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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUWAUN FRASER,

Plaintiff,

Case No.:
20-CV-4926(CM)

v.

THE CITY OF NEW YORK and UNDERCOVER OFFICER
NUMBER 84, DETECTIVE MATTHEW REGINA, and
DETECTIVE JASON DELTORO, Individually and as
Member of THE NEW YORK CITY POLICE
DEPARTMENT,

Defendants.

REMOTE 30(b)(6) DEPOSITION OF
THE NEW YORK CITY POLICE DEPARTMENT

BY ARI MAAS

MONDAY, JUNE 21, 2021

1:07 p.m. (EDT)

Reported by: Stephanie M. Butler

Job Number: J7196818

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June 21, 2021
1:07 p.m. (EDT)
New York, New York

Remote 30(b)(6) Deposition of The
New York City Police Department by Ari Maas,
held via Zoom videoconferencing, pursuant to
Notice, before Stephanie M. Butler, a Notary
Public of the State of New York.

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R E M O T E A P P E A R A N C E S :

LAW OFFICES OF JOEL B. RUDIN, P.C.

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 MATTHEW WASSERMAN, ESQ.

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A L S O P R E S E N T :

MICHAEL PUMA, ESQ.
New York City Police Department

SIDURI BECKMAN, PARALEGAL
Law Offices of Joel B. Rudin, P.C.

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MAAS

THE COURT REPORTER: My name is Stephanie Butler, a New York State notary public.

This deposition is being held via videoconferencing equipment. The witness and reporter are not in the same room.

The witness will be sworn in remotely, pursuant to agreement of all parties. The parties stipulate that the testimony is being given as if the witness was sworn in person.

A R I M A A S, called as a witness, having been duly sworn by a Notary Public, was examined and testified as follows:

EXAMINATION BY

MS. TAE:

Q State your name for the record.

A Ari Maas.

Q State your address for the record.

A One Police Plaza, New York, New York 10038.

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MAAS

Q Good afternoon, Captain Maas.

A Good afternoon.

Q My name is Haran Tae. I'm one of the attorneys representing the plaintiff, Jawaun Fraser, in a federal civil rights lawsuit brought in the Southern District of New York.

Do you understand that you are here today to give deposition testimony in connection with that lawsuit?

A Yes.

Q Okay.

And as you can see, we have Ms. Butler here today, who's the stenographer, to transcribe everything we're saying, so I just ask that you speak clearly and wait until I finish my question before you answer.

Do you understand that the stenographer can't transcribe nods or gestures, so you should communicate everything verbally?

A Understood.

Q Okay.

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MAAS

And, you know, we're doing this deposition over Zoom, but it's not going to be recorded. So, you know, I just want to stress that it's important that we have a clear record for the stenographer.

So please don't guess as to the answer. And if you don't know or don't remember, do you understand that it's okay to say that?

A Understood.

Q Okay.

And do you understand that if I ask you a question that you don't know the answer to or you don't understand or is in some way unclear, you may and, in fact, should ask me to either repeat, clarify, or rephrase the question?

A Understood.

Q Okay.

And do you understand that if you give an answer that upon reflection you believe is in some way incomplete or inaccurate that you may and, in fact, should correct or supplement your answer?

1 MAAS

2 A I understand.

3 Q Okay.

4 And do you understand that the
5 oath you just gave is the same oath that
6 anyone would take in a courtroom before a
7 judge and jury?

8 A I understand.

9 Q Okay.

10 And is there any reason why you
11 are not able to testify to the best of
12 your ability this morning, such as any
13 medical conditions that would prevent you
14 from being able to give testimony or
15 impact your ability to give testimony?

16 A Nothing I can think of.

17 Q Okay.

18 And are you represented by an
19 attorney for the purposes of today's
20 deposition?

21 A Yes.

22 Q And who is that attorney?

23 A I have a -- Michael Puma from
24 the New York City Police Department Legal
25 Bureau.

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MAAS

MR. FRANCOLLA: Me too.

A And I just don't know Brian's last name, unfortunately, from corporation counsel.

MR. FRANCOLLA: It's the name in your box.

Q And that's Mr. Brian Francolla from corporation counsel --

A That's correct.

Q -- is that correct? Okay.

And did you speak with either Mr. Puma or Mr. Francolla to prepare for your deposition today?

A I spoke with both of them.

Q Okay.

Did you speak with them together or separately?

A Together.

Q Okay.

And how many times did you speak with them?

A Once on Friday and then this morning right before this, this session.

Q Okay.

1 MAAS

2 And for each time, how long did
3 you speak with them for?

4 A Approximately two hours on
5 Friday and about 20 minutes to half an
6 hour this -- right before this session.

7 Q Okay.

8 And was that by phone or in
9 person?

10 A In person both times.

11 Q Okay.

12 And did you review any documents
13 to prepare for your deposition?

14 A I reviewed some documents, yes.

15 Q Okay.

16 And which documents were those?

17 A I reviewed some internal
18 documents and the complaint guide, the --
19 like I don't know the exact title of it.
20 I think it's the -- I'll read it to you in
21 a second.

22 Let me just pull it up. It's --
23 you sent it out this morning -- just to
24 get the exact title for the -- sorry. I'm
25 just navigating the -- the New York City

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MAAS

Police Department Supervisor's Guide
Monitoring and Assistance Programs.

Q Okay.

So other than the monitoring
program guide, did you review any other
documents?

A There was a -- just some
historical documents on the unit.

Q Could you describe those for me,
please.

A They're known as a 49 in police
department language, just when they
created the civil lawsuit monitoring
portion of monitoring.

Q Okay.

MS. TAE: So I would just ask
that defendants produce those
documents.

MR. FRANCOLLA: I think -- we'll
take it under advisement, Haran. I
think the reason we haven't yet, I
think the document -- and, Captain
Maas, correct me if I'm wrong -- is --
it's a recommendation for policies, so

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MAAS

there's a deliberative process
question, but we'll consider that.

And, obviously, asking him about
what it says or whatever is fine, but
we'll take that under advisement and
I'll get back to you. I just need to
confer further with my PD counterpart,
Mr. Puma.

MS. TAE: Okay.

BY MS. TAE:

Q So this, this document, is
called a "49," you said?

A In police department language,
any internal communication, it's -- would
probably in the business world be known as
a "to/from." It's called a "49" in the
police department parlance.

Q Okay.

And you said it contains -- it's
a sort of communication that contains
historical information about the NYPD's
monitoring?

I'm sorry. What --

A It's a -- it was a

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MAAS

recommendation made to -- between two executives and the police department to bring in civil lawsuit monitoring under the monitoring programs.

Q Okay.

And when was that document dated?

A I don't know.

Q And did that document refresh your recollection as to a specific issue or topic?

A No. I never had knowledge of that to begin with.

Q And where did that document come from?

A It was an internal document in the police department. I don't know where it was gotten from.

Q Was it provided to you by someone?

A It was provided by a person that was present when that unit was created or when that committee was started.

Q And which committee are you

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MAAS

referring to?

A Civil -- Civil Lawsuit
Monitoring Committee.

Q Okay.

So the document you're referring
to contains a recommendation by two
executives of the NYPD to create a Civil
Lawsuit Monitoring Committee as part of
the monitoring program at the NYPD?

A Yeah. It may have been went
through more than two executives' hands,
but it always -- it has a "from" and a
"to," so that -- when I say "two people,"
that's what I mean.

Q Okay.

Have you ever testified at a
deposition in a civil suit before?

A Never in a deposition.

Q And could you please describe
your educational background for me
starting from after high school, please.

A I have a four-year bachelor's in
civil engineering from Rutgers University.
I have a JD from New York Law School. And

1 MAAS

2 I have a master's of public policy from
3 Princeton University.

4 Q And could you give me the dates
5 of those degrees.

6 A 2005 would be my undergraduate
7 degree. 2013, I believe, would be my JD.
8 And 2017 would be my master's.

9 Q Okay.

10 And could you also provide me
11 with your employment history?

12 A From which point? Just the
13 New York City Police Department or --

14 Q Starting from, I guess, after
15 your college degree.

16 A I was sworn in as a police
17 officer in West Orange, New Jersey in July
18 of 2003. I joined the New York City
19 Police Department in January of 2006, at
20 which time I resigned from the West Orange
21 Police Department and joined the New York
22 City Police Department. And I've been
23 employed with the New York City Police
24 Department since that time.

25 Q Okay.

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MAAS

And could you please give me your assignments since you joined the NYPD.

A I was in the police academy in January 2006. I then -- after graduating in either June or July 2006, I was assigned to the 23 Precinct. I then went over in January of 2007 to the 26 Precinct. In November or December of that year, which was 2007, I went to the Counterterrorism Division. I was assigned until I was promoted to sergeant in February of 2011.

In February of 2011, I was promoted to sergeant and worked in the 10th Precinct. I don't remember when, but at some point when I was a sergeant, I was assigned to the Office of Management Analysis and Planning until I was promoted to lieutenant in 2011 -- I'm sorry, 2013.

When I was a lieutenant, I was assigned to the 13th Precinct for about a year. I don't remember the months, unfortunately. I think it was April 2013

1 MAAS

2 when I was promoted to lieutenant. I
3 worked there for about a year in the 13th
4 Precinct, and then I went to the IT
5 Bureau, the Information Technology Bureau,
6 for about a year as a lieutenant. I was
7 then promoted to captain in June of 2015,
8 where I worked in the Transit Bureau,
9 until I took over my position.

10 In September 2019, I was
11 transferred to Risk Management Bureau.
12 And then in February of 2020, I took over
13 as the commanding officer of the Risk
14 Mitigation Division.

15 Q And what are your
16 responsibilities in your current position?

17 A I am the commanding officer of
18 the Risk Mitigation Division, which
19 oversees the Performance Analysis Unit,
20 the Performance Monitoring Unit, which
21 consists of monitoring of all members of
22 the service on both the civilian and
23 uniformed side. I also coordinate the
24 Career Advancement Review Board for the
25 chief of personnel. And I coordinate the

1 MAAS

2 Risk's meetings, which are meetings that
3 are held twice a year with every command
4 in the city to discuss just body camera,
5 use of force, monitoring; things like
6 that.

7 Q And could you describe for me a
8 little bit more about the monitoring
9 program that you oversee.

10 A So the police department
11 oversees the monitoring program, which is
12 designed for enhanced supervision of
13 members of the service to try to help any
14 negative behaviors or traits they may have
15 to try to correct it and continue to have
16 them as productive members of the police
17 department.

18 Q Okay.

19 And do you understand that this
20 lawsuit pertains to the arrest and
21 prosecution of Jawaun Fraser, whose
22 conviction was vacated on the basis of the
23 failure to disclose civil lawsuit
24 information to the defense?

25 A I have a general knowledge that

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MAAS

that's what this is about.

Q Okay.

And did you review the Complaint
in this lawsuit?

A I read the Notice.

Q And you're referring to the
30(b)(6) Notice?

A That's correct.

Q Okay.
I'm just going to direct you to
what's been previously marked as
Exhibit 97.

(Whereupon, Notice of Deposition
Pursuant to Federal Rules of Civil
Procedure 30(b)(6), was marked as
Plaintiff's Exhibit 97 for
identification, as of this date.)

A Okay. Just give me a second to
pull it up.

Q Sure.

A I believe I have it. Yup, I
have it. Just -- yeah, I have it in front
of me.

Q Sure.

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MAAS

And is this the document that
you were just referring to?

A Yes, ma'am.

Q Okay.

And do you understand you're
here today to testify as a representative
for the NYPD?

A I understand that.

Q Okay.

And of the topics that are
listed on this Notice, which topics are
you prepared to testify regarding?

A Just give me a second to scroll
through there, please.

Q Sure.

A I believe it was 4 and 5, if I'm
not mistaken.

No, it wasn't 5. I apologize.

It's 3 and 4, I believe. So I'm just
trying to navigate both, the computer and
the --

Q That's okay. You can take your
time.

A 3 and 4. 3 and 4.

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MAAS

Q Okay.

MS. TAE: Sorry. Can we just go off the record real quick?

(Discussion held off the record)

BY MS. TAE:

Q So, Captain Maas, did you want to clarify which topics you're prepared to testify about today?

A Yeah. I can testify about Number 4, and then part of 3 and 6 that touch my area of expertise, I may be able to speak about, but I'm not an expert in those by any stretch of the means.

Q Okay. Thank you.
So, to your knowledge, does the NYPD have policies, practices, customs, or procedures to collect and maintain information about allegations of misconduct committed by officers?

A Can you clarify the question about misconduct?

Q Sure.
For example, allegations that an officer breached his --

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MAAS

MS. TAE: Withdrawn.

Q I guess, for example, actions that an officer should not do during the course of his duty as an officer; for example, fabricating evidence or falsely arresting people or coercing witnesses?

A So stuff that would be corruption or misconduct as you described, such as fabricating evidence or coercing a witness, would be reported to the Internal Affairs Bureau and would be handled as such.

There's other avenues of complaints through the Civilian Complaint Review Board, which would be probably false arrests; stuff like that would be handled by them unless it's serious misconduct conduct or corruption, at which point it goes to the Internal Affairs Bureau.

Q Okay.

And does the NYPD collect information, for example, of complaints that are lodged by people against a

1 MAAS

2 particular officer?

3 A So if those are complaints that
4 are lodged through the Civilian Complaint
5 Review Board, we do get that information
6 from CCRB.

7 Q Okay.

8 And when did the NYPD first
9 start receiving complaints from the CCRB?

10 A That, I don't know. Much prior
11 to my time on the police department.

12 Q And your -- you first started
13 with the NYPD in 2005?

14 A 2006. January 2006.

15 Q 2006. Okay.

16 So your understanding is that
17 the NYPD started receiving and tracking
18 information from the CCRB prior to 2006?

19 A To the best of my knowledge.

20 Q Okay.

21 And the NYPD has continued to do
22 so to the present day?

23 A As far as I know, we still do
24 it. Currently, as I -- since I took over
25 my position, in February of 2020, to

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MAAS

present, we currently do that.

Q Okay.

And does the NYPD track any complaints other than those that come through CCRB?

A They would track Internal Affairs complaints. I don't know how those are tracked.

Q Okay.

And do you know what complaints get processed through IAB?

A So I know what complaints get processed through the CCRB, which is force complaints, abuse of authority complaints, discourteous complaints, and offensive language complaints. Anything else would fall outside of the CCRB's purview and, I assume, get funneled through the Internal Affairs Bureau.

Q Okay.

And do complaints get tracked through commands?

A It depends. I don't know what IAB does when a complaint comes in to

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MAAS

them. They have their own, I would say, queueing system and their own way to send out the complaints.

Q And so assuming the operative period we're going to be discussing for the next few questions is from January 1st of 2005 to January 1st of 2020, how is the NYPD notified when a complaint was made against an officer either through the CCRB or IAB?

A If something comes in to IAB, the NYPD is notified direct that that complaint is made direct to IAB. So they would have to be assigned their own tracking number and their own -- IAB handles that at their -- per their policies and procedures.

For the CCRB, the officer gets notified as well through CCRB. I believe the officer gets notified because he or she would be called down to take part in their investigation. We get data from them regularly. It regularly updates all CCRB complaints lodged against our

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MAAS

members.

Q And CCRB is an agency that is separate from -- is a civilian agency separate from the NYPD?

A They are not part of the police department; that's correct.

Q Okay.
While the Internal Affairs Bureau is an internal department within the NYPD?

A That's correct. They're a bureau of the City of New York Police Department.

Q Okay.
And does the NYPD make a record or keep a list of complaints made against an officer?

A Can you be more specific?

Q Sure.
So does the NYPD have some sort of list or database that it maintains of CCRB or IAB complaints that have been lodged against an officer?

A CCRB maintains their own

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MAAS

database, which we use. We have -- our commissioner granted that we use CCRB's database. IAB has their own internal case management system that they use for their complaints.

Q Is there an NYPD database or system that collects and maintains in one database all complaints lodged against an officer including IAB and CCRB complaints?

A As far as my knowledge, I can't speak for the entire police department. My division does -- we use CCRB's data to do our analysis with, but we do not maintain a database separately and distinct with separate data other than the CCRB database.

Q And the CCRB database is something that the NYPD can freely access without having to ask for permission each time?

A I don't know the inner workings of how to get access to that. That's not at my level. I know that I have access through it through my position with the

1 MAAS

2 police department. I had to have a
3 request made to be able to do that.

4 Q Do you know who has access to
5 the CCRB database from the NYPD?

6 A I couldn't tell you for the
7 entire police department. As far as my
8 unit, the staff of my unit has access to
9 that database.

10 Q And to access that database, you
11 have to make a request each time?

12 A There's a -- not each time.
13 There's a general request, and then the
14 user will get their own credentials for
15 that database. So they don't have to ask
16 permission every time they use it, but
17 initially they have to ask for permission
18 to use it.

19 Q Okay.

20 And is that made -- is that
21 request made to the CCRB?

22 A It's made to a -- I'm not sure
23 who in the police department. And then
24 it's made to CCRB from the police
25 department.

1 MAAS

2 Q Okay.

3 So then you get like a username
4 and password that allows you to log in to
5 view the database?

6 A That's correct.

7 Q Okay.

8 Does the NYPD have something
9 that's called a Central Personnel Index?

10 A They do. CPI for short.

11 Q And can you explain to me what
12 that index is?

13 A I have a general knowledge of it
14 because I don't maintain it. That's
15 maintained by, I believe -- I'm not
16 100 percent sure, but I believe the chief
17 of personnel's office maintains that. We
18 use it. And it contains a record of an
19 employee's history with the police
20 department.

21 So if the person had an internal
22 investigation on there, that's obviously
23 not confidential or that's finished, that
24 would be listed on there. If the person
25 was transferred for cause, that would be

1 MAAS

2 listed on there. Car accidents -- motor
3 vehicle crashes, I believe it's called
4 now -- are listed on there; things like
5 that.

6 So just a chronological history
7 of somebody's employment with the police
8 department. Trial decisions and an
9 administrative hearing would be listed in
10 that.

11 Q You mentioned that confidential
12 investigations would not be listed in the
13 CPI?

14 A It wouldn't be listed until
15 it's -- until they're finished. Sometimes
16 what happens is, once an allegation is
17 made, it's listed on the CPI as an open
18 investigation. It's just not finalized
19 yet.

20 I don't mean to speak for IAB.
21 That was just me kind of -- generally
22 speaking, confidential information
23 wouldn't be listed onto a CPI at that
24 point.

25 Q What is considered confidential

1 MAAS

2 information?

3 A I'm not sure.

4 Q Would IAB complaints and their
5 dispositions be listed on the CPI?

6 A IAB complaints would -- I
7 imagine that they are. I can't speak for
8 IAB. But, generally speaking, anything
9 that is finalized should be on the CPI.

10 Q And that would include CCRB
11 complaints and dispositions as well?

12 A CCRB complaints are not on a
13 CPI.

14 Q Okay.

15 Would command-level complaints
16 be included on there?

17 A Command disciplines that do not
18 rise to an administrative trial would not
19 be on the CCRB -- I'm sorry, would not be
20 on the CPI.

21 Q What about lawsuits filed
22 against an officer? Would that be
23 included in a CPI?

24 A There are instances of lawsuits
25 being filed against somebody listed on a

1 MAAS

2 CPI.

3 Q You mentioned there are
4 instances.

5 Does that mean that not every
6 lawsuit filed against an officer would be
7 included in the CPI?

8 A Since I don't maintain the CPI
9 or work there, I couldn't tell you what
10 their criteria is to include it. I know
11 that personally in my work I've seen them
12 on a CPI.

13 Q And what is your understanding
14 of what happens once a complaint is made
15 through the IAB?

16 A IAB will take in the complaint.
17 They'll assign an investigative unit to
18 investigate that complaint, whether it's
19 going to be IAB directly or an
20 investigative unit to investigate it.
21 They investigate it, they make a
22 determination, and they close out the
23 investigation with a finding.

24 Q And is the officer notified when
25 an IAB investigation is opened against

1 MAAS

2 him?

3 A I don't work for the Internal
4 Affairs Bureau, so I don't know their
5 policies and procedures.

6 Q Do you know if the officer --
7 I'm sorry. Go ahead.

8 A I -- sorry. I was going to say
9 that at some point they have to be
10 interviewed, so I would assume at some
11 point that they would be notified that
12 there's an internal investigation.

13 Q And is your understanding that
14 the IAB investigates every time there is a
15 complaint that comes in to IAB?

16 A I assume that they have to
17 account for every IAB log number that's
18 generated, which is what happens when a
19 complaint is lodged; they generate a log
20 number. I'm not sure what their -- again,
21 their policies and procedures are
22 regarding how to proceed with the
23 complaint.

24 Q And what's your understanding of
25 what happens if an IAB complaint is

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substantiated?

A I believe that, depending on the complaint, the penalty is whatever the discipline penalty is, whether -- it can go from -- all the way from warned and admonished all the way to termination depending on the nature of complaint.

Q Could you go through the different potential disciplines or outcomes?

A I don't know what the disciplines would be. That would be more of a question for somebody in the department advocate's office. I couldn't -- I could just speak generally to what I've seen.

You know, it could be a penalty of 30-day suspension, dismissed with probation, termination, you know, training, warned and admonished.

Q And once an IAB disposition is decided, is the officer notified of that disposition?

A Again, I don't work for the

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Internal Affairs Bureau, so I'm not sure of their policies and procedures. I would assume that it gets closed out and they get notified somehow of it. But, again, that's just my general assumption.

Q And is the disposition noted in the IAB system?

A I'm not sure. I know that the cases that I've seen on the CPIs have been -- disposition has been listed on the CPI. I don't have access to the -- IAB's internal case management system.

Q What about any discipline that's imposed? Is that also recorded?

A Generally, I see that on CPIs. It'll say what the discipline penalty is on the cases I've seen on the CPIs.

Q So you say you do have access to CPIs; is that correct?

A That's correct; I have access for CPIs.

Q Do you know who else has access to an officer's CPI?

A I don't know.

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Q Do you know if an officer himself can access his own CPI?

A I'm not 100 percent sure. I believe there's a policy in place for an officer to request to take a look at their histories, their employment profile.

Q Are officers able to access IAB or CCRB complaints filed against them?

A I am not 100 percent sure. I believe the command's internal integrity control officer is supposed to -- if an officer wants to see it, I believe the requests are supposed to be funneled through him or her. But, again, I'm not --

Q Do you know if that --

A I'm not 100 percent sure.

Q Do you know if that was a policy in 2015?

A I don't know.

Q And what about for the CCRB? What's your understanding of what happens once a CCRB complaint is made?

A I think it's a similar kind of

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process. The complaint goes in through some kind of intake process, gets assigned to an investigator there. They do their investigation, and then they will issue a finding.

Q And once the finding is made by the CCRB, what happens then?

A I believe the officer gets notified of the finding. Again, I don't work for CCRB, so I'm not 100 percent sure of their policies and procedures.

Everything is just kind of -- my general understanding is that's how it works, that they'll get notified of the outcome. I do know recently that I believe CCRB data has been published online as of recent, so I'm pretty sure that it can be accessed there.

Q And does the CCRB issue any sort of recommendation as to discipline?

A As far as I can tell just from looking at the database, there are recommendations there. That wouldn't come to me or my office. That would go through

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the IA -- the CCRB liaison and then
handled at the department advocate level.

Q And are CCRB dispositions noted
in any sort of internal NYPD system?

A It would be noted in the CCRB
database that I use. I don't know where
else they would be noted on an NYPD
internal database.

I use all the dispositions from
the CCRB database. That's where I get the
information from.

Q Okay.

And what about any discipline
that is imposed as a result of the CCRB
finding? Is that recorded anywhere?

A I believe that's also recorded
on the CCRB database. I've seen the NYPD
penalty next to the CCRB-recommended
penalty next to intake number.

Q And who at the NYPD decides what
to do once a CCRB recommendation is made?

A I'm not sure. I imagine it's --
ultimately goes up -- is -- I'm not sure.

Q Okay.

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So I'm going to ask you some questions about lawsuits. So similarly, here, my questions are going to be for the time period from January 1, 2005, to January 1, 2020. So to the extent that any of your answers would change at any point during that time period, just let me know.

So during that time period, how was the NYPD notified when a civil lawsuit was filed against an officer?

A I'm not sure about the earlier portion of your time period, the 2005 end of it. I know that the -- like a civil lawsuit monitoring began -- I think it was 2012 or 2013. I'm not 100 percent sure, but it was around that time that the police department started a Civil Lawsuit Monitoring Committee to monitor any civil lawsuits that were filed against or settled against members of the service, and that committee exists to present.

Q And how would that committee find out about lawsuits that had been

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filed against an officer?

A Every month or so -- or I should say a period -- like time period, I'm pretty sure it's monthly, the City Law Department would provide the police department with a database of civil lawsuits that were filed or settled during that prior month, and they would get notified that way of the civil lawsuits.

Q And would the Civil Lawsuit Monitoring Committee have to request that update from the City Law Department or was this kind of an automatic thing, where the Law Department would voluntarily provide that information every month?

A I can't speak, really. I assume that it still works the -- currently with how it was set up back then. But, currently, we get it automatically from the City Law Department. And I assume once it stood up in about 2012, it was similar to how it is today.

I should say that we actually get it. My unit gets it and we delve it

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out to the Civil Lawsuit Committee. So when the information comes in, it actually comes in to the Risk Mitigation Division and we're the ones responsible for sending that to the Civil Lawsuit Monitoring Committee.

Q And what information is included in that monthly update?

A I'm not 100 percent sure, the exact information. I know it includes the officers that are named, if there was a settlement payout, the date of the incident, the date that it was filed, and I would imagine which district or venue that the lawsuit is filed in.

Q And is this update through e-mail or is it some sort of document that's transmitted?

A I am not sure how it gets from the City Law Department to us. I believe it's just a -- for the lack of better terms, a spreadsheet that comes to us, and we kind of slice it and dice it and turn it into something usable for us.

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Q So when you receive it from the City Law Department, it's in the form of a spreadsheet?

A That's my understanding.

Q Okay.

And then you take the information contained within that spreadsheet and create a separate document?

A We would create a -- probably another spreadsheet to track.

Q How is that spreadsheet different from the one that you receive from the City Law Department?

A I couldn't tell you the differences. It probably makes it more digestible and just meets any of our parameters that are set to go in front of the Civil Lawsuit Monitoring Committee so there's -- I'm blanking on the word. I'm sorry.

There's several -- not all cases filed against officers go in front of the committee; only those that meet the

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thresholds that were set go in front of the committee. So we filter out those that don't meet our threshold.

Q And what are the parameters for deciding what goes to the Civil Lawsuit Monitoring Committee?

A From what I understand, it's in the Complaint Monitoring Guide that -- let me just pull it up. I think it's labeled as an exhibit number. I'm sorry. It's labeled here as Exhibit Number 40 -- 98.

It's what's enumerated in there. The only change would be if you pull up on that document -- I'm sorry. I'm just pulling up the page number.

The only change is on the -- on page 11 of that document. It's now -- the third bullet in would be one or more disposed lawsuits of -- for \$200,000 or more. I believe that was changed in 2016 to \$200,000. Don't quote me. I'm not 100 percent sure on the year that that was changed.

Q Okay.

1 MAAS

2 A The other qualifications are in
3 there.

4 Q Okay.

5 So we'll go back to that guide.

6 Do you forward the spreadsheet
7 you get from the City Law Department
8 directly to the Civil Lawsuit Monitoring
9 Committee or do you prepare a separate
10 document to give to them?

11 A I believe that they -- you know,
12 I don't know. I don't know.

13 Q Are there situations where the
14 NYPD is notified about a lawsuit filed
15 against an officer before the officer
16 himself or herself was made aware?

17 A I'm not sure what the -- you
18 know, the notification policies of the
19 City Law Department.

20 Q Does the NYPD ever notify an
21 officer that they've been sued?

22 A I'm sure there's times that they
23 do. I can't speak for that.

24 Q Does your department ever notify
25 an officer that they've been sued?

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A My division doesn't, no.

Q Do you have any understanding of whether the NYPD is notified in any other way other than the monthly alert from the City Law Department of lawsuits that have been filed against an officer?

A I assume that there's times where they might get service of process directly instead of through the City Law Department, so maybe that's a way that they can find out, but I have no knowledge.

Q And does the NYPD make a record of the filing of a lawsuit?

A If there is a lawsuit filed, there -- it does appear on the CPI. Like I said before, I've seen entries for it. I don't know the qualifications to have that listed on a CPI or who makes that request to have that on the CPI.

Q The spreadsheet that you mentioned that the City Law Department provides, does that include the facts alleged in the lawsuit?

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A I'm not 100 percent sure.

Q Does the City Law Department provide any documents pertaining to a lawsuit that's been filed?

A I would assume that the Civil Lawsuit Monitoring Committee needs information about the lawsuit, so they would have to obtain information about what was filed, the facts of the case, plaintiffs, defendants, and all that information somehow, so I would assume that they get that information.

Q You mentioned that the date of the incident is included in that update, correct?

A I believe so. I don't -- I'm not 100 percent sure, but I would believe the date of the incident is on there.

Q Is the arrest number on there, for example?

A I'm not sure.

Q Are those monthly updates saved anywhere?

A I -- we -- I have a spreadsheet

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of information that goes to the Civil
Lawsuit Monitoring Committee. I don't
know if we have historical, monthly
updates going back to the beginning of
this process.

Q How are those spreadsheets
conveyed? Are they e-mailed to you or is
it on some sort of cloud server or is it
sent by hard copy?

A I'm not sure how we get it from
the City Law Department.

Q Well, where does your department
get the spreadsheet from?

A We get it from the Law
Department. I'm just not sure how it -- I
don't know the exact inner workings of how
it comes from them to us. I don't know if
it's transmitted via e-mail, via cloud, or
a hard copy.

Q Is there someone from your
department who is the person who receives
it from the City Law Department?

A I have a person that works for
me that gets that data. I assume it's

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electronically. I just don't know if it's via e-mail. I don't know if it's a cloud. I don't know if it's walked over on a USB disk.

Q And who is the individual that's responsible for receiving that information from the City Law Department?

A Her name is Nancy Tse, spelled T-S-E. She's an attorney and works in my unit.

Q Okay.
And once you receive the spreadsheet, do you ever save the spreadsheet in its present form before you make alterations to it?

A I'm not sure what the -- what they do to the spreadsheet.

Q Well, you receive a copy of the spreadsheet, correct?

A I do not personally, no.

Q So how do you access information from that spreadsheet?

A Personally?

Q Yes.

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A If I need something from that spreadsheet, I would ask Nancy to give me the information that I need from there.

I'm the commanding officer, so I don't deal with the -- for lack of better terms, the minutia of the unit. I deal with the day-to-day operations of that unit.

Q Okay.

So Nancy would be the best person to tell us how that information is transmitted and then how it's maintained once your department receives that information?

A She may know some of the answers to your questions, yes.

Q Okay.

So you're not personally aware of whether those spreadsheets are saved anywhere in the NYPD system?

A I'm not sure. And I don't know how far back historically she would be able to tell you because she's fairly new to the unit within the last two years.

1 MAAS

2 Q And do you know when the NYPD
3 started transmitting these monthly
4 updates?

5 A When the City Law Department
6 transmitted it to us, you mean?

7 Q I'm sorry. Yes.

8 A I believe it was around 2012
9 that the unit was stood up. I don't know
10 when the transmittals began at a regular
11 interval.

12 Q But they definitely -- but the
13 City Law Department was definitely
14 transmitting those monthly updates at the
15 time that the Civil Lawsuit Monitoring
16 Committee was created?

17 A I'm not sure if it was monthly.
18 I'm not sure of the time frame, but I know
19 it was a periodic update that was given to
20 the police department so that the
21 committee could do the job that it needed
22 to do.

23 Q So those --

24 MS. TAE: Strike that.

25 Q So at the time that the

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2 civilian --

3 MS. TAE: Strike that.

4 Q So at the time that the Civil
5 Lawsuit Monitoring Committee was created
6 in 2012, the City Law Department was
7 periodically providing updates about
8 lawsuits that had been filed against
9 officers?

10 A I'm not sure if that was done
11 prior to the committee standing up. But
12 once the committee was stood up, I know
13 that they needed that information to be
14 able to monitor civil lawsuits.

15 Q And do you know if any other
16 departments within the NYPD or individuals
17 within the NYPD are also provided with
18 those updates by the City Law Department?

19 A I do not know.

20 Q What's your understanding of
21 what happens once the NYPD becomes aware
22 of a lawsuit that's been filed against an
23 officer?

24 A I'm sorry. Can you repeat the
25 question.

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MS. TAE: Could I have the
question read back, please.

(Record read.)

A Okay, can you just clarify, do
you mean from the lawsuit defense purposes
or from my unit's use of that information?

Q Why don't we go through both.

So if you want to, first, start
with the lawsuit defense perspective, and
then you could go on to what your
department does with it.

A I mean, generally speaking, I
assume the police department, you know,
coordinates with the City Law Department
to figure out representation,
indemnification; things like that. And I
believe they try to get information. The
City Law Department will try to get
information from that officer and figure
out where to go from there.

Again, that's just generally
speaking. I don't work for the Legal
Bureau or the City Law Department, so it's
just my general knowledge of what happens

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when a lawsuit is filed.

I know an officer will fill out a form. I don't know the exact title of the form. It's a request for legal representation. And they'll fill that out. And that goes through channels through, I believe, the Legal Bureau so that the officer can see if the City will indemnify them or provide a defense.

As far as my unit, we'll get the information in regarding the civil lawsuit. We will cull it to see about those thresholds that we talked about earlier, see if it meets our criteria, and then we provide that list to the committee which falls under chaired by the Legal Bureau, and they'll sit and make a decision about that lawsuit, whether it should be something that an officer should be monitored for because of their involvement in that lawsuit.

Q Okay.

So you mentioned that the officer will fill out a request for legal

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representation by corporation counsel,
correct?

A It's my understanding that
they're required to do so. I don't know
the exact title of the form, but it's
generally a form that requests the City to
defend them in a civil lawsuit.

Q And does the NYPD Legal Bureau
maintain a record of such requests for
representation?

A I'm not sure what they do with
the form.

Q When an officer is sued, does
the corporation counsel request records
from the NYPD concerning that officer?

A I have seen requests come from
corporation counsel to maintain records.
I can't speak for what corporation counsel
does. I'm -- I have seen requests where
documents have asked to have been held
both personally and for members of my
command both in Patrol and here.

Q And what did those requests
contain?

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2 A Personally, just requests to
3 provide all documentation related to a
4 case to the Legal Bureau.

5 Q Did those requests contain --
6 MS. TAE: Strike that.

7 Q Did those requests also include
8 requests for an officer's personnel file?

9 A That wouldn't go through myself
10 or a command. That would likely go
11 through the Personnel Bureau.

12 Q What about disciplinary records?

13 A So my -- again, my office
14 doesn't house disciplinary records. That
15 would either be the Advocate's Office,
16 Internal Affairs Bureau, or command
17 disciplines are kept at the command level;
18 things like that.

19 I have gotten requests for
20 monitoring histories for folks, for
21 members of the service, that have been on
22 performance monitoring. That is what my
23 unit is responsible for.

24 Q So when corporation counsel
25 requests records, it's made to various

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departments within the NYPD that might have responsive records?

A I believe corporation counsel would make their request to the Legal Bureau, and then the Legal Bureau will decide which units in the NYPD to funnel that request to.

Q Okay.

So you're not aware in a particular lawsuit if requests have been made to other units for records; just -- you're only aware of records requests that have been made to your particular unit, correct?

A That's correct. I'm only aware of what we need to produce.

Q Okay.

Does the NYPD keep records of requests for records by corporation counsel in connection with a lawsuit?

A I'm not sure what the Legal Bureau does with those requests.

Q So other than the monitoring program, does the NYPD conduct any other

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internal investigation when an officer is sued?

A I'm not sure what they would do. The monitoring program -- I wouldn't call it an investigation. I would call it an inquiry maybe. It's not really an investigation per se. It's more of an inquiry as -- I forgot the question already. I'm sorry.

Q That's okay.

Well, to your knowledge, other than the monitoring program, is there any other unit or is there any other --

MS. TAE: Strike that.

Q To your knowledge, other than the monitoring program, is there any sort of inquiry that's made within the NYPD when an officer has been sued?

A So I think it depends on the type of lawsuit. If it's a civil rights violation, if it's, you know, something like that, or if it's a false -- well, false arrest would be a civil rights violation, or if it's something that's

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sued for an assault or something like that, I -- generally, my understanding would be that the Internal Affairs Bureau would conduct an investigation into the conduct of that officer and that incident.

Q And you mentioned for the monitoring program to get involved --

MS. TAE: Strike that.

Q So the monitoring program goes through each lawsuit to see if any of them should be forwarded to the Civil Lawsuit Monitoring Committee?

A So I think it may be best for me now to just kind of walk you through what happens and --

Q Sure.

A -- which would -- kind of lead into that.

Q Sure.

A So what happens is, like I said, we get that monthly -- I'm going to call it a data dump, for lack of better terms.

I get the data dump from the City Law Department. We'll pull out

1 MAAS

2 anything that has to -- I'm sorry. We
3 don't -- we will pull out anything that
4 meets that -- that doesn't meet that
5 criteria that I pointed out earlier and
6 strike that from our -- from the
7 spreadsheet that we'll create. We'll
8 forward that spreadsheet to the Civil
9 Lawsuit Monitoring Committee for them to
10 take a look at the cases individually.

11 I am -- do not sit on the Civil
12 Lawsuit Monitoring Committee, but from --
13 my understanding is they remove -- after
14 we provide them the list, they'll remove
15 anything that's involving a motor vehicle
16 crash or a line-of-duty incident from the
17 list that we provide to them.

18 That wasn't how it was
19 originally when the unit -- when the
20 committee was stood up. I just believe
21 that that changed around 2015, 2016, to
22 exclude that from there for whatever
23 reason they felt that there was no reason
24 to exclude that. If anybody was removed
25 from named as a defendant prior to -- if

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something settled and somebody was removed as a defendant, they remove them as well from the list that we provide them.

There's times that somebody is removed from -- as a defendant listed in a lawsuit between the time we provide it to them and they actually sit and meet.

Q And what's a line-of-duty incident?

A So if somebody falls down the stairs, somebody gets hurt at work, somebody sustains an injury in the course of their duties. Car accident. Again, they were the passenger or they were struck by a vehicle; something like that. Because the City would -- could be named and an officer could be named also as a defendant. And then being sued by a fellow officer.

Q I'm sorry.
So when you're saying "line-of-duty incident," you're referring to when an officer is named the defendant but was injured during the course of that

1 MAAS

2 incident?

3 A So, again, from -- this is my
4 understanding from it. I don't do it.
5 This is -- I believe is a civil -- the
6 committee does it.

7 I am -- you know, there's times
8 where an officer would name other officers
9 in a lawsuit due to a line-of-duty injury,
10 so they sustained -- they would -- one of
11 the theories of the case would be
12 negligence on the part of a fellow
13 officer.

14 Q I see. Okay.

15 And how often does the Civil
16 Lawsuit Monitoring Committee sit?

17 A There's not a periodic time for
18 them to sit. Once they build up enough --
19 you know, once they build up an amount of
20 cases that they're going to look at,
21 that's when they decide to sit and review
22 all the cases.

23 I know there hasn't been a --
24 due to COVID, it's kind of been a little
25 different this last year.

1 MAAS

2 Q And does your unit receive or
3 look at any of the documents related to a
4 lawsuit?

5 A I don't believe anybody
6 regularly will look at documents until
7 it's given to us from the Civil Lawsuit
8 Monitoring Committee.

9 Q So initially when you forward
10 the spreadsheet --

11 MS. TAE: Strike that.

12 Q So initially when you receive
13 the spreadsheet from the City Law
14 Department, you just send a filtered
15 spreadsheet to the Civil Lawsuit
16 Monitoring Committee, correct?

17 A That's correct. And the Legal
18 Bureau would be responsible for getting
19 all documents associated with that.

20 Q Okay.

21 And then you mentioned at some
22 point the Civil Lawsuit Monitoring
23 Committee might forward lawsuit-related
24 documents back to your department?

25 A I wouldn't -- I wouldn't really

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need any of that information, so I don't think we would get anything back from them regarding -- I don't -- I'm trying to think of a situation where we would get anything back.

We just generally get the outcome. There may be some documents that come back with the outcome, you know, with their recommendations, but generally I don't think we get anything back from them.

Q Okay.

So I'll direct your attention now to what's been previously marked as Exhibit 98.

(Whereupon, New York City Police Department Supervisor's Guide Monitoring and Assistance Programs, was marked as Plaintiff's Exhibit 98 for identification, as of this date.)

A Okay.

Q So this is --

MS. TAE: Strike that.

Q So do you recognize this

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document?

A It's the Monitoring Guide,
correct?

Q Correct.

So this is a guide that
addresses the monitoring program we were
just discussing, correct?

A That's correct.

Q Okay.

So if you look at the first
page, which is Bates-stamped DEFENDANTS
15509, in the lower left-hand corner,
where it says "BM-125" and then, in
parentheses, "09-14" --

A Uh-huh.

Q Does the 09-14 refer to the date
this document was published?

A That's my understanding of that,
correct.

Q Okay.

So that's September 2014?

A That's what I believe, yes.

Q Okay.

And is this the most current

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version of this document?

A That's the currently issued document. That's correct.

Q Okay.

So this was a version that was in effect from September of 2014 until present?

A That's correct.

Q Okay.

And are there previous versions of this document?

A I'm not sure.

Q Have you seen previous versions of this document?

A No. This is the only version I've ever seen.

Q Okay.

So could you tell me a little bit about the Performance Monitoring Unit --

A With regard --

Q -- and what are their responsibilities are?

A The Performance Monitoring Unit

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is responsible for monitoring members of the service that were placed on performance monitoring.

There are several avenues or several dimensions of the monitoring program. As we were talking about, there's civil lawsuit monitoring. There's what's referred to in the document as force monitoring, which is really CCRB monitoring.

Historically, it was just referred to as force monitoring. It's now referred to as CCRB monitoring. There's disciplinary monitoring. And I believe that's it.

Q So I'll direct you to page 11 of the document. And just let me know when you're there.

A Okay. Just give me one second, please.

Okay.

Q So do you see here where it has the different criteria for the various levels of monitoring?

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A Yes.

Q Okay.

So if you look at Level 1 Monitoring, do you see that one of the criteria is three or more CCRB complaints in a one-year period?

A That's correct.

Q Okay.

And then there's also six or more CCRB complaints in the past five years?

A That's correct.

Q Okay.

And then do you also see negative performance evaluations?

A That's correct.

Q And then referral by competent authority?

A That's correct.

Q Okay.

What is your understanding of what officers are evaluated on?

A As a form of -- for -- as an annual evaluation?

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Q Yes, to the extent that it's referring to performance evaluations here.

A Yeah, that's referring to the annual evaluations that is done by a member's supervisor. That's what that's referring on. That's a whole cadre of dimensions that they're evaluated on.

Q Well, what sort of negative performance evaluation might merit placement into a monitoring program?

A Showing up late for work, poor attitude, can't get along with their peers; things like that.

Q Would a performance evaluation include disciplinary complaints or lawsuits that had been filed against an officer?

A The supervisor may take that into consideration. I'm not 100 percent sure if that's a dimension that's included on the evaluations. I don't believe that it asks about their lawsuits.

It's been a long time since I've done one for a police officer. I

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generally do them for lieutenants. It's always a rank below that you're evaluating.

Q Does a supervisor have access to disciplinary complaints or lawsuits that have been filed against an officer?

A An integrity control officer will have access to the CCRBs and their disciplinary history. I don't believe they would have access to their lawsuit information.

Q And what's an integrity control officer?

A That's a lieutenant that's assigned at the command that is in -- oversees the -- it's kind of like the liaison between the Internal Affairs Bureau and the commands. And they oversee the disciplinary -- I don't want to say the whole disciplinary process, but they kind of oversee anything that kind of touches the discipline of the command, command disciplines, somebody -- you know, they'll just make sure that the members

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assigned to the command are complying with the policies and procedures of the police department: signing out in uniform, signing out on time, not in a location where they're not supposed to be; things like that.

Q And do ICOs have any role in the preparation of these annual performance evaluations?

A The ICOs would prepare the evaluation for the assistant ICO who falls under their purview. The ICOs -- as far as I know, when I was in a command, when I did it, generally, it was my responsibility as the frontline supervisor to do it.

Q Do the supervisors filling out the performance evaluations for officers below them have access to those officers' disciplinary or lawsuit histories?

A They wouldn't have access to the lawsuit histories and they likely don't have access -- I mean, this is prior to the information being published online

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because, now, I believe CCRB publishes all that data online.

But prior to that, I don't believe that the immediate supervisor would have access to the CCRBs filed against their officers. I believe that all gets through the ICO.

Q And when you're saying the CCRB information being published, when was that?

A I'm not sure. I know the New York ACLU published a website containing the CCRB data. I've accessed that myself. I've never accessed -- I believe CCRB publishes that data too. I've never accessed that, but I believe it's all freely available on the internet.

Q Is it your understanding that that information was made publicly available prior to 2016, for example?

A I'm not sure when that information became publicly available.

Q Okay.

So I'll direct you to Level 2

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Monitoring on that same page.

Do you see here that it says
"three or more commenced lawsuits for
police action within the last 12 months"?

A Yes.

Q Okay.

Then, also, it says, "six or
more commenced lawsuits for anything
within the last five years"?

A Yes.

Q And then, "one or more disposed
lawsuits for \$100,000 or more for anything
within the last 12 months"?

A Yes. I just have to correct
that.

It's -- in 2016, unfortunately,
the guide wasn't updated. We're actually
working on creating an updated guide. But
that number was changed to \$200,000.

Q Okay.

So even though this is the
correct -- even though this is the current
version of the guide, right now, the
monitoring program changed its criteria so

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that for this particular criteria it's \$200,000?

A That's correct.

Q Okay.

And when it says "disposed lawsuits," does that refer to jury verdicts, court verdicts, or settlements, or all of the above?

A My assumption is -- my understanding is that it's all of the above; any time the City pays out \$200,000 or more, that that gets included regardless of how that number was reached.

Q And is that number inclusive of --

MS. TAE: Strike that.

Q Does that number refer to a number specific to an officer, or could it refer to the total number for multiple defendant officers?

A I believe it's on a case basis.

Q What do you mean by that?

A So the entire case, regardless of how many defendants are listed and what

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liability is assigned to each defendant,
if the case settled for -- my
understanding is if the case settled for
200,000 -- or the case was, as it says,
disposed of for \$200,000 or more, every
named officer that was a defendant in that
is who gets put in front of the Civil
Lawsuit Monitoring Committee.

Q Okay.

And do you also see as a
criteria "serious misconduct resulting in
a disciplinary penalty of 20 days or
more"?

A That's correct.

Q What is considered serious
misconduct?

A So that would be anything that
results in administrative charges and a
trial in the trial room. So if a penalty
is disposed of, of 20 days or more,
whether, again, through a settlement,
through the officer's attorney, with the
administrative trial staff, or if it goes
to a judge trial and the judge's finding

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is 20 days or more, that will be what we put into Level 2 Monitoring.

I'm not 100 percent sure what "serious misconduct" -- to give you examples, it would probably be, you know, generally speaking, domestic incident, DWI; things like that.

Q What are the sort of charges that get sent to the NYPD trial room?

A I'm -- if I answer that, it would just be generally speaking. It would just be, again, like I said, violations of the department's policy and procedures, our manual called patrol guide, or the administrative guide that goes to the trial room.

Again, off-duty conduct would be -- or it could be on-duty contact of a DWI, domestic incidents, things that are more serious in nature than a command discipline, which would be showing up late to work.

Q So on that same page, if you look at the paragraph above, do you see

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where it says, "screening is conducted when a member accumulates a total of 20 CPI points, receives a negative evaluation, is administratively transferred, or receives a disciplinary penalty of more than 10 days"?

A That's correct.

Q Okay.

What is a CPI point?

A So the chief of personnel -- CPI system would assign certain points for certain events that occur to a person's career.

For example, if they're transferred for cause, that's worth X number of CPI points. If they are suspended, that's worth X number of CPI points.

So when that number hits -- when -- 20 CPI points is when somebody would be screened for possible entry into the monitoring system.

Q And is that something that's automatically done or does someone have to

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go through and figure out how many CPI points an officer has accumulated?

A I'm not 100 percent sure how that currently stands right now.

Q Is a lawsuit being filed against an officer one or more CPI points?

A I don't know what the point system evaluation is. That's maintained by the chief of personnel's office.

Q Is there an automatic notification that occurs when screening is triggered?

A I'm sorry?

Q So when screening is triggered by, you know, any of these criteria, such as the 20 CPI points or the administrative transfer, is there some sort of automatic notification that occurs?

A I'm not 100 percent sure how the unit gets notified of these things. I know I have a staff that looks through databases to see if anybody hits any of these criteria. I don't know if they get the notification automatically or if it's

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just a manual data dive to get it done.

Q So what kind of happens during the screening process?

A So what will happen is the member that's responsible in my unit for the intake of this will take a look at what is triggering the event. We'll take together a snapshot, for the lack of better terms, of the officer that is going to be screened, with their employment history, any disciplinary history, evaluations, and it will be presented to a sergeant and a lieutenant and then myself for recommendation.

Q And what sort of recommendations might be made?

A Put the person on monitoring, send the person to training, possibly a transfer if we think that that's something that would help the situation; things like that.

Q And is all -- all the kind of information during that screening as well as the recommendation recorded anywhere?

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A We keep a -- we keep a case file on officers.

Q And that's updated each time an officer might be up for screening?

A Each time we screen somebody, it's kept on a file of the recommendation made.

Q Is it possible that an officer should be placed in monitoring based on the criteria that's listed on page 11 but wasn't for some reason?

A There's times where somebody will get three or more CCRBs, but they're not placed on monitoring, for example.

It's a lot different when it comes to the disciplinary side of things where they -- where if you see there, it says -- you were just talking about it earlier, the serious misconduct, 20 days or more, that's more of an automatic because that's a more cut-and-dry. They took that 20-day penalty with the CCRBs.

There's a little more gray area. For example, we don't count exonerated,

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unfounded, and mediated complaints, so that wouldn't count against the officer's total to get to the three. And then we also do a more holistic look at the officer.

For example, they have three or more CCRBs for failure to handing out our Right to Know Act card. If there was no, you know, nefariousness about it, if I think it was just a training issue, I would send that person to training instead of putting them on monitoring.

Obviously, if that behavior still continues, something has to be done more than monitoring, but those are some examples I can think of on the top of my head where it wouldn't be an automatic monitoring recommendation.

Q So this list on page 11 for the different levels of monitoring are more criteria for eligibility for each level of monitoring, not necessarily mandating placement into that monitoring level, correct?

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A That's correct. And more --
that'll -- these things will trigger a
look at to see if monitoring is
appropriate.

Q You mentioned that exonerated
and unfounded complaints are not included
in that total.

Are unsubstantiated complaints
included?

A Unsubstantiated complaints are
looked at.

Q Okay.
And then also the types of
complaints made are considered as well?

A It's more we look at the
findings of them and then we'll drill it
down from there. We don't discount
anything because of the type of complaint
it was. It doesn't get discounted like an
exonerated or an unfounded complaint does.

Q Okay.
So I'll direct you to the next
page.

MR. FRANCOLLA: Haran, at some

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point in the next few minutes -- I don't mean to interrupt, but I could just use a quick bathroom break at some point.

MS. TAE: Oh, yes, we can take a break now if that's all right.

MR. FRANCOLLA: Five minutes?

MS. TAE: So we'll take a five-minute break, then. Thank you.

(Thereupon, a recess was taken, and then the proceedings continued as follows:)

BY MS. TAE:

Q So before we turn to page 12, I just had a couple additional follow-up questions.

The Performance Monitoring Unit that's noted here, is that a unit that's within your department?

A Yes. That unit falls under the Risk Mitigation Division.

Q Okay.

And is that the unit that gets the spreadsheet from the City Law

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Department directly, or does it go to some other individual or unit within your department and then it gets relayed to the Performance Monitoring Unit?

A No. It goes to the Performance Monitoring Unit.

Q Okay.

And that spreadsheet that's provided by the City Law Department, is that disseminated to anyone else at the NYPD?

A I'm not sure who else gets it from the City Law Department. I keep calling it a spreadsheet, but it's really a database. I'm not 100 percent sure if it's in a spreadsheet form or if it's in a, you know -- what it is. I would just call it a database.

Q Is it on some sort of proprietary software?

A I don't think so.

Q Is it like an Excel sheet?

A I'm pretty certain it's a spreadsheet, but I'm not sure, 100 percent

1 MAAS

2 sure.

3 Q Does the Performance Unit
4 disseminate that information to anyone
5 else other than the Civil Lawsuit
6 Monitoring Committee?

7 A From what I -- my understanding
8 is, during the dates that we're talking
9 about, 2012 to 2019, it just goes to the
10 Civil Lawsuit Monitoring Committee.

11 Q Is that spreadsheet conveyed to
12 the Legal Bureau?

13 A They -- the Civil Lawsuit
14 Monitoring Committee is a function of the
15 Legal Bureau.

16 Q Oh, it's a part of the Legal
17 Bureau?

18 A Falls under the Legal Bureau.

19 Q Okay.

20 A They chair the committee.

21 Q Okay.

22 And when an officer is a subject
23 of enough lawsuits to satisfy the criteria
24 on page 11, are there any circumstances in
25 which they still would not be placed in

1 MAAS

2 monitoring?

3 A That is up to the committee. I
4 assume that there are different
5 recommendations made by the committee.

6 And when I say "assume," I mean
7 I actually know that there are different
8 recommendations made by the committee, so
9 not every single person that crosses that
10 threshold is placed on monitoring.

11 Q And what is your understanding
12 of what might affect the committee's
13 decision as to a particular lawsuit?

14 A I don't sit on the committee, so
15 I'm not privy to what goes on in those
16 meetings and what their thought process
17 is. I just oversee the outcome of that
18 committee's meetings and recommendations
19 and implement them.

20 Q But your understanding is that
21 there are situations in which, for
22 example, an officer would have three or
23 more lawsuits filed against him in the
24 last 12 months, but would not be placed in
25 monitoring?

1 MAAS

2 A You know, I'm not 100 percent
3 sure, but I can, generally speaking, think
4 of probably an example where an officer
5 did everything that they were supposed to
6 do, they were indemnified, they obeyed,
7 they followed all policy and procedures,
8 yet the City lawsuit -- the City Law
9 Department may have paid out over that
10 \$200,000 threshold for some reason, but
11 wasn't placed on monitoring because they,
12 you know, abided by the policy and
13 procedures of the police department and
14 acted within the scope of their
15 employment; however, the City Law
16 Department made a calculation that it may
17 have been more advantageous to settle.

18 Q Okay.

19 So on page 12 of that document,
20 I will direct you to the middle of the
21 paragraph.

22 A Okay.

23 Q It says "In addition, for all
24 levels of uniform monitoring, the member
25 is interviewed by" -- I'm sorry. Sorry.

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Let's back up to the sentence before that.

"For all levels of uniform monitoring, a notation reflecting the member's placement in monitoring is placed on their Central Personnel Index. In addition, for all levels of uniform monitoring, the member is interviewed by the member's commanding officer and/or a supervisor for the performance analysis section both at the time of placement and monitoring and at the time of removal."

Do you see that?

A That's correct. I see that.

Q Okay.

So whenever a member of service is placed on monitoring, the fact that they were placed on monitoring is noted in their CPI?

A It's noted on their personnel file. It might not be on the CPI per se because the NYPD is currently updating their personnel systems. But when I run somebody's personnel file, which includes a CPI, it's on there as monitoring

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history.

Q Well, at the time, in 2015,
would a member's placement in the
monitoring program be noted on their CPI?

A I've seen entries from that time
period where it's noted on the actual CPI.

Q Okay.

And an officer is interviewed
every time they are placed into
monitoring?

A Once an officer is put on
monitoring, usually -- obviously, COVID,
although it's out of the time period, I
just want to state during COVID that we
didn't bring people in due to
restrictions.

But during the time period we're
speaking about, from -- my understanding
from my predecessors is that they would
bring them in and be interviewed by a
person -- by a supervisor from the unit.
And that's currently our standard
operating procedure today.

Q And what would be discussed

1 MAAS

2 during that interview?

3 A It would be discussed why
4 they're on monitoring, what they can do to
5 better enhance their performance, any
6 needs that they may need to -- that the
7 member may feel that he or she might need
8 in order to help enhance their
9 performance, whether it's training,
10 whether it's maybe a transfer, for
11 whatever reason, they're not doing well in
12 that precinct or command; things like that
13 are discussed at those meetings.

14 Q Is there any reason why an
15 officer who is placed into monitoring
16 wouldn't be notified?

17 A Would not be notified? No.
18 They have to sign paperwork once
19 they're -- again, COVID aside because
20 stuff kind of went through different paths
21 during the COVID pandemic. But, generally
22 speaking, an officer needs to sign the
23 Level 1, Level 2, Level 3 Monitoring
24 notifications.

25 Q And does an officer need to sign

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MAAS

anything when they're taken off
monitoring?

A I'm not 100 percent sure.

Q But they would be interviewed
and notified that they were being taken
off monitoring?

A The CO -- the commanding officer
of that officer is spoken to once we're
looking to remove somebody from
monitoring.

Q Do you know if the officer
themselves are told that they are being
taken off?

A I'm not sure if the CO notifies
them or not.

Q So I'll direct you to -- I'm
sorry. Go ahead.

A I was just going to say we --
once the person is off of monitoring, we
notify the CO once they're officially off
and we make a notation again on their
personnel index. So it would be up to the
commanding officer to let them know that
they were taken off of monitoring.

1 MAAS

2 Q Okay.

3 So I'll direct you to the next
4 page.

5 A That's page 13?

6 Q Yes.

7 A Okay.

8 Q And then if you could look at --
9 sorry. I'm just trying to find -- yes.

10 So in the paragraph where it
11 says "Level 2 Monitoring" --

12 A Uh-huh.

13 Q So it says: "Level 2 Monitoring
14 is designed to closely scrutinize and
15 supervise performance and behavior of
16 members who have had an excessive number
17 of force complaints, serious disciplinary
18 problems, excessive civil lawsuits, or
19 persistent negative performance
20 evaluations. Members of the service with
21 excessive civil lawsuit histories that
22 fall within established criteria will be
23 subject to review by the Civil Lawsuit
24 Review Committee."

25 Do you see that?

1 MAAS

2 A Yes, ma'am.

3 Q And this is the committee that
4 we've been discussing, correct?

5 A That's correct.

6 Q Okay.

7 And what is considered excessive
8 civil lawsuits?

9 A I believe it was the information
10 that we spoke about earlier, where it's
11 itemized up above. I don't know the page
12 number, but it was itemized above. Those
13 were the criteria that this is speaking
14 about.

15 Q Okay.

16 So that was the criteria listed
17 on page 11? For example, lawsuits that
18 were disposed of for more than \$200,000 or
19 three or more lawsuits that had been filed
20 in a year or six or more that had been
21 filed in more than -- or in three years?

22 A If that's what it says, yeah. I
23 didn't scroll up.

24 MR. FRANCOLLA: I think it's
25 just --

1 MAAS

2 Q Okay.

3 MR. FRANCOLLA: The last one,
4 Haran, I think was five years. You
5 said period of six.

6 MS. TAE: Oh, I'm sorry. Five
7 years. Thank you. Okay.

8 BY MS. TAE:

9 Q And "established criteria" in
10 this sentence refer to what was listed on
11 page 11 as well as these -- the other
12 qualifications you had discussed, such
13 as --

14 MS. TAE: Strike that.

15 Q Does "establish criteria"
16 include anything else that was not listed
17 on page 11?

18 A My understanding is that's the
19 criteria that we screen those monthly
20 updates for and provide that. I don't
21 believe anything else that was -- isn't
22 listed there is what is looked at.

23 Q And how is an officer flagged
24 for a review? Is that automatic?

25 A I'm -- I don't understand the

1 MAAS

2 question.

3 Q So when an officer accumulates
4 or satisfies any of the criteria that's
5 outlined in -- on page 11, how is the
6 Performance Monitoring Unit notified that
7 an officer is now eligible for one of
8 those monitoring levels?

9 A Well, for civil lawsuit
10 monitoring, it's always Level 2, so it'll
11 never be Level 1. Civil lawsuit
12 monitoring is automatically placed into
13 Level 2 Monitoring.

14 What happens is the Law
15 Department, like I said, provides us with
16 that monthly list. We cull that list for
17 that criteria, and that's how we narrow
18 down the list of officers that would be
19 screened for -- would be sent to the Civil
20 Lawsuit Monitoring Committee for them to
21 screen and decide how to proceed with
22 that.

23 Q And I'll direct you page 23 on
24 this document, which is Bates-stamped
25 DEFENDANTS 15531 in the lower right-hand

1 MAAS

2 corner.

3 A Uh-huh.

4 Page 23 starts with the big
5 Roman Numeral II(c)?

6 Q Yes, that's correct.

7 A Okay.

8 Q And, here, it's discussing the
9 CCRB Profile and Assessment Program and
10 Committee, correct?

11 A That's correct.

12 Q And is this a committee that is
13 outside of the NYPD?

14 A I think. I'm not 100 percent
15 sure.

16 Q Oh, I'm sorry. Sorry.
17 If you look at the middle of the
18 paragraph, it says, "The committee is
19 comprised of the chief of department,
20 deputy commissioner of legal matters,
21 deputy commissioner of training, chief of
22 patrol, deputy commissioner of personnel,
23 and the deputy commissioner of internal
24 affairs."

25 Are these positions within the

1 MAAS

2 NYPD?

3 A Those positions are within the
4 NYPD.

5 Q Okay.

6 So it appears that this
7 committee is comprised of members within
8 the NYPD, correct?

9 A That's correct.

10 Q Okay.

11 And what's your understanding of
12 how this program or committee operates
13 separate from the monitoring program that
14 we just discussed?

15 A I'm not 100 percent sure. It
16 looks like from this page that it's
17 chaired by the -- or it's overseen by the
18 department advocate's office. I assume
19 that it is not a part -- I assume that
20 they're not mutually exclusive, that
21 they -- I may have somebody that's on
22 monitoring and they may get somebody else
23 that's in front of their committee as
24 well. I don't know how it differs per se
25 from monitoring other than it's not in my

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purview or under my purview.

Q Is this related to CCRB complaints specifically?

A I just know what's printed on this piece of paper here. I don't know anything other than what it says here.

Q Okay.
Has the Civil Lawsuit Monitoring Committee or anyone from your unit ever interacted with anyone from the CCRB Committee or Program?

A I -- I have not. I don't believe anybody from my staff has ever raised it with me. I don't know. They may communicate with them about stuff that's, you know, of, you know, a mutual interest. But I have never had anybody give me anything that said, you know, this committee has this person, you know, X, Y, Z.

Q So between January 1, 2005, and January 1, 2020, did the NYPD collect or track court decisions that found an officer had failed to disclose exculpatory

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or impeachment evidence?

A I'm not sure.

Q To your knowledge, they did not?

A I don't know.

Q Do you know if outside those time periods the NYPD collected or tracked court decisions that found an officer had failed to disclose exculpatory or impeachment evidence?

A I'm not sure if district attorneys or an ADA would -- made a complaint that an officer withheld information and then made an IAB complaint, that would be tracked. But I don't know if, generally speaking, there's a tracking of that -- call it a violation, for the lack of better terms.

Q So you're not aware of any systematic way that the NYPD had to track court decisions that made such findings?

A Under my job function, I don't track that and I don't interact with a database like that.

Q Do you know if there is any unit

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within the NYPD that would know one way or another?

A I'm not sure.

Q Between January 1, 2005, through January 1, 2020, did the NYPD conduct any internal investigation when a court decision found an officer had failed to disclose exculpatory or impeachment evidence?

A I'm not sure.

Q You're not aware of any internal investigation, correct?

A If an IAB complaint was made by the District Attorney's Office or something to that nature, they -- the NYPD would be required to follow up on that IAB complaint.

I couldn't tell you how they follow up on that, what their investigative process is. But if a complaint is made by the DA's Office to the Internal Affairs Bureau, then there would be some sort of investigation completed, but I'm not aware of any

1 MAAS

2 specifically.

3 Q Between January 1, 2005, to
4 January 1, 2020, did the NYPD have any
5 system in place to track adverse
6 credibility findings, such as by a court,
7 the IAB, CCRB, or NYPD trial room?

8 A I'm not 100 percent sure when
9 the Adverse Credibility Committee
10 started -- started meeting.

11 What was the end date of your
12 time period?

13 Q January of 2020.

14 A Okay, so I currently am the
15 representative from the Risk Management
16 Bureau on the adverse credibility
17 meetings, so the committee existed before
18 me, so that would probably be -- it
19 definitely existed at the end of your time
20 period there. I couldn't talk to before
21 that.

22 But there is an Adverse
23 Credibility Panel that meets similarly to
24 the Civil Lawsuit Monitoring Committee
25 that will review findings of district

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attorneys of adverse credibility against members of the police department when they are -- when the police department is notified of those findings.

Q When did you, as a representative of your unit, join the Adverse Credibility Committee?

A I'm fairly certain that Chief Cosgrove, who was the commanding officer of the Risk Management Bureau, was the prior rep to me taking over probably in March or April of 2020, just right around the same time as the pandemic. That's when I took over.

But prior to me, there was a representative from the Risk Management Bureau on that committee, so I don't know when they started that committee.

Q Do you have any idea kind of when they were created?

A I don't know off the top of my head some reason. I can't even take an educated guess. I know it was prior to my time in the unit that that committee

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existed, so it was prior to the end time of your time period there. I just don't know when it started.

MR. FRANCOLLA: Haran, I

might -- if we can, I think, take a quick, two-minute break, I might be able to provide some -- to help the witness provide some certainty on that, that number.

MS. TAE: Sure.

MR. FRANCOLLA: Can we just take two minutes?

MS. TAE: Sure.

(Thereupon, a recess was taken, and then the proceedings continued as follows:)

BY MS. TAE:

Q So, Captain Maas, did you want to elaborate on your answer about whether the NYPD, between January of 2005 to January 2020, conducted any -- or tracked or conducted any internal investigation into court decisions that found an officer had failed to disclose exculpatory or

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2 impeachment evidence?

3 A Well, I can't speak to if they
4 did or didn't. What I can speak to is how
5 the NYPD would get notified of and conduct
6 an investigation under those
7 circumstances.

8 So what would happen is the DA
9 would find that an officer failed to
10 disclose some material factor or just
11 failed to disclose anything exculpatory.
12 They would notify the department, whether
13 that would be in the Internal Affairs
14 Bureau or that member's commanding
15 officer, who then has an onus to make an
16 Internal Affairs notification. And then
17 the IAB would then follow up with their
18 investigation on that incident.

19 Q And when did the DA's Office
20 start notifying the NYPD that an officer
21 had failed to disclose material evidence?

22 A I'm not sure. I'm assuming
23 that's probably been going on since -- as
24 long as it's been going on.

25 Q But you're not sure of the start

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date?

A I'm not sure of the start date that they do that. I assume that that's just something that they do when they feel that the department needs to be notified of this incident.

I don't know the DA's Office's internal policies on what to notify when there's a Brady violation to the department, but that's how the department would get notified for that. They would make the IAB complaint or they would notify the member's commanding officer, who then has an onus to report that misconduct to the Internal Affairs Bureau.

Q So you're aware of certain circumstances in which someone from the DA's Office would notify the NYPD that an officer had failed to disclose material evidence?

A In the abstract, I'm aware of it. I don't have any specific incidents that I'm privy to or have firsthand knowledge of. I've never had it in my

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duties as a -- you know, when I was in enforcement and in patrol and ran units, I never had an incident that had happened to the members working for me, and I haven't heard even, you know, second- or third-hand about it happening or under my purview in my current role. But in the abstract, that's how it would work.

Q And you're not aware of what criteria the DA's Office has for deciding when to relay that information to the NYPD?

A No, I don't know what their criteria would be.

Q Do you know which DA's Offices do that?

A I assume all five.

Q But you don't know for sure?

A I don't know for sure. You'd have to speak to somebody in the DA's Office or the actual DA to find out what their criteria is to lodge that complaint.

Q But once the NYPD receives that information from the DA's Office, they

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then file a complaint with the IAB?

A There would be an IAB -- what happens is IAB would take an intake on that complaint. Any corruption or serious misconduct is required by NYPD policies and procedures to report it to the Internal Affairs Bureau.

The Internal Affairs Bureau will then decide how to triage that complaint and who to assign it to and who gets to investigate that. So any complaint that comes through the Internal Affairs Bureau does get investigated per IAB's policies and procedures.

So something where it's a -- the DA decides that it's -- there's some misconduct that rises to the level that -- whatever their criteria is to be reported to the NYPD, however they make that notification, whenever they make that notification, it would get investigated by the Internal Affairs Bureau.

Q So an officer withholding exculpatory or impeachment evidence would

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be considered misconduct that would merit investigation by the IAB?

A I'm not sure if it would be investigated by the IAB. The initial complaint gets taken in by the Internal Affairs Bureau. They're our designated -- designated point of contact for any complaints of that kind of nature, serious misconduct or corruption. And then they triage it and will give that complaint out to other units who may investigate it. It may stay within the Internal Affairs Bureau. It may go to an investigations unit under one of the other bureaus.

Q Do you know what category that would be -- that would fall under for, like, the different categories within the IAB for different allegations of misconduct?

A I assume each allegation is judged on its merit separately. Some stuff could be a willful omission and some stuff can just be a mistake, so I'm not sure how they triage everything.

1 MAAS

2 Q Does the IAB have a category of,
3 like, withholding impeachment or
4 exculpatory evidence in a criminal case?

5 A I'm not familiar with IAB's --
6 I'll call it a complaint tree, just for
7 lack of better terms, of how they
8 categorize everything.

9 Q And you're not sure when this
10 started happening, correct?

11 A When this started happening,
12 when the DA's Office started making
13 notifications, no. I don't even know if
14 they are. I'm just speaking in the
15 abstract on what could happen.

16 Q Okay.
17 So you don't know if they're
18 doing that currently?

19 A I'm not sure. All I know is if
20 a DA's Office would notify IAB or a
21 commanding officer of any kind of
22 corruption or serious misconduct, that
23 they have to take that complaint in and
24 investigate it.

25 Q And you mentioned earlier that

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there is an Adverse Credibility Committee
that you're a part of?

A I sit on the committee as a
representative from the Risk Management
Bureau.

Q Okay.

And when was that committee
created?

A 2016.

Q Do you know what month in 2016
it was created?

A I don't.

Q And that committee, could you
tell me a little bit more about its
responsibilities.

A The committee will take any -- I
shouldn't say "take any."

The committee will take findings
of adverse credibility found against its
members and will look at that finding and
decide whether an officer -- if that rises
to the level of serious misconduct or
corruption that would merit an IAB
investigation, if there isn't one already,

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or if an officer needs additional training
or their assignment should be changed
based on that finding of adverse
credibility.

Q When you say "its members," you
mean members of the NYPD?

A Members of the service of the
New York City Police Department, correct.

Q Okay.

And what constitutes adverse
credibility findings?

A It would be a letter from the DA
to the police department stating that they
found adverse credibility against a member
of the service. Since my time in the
committee, it could be a charging document
from ECAB that was -- you know, something
was omitted or wrong on that. It could be
an actual perjury on the stand. It could
be an omission of some crucial step, some
material fact in the case; some stuff of
that nature.

Q When you say "charging documents
on ECAB," are you referring to, for

1 MAAS

2 example, a criminal complaint filed by the
3 police officer?

4 A A criminal complaint at the
5 initial arrest, yes.

6 Q And are there ever any adverse
7 credibility findings related to
8 impeachment material concerning an officer
9 himself as a witness?

10 A Can you clarify the question.

11 Q So you mentioned earlier that
12 adverse credibility findings of various
13 examples that you provided related mostly
14 to an officer not disclosing information
15 about a criminal case in which he was a
16 witness or was involved in, correct?

17 A Yeah. Something material to the
18 case. Chain of custody. Things like
19 chain of custody of evidence; things like
20 that.

21 Q Has the Adverse Credibility
22 Finding Committee ever received any
23 information related to the officer's
24 credibility not related to the criminal
25 case?

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A So just to make sure I understand the question, you're asking if the Adverse Credibility Committee has ever had some -- had a case in front of it where an officer has misled the court on their own prior testimonies or their own prior character?

Q That could be one example, or if they've ever received any information from the DA's Office about, you know, information impacting an officer's credibility or honesty that doesn't directly relate to his conduct in connection with a criminal case.

A In my time sitting on the Adverse Credibility Committee, I have only seen stuff brought in front of the committee regarding a specific -- specific incident that occurred during the preparation of that criminal case or -- with one caveat.

Recently, there was a filing against officers that wasn't an adverse credibility, but was a -- was -- I believe

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it was like a -- it was actions they took in the street and not in the criminal courts yet, if that makes sense.

But that was out of the purview and out of the time period. And I can't discuss it any further because it's still -- it was just an initial filing that was in the courts. It hasn't gone -- made its way through the court process yet.

Q Well, was it related to conduct concerning -- or preceding a criminal case or an arrest or was it completely unrelated to a criminal case?

A Completely unrelated. It was failure to -- failure to provide -- failure to abide by the policies and procedures of the police department.

Q Could you be a little bit more specific than that?

A Well, it was tabled, so I just don't -- I just want to caveat, because you asked the question if everything was related to a criminal case, that's the

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only time I've seen anything that hasn't been related to an actual specific criminal case that has come in front of me while I was in the committee.

Q Does the Adverse Credibility Committee maintain a file for --

MS. TAE: Strike that.

Q How does the Adverse Credibility Committee maintain records?

A I'm not sure. It's chaired by the Legal Bureau. I'm not sure what their recordkeeping process is.

Q Other than the Adverse Credibility Committee, are you aware of any other system the NYPD had for tracking adverse credibility findings made against an officer?

A I know at some point, because I've seen it, it was listed on their personnel record, but I'm not sure who made that request and why it was put on the -- or how it got put on -- what the qualifications were to put it on the personnel record.

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Q In the instance that you're referring to, what was the adverse credibility finding? Was it a court decision?

A It could be the judge finding that the officer wasn't credible.

Q Well, is this a specific instance that you're recollecting?

A No. I've seen them printed on -- I've seen hundreds and hundreds of CPIs in my duties. I see them listed on CPIs.

And when I say "CPIs," I just mean personnel record. But I've seen them on CPIs throughout my time in the unit.

Q And what does it say on the CPIs?

A Generally, it would say the date that the finding was found and it'll say, you know, this member of the service -- and, again, this is just -- this isn't exactly what it says. It's just from my memory.

But a member of the service was

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found to have an adverse credibility by the Kings County DA's Office, and that's really it. And it will list the case or something like that.

Q So you have seen that listed on an officer's CPI before?

A Yes.

Q And other than that kind of short blurb on a CPI, have you seen any other records relating to adverse credibility findings?

A Just information that is provided to me as a member of the Adverse Credibility Committee, which usually consists of a trial transcript and any related documents related to that, such as an online arrest, what call an online booking sheet, which is the arrest report, or a complaint report or things of that nature.

Q Does the Adverse Credibility Committee interview the officer about the alleged conduct that led to the finding?

A No.

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2 Q So the committee just reviews
3 documents related to it?

4 A The committee reviews any
5 documents. If there is an internal
6 investigation that goes with it, we review
7 that. The committee itself never -- never
8 has the member that is -- that -- since
9 the time that I've been sitting on the
10 committee, they have never had the member
11 who we are hearing -- has never been
12 brought forward to be interviewed by the
13 committee.

14 Q And what sort of investigation
15 or inquiry does the Adverse Credibility
16 Committee make?

17 A We take a look at -- we read the
18 trial transcript, see if the credibility
19 finding was something material, if
20 something was nefarious, if something was
21 just sloppy procedural work.

22 For example, there's times when
23 the charging document does not match
24 when -- there's times that a district
25 attorney will find that the officer's

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charging document was different, the charging document that was prepared with ECAB is different from what actually happened.

Many times, it could just be due to sloppy police work or sloppy administrative work. That's stuff that the adverse credibility will look at, was it something that needed training or something that was something that rises to a perjury or a serious misconduct.

For example, oftentimes, officers will say that they personally witnessed on the charging document, but when it comes down to trial prep, they say, no, I didn't personally witness it.

That could be a miscommunication between the officer and the ECAB. That could just be related to the officer working 28 hours on this arrest and just signing and not even reading what the charging document says, where there was no real -- that it wasn't done to mislead anybody. It was just done due to pure

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sloppiness.

So those are the kind of things that the Credibility Committee looks at.

Q And what are some potential outcomes of the inquiry?

A We have the option for retraining, transfer, and notify the Internal Affairs Bureau if they haven't already been notified. Or if they didn't already do an investigation, we can recommend an investigation by IAB because we feel that this incident is serious misconduct or corruption.

Q So this may be completely separate from or in conjunction with other investigations such as by the IAB?

A This is a separate committee that is independent of IAB and will deal with just adverse credibility. There could already be an IAB investigation ongoing because they were already notified of it beforehand by some other avenue, or they may not have known about it and we found out about it and the onus is on us

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to make that notification.

Q And how often does this committee meet?

A Since I've been on it, it's about once a month, give or take.

Q And are there minutes kept of your meetings?

A I don't -- I'm not 100 percent sure. I don't think there's anybody keeping minutes exact -- you know, it's not -- there's not a court-appointed stenographer like there is today.

I believe they track the outcomes of it, but that's -- again, it's a function of the Legal Bureau.

Q Do you know if the NYPD keeps records of the letters sent by members of the DA's Office concerning an officer's alleged misconduct?

A I generally see a copy -- of misconduct or the adverse credibility?

Q Either.

A All right.

Well, I just want to

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differentiate. There's a difference between adverse credibility and misconduct.

I don't know how the department is notified of misconduct. It might be a phone call. It might be a letter. I'm not sure. I'm sure -- I don't want to speak for IAB, but I'm sure, if there's a letter sent by the DA's Office to the Internal Affairs Bureau, that they have some onus to keep that letter, would be my best educated guess.

The adverse credibility -- I know that when I sit on the committee and we review people, I have seen the letters that the DA's Office will write to the NYPD saying that, for example, Ari Maas was found to have adverse credibility or -- excuse me, the attorney -- or the judge found adverse credibility in this case. We will make this disclosure every time Ari Maas comes in front of the court.

So those letters are sent to the NYPD and I've seen them as I sit on the

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2 panel.

3 Q Do you know where those letters
4 are maintained?

5 A I'm not sure. If I had to make
6 an educated guess, it would be the Legal
7 Bureau.

8 Q What does the NYPD do with that
9 information other than, you know, for
10 example, the Adverse Credibility Committee
11 reviewing it?

12 A I'm not sure what else is done
13 by the police department that's regarding
14 that other than the panel I sit on.

15 Q Is NYPD ever provided
16 information concerning an officer's
17 misconduct by a DA's Office?

18 A I don't know. I mean, I assume
19 in the history of the police department
20 and the DA's Offices, there has been
21 notifications made to the police
22 department.

23 I don't know if there's a
24 specific policy and procedure of what to
25 do in that situation when the DA finds

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2 misconduct. I assume they notify
3 supervisors in the NYPD, who notify the
4 Internal Affairs Bureau, or they may
5 notify the Internal Affairs Bureau direct.

6 Q Is there any internal system or
7 centralized database within the NYPD that
8 keeps track of adverse credibility
9 findings made against an officer?

10 A I'm not sure if there's a
11 unique, standalone database that maintains
12 that.

13 Q Has the NYPD ever solicited
14 information from a DA's Office concerning
15 an officer's credibility or alleged
16 misconduct?

17 A That's out of the purview of
18 what I would do as a member of the
19 committee, so I'm not sure what the Legal
20 Bureau -- how they interact and if they
21 proactively solicit that.

22 Q Has the Manhattan DA's Office
23 specifically ever provided information
24 concerning an officer's credibility to the
25 NYPD?

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A In my time on the Adverse Credibility Committee, I have had cases that originated as Manhattan District Attorney cases or Manhattan Criminal Court cases where they had made notifications of adverse credibility findings.

Q Do you know if the Manhattan DA's Office ever provided that information prior to the Adverse Credibility Committee being formed?

A I'm not sure.

Q Are you aware of any obligation an officer has to tell the prosecution about information that might affect that officer's credibility as a witness in a criminal case?

A Are you asking if the officer has a duty to let the district attorney know that they have a credibility issue?

Q Yes.

A I don't know if the NYPD has any policies in place that require the officer to make a notification to the district attorney that they have any credibility

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issues. I'm not sure where the onus is on, if it's on the DA to tease that out or if it's on the officer to let the DA know that.

Q So you're not aware of any obligation or --

A They -- I'm sorry. Go ahead.

Q So you're not aware of any NYPD policy addressing whether or not an officer has an obligation to disclose such information to the prosecution?

A The policy may very well exist. I just don't know off the top of my head if -- like if that is a policy.

MR. FRANCOLLA: And I think, Haran, I just would just note, I think this topic is something that's going to be addressed by our witness on Friday.

MS. TAE: Okay.

MR. FRANCOLLA: So just to clarify for the record.

MS. TAE: Okay.

Q Have you ever heard of a

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New York Court decision called People v. Garrett that was decided on June 30, 2014?

A I briefly was made aware of it recently.

Q Okay.
When were you made aware of it?

A Friday.

Q Okay.
And what's your understanding of that case?

A Understanding of the case is that prior civil lawsuits that are unrelated to a current criminal trial can be used to try to -- I want to say discredit the witness or for -- to prove credibility for a witness.

Q And by "witness," you mean a police officer that's serving as a witness in a case?

A Police officer that's testifying in a case.

Q Did anything about what information the NYPD tracked concerning their officers change as a result of this

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court case, People v. Garrett?

A I'm not sure. I don't -- I wasn't part of this unit before the decision. I just know what I inherited from my predecessors.

Q Does your unit have any policies or procedures concerning the disclosure of lawsuit information to the District Attorney's Office?

A No. We don't deal with the District Attorney's Office. That would be out of the purview of my unit.

Q Does your unit ever interact with the officers themselves other than through the monitoring program?

A No. We -- our mandate is just to oversee the monitoring program.

MS. TAE: Okay. Do you mind if we take a five-minute break? I may be done with my questions.

MR. FRANCOLLA: Okay. That's fine.

MS. TAE: Okay. All right.
Thank you.

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MAAS

(Thereupon, a recess was taken,
and then the proceedings continued as
follows:)

MS. TAE: Okay, so I think those
are all my questions.

MR. FRANCOLLA: Okay.

I'm going to do just a couple
quick ones just, I think, to clarify,
I think, the Adverse Credibility Panel
questioning, if I could just ask a
couple since it may have been me
missing things.

EXAMINATION BY

MR. FRANCOLLA:

Q Captain Maas, how is it that a
particular case comes before the Adverse
Credibility Panel?

A There would have to be a finding
of -- generally speaking, there would have
to be a finding of adverse credibility by
one of the five New York County district
attorneys or one of the other venues that
can hear our cases, whether it's federal
or whatever, that has a finding of adverse

1 MAAS

2 credibility against our officers or
3 members.

4 Q When you say "venue where these
5 cases are heard," are you referring to
6 like a judge, for example?

7 A Yeah. A judge would have to
8 have a finding of adverse credibility
9 against an officer or whoever is
10 testifying that's a member of the service.

11 Q Okay.

12 And how is it specifically that
13 it's brought to your attention, one of
14 these findings of adverse credibility that
15 you just described?

16 A The disclosure letter from that
17 district attorney would be sent to our
18 department, and then the case would get
19 presented to the Adverse Credibility
20 Committee.

21 Q So is it a situation where the
22 Adverse Credibility Panel or someone from
23 the NYPD, as far as you know, is actively
24 searching these things out as opposed to
25 it's being brought to your attention by

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MAAS

one of the five District Attorneys'
Offices?

A Well, nobody is actively
searching out the adverse credibility. It
would have to be brought to our attention
by a district attorney.

Q Okay.

So if I understand it -- and
correct me if I'm wrong -- there's an
adverse credibility determination made
either by a District Attorney's Office or
a court. That's then communicated to you.
That prompts a review of that particular
case by your panel to determine whether or
not there should be discipline, training,
referrals.

Is that a fair assessment of the
chain of how things work?

A Yes.

MR. FRANCOLLA: Okay. I think
that's all I had.

MS. TAE: Just one follow-up
question.

EXAMINATION (CONTINUED)

1 MAAS

2 MS. TAE:

3 Q So prior to the Adverse
4 Credibility Panel being formed, you have
5 no knowledge of whether the DA's Office
6 notified the NYPD of adverse credibility
7 findings that were made against an officer
8 or if --

9 MS. TAE: Yes, strike that.

10 Q So prior to the formation of the
11 Adverse Credibility Panel, you're not
12 aware whether the DA's Office disclosed
13 any adverse credibility findings
14 concerning an officer to the NYPD?

15 A No, I'm not.

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17 (Continued on next page to
18 include jurat.)
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MAAS

MS. TAE: Okay. I think that's
all.

THE COURT REPORTER: Are you
ordering a copy?

MR. FRANCOLLA: I will get a
copy from Ms. Tae.

MS. TAE: I will be providing a
copy to Mr. Francolla.

(Time noted: 3:37 p.m. EDT)

ARI MAAS

Subscribed and sworn to
before me this day
of , 2021.

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WITNESS	EXAMINATION BY	PAGE
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----- INFORMATION REQUESTS -----

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----- EXHIBITS -----

PLAINTIFF'S	FOR ID.
Exhibit 97 Notice of Deposition Pursuant to Federal Rules of Civil Procedure 30(b)(6)	18
Exhibit 98 New York City Police Department Supervisor's Guide Monitoring and Assistance Programs	62

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C E R T I F I C A T E

STATE OF NEW YORK)

: SS

COUNTY OF NEW YORK)

I, Stephanie M. Butler, a Notary
Public within and for the State of New York,
do hereby certify:

That ARI MAAS, the
witness whose deposition is hereinbefore set
forth, was duly sworn by me and that such
deposition is a true record of the testimony
given by the witness.

I further certify that I am
not related to any of the parties to this
action by blood or marriage, and that I am
in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 29th day of June,
2021.



STEPHANIE M. BUTLER

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DEPOSITION ERRATA SHEET

Our Assignment No: J7196818

Case Caption:

JUWAUN FRASER

vs.

THE CITY OF NEW YORK, et al.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

SIGNATURE _____ DATE: _____
ARI MAAS

Subscribed and sworn to on the ____ day of _____, 20__ before me,

Notary Public,
in and for the State of _____

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ARI MAAS

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ARI MAAS