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In the Matter of:

RYAN SANTHUFF

VS

STATE OF WASHINGTON

JOHNNY ALEXANDER

September 20, 2019

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A P P E A R A N C E S

For the Plaintiff:

John P. Sheridan
The Sheridan Law Firm, P.S.
705 Second Avenue, Suite 1200
Seattle, Washington 98104
jack@sheridanlawfirm.com

For the Defendants:

Andrew Biggs
Assistant Attorney General
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, Washington 98104-73188
andrew.biggs@atg.wa.gov

The Videographer:

Lucas Cheadle
SRS|Premier Realtime & Legal Video
2200 Sixth Avenue, Suite 425
Seattle, Washington 98121

Also Present:

Ryan Santhuff, plaintiff
Mark Rose, Sheridan Law

--oOo--

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* * * *

1 SEATTLE, WASHINGTON; FRIDAY, SEPTEMBER 20, 2019

2 9:52 A.M.

3 --oOo--

4
5 THE VIDEOGRAPHER: Good morning. We are on
6 the record at 9:52 a.m. on September 20th, 2019. This is the
7 video deposition of Johnny Alexander, in the matter of
8 Santhuff vs. State of Washington, et al., Filed in the
9 Superior Court of the State of Washington in and for King
10 County, Case No. 19-2-04610-4 KNT.

11 This deposition is being held at the Sheridan
12 Law Firm, 705 Second Avenue, Seattle, Washington 98104.

13 The videographer is Lucas Cheadle from SRS.

14 The court reporter is Wade Johnson from SRS.

15 Will counsel please note their appearances and
16 affiliations for the record, and then the witness may be
17 sworn in.

18 MR. SHERIDAN: This is Jack Sheridan,
19 representing the plaintiff.

20 MR. BIGGS: This is Andrew Biggs for the
21 Washington State Patrol.

22 ///

23 ///

24 ///

25 ///

JOHNNY R. ALEXANDER, deponent herein, having been.
first duly sworn on oath, was
examined and testified as
follows:

E X A M I N A T I O N

BY MR. SHERIDAN:

Q. Please state your full name for the record.

A. Johnny Robert Alexander.

Q. All right. And with whom are you employed?

A. I'm employed with the Washington State Patrol.

Q. And how long have you been there?

A. About 28 1/2 years.

Q. In 2016, to whom did you report?

A. I'm sorry, say it again.

Q. In 2016, to whom did you report?

A. 2018?

Q. Sixteen.

**A. Sixteen. I would assume that would be Assistant
Chief Randy Drake.**

Q. All right. And how about in 2017?

A. Randy Drake.

Q. And 2018?

**A. So, if this is 2018, partly Randy Drake and now
directly to the chief of the Washington State Patrol, John**

1 **Batiste.**

2 Q. Between 2016 and now, have you received any
3 promotions?

4 A. **Yes, sir.**

5 Q. And what's that?

6 A. **I promoted from captain to an assistant chief.**

7 Q. And is there any particular hiring authority that
8 hired you into that position?

9 A. **It's an appointed position, appointed by the chief.**

10 Q. And who appointed you?

11 A. **The chief, Chief John Batiste.**

12 Q. Batiste, okay. And when was that?

13 A. **December 3rd of 2018.**

14 Q. You know Lieutenant Jim Nobach?

15 A. **Yes, sir.**

16 Q. How do you know him?

17 A. **Jim used to work for me.**

18 Q. And when was that?

19 A. **Well, I would say partially in 2018 and 2017. And
20 I think I was the Special Operations division commander in
21 2016, if I'm not mistaken.**

22 Q. And his organization fell under Special Ops.

23 A. **Yes, sir.**

24 Q. All right. And what organization did he control in
25 2016 and 2017?

1 A. He was the manager over the Aviation unit.

2 Q. And was he a direct report to you?

3 A. Yes.

4 Q. All right. Didn't he have some sort of a title,
5 like commander?

6 A. He is -- lieutenants -- in the Washington State
7 Patrol lieutenants are considered assistant division
8 commanders. The captains are considered the commanders over
9 the division.

10 Q. At what level does an officer have the authority to
11 hire and fire?

12 A. That goes with the -- the chief is the one that has
13 the authority to fire and hire. So it's processed through
14 the Human Resource division, whether you're going to hire or
15 fire, and then the chief has his designees that can go ahead
16 and make those decisions for him.

17 Q. Have you been a designee ever?

18 A. Yes, sir.

19 Q. During what period of time?

20 A. Well, if I'm going to fire someone, then I will
21 consult my supervisor, who, as a captain, would be an
22 assistant chief. If I'm going to fire someone today, I would
23 consult the chief before I make that decision or before
24 implementing or initiating the process.

25 Q. In 2016, if you wanted to fire somebody, you would

1 consult -- was it Assistant Captain Drake?

2 A. The Assistant Chief --

3 Q. Chief.

4 A. -- Drake. Yes.

5 Q. All right. And in all the years that you've been
6 with the state patrol, have you felt that loyalty to your
7 chain of command is important?

8 A. Yes. It's crucial.

9 Q. Why?

10 A. Well, loyalty to the chain of command -- the way
11 that I look at it is, if you want an example, being loyal to
12 the chain of command or to my boss is making sure that his
13 message, his or her message, is consistently relayed down to
14 the people.

15 Q. All right. How about loyalty to the people that
16 report to you?

17 A. Absolutely.

18 Q. And why is that important?

19 A. Well, it's important -- if we expect them to get a
20 job done, we need to make sure that they have all the
21 resources and the tools and the training necessary to
22 accomplish the mission. So it's important.

23 Q. How do you balance loyalty with progressive
24 discipline?

25 MR. BIGGS: Objection to form of the question.

1 Q. You can answer.

2 A. Repeat the questions, please.

3 Q. Sure. How do you balance loyalty with progressive
4 discipline, assuming the need comes up?

5 A. Well, part of being loyal is making sure that we
6 hold our people accountable. And so holding individuals
7 accountable comes with discipline. So they go hand in hand.
8 You want to be loyal to your people, and, again, a part of it
9 is holding them accountable. So it's a part of mentoring and
10 developing them to make sure that they can be the best they
11 can be.

12 Q. Do you have experience doing investigations?

13 A. Yes, sir.

14 Q. Both external and internal?

15 A. Meaning?

16 Q. Meaning, for example, one would expect that you
17 would have experience investigating crimes, right?

18 A. Yes, sir.

19 Q. But how about personnel actions, improper employee
20 behavior, do you have experience investigating that?

21 A. Yes, sir.

22 Q. And is there a particular policy that you follow in
23 doing that?

24 A. Yes. We have a regulation manual.

25 Go ahead.

1 Q. What's that called?

2 A. **Regulation manual.**

3 Q. Okay. All right. Is it for the Washington State
4 Patrol?

5 A. **Yes, sir.**

6 Q. Does it come out of Human Resources, if you know?

7 A. **It's an Agency document. And as far as -- there's**
8 **a collective effort of the leadership that makes sure that**
9 **the policies in the manual are there, if you want to say.**

10 Q. All right. Did there come a time that you learned
11 that Trooper Santhuff had made a report that Lieutenant
2 12 Nobach and Brenda Biscay had engaged in improper conduct?

13 A. **Yes.**

14 Q. And is it fair to say that came to you around the
15 time that it happened?

16 MR. BIGGS: Objection to form of the question.

17 A. **To be honest with you, I'm not sure, or remember.**

18 Q. Can you tell us how that information came to you.

19 A. **That information came to me through Assistant Chief**
20 **Randy Drake.**

21 Q. What did he tell you?

22 A. **He told me that he received information that there**
23 **was inappropriate behavior or conduct between Jim Nobach and**
24 **Brenda Biscay.**

25 Q. All right. And did he tell you who reported that?

1 A. He told me that a captain, Captain James Riley, if
2 I remember correctly.

3 Q. Reported it. And who witnessed it?

4 A. According to the information that I had, it was
5 Trooper Ryan Santhuff.

6 Q. All right. And it's true, is it not, that you're
7 the person who implemented the discipline regarding that?

8 A. Yes.

9 Q. What was your understanding as to what actually
10 happened between the two of them, that caused you to
11 discipline them?

12 A. Well, inappropriate behavior.

13 Q. But what was it?

14 A. Well, the information that I received is that
15 Brenda rubbed her breast against the head of Lieutenant
16 Nobach.

17 Q. All right. And was it your understanding that this
18 was inadvertent?

19 A. Not to my understanding.

20 Q. All right. And was it your understanding that --
21 did you have an understanding that she reportedly came up
22 behind the lieutenant while he was seated and rubbed her
23 breast from side to side on his head?

24 A. That, I don't recall.

25 Q. All right. What do you recall?

1 **A. That there was contact between her breast and his**
2 **head.**

3 Q. Okay. And you also disciplined Lieutenant Nobach
4 for that, right?

5 **A. I did.**

6 Q. What did he do wrong?

7 **A. Well, it was the -- Lieutenant Nobach allowed**
8 **inappropriate behavior to occur in the workplace. He's the**
9 **leader, and he should not have only -- he should not have**
10 **engaged in that type of behavior, that was spread throughout**
11 **the division or that unit, but he didn't take care of it, he**
12 **didn't stop it. So that's why he was disciplined.**

13 Q. Did you learn whether he experienced any pleasure
14 from it?

15 MR. BIGGS: Objection to form of the question.

16 **A. Not that I know of.**

17 Q. And can you tell us, in conducting internal
18 investigations, would you agree with me that, as a matter of
19 policy, you're supposed to interview all the witnesses?

20 MR. BIGGS: Objection to form of the question.

21 **A. Ask the question again, please.**

22 Q. Yeah. Would you agree with me that, in conducting
23 internal investigations, as a matter of policy, it's
24 important to interview all the witnesses?

25 **A. To interview witnesses, yes.**

V3

1 Q. In this case, you did not interview lieutenant --
2 strike that -- you did not interview Trooper Santhuff,
3 correct?

4 A. I did talk to Trooper Santhuff.

5 Q. You did? And what did he tell you?

6 A. Lieutenant -- or Trooper Santhuff told me that
7 Brenda rubbed her head -- her breast against the head of
8 Lieutenant Nobach.

9 Q. Okay. And when did that meeting occur?

10 A. That meeting occurred after I spoke to Sweeney,
11 Sergeant Sweeney. And it occurred at a coffee shop in
12 Tumwater Boulevard because I wanted to hear directly from
13 Trooper Santhuff.

14 Q. All right. And did you have an understanding as to
15 whether or not this may involve discrimination, this
16 incident?

17 MR. BIGGS: Objection to form of the question.

18 A. Discrimination, no.

19 Q. How about sexual harassment?

20 A. Sexual harassment, when I first heard it, yes.

END

21 Q. You would agree with me, would you not, that there
22 are different levels of misconduct, including major
23 misconduct?

24 A. Yes.

25 Q. And you would agree with me, would you not, that,

1 in 2016, discrimination and sexual harassment were considered
2 major misconduct, right?

3 **A. Yes.**

4 Q. And it's true, is it not, that major misconduct is
5 supposed to be investigated by Internal Affairs?

6 **A. If it's proven that -- if there is, in fact, major**
7 **discrimination or sexual harassment, then, yes, it would be**
8 **investigated by Internal Affairs.**

9 Q. But isn't the point of an investigation to
10 determine the facts?

11 MR. BIGGS: Objection to form of the question.

12 **A. Ask your question again.**

13 Q. Yeah. Isn't the purpose of an investigation to
14 determine the facts?

15 **A. There are different levels of investigation, so,**
16 **yes.**

17 Q. But wouldn't you agree with me that, at the time,
18 before you interviewed anybody, you thought that sexual
19 harassment may have been an issue?

20 **A. There could have been a possibility, yes, so that's**
21 **why we gather the information to make a determination, if, in**
22 **fact, sexual harassment occurred.**

23 Q. You wound up giving both Lieutenant Nobach and
24 Brenda Biscay what's called an 095; is that right?

25 **A. Yes, sir.**

1 Q. And what's that?

2 A. An 095 is basically documenting a conversation or
3 counseling. It could also be a form of praising an employee
4 for an act.

5 Q. All right.

6 A. So it's basically documenting a conversation to
7 remind everyone what was talked about.

8 Q. All right. Now, so the 095s were apparently given
9 around the end of March; would you agree with that, 2016?

10 A. An 095 or the 095 in question?

11 Q. Well, the two in question.

12 A. I'm not sure when --

13 Q. All right. But you would have signed off on it?

14 A. Yes, sir.

15 Q. All right. And you were the one who decided that
16 that level of discipline was appropriate, correct?

17 A. With the consultation of the Office of Professional
18 Standards and the Human Resource division.

19 Q. And who at Office of Professional Standards?

20 A. That would be Captain Mike Saunders.

21 Q. Mike Saunders. So you talked to Mike Saunders
22 about this event?

23 A. Of course.

24 Q. And tell us why.

25 A. Well, that's a process that we go through. If we

1 have a situation -- it's not uncommon for the commander, the
2 person that's going to be the approving authority of an
3 investigation or a potential allegation, to consult the
4 Office of Professional Standards. So it's routine.

5 Q. That's Internal Affairs, right?

6 A. That's correct.

7 Q. How do you folks actually refer to it? Do you call
8 it Internal Affairs?

9 A. It's called the Office of Professional Standards.

10 Q. All right. So is it your testimony then that,
11 before giving the 095s to Lieutenant Nobach and Brenda
12 Biscay, you consulted with -- is it Captain Saunders?

13 A. Yes, sir.

V3A 14 Q. -- Captain Saunders at Internal Investigation?

15 A. Sure.

16 Q. Got it. All right. And what did you say to him,
17 and what did he say to you?

18 A. Well, I don't know exactly what was said, but it
19 involved me articulating, or at least sharing, the
20 information that I received that Brenda rubbed her breast up
21 against the back of Nobach's head. So there was also
22 conversation, as far as going -- sharing information that I
23 received from Sweeney, sharing information that I also
24 received from Trooper Santhuff.

25 Q. Santhuff?

1 **A. Yes.**

2 Q. So it's fair to say that, sometime before the 095s
3 were issued and signed by you, you had a conversation with --
4 I'm forgetting -- is it chief or captain?

5 **A. Drake?**

6 Q. Saunders. Saunders.

7 **A. Oh, Saunders. Saunders is a captain. And yes,**
8 **sir.**

9 Q. Let me start that again. Captain Saunders.

10 THE VIDEOGRAPHER: Excuse me, Counsel.

11 Could you move the mic down below that button.
12 It's squeaking.

13 **THE WITNESS: How about right there? Testing,**
14 **one, two, test, test.**

15 THE VIDEOGRAPHER: In between those two.

16 Right there. Yes, sir. Thank you.

17 **THE WITNESS: Okay.**

V4 18 Q. All right. So is it fair to say that, before you
19 signed off on the 095s for Nobach and Biscay, you had a
20 conversation with Captain Saunders in which you mentioned
21 that the witness to the event that was generating the 095s
22 was Trooper Santhuff?

23 **A. Yes, sir.**

24 Q. All right. And so did he give you any advice as a
25 result of the meeting?

1 A. Well, we look -- it's a discussion -- we look at
2 the prongs for sexual harassment, and then we look at the
3 totality of the information that I received from Sweeney and
4 from Santhuff, and then we make a decision on whether it was
5 sexual harassment or if it was something else, and, in this
6 particular situation, it was not sexual harassment.

7 Q. All right. And why do you say that?

8 A. Well, No. 1, we didn't -- Jim Nobach didn't
9 complain, Brenda didn't complain, and I specifically asked
10 Trooper Santhuff during our meeting, was he -- was he
11 offended.

12 Q. And what did he say?

13 A. And he said no.

14 Q. Now, this communication that you've just said you
15 had with Captain Saunders, is it documented anywhere?

16 A. No.

17 Q. So it was just a verbal discussion?

18 A. Yes, it was a discussion.

19 Q. And since this seems like -- this would be a
20 process that you would typically follow, right?

21 A. What do you mean?

22 Q. Meaning that, if you had an incident involving
23 something like potential sexual harassment, it would be
24 typical for you to consult Captain Saunders.

25 A. Yes, sir.

END

1 Q. All right. Can you tell us why you wouldn't want
2 to document that in some way, the fact that you had consulted
3 him, in case it comes up later?

4 MR. BIGGS: Objection to form of the question.

5 A. I didn't document it.

6 Q. Okay. All right. You said you also spoke to --
7 was it Chief Drake?

8 A. Yes.

9 Q. Tell us about that.

10 A. Well, it was basically just Chief Drake giving me
11 the information that he received from Sergeant Sweeney.

12 Q. Okay. So you saw him at the front end, not at the
13 back end?

14 A. That's correct.

15 Q. So, at the back end, it was Saunders?

16 A. Well, throughout the -- throughout my looking into
17 -- there were several conversations between Captain Saunders
18 and myself, and that involved HRD, regarding this issue,
19 before the 095 was issued.

20 Q. All right. And it's fair to say that none of those
21 conversations are documented?

22 A. No.

23 Q. To your knowledge.

24 A. No, not to my knowledge.

25 Q. All right. And was the reason you went to Saunders

1 because you recognized that, if it was sexual harassment, it
2 was a major event that should be investigated by his
3 organization rather than you?

4 MR. BIGGS: Objection to form of the question.

5 A. Well, sexual harassment, the Agency takes it very
6 seriously. And, if, in fact, sexual harassment occurred,
7 then it would be -- it would involve the Office of
8 Professional Standards, which, in this particular situation,
9 Captain Mike Saunders was the commander over that unit at the
10 time.

11 Q. Okay. And so would you agree that, because it was
12 in the category of a major violation, that, under the policy,
13 it would typically have been Captain Saunders' organization
14 investigating sexual harassment, not you?

15 MR. BIGGS: Objection to form of the question.

16 A. If, in fact, it was sexual harassment, yes.

17 Q. Okay. But, again, at the time that you began your
18 investigation, you didn't know if it was, in fact, sexual
19 harassment, right?

20 A. When I first received the information, no, I did
21 not.

22 Q. Okay.

23 A. However, after talking to Santhuff and Sweeney and
24 having conversations with Captain Saunders and HRD, it was
25 determined that it was not sexual harassment.

1 Q. By whom? Who determined --

2 A. By the collective, by the group, by the team, the
3 three individuals.

4 Q. And say those names again, if you would.

5 A. I'm sorry. By myself, Captain Saunders, and then
6 consultation with HRD, as well.

7 Q. And who is in HRD?

8 A. And that person, I don't remember who it was. It
9 was one of the managers.

10 Q. What are the choices back then in 2016? Who were
11 the managers that you worked with?

12 A. Let's see here, that would be Dr. Ben Lastimato,
13 that would be Deb Shevaris, and Captain -- Captain Travis
14 Matheson.

15 Q. Okay. All right. And so what did you categorize
16 this as, if not sexual harassment?

17 A. We categorized it as inappropriate behavior in the
18 workplace.

19 Q. Does your organization track that type of
20 information electronically?

21 A. I don't know.

22 Q. All right. Who was your go-to HR manager during
23 that time?

24 A. Well, it would be Captain Matheson or Ben Lastimato
25 or Deb Shevaris. Those were the three managers for that

1 unit.

2 Q. In that organization, was Matheson in charge?

3 A. Yes, at the time.

4 Q. And he was a captain?

5 A. Yes.

6 Q. Got it.

7 Is that particular position, does it require any
8 expertise in HR, or is it just one of those assignments you
9 can opt to take or be hired to?

10 MR. BIGGS: Objection to form of the question.

11 A. Well, the chief makes those decisions, and he makes
12 those decisions based on the skills, knowledge, and ability
13 of those individuals to serve in the different capacities as
14 a commander. So that decision is up to the chief.

15 Q. Would it be true that there's no special
16 requirement to fill that particular position that Captain
17 Matheson filled.

18 MR. BIGGS: Objection.

19 Q. For example, you don't have to have a master's in
20 HR or something like that.

21 MR. BIGGS: Objection to form of the question.

22 A. To my knowledge, the HRD commanders, I don't know
23 if they've had master degrees or experience in Human Resource
24 division. So that's something I don't know.

25 Q. Is that a position, to your knowledge, the one that

1 Captain Matheson held, is it one that, in the course of a
2 career, people who are management bound might circulate
3 through, or is it more something that would require certain
4 expertise and people stay there a long time?

5 MR. BIGGS: Objection to form of the question.

6 **A. Different commanders circulate through.**

7 Q. Okay. All right. Is it true that the way this
8 whole thing happened with Nobach and Biscay, you felt that it
9 was unfortunate that it got reported?

10 MR. BIGGS: Objection to form of the question.

11 **A. No. I wanted it reported.**

12 Q. Okay.

13 **A. If something of that type of behavior occurred, I**
14 **want to know about it. We need to deal with that.**

15 Q. All right. And did you feel that Trooper Santhuff
16 was disloyal by reporting it as he did?

17 **A. No.**

18 Q. And you are aware that, from that time forward,
19 Trooper Santhuff has claimed that he became a victim of
20 retaliation from Lieutenant Nobach because he was the witness
21 who reported it?

22 **A. Those are allegations that he presented, yes.**

23 Q. When did you know that, that he felt that he was
24 being retaliated against?

25 **A. I don't know if that was before or after the 095s.**

1 **So I really couldn't tell you.**

2 Q. Is it fair to say though we're talking around the
3 same time frame, spring of 2016?

4 A. I would say that it's fair to say that it's around
5 the same time that the 095 was issued.

6 Q. Got it.

7 A. Yes, sir. Thank you.

8 Q. How did that information come to you, that Trooper
9 Santhuff felt that he was being retaliated against?

10 A. I think, if I remember correctly, I think it came
11 through his union rep with the Troopers Association, Kenyon
12 Wiley.

13 Q. All right. And was that in a face-to-face with
14 you?

15 A. Yes, sir.

16 Q. Okay. And when that information came to you, what,
17 if anything, did you do with it?

18 A. Well, what I did is I started looking into it. If
19 I remember correctly, I talked to -- consulted OPS Commander
20 Mike Saunders, and then I also communicated with the two
21 sergeants.

22 Q. Within Saunders' organization?

23 A. No. I'm sorry. Two sergeants, sergeants in
24 Aviation.

25 Q. Okay.

1 A. Jeff Hatteberg and Scott Sweeney.

2 And I want to say I had a conversation with Trooper
3 Santhuff, as well.

4 Q. Okay. You don't specifically recall?

5 A. No, sir.

6 Q. Okay. Did there come a time you told Trooper
7 Santhuff not to discuss the harassment incident outside of
8 Aviation?

9 A. If I can back up, yes, I did have conversations
10 with Trooper Santhuff regarding his allegations of
11 retaliation, yes, sir.

12 Q. All right. And is it true that you told him at one
13 point not to talk about the sexual harassment incident
14 outside of Aviation?

15 A. I told the entire Aviation unit that.

16 Q. Why?

17 A. Well, I got a call from Sergeant Hatteberg, Jeff
18 Hatteberg, of Aviation, who indicated that the technicians,
19 the Aviation technicians, were very upset because they felt
20 intimidated by Trooper Santhuff. They felt that he was
21 trying to coerce them into saying -- seeing different
22 situations the way that he saw it, and it made them feel very
23 uncomfortable. So they went to Sergeant Santhuff -- I'm
24 sorry -- Sergeant Hatteberg and reported it to him, and
25 Sergeant Hatteberg called me. And I told Sergeant Hatteberg

1 to tell everyone, yes, there is an investigation going on,
2 and they should not talk about it, because we didn't want to
3 jeopardize the case.

4 Q. What investigation were you referring to?

5 A. I don't remember.

6 Q. Okay. So you basically said that -- okay.

7 So I understand what you just said, but what's the
8 argument for not talking about it outside of Aviation? Why
9 would you say that?

10 A. Oh, outside of Aviation.

11 Q. Yeah.

12 A. I thank you for clarifying that. I don't remember
13 saying outside of Aviation.

14 Q. Okay.

15 A. Thank you for clarifying that.

16 As a matter of fact, I'm pretty sure I would not
17 have -- I'm pretty sure I would not have told them not to
18 talk about it outside of Aviation. My concern was the work
19 environment being disrupted.

20 Q. Okay. Got it.

21 When did you learn about the King Air incident in
22 which Trooper Santhuff said that, back in 2014, he had been
23 standing near Ms. Biscay, a phone call came in asking for a
24 plane for the governor, and Lieutenant Nobach told her to say
25 that none was available even though one was?

MR. BIGGS: Objection to form of the question.

A. So what did I learn?

Q. When.

A. When?

Q. Yeah.

A. I don't know.

Q. It's fair to say it was before lieutenant -- strike that -- it's fair to say it was before Trooper Santhuff left Aviation, right?

A. To be honest with you, I don't even remember if he was in Aviation still or no longer in Aviation.

Q. All right. Okay. How about the allegation that Lieutenant Nobach talked to his subordinates about destroying emails because there was a rumor that there would be a PRA request coming, Public Records Act request coming?

MR. BIGGS: Objection to form of the question.

A. And your question is?

Q. When did you hear about that?

A. I don't remember when. I don't remember if he was -- if Trooper Santhuff was still there or if he had already left. I just don't remember.

Q. All right. And did you investigate that?

A. That was investigated, yes.

Q. By whom?

A. If I remember, it was investigated by the Office of

Professional Standards.

Q. And is that Mr. Saunders?

A. Yes, sir, Captain Saunders.

Q. Captain Saunders. And can you tell us, if you know, what the outcome was?

A. The outcome was -- if I remember correctly, the outcome was undetermined. I didn't have -- insufficient evidence -- I didn't have enough evidence to prove that it did happen or that it didn't happen.

Q. Was it your investigation?

A. It was investigated by the Office of Professional Standards for me, as the commander.

Q. Okay. And did you do any interviews?

A. I didn't -- I don't remember doing any interviews. Interviews were conducted by the Office of Professional Standards.

Q. Did you have access to the notes of interviews?

A. Yes, sir.

Q. Okay. And who made the decision that there was not enough evidence?

A. I made the decision.

Q. All right. Okay.

Is there any particular fact that caused you to decide there wasn't enough evidence?

A. Well, looking at the totality of the entire case

1 file, there was a lot of inconsistencies within the
2 witnesses' statements. There were a lot of inconsistencies
3 and inaccuracies from witness to witness.

4 Q. Okay. But it's fair to say that, I mean, you
5 reviewed the witness statements, right?

6 A. Why else.

7 Q. So you knew that there was a retired trooper by the
8 name of Speckmaier who gave a statement?

9 A. Speckmaier.

10 Q. Speckmaier.

11 A. Paul Speckmaier was interviewed, and I would assume
12 that he was interviewed for this particular case. I'm not
13 sure.

14 Q. All right. So you read the content of his -- the
15 interview notes, correct?

16 A. A long time ago, yes.

17 Q. Fair enough. All right. And how about Trooper
18 Noll, did you review the notes pertaining to Trooper Noll?

19 A. Yes, sir.

20 Q. And how about Trooper -- is it Sborov?

21 A. Sborov, Scott Sborov.

22 Q. Did you read the notes regarding his statements?

23 A. Yes, I read some statements by him. I'm not sure
24 which investigation it was for, but, yes, sir.

25 Q. Okay. And also Trooper Santhuff?

1 **A. Yes, sir.**

2 Q. All right. Did you talk to Trooper Santhuff
3 personally about that?

4 **A. Regarding the allegation?**

5 Q. Yes.

6 **A. I don't remember.**

7 Q. All right. And did you make any determinations as
8 to whether or not the alleged destruction of emails pertained
9 to a May Day incident, a May Day event?

10 **A. And your question again?**

11 Q. Yeah. Did you make any conclusions as to whether
12 or not the time frame of the allegation of being told to
13 destroy emails had to do with a May Day event?

14 **A. I did make a conclusion.**

15 Q. What was that?

16 **A. And I don't remember what the conclusion was.**
17 **Again, I haven't seen this case in a long time.**

18 Q. Fair enough. Okay. All right. Okay.

19 So we've talked about Sweeney talking to Nobach
20 about the incident involving his secretary.

21 Did you communicate with -- isn't it true you
22 actually talked to the secretary and to Nobach together?

23 MR. BIGGS: Objection to the introductory
24 comments to that question.

25 **A. No. I don't remember talking to them together.**

1 Q. All right. But you interviewed them separately
2 then?

3 A. Yes.

4 Q. All right. Did you take any notes of the
5 interview?

6 A. And it was more not an interview, it was more of
7 counseling as a result of the action, so during the
8 distribution of the 095.

9 Q. But, I mean, you must have talked to them to get
10 their side of the story?

11 A. I don't know that -- I wouldn't call it talking to
12 them. I had gathered enough information to determine that
13 there was inappropriate behavior in the workplace.

14 Q. Did they admit it?

15 A. They didn't deny it.

16 MR. SHERIDAN: Okay, let's take a break.

17 THE VIDEOGRAPHER: The time is 10:26 a.m.

18 We are now going off the record.

19 (A brief recess was taken.)

20 THE VIDEOGRAPHER: The time is 10:41 a.m.

21 We are now back on the record.

22 MR. SHERIDAN: I'm going to have this document
23 marked as Exhibit 1.

24 (Exhibit 1 marked for
25 identification.)

1 Q. All right. We're back on the record, and I have
2 just handed the witness what has been marked as Exhibit 1,
3 which is titled, "Washington State Patrol Administrative
4 Investigation Manual for Commissioned Employees."

5 Do you recognize this?

6 A. I do.

7 Q. And what is it?

8 A. This is the Washington State Patrol Administrative
9 Investigation Manual.

10 Q. And is it the manual that would have been utilized
11 in 2016/2017?

12 A. I would -- yes.

13 MR. SHERIDAN: Okay. All right. We'll get
14 back to that in a little while. Now, I'm going to skip a
15 number and ask the court reporter to number this Exhibit 3.

16 (Exhibit 3 marked for
17 identification.)

18 Q. I'm going to hand the witness Exhibit 3 and ask you
19 to take a moment to look at this and tell us what it is.

20 A. Okay.

21 Okay.

22 Q. And what is this?

23 A. This is the 095, written documentation, that I
24 provided to Brenda Biscay during our counseling section.

25 Q. All right. And who drafted the content?

1 **A. I did.**

2 Q. And within the world of progressive discipline, is
3 this the lowest form of progressive discipline you could
4 give?

5 **A. No, sir.**

6 Q. What's the lowest form?

7 **A. The lowest form could be considered just me having**
8 **a conversation with you and saying that your behavior is**
9 **inappropriate, or performance, and you need to get better at**
10 **it.**

11 Q. Okay. Just so we can talk about it, let's call
12 that oral counseling?

13 **A. Yes.**

14 Q. All right. And so then this is written counseling?

15 **A. This is written counseling, yes.**

16 Q. And then what's the step above it?

17 **A. The step above, it depends on -- you have -- if**
18 **it's performance-related, maybe the next step above might be**
19 **a job performance improvement plan to get the person back on**
20 **track.**

21 Q. If it's misconduct, would it be a written
22 reprimand?

23 **A. It will be -- I think the next step up is a verbal**
24 **reprimand and then a written reprimand.**

25 Q. Okay. All right. And then after written

1 reprimand, things like suspension or termination?

2 A. I'd have to go to the manual to figure -- to make
3 sure that that's correct. I'm not sure.

4 Q. All right. Fair enough. Okay.

5 And so did you present this face-to-face to
6 Ms. Biscay?

7 A. Yes, sir.

8 Q. And did you give her any advice as a result of
9 handing her this?

10 A. Well, I read the -- the advice that I gave her was
11 that, again, the information that I received is that the
12 majority of the staff in the Aviation section was
13 participating in inappropriate behavior. And the advice that
14 I -- well, it wasn't an advice, it was directing her, that
15 her involvement would stop immediately. And the advice that
16 I gave her would probably be more along the lines of I expect
17 her to lead by example.

18 MR. SHERIDAN: All right. Let's mark this as
19 Exhibit 4.

20 (Exhibit 4 marked for
21 identification.)

22 Q. And tell me if this is the 095 that you gave to
23 Lieutenant Nobach.

24 A. Yes, sir.

25 MR. SHERIDAN: All right. We seem to have

1 another form of this perhaps. Let me just take a moment.

2 Okay. I'm going to skip five.

3 MR. BIGGS: Skip it permanently?

4 MR. SHERIDAN: Yeah, we're just going to go on
5 to six.

6 MR. BIGGS: Just so I can put it in my notes.

7 (Exhibit 6 marked for
8 identification.)

9 Q. I'm asking the court reporter to hand you Exhibit 6
10 and take a moment to look at this. Tell me if you recognize
11 it and what it's about.

12 A. Okay.

13 Q. Go ahead.

14 A. Exhibit No. 4 is the 095 that I provided to Jim
15 Nobach. Exhibit No. 6 appears to be an email from Jim Nobach
16 to his staff that I have not seen before until today.

17 Q. Okay. Did you instruct Lieutenant Nobach to give
18 training on sexual harassment as part of the discipline?

19 A. What I told Jim Nobach is to schedule training.
20 And I told him that I didn't want it in the form of -- to be
21 limited to a slide type of presentation. I wanted an
22 instructor to come in and provide the training for our
23 people, which I attended, as well.

24 Q. Okay. And when did that happen?

25 A. It happened sometime after the 095 was issued.

1 Q. All right. And do you remember who came to do the
2 training?

3 A. No, I don't.

4 Q. Okay. And do you remember the duration of the
5 training?

6 A. I want to say that it was between four -- probably
7 around four hours of training, if I'm not mistaken.

8 Q. The people being trained, were they members of the
9 Aviation group?

10 A. No. No. They were -- I wanted him to get someone
11 from outside the Agency, hire someone to come in and give
12 that training.

13 Q. How about the attendees, were they from the
14 Aviation group?

15 A. Yes, sir, to include myself.

16 Q. All right. And since you attended, do you know
17 whether Lieutenant Nobach spoke at the training?

18 A. No.

19 Q. He did not speak?

20 A. I don't remember him speaking, as far as giving
21 part of the training, no.

22 MR. SHERIDAN: Okay. All right. Let's have
23 this marked as the next exhibit. This is seven.

24 THE REPORTER: Yes.

25 (Exhibit 7 marked for

identification.)

Q. And take a moment to look at this.

A. Okay.

Okay.

Q. All right. And tell us, what's this?

A. Exhibit 7 is an email from Lieutenant Nobach to Brenda Biscay, requesting that alternate training dates be considered or looked for, wanted her to research or find alternative training dates for -- for Santhuff, because Trooper Noll, who is also a pilot in the Aviation section, had to go on family -- unanticipated Family Medical Leave.

And then there's an email from Jim Nobach, advising me of the same.

Q. Okay.

A. Go ahead.

Q. Can you tell us why it was -- so, basically, if we look at the first page, the Bates stamp is 004, it's basically, the events that are occurring is that Trooper Santhuff had a training event set for June 20th and Jim Nobach was cancelling it, right?

A. Yes.

Q. Okay. Why would that be something that would be communicated to you, if you know?

A. Well, if there's going to be something that's going to be changed, you know, I mean, this is a -- I want to make

1 sure -- we are short pilots, we had limited pilots, and, if
2 something is going to slow -- that's going to change the
3 training regarding moving our people forward or progressing,
4 then I'd like to be kept in the loop. And Jim is just that
5 type of supervisor or subordinate leader to where he just
6 kept me appraised of what was going on in his unit.

7 Q. All right. And so how come you're asking him in
8 the top email whether or not this was covered in the recent
9 meeting and whether it's been communicated, the decision has
10 been communicated to Trooper Santhuff?

11 A. I'm not sure what meeting that is referring to.

12 Q. Okay. Well, but why were you inquiring whether it
13 was communicated to Trooper Santhuff?

14 A. Just wanted to make sure -- well, I mean, this is a
15 training that Trooper Santhuff wanted to go to and he was
16 scheduled to go to, and, unfortunately, it was changed as a
17 result of operational needs. And I care about all of my
18 employees, and I wanted to make sure -- basically, what I'm
19 saying here is I want to make sure that you communicate with
20 Trooper Santhuff and articulate to him clearly why the
21 decision was made.

22 Q. It's also true, is it not, that by May 25th, you
23 were aware that Trooper Santhuff was alleging that he was
24 being retaliated against by Lieutenant Nobach?

25 A. That's possible.

1 Q. Okay. I mean, you became aware of that soon after
2 the March 20th 095, right?

3 MR. BIGGS: Objection to form of the question.

4 A. Okay. So ask me that question again.

5 Q. Sure. So it's true, is it not, and I think it's
6 already in your testimony, that you knew about Mr. Santhuff's
7 complaint that he was being retaliated against after the
8 sexual harassment report?

9 A. Yes, sir.

10 Q. And you knew that going back to probably -- to soon
11 after the 095 was issued?

12 A. Yes.

13 Q. Right.

14 A. Sorry.

15 Q. All right. So, if we move forward to May 25th, at
16 the time that Trooper Santhuff is having his leave cancelled,
17 you were aware that he may perceive that this is in
18 retaliation for his having been a witness in the sexual
19 harassment issue?

20 MR. BIGGS: Objection to the form of the
21 question. Calls for speculation.

22 A. That -- yes. Trooper Santhuff -- as a result of
23 cancelling this, trying to reshift the training, yes, that
24 could be perceived by Trooper Santhuff as retaliation, yes,
25 sir.

1 MR. SHERIDAN: Okay. All right. Let's take a
2 look at Exhibit 8.

3 (Exhibit 8 marked for
4 identification.)

5 **THE WITNESS: Thank you, sir.**

6 Q. And take a moment to look at this, and tell us what
7 it is. While you're looking at that, I'm going to go off the
8 record for a minute because I just noticed it says that it's
9 a two-page document and we didn't give you the second page.

10 THE VIDEOGRAPHER: The time is 10:56 a.m.

11 We are now going off the record.

12 (A brief recess was taken.)

13 THE VIDEOGRAPHER: The time is 11:05 a.m.

14 We are now back on the record.

15 Q. All right. So you've been handed Exhibit 8, which
16 is Bates stamped JPS 1272 through 75.

17 And have you had some time to go through that, sir?

18 **A. Yes, sir.**

19 Q. All right. And tell us, what is this?

20 **A. Well, one -- they're both case logs to memorialize**
21 **conversations that I've had and to also document my findings**
22 **for an OPS investigation that I requested.**

23 Q. Okay. So this is entitled, "Investigator's Case
24 Log." Were you an investigator?

25 **A. This is a case log -- not as the investigator, no.**

1 This is a case log from the commander of the division to
2 basically document conversations that I've had.

3 Q. That's you as the commander, right?

4 A. Yes, sir.

5 Q. All right. And so is this a required practice,
6 that you take such notes?

7 A. Let's see here. On the first one, no. The first
8 document that ends with 272, no.

9 Q. Okay. How about 273?

10 A. 273 is -- it's a form -- it's one of the forms,
11 response forms. It's one of the alternatives that we as
12 commanders can use to respond to an OPS investigation. It
13 can go in the form of an IOC, a more formal written
14 documentation. I chose to do it in an investigator log.

15 Q. Who were you writing this for?

16 A. The first one -- okay, let me take a look at this
17 one here. Okay. The first one would go to the Office of
18 Professional Standards.

19 Q. The first one being page 1272?

20 A. Page 272, 1272, yes. This would go to the Office
21 of Professional Standards so that they can have something.
22 No kind of -- it paints a picture of the information that I
23 received so that they can proceed with their investigation.

24 Q. All right. And then how about the following
25 three pages?

1 **A. The following three pages is directed to the OPS**
2 **commander, Mike Saunders, regarding my findings, based on the**
3 **investigation that was conducted.**

4 Q. Okay, but -- so was there another investigation
5 that also had findings from OPS?

6 **A. Yes.**

7 Q. And who was the investigator on that investigation?

8 **A. One of the OPS detectives. I don't know.**

9 Q. If there was an investigation going on by an OPS
10 detective, why were you conducting an investigation?

11 **A. I'm not conducting the investigation.**

12 Q. Well, if we start with page 2, it says -- I'll just
13 go through it with you -- it says, "After reviewing the
14 preliminary investigation, OPS No. 16-1151, related to
15 employee conduct allegations against Lieutenant Nobach, I've
16 determined that the allegations have no merit."

17 So would you agree with me that you actually made a
18 determination about the allegations that Trooper Santhuff
19 made against Lieutenant Nobach?

20 **A. Yes.**

21 Q. So what policy or procedure authorizes you, if
22 there's an investigation going on by OPS, to make such
23 conclusions?

24 MR. BIGGS: Objection to form of the question.

25 **A. Okay. Maybe can I paint the picture here. So,**

1 after I got the information from Kenyon Wiley, who is the
2 union rep.

3 Q. Page 1, right?

4 A. Yes, from page 1, 1272, indicating a possible
5 retaliation, but more -- and also that there may have been a
6 violation of policy, where Jim Nobach was accused of
7 cancelling a flight or preventing the flight for the
8 governor. I needed that to be looked into. Okay? And
9 that's just based on the allegations that was brought forth
10 by Santhuff through the union rep to me.

11 Based on the information, one of the allegations
12 against Jim Nobach was that Jim Nobach had Trooper Santhuff
13 come into his office and presented an 095 that I had issued
14 to him regarding -- regarding the sexual -- the inappropriate
15 behavior. And I knew that that could not have happened
16 because Jim Nobach didn't have a copy of the 095. So -- but
17 I wanted to get more information on that, and I also wanted
18 to get more information on the other allegation involving the
19 governor's flight.

20 So instead of -- I want to get more information,
21 get Jim's side of the story. So what we do is we can do a
22 preliminary investigation, where OPS takes over, the Office
23 of Professional Standards takes over, and they give a set of
24 questions, through the union, to the alleged accused.

25 Q. Meaning to Nobach?

1 A. To Jim Nobach, yes. And then Jim Nobach responds
2 to the questions. It goes back to OPS. OPS puts it in the
3 form of a report and then gives it to me. I take a look at
4 that information, and then I make a determination based on
5 the information that I've received. And what I do then is
6 then I summarize my thought process in writing, which is
7 Exhibit 1273, it starts on that page there, and summarize my
8 thoughts. And that goes along with the decision, my decision
9 whether to accept it as a complaint that needs to be further
10 pursued by the Office of Professional Standards.

11 Q. So the Office of Professional Standards is not in
12 your chain of command, correct?

13 A. That's correct.

14 Q. But what you're saying is that your understanding
15 is that you get to decide the scope of their investigation,
16 correct?

17 A. With collaborative -- or conversation between
18 myself and the OPS commander.

19 Q. So the preliminary investigation that is identified
20 on Bates Stamp 1273 -- it's OPS No. 16-1151 -- am I right
21 that that actually made a finding that something
22 inappropriate had happened?

23 A. No. That's an allegation. It's not a finding,
24 it's an allegation that something possibly happened.

25 Q. So it doesn't include witness statements then?

1 MR. BIGGS: Objection. You say "it" doesn't.

2 Q. Let me ask again.

3 So the preliminary investigation by OPS does not
4 include witness statements, correct?

5 A. Say that one more time.

6 Q. Yeah.

7 Is it true that the preliminary investigation, OPS
8 No. 16-1151, did not include witness statements?

9 A. Okay. One more time.

10 Q. Sure.

11 Let me draw your attention to Bates Stamp 1273 at
12 the top.

13 A. Okay.

14 Q. You write, "After reviewing the preliminary
15 investigation, OPS No. 16-1151, related to employee conduct
16 allegations against Lieutenant Nobach, I have determined that
17 the allegations presented have no merit."

18 So I'm asking you: It's true, is it not, that that
19 preliminary investigation did not contain witness statements?

20 A. I don't know that they interviewed anyone. And
21 when I say "they," OPS detectives.

22 Q. Right.

23 A. I don't know if they interviewed anyone else
24 outside of -- other than Jim Nobach through the Troopers
25 Association.

1 Q. All right. And you, yourself, conducted no
2 interviews, true?

3 A. Not that I could recall.

4 Q. So, basically, you took that preliminary
5 information and you reached conclusions that there were no
6 merits without any witness statements?

7 A. Based on -- what I had to take into consideration
8 was the response from Jim Nobach, and that's what I had, plus
9 the information that Kenyon Wiley provided to me, in person,
10 regarding the information that was relayed to him, Kenyon
11 Wiley, by Trooper Santhuff. So that's the information that I
12 had to take -- to come to a conclusion.

13 Q. Okay. And then, if we turn the page to 1274, you
14 write, "There's no evidence that Lieutenant Nobach changed
15 office procedures specifically to target Trooper Santhuff,"
16 right?

17 A. That's correct.

18 Q. But that's done, basically, just having considered
19 the report from Mr. Wiley and the union's summary of
20 Mr. Nobach's position on these, this allegation, right?

21 MR. BIGGS: Objection to form of the question.

22 A. Let me review this document again.

23 Q. Please.

24 A. Something else that was taken into consideration
25 are evaluations that was provided by Sergeant Jeff Hatteberg

1 and Scott Sweeney regarding Trooper Santhuff's training
2 evaluation. So that kind of lets me know that I probably had
3 more information. I don't remember. I probably had more
4 information than just the questions that -- the preliminary
5 questions that were asked of Trooper Santhuff. Maybe I had
6 additional information that was provided to me with OPS's
7 response regarding the information that they got from Jim
8 Nobach. I don't know.

9 Q. Is there a file that you maintain that contains
10 this information?

11 A. I don't maintain it, no.

12 Q. So after you -- if you did review something, you
13 would have just thrown it out?

14 A. No. I would have given it to OPS. So OPS gives me
15 the documentation, and then I take a look at it, and then I
16 give the information back to OPS.

17 Q. So, besides the investigation, besides the
18 conclusion that you reached, to your knowledge, OPS did no
19 further investigation, correct?

20 A. Say that again, please.

21 Q. Sure. So this document that has your signature on
22 page 1274, it reaches conclusions that the allegations by
23 Mr. -- by Trooper Santhuff has no merit, right?

24 A. Yes. That was what I -- the conclusion, yes.

25 Q. Is it true, as far as you understand it, once you

1 reach this conclusion, no further investigation was done by
2 OPS?

3 **A. On this particular incident, no.**

4 Q. Okay.

5 **A. As far as I know.**

6 Q. All right. And to go back and sort of frame what
7 the incident was about, we can look at the 9/21 entry, where
8 it says, in the bullet, the first bullet, "Lieutenant Nobach
9 purposely manipulated the King Air maintenance schedule for
10 political reasons, which hindered flight operations for
11 Executive Protection Unit functions."

12 That's one thing, right?

13 **A. Where is that? I'm sorry.**

14 Q. I'm on 1272, the September 21st entry.

15 **A. Okay. Thank you.**

16 Q. So the first bullet is that, "Lieutenant Nobach
17 purposely manipulated the King Air maintenance scheduled for
18 political reasons, which hindered flight operations for
19 Executive Protection Unit functions." And that was one of
20 the things that you looked into, right?

21 **A. That's correct.**

22 Q. And the second was, "Lieutenant Nobach is
23 retaliating against Aviation subordinates. No specific
24 events were provided."

25 Is that another thing you were looking at?

A. That's correct.

Q. Were you looking at the possibility that Trooper Santhuff had said -- strike that.

Were you also looking at Trooper Santhuff's allegation that Jim Nobach was retaliating against him?

A. Once more, please.

Q. Yeah.

In this process that you went through, were you looking at whether or not Lieutenant Nobach was retaliating against Ryan Santhuff?

A. That was part of what OPS -- yes, I wanted them to look into, as well, yes.

Q. And that's what you looked into, as well, right?

A. Through OPS.

Q. Okay. Got it.

A. Yes.

Q. All right. And you're aware, are you not that, by the 21st, Trooper Santhuff had received an 095 from Hatteberg for failure to check a flight schedule?

A. Yes, sir, I remember that.

Q. And did you look into -- is that here in your analysis? Take a look at 9/23/16 on the first page.

A. 9/23/16. Oh, 9/23/16.

Q. Yeah.

A. Okay.

1 Q. All right. So that was one of the things that you
2 considered, as well, right?

3 A. Yes.

4 Q. Okay. So let me ask you this: Before March 20th,
5 2016, when the 095s were given out, had you ever received any
6 negative reports about Trooper Santhuff?

7 A. Not that I could remember.

8 Q. Right.

9 So all of the negative reports that you're
10 receiving of him is after he was a witness in this sexual
11 harassment allegation that resulted in discipline for
12 Lieutenant Nobach, right?

13 A. Yes, but I don't -- I'm the captain -- I don't
14 expect all negative behavior, performance, or anything like
15 that to reach my level, as a captain.

16 Q. Meaning that you assume that there must have been
17 other bad things that just never reached your level?

18 MR. BIGGS: Objection to form of the question.

19 A. There could be good things and bad things that
20 occurred regarding our employees that don't reach my level.

21 Q. Well, if there were negative aspects of Trooper
22 Santhuff's performance before he was a witness in the sexual
23 harassment allegation against Lieutenant Nobach, if you
24 assume they were not reported to you, why in the world were
25 these post-incident reports coming to your attention --

1 MR. BIGGS: Objection to form.

2 Q. -- and why were you investigating them?

3 MR. BIGGS: Objection to form of the question.

4 A. Well, I wasn't investigating them, but, there, it
5 was obvious that -- well, it was reported to me that Trooper
6 Santhuff felt that he was being retaliated against. Okay?
7 And that's something that we just don't tolerate in our
8 agency, neither will I tolerate. And the allegations that
9 were coming forward from Trooper Santhuff through his reports
10 indicated that he was being retaliated against. So, yes, I
11 think that that information should be reported to me. As a
12 matter of fact, I expect my subordinates, such as a
13 lieutenant and/or the sergeants and supervisors or anyone, to
14 let me know if there's evidence of retaliation against any
15 employee, especially in this particular situation, to where
16 retaliation was allegedly an issue within that section.

17 Q. Take a look at the first page, the September 26th
18 entry, at the bottom, 0830.

19 A. Okay.

20 Q. You write, "I met with Captain Mike Saunders and
21 requested OPS assistance to conduct a preliminary
22 investigation into the allegations." Isn't it true that you
23 went to see Saunders to just ask for their help in conducting
24 a preliminary investigation?

25 A. Well, the preliminary investigation is conducted by

1 the Office of Professional Standards. It's not conducted by
2 the commander. It's conducted within that unit by those
3 detectives.

4 Q. Okay. All right. And it says -- let's go to the
5 next page. It says, "After reviewing the preliminary
6 investigation related to employee conduct allegations against
7 Lieutenant Nobach, I've determined that the allegations
8 presented have no merit." And then you list a bunch of
9 bullets, including, "Hindering pilot advancement, cancelled
10 scheduled out-of-state training, changed office procedures to
11 specifically target Trooper Santhuff, treated Trooper
12 Santhuff differently than coworkers, singled out Trooper
13 Santhuff during group meetings where section improvements
14 were addressed, directed Sergeant Jeff Hatteberg to
15 discipline Santhuff as a form of retaliation, and manipulated
16 King Air maintenance schedule for personal or political
17 reasons." And that's what you understood were the
18 allegations made by Trooper Santhuff?

19 A. Yes.

20 Q. Okay. So these allegations, did they -- did you
21 produce any written report other than what we're looking at
22 right now regarding these allegations?

23 A. Regarding these allegations, not that I know of.

24 Q. And to your knowledge, OPS did not either, correct?

25 A. To my knowledge, I don't know.

1 Q. Okay. But you've never seen anything from OPS that
2 addresses these allegations that we've just listed?

3 MR. BIGGS: Objection to form of the question.

4 A. It's possible that I've seen something, but I just
5 don't remember right now.

6 Q. Okay. All right. But you would agree with me that
7 you told -- that you and Saunders discussed each of these
8 bulleted points?

9 A. At some point in time, yes, sir.

10 Q. Fair to say it would have been on or about the 26th
11 of September?

12 A. Yes.

13 Q. Fair enough.

14 Okay. So I wanted to ask you another question
15 about the first page here, the 9/22 entry. You write in
16 italics, "I counseled Lieutenant Nobach for the unrelated
17 incident which resulted in the 095." And then you say,
18 "Nobach was provided a copy of the 095." Isn't the 095 a
19 document that goes in your personnel file?

20 A. It does.

21 Q. And, if it were me, for example, if I got an 095,
22 couldn't I just go get a copy from my personnel file?

23 MR. BIGGS: Objection to form of the question.

24 A. Yes, you could.

25 Q. Okay. So, I mean, it is not unforeseeable that

1 Lieutenant Nobach might have gotten himself a copy?

2 A. He could not have gotten a copy. That personnel
3 file is in my locked cabinet inside my office.

4 Q. You mean the personnel file that you maintain is
5 not the personnel file that Human Resources has?

6 A. No. No. It's two different -- two different
7 files.

8 Q. So does Human Resources ever hear about the fact
9 that Lieutenant Nobach engaged in inappropriate behavior with
10 his secretary?

11 A. Well, I did have a conversation with the Human
12 Resource division, yes.

13 Q. Where did you get the understanding that 095s don't
14 go into the regular personnel file?

15 A. No, I'm telling you that -- what I'm telling you is
16 that the 095 that I issued did not go to the Human Resource
17 division. It stays in the, what we call the troopers file,
18 is what we call it, a troopers file. That file is
19 maintained. That's my file. It's maintained in a lock -- in
20 a locked -- in my drawer, in my office, under lock and key.

21 Q. No, I'm asking you procedurally.

22 Do you have an understanding that there's a written
23 policy or procedure that says that 095s just get locked in
24 your desk somewhere and they don't get put in the personnel
25 file of the employee that received it?

1 A. I've never seen an 095 in the personnel file in
2 OPS. I've never seen it. So I'm not telling you that they
3 don't get in there, but I don't know that there's a
4 requirement -- there's no requirement that requires me, when
5 I issue an 095, that I have to give it to HRD. I've never
6 done that, personnel file.

7 Q. Isn't it true the policy is that you have to notify
8 Human Resources that you've issued one?

9 A. Not to my knowledge.

10 Q. Okay. So that means that, if you do a positive
11 095, nobody knows about either, except you?

12 A. And the people -- and the individual that I'm
13 having a counsel with or the 095 is impacting and directly
14 related to, yes.

15 Q. Do you do that also with more serious forms of
16 progressive discipline, like written reprimands?

17 A. No. A written reprimand is maintained in the
18 Office of Professional Standards, and what they do with it, I
19 don't know.

20 Q. So the 095 though, in this case, never made it to
21 the Office of Professional Standards either, right?

22 A. Had there not been an investigation, no. The OPS
23 -- the 095s don't normally make it to the Office of
24 Professional Standards.

25 Q. So, when you met with Nobach to give him the 095,

1 did you read it to him?

2 **A. Yes, I did.**

3 Q. So he heard it audibly, whether or not whether or
4 not he had a copy?

5 **A. Correct.**

6 Q. Okay. So he understood at the time -- to your
7 knowledge -- he gave no sign of not understanding what he did
8 wrong?

9 **A. That's correct.**

10 Q. All right. So, let's see, on the 21st, did you,
11 Nobach, Sweeney, and Hatteberg attend a meeting?

12 **A. We attended a meeting. I don't know what date it**
13 **was.**

14 Q. Tell us about that meeting. What was the purpose
15 of the meeting?

16 **A. Well, to the best of my knowledge -- again, this**
17 **has been so long -- it was to -- the whole purpose of the**
18 **meeting was to -- well, one of the reasons for the meeting**
19 **was to get everyone to the table and talk about some of the**
20 **issues and allegations that were going on or had been**
21 **presented.**

22 Q. By Trooper Santhuff?

23 **A. Correct.**

24 Q. All right. And why did you call those individuals
25 together?

1 A. Well, because they were the supervisors in the
2 unit. It's a small unit.

3 Q. Okay. All right. And tell us what happened at the
4 meeting.

5 A. Well, to the best of my memory at this time, we
6 discussed -- I gave Trooper Santhuff an opportunity to bring
7 forward all of his concerns so that we can all address it.
8 And then gave Lieutenant Nobach an opportunity to voice his
9 concerns, and the two sergeants, as well. So to lay
10 everything on the table and try to find a resolution so that
11 we could -- so that we can move forward.

12 Q. Just a different question for a second.

13 You had said, before you issued the 095 to Nobach,
14 you had coffee with Trooper Santhuff, right?

15 A. Before the 095 was issued, yes.

16 Q. Was anybody else present?

17 A. No.

18 Q. Do you remember where you had coffee?

19 A. It was at a coffee shop on Capital Mall Boulevard.
20 It's the same coffee shop that I met with Trooper -- Sergeant
21 Sweeney.

22 Q. All right.

23 A. Different time.

24 Q. Okay. And the meeting we're talking about now that
25 pertains to -- in which Nobach, Sweeney, Hatteberg, and

1 yourself was in attendance, was Trooper Santhuff also in
2 attendance?

3 A. Yes.

4 Q. Okay. All right. And what did Trooper Santhuff
5 tell you at the time?

6 A. I don't remember the specifics. I can tell you
7 that he had an opportunity -- he laid out his concerns. He
8 said, "Hey, I feel retaliated because of this," and he laid
9 out -- gave -- he gave examples of how he felt. And then the
10 other -- and then everyone else laid everything else that
11 they had to say on the table, as well.

12 Q. All right. And so were you in any way concerned
13 that having Trooper Santhuff confront Nobach might actually
14 upset Nobach worse?

15 A. No, not at all. This had been going on for a
16 period of time, and it was time to come to the table and talk
17 about it. And the result was -- of that meeting -- was that
18 there was misunderstanding, miscommunications on behalf of
19 Trooper Santhuff as well as Lieutenant Nobach. And as a
20 result of that meeting, everyone agreed that, okay, hey,
21 look, we're going to work together. We shook hands. I
22 thought things were great, and we're going to move on.

23 Q. This is actually -- the meeting you're talking
24 about right now was actually in May of 2016, was it not?

25 A. Okay. Again, it's been so long.

1 Q. It could be.

2 A. I don't know.

3 Q. Fair enough.

4 A. We've had a bunch of meetings.

5 Q. All right. Let's see if you remember certain
6 facts. Did you discuss a phone call to HR regarding on call
7 requirements for pilots.

8 A. That very well could have been part of the
9 discussion.

10 Q. When Trooper Santhuff began to explain the
11 retaliation as he perceived it and said that it began after
12 the sexual harassment situation between Nobach and Biscay,
13 did you tell him to stop talking about the sexual harassment
14 issue?

15 A. In that meeting?

16 Q. Yes.

17 A. Not that I recall.

18 Q. Did you think that the sexual harassment incident
19 was unrelated to the allegation of retaliation?

20 A. I don't even know if that sexual harassment
21 incident was discussed in that meeting. So, if you're going
22 to tie everything to that meeting, I'm going to have to say
23 that I don't remember.

24 Q. Okay. All right. Was it your position though,
25 thinking about, not just this May meeting, but thinking about

1 what happens later in September when you're making your
2 conclusions, did you perceive that the retaliation began
3 after it was understood by management that Trooper Santhuff
4 was the witness who reported the improper behavior between
5 Nobach and his secretary?

6 MR. BIGGS: Objection to form of the question.

7 **A. You're going to have to ask me that again.**

8 MR. SHERIDAN: Could you read that back.

9 (The previous question was
10 read back.)

11 **A. I'm not sure. Could you ask that a different way,**
12 **please.**

13 Q. Sure.

14 So retaliation -- is it fair to say that
15 retaliation occurs when an employee makes some type of report
16 that causes someone above them with power to start to treat
17 them improperly? Do you agree sort of in lay person terms?

18 **A. Yes, sir.**

19 Q. All right. So it's true, is it not, that on our
20 time line, Trooper Santhuff was the witness who reported the
21 sexual harassment incident between Nobach and his secretary,
22 and, according to Trooper Santhuff, the retaliation began
23 soon after that?

24 **A. According to Trooper Santhuff, yes.**

25 Q. Right.

1 Did you ever agree or conclude that the events that
2 he perceived to be retaliation occurred around -- began to
3 occur around the time that he became that witness?

4 MR. BIGGS: Objection to form of the question.

5 A. It's difficult to -- because there were so many
6 allegations of retaliation reported by Trooper Santhuff on
7 many different occasions, it's kind of hard to answer that
8 one. For instance, I'm not sure whether the incident
9 occurred when Trooper Santhuff felt that he was being
10 retaliated against when his training was changed.

11 Q. Right.

12 A. I don't know if that happened before the incident
13 or after the incident. What I can tell you is that I didn't
14 receive any information regarding retaliation until after the
15 095 was issued. I don't know if that clarifies it.

16 Q. It's true, is it not, going back to this May
17 meeting that we've been discussing, when Trooper Santhuff
18 began to talk about the retaliation after the sexual
19 harassment situation, isn't it true that you interrupted him
20 and said that that situation had been dealt with and we
21 aren't going to talk about it or words to that effect?

22 A. No.

23 Q. Okay. All right. During this meeting, is it true
24 that you asked Trooper Santhuff to explain what concerns he
25 had with the training program and he did?

1 **A. At one of the meetings, I would I assume that that**
2 **conversation did happen. I do remember a conversation, yes,**
3 **sir.**

4 Q. All right. Isn't it true that, as he began to --
5 as Trooper Santhuff began his explanation, Lieutenant Nobach
6 appeared angry and red in the face and raised his voice to
7 say, "I'm going to stop you right there," or words to that
8 effect?

9 **A. No.**

10 Q. And is it true that during this meeting Trooper
11 Santhuff said words to the effect that, "With all due
12 respect, Lieutenant Nobach, the captain asked me a question,
13 and I'm answering the captain's question," or words to that
14 effect?

15 **A. I don't remember.**

16 Q. Okay. All right. And is it true that, during this
17 conversation, Lieutenant Nobach's body language was he
18 crossed his arms and leaned back in his chair and glared at
19 Trooper Santhuff?

20 **A. Not that I remember.**

V5 21 Q. Okay. Is it also true that, at this meeting, you
22 told Trooper Santhuff, if Nobach and Santhuff couldn't work
23 together, then one of them will have to be removed from
24 Aviation, or words to that effect?

25 **A. I'm trying to remember how that statement was made.**

1 It wasn't -- give me a minute. I didn't say anything about
2 someone was going to be moved out. It was more along lines
3 of, "If you guys can't get together, then we're going to come
4 back to the table, and then I'll figure it out, and there are
5 going to be some changes that are going to be made." That's
6 the way that went, but I don't remember saying anything about
7 someone would be moved out, but that could be a possibility.

8 Q. And it's fair to say that you were considering that
9 at this time?

10 A. I don't know what I was considering at the time.
11 My objective was to try and get everyone to work together.
12 We had limited pilots in the agency, and losing Trooper
13 Santhuff, I didn't want.

14 Q. How many pilots were there at the time?

15 A. I don't remember how many pilots, but one of the
16 challenges that we had is, you had to have two pilots to fly
17 a Cessna 206, and whenever you fly that out and you go work
18 the traffic, because it has a camera system. And then you
19 also have to always have to have two pilots in the King Air.
20 And we were limited on command pilots, so --

21 Q. Who put Nobach into that position --

22 A. I don't know.

23 Q. -- if he was in charge of Aviation?

24 Was it before your time?

25 A. Yes.

1 Q. Who was authorized to train pilots to your
2 knowledge?

3 A. Well, that training is the lieutenant and the
4 sergeants and whoever was certified and had the experience to
5 provide training.

6 Q. Do you know who was certified?

7 A. Who was certified? Well, I would say that the
8 lieutenant and the two sergeants at the time.

9 Q. That was your belief?

10 A. Yes.

11 Q. Is just the three?

12 A. Yes.

13 Q. All right. In the business relationship between
14 Lieutenant Nobach and Trooper Santhuff, who had the power?

15 MR. BIGGS: Objection to form of the question.

16 Q. You can answer.

17 A. Well, the lieutenant is ultimately responsible for
18 that unit.

19 Q. So, when you tell two people that it's important
20 that you get along, it's fair to say, isn't it, that the
21 person with the power is the one who has to take
22 responsibility for getting along?

23 A. No. I say that that responsibility goes with both
24 parties or in all -- all involved parties, if they're not
25 getting along.

1 Q. All right. So were you familiar with the details
2 of the cancellation of Trooper Santhuff's flight safety
3 training?

4 A. I remember conversations about that.

5 Q. All right. And who did you get your information
6 from?

7 A. I'm not even sure -- I think I got the information
8 -- I'm not sure if it was investigated through OPS, if that
9 was one of the allegations that was investigated by OPS. I
10 don't remember, it's been so long. I may have had
11 conversations with Lieutenant Nobach; I may have had
12 conversations with both sergeants.

13 Q. Okay.

14 A. And, eventually, I did have conversations with
15 Trooper Santhuff.

16 Q. All right. And so now I want to move forward to
17 the September time frame, which we were discussing when we
18 were talking about Exhibit 8. During this time frame, you
19 became aware that Trooper Santhuff received a written
20 reprimand, correct, an 095?

21 A. Oh, yes. Yes, sir.

22 Q. All right. And what did you do to determine
23 whether or not it was warranted?

24 A. Well, I'm not sure if that was part of the OPS
25 investigation. If it was, I would have considered the

1 information that was provided in that. I do remember talking
2 to Sergeant Hatteberg, and I do remember talking to
3 Lieutenant Nobach.

4 Q. Okay. All right. And when Wiley met with you, he
5 told you, basically, three main things, right?

6 He told you that the Trooper Santhuff believed he
7 was being retaliated against for the sexual harassment
8 witness work that he did, right?

9 A. That was one of the topics.

10 Q. And he also told you that Trooper Santhuff had
11 reported that Nobach had directed his subordinates to destroy
12 emails?

13 A. That was an allegation, yes.

14 Q. And third, the King Air incident he told you about,
15 where Trooper Santhuff overheard Nobach, basically, tell his
16 secretary to tell the governor that a plane was in
17 maintenance even though it wasn't?

18 A. Yes.

19 Q. It's true, is it not, that all three of those
20 events, without knowing if they're true, they would be
21 considered major events, for the purposes of investigation?

22 A. Repeat the question, please.

23 Q. Sure. It's true, is it not, that the three events
24 we've just described, with regard to the Administrative
25 Investigation Manual, they would be considered major events?

A. Yes.

Q. And is it fair to say, to your knowledge, in the 2016 time frame, none of those incidents or allegations resulted in formal investigations by Internal Affairs, to your knowledge?

A. They were looked into through the preliminary investigation by the Office of Professional Standards.

Q. Okay. All right. Now, there came a time, did there not, in early October, that there were interviews being conducted for retaliation and refusing service to the governor? Does that sound right?

A. Yes, there was an investigation for that.

Q. And who was conducting that?

A. I think the Office of Professional Standards conducted that investigation.

Q. All right. I'm going to show you Exhibit 9. Do you need some water or something?

A. I've got it.

Q. All right.

A. Thank you.

(Exhibit 9 marked for identification.)

THE WITNESS: Okay, go ahead.

Q. All right. I've just handed you Exhibit 9, which is Bates stamped 1242, and ask you if you recognize this

1 document.

2 A. Yes, sir.

3 Q. And could you tell us tell us, in lay person terms,
4 what it is?

5 A. This is the -- it's the internal incident report
6 that documents allegations brought against an employee for
7 OPS to look into it to help determine if an investigation is
8 warranted, a full investigation is warranted, if a
9 preliminary investigation is required to gather more
10 information to determine if a full investigation by OPS is
11 going to be -- go forward, or to determine if the -- to
12 document whether the complaint has been rejected.

13 Q. All right. Under summary of allegations, do you
14 know who wrote that?

15 A. The Office of Professional Standards.

16 Q. All right. And you don't know who particularly
17 within that office wrote that, right?

18 A. No, sir.

19 Q. It says, above that a couple of lines, it says,
20 "Name of complainant," and it has your name.

21 Can you explain why that is?

22 A. Because the complaint -- the information was
23 provided to me by Trooper Kenyon Wiley. It wasn't reported
24 directly to me by Trooper Santhuff. And the information,
25 based on what was provided to me by Trooper -- by Kenyon

1 **Wiley -- made me want to look into it, so I owned it.**

2 Q. All right. And how did you communicate the
3 information that is summarized in that paragraph under
4 summary of allegations, how did you communicate that to the
5 investigator?

6 A. Okay. Well, that, I met with the captain, and
7 what's pretty much standard practice, depending on the
8 captain, we go to what's called -- Captain Saunders, in this
9 particular situation. We do what's called a roundtable,
10 where all of his detectives get together, and to include the
11 captain. And I present the information that I have, and then
12 we make a decision on what's the best approach or best path
13 forward to deal with the situation.

14 Q. All right. And so this says -- the date and time
15 received at the very top -- it says, "September 21st, 2016."

16 Does that seem right to you?

17 A. That's the date, yes, that I received the
18 information that prompted me to have a conversation with OPS.

19 Q. All right. Now, a little bit more than halfway
20 down, there's a signature. Is that yours, Alexander?

21 A. Yes, sir.

22 Q. And it's dated the 26th of September. Tell us,
23 what does the 26th represent?

24 A. It's the date that we -- we, meaning the OPS
25 detectives and Captain Saunders -- determine that the best

1 course of action would be a preliminary investigation.

2 Q. Is that the date of the roundtable?

3 A. It could be.

4 Q. Okay. All right. And then the next block down has
5 a signature. Can you tell us whose that is?

6 A. Oh. The OPS commander. I'm assuming that that's
7 Captain Saunders' signature.

8 Q. Got it.

9 All right. And the box checked for you is
10 preliminary requested. And that is what you've testified
11 that you requested, a preliminary investigation, right?

12 A. Yes.

13 Q. And then in his section of this form, he checks,
14 preliminary investigation assigned to Internal Affairs. And
15 does that sound like -- does that comport with your
16 understanding of what happened next?

17 A. I'm assuming, yes. It says, "Concur with the
18 preliminary investigation." So I'm assuming that that's
19 Captain Saunders' way of saying that he concurs with the
20 decision to move forward with the preliminary investigation.

21 Q. Okay. And you don't know who was assigned to do
22 that, right?

23 A. I don't remember.

24 Q. All right. And you don't know if anybody -- after
25 you put in your comments and your conclusions in Exhibit 8,

1 you don't know if anybody looked at it again or investigated
2 further, right?

3 **A. I do not.**

4 Q. Okay. All right. Did there come a time in the
5 beginning of October that you told Trooper Santhuff to stop
6 doing his own investigation within Aviation?

7 **A. What I told, through his sergeant --**

8 Q. Which is?

9 **A. I'm sorry. Jeff Hatteberg, that brought his**
10 **concern to me that the technicians were feeling very**
11 **uncomfortable with Trooper Santhuff's approach. I told**
12 **Sergeant Hatteberg to tell every one to stop talking about**
13 **the incident.**

14 Q. Did you tell Hatteberg to tell Santhuff to stop
15 doing his own investigation within Aviation?

16 **A. I would more than likely -- there is a possibility**
17 **that I told him that, yes.**

18 Q. All right. And then did there come a time that you
19 met with all Aviation employees to advise them that there is
20 an Internal Affairs investigation being conducted on
21 Aviation?

22 **A. I did. No one -- there were very limited people.**
23 **There were a lot of -- most of the employees in the section**
24 **there didn't know that an investigation was undergoing.**

25 Q. All right.

1 **A. So, yes.**

2 Q. This was sort of at a meeting of the Aviation crew,
3 right?

4 **A. Yes.**

5 Q. And it's true, is it not, that you also told them
6 at that time that you were told -- that you understood that
7 some of them were told to delete emails pertaining to the
8 governor's schedule?

9 **A. I don't remember discussing the details of the**
10 **investigation.**

11 Q. All right. And did you make a statement to the
12 effect that you were aware that some of them were requested
13 to delete emails that should not have been deleted, or words
14 to that effect?

15 **A. I just don't remember everything that was discussed**
16 **at the meeting. I do remember -- the only thing that I**
17 **remember being discussed at the meeting, my main objective**
18 **was to tell every one to just stop talking about the**
19 **investigation until they were interviewed, if they were**
20 **interviewed, by the Office of Professional Standards.**

21 MR. SHERIDAN: All right. And then let's take
22 a look at some more exhibits. This is 11. We're skipping
23 10.

24 (Exhibit 11 marked for
25 identification.)

1 **THE WITNESS: Thank you.**

2 **A. Okay. Go ahead.**

3 Q. All right. Do you understand the content of what's
4 going on here?

5 **A. I think I understand the purpose of it, but, you**
6 **know, it has a lot of Aviation language that I don't**
7 **understand.**

8 Q. In the September 22nd time frame, did you have any
9 understanding as to what was going on regarding Ryan Santhuff
10 and Jeffrey Hatteberg?

11 **A. At some point in time, yes, I knew that Sergeant**
12 **Hatteberg had some conversations to Trooper Santhuff**
13 **regarding his performance.**

14 Q. Okay. All right. Okay. And did they become a
15 part of the investigation into retaliation?

16 **A. I don't know.**

17 Q. Okay. All right. On or about October 24th --
18 well, let me go back to 21st. Was there a meeting with you,
19 Hatteberg and Santhuff after the OPS preliminary
20 investigation for retaliation had concluded?

21 **A. I don't remember.**

22 Q. Okay. Did there come a time when you met with
23 Hatteberg and Santhuff where you said words to the effect
24 that you didn't appreciate some of the information Santhuff
25 provided Internal Affairs, or words to that effect?

1 **A. No.**

2 Q. Did you say words to the effect that you had been
3 hearing that Santhuff was considering leaving Aviation?

4 Do you recall that?

5 **A. No.**

6 Q. Okay. Did you say words to the effect to Santhuff
7 that, if Noll and I left -- strike that.

8 Did you say to Santhuff at a meeting in October
9 that you were told by someone else that Santhuff said words
10 to the effect that, "If Noll and I left Aviation, they would
11 be fucked"?

12 **A. I remember receiving information about that. I**
13 **don't remember sharing that with Trooper Santhuff.**

14 Q. Do you remember who gave you that information?

15 **A. No, I don't.**

16 Q. All right. In a meeting in October of 2016, did
17 Santhuff explain that he made a comment, in a certain
18 context, that, when Noll and Santhuff were the only trained
19 trooper pilots and retaliation and a hostile work environment
20 was continuing, that was the context?

21 Do you have any recollection of that?

22 **A. Of Santhuff mentioning that to me?**

23 Q. Yes.

24 **A. No, I don't.**

25 Q. All right. Did you, at any meeting in October of

1 2016, tell Santhuff that, if he's going to stay in Aviation,
2 he will be required to, No. 1, let everything go that's
3 happened in the past, 2, stop interrogating employees, and,
4 3, stop making others feel uncomfortable in the workplace?

5 **A. No.**

6 Q. Or words to that effect?

7 **A. I don't remember having that conversation.**

8 Q. Okay. Did you ever receive information from
9 Hatteberg that he had observed Santhuff interrogating
10 witnesses, employees?

11 **A. Hatteberg didn't tell me that he observed it, he**
12 **told me that it was reported to him by the technicians.**

13 Q. Can you tell us, what is it that the technicians
14 reported?

15 **A. Well, from Hatteberg, again, indicated that the**
16 **technicians came to him and complained to him that they felt**
17 **intimidated, that they were uncomfortable because Santhuff**
18 **was trying to coerce them to get them to see something that**
19 **happened the way that he did, and they were very**
20 **uncomfortable with that and frustrated.**

21 Q. All right. And did you -- as a manager, did you
22 meet with Trooper Santhuff to caution him against this
23 alleged behavior?

24 **A. Well, what it was -- I met with the unit as a whole**
25 **because I'm thinking that Santhuff is -- I met with the unit**

1 as a whole to tell everyone not to talk about the
2 investigation until -- unless it was with the Office of
3 Professional Standards inside the Aviation unit.

4 MR. SHERIDAN: Okay. Why don't we take a
5 lunch break here and come back around one.

6 MR. BIGGS: How long do you anticipate going?

7 MR. SHERIDAN: I'm thinking I can be done in
8 another hour.

9 MR. BIGGS: Okay.

10 THE VIDEOGRAPHER: The time is 12:01 p.m.

11 We are now going off the record.

12 (The noon recess was taken
13 at 12:01 p.m.)
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1 SEATTLE, WASHINGTON; FRIDAY, SEPTEMBER 20, 2019

2 1:08 P.M.

3 --oOo--

4
5 (Exhibits 12 and 13 marked for
6 identification.)

7 THE VIDEOGRAPHER: The time is 1:08 p.m.
8 We are now back on the record.

9
10 E X A M I N A T I O N C O N T I N U E D

11 BY MR. SHERIDAN:

12 Q. All right. I've handed you Exhibit 12, which
13 purports to be "Personnel Issues, Discrimination, and Other
14 Forms of Harassment," which is a procedure.

15 And do you recognize this document?

16 **A. Yes.**

17 Q. Okay. And did you make reference to this procedure
18 when you were investigating the report of possible sexual
19 harassment involving -- let me ask that again.

20 Did you make reference to this procedure when you
21 were looking into the allegations of sexual harassment and
22 improper behavior regarding Nobach and Ms. Biscay?

23 **A. I don't remember.**

24 Q. Is it a procedure you're familiar with?

25 **A. Yes.**

1 Q. Okay. And when you have to deal with issues like
2 discrimination and harassment, do you do that on your own, or
3 do you seek advice from anybody in a different organization,
4 like HR, for example?

5 A. Yes. I consult HR and OPS.

6 Q. Okay. Why OPS?

7 A. One, I always like to keep OPS informed and --
8 because the case might go to them, so --

9 Q. And take a look at 13. You've also had a chance to
10 look at that, I understand?

11 A. I recognize the document. I haven't seen it in a
12 while.

13 Q. All right. Are you author of this document?

14 A. Yes, sir.

15 Q. All right. And can you tell us why it is that you
16 wrote the synopsis, conclusions, and findings of fact?

17 A. As the manager, the approving authority, that's my
18 responsibility.

19 Q. All right. And were you the person who did the
20 interviews, if any were done?

21 A. No. The interviews were conducted by the Office of
22 Professional Standards. Now, I may have talked to people,
23 but the interviews were conducted -- formal interviews were
24 conducted by the OPS.

25 Q. Okay. All right. Do you know Captain Batiste?

1 **A. I know Chief Batiste.**

2 Q. Chief Batiste. Thank you.

3 **A. Yes, sir.**

4 Q. And how long have you known him?

5 **A. My whole career.**

6 Q. All right. And are you personal friends?

7 **A. Outside of work, no, not really. We're friends,**
8 **but we don't go hang out, no.**

9 Q. Okay. All right. Did you report at any time to
10 him information about Trooper Santhuff's claims of
11 retaliation?

12 **A. I've had conversations with him regarding this at**
13 **some point in time, probably after the investigation was**
14 **over. I don't remember.**

15 Q. Did you have such conversations with him before
16 Trooper Santhuff left the Aviation organization?

17 **A. I don't remember. I don't remember.**

18 Q. All right. Did you talk to Chief Batiste about his
19 three claims?

20 **A. At some point in time, yes.**

21 Q. And you just don't recall if it was before or after
22 he left Aviation?

23 **A. Correct.**

24 Q. All right. In November of 2016, did you have a
25 conversation with Union President Jeff Merrill regarding

1 Trooper Santhuff?

2 **A. I don't remember.**

3 Q. Did there could a time that you told Union
4 President Merrill that, if Santhuff continues to push, that
5 they would investigate him for truthfulness issues?

6 **A. No.**

7 Q. Okay. If you are a member of the State Patrol, is
8 truthfulness an issue that could ruin your career?

9 **A. Yes.**

10 Q. All right. In January of 2017, did you order
11 Lieutenant Thomas Martin to advise Santhuff, if he's going to
12 the media, he could face discipline for policy violations,
13 like insubordination?

14 **A. No.**

15 Q. Did you make any sort of statement to Lieutenant
16 Martin that addressed the issue of his going to the media?

17 **A. I don't ever remember communicating to Lieutenant**
18 **Martin regarding Trooper Santhuff.**

19 Q. Okay. All right. In July of 2017, Trooper
20 Santhuff sent an email requesting a formal response from his
21 management regarding retaining or destroying documents.

22 Do you recall anything about that?

23 **A. No, sir.**

24 Q. Did there come a time that you became aware that
25 Trooper Santhuff had retained an attorney?

1 **A. Yes.**

2 Q. How did that information come to you?

3 **A. I don't remember.**

4 Q. In August of 2017, did you meet with Trooper
5 Santhuff? This is long after he's transferred.

6 **A. I don't remember a meeting. I've run into Trooper**
7 **Santhuff, a couple of occasions, yes.**

8 Q. Did there come a time in the summer of 2017 where
9 you basically met with him to tell him that there was not
10 enough evidence to prove or disprove the public records
11 violation?

12 **A. I don't remember the conversation or meeting. I'm**
13 **not saying it didn't occur. I mean, I probably would meet**
14 **with him or have a conversation with him, but I just don't**
15 **remember.**

16 MR. SHERIDAN: Okay. All right. And this
17 is -- what are we up to, 14?

18 (Exhibit 14 marked for
19 identification.)

20 Q. Take a look at this and tell me if you recognize
21 it.

22 **A. Okay.**

23 Q. Do you recognize this?

24 **A. I don't remember seeing it, but I probably did.**

25 Q. Okay. And did there come a time that you became

1 aware that a complaint had been lodged against you on
2 October 21st, stating that it's alleged that you failed to
3 properly investigate a sexual harassment complaint?

4 **A. Yes.**

5 Q. All right. Did you have anything to do with the
6 investigation into that allegation?

7 **A. To be honest with you, I don't even remember a**
8 **whole lot about this investigation, so --**

9 Q. Were you interviewed by anyone?

10 **A. I don't remember.**

11 MR. SHERIDAN: All right. Let's have this
12 marked as 15.

13 (Exhibit 15 marked for
14 identification.)

15 Q. Take a minute and look at that.

16 **A. Okay.**

17 Q. What is this?

18 **A. This is basically a memorialization, in written**
19 **form, of the conversation I had with Assistant Chief Randy**
20 **Drake and Gretchen Dolan, regarding an allegation that**
21 **Lieutenant Nobach directed Trooper Santhuff or directed**
22 **troopers to delete emails regarding a May Day event.**

23 Q. Okay. So why was it you that interviewed Gretchen
24 Dolan as opposed to one of the investigators?

25 **A. Well, it wasn't an interview, it was a discussion.**

1 **And to be honest with you, I don't remember why I had the**
2 **conversation with Gretchen.**

3 Q. Okay. All right. Did there come a time that you
4 had a meeting about whether or not Mr. -- Trooper Santhuff
5 was in fact a whistleblower?

6 **A. Say that again.**

7 Q. Yeah. Did you have a meeting with other managers
8 to discuss the fact that Mr. Santhuff was a whistleblower?

9 **A. No. I don't remember that.**

10 Q. Did you have any discussions -- do you know what a
11 State whistleblower is under the law?

12 **A. Yes.**

13 Q. All right. And you're familiar with reporting
14 improper governmental action?

15 **A. Yes.**

16 Q. And are you familiar as to the means of making such
17 a report?

18 **A. A whistleblower?**

19 Q. Yeah.

20 **A. No.**

21 Q. Okay. And are you familiar -- do you know whether
22 or not there was ever an investigation concerning his status
23 as a whistleblower?

24 **A. Not that I can remember.**

25 MR. SHERIDAN: All right. Let's take a

1 two-minute break.

2 THE VIDEOGRAPHER: The time is 1:20 p.m.

3 We are now going off the record.

4 (A brief recess was taken.)

5 THE VIDEOGRAPHER: The time is 1:22 p.m.

6 We're now back on the record.

7 Q. All right. In the January 2017 time frame, did you
8 direct Captain Hall to advise Santhuff that, if he's going to
9 the media, he would face discipline for policy violation, or
10 words to that effect?

11 A. No.

12 Q. All right. Did you give that direction to anybody?

13 A. No.

14 MR. SHERIDAN: All right. That's all I have.

15 Thanks.

16 MR. BIGGS: No questions.

17 Thanks.

18 We'll reserve signature.

19 MR. SHERIDAN: All right.

20 THE VIDEOGRAPHER: This concludes today's
21 proceedings.

22 The time is 1:23 p.m.

23 We are now going off the record.

24 (Signature reserved.)

25 (Deposition concluded at 1:23 p.m.)

A F F I D A V I T

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I, JOHNNY R. ALEXANDER, hereby declare under
penalty of perjury that I have read the foregoing deposition
and that the testimony contained herein is a true and correct
transcript of my testimony, noting the corrections attached.

JOHNNY R. ALEXANDER

Date:

SRS|PREMIER REALTIME
2200 SIXTH AVENUE, SUITE 425
SEATTLE, WASHINGTON, 98121
206.389.9321

September 26, 2019

To: Andrew Biggs
Assistant Attorney General
Office of the Attorney General
800 Fifth Avenue, Suite 2000
Seattle, Washington 98104-73188
andrew.biggs@atg.wa.gov

Case Name: Santhuff vs. State of Washington, et al.
Deposition of: ASSISTANT CHIEF JOHNNY R. ALEXANDER
Date Taken: September 20, 2019
Court Reporter: Wade J. Johnson, RPR

This letter is to advise you of the following:

 X Signature was reserved. The Affidavit and correction sheet are being forwarded to you in electronic form. Please have the deponent review the transcript, note any corrections on the corrections page, and return the signed affidavit and correction page to us within 30 days of this notice. According to Court Rule 30(e), the deposition affidavit should be signed within thirty (30) days or signature is considered waived.

 Signature was reserved. The transcript is ready for review and signature. Your office did not order a copy of the deposition transcript. Please contact our office to make an appointment for review. Signature must be completed within 30 days of this notice.

(Sent without signature to avoid delay)
Wade J. Johnson, RPR

cc: John P. Sheridan

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