

Page 2

1 APPEARANCES

2 FOR THE PLAINTIFF:

3 Barrett Bowers
4 Attorney at Law
5 Ward & Glass, LLP
6 1601 36th Avenue NW
7 Suite 100
8 Norman, OK 73072
9 barrett@wardglasslaw.com

10 FOR THE DEFENDANTS SHANNA LAKIN, KIM TEACHMAN,
11 WILLIAM PATTEN, ARTHUR GREGORY, AND AARON ULLMAN:

12 Stacey Felkner
13 Of Counsel
14 Collins, Zorn & Wagner, P.C.
15 429 NE 50th Street
16 Second Floor
17 Oklahoma City, OK 73105-1815
18 Shf@czwlaw.com

19 FOR THE DEFENDANTS CITY OF OKLAHOMA CITY, LAUREN
20 CUNNINGHAM, KYLIE TURNER, JASON CLIFTON, DENISE WENZEL,
21 WILLIAM CITY, AND JOHNNY KUHLMAN:

22 Richard Smith
23 Sherri Katz
24 The City of Oklahoma City
25 Office of the Municipal Counselor
200 North Walker, Ste 400
Oklahoma City, OK 73102
Richard.smith@okc.gov
Sherri.katz@okc.gov

19 FOR THE DEFENDANT LACEY WARREN:

20 John Langford
21 Attorney at Law
22 Department of Human Services
23 PO Box 25352
24 Oklahoma City, OK 73125
25 John.langford@okdhs.org

23 ALSO PRESENT:

24 D.G. Brewer
25 Kimberly Teachman

Page 4

1 STIPULATIONS

2

3 It is hereby stipulated and agreed by and between

4 the parties hereto, through their respective attorneys,

5 that the deposition of William City may be taken on behalf

6 of the Plaintiff on November 18, 2019, in Oklahoma City,

7 Oklahoma, by Lori Johnston Harstad, Certified Shorthand

8 Reporter within and for the State of Oklahoma, pursuant to

9 agreement.

10 It is further stipulated and agreed by and between

11 the parties hereto, through their respective attorneys,

12 that all objections, except as to the form of the question

13 or the responsiveness of the answer, are reserved until the

14 time of trial, at which time they may be made with the same

15 force and effect as if made at the time of the taking of

16 this deposition.

17

18

19 *****

20

21

22

23

24

25

Page 3

1 INDEX

2

3 PAGE:

4 For Defendant:

5 William City; Direct Examination by MR. BOWERS 5:5
6 Cross-Examination by MR. LANGFORD 141:7
7 Cross-Examination by MR. SMITH 141:25

8 EXHIBITS

9 NO.: DESCRIPTION: PAGE:

10 For Deposition:

11 1 10/10/17 e-mail from City to Prater
12 forwarding Brewer5.docx OKC_00995 to
13 1012
14 For Identification 100:9

15 2 3/31/15 letter from Noble McIntyre re:
16 visible tatto policy Brewer 677 to
17 678:
18 For Identification 114:21

19 3 5/7/19 letter from OCPD re: return to
20 restricted duty status OKC_011641:
21 For Identification 134:6

22

23

24

25

Page 5

1 WILLIAM CITY

2 Of lawful age, having been first duly sworn, deposes and

3 says in reply to the questions propounded as follows:

4 DIRECT EXAMINATION

5 BY MR. BOWERS:

6 Q Will you state your full name for the record,

7 sir.

8 A It's William Joel City, C-i-t-t-y.

9 Q Have you ever testified in a civil deposition

10 before?

11 A Yes.

12 Q On how many occasions?

13 A I don't know. A lot.

14 Q So you're very familiar with the process?

15 A Yes.

16 Q Can you describe for me briefly your employment

17 history starting with your first law enforcement job.

18 A My first law enforcement job was my last law

19 enforcement job: Oklahoma City Police Department. Joined

20 in December of '76, retired in May, 2nd of May in '19.

21 So do you want me to go through the whole what

22 I did?

23 Q Yes, sir.

24 A Okay. Patrol officer. Obviously went through

25 recruit school. Was a patrol officer for probably about

Page 6

1 three years, maybe three and a half. Then I was assigned
2 to narcotics, originally on a temporary assignment for six
3 months. I was there for two years on a temporary
4 assignment. I worked in special projects, but I worked
5 specifically narcotics.
6 After I did that, I was assigned on a
7 assignment pay, back then, to assaults, where I worked
8 assaults in investigations for about six months. Then I
9 was promoted. Went through the promotional process and was
10 promoted to detective. Did the detective's job essentially
11 as narcotics and assaults, but I was actually promoted.
12 When I was promoted, I was moved to vice. Went back to the
13 Special Projects Unit.
14 Worked vice for about a little over a year.
15 And then I moved over to special investigation/criminal
16 intel. We were working gambling, narcotics when I went
17 into that unit. I worked that for about another year, and
18 then went to homicide from there. That was '84. So
19 between that period of time of assignment pay, which was
20 probably around '80, I -- narcotics, vice, criminal intel.
21 In '84, then I went to homicide. I worked homicide until
22 1988.
23 In '88, I was promoted to the rank of sergeant.
24 At that time, it was an actual rank. It was a supervisor,
25 first-line supervisor rank. It's not any longer. Because

Page 7

1 during that time that I was a sergeant, everybody was
2 elevated to the next level. They just changed the, you
3 know, the level of rank.
4 I moved to lieutenant, still same job, just
5 different title. I was a lieutenant. I was a
6 sergeant/lieutenant over campus resources. Started the
7 actual contract with the city for security for the school
8 system. That started in '88, when I went over and I was
9 brought in to put that together to work with the schools.
10 Did some other things. Started the DARE program, some
11 proactive things in the schools while I was there.
12 I was there for I guess probably about two
13 years as a sergeant/lieutenant. Took the captain's test.
14 I went through the captain's assessment and ended up
15 getting promoted to captain. I think it was around 1990.
16 And then when I was promoted to that, I went to the field
17 as an operations captain on graveyards, which is a
18 night-to-morning shift.
19 So I worked that until -- I think that was
20 probably until about '92/'93, close to that time frame. I
21 went to animal welfare for a year as the captain over
22 animal welfare. So I had animal welfare, I had the
23 Tactical Unit, commander of the Tactical Unit, helicopter,
24 all of those special units including animal welfare. Had
25 animal welfare for a year as a captain. Basically, just

Page 8

1 ran that division within the city. It fell underneath the
2 police department at that time. It no longer does.
3 I did that for a year. They decided to move
4 that unit under a different -- basically a different
5 director within the city. But I still held all the Signal
6 30 traffic units, tactical squad, helicopter, motorcycles,
7 all of those other specialty units. I did that until I
8 believe it was around '94, when I went into the chief's
9 office as his public information officer. So I was public
10 information officer, basically liaison with the media, for
11 the next three years through the bombing in 1995. Stayed a
12 year after that through '96. Then I was promoted to major.
13 The major position that I was put in was still
14 in the chief's office. It was back over narcotics and
15 criminal intelligence. I did that for -- oh, I did that
16 for I think it was three years. I was the major. And then
17 I was promoted to deputy chief over -- in administration.
18 So -- and that was probably -- that was about '90- -- I
19 think that was about '99, maybe '98/'99 as deputy chief.
20 And I remained deputy chief until I was promoted to chief
21 in 2003. Then I remained chief until 2019.
22 **Q What were your duties and responsibilities as**
23 **the Chief of Police?**
24 A Well, you just oversee the entire police
25 department. I mean, you've got -- you've got three deputy

Page 9

1 chiefs, four deputy chiefs. You've got deputy chiefs that
2 are over all the divisions. So you -- I mean, you work
3 closely with the deputy chiefs. The deputy chiefs work
4 closely with, obviously, the majors that are over all of
5 the divisions, investigations division, the patrol
6 divisions, the bureaus. You have different bureaus,
7 investigations, administration. And those chiefs are over
8 those divisions, which are investigations, operations,
9 special units, Bricktown.
10 I had the budget office that answered directly
11 to me. So we handled the budget for the police department,
12 oversaw the budget of the police department, but I had a
13 business manager, and that business manager worked directly
14 underneath the chief.
15 Also, the Internal Affairs works directly under
16 the Chief of Police. They were a direct report. Criminal
17 intel, the major over criminal intel and narcotics works
18 directly for the Chief of Police. They're a direct report
19 also. So you're involved directly with majors over those
20 divisions. And then just, you know, you -- obviously,
21 you're responsible for the budget, operation, community
22 relations. There's a lot of community relations as chief,
23 you know, working with the community. Those types of
24 issues. So there's all -- and everything in between.
25 **Q Will you describe for me your formal**

Page 10

1 **educational background?**
2 A Well, I graduated high school at Northwest
3 Classen in Oklahoma City from high school. I went to UCO
4 for a couple of years. Worked full-time, didn't go to
5 school full-time. Left UCO and went to OSU in Stillwater,
6 where I spent three years there and graduated with a
7 Bachelor of Science degree.
8 **Q In what field?**
9 A Sociology/psychology.
10 **Q And did you go into the police academy after**
11 **that?**
12 A Not directly. I came out, went to work
13 probably for about a year. I don't -- I hadn't really
14 thought about being a police officer at the time, but I
15 went to work with a person that I had worked with for
16 years. They really wanted me to come to work with them
17 full-time, but I ended up applying to the police department
18 and was hired in December of '77. Started the academy in
19 '78, January of '78.
20 **Q So you would have obtained your bachelor's**
21 **degree from OSU in around '75?**
22 A '76.
23 **Q '76?**
24 A Summer of '76 is when I got my diploma.
25 **Q Is it fair to say that you have dedicated your**

Page 11

1 **entire professional career to the Oklahoma City Police**
2 **Department?**
3 A I think that's fair to say. Yes.
4 **Q In June of 2017, you were the Chief of the**
5 **Police. Is that true?**
6 A Yes.
7 **Q Within the Oklahoma City Police Department,**
8 **there was not any person above you in the hierarchy. Is**
9 **that true?**
10 A Not within the police department, but the city
11 there was.
12 **Q Right. You reported to the city manager. Is**
13 **that true?**
14 A City manager. The city -- well, I had an
15 assistant city manager and then a city manager, but I
16 reported, really, to both of them. City manager is the one
17 that hired me.
18 **Q But within the police department itself, there**
19 **was no one that you reported to?**
20 A No.
21 **Q The chief was the highest rank?**
22 A Yes.
23 **Q And it's true that you would have had the final**
24 **word on personnel decisions within the police department**
25 **itself?**

Page 12

1 A Yes.
2 **Q True?**
3 **Is it true for administrative decisions as**
4 **well?**
5 A Yes.
6 **Q True for policy, procedure, rules that applied**
7 **to the bureaus such as the Investigative Bureau?**
8 A Yes.
9 **Q Was it true from time to time that officers of**
10 **various ranks came to you soliciting guidance about how to**
11 **act as a police officer, how to handle a certain situation?**
12 A Probably not very often. They probably more
13 times came to complain about something, but every once in a
14 while, they wanted my advice.
15 **Q Okay. In those circumstances, if you gave that**
16 **advice, there wasn't somebody in the police department who**
17 **could override you or overrule you. True?**
18 A No. But -- no. But I was pretty careful under
19 those circumstances, because I would involve other command
20 staff, probably, if I was going to give them any -- any
21 advice that may have been contrary to what somebody else
22 had told them. You have to be careful about that. But
23 yes.
24 **Q Okay. So would it be true as well that if you**
25 **learned of a decision that one of the -- someone below you**

Page 13

1 **in rank had made that you disagreed with, you had the**
2 **authority to override that decision?**
3 A That's correct.
4 **Q If someone had made a decision that you**
5 **believed was unlawful, you would have the authority and**
6 **duty to correct that action or decision. Is that true?**
7 A Yes.
8 **Q Did you have to account for the possibility,**
9 **while you served as the Chief of Police, that members of**
10 **your administration may try to hide information from you?**
11 MR. SMITH: Object to the form.
12 You can answer it.
13 THE WITNESS: Go ahead and repeat that.
14 **Q (By Mr. Bowers) Yes, sir.**
15 **Did you have to account for the possibility,**
16 **while you served as chief, that members of your**
17 **administration may try to hide information from you?**
18 A Yes.
19 **Q Would it be true that your line of**
20 **communication with the department primarily was from the**
21 **deputy chiefs?**
22 A Yes.
23 **Q They provided you with updates on the**
24 **operations of their particular bureau?**
25 A Yes.

Page 14

1 **Q Then you told me you also had direct reports**
2 **from the major of IA and the major of narcotics?**
3 A There was no major in Internal Affairs.
4 Professional Standards had one -- had -- when I first
5 became chief, had one captain, and then we increased it to
6 two captains. So those captains were direct reports to the
7 chief. Major who had narcotics and criminal intel, which
8 is special investigations, they also have the gang units
9 was a direct report.
10 **Q Okay. Did you have regular briefings from your**
11 **deputy chiefs?**
12 A Yes.
13 **Q Did you receive regular briefings from the**
14 **direct reports from Professional Standards and Narcotics**
15 **and Criminal Intel as well?**
16 A Yes.
17 **Q Were those set on specific days?**
18 A There was -- we had -- we had specific days for
19 staff meetings with the deputy chiefs and the majors, the
20 major in IA. Other than that, most of the briefings were
21 on an as-needed basis.
22 **Q So those were standing meetings?**
23 A Yes. We had a standing staff meeting every
24 Tuesday. Or I believe it's every Tuesday. Might have been
25 Monday.

Page 15

1 **Q While you served as chief, did you have to**
2 **account for the possibility that officers within the**
3 **department might do things that you wouldn't approve of?**
4 A Yes.
5 **Q Did you have to account for the possibility**
6 **that officers might do things that you would change if you**
7 **were made aware of?**
8 A Yes.
9 **Q Do you think that, while you served as the**
10 **chief, that it was possible that officers might keep**
11 **information from you to further their own agenda?**
12 A Yes.
13 **Q Is that something you had to account for?**
14 A Yes.
15 **Q Is that something you did account for?**
16 A Yes.
17 **Q How did you take steps to ensure that you would**
18 **find out what was actually going on versus what you were**
19 **being told?**
20 A Well, I mean, that -- my philosophy on -- my
21 philosophy as an administrator was not to live by that. I
22 don't -- I assume everybody is telling me the truth. I
23 don't worry about people, you know, doing things behind my
24 back unless there's evidence to show contrary to that. So
25 if anybody ever did anything or said anything and I had

Page 16

1 found out information or something that had proven contrary
2 to that, then I would probably follow up on that.
3 **Q Have you ever heard the phrase of lying by**
4 **omission?**
5 A "Lying by omission"?
6 **Q Yes.**
7 A Yes.
8 **Q What does that phrase mean to you?**
9 A Basically you're going to define lying. One of
10 the ways of defining lying is by not providing information.
11 **Q If an officer in your department purposefully**
12 **left out information that you would need to make an**
13 **informative and lawful decision, would that be a lie by**
14 **omission?**
15 A If I could prove that it was purposeful. If
16 there was intent.
17 **Q To your knowledge, do any officers on the**
18 **Oklahoma City Police Department have any type of immunity**
19 **that prevents them from being charged with a crime?**
20 A No.
21 **Q In general, police officers have to comply with**
22 **the same federal, state, and local laws that other citizens**
23 **do. True?**
24 A Yes.
25 **Q Is it important to you that OCPD officers**

Page 17

1 **maintain their professional integrity?**
2 A Yes.
3 **Q Is that something that was important to you**
4 **while you served as the chief of police?**
5 A Yes.
6 **Q There are many different ways that officers can**
7 **compromise their professional integrity. Is that true?**
8 A Yes.
9 **Q Some of the ways can involve actions that take**
10 **place at work. True?**
11 A Yes.
12 **Q And officers can also compromise their**
13 **professional integrity through actions they take on their**
14 **personal time. Is that true?**
15 A Yes.
16 **Q Do you believe that an officer who falsifies a**
17 **police report compromises their professional integrity?**
18 A Yes.
19 **Q Do you believe that an officer who violates**
20 **city, state, or federal law compromises their professional**
21 **integrity?**
22 A Yes.
23 **Q Do you believe that an officer who knowingly**
24 **violates internal policies, procedures, rules, or**
25 **directives compromises their professional integrity?**

Page 18

1 A Possibly. Yes.

2 **Q As the chief, while you served as chief, if you**

3 **learned that an officer had admitted under oath to**

4 **falsifying a police report, would that be a basis that you**

5 **would have placed somebody on administrative leave pending**

6 **an investigation?**

7 A Yeah. I mean, there's all kinds of

8 circumstances. So, but if -- basically, if there was a --

9 if there was intent to falsify a report and you could prove

10 that, yes. They could -- they could be put on

11 administrative leave pending an investigation.

12 **Q And the investigation while they were on**

13 **administrative leave, the purpose of that would be to**

14 **determine if there was intent to do that. Correct?**

15 A Correct.

16 **Q So as the chief of police, one of the**

17 **authorities that you had was to place officers on**

18 **administrative leave to investigate allegations of**

19 **misconduct. True?**

20 A True.

21 **Q And you had the authority at certain periods of**

22 **time to place officers on administrative leave with pay or**

23 **without pay, depending on the circumstances and your**

24 **decision. Correct?**

25 A Not my entire time as chief.

Page 19

1 **Q There were certain times where you did not have**

2 **the authority to put officers on unpaid leave?**

3 A Most of the time, except for probably the last

4 three years of my time as chief, I could not put somebody

5 on without -- but we changed that.

6 **Q And part of that deals with the relationship**

7 **between the officers and the administration that's governed**

8 **by the CBA. True?**

9 A You'll have to rephrase that because I don't

10 know what the question is.

11 **Q What I mean is that you didn't have the**

12 **authority for most of your career to place officers on**

13 **administrative leave without pay, and that had to do with**

14 **the CBA. Is that right?**

15 A Yes and no. Yes, it was something they

16 opposed. What I ended up doing was I ended up creating a

17 directive at some point, putting all the officers on notice

18 that they could be suspended without pay if they were

19 charged with a felony or a misdemeanor. That was -- that

20 -- all officers were notified. I can't remember exactly

21 what the year was when I did that. Wasn't that long ago.

22 The unions, the FOP grieved it, went to an

23 arbitrator. And the arbitrator basically ruled that I

24 could do it. So it wasn't something that the unions agreed

25 to or wanted. It was something that we went through the

Page 20

1 process and the arbitrator said the chief had a right to do

2 that.

3 **Q What was the reason that prompted you to issue**

4 **that directive?**

5 A Well, I had wanted to do it for years and years

6 because it was -- you would end up with -- you would end up

7 in a situation where an officer has done something, been

8 charged with a pretty significant crime, and that it would

9 go on and on and on. So there was no -- really, there was

10 no incentive. There was no incentive for officers and

11 attorneys not to drag it out as long as they were getting a

12 paycheck. And it was really hard to get a disposition and

13 resolution sometimes because of that. That's just the

14 reality of things, that they would drag out for years.

15 So you had a vacancy, you had a place where,

16 you know, you should have had -- you should be able to fill

17 those positions, that type of thing. Plus, the city's --

18 the city -- the taxpayers were paying for something that

19 they probably shouldn't be paying for.

20 So I had a specific case, a domestic violence

21 case, that really kind of was kind of the -- you know, kind

22 of it for me. And it went on and on and on. And so went

23 ahead and really did something that I thought should need

24 -- needed to be done for years. Of course, it was one of

25 those deals where you just couldn't do it. There was going

Page 21

1 to be a process and there was going to be a grievance and

2 the FOP wasn't going to agree to it.

3 I'm sure we had some discussions. I don't

4 remember having them, but I am sure we had some discussions

5 about it. Well, I know we had some discussions about it,

6 but I just knew they would grieve it. You know, it was

7 going to be a process, a hard process. Nobody likes to go

8 through the grievances. Most of the time I lose

9 arbitrations anyway. Regardless of whether I'm right or

10 wrong, most of the time, the odds are I'm going to lose an

11 arbitration. So it's a little bit of a risk when that

12 happens of taking something like that to an arbitration.

13 It was one of the few that actually we did win.

14 So that was -- that's kind of the reason for it. Something

15 I thought should have been done, even back 15 years, when

16 M.T. Berry, we had discussions about doing that because

17 that had occurred for years and years. And the department

18 gets criticized because somebody has created a heinous

19 crime or been charged and they're still drawing a paycheck.

20 That, in and of itself, isn't reason for it, but it is if

21 it's just going to drag out for a lengthy period of time.

22 So that's the long story of that, long answer.

23 **Q You said "that, in and of itself, isn't a**

24 **reason for it."**

25 **Do you mean an officer being charged with a**

Page 22

1 **crime is not the sole reason for the change? The problem**
2 **you had was how long these criminal processes took?**
3 A Some of them would be specifically the crime
4 itself.
5 **Q Okay.**
6 A I mean, you know, there's certain crimes that
7 are very, very -- to me, are very, very significant. Well,
8 to the public are very, very significant. And so it's one
9 of those issues that you need to be decisive and things
10 need to be done based on the type of crime that was
11 committed. You know, Holtzclaw was a good example.
12 **Q What was the domestic violence that you**
13 **referred to that spurred you to make this change?**
14 MR. SMITH: Was the officer convicted of the
15 domestic violence?
16 THE WITNESS: I think so.
17 MR. SMITH: If the officer was convicted, give
18 him the name.
19 THE WITNESS: Well, I am trying to remember his
20 name now, because it's been a while back. But he had been
21 involved in domestic violence actually in another county.
22 I believe it was Canadian County.
23 **Q (By Mr. Bowers) Was it Greg Driskill?**
24 A Driskill. Yeah.
25 **Q Have officers in the past been investigated for**

Page 23

1 **allegations of falsifying police reports?**
2 A Yes.
3 **Q While you were the chief, was any officer**
4 **terminated for falsifying any police report?**
5 A Couldn't remember any specific one, but I
6 believe so. Yes. I am absolutely almost sure of that.
7 **Q Have officers been investigated in the past for**
8 **mishandling evidence?**
9 A Yes.
10 **Q Have officers in the past, while you were**
11 **chief, been terminated for mishandling evidence?**
12 A Not that I recall.
13 **Q If an officer admitted under oath that they**
14 **falsified a police report, would that be an offense that**
15 **you would investigate while you would have been the chief?**
16 A Yeah. Again, it depends on the circumstances.
17 But most likely, I would have.
18 **Q Could such an admission lead to termination of**
19 **employment?**
20 A Yes. If they intentionally falsified a report.
21 **Q Would it be true that, as the Chief of Police,**
22 **you would be concerned with officers intentionally**
23 **falsifying reports, whether it had an impact on the DA's**
24 **charging decision or not?**
25 A Yes.

Page 24

1 **Q Because you were concerned, while you were the**
2 **chief, with the integrity of the police reports; you know,**
3 **the issue was whether or not an officer was falsely stating**
4 **something in the report, not if it had an outcome or**
5 **influenced some particular case. True?**
6 MR. SMITH: Object to the form.
7 THE WITNESS: Say that again.
8 **Q (By Mr. Bowers) That was a convoluted question.**
9 **I want to ask you a different question.**
10 A Okay.
11 **Q His objection is well taken.**
12 A Okay.
13 MR. SMITH: Note that for the record.
14 MR. BOWERS: I thought I noted it pretty
15 clearly.
16 MR. SMITH: I just want to make sure.
17 MR. BOWERS: I thought I gave you a lot of
18 credence there.
19 MR. LANGFORD: Gold star on a Monday.
20 MR. BOWERS: That's right.
21 **Q (By Mr. Bowers) Talking about handling of**
22 **evidence, is it -- is the handling of evidence and chain of**
23 **custody an important concept for police officers?**
24 A Yes.
25 **Q Is it important that officers carefully abide**

Page 25

1 **by chain of custody?**
2 A Yes.
3 **Q Is it important that officers preserve evidence**
4 **that comes into their hands through criminal**
5 **investigations?**
6 A Yes.
7 **Q What would it indicate to you if you learned**
8 **that an officer intentionally destroyed evidence?**
9 A It would probably be a terminating offense.
10 Again, that -- it depends on the circumstances. I mean, a
11 lot of it has to be able to prove intent to do that. So
12 much -- and intent, purposefully lying, purposefully
13 falsifying a report, those can be very difficult to prove
14 at times, but a lot of it has to go back to intent. But
15 yes. I mean, to me, those types of things would rise to
16 the -- if you could prove it, rise -- usually rise to
17 termination.
18 **Q Would you expect that officers in your**
19 **department would understand that they could not**
20 **intentionally delete their correspondence with each other**
21 **after being named in a civil lawsuit?**
22 MR. SMITH: Object to --
23 MS. FELKNER: Object to the form.
24 MR. SMITH: Same objection.
25 THE WITNESS: Say again.

Page 26

1 Q (By Mr. Bowers) Would you expect that officers
2 in the Oklahoma City Police Department would understand
3 that they could not intentionally delete their
4 communications with each other after being named as
5 defendants in a civil lawsuit?
6 MR. SMITH: Same objection.
7 THE WITNESS: Yeah. I don't know that I would
8 necessarily be able to say that I knew that officers
9 understood that completely.
10 Q (By Mr. Bowers) Certainly, the Oklahoma City
11 Police Department, while you were the chief, it had over a
12 thousand officers at the time you retired. Is that true?
13 A Yes.
14 Q Those officers, not all of them, have direct
15 contact with the public, but a lot of them do have a lot of
16 direct contact with the public. Is that true?
17 A Yes.
18 Q And there are many allegations of misconduct
19 against officers by the public. Is that true?
20 A I don't know what you mean by "many," but yes.
21 It's -- we're in a business where we're not dealing with
22 the best of circumstances. So they end up filing
23 complaints.
24 Q Right.
25 Whether the complaints are justified or not,

Page 27

1 there are complaints made?
2 A Yes.
3 Q And over the course of time, have you,
4 yourself, ever been named as a defendant accused of
5 violating someone's constitutional civil rights?
6 A Yes.
7 Q And have officers in the Oklahoma City Police
8 Department besides yourself been named in such lawsuits?
9 A Yes.
10 Q Is that something that officers receive
11 training about is the civil laws that apply to them and how
12 they might be named as defendants in constitutional
13 violation cases?
14 A Yes. I believe that -- I believe they do get
15 some training on that.
16 Q Do the officers in the Oklahoma City Police
17 Department receive training about how important the
18 preservation of criminal evidence is?
19 A Yes.
20 Q If you learned that two officers admitted under
21 oath that they intentionally deleted their communications
22 with each other, would that have led you to direct an
23 investigation be opened up?
24 MS. FELKNER: Object to the form.
25 MR. SMITH: Same objection.

Page 28

1 THE WITNESS: I don't -- I can't say for sure
2 that I would.
3 Q (By Mr. Bowers) Are there any circumstances
4 where you would?
5 MR. SMITH: Object to the form.
6 THE WITNESS: I don't know what those would be.
7 Again, I mean, it's -- you know, you're talking about --
8 you're talking about a whole -- you're talking about a
9 whole realm of new technology, a new way of communicating.
10 There's just, you know -- I don't know that everybody kind
11 of understands all the rules of that. Now, if it's -- you
12 know, again, if it's going to be evidence, specific
13 evidence of a crime, then it could rise to that level.
14 Q (By Mr. Bowers) If an officer admitted under
15 oath that he or she purposefully withheld information from
16 the district attorney to influence a charging decision,
17 would that be something that you would have investigated as
18 chief of police?
19 MS. FELKNER: Object to the form.
20 MR. SMITH: Same objection.
21 THE WITNESS: Say that again.
22 Q (By Mr. Bowers) Yes, sir.
23 If an officer admitted under oath that he or
24 she purposefully withheld information from the district
25 attorney to influence a charging decision, would that be

Page 29

1 something you would have investigated as chief of police?
2 A Yes.
3 Q Is that action something that could lead to
4 termination?
5 A Yes.
6 Q If an officer admitted under oath that he or
7 she intentionally falsified a police report, that would be
8 something you would have investigated as chief of police.
9 True?
10 MS. FELKNER: Object to the form.
11 THE WITNESS: If -- if -- yeah. If they
12 testified that they intentionally falsified a report. Yes.
13 Q (By Mr. Bowers) And if an officer instructed
14 the district attorney to look at their falsified report to
15 make a charging decision, would that give you reason of
16 concern about their integrity?
17 MS. FELKNER: Object to the form.
18 MR. SMITH: Same objection.
19 THE WITNESS: I am not sure. You will have to
20 say that again because I don't...
21 Q (By Mr. Bowers) If an officer gave the district
22 attorney a falsified police report to influence the DA's
23 charging decision, would that give you a concern about that
24 officer's integrity?
25 A So we're leaving out -- we're leaving out the

Page 30

1 word the officer's -- you're talking about the officer's --
2 specific information that that officer falsified them self
3 with the intent to mislead?
4 **Q Yes, sir.**
5 A If that's the case, yes.
6 **Q Is there any reason that you can think of that**
7 **would justify not placing an officer on administrative**
8 **leave if they admitted under oath that they intentionally**
9 **falsified a police report?**
10 MS. FELKNER: Object to the form.
11 MR. SMITH: Same objection.
12 THE WITNESS: I don't know. Again, all of
13 those would have to be depending what the circumstances
14 are. I would just have to weigh all of that.
15 **Q (By Mr. Bowers) Have you read any of the**
16 **deposition transcripts in this case?**
17 A No.
18 **Q You have not attended any of the depositions in**
19 **this case. Is that true?**
20 A That's true.
21 **Q Have any of the -- has any testimony from any**
22 **of the depositions been described to you?**
23 MR. SMITH: Object to the form.
24 By somebody other than your attorneys.
25 **Q (By Mr. Bowers) Well, I am just asking at all.**

Page 31

1 **I am not asking you to tell me what. I am just asking you**
2 **has any person, including an attorney, described any**
3 **deposition testimony to you?**
4 MR. SMITH: And I am still objecting on
5 attorney-client privilege.
6 Anybody other than attorneys.
7 THE WITNESS: Yes. Other than my -- my
8 personal attorneys.
9 **Q (By Mr. Bowers) Okay. Who other than your**
10 **personal attorneys?**
11 A Oh, no. I have not talked to anybody except my
12 personal attorney. I'm sorry. I didn't state that right.
13 **Q Okay. All right. Were you ever -- in June of**
14 **2017, we established, and everyone knows, you were the**
15 **Chief of Police?**
16 A Yes.
17 **Q You were aware of a domestic incident that**
18 **occurred between Master Sergeant Brewer and his wife,**
19 **Officer Kristi Cox. Is that true?**
20 A True.
21 **Q How did you become aware of that?**
22 A You know, I think -- I can't remember if -- I
23 don't think I was told that night. I think I was -- I
24 believe I was told the following morning. Again, it's one
25 of those things where I am briefed on something where an

Page 32

1 officer is involved. Sometimes I am called at night. I
2 can't remember being called at night on that, but I was --
3 I remember, the following morning, I was briefed on it.
4 **Q Who briefed you on it?**
5 A I believe it was the major. I believe it was
6 -- I believe most of what I -- what I received information
7 on was from Jason Clifton, I believe.
8 **Q And at that time, Jason Clifton had the rank of**
9 **Captain?**
10 A Yes. I believe so. And I think -- it may have
11 been from Major Wenzel also, because Major Wenzel at the
12 time was over Investigations. So there's a good -- I think
13 there may be a good possibility that both of them briefed
14 me on it.
15 **Q What do you remember, in terms of the very**
16 **first briefing you received from them? What did they tell**
17 **you?**
18 A I remember they -- they were talking about,
19 one, we had an officer that was actually booked into jail
20 on the domestic violence. I think that after -- I remember
21 them having some concerns, based on the information that
22 they knew about at the time, whether or not that would have
23 been the appropriate action or not.
24 So other than that, you know, I can't remember
25 all the circumstances at that point in time. I just knew

Page 33

1 that there was enough for us to make sure that it was, you
2 know -- the Domestic Violence Unit was going to investigate
3 that, and that they would oversee it.
4 They -- at that point in time, I don't think
5 they had enough information to actually make a
6 determination whether or not the female officer should have
7 been booked into jail. I think they had some concerns
8 based on the initial information that they had. That's
9 what I remember about it.
10 **Q What do you remember those concerns to be?**
11 A I don't. I don't. I just think just the
12 circumstances in general as to what occurred, but I don't
13 remember. I can't tell you specifically what all of those
14 were.
15 **Q Did you meet with Captain Clifton and Major**
16 **Wenzel together?**
17 A I just don't -- I don't remember if they were
18 both there. I have -- I kind of think -- I have to think
19 maybe they were. I remember -- I remember Clifton
20 specifically, but I have to -- I have to think that Major
21 Wenzel was probably there also, unless there was a reason
22 for her not to be.
23 **Q Did Captain Clifton tell you, on that date when**
24 **you first learned about this incident, that Mr. Brewer had**
25 **told Ms. Cox to lie?**

Page 34

1 A I don't remember. Again, I don't remember all
2 the circumstances when they first briefed me on what was
3 happening.

4 **Q Did Major Wenzel tell you, on that first**
5 **briefing, that Mr. Brewer told Ms. Cox to lie?**

6 A I don't -- again, I don't remember.

7 **Q Did anyone at any point in time during the**
8 **course of this investigation tell you that Mr. Brewer told**
9 **Ms. Cox to lie?**

10 A I think once -- at some point in the
11 investigation, there was -- there was some conversation
12 about that being a possibility. Yes.

13 **Q What were you told about that?**

14 A Had something to do with text messages and
15 information that she had given during the course of the
16 investigation. But I don't remember -- I don't remember
17 what the specifics were. I don't remember what the
18 specific messages were. I just remember that they indicate
19 -- whatever evidence they found was an indication that he
20 had tried to get her to have a specific story as to what
21 occurred that night.

22 **Q Who relayed information to you about the text**
23 **messages?**

24 A It would be the same. I think most of all the
25 briefing that I received would have been from Wenzel and

Page 35

1 Clifton. I may have received some from Deputy Chief
2 Kuhlman, who was over Investigations at the time.

3 So all the information I was getting would have
4 been from that level. I don't ever remember getting any
5 specific information from investigators. That's not to say
6 I couldn't have. I just don't remember that.

7 **Q Did you ever see these text messages yourself?**

8 A I don't remember ever specifically seeing them.
9 They may have shown me some, but I don't remember seeing
10 them or what the content was.

11 **Q During the very first briefing that you had**
12 **from Captain Clifton, did he mention text messages to you**
13 **at that time?**

14 A I don't remember.

15 **Q Did Captain Clifton tell you, in the initial**
16 **briefing, that there was a mix-up and the wrong person had**
17 **been arrested?**

18 A I think he -- what I remember is I remember
19 there was some concern about her being arrested. And I
20 would -- and I think -- I think, among all the information
21 and discussion, is that either they both should have been
22 or neither one of them should have been. I think that was
23 -- that was the, you know -- if I remember right, that was
24 kind of the context.

25 **Q Did anyone at any point in time before a**

Page 36

1 **charging decision was made tell you that there had been a**
2 **mix-up and they should have arrested only D.G. Brewer?**

3 A I don't remember anybody saying that. I am not
4 saying they didn't. I just don't remember that.

5 **Q Over the course of your career as a law**
6 **enforcement officer, have you learned what the term**
7 **"exculpatory evidence" is?**

8 A Yes.

9 **Q Can you explain what exculpatory evidence or**
10 **information is?**

11 A Well, you know, the easiest way for me to
12 explain exculpatory evidence is the DA needs to have
13 everything for the defense to be able to review, anything
14 that even could be in the defendant's favor. So
15 exculpatory evidence would be evidence that would really --
16 would be any evidence in that case, period, all evidence,
17 regardless of whether it went towards the prosecution or
18 favor of the prosecution or whether it favored the
19 defendant.

20 **Q Well, that just sounds like an easy way to**
21 **explain it to the officers. But if there's information in**
22 **an investigative file that tends to suggest the defendant**
23 **did it, that wouldn't be exculpatory. Right?**

24 MR. SMITH: Object to the form. Object to the
25 statement.

Page 37

1 THE WITNESS: Say that again.

2 **Q (By Mr. Bowers) Well, my question is, if you**
3 **have a confession by the defendant in your police file,**
4 **then that's not exculpatory. Right?**

5 A Well, it goes to the -- no. It goes to the
6 prosecution. I mean, if you're -- all evidence could be
7 exculpatory. I have seen evidence you thought was in your
8 favor that the defense has used as evidence really in their
9 favor. I mean, it's -- all evidence could be exculpatory.
10 I mean, but it's, you know, usually described as evidence
11 that could go to the innocence or the defense of the person
12 that's being charged, usually. But it's all evidence is --
13 anything you find, if you -- if you don't -- if you don't
14 provide it.

15 **Q Right.**

16 **But you're saying, in the hands of a skilled**
17 **defense attorney, any evidence might be exculpatory?**

18 A Correct.

19 **Q Do you know what the Brady rule is?**

20 A The Brady about lying? About being honest and
21 it being provided to the defense over anybody that's ever
22 been disciplined? Is that what you're talking about? If I
23 remember right. Or is that just -- you'll have to refresh
24 my memory.

25 **Q I am just asking if you --**

Page 38

1 A Yeah. You know, it's been a while since I
2 have, you know, used it or been familiar with it, but I
3 think it may have to go to -- well, I am not even going to
4 say because I don't specifically remember.

5 **Q That's fair enough.**

6 **You understand that the district attorney has**
7 **an obligation to turn over exculpatory evidence to a**
8 **defendant?**

9 A Yes, I do.

10 **Q While you were the Chief of Police, was any**
11 **officer investigated for falsifying a probable cause**
12 **affidavit?**

13 A Yes.

14 **Q Was any officer terminated for falsifying a**
15 **probable cause affidavit while you were chief?**

16 A Early on in my -- early on when I was chief, I
17 -- there may have been. I don't remember specifically who
18 that might be, but we -- we have -- we did several
19 investigations. I just don't remember if we actually
20 terminated somebody from falsifying. It seems to me that
21 there was actually somebody charged through the Oklahoma
22 County District Attorney's Office for falsifying that. And
23 whether or not I terminated them or whether or not they
24 resigned, I don't know. But I think that's more of a
25 possibility, if I remember correctly.

Page 39

1 **Q What is your understanding about what -- about**
2 **when an officer must include exculpatory information in a**
3 **probable cause affidavit?**

4 A What is my understanding about when they should
5 include it?

6 **Q Yes, sir.**

7 A Oh, I think that any evidence that goes to the
8 filing of that case or to the, you know, to, you know, a
9 person possibly being innocent should probably most likely
10 be in the affidavit.

11 **Q Were you advised at any point in time that**
12 **Kristi Cox had affirmatively stated to Detective Shanna**
13 **Lakin that D.G. Brewer didn't try to choke her?**

14 MR. SMITH: Object to the form.

15 THE WITNESS: Say that question again.

16 **Q (By Mr. Bowers) Were you advised at any point**
17 **in time that Kristi Cox had affirmatively stated to**
18 **Detective Shanna Lakin that D.G. Brewer didn't try to choke**
19 **her?**

20 A I am aware of that. Yes.

21 **Q Were you aware of that during the active**
22 **investigation into the domestic incident in June of 2017?**

23 A I don't remember if I was aware of it then.

24 **Q How did you become aware of that?**

25 A I read the reports, the interview reports.

Page 40

1 **Q Did you read the interview reports while you**
2 **were chief?**

3 A I don't -- I can't say that I did because I
4 don't remember reviewing those reports at that point. I
5 have just -- I have read them recently in preparation for
6 this.

7 **Q Okay. So tell me what you have read in**
8 **preparation for this deposition.**

9 A Just the two interviews and then the affidavit.

10 **Q The two interviews of Kristi Cox?**

11 A Two interviews of Kristi Cox, and then I have
12 reviewed the affidavit.

13 **Q That was signed by Detective Lakin?**

14 A Yes.

15 **Q Have you talked to David Prater about this**
16 **lawsuit against you at any point in time?**

17 A No.

18 **Q Have you talked to David Prater about this**
19 **domestic incident or the investigation that was conducted**
20 **by OCPD at any point in time?**

21 A Yes. I think -- I think we had talked. We
22 never talked -- usually, our discussions are either in
23 passing or as a result of, you know, being -- discussing
24 some other issue. I don't think -- I don't remember
25 specifically talking about a lot of the details involved in

Page 41

1 this, in this incident, but we did speak about it.

2 **Q Did you speak about it during the active**
3 **investigation in June of 2017?**

4 A At some point, but it wasn't in the beginning.
5 We didn't speak -- we didn't talk at all about it. I think
6 towards the end and as to what could -- had kind of gone
7 on, been a lot of kind of twists and turns to it. Then I
8 had, obviously -- D.G. had provided me with some
9 information that I had passed on to him. And I called him
10 to advise him I was passing it on to him as -- you know,
11 since he's going to receive all the information in the
12 investigation. And D.G. had made some allegations and
13 things like that that could go towards his case or towards
14 the case. So I talked to him about that.

15 We didn't talk about the details of what the
16 information contained. I think we had -- we had talked
17 briefly about, you know, what he was going to file at one
18 time. I think that changed as it went on, but I think that
19 was the extent of it.

20 **Q Did you talk to him about the details of what**
21 **he was going to file before any charges were filed?**

22 A No.

23 **Q So tell me about the conversation you had with**
24 **him where you talked about what he was going to charge**
25 **Mr. Brewer with.**

Page 42

1 A Well, I mean, I think the investigation was
2 still -- still in -- it was still -- was still in the
3 course of the investigation. And I don't -- it's not like
4 I made a call to him or he made a call to me to talk about
5 that investigation. Like I say, it was probably in the
6 context of "oh, by the way." We were talking about
7 something else, and this is going on. I think that, you
8 know, he had -- he had ADAs handling it. A lot of times,
9 he didn't know that much information about it either.
10 So -- and he never does. Just like I don't in
11 many cases. So I think whatever he -- whatever he was
12 getting was from his ADA about initially filing a domestic
13 violence against D.G. And I can't remember if, at that
14 point in time, whether it was a misdemeanor or a felony,
15 because I don't think in the beginning, -- I don't think --
16 in the beginning, I don't remember it ever being discussed
17 as being a felony, in the beginning, if I remember
18 correctly.
19 But again, we didn't -- we didn't -- we didn't
20 -- we really didn't talk about the details or the evidence
21 in that case.
22 **Q But you know at one point in time that D.G.**
23 **Brewer was charged with domestic abuse by strangulation;**
24 **correct?**
25 A Yes. Yeah. I think eventually that that is

Page 43

1 what occurred.
2 **Q And I just want to make sure I understand what**
3 **you've been telling me. You don't remember if you knew**
4 **about the police report -- well, strike that.**
5 **Did you know, before you reviewed these reports**
6 **in the last couple of weeks, that Kristi Cox had said "D.G.**
7 **Brewer didn't try to choke me"?**
8 A I did not remember -- I did not know any
9 specific testimony from Kristi in that case. You know, I
10 had -- I had been briefed on things, and that may have been
11 told to me. I just don't remember it. Okay? But I did
12 not read that. I did not read the interviews. I did not
13 read that specifically during the course of that
14 investigation. I can't say that I wasn't briefed to that
15 effect or that wasn't said. I just don't remember that.
16 **Q And considering a charge of domestic abuse by**
17 **strangulation, would you agree that the -- that Kristi**
18 **Cox's statement "he didn't try to choke me," is exculpatory**
19 **evidence or information?**
20 MR. SMITH: Object to the form.
21 THE WITNESS: Just depends on the
22 circumstances.
23 **Q (By Mr. Bowers) How does it depend on the**
24 **circumstances, sir?**
25 A Well, it depends on the context and when it was

Page 44

1 done. I mean, you're dealing with a domestic violence,
2 dealing with a lot of emotion. You're dealing with -- if
3 you are dealing with a strangulation, as -- as indicated in
4 some of the reports, there could be a lack of memory for
5 that because of the strangulation. There's a lot of
6 different circumstances as to why those may have been said.
7 Could be under duress if you're talking about a domestic.
8 A lot of times, domestic victims are put under a lot of
9 pressure and don't tell the truth, at least not in the
10 beginning. Sometimes not in the end.
11 But and, you know, it's just -- there's a lot
12 of -- there's a lot of -- it's not black and white.
13 **Q Well, I think it is. Even if she's lying --**
14 A Uh-huh.
15 **Q -- that would show that he was innocent; right?**
16 MR. SMITH: Object to the form.
17 MS. FELKNER: Object to the form.
18 **Q (By Mr. Bowers) I mean, you would expect his**
19 **defense attorney to argue that; right?**
20 MR. SMITH: Object to the form.
21 Go ahead, Chief.
22 THE WITNESS: So you're telling me if he's
23 lying, he's automatically innocent.
24 **Q (By Mr. Bowers) No. No.**
25 A My answer to that is "no."

Page 45

1 **Q No. That's not what I am saying. I am saying**
2 **if Kristi Cox lies and said "he didn't try to choke me,"**
3 **and he really did --**
4 A Uh-huh.
5 **Q -- even if that occurs, that information is**
6 **still exculpatory towards D.G. Brewer?**
7 A Yes. It could be exculpatory. It could be.
8 Yes.
9 **Q Yes.**
10 A But I will also go back to intent.
11 **Q Uh-huh. When you -- when you provide the**
12 **district attorney with information as a police officer, you**
13 **want to provide them with the entire investigative file.**
14 **Was that how you instructed officers? Is that how they**
15 **were trained while you were the Chief of Police?**
16 A Officers have to present the DA with the entire
17 file. Correct.
18 **Q Okay. The officers don't pick and choose**
19 **whether they want to -- what parts of the file they want to**
20 **show the DA. Is that true?**
21 A That's correct.
22 MR. SMITH: Object to the form.
23 THE WITNESS: That's correct.
24 **Q (By Mr. Bowers) Have you talked to anyone to**
25 **determine what was told to DA Prater during the staffing**

Page 46

1 meeting to determine what charges will be filed on
2 Mr. Brewer or Ms. Cox?
3 MR. SMITH: Other than his lawyers?
4 MR. BOWERS: Yes.
5 THE WITNESS: What did you say?
6 MR. SMITH: Other than your lawyers.
7 THE WITNESS: Okay.
8 I think -- I know when they took the charges
9 over, I remember talking to Jason Clifton afterwards,
10 because I think Jason went over with them when the charges
11 -- when the case was presented to David.
12 Q (By Mr. Bowers) Uh-huh.
13 A I remember talking to Jason afterwards, and
14 that he was going to file the charge. He was going to file
15 the felony charge of strangulation. For some reason, it --
16 well, I -- my -- my big -- the main thing I remember is
17 that they were going to file the charge, issue the warrant,
18 and David wanted our gang unit to go execute the warrant.
19 And I just remember "That's not David's decision" was my
20 response. I don't -- I don't -- he didn't talk to me.
21 Jason didn't talk to me about any of the details of the
22 case other than it was going to be a felony strangulation.
23 And so -- and he said he wanted the gang unit
24 to -- to basically execute the search warrant. So -- and,
25 you know, it's -- the only issue to me is that's not really

Page 47

1 David's decision as to who executes the search warrant. So
2 I believe -- I believe I called David, basically, to tell
3 him that. I mean, David and I, you know, we discuss
4 issues, have disagreements all the time.
5 I ultimately said "I will go ahead and let the
6 gang unit do it," because the statements he made were in
7 front of other officers, you know, in front of Jason
8 Clifton and other things like that. I wasn't going to, you
9 know, kind of undermine the DA, since he's the chief law
10 enforcement officer of the county. I mean, he is the man
11 that's responsible for the investigation, ultimately. So I
12 -- I went ahead and let that happen. And so they executed
13 the search warrant. That was the extent of that
14 conversation.
15 Q So it was not the practice of the Oklahoma City
16 Police Department to arrest officers, if they were charged
17 with a crime, by using the gang unit?
18 A No. It wasn't not a practice. I mean, if --
19 the gang unit is used a lot for -- for executing search
20 warrants because they're readily available. They're not on
21 calls. They're more proactive. So they're not subject to
22 calls and getting stuck on calls. So they're used quite a
23 bit. No.
24 The issue was the DA making that decision. The
25 issue wasn't that it wasn't necessarily a good idea to have

Page 48

1 them do that, because in many cases, they may -- it may
2 have been that they would have gone ahead and done that
3 without David asking that they do that, because they are.
4 They're proactive. They're free. They're not taking
5 calls. And if they're working, they go and execute search
6 warrants quite often for officers or for investigators.
7 Q Did Captain Clifton tell you if David Prater
8 explained any reasoning for why he wanted the gang unit to
9 effectuate the arrest?
10 A No. I think, when I talked to David, he just
11 feels like they're very, very efficient. They're safe.
12 They do things -- they do it often so they do it well. And
13 so I think that that's, you know -- he just -- that's --
14 that's what he -- his thinking is.
15 And they are. They're very efficient. They're
16 very good at what they do. They're much safer because they
17 do it a lot. They work as a team. But again, it just
18 boiled down to, well, those types of things and the
19 operation of the police department, I don't mind him
20 calling me and saying what he would prefer or something
21 like that, but once he tells the officers and stuff like
22 that, it makes it difficult for me because he's not -- I
23 don't -- you know, I don't tell his DAs what cases to work
24 or when to file charges and what they should be doing. So
25 it's just kind of that professional courtesy. And he

Page 49

1 didn't disagree.
2 Q David Prater is not your boss?
3 A No.
4 Q And you are not David Prater's boss?
5 A No. He's not my boss as far as operationally
6 and things like that. What it comes down to, into
7 investigating crimes, he is the boss. I mean, when it
8 comes down to what evidence is collected, what evidence is
9 used to prosecute the case, he has jurisdiction over all,
10 all of those crimes. He's the chief law enforcement
11 officer in this county, not me, not the sheriff. So any
12 case that we investigate, we're basically an arm of the
13 district attorney's office to provide the evidence for him
14 to make a decision as to whether or not charges should be
15 filed.
16 Q Can David Prater require one of the officers of
17 the Oklahoma City Police Department to sign a probable
18 cause affidavit when the officer believes there is no
19 probable cause?
20 MR. SMITH: Object to the form.
21 THE WITNESS: Can he make him?
22 Q (By Mr. Bowers) Yes, sir.
23 A No. I don't think he can make him. If the
24 officer feels like there's -- if he feels like it's --
25 there's not probable cause, he can't make him put language

Page 50

1 in a -- in a document or affidavit that the officer doesn't
2 feel is true.

3 **Q And you would not have disciplined an officer**
4 **for refusing to sign a probable cause affidavit just**
5 **because David Prater wanted them to. Right?**

6 MS. FELKNER: Object to the form.
7 MR. SMITH: Same objection.
8 THE WITNESS: Okay. Go ahead and repeat that
9 question.

10 **Q (By Mr. Bowers) Yeah. If an officer said, "I**
11 **am not going to sign a probable cause affidavit in this**
12 **circumstance because I don't believe there's probable**
13 **cause, but David Prater wants me to," would you discipline**
14 **an officer in that circumstance?**

15 A Probably not. We would have some -- we would
16 have some discussion between the district attorney and the
17 officer and what the evidence was. I wouldn't leave it at
18 that, but yeah. I wouldn't discipline him for telling the
19 district attorney "I can't -- I can't do that."
20 I did that when I was an investigator. I
21 wouldn't do things the District Attorney's Office wanted me
22 to do.

23 **Q You have a constitutional obligation in some**
24 **circumstances to do that. Right?**

25 MR. SMITH: Object to the form.

Page 51

1 MS. FELKNER: Object to the form.
2 MR. SMITH: Same objection.
3 THE WITNESS: Well, yes.

4 **Q (By Mr. Bowers) That's not a controversial**
5 **proposition, is it?**

6 MS. FELKNER: Object to the form.
7 THE WITNESS: Well, it's not black and white.
8 What one person thinks is exculpatory, another person may
9 not think it is. What one person thinks is evidence,
10 another person may not. That's what the courts are for.
11 That's what the attorneys argue about. So a lot of stuff
12 is left up to interpretation. It's not black and white,
13 never has been.

14 **Q (By Mr. Bowers) So in order for the courts to**
15 **operate properly, they have to receive the correct**
16 **information. Right?**

17 MR. SMITH: Object to the form.
18 THE WITNESS: They expect to receive honest,
19 correct information. Yes.

20 **Q (By Mr. Bowers) Courts can't operate**
21 **effectively if they're misled. True?**

22 MR. SMITH: Object to the form.
23 THE WITNESS: Well, yes. That's -- that's
24 correct. I will agree with that statement.

25 **Q (By Mr. Bowers) If an officer in the Oklahoma**

Page 52

1 **City Police Department -- if somebody at the rank of a**
2 **captain believes there's not probable cause to sign an**
3 **arrest warrant application --**

4 A Uh-huh.
5 **Q -- would you expect that captain to allow his**
6 **or her subordinate to go ahead and sign a probable cause**
7 **affidavit anyway?**

8 A No.
9 **Q Should that captain take steps to stop that**
10 **action?**

11 A If he doesn't feel like the affidavit is
12 legally valid. Yes.

13 **Q What about if a major in the Oklahoma City**
14 **Police Department doesn't believe there's probable cause to**
15 **arrest a person for a crime? Should that major allow a**
16 **subordinate to sign a probable cause affidavit?**

17 A No.
18 **Q Have you talked to -- do you know who Bill**
19 **Muller is?**

20 A Yes.
21 **Q Have you talked to Bill Muller about what was**
22 **presented to the DA in the staffing meeting involving**
23 **Mr. Brewer and Ms. Cox?**

24 A No.
25 **Q Have you read his signed statement in this**

Page 53

1 **case?**

2 A No.
3 **Q Would you have an expectation that Detective**
4 **Shanna Lakin would have told District Attorney David Prater**
5 **that Kristi Cox had said on one occasion that D.G. Brewer**
6 **didn't try to choke her?**

7 MS. FELKNER: Object to the form.
8 MR. SMITH: Same objection. Go ahead.
9 THE WITNESS: I don't know. It just depends on
10 what the circumstances are.

11 **Q (By Mr. Bowers) You told me, after the staffing**
12 **meeting with Prater, you talked to Jason Clifton. Right?**

13 A I believe it was -- I believe it was right
14 after -- I believe it was right after they staffed the case
15 with him and he agreed to file the felony charge.

16 **Q Did Jason Clifton tell you whether or not he**
17 **had spoken to Kristi Cox on that date?**

18 A I don't remember.
19 **Q Did Jason Clifton ever tell you that Kristi Cox**
20 **had objected when he told her they were going to charge --**
21 **that DA Prater was going to charge D.G. Brewer with felony**
22 **strangulation?**

23 A I don't remember that.
24 **Q If Kristi Cox had told Jason Clifton in**
25 **response to receiving information about the charge that she**

Page 54

1 had never said that, would you have expected Clifton to
2 relay that information to David Prater?
3 MR. SMITH: Object to the form.
4 THE WITNESS: Said what?
5 Q (By Mr. Bowers) If Kristi Cox told Jason
6 Clifton "I have never said that D.G. choked me," would you
7 expect Clifton to relay that information to David Prater?
8 A Well, I think that that information was in the
9 reports that was provided to the DA. So again, I will go
10 back to saying, depending on what the context was and the
11 circumstances, I -- I can't -- I can't say whether that
12 would be appropriate or not. I mean, I don't know. And
13 with strangulation -- anyway. I will leave it at that.
14 Q But you know that, in these -- you have
15 attended these staffing meetings before. True?
16 A It's been a long time.
17 Q But you attended them when you were a
18 detective; right?
19 A Yes.
20 Q In your experience, did the DA at that time
21 carefully and thoroughly review the entirety of all the
22 police reports during the staff meeting?
23 A The DA?
24 Q The DA or an ADA?
25 A ADA usually would.

Page 55

1 Q Have you ever attended a staffing meeting with
2 David Prater?
3 A I don't -- no. I don't believe I have.
4 Q So Detective Lakin and Captain Clifton, who did
5 attend that staffing meeting involving Mr. Brewer, they
6 would know how carefully Mr. Prater was reviewing the
7 reports during that meeting. Right? They would be able to
8 observe him and see if he was reading them slowly or just
9 flipping through the pages. True?
10 MS. FELKNER: Object to the form.
11 THE WITNESS: I couldn't answer that. They
12 would have to answer that.
13 Q (By Mr. Bowers) They would be in the best
14 position to answer that question?
15 A Yes.
16 Q They would be in the best position to say
17 whether they perceived that David Prater was carefully
18 reviewing the police reports during the staff meeting?
19 A Or any of his staff. Yes.
20 Q Right.
21 So are you aware that these officers have
22 essentially testified that -- Detective Lakin and Captain
23 Clifton have essentially testified that they don't remember
24 if they did or didn't tell David Prater that Kristi Cox
25 said D.G. didn't try to choke her?

Page 56

1 MS. FELKNER: Object to the form.
2 MR. SMITH: Same objection.
3 THE WITNESS: I am not aware.
4 Q (By Mr. Bowers) And you're not aware about the
5 content of Bill Muller's statement where he testified in
6 writing that no one mentioned that during the course of
7 this meeting?
8 MR. SMITH: Object to the form. Misrepresents
9 the statement.
10 Go ahead and answer it.
11 THE WITNESS: I am not aware.
12 Q (By Mr. Bowers) How would you be able to assure
13 that the correct charges were being considered by the DA if
14 these officers never told District Attorney Prater that
15 Kristi Cox said, "He never tried to choke me"?
16 MS. FELKNER: Object to the form.
17 MR. SMITH: Same objection.
18 THE WITNESS: Okay. Well, I have to -- you
19 know, I have to trust the process and have to assume that
20 the district attorney reviews the case, makes a decision
21 based on all the information. We're responsible for
22 providing all the information of the entire case. And I
23 have to -- I have to trust the process that the detectives
24 provided that. If there's ever any indication that they
25 didn't, then, obviously, that would have to be addressed.

Page 57

1 Q (By Mr. Bowers) And that's something that would
2 be addressed. Right?
3 A Depending on the circumstances. Yes.
4 Q Did David Prater ever state anything to you
5 that was derogatory about D.G. Brewer?
6 A Usually David's pretty derogatory about
7 domestic violence cases where officers are involved in,
8 period. Not specific to D.G., but I think he takes
9 domestic violence very, very seriously. And I do too. And
10 so I -- yeah. I don't -- I think that, you know, he -- he
11 was being aggressively -- he was going to aggressively, you
12 know, prosecute D.G. I think it's -- he wasn't happy with
13 the fact that the officer that he thought was the aggressor
14 was involved in it. And so I think yeah. I mean, not -- I
15 don't know any specific language. I just can remember I
16 don't think he was happy with the fact that an officer was
17 involved in a domestic violence case like that.
18 Q Did he make any derogatory remarks about
19 Mr. Brewer's tattoos?
20 A No. Not that I remember.
21 Q Do you agree with the statement that if an
22 officer presents an application for an arrest warrant to a
23 judge that purposely excludes exculpatory information, that
24 that's a violation of the Constitution?
25 A Again, it would have to -- you know, I would

Page 58

1 have to see what the -- see what the information is, what
2 context it's in, and whether or not there was specific
3 intent to do that. It's a lot.
4 **Q You reviewed the affidavit of probable cause in**
5 **the application for an arrest warrant in this case a few**
6 **days ago. Right?**
7 A Yes.
8 **Q You did not see anywhere in that application**
9 **for arrest warrant where Shanna Lakin told the judge that**
10 **Kristi Cox had stated "D.G. Brewer didn't try to choke me."**
11 **Is that true?**
12 A I would have to review it again, but I think,
13 specifically, I do not think that language was in there.
14 **Q Do you believe that language should have been**
15 **in the affidavit?**
16 MS. FELKNER: Object to the form.
17 THE WITNESS: Based on what I have -- based on
18 what I reviewed, you know, not necessarily. I think that
19 can really -- I mean, I think you could argue it both ways.
20 So I would not say that that's an absolute.
21 **Q (By Mr. Bowers) How would you argue it that it**
22 **should not have been included?**
23 A Well, the investigation was a long
24 investigation. And, again, domestic violence cases,
25 testimony changes for a variety of reasons, especially when

Page 59

1 you're dealing with a victim. There's a lot of pressures
2 on the victim. There's a lot of intimidation by the -- by
3 the person that's being the aggressor, usually.
4 It's easy not to remember things, especially
5 when you're talking about strangulation. There's a lot of
6 information and things coming to the forefront of
7 strangulation in domestic violence. And I think
8 prosecutors and investigators and -- are taking it much
9 more seriously because of what they're finding about
10 strangulation.
11 In many cases, what -- it wasn't even being
12 presented or being looked at in domestic violence, where it
13 is now because they're more aware of what type of evidence
14 to look for. So I think there's just a lot of
15 circumstances. And in looking at both -- in looking at the
16 interviews and looking at the affidavit, I think the
17 affidavit -- I think the affidavit is -- provides the
18 information that's needed by the DA.
19 I think her story changed. I think -- but
20 whether or not it was an intent, whether or not she
21 remembered she was strangled or didn't remember she was
22 strangled, I think, ultimately, that information that --
23 was actually provided -- it was -- it's actually in that
24 affidavit. Because the affidavit never said absolute 100
25 percent that she was strangled.

Page 60

1 So I mean, I think there were different things
2 in that interview. So I do not -- I do not see that
3 affidavit -- I don't really see a whole lot wrong with that
4 affidavit.
5 **Q Did you know that Kristi Cox stated to**
6 **Detective Lakin that she received the red mark on her neck**
7 **when D.G. Brewer pushed her?**
8 MR. SMITH: Object to the form.
9 THE WITNESS: Yes. I think there's -- there's
10 statements to that effect.
11 **Q (By Mr. Bowers) You didn't see that statement**
12 **in the affidavit either, did you?**
13 MS. FELKNER: Object to the form.
14 THE WITNESS: There is -- you know, there's --
15 there's information in there that indicated that she had --
16 she could have received -- she could have received it
17 during the assault, but she didn't know for sure whether or
18 not he strangled her. And it went back and forth through
19 the interviews with her and all the information. So I
20 think that the information that was provided in the
21 affidavit was basically the information they felt was true
22 based on the second interview of Kristi. Because --
23 because they had interviewed her several times.
24 And so I think the information that they
25 provided for the affidavit was based on the most recent

Page 61

1 information that they felt to be true and honest. That's
2 what went into the affidavit, because that whole thing, it
3 -- it runs its course. When you're dealing with domestic
4 violence victims, that testimony will change. Almost
5 guaranteed to change. Even in any investigative case on
6 any evidence, it won't be absolute. Things will change.
7 The witness will remember different things. They will see
8 things differently. They will interpret things
9 differently.
10 I think that her testimony between the two of
11 them were consistent enough. And based on that second
12 interview, what they put in that affidavit was appropriate,
13 based on that last interview.
14 **Q (By Mr. Bowers) Did you see anywhere in the**
15 **affidavit where Detective Lakin said that Kristi Cox told**
16 **her the red mark on her neck was caused when D.G. Brewer**
17 **pushed her?**
18 MS. FELKNER: Object to the form.
19 MR. SMITH: Same objection.
20 THE WITNESS: No. I don't -- I don't remember
21 seeing that specifically in the affidavit.
22 **Q (By Mr. Bowers) Okay. Given all the things**
23 **that you have just described, do you have any explanation**
24 **for why the strangulation charge was dismissed at the**
25 **preliminary hearing?**

Page 62

1 MS. FELKNER: Object to the form.
2 THE WITNESS: No.
3 **Q (By Mr. Bowers) Is the preliminary hearing**
4 **assessment the judges conduct, is that an assessment that's**
5 **-- involves a standard that's fairly easy or lenient for**
6 **law enforcement or the state to meet?**
7 A I don't know what you mean.
8 **Q Well, have you -- how hard is it to establish**
9 **probable cause?**
10 A Well, on strangulation, it can be very
11 difficult. The problem you have with judges is judges are
12 probably the least knowledgeable about strangulation
13 involving domestic cases. You're seeing that. In fact,
14 part of the problem is that judges need to be better
15 educated at that. Many judges aren't educated about
16 strangling in domestic violence.
17 One of the biggest issues that we faced was
18 trying to get judges to become educated, to come to some
19 classes and understand that. I think Susan Stallings, when
20 she was prosecuting the case in the beginning, when she had
21 it, she didn't quite understand strangulation.
22 In fact, I can remember -- I can remember at
23 one time Susan said that there were a lot of cases that she
24 should have addressed the strangling issue. She had no
25 idea or knowledge of that. And the problem you have right

Page 63

1 now is it's fairly new information. And judges are very,
2 very ignorant in trying to -- trying to present that
3 information to judges and get them to understand what --
4 really what is happening in domestic violence and
5 strangulation.
6 Right now, it's very difficult. I think it
7 will happen over time. I think education is going to take
8 care of that. But right now, judges are pretty ignorant to
9 strangulation.
10 **Q Do you have any knowledge of Judge McCormick?**
11 A No.
12 **Q Do you know whether Judge McCormick is ignorant**
13 **of strangulation?**
14 A No. Not saying he is. I am just saying, in
15 general, judges that have been and are. Now, they're
16 getting better, because they are becoming educated in that.
17 **Q Are judges not expert in assessing probable**
18 **cause, sir?**
19 MS. FELKNER: Object to the form.
20 MR. SMITH: Same objection.
21 THE WITNESS: I think they probably are
22 experts.
23 **Q (By Mr. Bowers) Judges, you would expect, have**
24 **seen -- preside over preliminary hearings to determine**
25 **whether there's probable cause on a regular and frequent**

Page 64

1 **basis. True?**
2 A Yes.
3 **Q Judges have legal training in the case law that**
4 **the appeals court and the Supreme Court put out that**
5 **defines what probable cause is in various circumstances.**
6 **Right?**
7 A Yes.
8 **Q What kind of training does the Oklahoma City**
9 **Police Department provide its officers on specific case law**
10 **discussing probable cause?**
11 A Well, it's -- I mean, probable cause is
12 discussed at length, most in search and seizure, in just
13 stopping individuals and in conducting arrest warrants,
14 putting somebody in jail. Probable cause is probably
15 covered as much as anything. Whether or not there's some
16 evidence that would lead you to believe that that person
17 may have committed that crime.
18 So I think that's -- it's fairly extensive.
19 But even when -- well, I will stop there.
20 **Q Well, my question is what training does the**
21 **police department provide on specific cases?**
22 A "Specific cases"?
23 **Q Case law. Yes, sir.**
24 A I don't quite understand. In general, in
25 general, they are taught what probable cause is and what

Page 65

1 they need to be able to, on their cases that they work,
2 whether it's in the field or whether it's in
3 investigations.
4 **Q Right. They're trained on the concept?**
5 A Yes.
6 **Q But you would agree that the judges who assess**
7 **probable cause have more familiarity, in general, with the**
8 **case law itself and how the courts have applied the**
9 **probable cause concept?**
10 A They should have.
11 **Q Okay. And that's something that judges have to**
12 **rule on on a daily or weekly basis. Right?**
13 A That's correct.
14 **Q And their decisions on probable cause made in**
15 **preliminary hearings and other places that decides people's**
16 **freedom and liberties; right?**
17 A Correct.
18 **Q Decides whether people will go to trial or not**
19 **go to trial on criminal charges; right?**
20 A Yes.
21 **Q So we have to expect that the judges will be**
22 **provided with accurate and correct information by**
23 **detectives. True?**
24 A Yes. They rely on it.
25 **Q So if a judge doesn't receive all of the**

Page 66

1 material information in an arrest warrant application, that
2 judge can't make an effective decision. Would you agree
3 with that?
4 MR. SMITH: Object to the form.
5 MS. FELKNER: Object to the form.
6 THE WITNESS: In general, yes.
7 MR. SMITH: Are you near a stopping point?
8 MR. BOWERS: If you want to take a break, we
9 can. Sure.
10 MR. SMITH: Okay. Thanks.
11 (Short Recess from 10:53 a.m. to 11:10 a.m.)
12 **Q (By Mr. Bowers) We are back on the record.**
13 **Did you ever have any conversation with Jason**
14 **Clifton where he told you he did not believe there was**
15 **probable cause to charge D.G. Brewer with strangulation?**
16 A I don't remember that.
17 **Q Did you ever have any conversation with Denise**
18 **Wenzel where she told you she did not believe there was**
19 **probable cause to charge D.G. Brewer with strangulation?**
20 A I don't remember it.
21 **Q Did you ever have any conversation with Deputy**
22 **Chief Johnny Kuhlman where he told you he did not believe**
23 **there was probable cause to charge D.G. Brewer with**
24 **strangulation?**
25 A I don't remember.

Page 67

1 **Q If they had entertained those beliefs, would**
2 **you have expected that they told you that, as the Chief of**
3 **Police?**
4 MR. SMITH: Object to the form.
5 THE WITNESS: Oh, not -- not necessarily.
6 **Q (By Mr. Bowers) That's not information you**
7 **would have wanted to have?**
8 A I -- you know, I don't -- I don't -- I don't
9 really get heavily involved in the investigations. I don't
10 control the investigations as chief. I expect staff to
11 review it, oversee it. And I don't necessarily -- that --
12 you know, that's really not a decision for me to make.
13 That's a decision for the DA to make. That's not even a
14 decision for them to make.
15 The information is there and the DA makes that
16 decision as to whether or not there's enough information to
17 charge them with that. Police don't charge people with
18 anything. So...
19 **Q Police don't charge people, but police do have**
20 **to submit probable cause affidavits to the judges where**
21 **they swear under oath they believe there's probable cause.**
22 **True?**
23 A True.
24 **Q So the police are involved in the charging**
25 **process in that manner; correct?**

Page 68

1 A Yeah. That's not what I am saying. Yes. Of
2 course they are, but they don't make that final decision.
3 They provide -- they provide the information. Those
4 decisions are made by the District Attorney's Office
5 whether or not somebody is charged or not.
6 So when you're asking me is that something I
7 would want to know, I am not -- I am sitting here on my
8 busy, busy, busy schedule. You know, not necessarily. I'm
9 not calling and saying every day "Do you have enough
10 evidence to charge them."
11 Now, they will usually provide a lot of that
12 information to me if they're briefing me. Briefings aren't
13 very long. They could have said that to me. I am not
14 saying they didn't. I just don't remember it.
15 **Q Do you create any record of the briefing?**
16 A No.
17 **Q Would you agree that a judge can't make a**
18 **lawful and correct decision on an application for an arrest**
19 **warrant if an officer purposely omits material of**
20 **exculpatory information?**
21 A Yes. It could possibly.
22 **Q Do you think it's possible to say that, if**
23 **Detective Lakin had included the statement that Kristi Cox**
24 **said that "D.G. Brewer didn't try to choke me" in the**
25 **original application for an arrest warrant, that we**

Page 69

1 **wouldn't be sitting here today?**
2 MR. SMITH: Object to the form.
3 MS. FELKNER: Object to the form.
4 THE WITNESS: Say that again.
5 **Q (By Mr. Bowers) do you think it's possible to**
6 **say that, if Detective Lakin had included the statement**
7 **that Kristi Cox said "D.G. Brewer didn't try to choke me"**
8 **in the original application for an arrest warrant, that we**
9 **wouldn't be sitting here today?**
10 MR. SMITH: Object to the form.
11 THE WITNESS: Well, it would strictly be an
12 opinion of mine. My opinion would be that they would have
13 still issued, with everything else that was in the
14 affidavit, they still would have issued the arrest warrant.
15 That's my opinion.
16 **Q (By Mr. Bowers) Have officers in the past been**
17 **investigated for falsifying timecards?**
18 A Yes.
19 **Q Have officers in the past been investigated for**
20 **failing to accurately reflect personal time on their**
21 **timecards?**
22 A "Personal time"?
23 MS. FELKNER: Object to the form of the
24 question.
25 THE WITNESS: Yeah. I don't understand what

Page 70

1 you mean.

2 **Q (By Mr. Bowers) Don't officers have to notify**

3 **their superior if they're going to take a few minutes to go**

4 **do something during work time that's personal?**

5 MR. SMITH: Object to the form.

6 THE WITNESS: Technically, if they were going

7 to go do something that's personal on city time, yes. But

8 there's just -- there's a lot of -- I mean, there's a lot

9 of leeway, depending on how much time it is and that type

10 of thing. So is it done on a regular basis? Probably not.

11 If it's not gone for hours on end to go run, you know, to a

12 ball game, kid's ball game or something like that. Then

13 they should be taking their time off.

14 **Q (By Mr. Bowers) Have officers ever been**

15 **investigated for failing to accurately reflect personal**

16 **time, though?**

17 A For...

18 **Q For --**

19 A For not -- okay. Yeah. Can you reword? I

20 mean, I am not sure I am clear. So are you trying to say

21 for not -- not taking the time off to do something

22 personal? Is that what you're saying?

23 **Q Right. Doing something personal while on duty**

24 **and getting paid.**

25 A And not taking the time off. Yes.

Page 71

1 **Q Depending on the circumstances, that can be a**

2 **terminable offense; correct?**

3 A Could be.

4 **Q Depending on the severity and whether it's a**

5 **habit or a one-time event?**

6 A It's usually duration.

7 **Q Is there a policy in the Oklahoma City Police**

8 **Department that an officer's supervisor should go and visit**

9 **that person in jail if they're arrested?**

10 MR. SMITH: Object to the form.

11 MS. FELKNER: Object to the form.

12 THE WITNESS: There are no policies to that

13 effect.

14 **Q (By Mr. Bowers) If an officer does go and visit**

15 **a subordinate in jail and says that that's on personal**

16 **time, would you expect that officer to document that on a**

17 **timecard?**

18 MR. SMITH: Object to the form.

19 THE WITNESS: Probably just depends on how much

20 time it is.

21 **Q (By Mr. Bowers) Would you expect that an**

22 **officer who goes to the jail to visit someone who has been**

23 **arrested for a felony would comply with the Miranda rule?**

24 MS. FELKNER: Object to the form of the

25 question.

Page 72

1 THE WITNESS: Would I expect them to comply

2 with the Miranda rule?

3 **Q (By Mr. Bowers) Yes, sir --**

4 A If it applies.

5 **Q If an officer is on duty and wearing an OCPD**

6 **uniform but he goes to the jail and states he was acting in**

7 **the capacity of a personal nature, would you expect him to**

8 **document that on his timecard?**

9 MS. FELKNER: Object to the form of the

10 question.

11 THE WITNESS: It would depend on the amount of

12 time and probably -- probably not, unless he was there half

13 a day or something.

14 **Q (By Mr. Bowers) Is there an expectation on your**

15 **part that, if a superior goes to visit a subordinate who**

16 **has been arrested, that they would document that**

17 **interaction in a police report?**

18 A Not necessarily.

19 **Q Is there an expectation on your part that a**

20 **supervisor who goes to visit a subordinate who has been**

21 **arrested and speaks to them in jail, that they would record**

22 **that conversation?**

23 A No.

24 **Q Prior to this domestic incident in June of**

25 **2017, did you know that Kristi Cox had worked for Billy**

Page 73

1 **Patten on the Springlake 2 shift?**

2 A No.

3 **Q When this incident occurred, did you know that**

4 **Kristi Cox worked for Billy Patten on the Springlake day**

5 **shift?**

6 A No.

7 **Q When this incident occurred, did you know that**

8 **Kristi Cox worked under Major Don Martin?**

9 A No.

10 **Q Did you know that Major Don Martin was the**

11 **brother-in-law of District Attorney David Prater?**

12 A Yes.

13 **Q Did you know that Major Martin requested or**

14 **directed Captain Patten to go speak with Kristi Cox while**

15 **she was under arrest at the jail?**

16 A I was not aware of it at the time.

17 **Q When did you become aware of it?**

18 A Just when we started talking -- talking with my

19 attorney before this deposition.

20 **Q At the time, in June of 2017, you knew that**

21 **Kristi Cox was arrested for a felony -- for allegations of**

22 **a felony and misdemeanor crime. Right?**

23 A The original arrest?

24 **Q Yes.**

25 A Yes, sir.

Page 74

1 **Q Did you know at the time that, after Captain**
2 **Patten spoke to Kristi Cox at the jail, that he didn't**
3 **create a police report?**
4 A I couldn't tell you whether he did or he
5 didn't.
6 **Q Do you know whether he asked Ms. Cox any**
7 **questions about the domestic incident itself?**
8 A No, I do not.
9 **Q If he did talk to her about what happened**
10 **during the domestic, since she was under arrest, would you**
11 **have expected him to read her her Miranda rights?**
12 A If he was talking to her about the case, it was
13 related to the case and she was in custody. Yes.
14 **Q If Kristi Cox had voluntarily told him**
15 **information about the case, would you have expected him to**
16 **create a police report?**
17 A Yes.
18 **Q Have you talked to Captain Patten, now Major**
19 **Patten, about the fact that he went to the jail and spoke**
20 **to Kristi Cox while she was under arrest?**
21 A I don't remember talking to Patten about it.
22 **Q Did you know that, after then Captain Patten**
23 **spoke to Kristi Cox at the jail, he called Captain Jason**
24 **Clifton on the phone about the subject?**
25 A I don't remember if I knew that or not or if

Page 75

1 Jason had talked to me about it. He could have.
2 **Q So you don't remember if Jason Clifton talked**
3 **to you about that subject or not?**
4 A That's correct.
5 **Q And you don't know whether Captain Patten or**
6 **Captain Clifton can remember anything about that**
7 **conversation today either, do you?**
8 A I wouldn't have any knowledge of that.
9 **Q Did you know that Captain Clifton contacted**
10 **District Attorney Prater in an effort to get Ms. Cox**
11 **released pending further investigation?**
12 A I know at some point upon -- I know at some
13 point, when they got further into, you know, more details
14 about the arrest and started the investigation, that they
15 had -- they talked to David Prater about the evidence in
16 this case and whether or not she should -- she should
17 remain in jail.
18 **Q Were you present when that conversation took**
19 **place?**
20 A Between who?
21 **Q Clifton and Prater.**
22 A No.
23 **Q Did you know about it at the time?**
24 A I don't remember if I did or I didn't. I don't
25 remember.

Page 76

1 **Q Did you know that Captain Patten admitted in**
2 **his deposition that he obtained an attorney for Ms. Cox?**
3 MS. FELKNER: Object to the form.
4 THE WITNESS: I am -- I am aware of it now. I
5 wasn't at the time.
6 **Q (By Mr. Bowers) Is there a policy or procedure**
7 **that applies at the Oklahoma City Police Department that**
8 **prohibits officers from referring attorneys to people who**
9 **are under arrest?**
10 A Yes. Specific attorneys, yes.
11 **Q Did you know that, while at the jail, Captain**
12 **Patten assisted Ms. Cox from being placed on suicide watch?**
13 MS. FELKNER: Object to the form of the
14 question.
15 THE WITNESS: Say -- repeat the question.
16 **Q (By Mr. Bowers) Did you know that Captain**
17 **Patten, while at the jail, assisted Ms. Cox and helped her**
18 **by preventing her from being placed on suicide watch?**
19 A No.
20 **Q At the time in June of 2017, did you know that**
21 **it was the policy of the Oklahoma County Jail or its**
22 **medical company that all officers who were arrested would**
23 **be placed on suicide watch?**
24 A No.
25 **Q Was that a policy that you had ever discussed**

Page 77

1 **with anyone at the Oklahoma County Jail or the Sheriff's**
2 **Office?**
3 A No.
4 **Q Did you know that Captain Patten picked Ms. Cox**
5 **up from jail when she was released without posting bond?**
6 A No.
7 **Q Did you know that, when he picked her up, he**
8 **was on duty for the Oklahoma City Police Department?**
9 A No.
10 **Q Did you know that he took her out to eat?**
11 A No.
12 **Q Did you know that he took her to her apartment**
13 **to get some personal items?**
14 A No.
15 **Q Did you know that he took her to the attorney**
16 **that he referred her to?**
17 A No.
18 **Q Do you understand that Captain Patten, even**
19 **though he was on duty and getting paid while he was doing**
20 **these things, that he has never once made a police report**
21 **to document what was said between him and Ms. Cox?**
22 A No.
23 MS. FELKNER: Object to the form of the
24 question.
25 THE WITNESS: No.

Page 78

1 Q (By Mr. Bowers). Did you know that Captain
2 Patten admitted in his deposition that he intentionally
3 deleted all of his text message communications with Kristi
4 Cox?
5 A No.
6 MS. FELKNER: Object to the form.
7 Q (By Mr. Bowers) Have you deleted any text
8 message communications since you became aware of this
9 lawsuit, that would be relevant to the suit?
10 A No.
11 Q Would you have had the understanding that you
12 could not lawfully do that?
13 A While it was being investigated?
14 Q No, sir. Once you learned of this lawsuit --
15 A Lawsuit?
16 Q Yes, sir.
17 A Yeah. I do. Yeah. If there was anything in
18 relation to this -- yes. -- I understand that.
19 Q Would you expect someone who has attained the
20 rank of major in the Oklahoma City Police Department to
21 have that understanding, sir?
22 MR. SMITH: Object to the form.
23 MS. FELKNER: Object to the form.
24 THE WITNESS: Probably. Probably. Yes.
25 Q (By Mr. Bowers) Did you know that Kristi Cox

Page 79

1 stated in her deposition that she has deleted all of her
2 communications with Captain Patten?
3 A Am I aware of it? Now I am aware of it. Yes.
4 Q You weren't aware of it before the filing of
5 this lawsuit?
6 A No.
7 Q Have you talked to Captain or now Major Patten
8 about the fact that he has intentionally deleted his text
9 messages with Kristi Cox?
10 A I haven't talked to him about any of that.
11 Q Do you understand that, once you become aware
12 of a civil lawsuit, you have an obligation to preserve
13 relevant evidence?
14 A Yes.
15 Q Did you know that Billy Patten stated in his
16 deposition that he had taken Kristi Cox out to dinner up to
17 seven times?
18 MS. FELKNER: Object to the form.
19 THE WITNESS: I am not aware of that.
20 Q (By Mr. Bowers) So no one in the police
21 department, including Captain Patten himself, ever notified
22 you of this conflict of interest that he had before he was
23 promoted as to the -- before he was placed as the captain
24 over the Domestic Violence Unit?
25 MR. SMITH: Object to the form.

Page 80

1 THE WITNESS: I will say I am not aware of
2 that, with the caveat that I don't know that it's a
3 conflict of interest.
4 Q (By Mr. Bowers) So you don't think that two
5 officers intentionally deleting their communications
6 between each other, even after they know of a lawsuit, does
7 not show that there's a potential conflict of interest?
8 A I am talking about them meeting and going out
9 to eat. I am not talking about the deletion of the texts.
10 Q With the knowledge that you have now that there
11 has been these deletion of text messages, does that suggest
12 to you that Captain Patten may have had a conflict of
13 interest?
14 MR. SMITH: Object to the form.
15 THE WITNESS: I can't say one way or the other
16 without knowing the circumstances.
17 Q (By Mr. Bowers) What other circumstances would
18 you need to know other than the fact that he has testified
19 under oath that he intentionally deleted his communications
20 with her?
21 A I don't know when it occurred, what it was,
22 what the circumstances were of the texts. I mean, I don't
23 know. I am just saying that I don't have any knowledge as
24 to whether or not that would be a conflict without knowing
25 all the details of what -- why they were -- why they were

Page 81

1 deleted, what they were, that type of information.
2 Q (By Mr. Bowers) Do you have the understanding
3 that he testified under oath that he deleted text message
4 communications with her even after this lawsuit was filed?
5 A I don't know what he testified to.
6 Q Well, certainly, prior to the time of this
7 lawsuit, he had not advised you that he had deleted his
8 text message communications with Kristi Cox?
9 A No.
10 Q Is there a policy or procedure -- or strike
11 that.
12 Was there, while you were the chief, a policy
13 or procedure relating to conflicts of interest within the
14 department?
15 A I would have to review it. I don't know any
16 specific -- I don't know the specific ones, but there is
17 some language, I think, with conflict of interest, like
18 with the attorneys, those kinds of things, but I am not
19 sure everything that is contained in the policies and
20 procedures.
21 Q Would you expect that a detective would not
22 participate in an investigation if the detective had a
23 conflict of interest?
24 MS. FELKNER: Object to the form.
25 THE WITNESS: Yes. I would expect him not to

Page 82

1 participate.

2 **Q (By Mr. Bowers) Would you expect the detective,**

3 **if that person believed there was a conflict of interest,**

4 **to notify the command?**

5 A Yes.

6 **Q Would you expect the command to take**

7 **appropriate action?**

8 A Yes.

9 **Q You wouldn't expect the command to ignore a**

10 **detective telling them that they had a conflict of**

11 **interest, would you?**

12 A No.

13 **Q And if a detective came to someone in his or**

14 **her chain of command and stated that he had a conflict of**

15 **interest or she had a conflict of interest, would there be**

16 **anything more required by the command in order to remove**

17 **that detective from that particular investigation?**

18 A Well, sure there would be. Just the mere

19 statement that there's a conflict wouldn't dictate that

20 they remove that person from the investigation. So yes. I

21 would expect more.

22 **Q If a detective hated someone that he or she was**

23 **investigating, does that have the potential to create a**

24 **conflict of interest?**

25 MS. FELKNER: Object to the form.

Page 83

1 THE WITNESS: Maybe.

2 **Q (By Mr. Bowers) If a detective is motivated to**

3 **cause harm to someone that they're investigating, does that**

4 **create a conflict of interest?**

5 A That's more than a conflict of interest. If

6 they're going to harm somebody, yes. I mean, sure. It

7 would be a conflict of interest if they had intent of

8 harming somebody.

9 **Q You were the chief for many years. There's --**

10 **over the course of time -- well, when you first became**

11 **chief, how many officers were there, approximately?**

12 A About 800. a little over 800.

13 **Q Okay. So when you retired, there was more than**

14 **a thousand?**

15 A Yes.

16 **Q Have you ever attended any --**

17 A Well, hold on. I take that back. There was --

18 there was -- there was -- no. I had -- when I -- when I

19 made chief -- when I made chief, there were -- there was

20 about 900. There was a little less than a thousand. 900

21 and something.

22 **Q More officers than you could be personally**

23 **friends with?**

24 A Yes.

25 **Q More officers than you could personally even**

Page 84

1 **recognize or know?**

2 A Yes.

3 **Q Have you ever attended OCPD events or**

4 **in-service training where you haven't recognized members of**

5 **the department?**

6 A Yes.

7 **Q You don't personally know every officer that's**

8 **employed at the department, or you didn't when you were**

9 **chief?**

10 A No.

11 **Q I don't think that any officer on the street**

12 **would have the expectation that you know everybody.**

13 A Probably not.

14 **Q Is it safe to say that you couldn't even name**

15 **half the officers on the department?**

16 A Very safe to say that.

17 **Q Approximately how many detectives were assigned**

18 **to the Investigations Bureau in the last few years of your**

19 **tenure as chief?**

20 A I think, overall, there is -- I mean, I think

21 there's a little less than a couple hundred detectives

22 assigned to all the investigative units, I think. I am

23 pretty sure. I don't know the exact number.

24 **Q Aren't there enough detectives to -- employed**

25 **by the Oklahoma City Police Department to conduct an**

Page 85

1 **investigation into another officer where the involved**

2 **parties don't know each other?**

3 A Yeah. Usually, there would be. I mean, it's

4 -- most officers, especially at that level, know each

5 other, know of each other. So it's a little bit more

6 difficult. Of course, at my level, when you're comparing

7 my level to theirs, I am much more removed from the

8 day-to-day operation or one-on-one with officers, whether

9 detectives or not.

10 So it become as little bit more difficult, but

11 it can be done. I think -- I think that answers your

12 question.

13 **Q Did you know that Shanna Lakin stated she was**

14 **friends with Kristi Cox?**

15 A Yes. I am aware of it now.

16 **Q Did you know it at the time?**

17 A I don't remember if I knew it or when I knew

18 it. I don't remember. I don't remember necessarily

19 knowing it. I think it was -- I think it was provided to

20 me -- I know it was provided to me that they thought there

21 was some conflict, that the individuals knew each other or

22 were friends to some extent. I think that happened early

23 on, I think, when Jason had talked to me about the

24 investigation.

25 **Q All right. So what -- you say that Jason**

Page 86

1 talked to you about the investigation early on and there
2 was some discussion about a potential conflict?
3 A Well, I think there was -- there was -- yeah.
4 There was some discussion based on knowing the -- either
5 the -- both Kristi and D.G. So I think there was -- you
6 know, that issue of conflict was raised early on in the
7 investigation, I believe. I just don't remember the
8 content. I just remember that it was raised.
9 **Q Did you instruct Jason Clifton to ensure that**
10 **the detectives who investigated this case did not have a**
11 **conflict of interest?**
12 A I believe that the discussions that occurred
13 were that I was going to -- I was going to leave them as
14 long as they thought the detectives could be fair in their
15 investigation, that I would rather keep it within domestic
16 violence because they have the expertise.
17 Usually, what I like to do is, if an officer is
18 being investigated, I have several options, obviously. But
19 I like to keep it within the unit that has the expertise in
20 investigating those types of investigations.
21 **Q Did you ask Jason Clifton if there were any**
22 **detectives in the DV Unit who did not know Kristi Cox or**
23 **D.G. Brewer?**
24 A I don't remember asking that specific question.
25 **Q Did you ensure -- did you direct Jason Clifton**

Page 87

1 to ensure there were no conflicts of interest?
2 A I left it up to the supervisors and the bureau
3 commander, which at the time was to evaluate that to
4 determine whether or not there was any conflicts that may
5 affect the investigation.
6 **Q Do you know whether or not Jason Clifton tried**
7 **to determine whether or not there were any detectives in**
8 **the DV Unit who did not know either Kristi Cox or D.G.**
9 **Brewer?**
10 A I do not know what extent that he went to.
11 **Q Are you aware of any of the -- well, strike**
12 **that.**
13 **Did you have any conversations with Major**
14 **Wenzel about any potential conflicts of interest?**
15 A Again, I think both of them -- I think both of
16 them were aware that that had been raised. And so I -- you
17 know, I can't -- I can't tell you specifically what I said
18 to Denise or Jason. I know a lot of my conversations were
19 with Jason in reference to that case as far as briefings or
20 any issues that, you know, that came up in that.
21 So I don't know specifically. I am more
22 confident that I had that discussion with Clifton, but I am
23 sure I also had some discussion with Denise. I have to
24 have had. I just don't remember specifically.
25 **Q Can you remember specifically when you had the**

Page 88

1 first conversation with Clifton about a conflict of
2 interest?
3 A I think it was pretty early on, within that
4 first week of, you know, the decision to keep that
5 investigation within the Domestic Violence Unit. Usually,
6 that -- usually, it's fairly automatic. That's where we
7 want -- we want to keep them within the units that have the
8 expertise in the crime that's being investigated.
9 So I think it's just almost a given that's
10 where it's going to stay unless I -- unless I determine
11 that it needs to go someplace else.
12 **Q Do you --**
13 A So it would be early on.
14 **Q Did you ask for any updates about -- well, what**
15 **I am trying to get at here is you have the authority to**
16 **make a decision that the investigation will be transferred**
17 **to a different department? different division?**
18 A Yeah. Or put different individuals.
19 **Q Right. Okay.**
20 **So when you learned about this conflict issue,**
21 **did you say "Go find out what the issue is and bring me**
22 **back specific information about it so I can make a**
23 **decision"?**
24 A No. I think we just -- we discussed in general
25 that, if there are any conflicts, that we need to consider

Page 89

1 that. I mean, Jason brought it to my attention. I think
2 there had been things said by investigators or whatever
3 that there may be. So I was leaving it up to him to
4 determine whether or not they felt like it -- there was a
5 conflict based on the information that he had.
6 **Q So he didn't ever come back to you and report**
7 **on any more detailed information about whether there was a**
8 **conflict? Once you had the first conversation, it was his**
9 **decision?**
10 A Yeah. I mean, I -- I assumed that he probably
11 at some point told me he didn't feel like the conflict was
12 going to interfere.
13 **Q But you have no memory of that?**
14 A No. I don't.
15 **Q I have seen documentation in this case**
16 **designating the investigation involving Mr. Brewer and**
17 **Ms. Cox as a high profile case.**
18 **What is a "high profile case"?**
19 A Anytime an officer is involved in any type of
20 crime, it's usually -- they usually classify it as high
21 profile.
22 **Q You agree this case was classified as high**
23 **profile?**
24 A I don't like the term "high profile," because
25 it -- it kind of insinuates that things are done

Page 90

1 differently because it's high profile, and they're not. So
2 I mean, I think -- I think that it's going to get more
3 attention media-wise if there's a criminal investigation
4 being conducted on an officer versus anybody else.
5 So in that regard, yes. I consider it high
6 profile because the media was going to pay more attention
7 to that, probably do more stories on it, a lot more
8 information than they would in general if it's not a police
9 officer.
10 **Q So if Lt. Teachman told me that there was some**
11 **differences in how a high profile case is investigated**
12 **compared to non-high profile cases, would she be wrong?**
13 MS. FELKNER: Object to the form.
14 THE WITNESS: I would disagree with her
15 opinion.
16 **Q (By Mr. Bowers) If Billy Patten told me that,**
17 **would you disagree with his opinion?**
18 A I would disagree with his opinion.
19 **Q It Jason Clifton told me that, would you**
20 **disagree with his opinion?**
21 A Yes, I would. They should all be investigated
22 the same regardless.
23 **Q Do you have the expectation that, in any**
24 **domestic violence case, that the command will read every**
25 **police report before it's finalized?**

Page 91

1 A Yes. Their direct -- yeah. Their direct
2 command. Yeah. It's in investigation responsible for
3 those cases. Yes.
4 **Q Including the immediate supervisor, as well as**
5 **a captain?**
6 A Yes.
7 **Q What about the major? Do you have an**
8 **expectation that, in every domestic violence case, the**
9 **major will read and review every police report?**
10 A No. Not every domestic violence case, but in
11 the case of where an officer is involved, I would expect
12 the command to read all of those reports.
13 **Q So what is the purpose of that? Why is that**
14 **expectation different in high profile cases for the**
15 **command?**
16 A Because they're employed by the police
17 department. I want to be aware of -- I want the command to
18 be aware to brief me as to what I can expect, because I am
19 the one that's responsible for responding to the public
20 about this. I don't have to respond to the public on every
21 single domestic violence case, but I do have to in a case
22 where there's an officer involved.
23 So -- and that's what I am referring to. If
24 you're referring to this being high profile, yes. I mean,
25 people have to -- I have to be much more aware and be able

Page 92

1 to respond in those cases. So, you know, plus -- plus
2 there's just information. Because I think, in a lot of the
3 cases, I make sure that IA has the information because I am
4 -- I am anticipating we will definitely have to do an
5 administrative investigation besides the criminal
6 investigation.
7 I don't want them both going at the same time.
8 I don't want them to start something and interfere with the
9 criminal investigation. The criminal investigation needs
10 to run its course, and we always do an administrative
11 investigation also.
12 What I usually try to do is I try to make sure
13 that IA has the information they need so they can keep
14 track of that and keep up with it so they're not trying to
15 investigate the case and completely redo it when it's all
16 over with. So I expect -- I -- because when I get briefed,
17 I expect, when I am briefed by the captain or the major or
18 the deputy chief, that they're going to provide me the
19 information based on what is in the case and what they have
20 read in the case.
21 **Q Do you -- you don't want the IA and the**
22 **criminal case to run at the same time, and one of those**
23 **reasons is that, that way, IA doesn't have to duplicate**
24 **efforts?**
25 A No. Not -- not necessarily. Because sometimes

Page 93

1 they have to duplicate efforts anyway, if they feel like
2 there needs to be something investigated in relationship to
3 an administrator or policy or procedure violation,
4 questions that weren't asked, things like that, that would
5 pertain specifically to a violation of the police
6 department, not specifically to the crime, because they can
7 be different. There could be other issues there.
8 So I don't want -- I don't want them
9 interviewing people -- if you're going to investigate a
10 crime, I don't want them interfering in any way with that
11 -- the criminal investigation based on somebody they may
12 interview, if you understand what I am saying. So there
13 needs to be a pure separation in -- you know, of that.
14 The criminal investigation takes precedence
15 over admin investigation, but at some point, the
16 administration investigation has to be done. That's
17 usually after the criminal investigation is completed.
18 Could be at the point that no charges are filed. It could
19 be at the point where charges have been filed. There have
20 been times, depending on the circumstances, that I have had
21 them go ahead and start that once the criminal
22 investigation is complete.
23 **Q Are cases designated as high profile as a way**
24 **to ensure that the investigation is conducted without any**
25 **mistakes, since everyone in the chain of command is**

Page 94

1 **involved in looking at all the reports?**
2 A Well, there is no official designation as high
3 profile. There's nothing -- there is no designation. I
4 mean, high profile doesn't mean things are done differently
5 or better or worse. An investigation should be done the
6 same whether it's a police officer or whether it's an
7 individual citizen, a nonpolice officer.
8 **Q Well, sir, you just told me that it's not done**
9 **the same because you have an expectation that the major**
10 **will read the reports and review the reports in a high**
11 **profile case but not in every domestic violence case.**
12 A That's not the investigation. The
13 investigation -- reading a report is the investigation?
14 Reviewing a report? You're calling that part of the
15 investigation?
16 **Q Well, sir, doesn't the chain of command have to**
17 **review a report before it's finalized?**
18 A The chain of command does review the reports in
19 any case, whether or not what you're calling high profile
20 or not. They still have to review those. Yes.
21 **Q How carefully do you expect the chain of**
22 **command to review every police report in a domestic**
23 **violence case that does not involve officers?**
24 A The immediate supervisors have to review every
25 report and the information in those reports.

Page 95

1 **Q Are there other people in the chain of command**
2 **besides an immediate supervisor?**
3 A There are.
4 **Q Okay.**
5 A There's the captain. It's middle management.
6 Then there's a major. I wouldn't always expect the major,
7 depending on the case, to review every domestic violence
8 case.
9 **Q But you would --**
10 A And I wouldn't expect to be briefed on every
11 domestic violence case.
12 **Q But you would on a high profile case?**
13 A I would be if it's involving an officer.
14 **Q Which is -- people call cases involving**
15 **officers "high profile cases" within the department.**
16 **Right?**
17 MR. SMITH: Object to the form.
18 THE WITNESS: If the fact that I -- I am more
19 responsible in answering to the media or to my supervisors
20 high profile, because they don't ask me -- they don't ask
21 me about every domestic violence case.
22 **Q (By Mr. Bowers) My question --**
23 A I am just saying there's no --
24 **Q My question is do people within the department**
25 **call investigations involving other officers "high profile"**

Page 96

1 **investigations?**
2 A Obviously, they do.
3 **Q Okay. That's --**
4 A I mean, you have already stated that, that they
5 have. I am just saying I don't like the term "high
6 profile." I don't use the term "high profile," because it
7 insinuates that something is done differently or they're
8 treated differently because it's high profile. And my
9 expectation is that they're not treated differently.
10 **Q So you don't agree that a case is designated as**
11 **"high profile" or called "high profile" to make sure that**
12 **all the Is are dotted and all the Ts are crossed?**
13 A They should always be dotted and crossed in
14 every investigation, regardless of whether or not they're a
15 police officer or they're a nonsworn person. That's why I
16 don't like the term "high profile." It should always be
17 dotted and crossed.
18 **Q Do you know why this case took more than three**
19 **weeks to get to the district attorney?**
20 A Took more than three weeks. Assuming that
21 that's abnormal, which I am not saying it is. No. I do
22 not know.
23 **Q Are there not any policies that apply to**
24 **detectives that require the completion of investigations in**
25 **a specific time frame?**

Page 97

1 A No.
2 **Q Wouldn't you expect that the Investigations**
3 **Bureau would look and scrutinize carefully an investigation**
4 **involving an 18-year veteran of the police department?**
5 MR. SMITH: Object to the form.
6 THE WITNESS: I would expect them to do the
7 same on every case they have involving domestic violence.
8 **Q (By Mr. Bowers) Have you ever seen any news**
9 **reports on the crime of strangulation in terms of how it's**
10 **been said that strangulation is an appetizer for homicide?**
11 **Have you ever seen anything like that?**
12 A Yes.
13 **Q Have you ever seen it said that strangulation**
14 **is indicative or shows a tendency for people who commit**
15 **mass murders?**
16 A I don't remember reading that.
17 **Q Have you ever seen it said that strangulation**
18 **is a crime that can be used to predict if someone will be a**
19 **cop killer?**
20 A I have seen that.
21 **Q So the crime of strangulation is a very**
22 **incredibly serious allegation to make against someone,**
23 **isn't it?**
24 A Yes.
25 **Q Have you seen any news article that says that**

Page 98

1 kids are dying and women are dying all at the hands of men
2 who strangle their wives or partners?
3 A Not specifically.
4 Q When did you see any of these news stories?
5 Was it around the time of the charges that were filed
6 against D.G. Brewer?
7 A No. I started seeing those -- I started seeing
8 those long before that. I mean, I think the issue of
9 strangulation in domestic violence, I started becoming more
10 aware of it when we started really being involved in
11 Palomar and the way we treated victims in domestic
12 violence. I started learning a lot more about it then.
13 Q Do you know what the potential prison term is
14 for someone who is charged with strangulation?
15 A I don't know specifically what that is.
16 Q But you do know that it's a felony?
17 A Yes.
18 Q You wouldn't want investigations that were
19 conducted by your domestic violence detectives to be
20 referred to as a "shit show," would you?
21 A No.
22 Q If Detective Lakin referred to this
23 investigation as a "shit show," would that give you
24 concern?
25 MS. FELKNER: Object to the form.

Page 99

1 MR. SMITH: Object to the form.
2 THE WITNESS: Maybe. Maybe not. I would have
3 to know why he thought it was that way or she thought it
4 was that way.
5 Q (By Mr. Bowers) Isn't that one of the reasons
6 that cases are labeled as high profile? So they don't
7 become a, quote, shit show?
8 MR. SMITH: Object to the form.
9 THE WITNESS: Cases aren't labeled "high
10 profile."
11 Q (By Mr. Bowers) You do agree with the statement
12 that an officer does not have to follow an unlawful
13 directive, request or command. Right?
14 A Yes.
15 Q Did you know that Detective Lakin was
16 instructed by her command to ignore evidence in the
17 investigation?
18 A No.
19 MS. FELKNER: Object to the form.
20 MR. SMITH: Object to the form.
21 THE WITNESS: No. I was not aware of that.
22 Q (By Mr. Bowers) Did you know that Jason Clifton
23 stated at his deposition, again under oath, that he told
24 Detective Lakin to not investigate physical evidence that
25 exonerated Mr. Brewer at the trial?

Page 100

1 MR. SMITH: Object to the form.
2 THE WITNESS: No.
3 Q (By Mr. Bowers) Did you know at his deposition
4 that Jason Clifton stated that Major Denise Wenzel and
5 Deputy chief Kuhlman both knew of the same evidence and
6 supported him in telling Detective Lakin to ignore it?
7 A No.
8 MR. SMITH: Object to the form.
9 Q (By Mr. Bowers) I am going to hand you what I
10 will mark as Exhibit 1.
11 MR. BOWERS: Your staple didn't get all the way
12 through.
13 MR. SMITH: D.G. was having problems with that
14 staple too, and we know how strong he is.
15 MR. LANGFORD: I think that's operator error.
16 Q (By Mr. Bowers) The first page of this exhibit
17 includes an e-mail from D.G. Brewer to yourself on October
18 10th, 2017, at 8:07 p.m.
19 Do you see that?
20 A Yes.
21 Q And that included the attachment that's
22 included with this exhibit?
23 A Yes.
24 Q And then the next e-mail on the page is your
25 e-mail to David Prater, Rick Smith, Johnny Kuhlman and Ron

Page 101

1 Bacy on that same day. Correct?
2 A Correct.
3 Q Did you call David Prater before or after you
4 sent this e-mail to him?
5 A I -- I don't remember talking to David Prater
6 before I sent this e-mail to him. I do -- it was -- it
7 could have been, because I remember -- I remember talking
8 to him on the phone about providing this to him and to the
9 investigators.
10 Q Did you, yourself, read this document entitled
11 "Brewer versus Brewer" in its entirety?
12 A I believe I did.
13 Q When did you do that?
14 A I think shortly after he gave it to me. It's
15 pretty lengthy. It may have been over a period of time,
16 because I -- sometimes it's hard for me to sit down and
17 read everything in it. I do think I -- I do think I
18 provided it to -- I provided -- provided it to David, to
19 IA, and to Investigations prior to reading all of it.
20 Q Did you complete your entire reading of it
21 prior to the time that this lawsuit was filed?
22 A Yeah. I mean, I would have read it before the
23 lawsuit was filed at some point. I just can't remember
24 exactly when.
25 Q What steps, if any, did you take to determine

Page 102

1 **whether or not any of D.G. Brewer's allegations in this**
2 **document were true?**
3 A I didn't take any specific steps at that point
4 in time because it was -- it was -- the criminal
5 investigation was still being conducted.
6 **Q Did you put any of the officers who were**
7 **involved in that investigation on administrative leave**
8 **after receiving this document?**
9 A No.
10 **Q Did you at any time put any of the officers who**
11 **were involved in the investigation into D.G. Brewer or**
12 **Kristi Cox on administrative leave related to their conduct**
13 **during the investigation?**
14 A No.
15 **Q Have you ever talked to anyone in your -- under**
16 **your supervision to determine whether any of the**
17 **allegations in this letter were true and correct?**
18 A Not at that point in time.
19 **Q At what point in time did you?**
20 A Well, the intent of sending this letter, first
21 off, to Prater, to the detectives in the criminal
22 investigation, to my executive staff was to make sure that
23 they had the information that was included in this, because
24 it could be -- could be something that either D.G. could
25 use in his defense or the prosecution could use in the

Page 103

1 prosecution. There could be exculpatory information here.
2 I wasn't trying to make that determination at that point.
3 The reason for sending it to IA is because I
4 knew all the information here would have to be thoroughly
5 gone through, and if there were allegations against other
6 officers of misconduct, then we would have to investigate
7 those and determine.
8 At this point, I felt comfortable making sure
9 that everybody involved in the criminal case had this
10 document and were aware of its contents so it could be used
11 even in D.G.'s defense.
12 **Q Now, you know that there are accusations**
13 **against other officers in this document that Mr. Brewer**
14 **sent to you. Correct?**
15 A Yes.
16 **Q Did you ever direct that those accusations be**
17 **investigated by IA?**
18 A Again, when I sent it to IA, I had them put it
19 in the file on this case, because when we investigated
20 administratively, then this document is going to come into
21 play. This document and the information in it will have to
22 be gone through. And if there are allegations, then we
23 will have to determine whether or not those allegations are
24 valid.
25 **Q My question is did you ever direct IA to**

Page 104

1 **investigate his accusations?**
2 MR. SMITH: Object to the form. Asked and
3 answered.
4 Go ahead and tell him again.
5 THE WITNESS: Well, when I provided IA with
6 this, I told them put it in the case file on this case,
7 because it's going to have to be investigated
8 administratively and that the allegations in this document
9 will have to be dealt with and investigated
10 administratively once the criminal case and the disposition
11 is made.
12 **Q (By Mr. Bowers) Do you know if IA has ever**
13 **investigated any of the allegations in this document?**
14 A I -- I retired. So it would -- it's -- there
15 was still -- it was still there, and they were -- I assume
16 that they're investigating it or have investigated it, but
17 that was the reason for providing them with this document
18 so that it could be. So they could go through any
19 allegations that were made.
20 **Q You retired after D.G. Brewer was acquitted of**
21 **all charges against him. Correct?**
22 A Correct.
23 **Q And after you retired, he remained on**
24 **administrative -- or before you retired -- strike that.**
25 **Do you remember when he went to jury trial?**

Page 105

1 A I don't remember.
2 **Q But you do remember that it was before you**
3 **retired?**
4 A Yes, it was.
5 **Q After he was acquitted at the jury trial and**
6 **before you retired --**
7 A Uh-huh.
8 **Q -- did you leave him on administrative leave?**
9 A Yes.
10 **Q Why?**
11 A He was still being investigated
12 administratively on different allegations. All of this
13 information here would obviously have to be looked into.
14 And he was being investigated. I can't remember
15 specifically what the allegations were, but there was still
16 a misdemeanor involved and he was still being investigated.
17 So he was kept on administrative leave. And I
18 can't remember -- I know, at one point, he was kept on --
19 he was kept on suspension without pay. But I think after
20 he was acquitted, all his pay was given back. So I just
21 can't remember each -- there were so many different
22 circumstances involved in this case.
23 But yes. He was kept on admin leave because it
24 was still being investigated and still could have -- could
25 have rose to the level of termination if some of the --

Page 106

1 some of the allegations were still found true in reference
2 to the domestic violence.
3 **Q Well, Kristi Cox was not on administrative**
4 **leave, was she?**
5 A No.
6 **Q She was on full-duty status; correct?**
7 A Yes.
8 **Q But there was still a pending IA against her as**
9 **well. Right?**
10 A Right.
11 **Q And there were accusations against her in that**
12 **IA of committing domestic violence; right?**
13 A She was involved. Yeah. Some things that she
14 was involved in. Yes.
15 **Q Weren't there allegations that she, herself,**
16 **was the aggressor?**
17 A Yes. But I think that it was determined that
18 she wasn't the aggressor. And that's why charges were
19 filed on D.G. and she was considered the victim.
20 **Q So it was determined that way internally at the**
21 **police department before an investigation was conducted by**
22 **IA?**
23 A Before?
24 MR. SMITH: Object to the form.
25 MR. BOWERS: Yes, sir.

Page 107

1 MR. SMITH: Go ahead.
2 THE WITNESS: I think that was determined at
3 the time the charges were filed. Charges weren't filed
4 against her.
5 **Q (By Mr. Bowers) So why was IA investigating**
6 **that allegation against her, sir?**
7 A I am not sure specifically that we would.
8 **Q So if IA was investigating whether or not**
9 **Kristi Cox committed domestic violence, should she have**
10 **been placed on administrative leave?**
11 A I think it was determined at that point she was
12 not filed on and the evidence -- the evidence leaned
13 towards her being the victim, not the aggressor. And I
14 think that it was safe to say that she wasn't and that we
15 would not be -- be -- we would not be investigating her in
16 reference to specifically the domestic violence.
17 Most of the things that are investigated in
18 administrative investigation wouldn't be specifically the
19 fact that somebody was the aggressor or not the aggressor.
20 It would be other issues relating to policy and procedure
21 violations, because I think, once he's acquitted of that,
22 we're not going to reinvestigate that and convict him of an
23 administrative decision that he committed domestic
24 violence, but there could be other administrative things.
25 There may not be anything.

Page 108

1 But still, domestic violence and the issues
2 surrounding it are serious. And I think the department and
3 the investigation at that point in time, once the charges
4 were filed, had determined that he was the aggressor and
5 she was the victim.
6 MR. BOWERS: All right. Might as well take a
7 break and have some lunch. I am about to get to some
8 different subjects.
9 MR. SMITH: Okay.
10 (Lunch Recess from 12:01 p.m. to 12:50 p.m.)
11 **Q (By Mr. Bowers) We are back on the record.**
12 **It's true that you had the ultimate decision to**
13 **place Mr. Brewer on administrative leave without pay when**
14 **he was charged with domestic abuse by strangulation.**
15 **Correct?**
16 A Correct.
17 **Q You had the authority to put him on**
18 **administrative leave with pay?**
19 A Yes.
20 **Q But you did ultimately place him on**
21 **administrative leave without pay once he was charged with**
22 **the felony of strangulation?**
23 A Yes.
24 **Q But it would be the City of Oklahoma City that**
25 **would have been responsible for paying him back for the**

Page 109

1 **time that he was on unpaid leave if he was acquitted of**
2 **that charge. Is that true?**
3 A Yeah. That's where his paycheck comes from.
4 So they have to write it. But...
5 **Q Right.**
6 **You knew in November of 2017 that Mr. Brewer,**
7 **the charge of strangulation against him had been dismissed**
8 **at the preliminary hearing. Correct?**
9 A On -- I knew at some point. I can't remember
10 the date, but I knew at some point that it had been
11 dismissed at preliminary hearing.
12 **Q Why didn't you direct the City to immediately**
13 **reinstate him with back pay once he had that charge thrown**
14 **out at the preliminary?**
15 A Still had a misdemeanor.
16 **Q Had he been given any pre-D hearing rights on**
17 **the misdemeanor immediately after he was -- the**
18 **strangulation charge was dismissed?**
19 A That's why I don't remember specifically, but I
20 thought we brought him back to go ahead and do -- even
21 though we had -- even though we had already put him on
22 based on charges being filed in domestic violence, I am not
23 -- I thought we brought him back on the misdemeanor to go
24 ahead and keep him on that. I mean, I think, technically,
25 probably could have just kept him on because he was filed

Page 110

1 on on domestic violence. And the directive allows me to do
2 it on both, and I would keep it on both.

3 So he had due process already on the charge of
4 domestic violence. The misdemeanor, the misdemeanor I
5 believe was filed at the -- was also filed. I may be wrong
6 on that. And then I thought we brought him back. I don't
7 know. I am not specific. But yes. He was going to be
8 keep on administrative leave without paying since he had
9 the misdemeanor. The misdemeanor, he was still charged
10 with that.

11 **Q Didn't the administrative leave without pay**
12 **paperwork that he received from the City state that he**
13 **would be reinstated with backpay if he was acquitted?**

14 A Yes. I believe so. I would have to look at
15 it, but should be.

16 **Q So why did he have to file a grievance and**
17 **fight to get his backpay back after he was acquitted?**

18 MR. SMITH: Object to the form.

19 THE WITNESS: I don't remember all the
20 circumstances. So it's hard for me to answer that.

21 **Q (By Mr. Bowers) The backpay that he would have**
22 **been entitled to after acquittal, that wasn't money out of**
23 **your pocket; right?**

24 A No.

25 **Q Didn't you want to treat him fairly after he**

Page 111

1 **was acquitted and immediately place him back to work and**
2 **reinstate him with backpay?**

3 MR. SMITH: Object to the form.

4 THE WITNESS: Again, I would have to -- I would
5 have to know exactly what you're referring to and the
6 specifics on that, because it's my recollection I did put
7 him back after he was acquitted on all the domestic
8 violence charges. He was put back with pay. That's my
9 recollection.

10 **Q (By Mr. Bowers) Do you recall putting him --**
11 **after the -- so the timeline is the strangulation charge is**
12 **filed against him in July of 2017.**

13 A Okay.

14 **Q He's then charged with the misdemeanor in**
15 **October of 2017. Okay? I am just representing to you**
16 **that's the timeline?**

17 A Okay. I don't -- okay.

18 **Q The initial -- is it your memory that the**
19 **initial time he was placed on administrative leave without**
20 **pay, that was for the strangulation charge only?**

21 A I would have to look and see. I mean, if they
22 were -- if the misdemeanor had not been filed at that
23 point, yes. It would have been for the -- it would have
24 been for the strangulation only.

25 **Q Do you remember going to or having two pre-D**

Page 112

1 **hearings or filling out two pre-D paperwork with Mr. Brewer**
2 **for the two separate charges?**

3 A That's what I think. I mean, I think I recall
4 that we did have two separate hearings because I felt like,
5 on the misdemeanor, it required another due process.

6 **Q And so, on the misdemeanor, you again put him**
7 **on administrative leave without pay?**

8 A Yes.

9 **Q Was anyone telling you that Mr. Brewer would be**
10 **found guilty of either of those crimes?**

11 A I don't think anybody knew for sure. No. I
12 don't remember anybody saying that.

13 **Q Did you know that Mr. Brewer filed for**
14 **unemployment in the summer of 2018?**

15 A Yes.

16 **Q Did you know that he was ultimately awarded**
17 **unemployment benefits from the state?**

18 A Yes.

19 **Q Did you make the decision on behalf the City to**
20 **initially deny his unemployment application?**

21 A No. That's the City. I wasn't involved in
22 that.

23 **Q But you know that decision was made?**

24 A Yes.

25 **Q Do you know who made that decision?**

Page 113

1 A No.

2 **Q Did you participate in any way in the**
3 **unemployment benefit process?**

4 A No.

5 **Q Did you know that the City appealed the finding**
6 **in his favor on the -- from the Oklahoma Employment**
7 **Security Commission?**

8 A I don't remember that.

9 **Q Did you ever learn that Susan Stallings, the**
10 **ADA that was prosecuting the case against Mr. Brewer,**
11 **requested continuances of the trial?**

12 A I wouldn't -- I wasn't aware of when she
13 requested anything.

14 **Q Did you have any communications with Susan**
15 **Stallings about the charges against D.G. Brewer at any**
16 **point in time?**

17 A I don't remember having any.

18 **Q Did you learn that Mr. Brewer decided to go**
19 **back to school and finish his degree while this -- while he**
20 **was on administrative leave?**

21 A I think I do remember that.

22 **Q What did you do when he submitted his tuition**
23 **reimbursement request?**

24 A I think it was authorized.

25 **Q Was it authorized initially?**

Page 114

1 A I don't remember. I just remember authorizing
2 it. I don't remember denying it. I remember questioning
3 whether we could or not. I may have talked to legal, but I
4 don't think I officially denied it before I talked to
5 anybody.
6 **Q So you don't remember Mr. Brewer having to file**
7 **a grievance through the FOP to receive his tuition**
8 **reimbursement?**
9 A I don't remember that.
10 **Q You know that Mr. Brewer has tattoos; correct?**
11 A Yes.
12 **Q What were your personal thoughts about**
13 **Mr. Brewer's tattoos?**
14 A Don't care.
15 **Q Did you -- do you remember receiving a letter**
16 **from an attorney named Noble McIntyre regarding**
17 **Mr. Brewer's tattoos several years ago?**
18 A I would -- I remember receiving something. It
19 had to do with him wanting to wear his tattoos exposed,
20 wear his uniform with his tattoos exposed, I believe.
21 **Q I will hand you what I will mark as Exhibit 2**
22 **to your deposition. Please tell me when you have had a**
23 **chance to review that.**
24 A Okay.
25 **Q Do you remember receiving this letter?**

Page 115

1 A Yes.
2 **Q Do you find Mr. Brewer's tattoos to be**
3 **unsightly or unprofessional?**
4 A Yeah. Unprofessional. That's why the policies
5 were put in place.
6 **Q Did you tell Major Patrick Stewart to instruct**
7 **D.G. Brewer if he didn't cover his tattoos, he would be**
8 **placed on administrative leave for insubordination?**
9 A Yes. Because he would be in violation of the
10 policy pertaining to tattoos.
11 **Q If one officer has tattoos in a specific area**
12 **of the body and that doesn't violate policy, shouldn't**
13 **another officer be able to do the same?**
14 A If they're not -- if they're not in violation
15 of the policy.
16 **Q If one officer is treated differently with**
17 **respect to the tattoo policy, then that would be**
18 **discrimination; correct?**
19 A Yes. They shouldn't be treated differently.
20 **Q Did the City's policy on tattoos force officers**
21 **to cover up their tattoos with long sleeves even in the hot**
22 **summer months?**
23 A Yes.
24 **Q Did you ever perceive that the policy could be**
25 **interpreted as punishment to those officers that were**

Page 116

1 **affected by the tattoo policy?**
2 MR. SMITH: Object to the form.
3 THE WITNESS: No.
4 **Q (By Mr. Bowers) Don't you think it would seem**
5 **unfair to an officer forced into long sleeves due to the**
6 **tattoo policy if another officer was allowed to wear short**
7 **sleeves?**
8 A They shouldn't. Both of them should be
9 required to cover it up.
10 **Q Well, you see the content of the letter from**
11 **Noble McIntyre to you alleges that there was discrimination**
12 **in how that policy was applied; Correct?**
13 A Yes. That's what they're saying.
14 **Q Did you take any steps at all to investigate**
15 **whether that statement was true and correct?**
16 A Yes.
17 **Q And what did you determine?**
18 A Well, I talked to the division commanders to
19 make sure they checked with all of their division
20 commanders out in the divisions and make sure that they
21 were aware, the supervisors are supposed to be aware that
22 any officer that has exposed tattoos are not in compliance
23 with the policy unless they had tattoos prior to the policy
24 being implemented.
25 **Q Did you determine whether that policy was being**

Page 117

1 **applied consistently across all officers?**
2 A I -- I did -- I did not find, nor did any of
3 the command find, where it was not being applied
4 consistently. If they had tattoos prior to -- prior to the
5 policy going into place -- because we went through the
6 arbitration process, and they were allowed to expose their
7 tattoos. After that, if they got -- if they received any
8 new tattoos, then they were not. If we were made aware of
9 them, then that would be addressed and they would have to
10 wear -- keep them covered. And there were some that were
11 covered as a result of that, that had gotten tattoos
12 afterwards.
13 So I don't recall any -- any -- any disparate
14 treatment. You know, I'm not saying there isn't any
15 because you can't keep track of everybody, and tattoos is
16 particularly difficult. And that's why I wanted to put it
17 in place in the first place where we didn't allow tattoos
18 at all. But I didn't. I lost that in arbitration.
19 **Q Have you stated in the past that you spoke to**
20 **citizens who said they didn't like police officers with**
21 **tattoos?**
22 A Yes.
23 **Q Have you stated in the past that you spoke to**
24 **citizens who said that tattoos didn't look professional?**
25 A Yes.

Page 118

1 Q Did you take those types of statements into
2 consideration when making the tattoo policy?
3 A Yes. I mean, that was part of it. That was
4 part of the arbitration, that they -- we had received
5 complaints that they were afraid of the officer based on
6 the number of tattoos they had.
7 Q Have you had any complaints from citizens about
8 officers being overweight?
9 A Complaints? I think I have received some
10 e-mails about officers being out of shape.
11 Q Have those types of e-mails that you have
12 received indicated that they -- these people don't believe
13 that officers who are out of shape are professional or
14 prepared to do the job?
15 A That would be -- that would be a fair
16 categorization of some of those.
17 Q As a result of those types of statements from
18 citizens, did you implement any policies that required
19 officers to lose any amounts of weight?
20 A We have talked to the FOP in the past over and
21 over again about having a wellness program that would make
22 some requirements, but you were never going to get to that
23 point.
24 Q Well, the FOP didn't agree on the tattoo policy
25 initially either, did it?

Page 119

1 A No.
2 Q So you had to fight on that policy, too; right?
3 A Yes.
4 Q And they didn't agree on the administrative
5 leave without pay; right?
6 A Correct.
7 MR. SMITH: Object to the form.
8 Q (By Mr. Bowers) The FOP didn't?
9 A Correct. They did not.
10 Q The FOP did not consent to that. That was
11 something that was determined through arbitration; right?
12 A Uh-huh. Yes.
13 Q Do you think that an officer having tattoos
14 makes them more unfit for duty than an officer who is
15 overweight and can't perform the job properly?
16 A No.
17 MR. SMITH: Object to the form.
18 THE WITNESS: No.
19 Q (By Mr. Bowers) Do you know that D.G. Brewer
20 remains on restricted duty status?
21 A I don't -- I don't know what statuses are since
22 I have been gone.
23 Q If he returns to full-duty status, do you
24 understand if he will be able to wear short sleeves when he
25 goes back to work?

Page 120

1 A Based on the policy when I left, no. He would
2 not. He would still have to cover them up based on that
3 policy.
4 Q Do you know if that policy has changed?
5 A I do not know that it has changed.
6 Q Other than Major Stewart, have you told anyone
7 else on the department to tell D.G. Brewer to wear long
8 sleeves or face administrative leave?
9 A No. I don't remember doing that.
10 Q Have you told any other major or any other
11 person under your command while you were the chief that
12 their subordinates had to wear long sleeves or they would
13 be placed on administrative leave for insubordination?
14 A I don't remember any circumstances where that
15 specific statement was made other than the fact that if
16 they have tattoos and they're in violation of the policy,
17 then they have to have them covered.
18 Q Did you ever speak to Noble McIntyre about this
19 letter that he sent?
20 A I do not remember speaking to Noble McIntyre.
21 Q Do you recall what the resolution of this issue
22 was with Mr. Brewer's tattoos?
23 A No. Usually what I will do with these letters
24 is I will work with legal to respond to another legal
25 entity or to these types of letters. So I've got to assume

Page 121

1 there's a response from us or from me drafted through
2 legal.
3 Q All right. Going back to the subject of the
4 domestic incident involving Mr. Brewer and Ms. Cox.
5 A Uh-huh.
6 Q Did you know that the Oklahoma City Police
7 Department placed Mr. Brewer's daughter into protective
8 custody?
9 MR. SMITH: Object to the form.
10 You can answer if you understand it.
11 THE WITNESS: So go ahead and repeat the
12 question.
13 Q (By Mr. Bowers) Yeah.
14 Do you know that the Oklahoma City Police
15 Department placed Mr. Brewer's daughter in protective
16 custody?
17 MR. SMITH: Show my objection.
18 Go ahead.
19 THE WITNESS: At some point, I was aware of his
20 daughter being placed in protective custody. I don't
21 recall -- if it's with OCPD, probably in conjunction with
22 DHS, but I do remember that his daughter was placed in
23 protective custody at some point.
24 Q (By Mr. Bowers) Did you instruct Captain Arthur
25 Gregory to take his daughter into protective custody?

Page 122

1 A No.

2 **Q Were you aware that the department was**

3 **considering protective custody before it happened?**

4 A I don't remember being aware of it.

5 **Q What is the relationship between DHS and OKCPD**

6 **when they go to a home to determine if protective custody**

7 **will take place?**

8 A The relationship is, is that we work in

9 conjunction with Department of Human Services. I know when

10 the -- when they were doing away with the shelter, the

11 agreement between Oklahoma City and DHS was that they would

12 have somebody available so that officers would not have to

13 spend all afternoon or the whole shift trying to find

14 somebody to locate for those -- for the children to stay

15 with.

16 So the relationship, the agreement was that

17 they would have somebody available to respond to help make

18 that determination as to whether or not those -- they

19 should be taken into protective custody. And then they

20 would be responsible for placement of those kids, since we

21 were no longer putting children in shelters.

22 **Q What was your understanding about what DHS**

23 **would do to place these children who were taken into**

24 **protective custody?**

25 A I don't know. I don't have any extensive

Page 123

1 understanding. I just understood it was their

2 responsibility.

3 **Q You did know at the time that the members of**

4 **the OCPD did physically take Mr. Brewer's daughter from**

5 **him?**

6 A Right. At some point -- I mean, originally,

7 usually, the police officers will take custody of children

8 if it's determined that they -- that they need to be in the

9 custody of somebody other than their parent. So I can't

10 tell you what led up to that, but that is routine.

11 Officers -- you know, we can't avoid some responsibility of

12 taking kids into custody, but DHS has to come out and work

13 the case and then, basically, they have to, you know, kind

14 of agree or evaluate whether or not that should really take

15 place.

16 **Q Have you ever read any of the police reports**

17 **regarding the placement of Mr. Brewer's daughter into**

18 **protective custody?**

19 A I don't remember reading any of them.

20 **Q Have you spoken to either of the officers who**

21 **were present when she was placed into protective custody?**

22 A No.

23 **Q Do you know who placed her into protective**

24 **custody?**

25 A No.

Page 124

1 **Q So you don't know that it was Captain Arthur**

2 **Gregory or Lt. Aaron Ullman?**

3 A No.

4 **Q Did you know that D.G. Brewer allowed Captain**

5 **Gregory and Lt. Ullman to remain in his home for about**

6 **three hours before they placed his daughter into protective**

7 **custody?**

8 A No.

9 **Q Did you know that they remained in his home**

10 **after he told them that they had to leave?**

11 A No.

12 **Q Weren't they -- aren't officers required to**

13 **leave the home immediately after they have been instructed**

14 **that there's no longer any consent for them to be there?**

15 MS. FELKNER: Object to the form.

16 THE WITNESS: I don't -- I can't answer that.

17 I don't know.

18 **Q (By Mr. Bowers) You don't know the answer to**

19 **that?**

20 A I don't.

21 **Q To your knowledge, has there been any**

22 **investigation of Arthur Gregory or Lt. Aaron Ullman for**

23 **their role in placing Mr. Brewer's daughter into protective**

24 **custody?**

25 A Not that I know of.

Page 125

1 (See Confidential Transcript of Deposition of William Citty

2 for this portion of testimony)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Page 126

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

Page 127

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

Q (By Mr. Bowers) From time to time in the performance of your duties as the chief, you would be contacted by reporters. Is that true?

A Yes.

Q From time to time, you would give interviews to the reporters that contacted you; correct?

A Yes.

Q Were you contacted by any reporters following Mr. Brewer's acquittal on the domestic violence charges?

A I don't remember being contacted.

Page 128

1 **Q Did you read any news reports in the Oklahoman,**
2 **specifically, following the acquittal of Mr. Brewer on the**
3 **domestic violence charge?**
4 A I don't remember. There may have -- I may
5 have, but I don't remember.
6 **Q Do you remember reading one juror state that**
7 **they saw that Kristi Cox was the aggressor?**
8 MR. SMITH: Object to the form.
9 Go ahead.
10 THE WITNESS: No. I don't remember.
11 **Q (By Mr. Bowers) Are you aware that Kristi Cox**
12 **pled the Fifth during her civil deposition in this case?**
13 A Don't remember that.
14 **Q So you're not aware that she pled the Fifth**
15 **more than 100 times in answering questions, including**
16 **questions such as whether she felt pressured by the**
17 **detectives to answer certain questions certain ways?**
18 A No. Not aware of that.
19 MR. SMITH: Object to the form.
20 **Q (By Mr. Bowers) Does it sound like an innocent**
21 **victim to you that would plead the Fifth over a hundred**
22 **times in response to those types of questions?**
23 MR. SMITH: Object to the argument.
24 You can answer it.
25 THE WITNESS: I don't have an answer for that.

Page 129

1 I wouldn't make a judgment on that just based on what you
2 said.
3 **Q (By Mr. Bowers) You know that the investigators**
4 **who actually responded to the scene of the domestic**
5 **incident determined that Ms. Cox should be arrested;**
6 **correct?**
7 A I believe -- I don't remember exactly all the
8 circumstances, but somebody did, obviously.
9 **Q You don't know who made that decision,**
10 **ultimately?**
11 A I don't remember.
12 **Q Do you think there's any possibility that those**
13 **investigators got it right?**
14 MR. SMITH: Object to the form.
15 You can answer.
16 THE WITNESS: Is there a possibility they got
17 it right?
18 **Q (By Mr. Bowers) Yes, sir.**
19 A Well, I hate to say -- I hate -- I never say
20 never, so maybe. There always could be maybe. But it was
21 determined, I think, when somebody else looked at it more
22 closely, that that wasn't the right decision. So I trust
23 -- I trust, the fact that somebody looked at it more
24 closely, that that decision was probably the right
25 decision.

Page 130

1 But based on the information, I am not going to
2 be critical. Based on the information the person had out
3 there at the time, that may have been the right decision.
4 But I am not going to say necessarily that it wasn't.
5 But...

6 **Q Do you think that the Oklahoma City Police**
7 **Department did everything that citizens would expect them**
8 **to do in the investigation of D.G. Brewer and Kristi Cox?**

9 A I would hope so. There's always going to be
10 arguments that other stuff should be done. I don't ever
11 know an investigation, period, that I have ever been
12 involved in where somebody didn't criticize something. I
13 mean, even when you go to trial and it's -- and it's -- the
14 attorneys get involved, attorneys are always going to be
15 critical. I mean, that's just the nature of the beast.
16 So it's hard to do a perfect investigation, but
17 I would hope that, overall, citizens would think that they
18 did a good investigation on that and did what they would be
19 expected to do.

20 **Q Do you think that citizens should feel that way**
21 **in this case?**

22 A I think citizens should feel that way in all
23 cases. So this case would be included in "all cases."
24 **Q Public confidence in the investigations that**
25 **the Oklahoma City Police Department conducts is important,**

Page 131

1 **wouldn't you agree?**

2 A Trust in the police department to do a good job
3 is important.

4 **Q If citizens don't trust in their police**
5 **department, then that can lead to adverse consequences;**
6 **correct?**

7 A Yes.

8 **Q That can lead to situations where citizens**
9 **don't report crimes or don't want to be witnesses to**
10 **crimes. Right?**

11 A That's correct.

12 **Q And that can create more crime in a community;**
13 **right?**

14 A That's exactly right.

15 **Q So it's extremely important that citizens have**
16 **confidence in the police department. Would you agree with**
17 **that statement?**

18 A Yes.

19 **Q Do you think that citizens expect that OCPD**
20 **officers will lawfully carry out their duties?**

21 A Yes.

22 **Q Do you think that's a reasonable expectation**
23 **for citizens of this state?**

24 A Yes.

25 **Q Do you think it's reasonable for citizens of**

Page 132

1 **this state to expect that, if officers on the Oklahoma City**
2 **Police Department violate their oath of office and violate**
3 **someone's constitutional rights, that they will be**
4 **investigated and disciplined as appropriate?**

5 A Yes.

6 MR. SMITH: Object to the form.

7 **Q (By Mr. Bowers) Do you think that citizens of**
8 **the State of Oklahoma expect that officers will follow the**
9 **law when conducting protective custody of children?**

10 A Yes.

11 **Q Do you think that citizens expect officers to**
12 **follow the law when preparing probable cause affidavits?**

13 A Yes.

14 **Q Do you understand it that officers must include**
15 **material exculpatory information in probable cause**
16 **affidavits?**

17 A Yes.

18 **Q Do you think the citizens of Oklahoma City**
19 **would not expect for officers to purposefully ignore**
20 **evidence in an investigation? Right?**

21 A Yes.

22 **Q You wouldn't expect that the citizens would**
23 **think that officers would lie on police reports to**
24 **influence charging decisions; right?**

25 A Right.

Page 133

1 **Q And you would -- and the citizens of this state**
2 **don't expect that officers will withhold information from**
3 **the district attorney; right?**

4 A Yes.

5 **Q Citizens of this state can reasonably expect**
6 **that officers won't intentionally destroy evidence; right?**

7 A Yes.

8 **Q That's a serious accusation to make against an**
9 **officer, isn't it?**

10 A Yes.

11 MR. SMITH: Object and asked and answered at
12 least four times.

13 **Q (By Mr. Bowers) Do you know how long the jury**
14 **deliberated before acquitting Mr. Brewer?**

15 A No.

16 **Q Did you make the final decision to promote or**
17 **to transfer Billy Patten to the Domestic Violence Unit?**

18 A Did I make the final decision?

19 **Q Yes, sir.**

20 A I can't remember at what point he was -- I
21 don't remember the circumstances behind it, but yeah. I --
22 usually, if they're transferred from any one division to
23 another, I have to make the final decision.

24 **Q He received that assignment after Jason Clifton**
25 **was promoted to the rank of major.**

Page 134

1 A Okay.

2 **Q Does that help your recollection?**

3 A No. Yeah. I mean, the same -- same answer. I

4 mean, if he's transferred from one division to another to

5 fill a vacancy, then I have to make that final decision.

6 **Q I am going to hand you what I will mark as**

7 **Exhibit 3 to your deposition, sir.**

8 **Do you remember what date you -- your**

9 **retirement from OCPD was effective?**

10 A It was May 3rd, I think.

11 **Q Did you know that Mr. Brewer would be returned**

12 **to a restricted duty status shortly after your retirement?**

13 A No.

14 **Q Did you participate in that decision at all?**

15 A No.

16 **Q Why had you not brought him back to a**

17 **restricted duty status prior to your retirement?**

18 A Because -- because there was still

19 administrative work to be done on allegations, the

20 incident. I am not sure -- if the administrative

21 investigation's finished, I can see -- I would probably do

22 the same. But if it's not, I probably wouldn't have made

23 the same decision.

24 My deal is if there's -- if there's -- if

25 there's allegations that possibly could rise to the level

Page 135

1 of termination, and I don't know -- and I don't know. I

2 don't know where that administrative investigation is,

3 because they could still be investigating it.

4 They could be investigating things that I would

5 consider -- they could eliminate things and still be

6 investigating things that I would consider not rising to

7 the level of termination. And then I would be more likely

8 to put him back on restricted duty, even if the

9 investigations were still going on.

10 **Q Did you receive regular briefings from IA about**

11 **investigations into officers?**

12 A Yeah. Yeah. They usually provided it. They

13 would -- they would be closer to completing certain

14 segments of that or, if they had questions about issues

15 that they needed my decision on how to move forward, then

16 they would brief me on those types of things.

17 **Q Can you identify any prior example of when you**

18 **left an officer on administrative leave even after the**

19 **officer had been acquitted of a crime?**

20 (See Confidential Transcript of Deposition of William Citty

21 for this portion of testimony)

22

23

24

25

Page 136

1

2

3 **Q When you say "the kid," do you mean the officer**

4 **or --**

5 A The young officer. Yeah. So there others.

6 That's one that comes to mind, but there are others. There

7 are others that had been charged and a disposition was

8 made.

9 **Q Can you recall the names of any others?**

10 A I can't off the top of my head. I just know

11 that there have been.

12 MR. SMITH: I actually think that guy was

13 convicted, but since I don't remember, confidential for

14 now.

15 MR. BOWERS: That's fine.

16 **Q (By Mr. Bowers) Can you explain why the**

17 **Internal Affairs investigation into D.G. Brewer was not**

18 **completed in the two years that it went on before your**

19 **retirement?**

20 A Well, the two years I've got to assume included

21 the time that the criminal investigation was going on until

22 the time it got -- a year of it, probably at least half of

23 it was before he was ever acquitted. So that -- they

24 wouldn't have even started an admin investigation during

25 that time. So now you're looking at maybe 12 months into

Page 137

1 that, that they would have -- they would have it to

2 complete.

3 So, you know, the important thing to me and

4 always had been was that they did an accurate job, plus

5 they have a lot of other things going on. So sometimes the

6 investigations will drag out. We try not to, but sometimes

7 they will depending on how complicated it is and what they

8 need to do.

9 **Q Do you know when Mr. Brewer was interviewed by**

10 **IA?**

11 A I do not.

12 **Q So you don't know if that was before or after**

13 **your retirement?**

14 A I do not.

15 **Q But you know -- I will tell you that he was**

16 **acquitted in October of 2017 -- or 2018. Excuse me.**

17 **Don't you think that, from that time until the**

18 **time you retired, that that was a reasonable enough time**

19 **for IA to complete this investigation?**

20 A Just depends on -- just depends on what they

21 have to do in that case and all the other investigations

22 they have going on at the same time.

23 **Q At the time of your retirement, who was the**

24 **highest ranking officer directly over Internal Affairs**

25 **other than yourself?**

Page 138

1 A There was none. Oh. You mean a captain within
2 Internal Affairs? There's two captains.
3 **Q Do you remember who those captains were?**
4 A Well, I promoted Ron Bacy out of there before I
5 left. So I think he was replaced by Shane Neal. And the
6 other one would be Tom Kruecke.
7 **Q While an officer is on administrative leave,**
8 **they're not allowed back into a police building. Is that**
9 **true?**
10 A Yes.
11 **Q They don't have their department-issued gun and**
12 **badge?**
13 A Yeah. They don't have -- they don't have any
14 police powers or access to the police department at that
15 point.
16 **Q Did you find out at any point in time that**
17 **Mr. Brewer, while he was on administrative leave, was**
18 **seeking a job at the computer company Dell?**
19 A I don't remember that.
20 **Q You don't remember that he got hired at Dell?**
21 A I don't remember that.
22 **Q Did you instruct Captain Dan Bigelow that he**
23 **needed to tell D.G. Brewer to resign at Dell immediately or**
24 **he would face potential embezzlement or double-dipping**
25 **charges?**

Page 139

1 A I don't -- I don't remember. I mean, that
2 would -- that issue would be an issue that we would have to
3 discuss with legal with the city as to whether or not,
4 because I know that -- I know, if they are on
5 administrative leave, I believe for a period of time, if
6 they -- once they're brought back, if they're drawing a
7 salary, then some of their pay they have to pay back. Most
8 of that I leave up to the city and the attorneys, the city
9 attorneys.
10 I don't remember that conversation. I am
11 saying it would be an issue. It would be something that we
12 would have to discuss with legal and the city and whether
13 or not if that was going to be allowed or not. Because he
14 was drawing a full salary during that time.
15 **Q Did you know that Mr. Brewer couldn't get a job**
16 **before October -- before his acquittal because he couldn't**
17 **pass a background check?**
18 A I don't know anything about that.
19 **Q You're not aware of any efforts he made to**
20 **obtain employment?**
21 A I am not.
22 **Q So you didn't know that he was interviewed at**
23 **multiple places while he was on AL?**
24 A I don't. I wasn't aware of that.
25 MR. BOWERS: All right. Let's take a short

Page 140

1 break, and I will wrap up here in a few minutes.
2 (Short Recess from 1:30 p.m. to 1:45 p.m.)
3 **Q (By Mr. Bowers) We're back on the record.**
4 **Prior to your retirement, is it true that the four deputy**
5 **chiefs underneath you accused you of retaliation?**
6 MR. SMITH: Object to the form. Object to the
7 relevance.
8 You can elect to answer it.
9 THE WITNESS: Yes.
10 **Q (By Mr. Bowers) Did you also testify in a jury**
11 **trial brought by Lt. Phil Williams against yourself and the**
12 **City?**
13 A Yes.
14 **Q What was the result of the jury trial, sir?**
15 A The jury trial, they found me in violation of
16 -- I can't even remember what the specific term was. That
17 he was not -- he was not allowed to investigate the case.
18 And I mean, I can't remember the specific charge.
19 **Q Did the jury find that you had retaliated**
20 **against Phil Williams --**
21 A Yes.
22 **Q -- for being a whistler?**
23 A Yes.
24 **Q Have you been -- have you ever testified in any**
25 **other jury trials that named you as a defendant?**

Page 141

1 A Yes.
2 **Q Other than the Lt. Phil Williams case, has**
3 **there ever been a jury verdict against you, personally?**
4 A No.
5 MR. BOWERS: I have no other questions.
6 CROSS-EXAMINATION
7 BY MR. LANGFORD:
8 **Q Chief Citty, my name is John Langford. We met**
9 **briefly earlier today, but I represent Lacey Warren in this**
10 **case, one of the other defendants in the case.**
11 **Do you know Lacey Warren?**
12 A Not to my recollection. No.
13 **Q Never met her before?**
14 A Uh-uh.
15 **Q Do DHS social workers have the power to direct**
16 **OCPD officers to do or not do anything?**
17 A No.
18 **Q Is the decision to place a child into**
19 **protective custody that of the officer?**
20 A I think by state statute, it is.
21 MR. LANGFORD: That's all I have.
22 MR. SMITH: Stacey?
23 MS. FELKNER: I have no questions.
24 CROSS-EXAMINATION
25 BY MR. SMITH:

Page 142

1 Q Regarding the Phil Williams case, did you see
2 the order of Judge Friot on your motion for new trial?

3 A Yes.

4 Q Did Judge Friot say that you did an honorable
5 thing and you performed a difficult task with great -- or
6 at least an honorable position?

7 MR. BOWERS: Object to the form.

8 THE WITNESS: Yeah. I think he -- he
9 insinuated disagreement with the jury. So that's exactly
10 what he said.

11 Q (By Mr. Smith) The deputy chief's grievance,
12 was that investigated by the City of Oklahoma City?

13 A Yes.

14 Q And did the City of Oklahoma City find that you
15 did not retaliate against the deputy chiefs?

16 A Yes.

17 Q Did any of your actions regarding the domestic
18 violence incident involving D.G. Brewer and Kristi Cox, did
19 any of your decisions or were any of them based on the fact
20 that D.G. Brewer violated the OCPD tattoo policy?

21 A Say that again. Kind of -- that was kind of
22 lengthy.

23 Q I know. I am just rambling.

24 Did any of your actions regarding the domestic
25 violence incident between D.G. Brewer and Kristi Cox, did

Page 143

1 you take any of those decisions because of his tattoos?

2 A No.

3 Q Did you ever see Detective Lakin's affidavit of
4 probable cause prior to the time Judge Truong signed it?

5 A No.

6 MR. SMITH: No further questions.

7 MR. BOWERS: I don't have anything else.

8 MR. SMITH: He will read and sign.

9 (Deposition concluded at 1:48 p.m. and witness excused
10 after 2 hours and 53 minutes on the record)

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

JURAT

I, William Citty, do hereby state under oath that I have read the above and foregoing deposition in its entirety and that the same is a full, true, and correct transcription of my testimony so given at said time and place, except for the corrections noted.

_____ WITH CORRECTIONS
_____ WITHOUT CORRECTIONS

Subscribed and sworn to before me, the undersigned Notary Public in and for the State of Oklahoma, on this, the _____ day of _____, 2019.

NOTARY PUBLIC

My Commission Expires: _____
My Commission Number: _____

Reported by: Lori Johnston Harstad, CSR, RPR, CLR, RSA

1 ERRATA SHEET

2 WITNESS: William Citty

3 CASE STYLE: Brewer v. City of OKC, et al.

4 REPORTER: Lori Johnston Harstad, CSR, RPR, RSA

5 PAGE LINECORRECTION AND REASON

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

20 _____

21 _____

22 _____

23 _____

24 _____

25 _____