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1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

2 IN AND FOR THE COUNTY OF KING

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4 RYAN SANTHUFF, an individual,)

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No. 19-2-04610-4

vs.

STATE OF WASHINGTON, and
DAVID JAMES NOBACH, an
individual,

Defendants.

11
12 VERBATIM REPORT OF PROCEEDINGS

13 VOLUME VII

14
15
16 APPEARANCES:

17 FOR THE PLAINTIFF:

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MARK ROSE
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18
19 FOR THE DEFENDANTS:

ANDREW BIGGS
SCOTT MARLOW
KELSEY BAYE
Attorneys at Law

20
21
22
23 Before the Honorable Mafe Rajul

24 September 16, 2020
Seattle, Washington

25 Jamie Booker, RPR, CCR

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1 WEDNESDAY, SEPTEMBER 16, 2020; SEATTLE, WASHINGTON

2 --oo0oo--

3 COURT STAFF: King County Superior Court is
4 now in session with the Honorable Mafe Rajul presiding.

5 THE COURT: Good morning. Please be seated.

6 MR. SHERIDAN: Good morning.

7 THE COURT: So my understanding is that you
8 are going to call captain -- is it captain or
9 lieutenant -- Drake this morning?

10 MR. SHERIDAN: It's -- he's retired now, but
11 he's a former assistant chief, I think, is the title.

12 THE COURT: Okay. And then back to your
13 client?

14 MR. SHERIDAN: Then it's him the rest of the
15 day.

16 THE COURT: Okay.

17 MR. SHERIDAN: And we're going --

18 THE COURT: Did you agree to any exhibits?

19 MR. SHERIDAN: Apparently they didn't see --
20 they didn't see the email so --

21 MR. BIGGS: I'm looking at them right now,
22 Your Honor.

23 THE COURT: Okay.

24 MR. SHERIDAN: Okay. Okay. So, I guess --
25 yeah.

COLLOQUY

1 THE COURT: So are we ready to bring in the
2 jury?

3 MR. SHERIDAN: I think we're ready.

4 Oh, it might be worth giving me a second to
5 organize the books so we can do it seamlessly.

6 THE COURT: Okay.

7 COURT STAFF: What I'm going to do is line up
8 while you're doing that.

9 THE COURT: Perfect. Did you already accept
10 (inaudible) on Zoom.

11 COURT STAFF: Zoom, Your Honor, it's about
12 ten-plus people.

13 THE COURT: All right.

14 Good morning to those of you who are joining us
15 via Zoom. I just want to make sure that you understand
16 that you are under the same restrictions and orders
17 that you would be if you were in the courtroom. That
18 means that you are prohibited from recording the
19 proceedings. We only have one official record, and
20 that record is kept by our court clerk. And, likewise,
21 you are prohibited from taking any screenshots just
22 like you would be prohibited from taking any photos if
23 you were in the courtroom. A violation of my court
24 order could be basis for sanctions and you being held
25 in contempt.

COLLOQUY

1 Thank you.

2 MR. SHERIDAN: Okay. Ready.

3 COURT STAFF: All rise for the jury.

4 THE COURT: Thank you. Please be seated.

5 Good morning.

6 I know that it's a little bit earlier than noon,

7 but that will keep us on schedule. All right.

8 Mr. Sheridan, are you ready to call your next

9 witness?

10 MR. SHERIDAN: Yes. Plaintiff calls Randy

11 Drake.

12 THE COURT: All right.

13 MR. SHERIDAN: If you'll walk all the way up

14 towards that screen and then turn around. Yeah.

15 THE COURT: Good morning. Please raise your

16 right hand.

17 Do you swear or affirm the testimony you're about

18 to give is the truth?

19 **THE WITNESS: I do.**

20 THE COURT: All right. Please have a seat.

21 And if you could please remove your face covering

22 so that the jury can see you. Thank you.

23 DIRECT EXAMINATION

24 BY MR. SHERIDAN:

25 Q. Good morning.
Randall F. Drake/By Mr. Sheridan (Direct)

1 **A. Good morning.**

2 Q. Please state your full name.

3 **A. Randall F. Drake.**

4 Q. And are you retired from the Washington State Patrol?

5 **A. I am.**

6 Q. How long have you been retired?

7 **A. Since 2018.**

8 Q. What was your job title when you left?

9 **A. I was the assistant chief.**

10 Q. All right.

11 Is assistant chief different than deputy chief?

12 **A. Yes.**

13 Q. Who was the deputy chief in 20 -- say -- 16?

14 **A. Curt Hattell.**

15 Q. Okay. And how about in --

16 **A. Excuse me. Let me back up. Curt Hattell was the**

17 **deputy chief when there was that position. That**

18 **position was eliminated, and I don't remember when**

19 **that --**

20 Q. Okay.

21 **A. -- happened so --**

22 Q. All right.

23 **A. -- say --**

24 Q. Was there more than one assistant chief?

25 **A. Yes.**

Randall F. Drake/By Mr. Sheridan (Direct)

1 Q. In 2016, were you an assistant chief?

2 **A. Correct.**

3 Q. And in 2016, who were the other assistant chiefs?

4 **A. Mark Lamoreaux, Jeff Sass -- there was another one --**
5 **myself, and I am blanking on the other one.**

6 Q. All right. And you reported to Chief Batiste?

7 **A. I did, yeah.**

8 Q. All right. Okay.

9 Do you know -- you know -- you knew him as Trooper
10 Santhuff; that is right?

11 **A. Correct.**

12 Q. And you had some conversations with him?

13 **A. I have.**

14 Q. Okay. Would you agree that public confidence in the
15 ability of the State Patrol to investigate and properly
16 adjudicate complaints against its employees is an
17 important aspect of keeping the public confidence up?

18 **A. I do.**

19 Q. Okay.

20 **A. Excuse me, sir.**

21 Q. Oh, I think the mic might need to be a little closer to
22 you. Thanks.

23 **A. Jason Berry by the way -- the missing deputy or the**
24 **missing chief.**

25 Q. In March 2016, did you receive a phone call from
Randall F. Drake/By Mr. Sheridan (Direct)

1 Captain James Riley regarding Trooper Santhuff?

2 **A. I did.**

3 Q. And is it true that Captain Riley informed you that
4 he'd been called by Sergeant Scott Sweeney regarding a
5 concern voiced by one of Sergeant Sweeney's assigned
6 troopers -- Santhuff?

7 **A. Yes.**

8 Q. And as it was relayed by Captain Riley, Sergeant
9 Sweeney was told -- you heard that Sergeant Sweeney was
10 told by Trooper Santhuff that he had observed
11 inappropriate contact between Lieutenant Jim Nobach and
12 AA3 Brenda Biscay.

13 **A. Correct.**

14 Q. All right. And according to -- you understood that
15 according to Captain Riley, this information had not
16 been shared with Special Operations Division or Captain
17 Alexander; is that right?

18 **A. That's correct.**

19 Q. So what did you do then?

20 **A. I shared the information with Captain Alexander.**

21 Q. All right. And can you tell us, as a result of that,
22 did any investigation take place?

23 **A. Yes. Johnny -- I told Johnny he needed to look into
24 the matter, which he did.**

25 Q. All right. And did you have any knowledge of whether
Randall F. Drake/By Mr. Sheridan (Direct)

1 he did an investigation?

2 **A. I do.**

3 Q. Okay. For example, was there a case log?

4 **A. Yes.**

5 Q. There was a case log?

6 **A. Well, excuse me. Hold on one second here.**

7 **I completed a case log.**

8 Q. You did, but that was much later; right? That was in
9 October of 2016; right?

10 **A. I don't know the dates. But, yes, I did --**

11 Q. Okay.

12 **A. -- I know they completed a case log.**

13 Q. Just to follow that string about when you completed a
14 case log, it had to do with investigating Captain
15 Johnny Alexander as to whether he did his job in
16 investigating --

17 **A. Oh, that's correct.**

18 Q. -- the sexual harassment; right?

19 **A. That's correct. That's correct.**

20 Q. Okay. So do you have knowledge as to Captain Alexander
21 in looking into the -- oh, I should back up a second.

22 You understood that the allegation was that Brenda
23 Biscay came behind seated Lieutenant Nobach and rubbed
24 her breasts back and forth on his neck, essentially.

25 **A. Right. It was rubbing his shoulders and rubbed her
Randall F. Drake/By Mr. Sheridan (Direct)**

1 **breasts against his head. Correct.**

2 Q. All right. And so you asked Johnny Alexander to look
3 into it, and he was your direct report at the time;
4 correct?

5 **A. That's correct.**

6 Q. Did you -- did you believe that he would -- that he did
7 a case log?

8 **A. I don't recall if he did a case log. I know that he**
9 **talked to Brenda and Nobach, but I --**

10 Q. Okay. And --

11 **A. I -- I don't know about a case log at this point.**

12 Q. And you know that because he told you that; right?

13 **A. Correct.**

14 Q. And did he tell you they both admitted to the conduct?

15 **A. Correct.**

16 Q. All right. And did he tell you whether or not he did
17 an IRR? IIR. I'm sorry.

18 **A. He did not.**

19 Q. Okay. And --

20 **A. He did not do an IIR.**

21 Q. All right. And -- and did you ask him why that was?

22 **A. No. We discussed the -- just the nature of the**
23 **allegations, the incident itself, and whether or not it**
24 **could be handled, you know -- what level it could be**
25 **handled at.**

Randall F. Drake/By Mr. Sheridan (Direct)

1 Q. All right. Did you wind up talking to Captain Saunders
2 about this at any point?

3 **A. I don't recall if I talked to him or not.**

4 Q. Is it fair to say that information never came to you
5 that addressed this as a sexual harassment incident?

6 **A. Correct. I -- that's correct. I would have just -- I**
7 **would think at this point that Johnny would have talked**
8 **to Saunders. That's -- that's usually how that --**

9 Q. Okay.

10 **A. -- works. And if there's information, it would come to**
11 **me.**

12 Q. It's fair to say you didn't follow that up.

13 **A. Well, no information came to me.**

14 Q. I'm whether, like, you assertively went and talked to
15 Saunders to find out what was going on.

16 **A. No.**

17 Q. All right. Fair enough.

18 And is it also true that -- that you learned that
19 the issue was resolved with 095s?

20 **A. Correct.**

21 Q. And who told you that?

22 **A. Johnny.**

23 Q. Did he show you any 095s?

24 **A. I don't recall that.**

25 Q. Okay. And is it fair to say that you never spoke to
Randall F. Drake/By Mr. Sheridan (Direct)

1 anybody about this besides Alexander?

2 **A. Correct.**

3 Q. All right. And when Alexander told you that it had
4 been resolved, did he tell you if he had interviewed
5 anybody else besides Nobach and Biscay?

6 **A. Not -- not that I recall at this point, no.**

7 Q. Okay. All right.

8 Now, and -- and so, when you heard it was
9 resolved, you had no further involvement; right?

10 **A. Correct.**

11 Q. Okay. Now, is your position -- in 2016, was your
12 position director level?

13 **A. Director level?**

14 Q. If you were -- because you're a State employee in sort
15 of a quasi-military organization, you have different
16 titles. But can you tell us in terms of your being one
17 of the second in commands, is that typically director
18 level?

19 **A. I haven't referred -- heard it referred to as a**
20 **director level. You know, it's an appointing**
21 **authority. It's -- it's an assistance chief. You have**
22 **multiple direct reports. In my case I had six captains**
23 **who were also appointing authorities who reported to**
24 **me.**

25 Q. Okay.
Randall F. Drake/By Mr. Sheridan (Direct)

1 **A. So if --**

2 Q. When you received the information about the
3 breast-rubbing incident --

4 **A. Uh-huh.**

5 Q. -- did you forward that information to anyone?

6 **A. Other than Captain Alexander, I don't --**

7 Q. Okay.

8 **A. No.**

9 Q. Did you go up the chain to captain -- to Chief Batiste
10 to let him know what was going on?

11 **A. I've talked to Chief Batiste about it. I don't**
12 **remember if it was immediately at that moment. But we**
13 **have had discussions about it.**

14 Q. Okay. It's true, is it not, that there came a time
15 when a Kenyon -- a union representative Kenyon Wiley
16 came to you to talk about Trooper Santhuff again;
17 right?

18 **A. I know Kenyon talked to Johnny. I very well may have**
19 **talked to Kenyon. That's -- I don't remember having a**
20 **conversation. I very well may have.**

21 Q. All right. Did there come a time in, say, the
22 September 2016 timeframe where you heard that Trooper
23 Santhuff was reporting a hostile work environment, the
24 destruction of emails, retaliations against him, and a
25 King Air incident involving the Governor's office?
 Randall F. Drake/By Mr. Sheridan (Direct)

1 **A. Yes.**

2 Q. Did you know if you heard that from Kenyon Wiley for
3 the first time?

4 **A. It's possible. I really don't remember where I heard**
5 **that from, but it's not -- it wasn't uncommon for me to**
6 **talk with Kenyon so it's --**

7 Q. Okay.

8 **A. I wish I remember. I just don't.**

9 Q. Fair enough.

10 **A. No.**

11 Q. Did there -- did there come a time that he spoke to you
12 about Nobach suggesting that maybe you could just
13 transfer him out of there into another vacant
14 lieutenant job.

15 **A. I do remember that, yes.**

16 Q. All right. And it's true, is it not, that you told him
17 that someone above you thinks that Nobach's the only
18 person who could do the job or words to that effect?

19 MR. MARLOW: Objection, Your Honor. Hearsay.

20 MR. SHERIDAN: It's -- it's management.

21 THE COURT: Could you please ask again the
22 question.

23 MR. SHERIDAN: Yeah.

24 BY MR. SHERIDAN:

25 Q. It's true, is it not, that Kenyon suggested to you --
 Randall F. Drake/By Mr. Sheridan (Direct)

1 I'm sorry.

2 After he suggested that to you, you said to him
3 words to the effect that people above you think that
4 only Nobach can do that job -- meaning the aircraft
5 job.

6 **A. Well, there was only one person --**

7 THE COURT: Overruled.

8 **THE WITNESS: -- above me.**

9 MR. MARLOW: Objection, Your Honor. Hearsay.

10 THE COURT: Overruled.

11 BY MR. SHERIDAN:

12 Q. And there's only one person above you, and that is who?

13 **A. John Batiste.**

14 Q. And --

15 **A. And -- and I don't recall that being his perspective on**
16 **that. In fact, I know that wasn't his perspective on**
17 **that. So to answer your question, no, I don't believe**
18 **I would have said that.**

19 Q. How do you know that wasn't his perspective. Did you
20 and he talk about moving Nobach out of there?

21 **A. We didn't talk about moving him out. We talked about**
22 **just him in general and the aviation program.**

23 Q. Okay. And you understood that he was a problem in
24 terms of how he behaved; right?

25 **A. I understood that if the allegations were true, that**
Randall F. Drake/By Mr. Sheridan (Direct)

1 **was a problem.**

2 Q. Okay. Which allegations are you talking about?

3 **A. These ones you've brought up.**

4 Q. I see. Okay.

5 And it was your expectation that there would be
6 a -- an in-depth investigation on those -- as to those
7 allegations; right?

8 **A. Correct. Correct.**

9 Q. Okay. I'm not sure it's an audio --

10 **A. Yes. Correct.**

11 Q. -- I couldn't hear you.

12 **A. Yes. Correct. Correct. No.**

13 Q. Okay. Thank you. Fair enough.

14 And you would agree, would you not, based on your
15 own personal knowledge, that had -- had that been
16 viewed by Alexander, this -- the breast-rubbing
17 incident -- had he uncovered a larger problem within
18 the organization where sexual harassment was running
19 rampant, that would certainly be something that you
20 would hope would go to Internal Affairs for
21 investigation; right?

22 **A. Yes.**

23 Q. Okay. Would you have any input into that? Where it
24 winds up? Or would that be left to Johnny Alexander?

25 **A. Oh, that's Johnny's decision. He would probably
 Randall F. Drake/By Mr. Sheridan (Direct)**

1 **consult me on that, if it was going to go to Office of**
2 **Professional Standards.**

3 Q. Okay.

4 A. But he -- of course, he doesn't have to.

5 Q. Okay. Did he -- and you said -- you said you never saw
6 the 095s; right? So you don't know what was in them.

7 A. That's right.

8 Q. Fair enough.

9 Now, there's a white book on the end there. Would
10 you mind grabbing that? I want to show you an exhibit.
11 I'm going to also sort of preset this one for you to
12 make it easier on you.

13 A. Okay.

14 Q. This will be the next thing we talk about.

15 All right. Would you open to Defense Exhibit 552,
16 please.

17 A. Okay.

18 Q. All right. And this is a case log that you created; is
19 it not?

20 A. Yes.

21 MR. SHERIDAN: Plaintiff offers 552 --

22 (Indiscernible crosstalk.)

23 THE COURT: That has already been admitted.

24 MR. SHERIDAN: Oh, it is? Oh, thanks.

25 And, Greg, if you'll make the top big there.
 Randall F. Drake/By Mr. Sheridan (Direct)

1 Thanks.

2 BY MR. SHERIDAN:

3 Q. Okay. You're familiar with this document; are you not?

4 A. **I am.**

5 Q. And this is basically an investigator's case log that
6 you created regarding a complaint by Trooper Santhuff
7 that Captain Johnny Alexander had not done an adequate
8 investigation of the sexual harassment issue.

9 A. **Right.**

10 Q. And can you tell us, by looking at this, what date that
11 information -- that came to you that caused you to
12 begin the investigation?

13 A. **It looks like I opened the log on the 24th of October.**

14 Q. Okay. And can you just look at the first paragraph?
15 It says, "Captain Mike Saunders briefed me on the
16 status of OPS Case No. 1151.

17 "Captain Saunders informed me that the
18 investigation assigned to OPS investigators had been
19 reviewed by Captain Johnny Alexander and rejected."

20 Did you happen to know which investigation that
21 was? Was that the one of the list -- the laundry list
22 that we've been going through from September?

23 A. **I believe -- I believe that 1151 was the list of things
24 we've been talking about.**

25 Q. Fair enough.
 Randall F. Drake/By Mr. Sheridan (Direct)

1 Now, you -- you did complete a case log here, but
2 is it fair to say you didn't interview any witnesses?

3 **A. I didn't interview witnesses. I talked -- unless you**
4 **want to consider Johnny --**

5 Q. Johnny Alexander.

6 (Indiscernible crosstalk.)

7 **A. -- asked Johnny what he did.**

8 Q. Okay. So -- so is it fair to say that in deciding
9 whether or not Johnny Alexander had properly
10 investigated the breast-rubbing incident, the only
11 person you spoke to was him.

12 **A. Correct.**

13 Q. And he said, "I didn't do anything wrong."

14 **A. No. We talk about how he came to that -- how he came**
15 **to the conclusion -- let me back up.**

16 I asked him what he had done.

17 Q. Okay. What did --

18 **A. I determined --**

19 Q. Oh, I'm sorry. I didn't mean to interrupt.

20 **A. That's fine. And so I was the one to determine that --**
21 **whether or not he had --**

22 Q. Okay.

23 **A. -- looked into it properly.**

24 Q. What did he say he had done? And feel free to look at
25 that, if that refreshes your recollection, if it needs
 Randall F. Drake/By Mr. Sheridan (Direct)

1 refreshing.

2 **A. It might.**

3 So my log -- according to my log, he talked -- he
4 told me that he talked to Nobach, that he counseled
5 Nobach. And I know that Johnny also told me that he
6 had talked to Brenda.

7 Q. Okay. All right.

8 And, to you, that was enough of an investigation?

9 **A. I felt that he looked into the incident and handled it**
10 **appropriately, yes.**

11 Q. Did you know whether there was a sense -- according to
12 him -- that this was a bigger problem that involved
13 other people within aviation?

14 **A. This incident?**

15 Q. Yeah.

16 **A. No.**

17 Q. How about -- how about sexual harassment in general
18 being a problem?

19 **A. I was not aware of that.**

20 Q. And did -- did you talk to Captain Saunders about this
21 as part of your investigation?

22 **A. I don't recall specifically talking to him other than**
23 **to -- other than what I've alluded to up here at the**
24 **top -- discussing the other issues. So I can't recall**
25 **a conversation I had.**

Randall F. Drake/By Mr. Sheridan (Direct)

1 Q. Fair enough.

2 **A. I'm sure that I did. I don't know what we talked**
3 **about.**

4 Q. Fair enough.

5 Also, so -- so if -- looking at --

6 MR. SHERIDAN: Greg, would you do the bottom
7 part that includes the signature and the 10/24? Yeah.
8 That's it.

9 BY MR. SHERIDAN:

10 Q. So -- so is it fair to say that this matter came to you
11 for investigation on or about October 24, 2016?

12 **A. Yes.**

13 Q. Okay. And that's why you started the case log right?

14 **A. Correct.**

15 Q. And the reason you didn't go forward with an IIR is
16 because, after talking to Johnny Alexander, you figured
17 that was it.

18 **A. Essentially, yes.**

19 Q. All right. And is it fair to say that ten days after
20 you received this complaint to investigate, you
21 basically were done?

22 **A. Correct. Well, it looks like -- yeah.**

23 Q. Okay. And I'm going to ask you to take a look at
24 Exhibit 98, which is already admitted. It's that black
25 book right here -- that first one.

Randall F. Drake/By Mr. Sheridan (Direct)

1 **A. Okay. All right.**

2 Q. Okay. Tell me when you're there.

3 Do you recall this document?

4 **A. No.**

5 Q. Okay. It's fair to say you've never seen it before?

6 **A. I wouldn't say that. I just don't recall it.**

7 Q. Fair enough.

8 Look at the second paragraph of your -- of Exhibit
9 552 in the white book again. And you -- yeah. This --
10 yeah. You might want to keep that open. Thank you.

11 **A. Which -- which paragraph?**

12 Q. It's the second one. It begins, "Captain Saunders."

13 **A. Okay.**

14 Q. Okay. "Captain Saunders also informed me that Trooper
15 Ryan Santhuff, a witness in the referenced OPS, wrote a
16 letter to OPS investigator on October 20, 2016 -- the
17 letter attached to and part of this case log."

18 Can you help us understand what that means -- part
19 of this case log? Does that mean that the number
20 that's in 161151, as far as you understand? If you
21 look at the top of --

22 **A. Yeah.**

23 Q. Yeah.

24 **A. Well, what this means is that the letter that Ryan
25 wrote is attached to this case log.**

Randall F. Drake/By Mr. Sheridan (Direct)

1 Q. Meaning that one. The one -- yours?

2 **A. Right.**

3 Q. Okay. So that means you must have had that letter;
4 right?

5 **A. Must have.**

6 Q. And you understood what was in it at the time?

7 **A. Yes.**

8 Q. Okay. All right.

9 And let's just take a look at 98 again then for a
10 minute, if we can. And, if you would, just go down to
11 the very last paragraph where it says, "Sincerely,
12 Trooper Santhuff."

13 **A. Okay.**

14 Q. And if you look at the very last sentence, he writes.
15 "I respectfully request Office of Professional
16 Standards to investigate why the sexual harassment
17 complaint was not handled per policy. Hostile work
18 environment, slash, retaliation, intentionally refusing
19 a Governor flight for political reasons, and the public
20 disclosure violation."

21 Is it fair to say that you have no recollection of
22 the content of 98?

23 **A. Not independently, no.**

24 Q. Okay. Fair enough.

25 Would you agree with me that given the right
Randall F. Drake/By Mr. Sheridan (Direct)

1 facts, the failure to investigate -- to properly
2 investigate could itself be unacceptable contact --
3 conduct underneath -- under your policies and
4 procedures?

5 **A. Right. Correct.**

6 Q. So if a manager didn't do their job by investigating,
7 that might put them in a position of receiving
8 discipline; right?

9 **A. Correct.**

10 Q. Okay. That didn't happen to Captain Alexander.

11 **A. No.**

12 Q. Correct?

13 Let's look at Exhibit 103, and I think the black
14 book may have it.

15 **A. Okay.**

16 Q. Okay.

17 MR. SHERIDAN: And is this admitted?

18 UNIDENTIFIED SPEAKER: Yes.

19 MR. SHERIDAN: Go ahead and -- oh, good. You
20 did.

21 BY MR. SHERIDAN:

22 Q. And this is a letter dated the 31st so the same month
23 you did your investigation, and this is from Saunders.
24 But you'll see at the bottom, you were copied on it.

25 **A. Uh-huh.**

Randall F. Drake/By Mr. Sheridan (Direct)

1 Q. Do you have a recollection of this document?

2 **A. Not independently, no.**

3 Q. Okay. He writes to Captain Alexander saying, "A
4 complaint, which was lodged against you on
5 October 21st, stating, 'It is alleged the captain
6 failed to properly investigate a sexual harassment
7 complaint,' was not accepted. The complaint will not
8 appear in your employment history." And then it just
9 says that the case will be retained.

10 Without remembering having received this specific
11 letter, is this -- is this in accordance with your
12 memory of the events?

13 **A. Yes.**

14 Q. All right.

15 MR. SHERIDAN: No further questions. Thanks.

16 THE COURT: Any cross?

17 MR. MARLOW: Yes. Very briefly, Your Honor.

18 THE COURT: Direct. Cross. Direct.

19 CROSS-EXAMINATION

20 BY MR. MARLOW:

21 Q. Good morning, Chief Drake. How are you today?

22 **A. Good. How are you?**

23 Q. Enjoying retirement?

24 **A. I am, actually.**

25 Q. Good. Good.
Randall F. Drake/By Mr. Marlow (Cross)

1 Thank you for coming and talking to us today. I
2 have some very quick questions for you.

3 So on your direct examination, you indicated the
4 importance of public confidence in WSP and how that can
5 be fostered by an appropriate self-policing; is that
6 fair to say?

7 **A. Yes.**

8 Q. And essentially you were, as assistant chief,
9 responsible for that sort of behavior and that sort of
10 mentality within your command of those six captains and
11 all the way down to the troopers underneath them;
12 correct?

13 **A. That's correct.**

14 Q. Now, with regard to the allegations that Mr. Santhuff
15 made and the investigation that Captain Alexander did
16 and things, are you confident that those investigations
17 were handled appropriately under that guiding
18 principle?

19 **A. I am.**

20 Q. Okay. Anything you'd change about those?

21 **A. No.**

22 MR. MARLOW: Nothing further, Your Honor.

23 THE COURT: Any redirect?

24 MR. SHERIDAN: Nothing further.

25 THE COURT: Members of the jury, do you have
Randall F. Drake/By Mr. Marlow (Cross)

1 any questions? All right.

2 UNIDENTIFIED SPEAKER: Just have to write it
3 out.

4 THE COURT: That's fine.

5 Do you have yours written down already?

6 Mary, we have some questions.

7 COURT STAFF: Any other questions? Oh.

8 THE COURT: I'm not really sure about -- it's
9 not clear to me.

10 I'm sorry? Was this your question, Juror No. 12?

11 JUROR: Uh-huh. I think so.

12 THE COURT: All right. Mary, could you
13 please give it back to her to rephrase or --

14 JUROR: I think that's mine.

15 THE COURT: -- complete or -- yeah.

16 JUROR: I was trying to hurry.

17 THE COURT: That's all right.

18 All right. So the first question is, "Did you
19 consider Trooper Santhuff's allegations of retaliation
20 credible?"

21 THE WITNESS: Certainly initially. You know,
22 take them at face value. So yes. By the end of the
23 inspection of the information, I think that -- I
24 believe that that's the way Ryan perceived it, but I
25 don't believe that it was retaliation.

JUROR QUESTIONS OF RANDALL F. DRAKE

1 THE COURT: "Did you ever look at the 095
2 given to Nobach and Biscay?"

3 THE WITNESS: I don't recall ever seeing an
4 095 given to Nobach. However, I was briefed by Captain
5 Alexander as to what the -- what the follow-on training
6 was going to be for not only Nobach but for the -- for
7 the unit.

8 THE COURT: "Did Alexander tell you that he
9 thought everyone in the aviation unit engaged in
10 inappropriate behavior and/or sexual harassment?"

11 THE WITNESS: He did not tell me that he
12 thought everybody was involved in sexual harassment.
13 He did tell me that he felt like the unit would benefit
14 from training regarding appropriate workplace
15 environment for issues such as poor communication,
16 joke -- joking, bantering, that the professionalism
17 needed to increase.

18 THE COURT: "Why didn't Captain Alexander put
19 Lieutenant Nobach on probation?"

20 THE WITNESS: Well, we don't -- we don't have
21 probation. I mean, that's not a typical remedy for
22 something like that. The typical remedy is, you
23 know -- it's progressive discipline. It can start with
24 a conversation. It can end in termination. And in
25 between are things like training, remedial training,

JUROR QUESTIONS OF RANDALL F. DRAKE

1 suspension. There's a whole host of things in between.

2 And so we are bound by a contract for what type of
3 discipline can be handed out for certain types of
4 offenses, if that makes sense.

5 THE COURT: I wasn't asking the question.

6 THE WITNESS: Yeah.

7 THE COURT: Any follow up?

8 MR. SHERIDAN: None, Your Honor.

9 MR. MARLOW: No, Your Honor. Thank you.

10 THE COURT: All right. May this witness be
11 excused?

12 MR. SHERIDAN: Yes, Your Honor.

13 MR. MARLOW: No objection from defense, Your
14 Honor.

15 THE COURT: All right. You are excused.

16 Thank you for being here today.

17 MR. MARLOW: Thank you, Chief Drake.

18 THE COURT: Are we having your client back on
19 the stand?

20 MR. SHERIDAN: Yes, with the Court's
21 permission.

22 THE COURT: All right. Detective Santhuff,
23 if you could please take the stand again.

24 And I just want to remind you that you're still
25 under oath.

1 **THE WITNESS: Yes, Your Honor. Thank you.**

2 THE COURT: Mr. Sheridan.

3 MR. SHERIDAN: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MR. SHERIDAN:

6 Q. Here we are again.

7 So I want to just -- because of the awkward
8 positioning of our chart, I want to put each of these
9 up on the screen and have you just verify whether it's
10 accurate or not. Okay?

11 **A. Yes, sir.**

12 MR. SHERIDAN: So this first -- will you put
13 up 216 -- 2016, Greg? And then you'll see it best over
14 there, I think.

15 Can you make that any bigger? Maybe not. Okay.
16 Maybe not.

17 BY MR. SHERIDAN:

18 Q. Okay. Take a look at that and tell me if that seems to
19 be a correct depiction of what you testified to?

20 **A. Yes, sir. That looks correct.**

21 Q. All right. Let's go to 17 and have you do the same
22 thing.

23 **A. Yes, sir. That looks correct.**

24 Q. And let's go to 18 and have you do the same thing.

25 **A. That looks correct as well.**

Ryan Santhuff/By Mr. Sheridan (Direct)

1 Q. And 2019 and have you do the same thing.

2 A. That's correct.

3 Q. And then 20 (inaudible).

4 A. That's correct.

5 Q. All right. During the cross-examination of
6 Dr. Terrelli (phonetic) a statement was made by defense
7 counsel to the effect that you didn't have your
8 instruments rating or something.

9 Could you tell us was that an accurate statement
10 to Dr. Terrelli?

11 A. Not at all. I had my instrument rating from the FAA.
12 I've maintained that instrument rating since I received
13 it in 2013 up until I -- approximately about four or
14 five months after I left aviation when you have
15 certification or currency requirements that are
16 required to be met. And because I was no longer
17 flying, those lapsed so currently I could not fly by
18 instruments until I got those back.

19 But all throughout the time from when I received
20 any initial instrument rating from the FAA through when
21 I left the Aviation Section in the end of October 2016,
22 I was certified to fly by instruments.

23 And also we train for instruments at King Air
24 school applied safety, and almost the entire time down
25 there you're flying by instruments. And, again, a
Ryan Santhuff/By Mr. Sheridan (Direct)

1 **separate training facility -- world renowned training**
2 **center -- graded me at the level of ATP, and most of**
3 **that training, again, was on instruments.**

4 **So the claim that I was not an instrument-rated**
5 **pilot is completely false.**

6 Q. Okay. And can you tell us, as part of your job, did
7 you fly on instruments?

8 A. **Yes, sir. Regularly.**

9 Q. All right. So what was the only limitation as to
10 instruments?

11 A. **The only limitation that I had on any instruments was**
12 **set from the Aviation Section by Lieutenant Nobach.**
13 **And, again, that was I could not fly Cessna 182s with**
14 **non-State Patrol passengers. So, for example,**
15 **Commissioner Goldmark -- if there was instrument**
16 **forecasted conditions or if there was instrument**
17 **conditions encountered, I was limited within State**
18 **Patrol -- their own limitation requirements, I guess --**
19 **I couldn't conduct those flights. But there was no**
20 **limitations on my FAA-issued instrument rating.**

21 Q. All right. And when another witness testified about
22 the email destruction, defense counsel suggested that
23 perhaps it had to do with Oso and nothing else.

24 Could you tell us whether or not the employee --
25 I'm sorry -- the email destruction that you described
 Ryan Santhuff/By Mr. Sheridan (Direct)

1 regarding Lieutenant Nobach had anything to do with
2 Oso?

3 A. Yes. I'd like to take a minute to explain that
4 actually.

5 When Oso occurred, Chris Noll and I were called
6 in, and we responded to that event that day as soon as
7 we could get to the airport and get in the aircraft and
8 fly up there to assist the first responders.

9 Throughout that event, we in aviation --
10 specifically myself and a couple of the other pilots --
11 were tasked with going to Oso and photographing that
12 mudslide as it continued to move.

13 Primarily, I was the one that was tasked with that
14 responsibility to go up there and take those
15 photographs and upload them to different stakeholders
16 that we worked with so they would have access to those
17 photos.

18 We had set up a -- kind of like a cloud account on
19 a server that I would upload the photos to. Initially,
20 we did try to email them. They were large files. And
21 then we set up this server so we could alleviate the
22 issue with breaking up the emails with these large
23 files and the photos.

24 So the claim that this -- well, the claim that
25 this had to do with Oso is not true. We had -- we did
Ryan Santhuff/By Mr. Sheridan (Direct)

1 have an issue with emailing photographs. And, like I
2 said, the large file size. But this event, when we
3 were ordered to go in and delete these emails was not
4 that. It was not the Oso slide.

5 Q. Could you remind the jury what Nobach said to you
6 regarding the -- the timing of the destruction.

7 A. Yes, sir. That day, he advised us that Brenda had
8 caught wind that there was a public records request
9 coming into aviation and identified -- and then
10 instructed us to delete these emails for that reason.

11 So it's interesting is -- this has been reported
12 over the years, and first the lack of investigation and
13 then eventually it moved to investigation after I met
14 with Chief Drake months after it was initially revealed
15 to the agency.

16 The story has changed as to why we were ordered to
17 go and delete these emails -- not by me, but by
18 Lieutenant Nobach.

19 MR. BIGGS: Objection, Your Honor. This is
20 hearsay.

21 MR. SHERIDAN: It's Nobach.

22 THE COURT: Overruled.

23 BY MR. SHERIDAN:

24 Q. Yeah. What -- what was -- how did the story evolve
25 with Nobach?

 Ryan Santhuff/By Mr. Sheridan (Direct)

1 **A. Well, initially -- I spoke earlier about Captain**
2 **Alexander coming into aviation and have a meeting in**
3 **October after it was reported to Internal Affairs. And**
4 **he said that Lieutenant Nobach claimed that it had to**
5 **do with deleting the Governor's schedule, which was**
6 **completely false.**

7 **I advised the State Patrol of that. I advised**
8 **Bruce Maier that that was a false excuse for deleting**
9 **these emails, and that was ignored.**

10 **And then around the March 2017 timeframe, there**
11 **was an investigation done at Internal Affairs after I**
12 **had met with Chief Drake and confronted the chief's**
13 **office as to why this was completely ignored.**

14 **And during that timeframe, there was no excuse**
15 **given during Nobach's interview as to why we deleted**
16 **these emails. Well, the excuse was that we didn't fly**
17 **May Day of 2014 and State Patrol aviation didn't**
18 **participate in May Day of 2014 event, and that's**
19 **completely false.**

20 **Q. Could I have you explain that, please. I think in your**
21 **earlier testimony, you had said, "we didn't fly that**
22 **day."**

23 **Did you work, though, on anything to do with May**
24 **Day on May Day or in the weeks before?**

25 **A. Yes, sir. So I testified yesterday, I believe, that**
 Ryan Santhuff/By Mr. Sheridan (Direct)

1 every year that I was in State Patrol aviation, I was
2 tasked with working a May Day event. This was a
3 regular occurrence for the -- for that unit.

4 And so in 2014, we were tasked with that event,
5 and we were on standby. And -- which means that we had
6 the aircraft on the ramp in front of the hanger ready
7 to go. We had our headsets in the aircraft, our flight
8 bags ready to go. So all we had to do, if we got the
9 call, is to run out of the hanger, hop in the airplane,
10 and take off.

11 And from the Olympia airport to the capitol
12 campus, it's a very short flight. Maybe five minutes
13 before we'd be overhead.

14 We did the same thing in 2015, where there was a
15 protest in Seattle. Chris Noll and I were on standby
16 at Boeing Field instead of Olympia airport until we
17 received the call. That year we did fly. They did
18 need our help.

19 And so being on standby was not anything unusual
20 because it doesn't make a lot of sense for us to be
21 orbiting overhead burning fuel when there's nothing to
22 do, and there -- the asset is -- is not being used.

23 So, typically, with these types of events, that is
24 what we did. And, again, 2014, we're on standby in
25 Olympia. I think in 2015 --

Ryan Santhuff/By Mr. Sheridan (Direct)

1 Q. In the run up to May Day, even if you're not flying
2 that day, are there typically in your memory emails
3 related to the May Day event issued by Nobach and
4 others?

5 A. Yeah. You know, it's just like any job now. It's,
6 like, everybody communicates through email or text
7 message. Well, email was a standard way of
8 communicating.

9 You know, it's been alleged that we -- we did
10 these things through, like, conference calls. Rarely
11 did we ever do that. I mean, maybe five times in my
12 three years that I was in aviation did I participate in
13 a conference call regarding our mission and what was
14 required by us.

15 At most -- majority of the communication regarding
16 tasking of State Patrol aviation was done through
17 email.

18 Q. All right. In August 2016, did there come a time where
19 there was an issue pertaining to your logbook?

20 And first explain what a logbook is?

21 A. Yeah. So a logbook is required by the FAA to record
22 your -- your training and your landings, take offs,
23 your different types of flying -- whether it's
24 instruments or a cross-country time.

25 There's a number of different categories in a
Ryan Santhuff/By Mr. Sheridan (Direct)

1 logbook. And for different types of flying -- for
2 example, instrument flying, we're required to log that
3 flight time because the FAA requires proficiency in
4 that area.

5 So we would -- I think we had to do six approaches
6 in either -- in instrument or simulated instruments
7 within a six-month timeframe. And I've forgotten some
8 of these regulations because it's been some time now
9 since I've flown. But -- so that -- that would be an
10 example of what we would log in our logbooks.

11 So you start a logbook when you first start your
12 initial training. And as you progress through your
13 training, you get signed off to take your check ride of
14 the FAA, let's say. A certified flight instructor
15 would sign your logbook that you are proficient in that
16 area, and then you would take a check ride with the
17 FAA. And then the examiner with the FAA would then
18 sign your logbook that you passed that test.

19 So there's a number of different things that go
20 into the logbook, but we would maintain this book as
21 you flew, and we would log our daily flights and our
22 hours.

23 And so you'd asked about whether there was an
24 issue with a logbook in around August of 2016, and
25 there was.

Ryan Santhuff/By Mr. Sheridan (Direct)

1 I had filled up my first logbook, which is kind of
2 a -- I thought it was a cool thing. As pilot, you're
3 progressing through your training, and you finally get
4 to the point where you have enough flights that you
5 fill up a book.

6 And so we typically have a lot of these supplies
7 that pilots would use. Now, in a logbook, you don't
8 fill it up very often. It's a fair -- fairly
9 good-sized book, and, you know, at this time, it took
10 me years to fill up my first book.

11 But nevertheless, I filled up my first book, and I
12 needed a logbook. And the supply cabinet didn't have
13 any more logbooks in the supply cabinet.

14 And the first few years I was in aviation, there
15 was always logbooks in there.

16 Chris Noll was a pilot I flew with regularly, and
17 just a few months prior, he needed a logbook, and he
18 didn't have -- there wasn't any in the supply cabinet
19 then either so he put in a request. And the State
20 Patrol aviation purchased his logbook for him.

21 And it was a couple months later -- I don't
22 remember exactly the timeframe. But, again, now my
23 logbook filled up, and I needed a logbook.

24 And I put in a request. I sent an email to Brenda
25 Biscay asking for her to order me a logbook like the
Ryan Santhuff/By Mr. Sheridan (Direct)

1 other pilots had.

2 And I get an email back that said that Nobach
3 denied the request. And this may not seem like a
4 large -- a large deal, but, you know, a logbook maybe
5 costs about \$40. But this was another event in my mind
6 of being singled out within the section or being
7 treated differently, an adverse action taken against me
8 by Lieutenant Nobach.

9 So I didn't make a big deal about it, but I
10 definitely expressed to Sergeant Hatteberg my
11 disagreement with it. I sent -- I sent him an email
12 and said, "Since when do we not get provided pilot
13 supplies?"

14 So the other thing about the logbook is our
15 collective bargaining agreement requires that the State
16 Patrol aviation provide us with the supplies to do our
17 job. The Aviation Section manual also specifically
18 requires for being an employee and a pilot within State
19 Patrol aviation that a logbook is required to be
20 maintained by a pilot.

21 So there was an issue there that I didn't make a
22 big deal about. I didn't file a grievance, but I just
23 made it known that this, in any mind, was a retaliatory
24 act against me, and I moved on from.

25 Q. Okay. All right. And that was in September?
Ryan Santhuff/By Mr. Sheridan (Direct)

1 **A. I believe that was in --**

2 Q. Oh, maybe August.

3 **A. I believe it was in August of 2016.**

4 Q. Okay. And then in September, did there come a time
5 that, after you talked to Kenyon Wiley, that Sergeant
6 Hatteberg did something about your training -- about
7 your file in a critical way?

8 **A. Yes.**

9 Q. What was that?

10 **A. So almost immediately after I reported to Kenyon Wiley**
11 **these major policy violations and he reported these**
12 **again on September 20th to Internal Affairs -- I don't**
13 **know if I mentioned this yesterday, but the next day --**
14 **so Kenyon Wiley meets with Internal Affairs on**
15 **September 20th.**

16 That next day, on the 21st, Lieutenant Nobach and
17 both the sergeants immediately drive down to have a
18 meeting at the headquarters building.

19 And on the 22nd, that's when I was ghosted or -- I
20 was left by the mechanics while we're sitting there
21 having coffee. As soon as I walked up to the
22 mechanics -- you probably remember that testimony from
23 yesterday. That's when I was excluded from the daily
24 morning meeting. And on that same day, lieutenant --
25 sorry -- Sergeant Hatteberg summarized -- sent me an
 Ryan Santhuff/By Mr. Sheridan (Direct)

1 email summarizing a number of different things that
2 we've had discussions about and conversations about
3 over the last like -- you know, things that happened
4 months prior and now all the sudden he's papering my
5 file.

6 He's typing an email trying to document every
7 little thing that we had talked about, and that could
8 be at the end of a flight where you have your -- the
9 tack time on aircraft, we're required to update the
10 board in the maintenance facility. You know, if he
11 talked to me, "Hey, last night you forgot to update the
12 tack time on the board for the mechanics," things like
13 that, that happened two months prior. Now all the
14 sudden he feels necessary that it's -- that he needs to
15 document and paper my employee file. So that -- that's
16 what that event was.

17 Q. Okay. And then I wanted to turn your attention to
18 Sandra Kaiser's testimony yesterday and exhibits -- I
19 think it was 217, 218, 219, and 220.

20 Did you have access to those emails back in 2016
21 when you were trying to fight against the 095 you'd
22 been given?

23 A. I had no idea they existed then.

24 Can I explain how I received them?

25 Q. Please.

Ryan Santhuff/By Mr. Sheridan (Direct)

1 **A.** **Again, I had no idea that those emails -- I knew there**
2 **was email conversation, like I said, because I had met**
3 **with Brenda and I talked to her and observed the emails**
4 **on her computer as -- that -- on September 19th after I**
5 **was issued the discipline. But I -- about two years**
6 **later, I did a public records request to Department of**
7 **Natural Resources and obtained their records, and**
8 **that's how I received those emails showing that I was**
9 **not assigned the flight about 18 hours -- in that email**
10 **that was sent about 18 hours before I noticed the**
11 **calendar --**

12 MR. BIGGS: Objection, Your Honor. That
13 misstates what the testimony and the exhibits actually
14 show.

15 THE COURT: Sustained.

16 BY MR. SHERIDAN:

17 Q. Why -- why don't you tell us your best recollection of
18 what Sweeney had suggested for the -- for the facts?

19 MR. BIGGS: I'm sorry? The question again --

20 THE COURT: Sustained.

21 MR. SHERIDAN: It's Sweeney. Oh --

22 THE COURT: What he suggested what the facts
23 were.

24 BY MR. SHERIDAN:

25 Q. What did Sweeney -- it's already been admitted as --
 Ryan Santhuff/By Mr. Sheridan (Direct)

1 it's on your 095.

2 THE COURT: And, counsel, if testimony has --
3 if there is already an exhibit and testimony has
4 already been presented, it's not proper to have
5 cumulative testimony. So if you have a question about
6 it, that's fine. But we don't need to be repeating
7 over and over again the same.

8 MR. SHERIDAN: Certainly not. Certainly not.
9 Okay.

10 BY MR. SHERIDAN:

11 Q. So that -- so with regard to that, did that connect the
12 dots for you when you got those emails?

13 A. **Absolutely, it did.**

14 Q. Okay. All right.

15 And had -- had all -- I guess, by then, had
16 your -- had the 095 been removed from your file?

17 A. **No, sir. It was not removed from my file.**

18 Q. It's still in your file?

19 A. **Well, it's still recorded on any job performance
20 appraisal. The 095 is still in my file because the
21 State Patrol's retained all of those records.**

22 Q. Oh, okay.

23 In October, did something happen to the computers
24 at your workplace?

25 A. **Yes. So --
 Ryan Santhuff/By Mr. Sheridan (Direct)**

1 Q. What happened?

2 A. After the meeting that I had with Bruce Maier on
3 October 3rd at Internal Affairs where I reported the
4 four major policy violations, including the public
5 records deletion on the May Day protests, on October --
6 so at this timeframe, again, it was my understanding
7 that these things were moving forwards an investigation
8 by the State Patrol.

9 And I receive an email from Sergeant Sweeney that
10 all the computers in State Patrol aviation are going to
11 be replaced, and that raised a major, major red flag in
12 my mind.

13 Q. What were you concerned about?

14 A. That they were destroying any evidence to support that
15 claim.

16 And this allegation came with some -- potentially
17 a criminal portion to this. And it indicated to me
18 that the State Patrol was moving towards destroying the
19 evidence of the -- of the complaint.

20 Q. Was this before or after you went to Kenyon Wiley?

21 A. This was about almost a month -- I went to Kenyon Wiley
22 on September 19th, and this email, I believe, from
23 Sweeney was on October 18th.

24 Q. Okay. And then did we talk yesterday about your
25 participation in the email investigation in 2017?
Ryan Santhuff/By Mr. Sheridan (Direct)

1 **A. I don't believe we talked a lot about that, no.**

2 Q. Could you tell us what you told the investigator who
3 was -- who was Captain Drake's brother? Is it Tyler?

4 **A. Yes, sir. Tyler Drake.**

5 Q. What did you tell him about the email destruction?

6 **A. I told him at that time that I believed it was related**
7 **to the May Day of 2014 event, and I explained to him**
8 **how that -- based on any knowledge of the event and**
9 **what I recalled from that event, I explained all of**
10 **that.**

11 **So, you know, that --**

12 Q. Okay. I think you gave details of what your
13 understanding was before, but that's what you said to
14 the --

15 **A. Yes, sir.**

16 Q. Okay. And in January of 2017, did you have a
17 conversation with Captain Drake about your complaints?

18 **A. It was Assistant Chief Drake, and yeah.**

19 **So I mentioned yesterday the word coverup, and**
20 **there's no question in my mind that the State Patrol is**
21 **covering up a lot of these complaints, if not all of**
22 **them.**

23 Q. Did you say that to Drake?

24 **A. Yes, I did. I was -- we had a very candid**
25 **conversation, and we met for about four and a half**
 Ryan Santhuff/By Mr. Sheridan (Direct)

1 hours.

2 But leading up to this meeting -- may I explain
3 that?

4 Q. Go ahead.

5 A. Okay. Again, I -- I reported these things to the
6 agency around September/October timeframe of 2016, and
7 there was never an investigation conducted -- a true
8 investigation conducted for the public records
9 definitely, but intentionally refusing the Governor's
10 service, you know -- and the sexual harassment
11 complaint, you know, the -- there was never a real true
12 investigation being conducted.

13 And I was on patrol in Olympia, and I was -- I was
14 reviewing -- it's called an annual review checklist
15 which we're required to do around the end of the
16 year -- end of the calendar year every year, and
17 it's -- it contains high liability policy violations --
18 like, whistleblower, sexual harassment, hostile work
19 environment.

20 And I'm -- I'm reviewing these policies, and I'm
21 just -- you know, I'm just -- I'm getting so
22 frustrated. And so I felt like -- I question does
23 Batiste even know what's going on? Chief Batiste is
24 the head of the State Patrol. Does Batiste even know
25 what's going on in this agency?

 Ryan Santhuff/By Mr. Sheridan (Direct)

1 And I was like I -- I made a decision. I want a
2 meeting with Chief Batiste so I can explain to him what
3 has happened in aviation and what has happened to me.

4 And that's kind of uncalled for; right? I mean,
5 it's not necessarily a bad thing, but it doesn't --
6 rarely happens. Okay? This is a -- I'm low man on the
7 totem pole. I'm a trooper for the State Patrol.
8 There's a thousand troopers or something like that.
9 And so ask for -- to completely jump the chain of
10 command and talk to the chief, it rarely happens.

11 But he's made it very clear that he's -- he's okay
12 with that and that his door will be open if you feel
13 that it's -- if an employee feels that it's necessary.

14 And so I made a decision I wanted to meet with
15 Chief Batiste, and I talked to my chain of command --
16 Lieutenant Tom Murtan (phonetic) at the time. And
17 he -- he kind of thought I was being crazy a little
18 bit. And I said, "No, I -- I can do this two ways. I
19 can either go" -- he suggested I go -- I should
20 probably go through the chain of command, follow the
21 chain of command because we're a paramilitary
22 organization.

23 And I explained that I -- you know, I -- I don't
24 necessarily feel like I want to do that, but ultimately
25 he ends up asking Captain Hall of district one about
 Ryan Santhuff/By Mr. Sheridan (Direct)

1 the meeting with Batiste, and Hall suggested I go
2 through the chain of command as well so I did.

3 So I meet with -- I meet with Dan Hall. And then
4 I end up going through the chain of command. Chief
5 Sass would have been my direct line of chain of command
6 in Field Operations Bureau, but Sass apparently didn't
7 want to get involved in this. So I got pushed off to
8 Chief Randy Drake, who you just met.

9 So about January 30th or February 1st, I meet with
10 Chief Randy Drake for about four and a half hours, and
11 it moved into through the night. We were both over
12 shift. I think I left his office around 6:30 at night.

13 And everything was aired. Everything that I had
14 reported to the State Patrol, my feelings that this was
15 a complete coverup, how Alexander failed to investigate
16 the sexual harassment complaint.

17 At this time I knew that Lieutenant Nobach was
18 denying the claim or ordering us to delete these
19 emails. And I explained how that was a lie, that
20 allegedly said that it was a -- had to do with the
21 Governor's schedule. I explained to him that that's
22 not -- that's not the case. I've never had the
23 Governor's schedule. And I flew the Governor, but
24 we're not privy to his calendar or his schedule. We'd
25 be assigned a time and a day and a destination and pick
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1 up, dropoff, whatever. We'd be provided that
2 information, but I was never assigned -- or provided
3 his calendar or his schedule. So this claim that it
4 had to do with that was completely false.

5 So after that meeting, he had the investigation
6 file from Bruce Maier during this meeting, and we
7 talked about these things and how the investigation was
8 handled.

9 And I brought with me the administrative
10 investigation manual, and I went through it with him.
11 And I picked out the discrepancies of their
12 investigation and that the witnesses were never
13 interviewed. He never brought in the other pilots that
14 will tell you that what their observations were.

15 That was intentional. And so Chief Drake after
16 the meeting told me he was going to look into this and
17 get back to me.

18 I had asked him for a copy of the file that he was
19 referencing in the meeting, and he refused to give it
20 to me but said I could obtain it through public records
21 and so I eventually got that.

22 And so the result of that meeting ended in -- with
23 the initiation of the public records deletion
24 investigation. And it was assigned to his brother,
25 Tyler Drake down at Internal Affairs.

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1 **Can I talk about that investigation?**

2 THE COURT: Actually, it's now 10:17. Let's
3 take our morning break.

4 MR. SHERIDAN: Okay.

5 THE COURT: We'll be in recess for 15
6 minutes.

7 COURT STAFF: All rise.

8 (Recess.)

9 THE COURT: Thank you. Please be seated.

10 All right. First, did you come up with an
11 agreement as to the exhibits?

12 MR. BIGGS: Yes, Your Honor. I have -- I'd
13 like to read into the record, please, the exhibits that
14 are unopposed from the list we received this morning.

15 THE COURT: Okay.

16 MR. BIGGS: Okay. These are not in order.

17 THE COURT: That's fine.

18 MR. BIGGS: 258 was unopposed.

19 Exhibit 31 is unopposed.

20 Exhibit 259 is unopposed.

21 Exhibit 60 is unopposed.

22 Exhibit 61 is unopposed.

23 75 is unopposed.

24 45 is unopposed.

25 235 unopposed.

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1 79 unopposed.

2 There's one listed here called 656 that was
3 withdrawn. We're not opposed to putting it in -- back
4 in, but as it stands, that was a withdrawn exhibit.

5 MR. SHERIDAN: Okay.

6 MR. BIGGS: That was one of the one they
7 asked us to withdraw.

8 MR. SHERIDAN: Got it.

9 MR. BIGGS: 85 is unopposed.

10 667 unopposed.

11 99 unopposed.

12 109 unopposed.

13 48 unopposed.

14 248 unopposed.

15 259 is unopposed.

16 UNIDENTIFIED SPEAKER: (inaudible) .

17 MR. BIGGS: Sorry?

18 UNIDENTIFIED SPEAKER: It was (inaudible) .

19 MR. BIGGS: I'm sorry.

20 THE COURT: Has it already been admitted?

21 UNIDENTIFIED SPEAKER: No. 259, that was the
22 third exhibit you mentioned.

23 (Indiscernible crosstalk.)

24 MR. BIGGS: There are several duplicates

25 here. I think --
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1 MR. SHERIDAN: Sorry.

2 MR. BIGGS: I think those are all the
3 non-duplicates.

4 THE COURT: Okay. What about the --
5 (inaudible) opposed. Because those are the ones that I
6 care about the most.

7 MR. BIGGS: No. 170 needs foundation.

8 No. 122, the employment application, that is not
9 material to this case.

10 MR. SHERIDAN: 122 or 212?

11 MR. BIGGS: I'm sorry. 212. Thank you.

12 THE COURT: So relevancy?

13 MR. BIGGS: Right.

14 THE COURT: Is that what you're -- okay.

15 MR. BIGGS: Right?

16 249, there are several in this category. These
17 are positive comments by other people after leaving
18 aviation.

19 MR. SHERIDAN: 249?

20 MR. BIGGS: 249 is one of those.

21 THE COURT: So is that relevancy?

22 MR. SHERIDAN: Oh, I see.

23 MR. BIGGS: Yes.

24 No. 80 needs a foundation. There's writing on the
25 document.

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1 Number -- here's a duplicate, 212. Yeah. I think
2 that -- I think those are the ones.

3 MR. SHERIDAN: I think you have -- oh, yeah.
4 (inaudible) .

5 THE COURT: All right. Also, I want counsel
6 to be mindful that we have already told the jury that
7 we are going to leave on the 20 -- or that they should
8 expect to get the case on the 24th.

9 Originally, when we sent the questionnaire, we
10 told them on the 21st, and then we extended it to the
11 24th.

12 This is taking too long. I cannot -- it's not
13 proper for me to be saying asked and answered or this
14 has already been testified to. So I depend on you,
15 Mr. Sheridan, to not ask the same questions over and
16 over again.

17 MR. SHERIDAN: Yes.

18 THE COURT: And to make sure that Detective
19 Santhuff is not testifying about things that he already
20 testified. There's been a lot of, "I testified
21 yesterday about this. This was mentioned yesterday."

22 For instance, there was -- all the testimony that
23 we heard today about his meeting with Chief Batiste and
24 being told that Chief Batiste has his doors open and
25 that this was important to him and that he then went to
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1 talk to Hall and -- all of that was testified to about
2 yesterday. We wasted, like, 15 minutes.

3 MR. SHERIDAN: My apologies.

4 THE COURT: And I -- hold on a second. And I
5 also depend on defense counsel to make the objection of
6 asked and answered if it's testimony that has already
7 been asked and answered because it's just cumulative.

8 MR. BIGGS: Yes.

9 THE COURT: And I don't want to keep the jury
10 here longer than --

11 MR. SHERIDAN: Your Honor --

12 (Indiscernible crosstalk.)

13 MR. BIGGS: We should not be put in a spot
14 where I have to keep standing up and objecting. That
15 doesn't look good to the jury.

16 THE COURT: I understand that. I get that.
17 But at the same time, I can't be --

18 MR. BIGGS: Right.

19 THE COURT: -- it's not my job, and it would
20 be improper for me --

21 MR. BIGGS: Yes.

22 THE COURT: I'm just asking the parties to be
23 mindful of that because we have had a lot of repetitive
24 testimony, and it's just not -- it's not proper for
25 one. And I'm just worried that we're not going to be
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1 finished in time.

2 MR. SHERIDAN: Fair enough.

3 MR. BIGGS: I'll try to be more assertive on
4 that, Your Honor.

5 THE COURT: All right. Are we ready for the
6 jury?

7 MR. SHERIDAN: How do you want to do the
8 admissions?

9 COURT STAFF: (inaudible).

10 THE COURT: Everybody please make sure your
11 phones are turned off. People on Zoom, please make
12 sure that your sound is off.

13 MR. SHERIDAN: How do you want to do the
14 exhibits?

15 THE COURT: Just the normal way --

16 MR. SHERIDAN: In front of the --

17 THE COURT: Yes. I just -- I mean, yes.
18 Unless you just want to stipulate to the exhibits and
19 get them admitted, that's fine.

20 MR. SHERIDAN: I was thinking just for
21 time --

22 THE COURT: I was just more concerned about
23 knowing which ones you're objecting to --

24 MR. SHERIDAN: Right.

25 THE COURT: -- so that -- and also I just
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1 wanted to remind you both -- all three of you -- I say
2 both. I mean both parties -- that speaking objections
3 are just not okay, and I don't want to hear argument in
4 front of the jury. And that's one of the reasons I
5 wanted to have a sense of what we're -- the exhibits
6 that are being opposed.

7 MR. BIGGS: Right. If they -- if you just
8 want to admit them en masse, that's okay.

9 THE COURT: I don't have a problem with it.

10 MR. SHERIDAN: All right. I think that --
11 we'll do that.

12 THE COURT: Okay.

13 MR. SHERIDAN: And for 212, 212 is his
14 application to aviation. And I don't think I've ever
15 offered it, but I need to offer it so you can say no,
16 or you can say no now. But I just want the record --
17 it's -- it's his -- it's the one that Nobach would have
18 considered during his application -- during his
19 application process.

20 THE COURT: All right. And what's -- what
21 are the basis for your objection for the record?

22 MR. BIGGS: Well, Your Honor, it's
23 immaterial. It goes into -- it's got lots of
24 self-serving hearsay in it. It's got references from
25 other people and nothing to do with this case so
Ryan Santhuff/By Mr. Sheridan (Direct)

1 it's -- it's just -- it's got hearsay, and it's
2 immaterial.

3 MR. SHERIDAN: But it's the things that they
4 considered in hiring him, including Nobach.

5 THE COURT: All right. So -- and I had
6 looked at this exhibit before. It is self-serving
7 hearsay. And initially, it -- I mean, it does have a
8 lot of character evidence to -- and the -- character
9 evidence as to Detective Santhuff as to during the time
10 that he was a pilot and during the time that he was in
11 aviation is relevant. But character evidence as to
12 when he was a trooper before that, working DUIs or the
13 hit and runs or whatever, it's not relevant for
14 purposes of what the jury has to decide.

15 MR. SHERIDAN: Can we let the report reflect
16 that it's been refused.

17 THE COURT: That's fine. I mean, this is the
18 record, and I'm making the --

19 MR. SHERIDAN: Okay.

20 THE COURT: -- making my ruling. So I will
21 sustain the objection to the admissibility on 212.

22 MR. SHERIDAN: Okay.

23 And for 80, we would agree to offer 80 and redact
24 what looks like a sticky note that's handwritten
25 because I think that was the only objection.

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1 THE COURT: Is that accurate, Mr. Biggs?

2 MR. BIGGS: Oh, there's one other reason,
3 Your Honor. That is, it's also part of 79.

4 MR. SHERIDAN: Is 79?

5 MR. BIGGS: I just agreed to it.

6 MR. SHERIDAN: Oh. Okay. We'll check that.
7 We won't offer it now. And as long as we agree that
8 if -- if it's not the same as 79, then we'll just offer
9 it without the sticky note.

10 MR. BIGGS: We'll deal with that if you --

11 MR. SHERIDAN: Yeah.

12 MR. BIGGS: -- go there.

13 MR. SHERIDAN: Got it.

14 THE COURT: All right.

15 MR. SHERIDAN: Okay. So that's pretty
16 much --

17 THE COURT: What about 170 and 249?

18 MR. SHERIDAN: Okay. So 170 we're putting in
19 simply for the purpose of showing that the designees
20 were the same -- the whistleblower designees in 2017 as
21 in 2016.

22 THE COURT: What's the objection to 170?

23 MR. BIGGS: Just a second, Your Honor.

24 THE COURT: Foundation? Oh, that's part of
25 the --

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1 MR. BIGGS: Oh, no. 170 -- right. If this
2 witness can play a lay foundation for it --

3 THE COURT: Okay. So it's a foundation
4 issue. All right.

5 MR. BIGGS: Right.

6 THE COURT: And then 249, Trooper Ryan
7 Santhuff performed aerial traffic enforcement, and
8 you're objecting on relevancy?

9 MR. BIGGS: Yes, Your Honor.

10 THE COURT: Was this after he left? No.

11 MR. SHERIDAN: It's -- it's an -- it's the
12 right timeframe. It's --

13 THE COURT: Why is it irrelevant, Mr. Biggs?
14 It is during the time that he was --

15 MR. BIGGS: Right. I'll withdraw --

16 THE COURT: -- during aviation.

17 MR. BIGGS: -- the objection on that, yes.

18 MR. SHERIDAN: Okay.

19 THE COURT: So Exhibit No. 249 will be
20 admitted.

21 MR. SHERIDAN: It's in. Okay.

22 THE COURT: And then the other one is -- oh,
23 that was it.

24 MR. SHERIDAN: Okay.

25 THE COURT: Let's bring in the jury.
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1 MR. SHERIDAN: Do I need -- I need not say
2 anything in front of them? This is all -- they're
3 already admitted?

4 THE COURT: I will leave it up to you if you
5 want to admit it -- admit them through your client or
6 if you just want to --

7 MR. SHERIDAN: I'm just going to say it.

8 THE COURT: -- have them -- I mean, it's up
9 to you.

10 MR. SHERIDAN: All right.

11 UNIDENTIFIED SPEAKER: (inaudible) .

12 THE COURT: And for those of you joining us
13 virtually, welcome to this interesting way of observing
14 trials. I just want to make sure that you know what
15 the rules are, which are the same as if you were here.
16 You are prohibited from recording the proceedings just
17 like you would be prohibited from recording the
18 proceedings if you were here. There's only one
19 official record, and that is kept by our court clerk,
20 Ms. Berger.

21 And you are also precluded from taking screenshots
22 just like you would be prohibited from taking photos in
23 the courtroom.

24 If you violate any of my court orders, that could
25 be basis for being held in contempt and for sanctions.
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1 Thank you.

2 COURT STAFF: All rise for the jury.

3 THE COURT: Thank you. Please be seated.

4 And, members of the jury, sorry for the delay this
5 morning. We had some legal issues we had to address
6 before we brought you back in.

7 Mr. Sheridan.

8 MR. SHERIDAN: Thank you.

9 BY MR. SHERIDAN:

10 Q. Could you open 17 -- Exhibit 170, please.

11 And tell me -- oh, is that the right book?

12 **A. Yes, sir. I do. I think it's split between two.**

13 Q. Okay. Just open up the front page there.

14 And can you tell me what that is?

15 **A. This is the 2017 State Patrol regulation manual.**

16 Q. All right. And is this one of the documents that
17 you've reviewed in anticipation of this litigation?

18 **A. Yes, sir.**

19 THE COURT: Which exhibit is this? 170.

20 MR. SHERIDAN: 170, yeah.

21 BY MR. SHERIDAN:

22 Q. Okay. And is that -- is that a copy of the 2017
23 version of the appropriate manual?

24 Read the manual title, please.

25 **A. It's the Washington State Patrol 2017 regulation
Ryan Santhuff/By Mr. Sheridan (Direct)**

1 **manual.**

2 MR. SHERIDAN: Plaintiff offers 170.

3 THE COURT: Any objection?

4 MR. BIGGS: No objection, Your Honor.

5 THE COURT: Exhibit 170 is admitted.

6 (Exhibit 170 Admitted)

7 BY MR. SHERIDAN:

8 Q. Okay. All right. There's just one more area I want to
9 cover with you.

10 Captain Alexander talked about taking you out for
11 coffee and talking to you about the breast-rubbing
12 incident.

13 Did you have any communications with Captain
14 Alexander about the breast-rubbing incident face to
15 face?

16 **A. Absolutely not. He's made this claim a couple times**
17 **over the years, and he says that we on the out for**
18 **coffee and he did an intake or interviewed me about**
19 **those events.**

20 That did not happen. He had joined us for
21 coffee -- you know, I say us -- the pilots and also for
22 lunch on occasion over the time that he was our
23 commander over -- I think he came in around two
24 thousand -- beginning of 2016, some timeframe in
25 that -- in that period. And maybe he came and met with
 Ryan Santhuff/By Mr. Sheridan (Direct)

1 us as a group for either coffee or lunch for, like, a
2 birthday or something maybe three or four times.

3 Q. When he would talk to you during those meetings --
4 during those coffee lunches or whatever, was he casual
5 or formal?

6 A. **Very -- he's very casual. He's very personable, nice**
7 **guy. Very warm and welcoming type of personality.**

8 But, again -- yeah. The -- I've been to intake
9 meetings where, you know, they're supposed to take
10 detailed notes. Right? As a supervisor when they're
11 receiving a complaint from an employee, they're
12 supposed to take detailed notes. That never happened
13 with Alexander and I with the sexual harassment
14 complaint.

15 Q. Did -- did he ever say words to -- strike that.

16 Did you ever say words to him that you were part
17 of that problem that was going on?

18 A. **Absolutely not.**

19 Q. Okay. He said that he -- he talked about a photo
20 involving Brenda Biscay's kids. And first of all, do
21 you know who those kids are or where they were?

22 A. **I do.**

23 Q. In 2016.

24 A. **Yes, I do. And I did then.**

25 Q. Okay. And where's that?
 Ryan Santhuff/By Mr. Sheridan (Direct)

1 **A.** **Two of her daughters -- at least two of her daughters**
2 **worked for the State Patrol at the time. One of them**
3 **was in -- worked in a detective unit in their criminal**
4 **investigation division, and I don't know exactly where**
5 **the other one works. But both -- two -- at least two**
6 **of her daughters work for the State Patrol, and I'm not**
7 **certain about the third.**

8 **Q.** **Okay. Had you ever had a conversation with Ms. Biscay**
9 **about a picture of her kids?**

10 **A.** **I have. And --**

11 **Q.** **And would you tell us -- do you know the ages -- were**
12 **these little kids in the photo?**

13 **A.** **Absolutely not.**

14 **Q.** **Okay. Tell us what you recall of that conversation.**

15 **A.** **Brenda had these pictures up on her shelf by her desk.**
16 **And we had -- were having a conversation about her**
17 **daughters. I don't think I had -- I'm not certain if I**
18 **had met her daughters at that point. I don't believe I**
19 **had because the conversation that I recall was about,**
20 **you know, what they did or -- her daughters maybe**
21 **working for the patrol. It was kind of an initial**
22 **talking with her about her family and her kids.**

23 **And so I looked at the photo, and I said to**
24 **Brenda, "Oh, your daughters are pretty," you know,**
25 **paying her a compliment.**

Ryan Santhuff/By Mr. Sheridan (Direct)

1 And she say, "Oh, thanks." You know, she's, like,
2 which -- and it was either -- it was either the
3 sergeant courthouse Smith (phonetic) who is -- I recall
4 being -- if this is the incident that she's referring
5 to, this is the only thing that I can even think of
6 that may be anywhere close to what she's talking about
7 is -- it was either the sergeant or Brenda -- and I
8 think it was Brenda asked me, "Out of my three
9 daughters, which one do you think is the prettiest?"
10 and I identified which one I thought -- my opinion was.
11 And if I remember, the taller of the three daughters is
12 who I mentioned. And I don't even know what her name
13 is.

14 And that was -- that was basically it. You know,
15 there was a -- I -- I never felt Brenda was offended.
16 I don't think there was anything ever said that was --
17 that would have offended her in any way.

18 Q. Did she -- according to Alexander, she used the word
19 creepy. Did you ever get that -- assuming it's this --
20 this situation. Did she ever react in a way that would
21 leave one to conclude that?

22 A. Never. And -- never did she ever indicate this to me.
23 It was a -- it was a casual conversation between Brenda
24 and I.

25 Q. Do you remember what year it was?
 Ryan Santhuff/By Mr. Sheridan (Direct)

1 **A. I don't. I know that by the time I left there, I had**
2 **met maybe two of her daughters. And I think that this**
3 **conversation was -- it was before that so -- and I**
4 **would guess it was probably 2015 maybe or potentially**
5 **maybe later 2014. I -- I'm guessing. I don't know.**

6 **Q. All right. And so you heard Alexander say that, not**
7 **only had you confessed, but he said that one of the --**
8 **the problem with you was this behavior with Brenda.**

9 Did he ever talk about this with you?

10 **A. Never. Not once.**

11 **Q. Okay. Did he -- did he ever -- were you ever counseled**
12 **or disciplined for any misbehavior at work that**
13 **pertained to interactions, sexual harassment, anything**
14 **like that?**

15 **A. I was never counseled or anything like that other than**
16 **the whole entire section having to go to this sexual**
17 **harassment training. But I was never counseled. I was**
18 **never disciplined. I had never even heard about this**
19 **incident from Alexander ever.**

20 **Q. And Alexander during his testimony made sort of an**
21 **allusion to underaged children in the photo. How did**
22 **that make you feel?**

23 **A. It's tough.**

24 **Q. Why?**

25 **A. Oh, man. You know, I've been trying to -- I don't**
 Ryan Santhuff/By Mr. Sheridan (Direct)

1 know -- navigate this issue with the State Patrol for
2 years. And now assistant chief to degrade me like that
3 in front of -- yeah. Tough -- man.

4 Q. Was anybody listening that you care about?

5 A. Yeah. My mom was watching on Zoom. And so, of course,
6 you know, I have to call her after that saying what --
7 and she's, like, "You know, is that true?" and I have
8 to explain this to her.

9 You know, there's a lot of issues with this.
10 I'm -- I am just taken back by all of it actually
11 because, you know, I work in King County as a
12 detective. I obtained search warrants regularly for my
13 job, mostly through King County courthouse. And, you
14 know, to have an allegation like this is pretty
15 serious, and it's -- anyway. I wasn't taken lightly by
16 my means.

17 MR. SHERIDAN: I have no further questions of
18 this witness, and I just would use this time now to
19 offer the stipulated exhibits.

20 THE COURT: Okay.

21 MR. SHERIDAN: All right.

22 And 170, was that admitted already?

23 THE COURT: Yes.

24 MR. SHERIDAN: Okay.

25 258 -- do we have to do them one at a time or --
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1 THE COURT: Yes, please.

2 MR. SHERIDAN: -- do the whole list?

3 Okay. 258 --

4 THE COURT: Well, yeah. Just give the
5 numbers for the record.

6 MR. SHERIDAN: Okay. We're offering 258, 31,
7 259, 60, 61, 75, 45, 235, 249, 79 --

8 THE COURT: Hold on a second. 249?

9 MR. SHERIDAN: Yes. 249, 79 -- does that
10 sound right?

11 THE COURT: Well, I thought 249 was objected
12 to.

13 MR. BIGGS: Your Honor, that was -- I think
14 we actually admitted that one.

15 THE COURT: Oh, okay.

16 MR. BIGGS: The objection was withdrawn.

17 MR. SHERIDAN: Yeah. 249.

18 THE COURT: So 249.

19 MR. SHERIDAN: Yeah. 249, 79. 80, we're --
20 it's pending some further investigation.

21 THE COURT: So it's not the same as 89?

22 MR. BIGGS: 79?

23 THE COURT: 79 and 80 are not the same.

24 MR. SHERIDAN: Oh, then we offer 80.

25 MR. BIGGS: Your Honor, I'll have to take a
Ryan Santhuff/By Mr. Sheridan (Direct)

1 look at that.

2 THE COURT: All right. So I'll reserve on
3 80.

4 MR. SHERIDAN: Okay. Then 85, 6 -- 667, is
5 that the one that --

6 MR. BIGGS: 656 is -- was withdrawn.

7 MR. SHERIDAN: Okay. And it looks like
8 667 --

9 THE COURT: 65 --

10 MR. SHERIDAN: -- is in.

11 THE COURT: Okay.

12 MR. SHERIDAN: 99, 109, 48, and 248.

13 THE COURT: What about 249? Oh, it's already
14 admitted. Okay.

15 MR. SHERIDAN: Yeah.

16 THE COURT: All right. Any objection from
17 defense to those exhibits?

18 MR. BIGGS: No, Your Honor.

19 THE COURT: All right. So exhibits 258, 31,
20 259, 60, 61, 75, 45, 235, 249, 79, 85, 667, 99, 109,
21 48, and 248 are admitted.

22 MR. SHERIDAN: Thanks, Your Honor.

23 (Exhibit 258 Admitted)

24 (Exhibit 31 Admitted)

25 (Exhibit 259 Admitted)

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1 (Exhibit 60 Admitted)
2 (Exhibit 61 Admitted)
3 (Exhibit 75 Admitted)
4 (Exhibit 45 Admitted)
5 (Exhibit 235 Admitted)
6 (Exhibit 249 Admitted)
7 (Exhibit 79 Admitted)
8 (Exhibit 85 Admitted)
9 (Exhibit 667 Admitted)
10 (Exhibit 99 Admitted)
11 (Exhibit 109 Admitted)
12 (Exhibit 48 Admitted)
13 (Exhibit 248 Admitted)

14 THE COURT: Is that correct, Ms. Berger?

15 COURT STAFF: Yes.

16 MR. SHERIDAN: Thanks. No further questions.

17 THE COURT: All right.

18 Mr. Biggs.

19 MR. BIGGS: Yes. Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. BIGGS:

22 Q. Good morning, Detective Santhuff. Shall I call you
23 Detective Santhuff?

24 **A. Yes, please.**

25 Q. After -- what -- three days on the stand, may be

1 getting a little tired of this, but I think I have some
2 important questions to ask you. Do you understand?

3 **A. Yes, sir.**

4 Q. Let me ask you first. Throughout your testimony,
5 you've words like "Nobach" over and over again.

6 Is that really a proper way to refer to a superior
7 officer?

8 **A. I personally don't necessarily see a problem with that,**
9 **no.**

10 Q. Even when you're testifying in court on the record?

11 **A. Yeah. I don't see an issue with that, no.**

12 Q. Okay. And let's -- let's go ahead and kind of turn
13 back the clock a little bit to your history.

14 You told us that, as a young boy, you dreamed of
15 flying. Is that right?

16 **A. Yes. Yes, sir.**

17 Q. And you dreamed of being a fireman; right?

18 **A. I think I testified that I had interest in those types**
19 **of jobs because it was -- it seemed as a young boy that**
20 **would be fun, and I'd enjoy that type of thing.**

21 Q. Okay. And also a police officer; right?

22 **A. Yes, sir.**

23 Q. Something that has a little adrenaline in it.

24 **A. I would agree with that.**

25 Q. And you started taking some classes to learn how to

1 fly?

2 **A. Yes, sir. That's correct.**

3 Q. And other what period of time were those classes?

4 **A. Oh, I think I started in 2000. I'd have to look at my**
5 **logbook. But I started in 2000, and I think I obtained**
6 **my private pilot's license in 2005.**

7 Q. Okay. And when you got your qualifications, you did
8 not have the qualification to fly professionally; did
9 you?

10 **A. I'm sorry. Still thinking about my timeframe on the**
11 **private pilot's license.**

12 **Can you ask that again, please.**

13 Q. When you stopped flying and went to the State Patrol to
14 go to work --

15 **A. Yeah.**

16 Q. -- you weren't at that point qualified to go out and
17 fly commercial airlines; right?

18 **A. No, sir. I only had my private pilot's license, and I**
19 **was working on my instrumenting.**

20 Q. Okay. So at that time, you couldn't even fly in cloudy
21 conditions; right?

22 **A. That's correct.**

23 Q. You -- what's called VFR, visual flight rules?

24 **A. Right. I could not fly into the clouds at that**
25 **timeframe, yes.**

1 Q. Right. And if there was any kind of weather, you
2 couldn't take off; right?

3 **A. Within certain minimums, yes. That's correct.**

4 Q. And that was still your -- your level of proficiency
5 when you applied for a job with State Patrol; right?

6 **A. No, sir.**

7 Q. I'm talking about when you became a trooper.

8 **A. Oh, yes, sir. That's correct.**

9 Q. Okay. And while you were a trooper, during those next
10 few years before you applied to aviation, you did
11 nothing to improve your -- your skills or your ratings
12 as a pilot; right?

13 **A. That's correct. I focused on my career with the State**
14 **Patrol and, through that timeframe, going through the**
15 **academy and learning the job as a trooper and a law**
16 **enforcement officer.**

17 Q. Okay. And before you applied to the State Patrol to be
18 a trooper, you had given up on your dream to fly;
19 right? Because it wasn't working out. 9/11 and these
20 things?

21 **A. Did I completely give up on that dream? No. I**
22 **disagree with that. I -- my -- my career path had**
23 **changed, but that dream of flying and being a**
24 **commercial pilot did not go away.**

25 Q. Okay. And just for our reference point, when did you

1 say you last had training as a pilot? That is before
2 you went to the patrol. What year?

3 **A. It'd be -- well, I was hired in 2006 by the State**
4 **Patrol, so I would say approximately 2005 or early**
5 **maybe 2006. I'm not certain.**

6 Q. So even before you went to the State Patrol, you had
7 given up on progressing as a flyer; right?

8 **A. You know, you're ask -- again, I'd have to go back and**
9 **look at my records to be for certain when that's --**
10 **stopped. But it was probably around the timeframe that**
11 **I was hired by the State Patrol in December of 2006.**
12 **But I --**

13 Q. Okay. We'll get to this later, but I just wanted to
14 make sure. You mentioned your logbook. That's the
15 same logbook that you later completed while you're in
16 the Aviation Section?

17 **A. Yes, sir.**

18 Q. Okay. And that's just a book with lines and
19 categories; right? You fill out.

20 **A. That's correct.**

21 Q. You keep track, "Okay. Today I flew to Wenatchee,"
22 certain time, certain mileage, that sort of thing?

23 **A. Yes, sir.**

24 Q. Okay. Now, before you went to the patrol, you actually
25 met somebody who suggested that that might be a pretty

1 good career option for you; right?

2 **A. Yes, sir.**

3 Q. And you at first thought, no, maybe not. And then you
4 said, "Yeah. I think this maybe pretty good for me."

5 **A. Yes. You know, those are big decisions to make as**
6 **young man to try to determine the direction you want to**
7 **take in your life. And so, yes, that -- yeah. I did**
8 **have those thoughts.**

9 Q. Okay. And this person that you were talking with, what
10 was his job?

11 **A. He was retired.**

12 Q. Okay. And what had been his job?

13 **A. He was a -- well, he retired as a captain of the State**
14 **Patrol.**

15 Q. And what was his name?

16 **A. Tim Erickson.**

17 Q. And are you still friendly with retired Captain
18 Erickson today?

19 **A. Yes, sir. I am.**

20 Q. You -- you decided -- didn't you -- that going on the
21 road, being a detective, all sounded pretty exciting;
22 didn't it?

23 **A. Well, at that time it was just -- the detective idea**
24 **wasn't really in the picture. But being a trooper and**
25 **patrolling the highways was -- yes. It sounded**

1 **excited, and I was interested in that.**

2 Q. Okay. And you -- you mentioned that you pursued a ride
3 along. Was this also with retired Captain Erickson or
4 somebody else?

5 A. **No, sir. He was retired.**

6 So he contacted the patrol and set me up with a
7 trooper in the Olympia area to ride along with -- Jason
8 Knorr was his name.

9 Q. Okay. And what was the trooper's job -- day-to-day
10 job?

11 A. **Patrolling the highways in Olympia -- primarily the**
12 **interstate is where he spent most of the time and also**
13 **State routes.**

14 Q. Okay. And he's not a detective; is that right? At the
15 time wasn't a detective?

16 A. **No, sir. He was not.**

17 Q. Okay. But it was that ride with a non-detective
18 trooper on the roads that got you hooked; right?

19 A. **Well, yeah. That's where I finally kind of made my**
20 **mind up that I wanted to do this, yes.**

21 Q. And you decided you were all in; right? No -- once you
22 made that decision, you were.

23 A. **Well, there's a long road that I have to take. But,**
24 **yes, I was interested in applying for the career, and I**
25 **was very interested in the job, yes.**

1 Q. And you went so far as to reapply after you were once
2 rejected; right?

3 A. That's -- yes, sir. That's correct.

4 Q. And you wanted that job, that -- you wanted to be a
5 trooper; right? You weren't applying for any other
6 jobs. Just wanted to be a trooper.

7 A. Well, keep in mind that I was interested in flying
8 airplanes, and State Patrol had an Aviation Section.
9 And so what you're asking me is, is that the only thing
10 that I wanted? No. But I knew that that was the
11 progression that I would have to take at that time if I
12 eventually wanted to have that opportunity to fly if
13 the State Patrol.

14 Q. Did you talk to somebody in aviation that told you
15 that?

16 A. No. I knew nothing was a guarantee, but I did know --
17 I mean, I talked to people in -- when I fueled State
18 Patrol aircraft working at the airport.

19 Q. But isn't it true that, when you applied to be a
20 trooper, you didn't talk to anybody about what the
21 career path was going to be if you wanted to move in to
22 aviation; isn't that true?

23 A. I don't know if I did. I know that I expressed those
24 interests early on in my career, but I don't recall
25 talking to anybody specifically, if that's what you're

1 **asking.**

2 Q. You -- you got -- you got to be a trooper. You got
3 your badge. You went through all the training, and you
4 went on the road. And that was pretty exciting; wasn't
5 it?

6 A. **Yes, sir. I enjoyed it a lot.**

7 Q. Then you met a detective whom you liked; right?

8 A. **Yes, sir.**

9 Q. And that detective told you about being a detective and
10 how that goes; right?

11 A. **Well, he did. And he wasn't a detective at the time.
12 He was part of our scat team, which is a highway
13 apprehension team with the focus on narcotics. He had
14 a narcotics canine at the time so he wasn't a
15 detective, but he had a lot of skill sets in that area.**

16 Q. Tell me this scat team. They -- they apprehend whom?

17 A. **Mostly criminal interdiction type stuff. So their
18 primary focus was narcotic interdiction. It's --**

19 Q. And that's a lot more interesting than driving your car
20 over the roads all day; isn't it?

21 A. **Well, for me, as a young man, I -- that was something
22 that I really enjoyed.**

23 Some troopers don't have interest in that at all.
24 You know, and I wasn't just focused on that. I was a
25 pretty well-rounded trooper. I had excelled in other

1 categories like speed emphasis and DUI, aggressive
2 drivers. I, year after year, lead categories -- those
3 categories as well on top of my narcotic criminal
4 interdiction and my drug arrests. So, you know,
5 obviously I had a strong interest in narcotic
6 interdiction, but, you know, I -- I found a lot of
7 enjoyment in more than just -- just narcotics.

8 Q. Okay. But you would -- you would agree, wouldn't you,
9 that once you sort of got friendly with this -- this
10 person who has more exciting job, you decided you
11 wanted to be a detective and you wanted to do that with
12 drug interdiction; right?

13 A. I definitely had an interest in that, yes. I -- I
14 would want to be a detective if the opportunity became
15 available. Yeah. I did.

16 Q. And you wanted to do it specifically in drug
17 interdiction?

18 A. Criminal interdiction. I applied previously for
19 identity theft position within the patrol early on in
20 my career. But my -- my primary focus was anything
21 with -- with more of a criminal -- hate to use the word
22 criminal aspect, but really more with a narcotics-type
23 connection. So with identity theft oftentimes it would
24 be narcotics involved and things like that.

25 Q. Right.

1 **A. Or even auto theft, I was -- I would have been very**
2 **interested in an auto theft detective position.**

3 Q. Sure. I mean, drug -- people who are involved in drugs
4 rob 7-Elevens. It's all kinds of over ancillary areas;
5 right?

6 **A. Yes, sir.**

7 Q. And all that sounded good to you.

8 **A. Yeah. That was something that I knew that I would**
9 **enjoy.**

10 Q. And I hate to keep referring to this scat -- what was
11 his name?

12 **A. Jeff Kershaw.**

13 Q. Okay. Jeff Kershaw.

14 When you talked to Trooper Kershaw, did you tell
15 him you wanted to be a detective?

16 **A. I think he knew at some point. I think he wrote me a**
17 **letter of recommendation for a detective job at one**
18 **point.**

19 I ended up working with him in the last couple
20 years in this marijuana enforcement task force that I
21 work in now. So we still stay in touch, and he now --
22 he lives in the Spokane area, but we were working in
23 the State-wise narcotics interdiction group for -- with
24 an emphasis on marijuana.

25 Q. So you're back with -- what's his rank now?

1 **A. Well, now he's a trooper again, and he's -- he's**
2 **getting close to retirement. So we worked together for**
3 **about a year and a half in this marijuana unit, but**
4 **he's a trooper, and he's looking at retiring in the**
5 **near future.**

6 **Q. Was he at some time a different rank?**

7 **A. Well, detective.**

8 **Q. Okay. When you say he's a trooper again, I asked**
9 **earlier from somebody else what -- is detective like**
10 **it's own rank?**

11 **A. Well, kind of. You have to interview for it. You're**
12 **selected. It's more of a -- I guess considered a**
13 **specialty position within the State Patrol. You don't**
14 **go through the full promotion process, but you -- you**
15 **are interviewed on your skill set, your application**
16 **packet, your job performance appraisals. And, you**
17 **know, typically, they narrow down the interview process**
18 **to five people. So they may get 20 applicants.**
19 **They'll take five to an interview, and then they select**
20 **the top candidate to offer the job to.**

21 **Q. Okay. And once you decided, "Being a detective, that's**
22 **for me," once you made that decision, you were all in**
23 **on that too; weren't you?**

24 **A. Well, again, I was very interested in being a**
25 **detective. Was I all in? If something came available**

1 that I was interested in? Sure, I would apply for
2 that.

3 And, you know, with the State Patrol, there's not
4 a lot of narcotic detectives or identity theft
5 detectives or auto theft detectives. Most of our
6 detectives are in what we call the criminal
7 investigation division, and they do collision-type
8 investigations -- like vehicular homicides or vehicular
9 assaults. There's not a lot of detectives that do
10 narcotics. So --

11 Q. Okay. You mentioned something called cross training
12 before. Did you cross train to be a detective?

13 A. Yes, sir. I did.

14 Q. Okay. And just would you tell the jury what cross
15 training means?

16 A. Cross training is, like, job shadowing with the
17 detective unit. And you may be working with just one
18 individual or -- my experience was I worked with many
19 different detectives. I cross trained for a period of
20 time with identity theft. I cross trained with the
21 Thurston County narcotics task force for a period of
22 time. I think I did that on two different occasions.

23 But that's basically what it is, is you're almost
24 job shadowing a detective. And if you're there for an
25 extended period of time -- like awards that I received

1 where I can -- I would leave my job from patrol for an
2 extended period of time. I could actually assist in
3 the casework and learn that portion of the job as well.

4 Q. And there's a -- there's a reason for -- for cross
5 training; right? It exposes you to the work that is so
6 you can see what it's like, but it also qualifies you
7 for the work; right? You actually learn the work.

8 A. **Yes, sir. That's true.**

9 Q. Okay. And then it makes it easier for you become a
10 detective.

11 A. **That's correct.**

12 Q. And at that point, when you were doing this cross
13 training, wasn't your goal to become a detective and
14 then move up the ranks?

15 A. **No. Maybe I can kind of explain this.**

16 So I -- my goal was to work 25 years for the State
17 Patrol and retire, and that's a long career. And I did
18 have interest in being a detective. But my ultimate
19 goal was to end up in aviation and finish my career in
20 the aviation unit.

21 I knew that once I went to aviation, that I
22 wouldn't leave that unit, and I would want to stay in
23 that unit.

24 It's a specialized unit. You lose those skill
25 sets because you are somewhat removed from patrol-type

1 work and detective-type work. And so while I was --
2 while I was still proficient in that area, I wanted to
3 move in to a detective period -- for a period of time
4 with the ultimate goal within this 25-year career of
5 moving into the aviation unit and flying with the State
6 Patrol to set myself up for potential retirement and
7 flying in retirement.

8 Q. With respect, I don't think you answered my question.

9 A. Oh, okay.

10 Q. The question was, didn't you want to go up the ranks?
11 Become a sergeant, maybe lieutenant, whatever door's
12 opened?

13 A. That's not correct, sir.

14 Q. Just wanted to stay a trooper your whole career?

15 A. No. I believe I explained to you that I did want to be
16 a detective, but I don't -- I didn't have much interest
17 in the sergeant-type work and more of an
18 administrative-type role.

19 Q. I see. And how many detectives are in aviation
20 division?

21 A. There's no detectives in the aviation division.

22 Q. Okay. And you mentioned that, when a person goes to
23 aviation, they lose their skills to be on the streets.
24 But you got right back to it; didn't you?

25 A. It took some time, but, yes. I -- I got back into

1 rarely out on patrol and actually doing the job of
2 working as a trooper so I did not have a lot of
3 interest in that. I still don't.

4 Q. And let me ask you this: How many years did you spend
5 in Internal Affairs?

6 A. As a -- you're asking me if I've ever worked in
7 Internal Affairs?

8 Q. Right. How many years did you work in Internal
9 Affairs?

10 A. I've never worked in Internal Affairs.

11 Q. And how many years did you work in administrative
12 policy decision making?

13 A. I have not worked in that role.

14 Q. Okay. It's true, isn't it, that when you were a young
15 trooper and you were getting excited about being a
16 detective, you looked around, and you realized that
17 there may not be some detective openings for a little
18 while, and you were impatient. You didn't want to
19 wait; right?

20 A. I wouldn't say impatient. There -- at that timeframe,
21 they were reducing the amount of detectives in the
22 State Patrol. And so I figured my opportunities to
23 become a detective were narrowing, and that was most
24 likely for many, many years.

25 And I -- again, I mentioned that -- at that

1 timeframe this was happening, I heard that there was
2 going to be an opening in aviation so --

3 Q. Well, you're getting ahead of me. I just asked --

4 A. Okay.

5 Q. -- when you heard there might not be the openings for a
6 little while, you didn't want to wait; right?

7 A. Well, we're talk -- like I said, it could be years if
8 you're talking about waiting, it could have five ten
9 years. I don't know. And you have these detectives
10 with much more experience that were being removed from
11 those positions or laid off that would have a much
12 higher likelihood of being selected for a detective
13 position if we ended up getting funded for that down
14 the road.

15 Q. And it's also true, isn't it, that you could have found
16 a detective job more easily if you were willing to
17 move, but you weren't willing to move from your home;
18 right?

19 A. It would have been within reason. You know, I was
20 reluctant to move from the Olympia area where my family
21 and my -- you know, my friends, my brother, you know --
22 yeah. I -- if I could, I would stay -- I would like to
23 stay local in the Olympia area.

24 Q. And so once you realized all this -- it's going to be a
25 while before you might find an opening, you don't want

1 to move, those kinds of things, you again change your
2 plan; right?

3 Now you said, "How about aviation? Maybe that's
4 for me." Right?

5 **A. Well, again, aviation was always my ultimate goal in**
6 **this agency. Because I developed an interest in**
7 **narcotics interdiction, that interest in aviation never**
8 **went away. And that desire to get into aviation never**
9 **went away.**

10 Q. Okay. Well, let me ask you this: During the time from
11 when you flew before you joined the State Patrol till
12 the time you decided, "aviation's for me," you flew
13 zero flights during that time; right?

14 **A. That's correct.**

15 Q. And you had to go out and really bust it to get up to
16 speed to even apply for the job; right?

17 **A. Yes, sir.**

18 **And there's a reason for that. I bought a house**
19 **in 2005, and --**

20 Q. I'm not asking for the reasons, sir. I just like to
21 ask you whether or not that's true, what I said.

22 **A. Okay. Yes, sir. I hadn't flown during that timeframe.**
23 **You're correct.**

24 Q. Right. You're the only candidate for that job; weren't
25 you?

1 **A. I believe I was, yes.**

2 Q. And you knew that the State Patrol was shorthanded.

3 **A. At that time, I don't think they were shorthanded.**

4 Q. Okay. You would agree, wouldn't you, that being in
5 aviation, just in a sort of general sense, is a
6 constant learning process; isn't it?

7 **A. In the aviation unit.**

8 Q. Yes.

9 **A. Yes, sir. I believe that.**

10 Q. And things are always changing -- any number of things,
11 and you've got to keep up and get your head in the game
12 to do it well; right?

13 **A. I would agree with that.**

14 Q. And since leaving aviation -- October 2016; is that
15 right?

16 **A. Yes, sir. It was the end of October, 2016.**

17 Q. You have flown zero hours.

18 **A. That's correct.**

19 Q. You haven't done anything to pursue your dream to be a
20 commercial pilot; right?

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

22 Q. You haven't added any credentials that you would need
23 to move to the next step; have you?

24 **A. I have not.**

25 Q. And you would agree with me, wouldn't you, that now

1 that COVID is here, the aviation industry is in
2 tatters; right?

3 **A. It's heading that direction, yes.**

4 Q. And you and me and nobody really knows if it will ever
5 come back; right?

6 **A. Well, I think you heard testimony yesterday on that.**
7 **But are you asking for my opinion in that matter?**

8 Q. That's all right. We'll just strike that. That's --

9 **A. Okay.**

10 Q. I'm not excepting you to be an expert in aviation.

11 But I would like to ask you this: You mentioned
12 that you're training in a little plane of Cessna;
13 right?

14 And I -- in opening statement, I kind of did this.
15 You can -- you can do this and touch the wall, can't
16 you?

17 **A. Yes, sir.**

18 Q. And the seats are way closer than these two seats
19 together.

20 **A. Yes, sir. That's correct.**

21 Q. They're, like, right side by side.

22 **A. Pretty close. I think there's about ten inches in**
23 **between or maybe or something like that.**

24 Q. Okay. And are the seats as big as these seats?

25 **A. I believe they're a little narrower than that.**

1 Q. Okay. To go from this Cessna -- what's the sort of
2 lower-level Cessna? The --

3 **A. Well, for the State Patrol, it would be the 182.**

4 Q. Okay. And the other one is a 260?

5 **A. 206.**

6 Q. 206. Okay.

7 So the 182's the more beginner one; right?

8 **A. I would say it's -- yes. In layman's terms, I suppose**
9 **you could say that, yes.**

10 Q. To go from the small Cessna to the King Air -- now,
11 that's a pretty exotic aircraft; right?

12 **A. It's a big jump, like I testified to, yes.**

13 Q. Right. And to go from a little Cessna to 747, huge,
14 huge jump; right?

15 **A. I would agree with that, yep.**

16 Q. And we talked a little bit about command pilot status
17 within the State Patrol.

18 You would agree with me, wouldn't you, that some
19 pilots join the section and never become command
20 pilots.

21 **A. Trying to think if that was my experience there. I**
22 **think the only person that I'm aware of that didn't**
23 **become a command pilot was Troy Davis, and that was**
24 **because he chose to move to Eastern Washington and work**
25 **in Eastern Washington.**

1 Q. And that -- in that position, he's not -- doesn't need
2 to be a command pilot?

3 A. Well, the King Airs are held in Olympia, and so --
4 yeah. He -- I think he was working toward his command
5 pilot rating and he was studying for his ATP test when
6 he made the choice to move to Eastern Washington.

7 And so, you know, he made that choice to, I guess,
8 walk away from that advancement in the section.

9 Q. So you're agreeing with me that some pilots never
10 become command pilots.

11 A. Yes. I -- that's possible. Yes.

12 Q. And it's also true -- isn't it -- that some pilots
13 never get all of their State Patrol limitations
14 removed; right?

15 A. That wasn't an experience they saw when I was there,
16 no.

17 Q. Okay. So in your estimation, every pilot that stayed
18 any length of time at the patrol got all their
19 limitations removed?

20 A. No. I think after I've -- before I was there, there's
21 been pilots in the past that could not -- they couldn't
22 get through the flight training program or -- but I --
23 that didn't happen when I was there.

24 Q. This pilot in Eastern Washington, did he have all of
25 his limitations removed?

1 **A. I believe so. I'm not sure.**

2 Q. Okay.

3 **A. And let me clarify. The pilot in Eastern Washington**
4 **that I'm referring to is Troy Davis, and I'm not sure**
5 **if he had those limitations removed. But -- I don't**
6 **know.**

7 Q. Okay. So he may have still had some limitations?

8 **A. Again, I don't know.**

9 Q. Okay. And in terms of your own limitations when you're
10 in aviation, after two years -- right? Three years?
11 How long were you there altogether?

12 **A. Two years and almost nine month -- or almost eleven**
13 **months. Two years and almost eleven months.**

14 Q. Okay. We heard this nice Ms. Kaiser testify
15 yesterday --

16 **A. Yep.**

17 Q. -- you couldn't have flown her in IFR -- IFR
18 conditions; could you?

19 **A. No, sir. That was a limitations that I had.**

20 Q. Right. You could only fly people within the state
21 patrol in IFR conditions.

22 **A. Right. So I could fly Chief Batiste or any other**
23 **chiefs or any State Patrol employee, but if it was**
24 **outside of the State Patrol, I was not allowed to fly**
25 **those personnel in IFR conditions.**

1 Q. You were only a co-pilot seat person for the King Air;
2 right?

3 **A. To State Patrol standards, that's correct.**

4 Q. Right. And the State Patrol has very high standards;
5 right?

6 **A. I would agree with that, yeah.**

7 Q. I mean, let's just talk about this for a second with
8 the jury.

9 The King Air is a sophisticated two-pilot aircraft
10 right?

11 **A. Yes, sir.**

12 Q. It's fast. It's nimble. It has a lot of passenger
13 space; right?

14 It's not a 707, but --

15 (Indiscernible crosstalk.)

16 **A. Correct. I think it's a nine-passenger plane or
17 something like that.**

18 Q. Right. And the FAA, their standards say that one pilot
19 can fly that aircraft all by himself; right?

20 **A. That's correct.**

21 Q. But the State Patrol says, "Nope. We need two pilots.
22 That's our standard."

23 **A. Right. And I think it's also an insurance thing, but,
24 yes, that was the standard within the State Patrol.**

25 Q. And that's a standard the State Patrol really --

1 overall; isn't it? That they have very high standards.
2 Minimum barely meets the standard is not going to cut
3 it at the State Patrol; is it?

4 **A. Are you referring to aviation or in general the State**
5 **Patrol?**

6 Q. No. Aviation. I'm sorry. Aviation.

7 **A. Well, now you're asking me about what the standard is.**
8 **So are you asking what the FAA standard is or the State**
9 **Patrol standards?**

10 Q. No. I'm actually trying to be a little bit broader
11 than that. I'm not going to ask you what any
12 particular standard is.

13 **A. Okay.**

14 Q. Just going to say it's true, isn't it, that the State
15 Patrol -- if this is minimum FAA standard, the State
16 Patrol is higher than that; right?

17 **A. Yes, sir.**

18 Q. In every way.

19 **A. I would somewhat agree with that, yes.**

20 Q. And you were going to put on the -- what do you call
21 that?

22 **A. Hood or --**

23 Q. The hood?

24 **A. -- view limiting device.**

25 Q. Is that like a food for a falcon?

1 **A. I mean, I don't know.**

2 Q. Okay. You put on the hood. And you're supposed to do
3 certain maneuvers. You've got to do it ten out of ten
4 times -- don't you -- to pass whatever examination
5 you're doing?

6 **A. You know, it's -- what -- I don't know exactly what --**
7 **whether we had a pass or fail for ten times. We didn't**
8 **have that. It was up to the person that was flying**
9 **with you to make that determination. And, you know,**
10 **whether it was ten out of ten times -- we didn't have a**
11 **test that said, "You got to do this ten times;**
12 **otherwise, you fail." It wasn't like that.**

13 Q. Okay. And speaking of the person who does the test,
14 you know what a certified flight instructor is; right?

15 **A. Yes, sir.**

16 Q. And when you were a pilot in 2014 to 2016, how many
17 CFIs were with the State Patrol?

18 **A. One.**

19 Q. And that was Lieutenant Nobach; right?

20 **A. Yes, sir.**

21 Q. And what was your understanding of what a CFI -- what's
22 their role in terms of your progression as a pilot?

23 **A. Well, again, a CFI stands for certified flight**
24 **instructor. And their role in progression to be a**
25 **pilot would be to provide you the instruction to build**

1 your skills, to progress through your flight training.

2 So for you private pilot's license, it's very
3 elementary. And then as you move in to your
4 instrument, you need to see a double eye (phonetic) you
5 need a specified -- special instructor just to provide
6 instrument instruction.

7 And then for your commercial rating, it's more of
8 an advanced instruction -- your ATP. I mean, it's --
9 so the instructor's just is just like a teacher for any
10 skill set. That's what they're providing you is that
11 instruction.

12 Q. Now, we heard the names Sergeant Sweeney, Sergeant
13 Hatteberg. They were sergeants in your section; right?

14 A. Yes, sir.

15 Q. And what -- were they command pilots?

16 A. Yes, sir. They were both command pilots within the
17 patrol.

18 Q. Okay. And what is a -- if you're going to be called a
19 command pilot -- you know, that's what you're called --
20 what do you get to do?

21 A. You get final authority over the flights.

22 You know, technically in a Cessna, you have full
23 authority in the Cessnas. Those are -- in the
24 administrative investigation manual, that would be a
25 command pilot as well.

1 But for the King Air, the command pilot, you'd
2 have full authority of that flight -- ensuring the full
3 safe operation in how that flight is conducted.

4 Q. Okay. Did the sergeants Sweeney and Hatteberg, was it
5 part of their job to take you out and fly with you and
6 help training you?

7 A. Yes. They were. Yes. They were assigned to do that
8 and help train me.

9 Q. And as part of that work that they did, they could sign
10 off on some of your limitations; couldn't they?

11 A. I don't believe they could.

12 So, you know, that -- there's some -- Aviation
13 Section manual specifically states that you're supposed
14 to do this training with a certified flight instructor.
15 And that wasn't the case. And so I did fly a lot with
16 other pilots who did not have instruction training or
17 were not certified flight instructors. So, like,
18 Sergeant Hatteberg, which now -- when I first came into
19 the section, he was assigned as my instructor pilot
20 although that was outside of the State Patrol aviation
21 regulation.

22 Q. Let's talk about that for one second.

23 This manual that you're talking about --

24 A. Yeah.

25 Q. -- you've read the whole thing; have you?

1 **A. It's -- one time or another, but, you know, it's been**
2 **some time since I've read the whole thing.**

3 Q. And doesn't it start off right in the beginning saying,
4 "This is not hard and fast rules. This is a guide for
5 how you go through the flying program." Isn't that
6 true?

7 **A. I would disagree with that.**

8 Q. Okay. So we can look at it separately, and we'll
9 figure that out.

10 All right. Let's -- let's turn or attention to a
11 little bit different topic, and that is 095s.

12 You know what I'm talking about; right? 095s?

13 **A. Yes, sir.**

14 Q. And the -- the version that specifically we're going to
15 talk about is called a negative 095; right?

16 **A. Okay. Yes. I mean, the 095 document is the same.**
17 **They give you positive or negative, but yes.**

18 Q. Right. But it is a box you check; right? If it's
19 positive or negative.

20 **A. Yes. So -- yes.**

21 Q. Okay. And you testified earlier that this is the
22 lowest form of discipline; right?

23 **A. Yeah. Yeah. It's -- I would say it's pretty close to**
24 **that. There's also NIMs. I am not really familiar**
25 **with the whole NIM process. But there's -- basically**

1 one -- if not the lowest, it's one of the lowest forms
2 within the agency.

3 Q. Okay. And part of your whole fabric of your case here
4 is that you are unhappy that Lieutenant Nobach only got
5 an 095; right?

6 A. Again, when I initially heard that they received 095s,
7 I was in somewhat a relief that their -- that things
8 couldn't be that bad.

9 So once the retaliation started, I then became
10 more concerned of the 095 being issued is because what
11 that did is -- it stopped the investigation process
12 from initiating. It put a -- basically a halt on
13 notifying human resources and providing that -- those
14 protections to employees that come out and make those
15 reports.

16 Q. And that -- the thing you just told me about, you
17 didn't know at the time; did you? You went and did
18 some research and read all the manuals to figure that
19 out; right?

20 A. Well, I believe when I started expressing concerns with
21 my sergeant, he also had those concerns and we talked
22 about that.

23 Q. Okay. I'm not asking about your sergeant. I'm asking
24 you. You did not know what you just said until you
25 started doing some research and trying to find

1 something to support your case; right?

2 **A. Well, no.**

3 So back then, I had never thought in a million
4 years I would be sitting here today. So when I had
5 these conversations with my sergeant, he -- that --
6 after I had those conversations, yes, I did look into
7 the matter because of the environment that was -- that
8 had begun within the Aviation Section.

9 Q. And a big part of your case -- big, big part of your
10 case -- is that you think Lieutenant Nobach didn't get
11 disciplined enough; isn't that true?

12 MR. SHERIDAN: Objection. Relevance.

13 THE COURT: Overruled.

14 **THE WITNESS: No. That -- the big part of my**
15 **case is how the State Patrol chose to deviate from**
16 **many, many of their policies, and that was the**
17 **motivation -- or that -- that was a very large**
18 **consideration as to why I'm sitting here today of --**

19 BY MR. BIGGS:

20 Q. The 095.

21 **A. No. Not the 095. How the State Patrol chose to ignore**
22 **and cover things up.**

23 Q. Okay. But as to the 095, you complained to every
24 officer who would listen that that was improper and
25 somebody should have given Lieutenant Nobach a bigger

1 discipline than that; right?

2 **A. No, sir. So I believe in giving discipline to get a**
3 **result and get the result that you would want. So as a**
4 **supervisor, if you can issue an 095 and that would be**
5 **enough discipline to get a corrective action from an**
6 **employee, then I think that's completely adequate. But**
7 **clearly an 095 in this scenario was not adequate.**

8 Q. Okay. But it wasn't your call; right?

9 **A. Well, of course not.**

10 Q. Right. Let's then talk a little bit about how you
11 reacted when you got an 095, the lowest form of
12 discipline. You objected. You wrote letters. You
13 filed grievances. All those things; right?

14 **A. Well, you're referring to the one 095 that Sergeant**
15 **Hatteberg wrote me.**

16 Now, I've received a number of 095s -- negative
17 095s throughout my career. I've never objected to
18 those other 095s, and I accepted those. I learned from
19 them, and I moved forward.

20 And this 095 you're referring to was different
21 than those other 095s.

22 Q. Okay. So you took it up the chain. You filed the
23 grievances. You did all these things. And the
24 response you got back was that was an appropriate
25 measure; right?

1 **A. That is correct. From -- yes.**

2 Q. And you simply don't accept that; do you?

3 **A. Well, I would ask that -- let me put this way:**

4 It -- reviewing the policies and the procedures of
5 the State Patrol, they are not in line with what
6 happened. And so did I disagree with that?

7 **Absolutely, I did.**

8 Q. You say they're not in line. Other witnesses in here
9 have said that was the appropriate measure; right? You
10 heard that testimony.

11 **A. I heard testimony, but the administrative investigation**
12 **manual and the regulation manual speak for themselves.**

13 Q. Okay. Let's take a little bit back broader view. I
14 just want to make sure that we're on the same page
15 here.

16 You agree with me -- don't you -- that as a
17 trooper -- any trooper who sees illegal activity has an
18 obligation -- an absolute obligation to report it;
19 right?

20 **A. Yes, sir. I believe that.**

21 Q. And the obligation is to report it contemporaneously,
22 right away. Right?

23 **A. Yes, sir. I believe that, yes.**

24 Q. And that's also true of other -- even if it's not
25 illegal but a policy violation. If you as a trooper or

1 anybody as a trooper sees a policy violation, you are
2 obligated to report it promptly; correct?

3 **A. I would agree with that.**

4 Q. Okay. And then just talk about that 095 for a second.

5 The 095 that you got had to do with this DNR
6 flight with the nice lady that testified; right?

7 **A. Yes, sir.**

8 Q. And, in fact, if you had -- didn't have your
9 limitations, you could have made that flight yourself;
10 right?

11 **A. Yes, sir.**

12 Q. There wouldn't have been this scramble to get some
13 other pilot involved.

14 **A. Correct.**

15 Q. Okay. I'd like to turn our attention to that -- that
16 flight that we talk about with the 12,000-foot clouds
17 and all that. Okay. You know what I'm talking about?

18 **A. Yes, sir.**

19 Q. And that flight I assume you remember well?

20 **A. I do remember the flight, yes.**

21 Q. And it was from Walla Walla back to Olympia right?

22 **A. Correct.**

23 Q. And that course takes you over the Cascades.

24 **A. Yes, sir.**

25 Q. Tell us what -- what is a piloting command?

1 **A. Let me correct that.**

2 Does it take you over the Cascades? The direct
3 route would take you over the Cascades. There's other
4 routes you could take, but --

5 Q. Sure.

6 **A. Now to answer your question what the pilot in command**
7 **is, again, that's the person that has full authority of**
8 **that flight.**

9 Q. Okay. So you would agree that a pilot in command is
10 directly responsible for and is the final authority as
11 to the operation of that aircraft.

12 **A. Yes, sir. I do.**

13 Q. And so while you were flying that little Cessna across
14 the mountains, you were the pilot in command.

15 **A. Yes, sir. I agree with that.**

16 Q. And that means that you have the -- not only the
17 option, but you had the authority and the
18 responsibility of making critical decisions while in
19 that flight; right?

20 **A. Yes, sir.**

21 Q. And because pilot in command is really even -- it's
22 even separate from, like, rank; right? If you're the
23 pilot in command, you have to operate that plane
24 properly.

25 **A. Yes. You have full authority of that aircraft.**

1 Q. Okay. And that would be true even if -- you know,
2 Chief Sass -- somebody calls you and say, "You will
3 take this particular route," if that route is
4 dangerous, you will not take that route; right?

5 **A. Well, yeah. You -- again, you're not -- I would agree**
6 **with that. I mean, you would --**

7 Q. Okay. And you -- you are, as pilot in command, you're
8 the final arbiter, the final decider of weather issues;
9 right?

10 **A. Yes, sir.**

11 Q. Okay. And as a pilot in the patrol, you're issued an
12 iPad; right?

13 **A. Yes. We did at the time. yes.**

14 Q. And on that iPad, there's all the flight information
15 that you need for the flight.

16 **A. Correct.**

17 Q. And that includes all the weather information you need
18 for the flight.

19 **A. Correct.**

20 Q. And what is -- what is a stratus weather system?

21 **A. It's a device that we had for receiving updated**
22 **weather, if I recall. I -- anyway. That's what the**
23 **stratus was, I think.**

24 Q. And the iPad talks to it; right?

25 **A. I believe -- yes -- so. I believe that was the case.**

1 Q. So the -- the weather information on your iPad is the
2 most current available; right?

3 **A. Yes. It was current.**

4 Q. Okay. And that's one of those preflight items you got
5 to -- you got to look at this before you take off;
6 right?

7 **A. Correct. We would check weather before you do a
8 flight.**

9 Q. Okay. And, again, if this flight involved Ms. Kaiser
10 on the day of -- this February 26th date, you couldn't
11 have made that flight; right?

12 **A. You said February 26th? Could you --**

13 Q. Right. There's weather that day; right?

14 **A. Oh, oh. You're saying -- okay. There -- I -- on the
15 way back, it was forecasted to have a weather -- a
16 potential weather issue on the way back.**

17 Q. Right.

18 **A. From Walla Walla.**

19 Q. So if, instead of Chief Lamoreaux, it was Ms. Kaiser,
20 you would have had to have stayed on the ground?

21 **A. Correct. According to my State Patrol limitations.**

22 Q. And then you heard me in opening -- I said, "Hey,
23 halfway across the Cascades, there's this 12,000-foot
24 wall of clouds."

25 That's an accurate description; isn't it?

1 **A. No. No.**

2 Q. How would you describe it?

3 **A. Well, we're at 10,000 feet. The mountains are**
4 **probably -- I don't know -- seven -- I mean, and there**
5 **was tops. I could see the tops of the clouds or the**
6 **tops of this weather system moving forward -- towards**
7 **us or, you know -- the cloud.**

8 So -- but the altitude that I was traveling at was
9 going to put me into the clouds.

10 Q. Right. And so you decided to do what? Go over the
11 clouds?

12 **A. No. So at that time frame, I decided to pick up an eye**
13 **for a clearance and go into the clouds at the altitude**
14 **that I was in. And I had to make a decision based on**
15 **the information that I knew at the time, including the**
16 **outside temperature, on whether that would be, you**
17 **know, a decision that would be a safe decision to make.**

18 Q. And this is the Cessna 182, the smaller one.

19 **A. Yes, sir.**

20 Q. And that's not turbo charged; is it?

21 **A. No, sir. No, it's not.**

22 Q. And as a commercial-rated pilot -- you're
23 instrument-rate commercial pilot -- you knew that a
24 non-turbo charged aircraft like that would lose power
25 as it climbs because the air becomes less dense; right?

1 **A. That's correct.**

2 Q. And do you know the calculation of how much -- like,
3 how much power you lose for every thousand feet? Would
4 you give me an estimation of how much power is lost?

5 **A. I don't know. I mean, it was -- I -- I had a much**
6 **better idea back then, but I don't know now.**

7 Q. Okay. Would you agree that it's about 35 percent of
8 its total power is lost at that altitude?

9 **A. I'd say that is probably close to accurate.**

10 Q. Okay. So you got, like, two-thirds of your power
11 instead of full power.

12 **A. I -- again, I -- assuming that's probably accurate.**

13 Q. Okay. Now, you knew at this time, didn't you, that the
14 King Air was sitting back in Olympia, and it was
15 available to go pick up Chief Lamoreaux, if necessary;
16 right? You knew that?

17 **A. I don't know if I knew that at the time.**

18 Q. Okay. Could have found out; right? If you didn't
19 know.

20 **A. Well, I did talk to Lieutenant Nobach before I departed**
21 **and so, I mean, I could have -- that conversation never**
22 **happened. Let me just put it that way.**

23 Q. So I'm just trying to figure out, if you had to abort
24 your flight for some reason, you could have gotten
25 another plane to go to there and do the job; right?

1 A. So -- could we have gotten another plane or the King
2 Air to fly back over to pick up Chief Lamoreaux, yes.

3 There was an issue that day with getting Chief
4 Lamoreaux to a meeting that evening, and he was pressed
5 for time to get back to the airport, and that was the
6 concern by Lieutenant Nobach.

7 Q. Okay. Pressed for time does not qualify as a reason to
8 ignore safety; does it?

9 A. No, it does not.

10 Q. You started to pick up ice. Why did that happen?

11 A. So let me explain the circumstances that --

12 Q. No. Please tell me --

13 (Indiscernible crosstalk.)

14 A. -- surrounding this flight.

15 Q. Please tell me why a plane is picking up ice.

16 A. Well, when I picked up my eye for a clearance, the
17 temperatures were above freezing temperature. I went
18 into the clouds, and the temperatures continued to
19 decline to below freezing, and the aircraft started to
20 develop ice, started as frost and then continued to
21 develop ice as we progressed westward towards Olympia.

22 Q. Okay. And you can see the ice; right?

23 A. Yes, sir.

24 Q. And you would agree -- wouldn't you -- that now you're
25 operating at lower horsepower, trying to climb -- ice

1 degrades performance even further; doesn't it?

2 **A. Yes, sir. It does.**

3 Q. So with a less than full power plane that's picked up
4 ice, degrading performance, you decided to try to climb
5 to 12,000 feet; didn't you?

6 **A. Yes, I did. I figured if I got out of the moisture
7 that the clouds retain, that the ice would stop
8 building on the aircraft. And I thought that would be
9 a safer option.**

10 Q. Wasn't; was it?

11 **A. Well, potentially it -- you know, you're in these
12 positions -- I was in a position where I had to make
13 some decisions, and that was a decision that I thought
14 was best at the time with the information that I had.**

15 So could I have continued to climb through
16 12,000 feet? There's a possibility I could have got to
17 that altitude. But I was approaching what they call --
18 well, it would be like a letdown where the altitudes
19 across the Cascades are much higher because the
20 altitude of the Cascade Mountain range so -- I think it
21 was at 10,000 feet.

22 And so I continued westward, I was approaching
23 that letdown which would drop me below the moisture
24 level and so I was making a decision whether I climb to
25 get out of the moisture or continue my air speed going

1 west at the altitude that I was at till I could
2 approach the letdown which would drop me out of the
3 clouds and out of freezing temperatures.

4 So I was -- you know, I had decisions to make
5 to -- to alleviate the icing conditions, and I made a
6 decision to request clearance to climb to 12,000 feet.

7 So I -- you know, you're in a position where you
8 have to make decisions, and that was just a decision
9 that I thought was best at the time.

10 Q. Today, you wouldn't say that was the best decision;
11 would you?

12 A. I don't know. I don't think it was a bad decision. I
13 tried to climb.

14 You know, here's the thing. When you climb,
15 you're still developing altitude. And if the plane
16 develops ice and as it accumulates, it's not going to
17 completely fall out of the sky. You're going to start
18 to reduce your ability to create lift.

19 And so eventually, you develop enough ice where
20 that lift is diminished, and you start to descend, and
21 the power that the aircraft is producing, you can no
22 longer maintain altitude and so your descent rate
23 continues to -- or your altitude continues to decrease
24 as you descend.

25 So by gaining altitude was not a bad decision in

1 **any way. I don't feel that that was a bad decision at**
2 **all, no.**

3 Q. Okay. Let me ask you about a different option.

4 I mean, a pilot's got options; right? And in your
5 mind, you go through a checklist: "What options do I
6 have?" Right? That's what you do in that kind of
7 situation?

8 A. **Yes. I mean -- yeah. You're running through all your**
9 **options all the time.**

10 Q. One option -- see this mess up here? You know you
11 don't have power. You know you're taking on ice. One
12 decision is to turn around; isn't it?

13 A. **That is a decision that I consider, yes.**

14 Q. And that would be the absolute safest decision under
15 the conditions you faced; wouldn't it?

16 A. **I didn't feel that at the time, no.**

17 Q. Are you disagreeing now that it would have been safer
18 than going forward?

19 A. **I'm -- I considered that. And so -- like I explained,**
20 **when -- before I entered the clouds, the temperatures**
21 **were above freezing temperatures to the point where I**
22 **thought that there's a potential that I would not meet**
23 **freezing temperatures once I went into the cloud.**

24 Okay.

25 So once that -- once the temperature started to

1 decline to the point where I -- we drop below freezing
2 temperatures and then we started to develop ice, I was
3 already quite a ways over the Cascades.

4 So, if I would have had to turn around, I would
5 still be flying basically that same distance. And keep
6 in mind, I had to consider when that letdown was to
7 8,000 feet, which would drop me out of freezing
8 temperatures.

9 So where I was at when the ice started to develop,
10 I had to make that call whether I wanted to continue or
11 turn around or gain altitude.

12 So, again, you know, I was in a position where I
13 had to make decisions. I chose to continue on, and it
14 turned out to be a good decision or it was a decision
15 that ended in a safe flight.

16 Q. Okay. You would agree, wouldn't you, that it was a
17 very scary situation?

18 A. Yeah. This was my first, I guess, icing encounter. I
19 did everything possible within my decision making
20 abilities to -- when I flight plan to avoid these
21 situations in the Cessnas.

22 Q. Right. And you're sitting here very calmly today. I'm
23 pushing you. You're still calm.

24 A. I'm -- I'm typically always calm, so --

25 Q. But you called this -- this situation -- when you're up

1 here in all this stuff, you called it, in your own
2 words, a potentially deadly situation; didn't you?

3 **A. Absolutely it was, yes.**

4 Q. Okay.

5 MR. BIGGS: Your Honor, is this a good time
6 for us to -- before I change topics.

7 THE COURT: Sure.

8 All right. Members of the jury, you get an extra
9 six minutes of lunch today. One more than yesterday.

10 All right. We'll be in recess until 1:30.

11 (Recess.)

12 COURT STAFF: Superior court is now in
13 session with Honorable Mafe Rajul presiding.

14 THE COURT: Thank you. Please be seated.

15 And apparently the jurors -- you can bring the
16 jurors.

17 Apparently the jurors asked Mary if we are on time
18 to finish because they are concerned that we're not
19 going to finish. So this apparently was brought up
20 during the lunch hour.

21 So I will tell them that we still anticipate
22 finishing by the 24th. So just please remember what I
23 said this morning.

24 MR. SHERIDAN: Yes. Oh, Your Honor, if this
25 is right time, I wanted to see if you could have the

1 record reflect that Exhibit 222 -- I believe we offered
2 it back in Saunders, but -- but apparently it --
3 there's no record of it so I -- I'd like to just have
4 it -- we did an offer of proof. It's -- remember that
5 one --

6 THE COURT: Hold on a second.

7 MR. SHERIDAN: Yeah.

8 THE COURT: There's no record of what?

9 MR. SHERIDAN: So it's -- it's Saunders doing
10 an investigation of another person who is in trouble.
11 It's a lieutenant is in trouble for lying about having
12 an affair, and the person gets fired. And that was the
13 pitch that I was presenting --

14 THE COURT: So --

15 MR. SHERIDAN: -- while Saunders -- I think
16 it was when Saunders was on the stand. So maybe I
17 never actually offered it.

18 THE COURT: No, you didn't.

19 COURT STAFF: All rise for the jury.

20 THE COURT: Thank you. Please be seated.

21 All right. Good morning. Welcome back, members
22 of the jury.

23 And before we begin, I know that some of you have
24 expressed some concern about whether or not we are
25 going to finish on time. And I have -- in fact, I

1 actually had talked to the attorneys about that this
2 morning because I do understand that you are taking
3 time of your busy life, and this is a sacrifice for
4 you -- some of you. So I have told them that we
5 really -- I really hope that -- or not hope -- but that
6 I'm holding them accountable to really finishing by the
7 24th, which is the date that we had told you.

8 And just so you know, sometimes when we are
9 delayed because -- instead of taking the 15-minute
10 recess, we take a 25-minute recess, we are addressing
11 some legal issues. But I have also been meeting with
12 the attorneys even before -- in the mornings before you
13 come here or earlier before you supposed to come back
14 from lunch in order to minimize those disruptions and
15 address some of those issues.

16 So they -- they are aware that we should finish by
17 the 24th, and they have told me that they anticipate
18 finishing by then.

19 The other thing that I wanted to also address that
20 I may have forgotten just based on a couple of
21 questions that apparently have been asked of Mary is
22 that there are 14 of you here, but only 12 of you will
23 actually get the case. We wanted to make sure that we
24 had two alternates because we -- we just want to make
25 sure that, if something happens to one of you -- and

1 hopefully nothing will happen -- we will have
2 additional jurors so we don't have to start scratch.

3 And the alternates will be chosen at random right
4 after the attorneys have finished with their closing
5 arguments and before deliberations start. The reason
6 we do it at random and at the end is so that nobody
7 knows who the alternates are and so that you are all
8 paying attention.

9 So I hope that that answers some of the questions
10 that you have been asking Mary. And if you have any
11 other questions, please feel free to ask her, and I
12 will do my best to address those.

13 And with that, do we have any new people in Zoom
14 this afternoon, Mary, that you can tell?

15 COURT STAFF: (inaudible) .

16 THE COURT: All right. So for those of you
17 that are joining us via Zoom -- and I am sorry for
18 those of you that keep hearing me saying the same thing
19 over and over again, but we can't tell who is joining
20 or not. But we do have to make sure that the -- even
21 though you're participating or watching virtually, that
22 all the restrictions and orders that be in place, if
23 you were in the courtroom, would be the same. That
24 means that you are precluded from recording the
25 proceedings. The only record that we have is official

1 record kept by the clerk.

2 Likewise, you are prohibited from taking
3 screenshots just like you would be prohibited from
4 taking photos in you were in the courtroom. A
5 violation of my order will be basis for sanctions and
6 being held in contempt.

7 Mr. Biggs.

8 MR. BIGGS: Thank you, Your Honor.

9 THE COURT: And, Detective Santhuff, you are
10 still under oath.

11 **THE WITNESS: Yes, Your Honor.**

12 MR. BIGGS: Anybody can't hear me very well,
13 be sure to let me know, if you will, please.

14 BY MR. BIGGS:

15 Q. Detective Santhuff, before lunchtime, we -- we were
16 talking a little bit about this flight the day of
17 February 2016. And I'd like to turn your attention to
18 when you landed and Chief Lamoreaux then got out and
19 went about his business. Okay?

20 At that point, you were asked to come into the
21 lieutenant's office; weren't you?

22 **A. Yes, sir. That was summarizing the event, yes.**

23 Q. Okay. And when you were in the lieutenant's office,
24 Lieutenant Nobach -- he made it very clear to you --
25 didn't he -- that he felt that you had used poor

1 judgment during that flight?

2 **A. I would disagree with that statement actually.**

3 Q. Okay. You -- you don't recall him saying that you used
4 poor judgment?

5 **A. No, sir. I don't.**

6 Q. Okay. Do you recall Lieutenant Nobach saying that you
7 had unnecessarily put yourself and the assistant chief
8 in a dangerous situation?

9 **A. Actually, I'm the one that I recall bringing that to
10 his attention that that was a decision that I made that
11 I -- I wish I could take back.**

12 Q. Okay. I thought a few minutes ago before lunch you
13 told us you felt okay with your decision that day.
14 Because actually the truth -- isn't it -- that you felt
15 you made an unnecessary and dangerous call that day?

16 **A. You just said that I said that it was an okay decision,
17 and I think you're putting words in my mouth.**

18 Q. Okay.

19 **A. Not to be argumentive. But respectfully --**

20 Q. Sure.

21 **A. -- I made a decision to go into the clouds with --
22 north of Mount Rainier as asked to do by Lieutenant
23 Nobach before I left the ground.**

24 I had already done a preflight analysis for a
25 route back to Olympia to alleviate these icing

1 conditions. I already filed that flight plan. And
2 after my conversation with Lieutenant Nobach, he had
3 specifically asked that I go north of Mount Rainier,
4 which was not the direct route back to Olympia.
5 Typically that would be past Yakima and south of the
6 mountain. But to avoid a broader mountain range area,
7 to go north of Mount Rainier, and that -- in his words,
8 "You'll be fine."

9 And so I listened to his advice, and I made that
10 decision.

11 Q. Okay. Let's take this in maybe little smaller chunks.

12 A. Sure.

13 Q. I want to know whether or not you recall during this
14 conversation with Lieutenant Nobach -- after this
15 flight where you felt your life was at risk. Okay?

16 When you had this conversation, isn't it true that
17 Lieutenant Nobach talked to you about the flight, your
18 options, and your decision making skills? He did
19 address those things with you; didn't he?

20 A. Well, we talked about the flight, sure. We talked
21 about the decision to go in the mountain -- go north of
22 Mount Rainier and entering the clouds and developing
23 the ice. We talk about that. And Chief Lamoreaux's
24 response.

25 And I expressed that -- that that was not a good

1 decision. You know, during this meeting, I took full
2 responsibility for that.

3 And, you know, I -- I should have stuck to my gut
4 initially and flew through the gorge, which would have
5 alleviated this icing potential in the first place.

6 Q. It's true, isn't it, that during this meeting, you were
7 advised by Lieutenant Nobach that you would -- because
8 of this flight -- be undergoing more training to help
9 you with your decision making skills?

10 A. No. I don't believe that's true at all, no. I don't
11 recall that at all.

12 Q. Okay. Now, I -- I'm not tracking -- I don't think --
13 100 percent here.

14 Are you taking responsibility for what happened in
15 this flight, or are you blaming your lieutenant?

16 A. No. No. I -- as stated earlier, I take -- as -- the
17 decision to make that flight and the route of that
18 flight, I take full responsibility for as the -- we
19 talked about earlier, as the command pilot, I have to
20 own that. I have to own that decision. I have to
21 learn from it, and I did that.

22 Q. So you don't blame Lieutenant Nobach at all for this
23 flight; is that right?

24 A. I -- I can't blame him for that. Like I said, I have
25 to take responsibility for my actions, especially when

1 I am transporting passengers.

2 What I -- the conversation that we had on the
3 ground that day, I expressed clearly that I had already
4 talked to Chief Lamoreaux about the extension going
5 through the gorge was only going to take about 20
6 minutes.

7 Q. Uh-huh.

8 A. So I explained to him on the phone that, "Hey. I've
9 already got a flight plan filed. I'm just going to go
10 through the gorge because there is a potential of
11 encountering moisture as I went over the Cascades."

12 And I should have just stuck with that is what I'm
13 saying. And so, you know, we talked about that
14 conversation. And I said, you know, it's -- when
15 there's a potential to get into situation like what
16 happened and you have a second option, why take the
17 risk? And that's what the conversation between
18 Lieutenant Nobach and I was. It was a -- you know, I
19 wasn't disagreeing with him. It was a very back and
20 forth, open conversation I guess I -- and I took full
21 responsibility for it at that time, and I still do
22 today.

23 Q. Okay. I'm a little confused and maybe the jury is.

24 You keep talking about a different route that you
25 were proposing. You were unhappy that the lieutenant

1 told you not to take the route that you proposed;
2 right?

3 You thought that was the best route?

4 **A. To go through the gorge?**

5 Q. Right.

6 **A. Yes, sir, I did.**

7 Q. And you were unhappy when the lieutenant told you, "No.
8 No. No. You'll be fine. Take a different route."

9 **A. I wouldn't say I was unhappy about it. The**
10 **conversation that we had -- again, I -- I owned it. In**
11 **this meeting, I owned this -- I owned what happened**
12 **during that flight. So --**

13 Q. Okay. So -- so you were -- you didn't feel like you
14 were called out on the carpet that day, I take it.

15 **A. No, sir. Not at all.**

16 Q. Okay. On a little different topic, we'll talk about
17 the same timeframe, February 2016. Will you tell me,
18 please, who were the best pilots in aviation at that
19 time? You know, in your estimation.

20 **A. What was the year again? I'm sorry.**

21 Q. The same -- the same time as this flight, 2016
22 February.

23 **A. Probably Scott -- well, Lieutenant Nobach is a very,**
24 **very good pilot. Scott Sporov was still there. Very**
25 **senior, experienced command pilot. Both the sergeants**

1 were great pilots. Chris Noll -- I mean, so who -- who
2 is the best pilot? I'd say probably between -- the
3 most experienced between Lieutenant Nobach and Scott
4 Sporov.

5 Q. Okay. And where did you fit into that hierarchy?

6 A. I was still the least -- I had the least amount of time
7 in the section and experience.

8 Q. Okay. So if we look at your sergeants while you were
9 there, that would be Hatteberg, Sweeney, and courthouse
10 Smith (phonetic), those three sergeants?

11 A. Okay.

12 Q. They were all well ahead of you in terms of their
13 skills?

14 A. Yes. The previous question -- answer that question,
15 Hatteberg, Sporov, Nobach, they were ahead of me in
16 skills. Yes, I would agree with that. But the
17 previous question about other pilots, there was Jayson
18 Cayton who was new in the section who -- so, you
19 know -- anyway. I just want to put that on the record
20 too.

21 You mentioned where I stood in the hierarchy.

22 Q. Right.

23 A. I just wanted to clear that up.

24 Q. And where do you hold yourself relative to Trooper
25 Cayton?

1 **A. At that timeframe, Trooper Cayton was very new in the**
2 **section. I think he'd been there for maybe two and a**
3 **half months. I think he started January of 2016.**

4 Q. Okay.

5 **A. And he hadn't even started his initial 90-day training**
6 **program so -- you know, I guess my experience level was**
7 **higher than Jayson Cayton at the time.**

8 Q. Okay. Let's turn our attention a little bit to --
9 we've been hearing talk about whistleblowers and
10 Whistleblower statutes and so on.

11 You agree with me, I presume, that Whistleblower
12 statutes are a good thing?

13 **A. Yes, sir. I do.**

14 Q. And the -- not only does the law talk about
15 whistleblowers, was the patrol itself has a
16 whistleblower standard; right?

17 **A. Yes, sir. They have a policy on that, yes.**

18 Q. And that's something that when you are a trooper cadet
19 or somewhere in your learning process, you learn about
20 whistleblower rules; right?

21 **A. Yes, sir.**

22 Q. And if a person has any questions about what a
23 whistleblower is, how to bring a complaint, anything
24 like that, you can just look it up.

25 **A. Those resources are available. Yes, sir.**

1 Q. And you know right where to go.

2 **A. Yes, sir. For the most part.**

3 Q. And would you agree with me that the point of a
4 Whistleblower statute or Whistleblower policy, all
5 these things, is to shine a light on ongoing
6 governmental problems that you want to stop?

7 **A. Yes, sir.**

8 Q. And that's a noble venture; isn't it?

9 **A. Yes, sir.**

10 Q. In your learning about whistleblower rules within the
11 patrol, you learned -- didn't you -- that there's a
12 form -- a form used to make a whistleblower complaint;
13 right?

14 **A. Years back there was a form. I think that changed some**
15 **time around 2015 and '16.**

16 Q. So in 2016, are you saying that that form was no longer
17 used?

18 **A. Around that timeframe, I did look for that form, and I**
19 **could not locate it in the agency's documents.**

20 Q. Okay. And you were aware -- weren't you -- that the
21 standards -- that there was a timeframe. If you're
22 going to make a whistleblower complaint, you're
23 supposed to do it within a year; right?

24 MR. SHERIDAN: Objection. Argumentive and
25 calls for legal opinion.

1 THE COURT: Overruled. Overruled.

2 THE WITNESS: There is a timeframe for
3 filing --

4 MR. SHERIDAN: Hang on, Your Honor. This is
5 also misleading.

6 THE COURT: Overruled.

7 BY MR. BIGGS:

8 Q. Don't the policies say on their face you bring within a
9 year?

10 A. For an investigation to occur, but you can still file a
11 whistleblower complaint at any time.

12 Q. Why would you file one if you don't want an
13 investigation to occur?

14 A. Well --

15 Q. Isn't the whole point to investigate?

16 A. Well, what that does, also, is it puts the incident on
17 record with the auditor's office, I assume. And this
18 is information I have learned around that 2016
19 timeframe or beyond. But that's -- from what --
20 reading the State Auditor's information on their
21 website and including State Patrol policy, it appears
22 that in order to -- an investigation to occur, it would
23 have to be filed within one year. But that does not
24 stop that information from being recorded within the
25 auditor's office or for potentially maybe -- I don't

1 know -- something happening down the road. They still,
2 I would imagine, retain those records.

3 Q. I see. That's not what the standard says; does it?

4 A. That's what I recall that I've read.

5 Q. Okay. And did you read that before or after you made
6 these various complaints?

7 A. Well, these complaints were made over broad timeframe,
8 but it was after I reported the breast-rubbing incident
9 and the retaliation hostile work environment. It was
10 some time in that late 2016, early 2017 timeframe that
11 I started to educate myself more on these policies.

12 Q. Okay. So that -- that starts to get me into the next
13 question, which is the first incident that you talk
14 about -- you keep talking about the breast-rubbing
15 incident. There's no rubbing involved; right? I mean,
16 she walked up behind the lieutenant and, according to
17 your testimony, put her breasts around his head; right?

18 A. And then proceeded to rub her breasts back and forth,
19 sir.

20 Q. Okay. And that was her, not him; right?

21 A. Well, he was participating in that behavior. Who was
22 actually doing the act, the physical act would be
23 Brenda Biscay.

24 Q. Okay. So going back to this whistleblower concept --
25 so in terms of timelines, that's the first thing that

1 you consider yourself reporting and putting a spotlight
2 on; right?

3 **A. Yes, sir. I'd agree with that.**

4 Q. And the next thing that you put a spotlight on -- two
5 things actually; right? One that we're kind of calling
6 the Governor's flight King Air situation, and the other
7 this email business; right?

8 You put a spotlight on both of those, and that was
9 in October; right? I'm sorry. September.

10 September/October 2016. Somewhere in that timeframe.

11 **A. Correct, sir. September 20, 2016, is when it was**
12 **reported to the State Patrol.**

13 Q. Okay. You knew -- didn't you -- when you made all
14 these reports -- whatever you consider these reports to
15 higher ups to shine a spotlight on things, you knew
16 that you had the option of doing all of that
17 anonymously; didn't you?

18 MR. SHERIDAN: Objection. Relevance.

19 THE COURT: Overruled.

20 **THE WITNESS: I did read that, but I didn't**
21 **completely believe it. I still don't today. And**
22 **there's some other issues with that too by filing an**
23 **anonymous complaint, you are not afforded the legal**
24 **protections by the law as a whistleblower reporter.**

25

1 BY MR. BIGGS:

2 Q. And you knew that at the time? Or you did that
3 research later?

4 A. Well, I learned that sometime during this process. You
5 know, sometime between 2016 with the breast-rubbing
6 incident and when -- September 20th occurred, I did
7 start to review policies and learn how whistleblower
8 reporting and the law and -- there's a lot of things I
9 started to educate myself on.

10 Sometime in that timeframe is when I started to
11 look into these things.

12 Q. Okay. So you are asking this jury to believe that you
13 did not know that you could make anonymous reports that
14 would stay anonymous; is that true?

15 A. Well, they certainly say that, but I don't believe
16 that's true at all.

17 Q. Okay. And you have no evidence of that; did you?

18 A. Well, actually, I do.

19 Q. In your own case?

20 A. Yes.

21 Q. Okay. Well, we heard all about that so let's talk
22 about what you really did. Okay?

23 You really chose to make this public; didn't you?

24 MR. SHERIDAN: Objection. Relevance. And
25 motion in limine.

1 THE COURT: Sustained.

2 BY MR. BIGGS:

3 Q. You -- you, in fact, made a -- a report that was not
4 anonymous; right? You knew it wasn't anonymous.

5 **A. Which report are you referring to.**

6 Q. All those reports that you just talked about?

7 **A. Well, the initial --**

8 Q. You knew they weren't anonymous?

9 **A. The initial report -- sexual harassment report, I did**
10 **ask to remain anonymous with my supervisor, and that**
11 **didn't happen.**

12 So as time went on, I was already outed. You
13 know, my employment was completely changed. And so in
14 September timeframe, when I reported it to my union
15 rep, I did make that choice not to remain anonymous.

16 And, frankly, I'd like to explain why that
17 decision was made.

18 Now, when the --

19 Q. I'm not asking you for a decision. I asked you if you
20 made it -- you knew it wouldn't be anonymous. That's
21 what I asked you. Right? You knew when you made the
22 reports that they would not be anonymous.

23 **A. Yes, sir, I did.**

24 Q. Okay. In fact, you know that -- that a lot of this
25 information is on your attorney's website; don't you?

1 MR. SHERIDAN: Oh, objection again, Your
2 Honor. Motion in limine.

3 THE COURT: Yes. And that's what I thought
4 you were talking about earlier.

5 MR. BIGGS: That's -- Your Honor, I'm sorry.
6 I don't recall a motion in limine on that, but we'll
7 move past that.

8 BY MR. BIGGS:

9 Q. You knew when you went to your union rep that they
10 might spread it around; right?

11 **A. That is something that I can't control. I went to my**
12 **union rep as -- reaching out as an employee to get some**
13 **help.**

14 Q. Okay. You knew when you made these reports -- didn't
15 you -- that the whistleblower standards actually tell
16 you to whom these reports must be made if they want to
17 be whistleblower complaints; right? It says to whom
18 you make the report?

19 **A. Yes, sir.**

20 MR. SHERIDAN: Your Honor, objection again as
21 to -- this is all about lawyering, not about being a --

22 THE COURT: Overruled.

23 MR. SHERIDAN: -- plaintiff.

24 THE COURT: I don't want to hear speaking
25 objections in front of the jury.

1 MR. SHERIDAN: Fair enough.

2 THE COURT: Overruled.

3 **THE WITNESS: Yes, sir. The policy states**
4 **who are whistleblower designees within the agency.**

5 BY MR. BIGGS:

6 Q. And when you made your first -- what you're calling
7 report -- about the Brenda Biscay business, you didn't
8 make it to one of those people that are listed there;
9 did you?

10 **A. Well, it did go to those people, and those --**

11 Q. That's not what I asked you. I said did you make the
12 report to those people?

13 **A. We are in a quasi-military organization that we follow**
14 **the chain of command. And I did report it to my direct**
15 **supervisor, and the policy requires to move up the**
16 **chain of command.**

17 Q. Maybe I'm not making myself clear.

18 The policy in black and white tells you to whom
19 the report gets made; right?

20 **A. Yes, sir.**

21 Q. And you didn't follow that, did you?

22 **A. It's my understanding that it did get there.**

23 Q. Didn't ask you if it got there. I asked did you report
24 it to the people that you're supposed to report to?

25 MR. SHERIDAN: Objection. Legal opinion.

1 THE COURT: Overruled.

2 THE WITNESS: In October -- in -- I did
3 eventually report it to one of those people, and that
4 was Travis Mathesen in October 25th timeframe. And
5 that was -- that report was made then.

6 BY MR. BIGGS:

7 Q. Okay. So the -- sounds like we're agreeing here that
8 the -- whatever you reported in February of 2016 was
9 not made to an appropriate whistleblower official;
10 right?

11 A. I did not make that report directly, no.

12 Q. Okay. And the reports that you made in September were
13 not made to what you knew were the right officials;
14 correct?

15 A. Right. In September the intent for my union rep was to
16 meet with the commander of Internal Affairs who was a
17 whistleblower designee.

18 Q. Okay. You didn't make the report to him. You gave it
19 to your union rep; right?

20 A. Acting on my behalf, yes, sir.

21 Q. Okay. That -- please. We're going to be here for a
22 long time --

23 A. Okay.

24 Q. -- if you don't listen to my questions.

25 What I want to know is did you personally report

1 it to a person that's on the list?

2 **A. At that time frame in September, I did not.**

3 Q. And when you made these reports, there's a detective
4 Maier -- right -- that was investigating one of your
5 complaints?

6 **A. Yes, sir.**

7 Q. And that's one of the people that you reported to;
8 right?

9 **A. Yes.**

10 Q. And he's not on the list.

11 **A. No, sir.**

12 Q. Okay. Let's move ahead a little bit into this Governor
13 King Air flight business. Okay?

14 In the 2014 timeframe, that's when you're alleging
15 this occurred; right?

16 **A. That's correct.**

17 Q. Okay. And in the 2014 timeframe, the State Patrol
18 Aviation Section had two King Airs; right?

19 **A. Yes, sir.**

20 Q. And it had three Cessna 182s.

21 **A. Correct.**

22 Q. And it also had two Cessna 206s.

23 **A. Yes, sir.**

24 Q. Okay. So that's -- what -- two, five, seven aircraft;
25 right?

1 **A. Yes, sir.**

2 Q. So all of the above planes can and were used to
3 transport the Governor from time to time; right?

4 **A. Not while I was there. One of the King Airs needed the**
5 **engines replaced and so that aircraft was not being**
6 **used.**

7 Q. Okay. Well, let's talk about the Cessnas.

8 The Governor road in the Cessna's too; right?

9 **A. Seldom, but yes. He did on occasion.**

10 Q. He likes the King Air better, I presume?

11 **A. Yes, he does.**

12 Q. But, if it's not available, the Cessnas are sitting
13 there; right?

14 **A. Correct.**

15 Q. Okay. And at that time, if one King Air was done for
16 maintenance -- they'd never both be down; right? Sort
17 of idea to keep one always flying?

18 **A. No, sir. That's not true. Again, in 2016, one of the**
19 **King Airs -- the older one -- 1983 model -- needed**
20 **engines replaced.**

21 Q. Uh-huh.

22 **A. And so those -- that aircraft was not available and did**
23 **not fly so we only had one King Air available to fly**
24 **the Governor.**

25 Q. Okay. And your testimony earlier was that you were

1 standing there, and you heard Lieutenant Nobach say --
2 whatever words you didn't say, but you implied, you
3 know, "Blank the Governor. I'm going to show him who's
4 in charge." Right? That's kind of what you were
5 saying?

6 **A. Words to that effect.**

7 Q. Okay. But are you telling me that all seven plane were
8 out of commission, that there was no over plane
9 available?

10 **A. No, sir. That's not what I said at all.**

11 **The Governor's request was specifically for a**
12 **flight in the King Air, and that's what Brenda looked**
13 **up on the calendar for maintenance or the aircraft**
14 **being down.**

15 Q. Okay. And you just happened to be there and saw this.

16 **A. That's correct, sir.**

17 Q. And I don't have my notes right in front of me, but I
18 remember you saying something, like, "I was amazed. I
19 was shocked. I couldn't believe that this happened."

20 **A. That is absolutely the case.**

21 Q. Right? So what you did was you went to Internal
22 Affairs and you said, "You should know what's going
23 on." Right?

24 **A. I did not do that.**

25 Q. Okay. You didn't do it that day. You didn't do it

1 that month. You didn't do it that year; right?

2 **A. That's correct.**

3 Q. And you told us earlier that you have an obligation as
4 a trooper to do that; right?

5 **A. Yes, sir. That's correct.**

6 Q. And as far as this sort of -- this kind of being an
7 ongoing problem, you have no firsthand information.
8 You, yourself, have no information about this ever
9 happening before or since; right?

10 **A. That's not true at all.**

11 Q. You personally have information about that.

12 **A. That I've received from other witnesses, yes.**

13 Q. Ah, that's not what I asked you. I want you listen to
14 my questions.

15 Okay. You know what hand first knowledge is;
16 right?

17 **A. I'm aware of --**

18 Q. You testified over --

19 (Indiscernible crosstalk.)

20 **A. -- firsthand knowledge --**

21 Q. -- thirty times; haven't you?

22 **A. I think I told you that it was around 20 times --**

23 Q. Okay. 20 --

24 **A. -- previously.**

25 Q. -- times.

1 So you know what firsthand knowledge is?

2 **A. Yes.**

3 Q. And you have no firsthand knowledge of this ever
4 happening any other time.

5 **A. I have never seen this happen directly in front of me
6 other than that one time.**

7 Q. Okay. Did you -- well, let me take a step back on
8 that.

9 You talked with this -- with Detective Maier about
10 this situation; right?

11 **A. Yes, sir.**

12 Q. And when you talked with Detective Maier, you told
13 him -- didn't you -- that you only vaguely remember
14 this incident.

15 **A. Well, I said I vaguely -- I used the word vaguely, but
16 I think as a poor choice of words.**

17 I vaguely -- I think I said I vaguely remember
18 exactly what Nobach said when he came out of the -- his
19 office.

20 Q. Okay. I have written down here that you explained to
21 Detective Maier that you only vaguely remember
22 Lieutenant Nobach stating the reason for what he said.

23 **A. Yes. I think that's exactly what I -- or close to what
24 I wrote in the letter that I sent to them on
25 October 20th. I think that's --**

1 Q. And now your memory is way better than vague; right?

2 **A. Well, I used those words in that email, but I -- I**
3 **think my memory is stronger than the word vague that I**
4 **chose to use that day. Let me put it that way.**

5 Q. Okay. Well, when you're talking to Internal Affairs --
6 which is where Detective Maier is; right? Internal
7 Affairs?

8 When you're talking to Internal Affairs, you are
9 bound to tell the entire truth; aren't you?

10 **A. Yes, sir.**

11 Q. And so if you said vaguely to Detective Maier, that's
12 what you meant; right?

13 **A. Well, I don't know -- when -- the letter they sent --**
14 **the email -- was a summary of what was discussed.**
15 **Maier and I had a much longer conversation with much**
16 **more detail. So, you know, we -- we definitely talked**
17 **about a lot more than just what's summarized in that**
18 **email that I sent to recap what we talked about.**

19 Q. Again, not my question.

20 Is your recall better now than your vague memory
21 was back then?

22 **A. I'd say it's close to the same.**

23 Q. Okay. Now, when you did report this to Detective Maier
24 and to your union rep, that was while you were being
25 called in to be investigated -- to be a witness in

1 investigation against Lieutenant Nobach; right?

2 That's the time you chose to go ahead and bring
3 this to light?

4 **A. I'm sorry. Say -- can you ask me that --**

5 (Indiscernible crosstalk.)

6 Q. Right. Let me set the stage a little bit.

7 **A. Okay.**

8 Q. Sometimes I'm a little confusing.

9 You were called in to Internal Affairs not to be
10 investigated but as a witness; right?

11 **A. Yes, sir. That's correct.**

12 Q. Because you had raised complaints about Lieutenant
13 Nobach.

14 **A. Yes, sir.**

15 Q. Okay. So during your visit to Internal Affairs, that's
16 when you raised these -- this issue about the
17 Governor's flight; right?

18 **A. I initially raised the issue through the union rep on
19 September 20th that invoked the investigation where I
20 met with Bruce Maier on October 3rd.**

21 **And, yes, I did talk to Bruce Maier in detail
22 about those events.**

23 Q. Okay. And that's the first time that you personally
24 spoke to anybody about at the State Patrol about that
25 event.

1 **A. There -- there's multiple events. But are you**
2 **referring to the public records misconduct or the --**

3 Q. The Governor's flight.

4 **A. Okay. Anyone at the State Patrol --**

5 Q. Right.

6 **A. -- is your question. That's not true.**

7 Q. Okay. I'm not talking about your friends. I'm talking
8 about -- and not your union rep. Okay. I'm talking
9 about anyone in charge.

10 **A. That -- well, I'd say that was -- that's for the most**
11 **part correct.**

12 I did have some conversations with the other
13 **pilots when those thing occurred, and I don't know --**

14 Q. Okay. I don't want to hear about your conversations
15 with other pilots.

16 **A. Okay.**

17 Q. Just talk -- I'm asking you when you told someone in
18 charge. It sounds like September was when you did
19 that.

20 **A. Yes, sir.**

21 Q. Okay. And the reason that you were talking to Internal
22 Affairs was because Internal Affairs was doing an
23 investigation on those topics; right?

24 **A. No, sir.**

25 Q. Okay. What was the topic of the investigation?

1 **A.** **I'd have to reference the 095 to be completely**
2 **accurate -- or I'm sorry -- the IIR --**

3 **Q.** **I just want to know your memory.**

4 **A.** **Well, the IIR didn't include anything about the public**
5 **records misconduct and so we talked about all four of**
6 **those major policy violations: The sexual harassment**
7 **complaint, the hostile work environment -- I gave**
8 **examples of those -- the public records misconduct,**
9 **johnny Alexander's -- Captain Alexander's failure to**
10 **investigate the sexual harassment complaint, and the**
11 **Governor's issue.**

12 **Q.** **Okay. So now it's to the question I tried to ask a**
13 **while back that I got kind of mangled up. So now we**
14 **have the background here; right?**

15 So you're sitting here in this investigation
16 talking about all the bad things that Lieutenant Nobach
17 and everybody else did, and that's the time when you
18 chose to say, "Oh, and by the way. There was this
19 Governor's flight two years ago that I have a problem
20 with."

21 That's the time you chose; wasn't it?

22 **A.** **I made that decision when I called my union rep --**

23 **Q.** **Also in September.**

24 **A.** **-- and talked to him.**

25 **Q.** **Right?**

1 **A. In September, yes.**

2 Q. Okay. So you -- you waited and chose two years after
3 the fact to bring up old stuff to dump on the
4 lieutenant; right?

5 **A. I did wait two years to report this -- the -- the stuff**
6 **that happened in 2014.**

7 Q. Right. And you did it to dump on your lieutenant.

8 **A. I wouldn't say that, no.**

9 Q. Okay. This Governor's flight business was investigated
10 by Internal Affairs; wasn't it?

11 **A. The Governor's flight?**

12 Q. Yes.

13 **A. No. It was not investigated by Internal Affairs.**

14 Q. Okay. You say that with a smile on your face. You're
15 parsing words; aren't you?

16 **A. No. The reason why I say that is because there were**
17 **mechanics that observed this happen in the past, and --**

18 Q. Okay. I don't want to hear about mechanics. Okay.

19 If you -- if you take --

20 MR. SHERIDAN: Your Honor, plaintiff asks
21 that he be allowed to finish his answer.

22 THE COURT: Overruled.

23 BY MR. BIGGS:

24 Q. If you take issue with the kind of investigation that
25 was done, that's -- that's what you're saying; right?

1 that's -- but that event is what I recalled, but I
2 couldn't recall a specific year of when it occurred.

3 Q. Okay. So you've pieced together what year it happened,
4 and now you've -- you're pretty sure it's 2014?

5 A. Well, we didn't receive a public records request in
6 2015.

7 Q. But you only know that because you did a public records
8 request yourself after the fact; right?

9 A. No, sir. I did do many public record requests;
10 however, that is the -- was in the report by Internal
11 Affairs during that investigation in 2017. And also
12 when I met with Johnny Alexander in August of 2017, he
13 advised me that a public records request didn't come in
14 in 2015.

15 Q. Okay. So you learned it from somebody else.

16 A. Yes, sir.

17 Q. Okay. Because what I want to do is I want to read
18 something, and I want you to tell me if this -- these
19 are your words. Okay?

20 A. Okay.

21 Q. Tell me if these are your words.

22 "Probably 2015. Maybe 2014. I'm not exactly sure
23 on the dates."

24 Did you say that?

25 A. Was that during the interview with Internal Affairs in

1 **2017?**

2 Q. That's where it is?

3 **A. Okay. I think that was mentioned. If you look at the**
4 **beginning of that same transcription, I think it --**
5 **it's a little more clear during -- at the beginning of**
6 **that transcription and that interview that I explained**
7 **to them that it's my full belief that it happened in**
8 **2014. And -- anyway.**

9 Q. Right. But you also explained that that's not your
10 knowledge. You got that from talking to other people;
11 right?

12 **A. No, sir. I disagree with that too.**

13 My -- my knowledge was that it was pertained to a
14 **May Day protest, and then I asked other pilots if -- to**
15 **confirm my belief if that's when that event occurred,**
16 **and they also implied that that was their belief as**
17 **well.**

18 Q. Okay.

19 **A. So --**

20 Q. And you heard -- you heard some talk before that you
21 never even flew on May Day 2014; did you?

22 **A. That's correct.**

23 Q. Okay. And you did fly May Day 2015; right?

24 **A. Yes, sir.**

25 Q. But there was no public records request that year.

1 **A. That's what was reported to me.**

2 Q. Okay. So would you agree that you also made this
3 statement, "I don't even recall exactly what
4 information or what sensitive information there was."

5 Are those your words?

6 **A. I believe I did say that in that interview, yes.**

7 Q. Okay. Thank you.

8 Are these your words, please, "I couldn't remember
9 exactly when this occurred or what the reasoning for it
10 was."

11 Are those your words?

12 **A. What -- what was the original question?**

13 Q. I'm just asking if you said those words?

14 **A. Well, I could have in certain context.**

15 Q. Okay. Did you also say during this investigation with
16 Internal Affairs that you don't recall any conversation
17 about it back then with anybody, only two years later
18 after you began to talk to the others -- after you
19 raised the issue to others.

20 Did you also say that?

21 **A. I don't -- I don't know.**

22 Q. Okay. Okay. Another quote and see if these are your
23 words.

24 "I remember that one year we had a major May Day
25 request -- a public records request -- that included,

1 like, all emails. And, you know, it was a big thing.
2 I don't remember if that was the same instance that he
3 had to go -- had us go and delete the emails."

4 Are those your words?

5 **A. They could be.**

6 Q. Okay. Did you tell Internal Affairs that you, in fact,
7 flew in 2014?

8 **A. That was what my thought was, that we flew that year.**

9 Q. Please answer my question.

10 Did you say, "I flew in 2014"?

11 **A. I believe I did.**

12 Q. Okay. And, in fact, you did more than that. You said,
13 "I was not even the pilot. I was running the camera."
14 Right?

15 **A. Because of that timeframe, I was not flying the Cessna**
16 **206 so that's what I would have been doing in that**
17 **role.**

18 Q. I'm sorry. Maybe I'm not being clear.

19 I want to know if you told Internal Affairs that
20 you were operating the camera?

21 **A. That I would have been the camera operator I believe is**
22 **what I would have told them, but I --**

23 Q. So --

24 **A. -- I don't know exactly what I told them in 2017**
25 **regarding that.**

1 Q. So you had a recollection, when you're in Internal
2 Affairs, that you flew in 2014 and you ran the camera.
3 That's what -- that was your recollection then?

4 **A. Well, yes because I knew that we -- that I participated**
5 **in a May Day event every year. I didn't recall**
6 **specifically whether we flew or not. But when asked**
7 **about what my role was, I think I explained to them**
8 **that I would have been the camera operator that year.**

9 Q. Okay. But you were wrong. You actually weren't the
10 camera operator, and you didn't fly that year; right?

11 **A. Well, I would have been assigned to be the camera**
12 **operator for that shift, and the -- that event. So**
13 **whether I actually went up and operated the camera or**
14 **not is -- you know, it's --**

15 Q. Okay.

16 **A. -- two different things.**

17 Q. I got it.

18 And going back again, the time that you chose to
19 bring up this email incident was basically the same
20 time you chose to bring up the Governor's incident;
21 right?

22 **A. Yes, sir. That was the same time.**

23 Q. So you again decided after two years of silence and
24 while you were getting the opportunity to talk about
25 your lieutenant, that's the time you chose to bring up

1 a two-year-old issue; right?

2 **A. That's the time that I brought it up. Yes, sir.**

3 Q. Okay. Are you claiming in this lawsuit that the State
4 Patrol Aviation Section changed all its computers
5 because of this email thing?

6 **A. Well, yeah. That's my belief. Yes.**

7 Q. And got no evidence to support that; do you?

8 **A. Well, regardless of whether the computers were standard
9 STR or scheduled replacement, they just -- they
10 replaced these computers and destroyed the hard drives
11 after a very serious allegation was made. So that's
12 a -- that was concerning to me.**

13 Q. So I guess you're saying that the IS people or the IT
14 people -- depending on your nomenclature -- that the
15 computer people are also in on this big scam; right?
16 They're -- they said, "Okay. We'll replace computers
17 to hide all this." Is that your thinking?

18 **A. No, sir. They get directions from the commander of a
19 district or someone in that chain of command that has
20 to sign off on that computer replacement.**

21 Q. And you have no idea whether that was done before or
22 after you talked about the email deletions; right?
23 That is when the form was signed to order them.

24 **A. I have those records, but sitting here today, I can't
25 recall when those documents were signed.**

1 Q. Right. I mean, if I want a new computer in my office,
2 it doesn't happen overnight. Is that how it works in
3 the State Patrol?

4 **A. State Patrol has a lot of different processes and**
5 **procedures for things like that with forms and getting**
6 **approval through budget and fiscal personnel, and then**
7 **it goes to ITD or our computer personnel to -- to do**
8 **those replacements. So, I mean, there's a process for**
9 **all of that, yes.**

10 Q. Okay. That sounds right.

11 And, in fact, as part of the rollout of the new
12 computers, you got an email from Sergeant Sweeney, your
13 sergeant -- right -- that said, "Remember this is
14 coming. Remember to offload whatever you want to save
15 and" -- you know, there was, like, instructions. How
16 to do a change over from that five-year-old computer to
17 the brand new one; right? You got all that from the
18 sergeant?

19 **A. I don't -- that email didn't -- the email was a**
20 **scheduling for all staff that were going to have their**
21 **computers replaced. It didn't list all that stuff,**
22 **from what I recall. And then the IT personnel that**
23 **came to swap out the computers transferred our data --**
24 **or, like, our -- certain files for us.**

25 Q. Okay. And so you did have advanced notice that the

1 computers were going to be replaced.

2 **A. On the 18th of October is when I received notice.**

3 Q. Okay.

4 **A. From what -- that's what I recalled anyways. The 18th**
5 **of October is the first time I received that notice for**
6 **the --**

7 Q. Okay.

8 **A. Let me clarify that. I believe that email was sent on**
9 **the 18th of October. I'm pretty sure that's an**
10 **accurate date. But that was the email -- there was a**
11 **calendar invite from Sergeant Sweeney.**

12 Q. Okay. And that was after all of this administrative
13 stuff you described had to be done. You know, purchase
14 orders and all that stuff.

15 **A. I would assume so. I don't know. I wasn't part of**
16 **that process.**

17 Q. Okay. Okay. Let's turn our attention to the -- the
18 Brenda Biscay incident in the office.

19 You started by telling us that before Ms. Biscay
20 even entered the room, Lieutenant Nobach said something
21 to her.

22 **A. That's correct.**

23 Q. But you didn't tell us what that was. Right?

24 **A. I don't recall what that was.**

25 Q. Okay. And then you told us that Ms. Biscay came in and

1 rubbed Lieutenant Nobach's arm and back; right?

2 **A. Yes. And shoulders, sides of his arms, yes.**

3 Q. And then you said he made another comment; right?

4 **A. Yes, sir.**

5 Q. And you didn't tell us what that comment was either?

6 **A. I do not know or remember what that comment exactly**
7 **was.**

8 Q. So you can't tell us today whether either one of those
9 comments was in any way inappropriate; right?

10 I'm not asking for your opinion. I'm asking what
11 you heard?

12 **A. I can't tell you exactly what it was, but it was a**
13 **derogatory-type comment that elicited the response that**
14 **she gave. And that's what I recall -- it was some sort**
15 **of comment that -- I don't -- I don't even want to**
16 **speculate. I can't say exactly what it was, but it was**
17 **some sort of --**

18 Q. So he said, like, "Hey, rub your breasts on my head."

19 **A. No. He did not specifically say that.**

20 Q. Okay. And you don't know what she thought or why she
21 did what she did.

22 **A. I can't answer that.**

23 Q. Okay. And you're telling us that you were never talked
24 to by Chief Alexander about this incident; right?

25 **A. I have -- I have no recollection of ever talking to him**

1 **about this -- the details of that incident with Jim or**
2 **Brenda, no.**

3 Q. Okay. So I guess -- I mean, you heard Chief Alexander
4 say he talked to you. Do you think he's mistaken?

5 A. **Yeah. I do. And --**

6 Q. Would you use a different word?

7 A. **For example?**

8 Q. I'm asking you for your words.

9 A. **Well, I'd say he's clearly mistaken. You know, and --**
10 **I think his boss just testified today as well that**
11 **Alexander and I reported -- Alexander reported to him**
12 **that we had never met but he met with Lieutenant Nobach**
13 **and Biscay.**

14 Q. Uh-huh.

15 A. **So I think he is mistaken. Now, put into other**
16 **words --**

17 Q. Well, do you think he's --

18 A. **-- I think that's a fair word --**

19 Q. -- lying to the Court?

20 A. **I think he made some dishonest statements for sure,**
21 **yes.**

22 Q. Okay. You went so far to press that issue as to make a
23 formal complaint that ends up in Internal Affairs about
24 the chief; didn't you?

25 A. **Regarding his failure to investigate the sexual**

1 **harassment complaint?**

2 Q. Right. Let's just call it regarding how he
3 investigated the sexual harassment complaint.

4 **A. Yes, sir. I did.**

5 Q. Okay. And that went nowhere; right?

6 **A. That's correct.**

7 Q. You heard officer -- I'm sorry -- former Assistant
8 Chief Drake testify this morning that he felt -- he's
9 high up there; right?

10 **A. Yes, sir.**

11 Q. He felt that Assistant Chief Alexander did his job
12 correctly. And you just disagree with that; right?

13 **A. That he felt that Alexander did --**

14 Q. Did his job right.

15 **A. Based off of what he was told, I'm sure he felt that.**

16 Q. Right. But you personally disagree with the chief;
17 right?

18 **A. Yes, I do.**

19 Q. It's -- it's true -- isn't it -- that after the
20 February 26th meeting that you had with your lieutenant
21 when these other issues arose, you didn't report that
22 right away; did you?

23 **A. From what I recall, it was within the first two weeks
24 of March when Sweeney and I had that conversation.**

25 Q. Could it be three or four weeks?

1 **A. I don't believe so.**

2 Q. Okay. But it wasn't the same day.

3 **A. No, sir. It was not.**

4 Q. I mean, you were shocked. You're amazed that this
5 happened, and you ran out of the room. But you didn't
6 tell your supervisor or anybody of authority anything
7 about this; right? At the time?

8 **A. At the time on that day, no, I did not.**

9 Q. Okay. Now, you said that you tried to report this in
10 confidence to your sergeant; right?

11 **A. Yes, sir.**

12 Q. I got that right. Okay.

13 And your sergeant said, "This is going to go up
14 the chain." So you knew that was going to happen;
15 right?

16 MR. SHERIDAN: Objection. Misleading.

17 THE COURT: Overruled.

18 **THE WITNESS: No. Not entirely, no, I did**
19 **not.**

20 BY MR. BIGGS:

21 Q. Okay. But you do know now that Assistant Chief
22 Alexander -- then Captain Alexander -- he took swift
23 action; right? He -- he got in the middle of it,
24 issued 095s to two people; right?

25 You knew that?

1 **A. Eventually that was disclosed to me, yes.**

2 Q. So you can't -- you can't criticize the timing of his
3 response; right? He took quick -- quick action.

4 **A. Well, there's some questions to timeframe during that**
5 **time period. So --**

6 Q. Okay. So you don't know.

7 **A. I don't know. You know, if you're basing it off the**
8 **date on the 095, there's -- I think some time passed**
9 **before that happened -- before that 095 was issued.**

10 Q. Okay. So you are now challenging the dates on the
11 095s; is that right?

12 **A. It does not match with my recollection of the events,**
13 **no.**

14 Q. But you didn't know that 095s were even issued for some
15 time after that; did you?

16 **A. That's correct.**

17 Q. So you wouldn't know when the meetings about the 095s
18 occurred.

19 **A. Correct.**

20 Q. Okay. All right. Let's turn our attention to what
21 you've described as, you know, some of the training and
22 flight issues that we've been looking at.

23 You mentioned that you were in an accelerated
24 program.

25 **A. Yes, sir.**

1 Q. And that wasn't because you were, like, super pilot.
2 That was because they needed people to get advanced
3 faster; right?

4 **A. And I met the proficiency and skills required, yes,**
5 **sir.**

6 Q. Right. And was anybody else on accelerated program?

7 **A. Chris Noll.**

8 Q. Okay. And for the same reason. They need to get
9 people kind of up there --

10 **A. Yes. That's correct.**

11 Q. Okay. You would agree, wouldn't you, that command
12 pilots such as your sergeants -- Hatteberg, Sweeney,
13 courthouse Smith -- these people, they have right-seat
14 training; don't they?

15 **A. That's not what I was told, no.**

16 Q. So they don't know how to fly in the right seat?

17 **A. I couldn't answer that question for you. I mean, I've**
18 **seen Sweeney operate the aircraft in the right seat.**
19 **I've operated the aircraft in the right seat at times**
20 **too. But I don't know if they've ever received**
21 **specific training, and Sweeney told me that he had**
22 **never received --**

23 Q. I don't want to hear what somebody else said, please.

24 **A. Okay. Well, I'm sorry.**

25 Q. Right. What -- what I'm trying to get at here is, if

1 you want to be a command pilot, you have to be good at
2 both seats; don't you?

3 **A. I am not aware of that, no.**

4 Q. Okay. Isn't it true that King Air pilots -- they fly
5 in twos; right?

6 **A. Yes, sir.**

7 Q. And they swap seats sometimes; don't they?

8 **A. They would -- oftentimes if there was two command
9 pilots on flight, one pilot would do one leg of the
10 flight, and the other pilot would do the leg back. So,
11 yes, oftentimes they would swap seats.**

12 Q. Okay. So they both fly left seat and right seat.

13 **A. Well, they would switch seats when they switch legs so
14 the person flying the aircraft would typically be
15 flying from the left seat.**

16 Q. Okay. So -- so sitting in the right seat is just,
17 like, an extra person doing nothing; right?

18 **A. No, sir. They -- they help out the pilot and
19 commander, the person operating the aircraft throughout
20 the entire flight.**

21 Q. Right. And they're there in case there's a problem.

22 **A. Yes, sir.**

23 Q. And if there's a problem with the person in the left
24 seat, right seat person is fully qualified to operate
25 the plane from the right seat; correct?

1 **A. Yes, sir.**

2 Q. Okay. And part of your goal when you're in the
3 Aviation Section was to help other people learn; right?

4 **A. Could you be more specific, please.**

5 Q. Sure. Didn't you want to get to a position in your
6 training and your capabilities that you could help
7 newer pilots than you learn how to fly in Cessnas?

8 **A. I enjoy teaching new troopers. I enjoy that part of**
9 **the instruction. And, sure, I would have been -- I**
10 **would have enjoyed teaching new troopers, yes.**

11 Q. Sure. And you actually discussed that with others in
12 shop; right? That's what -- one of the things you
13 wanted to do?

14 **A. In two thousand -- I think it was late 2014, we had**
15 **conversations about going -- the State Patrol was going**
16 **to send me to become a certified flight instructor so**
17 **there were conversations about that, yes.**

18 Q. Right. And I keep putting my arms out because Cessnas,
19 they're just -- the little ones. Like smaller than
20 this; right?

21 **A. Yes, sir.**

22 Q. And the seats -- the two pilots are way closer together
23 than these two seats; right?

24 **A. Yes, sir.**

25 Q. They're, like, right next to each other. Ten inches

1 apart?

2 **A. Yeah. Probably about ten inches apart, I imagine.**

3 Q. And they're smaller than these seats; right?

4 **A. Yes, sir.**

5 Q. So a couple of good sized guys are basically touching
6 shoulders; aren't you?

7 **A. Pretty close.**

8 Q. Okay. So when you're in the right seat and you're
9 looking at the instruments, they're right there; right?

10 **A. In the right seat?**

11 Q. Yeah.

12 **A. Well, you're looking diagonally across the aircraft,**
13 **which is -- creates a challenge.**

14 Q. But, I mean, it's only this big; right? I mean --

15 **A. Well, it's wider than -- it's -- you're making it sound**
16 **like you're literally sitting on top of one another.**
17 **That's not necessarily the case.**

18 Q. Okay. But it's not, like -- I mean, you know, if you
19 want to be better as a pilot, it's something you should
20 be able to do; right?

21 **A. Yes. With training, yes. You -- you could learn to**
22 **proficiently operate that aircraft from the right seat,**
23 **yes.**

24 Q. Okay. And that's what you wanted; right? You wanted
25 to be more proficient.

1 **A. Yes.**

2 Q. Okay. And you -- you showed us the hood. And, you
3 know, this -- this hood is totally standard; right?
4 The hood itself. Used for IFR training all the time.

5 **A. Yes, sir.**

6 Q. Okay. And the point of that is that you can't see the
7 weather. You can't see all that. You just could see
8 what's -- what -- that restricted you for your
9 instruments.

10 **A. Correct.**

11 Q. Okay. And when you said you were doing right seat
12 training IFR, I mean -- and you were critical of that.
13 You were already doing IFR training; right? I mean,
14 that's part of -- that was part of your progression.

15 **A. I disagree with that comment as being part of my
16 progression to get limitations removed for Cessna?**

17 Q. Right. I mean, you had a limitation at the time that
18 this training was going on that you're critical of.
19 You had a limitation that you couldn't fly me in that
20 plane if it was IFR; right?

21 **A. That would be correct.**

22 Q. And you wanted to get that lifted.

23 **A. Yes.**

24 Q. That's IFR training; right?

25 **A. Yes, sir.**

1 Q. Okay. So you were already involved in trying to
2 improve your IFR ceiling or, you know, the -- the
3 capability that you're entrusted with?

4 **A. Correct.**

5 Q. Okay. It's just that you were in the right seat that
6 you took issue with?

7 **A. And the combination in how that grading and
8 documentation of my records was handled. That's --**

9 Q. Right. We'll get to that in one second.

10 But as far as the actual training, being in the
11 right seat, you're okay with that; weren't you?

12 **A. Yes, sir.**

13 Q. Okay. That wasn't a concern of yours.

14 **A. No, sir.**

15 Q. Okay. And it's part of what you were hoping for as
16 part of an accelerated plan.

17 **A. That was not part of that plan, no.**

18 Q. Okay. You went on what you've called a check ride
19 flight, and that's the one with the exhibit with all
20 the pluses and minuses and all that stuff; right?

21 **A. That started with the right seat training, sir.**

22 Q. Okay. I'm trying to talk about what -- whether you
23 went on a check ride flight.

24 Did you go on a check ride flight that you take
25 objection -- issue with?

1 **A. Yes, sir.**

2 Q. Okay. And the check ride -- I am just making sure what
3 we're talking about -- is a long list of things on a
4 page that you went over with your attorney; right?

5 MR. SHERIDAN: Objection. Privileged.

6 MR. BIGGS: On the board.

7 THE COURT: On the -- (inaudible) on the
8 record.

9 MR. SHERIDAN: Oh.

10 **THE WITNESS: The --**

11 MR. SHERIDAN: Then I withdraw that.

12 **THE WITNESS: The check ride document, we did**
13 **go over. Yes, sir.**

14 BY MR. BIGGS:

15 Q. Right. And it has you didn't do this or you did this,
16 and all these things. But all of the comments that are
17 on that -- and I'm not going to belabor the point by
18 putting it up and going through it piece by piece. But
19 you would agree, wouldn't you, that all the comments
20 were accurate?

21 **A. I don't know. I --**

22 Q. Okay.

23 **A. -- can't say that today, no.**

24 Q. But you can't say they were inaccurate.

25 **A. I can't say that either, no.**

1 Q. Right. So, for example, if it says the standard spec
2 is plus or minus ten degrees doing a particular
3 thing -- and I'm not a pilot so I can't -- alls I can
4 do is this. But if it's supposed to be ten degrees and
5 it says you exceeded that, you don't take issue with
6 that.

7 **A. No. Not if -- if that occurred, then don't take issue**
8 **with it, no.**

9 Q. Okay. So the check ride form, the way it was completed
10 was accurate; correct?

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

12 Q. Okay. And didn't you have a specific conversation with
13 Lieutenant Nobach where you said to him, "Listen. I
14 want immediate feedback, and I want thorough feedback"?
15 Didn't you have that conversation?

16 **A. I did not specifically say that, no.**

17 Q. I didn't ask if you specifically said that. Is that
18 what you implied -- you wanted good, solid, quick
19 feedback?

20 **A. That's not accurate. I asked him to provide me honest**
21 **feedback and not go to my sergeant and lie about almost**
22 **crashing the plane. That's what I asked.**

23 Q. But that wasn't -- that wasn't -- had nothing to do
24 with this check ride; right?

25 **A. I believe that's why Nobach did this check ride.**

1 Q. You don't know that; do you?

2 **A. Well, it was the next flight.**

3 Q. Okay. So -- all right. Let's just leave the check
4 ride behind.

5 You got an 095 from your sergeant; right?

6 **A. Yes, sir, I did.**

7 Q. And leading up to that 095, isn't it true that you had
8 been counseled by your sergeant more than a couple of
9 times that you were not holding up your end of the
10 deal?

11 MR. SHERIDAN: Objection. Vague.

12 THE COURT: Overruled.

13 **THE WITNESS: Are you referring --**

14 BY MR. BIGGS:

15 Q. I just want to know if you'd been counseled several
16 times that you weren't -- you weren't performing
17 properly?

18 **A. If you're referring to what's listed in the 095 in**
19 **checking the calendar, we had had, you know, maybe two,**
20 **three conversations -- not just with Hatteberg -- I'm**
21 **talking about the entire time I was within the Aviation**
22 **Section for, like, over three years or close to three**
23 **years, rather.**

24 Q. Well, hadn't you been late with your tars?

25 **A. Yes.**

1 Q. A lot.

2 **A. Well, I --**

3 MR. SHERIDAN: Objection, Your Honor. Motion
4 in limine.

5 THE COURT: Overruled.

6 **THE WITNESS: If I could explain what a tar**
7 **is for the jury. I don't think we've talked about**
8 **these yet.**

9 BY MR. BIGGS:

10 Q. Let me ask you first. Were you late with your tars a
11 lot?

12 **A. A lot? I don't know if I agree with that.**

13 Q. Okay. But you'd been counseled about getting your tars
14 in; hadn't you?

15 **A. Yes. We -- I had had conversations with Hatteberg**
16 **about that, yes.**

17 Q. And that was before you got your 095.

18 **A. Yes.**

19 Q. And tars are basically your trip sheets, "Here's what I
20 did." Right? That's --

21 **A. No, sir.**

22 Q. Okay. Give me a -- without taking five minutes, just
23 give me a quick description of what a tar is. Just
24 what a tar is.

25 **A. It's our time and activity report that -- much like a**

1 **timecard for each day.**

2 Q. Okay. And you're supposed to put those in on a regular
3 basis, and you didn't do that; right?

4 **A. I would -- I would get them in within -- before close,**
5 **which would be either on the 15th or the end of the**
6 **month. So we -- yeah. We try to meet that closing**
7 **timeframe.**

8 Q. Okay. And during this time, you said you were
9 surprised that you got graded down on some of your
10 scores; right?

11 **A. Yes, sir.**

12 Q. But isn't it true that you, yourself, said that you
13 were not performing as well as you would like because
14 your mind has been elsewhere?

15 **A. At times, yes.**

16 Q. Okay. So you do agree that your performance was not as
17 good as it had been at times in the past.

18 **A. Yes, sir.**

19 Q. Both of your sergeants had made comments about that;
20 hadn't they?

21 **A. About my mind not --**

22 Q. About your not performing up to what they would hope
23 for.

24 **A. I believe I had those conversations, yes.**

25 Q. Okay. And speaking of sergeants, you are claiming here

1 that a decision to swap sergeants was admitted at you
2 personally; right?

3 **A. Yes, sir. That's what I believe.**

4 Q. When you got your 095 -- what you described earlier as
5 the lowest form of retaliation -- sorry -- lowest form
6 of discipline -- you went after it pretty hard; didn't
7 you?

8 **A. Could you be more descriptive on what you mean by "went
9 after it pretty hard"?**

10 Q. Filed complaints. You wrote letters. Talked to
11 everybody. Right?

12 **A. I stood up for what I believed in, yes, sir.**

13 Q. Okay. Even though it was nothing -- 095s. Nothing;
14 right?

15 **A. Well, I did say that 095 is given back at the end of
16 the year, but it does go onto your job performance
17 appraisal, like I said, for two years, which can affect
18 potentially promotion or other opportunities that you
19 may -- you may have. So there is -- it become as
20 disciplinary action that sticks with you for a couple
21 years at least.**

22 Q. Uh-huh. And it is your testimony that Sergeant
23 Hatteberg -- your sergeant at the time -- did this to
24 you in retaliation for something; right?

25 **A. I think he was misinformed. I think that's what -- I**

1 **think the totality of the circumstances is what proves**
2 **the retaliation.**

3 Q. Okay. All right.

4 So are you claiming or are you not claiming that
5 Sergeant Hatteberg retaliated against you?

6 A. **Yes, sir. I am.**

7 Q. Okay. And are you or are you not claiming that
8 Sergeant Sweeney retaliated against you?

9 A. **I think Sergeant Sweeney was mistaken about me being**
10 **scheduled for two weeks.**

11 Q. Okay. But he was the one that told Sergeant Hatteberg
12 the facts; right?

13 A. **He's the one that told him that he believed that flight**
14 **was on the calendar for two weeks. But as my sergeant,**
15 **you'd think you'd take the time to actually figure out**
16 **the facts before issuing discipline.**

17 Q. You talking about Sweeney?

18 A. **I'm talking about Sergeant Hatteberg because at that**
19 **time, Sergeant Hatteberg was my sergeant.**

20 Q. Okay. So you think Sergeant Sweeney was mistaken, and
21 Sergeant Hatteberg was retaliatory in giving you this
22 095.

23 A. **I think his decision to not investigate and his**
24 **decision to not remove it from my job performance**
25 **appraisal when respectfully asked was retaliatory, yes.**

1 Q. Okay.

2 THE COURT: Mr. Biggs, is this a good time to
3 take a break?

4 MR. BIGGS: Yes.

5 THE COURT: It's quarter to 3:00.

6 MR. BIGGS: Perfect. Thank you.

7 THE COURT: All right. Let's take our
8 15-minute recess.

9 COURT STAFF: All rise.

10 (Recess.)

11 THE COURT: Thank you. Please be seated.

12 All right. So before we brought the jury in, you
13 were saying something about Exhibit 222. That exhibit
14 has never been identified, mentioned. I mean, you have
15 mentioned it. When you kept referring to the
16 exhibit -- exhibit I did not allow, I thought you were
17 talking about 239, which is Alexander's OPS case notes
18 on something that happened with Lieutenant Nobach.

19 So I -- there has never been anything with 222.
20 Has not been identified or anything.

21 MR. SHERIDAN: Okay. Then -- well, you
22 already told me you weren't going to let that get in so
23 I just want it in the record -- and we've done an offer
24 of proof so we have it in writing of why we think it's
25 important and -- and --

1 THE COURT: When did you think that you tried
2 to have 222 admitted?

3 MR. SHERIDAN: When Saunders was on the stand
4 is when I --

5 THE COURT: That was not identified, counsel.

6 MR. SHERIDAN: Well, I -- I -- maybe I'm
7 sloppy. I don't know. But I remember -- and I can
8 check, obviously, when we get our tapes, but --

9 THE COURT: Madam clerk, did I miss something
10 about identifying --

11 COURT STAFF: No. But every time an exhibit
12 is mentioned, I always note it that it's been marked
13 and identified for the record, and I don't -- I went
14 through in those notes --

15 MR. SHERIDAN: You didn't --

16 (Indiscernible crosstalk.)

17 COURT STAFF: -- (inaudible).

18 MR. SHERIDAN: Well, yeah. I -- I mean, I'm
19 sure it's me -- that I didn't lay the proper
20 foundation. But it's -- it's an important document for
21 you to consider based on our claim that -- that the
22 barista should be allowed to testify.

23 And I know I -- I know I said it. I -- maybe I
24 just never said the number. But in any case, I would
25 like you to consider 222 for admission. And if not, I

1 just wanted a record that it's not being --

2 THE COURT: If this goes back to the affair
3 and the barista --

4 MR. SHERIDAN: It does.

5 THE COURT: -- then I have already reached my
6 ruling.

7 MR. SHERIDAN: That's what I meant. Okay.
8 So can -- can I -- can we just make it a record of us
9 offering. I guess I should do it through any witness;
10 right?

11 THE COURT: Well, not through any witness.

12 MR. SHERIDAN: I mean, doesn't seem to
13 make --

14 THE COURT: You can't just offer it through
15 any witness. But, I mean, there is a record. I'm not
16 allowing any testimony about -- at least so far --
17 about any -- what people thought about -- Lieutenant
18 Nobach having an affair or not, and I don't want to
19 keep revisiting this issue, Mr. Sheridan. I have
20 ruled.

21 MR. SHERIDAN: Well -- well, no. We just did
22 that long list of exhibits and didn't have it on there.
23 That's why I'm saying it now.

24 THE COURT: Did you have an objection to 222
25 because that was not -- this is -- the first time that

1 I hear that it's being offered.

2 MR. MARLOW: Yes, Your Honor. Under Captain
3 Saunders, this is one of the exhibits that counsel had
4 given us a heads up about. I indicated to counsel off
5 the record that I would have objections to it on
6 relevancy. I didn't understand its relevancy. I said
7 that much. He didn't respond to me. And then it was
8 never brought up during Captain Saunders' testimony.

9 So at this point in time, we would have objection
10 to the -- to it because it cannot be authenticated,
11 number one. And, number two, it remains irrelevant.

12 THE COURT: Okay. And this is about an
13 incident with Lieutenant Sharp.

14 MR. MARLOW: Lieutenant Dan Sharp.

15 MR. SHERIDAN: That's right.

16 MR. MARLOW: He was -- he retired in lieu of
17 discipline for lying about an affair.

18 THE COURT: All right. Yeah. I'm looking at
19 the synopsis. August 31st. There was information that
20 between September 2017 and August 2018, Lieutenant
21 Sharp was untruthful in his responses when asked about
22 the status of our relationship with a subordinate
23 employee.

24 On September 2018, the agency initiated an
25 administrative investigation into the alleged

1 misconduct.

2 I don't see the relevance in this.

3 MR. SHERIDAN: Okay. And it's signed by
4 Saunders. And he's the one who recommended --

5 THE COURT: I still don't see the relevance.

6 MR. SHERIDAN: Okay. All right. I just
7 wanted to get a record of it. But thanks, Judge.

8 Judge, on the other thing -- the talk about the
9 tar, that's the 40 documents that they withdrew. So
10 they shouldn't be allowed to talk about those
11 documents. They -- that was the motion in limine.

12 And -- I don't know if you remember, but --
13 remember -- there were 40 documents that we got late
14 and we objected and they wound up saying, "Okay. We
15 won't put them in."

16 But now what they're trying to do is say, "We
17 don't put them in," and then -- but they can talk about
18 them. So they shouldn't be allowed to talk about the
19 tar.

20 THE COURT: The issue of the exhibits is
21 whether they're admitted or not. They can certainly
22 talk about the evidence and whether there is an exhibit
23 that was not disclosed and so it doesn't go in. That's
24 a different issue.

25 MR. SHERIDAN: But what it means is that it

1 didn't matter -- if they're allowed to talk about it,
2 they benefit from their late disclosure. We didn't get
3 to do any discovery on any of that. That's why we did
4 the motion in limine. So it doesn't make sense that
5 you've ruled that they can't put the document in, but
6 they can talk about it as though it's in. That defeats
7 the whole point of your ruling regarding the late
8 submission.

9 THE COURT: Mr. Biggs, was this information
10 provided to -- in discovery --

11 MR. BIGGS: Your Honor, this information --

12 THE COURT: -- through witnesses -- or, I
13 mean, was the exhibit the only thing that just came up
14 late in the game?

15 MR. BIGGS: This tar business has been in
16 public records requests. This witness was not the
17 least bit surprised. You could tell when I brought up
18 tars. He knows all about it. This is not a surprise,
19 Your Honor.

20 You're quite right that, if there's an exhibit
21 that is not admissible for some reason, that doesn't
22 mean we can't talk about the topic.

23 MR. SHERIDAN: But --

24 THE COURT: So was any of this -- the only
25 issue that I remember -- not that I remember but I know

1 that I said that the defense cannot bring up was
2 anything on interrogatory No. 16 that had not been
3 already disclosed through witnesses, interrogatories,
4 evidence. Is this part of that?

5 MR. BIGGS: No. This has nothing to do with
6 that.

7 THE COURT: All right.

8 MR. SHERIDAN: This is part of our motion --
9 our omnibus motion in limine to keep out the -- or the
10 late-produced evidence stuff.

11 And, see, they didn't fight us on it. They agreed
12 to withdraw the 40 so that was it. But now they're --
13 now they're making reference to one of the 40 that was
14 withdrawn.

15 THE COURT: All right. Defense is not
16 seeking to admit the exhibit that they withdrew so it's
17 not a violation of the motion in limine.

18 And there was something -- oh, with respect to the
19 public records, I did want to make the record that when
20 there was an -- when Mr. Biggs asked about, "You made
21 this public," and Mr. Sheridan objected, I sustained
22 the objection because my understanding is that -- or
23 what I took that to mean was that the news and all of
24 that. So I sustained that objection. But then was did
25 also mention that it was on Mr. Sheridan's website or

1 something along --

2 MR. BIGGS: I don't remember --

3 THE COURT: -- the lines, which is not
4 appropriate.

5 MR. BIGGS: -- a motion on that topic, Your
6 Honor.

7 MR. SHERIDAN: We had a motion on media --

8 THE COURT: There was a motion in limine on
9 the media. And I looked back on the motion in limine,
10 and it had to do with not commenting on how --

11 MR. BIGGS: That's right.

12 THE COURT: -- the parties felt --

13 (Indiscernible crosstalk.)

14 MR. BIGGS: How -- how our party felt --

15 (Indiscernible crosstalk.)

16 THE COURT: Right, but I still --

17 MR. BIGGS: -- one-sided --

18 THE COURT: -- don't -- I understand, but
19 it's still not relevant whether or not Mr. Sheridan has
20 on his website --

21 MR. BIGGS: Well, Your Honor, I'll lay the
22 foundation --

23 THE COURT: -- the report --

24 (Indiscernible crosstalk.)

25 MR. BIGGS: -- that my client knows that it's

1 on there, and he's talking about humiliation. Those --
2 they opened that door, Your Honor. They said, "I'm
3 humiliated by these things." And yet he has
4 participated in allowing this stuff to go out.

5 MR. SHERIDAN: The humiliation was being in
6 the work environment in 2016 when he was being so
7 mistreated. And once he's filed his lawsuit, he's made
8 the commitment to be public anyway.

9 But the terrible thing is the idea that you should
10 be punished when you're suing in a public interest case
11 for getting public interest. That's just wrong. And
12 it's not relevant, and it's just wrong.

13 THE COURT: Mr. Biggs.

14 MR. BIGGS: No, Your Honor. That is
15 absolutely wrong.

16 I noticed they left embarrassment, for example,
17 off their list of damages here because that goes
18 straight to the heart of this issue, and humiliation
19 does as well.

20 If you let this go out and then claim you're
21 humiliated by it, that doesn't wash.

22 THE COURT: Okay. I was -- I'm sorry. I
23 was -- when I was thinking about this, I was thinking
24 of the motion in limine that dealt with the media being
25 aware of all of this. But apparently I -- there's

1 something else going on.

2 So what you're saying is that up to question him
3 about the fact that he made public -- well, did he make
4 public or did his attorney make public the complaint --

5 (Indiscernible crosstalk.)

6 MR. BIGGS: I will -- I can ask him right
7 now, Your Honor --

8 (Indiscernible crosstalk.)

9 THE COURT: Mr. Sheridan, let me ask my
10 questions.

11 MR. SHERIDAN: Yes.

12 MR. BIGGS: I will ask him right now if he's
13 aware it's there and he approved it, and that will
14 answer your question, Your Honor.

15 THE COURT: All right. Go ahead.

16 BY MR. BIGGS:

17 Q. Mr. Santhuff, when did you become aware that your
18 attorney put materials on his website, including your
19 tort claim, the complaint, your statement to our
20 investigator, and other materials? When did you become
21 aware of that?

22 **A. I don't remember the exact date when that -- when I was**
23 **aware of that, but I am aware that it's on there.**

24 Q. And you approved that, didn't you?

25 MR. SHERIDAN: Your Honor, objection.

1 THE COURT: There's no jury here. I need to
2 know this in order to issue a ruling.

3 MR. SHERIDAN: Except that we're on the
4 record, and this is my website. Right? He doesn't
5 control my website. So now he's talking about getting
6 into the attorney-client privilege discussions -- did
7 he and I talk about putting it on? That's none of his
8 business.

9 And it's -- it's so inappropriate to say that
10 public interest litigation, you shouldn't tell the
11 public. Outrageous.

12 THE COURT: Please follow up with the
13 questions.

14 MR. BIGGS: That's all I have, Your Honor.
15 He was aware of it, and he approved it.

16 THE COURT: All right. So your point is that
17 because this was on the website, then he was --

18 MR. BIGGS: That he approved of it being on
19 the website.

20 THE COURT: Well, he didn't say he approved
21 it.

22 MR. BIGGS: That's because Mr. Sheridan wants
23 to block that question.

24 The question is -- first of all, ethically, there
25 is no way he can put this up there without his client's

1 approval. It's got personal information on it. So if
2 he didn't approve it, that's a different problem.

3 And I'd like to ask you now, sir, did you approve
4 of that information being on the website?

5 MR. SHERIDAN: Same objection, Your Honor.
6 He -- he wants to know what our attorney-client
7 privileged discussions are.

8 THE COURT: No. He's not, Mr. Sheridan.

9 MR. SHERIDAN: Well, then how can he -- who
10 is he approving it to? Me; right? He's talking to his
11 lawyer is what you're saying?

12 THE COURT: I'm -- he's not asking what kind
13 of conversation he had with you.

14 MR. SHERIDAN: What does it matter? It's
15 attorney-client privilege.

16 THE COURT: So please tell me -- assuming
17 that he approved it -- what is the purpose of showing
18 or -- the jury learning that there was a website -- not
19 a website -- that there was the complaint on the
20 website?

21 MR. BIGGS: Well, in -- again, there's a
22 statement on there -- 50-page statement he gave to our
23 investigator and all this sort of thing.

24 He's -- he's claiming damages here for
25 humiliation. Okay. Now, Mr. Sheridan wants to

1 redefine what humiliation is.

2 Google would tell us what humiliation is because
3 that's what this witness did. He went to Google.
4 Humiliation -- he cannot claim humiliation if he lets
5 the information out there and then says, "I'm
6 humiliated by this still."

7 THE COURT: I don't think it was humiliation
8 when -- that he googled. I thought it was something
9 else.

10 MR. BIGGS: All the definitions he said he
11 googled. Fear --

12 THE COURT: Oh, I thought --

13 (Indiscernible crosstalk.)

14 MR. BIGGS: -- stress, humiliation.

15 These are -- these are categories that counsel
16 gives to his clients. We know that. He says he
17 googled them for definitions, and humiliation is one of
18 those.

19 And if -- you can't claim you're humiliated when
20 you are the one who's putting it out there and
21 talking -- he also talked to other people about this
22 within the office.

23 MR. SHERIDAN: What --

24 THE COURT: So let me ask you: When you talk
25 about -- when you're asking about humiliation and when

1 you argue to the jury about humiliation, what specific
2 humiliation are you talking about?

3 MR. SHERIDAN: It's the humiliation caused by
4 the wrongful actions of the defendant. It has to do
5 with how they treated him when he worked there. It has
6 nothing to do -- once he filed the lawsuit, this whole
7 thing is public; right?

8 And we want -- we want the world to know or this
9 thing -- or these things will never change. But he
10 doesn't get -- he doesn't get humiliation for the
11 world -- for how he feels about the world. He gets
12 humiliation for -- because he was humiliated by the
13 wrongful actions of the defendant. He was under stress
14 because of them.

15 All of that happens in the time -- in the timeline
16 of his being -- pre-litigation and carries over because
17 that's how emotional harm damages are.

18 THE COURT: So you're not going to argue that
19 he's humiliated because he lost his position, and then
20 he can't fulfill his dream of being in the aviation.

21 MR. SHERIDAN: No. The humiliation isn't
22 from -- isn't from the dream. The humiliation is from
23 the daily treatment -- being told you're getting worse
24 all the time, putting him in the right seat --

25 THE COURT: My question is -- is the

1 humiliation -- are you going to argue that he was
2 humiliated because he had to leave aviation?

3 MR. SHERIDAN: No. He was humiliated by the
4 facts that caused him to leave aviation.

5 THE COURT: All right.

6 MR. SHERIDAN: That's why he's humiliated.

7 THE COURT: Let me think about it.

8 MR. BIGGS: Your Honor, if I may help you,
9 I'm looking at their chart from 2020. He has
10 humiliation listed as a six for the whole year. So, to
11 this day, he claims a six in humiliation.

12 MR. SHERIDAN: Because he's --

13 THE COURT: All right. I've heard enough.
14 How much time do you need?

15 UNIDENTIFIED SPEAKER: (inaudible) .

16 THE COURT: All right. Let's come back in
17 five minutes.

18 (Recess.)

19 THE COURT: Thank you. Please be seated.

20 All right. So I -- I think it's a little -- I
21 understand the defense position, but I think it's a
22 little complicated to attribute fault or equate
23 Mr. Sheridan's behavior of something putting on his
24 website to Detective Santhuff so I am not going to
25 allow it.

1 MR. BIGGS: Thank you, Your Honor.

2 COURT STAFF: (inaudible) .

3 THE COURT: Now. Well, no, it hasn't been.

4 COURT STAFF: (inaudible) .

5 THE COURT: Oh, yeah. I guess it has
6 never -- yes. You're right. You're right.

7 Yes. She's getting the jury.

8 COURT STAFF: All rise for the jury.

9 THE COURT: Thank you. Please be seated.

10 Go ahead, Mr. Biggs.

11 MR. BIGGS: Thank you, Your Honor.

12 BY MR. BIGGS:

13 Q. Detective Santhuff. I'm going to try to get going
14 faster here. I hope we don't -- if I jump around and
15 confuse you, be sure to let me know.

16 **A. Yes, sir.**

17 Q. You did file a grievance against your sergeant,
18 Sergeant Hatteberg; right?

19 **A. Yes, sir.**

20 Q. And that was because of the 095 you received and your
21 job performance analysis; right?

22 **A. Yes, sir.**

23 Q. Both of which made you unhappy.

24 **A. Yes, sir.**

25 Q. Now, if I recall correctly, when you testified earlier,

1 you said your grievance was denied at step one; right?

2 **A. Yes, sir.**

3 Q. And then you said, at step two, the union dropped the
4 ball; right? You didn't get your step two.

5 **A. Yes, sir.**

6 Q. Isn't it true that you wrote in your very own words
7 that the union -- Merrell -- is not going to assist
8 because of fear this will turn into something bigger?

9 **A. That is correct. I asked --**

10 Q. So the union declined to assist you; right?

11 **A. You're taking that statement out of context, and let me**
12 **explain.**

13 The union -- I asked the union for help, and
14 Kenyon Wiley was my representative at the time. He
15 went to both the assistant president and President
16 Merrell and said, "You need to meet with this guy.
17 There's major problems in aviation."

18 And the union did not want to get involved because
19 of their affiliation with the command staff of the
20 State Patrol.

21 Q. Okay. So you got to my question. The union declined
22 to help you.

23 **A. My union representative was behind me 100 percent and**
24 **could not believe the position that the union president**
25 **and the vice president were taking.**

1 Q. Okay. And then you went to the next higher level,
2 which is to meet the union board -- or have the union
3 board, you know, take a look at it; right?

4 **A. Yes, sir.**

5 Q. And the union board -- you asked them for legal
6 assistance, and the union board also denied to help
7 you.

8 **A. That's not correct. May I explain?**

9 Q. No. No. I want to know if that's correct.

10 Did you write these words, "Meeting with union
11 board. Asking for legal assistance moving forward.
12 Denied."

13 **A. Yes, sir.**

14 Q. Okay. Thank you.

15 Now, you talked about meeting with Captain
16 Alexander at some point where -- and he did
17 (inaudible) talking about that there was some
18 discussion of whether you were going to stay in
19 aviation or not; right?

20 **A. With Alexander on --**

21 Q. Yes.

22 **A. -- October 20th? I believe -- I believe we did. We --**

23 Q. 20, 21. Somewhere in there; right?

24 **A. Yes. 21 --**

25 (Indiscernible crosstalk.)

1 **A. -- I'm sorry. Yes. That's correct.**

2 Q. And Captain Alexander told you that he heard you were
3 considering leaving the Aviation Section; right?

4 **A. He made that statement, yes.**

5 Q. And you said, "That's not true," didn't you?

6 **A. That is correct. With the statement that he made in
7 that meeting, I said, "That is not true."**

8 Q. Okay. So what you were telling Captain Alexander is,
9 "It's not true that I'm considering leaving the
10 aviation."

11 **A. Clearly not describing the whole situation here.**

12 Q. Well, I want to make it simple. Okay.

13 He said, "I heard you're aviation or I heard
14 you're thinking about leaving aviation."

15 Did you say, "Nope. That's not true"?

16 **A. There was a lot more to that conversation. And
17 eventually I said, "What he's asking me to do, I cannot
18 stay there."**

19 Q. Right. I got that part. I am just asking you about
20 whether or not you were thinking of leaving aviation at
21 that point.

22 **A. I was having some thoughts because of the environment
23 was not changing, and I had been in that unit now for
24 six months complaining of retaliation and hostile work
25 environment, and there were times where I was**

1 **questioning if I could continue to do that. Yes.**

2 Q. Right. And this was October 21; right?

3 A. **That meeting was on October 21st, yes.**

4 Q. Isn't it true that on September 8 -- what -- a month
5 and a half before that meeting -- you put in a request
6 for transfer?

7 A. **I put my name on a transfer list. That's not a
8 complete request for a transfer.**

9 Q. Okay. Well, if it says, "Your request for transfer
10 dated 9/8/16 has been received," that's -- you did;
11 right? You made a request for a transfer.

12 A. **Again, I put my name on a transfer list.**

13 **And let me explain because --**

14 Q. No. No. No. I'm not asking for an explanation.

15 I'm asking you, did you put in for transfer on
16 September 8?

17 A. **No, sir. I wouldn't agree with that.**

18 Q. Okay. Did you get a -- did you get an email back
19 from -- from the remedy system saying that you did?

20 A. **I would have to look at the email. That's probably the
21 response. But that -- all that did was put me on a
22 list for -- for a phone call, if a position became
23 available, I could accept that position. Was that's
24 not --**

25 Q. That sounds like a transfer to me.

1 A. -- that's not --

2 MR. SHERIDAN: Objection. Hearsay.

3 THE COURT: I'm sorry. I did not hear. The
4 two of you were talking at the same time.

5 BY MR. BIGGS:

6 Q. Right. That sounds like a transfer to me.

7 A. Is that a question?

8 Q. Yes. Isn't that a transfer?

9 A. No, sir. That's simple putting my name on a list of
10 many, many troopers -- this is -- this is a routine
11 thing within the agency. Oftentimes troopers have
12 their names on a list for transfer all the time.
13 Throughout their entire career, you can be on three
14 different lists at all times. You can turn down twice
15 before you're removed from the list.

16 So this is something that is routine without --
17 throughout the State Patrol.

18 Q. But the reason you put your name on a list is because
19 you want to move; right?

20 A. When I put my name on the list, I had just returned
21 from vacation. I just got back from King Air in
22 August, and there was an incident in the office where
23 Lieutenant Nobach directed my sergeant to --

24 Q. You're really not --

25 A. -- deny my --

1 Q. -- not answering my question.

2 I asked you -- you put your name on the list
3 because you want to move. Right?

4 **A. I would disagree with that.**

5 Q. Okay. That's fine.

6 And this email that goes out on this gets CCed to
7 Captain Alexander; doesn't it?

8 **A. And I believe Lieutenant Nobach and my sergeant as**
9 **well.**

10 Q. Right. So when Captain Alexander said to you, "I heard
11 you may be interested in leaving," you denied it
12 knowing that you had put in for a transfer; right?

13 **A. Again, I put my name on a list, sir. And I -- I want**
14 **to -- I want to establish the difference there.**

15 So --

16 Q. Let's just -- let's just move on from this.

17 Just out of curiosity, how many public records
18 requests would you say you've filed since -- I don't
19 know -- 2014 when you joined aviation?

20 **A. I don't -- I couldn't -- more than five.**

21 Q. Okay. How many of those were to the State Patrol
22 versus somebody else?

23 **A. I'm sure more than five.**

24 Q. Okay. You've alleged that people have -- have
25 performed -- sorry -- you've alleged -- now I'm jumping

1 ahead of myself.

2 You've alleged that you've been intimidated by
3 supervisors. Supervisors plural; right?

4 **A. I would say that's accurate, yes.**

5 Q. Okay. What I want you to do is tell me the names of --
6 excuse me -- tell me the names of all the people that
7 you claim intimidated you.

8 **A. Lieutenant Nobach, Sergeant Hatteberg -- that might be**
9 **it.**

10 Q. Okay. And are the things you're talking about the ones
11 you've already addressed in court?

12 **A. I'm sorry. Can --**

13 Q. Right. You gave us days of testimony. Is that what
14 you're talking about when you say you're intimidated by
15 these two people?

16 **A. You're so vague. I guess I don't understand the**
17 **question.**

18 Q. Is there -- is there anything else that you haven't
19 talked about that you believe was an example of
20 intimidation by either of these two people?

21 **A. There was a time where Sergeant Hatteberg called me**
22 **yelling at me on the phone. I don't think we've**
23 **discussed that.**

24 Q. Okay. Was that about your -- your downtime log? I'm
25 saying the wrong name. You keep track of something

1 when you're not busy; right?

2 **A. You may be referring to a no-fly log.**

3 Q. No-fly log.

4 **A. Is that -- okay.**

5 Q. There you go.

6 Was that what the yelling was about?

7 **A. The yelling was about me asking for overtime to**
8 **complete the no-fly log after we returned from a flight**
9 **because our passengers had advised us that we were**
10 **going to be late.**

11 So in order to work overtime for administrative
12 duties, the expectation was we had to have prior
13 approval from our supervisors.

14 Q. And you insisted one thing, and Sergeant Hatteberg said
15 no. Right?

16 **A. So there's a lot more to this no-fly log thing than**
17 **you're asking.**

18 But this is a log that we had never filled out
19 like what we were being asked to fill out during -- at
20 this timeframe when Hatteberg asked me. It was a new
21 thing that I was being asked to do. And there was some
22 question as to that. And it was Hatteberg's
23 understanding that this is something that we were
24 routinely supposed to do over the years, and that
25 wasn't the case at all.

1 So as -- when he -- this no-fly log came up. He's
2 saying, "You need to do this no-fly log."

3 And I said, "Since when are we supposed to do
4 no-fly log. This is something new" --

5 Q. So Sergeant Hatteberg yelled at you because that's what
6 you said.

7 A. No. He was upset that I sent this email asking for
8 overtime, and he thought that was me -- I don't know.
9 I'm speculating on how he took it. But that's all --
10 he was upset that I sent him this email asking for
11 overtime --

12 Q. Okay. Let's go -- let's go to the next little check
13 box I have here, and that is you claim that you were
14 retaliated against by various people.

15 I'd like you to give the jury a list of all the
16 people -- every single person that you claim retaliated
17 against you.

18 A. Well, Lieutenant Nobach, Sergeant Hatteberg, Chief
19 Alexander. That's probably it.

20 Q. Okay. Now, you also claim that you were forced to
21 resign; right?

22 A. Yes.

23 Q. Isn't it true that both Sergeant Hatteberg and Sergeant
24 Sweeney told you, "Ryan, you can do this. Get your
25 head in the game. Everything will work out."

1 Isn't that true?

2 **A. Well, their actions spoke other words, but I believe**
3 **they did say that to me verbally, yes.**

4 Q. And you chose not to get your head in the game and not
5 to make it work; right?

6 **A. I disagree with that.**

7 Q. Okay. You would agree, though, wouldn't you, that
8 neither of your sergeants ever told you, "Leave
9 aviation."

10 **A. That's correct.**

11 Q. And it's also correct that Lieutenant Nobach never told
12 you, "Leave aviation." Didn't he?

13 **A. That's correct.**

14 Q. And Captain Alexander never said, "Leave aviation."

15 **A. That's correct.**

16 Q. In fact, he told you, "We need you. Stay in aviation."

17 **A. And, again, his actions spoke other words but --**

18 Q. Did he say that?

19 **A. -- that's correct.**

20 Q. All right.

21 During this time, you said you -- your head wasn't
22 always in the game. You really -- you became obsessive
23 about all this; didn't you? Doing your research,
24 talking to everybody. You really kind of got consumed
25 by this; didn't you?

1 **A. I was trying to find a solution to this problem. You**
2 **bet.**

3 Q. Okay. Let's talk for a moment about -- you made these
4 charts -- or your attorney made them, but you gave the
5 data. And let me just kind of pick out a couple here.

6 Today in your testimony, you said that in -- maybe
7 it was testimony in your testimony -- you said that in
8 May 2017 -- I'll just pick one. Anguish, you said
9 during May 2017, was about a one. Okay.

10 Didn't you at some earlier time claim that your
11 anguish in May 2017 was -- not a two, not a four -- an
12 eight?

13 **A. I may have.**

14 Q. Okay. So which is it? One or eight?

15 **A. Well, I think it's pretty clear that over the last**
16 **couple days I had to relive this experience. And I**
17 **would say that what happened here and the information**
18 **that I provided was a more accurate statement.**

19 Q. Today is more accurate?

20 **A. Yes, sir.**

21 Q. Well, when you made those notes, that was a couple
22 years ago; right?

23 **A. Sure. But I wasn't -- I wasn't in the mindset like --**
24 **you know, it was different. I relived this scenario**
25 **over the last few days, and I would say that -- I don't**

1 **know. This is more accurate.**

2 Q. Okay. And today -- 2020 -- you said -- I'll just use
3 the same one -- anguish, you testified you were at a
4 six all 2020; right?

5 And you said earlier -- didn't you -- that your
6 anguish during that same period of time was, again, a
7 one. Didn't you say that?

8 **A. I may have.**

9 Q. Okay. All right.

10 And your testimony is that right now, in the heat
11 of battle, me staring you in the face, is more a
12 realistic than what you sat down and wrote down for
13 your litigation purposes some time back?

14 **A. Well, keep in mind that these emotional categories --**
15 **things come in waves. And, you know, there's times**
16 **where I'm more impacted than others, and the average, I**
17 **felt at the time when I filled them out the day that I**
18 **filled them out, can vary.**

19 Q. Okay. And I'm curious. When you googled this, what
20 did it say anguish was?

21 **A. A severe mental or physical pain, I believe, is what**
22 **their definition was. I would have -- it would help to**
23 **refresh my memory --**

24 Q. So right now, you are more than halfway on a scale of
25 severe emotional pain?

1 **A. Well, the -- the -- there's other examples in that**
2 **definition as well. Like in examples that I've seen**
3 **would be, you know, loss of appetite and different**
4 **types of physical effects caused by anguish, and so --**

5 Q. Okay.

6 **A. -- you know --**

7 Q. Okay.

8 **A. -- mental or physical, you know --**

9 Q. Would you accept my -- my suggestion that all of these
10 numbers that you've done at various times are all over
11 the map? They're not consistent with what you said
12 today? Would you accept that?

13 **A. I think there's some differences, yes.**

14 Q. Major differences; right?

15 **A. I'd have to go back and review them.**

16 Q. Okay. Let's talk a little bit about Internal Affairs.

17 **A. Okay.**

18 Q. And we looked at this Exhibit 98. That's the one that
19 you wrote a letter to Bruce Maier -- Detective Bruce
20 Maier -- when you had already met with him. Then you
21 went home and after a while said, "Okay. I better
22 write this letter."

23 You wrote him a letter. And in that letter, you
24 said -- and I'll quote you, and you can tell me if I
25 got it right -- you have great respect for the

1 sergeants, lieutenants, and captain of the Office of
2 Professional Standards.

3 Did you say that?

4 **A. And I felt that at the time when I wrote that letter.**

5 Q. You did say that; right?

6 **A. Yes, sir. Yes, sir.**

7 Q. Right.

8 And you explained in that alert to Detective Maier
9 how the sexual harassment situation was handled, and
10 you classified it as Captain Alexander was well outside
11 of policy when he did his work.

12 That's what you said; right?

13 **A. Correct.**

14 Q. And in that letter, you also mentioned that Captain
15 Alexander told you through a sergeant to stop doing
16 your own investigation; right?

17 **A. That's correct.**

18 Q. Now, you don't deny, do you, that you were going around
19 and trying to get the mechanics and other people to
20 agree with you about some of these things?

21 Do you deny that?

22 **A. What things are you referring to.**

23 Q. I'm asking you, did you go to the mechanics and try to
24 get them to agree with you on things?

25 **A. I don't believe I did, no.**

1 Q. Okay. When your sergeant came and told you to stop
2 intimidating or bothering people, you were totally
3 surprised by that; weren't you?

4 **A. My sergeant never came to me with that at all.**

5 Q. I thought you testified that your sergeant had -- a
6 sergeant came to you and said, "Stop doing your own
7 investigation. You're intimidating and bothering
8 people."

9 **A. That's not entirely true.**

10 Q. Maybe the word intimidation wasn't used.

11 **A. That was not used and same with bothering people.**

12 Q. Okay. But you don't deny that you were going around
13 and trying to get to the mechanics and say, "Hey, what
14 do you know about this? And here's what I think" --
15 you were trying to get them on your side; weren't you?

16 **A. Disagree with that as well.**

17 Q. Okay. And you disagree that what you were doing --
18 going to Brenda Biscay's desk and hovering and going to
19 the mechanics and other people -- other pilots -- you
20 disagree that that made people feel uncomfortable?

21 **A. I never felt --**

22 MR. SHERIDAN: Your Honor, objection as to
23 how other people feel.

24 THE COURT: Ask the question as to how he
25 felt.

1 MR. BIGGS: Pardon me?

2 THE COURT: How he felt. Ask the question as
3 to how he felt.

4 MR. BIGGS: Right.

5 BY MR. BIGGS:

6 Q. Did you feel that you were making people uncomfortable
7 by doing all these --

8 **A. I had never felt that I made anyone uncomfortable at --**

9 Q. Okay. Were you told that you were making people
10 uncomfortable?

11 **A. When I met with Alexander on October 21st, yes, sir, I**
12 **was.**

13 Q. But you disagree with that too; right?

14 **A. And so did my sergeant during that meeting.**

15 Q. Okay. Please --

16 **A. But yes, sir.**

17 Q. -- answer the question I ask you.

18 **A. Yes, sir. I disagree with that.**

19 Q. Now, what you claimed at the time is you were told by
20 your sergeant, "Stop doing this;" right? And you
21 claimed that your concern was -- must have been
22 Lieutenant Nobach trying to hide something because he's
23 afraid of what the information might reveal.

24 You said that; didn't you?

25 **A. I believe I did, yes.**

1 Q. You testified that -- on Lieutenant Nobach's orders,
2 some file cabinets started getting locked; right?

3 A. I don't know who gave the order, but there were some
4 file cabinets that became locked and --

5 Q. And that wasn't just you. That was the whole section
6 had to deal with that; right?

7 A. Yes, sir.

8 Q. It was not admitted at you; was it?

9 A. Well, I wasn't told it was admitted at me directly, but
10 it was in that immediate timeframe after making the
11 reports to Internal Affairs.

12 Q. After you realized that Internal Affairs wasn't taking
13 your side on all these things -- I mean, they never
14 once ended up taking your side; did they?

15 A. You have to -- explain "taking your side" to me,
16 please. Can you please clarify that question.

17 Q. There was never one single finding that anybody you
18 accused of doing something wrong did something wrong.
19 Right?

20 A. There was a few unfounded investigations, and I think
21 some refused or -- they refused to investigate.

22 Q. Right. Not one single founded conclusion.

23 A. There was --

24 Q. Right?

25 A. Well, there was -- right. They -- you know, like the

1 **public records situation, they said they could not**
2 **prove or disprove the allegation. I think there was a**
3 **few of those.**

4 Q. Okay. Let's -- let's do a little checklist here.

5 Today as we stand here -- sit here today, you
6 believe that there are many -- many corrupt officers
7 with whom you've interacted; right?

8 And that's your word, "corrupt."

9 **A. Yes, sir.**

10 Q. Okay. And top of the list, the chief -- Chief Batiste;
11 right?

12 **A. Yes, sir.**

13 Q. Chief Randy Drake who testified today. You called him
14 corrupt.

15 **A. I may have.**

16 Q. You believe that; right?

17 **A. I may -- if I said that, you know, I -- I think he**
18 **could be complicit in some corruption, yes.**

19 Q. And you said Assistant Chief Alexander was also
20 corrupt?

21 **A. Yes, sir.**

22 Q. You said assistant Chief Sass, who's now in your chain
23 of command -- your assistant chief -- you said he's
24 corrupt.

25 **A. That's not correct statement.**

1 Q. Did you say he should have done more to protect you
2 from retaliation?

3 **A. Are you referring to Chief Sass?**

4 Q. Yes.

5 **A. You're saying I made that statement about Chief Sass?
6 I think that's incorrect.**

7 Q. Okay. Well, we can look in your deposition if we need
8 to.

9 What about retired Assistant Chief Sean Berry?
10 Did you call him corrupt?

11 **A. And I -- in the errata sheet for that deposition, I
12 changed that to Jason Berry because I --**

13 Q. Jason Berry.

14 **A. -- accidentally said his brother's name, Sean Berry.**

15 Q. Right. Okay. So Jason Berry is corrupt.

16 **A. I believe he is complicit in some corruption, yes.**

17 Q. Okay. And your current chain of command, who's the
18 sergeant above you?

19 **A. He just retired. It was John Didion, and now it's
20 Bryan Ducommon.**

21 Q. Okay. And the lieutenant above that?

22 **A. Currently -- man, James Prouty.**

23 Q. And then who's the captain?

24 **A. Roger Wilbur.**

25 Q. Okay. You called Roger Wilbur corrupt; didn't you?

1 **A. Yes, sir, I believe he's potentially complicit in**
2 **corruption.**

3 Q. Okay. And was Captain Hall at one time in your chain
4 of command?

5 **A. Yes, sir. That's another one that I think you put some**
6 **words in my mouth during my deposition.**

7 **I don't believe Captain Hall is corrupt.**

8 Q. Okay. You said he was corrupt in your deposition?

9 **A. Well, you listed off, I think, three or four people --**
10 **if I remember correctly -- including Captain Hall, and**
11 **I didn't catch it. But I believe I did agree with your**
12 **statement --**

13 Q. Okay.

14 **A. -- but I -- I don't -- I'd like to correct that is what**
15 **I'm saying. I don't --**

16 Q. Okay. So now you're going to take it back. Captain
17 Hall, not corrupt.

18 **A. Correct.**

19 Q. Okay. And you already mentioned Captain Saunders. You
20 called him corrupt; right?

21 **A. Yes, sir.**

22 Q. Okay. And Captain Drake -- that's Assistant Chief
23 Drake's brother, you called him corrupt; right?

24 **A. I believe he is complicit in that corruption as well,**
25 **yes.**

1 Q. Okay. And how about -- how about another Captain,
2 Captain Riley. Is he corrupt?

3 **A. I don't believe that, no.**

4 Q. Okay. Is Debb Tindall corrupt?

5 **A. No, sir.**

6 Q. How about Captain Mathesen who came in here and
7 testified -- A No. 1 witness -- is he corrupt?

8 **A. I don't know. He made some dishonest statements.**

9 Q. Okay. And you mentioned Detective Maier. He's part of
10 OPS. He's corrupt too; right?

11 **A. I'd disagree with that.**

12 Q. Okay. So you don't have any complaints about how he
13 did his job?

14 **A. I do have complaints with that, yes, but that doesn't
15 lead to the conclusion of corruption. No, sir.**

16 Q. Okay. And how about SWAT Lieutenant Bill Steen, is he
17 corrupt?

18 **A. No, sir.**

19 Q. Okay. Are there other officers I overlooked that you
20 claim are corrupt? That are -- you know, these are all
21 people in your chain of command; right? Aviation and
22 now.

23 **A. They're -- well, no. Not all of them.**

24 Q. Okay. Are there any others that I overlooked?

25 **A. I think that's -- I think I covered the ones that were**

1 **involved in that situation in my deposition.**

2 Q. Okay. Chief Drake sat in that very chair this
3 morning -- retired Chief Drake. And he testified that
4 he considered your claims when you presented them. He
5 looked at them. He considered them.

6 And then he testified that he thought you believed
7 those claims, but he did not find that those claims
8 were well-founded.

9 Is he corrupt because of that?

10 **A. Not just that instance, I would not say that's**
11 **corruption. But the totality of the circumstances**
12 **surrounded this case, yes, I believe that --**

13 Q. Okay.

14 **A. That that leads to my belief of corruption.**

15 Q. Okay. So all these people -- we've made some lists
16 now. All these people who you claim have retaliated
17 against you, have treated you improperly in other ways,
18 who are corrupt, who have done poor investigations, who
19 have swept everything under the carpet -- you've used
20 some choice words here and there about, you know, the
21 quality of their work -- you only named one individual
22 defendant in this lawsuit, and that is Lieutenant
23 Nobach; right? Right?

24 **A. Yes, sir.**

25 MR. BIGGS: Thank you. That's all I have.

1 THE COURT: Any redirect?

2 MR. SHERIDAN: (inaudible).

3 REDIRECT EXAMINATION

4 BY MR. SHERIDAN:

5 Q. Okay. So you were asked questions about Alexander and
6 what he -- what he told you about leaving aviation.

7 In October, what did he say to you that caused you
8 concerns about being able to stay?

9 **A. The biggest concern is him telling me that I needed to**
10 **let everything go that's happened in the past and move**
11 **on and continue to work in that environment.**

12 Q

REDACTED

Ryan Santhuff/By Mr. Sheridan (Redirect)

REDACTED

Ryan Santhuff/By Mr. Sheridan (Redirect)

REDACTED

11 A.

Ryan Santhuff/By Mr. Sheridan (Redirect)

8 Q. Now, tell us about Randy Drake. Why do you think --
9 why did you conclude as a State trooper that he's
10 corrupt?

11 A. Mostly the handling of the public records misconduct
12 investigation and his refusal to investigate the
13 Governor's flight reporting -- of denying the Governor
14 the service that day.

15 Q. How did he do on investigating Alexander -- whether
16 Alexander adequately investigated the breast-rubbing
17 issue?

18 A. How did he do? Well, he received the report, again,
19 through the chain of command -- or, well, it was
20 outside the chain of command -- but by Captain Riley.
21 And he was fully aware of how that -- well, he
22 testified today that he wasn't fully aware but he only
23 knew what Alexander was telling him.

24 But he was aware of how that situation was handled
25 and --

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1 Q. Did -- in your estimate, did he follow the procedures?

2 **A. He did not.**

3 Q. Okay. How about Alexander? Did he follow the
4 procedures required under the policies and procedures?

5 **A. No, sir. He did not.**

6 Q. All right. And how about Captain Saunders? Did he
7 follow the procedures?

8 **A. Yes, sir. He did not.**

9 Q. Okay. And let me ask you this: Is this the first
10 time -- this incident, have -- have you ever come
11 across other instances in your past where you felt you
12 had to report a fellow trooper?

13 **A. Yes, sir. I have.**

14 Q. Could you tell us about those?

15 MR. BIGGS: Objection, Your Honor. This is
16 totally irrelevant.

17 THE COURT: Sustained.

18 BY MR. SHERIDAN:

19 Q. Could you explain what it means to put your name on a
20 transfer list?

21 **A. Yes. All it means is that you're going to receive a**
22 **call when an academy class is about to graduate. And**
23 **so as attrition occurs or vacancies occur within the**
24 **agency, they fill those vacancies just prior to an**
25 **academy class graduating so they know where to place**
Ryan Santhuff/By Mr. Sheridan (Redirect)

1 the cadets that graduate from the academy.

2 And so putting your name on a transfer list is
3 just simply putting your name on that list to receive a
4 call if you're high enough on the list to fill a
5 vacancy.

6 So, for example, if Olympia had two positions
7 available and there's 30 people on the list, you may
8 not get that call for quite some time. But if -- what
9 happens a lot of times -- for example, when I
10 transferred from Shelton early in my career to Olympia,
11 I was, like, 25 on the list.

12 They start at No. 1, and they call down the list
13 to fill those vacancies. And as soon as they would
14 get -- in this example, those two spots filled, they
15 stop calling.

16 Q. If you wanted to stay in aviation till you retired, why
17 did you put your name on the list in September 2016?

18 A. That day was a rough day for me.

19 Q. What happened?

20 A. I had -- I had just gotten back from vacation. And I
21 had adjusted my schedule to fill a flight in the
22 afternoon. We conducted Navy -- assisted the Navy with
23 different -- different flights on occasion. And so my
24 shift got adjusted in the evening.

25 And it was pretty common Navy would cancel last
Ryan Santhuff/By Mr. Sheridan (Redirect)

1 minute, and that's exactly what happened this day. So
2 I was still scheduled to work in through the evening.
3 And Sergeant Hatteberg had approved me to go home
4 early. However, I was backlogged from being gone for
5 about three weeks with vacation and then King Air
6 school. It was during that time.

7 And I had promised the prosecutor's office, who
8 was asking for affidavits for traffic tickets that had
9 been issued when I was the pilot. So I had -- I don't
10 recall how many -- but a lot of traffic affidavits
11 backed up that I had to get done.

12 And so Sergeant Hatteberg said, "Hey, as soon as
13 you get your paperwork done, you know, go home,"
14 because I was going to be the only one at the hanger
15 anyway, and going out and working traffic with the
16 timeframe didn't make sense.

17 So standard time to get off at aviation was 4:00
18 p.m. And Hatteberg walked downstairs, and I could hear
19 Sergeant Hatteberg talking to Lieutenant Nobach at the
20 bottom of the stairs. And it wasn't -- you know,
21 minutes later, he walked back upstairs.

22 And Hatteberg say, "Hey, man, you're going to have
23 to stay till the end of your shift."

24 And I said, "Why?"

25 And he said, "You know, hey, man, just -- you
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1 know, hey, just" -- he didn't want -- he didn't want to
2 have the conversation. And I knew why.

3 And I said, "Oh, I get it. Okay."

4 I'm like, "Well, tell Lieutenant Nobach that I
5 haven't even taken a lunch today or any breaks because
6 I'm trying to get this paperwork in to the prosecutor's
7 office like I had promised them."

8 And I said it loud enough so Lieutenant Nobach
9 could hear me at the bottom of the stairs. I was
10 frustrated. And so that's what happened that day. And
11 so I was upset.

12 Q. And who -- who were you upset with?

13 A. Lieutenant Nobach.

14 Q. Okay. Counsel has -- Mr. Biggs has asked you about
15 sitting in the right seat as though it's part of your
16 training.

17 Is sitting in the right seat part of your training
18 when you go to King Air in California?

19 A. I had not experienced that when I down there, no.

20 Q. Okay. And when you're typically training -- really
21 training -- do you sit in the right seat on any plane?

22 A. If you're working on your certified flight instructor
23 rating, but that's -- that's not what I was doing in
24 aviation.

25 Q. Right. In 2016, were you working on your certified --
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1 certified flight instructor?

2 **A. Nope.**

3 Q. So could you think of any business reason why Nobach
4 would put you in the right seat?

5 **A. No, sir. I mean, other than --**

6 Q. Okay. You also said -- oh, I'm sorry.

7 **A. That's basically it.**

8 Q. You also said that -- oh, excuse me one second.

9 Before you were -- before the breast-rubbing
10 incident happened, were you on the norm -- the normal
11 track in your progression towards flying the King Air?

12 **A. I was on accelerated progression, but I was**
13 **successfully going through that training and navigating**
14 **through that training, yes.**

15 Q. Okay. Now, can you tell us why you didn't fly after
16 you joined the State Patrol?

17 **A. Flying is a rich man's game, and I -- I've had many**
18 **expenses -- large expenses since leaving aviation.**

19 Q. Okay. And how about after -- when you first joined as
20 a trooper, how come you didn't fly?

21 **A. I was -- again, right around that timeframe, I bought a**
22 **house which needed major repairs. Frankly, I probably**
23 **should have torn it down and built a new one because**
24 **I'm still dealing with those issues. So that was in**
25 **2005. And it took me about five years to finish the**
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1 remodel on that house. And, again, I'm still working
2 on things, but --

3 Q. Okay. Please explain the union board actions that were
4 talking about regarding the grievance.

5 A. Sure. I went to the union board meeting and presented
6 for about an hour. And I was asked to leave the room
7 where they were going to take a vote on whether they
8 were going to provide me with legal representation
9 moving forward.

10 And I left the room. And what I find out later is
11 that the president and another member of the union --

12 MR. BIGGS: Objection, Your Honor. This is
13 hearsay now. What somebody else said.

14 THE COURT: Sustained.

15 BY MR. SHERIDAN:

16 Q. Without telling us what -- what particularly the
17 president said, tell us what you understood had
18 happened.

19 MR. BIGGS: Obligations, Your Honor. Same
20 objection. Unless he can lay some foundation of where
21 he gets the knowledge.

22 THE COURT: Sustained.

23 BY MR. SHERIDAN:

24 Q. So can you summarize for us what happened at the union
25 board action?

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1 MR. BIGGS: Your Honor, same. It's a
2 behind-closed-doors meeting.

3 THE COURT: Sustained.

4 MR. SHERIDAN: Okay.

5 BY MR. SHERIDAN:

6 Q. Oh, so with regard to every investigation that
7 happened, I'm going to ask you who made the final
8 decision. Okay?

9 So with regard to what to do as a result of the
10 breast-rubbing incident, who made the final decision
11 about what to do?

12 **A. Then Captain Alexander.**

13 Q. And then when you made the complaints through your
14 union representative of retaliation and all of that,
15 who made the final decision to -- with regard to that
16 claim?

17 **A. Captain Alexander with Captain Saunders.**

18 Q. Okay. And when -- when the complaint regarding the
19 email destruction was first made in October but
20 investigated the following year, who made the final
21 decision on what to do with that?

22 **A. Well, ultimately that decision was on Alexander, but
23 the chief's office was aware of what was happening.**

24 Q. Okay. Okay. But, again, it was Alexander.

25 **A. Yes, sir.**
Ryan Santhuff/By Mr. Sheridan (Redirect)

1 Q. Okay. All right.

2 And then with regard to the decision to -- that
3 Captain Alexander did nothing wrong, who made that
4 decision?

5 **A. That was Chief Randy Drake.**

6 Q. And did he talk with you during that ten-day
7 investigation?

8 **A. No, sir. He had not.**

9 Q. Okay.

10 THE COURT: It's almost four o'clock,
11 Mr. Sheridan.

12 MR. SHERIDAN: Oh, okay.

13 THE COURT: I don't know how much more you
14 have.

15 MR. SHERIDAN: Might as well -- we can finish
16 first thing tomorrow and get the jury's questions in.

17 THE COURT: And recross if --

18 MR. SHERIDAN: And recross.

19 THE COURT: All right.

20 Members of the jury, we are finished for today.
21 We will see you tomorrow at 9:00. And just remember my
22 instructions to not research. Do not talk to anybody.
23 Do not talk to each other about what you have heard so
24 far. And have a good afternoon.

25 All rise for the jury.
Ryan Santhuff/By Mr. Sheridan (Redirect)

1 We'll be in recess until nine o'clock.

2 (Hearing concluded.)

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Ryan Santhuff/By Mr. Sheridan (Redirect)

C E R T I F I C A T E

I, JAMIE L. BOOKER, Certified Court Reporter
in the state of Washington, in the County of Pierce, in
Tacoma, Washington, do hereby certify under penalty of
perjury under the laws of the state of Washington:

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