

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 JAWAUN FRASER,

4 Plaintiff,

5 -against- Index No.: 20-CV-4926

6 THE CITY OF NEW YORK and UNDERCOVER
7 OFFICER NUMBER 84, DETECTIVE MATTHEW
8 REGINA, and DETECTIVE MATTHEW REGINA,
9 DETECTIVE JASON DELTORO, Individually
10 And as a member of the New York City
11 Police Department,

12 Defendants.

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16 VIDEOCONFERENCE DEPOSITION OF

17 KATIE FLAHERTY

18 Wednesday, July 28, 2021

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23 Reported by:
24 DONNA PALMIERI
25 JOB NO. J7302554

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July 28, 2021

12:24 p.m.

Videoconference Deposition of
the Defendant, CITY of NEW YORK, by:
KATIE FLAHERTY, a 30-(b)(6) witness,
before Donna Palmieri, a Notary
Public of the State of New York.

1 A P P E A R A N C E S:

2 LAW OFFICES OF JOEL B. RUDIN, PC

3 Attorneys for Plaintiff

4 152 West 57th Street, 8th Floor

5 New York, New York 10019

6 BY: MATTHEW A. WASSERMAN, ESQ.

7 GULNORA TALI, ESQ.

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10 NEW YORK CITY LAW DEPARTMENT

11 Attorneys for Defendants

12 100 Church Street

13 New York, New York 10007

14 BY: BRIAN FRANCOLLA, ESQ.

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1 IT IS STIPULATED AND AGREED by and
2 between the attorneys for the respective
3 parties herein, and in compliance with Rule
4 221 of the Uniform Rules for the
5 Trial Courts:

6 THAT the parties recognize the
7 provision of Rule 3115 subdivisions
8 (b),(c)and/or(d). All objections made at a
9 deposition shall be noted by the officer
10 before whom the deposition is taken, and
11 the answer shall be given and the
12 deposition shall proceed subject to the
13 objections and to the right of a person to
14 apply for appropriate relief pursuant to
15 Article 31 of the CPLR;

16 THAT every objection raised during a
17 deposition shall be stated succinctly and
18 framed so as not to suggest an answer to
19 the deponent and, at the request of the
20 questioning attorney, shall include a clear
21 statement as to any defect in form or other
22 basis of error or irregularity. Except to
23 the extent permitted by CPLR Rule 3115 or
24 by this rule, during the course of the
25 examination persons in attendance shall not

1 make statements or comments that interfere
2 with the questioning.

3 THAT a deponent shall answer all
4 questions at a deposition, except (i) to
5 preserve a privilege or right of
6 confidentiality, (ii) to enforce a
7 limitation set forth in an order of
8 a court, or (iii) when the question is
9 plainly improper and would, if answered,
10 cause significant prejudice to any person.
11 An attorney shall not direct a deponent not
12 to answer except as provided in CPLR Rule
13 3115 or this subdivision. Any refusal to
14 answer or direction not to answer shall be
15 accompanied by a succinct and clear
16 statement on the basis therefore. If the
17 deponent does not answer a question, the
18 examining party shall have the right to
19 complete the remainder of the deposition.

20 THAT an attorney shall not interrupt
21 the deposition for purpose of communicating
22 with the deponent unless all parties
23 consent or the communication is made for
24 the purpose of determining whether the
25 question should not be answered on the

1 grounds set forth in Section 221.2 of these
2 rules, and, in such event, the reason for
3 the communication shall be stated for the
4 record succinctly and clearly and the
5 failure to object to any question or to
6 move to strike any testimony at this
7 examination shall not be a bar or waiver to
8 make such objection or motion at the time
9 of the trial of this action, and is hereby
10 reserved;

11 THAT this examination may be signed and
12 sworn to by the witness examined herein
13 before any Notary Public, but the failure
14 to do so or to return the original of the
15 examination to the attorney on whose behalf
16 the examination is taken, shall not be
17 deemed a waiver of the rights provided by
18 Rules 3116 and 3117 of the C.P.L.R, and
19 shall be controlled thereby;

20 THAT the certification and filing of
21 the original of this examination are
22 hereby waived and that the questioning
23 attorney shall provide counsel for the
24 witness with a copy of this examination at
25 no charge.

1 Flaherty

2 K A T I E F L A H E R T Y, called as a
3 witness, having been duly sworn by a
4 Notary Public, was examined and
5 testified as follows:

6 EXAMINATION

7 BY MR. WASSERMAN:

8 Q. State your name for the record,
9 please.

10 A. Katie Flaherty.

11 Q. What is your address?

12 A. One Police Plaza, New York, New
13 York City 10038.

14 Q. Good afternoon. My name is
15 Matthew Wasserman. I'm one of the
16 attorneys for plaintiff Juwaun Fraser
17 in his civil rights suit which was filed
18 in the Southern District of New York.

19 Do you understand you're here
20 today virtually to give deposition
21 testimony in connection with that
22 lawsuit?

23 A. I do.

24 Q. We have a court reporter here to
25 transcribe everything you say, but she A,

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can't transcribe any nods or gestures, so I just ask that you say everything verbally.

A. Okay.

Q. I'd also ask that you wait until I finish my question before you answer and I'll try to wait for the end of your answers before I ask a question just so we have a clear record for the court reporter.

As you probably know, we're doing this deposition over Zoom, but it's not going to be recorded so we want to make sure we have a clear record as possible?

A. Okay.

Q. If I ask you a question that you don't understand or is in any way unclear, please feel free to tell me to rephrase it or you don't understand it.

A. Okay.

Q. If you give an answer that upon reflexion is inaccurate or incomplete, do you understand that you can and you

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should supplement or amend your answer?

A. I understand.

Q. Do you understand that the oath that you just gave is the same oath that one would take in a courtroom before a judge and a jury?

A. I do.

Q. Is there any reason why you're not able to testify to the best of your ability this afternoon?

A. No.

Q. Are you being represented by an attorney today?

A. Mr. Francolla.

Q. And did you speak with Mr. Francolla to prepare for the deposition?

A. I did.

Q. How many times?

A. Twice.

Q. For how long each time?

A. The initial time about an hour-and-a-half and the second time maybe twenty minutes.

1 Flaherty

2 Q. And when were those meetings?

3 A. Yesterday and today.

4 Q. Did you review any documents to
5 prepare for the deposition?

6 A. Yes, I did.

7 Q. What documents did you review?

8 A. I reviewed the Drop Box link
9 that was sent over, the documents that
10 were sent as exhibits as well as
11 including the 30(B)(6) Notice.

12 Q. Did you speak with anyone other
13 than your attorneys about your
14 deposition?

15 A. I spoke to Gulnora Tali who is
16 also here.

17 Q. Have you ever testified at a
18 deposition in a civil suit before?

19 A. No.

20 Q. Starting with after high school,
21 what's your educational background?

22 A. Sure. So I graduated from the
23 University of Florida in 2005 with a B.A.
24 in English and criminology. I got my
25 J.D. from Villa Nova Law School in 2008

1 Flaherty

2 and then I got my LLM in Risk Management
3 in 2019 from Texas A&M Law School.

4 Q. And starting with law school
5 after your law school graduation, where
6 have you been employed?

7 A. Sure. Since Graduation from law
8 school, I've been employed by the
9 New York City Police Department from
10 September 2008 through present.

11 Q. With the NYPD, what have your
12 positions been?

13 A. My initial position in 2008
14 through 2012 was in the civil section of
15 the Legal Bureau acting as a civil
16 attorney.

17 After that I worked in the
18 Police Commissioner's Office for
19 approximately a year, 2012 to 2013, as a
20 project management professional on a
21 long-term strategic plan for the Police
22 Department.

23 After that, I came back to the
24 Legal Bureau and created the Risk
25 Assessment Unit there from 2013. That

1 Flaherty

2 work carried forward under different
3 iterations through Risk Management Bureau
4 and then back to Legal Bureau through
5 April 2021.

6 Since May 2021, I still work for
7 the Police Department no longer with the
8 Legal Bureau, but in the Criminal Justice
9 Bureau as the Director of Statistical
10 Analysis and Planning.

11 Q. In your present role, what do
12 you do in terms of statistical analysis
13 and planning?

14 A. Sure. So the Criminal Justice
15 Bureau oversees the bureau court sections
16 and all individuals in our custody
17 pre-arraignment. So what I do in my role
18 as the Director, I oversee our data
19 analysis that tracks the arrest to
20 arraignment times for all prisoners
21 within our custody.

22 Q. Prior to your current role, were
23 you involved in any in-service training
24 of police officers?

25 A. Yes, during my time at the Legal

1 Flaherty

2 Bureau.

3 Q. What did you do, what subjects
4 did you handle when you did in-service
5 training?

6 A. So I've done training on a
7 variety of subjects. My very initial
8 training that I ever did for the New York
9 City Police Department involved
10 transgendered individuals and gender
11 identity and revisions of the Patrol
12 Guide as it related to processing
13 transgender and gender nonconforming
14 individuals.

15 After that when I started at the
16 Risk Assessment Unit, I start training on
17 civil liability, lawsuits, risk
18 mitigation and the like.

19 Q. Okay. I'm going to get back to
20 this later, but have you had any
21 involvement with the Civil Lawsuit
22 Monitoring Committee?

23 A. Yes.

24 Q. Did you serve on that committee
25 or what role did you have?

1 Flaherty

2 A. I helped create the committee
3 itself in 2013 and I prepared the
4 summaries of officers's lawsuits that
5 were presented in front of the committee.
6 So I've attended multiple committee
7 meetings, but I was not a voting
8 committee member.

9 Q. Understood. Do you understand
10 that you're here today to testify as a
11 representative of the NYPD?

12 A. Yes.

13 Q. You understand that the
14 testimony you're giving is on behalf of
15 the City of New York?

16 A. Yes.

17 Q. And you mentioned you had
18 reviewed a copy of the 30(B)(6) Notice;
19 is that right?

20 A. Yes.

21 Q. What topics are you planning to
22 testify about today?

23 A. I'm just looking at it one more
24 time.

25 Q. Of course.

1 Flaherty

2 A. Topic 2, subsection B of No. 4.

3 Q. I'm sorry. You said 2 and 4=B?

4 A. Yes.

5 Q. And will the basis for your
6 testimony be your preexisting knowledge
7 or preparation for the deposition or
8 both?

9 A. Repeat that one more time.

10 Q. Sure. I was asking about the
11 basis for your testimony on those topics.

12 Is it your preexisting
13 knowledge, your preparation of the
14 deposition or some combination thereof?

15 A. Combination of both.

16 Q. I'm going to start with topic 2.
17 During the period from January
18 2005 to January 2020, were members of
19 service trained to disclose information
20 that impeaches the credibility of
21 witnesses including officers themselves
22 to the prosecution?

23 A. It's not a "yes" or "no" answer.

24 Q. Okay.

25 A. Officers have been trained about

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providing information that could impeach their credibility for prospect as a prosecution witness. In that time period, yes.

Regarding lawsuits specifically, officers began training from the time they were recruits, but we started training on affirmatively little giving information on being sued in 2014 and 2015.

Q. You said that at some point during that period officers were being trained to generally give impeachment information about themselves to the prosecution; do you know when that began?

A. I don't. I know it definitely predated 2005.

Q. Okay. When was that training given to them, was it at the police academy or some other time?

A. It's usually first given at the police academy and it is reiterated through command level training and promotional training afterwards.

1 Flaherty

2 Q. Did you have any involvement
3 with training officers on their duty to
4 divulge impeachment materials to the
5 prosecution?

6 A. Yes.

7 Q. Can you lay out what training
8 you gave to officers on that duty and
9 when you gave that training?

10 A. Sure. So I started in the Risk
11 Assessment Unit in 2013. We began
12 creating training for officers on civil
13 liability, their civil lawsuit histories
14 and risk mitigation about basically
15 trying to mitigate exposure to getting
16 sued. We started presenting those
17 trainings in 2014 and they're still going
18 on through today.

19 Q. Are you familiar with the
20 New York Court of Appeals decision in
21 People v. Garrett?

22 A. I am.

23 Q. Was the training that you just
24 discussed created before or after People
25 v. Garrett?

1 Flaherty

2 A. The initial training was created
3 before People v. Garrett. It was
4 obviously revised a little bit after the
5 decision of People v. Garrett came out so
6 that officers understood that they would
7 be asked about their civil lawsuits.

8 Q. You mentioned command level
9 training.

10 Was there any training specific
11 to when people were promoted to detective
12 or supervisors on the duty to disclose
13 impeachment material to the prosecution?

14 A. Yes. So being made detective is
15 not a promotion. It's a designation, an
16 upgrade, but there is training that the
17 Detective Bureau provides on an annual
18 basis in their professional development
19 course. In 2015 and 2016 I believe I
20 personally gave training to every single
21 member of our Detective Bureau regarding
22 civil liability including providing that
23 information as a prosecution witness.
24 When officers are promoted to sergeants,
25 lieutenants or captains, they also get

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similar training on civil lawsuits, risk mitigation and providing that information about their lawsuits when they're on the stand.

Q. Were there written materials or a Power Point associated with those trainings?

A. Yes, a Power Point.

(Exhibit 138, Power Point Presentation, marked for Identification, as of this date.)

(Exhibit 139, Power Point Presentation, marked for Identification, as of this date.)

Q. I'm just going to show you a copy. If you look in the Drop Box we have two power points. One is labeled Exhibit 138 and another is labeled Exhibit 139. If you just take a quick look at those two and tell me if those are the Power Point you're referring to or some examples?

A. Some examples of the Power

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Points that I was referring to, yes,
Exhibit 138 specifically. Exhibit 139
was the target audience with recruits.

Q. I notice your name was actually
on Exhibit 138.

Did you give this Power Point,
this presentation?

A. Yes, I did.

Q. Do you know when this version of
the Power Point dates from?

A. This version of the Power Point
was updated on November 29, 2018
according to the title of the document.

Q. And you mentioned that you had
given similar trainings in 2015 and 2016
is that right?

A. Starting in 2014, correct.

Q. Starting in 2014.

Are there archive copies of the
Power Point or any other written
materials given in 2014 or in 2015?

A. It's possible.

RQ. MR. WASSERMAN: Brian, I just
ask if there are written materials

1 Flaherty

2 that corresponding to training in
3 2014 and 2015 that they be produced.

4 MR. FRANCOLLA: That's fine.

5 I'll follow up with Director
6 Flaherty afterwards. I don't
7 currently have them in my possession,
8 to the extent that they are available
9 and there's no other objection, we'll
10 facilitate that.

11 MR. WASSERMAN: Okay.

12 Q. Ms. Flaherty, you mentioned that
13 you had given the training to everyone in
14 the Detective Bureau; is that right?

15 A. That's correct.

16 Q. You mentioned there's also
17 training when people are promoted to
18 sergeant or lieutenant or captain?

19 A. Correct.

20 Q. Were you involved with training
21 people who were promoted to sergeant,
22 lieutenant or captain?

23 A. I was.

24 Q. Was that given to everyone that
25 was promoted to those ranks?

1 Flaherty

2 A. Beginning in 2015, yes.

3 Q. Other than you, was anyone else
4 involved in giving these in-service
5 trainings to detectives, lieutenants,
6 sergeants, captains?

7 A. Yes, I had several colleagues.
8 I did the majority of the training. The
9 Detective Bureau training, the other
10 individuals involved in presenting were
11 Millicent Wade, Ruby Morin Jordan and
12 Linda Rockwright and that was for the
13 Detective Bureau training. For the
14 promotional training the sergeants,
15 lieutenants and captains, additional
16 presenters were James Conroy and
17 Elizabeth Daitz.

18 Q. Other than these Power Points,
19 were there any written materials given to
20 people in in-service trainings.

21 A. There could have been a training
22 memo prepared for command level training.

23 Q. Command level training would be
24 for supervisors?

25 A. Command level training is a

1 Flaherty

2 monthly training presentation given to
3 training sergeants of each command and
4 the intention is that they take those
5 training materials back to their officers
6 in that command and give the training to
7 each individual.

8 Q. I'm sorry. I cut you off. I
9 didn't realize I cut you off.

10 A. That's okay. I was just going
11 to clarify the scope of training that
12 could be given to each officer because I
13 think that we've been focusing on
14 Detective Bureau, sergeants, lieutenants
15 and captains, but all of our officers
16 receive training from the time they're at
17 the academy as recruits at the Police
18 Academy and continue to receive training
19 while they're on the job regardless of if
20 they've received a promotion or not. So
21 if take an officer is never made
22 detective and never gets promoted to
23 sergeant, they're still receiving all of
24 this training through the command level
25 training and in-service training,

1 Flaherty
2 potentially other methods as well like
3 NYPDU videos, which is an online video
4 archive of training materials that the
5 Police Department manages and other
6 things like that.

7 Q. So you were involved with
8 creating the Power Points for 138 and
9 139, right?

10 A. Just 138.

11 Q. Just 138, okay.

12 I'm looking at it right now and
13 I'm not seeing anywhere in it where it
14 specifies that officers should disclose
15 impeachment evidence to the prosecution.

16 I was wondering if you could
17 look through it and take a second if you
18 need and see if you can direct me to it.
19 It's possible I'm just missing where it
20 says that.

21 A. Okay. Let me look through it.

22 So there's two locations, and I
23 apologize. I'm having a hard time
24 reading the Bates stamp on it, but the
25 first slide is testimony and it looks

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like it's stamped for the defendants 15622. It doesn't affirmatively state it on there, but that's one of the initials slides where I would mention knowing your civil liability for civil lawsuit history in order to prepare for testimony.

The second slide that it refers to civil lawsuits and testimony is Bates stamped defendants 15627 and it specifically says "testimony, civil lawsuits" and it refers to a Legal Bureau bulletin about cross-examination of police officer witnesses and it talks about prior bad acts even if they're not proven can be asked about and it simply says "know your civil litigation history".

Q. Okay. Got it.

And it refers to a Police Legal Bureau bulletin dated January 2017; is that right?

A. Correct.

Q. I'm going to have a couple of questions about that Legal Bureau

1 Flaherty

2 bulletin.

3 Would it be helpful to review it
4 before I ask?

5 We have it as an exhibit in the
6 Drop Box.

7 A. I would need a minute to review
8 it again.

9 Q. Why don't you take a minute to
10 review it. It's Exhibit 21.

11 A. Okay.

12 Q. Initially do you know who
13 approved this document and what that
14 approval process is for a Legal Bureau
15 witness?

16 A. Sure. So a member of the Legal
17 Bureau, in this case it was one of our
18 law fellows, Joseph Rizzo, drafted a
19 Legal Bureau bulletin on a topic
20 basically requested by the head of the
21 Legal Bureau and then it goes up through
22 the chain of command, whoever drafted it,
23 to their supervisor, ultimately approved
24 by both the commanding officers of the
25 Legal Bureau and the Deputy Commissioner

1 Flaherty

2 of Legal matters.

3 Q. So you mentioned it would have
4 to be approved by the Deputy Commissioner
5 for Legal Matters.

6 Did the Deputy Commissioner for
7 Legal Matters have policy-making
8 authority in the realm of legal matters
9 for NYPD?

10 A. Yes.

11 Q. So is it fair to say that an
12 Legal Bureau bulletin represents official
13 NYPD policy?

14 A. Yes.

15 Q. How would a Legal Bureau
16 bulletin be disseminated to members of
17 the service?

18 A. A variety of ways. Legal Bureau
19 bulletins can be printed out and posted
20 at each police precinct or command.
21 They're also available on our intranet or
22 internal internet portal

23 Q. Are members of service required
24 to read all Legal Bureau bulletins?

25 A. Yes.

1 Flaherty

2 Q. Do they get individual copies in
3 say their mailbox or any other way or
4 it's just available on the intranet and
5 kind of public areas?

6 A. More recently I believe that
7 they are e-mailed out to the entirety of
8 the department, but they're also
9 available for every police officer on the
10 intranet and I forgot to mention they're
11 also available on their department cell
12 phones as well.

13 Q. And you mentioned that more
14 recently they've been e-mailed out.

15 Do you know when they started
16 getting e-mailed out?

17 A. I don't.

18 Q. Does the department intranet
19 where they would be posted, does that
20 predate November of 2015?

21 A. No.

22 Q. So it came about sometime after
23 November of 2015?

24 A. Yes.

25 Q. Prior to Legal Bureau bulletin,

1 Flaherty

2 was there any written document given to
3 members of service about the need to
4 disclose civil lawsuit information to
5 prosecutors?

6 A. Written material, I don't
7 believe so.

8 Q. Prior to this bulletin, is it
9 correct to say that there was no formal
10 policy for the need to disclose civil
11 lawsuit information to prosecution?

12 A. No written policy.

13 Q. Was there an unwritten policy?

14 A. Well, the training that we've
15 already discussed that came around 2014
16 and predated this Legal Bureau bulletin,
17 so officers were aware that they needed
18 to be familiar with their civil lawsuit
19 history prior to this bulletin coming out
20 in January of 2017.

21 Q. So I understand that the
22 training that you gave in this bulletin
23 specifically focuses on the subject of
24 civil lawsuits.

25 Was there any broader training

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given in service about the need to disclose Giglio material to the prosecution?

A. Yes.

Q. Was that part of the same training or was that separate?

A. It was part of the same training. I mentioned James Conroy as one of my co-presenters for the promotional training. He spoke about Giglio disclosures and obligations under that.

Q. And you mentioned there was a training given to all detectives in 2015; am I getting that right?

A. 2015 or 2016, yes.

Q. At that training was the subject of Giglio material also addressed?

A. I don't recall off the top of my head, but it very likely was. I would have given part of that -- I would have given that entire presentation -- I apologize -- and I would have talked about the need to disclose all

1 Flaherty

2 information regarding lawsuits regarding
3 disciplinary history to the prosecution.

4 Q. Who sets the NYPD's policy in
5 the general area of disclosing
6 impeachment evidence to the prosecution?

7 A. Ultimately the Police
8 Commissioner sets all NYPD policies.

9 Q. Would that also fall within the
10 purview of the Deputy Commissioner for
11 legal matters?

12 A. Interpreting laws and making
13 sure that the department follows the
14 relevant laws, yes.

15 Q. What supervision does the NYPD
16 have to ensure that members of service
17 do, in fact, disclose impeachment
18 evidence including, but not limited to,
19 civil lawsuit information to the
20 prosecution?

21 A. I'm not sure what you mean by
22 supervision?

23 Q. So are there any specific jobs
24 that supervisors are even instructed to
25 take in order to make sure that the

1 Flaherty

2 officers and detectives under their
3 command disclose impeachment evidence to
4 the prosecution?

5 A. Yes, so the training that I
6 mentioned for the newly promoted
7 sergeants, lieutenants and captains,
8 those are all supervisors and part of
9 what we talked about in Exhibit 138 in
10 that Power Point, all supervisors get
11 that and are told to relay this
12 information to their subordinates, so to
13 the police officers and detectives that
14 work under them so that they're
15 appropriately prepared to testify in
16 civil and criminal court.

17 Q. Are members of service, to your
18 knowledge, ever disciplined for failing
19 for disclose impeachment evidence to the
20 prosecution?

21 A. Yes.

22 Q. Are you aware of specific
23 examples also where that has happened?

24 A. I don't know a specific example
25 off the top of my head, but generally I

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know that is something that officers can be disciplined for and have been disciplined for.

Q. Are you aware of any officers being disciplined specifically for failure to disclose civil lawsuit information to the prosecution?

A. I do not believe so.

Q. You mentioned that officers have been disciplined for failing to disclose impeachment evidence to the prosecution.

Who or which unit would have a record of whether officers were disciplined, how many officers were disciplined, who was disciplined?

A. Sure. So the initial investigation would be handled by our Internal Affairs Bureau. They would investigate the allegations and make a recommendation as to whether it should be substantiated or not. They refer that recommendation to our Department Advocate's Office and our Department's Advocate would then look into it and

1 Flaherty

2 determine whether or not an officer
3 should actually be disciplined for that
4 in some way through a manned discipline
5 or through potential internal department
6 charges and specifications that would
7 lead to a department trial.

8 Q. Does the DAO or the Department
9 Advocate's Office keep any database
10 tracking the discipline given to officers
11 for failing to disclose impeachment
12 evidence to the prosecution?

13 A. They have a database that they
14 use as a case management system. I'm not
15 sure that database can be searched for
16 specifically what you just asked about.

17 Q. So it's a question as how the
18 allegation, the charges would be
19 categorized?

20 A. I believe so, yes.

21 Q. So for the period from January
22 2005 to January 2020, are you aware of
23 any NYPD policy, practice or procedure to
24 actively collect information about civil
25 lawsuits against police officers?

1 Flaherty

2 A. Yes. In 2013, again, when we
3 created the Risk Assessment Unit, part of
4 that unit's mission was to ascertain an
5 accurate reflection of NYPD-related
6 lawsuits and how many officers had been
7 sued, what they had been sued for and we
8 began trying to keep track of that. The
9 mechanism through which we tried to keep
10 track of that was the civil lawsuit
11 monitoring program and I can go into a
12 little bit of overview of how we receive
13 the information if that's helpful or if
14 that's already been covered, I don't want
15 to...

16 Q. That would be helpful, if you
17 don't mind doing that.

18 A. Sure. In 2013, and I believe
19 for a few years prior to that, we had
20 been receiving and continue to receive
21 spreadsheets from the New York City Law
22 Department about actions or lawsuits that
23 had been commenced, meaning filed in the
24 prior month period as well as lawsuits
25 that had been disposed or closed out in

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the prior month period. We receive those spreadsheets monthly. Those spreadsheets are reviewed by members of the Legal Bureau as well as members of the Risk Management Bureau to determine whether or not the civil lawsuit monitoring criteria are met.

Q. Go ahead. I'm sorry. I didn't realize you were still going.

A. It's okay. I was going to say if they were already met -- if the criteria are met, then the officers need to be reviewed by the lawsuit monitoring committee.

Q. You mentioned criteria. I'm going to direct you to, I believe, it's Exhibit 98. It's the Supervisor's Guide to Monitoring and Systems Programs. Specifically I want to direct you to page 11, which is Defendant 15519 Bates stamped on the bottom.

A. Okay.

Q. And you mentioned there are kind of lawsuit criteria.

1 Flaherty

2 Is that the three criteria, the
3 three top bullet points below the heading
4 of Level II Monitoring?

5 A. Those were the original
6 criteria. Those criteria were modified
7 slightly in 2016. My understanding is
8 this book is currently being updated, but
9 the current criteria are still three or
10 more commenced lawsuits for police action
11 in the last twelve months, six or more
12 commenced lawsuits for police action
13 within the last five years, one or more
14 disposed lawsuits for \$200,000 or more
15 for police action within the last twelve
16 months.

17 Q. You mentioned, am I getting it
18 right, that you mentioned that if an
19 officer meets one of those criteria they
20 would be referred to the Civil Lawsuit
21 Monitoring Committee?

22 A. Correct, for possible review by
23 the committee.

24 Q. So even if an officer meets one
25 or more of those criteria they wouldn't

1 Flaherty

2 automatically place you on Level II
3 monitoring, that would be a decision made
4 by the Civil Lawsuit Monitoring
5 Committee?

6 A. No, it would be a decision made
7 by Legal Bureau by based on reviewing the
8 actual case itself. If a case went to
9 trial and there was a verdict with
10 multiple defendant officers and one
11 officer won and one officer lost at
12 trial, the officer that won obviously
13 should not be required to undergo a Civil
14 Lawsuit Monitoring Committee review
15 because they won the case. It's the
16 other office that lost that would have to
17 be reviewed by the committee. It's a
18 matter of officer-by-officer outcome of
19 the lawsuit as well as sometimes we have
20 officers, the inquest officer named in a
21 lawsuit. They're not always removed from
22 the caption at the time of disposition of
23 the case, so we make sure that it's the
24 right officer. We also make sure that
25 the officer was personally involved in

1 Flaherty

2 the lawsuit prior to them being reviewed
3 by the committee.

4 Q. If an officer was a named
5 defendant in, for example, three or more
6 lawsuits commenced in the past twelve
7 months, would they automatically be
8 placed in Level II monitoring or would
9 that be a discretionary decision?

10 A. No, that would be a decision
11 made by majority vote of the Civil
12 Lawsuit Monitoring Committee.

13 Q. You said you had assisted with
14 the Civil Lawsuit Monitoring Committee,
15 but you weren't a voting member; is that
16 right?

17 A. Correct.

18 Q. Who are the voting members of
19 that committee?

20 A. The voting members of that
21 committee are either the executive member
22 herself or the representative from Deputy
23 Commissioner of Legal matters, Chief of
24 Risk Management Bureau, Chief of
25 Personnel, Chief of Department, Deputy

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Commissioner of Equity and Inclusion and
I believe that that's it.

Q. I just want to be 100 percent
clear on this.

If an officer was a properly
named defendant and personally involved
in three or more lawsuits in the past
twelve months or six or more within the
past five years, that is a necessary but
not a sufficient condition to be placed
on Level II monitoring, it wouldn't be
automatic?

A. It would be an automatic review
by the committee, but not automatic
monitoring.

Q. And if they were placed on Level
II monitoring, would there be any record
of that in an officer's CPI or personnel
file?

A. Yes, it is. It would be noted
in their CPI.

Q. Would the officer be personally
informed?

A. Yes.

1 Flaherty

2 Q. Would their supervisor's be
3 informed?

4 A. Yes.

5 Q. Would it be a factor taken into
6 consideration in any decision about
7 promotion or moving commands?

8 A. Yes.

9 Q. Do you know what criteria are
10 considered in the decision whether or not
11 to place someone who is potentially
12 qualifying based on the number of
13 lawsuits on Level II monitoring?

14 A. I'm not sure I understood the
15 question.

16 Q. So assuming that someone does,
17 in fact, qualify for Level II monitoring,
18 they have three or more lawsuits in
19 twelve months or they have six or more in
20 five years, do you know what criteria the
21 committee would consider as to whether or
22 not place them on Level II?

23 A. So what's in front of the
24 committee when they look at a particular
25 officer is a summary of the officer's

1 Flaherty

2 lawsuits they've been named a defendant
3 in, whatever information we can find on
4 those lawsuits, so we have a summary of
5 the plaintiff's allegations in the
6 lawsuits. We would review the docket to
7 see if there's any additional information
8 that we can garner from that. We look at
9 our internal PD records to see what we
10 could find out about the incident, any
11 subsequent CCRB or IAB complaint. We
12 look into that as well. We might confer
13 with the New York City Law Department to
14 see what their assessment of the case and
15 the officer is, particularly if it's
16 closed and closed for a large sum of
17 money, we might ask them for some
18 additional information or background. We
19 also look at the officer's personnel
20 history. We look at their previous
21 assignments. We would look at whether or
22 not they've ever been named in charges,
23 internal department charges. We would
24 look at CCRB and IAB history like I said.
25 All of that is discussed in a committee

1 Flaherty

2 meeting about this particular officer and
3 then the committee itself votes. So
4 there's a variety of steps that the
5 committee can decide. The best course
6 for a particular officer might not be to
7 be placed on monitoring. It might be a
8 conversation with their commanding
9 officer and/or a conversation with a
10 representative of the Risk Management
11 Bureau or Legal Bureau. It could be they
12 need to be trained or retrained on
13 something or it could be actual placement
14 on monitoring. So there's a variety of
15 options that the committee can take.
16 They can do multiple options or just
17 choose one.

18 Q. Are you aware of whether any of
19 the named defendant officers in this case
20 were placed on Level II monitoring?

21 A. I would have to refer back to
22 the 30(B)(6) Notice to see who the
23 defendant officers are. I see three
24 officers, undercover officer No. 84
25 Detective Matthew Regina and Detective

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Jason Del Toro and off the top of my head to my recollection, they have not.

Q. Do you know if any of them went before the committee?

A. Off the top of my head, I don't recall.

Q. And assuming that an officer had the requisite number of lawsuits commenced, three in twelve months or six in five years, is there any reason they wouldn't go before a committee?

A. The reasons that I previously mentioned. So if they were not personally involved in the incident. If, let's say, they were part of a team conducting a search warrant execution and they were driving the prisoner vans. They were outside the entire time, but all of the allegations are being made in the lawsuit are about what happened inside the apartment. That officer outside would not be personally involved in any of the underlying allegations, so that officer might not be reviewed by the

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committee. The officers inside might be. That's what I mean by the Legal Bureau does a case-by-case assessment of the lawsuits that the officer has been named in to determine whether or not they actually arises to the level of being reviewed by the committee?

Q. Are there any special procedures for the Civil Lawsuit Monitoring Committee to deal with undercovers?

I'm specifically thinking the fact that undercovers can be named in various of different ways. There's not a consistent naming format, so it seems like that it often can be hard to even track down how many times an undercover officer has been sued.

A. I'm not sure what your question was.

Q. I'm asking if there are specific ways that undercover officers are dealt with by the Civil Lawsuit Monitoring Committee as opposed to kind of non-undercover police officers.

1 Flaherty

2 A. I understand. They're treated
3 the same way.

4 Q. In terms of determining whether
5 officers have the number of lawsuits that
6 qualifies them to be placed on that, is
7 that based on the Law Department
8 spreadsheets that you mentioned that are
9 sent every month?

10 A. It is based on that as well as
11 department records request for legal
12 assistance that are filed by the officers
13 when they get named in a lawsuit.

14 Q. Is the information that an
15 officer has been sued, is that on an
16 officer's CPI or somewhere else in their
17 personnel file?

18 A. It was placed on a CPI. I
19 believe the dates it was placed on the
20 CPI were from 2008 through 2016. During
21 that time frame when an officer requested
22 legal assistance and submitted that form
23 to the Legal Bureau there was a notation
24 made on their CPI. Since 2016, that
25 notation has not been made on an

1 Flaherty

2 officer's CPI.

3 Q. So it's the request for legal
4 assistance rather than being on the Law
5 Department's sheet that triggers the
6 notification for the CPI?

7 A. Correct.

8 Q. Other than being placed on the
9 CPI from 2008 to 2016, is there any other
10 personnel action that's taken or was
11 taken as a result of being sued?

12 For example, were supervisors
13 notified that an officer had been sued?

14 A. No, not necessarily. A
15 supervisor has the option to review an
16 officer's CPI which during that time
17 frame contained the notification that a
18 lawsuit has been filed. When an officer
19 is named in a lawsuit, there is no
20 automatic notification to a supervisor
21 that they have been sued. Until they're
22 served, the officer him or herself does
23 not know that they've been named in a
24 lawsuit.

25 Q. If an officer applied for a

1 Flaherty

2 change in their assignment, would their
3 CPI be reviewed by their potential
4 supervisors?

5 A. It would.

6 Q. If an officer was trying to
7 become a detective or trying to go from
8 Detective 3 to Detective 2 or Detective 2
9 to Detective 1, would there CPI be
10 reviewed?

11 A. I believe it would, yes.

12 Q. Other than being on their CPI
13 from 2008 to 2016, was the fact that
14 officers had been sued civilly considered
15 in promotion or transfer decisions?

16 A. Yes.

17 Q. How would it come up in
18 promotion or transfer decisions other
19 than being on the CPI?

20 A. So starting in 2013 when we
21 began the civil lawsuit monitoring
22 committee and created those criteria that
23 we reviewed before -- let's talk about
24 transfers first. What our Personnel
25 Bureau would do would send a list of any

1 Flaherty

2 officers that was up for a transfer or a
3 change of assignment or a change of
4 command, they would send that to the
5 Legal Bureau and the Legal Bureau would
6 see whether those officers met the civil
7 lawsuit monitoring criteria. The same
8 thing happens for discretionary
9 promotion. So that's where you mentioned
10 the Detective 3 to Detective 2 to
11 Detective 1. That's a discretionary
12 promotion. Detective Specialist is also
13 a discretionary not promotion, but an
14 upgrade or designation. Those individual
15 names were sent to Legal Bureau and we
16 would get check to see again whether they
17 met the civil lawsuit monitoring
18 criteria.

19 Q. You mentioned that NYPD first
20 started getting these spreadsheets from
21 the Law Department in 2013; is that
22 right?

23 A. I believe it was a few years
24 prior to that, but we actually started
25 utilizing that in 2013 in this matter.

1 Flaherty

2 Q. When you started using them in
3 2013, were you only using them going
4 forward or were you also looking back,
5 say, five years to see whether officers
6 have been sued six times in the five
7 years preceding 2013?

8 A. We started 2013 going forward
9 for the Civil Lawsuit Monitoring
10 criteria. It was unfair to use a prior
11 time for an officer if they had been
12 named in a lawsuit prior to 2013 if they
13 weren't aware it could be use had to
14 potentially put them on monitoring.

15 Q. You mentioned that when officers
16 are personally served with a complaint
17 they're supposed to notify someone at the
18 NYPD; can you elaborate on that
19 procedure?

20 A. When an officer is served at his
21 or her command or however they might be
22 served the Summons and Complaint, the
23 next step that they should take is to
24 fill out a request for legal assistance.
25 It's a form. It used to be a carbon

1 Flaherty

2 triplicate copy form that would have to
3 use a typewriter to fill in and now it's
4 the department intranet portal that I
5 mentioned before. It's available to just
6 type in and fill out the information. A
7 copy of the RLA as we refer to it, is
8 actually in Plaintiff's Exhibit 138 on
9 the slide Bates stamped defendants 15616,
10 so it's a department form that has two
11 sections. The officer fills out all of
12 the information about the incident, about
13 the lawsuit itself. Their commanding
14 officer signs off on it and it gets sent
15 to the Legal Bureau. The Legal Bureau
16 processes it. We put it in what we call
17 the civil litigation database which was a
18 very fundamental database that was
19 created so we know we received one from
20 this officer and we sent it to the Law
21 Department. After it's processed by the
22 NYPD Law Department and they take over
23 from there.

24 Q. 138 is the training for
25 Lieutenants which you were involved with.

1 Flaherty

2 Were you also involved with
3 training detectives or regular police
4 officers on what to do when they're sued?

5 A. Yes.

6 Q. And it's the same procedure
7 regardless of someone's rank?

8 A. Exactly.

9 Q. Other than filling out that
10 request for legal assistance and
11 presumably cooperating with the Law
12 Department, were there any duties of
13 officers when they were sued?

14 A. Do you mean other than following
15 the rules of court? Yes.

16 Q. Yes. Were there any like
17 procedure or any specific kind of
18 directives for what officers should do
19 other than request assistance and to
20 comply with the Law Department and I
21 guess comply with the rules of court?

22 A. No. So there's a Patrol Guide
23 procedure about filling out the request
24 for legal assistance. That Patrol Guide
25 procedure I believe is 211-21, but that's

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the procedure that they have to follow
when they get sued.

Q. Going back a little bit.

You had mentioned that IAB would
sometimes investigate allegations that
officers had failed to provide
exculpatory or impeachment evidence to
the prosecution; is that right?

A. Correct.

Q. For the time period from January
2005 to January 2020, are you aware of
any NYPD policy, practice or procedure to
affirmatively learn about accusations
that an officer had failed to disclose
exculpatory or impeachment evidence to
the prosecution?

A. I'm not sure I understood the
whole question. I apologize.

Q. Maybe it would help to go back a
little bit.

My understanding is that IAB
doesn't affirmatively look for
complaints. They wait for someone to
call or someone to refer it to them in

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some way, so they're not going go out and kind of trying to see a whether a police officer did some wrongdoing absent some sort of tip or referral.

Are you aware of any NYP policy, practice or procedure to affirmatively try to learn about accusations that police officers had failed to provide exculpatory or impeachment evidence to the prosecution?

A. Yes. So IAB can affirmatively -- we call it integrity test -- can affirmatively conduct an integrity test on an officer to make sure that they're not engaged in any sort of misconduct or wrongdoing specifically relating to Brady violations and the provision of impeachment or exculpatory evidence. An officer from IAD can sit in on a court appearance like any other officer. They don't always do it. We have so many officers as you can image. We have, I think, 30 to 35,000 officers. So with that limited resources, we can't sit in

1 Flaherty

2 on every court hearing and court
3 appearance of an officer. If someone
4 from IAB or a supervisor or another
5 officer happens to be in a courtroom and
6 hears something that might be a violation
7 of any kind, they have a duty to report
8 that to IAB and conduct an investigation.

9 Q. Does the NYPD have any
10 relationship with the New York County
11 District Attorney's Office or other
12 District Attorney Offices or District
13 Attorney Offices who affirmatively refer
14 allegations of a Brady violation or a
15 Giglio violation to the NYPD?

16 A. Yes.

17 Q. Is that ad hoc thing or is there
18 some sort of formalized process to refer
19 such allegations?

20 A. To my knowledge there's not a
21 formalized written MOU or anything like
22 that, but the process is that the D.A.'s
23 office is notify the NYPD Legal Bureau of
24 these types of violations or potential
25 violations.

1 Flaherty

2 Q. Does the NYPD have any system in
3 place to track instances where officers
4 allegedly failed to disclose information
5 about civil lawsuits against them to the
6 prosecution?

7 A. If that allegation was made to
8 the Internal Affairs Bureau, it would be
9 in their case management system. There
10 is a possibility that the referral could
11 be made to the NYPD's Legal Bureau. In
12 that instance, we would also refer that
13 as what we call a log to the Internal
14 Affairs Bureau. We would get a log
15 number and it would still be investigated
16 that way as well.

17 Q. Are you aware of any specific
18 instances where that's happened where
19 Legal Bureau has received an allegation
20 like that and it's been referred to IAB?

21 A. "Like that" meaning specifically
22 failing to disclose information about
23 civil lawsuits?

24 Q. Yes. Or more generally about
25 withholding impeachment or exculpatory

1 Flaherty

2 evidence to the prosecution?

3 A. Yes.

4 Q. During the time period of
5 January 2005 to January 2020, does the
6 NYPD keep any internal list or database
7 for officers with adverse credibility
8 findings?

9 A. An adverse credibility finding
10 would be reviewed by the Adverse
11 Credibility Committee and that would be
12 noted on an officer's CPI.

13 Q. When did that start getting
14 tracked by that Adverse Credibility
15 Committee and placed on an officer's CPI?

16 A. I'm not sure.

17 Q. Do you know whether it was
18 before or after November 2015?

19 A. It could have been 2015 or 2016.

20 Q. Does the NYPD have any process
21 for tracking at a trial or appellate
22 court decisions relating to Brady or
23 Giglio violations by NYPD officers?

24 A. Again, if we received notice of
25 those decisions from the D.A.'s Office or

1 Flaherty

2 a judge, however, it would have been
3 tracked through our Internal Affairs
4 Bureau and their case management system.

5 Q. So the NYPD doesn't have a
6 practice of reviewing appellate or trial
7 court decisions to look for Brady or
8 Giglio violations by police officers; is
9 that right?

10 A. To my knowledge, that's correct.

11 MR. WASSERMAN: Would you mind
12 taking a five-minute break?

13 I just want to check my notes.
14 I might be coming near the end of my
15 questioning.

16 THE WITNESS: Absolutely.

17 MR. WASSERMAN: Me as well.

18 (Recess taken.)

19 BY MR. WASSERMAN:

20 Q. I think I just have a few more
21 questions.

22 We discussed the Power Point
23 presentations you would give during
24 in-service trainings.

25 Were copies of those Power

1 Flaherty

2 Points given to the people who were being
3 trained?

4 A. No.

5 Q. And you had said there might be
6 written material given for the command
7 level training, memos for the trainers.

8 Other than that, were there
9 written materials associated with any
10 in-service trainings on the off-duty
11 police officers to disclose impeachment
12 materials to the prosecution?

13 A. There may have been written
14 materials regarding Giglio disclosures.

15 RQ. MR. WASSERMAN: I think I may
16 have asked for this already, but in
17 case I didn't, Brian, I'm just going
18 to ask for any kind of written
19 materials relating to Giglio
20 disclosure in that in-service
21 training be produced.

22 MR. FRANCOLLA: Yes.

23 I don't have them in my
24 possession. I'll follow up with
25 Director Flaherty with the sort of

1 Flaherty

2 education we've gotten on the subject
3 and make sure that if there is
4 something outstanding separate and
5 apart from what I have provided to
6 you, we will obtain it and subject to
7 any issues we have producing it, we
8 will produce it.

9 Q. Director Flaherty, you mentioned
10 that the NYPD started receiving lawsuit
11 spreadsheets from the Law Department
12 sometime prior to 2013; is that right?

13 A. I believe so, yes.

14 Q. Prior to 2013 and the formation
15 of the Civil Lawsuit Monitoring Committee
16 what, if anything, was done with those
17 spreadsheets and that information?

18 A. That would have been reviewed by
19 the executives from the Legal Bureau that
20 receive them, but those spreadsheets
21 don't contain much information about the
22 underlying allegations themselves.

23 Q. What type of information is in
24 the spreadsheets?

25 A. The spreadsheets contain the

1 Flaherty

2 name of the case, the docket number I
3 believe, the names of plaintiffs, the
4 names of defendants, the venue. I
5 believe that they include the date of
6 filing, potentially the date and location
7 of the incident, although many times
8 that's not completed, and it may contain
9 a brief description of the lawsuit, but
10 again, that's usually not completed.
11 It's just the basic facts of the filing
12 itself.

13 Q. You mentioned that before anyone
14 was placed in front of the Civil Lawsuit
15 Monitoring Committee, Legal Bureau would
16 screen to make sure, for example, they
17 were personally involved in allegations
18 and properly named and so on.

19 Does Legal Bureau do further
20 research on the case beyond what was in
21 the spreadsheet?

22 A. Yes, we would actually read the
23 Complaint so we understand the
24 allegations being made against the
25 officers.

1 Flaherty

2 Q. As a result of Legal Bureau or
3 the Civil Lawsuit Monitoring Committee
4 looking at lawsuits with it's officers,
5 did they ever initiate investigations
6 into the underlying allegations?

7 A. It's possible that an
8 investigation could be triggered in that
9 manner, but usually by the time something
10 results in a lawsuit, it's either past
11 the statute of limitations for us, for
12 the department to be able to conduct an
13 internal investigation. There's an
14 18-month period statute of limitations
15 for that type of conduct, but it's
16 possible that it could happen. It's also
17 possible that the Lawsuit Monitoring
18 Committee could say we need to refer this
19 allegation to IAB, but again, the time is
20 probably past the statute of limitations?

21 Q. Understood. I just want to make
22 sure I understand your answer.

23 If, for example, there seemed be
24 to be a pattern of an officer being
25 accused of false arrest or fabricating

1 Flaherty

2 evidence and the Civil Lawsuit Monitoring
3 Committee thought there might be some
4 validity to these allegations, would they
5 potentially refer the officer for further
6 investigation by IAB even if the
7 individual allegations might be too stale
8 by that point?

9 A. I understand. It's possible.
10 Again, IAB is constrained to
11 investigating a particular incident
12 itself, so looking at an officer as a
13 whole is not necessarily something that
14 they could particularly do, but it would
15 be the Civil Lawsuit Monitoring Committee
16 and Risk Management Bureau that would be
17 able to look at an officer wholesale and
18 determine what level of intervention is
19 necessary, so that could be something
20 that the Civil Lawsuit Monitoring
21 Committee recommends take place so we
22 could say the officer needs to be brought
23 in. We could say the officer needs to be
24 transferred and have a different type of
25 assignment. The Committee could say the

1 Flaherty

2 commanding officer needs to talk to this
3 officer. Maybe they need to work a
4 different tour, different hours, maybe
5 they need to work with a different
6 partner. Those are all types of things
7 that the committee itself can recommend
8 from its kind of broad menu of potential
9 intervention options that they can take.

10 Q. If the committee decided on some
11 intervention other than placing someone
12 on Level II monitoring, would there be a
13 notation in an officer's CPI or personnel
14 file that the committee could look to
15 them and decide on some intervention?

16 A. I don't believe it would show up
17 on the CPI, but the Risk Management
18 Bureau keeps track of any officer placed
19 on monitoring and it might be placed in
20 an officer's monitoring file.

21 Q. When the Civil Lawsuit
22 Monitoring Committee looks at an officer,
23 is there any record of that review such
24 as meeting minutes?

25 A. There are no meeting minutes,

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but there is a voting sheet that each committee member completes to say what the recommendation is.

Q. And that voting sheet is personalized to the specific officer or officers under consideration and it would say, for example, Detective Regina, we decided not to place on Level II monitoring?

A. Correct.

MR. WASSERMAN: I don't think I have any further questions right now. Thank you very much for your time. This has been very helpful.

MR. FRANCOLLA: Can we take two minutes just for me to think about that?

MR. WASSERMAN: Yes.

(Recess taken.)

EXAMINATION

BY MR. FRANCOLLA:

Q. Good afternoon, Director Flaherty.

You mentioned how as part of the

1 Flaherty

2 Civil Lawsuit Monitoring Committee before
3 it gets to that stage, the Legal Bureau
4 was provided with a spreadsheet from the
5 Law Department containing lawsuits of
6 either suits commenced or disposed of in
7 the prior months; is that correct?

8 A. Correct.

9 Q. What's done with that
10 spreadsheet?

11 A. So there's two spreadsheets, one
12 for actions commenced and one for actions
13 disposed. Both of those spreadsheets are
14 imported into a very simple database that
15 we created called the Civil Lawsuit
16 Monitoring database that combines the
17 information that we receive from the Law
18 Department with the civil litigation
19 database that I mentioned before that the
20 Legal Bureau maintains for when an
21 officer files a request for legal
22 assistance. The Civil Lawsuit Monitoring
23 database then can be searched for the
24 civil lawsuit monitoring criteria that we
25 mentioned. So you can run a report in

1 Flaherty

2 that database that says tell me every
3 officer that has been named in three or
4 more lawsuits filed in the previous
5 twelve months or the other criteria as
6 well. From that report that's run, it
7 contains officers's names and tax ID
8 numbers and then we would still have to
9 go into every single officer individually
10 to look at the cases that they were named
11 in to ensure that they actually meet the
12 Civil Lawsuit Monitoring triggers as well
13 as again, like I said, reviewing the
14 complaints and additional information to
15 make sure that they were personally
16 involved, not incorrectly named as a
17 defendant and things like that before
18 they actually get to the stage that
19 they're reviewed by the committee.

20 Q. Just to be clear.

21 The database used would consist
22 of what the Law Department gives you as
23 well as your own records of every officer
24 who is served with a Complaint and files
25 a request for legal assistance as

1 Flaherty
2 directed by the Patrol Guide?

3 A. Correct.

4 MR. FRANCOLLA: I have nothing
5 else.

6 MR. WASSERMAN: I just want to
7 ask one or to two follow-ups. I'll
8 be real brief.

9 BY MR. WASSERMAN:

10 Q. The civil lawsuit monitoring
11 database that you have internally, it's
12 organized essentially by officers; is
13 that correct?

14 You could say this officer has X
15 number of lawsuits?

16 A. You would have to search by
17 officer's name and/or tax ID number and
18 the number of lawsuits doesn't
19 necessarily come up. It's not like it
20 says Officer Flaherty has five lawsuits.
21 It would list any entry for Officer
22 Flaherty from either of the databases
23 that I mentioned -- excuse me -- either
24 of the spreadsheets that we received from
25 the Law Department and it would also have

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Flaherty

the case for which I filed a request for
legal assistance.

Q. Are undercovers dealt with any
differently than non-undercover officers
in the internal database?

A. No.

Q. If you're aware, are undercover
officers also included in the spreadsheet
sent over from the Law Department?

A. I believe that they are, yes.

MR. WASSERMAN: Okay.

I have nothing further.

Thank you again for your time.

THE WITNESS: Thank you.

MR. FRANCOLLA: I have nothing
as well.

(Time noted: 2:01 p.m.)

KATIE FLAHERTY

Subscribed and sworn to before me
this ____ day of _____ 2021.

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C E R T I F I C A T E

STATE OF NEW YORK)

 : ss.

COUNTY OF NASSAU)

I, DONNA PALMIERI, a Notary
Public within and for the State of
New York, do hereby certify:

That KATIE FLAHERTY, 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 9th day of
August, 2021.



DONNA PALMIERI

1 ----- I N D E X -----

2 WITNESS EXAMINATION BY PAGE
3 KATIE FLAHERTY MR. WASSERMAN 7, 68
4 MR. FRANCOLLA 65

5 ----- INFORMATION REQUESTS -----

6 DIRECTIONS: None
7 RULINGS: None
8 TO BE FURNISHED: None
9 REQUESTS: 20, 59

10 MOTIONS: None

11 ----- EXHIBITS -----

12 DEFENDANT'S FOR ID.

13 Exhibit 137 Allegations Tree
14 (Previously Marked)

15 Exhibit 138 Power Point
16 Presentation 19

17 Exhibit 139 Power Point
18 Presentation 19

19 -----

20 PLAINTIFF'S FOR ID.

21 Exhibit 21 Legal Bureau Bulletin

22 Exhibit 97 (30)(B6) Notice
23 (Previously marked)

24 Exhibit 98 NYC PD Supervisor's
25 Guide (Previously marked)

1 DEPOSITION ERRATA SHEET

2 Our Assignment No. 7302554

3 Case Caption: FRASER vs. CITY OF NY

4 DECLARATION UNDER PENALTY OF PERJURY

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

15 _____
16 KATIE FLAHERTY

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

19 _____
20 Notary Public,

21 In and for the State of
22 _____
23
24
25

DEPOSITION ERRATA SHEET

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KATIE FLAHERTY

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KATIE FLAHERTY