

EXHIBIT F

TIMOTHY B. HOWARD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JACQUELINE KRETZMON,

Plaintiff,

- vs - DECISION AND ORDER
 11-CV-0704

ERIE COUNTY,

Defendant.

Examination before trial of TIMOTHY B.
HOWARD, taken pursuant to the Federal Rules of
Civil Procedure, in the LAW OFFICES OF LINDY KORN,
Electric Tower, Ninth Floor, 535 Washington Street,
Buffalo, New York; on February 28, 2014, commencing
at 10:09 a.m., before WENDY J. BENZEE, Notary
Public.

1 APPEARANCES: LAW OFFICES OF LINDY KORN,
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 18 PRESENT: JACQUELINE KRETZMON

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10:09:44 12 T I M O T H Y B. H O W A R D, 10 Delaware Avenue,
 10:09:49 13 Buffalo, New York 14202, after being duly called
 10:09:52 14 and sworn, testified as follows:

10:09:52 15
 10:09:52 16 EXAMINATION BY MR. PERRY:

10:09:52 17
 10:09:58 18 Q. Good morning, Sheriff Howard.

10:10:00 19 A. Morning.

10:10:01 20 Q. I understand you have some hearing
 10:10:03 21 difficulties, so I'll try to talk as loudly as
 10:10:07 22 possible.

10:10:07 23 My name is Richard Perry and I'm an attorney

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Howard - Perry - 2/28/14

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10:10:10 1 for Ms. Kretzmon in this matter and I'm going to be
10:10:14 2 asking you some questions today.

10:10:15 3 A. Yes.

10:10:16 4 Q. My first question is: Have you ever
10:10:19 5 been deposed before?

10:10:19 6 A. Yes.

10:10:19 7 Q. So you have an idea of the ground
10:10:22 8 rules?

10:10:22 9 A. Yes.

10:10:22 10 Q. So I'll just go over a few of them
10:10:26 11 then. We have to have verbal answers, so a nod of
10:10:31 12 the head, for instance doesn't actually give us an
10:10:38 13 answer that goes on the record so I'd ask you to
10:10:40 14 answer yes or no as much as possible, okay?

10:10:43 15 A. Yes.

10:10:43 16 Q. And at any time that I ask a question,
10:10:50 17 particularly with dates, I'm entitled to your best
10:10:53 18 recollection, so if you don't remember a specific
10:10:55 19 date, that's fine, but if you remember, for
10:10:58 20 instance, it was in the spring of a certain year.
10:11:02 21 That's your best recollection and that's what you
10:11:04 22 would tell me, okay?

10:11:04 23 A. Yes.

Howard - Perry - 2/28/14

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10:11:05 1 Q. And I also am entitled to presume that
10:11:09 2 you understood my question unless you tell me that
10:11:13 3 you didn't, okay?

10:11:13 4 A. Yes.

10:11:14 5 Q. Do you have any questions for me about
10:11:17 6 the process before we get started?

10:11:19 7 A. No.

10:11:19 8 Q. One last thing, Ms. Apter may have
10:11:25 9 objections at some point and we would both probably
10:11:27 10 appreciate it if you would stop talking while the
10:11:29 11 objection is made until we figure it out. The
10:11:31 12 likely result is that you're going to be directed
10:11:34 13 anyway to answer the question, okay?

10:11:37 14 A. Yes.

10:11:37 15 Q. Sheriff Howard, have you in the last 24
10:11:42 16 hours taken any medications that might impair your
10:11:49 17 ability to answer questions today?

10:11:50 18 A. No.

10:11:50 19 Q. Have you consumed any alcohol within
10:11:53 20 the last 24 hours?

10:11:54 21 A. No.

10:11:54 22 Q. You are the Sheriff of Erie County,
10:12:02 23 correct?

Howard - Perry - 2/28/14

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10:12:02 1 A. Yes.

10:12:02 2 Q. And how long have you been Sheriff?

10:12:04 3 A. Since July of 2005.

10:12:07 4 Q. And how did you become Sheriff at that

10:12:17 5 time?

10:12:17 6 A. Retirement or resignation of

10:12:23 7 Sheriff Gallivan. I was first appointed by the

10:12:27 8 Governor, and then in November of 2005 elected by

10:12:31 9 the people.

10:12:31 10 Q. Can you tell me a little bit about your

10:12:43 11 educational background?

10:12:43 12 A. Masters degree in criminal justice.

10:12:47 13 Q. And when did you get that?

10:12:54 14 A. Early 1980s.

10:13:00 15 Q. And what school was that from?

10:13:05 16 A. SUNY Albany.

10:13:08 17 Q. And I assume, therefore, you have a

10:13:13 18 bachelors degree of some sort as well?

10:13:17 19 A. Yes.

10:13:17 20 Q. What would that be?

10:13:20 21 A. Criminal justice from SUNY Brockport.

10:13:23 22 Q. Have you ever served in the military?

10:13:32 23 A. No.

Howard - Perry - 2/28/14

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10:13:32 1 Q. Prior to being appointed Sheriff by the
10:13:40 2 Governor, what occupation did you have?

10:13:45 3 A. I was the Undersheriff of Erie County
10:13:49 4 for seven-and-a-half years. Before that, 27 years
10:13:54 5 with the New York State Police. And before that,
10:14:01 6 two years with local law enforcement.

10:14:04 7 Q. Is it correct of me to say that the
10:14:31 8 Sheriff's Department is a paramilitary
10:14:35 9 organization?

10:14:35 10 A. Yes.

10:14:36 11 Q. Can you explain to me what that means?

10:14:38 12 A. Follows a chain of command. Personnel
10:14:44 13 can be disciplined for insubordination.

10:14:49 14 Q. Can you describe for me generally what
10:15:06 15 would be considered insubordination?

10:15:10 16 A. Disobedience to orders or failing to do
10:15:17 17 what one's told to do. Showing disrespect for
10:15:24 18 superior officers.

10:15:25 19 Q. And does the Sheriff's Department have
10:15:49 20 a rank structure?

10:15:50 21 A. It does.

10:15:52 22 Q. Can you explain that to me?

10:15:53 23 A. The lowest ranking sworn member is a

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10:15:58 1 deputy. Advancing ranks to be sargent, lieutenant,
10:16:05 2 captain, and then depending if it's police services
10:16:07 3 or jail management, you have chiefs or
10:16:13 4 superintendents, and/or superintendents. The top
10:16:21 5 ranks being the undersheriff and then the sheriff.

10:16:31 6 Q. Thank you.

10:16:33 7 I believe you were addressing different
10:16:46 8 departments within the Sheriff's Department?

10:16:49 9 A. Divisions, yes.

10:16:50 10 Q. Can you explain to me what those are?

10:16:53 11 A. Basically two police services and jail
10:16:58 12 management.

10:16:58 13 Q. Would professional standards fall under
10:17:09 14 one or the other of these two?

10:17:13 15 A. No. That would be under the command
10:17:16 16 staff of the sheriff and undersheriff.

10:17:18 17 Q. Kind of like a headquarters operation?

10:17:22 18 A. Yes.

10:17:22 19 Q. And police services, we have had some
10:17:31 20 other testimony that's gone before, it's sometimes
10:17:34 21 called road patrol, would that be accurate?

10:17:39 22 A. Road patrol would be one of the
10:17:40 23 sections under police services, but road patrol and

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10:17:44 1 detectives and special services.

10:17:46 2 Q. So road patrol, detectives and special
10:17:52 3 services?

10:17:52 4 A. Yes.

10:17:52 5 Q. And jail management has other divisions
10:18:01 6 underneath it; is that correct?

10:18:03 7 A. No.

10:18:04 8 Q. In previous testimony we have talked
10:18:08 9 about the holding center and the penitentiary. Are
10:18:12 10 they different in some way?

10:18:14 11 A. They are different buildings, both
10:18:18 12 under the same superintendent.

10:18:20 13 Q. Okay. But within each of them, they
10:18:25 14 have different deputy superintendents?

10:18:29 15 A. That's correct.

10:18:29 16 Q. Okay. I understand from previous
10:18:46 17 testimony that the penitentiary has corrections
10:18:51 18 officers and the holding center has deputies; is
10:19:01 19 that correct?

10:19:01 20 A. Not exclusively, no.

10:19:03 21 Q. Can you explain that to me a little
10:19:05 22 bit?

10:19:05 23 A. The correctional facility has both

Howard - Perry - 2/28/14

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10:19:10 1 deputies and correctional officers.

10:19:12 2 Q. Whereas the holding center has just
10:19:31 3 deputies?

10:19:32 4 A. Yes.

10:19:32 5 Q. Would the corrections officers -- let
10:19:45 6 me just preface this a little bit. Having been a
10:19:50 7 peace officer myself once upon a time doing
10:19:53 8 corrections, my understanding is corrections
10:19:56 9 officers are peace officers whereas the sheriff's
10:19:58 10 deputies would be police officers; is that correct?

10:20:00 11 A. The title suggests that, but the
10:20:04 12 individuals are limited by their training.

10:20:07 13 Q. Do you know the difference between a
10:20:12 14 police officer and a peace officer?

10:20:14 15 A. Yes.

10:20:14 16 Q. Can you tell me generally what that is?

10:20:16 17 A. The powers that are granted under the
10:20:19 18 law.

10:20:20 19 Q. And is it fair to say that the powers
10:20:25 20 of a police officer are broader than those of a
10:20:29 21 peace officer?

10:20:30 22 A. Yes.

10:20:30 23 Q. Do you know an individual named, I

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10:21:02 1 believe, it's currently Deputy Superintendent
10:21:05 2 Reardon?

10:21:05 3 A. Yes.

10:21:06 4 Q. And who is he?

10:21:07 5 A. Deputy superintendent primarily
10:21:15 6 assigned to the agency's response to the Department
10:21:22 7 of Justice.

10:21:22 8 Q. And what do you mean that he's a -- in
10:21:48 9 response to the Department of Justice?

10:21:53 10 MR. APTER: Just on the record, he can give
10:21:57 11 general testimony, but there's a lot of
10:22:01 12 confidential information with respect to the
10:22:04 13 Department of Justice and the Erie County Sheriff's
10:22:07 14 Department. If he can answer generally.

10:22:09 15 THE WITNESS: The agreement with the
10:22:14 16 Department of Justice called for the creation of a
10:22:17 17 position to concentrate on issues addressed by the
10:22:28 18 investigation, and Michael Reardon was appointed to
10:22:33 19 that position.

10:22:36 20 BY MR. PERRY:

10:22:42 21 Q. So without getting into details, would
10:22:44 22 it be fair to say that Mr. Reardon's position is
10:22:50 23 designed to kind of be a liaison with the

Howard - Perry - 2/28/14

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10:22:53 1 Department of Justice and address concerns they
10:22:54 2 have?

10:22:55 3 A. Yes.

10:22:57 4 Q. Who's the current superintendent for
10:23:09 5 jail management?

10:23:09 6 A. Thomas Diina.

10:23:16 7 Q. And how long has he been in that
10:23:21 8 position?

10:23:21 9 A. I don't remember.

10:23:25 10 Q. Okay. Can you give me like a number of
10:23:29 11 years?

10:23:29 12 A. Several years.

10:23:31 13 Q. Who was in the position before him?

10:23:39 14 A. Bob Koch, Robert Koch.

10:23:43 15 Q. And that's K-O-C-H, correct?

10:23:52 16 A. Correct.

10:23:52 17 Q. And do you know when he became deputy
10:23:56 18 superintendent -- I'm sorry, superintendent?

10:24:02 19 A. No.

10:24:05 20 Q. Okay. Do you know who was the
10:24:08 21 superintendent before him?

10:24:10 22 A. Yes.

10:24:10 23 Q. And who was that?

Howard - Perry - 2/28/14

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10:24:11 1 A. McCarthy Gipson.

10:24:17 2 Q. And do you know approximately when that
10:24:21 3 was?

10:24:21 4 A. Late 1990's. After '98.

10:24:31 5 Q. In previous testimony we have heard
10:24:37 6 that an undersheriff was acting as superintendent
10:24:41 7 for sometime, would that be accurate?

10:24:44 8 A. Yes.

10:24:44 9 Q. And can you explain who that was and
10:24:49 10 generally when?

10:24:49 11 A. It was me for a few months in 2005
10:24:59 12 immediately before Sheriff Gallivan retired.

10:25:02 13 Q. To the best of your recollection, was
10:25:16 14 Mr. Doyle or a Mr. Wipperman ever acting as
10:25:22 15 superintendent?

10:25:22 16 A. Yes, Mr. Doyle.

10:25:29 17 Q. And was that after you but before
10:25:35 18 Mr. Koch?

10:25:43 19 MR. APTER: Only what you remember.

10:25:49 20 THE WITNESS: It was after me.

10:25:50 21 BY MR. PERRY:

10:25:51 22 Q. Okay. But at this time you don't know
10:25:56 23 if, for instance, Mr. Koch replaced him or if

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10:26:01 1 someone else was in between?

10:26:02 2 A. I'm not sure.

10:26:08 3 Q. Okay. Who is currently the deputy
10:26:14 4 superintendent for the penitentiary?

10:26:18 5 A. John Rodriguez.

10:26:20 6 Q. And who is the current deputy
10:26:32 7 superintendent for the holding center?

10:26:34 8 A. I really don't have one.

10:26:40 9 Q. If I were to say to you a term, the
10:26:53 10 table of organization, would you know what that is?

10:26:56 11 A. Yes.

10:26:57 12 Q. Do you have one of those in the
10:26:59 13 Sheriff's Department?

10:27:00 14 A. Yes.

10:27:00 15 Q. And can you explain what that is?

10:27:01 16 A. It outlines the chain of command.

10:27:13 17 Q. And the Sheriff's Department, do you
10:27:23 18 abbreviate that as TOE?

10:27:26 19 A. No.

10:27:26 20 Q. Does the table of organization change
10:27:40 21 frequently?

10:27:40 22 A. No.

10:27:42 23 Q. Just so I'm clear on it, the table of

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10:27:48 1 organization identifies the positions and then also
10:27:50 2 puts a name in that position, would that be
10:27:53 3 accurate?

10:27:54 4 A. No.

10:27:56 5 Q. Can you explain it for me a little bit?

10:28:07 6 A. The table remains the same. The names
10:28:10 7 are subject to change and individuals are named,
10:28:13 8 but they don't -- the names aren't placed onto the
10:28:17 9 actual table.

10:28:18 10 Q. So the table defines the structure of
10:28:23 11 the Sheriff's Department, is that accurate to say?

10:28:25 12 A. Yes.

10:28:25 13 Q. Okay. And in the table of
10:28:37 14 organization, the penitentiary and holding center
10:28:41 15 both have deputy superintendents on the list?

10:28:44 16 A. Yes.

10:28:44 17 Q. But at the moment there is no deputy
10:28:49 18 superintendent at the holding center?

10:28:51 19 A. There's a superintendent at the holding
10:28:54 20 center, but we don't consider him to be the deputy
10:29:00 21 superintendent of the holding center.

10:29:01 22 Q. So he's located there, but that's not
10:29:07 23 his command responsibility?

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10:29:07 1 A. Correct.

10:29:07 2 Q. Who'd that individual?

10:29:09 3 A. Superintendent Diina and the chief of

10:29:13 4 security.

10:29:14 5 Q. Diina is the superintendent; is that

10:29:27 6 correct?

10:29:27 7 A. Yes.

10:29:27 8 Q. So he's in charge of both the

10:29:31 9 penitentiary and the holding center?

10:29:33 10 A. Yes.

10:29:33 11 Q. And who's the chief of security?

10:29:35 12 A. Give me a second, I'll think of it.

10:29:46 13 Al --

10:29:57 14 MR. APTER: We can obtain the name and

10:29:58 15 provide it for you if you don't know.

10:30:08 16 MS. KRETZMON: Harris.

10:30:08 17 THE WITNESS: Harris, thank you.

10:30:15 18 BY MR. PERRY:

10:30:16 19 Q. Al Harris is the chief of security?

10:30:17 20 A. Yes.

10:30:18 21 Q. I'm just drafting my own little table

10:30:32 22 of organization now.

10:30:34 23 The superintendent is Thomas Diina, correct?

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10:30:45 1 A. Yes.

10:30:45 2 Q. And the penitentiary has a deputy
10:30:51 3 superintendent who is John Rodriguez?

10:30:54 4 A. Yes.

10:30:54 5 Q. And the holding center has a deputy's
10:31:06 6 position on the table of organization but it is not
10:31:09 7 filled; is that correct?

10:31:09 8 A. The delegation of duties is done by the
10:31:18 9 superintendent. Both buildings have deputy
10:31:25 10 superintendents, both have chiefs, but their
10:31:28 11 assignment of duties is done by the superintendent.

10:31:30 12 Q. So I believe you testified earlier that
10:31:45 13 there is a deputy superintendent at the holding
10:31:47 14 center, but he's not doing holding center work?

10:31:50 15 A. He's doing work that involves both
10:31:55 16 facilities.

10:31:55 17 Q. And who is that individual?

10:31:57 18 A. That's Michael Reardon.

10:32:00 19 Q. I'm going to go back to the concept of
10:32:37 20 chain of demand for a minute. In the chain of
10:32:39 21 command, one of the things you said could get
10:32:42 22 disciplined could be disobedience to orders,
10:32:45 23 correct?

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10:32:46 1 A. Yes.

10:32:46 2 Q. So in the chain of command, someone
10:32:47 3 higher up the chain is entitled to issue orders to
10:32:52 4 someone lower down; is that correct?

10:32:53 5 A. Within their line of command, yes.

10:32:56 6 Q. And so, for example, just to make sure
10:32:59 7 I'm clear, someone in jail management, let's say a
10:33:04 8 chief in jail management can't issue orders to
10:33:08 9 somebody on road patrol?

10:33:11 10 A. That's pretty much true.

10:33:20 11 Q. Okay. So is it fair to say that if
10:33:26 12 someone is issuing orders to a subordinate than
10:33:31 13 that subordinate is in their chain of command?

10:33:36 14 A. Yes.

10:33:49 15 Q. Do you know how many chiefs are in the
10:34:06 16 holding center?

10:34:07 17 A. Yes.

10:34:08 18 Q. Can you tell me who they are?

10:34:11 19 A. There's one, and it is Al Harris.

10:34:14 20 Q. And that was the chief of security?

10:34:20 21 A. Yes. Maybe chief of operations. I'm
10:34:28 22 not sure of the exact title.

10:34:29 23 Q. Is that a different chief or that's

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10:34:34 1 what it might be called is chief of operations?

10:34:36 2 A. Yes.

10:34:36 3 Q. Okay. Do you have much personal
10:34:52 4 experience with the jail management side of things?

10:34:54 5 A. No.

10:34:55 6 Q. Okay. And it seems from your
10:34:58 7 background that you're mostly road patrol
10:35:02 8 detective, the police services, that's your primary
10:35:05 9 background?

10:35:05 10 A. Yes.

10:35:05 11 Q. How often would you say you go to
10:35:11 12 either the holding center or the penitentiary?

10:35:13 13 A. Just several times a year.

10:35:21 14 Q. And because you have a chain of command
10:35:29 15 you rely on your subordinates to take care of those
10:35:34 16 facilities, correct?

10:35:35 17 A. Yes.

10:35:35 18 Q. Do you know Jackie Kretzman?

10:35:48 19 A. Yes.

10:35:48 20 Q. And who is Jackie Kretzman?

10:35:50 21 A. The lady sitting across from me at the
10:35:55 22 table.

10:35:55 23 Q. And how do you know her?

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10:35:56 1 A. It was a result of her employment with
10:36:01 2 the Sheriff's Office.

10:36:03 3 Q. Do you know what rank and/or position
10:36:07 4 she held?

10:36:07 5 A. She retired as a lieutenant.

10:36:16 6 Q. And do you know where she worked?

10:36:19 7 A. No.

10:36:20 8 Q. Was that a no?

10:36:27 9 A. I know what building she worked in, but
10:36:29 10 I don't know what her command group was.

10:36:34 11 Q. Can you tell me what the building was?

10:36:37 12 A. The holding center.

10:36:37 13 Q. Were you aware that Ms. Kretzmon had
10:37:00 14 filed a complaint against the Sheriff's Department
10:37:05 15 at any time?

10:37:06 16 A. Yes.

10:37:08 17 Q. And what complaint were you aware of?

10:37:13 18 A. I don't know specifically.

10:37:15 19 Q. Okay. Do you know approximately when
10:37:17 20 this was?

10:37:18 21 A. No.

10:37:19 22 Q. Do you know if that complaint settled?

10:37:24 23 A. Yes.

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10:37:24 1 Q. Were you aware of the terms of the
10:37:29 2 settlement agreement?

10:37:31 3 MR. APTER: Aware now or at that time?

10:37:35 4 BY MR. PERRY:

10:37:35 5 Q. At that time.

10:37:36 6 A. No.

10:37:37 7 Q. Do you know who handled the settlement
10:37:40 8 agreement?

10:37:40 9 A. No.

10:37:42 10 Q. Are you aware of the terms of the
10:37:54 11 settlement agreement now?

10:37:55 12 A. Partially.

10:37:59 13 Q. Okay. Have you seen the agreement
10:38:02 14 ever?

10:38:02 15 A. Not that I recall.

10:38:04 16 Q. I'm going to put Exhibit Number 1. Can
10:39:02 17 you take a look at the second page, paragraph B and
10:39:10 18 just take a minute to read through that.

10:40:15 19 A. Yes.

10:40:15 20 Q. Is it correct to say, or is it accurate
10:40:25 21 to say that this paragraph says that the Sheriff's
10:40:30 22 Department will not put Michael Reardon and
10:40:32 23 Lieutenant Kretzman in the same chain of command?

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10:40:36 1 MR. APTER: I'm just going to object. I
10:40:38 2 have no problem with him testifying as to the exact
10:40:41 3 words, but since he says he was never part of this
10:40:46 4 and has never seen it, I don't want him
10:40:49 5 interpreting it.

10:40:49 6 MR. PERRY: I think we're entitled to his
10:40:53 7 interpretation of it since it's his department.

10:40:57 8 MR. APTER: You can answer the best you can,
10:40:58 9 and if you want her to read back the question.

10:41:02 10 THE WITNESS: I don't agree with what
10:41:05 11 counsel's statement of what it says. It's not
10:41:11 12 accurate.

10:41:11 13 BY MR. PERRY:

10:41:12 14 Q. What is accurate then?

10:41:13 15 A. You use the word, same chain of command
10:41:17 16 and this talks about direct chain of command.

10:41:21 17 Q. Is there a difference?

10:41:22 18 A. Obviously the same chain of command,
10:41:28 19 furthest point would mean both of them could not
10:41:32 20 work for me since that would put both of them under
10:41:37 21 my chain of command.

10:41:40 22 At a lower level, the same thing applies,
10:41:45 23 that the direct chain of command would not put them

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10:41:48 1 under the same direct supervisor.

10:41:50 2 Q. All right. You're saying that this --

10:41:55 3 I think I understand your first point, which was if

10:41:59 4 they couldn't be in the same chain of command at

10:42:02 5 all they couldn't work for you. That's what your

10:42:07 6 first point was, correct?

10:42:08 7 A. Yes.

10:42:08 8 Q. But this says direct chain of command

10:42:11 9 and I guess I didn't follow what you meant.

10:42:14 10 A. I think when we talk about a direct

10:42:18 11 supervisor, my interpretation of direct and

10:42:23 12 immediate would be synonymous. Direct and

10:42:30 13 immediate chain of command.

10:42:31 14 Q. So you've used the term direct

10:42:34 15 supervisor or immediate supervisor and I don't see

10:42:37 16 that anywhere in that paragraph. Can you point

10:42:40 17 that out to me?

10:42:41 18 A. No.

10:42:42 19 Q. So this paragraph doesn't say anything

10:42:44 20 about immediate supervisor or direct supervisor?

10:42:47 21 A. Correct.

10:42:49 22 Q. Let's go back to the holding center to

10:43:00 23 the table of organization for a second. This Chief

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10:43:02 1 Al Harris, he's the chief of operations?

10:43:05 2 A. Yes.

10:43:05 3 Q. And is every lieutenant and sargent and
10:43:13 4 deputy below him in his chain of command?

10:43:15 5 A. I don't know.

10:43:19 6 Q. Is there anybody in the holding center
10:43:21 7 who's subordinate to him who's not in his chain of
10:43:26 8 command?

10:43:26 9 A. I don't know.

10:43:27 10 Q. Would the table of organization
10:43:31 11 identify who is in his chain of command?

10:43:33 12 A. The table of organization would suggest
10:43:38 13 it as a chart that the superintendent could best
10:43:42 14 answer who falls in -- within that chain of
10:43:48 15 command.

10:43:48 16 Q. So as I understand your testimony
10:44:38 17 today, you don't know the specific chain of command
10:44:39 18 in the holding center?

10:44:39 19 A. Yes.

10:44:45 20 Q. Going back to this paragraph B,
10:44:57 21 Exhibit B, if Mr. Reardon is giving Lieutenant
10:45:03 22 Kretzman orders, doesn't that indicate that she is
10:45:06 23 in his chain of command?

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10:45:10 1 MR. APTER: Object to the form. You can
10:45:12 2 answer if you can.

10:45:14 3 THE WITNESS: It indicates at least that he
10:45:17 4 has a temporary right to issue that order or right
10:45:20 5 to issue that specific order at that time.

10:45:23 6 BY MR. PERRY:

10:45:26 7 Q. And so you're implying that he somehow,
10:45:32 8 or that an officer may somehow have temporary
10:45:38 9 authority to issue orders to people who are not in
10:45:43 10 their chain of command?

10:45:44 11 A. Yes.

10:45:44 12 Q. How often does that occur?

10:45:45 13 A. I don't know.

10:45:47 14 Q. Who would identify when an officer
10:45:58 15 outside of the chain of command has a temporary
10:46:00 16 authority to issue orders?

10:46:01 17 A. Our procedure -- policy and procedure
10:46:07 18 states what to do if an employee receives an
10:46:12 19 unlawful order or questionable order. The end
10:46:18 20 answer is the question's referred to an employee
10:46:25 21 with higher rank.

10:46:27 22 Q. Who appointed Mr. Reardon as the deputy
10:47:01 23 superintendent?

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10:47:01 1 A. I did.

10:47:01 2 Q. And when was that?

10:47:03 3 A. I'm not certain.

10:47:14 4 Q. Was there any discussion of this

10:47:21 5 settlement agreement when he was appointed?

10:47:23 6 A. Not that I'm aware of.

10:47:28 7 Q. If you take a look at the second to

10:47:52 8 last page, it's a series of signatures. And I see

10:48:07 9 about halfway down, Erie County Sheriff by Brian

10:48:12 10 Doyle, Undersheriff. Was he your undersheriff at

10:48:16 11 some point?

10:48:16 12 A. Yes.

10:48:16 13 Q. And he is not currently your

10:48:20 14 undersheriff, correct?

10:48:22 15 A. That's correct.

10:48:23 16 Q. When did he leave the position of

10:48:30 17 undersheriff?

10:48:31 18 A. I don't recall.

10:48:34 19 Q. Who's currently the undersheriff?

10:48:45 20 A. Mark Wipperman.

10:48:46 21 Q. And do you know when he became

10:49:08 22 undersheriff?

10:49:09 23 A. No.

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10:49:11 1

Q. Is that an appointment?

10:49:13 2

A. Yes.

10:49:14 3

Q. And it's an appointment that you would

10:49:16 4

make?

10:49:16 5

A. Yes.

10:49:16 6

Q. When we were talking earlier about the

10:49:26 7

rank structure, some of those ranks are civil

10:49:31 8

service, correct?

10:49:31 9

A. Yes.

10:49:31 10

Q. Is it correct to say that the rank of

10:49:34 11

deputy through captain is civil service?

10:49:38 12

A. Yes.

10:49:38 13

Q. And chief or superintendents, those are

10:49:40 14

appointments?

10:49:41 15

A. Correct.

10:49:42 16

Q. Are there any deputy chiefs or anything

10:49:53 17

like that in the Sheriff's Department?

10:50:26 18

A. No.

10:50:27 19

Q. Okay. The holding center does have a

10:50:30 20

deputy superintendent listed on the table of

10:50:34 21

organization, correct?

10:50:34 22

A. Yes.

10:50:35 23

Q. Who was the last person to fill that

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10:50:37 1 position?

10:50:37 2 A. Barbara Leary.

10:50:43 3 Q. And is it your testimony today that
10:50:51 4 that position has not been filled, correct?

10:50:55 5 A. Yes.

10:50:55 6 Q. What are the general duties of the
10:51:04 7 deputy superintendent of the holding center?

10:51:05 8 A. You're in the direct command of the
10:51:12 9 superintendent and they act as the superintendent
10:51:18 10 in his absence. Supervise the personnel as
10:51:28 11 directed by the superintendent.

10:51:29 12 Q. And the superintendent -- I'm sorry,
10:51:37 13 the deputy superintendent for each of these two
10:51:41 14 facilities would be the highest position in the
10:51:44 15 chain of command for each of these two facilities,
10:51:49 16 is that accurate?

10:51:49 17 A. Only in the absence of the
10:51:52 18 superintendent.

10:51:52 19 Q. Well, let me back up for a second. So
10:51:56 20 there is only one superintendent, right?

10:51:58 21 A. Yes.

10:51:59 22 Q. Does he work at one or the other of
10:52:02 23 these facilities? Retract that.

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10:52:03 1 Does he have offices at either of these
10:52:06 2 facilities?

10:52:07 3 A. Yes.

10:52:07 4 Q. Does he have offices at both?

10:52:10 5 A. No.

10:52:11 6 Q. Where is his primary office?

10:52:13 7 A. At the holding center facility.

10:52:16 8 Q. Approximately how many staff work at
10:52:33 9 the holding center?

10:52:34 10 A. Around 400.

10:52:42 11 Q. As I understand your testimony today,
10:53:06 12 the superintendent and the -- jointly with the
10:53:12 13 chief, this Chief Al Harris, are doing the duties
10:53:17 14 of the deputy superintendent which is empty?

10:53:20 15 A. It's not empty, it just doesn't exist.
10:53:25 16 We only have two deputy superintendents, but the
10:53:29 17 answer to the question is yes. The superintendent
10:53:37 18 directs who does what duties in the facility.

10:53:41 19 Q. So was the table of organization
10:53:45 20 changed to reflect that the holding center no
10:53:47 21 longer has a deputy superintendent?

10:53:49 22 A. No.

10:53:50 23 Q. How did this change come about?

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10:53:55 1 A. The elimination by the county of the
10:54:03 2 deputy superintendent's position.

10:54:05 3 Q. What did that superintendent -- deputy
10:54:19 4 superintendent do prior to its elimination?

10:54:22 5 A. The duties as assigned by the
10:54:26 6 superintendent.

10:54:26 7 Q. So is it your testimony then that you
10:54:31 8 don't personally know today what those duties were?

10:54:34 9 A. Yes.

10:54:54 10 MR. PERRY: Take a break for a couple
10:54:56 11 minutes.

10:54:56 12 (A recess was then taken.)

10:54:56 13 The following was marked for Identification:

10:54:56 14 EXH. 15 Typewritten document dated

11:06:10 15 September 21, 2010, 5 pages

11:06:10 16 BY MR. PERRY:

11:06:19 17 Q. If you could direct your attention to
11:06:21 18 where that tab is. For the record, we put in front
11:06:27 19 of the Sheriff a document that's been marked as
11:06:31 20 Exhibit 15 which is the County's rebuttal in front
11:06:35 21 of the -- the County's reply in front of the DHR.
11:06:42 22 And can you take a look at that paragraph to
11:06:46 23 familiarize yourself with it?

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11:07:01 1 MR. APTER: Just while he's reading it, on
11:07:04 2 record, the last page it's signed by David Sleight,
11:07:07 3 who was then an assistant county attorney.

11:07:41 4 BY MR. PERRY:

11:07:41 5 Q. Are you familiar with it now?

11:07:42 6 A. Yes.

11:07:43 7 Q. Have you ever seen it before?

11:07:44 8 A. Not that I recall.

11:07:45 9 Q. If you take a look at the second

11:08:05 10 sentence beginning with, of necessity.

11:08:09 11 A. Yes.

11:08:10 12 Q. This sentence says that Reardon is now
11:08:14 13 in Kretzman's chain of command, correct?

11:08:18 14 A. Yes.

11:08:18 15 Q. But as I understand your testimony as
11:08:24 16 of right now, you believe he is not in her direct
11:08:28 17 chain of command?

11:08:28 18 A. I believe that the person best able to
11:08:31 19 dictate that is the superintendent, but based on
11:08:37 20 this, I'm still content that the person best able
11:08:41 21 to answer that is the superintendent.

11:08:41 22 Q. So you're not sure, is what you're
11:08:44 23 saying?

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11:08:44 1 A. Yes.

11:08:44 2 Q. We're done with that document.

11:09:55 3 MR. PERRY: Off the record for a second.

11:10:31 4 (Discussion off the record.)

11:10:31 5 MR. PERRY: Back on the record.

11:10:32 6 BY MR. PERRY:

11:10:37 7 Q. We have put in front of the Sheriff a

11:10:40 8 document that's been previously marked as

11:10:42 9 Exhibit 7. And Sheriff, I'd just like you to take

11:10:46 10 a minute and familiarize yourself with it. It

11:10:50 11 should just be two pages. In fact, since it was a

11:10:54 12 print off from the internet, it would have been two

11:11:00 13 pages that were scrolling down from each other.

11:11:47 14 I know the font is really small. Are you

11:11:51 15 able to read it?

11:11:53 16 A. I can read most of it, yes.

11:11:58 17 Q. Well, my first question is: Have you

11:12:00 18 ever seen this before?

11:12:01 19 A. I don't know if I've seen these exact

11:12:09 20 pages, no.

11:12:11 21 Q. Are you aware of -- well, let's stop

11:12:16 22 for a second and go down, see this line there. Can

11:12:23 23 you read that?

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11:12:27 1 A. Yes.

11:12:27 2 Q. Okay. It appears to be identified, it
11:12:31 3 says, posted by Stop Howard 2009?

11:12:33 4 A. Yes.

11:12:34 5 Q. Are you aware of a blog or a blogger
11:12:37 6 called Stop Howard 2009?

11:12:40 7 A. Yes.

11:12:40 8 Q. How did you become aware of that?

11:12:42 9 A. People, and I don't know who, showed me
11:12:50 10 some of this back around 2009.

11:12:52 11 Q. Would that be when you were running for
11:12:55 12 reelection?

11:12:56 13 A. Yes.

11:12:56 14 Q. And that would be why they showed it to
11:13:02 15 you?

11:13:03 16 A. Yes.

11:13:03 17 Q. I'd like to direct you to what appears
11:13:08 18 to be a poll over here, says, should JK be fired?
11:13:14 19 Do you see that?

11:13:15 20 A. Yes.

11:13:15 21 Q. Do you know -- strike that.

11:13:23 22 Is it fair to read that as identifying
11:13:28 23 Jackie Kretzman?

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11:13:30 1 MR. APTEP: Objection to form.

11:13:37 2 THE WITNESS: No.

11:13:38 3 BY MR. PERRY:

11:13:38 4 Q. You don't know who it would be?

11:13:41 5 A. Correct.

11:13:41 6 Q. Take a look at the picture down below,

11:13:47 7 a little hard to read. Do you see where it says, I

11:13:52 8 think Big Bird is dead?

11:13:54 9 A. Yes.

11:13:54 10 Q. We had previous testimony from

11:13:59 11 Ms. Leary that she said that Big Bird referred to

11:14:05 12 her. Are you aware of that?

11:14:06 13 A. Yes.

11:14:06 14 Q. How were you aware of that?

11:14:10 15 A. Conversations at the time with Deputy

11:14:17 16 Superintendent Leary around that time.

11:14:17 17 Q. Did she bring this type of information

11:14:20 18 to your attention?

11:14:22 19 A. I don't know if it was she that brought

11:14:24 20 it to my attention or not.

11:14:26 21 Q. But she was talking to you about it?

11:14:30 22 A. Yes.

11:14:30 23 Q. And is it fair to say that she was not

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11:14:32 1 pleased with it?

11:14:34 2 A. Yes.

11:14:34 3 Q. Okay. If you take a look, I believe

11:14:40 4 the way it's supposed to look because it was on

11:14:46 5 this screen is scrolling like this. So at the very

11:14:49 6 bottom of the first page it says, AKA JK, the rat

11:14:54 7 fuck. Do you see that?

11:14:56 8 A. Yes.

11:14:56 9 Q. And below that on the top of the first

11:15:01 10 page, there's a picture which appears to be a rat

11:15:04 11 with its head in the trap?

11:15:06 12 A. Yes.

11:15:09 13 Q. Have you ever seen that image before?

11:15:20 14 A. I don't know.

11:15:55 15 MR. PERRY: Off the record for a second.

11:15:55 16 (Mr. Perry and the Ms. Kretzmon confer.)

11:16:04 17 MR. PERRY: Back on the record.

11:16:05 18 BY MR. PERRY:

11:16:06 19 Q. Sheriff Howard, did you ever learn

11:16:10 20 through PSD that Lieutenant Kretzmon had had a

11:16:15 21 decapitated rat put on her driveway?

11:16:18 22 A. Not that I recall.

11:16:19 23 Q. Did you ever hear of that through any

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11:16:22 1 source?

11:16:22 2 A. Not that I recall.

11:16:24 3 Q. If you take a look at the picture after
11:16:39 4 the rat, the header seems to be the view from under
11:16:45 5 Barb's door?

11:16:45 6 A. Yes.

11:16:46 7 Q. And you see the feet sticking out and
11:16:50 8 it's supposed to have been a broom next to it?

11:16:53 9 A. Yes.

11:16:53 10 Q. We have had testimony previously from
11:16:56 11 Ms. Leary that she took that to mean that that was
11:17:02 12 her as the wicked witch from the Wizard of Oz
11:17:07 13 crushed by the house. Has she ever discussed that
11:17:09 14 with you?

11:17:10 15 A. Yes.

11:17:10 16 Q. I assume she was not happy with the
11:17:12 17 portrayal?

11:17:13 18 A. Correct.

11:17:13 19 Q. Okay. Did you discuss the blog as --
11:17:19 20 I'm sorry, I'll back up.

11:17:23 21 What did she say that she had found that
11:17:26 22 from?

11:17:26 23 A. I don't understand the question.

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11:17:31 1 Q. Okay. She discussed with you this
11:17:37 2 portrayal of her as the witch being crushed under
11:17:41 3 the house, correct?

11:17:43 4 A. Yes.

11:17:43 5 Q. Did she tell you where she learned of
11:17:46 6 this portrayal?

11:17:47 7 A. No.

11:17:47 8 Q. Did she show you any pictures or did
11:17:52 9 she simply describe it?

11:17:53 10 A. I saw pictures at the time. I don't
11:17:59 11 know if she showed them to me or how I saw them.

11:18:03 12 Q. Okay. Did she indicate, or anyone else
11:18:09 13 indicate, that they believed that the people
11:18:14 14 posting these might be employees of the Sheriff's
11:18:23 15 Department?

11:18:23 16 A. Ask the question again.

11:18:26 17 Q. Did she or anybody else indicate to you
11:18:34 18 that they believed that the people putting this
11:18:35 19 information up might be employees of the Sheriff's
11:18:38 20 Department?

11:18:38 21 A. That was a suspicion at the time, yes.

11:18:44 22 Q. Was anything done at the time to
11:18:47 23 investigate whether or not that was true?

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11:18:50 1 A. Yes.

11:18:50 2 Q. And what was done to investigate it?

11:18:52 3 A. The individuals and there were others

11:19:02 4 pursued this for private litigation since there was

11:19:10 5 no indication that it was actually occurring at the

11:19:14 6 workplace.

11:19:14 7 Q. Okay.

11:19:17 8 A. And that was actually encouraged by me.

11:19:22 9 Q. That they pursue it as private

11:19:25 10 litigation you mean?

11:19:26 11 A. Yes.

11:19:39 12 MR. PERRY: Mark this as 16, please.

11:19:39 13 The following was marked for Identification:

11:19:39 14 EXH. 16 One-page document dated

11:20:37 15 November 1, 2011

11:20:37 16 BY MR. PERRY:

11:20:38 17 Q. Go ahead, Sheriff.

11:20:39 18 A. Are these exhibits?

11:20:40 19 Q. Yes.

11:20:42 20 MR. APTER: Exhibit 7 for the record.

11:20:44 21 THE WITNESS: I want to point out that these

11:20:47 22 exhibits contain headers suggesting that they're

11:20:52 23 printed from the holding center and that it's part

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11:20:54 1 of the holding center or county document that I
11:20:59 2 never recall seeing documents with any markings to
11:21:04 3 suggest that they were printed on or sent from
11:21:10 4 county computers or county communication devices.

11:21:16 5 BY MR. PERRY:

11:21:17 6 Q. Okay. As a quick follow-up to that, do
11:21:21 7 computers within the holding center have access to
11:21:24 8 the internet?

11:21:26 9 A. Do they now or did they then?

11:21:37 10 Q. I guess ever? . .

11:21:39 11 A. I don't know.

11:21:51 12 MR. PERRY: Off the record.

11:27:17 13 (Discussion off the record.)

11:27:17 14 BY MR. PERRY:

11:27:28 15 Q. I'm going to put in front of you
11:27:31 16 Exhibit 16. I'd like you to take a minute to look
11:27:40 17 it over and familiarize yourself with it.

11:28:03 18 A. Yes.

11:28:03 19 Q. Okay. First, have you ever seen this
11:28:08 20 before?

11:28:08 21 A. Not that I recall.

11:28:11 22 Q. Okay. If you take a look at the second
11:28:17 23 half of this, it appears to be a republishing of a

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11:28:22 1 rule of conduct for the Sheriff's Office?

11:28:25 2 A. Yes.

11:28:25 3 Q. And that is an accurate republishing of
11:28:28 4 that rule of conduct to the best of your knowledge?

11:28:31 5 A. To the best of my knowledge, yes.

11:28:32 6 Q. Okay. And going down under
11:28:39 7 paragraph A, it says, deputies shall not publicly
11:28:42 8 criticize or ridicule the Sheriff's Office, its
11:28:45 9 officers or policies, by speech writing or other
11:28:49 10 expression; is that correct?

11:28:50 11 A. Yes.

11:28:50 12 Q. Where such speech, writing or other
11:28:53 13 expression is defamatory, obscene, unlawful,
11:28:57 14 undermines the effectiveness of the Office,
11:29:00 15 interferes with the maintenance of discipline, or
11:29:00 16 is made with reckless disregard for truth or
11:29:05 17 falsity, correct?

11:29:06 18 A. Yes.

11:29:06 19 Q. Okay. If -- not just the documents
11:29:20 20 that you looked at before, but your understanding
11:29:23 21 of what had gone on before because I understand you
11:29:26 22 saw more blogs, more information, correct, than
11:29:28 23 what I've shown you?

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11:29:29 1 A. Yes.

11:29:29 2 Q. If they're referring to a Deputy
11:29:32 3 Superintendent Reardon as a witch who should be
11:29:36 4 crushed by a house -- I'm sorry, Leary. Deputy
11:29:40 5 Superintendent Leary as a witch who should be
11:29:43 6 crushed by a house, would that violate this policy?

11:29:48 7 A. If it was deputies doing it, yes.

11:29:56 8 Q. Okay. And I believe you previously
11:30:07 9 testified that you didn't know whether or not the
11:30:09 10 JK in the blog that I did show you referred
11:30:12 11 specifically to Ms. Kretzman, but if it did and she
11:30:20 12 was a lieutenant, would that also violate the
11:30:25 13 policy?

11:30:25 14 A. If it was done by deputies, yes.

11:30:28 15 Q. And I believe you testified previously
11:30:46 16 that the Sheriff's Office did not find out whether
11:30:53 17 or not it was done by deputies?

11:30:55 18 A. That's correct.

11:30:55 19 Q. And I believe your testimony was that
11:30:58 20 you had suggested, I think that the individuals who
11:31:06 21 were complaining about this conduct pursue civil
11:31:14 22 action, correct?

11:31:15 23 A. Yes.

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11:31:15 1 Q. Is it fair to say then that there was
11:31:15 2 no official investigation into who made these
11:31:24 3 statements?

11:31:24 4 MR. APTER: Form.

11:31:27 5 THE WITNESS: I would say no, that's not
11:31:29 6 accurate.

11:31:29 7 BY MR. PERRY:

11:31:30 8 Q. Please tell me what would be accurate.

11:31:30 9 A. I think there was some attempts made at
11:31:31 10 the time to try to determine who made this.

11:31:33 11 Q. Do you know who made those attempts?

11:31:36 12 A. No.

11:31:36 13 Q. Would it have been professional
11:31:38 14 standards division?

11:31:38 15 A. I don't know.

11:31:40 16 Q. Were you aware that Ms. Kretzmon
11:31:49 17 complained about these blogs three separate times?

11:31:52 18 A. Not that I recall.

11:31:54 19 Q. So to the best of your recollection, no
11:32:03 20 one in your chain of command made you aware of her
11:32:06 21 complaints?

11:32:07 22 A. Not that I recall.

11:32:10 23 Q. Okay. Was the result of any

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11:32:29 1 investigation into whether or not these things were
11:32:32 2 being done by deputies ever reported to you?

11:32:39 3 A. I never learned the identity of the
11:32:44 4 individuals responsible for this.

11:32:46 5 Q. So I guess what I'm driving at is, did
11:32:50 6 anybody come back and say, we have looked into it
11:32:53 7 and we don't know who they are, we can't find out,
11:32:57 8 we have limitations, anything like that?

11:33:00 9 A. I don't know.

11:33:01 10 Q. So you don't know if the investigation
11:33:02 11 has stopped?

11:33:04 12 A. I don't know.

11:33:05 13 Q. Do you know who Karen Weatherbee is?

11:33:38 14 A. Karen Weatherbee?

11:33:41 15 Q. Yes.

11:33:43 16 A. Yes.

11:33:43 17 Q. And who is she?

11:33:44 18 A. The undersheriff's secretary.

11:33:47 19 Q. Do you know if she has any additional
11:33:58 20 duties?

11:33:59 21 A. No.

11:34:04 22 Q. That is that you don't know whether she
11:34:09 23 has any?

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11:34:10 1 A. Yes, I don't know.

11:34:11 2 Q. Okay. Do you know whether or not she
11:34:16 3 is a compliance officer for harassment and
11:34:24 4 discrimination complaints?

11:34:26 5 A. I don't know.

11:34:27 6 Q. Were you ever made aware of a complaint
11:34:51 7 about the male and female supervisors locker rooms
11:34:56 8 and that the males had a TV and the females did
11:35:00 9 not?

11:35:00 10 A. Yes.

11:35:01 11 Q. And what were you informed of about
11:35:07 12 that situation?

11:35:07 13 A. Pretty much that at some point in time
11:35:13 14 I became aware that that was an issue.

11:35:18 15 Q. Do you know how the issue was resolved,
11:35:21 16 if it was?

11:35:21 17 A. I stated at the time that neither of
11:35:27 18 those places should have a television, but I don't
11:35:31 19 know what happened.

11:35:31 20 Q. I think you may have addressed this
11:36:13 21 previously, but do you know why it was that
11:36:16 22 Ms. Leary was no longer deputy superintendent?

11:36:19 23 A. Yes.

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11:36:20 1 Q. And what was that reason?

11:36:22 2 A. Position was eliminated by the county

11:36:25 3 budget.

11:36:26 4 Q. Did the county budget then create an

11:36:44 5 additional position for Mr. Reardon?

11:36:48 6 A. I think it happened before, but I'm not

11:36:55 7 sure.

11:36:55 8 Q. Does the table of organization reflect

11:37:05 9 the creation of this new position?

11:37:08 10 A. I don't know...

11:37:09 11 Q. I have a few questions about the -- I

11:37:39 12 guess the structure of the county hierarchy. You

11:37:44 13 were elected as Sheriff, correct?

11:37:46 14 A. Yes.

11:37:46 15 Q. And there's a position within the

11:37:49 16 county that is called county executive, correct?

11:37:52 17 A. Yes.

11:37:52 18 Q. And that's also an elected position?

11:37:54 19 A. Yes.

11:37:54 20 Q. Is the county executive superior to

11:37:59 21 your position?

11:38:01 22 A. No.

11:38:03 23 Q. Are you superior to the county

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11:38:16 1 executive position?

11:38:16 2 A. No.

11:38:16 3 Q. Do you consider them equal then?

11:38:19 4 A. I consider them different.

11:38:25 5 Q. So the county executive, for instance,
11:38:31 6 couldn't give you a directive or an order?

11:38:36 7 A. That's correct.

11:38:36 8 Q. How does the Sheriff's Department
11:38:54 9 operating budget come to the Sheriff's Department?

11:38:58 10 A. It's negotiated with the county
11:39:06 11 executive's office and the legislature and it's

11:39:10 12 ultimately passed at the discretion of the
11:39:16 13 legislature with possible overrides by the county
11:39:23 14 executive.

11:39:23 15 Q. Okay. Just so I understand the
11:39:28 16 structure, it's essentially a vote on the Sheriff's
11:39:33 17 Department budget as opposed to, for instance,
11:39:35 18 voting the county budget a portion of which is the
11:39:39 19 Sheriff's Department?

11:39:42 20 A. I think that's fairly accurate, yes.

11:39:47 21 Q. Okay. Do you know if there are any
11:39:52 22 other elected executive positions within the county
11:39:56 23 structure?

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11:39:56 1 A. Yes.

11:39:57 2 Q. And what are those positions?

11:39:59 3 A. District attorney, county comptroller

11:40:05 4 and the county clerk.

11:40:09 5 Q. Would the budgets for their offices

11:40:22 6 operate in the same way?

11:40:25 7 A. Yes.

11:41:05 8 MR. PERRY: I think we're getting close to

11:41:07 9 the end, so in just a second I'd like to take a

11:41:10 10 break and confer with my client.

11:41:13 11 But I'd also like to put on the record a

11:41:15 12 request for the table of organization.

11:41:18 13 MR. APTER: Table of organization as it

11:41:20 14 existed at that time?

11:41:21 15 MR. PERRY: Exactly.

11:41:25 16 MR. APTER: I know there's a number of

11:41:26 17 years.

11:41:26 18 MR. PERRY: Definitely at that time, but

11:41:28 19 we're going to need maybe up until the end of

11:41:33 20 Lieutenant Kretzmon's employment and back four

11:41:35 21 years.

11:41:37 22 MR. APTER: Okay. I'll see what I can get.

11:41:48 23 MR. PERRY: Off the record.

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11:43:48 1 (Discussion off the record.)

11:43:48 2 MR. PERRY: On the record.

11:43:53 3 I have no further questions, Sheriff. Thank
11:43:56 4 you for coming.

11:43:56 5

11:43:56 6 (Deposition concluded at 11:44 a.m.)

11:44:00 7 * * *

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1 STATE OF NEW YORK)

2 ss:

3 COUNTY OF ERIE)

4

5 I DO HEREBY CERTIFY as a Notary Public in and
6 for the State of New York, that I did attend and
7 report the foregoing deposition, which was taken
8 down by me in a verbatim manner by means of machine
9 shorthand. Further, that the deposition was then
10 reduced to writing in my presence and under my
11 direction. That the deposition was taken to be
12 used in the foregoing entitled action. That the
13 said deponent, before examination, was duly sworn
14 to testify to the truth, the whole truth and
15 nothing but the truth, relative to said action.

16

17

18

Wendy J. Benzee
WENDY J. BENZEE,
Notary Public.

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*Original exhibits attached to original transcript.
Copies of exhibits attached to other transcript.

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