. 16 Q Would you agree that "Louisville Metro and 17 LMPD discriminated against people with behavioral health 18 disabilities when responding to them in crisis?" 19 MR. MCKIERNAN: Objection to form. You can 20 answer if you know. 21 A I'm sure there were situations where that 22 occurred. 23 Q Would you agree that "the failures in 24 leadership and accountability have allowed unlawful 25 conduct to continue unchecked at LMPD?"	Page 93 1 findings. 2 MR. SIMMS: Okay. Then I am going to save us, 3 the probably, two hours of going through all of the 4 rest of that, and we are going to be right at the 5 light at the end of the tunnel. Give me about 15 6 minutes. Normally, when lawyers say that, they have 7 at least 45 minutes more of questions -- 8 THE WITNESS: Understood. 9 MR. SIMMS: -- but I typically -- 10 MR. MCKIERNAN: You don't? 11 MR. SIMMS: -- I -- right. I don't. 12 THE WITNESS: All right. 13 MR. SIMMS: So give me about 15 minutes and 14 we'll reconvene. 15 VIDEOGRAPHER: We're off record. The time is 16 now 1:21. 17 (OFF THE RECORD) 18 VIDEOGRAPHER: We're back on record. The time 19 is 1:36 [sic]. 20 MR. SIMMS: We are the -- as far as the 21 plaintiffs are concerned, we are finished with 22 Mr. Conrad. 23 MR. MCKIERNAN: No questions for me. 24 MR. SIMMS: All right. 25 VIDEOGRAPHER: Okay. That concludes today's

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1 deposition. We're off record. The time is now 1:36
2 [sic].

3 (DEPOSITION CONCLUDED AT 1:28 P.M. (ET))
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1 CERTIFICATE OF REPORTER

2 COMMONWEALTH OF KENTUCKY AT LARGE

3
4 I do hereby certify that the witness in the foregoing
5 transcript was taken on the date, and at the time and
6 place set out on the Title page hereof by me after first
7 being duly sworn to testify the truth, the whole truth,
8 and nothing but the truth; and that the said matter was
9 recorded digitally by me and then reduced to typewritten
10 form under my direction, and constitutes a true record
11 of the transcript as taken, all to the best of my skills
12 and ability. I certify that I am not a relative or
13 employee of either counsel, and that I am in no way
14 interested financially, directly or indirectly, in this
15 action.
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22 BETHANY BELLOFATTO,

23 COURT REPORTER / NOTARY

24 COMMISSION EXPIRES ON: 09/11/2025

25 SUBMITTED ON: 03/15/2023

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