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BEFORE THE PROCEDURAL
HEARING BOARD OF THE
MISSOURI STATE HIGHWAY PATROL

IN THE MATTER OF:)
)
)
) July 16, 2015
SGT. RANDY HENRY.) Lake Ozark, Missouri

DEPOSITION OF STACEY MOSHER,

a witness, produced, sworn and examined on the 16th
day of July 2015, between the hours of 8:00 a.m.
and 6:00 p.m. of that day, at The Cisar Law Firm, 750
Bagnell Dam Boulevard, Suite A, in the City of Lake
Ozark, County of Miller, before

Tammy F. Ballew
Certified Court Reporter No. 563
CAPITAL CITY COURT REPORTING
Jefferson City * The Lake * Columbia
573-761-4350 * 573-365-5226 * 573-445-4142

within and for the State of Missouri, in the
above-entitled cause, on the part of Employee Randy
Henry, taken pursuant to notice.

A P P E A R A N C E S

FOR THE EMPLOYEE RANDY HENRY:

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ALSO PRESENT: Randy Henry

SIGNATURE INSTRUCTIONS:

Signature Waived.

EXHIBIT INSTRUCTIONS:

Mosher Deposition Exhibits A through E, inclusive, were retained by Mr. Pleban.

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1 STACEY MOSHER, having first been duly sworn, testified
2 as follows:

3 DIRECT EXAMINATION BY MR. PLEBAN:

4 Q. Will you tell us your name for the record,
5 please, ma'am?

6 A. Stacey Mosher.

7 Q. And could you spell both of those for us,
8 please?

9 A. S-t-a-c-e-y, and Mosher is M-o-s-h-e-r.

10 Q. Okay. And where do you reside?

11 A. Osage Beach, Missouri.

12 Q. Okay. And your business or occupation is
13 what?

14 A. I'm a corporal with the Missouri State
15 Highway Patrol.

16 Q. Okay.

17 A. I'm assigned to Zone 17, work on Lake of the
18 Ozarks.

19 Q. And how long have you been with the -- well,
20 I --

21 A. Fifteen years.

22 Q. -- the Missouri State Highway Patrol, I would
23 say, but you were with the Water Patrol first; is that
24 correct?

25 A. Yes, sir.

1 Q. Okay. And how many years with the Water
2 Patrol, approximately?

3 A. Okay. Twelve.

4 Q. Okay. And then the Water Patrol was combined
5 with the Highway Patrol, and then you became a trooper?

6 A. Yes.

7 Q. Okay. And your duties with the Water Patrol
8 were water, I am assuming, for the most part?

9 A. Yes, sir.

10 Q. Okay. And you had some road assignment, I
11 guess, in the -- in the winter months and whatnot?

12 A. With the --

13 Q. With the Water Patrol. No. No. With the
14 Water Patrol?

15 A. No, sir.

16 Q. No road assignments?

17 A. No, sir.

18 Q. Okay. All right. And then when you -- when
19 they combined forces with the Water Patrol and the
20 Highway Patrol, your duties changed a little bit?

21 A. Yes, sir.

22 Q. Okay. And that included a little bit more
23 road duty?

24 A. Yes, sir.

25 Q. All right. Right now, are your duties

1 primarily water or are they primarily road or a 50-50
2 combination?

3 A. Primarily, water.

4 Q. Okay. Do you have any other duties besides
5 water currently?

6 A. Yes.

7 Q. What are those?

8 A. A corporal in my zone, so I assist with the
9 oversight and supervision.

10 Q. Okay. So you're a supervisor?

11 A. Yes, sir.

12 Q. A sort of supervisor?

13 A. A sort of supervisor.

14 Q. Okay. You're not the colonel, right?

15 A. No, sir.

16 Q. All right. And how long have -- when -- when
17 were you promoted to -- you were promoted from trooper
18 to -- to corporal, correct?

19 A. January 1, 2013.

20 Q. And that's when your assignments -- your
21 duties changed?

22 A. Yes, sir.

23 Q. All right. Okay. So you have some road
24 duties currently?

25 A. No, sir.

1 Q. Not at all?

2 A. No, sir.

3 Q. Oh, okay. Okay. Have you ever had your
4 deposition taken before?

5 A. Yes, sir.

6 Q. All right. Let me go -- how many times?

7 A. More than 5, less than 20.

8 Q. Okay. All right. You guys don't -- I guess,
9 you ladies and gentlemen don't get depositions taken, I
10 guess, very much on the -- on the water issues?

11 A. My depositions have mostly been related to
12 criminal work --

13 Q. All right.

14 A. -- not to Patrol work.

15 Q. So you do some criminal investigative work in
16 addition to your duties as a Water Patrol officer?

17 A. That is -- yes. That is part of what I do.

18 Q. All right. And you did that before the
19 combination, before the Water Patrol went with the
20 Highway Patrol?

21 A. Yes, sir.

22 Q. All right. And you're doing that currently?

23 A. Yes, sir.

24 Q. And what kind of -- sort of criminal
25 investigatory duties did you have?

1 A. I work as -- I'm trained as a forensic
2 interviewer for children, so I work with the local
3 CAC, the Child Advocacy Center, and I conduct forensic
4 interviews.

5 Q. Of children?

6 A. Of children and of adults, sometimes special
7 needs, developmentally delayed type adults.

8 Q. Okay.

9 A. I do that through Kids Harbor. And then due
10 to my kind of training and experience that I've had
11 also associated with the Camden County Sheriff's Office
12 doing criminal work, more along the lines of the -- the
13 sex crimes and the crimes against children, the
14 investigative work. Then I also respond to local
15 counties when they need some assistance on cases.

16 Q. On criminal cases?

17 A. On criminal cases, yes, sir.

18 Q. Okay. All right. Let me go through my
19 ground rules with you. Okay?

20 A. Yes, sir.

21 Q. All right. I'm going to ask you some
22 questions as they relate to a -- a matter that's
23 currently pending. It's a disciplinary matter
24 pertaining to Sergeant Randy Henry with the Missouri
25 State Highway Patrol. If at any time you don't

1 understand a particular question that I've asked of
2 you, or you haven't heard the question that I've asked
3 of you, I want you to stop me, ask me to repeat the
4 question or rephrase it in an effort to have you fully
5 hear and understand that question that I'm asking; is
6 that agreeable?

7 A. Yes, sir.

8 Q. All right. In the event that you don't stop
9 me and ask me to repeat or rephrase, I'll assume that
10 you've heard the question, that you understand the
11 question, and that you're giving a full and complete
12 response to the question I've asked. Okay?

13 A. Yes, sir.

14 Q. All right. A couple more ground rules, and
15 that is, you can't nod your head. You have -- have to
16 answer verbally for the record, because this young lady
17 here has to take down everything that we're talking
18 about. All right?

19 A. Yes, sir.

20 Q. And, finally, where appropriate, if you would
21 say yes or no as opposed to uh-huh or uh-uh, because we
22 don't know if an uh-huh is a yes or an uh-huh is a no.
23 Okay?

24 A. Yes, sir.

25 Q. All right. Okay. Here we go. One final

1 ground rule --

2 A. Sir, before we start --

3 Q. Yes, ma'am.

4 A. I'd like to put on the record that I am on
5 call, so I wanted to apologize if I needed to step out
6 and take a phone call.

7 Q. Not a problem.

8 A. Okay.

9 Q. What I was just going to get to on that, as
10 well, is that this is -- this is not a marathon here.
11 Okay? It's not a sprint, either. All right? We're
12 going -- we're going to take this -- we're not going to
13 set any records here, so if you need a break or you --
14 you need some water or you need to go to the bathroom,
15 you need to take off, just let me know and we'll
16 accommodate you as best we can. Okay?

17 A. Yes, sir.

18 Q. All right.

19 MR. PLEBAN: One final thing. Before we go
20 further, I need to put on the record, Ben, we have a
21 variety of issues pending, not the least of which is
22 the disqualification issue of Attorney General Koster
23 and his participation in this matter, along with the
24 assistants, to include yourself. I don't want to
25 belabor that, but I just -- we've made --

1 MR. COX: You're not waiving it.

2 MR. PLEBAN: Yes. That's all.

3 MR. COX: Got it.

4 MR. PLEBAN: That's all -- that's all I want
5 to say. I don't want to -- I don't want to get on with
6 it. We also have, and I think we found yesterday, a
7 request for subpoenas -- subpoenas duces tecum, those
8 sorts of things. You might -- she was supposed to send
9 it out.

10 MR. COX: I understood that you're not
11 waiving anything, and that all outstanding issues
12 remain -- remain outstanding.

13 MR. PLEBAN: All -- that's right. I couldn't
14 have said it better myself. Thanks. Okay. All right.

15 BY MR. PLEBAN:

16 Q. Now, Corporal, you were -- you were
17 interviewed in connection with the Randy Henry
18 disciplinary matter; is that correct?

19 A. Yes, sir.

20 Q. And that was by Professional -- the
21 Professional Standards Division, correct?

22 A. Yes, sir.

23 Q. Okay. And who specifically did the
24 interviewing of you; do you remember?

25 A. Captain Schoeneberg. I'm not sure I'm saying

1 his name correctly.

2 Q. Okay. All right. And he -- he talked to you
3 about the Ellingson drowning case, correct?

4 A. Yes, sir. Well, he asked a lot of questions.
5 He never really said what we were there to discuss.

6 Q. Okay. What did you do to prepare yourself
7 for this deposition?

8 A. For this deposition?

9 Q. Yes, for this deposition.

10 A. Okay. For this deposition, I remembered the
11 questions that he asked in my PSD interview that I did
12 not have the answers to, such as --

13 Q. PSD is?

14 A. Professional Standards. Sorry.

15 Q. Okay. Okay. That's all right.

16 A. Such as the date I became a corporal, the
17 date I transferred the zones, and the date of some of
18 the investigation. So to prepare for that, two nights
19 ago I went through my MCD and found my promotion orders
20 and my promotion dates and my interview dates.

21 Q. MCD is?

22 A. My computer.

23 Q. Okay. All right. The -- all right. Have
24 you -- have you told Captain Schoeneberg about that?

25 A. No, sir.

1 Q. All right. So he never followed up with you
2 on any of the questions you were unable to answer
3 during that Professional Standards interview; is that a
4 fair statement?

5 A. Yes, sir.

6 Q. All right. Okay. What else did you do to
7 prepare yourself for this deposition other than look up
8 those particular dates and items that you couldn't
9 recall during your -- your Professional Standards
10 interview?

11 A. That is all.

12 Q. Okay. Now, when he interviewed you, he
13 talked to you about the -- or asked you questions, I
14 guess, about the Ellingson drowning, correct?

15 A. Yes.

16 Q. All right. And he also asked you questions
17 about the situation dealing with your investigation of
18 the alleged rape that may or may not have involved
19 Garrett Grellner, correct?

20 A. Yes, sir.

21 Q. All right. Now, during that interview, I
22 believe that you indicated, at least the summary that I
23 got indicated that you were bothered by the Ellingson
24 drowning; is that correct?

25 A. That is correct, sir.

1 Q. And how is it, Corporal, that you were
2 bothered by the Ellingson drowning?

3 A. A young man --

4 MR. COX: Objection to relevance.

5 But you can answer.

6 BY MR. PLEBAN:

7 Q. Go ahead.

8 A. A young man lost his life, sir. And he lost
9 his life while in our custody, and that bothered me
10 deeply.

11 Q. When you say our custody, you mean Highway --
12 Highway Patrol?

13 A. The Missouri State Highway Patrol, yes, sir.

14 Q. Okay. And, understandably, that bothered
15 you?

16 A. Absolutely.

17 Q. Okay. And it bothered other people in the
18 Patrol?

19 A. Yes, sir.

20 MR. COX: Objection. Calls for speculation,
21 relevance.

22 BY MR. PLEBAN:

23 Q. And you had conversations with other people
24 in the Patrol about the Ellingson drowning, correct?

25 A. Yes, sir.

1 Q. Okay. And included in those conversations,
2 you had conversations with Randy Henry, correct?

3 A. Yes, sir.

4 Q. All right. And you had conversations with
5 other people in the Patrol besides Randy Henry
6 regarding the Ellingson drowning?

7 A. Yes, sir.

8 Q. All right. And I believe that you indicated
9 that those conversations were, you described, I think,
10 as surface-level conversations --

11 A. Yes, sir.

12 Q. -- in your -- in your interview with
13 Professional Standards?

14 A. I don't remember using that exact word, but
15 that would be very appropriate, yes.

16 Q. Okay. That would be correct?

17 A. Yes, sir.

18 Q. And by surface level, you mean, you know,
19 what?

20 A. I wasn't a decision-maker. I'm not a
21 decision-maker. I'm not a primary investigator on this
22 case. I was -- I responded that day on duty. I drug
23 for his body and did not recover him.

24 Q. Okay.

25 A. And that was the extent of -- and secured the

1 patrol boat that night. So that would be the extent of
2 my official involvement in the case.

3 Q. Okay.

4 A. So no other conversation or the conversations
5 would just be about the response and the circumstances.
6 They -- they weren't impactful on the outcome of the
7 case.

8 Q. Okay. And so you would have these
9 conversations with your fellow officers, correct?

10 A. Yes, sir.

11 Q. All right. And that would include Randy
12 Henry?

13 A. Yes, sir.

14 Q. And -- and so there would be conversations
15 like, you know, this is just a tragic event?

16 A. Yes, sir.

17 Q. And -- and it's a shame that this happened?

18 A. Yes, sir.

19 Q. Conversations like that?

20 A. Yes, sir.

21 Q. Not in-depth conversations?

22 A. Correct.

23 Q. Okay. And you -- and you never had an
24 in-depth conversation with Randy Henry about the pluses
25 and minuses of the Ellingson drowning?

1 A. That --

2 MR. COX: Objection. Vague.

3 BY MR. PLEBAN:

4 Q. Is that correct? Do you understand my
5 question?

6 A. I'm not sure what you would define as
7 in-depth.

8 Q. Well, did you have -- did you ever have an
9 in-depth conversation with Randy Henry about the
10 Ellingson drowning case and how it was being handled or
11 what Piercy did or any of that sort of stuff?

12 A. Yes, sir. I had several conversations with
13 Sergeant Henry.

14 Q. What kind?

15 A. What kind of conversation? About the
16 circumstances relating to how it happened, about the
17 circumstances that existed that led up to it, and about
18 how it was being handled afterwards.

19 Q. Okay. Were you critical about how it was
20 being handled?

21 MR. COX: Objection to relevance.

22 But you can answer.

23 THE WITNESS: Yes, sir.

24 BY MR. PLEBAN:

25 Q. Okay. And what was your criticism?

1 MR. COX: Same objection.

2 THE WITNESS: Okay. It just felt like we

3 didn't do enough for the family.

4 BY MR. PLEBAN:

5 Q. For the Ellingson family?

6 A. Yes, sir.

7 Q. In what regard?

8 MR. COX: Can I have a continuing objection

9 of this inquiry?

10 MR. PLEBAN: Yeah. That will be --

11 MR. COX: Okay.

12 MR. PLEBAN: That's --

13 THE WITNESS: Okay.

14 MR. PLEBAN: Actually, to make it simpler to

15 get through this, you can -- you don't waive any

16 objection that you have to anything here, and you can

17 make it later on, after the fact, if you want, if that

18 helps.

19 BY MR PLEBAN:

20 Q. Go ahead.

21 A. I just -- I had never been a part of an

22 in-custody fatality before and the significance of, I

23 guess, the weight and responsibility on all of us that

24 work on the Lake and had been our career was to serve

25 and protect and make the Lake safe, and then this man

1 died while in our custody. So that was impactful to
2 the core of what we do and what job we have and what
3 the expectations are, and what the expectations of the
4 public are with their sons and daughters when we put
5 someone in the boat.

6 So, yes, sir. To answer your question, it --
7 it bothered me very much.

8 Q. And so you would -- the conversation that --
9 for example, that you would have with Randy Henry would
10 be to that extent that, you know, this was a tragic --
11 tragedy, you know, we -- we -- you know, we need to
12 get this resolved and that sort of thing?

13 A. Not the resolved part, but that it was a
14 tragedy for everyone; for the Ellingson family, for --
15 for Tony Piercy, for all of us down there. No one to
16 the extent of those two parties, obviously, the family.
17 And I can't imagine what it feels like to be Tony
18 Piercy. I don't -- I can't imagine what that -- to go
19 through that experience, but that weight is on all of
20 us.

21 Q. Okay.

22 A. And it was on me.

23 Q. And so you were having those kinds of
24 conversations with Randy Henry that the weight is on
25 all of us because it was a tragedy, it impacts our

1 organization, it impacts the Ellingson family, those
2 sorts of conversations?

3 A. Yes, sir.

4 Q. All right. Any other type conversations?

5 A. Those are the conversations. They were --
6 yeah.

7 Q. Okay. And are those the type of
8 conversations that you described as surface-level
9 conversations in your interview with Professional
10 Standards?

11 A. Meaning, they don't alter the outcome. They
12 don't --

13 Q. All right. You were also asked, I think, by
14 Professional Standards, by the Captain Schoeneberg
15 about helping behind the scenes. I think he read you
16 something?

17 A. Yes, sir, he did.

18 Q. Okay. Do you remember that?

19 A. Yes, sir.

20 Q. He read you something and -- and asked you if
21 you knew what she's helping me behind the scenes meant;
22 do you recall that?

23 A. Yes, sir, I do.

24 Q. And you indicated you didn't know?

25 A. Correct.

1 Q. All right. And -- and he was asking that in
2 the context of helping Randy Henry behind the scenes?

3 A. He didn't say who the author of the e-mail
4 was from.

5 Q. Okay. Did you assume that it was Randy
6 Henry?

7 A. I did assume it was Randy Henry.

8 Q. And your response was, you didn't know what
9 that meant?

10 A. Correct.

11 Q. All right. Okay. Okay. You prepared -- you
12 did an investigation involving Garrett Grellner,
13 correct?

14 A. Yes, sir.

15 Q. Okay. And that was one of the topics that
16 Captain Schoeneberg talked to you about, right?

17 A. Yes, sir.

18 Q. Okay. And do you think that you did a good
19 job investigating that case?

20 A. Absolutely.

21 Q. And you prepared a police report?

22 A. Yes, sir.

23 Q. And you've been through the academy, correct?

24 A. Yes, sir.

25 Q. And you've prepared -- how many -- how

1 many -- before you prepared the police report in this
2 case -- in the Grellner case, how many police reports
3 do you think that you prepared in your career?

4 A. Sir, I wouldn't --

5 Q. Give me -- give me a ballpark estimate.

6 A. More than 100.

7 Q. All right. And in the academy, I assume they
8 taught you about how to prepare a police report,
9 correct?

10 A. Yes, sir.

11 Q. They taught you the significance of a police
12 report?

13 A. Yes, sir.

14 Q. And -- and what is the significance of a
15 police report?

16 A. To document your activity of an
17 investigation.

18 Q. Okay. And is it important in that police
19 report to be thorough and complete?

20 A. Yes, sir.

21 Q. Okay. And why is that?

22 A. To document your actions involved with the
23 investigation.

24 Q. Okay. And so everything that you do,
25 everything that you investigate ought to be included in

1 that report, correct?

2 A. The main -- your main actions, yes.

3 Q. All right. Substantive issues?

4 A. Yes, sir.

5 Q. You know, obviously, if you go get a cup of
6 coffee, it's not going to be included in the police
7 report.

8 A. Correct.

9 Q. But substantive issues that you investigate
10 should be included, correct?

11 A. Yes, sir.

12 Q. All right. And part of the reason for that
13 is because it's -- it enables you to refresh your
14 recollection when people like me ask me about -- ask
15 you about a police report or an incident that you
16 investigated maybe a year or two years ago, correct?

17 A. Yes, sir.

18 Q. All right. So it aids in -- in refreshing
19 recollection?

20 A. Yes, sir.

21 Q. Okay.

22 MR. PLEBAN: Now, you know Stacey Mosher and
23 you know Mr. Cox. This is Randy Henry. All right.

24 (MR. HENRY COMES INTO THE DEPOSITION.)

25 BY MR. PLEBAN:

1 Q. Now, the -- the Grellner investigation that
2 you were responsible for, you indicated that -- to
3 Professional Standards, due to the extremely sensitive
4 nature of who he was, I really wanted to take this to
5 the very, very end. Do you remember saying that?

6 A. Yes, sir.

7 Q. All right. What did you mean by that?

8 A. The -- the family that brought this
9 investigation to the Highway Patrol is the family of
10 the victim. And the suspect that was identified at the
11 scene was a juvenile. So the family didn't have the
12 resolution that they wanted. They didn't understand
13 why the case -- they felt, in their mind, that the case
14 had not been resolved. And they had -- and I don't
15 have access to that report, but the name of Garrett had
16 come up as a possible suspect to the family.

17 Q. Uh-huh.

18 A. Reading the report, though, his physical
19 description didn't match the physical description
20 provided at the scene. He had been interviewed by the
21 previous investigators and had been ruled out, but
22 because it was a public official, because he was
23 related to a public official, that was part of the
24 family's complaint, that the investigation was not
25 being handled completely because the suspect was in the

1 system -- was related to a member of the criminal
2 justice system.

3 The only thing that I could see in that
4 report that left any open door was the DNA analysis
5 from the victim and from another suspect that had been
6 positively identified by DNA. But one of the wordings
7 on the lab report, it -- it left the door open. It
8 said a mixture of possibly two or more, that their
9 semen, the DNA that was from the victim, the way it was
10 worded, was a possible, like, a fraction analysis from
11 two or more.

12 So I had several conversations with the lab
13 whether that meant -- what that meant. And, basically,
14 they didn't have a complete DNA. And DNA is way above
15 my head, so to understand it in laymen's terms, they
16 couldn't say that the -- the fraction DNA was only the
17 identified suspect and the identified victim. They
18 couldn't say that, but that was because it was a
19 fraction. So it didn't 100-percent rule out the
20 possibility of a third person contributing to that
21 mixture.

22 Now, without the physical description
23 matching and the investigation that had already been
24 done by Osage County, I felt that I would not have had
25 enough to get a search warrant for DNA from

1 Mr. Grellner. There just wasn't enough probable cause
2 to present to apply to get a search warrant for DNA.
3 So I thought the only thing I could do was ask for that
4 and explain that there's just that one sentence on the
5 lab analysis left the door open just enough that the
6 family of the victim -- and this had been going on a
7 long time for the victim's family.

8 Very devastating to them and very -- the girl
9 was getting bullied at school, ostracized at school,
10 was living with this every day in their very small
11 community. So that's why I really wanted to take that
12 to the next level of just absolutely that's the only
13 thing left to do was just to ask for that DNA sample to
14 see if it could be conclusively identified or ruled out
15 as part of that mix where the wording said for two or
16 more.

17 That's what I meant by taking it to the very
18 end.

19 Q. Okay. And you said because of the sensitive
20 nature and because we need to take this as far as we --
21 as far as we could take it, and do as much as we could.

22 A. Correct.

23 Q. You said that during your Professional
24 Standards interview, as well. That was also part of
25 your thinking as it relates to the family of the

1 victim, to take it as far as you could?

2 A. To close every single door for the family of
3 that victim.

4 Q. I see.

5 A. And at the crimes -- the sex crimes that I
6 have been involved in in the past, it's -- it's what
7 the family doesn't -- that unending open feeling of not
8 having any closure for that victim's family. So that
9 was the only place where I saw that more could be done
10 on that case is more could be done for that family and
11 that -- that would conclusively rule that out, because,
12 in their mind, they still saw him as a suspect.

13 Q. Okay. And so you believe that your report
14 was fair and thorough, and the highest -- "the highest
15 standards had been met," your words to Professional
16 Standards; is that correct?

17 A. Yes, sir. Yes, sir.

18 Q. Now, do you feel --

19 MR. COX: Objection. Mischaracterizes her
20 statement.

21 But go ahead.

22 BY MR. PLEBAN:

23 Q. Well, wasn't your statement the highest --
24 "the highest standards had been met." Isn't that what
25 you told Professional Standards?

1 MR. COX: But she didn't say that through the
2 report. That was sometime --

3 MR. PLEBAN: I'm sorry?

4 MR. COX: She didn't say that with regard to
5 her -- her written report, as far as I know.

6 BY MR. PLEBAN:

7 Q. Well, what did you mean when you said "the
8 highest standards had been met"?

9 A. Okay. I'm not sure what exactly you're
10 reading from. I didn't have access to that and I
11 didn't have access to my report. But I can assure you
12 personally that every case that I do for a sex crime or
13 any investigation, I take it to the highest level that
14 I can, the highest standards that are met.

15 There is no difference in that case or the
16 sex crimes that I've worked, but you can open any case,
17 like, take that to the highest level. I do those to
18 the very best of my ability, given the information that
19 I have, the evidence that I have available, every
20 single time. That's what I meant by the highest level
21 had been met.

22 Q. Okay. And -- and there was, as it relates to
23 Grellner and as it relates to the Ellingson drowning
24 situation, you indicated to Professional Standards that
25 there was no I'll-scratch-your-back-you'll-scratch-my-

1 back with this investigation, correct?

2 A. Correct.

3 Q. Okay. And that's your position today?

4 A. Absolutely.

5 Q. Okay. Now, in -- in your effort to close
6 every single door for the family of the victim, was it
7 your desire to discover the truth about what happened
8 here?

9 A. Yes, sir.

10 Q. To this young lady?

11 A. Yes, sir.

12 Q. Okay. And it wasn't just designed to
13 exonerate Garrett Grellner?

14 A. No, sir.

15 Q. So this was a criminal investigation that you
16 were conducting here, correct?

17 A. Correct, sir.

18 Q. Okay. And you -- is it fair to say,
19 Corporal, that you investigated this case like you
20 would if it did not involve the son of a prosecuting
21 attorney?

22 A. Given the information that I had available,
23 yes, sir.

24 Q. Okay.

25 A. To explain how we got this case --

1 Q. Well, that was going to be my next question.

2 Thanks.

3 A. Okay. I would say there's a huge difference
4 between cases that come down through DDCC and cases
5 that we originate. When you're the original officer on
6 the cases I work in Camden County, I am on the ground
7 floor when I start them. Okay?

8 Q. Uh-huh. Okay.

9 A. So I'm in the emergency room --

10 Q. Sure.

11 A. -- I'm taking the original statements, I'm
12 talking to the family and friends, I'm at the scene.
13 The -- this case and most cases that I've discovered
14 when I did an internship with DDCC, you don't have
15 those benefits. Those cases are ones that counties
16 that have taken and sometimes worked out to the best of
17 their ability, and still not having resolution -- Osage
18 County had -- was done investigating the case, and the
19 family of the victim was not satisfied with that
20 outcome. That -- that was why she repeated her contact
21 with DDCC. She wanted to go more.

22 Those cases are far more challenging and far
23 more difficult to investigate because you don't have
24 any of the advantages that you have as an investigator
25 when you're the first one on the scene.

1 Q. Okay.

2 A. So given the information that I had, the
3 reports that had already been written, the interviews
4 that had already been done, that information, that's
5 what I combed through, what was already done and looked
6 for places where I could go better.

7 Q. Okay. When did you find out that it involved
8 the son of a prosecutor?

9 A. From the mom -- the mother of the victim, in
10 conversations with her. I met with that family right
11 away.

12 Q. So when you were assigned the case at DDCC,
13 you didn't know at that time that it was the son of a
14 prosecutor that was a suspect?

15 A. I'm sure that -- I don't remember the initial
16 conversation, but I remember them -- I remember getting
17 that case and all within a couple days sitting down
18 with the family. I apologize -- sorry. And sitting
19 down with the family and getting all the details of the
20 case.

21 Q. But, well, my question -- that's not my
22 question. My question --

23 A. I don't know if it was in the original
24 conversation.

25 Q. Let -- let me finish. Hold on. Hold on.

1 Let me finish.

2 My question to you is: When did you first
3 find out that it involved the son of a prosecutor?

4 A. I don't know.

5 MR. COX: Objection. Asked and answered.

6 BY MR. PLEBAN:

7 Q. You don't know?

8 A. I don't know. I don't know the date, I don't
9 know the time, I don't know the phone call.

10 Q. Well, do you know who first told you?
11 Certainly, it wasn't the family, because you were
12 assigned the case at DDCC, right?

13 MR. COX: Objection. Mischaracterizes her
14 statement.

15 BY MR. PLEBAN:

16 Q. Correct?

17 A. Sergeant Kurt Mueller is -- was the unit lead
18 at DDCC who contacted me and on other cases similar
19 that, I have a case for you to work if you have -- if
20 you'll take it. So that's how that worked.

21 Q. Okay. Okay.

22 A. And then I would drive to Jeff City and get
23 the case file and sit down and go through it.

24 Q. Okay. And -- and did you sit down and get
25 the case file from Mueller or somebody else?

1 A. From Mueller.

2 Q. From Mueller. Okay.

3 A. Well, yes, from Mueller. He gave me what he
4 had on the case file, yes.

5 Q. Okay. And so is it fair to say that Mueller
6 is the one that told you for the first time that it was
7 the son of a prosecutor here?

8 A. It would be fair to say that, but I don't
9 remember that conversation exactly.

10 Q. But you're -- you're not saying that didn't
11 happen?

12 A. Correct. I'm not saying that didn't happen,
13 I'm just not saying that it did.

14 Q. And then sometime after that is when you met
15 with the family?

16 A. Yes, sir.

17 Q. Okay. And you -- you said that this was an
18 extremely sensitive nature of who he was; is that
19 correct?

20 A. All sex crimes are extremely sensitive; all
21 of them.

22 Q. Well, but -- but you were referring -- were
23 you referring to the extremely sensitive nature of who
24 he was because it was the son of a prosecutor?

25 A. Because the allegation was rape.

1 Q. And it had nothing to do with him being the
2 son of a prosecutor?

3 A. It had everything in the family's mind to
4 doing that.

5 Q. No. I'm asking you. I'm asking yours.
6 Is -- is the sensitive nature of this is what you were
7 talking about, that this investigation involved the
8 investigation of the son of a prosecutor?

9 A. The sensitive nature was a teenage female who
10 was intoxicated who is alleging rape. And the
11 allegations, until they are proven or disproven, are
12 extremely sensitive -- extremely sensitive. The fact
13 that it was a prosecutor's son was of extreme
14 significance to the family -- extreme. They felt that
15 that's why the case hadn't been closed. We -- we --
16 you -- you don't let the allegations of rape linger on
17 anyone -- anyone. It was of significance because she
18 was a prosecutor, but it was of significance because it
19 was a teenage victim, it was a teenage identified
20 victim, and it was a young man that was being alleged
21 as a suspect.

22 Q. Did you tell Professional Standards during
23 your interview, due to the extremely sensitive nature
24 of who he was, I really wanted to take that to the
25 very, very end?

1 A. Yes.

2 Q. Did you tell Professional Standards that?

3 A. That sounds like something -- once again, I
4 don't have access to the report saying word for word
5 what I said.

6 Q. I understand that.

7 A. But that would be very consistent with what I
8 would feel.

9 Q. So when you said, due to the extremely
10 sensitive nature of who he was, what did you mean by
11 that?

12 A. He's a young man accused of rape. That's
13 what that means. I don't know -- I'm not going to
14 split hairs on how sensitive it is, because he was the
15 son of a prosecutor versus how sensitive it is because
16 he's being alleged of rape.

17 Q. Well, ma'am, I'm just using your words, not
18 mine.

19 A. That's it.

20 Q. These are your -- your words were, due to the
21 extremely sensitive nature --

22 A. Sensitive nature.

23 Q. -- of who he was. That's -- those -- that
24 was your phrase, not mine. I'm just trying to
25 understand what you mean by --

1 A. And I've explained.

2 Q. -- sensitive.

3 A. It was a young man accused of rape.

4 Q. Uh-huh. Now, you are -- you were an intern
5 with DDCC at the time?

6 A. January 29th of 2012 to March 24th of 2012, I
7 was an intern.

8 Q. Okay. And when did you get this case?

9 A. This case, I got in February of 2013.

10 Q. Okay. As an intern?

11 A. No, sir.

12 Q. So you weren't an intern when you got this
13 case?

14 A. No, sir. I was an intern from January 29th
15 of 2012 to March 24th of 2012. These were the dates
16 that I looked up last night.

17 Q. Okay.

18 A. And I received this case in February of 2013,
19 and submitted my reports on this case in March of 2013.

20 Q. So if you told Professional Standards that
21 you were an intern at the time, you would be mistaken
22 of that now?

23 A. I was not an intern with DDCC during this
24 case. I was an intern at DDCC, not during this
25 investigation.

1 Q. Okay. So you recall specifically that you
2 come in and investigate this case?

3 A. Coming in --

4 Q. Come to DDCC -- you weren't assigned to DDCC
5 then at the time?

6 A. Correct.

7 Q. Okay. So somebody from DDCC contacted you to
8 come in to investigate the Grellner case?

9 A. Well, it wasn't referred to as the Grellner
10 case, it was referred to by the victim's family name.

11 Q. The -- the rape case that we're -- the rape
12 case that we're talking about?

13 A. Okay.

14 Q. Okay.

15 A. Yes, sir.

16 Q. Somebody called you to ask you to come in and
17 do it then?

18 A. Yes, sir.

19 Q. All right. Who was that?

20 A. It's then Sergeant Kurt Mueller.

21 Q. And so did you ask why you were being
22 assigned this sensitive case?

23 A. No, sir.

24 Q. Okay. So it was just another duty and you
25 just went along with the duty?

1 A. Yes, sir.

2 Q. Okay.

3 A. That wasn't the only case I worked for DDCC
4 after my internship.

5 Q. It was the only case you had then though?

6 A. The only case --

7 Q. For DDCC?

8 A. Correct. At that time.

9 Q. Okay. All right. Did you ask anyone how you
10 were supposed to handle this case?

11 A. I may have.

12 Q. Who?

13 A. I may have talked to DDCC, the officers --
14 the other officers assigned to that case. It would --

15 Q. Who else was assigned to that case?

16 A. Not to that case, but assigned to the unit.
17 Sorry.

18 Q. Who would that have been?

19 A. I think it was Dave Rice, Marcus Reynolds,
20 and Eric Stacks at the time.

21 Q. Okay. What kind of conversations would you
22 have had at the time?

23 A. Similar to any conversation, just when you
24 bounce the facts off what you have, the directions that
25 you need to go, avenues that are opened to be

1 investigated. Very, very common to have those
2 conversations within the unit on a case.

3 Q. Sure. Sure.

4 A. Obviously, the more eyes on a case, the
5 better.

6 Q. Okay. So you would -- you would go to them
7 and say, hey -- it would be, what do you think about
8 this?

9 A. Yes, sir.

10 Q. Or do you think I should do that, or
11 something along that line?

12 A. Absolutely.

13 Q. Okay. And was Mueller around for the entire
14 investigation or did -- did he have to go someplace?

15 A. I'm not sure what you mean by around.

16 Q. Well --

17 A. I didn't sit in the office up there and do
18 work, like, on the phones.

19 Q. No. No. I -- no. No. I understand that.

20 A. Okay.

21 Q. But was he assigned -- did he have other
22 duties someplace else that took him away from DDCC
23 during this period of time?

24 A. Sir, I'm not aware of any.

25 Q. You don't know?

1 A. I don't know.

2 Q. Okay.

3 A. My contact with him was mostly on the phone,
4 so I don't know.

5 Q. With Mueller?

6 A. I don't know where he was when he answered
7 the phone.

8 Q. Okay. And so he's the one that assigned you
9 the case, you say, but then your contact really
10 day-to-day was with the other investigators in the
11 office?

12 A. When I was up in the office.

13 Q. Yeah.

14 A. Yes, sir.

15 Q. Okay. And -- and those are the people, the
16 other investigators in the office, the people that you
17 named, you would bounce ideas off of?

18 A. Sure.

19 Q. All right. Not uncommon in criminal
20 investigatory work?

21 A. Correct.

22 Q. And there certainly was nothing that
23 prohibited you from discussing issues with these other
24 investigators, correct?

25 A. Correct.

1 Q. I mean, there's no general -- you guys have
2 general orders for everything. There was no general
3 order that prohibited that, was there?

4 A. Correct.

5 Q. All right. And -- and Eric -- you said that
6 Eric Stacks was in the office at the time. Did you
7 bounce ideas off of him?

8 A. I may have.

9 Q. What kind of ideas did you bounce off him?

10 A. The ones you just articulated so well.

11 Q Okay. And did you also -- did you talk to
12 these other investigators about the sensitive nature of
13 this case?

14 A. They knew it was a rape case.

15 Q. Not my question. Did you talk to these other
16 officers about the sensitive nature of the case?

17 A. We don't have a sensitivity scale where we
18 rate them.

19 Q. Well, let me put it this way so that you
20 understand it.

21 A. Thank you.

22 Q. Did you talk to them about the fact that this
23 case involved the son of a prosecutor?

24 A. If I didn't specifically talk about it or
25 bring it up, it was because they already knew.

1 Q. Well, I'm just asking you if you talked to
2 them about the sensitivity of the case because it
3 involved a prosecutor's son?

4 A. I may or may not have.

5 Q. So you're not saying you didn't, you're
6 saying you don't have a present recollection; is that
7 correct?

8 A. That is correct.

9 Q. Why would that be significant?

10 MR. COX: Objection. Assumes facts in
11 evidence. She didn't say it was significant.

12 MR. PLEBAN: Well, there is no evidence yet.
13 This is a discovery deposition.

14 But go ahead.

15 BY MR. PLEBAN:

16 Q. Why would that be significant? Who cares who
17 he is?

18 A. Are you asking me?

19 Q. Yeah. I'm asking you. Why would it be
20 significant to talk to them -- the other
21 co-investigators about this is the kid of a prosecutor?

22 MR. COX: Again, it mischaracterizes her
23 testimony. She didn't say it was significant.

24 BY MR. PLEBAN:

25 Q. What does that -- what does that matter?

1 What does that matter? Go ahead, you can answer.

2 A. That was just relevant. That's just part of
3 the case.

4 Q. Well, the fact that he is the son of a
5 prosecutor is part of the case? All right. How?

6 A. Sir, the special investigations that we get
7 or that they receive in DDCC oftentimes include family
8 members.

9 Q. Tell me how in this case it was significant
10 that this young man was --

11 A. I've already told you the significance.

12 Q. Wait. Let me -- hold it. Hold it. Let me
13 finish.

14 A. Yes, sir.

15 Q. That a rape suspect, okay -- is the son of a
16 prosecutor. Tell me how that's significant.

17 A. It was significant to the family. I've
18 answered your question. It held no --

19 Q. No investigatory significance, did it?

20 A. It was a case, it was an open lead, and it
21 was significant to the family, therefore, it was
22 significant to me.

23 Q. Okay.

24 A. It's not the first time I've investigated a
25 relative of a police officer or of a prosecutor. I'm

1 probably sure it won't be the last time.

2 Q. Who -- who was the last relative of a
3 prosecutor that you investigated?

4 A. Not even going to go there. That is not even
5 relevant to any of these cases.

6 Q. Well, you just -- you just raised it, ma'am,
7 and now -- now, I'm asking --

8 A. Of a -- not of a prosecutor. I said of a
9 police officer.

10 Q. No. You said prosecutor, but now are you
11 withdrawing that?

12 A. Did I say prosecutor or police officer?

13 MR. COX: I heard you say police officer.

14 BY MR. PLEBAN:

15 Q. You said prosecutor.

16 A. I said police officer.

17 MR. COX: I heard police officer.

18 THE COURT REPORTER: She said prosecutor and
19 police officer.

20 BY MR. PLEBAN:

21 Q. You said prosecutor, as well.

22 A. Police officers. Police officers.

23 Q. Okay. Now, are you -- are you saying you
24 didn't -- you've never investigated the relative of a
25 prosecutor?

1 A. I will say that I've never investigated the
2 relative of a prosecutor. There have been children
3 present at other cases, at other situations.

4 Q. You what? I didn't hear you.

5 A. I do -- I'm a police officer. I've been on
6 this Lake assigned doing investigative work and doing
7 criminal work for many, many years. So, yes, there are
8 times when family members of people -- of attorneys, of
9 judges, of lawyers, of prosecutors, of police officers
10 that are involved or around or at the situation or at
11 the scene. That -- that happens. That's part of what
12 we do. That's part of the investigative work we do.

13 Q. So have you -- so my question is, and I
14 thought you answered it, maybe you didn't; you have
15 never investigated an accusation of rape made against
16 the relative of a prosecutor -- allegation of rape --

17 A. Absolutely --

18 Q. -- not that they were around, but an
19 allegation of rape?

20 A. I have absolutely never investigated an
21 allegation of rape against the child of a prosecutor.

22 MR. COX: And so the record is clear, apart
23 from the incident you already discussed, correct?

24 THE WITNESS: Correct.

25 MR. PLEBAN: Apart from Grellner, you're

1 talking about?

2 MR. COX: Right. Yeah.

3 MR. PLEBAN: Oh, sure.

4 MR. COX: Yeah.

5 BY MR. PLEBAN:

6 Q. Now, was -- was Eric Stacks a senior
7 investigator at DDCC at the time that you did the
8 Grellner investigation?

9 A. I'm not sure what you mean by senior
10 investigators?

11 Q. Well, he wasn't a rookie, right? Had he been
12 at the DDCC for a long period of time prior to the time
13 that you investigated Grellner?

14 A. I don't believe so, no.

15 Q. Do you know how long he had been there?

16 A. I think he had just been there a few years.

17 Q. Okay. Did you know Stacks before you went to
18 DDCC?

19 A. I knew who he was. I was familiar by name.

20 Q. By name. You didn't know him then?

21 A. Correct.

22 Q. So you met him for the first time when you
23 had went to DDCC?

24 A. No. I had met him and seen him. He was
25 assigned down here as a trooper, so I knew who he was.

1 Q. Okay. And did Stacks give you any -- any
2 advice as to the sensitivity of the fact that you were
3 investigating the kid of a prosecutor?

4 A. He may or may not have.

5 Q. Uh-huh.

6 A. I'm not trying to play games. I just -- I
7 don't know.

8 Q. Now, apparently, when you were interviewed by
9 Professional Standards regarding Randy Henry, there was
10 some confusion at the time of that interview as to what
11 your zone was?

12 A. Correct.

13 Q. And you were in Zone 16 with Randy; is
14 that --

15 A. Yes, sir.

16 Q. -- is that correct?

17 A. Yes, sir.

18 Q. Okay. And if you weren't in his zone at the
19 time of your investigation of the Grellner kid, would
20 there be any reason to discuss that case with him?

21 A. The same reason that -- at the time of the
22 investigation or right now?

23 Q. Yes. Yes. No. No. No. At the time of the
24 investigation, at the time this was going on?

25 A. The same thing that we already talked about,

1 that you just share information and bounce ideas off of
2 each other. I wasn't assigned to DDCC, I was still
3 assigned -- and, actually, I was assigned to Zone 17 at
4 the time, so I was in Sergeant Daniels -- that's
5 another date that I didn't have clarity on when I went
6 to PSD.

7 MR. PLEBAN: Yeah. I know that. I forgot
8 about it.

9 THE WITNESS: I had been promoted on
10 January 1st of 2013.

11 MR. PLEBAN: Right. Right.

12 THE WITNESS: So this case would have been
13 right after I switched zones.

14 MR. PLEBAN: Right. Yeah, I know.

15 (MOSHER DEPOSITION EXHIBIT A WAS MARKED FOR
16 IDENTIFICATION BY THE COURT REPORTER.)

17 BY MR. PLEBAN:

18 Q. Let me hand you what's been marked as --

19 MR. PLEBAN: There you go, Ben -- as -- what
20 do we call that? What --

21 THE COURT REPORTER: Mosher Exhibit A is how
22 I marked it. Does that work okay?

23 MR. PLEBAN: That's right. Yeah. That's
24 fine. That's fine.

25 BY MR. PLEBAN:

1 Q. -- as Mosher Exhibit A, and ask you if you --
2 and take a look at that, okay, and tell me if you
3 recognize it.

4 A. No.

5 Q. No, what?

6 A. I don't recognize it.

7 Q. Look at the whole thing, not just the first
8 page, the whole document.

9 A. Well, if I don't recognize the first page,
10 then wouldn't that be it?

11 Q. No, I don't think so, but go ahead. We can
12 take a little break, and -- and take a look at it.

13 MR. PLEBAN: Let's -- let's take a break.
14 Let's take a ten-minute break or whatever you need
15 to -- to review that. Just let us know when you're
16 done, okay?

17 THE WITNESS: Yeah.

18 (A BREAK WAS TAKEN.)

19 BY MR. PLEBAN:

20 Q. Okay. Have you had, Corporal Mosher,
21 adequate opportunity to review Mosher Exhibit A that I
22 handed you?

23 A. Yes, sir.

24 Q. All right. And do you recognize that
25 document as the police report that you prepared in

1 connection with the Grellner matter that we've been
2 talking about, with the exception of the first page?

3 A. With the exception of the first page, yes.

4 Q. Okay. And -- and is that the thorough and
5 complete investigative report that you prepared in
6 connection with that matter that you've referenced
7 earlier?

8 A. I don't have any reason to believe that it's
9 not. It's been a couple years since I've looked at it.

10 Q. Sure.

11 A. And it comes back from Jeff City in a
12 different format than what we submit. I don't -- so
13 this would be the first time in this format with the
14 names removed. And -- I have no reason to believe
15 it's -- it's not complete.

16 Q. All right. When Schoeneberg interviewed you,
17 did he ever show you a copy of that report?

18 A. No, sir.

19 Q. Did you ever talk about that report with him
20 either on the record or off the record?

21 A. Yes, sir. I told him that I didn't have
22 access to it.

23 Q. Right. Did he ever call you back to -- to
24 say, here, we got the report?

25 A. No, sir.

1 Q. Here's the report? Never did that?

2 A. No, sir.

3 Q. Did he ever call you and say, hey, we got
4 your report, Corporal Mosher; can you come in and take
5 a look at it sometime?

6 A. Sir, I didn't have any further conversation
7 with him after the interview.

8 Q. So you just had one interview with him, that
9 was it?

10 A. Yes, sir.

11 Q. No follow-up by him?

12 A. Correct. Yes, sir.

13 Q. Okay. All right. According to the -- the
14 report -- no. You keep that. Page 2, because Page 1
15 is just -- is just a transmittal sheet, it appears,
16 correct -- from somebody to Schoeneberg on May 5th. Do
17 you see that?

18 A. Yes, sir.

19 Q. Okay. Along with some other documents that
20 we're not worried about at the moment.

21 But according to the report, Exhibit A there,
22 starting at the second page of Exhibit A, it indicates
23 that you got the assignment on February 25, 2013,
24 correct?

25 A. Yes, sir.

1 Q. Okay. Could you tell me how it is that you
2 prepared a report on May the 6th, 2012, for a report
3 that you got on February 25th -- or an assignment you
4 got on February 25, 2013? Do you understand my
5 question?

6 A. No, sir.

7 Q. According to that report that you have in
8 front of you, the report was prepared on March
9 the 6th, 2012. How can you do that if you got the
10 assignment on February 25th of 2013, almost a year
11 later?

12 A. All right. Ask the question one more time,
13 because I'm still not -- I prepared the report in
14 March of 2013.

15 Q. Okay. Look in the upper right-hand column.

16 A. That's when it happened.

17 Q. February -- March the 6th of 2012?

18 A. Correct.

19 Q. Okay.

20 A. That's when the -- the incident occurred.

21 The Highway Patrol did not get the report --

22 Q. But this says report date.

23 A. My report was submitted February 25, 2013, is
24 when I started my details of the investigation.

25 Q. No. No. I understand that. Why does the

1 upper right-hand column of a document that you prepared
2 say, report date and it says March the 6th, 2012?

3 That's all I'm interested in at the moment.

4 A. I don't know why it would say that report
5 date.

6 Q. Well, you prepared it, didn't you?

7 A. No, sir. I --

8 Q. You didn't put that date in there?

9 A. This is a different format than what we turn
10 in.

11 Q. So somebody else had a hand in amending this
12 report?

13 A. Sir, you're well aware that our reports are
14 transcribed into a different format when they -- from
15 what we submit.

16 Q. Well, no, I'm not -- I'm not well aware of
17 that.

18 A. If March -- if March 6, 2012 -- it says
19 report date, March 6, 2012. I conducted my
20 investigation in February and March of 2013.

21 Q. My question is, who would have written
22 March 6, 2012, as the report date? Who would have done
23 that?

24 A. Could have been me.

25 Q. Could have been you?

1 A. Could have been. And if it was me, it would
2 have been a mistake.

3 Q. And why would you have done that? A mistake.
4 All right. Okay. Tell me who Amber Grellner is.

5 A. Amber Grellner?

6 Q. Yes.

7 A. I'm not familiar with that name.

8 Q. Well, take a look at Page 4 of your report,
9 Subparagraph 6. You reference an Amber Grellner.

10 A. That was a typographical error. That should
11 have been Amanda Grellner.

12 Q. So that's a -- that's another mistake, right?
13 Right?

14 A. That is my mistake.

15 Q. Now, look at -- at the last page -- let me
16 see. Page 1, 2, 3, 4, 5, 6 -- Page 7 of the report.
17 Yes. That one. Uh-huh. There's no date on -- on when
18 you submitted this, is there?

19 A. Not on this page, no.

20 Q. Well, is there a date anywhere where you
21 submitted it?

22 A. The -- they're submitted electronically, so
23 the submission date would have been on my e-mail when I
24 submitted the date. That's the date of the submission
25 on the report.

1 Q. You say --

2 A. I actually pulled up the -- as I explained
3 prior to you asking me what I did before to prepare.

4 Q. Uh-huh.

5 A. So I searched through my sent e-mail and I
6 submitted the report on March 7, 2013.

7 Q. Okay.

8 A. So that's the date that the report was
9 submitted.

10 Q. Okay. Now, according to the -- the last page
11 here, Page 7.

12 A. Not the --

13 Q. No. No. No. I'm sorry. Page -- go to
14 Page 7.

15 A. This one? It's the one we were just on?

16 Q. Yeah. Uh-huh. Right.

17 A. Okay.

18 Q. The one we were just talking about. And it
19 says, Corporal Stacey L. Mosher, 951. Is that your DSN
20 or what?

21 A. It is.

22 Q. Okay. And it says Troop F, Zone 17, right?

23 A. Yes, sir.

24 Q. Okay. So we know that you were in Zone 17,
25 not Zone 16 at the time that you at least submitted

1 this report?

2 A. Yes, sir.

3 Q. On or after February 25, 2013?

4 A. Yes, sir.

5 Q. All right. And that's what you didn't know
6 at the time that you interviewed with Schoeneberg,
7 correct?

8 A. Correct.

9 Q. And he never followed up with that, correct?

10 A. Correct.

11 Q. All right. And so you wouldn't have been
12 under the supervisory authority of Randy Henry on
13 February 25, 2013, when you were assigned this case,
14 correct?

15 A. Not in my immediate chain, no.

16 Q. Well, what chain would he have been in then?

17 A. The Water -- when you say supervisory chain,
18 my reports were submitted through Sergeant Chris
19 Daniels.

20 Q. Okay. So Randy Henry had nothing to do with
21 Zone 17, correct?

22 A. That's untrue.

23 Q. What did he have to do with Zone 17?

24 A. The way the Water has always worked, whatever
25 supervisor is on supervises whomever is on regardless

1 of what zone assignment you're in.

2 Q. Okay. So would you agree that when you were
3 conducting this investigation of the Grellner kid,
4 Randy Henry wasn't your supervisor, correct?

5 A. Correct.

6 Q. Okay. So what reason would you have had to
7 talk to Randy Henry about Garrett Grellner and your
8 investigation of Garrett Grellner?

9 A. The same reason that I would discuss it with
10 the guys up at DDCC who also were not my supervisors at
11 the time.

12 Q. Well, so -- well, but they were --

13 A. Just to bounce the investigation, to let them
14 know where I'm going to be, to let them know where
15 I'm -- we shared a zone office.

16 Q. But Randy Henry wasn't a criminal
17 investigator assigned to DDCC, was he?

18 A. No, sir.

19 Q. Randy Henry was on the Water, right?

20 A. In March?

21 Q. Well, in February of 2013, he was assigned to
22 the Water Patrol, correct?

23 A. Of 2013?

24 Q. Yes. February of 2013, when you were
25 assigned to Zone 17?

1 A. Yes.

2 Q. Okay. Okay. He had nothing to do with
3 criminal investigations, did he?

4 A. I won't say nothing to do.

5 Q. Well, what -- what ideas or what
6 conversation -

7 A. Why do you think that being in the Water
8 Patrol --

9 Q. Let me ask you this. Let me ask the question
10 first. What conversation do you recall having with
11 Randy Henry about Grellner?

12 A. I don't recall having any conversations with
13 him about Grellner.

14 Q. All right.

15 A. In March or February of 2013. Do you think
16 that we not do any criminal work assigned to the Water
17 Patrol?

18 Q. Why don't you let me ask the questions and
19 you give me the answers? It works -- it works a whole
20 lot better that way, believe me.

21 A. Well, you asked -- you specifically asked
22 what would a supervisor have to do with criminal work
23 assigned to the Water Patrol. You asked that question.

24 Q. Right. And did you answer it?

25 A. We work criminal investigations on the Water

1 Patrol.

2 Q. Okay. So there's your answer.

3 A. Okay.

4 Q. Okay. Now, this says -- your police report
5 here says that you met with Mueller; do you see that?

6 A. Yes, sir.

7 Q. But you're telling me you didn't meet with
8 him, you had a phone conversation with him?

9 A. No, sir. I said I went to Troop F and got
10 the case file.

11 Q. You actually had a sit-down with him?

12 A. Yes, sir.

13 Q. Okay. And he briefed you on a request by the
14 Osage County Sheriff's Department office and advised
15 that Dixon had requested the Highway Patrol review and
16 possibly resume an investigation initiated by his
17 office's prior administration; is that correct?

18 A. Yes, sir.

19 Q Is that what Mueller told you?

20 A. Yes, sir.

21 Q. What else did he tell you?

22 A. Sir, I don't remember everything we talked
23 about that day.

24 Q. Well, did he tell you at that point in time
25 when you had the sit-down with him that this

1 investigation involved the kid of a prosecutor?

2 A. I don't remember.

3 Q. Okay.

4 A. I can't -- I mean, I can answer the same
5 question a million times. I don't remember exactly if
6 that was in the information, if that information was in
7 a phone call, if that information was face-to-face.
8 That information was absolutely relayed to me, the
9 nature of the investigation, where it came from, and
10 who the suspects were.

11 Q. And you finally got a file on this from the
12 Osage County Sheriff's Department, correct?

13 A. I got the file from Sergeant Mueller.

14 Q. And how did he get it; do you know?

15 A. He told me that he got it from the sheriff.

16 Q. Which sheriff?

17 A. The old sheriff.

18 Q. The old sheriff. And -- and, actually, the
19 file on Garrett Grellner and this young rape victim
20 wasn't even in the sheriff's office, was it -- of Osage
21 County?

22 A. That was my understanding.

23 Q. Yes. And, well, that's what you put in the
24 report, wasn't it?

25 A. That's why I put it in the report.

1 Q. And so how -- ultimately, where -- where was
2 it, do you know?

3 A. Just what Kurt had told me, that the old
4 sheriff had the file.

5 Q. Well, what did your investigation reveal
6 where it was?

7 A. I didn't investigate where the file was.

8 Q. Why not?

9 A. I took the contents of the file and went to
10 the investigator who created the documents to confirm
11 that that was his file?

12 Q. Well, but the investigator, that was
13 Detective Wolfe?

14 A. Yes, sir.

15 Q. That investigator quit the Osage County
16 Sheriff's Department right after this incident, didn't
17 he?

18 A. Yes, sir.

19 Q. Okay. And so what did you do to satisfy
20 yourself that you had the entire file of the Osage
21 County Sheriff's Department?

22 A. I didn't have the entire file. The
23 investigator said there were some things that were
24 missing.

25 Q. What did you do to secure the entire file

1 from the Osage County Sheriff's Department?

2 A. It was my understanding from Sergeant Mueller
3 that what he had given me was all that existed.

4 Q. What did you do -- you --

5 A. I trusted my --

6 Q. Let -- let me finish.

7 A. I'm answering your question.

8 Q. Please let me -- please let me finish my
9 question.

10 What did you do as the investigator assigned
11 to this case to satisfy yourself that you got the
12 entire file from the Osage County Sheriff's Department?

13 A. I trusted my sergeant who handed me the file
14 and said, this is the entire file. That's what I did.

15 Q. So you did nothing. You did nothing beyond
16 that, did you?

17 A. I did not follow up back more than what
18 Sergeant Mueller had told me that this is the file.

19 Q. And you had learned that actually it was the
20 old sheriff, who was no longer the sheriff, had the
21 file at his home, right?

22 A. He had the file. I'm not sure where he had
23 the file. The information -- Kurt Mueller gave me the
24 file and said that he had had the copy of the file,
25 that he got it from the previous administrator, that

1 the current sheriff couldn't find any documents at the
2 sheriff's office that related to this investigation.

3 Q. And did -- this would have been Sheriff --
4 the old sheriff, Fowler?

5 A. That had it?

6 Q. The old sheriff, prior to -- the new sheriff
7 was Sheriff Dixon, correct?

8 A. Yes, sir.

9 Q. Okay. He's the one that's having current
10 problems out there, right?

11 MR. COX: Objection. Relevance.

12 BY MR. PLEBAN:

13 Q. Do you know whether or not he's having
14 current difficulties out there?

15 A. I don't know if he's having current
16 difficulties.

17 Q. Fowler was the old sheriff, correct?

18 A. Yes, sir.

19 Q. Okay. And do you know the old sheriff,
20 Fowler?

21 A. No, sir.

22 Q. Did you ever talk to the old sheriff, Fowler?

23 A. No, sir.

24 Q. So you made no inquiry of him as to
25 whether -- what he had by way of a file in this rape

1 case where you were attempting to satisfy the victim's
2 family? You made no effort to find out what he had?

3 A. I did not --

4 Q. Okay.

5 A. -- because Sergeant Mueller had already done
6 that.

7 Q. And did you make any effort to find out why
8 that was missing from the sheriff's department?

9 A. Sergeant Mueller had already done that.

10 Q. And what -- what, specific, had Mueller done?

11 A. I don't know. You would have to ask Sergeant
12 Mueller.

13 Q. Well, why didn't you ask him?

14 A. Because he's a sergeant over DDCC --

15 Q. Well, you were getting the file though.

16 A. -- and when he hands me the file and says,
17 this is all there is, then I trust that that's what was
18 there.

19 Q. Oh, he said to you, this is all there is?

20 A. This is it. This is what the sheriff had.

21 Q. Well, wait a minute. Did he tell you, this
22 is all there is or this is what the sheriff gave him?
23 Do you -- do you find this humorous?

24 A. This is -- I don't find it humorous, sir. He
25 gave me what he had.

1 Q. Did you -- you made a statement --

2 A. He gave me what he had available.

3 Q. Ma'am, you made a statement. You made a
4 statement that Mueller says, this is all there is. Did
5 he say that, or did he --

6 A. I do not remember him saying that.

7 Q. Okay.

8 A. I misspoke.

9 Q. Yeah. Now, by the way, you said that the --
10 the date of the incident, the rape, was on March
11 the 6th, 2012, and --

12 A. No, sir. It was in May of 2012.

13 Q. Yeah. It was May the 5th to the 6th of 2012,
14 correct?

15 A. Yes. It was in May.

16 Q. All right.

17 A. I'm not sure where the 3-6-12 came from.

18 Q. Okay. So you get this file almost ten months
19 later, right?

20 A. Yes, sir.

21 Q. Okay. And did you ever ask, how come I'm
22 getting a file ten months later? What happened -- why?

23 A. That was explained when they gave me the
24 file.

25 Q. What -- what was explained; why you're

1 getting a file ten months later?

2 A. Many times, DDCC gets cases that counties
3 have taken -- are unable to close.

4 Q. Well, I didn't ask you that. I asked you
5 what was --

6 A. That's why.

7 Q. -- explained to you in this case as to why
8 you're getting a file ten months -- almost ten months
9 after the rape?

10 A. Because that's when they -- Sergeant Mueller
11 got it from -- he got the request.

12 Q. Well, I understand. I got all that. I'm
13 asking you, did you think it was just a bit odd that
14 all of a sudden now there's a rape case and you're
15 getting -- you're getting a file to investigate ten
16 months after the investigation is completed?

17 A. No, sir.

18 Q. You didn't think that was odd?

19 A. No, sir.

20 Q. And you didn't question it?

21 A. No, sir.

22 Q. Okay. Now, can you show me in that report
23 that you prepared, this thorough and complete report,
24 where you interviewed the victim? Take a look. Take a
25 good look.

1 A. No, I -- that -- I didn't interview the
2 victim.

3 Q. You didn't interview the victim?

4 A. No.

5 Q. Why not?

6 A. That interview, that information was from
7 the -- the MU and --

8 Q. What information are you talking about?

9 A. The Osage County Sheriff's report. I don't
10 have access -- I don't have their report that they gave
11 to me.

12 Q. Show me in your report where you reference
13 any statement of the victim. Take your time.

14 A. This report was a supplement to the --

15 Q. Show me in your report, ma'am.

16 A. There isn't one. I just said I didn't
17 interview --

18 Q. Let me finish my question, please. Show me
19 in your report where you referenced any -- any
20 statement from the victim whose family you are
21 attempting to satisfy here?

22 A. When I stated that I didn't interview the
23 victim, it should follow that there would be no
24 interview report in my report.

25 Q. So what did the victim say?

1 A. I don't have access to that report right now.

2 Q. Well --

3 A. That's the Osage County report.

4 Q. So when you look at your report, you cannot
5 tell me one thing that that victim said, can you?

6 A. Not from memory, no.

7 Q. And why didn't you incorporate, assuming that
8 there is even a statement in the sheriff's report as
9 to -- as to a statement from the victim, why didn't you
10 incorporate that statement into your report?

11 A. I can't answer that question.

12 Q. Well, you prepared the report, correct?

13 A. Yes, sir.

14 Q. Who can answer the question then?

15 A. I don't know why I didn't incorporate it.

16 Q. Did Schoeneberg ever ask you that question?

17 A. No, sir.

18 Q. No. Can you show me in your report where you
19 even make a reference that there is such a statement in
20 the Osage County Sheriff's report?

21 A. No, sir.

22 Q. Is that because it's not there?

23 A. Sir, I didn't redo the work that they had
24 already done.

25 Q. Sir -- ma'am, I'm asking you, you reference a

1 whole variety of things that you got from -- from -- on
2 Page 2 and 3 and 4 and on and on. You reference things
3 that you got from the Osage County Sheriff's
4 Department, correct?

5 A. Correct.

6 Q. Show me in there where you even reference
7 that they took a statement from her?

8 A. I didn't reference where they took a
9 statement from her.

10 Q. Is that because they never did?

11 A. I know I remember reading the Osage County
12 report.

13 Q. Is that because they never did?

14 A. I don't have the answer to that question.

15 Q. Well, then who does, since you're the
16 investigator on this; who does?

17 A. The Osage County Sheriff's office.

18 Q. How can you -- how can you do a criminal
19 investigation and not reference a statement from the
20 victim or yourself take a statement from the victim?

21 A. Because this is a supplement to an existing
22 county's report. They had already started a report.
23 They had already done a report

24 Q. Uh-huh. Well, you told -- you were quick to
25 tell Schoeneberg that the description of the suspect

1 didn't match Grellner, right?

2 A. Correct.

3 Q. All right. Where did you get that?

4 A. From the Osage County report.

5 Q. From whom? Who told you that?

6 A. The Osage County report.

7 Q. Well, who -- who -- what reference is there
8 in the Osage County Sheriff's report that -- that --
9 that gave that description? Who said -- who gave the
10 description of Grellner?

11 A. I don't know.

12 Q. Well, then how can you say that the
13 description didn't match the suspect of Grellner when
14 you don't even know what that was?

15 A. Because I gave that report back to Osage
16 County.

17 Q. Why isn't it referenced in there? Show me in
18 there --

19 A. Because this report was a supplement to their
20 report.

21 Q. Wait a minute. You told me earlier that you
22 were conducting an investigation, not to -- not to
23 exonerate the Grellner kid, but to find out the truth,
24 right?

25 A. Yes, sir.

1 Q. Of who all raped that little girl, correct?

2 A. Yes, sir.

3 Q. Okay. Now, but it sounds to me like you were
4 doing it to exonerate Grellner?

5 A. No, sir.

6 Q. No. Well, then explain to me why you can't
7 tell me today, and there is no reference in this
8 thorough and complete investigative report that you
9 did, why there is not one single mention of who
10 described the suspect?

11 A. Because this report was a supplement to the
12 investigation already conducted by the Osage County
13 Sheriff's office.

14 Q. You told Internal Affairs, "The son of the
15 prosecutor was identified by a friend of a friend as a
16 possible suspect." Do you remember saying that?

17 A. Yes, sir.

18 Q. Okay. Who is that?

19 A. I don't remember. I don't have access to
20 that report.

21 Q. Okay. But where is it in your report?

22 A. That's in the Osage County report.

23 Q. Where is it in your report?

24 A. It is not in my report. It's a supplement to
25 the --

1 Q. Well, then how is it that you recall it after
2 two years -- year and a half?

3 A. I remember the basics of the --

4 Q. How is it that you recall it?

5 A. I just remember the basics of the
6 investigation.

7 Q. So you remember the -- the basics of the
8 investigation, that a friend of a friend was the one
9 who identified the possible suspect, referring to
10 Grellner, correct?

11 A. To the mother, yes.

12 Q. Okay. And -- and you have no clue as -- as
13 we're sitting here, who this friend of a friend is?

14 A. No, sir. He's in the Osage County report.

15 Q. But you -- but you recollected it to tell
16 Schoeneberg that, right?

17 A. I can remember that it was said, I don't
18 remember who said it.

19 Q. Huh. What -- what description do you believe
20 that somebody gave that didn't match Grellner?

21 A. I don't remember the exact physical
22 description. I remember that it didn't fit his body
23 size or his height.

24 Q. Well, that's pretty conclusory. What is it,
25 specifically, that you put in your report then that

1 didn't match Grellner?

2 A. His physical descriptors.

3 Q. What is -- show me in your report what it is
4 that you said didn't match. Show me in the report.

5 A. I don't have that information.

6 Q. No, you have it in front of you. See, that's
7 your report.

8 A. Right.

9 Q. Okay. So are you telling me it's not there?

10 A. Yes, sir.

11 Q. So this is another one of those things that
12 you recollect --

13 A. Yes, sir. From the Osage County --

14 Q. -- that the description didn't match?

15 A. Yes, sir. From the Osage County --

16 Q. But you can't -- as we sit here today, you
17 can't tell me how it didn't match, right?

18 A. From the Osage County report.

19 Q. As we sit here today, you can't tell me how
20 it didn't match?

21 A. Correct.

22 MR. COX: Objection. Answered -- asked and
23 answered.

24 BY MR. PLEBAN:

25 Q. Is that correct, ma'am?

1 A. Yes.

2 Q. Okay.

3 A. The height, weight, and body size were
4 different.

5 Q. How?

6 A. Different.

7 Q. How? How were they different?

8 A. They were different. I can't explain any
9 better.

10 Q. I heard that.

11 A. I know. And I heard your question how, and I
12 can't answer your question any more than that.

13 Q. So just tell me -- okay. Then just tell me
14 you can't. And then just tell me you can't, so that's
15 all we need.

16 A. I did.

17 Q. Okay. All right. So when you said that
18 the -- a friend of a friend -- when you told
19 Schoeneberg that a friend of a friend identified the
20 Grellner kid as a possible suspect, does that mean that
21 someone else in addition to the victim identified
22 Grellner? Do you understand my question?

23 A. Yes, sir.

24 Q. Okay. Can you answer it?

25 A. Yes, sir.

1 Q. Go ahead.

2 A. The mother said that one of her friends had
3 identified Grellner as a suspect. That was from the
4 mom -- from the victim's mom.

5 Q. So let me get this. So the victim's mother
6 told you that one of Grellner's friends --

7 A. No, sir.

8 Q. I'm sorry. I misunderstand.

9 A. One of the victim's friends.

10 Q. One of the victim's friends told you that
11 Grellner -- or identified Grellner as a suspect?

12 A. Told the mom.

13 Q. Told the mom. Okay. And, surely, you
14 interviewed that person? Surely, you interviewed that
15 person?

16 A. I believe that if I didn't put it in here,
17 then I'm not -- I'm not sure if I had a conversation
18 with her or not. I did collect -- there were already
19 written statements. The Osage County report had
20 written statements in it and it had --

21 Q. You just told me -- you just told me that the
22 mother gave you this information --

23 A. The mom, right.

24 Q. -- about a friend of a friend. Okay? And
25 you're telling me that in this thorough and complete

1 investigation, you didn't bother to interview that
2 individual to track that down?

3 A. I don't remember what I did.

4 Q. Well, why don't you use your report to
5 refresh your recollection?

6 A. It's not in there.

7 Q. Yeah. When did the mother tell you that the
8 friend of a friend identified the Grellner kid as a
9 suspect?

10 A. When we started the investigation.

11 Q. So you had a conversation with -- with the
12 mom when you first started the investigation?

13 A. Yes.

14 Q. Where is that in your report?

15 A. I met with Amy Frank and her husband,
16 Allen J. Frank that day.

17 Q. Okay. That day is February what?

18 A. Twenty-fifth.

19 Q. Twenty-fifth, the very day that you got it,
20 correct?

21 A. The day that I got it.

22 Q. Okay. And --

23 A. I believe they came up and drove to DDCC that
24 night after they got off work.

25 Q. They didn't prevent you from interviewing

1 their daughter, did they?

2 A. No. No, sir.

3 Q. Did you -- well, were you asking them
4 questions about what their daughter -- what had
5 happened to their daughter?

6 A. Sir, I don't recall exactly what the
7 conversation was.

8 Q. Well, why did you meet with them in the first
9 place then?

10 A. To understand what their concerns were about
11 the investigation.

12 Q. And you hadn't --

13 A. To get information.

14 Q. And Mueller didn't tell you what those
15 concerns were?

16 A. Yes, sir.

17 Q. Okay. So you knew what the concerns were.
18 The concerns were that you had the Grellner kid, the
19 son of a prosecutor, who was a suspect in a rape case
20 and they thought there was a cover-up, right?

21 A. Yes, sir.

22 Q. You knew that. So what's the point in
23 meeting with them; why did you have to meet with the
24 family, you already knew that?

25 A. That's part of what you do on an

1 investigation. You meet with the family.

2 Q. Well, part of what you do in an investigation
3 is also interview the victim, too, correct? And you
4 didn't do that, right?

5 A. I didn't conduct a forensic -- I'm sorry.

6 Q. Yeah. So -- so what was the significance of
7 not only did you not interview the victim, but you
8 decided to meet with the family?

9 A. The family wanted to meet with us.

10 Q. So it was at their request?

11 A. I called and asked if they would meet
12 with me.

13 Q. That was my point. Why would you -- why
14 would you -- you already knew that they were
15 dissatisfied because -- because the son of a
16 politician, the son of a prosecutor is being accused of
17 rape and they thought there was a cover-up. You knew
18 that, right?

19 A. Yes, sir.

20 Q. Okay. So what -- what was the point in
21 meeting with them? Were you going to get any
22 substantive information from them?

23 A. Didn't know what I was going to get from
24 them.

25 Q. Well, did you ask them about any substantive

1 information?

2 A. I asked for their -- they provided copies of
3 their notes and copies of what they -- the phone calls
4 and the dates and the times and the documents where
5 they were trying to make contact.

6 Q. They were trying to make contact with whom?

7 A. Law enforcement.

8 Q. I see. So with the attorney general, as
9 well, right?

10 A. There were -- yes, sir. They met with --
11 they had called -- they -- Amy, the mom, had an
12 extensive list of times and dates that she had
13 attempted contact.

14 Q. Okay. Tell me how that's substantive to your
15 investigation of who raped this young girl.

16 A. Once again, it was substantive to the family.
17 It was important to her. She wanted me to know.

18 Q. Okay. You -- you never -- well, let me ask
19 it this way. We know that you never asked the victim
20 what type of sexual assault occurred, correct? You
21 never did, right -- because you never interviewed the
22 victim, right?

23 A. Correct.

24 Q. Okay. So what was your understanding when
25 you conducted this thorough and complete investigation

1 of what type of sexual assault occurred to her -- this
2 young lady?

3 A. What was my understanding of what type?

4 Q. Yeah.

5 A. A rape.

6 Q. Okay. Well, was it oral? Was it vaginal?

7 A. No. That would be sodomy.

8 Q. Was it -- was it digital? Was it what? It
9 wasn't sodomy?

10 A. The -- it was reported from the MU Clinics in
11 the -- on the investigation with Osage that it was
12 rape.

13 Q. Well, do you know whether --

14 A. And rape is penile to vaginal area --

15 Q. Okay.

16 A. -- penetration of the labia by a penis.

17 Anytime there's digital or oral involved, then the
18 crime is sodomy. So it was handed to me as a rape, so,
19 once again, as supplementing their investigation, which
20 had already occurred --

21 Q. Okay.

22 A. -- and I didn't go into detail on what body
23 parts touched what.

24 Q. Right. And so I'm interested in what your
25 understanding was, however you got that understanding,

1 of what the victim was saying as to the type of sexual
2 assault this was?

3 A. Rape.

4 Q. And how did you get that understanding?

5 A. I don't remember how I got that exactly.

6 Q. And was it intercourse?

7 A. Rape is simply --

8 Q. Just intercourse?

9 MR. COX: Objection. Vague, asked and
10 answered.

11 MR. PLEBAN: Okay.

12 BY MR. PLEBAN:

13 Q. Was there -- was it your understanding that
14 there was an ejaculation?

15 A. Well, they had already developed a semen --

16 Q. From the victim, I'm talking about? See,
17 here's what I'm trying to figure out. I'm trying to
18 figure out what it is that you -- forgetting the rape
19 test kit. Okay? I'm trying to figure out what it is
20 that you understood the victim to be claiming. Okay?
21 Whether -- and -- and -- and it could be, so that I can
22 make myself very clear, it could be intercourse, it
23 could be ejaculation, it could be oral sex, it could be
24 digital penetration, it could be fondling, you know.
25 It could be a whole variety of sexual assaultive-type

1 behavior. So now I'm trying to figure out what you
2 understood this victim was saying.

3 MR. COX: Objection. Asked and answered.
4 She's already testified to this point.

5 THE WITNESS: Rape.

6 BY MR. PLEBAN:

7 Q. Go ahead. And from whom did you get that
8 understanding?

9 A. From the case file and from the MU Clinic.

10 Q. From the case file, referring to the Osage
11 County Sheriff's Department?

12 A. Yes, sir.

13 Q. Did your investigation ever reveal what, if
14 any, type of role Garrett Grellner had in that rape?
15 Do you understand my question?

16 A. I didn't determine that he had any role in
17 the rape.

18 Q. So you ruled him out as to any role
19 whatsoever in the rape of this young lady?

20 A. Yes, sir.

21 Q. Did you rule him out, ma'am, as an aider and
22 abettor, or a person who acted with another?

23 A. The elimination was based on the DNA, so the
24 sperm.

25 Q. So did you rule him out as an aider and

1 abettor or an acting -- a person who acted with
2 another?

3 A. No, sir.

4 Q. You understand that that's a felony offense,
5 don't you?

6 A. Yes, sir.

7 Q. Okay. You understand that maybe he didn't
8 have intercourse, but if he participated in that rape
9 as an aider and abettor or an accessory before or after
10 the fact, he's guilty just as though he raped her; do
11 you understand that?

12 A. Yes, sir.

13 Q. As a criminal investigator?

14 A. Yes, sir.

15 Q. Tell me what you did to rule him out in that
16 context?

17 A. Just his --

18 Q. Just his DNA, right?

19 A. His DNA.

20 Q. Yeah. Well, how does that rule him out as an
21 aider and abettor or an accessorial liability in this
22 case? Explain that to me, will you?

23 A. Doesn't.

24 Q. It doesn't, right? Right?

25 A. That's what I said.

1 Q. I didn't hear you. I'm sorry. You said it
2 does not?

3 A. I did say that it doesn't.

4 Q. Okay. So DNA doesn't completely exonerate
5 Garrett Grellner in this rape of this young girl; would
6 you agree with that statement?

7 A. Yes, sir.

8 MR. COX: Objection. Misstates the evidence.
9 There's no allegation of aiding and abetting by Garrett
10 Grellner.

11 BY MR. PLEBAN:

12 Q. And your answer is? Your answer was, yes,
13 sir?

14 A. It doesn't rule out anybody that was there.
15 DNA doesn't rule out anybody for aiding or abetting.

16 Q. Well, I'm not asking about anybody. I'm
17 asking you, does DNA rule out Garrett Grellner as a
18 felony participant in the rape of this young girl?

19 A. It does not rule him out or anyone else out
20 as a participant.

21 Q. All right. Right. What was the relationship
22 between Sheriff Fowler and the prosecutor, Amanda
23 Grellner?

24 A. I don't know.

25 Q. Why not?

1 A. I have no reason to know. I don't work in
2 Osage County.

3 Q. I'm sorry?

4 A. I don't work in Osage County.

5 Q. Well, you were working in Osage County on
6 this case, weren't you? This was -- this --

7 A. I worked an Osage County case.

8 Q. Yeah.

9 A. Yes.

10 Q. That -- that came from Osage County, right?

11 A. Yes, sir.

12 Q. Okay. When Fowler was the sheriff, right?
13 And Grellner was the prosecutor?

14 A. He was the --

15 Q. Yeah. At the time on -- in May of 2012,
16 Fowler was the sheriff, right?

17 A. I -- yes.

18 Q. You didn't know that?

19 A. Yes. He was the sheriff.

20 Q. And Amanda Grellner was the prosecutor,
21 right?

22 A. I don't know that. I mean, it would be easy
23 to look up.

24 Q. You don't know whether or not Amanda Grellner
25 was the prosecutor in Osage County in May of 2012 when

1 her kid was a suspect in a rape case?

2 A. Yes.

3 Q. Yes, what?

4 A. Yes, she was the prosecutor.

5 Q. So you do know that?

6 A. Yes.

7 Q. All right. And so my question is, in
8 connection with this thorough and complete
9 investigation, what steps did you take to determine
10 what type of relationship Fowler had with Grellner?

11 A. I didn't.

12 Q. Didn't you think that was significant?

13 A. No, sir.

14 Q. Why not?

15 A. I don't know.

16 Q. You don't know why you didn't think it was
17 significant?

18 A. Correct.

19 Q. So Fowler is investigating a rape issue that
20 involves the prosecutor's kid, right?

21 A. Yes, sir.

22 Q. And you don't think it's significant -- and
23 that ultimately, I guess, results in an exoneration of
24 the Grellner kid, right? His -- Fowler's
25 investigation; is that right?

1 A. The investigation -- ultimately, the
2 investigation that was started under his administration
3 led to an exoneration, yes.

4 Q. Yeah.

5 A. Elimination.

6 Q. Well, but he was exonerated while Fowler was
7 the sheriff, right?

8 A. I --

9 Q. You don't know that? You didn't learn that?

10 A. Well, obviously, there was no probable cause
11 statement and there was no -- presented. There was no
12 arrest, so I would say they failed to establish
13 probable cause that a crime had been committed by him.

14 Q. Okay. Based upon something that Fowler
15 investigated, right?

16 A. Correct.

17 Q. Okay. For his prosecutor in that
18 jurisdiction?

19 A. Correct. For the -- for the family,
20 actually.

21 Q. And you don't see -- for what?

22 A. For the family.

23 Q. Well, but the Grellner kid was a suspect,
24 right?

25 A. Yes, sir.

1 Q. Okay. And so you didn't think it was
2 significant to determine what, if any, relationship
3 existed between the guy that investigated the Grellner
4 kid as a rape suspect and his mother?

5 A. No, sir.

6 Q. You said that the Grellner kid had an alibi,
7 correct?

8 A. Yes, sir.

9 Q. You said bad description and the kid had an
10 alibi, right?

11 A. He was helping with the DJ -- helping the
12 band.

13 Q. What -- what was the alibi?

14 A. He was there working, helping the person who
15 was being the DJ.

16 Q. And that was his alibi?

17 A. Yes, sir.

18 Q. And you felt that was significant?

19 A. Yes, sir.

20 Q. And it was significant -- that, and the lack
21 of description were significant in an exoneration,
22 right?

23 A. Yes, sir.

24 Q. Okay. That alibi, you said that he was
25 working with -- with the DJ?

1 A. Yes, sir.

2 Q. Who was the DJ?

3 A. Don't know.

4 Q. What did the DJ say when you interviewed him?

5 A. Don't know.

6 Q. Don't know. Well, look in your report.

7 Let's have your report refresh your recollection. What

8 did the DJ say?

9 A. It's not in my report.

10 Q. So you said that the Grellner kid had an

11 alibi, but you didn't bother to check the alibi?

12 A. Sir, without the Osage County report, there's

13 a lot of information that I don't have access to.

14 Q. Did you personally check the alibi?

15 A. No, sir.

16 Q. The Osage County report was prepared by a

17 sheriff and you don't know what the relationship

18 between the sheriff and the prosecutor was that

19 exonerated the prosecutor's kid, do you?

20 A. Well, the -- the documents -- some of the

21 original documents were by an investigator.

22 Q. How can -- in the sheriff -- in Fowler's

23 office, right?

24 A. Yes, sir.

25 Q. That left immediately after the kid -- the

1 Grellner kid's name came up as a rape suspect; isn't
2 that what you learned?

3 A. Yes, sir. He left.

4 Q. Okay. And so you're going to rely on that
5 report?

6 A. Yes, sir.

7 Q. You're going to rely on a report that
8 exonerates the Grellner kid?

9 A. Yes, sir.

10 Q. Okay. So you don't interview the alibi. You
11 take -- but you do interview the Grellner kid, right?

12 A. He had a written statement.

13 Q. Is that the same as an interview?

14 A. No, sir.

15 Q. No. What's the difference?

16 A. One is verbal, one is written.

17 Q. Okay. Is one better than another in a -- in
18 your experience as a criminal investigator?

19 A. They both have their -- they both have their
20 benefits.

21 Q. Uh-huh. Well, did you take a statement
22 from -- you took a written statement from the Grellner
23 kid, right?

24 A. Yes, sir.

25 Q. And that's in your report?

1 A. Yes, sir.

2 Q. Can you turn to that? Have you got it?

3 A. Yes, sir.

4 Q. Okay. Now, I -- I -- the first thing I
5 notice is that it's a typewritten report, right?

6 A. Yes, sir.

7 Q. Did he type that in your presence?

8 A. No, sir.

9 Q. No. He brought it with him, right?

10 A. Yes, sir.

11 Q. Okay. Who prepared that report? Who
12 prepared his statement?

13 A. That's Garrett Grellner's statement that he
14 gave to me.

15 Q. Didn't ask you that. Who prepared the
16 statement?

17 A. I don't know who typed it. I don't know who
18 typed it. I wasn't there.

19 Q. Well, I didn't ask you who typed it. Who
20 prepared it? Who wrote it? Let me put it that way.
21 Who wrote the statement?

22 A. That's Garrett Grellner's statement. I
23 believe that that is Garrett Grellner's statement.

24 Q. I know that. Well, yes. It's a statement
25 that he adopted, right -- because his signature is on

1 there, right?

2 A. Yes, sir.

3 Q. Okay. Do you know if somebody else prepared
4 it for him?

5 A. No, sir.

6 Q. Do you know whether or not he had any
7 assistance in preparing that report?

8 A. I don't know, sir.

9 Q. Did you ever ask him?

10 A. No, sir.

11 Q. Why did you choose to -- to have a written
12 report that he brings with him when he meets with you
13 instead of a Q and A?

14 A. Just a decision I made.

15 Q. A what?

16 A. Just a decision that I made.

17 Q. Oh, I know that, but why did you make that
18 decision? Surely, you thought about it, didn't you?

19 A. Just did.

20 Q. Was there -- can you give us some reason as
21 to why you opted for the written statement versus a Q
22 and A?

23 A. No, sir.

24 Q. No. Matter of fact, you had him bring that
25 the day he gave you the buccal swab, right?

1 A. Yes, sir.

2 Q. All right. And, actually, isn't it true that
3 you didn't do a Q and A because all you were interested
4 in was exonerating this kid and you wanted a piece of
5 paper for the file to give his statement, right?

6 A. I wanted his statement and his DNA.

7 Q. Yeah. And you just wanted to put something
8 in the file because you were determined to exonerate
9 this kid; isn't that true?

10 MR. COX: Objection. Misstates her
11 testimony.

12 BY MR. PLEBAN:

13 Q. Isn't that true? Isn't that why you did
14 this?

15 A. My intent was to identify or eliminate him as
16 a contributor to the DNA on the rape.

17 Q. Okay. Now, you got this assignment on
18 February 25th, right?

19 A. Yes, sir.

20 Q. And two days later, you're accepting a
21 typewritten statement from a suspect, right?

22 A. Yes, sir.

23 Q. I assume you didn't Mirandize him because he
24 wasn't in custody, right?

25 A. Correct.

1 Q. Okay. Is it good investigatory practice to
2 take a statement from the suspect before you develop
3 the investigation?

4 A. The investigation had already been ongoing.

5 Q. This is Fowler's investigation you're talking
6 about again, right?

7 A. The previous Osage report, yes.

8 Q. Yeah. Which was Fowler's investigation,
9 correct?

10 A. I don't know to what extent he prepared the
11 reports in --

12 Q. His administration.

13 A. Thank you.

14 Q. And you hadn't done any investigation on your
15 own prior to the time that you took this typewritten
16 statement from the Grellner kid, right?

17 A. Correct.

18 Q. In the statement -- I assume that you've read
19 that statement, right?

20 A. Yes, sir.

21 Q. Did you read it in his presence?

22 A. I don't remember if I did or not.

23 Q. Well, what would the reason be that you
24 wouldn't read that statement in his presence so that
25 you could ask him follow-up questions?

1 A. Because it takes several months to get the --
2 or several weeks at least to get the DNA back.

3 Q. What does that have to do with reading it in
4 his presence?

5 A. I had time.

6 Q. You had time for what?

7 A. To read it.

8 Q. Okay. Let me ask it this way then. Did you
9 read it?

10 A. Yes, sir.

11 Q. And did you follow up with him with any
12 questions?

13 A. I don't know that I had any questions.

14 Q. Well, what does your report say about whether
15 or not you -- you had another interview with him?

16 A. I didn't have another interview.

17 Q. Okay. Did you know that Garrett Grellner
18 said that this victim had sex with a couple of
19 different males that night?

20 A. I don't remember that.

21 Q. It's not in there, is it?

22 A. No, sir.

23 Q. If he said that, do you know how he would
24 know that, particularly if these were juveniles?

25 MR. COX: Objection. Calls for speculation.

1 BY MR. PLEBAN:

2 Q. You can answer.

3 A. I have no idea. I have no idea that he said
4 that.

5 Q. Actually, he told Schoeneberg that. Now, as
6 we sit here today, because you were the investigating
7 officer, can you think of any way he would know that?

8 A. Well, he was obviously there.

9 Q. At the rape?

10 A. At the party.

11 Q. Well, how would he know that she had sex with
12 several different males?

13 MR. COX: Objection. Calls for speculation.

14 BY MR. PLEBAN:

15 Q. Based upon your investigation?

16 A. Well, you said two and then you said several.
17 She had reported two.

18 Q. Well, he actually told -- he actually told
19 Schoeneberg that she had sex with a couple different
20 males that night -- quote, unquote.

21 A. That's what she had reported.

22 Q. How would he know that? How would he --

23 MR. COX: Same objection. Calls for
24 speculation.

25 MR. PLEBAN: No. And I understand your

1 objection.

2 BY MR. PLEBAN:

3 Q. I'm just asking, based upon your
4 investigation, how do you think he would know that?

5 A. I don't know.

6 Q. You don't know. Does that strike you as odd
7 that he would know that?

8 A. No, sir.

9 Q. It doesn't?

10 A. No, sir.

11 Q. Why not? Explain why not.

12 A. Because this is a small town.

13 Q. A small town?

14 A. Yes, sir.

15 Q. Okay.

16 A. Somehow, she was being bullied by lots of
17 people that knew things that they had heard.

18 Q. Okay. How many juveniles were actually
19 charged with raping her; do you know?

20 A. You don't charge a juvenile. That's kind of
21 a trick question.

22 Q. In -- in juvenile court, how many were
23 referred to juvenile court; do you know?

24 A. One.

25 Q. One. Do you know his identity?

1 A. I -- it was in the report.

2 Q. Where?

3 A. Well, in this copy, it's been blacked out.

4 Q. Okay. But it's in there someplace. So you

5 at least found out his name, right?

6 A. Yes, sir.

7 Q. Okay. Did you ever interview him?

8 A. No, sir.

9 Q. Why not?

10 A. He had already been interviewed.

11 Q. By whom?

12 A. It's in the Osage County report.

13 Q. Where is it in your report?

14 A. It's not.

15 Q. It's not. What did he say?

16 A. I don't know.

17 Q. You don't know. Did he -- did he involve

18 anybody else?

19 A. I don't know.

20 Q. Would there have -- would -- would you have

21 been prevented in any fashion from interviewing him?

22 A. No.

23 Q. So you didn't interview him because he was in

24 the Fowler report?

25 A. He was in the Osage County report.

1 Q. And you were satisfied with that?

2 A. Yes, sir.

3 Q. Would there have been some reason why you
4 wouldn't put his interview and incorporate it into your
5 report?

6 A. Because it was already done.

7 Q. So as we sit here today, you don't know
8 whether Grellner knows anything about anybody else who
9 had sex with this young girl that night or how many had
10 sex with her, correct?

11 A. Correct.

12 Q. Right?

13 A. Correct.

14 Q. Now, you say that he had an alibi that night,
15 right?

16 A. Yes, sir.

17 Q. And his -- his alibi was that he was with the
18 DJ, right?

19 A. Yes, sir.

20 Q. And that's what -- well, actually, even
21 before you got the DNA, right -- you indicated that he
22 had an alibi and the description was bad, correct?

23 A. Yes, sir.

24 Q. So, therefore, there really wasn't much -- I
25 mean, clearly, I think you told Professional Standards

1 that -- Schoeneberg that, you know, I don't even know
2 why we're doing this, or words to that effect because,
3 clearly, I wouldn't -- I would have excluded the kid
4 immediately, right?

5 A. Just based on the statement.

6 Q. Just based upon the bad description and the
7 alibi, correct?

8 A. Yes, sir.

9 Q. Okay. Now, when you got his written
10 statement, is that what it says in his written
11 statement, that he was with the DJ that night?

12 A. Yes.

13 Q. It does?

14 A. Yes.

15 Q. What else does it say?

16 A. That he was dancing.

17 Q. That he was dancing. With whom?

18 A. It doesn't say.

19 Q. Well, it says, I was in front of the DJ's
20 system dancing with some friends when a girl bumps into
21 me, tries to start dancing.

22 I'm reading from the report. Correct me if
23 I'm wrong here. Okay?

24 This has never been a big deal, so I just
25 began to dance. She then attempted to grab my hand and

1 pull me off to the dance -- off the dance floor. Once
2 this happened, I stopped where I was, approximately
3 five to eight feet away from the DJ system and asked
4 her what was going on.

5 She then asked me how old I was and what my
6 name was.

7 I then said, my name is Garrett, and I'm 18.
8 Who are you?

9 She answered, blank, and I'm 15.

10 I instantly looked at her and told her,
11 you're way too young, then tried to pull me away --
12 you're way too young, blank, then tried to pull me
13 away. Again, I refused and went behind the DJ system.
14 Do you see that?

15 A. Yes, sir.

16 Q. Okay. So there was a name in there, wasn't
17 there?

18 A. Yes, sir.

19 Q. Okay. So who was he dancing with?

20 A. I don't know who it was.

21 Q. Well, did you ask him?

22 A. No, sir.

23 Q. Well, that kind of blows the alibi a little
24 bit, don't you think?

25 A. No, sir.

1 Q. No. So the fact that he -- did you ever ask
2 him whether he had contact with this young girl that
3 night?

4 A. I don't remember what -- specifically, I
5 don't remember.

6 Q. Well, where is it in your report that you
7 asked him that question?

8 A. It's not.

9 Q. Didn't you think -- well, didn't you think
10 that was significant?

11 Is that a hard question for you? I mean,
12 really, is that a hard question for you?

13 Didn't you think that was significant to ask
14 him whether or not he had contact with that young girl
15 that night, particularly since you were saying he had
16 an alibi?

17 A. So many of your questions are questions that
18 I would have known and responded and done had I been
19 the original investigator on this case.

20 Q. Wait a minute. Wait a minute. Wait a
21 minute.

22 A. No. I don't remember.

23 Q. You took a statement from him. Why -- why
24 did you take the statement from him then? If you
25 weren't interested in what his position was, if you

1 weren't interested --

2 A. I wanted to know what he did that night.

3 Q. Let me finish. If you weren't interested in
4 his so-called alibi, why did you take the statement
5 other than to -- to have something to put in the file
6 because you were set about the task of exonerating this
7 kid?

8 A. I wasn't set about the task of exonerating
9 him.

10 Q. Yeah. Then why did you -- why did you take
11 the statement?

12 MR. COX: Objection. Counsel is not letting
13 her finish her answer.

14 MR. PLEBAN: I'm -- I'm sorry.

15 BY MR. PLEBAN:

16 Q. Tell me why you didn't -- why you did that?

17 A. The -- the -- the same as all the other
18 questions, because Osage County had already conducted
19 an investigation and I was supplementing the
20 investigation. I was trying to do something for the
21 family of the victim to get this closed and to get it
22 concluded and to get the reports to the juvenile office
23 and to -- to make sure that there weren't any open --
24 on the -- on the DNA.

25 This was a year later after the case. This

1 had been all over their town. The -- the -- the family
2 was just -- the family of the victim was just every day
3 with this.

4 Q. So you took this statement from this kid to
5 appease the family of the victim?

6 A. No, sir.

7 Q. No.

8 A. I took a statement because you take
9 statements from suspects.

10 Q. Okay. And you didn't rely upon the Fowler
11 report in that regard?

12 A. There was already information in the Fowler
13 report --

14 Q. Well, you didn't rely -- I'm sorry.

15 A. -- the Osage County report.

16 Q. Here's my question. Was there a statement
17 from Grellner in the Fowler report?

18 A. I don't remember.

19 Q. But regardless of whether there was, you took
20 another statement from him, didn't you?

21 A. I took a written statement, yes.

22 Q. Yes. Okay. And you did that why?

23 A. Well, because I collect written statements
24 from suspects.

25 Q. So you -- you just collect them and you throw

1 them in the file? I mean, are you -- are you kidding
2 me? You just collect statements and throw them in the
3 file?

4 A. I collected a statement and I put it in the
5 file.

6 Q. Yeah. So there was no real value to why you
7 took a statement from him?

8 A. There was value for me.

9 Q. Well, what was it then?

10 A. That it was a written statement from the
11 suspect.

12 Q. Other than collecting it and throwing it in
13 the file, what was the value of taking this statement
14 from him?

15 MR. COX: Objection. Asked and answered.

16 THE WITNESS: To get the information from
17 him.

18 BY MR. PLEBAN:

19 Q. Get the -- all right. And part of the
20 information was that he danced with someone, right?

21 A. Yes, sir.

22 Q. Okay. And that he had contact with someone,
23 right?

24 A. Yes, sir.

25 Q. And you're telling me now that you didn't

1 know who that was?

2 A. I don't remember who that was.

3 Q. And you never followed up with him on that?

4 A. No, sir.

5 Q. Now, this alibi that he had, because he was
6 with the DJ that night, right? Okay. That's the alibi
7 you claim he had, correct?

8 A. Yes, sir.

9 Q. But this written report says that -- so
10 then -- and went behind the DJ's system -- read along
11 with me to make sure I'm not, you know, misstating
12 something -- went behind the DJ's system and sat with
13 my friend, Alex, for the next hour or so, then began to
14 socialize more with whomever I knew that I bumped into.
15 Do you see that? Did I read that statement correctly?

16 A. Yes, sir.

17 Q. So how is that an alibi?

18 A. Because it is.

19 Q. Okay. It is because it is. Tell me why you
20 think it is.

21 A. Because he was accountable.

22 Q. Because what?

23 A. He was accountable.

24 Q. He was -- what are you talking about?
25 Accountable for what? What are you talking about?

1 A. Where he was.

2 Q. Okay. Where was he?

3 A. At the party.

4 Q. Well, we know he was at the party. We know
5 that he danced with someone that you don't even know
6 who he danced with, right?

7 A. Yes, sir.

8 Q. But his alibi was he was with the DJ all
9 night, right? That's why he couldn't have raped this
10 gal, isn't that what -- isn't that what you concluded
11 even before you got the DNA?

12 A. Yes, sir.

13 Q. Okay. So tell me how -- how being at the
14 party is an alibi.

15 A. Because he was accountable to the people. He
16 was accountable to the DJ. I can't change -- you can
17 ask the --

18 Q. Where does it say -- what do you mean, he was
19 accountable to the DJ? What are you talking about?

20 A. You can ask the question a hundred times, but
21 I'll have the same answer.

22 Q. The fact of the matter is, when you read this
23 statement now -- you're an experienced criminal
24 investigator, right?

25 A. Yes, sir.

1 Q. This isn't your first rodeo, right?

2 A. No, sir.

3 Q. Okay. He had no alibi, did he?

4 A. Yes, sir.

5 Q. You still maintain, after reading this,
6 you're still going to sit there and tell me that
7 this -- this kid had an alibi?

8 A. Yes, sir.

9 Q. And why?

10 A. He was accountable.

11 Q. I don't know what that means. He was at the
12 party?

13 A. He was at the party.

14 Q. Well, he was at the party bumping into
15 people, correct?

16 A. Yes, sir.

17 Q. Okay. Did he bump into the gal that he
18 danced with again?

19 A. I don't know.

20 Q. You don't know. Okay. That's a pretty solid
21 alibi. And you didn't interview the DJ, right?

22 A. No, sir.

23 Q. Yeah. And you told Schoeneberg that Grellner
24 accounted for where he was that day, right?

25 A. Yes, sir.

1 Q. And when you told Schoeneberg that, was that
2 what you meant, that he was accountable because he was
3 at the party?

4 A. He was with other people, yes.

5 Q. Including dancing with perhaps the victim,
6 right?

7 A. Yes, sir.

8 Q. And so that's how he was accountable for his
9 alibi?

10 A. Yes, sir.

11 Q. Okay.

12 MR. PLEBAN: Let's take a break. Okay? Do
13 you need a break, too?

14 THE WITNESS: No, sir.

15 MR. PLEBAN: All right. I do. Let's take a
16 break.

17 (A BREAK WAS TAKEN.)

18 BY MR. PLEBAN:

19 Q. Okay. Now, according to your -- your report,
20 you quoted the Fowler report as -- that the suspect,
21 the juvenile suspect in -- in the rape of this young
22 lady volunteered his DNA, right? Take a look.

23 A. I quoted that?

24 Q. Yeah. Well, you quoted it from the Fowler
25 report, I thought. Hold on. Let me see if I can find

1 it quickly here. Look -- look at page -- item 4. You
2 see -- you see 4©. Are you with me there?

3 A. Uh-huh.

4 Q. Yes. Do you see that? So, apparently, the
5 juvenile suspect gave his DNA and -- that's how I read
6 that?

7 A. Well, it was collected.

8 Q. Okay.

9 A. Okay.

10 Q. Whether it was voluntarily or involuntarily,
11 I don't -- I don't know. But do you know whether or
12 not -- well, if it was voluntary, that means, to me at
13 least, that he was -- the juvenile suspect was
14 cooperating. Does that mean the same to you?

15 A. I don't know that it was voluntary.

16 Q. But if he -- if it was, that would mean that
17 he would -- he would be cooperating.

18 A. Not necessarily.

19 Q. Okay. But if he was cooperating in giving
20 DNA, then would you conclude that he would have
21 cooperated with you in giving you a statement?

22 A. Not necessarily, no.

23 Q. Okay. But you never tried to take a
24 statement from him?

25 A. Correct.

1 Q. Do you know whether or not Grellner was ever
2 asked to give a DNA sample?

3 A. I don't know that he was, other than by me.

4 Q. And so you don't know one way or another
5 whether he was asked for DNA?

6 MR. COX: Objection. Asked and answered.

7 THE WITNESS: I don't know if he was asked by
8 anyone but me.

9 BY MR. PLEBAN:

10 Q. Well, wouldn't that have been something that
11 you would have looked into?

12 A. It was something that wasn't done, so I did
13 it.

14 Q. Well, how do you know it wasn't done?

15 A. Because there was no sample.

16 Q. Okay. So either -- my conclusion from that
17 would be, either he refused to give a sample or he
18 wasn't asked to give a sample. Can you draw any other
19 conclusion other than that?

20 A. I -- all I know is, there wasn't one done,
21 and I wanted one done, so I asked him for one. I don't
22 want to draw conclusions over there being a lack of a
23 DNA.

24 Q. Well, let me ask you this, though. When you
25 looked into this and you started your investigation,

1 did you think it was odd that you didn't see a DNA
2 sample from him?

3 A. I don't think anything is odd in any of these
4 cases.

5 Q. Well, what conclusion did you draw that there
6 was no DNA sample from this kid?

7 A. That there was no DNA sample.

8 Q. Beyond that, you didn't give it a second
9 thought?

10 A. It just wasn't there, so I asked for one.

11 Q. Beyond that, you didn't give it a second
12 thought from an investigatory perspective?

13 A. I didn't try to diagnose why or why not
14 anything had or hadn't been done. I just tried to do
15 what hadn't been done. Sorry.

16 Q. But -- but you didn't -- but what if it had
17 been done?

18 A. Then there would have been a record of it.

19 Q. And -- well, what if it had been done and it
20 was positive? Did you consider that, and there was a
21 match?

22 A. Then there would have been a record.

23 Q. Well, but you don't know whether you got the
24 whole file, do you?

25 A. For -- in order for there to be a positive,

1 then there would have been a lab report saying that
2 there was a positive.

3 Q. Yeah.

4 A. The lab had --

5 Q. That should have been in the file, right?

6 A. The lab had no record of -- of his DNA.

7 Q. Well, your lab didn't.

8 A. Correct.

9 Q. Do you know whether or not another lab looked
10 at it?

11 A. No, I don't know if he supplied a lab --

12 Q. Do you know whether or not --

13 MR. COX: Please --

14 MR. PLEBAN: I'm sorry. I --

15 MR. COX: Counsel is not letting the witness
16 respond fully --

17 MR. PLEBAN: And I apologize.

18 MR. COX: -- and I would like to lodge my
19 objection in that that has been happening a couple of
20 times, and I request that it not continue.

21 MR. PLEBAN: And I apologize for that.

22 BY MR. PLEBAN:

23 Q. And you -- you don't know whether or not a --
24 a DNA lab report was removed from the file, do you?

25 A. I know that our lab did not have a copy, and

1 had no record of his DNA.

2 Q. Okay. Listen to my question. You don't
3 know --

4 A. There wasn't one from our lab --

5 Q. Let me finish -- well, you need to let me
6 finish my question. You don't know whether or not a
7 DNA lab report was removed from the Fowler file, do
8 you -- one way or the other?

9 MR. COX: Objection. Improper hypothetical.
10 You're asking her to prove a negative or disprove a
11 negative.

12 BY MR. PLEBAN:

13 Q. Is that correct?

14 A. Now, do I answer?

15 Q. Yeah. Honestly, hopefully.

16 A. I know -- are you inferring that I'm not
17 being honest?

18 MR. COX: Objection to that comment.

19 BY MR. PLEBAN:

20 Q. Yes. I'm not inferring it, I'm telling you
21 you're not being honest. We'll get to that.

22 A. I know that there was no record in the
23 Highway Patrol Crime Lab of any DNA that was done prior
24 to the one that I asked for.

25 Q. You've already told me that. My question is

1 not that. My question is: Do you know whether or not
2 a DNA report from another laboratory was -- was not
3 removed from the Fowler file?

4 MR. COX: Same objection. Vague, confusing.
5 Ask her to disprove or prove a negative.

6 THE WITNESS: I don't know what wasn't
7 removed from the file.

8 BY MR. PLEBAN:

9 Q. Did you ever ask anybody in the Osage County
10 Sheriff's Department whether; (1), they asked Grellner
11 for a DNA sample?

12 A. No.

13 Q. Did you ever ask them whether or not he gave
14 a DNA sample?

15 A. No.

16 Q. Did you ever ask them whether they got a lab
17 report on any DNA from Grellner?

18 A. No.

19 Q. Why not?

20 A. I just didn't.

21 Q. I heard that. Why not?

22 MR. COX: Objection. Asked and answered.

23 THE WITNESS: I decided to get the DNA and
24 put it through the lab. I didn't ask if one already
25 existed, because I confirmed with our lab that one

1 didn't.

2 BY MR. PLEBAN:

3 Q. Now, you got the DNA sample on February 27th,
4 correct?

5 A. Yes, sir.

6 Q. Did you look at -- you took a buccal swab,
7 right?

8 A. Yes, sir.

9 Q. Okay. Could you look at your report in that
10 regard? Will you turn to that page? Do you have
11 that -- that page?

12 A. Yes, sir.

13 Q. Why is there a discrepancy in this?

14 A. Are you talking about where I crossed it out?

15 Q. Yes, I am.

16 A. Because I changed it from Package 1 and
17 Package 2 for the two buccal swabs, and I instead put
18 the two buccal swabs in Package 1.

19 Q. So you repackaged it?

20 A. No. I only packaged them once. But I was
21 going to put them both in separate packages, Item 1 and
22 Item 2, but instead, I put both containers in the same
23 package, Package 1.

24 Q. Do you explain that anyplace in your report,
25 why there's a cross-out here?

1 A. No, sir.

2 Q. Do you initial it -- the cross-out?

3 A. No, sir.

4 Q. What is the chain of custody on this -- on
5 this DNA sample that you took from Garrett Grellner?

6 A. I don't have the actual package. I assume --

7 Q. Where -- is it referenced in your report?

8 A. No, sir.

9 Q. What's the package number? I mean, if I went
10 to the lab and looked for a package, how would I know
11 which one it is? How would I know it's the same one
12 that you have in your report?

13 A. By the CFS, the call for service number,
14 the 130116943.

15 Q. And -- and is there any -- do -- do you
16 document anyplace in your report the chain of custody?
17 That's all -- that's my only question?

18 A. No, sir.

19 Q. No.

20 A. On the package itself, but not on the report.

21 Q. Okay. And -- and the evidence that you used
22 to be tested, where did you get that -- the evidence?
23 So their, what, underwear or a shirt or whatever it
24 was, where did you get that?

25 A. The University of Missouri collected that at

1 the -- the time that they conducted their sexual
2 assault forensic examination.

3 Q. Is that in your chain of custody anyplace
4 here?

5 A. It shouldn't be, sir. I didn't have it in my
6 custody.

7 Q. Well, how did it wind up at the lab?

8 A. You would have to look on the custody --

9 Q. You've got a DNA -- I'm sorry. What?

10 A. The Osage County deputy or the investigator
11 that took the report, the University Hospital, the
12 sexual assault clinic at the University of Missouri
13 collected the kit, and then the hospital turns the kit
14 to the county. The county turned it into the crime
15 lab.

16 Q. That's the rape kit?

17 A. Yes, sir.

18 Q. Does that include the clothing?

19 A. Yes, sir.

20 Q. Okay. And -- and that was done by Fowler's
21 deputies?

22 A. Yes, sir. It was done by the Osage County.
23 The -- the lab information already existed. The
24 profiles had already been developed.

25 Q. So you didn't need the actual physical

1 evidence?

2 A. No, sir.

3 Q. Who had that?

4 A. From the victim?

5 Q. From the victim. Uh-huh. Yeah. Where was
6 that?

7 A. The victim had -- it had been collected at
8 the University of Missouri by the nurses.

9 Q. Well, I'm just asking you at the time that
10 you were involved in this case, and at the time that
11 you were investigating this case, where was the
12 physical evidence located?

13 A. Specifically talking about the sexual assault
14 kit and the clothing?

15 Q. And the -- well, the clothing?

16 A. I don't know.

17 Q. I'm sorry. I didn't hear you.

18 A. I don't know.

19 Q. So how do you then know what your lab
20 compared Grellner's DNA sample to?

21 A. Because the lab does a report based on their
22 examinations of the evidence, and that report is what's
23 maintained and kept on file. The evidence itself is
24 turned back over to the county; it's released.

25 Q. And this report says that Garrett Grellner is

1 eliminated as a contributor to the profiles developed
2 from the nonsperm and sperm fractions from the labial
3 swabs, item 1.2, the cervical swabs, 1.4, stain one on
4 the shorts, item 3.1, stain 19 on the shorts, item 3.1,
5 and stain 50 on the shirt, item 6.1, right?

6 A. Yes, sir.

7 Q. What does that -- what does nonsperm and
8 sperm fractions mean?

9 A. You would have to ask the DNA scientist.

10 Q. Well -- well, you're the one that concluded
11 that DNA exonerated this kid. I'm asking you.

12 A. I'm the one that provided the DNA from the
13 suspect to the lab. They are the ones that concluded
14 that it was eliminated as a possible contributor.

15 Q. When did the Fowler deputies provide the
16 clothing to --

17 MR. COX: Objection. Calls for speculation.

18 THE WITNESS: I don't know.

19 BY MR. PLEBAN:

20 Q. -- to the rape test kit people? You don't
21 know?

22 A. I don't know.

23 Q. Is that anyplace in your report?

24 A. No.

25 Q. Do you know whether or not all items of

1 clothing were provided to the rape test kit people?

2 MR. COX: Objection to the phrase "all items
3 of clothing."

4 BY MR. PLEBAN:

5 Q. All items of the victim's clothing?

6 A. I don't know.

7 Q. So you don't know whether or not there are
8 other items of clothing -- of the victim's clothing
9 that could contain Garrett Grellner's DNA, do you?

10 MR. COX: Objection. Improper hypothetical.

11 Go ahead.

12 THE WITNESS: I don't know.

13 BY MR. PLEBAN:

14 Q. Well, it's not actually a hypothetical, is
15 it -- is it, Corporal, since you did the investigation,
16 right? Did you rule that out?

17 MR. COX: Objection to -- to the vague and
18 confusing nature of the question.

19 BY MR. PLEBAN:

20 Q. Did you rule out that there were other items
21 of clothing from the victim that weren't provided for
22 DNA analysis?

23 A. I did not attempt to collect any other items
24 of clothing.

25 Q. Did you rule out that other items of the

1 victim's clothing were not -- were not presented for
2 DNA analysis?

3 MR. COX: Same objection. Asked and answered
4 as well.

5 BY MR. PLEBAN:

6 Q. That's my question.

7 MR. COX: Well, she has answered it.

8 THE WITNESS: I did not attempt to collect
9 any other clothing.

10 BY MR. PLEBAN:

11 Q. Well, I know that you didn't. I'm asking you
12 if you ruled out.

13 A. What do you mean, if I ruled out?

14 Q. Well, did you do any sort of investigation to
15 determine whether or not items of clothing -- all the
16 items of clothing -- of the victim's clothing were
17 presented for analysis?

18 A. No.

19 Q. According to your report -- let me see if I
20 can find it here. You indicated in -- in your report
21 that you spoke with a Shawn Bailes at the lab; is that
22 right?

23 A. Yes, sir.

24 Q. But you did that before the report was
25 completed, about a month before the report on the DNA

1 was completed?

2 A. Are you asking me on dates?

3 Q. Yeah. Well, the report is completely -- the
4 date of the report 4-3 of 2013. Your report was done
5 before that, right?

6 A. The --

7 Q. The date -- the date of the lab analysis.
8 Take a look at -- at Bailes' report here. Down -- down
9 at the bottom. See? Yes.

10 A. Okay. So what are you asking of me?

11 Q. 4-3 of 13?

12 A. No. This is 4-18.

13 Q. No. No. No. That's not -- that's not the
14 analysis, that's the collection.

15 A. You have a different one.

16 Q. Keep going. Keep going farther back. Well,
17 maybe -- let's see. Yeah. That's probably it. 4-3,
18 right?

19 A. Okay. 4-3.

20 Q. Okay. And -- and your report indicating
21 that you spoke to Bailes was done a month before the
22 analysis was done, right?

23 A. Do you know which number that was?

24 Q. I don't remember. Let me find it. Well, I
25 don't know. I don't see where I saw that, but I know

1 that I saw it here someplace. Let me see. I don't
2 know. Well, I don't know where that was. I'll find it
3 after break, but we'll go back to it.

4 But let me ask you this: You learned that
5 there was a mixture of at least two individuals,
6 correct?

7 A. Yes, sir.

8 Q. Okay.

9 A. If you want to stay on your question, No. 4.

10 Q. Yeah. Is it four?

11 A. Yeah.

12 Q. I know I saw it someplace.

13 A. Okay.

14 Q. Four --

15 A. And then right here on the -- where it says
16 DNA examination, the sexual assault, and make sure
17 there was two individuals, on the bottom, I reference
18 conversation --

19 Q. Oh, there it is. Yeah. I knew I saw it
20 someplace. Okay.

21 So you contacted -- and this -- this report
22 was before the lab report was done, correct? Before
23 the analysis on Grellner was done -- on Grellner?

24 A. Yes.

25 Q. Okay. So you contacted Bailes because you

1 knew he had done the original with the juvenile?

2 A. I had questions on what the wording meant on
3 the original lab analysis that had been submitted.

4 Q. Okay.

5 A. So, when I -- when you call the crime lab,
6 then if you have a question, it depends on how
7 complicated your question is whether -- who you speak
8 with. And they put Shawn Bailes on, who was the -- the
9 criminalist, I guess, the DNA.

10 Q. Okay. So you don't know whether Bailes did
11 the original report on the juvenile?

12 A. Right.

13 Q. Okay. But, apparently, after speaking to
14 him, you learned that he did -- he did the original,
15 according to this at least?

16 A. Right. I -- my questions were on what --
17 what the wording meant on the mixture of at least two
18 individuals, the exhibits with no female gender.

19 Q. On two or more --

20 A. Right.

21 Q. -- likely suspects as -- as contributors?

22 A. Correct.

23 Q. So -- okay. So -- so now we have -- whether
24 it's the Grellner kid or not, we have potentially two
25 or more here?

1 A. Correct.

2 Q. Okay.

3 A. The way that -- the fractions, that DNA, that
4 analysis, it did not -- it didn't mean really one thing
5 or the other. It didn't mean that there were only two
6 contributors, it didn't mean that there were two or
7 more. But it just meant that there was -- there was a
8 fraction of male and female, so we know we have at
9 least two contributors --

10 Q. Okay.

11 A. -- because there was male and female. It
12 didn't eliminate or that it was the only two, but it --
13 it wasn't enough of an analysis to say that there
14 wasn't a third person.

15 Q. Okay.

16 A. He said more than likely, it was contributor
17 A and contributor B.

18 Q. Okay. So --

19 A. But due to the type of testing --

20 Q. Okay. So -- so we have that possibility -

21 A. Yes.

22 Q. -- that we have multiple?

23 A. Yes.

24 Q. Okay. As you sit here today, you don't know
25 what the position of the victim was as to multiple

1 rapists, correct?

2 A. The position? Like, sitting, standing --

3 Q. What she -- no. No. No. I'm -- no. No.

4 No.

5 A. No.

6 Q. What her statement was as it relates to
7 whether or not two people raped her, three people raped
8 her, four people raped her, right?

9 A. I -

10 Q. As we sit here today?

11 A. As we sit here today, I remember that she
12 said there were two -- that she remembered two.

13 Q. Two. Okay. All right. Now, you said this
14 investigation that you conducted was not designed to
15 simply exonerate the Grellner kid, right?

16 A. Correct.

17 Q. Okay. So after you got the DNA from the
18 Grellner kid and concluded that he was no longer a
19 suspect, what then steps did you take to find out who
20 else raped her?

21 A. There -- there were no other steps.

22 Q. Well, how can that be? If -- if you were
23 looking to do a criminal investigation to get to the
24 truth, as opposed to just exonerating Grellner, how can
25 that be that you didn't follow up on that?

1 A. The DNA was positively identified from a
2 juvenile suspect, and the possibility existed that
3 there was a second.

4 Q. Yeah.

5 A. And she remembered, she thought, two. And
6 then the suspect that was identified as a possible
7 second was Garrett.

8 Q. But what steps did you take? She says two;
9 right?

10 A. Right.

11 Q. You excluded Grellner. correct?

12 A. Correct.

13 Q. You included the other juvenile, right?

14 A. Yes, sir.

15 Q. Okay. Did he admit it, too?

16 A. I never spoke with him, sir.

17 Q. Well, do you know whether or not he admitted
18 it -- raping her?

19 A. I believe that he had admitted to having
20 sexual intercourse.

21 Q. But you don't even know that?

22 A. Speaking with the juvenile officer. I don't
23 have access to the juvenile reports -- Osage County's
24 juvenile reports.

25 Q. But you could have asked him, though, right?

1 A. I didn't speak with him, sir.

2 Q. So, now, we have another person out there as
3 a -- certainly a potential?

4 A. Possibly, yes.

5 Q. And you were trying to help this victim's
6 family, right?

7 A. Absolutely.

8 Q. Okay. So now, tell me what you did to help
9 the victim's family identify the second rapist?

10 A. The -- the most that I felt I could do at the
11 time was just refer her to counseling and have her sit
12 down and hopefully, over time, be able to process
13 through and maybe remember something.

14 Q. So why --

15 A. There wasn't --

16 Q. I'm sorry. I didn't mean to interrupt.

17 A. I didn't go back and collect or ask for DNA
18 from the people who were identified at being at the
19 party?

20 Q. Why not?

21 A. It -- you generally have to have some type of
22 basis, some type of reasonable suspicion that someone
23 was involved in a crime before you ask for their DNA.

24 Q. But you don't get that by falling out of the
25 sky; you have to do some legwork. You have to do some

1 investigation. You have to talk to people. Isn't that
2 true?

3 A. Correct.

4 Q. To develop your probable cause; isn't that
5 right?

6 A. Correct.

7 Q. Okay. What -- who -- what witnesses did you
8 talk to, what legwork did you do, what did you develop
9 to get your probable cause to get DNA from other --
10 other potential suspects?

11 A. I did not.

12 Q. Nothing. And that's because all you were out
13 to do and all the Patrol was out to do was exonerate
14 Garrett Grellner; isn't that right?

15 A. No, sir.

16 MR. COX: Objection. Argumentative,
17 misstates her testimony.

18 Go ahead.

19 THE WITNESS: No, sir.

20 BY MR. PLEBAN:

21 Q. And that's what it was from the start; isn't
22 that true?

23 A. No, sir.

24 Q. Uh-huh. Then can you explain to me why you
25 didn't take steps to satisfy this family that you were

1 so concerned about -- this victim's family -- take
2 steps to identify everybody involved in the criminal
3 acts that were -- that were committed on their young
4 daughter?

5 A. The Osage County Sheriff's Office conducted
6 an investigation at the time of the rape --

7 Q. Okay.

8 A. -- of the reported rape.

9 Q. Okay.

10 MR. PLEBAN: Let's -- let's take a break.
11 Lunch. How much time do you need?

12 THE WITNESS: Five minutes.

13 MR. PLEBAN: We're not going to take five
14 minutes, but how much time do you need?

15 MR. COX: Thirty minutes.

16 MR. PLEBAN: All right. Come back -- yeah.
17 Come back -- what do you need?

18 MR. COX: Forty-five, I mean.

19 (A BREAK WAS TAKEN.)

20 BY MR. PLEBAN:

21 Q. Corporal Mosher, there are, in your report,
22 if you -- if you -- you still have Exhibit A in front
23 of you. Can you take a look at the page that lists a
24 variety of names? It's kind of in the middle.

25 MR. COX: A variety of what?

1 MR. PLEBAN: Names.

2 BY MR. PLEBAN:

3 Q. This one right here. Yeah. She's got it.
4 It's in about -- it's in about the middle maybe or a
5 third of the way through maybe. Got it? Okay.

6 Who are all these people that are listed
7 there?

8 A. I don't know.

9 Q. Well, you listed them in this report,
10 correct?

11 A. Yes.

12 Q. And you listed them as witnesses?

13 A. Yes.

14 Q. Witnesses to what?

15 A. Well, obviously, to the investigation.

16 Without the Osage County report, I don't know exactly
17 what all -- what their role -- each one of the roles.
18 I mean, some of them are obvious, like Amy. That's the
19 mom. And Allen is the dad. Briggs would be the RN. I
20 believe the other -- one of those were people that I
21 talked to that were there that night.

22 Q. Whoa. Whoa. Whoa. Who did you talk to that
23 was there that night?

24 A. I said I believe they may be people that I
25 talked to.

1 Q. Well, so you did interview witnesses?

2 A. And then Garrett, obviously. I don't know --
3 I don't know what their exact roles were.

4 Q. All right. You said people that I talked to
5 that night. What are you talking about? You
6 interviewed witnesses at some point in time?

7 A. Well, I talked to people about the events
8 that happened, yes.

9 Q. So you -- you interviewed witnesses?

10 A. Yeah.

11 Q. Well, where is that in your report?

12 A. It's not.

13 Q. Well, what --

14 A. It could have been follow-up information from
15 just the investigative report. It could have been
16 people that were already identified as witnesses in the
17 original report that I just transferred their
18 information over.

19 Q. Well, you -- you --

20 A. The possibilities -- without the Osage County
21 report, I don't know what their exact roles in the
22 investigation or whom I spoke with. I don't have that
23 report. I --

24 Q. No. You made that clear. But, apparently,
25 you thought enough to interview certain witnesses,

1 correct?

2 A. I did talk to some people; absolutely, yes.

3 Q. And what criteria did you use to determine
4 who you would talk to and who you wouldn't talk to?

5 A. If there was any information in the original
6 report.

7 Q. If there was -- I didn't hear you.

8 A. Information in the original report, if I
9 wanted to follow up or if I wanted -- if I needed to
10 follow up or ask them a question or just try to get
11 identifiers.

12 Q. I don't know what you mean by identifiers.

13 A. Phone numbers, addresses.

14 Q. Okay. So -- so you did follow-up interviews
15 based upon something that was in the Fowler report?

16 A. The Osage County report, yes.

17 Q. But you didn't do any follow-up on the victim
18 herself?

19 A. I did not interview the victim.

20 Q. How do you explain that you didn't do any
21 follow-up on the victim, but you did follow-up on some
22 other people?

23 A. The victim's statement, the -- the -- I
24 didn't do any more than what was done in the Osage
25 County report, what was already done.

1 Q. Well, but you did. Apparently --

2 A. For the victim. You said for the victim, so
3 I was answering for the victim.

4 Q. Yeah. So -- so how do you -- all right. But
5 how do you explain that you did follow-up on some
6 witnesses, but you never did a follow-up on the victim?

7 A. I didn't have any further questions from the
8 victim.

9 Q. None whatsoever?

10 A. None whatsoever.

11 Q. Do you know, as we sit here today, which of
12 these people that are listed here that you actually did
13 follow-up interviews with?

14 A. No.

15 Q. What would the reason be that you wouldn't --
16 regardless of what they told you, why wouldn't you put
17 that in the report?

18 A. I don't know. I would have to match the
19 reports up.

20 Q. Well, why wouldn't you even put in the report
21 that you did interview certain witnesses?

22 A. I don't know. If I didn't get any relevant
23 information, then I -- I didn't list them. I can't
24 explain without having that other report.

25 Q. Did the Patrol keep a copy of that other

1 report?

2 A. No, sir.

3 Q. Why not?

4 A. It's not our report.

5 Q. But your -- you seem to be -- we've been at
6 this now since 9:30 this morning. It's now one o'clock
7 in the afternoon. And with the exception of 45 minutes
8 to an hour for lunch, you keep telling me -- you keep
9 falling back on the -- on the Osage County Fowler
10 report. So why would the Patrol not keep a copy of
11 that report?

12 A. That was Osage County's report.

13 Q. Well, I understand that, but you had a copy
14 of it.

15 A. We don't keep other agencies' reports as our
16 own report.

17 Q. You don't? Well, I didn't say --

18 A. So that Osage County report, I returned to
19 Osage County.

20 Q. Are you telling me that it's -- it's custom
21 and practice of the Missouri State Highway Patrol that
22 if you're doing a follow-up investigation on an
23 investigation done by some other county, that you don't
24 keep a copy of that report?

25 MR. COX: Objection to the extent the

1 question asks the witness to comment on the general
2 policy of the Patrol. She can comment --

3 BY MR. PLEBAN:

4 Q. If you know.

5 MR. COX: She can only speak to her
6 experiences.

7 BY MR. PLEBAN:

8 Q. If you know.

9 A. I have never kept a copy of another agency's
10 report as a part of the Highway Patrol report. I
11 return those to those agencies.

12 Q. But if you were doing -- I think you told us
13 before that you were doing just a new investigation,
14 right? I mean, you -- you were starting again to
15 figure out what was going on here, to find out the
16 truth of how this young girl was attacked, correct?

17 A. Supplementing the original investigation,
18 yes.

19 Q. Well -- well, supplementing it or just
20 starting from ground zero?

21 A. I did not start from ground zero.

22 Q. And were you told not to start from ground
23 zero?

24 A. I don't recall being told not to start from
25 ground zero.

1 Q. So you're not saying you -- you weren't told
2 that, you're saying you don't have a present
3 recollection of whether or not you were told?

4 A. I don't now if I was told or not told to
5 start at ground zero. I was given an existing case
6 file and requested to investigate the file -- to
7 investigate the incident.

8 Q. You say that you had a conversation with the
9 victim's mother, Amy Frank, right?

10 A. Yes.

11 Q. How many conversations did you have with her?

12 A. I don't know.

13 Q. What does your report reflect?

14 A. I don't know.

15 Q. Well, could you take a look and tell me?

16 A. Well, on the 25th, I spoke with her by phone.

17 Q. The 25th of February.

18 A. And I spoke with them that night in person.

19 Q. So the 25th of February, 2013, once on the
20 phone and once in person, right?

21 A. Yes.

22 Q. And the -- I assume that the phone call was
23 just to make arrangements for a meeting?

24 A. Well, you don't have to assume on that
25 particular instance since I said, I spoke with her and

1 arranged a time to meet in person. So the phone call
2 set up the meeting that afternoon.

3 And then the report, in my report on No. 15,
4 it says, I have informed Amy Frank of the status of the
5 investigation.

6 Q. That was by phone?

7 A. Yes.

8 Q. Okay.

9 A. Then I met with them again on April 24th in
10 person, and I had some type of communication there
11 if -- are you doing, like, tic marks to -- because I
12 had -- I would have had to have to talked to them one
13 other time to arrange that meeting.

14 Q. Okay. So two --

15 A. So four.

16 Q. -- maybe three phone calls and one -- or two
17 phone calls, two in person?

18 A. So that's what's reflected in the report.

19 Q. Okay. During the course of your
20 investigation, did you ever learn that the victim
21 received two Facebook messages from the Grellner kid
22 the afternoon of the party, before the party happened?

23 A. No.

24 Q. It never came up?

25 A. No.

1 Q. Would that have been significant?

2 A. It could have been, yes.

3 Q. How?

4 A. Any contact with the victim and the suspect
5 is significant.

6 Q. Well, contact with the victim dancing would
7 have been significant right before the rape, wouldn't
8 it?

9 A. Yes, sir.

10 Q. But you didn't follow up on that, did you?

11 A. No, sir.

12 Q. So do you know whether or not Garrett
13 Grellner knew the victim before that party?

14 A. I don't know.

15 Q. Tell me what steps you took to find out
16 whether or not Garrett Grellner knew the victim before
17 the party, before the rape?

18 A. None. None.

19 Q. Why not?

20 A. I just didn't.

21 Q. Did you not think that would have been
22 significant?

23 A. Not at the time.

24 Q. Do you think it's significant now?

25 A. It's easy to look back on any

1 investigation --

2 Q. I understand that. Do you think it's
3 significant now?

4 A. -- and you see things that are significant.
5 What is important is, it wasn't significant at the
6 time.

7 Q. Do you think it's significant now?

8 A. Not any more or less than I did at the time.

9 Q. Based upon the conversation that -- that we
10 have had so far, is there anything that you would have
11 done differently, knowing what you know now?

12 A. The conversation that we've had today has
13 been very much based on my investigation that was a
14 response to an existing investigation. I don't
15 remember everything that I did in that investigation.
16 I don't remember everything that was in the original
17 Osage investigation. It's impossible for me to
18 accurately judge myself or my responses or what I did
19 or did not do when I don't remember what information I
20 had to base those decisions on.

21 Q. So --

22 A. I will never look back on any investigation,
23 including this one, and not see something that I could
24 have done better. I will never be able to do that.

25 Q. Uh-huh. And why not?

1 A. Because you can always do better -- always.

2 Q. I see. This area where -- where Garrett
3 Grellner lives is -- it's a small town, right?

4 A. I -- I -- sorry. I thought I understood that
5 he lived in Springfield.

6 Q. No. Where he lived at the time of the rape?

7 A. Oh. I believe it is a very small town, yes,
8 sir.

9 Q. Okay. And in small towns, usually people
10 know everybody else, right?

11 A. Yes, sir. Or at least know who they are.

12 Q. Uh-huh. So did you make any effort to
13 determine from the people in this small town whether or
14 not Garrett Grellner knew the victim --

15 A. No.

16 Q. -- before the rape?

17 A. No.

18 Q. No? Why not?

19 A. Just didn't.

20 Q. No other explanation?

21 A. No other explanation.

22 Q. You said that the victim's family was pleased
23 with your investigation?

24 A. Yes, sir.

25 Q. Is that -- is that what you told Schoeneberg?

1 A. I believe that they are. I believe that they
2 were.

3 Q. Really?

4 A. Yes, sir.

5 Q. And that's on the basis of what?

6 A. Conversation with the family.

7 Q. And so you're testifying here today that Amy
8 Frank told you that she was happy with the
9 investigation that you conducted?

10 A. No, sir.

11 Q. Well, then how did you come to the conclusion
12 that the family was pleased?

13 A. They -- just the conversation that I had with
14 them that day. I didn't -- they didn't express any
15 anger or have anything that felt that I had an interest
16 in the investigation.

17 Q. So on that basis, you concluded that they
18 were real happy with your investigation?

19 A. Well, I don't think real happy --

20 Q. Well, pleased -- that they were pleased with
21 what you did?

22 A. Pleased that someone had taken the time to
23 listen and to act on their concerns.

24 Q. Well, I didn't ask you that. I asked whether
25 you were -- they were pleased with your investigation.

1 A. Yes.

2 Q. All right. So that was your conclusion, not
3 something that Amy Frank told you?

4 A. Correct. I don't remember her saying,
5 Stacey, I am pleased. I don't remember that
6 conversation.

7 Q. And did the -- did the victim tell you that
8 she was pleased with your investigation?

9 A. I think I -- on No. 6 on the report, where I
10 typed in there, I asked if she had any questions, and
11 she only stated she was glad it was over.

12 Q. Okay. Did Allen Frank, the father, tell you
13 that he was pleased with the investigation?

14 A. I don't remember those words.

15 Q. The -- Amanda Grellner and Garrett Grellner,
16 I will represent to you, said that -- told Schoeneberg
17 in the Professional Standards interview that the victim
18 told Fowler that Garrett was not involved in the rape.
19 Did you ever learn that during your investigation?

20 A. I don't remember.

21 Q. Is there any reference to that in your
22 report?

23 A. There's no reference in my report.

24 Q. Would that have been something that you would
25 have asked the victim about?

1 A. Yes, sir. But I didn't --

2 Q. Would that have been something that mom --
3 you would have asked mom about?

4 A. When you say, if I would have, do you mean,
5 like, if I would have done an interview with the
6 victim? Are you asking what questions I would have
7 asked had I --

8 Q. Yeah. If you had the interview, yeah.
9 Obviously, you didn't do an interview with the victim,
10 but would that have been something you would have asked
11 her had you done an interview?

12 A. Meaning, the first day or two, if I was the
13 original investigating officer, then, yes, those are
14 questions that I would have asked.

15 Q. No. No. No. No. No. In your capacity as
16 a Highway Patrol officer doing a thorough and complete
17 investigation, would that have been a question you
18 would have asked?

19 A. It's a question I could have asked.

20 Q. Yeah. According to your report, the Highway
21 Patrol did an investigation at the request of the Osage
22 County Sheriff, Michael Dixon, right?

23 A. Yes, sir.

24 Q. But if -- if Amanda Grellner told Schoeneberg
25 during her Professional Standards interview that she's

1 the one who requested it, did you ever learn that?

2 A. No, sir.

3 Q. And when I read this report and when I read
4 your Professional Standards statement, you make it
5 sound like you had to go to Amanda Grellner -- and I
6 don't want to use the word beg -- but tell her that it
7 was important to have her son cooperate, right?

8 A. I had a conversation with her on the phone.

9 Q. In order to --

10 A. And explained the -- the DNA, the way the DNA
11 left open the possibility of a third person.

12 Q. Uh-huh. In order to persuade her that her
13 son should cooperate?

14 A. In order -- the same reason that I talked to
15 the whole family on the victim and talked to the whole
16 family this -- this impacted, obviously, the whole
17 community, but it impacted the families, not just the
18 people.

19 So, yes, I had a conversation with her to
20 explain why I was going to be requesting a DNA sample.

21 Q. And she was asking you what the consequence
22 would be, or -- or what was -- tell me what the
23 conversation was.

24 A. What I -- why I was requesting that, and
25 that's when I explained the lab and read the lab

1 analysis report.

2 Q. So she was asking you why you were requesting
3 a DNA?

4 A. I was explaining why I was going to ask for a
5 DNA.

6 Q. In response to a question of hers as to why
7 you were getting the DNA?

8 A. Sir, I called her to let her know that I
9 would be requesting a sample of DNA.

10 Q. Yeah. And what did she say?

11 A. She asked about what the -- that's when we
12 talked about the lab analysis report on what the
13 wording on the lab analysis report, and why that was
14 significant, because it left open the possibility of a
15 third person on the DNA.

16 Q. So she never told you that she's the one that
17 requested that the Patrol get a DNA and exonerate her
18 kid, right?

19 A. Not that I recall, no.

20 Q. Well, are you saying that -- that you don't
21 have a present recollection of her telling you that?

22 A. I don't remember having that conversation
23 with her.

24 Q. So you're not saying she didn't, you're
25 saying you don't have a present recollection?

1 A. Correct.

2 Q. The -- the name of Garrett Grellner, do you
3 know when that name came into the mix here as a suspect
4 in this rape?

5 A. No, sir.

6 Q. But if he told -- if he, Garrett Grellner,
7 told Schoeneberg that his name was tossed into the mix
8 the next morning, do you have any idea how he would
9 know that?

10 A. No, sir.

11 Q. And you never asked him any question about
12 when he learned of when his name was injected into this
13 rape, right?

14 A. No, sir.

15 Q. And you never asked him any question of how
16 he learned that his name was injected into this rape?

17 A. No, sir.

18 Q. And you don't know what conversation Fowler
19 might have had with his mother, the prosecutor, right?

20 A. Correct.

21 Q. And you didn't know whether or not Fowler had
22 talked to the victim, did you?

23 A. I don't remember who talked to her. Somebody
24 had interviewed her, but I don't remember who it was.

25 Q. And you don't remember if Fowler talked to

1 the victim what he might have told Amanda Grellner, do
2 you?

3 A. No, sir. I have no idea what discussions
4 took place.

5 Q. And you -- you have no idea what Fowler might
6 have told Amanda Grellner about whatever investigation
7 was being conducted by his office, right?

8 A. Correct.

9 Q. And you say that you -- you called Grellner
10 to have a mom-to-mom conversation. What does that
11 mean?

12 A. Just the importance of how it would impact
13 your family.

14 Q. What do you mean by that?

15 A. I wanted to explain the -- why I was asking
16 or why I was going to be asking for the DNA. I wanted
17 to explain that to her.

18 Q. And during any of this conversation that you
19 had with mom, did you ever ask her what she knew about
20 the investigation?

21 A. No, sir.

22 Q. Why not?

23 A. Just didn't.

24 Q. And you never asked the mom specifically
25 whether or not Fowler might have shared any details

1 about the investigation with her, right?

2 A. No, sir.

3 Q. Let me ask you this: So this -- this rape --
4 and, clearly, there's a rape here, right? There is no
5 question about that?

6 A. Correct.

7 Q. Clearly, it was a criminal act, right?

8 A. Yes, sir.

9 Q. And -- and, of course, this is a -- this is a
10 juvenile. It's a minor, right? So there can't be
11 consent, correct?

12 A. Correct.

13 Q. All right. So -- and Garrett Grellner was --
14 was not a minor at the time, correct?

15 A. I believe he was 18.

16 Q. All right. So the victim couldn't even
17 consent for him to have sex with her, correct?

18 A. Correct.

19 Q. So -- so you have a criminal act that's --
20 that occurs in Osage County, right -- that involves as
21 a suspect early on, the son of the prosecutor, correct?

22 A. Yes, sir.

23 Q. Okay. Did you ask Amanda Grellner whether or
24 not she recused herself as a prosecutor when she found
25 out that her son was a suspect in this criminal case?

1 A. A prosecutor on what case, sir?

2 Q. On the -- the incident, the rape that
3 occurred in -- in her venue?

4 A. I wasn't aware that any charges were filed.

5 Q. So you think that she would have to recuse
6 herself only if charges were filed against her son?

7 MR. COX: Objection. Calls for a legal
8 conclusion.

9 THE WITNESS: Sir, I don't understand that
10 process. I don't -- I don't understand what she
11 recuses herself for.

12 BY MR. PLEBAN:

13 Q. Well, okay. Let me -- let me ask you this
14 question. Let me ask it this way. All right?

15 A. I'm sorry.

16 Q. Maybe this is a way you can understand it.
17 You were investigating a criminal act?

18 A. Yes, sir.

19 Q. When you investigate a criminal act, you then
20 have a prosecutor to go to, correct?

21 A. Yes, sir.

22 Q. Okay. Well, what prosecutor -- who was your
23 prosecutor in this case that you were investigating?

24 A. I didn't reach a level of probable cause to
25 go to any prosecutor.

1 Q. So that never occurred to you that maybe you
2 didn't have a prosecutor in this or a prosecutor who
3 should have recused herself?

4 A. There was never --

5 MR. COX: Objection to the -- calls for a
6 legal conclusion, to the extent the witness knows what
7 that term even means.

8 BY MR. PLEBAN:

9 Q. Well, you do know what that term means, don't
10 you?

11 A. To take yourself off the case.

12 Q. Yeah. Yeah.

13 A. But there was no case to take herself off of.

14 Q. Well, there was an investigation being
15 conducted.

16 A. There was no probable cause submitted to the
17 prosecutor.

18 Q. Well, you know, you said -- you said that if
19 you needed a search warrant, you would have been
20 laughed out of the prosecutor's office, right?

21 A. Right.

22 Q. That's what you -- that's what you told
23 Professional Standards, right?

24 A. Right.

25 Q. But what prosecutor would you have gone to?

1 A. I didn't think what prosecutor to go to,
2 because I didn't have enough information to go to a
3 prosecutor.

4 Q. And you didn't have enough information to go
5 to a prosecutor, because you didn't develop enough of
6 an investigation to determine probable cause, did you?

7 MR. COX: Objection. Misstates her
8 testimony. Argumentative.

9 BY MR PLEBAN:

10 Q. Did you?

11 A. I did not establish probable cause.

12 Q. Because you didn't do enough of an
13 investigation to establish any probable cause, correct?

14 MR. COX: Same objection.

15 THE WITNESS: I did not establish probable
16 cause.

17 BY MR. PLEBAN:

18 Q. I guess we're not going to get an answer to
19 that, so all right.

20 MR. COX: Objection to the statement of
21 counsel.

22 BY MR. PLEBAN:

23 Q. When did you make the decision that you
24 couldn't get a search warrant?

25 A. I didn't need a search warrant.

1 Q. When did you make the decision that you
2 couldn't get one?

3 A. I didn't make a decision that I couldn't get
4 one.

5 Q. You said you would have been --

6 A. I made a decision that I wasn't going to ask
7 for one.

8 Q. When did you make that decision then?

9 A. And I didn't need one.

10 Q. When did you make the decision that you
11 weren't going to ask for one?

12 A. Sometime between February 25th and
13 February 28th.

14 Q. February 25th and 28th?

15 A. Yes, sir. Those were the days that I got the
16 case and that was the day that I submitted the DNA.

17 Q. Who reviewed your final report, that -- that
18 full and complete report that you have in front of you,
19 Exhibit A there?

20 A. I don't know where all it went after I
21 submitted it to my sergeant, but that's where I
22 submitted it.

23 Q. You submitted it to Mueller?

24 A. No. To Sergeant Daniels.

25 Q. I'm sorry?

1 A. Sergeant Daniels.

2 Q. Sergeant Daniels. Okay. And who is Sergeant
3 Daniels?

4 A. He's the Zone 17 sergeant.

5 Q. Okay. Randy Henry never reviewed that
6 report, did he?

7 A. No, sir. I mean, I didn't submit it to him.

8 Q. Well, did you ask him to review it?

9 A. No, sir.

10 Q. Because there would be no reason, right?

11 A. Correct.

12 Q. Who else besides Daniels reviewed the report?

13 A. I don't know where it went.

14 Q. Why wouldn't Mueller review the report?

15 A. I don't know that he did or didn't.

16 Q. Well, I mean, what's the protocol?

17 A. I -- my protocol is, I submit the report
18 electronically to my sergeant.

19 Q. Okay. But do you know where -- I mean, you
20 were working for DDCC then, right?

21 A. I was working -- I was not assigned to DDCC
22 at that time. I was still -- I was assigned in my
23 zone.

24 Q. Okay. So your supervisor actually wasn't
25 Mueller, it was Daniels?

1 A. Well, Mueller is the one who asked me to do
2 this case.

3 Q. I didn't ask you that. Your supervisor was
4 Daniels, not Mueller, correct?

5 A. Being a supervisor isn't an exclusive entity.
6 I can have more than one supervisor at a time.

7 Q. Well, then why wouldn't -- if Mueller was
8 your supervisor, why wouldn't you ask him to review the
9 report?

10 A. The report protocol is that it goes up
11 through your sergeant.

12 Q. Did -- did you ask anybody to review this
13 report before you submitted it to Daniels?

14 A. I don't remember asking anyone to actually
15 review the report.

16 Q. Why wouldn't you have somebody review the
17 report?

18 A. Like, for spelling or typographical errors?

19 Q. No. Just you said that, you know, Stacks,
20 for example, you consulted with. You consulted with
21 people in DDCC, right?

22 MR. COX: Objection. Misstates her
23 testimony.

24 MR. PLEBAN What was her testimony?

25 MR. COX: She couldn't whether she did or

1 not.

2 BY MR. PLEBAN:

3 Q. Did you -- did you have Stacks, for example,
4 review the report?

5 A. The actual written report and have him look
6 over it before I submitted it?

7 Q. Yeah. Yeah.

8 A. No.

9 Q. Well, why not?

10 A. Why would I? The submission process goes
11 through --

12 Q. Well, to see if the -- well, I guess, to
13 answer your question, to see if there is anything --
14 any more detail that you need, to see if there's any
15 more legwork that you need to do, to see if, for
16 example, you should interview the victim, to see if --
17 if you need to do some witness interviewing?

18 A. So what you're asking then is not whether or
19 not I had my report reviewed, but whether I had my
20 investigation reviewed?

21 Q. Well, isn't that in your -- isn't that your
22 report, what your investigation is?

23 A. The different steps that we take or that I
24 took in investigation, that, I do bounce off of people.

25 Q. But what you put in this report, right?

1 A. Right.

2 Q. You told me several hours ago that it's fair
3 and complete, accurate, right?

4 A. Yes, sir. Yes, sir.

5 Q. Okay. And so this is your Bible of what you
6 did, right?

7 A. This --

8 MR COX: Object to that phrase. Vague and
9 argumentative.

10 BY MR. PLEBAN:

11 Q. Correct?

12 A. What do you mean, my Bible, sir?

13 Q. Well, this -- this -- didn't you tell me that
14 reports are supposed to be accurate and complete?

15 A. Yes, sir, they are.

16 Q. Okay. And so this is what you did in this
17 investigation, right?

18 A. Yes.

19 Q. Okay. And so --

20 A. This isn't everything that I did in this
21 investigation.

22 Q. It's all the relevant stuff that you did.

23 A. This is the summary of the relevant actions
24 that I took in the investigation.

25 Q. All right. So did you --

1 A. There will be many conversations, there will
2 be e-mails -- I'm sorry. Was I still okay to answer?

3 Q. I don't know what you're answering. I just
4 asked you whether or not you had anybody review the
5 report to determine whether or not there was any
6 follow-up you needed to do?

7 A. And I answered that the report -- but we were
8 really trying to determine whether or not you're asking
9 if I had assistance with my investigation, not whether
10 someone read my paperwork.

11 Q. I'm asking you whether or not you had
12 anybody -- any of the DDC (sic) investigators,
13 including, but not limited to staff, review this report
14 to see whether or not you needed to do any kind of
15 follow-up or any kind of additional investigation.
16 It's that simple.

17 A. Okay. I did -- and I don't know what
18 conversations or when, but I did have conversations
19 with the DDCC guys as we were working through this
20 investigation on the steps that I was taking and what I
21 was doing. And then once everything was concluded,
22 then I wrote a report and I submitted that report to
23 Sergeant Daniels. I don't remember handing the report
24 to anyone else, because it's an electronic submission,
25 so it -- it's -- I e-mailed it to my sergeant.

1 It's very possible that other people could
2 have looked over parts or places or looked over it or
3 done typos. I have all kinds of people read reports
4 all the time. That's not an uncommon thing. That way,
5 when I'm sitting, in two years or three years, in a
6 deposition, I don't have to explain why I wrote things
7 like whatever I misspoke on her name -- Amber Grellner.
8 So those are the mistakes that we try to take care of
9 and review and have the other people review the
10 reports, so -- to eliminate those types of errors. It
11 doesn't always work.

12 Q. So do you recall whether or not you had Eric
13 Stacks review this report?

14 A. I don't recall specifically this report.

15 Q. And so you are not saying you didn't, you're
16 saying you don't have a present recollection one way or
17 the other?

18 MR. COX: Objection. Asked and answered.

19 BY MR. PLEBAN:

20 Q. Correct?

21 A. Correct, sir.

22 Q. Okay. The -- when you got this -- the
23 typewritten statement from Garrett -- Garrett Grellner,
24 is that something that you showed to your fellow DDC
25 investigators?

1 A. I don't remember.

2 Q. Now, that would have been a pretty
3 significant piece of information, wouldn't it?

4 A. Yes, sir.

5 Q. And would that have been something ordinarily
6 that you would have shared with them?

7 A. If I had been in the office, I would have or
8 could have.

9 Q. Well, surely, you were in the office sometime
10 after you got that report from him -- from Grellner?

11 A. Yes, sir.

12 Q. All right. Did you discuss with anyone from
13 DDCC, any of the investigators, interviewing the
14 victim?

15 A. Not that I remember.

16 Q. That report that you have in front of you,
17 Exhibit A, do you know whether or not that is a -- a
18 document of public record?

19 A. I don't know.

20 Q. You -- you told Professional Standards that
21 you became aware that your Grellner investigation
22 became a topic of media stories; do you remember that?

23 A. Yes.

24 Q. And how -- how did you find that out?

25 A. It was online.

1 Q. On what line?

2 A. The e-mail was online.

3 Q. Let me see.

4 A. It's really hard to read, but that's as good
5 as it gets.

6 Q. Yeah. Well, yeah. We'll make you a copy of
7 that.

8 A. I don't need a copy. Thank you.

9 Q. Thanks.

10 A. It's still on line.

11 Q. Okay. No doubt.

12 MR. PLEBAN: Do you have a copy of this?

13 MR. COX: Yes.

14 (MOSHER DEPOSITION EXHIBIT B WAS MARKED FOR
15 IDENTIFICATION BY THE COURT REPORTER.)

16 BY MR. PLEBAN:

17 Q. Let me hand you again what has been marked as
18 Mosher Exhibit B, and ask you to identify that for the
19 record, please.

20 A. It's just a printout of a page that I printed
21 after Googling Grellner, Ellingson investigation.

22 Q. And why did you Google that?

23 A. Because I knew today I would have to answer
24 what day I found out that the investigation had been
25 public, so last night I printed that.

1 Q. Well, okay. But you told Schoeneberg --

2 A. Yes.

3 Q. -- that you became aware that your Grellner
4 investigation became a topic of media stories, right?

5 A. Yes.

6 Q. That's what you said?

7 A. Yes.

8 Q. And my question to you is, how you found that
9 out?

10 A. I received a phone call.

11 Q. From?

12 A. From a retired Water Patrol who said they
13 read my name online.

14 Q. Who was that?

15 A. Captain -- retired Captain Swineburg.

16 Q. Okay. And so he said he read your name in
17 that particular --

18 A. Yes, sir.

19 Q. -- document marked Exhibit B there?

20 A. Yes, sir.

21 Q. And then you went online to look that up?

22 A. Yes, sir.

23 Q. Okay. And then what did you do?

24 A. I didn't do anything.

25 Q. So -- okay. So you read your name online and

1 that was it?

2 A. Yes, sir.

3 Q. Okay. And you got -- you haven't given me a
4 date when you got that -- when you saw that online?

5 A. I don't remember.

6 Q. What's the date that it was -- it was posted?

7 A. There isn't, like, a posting date?

8 MR. COX: Object to the relevance of that.

9 THE WITNESS: There was just the identifiers
10 that were on it, which, of course, you can type in
11 anything.

12 BY MR. PLEBAN:

13 Q. That doesn't -- okay.

14 A. So I don't remember what day that I saw it,
15 but it was -- I mean, it was around that same March
16 time when the media was giving more attention to the
17 case because she had decided to publicly step down, so
18 it was in that time period.

19 Q. That would have been in --

20 A. March.

21 Q. -- March of 2015?

22 A. Yes, sir.

23 Q. Okay. All right. Did you know that Randy
24 Henry was talking to the news media?

25 A. I did in January.

1 Q. And how did you know that?

2 A. He told me.

3 Q. What was that conversation about?

4 A. He just pulled me in the office, in another
5 office and said, I have something to tell you, that I
6 have been the one -- or I had talked to the reporter
7 from the Kansas City Star about Ellingson.

8 Q. And so this -- all of a sudden one day, Randy
9 Henry comes in -- now, you weren't in the zone -- same
10 zone at that point, were you?

11 A. Correct. This was January of 2015, just this
12 last --

13 Q. Yeah. And you're -- you're in a different
14 location?

15 A. Physically, we were in the same location, but
16 were assigned to different zones.

17 Q. I don't mean -- you have different
18 assignments, correct?

19 A. Yes, sir.

20 Q. Okay. So you have -- you share office space
21 or something?

22 A. Yes, sir.

23 Q. All right. So one day he comes in and just,
24 out of the blue, tells you he saw you in the news
25 media?

1 A. Well, he knew that we had -- we had already
2 discussed earlier today that he and I had shared
3 conversations about how unsettling and disturbing the
4 incident -- the drowning and the way it was handled
5 afterwards. So we had already had those conversations,
6 so it wasn't out the blue. No, sir.

7 He know that -- he knew that I felt very,
8 very strongly and was very upset about the Ellingson
9 drowning, about the circumstances that led up to it and
10 about the way it was handled afterwards.

11 Q. So did you tell Schoeneberg about this when
12 he was interviewing you?

13 A. No, sir.

14 Q. Why not?

15 A. Didn't ask.

16 Q. Well, you told him you had only surface-level
17 conversations with --

18 A. They're still --

19 Q. Hold -- let me finish. You had only
20 surface-level conversations, and we talked about that
21 early on, with Randy Henry about the Ellingson
22 drowning, right?

23 A. Yes, sir.

24 Q. Okay. So is this one of those surface-level
25 conversations that you had with Randy Henry when he

1 told you that he was talking to the news media about
2 the drowning?

3 A. When I define a surface-level conversation,
4 it's not one that changes policy. That's what I mean
5 by -- it wasn't one that -- that had anything to do
6 with the training ahead of time. It wasn't anything
7 that had anything to do with the events of that day.
8 It didn't change the policy, didn't change the
9 response. It was my emotions and my feelings and my
10 interpretation of the events. I wasn't rewriting
11 policy for the Highway Patrol or conducting
12 investigations for the Highway Patrol, so, yes.

13 Q. I see. So --

14 A. To answer your question, that is what I would
15 qualify as a surface-level conversation.

16 Q. All right. So when Schoeneberg said to
17 you -- and I'm going to quote now. Okay?

18 "Do you know what is meant by helping me
19 behind the scenes?"

20 Your response, "The only person is Sergeant
21 Henry and not really behind the scenes. He -- he
22 was -- we were all devastated by this case -- all of
23 us. And Randy just as much or maybe more than the rest
24 of us, so I have listened to him. About the same time
25 in January was when he really started talking about the

1 investigation and he would be the only one that I would
2 talk to specifically about the case."

3 Schoeneberg, "About the Grellner case or
4 about the Ellingson case?"

5 Your answer: "About the Ellingson case.
6 Everybody was upset about it. It was a topic of
7 everybody's conversation, but only on a surface level."

8 A. Correct.

9 Q. So that's what you meant, that it was a
10 nonpolicy-changing discussion?

11 MR. COX: Objection. Asked and answered.

12 THE WITNESS: Correct.

13 BY MR. PLEBAN:

14 Q. Yes?

15 A. Correct. Yes, sir.

16 (MOSHER DEPOSITION EXHIBIT C WAS MARKED FOR
17 IDENTIFICATION BY THE COURT REPORTER.)

18 BY MR. PLEBAN:

19 Q. I'm going to hand you what's been marked as
20 Exhibit C. Have you ever seen that before?

21 A. The part about special victims is part of
22 the --

23 Q. Read the whole thing.

24 A. I've read the whole thing, sir. Thank you.

25 You asked me if I had seen it before, and the part that

1 I saw was this -- started with the special victim's
2 person, because he kept asking me if I referred to
3 myself as a special victim's, and I don't.

4 Q. When did you see that before?

5 A. At my Professional Standards interview.

6 Q. Schoeneberg showed that to you?

7 A. This part where it says our special victim's
8 person, but I don't -- I don't think this is the same
9 one. It talked about that I would step up when the
10 time came. There was nothing about Eric Stacks in
11 there. No, I have not seen this one. No.

12 Q. No?

13 A. No. The one that he showed me was different.

14 Q. Did he actually show you something?

15 A. Yes, sir.

16 Q. And did -- you recall Schoeneberg asking you,
17 "Do you know why information is being disseminated in
18 that matter -- manner," referring to the media and
19 posts like this.

20 And you say, "I don't -- I do not, other than
21 the perception."

22 "Do you know who may have disseminated that
23 information?"

24 "I do not."

25 "I'll read you the first part of that

1 message. It says" -- and Schoeneberg quotes, "If this
2 got out, it would get Stacey Mosher, the Water Patrol
3 officer who was there that night in big trouble.
4 Stacey has been helping me behind the scenes and she
5 can't retire. She has two kids, so she needs her job.
6 Anyway, Stacey is our special victim's person. She
7 works a lot of sexual-assault cases, child molestation,
8 et cetera. A year after the merger, Stacey did an
9 internship with DDCC and guess who was her boss" --
10 then -- end quote.

11 Then Schoeneberg says, "What are your
12 thoughts on that?"

13 You say, "I don't know."

14 You say (sic), "Do you know what boss is
15 being referenced?"

16 Your answer" "I don't know."

17 Question: "Do you know who would have sent
18 that message?"

19 Your answer is: "I don't."

20 Do you remember that?

21 A. Yes, sir.

22 Q. Okay. You know who sent that message, didn't
23 you?

24 A. I know what it sounds like and what it looks
25 like, but anybody can type any message.

1 Q You knew who sent this message, didn't you?

2 A I knew what it looked like and I knew what it
3 sounded like, but I had never seen Randy send that
4 message or knew who it was sent to. Yes, I can tell
5 you what it looked like, and I could tell you what it
6 felt like to see those words and to hear that
7 statement. That's what it -- that's what I felt, that
8 was an emotional response, just like the one I'm
9 reading and the one I'm feeling right now having read
10 the rest of it.

11 Q You knew that Randy Henry sent the message
12 when Schoeneberg asked you the question, didn't you?

13 MR. COX: Objection. Asked and answered.

14 BY MR. PLEBAN:

15 Q Didn't you?

16 A I didn't know the way that you know.

17 Q What does that mean?

18 A That means, I didn't see him print it, I
19 didn't see him type it.

20 Q Of course not. Of course not. Yes.

21 A Just like I didn't see Garrett Grellner type
22 that statement, just like I didn't see the person type
23 this statement. If you're going to ask and let me
24 finish, then let me finish.

25 Q Finish. Go ahead.

1 A. I didn't see him type it.

2 Q. Right

3 A. I know what it felt like and it felt like

4 that was a message that he sent.

5 Q. Why didn't you tell Schoeneberg that you

6 thought Randy Henry sent this message?

7 A. Why didn't I?

8 Q. Yes.

9 A. Why would I?

10 Q. Because he asked you the question, who do you

11 think sent the message. That's what -- that's the

12 response.

13 A. I don't know who sent the message.

14 Q. What?

15 A. I don't know who sent the message.

16 Q. So you didn't -- because you didn't see Randy

17 Henry type that, you didn't think it was significant

18 to -- to tell the captain in Professional Standards

19 what you knew?

20 A. I didn't know. Anybody could have typed that

21 up.

22 Q. You didn't -- you didn't think it --

23 A. Anybody could have typed that up.

24 Q. Yeah.

25 A. And anybody could have typed up the one that

1 I read that day. He would not tell me who it was to or
2 who it was from.

3 Q. And you didn't think it was significant to
4 tell the head of Professional Standards your belief
5 that Randy Henry sent that message?

6 A. He didn't ask me what I believed.

7 Q. Oh. So if he doesn't ask the right question,
8 you don't give him the right answer?

9 MR. COX: Objection. Argumentative.

10 THE WITNESS: What --

11 BY MR. PLEBAN:

12 Q. Is that it?

13 A. He asked if I knew, and, no.

14 Q. I see.

15 A. Just like I'm sitting here, right here, right
16 now today; I don't know that he did that.

17 Q. You don't.

18 A. I don't want to --

19 Q. How many people did you help behind the
20 scenes?

21 A. I don't know what behind the scenes means.

22 Q. You don't?

23 A. No, sir.

24 Q. So did you ask Schoeneberg for clarification
25 when he asked you that question?

1 A. I asked who it was from or where he got it.

2 Q. Did you ask him for a clarification of what
3 was meant "behind the scenes"?

4 A. No, sir.

5 Q. No. All you said was, I deny helping anybody
6 behind the scenes, correct?

7 A. I don't know what I said exactly, word for
8 word.

9 Q. But you deny today that you helped anybody
10 behind the scenes, correct?

11 A. There was no behind the scenes.

12 Q. And you deny --

13 A. Everything was a public record. Everything
14 was -- everything was out.

15 Q. And you deny helping anybody behind the
16 scenes, correct?

17 MR. COX: Objection to the use -- vague use
18 of the term "behind the scenes." She's already said
19 she doesn't know what that means.

20 BY MR. PLEBAN:

21 Q. Is that right?

22 A. What's behind the scenes mean?

23 Q. Helping Randy Henry with -- with anything
24 that he was doing. You knew what he was doing, right?

25 A. Yes, I knew what he was doing. In January, I

1 knew what he was doing.

2 Q. You knew he was talking -- yes. And you knew
3 he was talking to the media, right?

4 A. Yes, I did.

5 Q. Did you know he was talking to the Ellingson
6 family?

7 A. Yes, I did.

8 Q. And did you -- did you help him with any of
9 that?

10 A. I looked over the reports -- the accident
11 reports and the transcripts, the -- from the inquest.

12 Q. Yeah. He gave you a whole file to look at,
13 didn't he?

14 A. Yes, he did.

15 Q. His entire file; isn't that right?

16 A. His entire file, yes, sir.

17 Q. And he gave you Piercy's alcohol influence
18 report, right?

19 A. There were several items.

20 Q. And he gave you Bascue, Sanders, Malone
21 playing hooky statements, didn't he?

22 A. Yes.

23 Q. And he gave you Echternacht's investigative
24 report, right?

25 A. I'm not -- I'm sorry.

1 Q. E-c-h-t-e-r-n-a-c-h-t's investigative report?

2 A. Yes, sir.

3 Q. He did.

4 A. Echternacht. Yes, sir.

5 Q. And he gave you that same gentleman's crash
6 report, right?

7 A. A copy of the crash report, yes.

8 Q. And he gave you the Piercy statement,
9 correct?

10 A. Yes, sir.

11 Q. And he gave you the Mosher, Richardson,
12 Henry, and Fick reports, right?

13 A. Yes, sir.

14 Q. And he gave you the GPS drive and drag
15 reports, correct?

16 A. The -- yes, sir.

17 Q. And the motor diagnostic report, right?

18 A. I don't remember a motor -- okay.

19 Q. Okay. All right. And he gave you the DDC
20 response, didn't he?

21 A. The whole file, sir. The whole file.

22 Q. He gave -- well, bear with me here. Okay?

23 MR. COX: Has that been marked as an exhibit?

24 MR. PLEBAN: I'm sorry?

25 MR. COX: Can we mark that as an exhibit? I

1 don't know what you're reading from.

2 MR. PLEBAN: I will in a minute, yeah.

3 BY MR. PLEBAN:

4 Q. And he gave you the autopsy report, right?

5 A. If it was in there, yes.

6 Q. And the toxicology report, right?

7 A. Yes, sir.

8 Q. And the missing Highway Patrol tox report,
9 right?

10 A. Both reports, yes, sir.

11 Q. Yeah. And he gave you Bascue, Moreau, Vogel,
12 Onderdonk, O-n-d-e-r-d-o-n-k, Kathy Bruce, and then a
13 fellow by the name of Storjohann, S-t-o-r-j-o-h-a-n-n,
14 statements, right?

15 A. There was a lot of statements in there.

16 Q. And pictures, right?

17 A. Yes, sir.

18 Q. And he gave you the DDC initiates
19 investigation Jackson driver's license, hummingbird
20 exam, and interior Donzi diagram, right?

21 A. Yes, sir.

22 Q. And he gave you Ellingson's passengers'
23 statements, right?

24 A. If they were in there, then, yes, sir.

25 Q. And miscellaneous letters, fanny pack and

1 hummingbird seizure, right?

2 A. Yes, sir.

3 Q. And Piercy interviews, right?

4 A. Yes, sir.

5 Q. Playing hooky statements, right?

6 A. Yes, sir.

7 Q. Morgan County reports and photos, right?

8 A. Morgan County Sheriff's Office?

9 Q. Yeah. The sheriff's department.

10 A. Okay.

11 Q. All right. And Piercy's medical records,

12 right?

13 A. Well, if they were in there.

14 Q. What?

15 A. If they were in there.

16 Q. Uh-huh. And Stacks' and Worthley's

17 reenactment, right?

18 A. Yes, sir.

19 Q. And radio traffic and CAD logs, right?

20 A. Yes, sir.

21 Q. And miscellaneous interviews?

22 A. Yes, sir.

23 Q. And he even gave you the coroner's inquest

24 transcript, didn't he?

25 A. Transcript, yes, sir.

1 Q. Yes. And for what purpose?

2 A. To look over everything.

3 Q. For what?

4 A. Just to look at -- look them over to see if

5 there was anything that didn't make sense or anything

6 that didn't --

7 Q. Okay.

8 A. That was it.

9 Q. Toward what end?

10 A. If there was anything that was missed in the

11 investigation.

12 Q. Well, but Randy Henry wasn't conducting the

13 investigation, was he?

14 A. Correct.

15 Q. So did you say to him, why am I looking this

16 over?

17 A. No, sir. He asked me to.

18 Q. Okay. And what did you tell him after you

19 looked -- looked it over?

20 A. I said there were some statements that Piercy

21 made that are -- that are concerning.

22 Q. Yeah. And you knew at that time that he was

23 talking to the news media, right?

24 A. I did.

25 Q. And you knew at that time that he was talking

1 to the Grellner lawyers, right?

2 A. At that time, yes, I did.

3 Q. Okay. So you were going to --

4 MR. COX: Whoa. Whoa. Whoa. Whoa. The
5 Grellner lawyers?

6 MR. PLEBAN: I'm sorry.

7 MR. COX: Okay.

8 BY MR. PLEBAN:

9 Q. No. No. No. The Ellingson lawyers?

10 A. Sorry. I made that jump, also.

11 Q. Yes. I -- and I apologize.

12 And you knew he was talking to the Ellingson
13 lawyers, right?

14 A. Yes.

15 Q. Okay. And so were you helping him give
16 information to the news media and the Ellingson
17 lawyers? Is that what this was about?

18 A. Sir, he asked for a personal favor to look
19 over anything that was in there to help him if there
20 was anything that was missed.

21 Q. Knowing that he was talking to the media and
22 the Ellingson lawyers, right?

23 A. Yes, sir.

24 Q. Okay. So did you say to him, why am I doing
25 this, Randy?

1 A. No, sir

2 Q. Did you say, are you going to give to the
3 Ellingson lawyers and the news media information that I
4 give to you?

5 A. No, sir.

6 Q. Okay. But you gave him feedback, right?

7 A. Yes, sir, I did.

8 Q. Uh-huh. And so you don't think that's
9 working behind the scenes?

10 A. No, sir.

11 Q. No. You don't think that's what Schoeneberg
12 meant when he asked you the question of, are you
13 working behind the scenes?

14 A. Reviewing information that had already been
15 investigated and already printed, I wasn't conducting
16 my own investigation. I wasn't -- no. That isn't what
17 I -- that's exactly what I meant, that I wasn't working
18 behind the scenes. Was I was looking over the reports
19 that were already written? Absolutely. Did I read the
20 transcripts that had already been spoken? Absolutely.
21 Did I look at every piece of paper that was in the file
22 that was already done? Yes.

23 And the feedback I gave him was, it -- what
24 everybody had already determined, that Piercy's
25 statement obviously changed -- obviously changed. And

1 his radio -- the statement that he gave to the -- at
2 the scene about his radio being too loud, because he
3 had his radio up all the way, that is concerning to me.
4 The statement about that he had his kill switch off,
5 that he pulled the kill switches, which had also
6 already been discussed, I didn't have any brand-new
7 gems of knowledge.

8 I didn't find any -- everything that I read
9 and heard was everything that I had already read and
10 heard. But I had never read Piercy's words before from
11 the inquest. I wasn't present at the inquest. So to
12 read that and to read his statements, yes, there was
13 discrepancies in there that I shared with Randy.

14 Q. You said everybody knew that Piercy's
15 statements changed?

16 A. That the conversation has already been
17 documented on the Kansas City Star, that it -- he made
18 one statement to Randy the night of and made a
19 different statement at the inquest. That was, in our
20 world, common knowledge that his statement had changed.

21 Q. Yeah. Well, apparently, Grellner didn't know
22 that, huh -- because she didn't present any of that
23 evidence at the coroner's inquest?

24 A. Sir, I --

25 MR. COX: Objection. Calls for speculation.

1 THE WITNESS: I don't know what she knew or
2 didn't know.

3 BY MR. PLEBAN:

4 Q. Well, you read the -- you read the coroner's
5 inquest transcript, did you not?

6 A. Correct.

7 Q. Okay. Was Randy Henry called at the
8 coroner's inquest?

9 A. No, sir.

10 Q. Okay. And you knew that Randy Henry knew
11 that Piercy had changed his statements, correct?

12 A. That's what Randy told me, yes.

13 Q. Correct. Yeah. And -- and -- and when you
14 knew, when you found out that Grellner never even
15 bothered to called him as a witness -- him, being Randy
16 Henry -- as a witness at the coroner's inquest, did
17 that upset you?

18 A. Not specifically Randy, but there was a lot
19 of people, it seems, that could have been called that
20 weren't.

21 Q. Okay. And did that upset you?

22 A. Yes, sir.

23 Q. Okay. And you were upset with the way
24 Grellner handled the coroner's inquest, weren't you?

25 A. No, sir. I was just upset that the -- the

1 people that were provided weren't the people that
2 really had the knowledge that -- the impactful
3 knowledge. That was part of how everything happened
4 afterwards. I was upset that the right people, the
5 people that have all the answers that they were asking,
6 after reading those transcripts, they -- they weren't
7 the people that had the best knowledge --

8 Q. All right.

9 A. -- to be called for that inquest.

10 Q. And who do you think made that decision?

11 A. From what I understand, that was the Highway
12 Patrol. They supplied the people for the inquest.

13 Q. And Grellner had nothing to do with who was
14 called or who wasn't called? This was your
15 understanding?

16 A. That is my understanding, yes, sir.

17 Q. I see. Uh-huh. So this review that you
18 provided to Randy Henry, knowing that he was talking to
19 the media and knowing that he was talking to the
20 Ellingson lawyers, why didn't you tell Schoeneberg
21 that?

22 A. That I did the review?

23 Q. That you were helping Randy Henry with --
24 with his whole file. You were reviewing it to help
25 him --

1 A. Yes.

2 Q. -- knowing that he was talking to the news
3 media, knowing that he was talking to the Ellingson
4 family; why didn't you tell Schoeneberg that?

5 A. I just didn't.

6 Q. And I'm asking you why?

7 A. The only question that he asked specifically
8 was the behind-the-scenes question.

9 Q. Oh, my God.

10 A. I wasn't conducting an investigation.

11 MR. COX: And before we move on, can we mark
12 that as an exhibit, please, because I don't know what
13 you were referring to.

14 MR. PLEBAN: Okay.

15 BY MR. PLEBAN:

16 Q. Do you remember this question and this answer
17 that Schoeneberg asked you at the conclusion of your
18 interview?

19 "Is there anything that I have not asked you
20 that you think is relevant to this investigation?"

21 Answer: "No."

22 A. No.

23 Q. So you didn't think, in light of his question
24 of the helping behind the scenes, in light of your
25 review of the information that Randy Henry provided,

1 you didn't think it was something that you should have
2 told him about when he said, is there anything that I
3 have not asked you that you -- that you think is
4 relevant to this investigation?

5 A. No.

6 Q. And why not?

7 A. Every question that he asked, most of the
8 questions were about my investigation and what I did
9 and what conversation I had with Grellner. And then --
10 then a blind e-mail that he wouldn't even say who it
11 was from or what it was to, no. It's not relevant.
12 What I did didn't change anything or do anything. I
13 read over the reports that were already there, and I
14 offered my feedback on those reports. That doesn't
15 change -- no. It's not -- no.

16 Q. Isn't it true that the reason that you didn't
17 tell Schoeneberg about your involvement behind the
18 scenes with Randy Henry was because you didn't want to
19 get yourself in trouble?

20 A. It wasn't behind the scenes. That's where
21 you keep going, behind the scenes. He handed me an
22 open file of which I accepted and said, will you look
23 over these reports.

24 And I said yes. And I read them.

25 Q. Is the reason you didn't tell Schoeneberg in

1 response to the question, is there anything else that I
2 haven't asked you that you think is relevant to this
3 investigation, is the reason that you didn't tell him
4 about reviewing all of the reports that Randy Henry
5 gave you, because you wanted to protect yourself and
6 didn't involve yourself -- didn't want to involve
7 yourself in this?

8 A. No, sir.

9 Q. How long did it take you to review all those
10 reports?

11 A. About a week.

12 Q. So you spent a full week analyzing reports
13 that Randy had prepared for you?

14 A. I had surgery on my foot, so I was off duty
15 and sitting on the couch. So I read them that --
16 during that period of time.

17 Q. Is -- is there anything else that you did
18 with Randy Henry that you didn't tell Schoeneberg
19 about?

20 MR. COX: Objection to the vagueness of the
21 question.

22 THE WITNESS: We have a -- he's been my
23 supervisor and been my friend since 1994, so --

24 BY MR. PLEBAN:

25 Q. Well, no -- yeah. No. No. No.

1 A. So, you know, there's a lot of things.

2 Q. I'm -- I'm not talking about -- I'm talking
3 about these surface-level conversations that you
4 described. Anything else that you helped Randy Henry
5 with? And it's one of those kind of open-ended
6 questions that Schoeneberg asked you.

7 A. Well, it's an incredibly open-ended question.

8 Q. Yeah, I know. Just like Schoeneberg.

9 A. Just like Schoeneberg.

10 Q. Right. Anything else?

11 A. No. I can't recall anything else that I did
12 to help Randy Henry review a case file.

13 Q. Let's see if I can help you out.

14 A. Yes. I did help him.

15 Q. Yeah. What would that be? Yeah.

16 A. He sent me talking points, and I reviewed
17 talking points.

18 Q. Ah. I thought you might remember that. But
19 just so we're clear, let me mark it. All right?

20 A. Absolutely.

21 MR. COX: And the other document, too,
22 please.

23 MR. PLEBAN: What other document?

24 MR. COX: The document that you were reading
25 from as far as the things that he had given her.

1 MR. PLEBAN: I may or may not mark that. I
2 don't know yet.

3 (MOSHER DEPOSITION EXHIBIT D WAS MARKED FOR
4 IDENTIFICATION BY THE COURT REPORTER.)

5 BY MR. PLEBAN:

6 Q. Let me hand you what's been marked as --

7 MR. COX: Can I look at it?

8 MR. PLEBAN: No. It's not an exhibit.

9 BY MR. PLEBAN:

10 Q. Let me hand you what's marked as Mosher D,
11 and ask you if you recognize that? Let me give it to
12 him first.

13 MR. PLEBAN: Actually, I have one for you,
14 Ben. Here's one.

15 BY MR. PLEBAN:

16 Q. Do you recognize that?

17 A. Yes.

18 Q. Huh?

19 A. Yes.

20 Q. What is it?

21 A. The talking points, what -- what the points
22 were of the investigation that offered -- just the
23 points of things that could have been done better,
24 could have been done different, offered information
25 that was contrary to what was accepted.

1 Q. Okay. And so --

2 A. Like the boat ed course, passed, got a card.
3 Obviously, the boat education class talked about life
4 jackets. So it's things where there was a discrepancy
5 in the investigation.

6 Q. And did you review those?

7 A. I remember reading them, but I don't
8 remember -- at the time, I thought they had already
9 been submitted. The ones I remember actually reviewing
10 for content were ones that he was going to use when he
11 talked to Grellner. Those are the only ones that I
12 actually offered -- offered feedback on.

13 Q. Okay. And you recognize those as the ones
14 that he was going to use to talk to Grellner?

15 A. I haven't -- I don't think there were as
16 many.

17 Q. Okay. What do you mean, talk to Grellner?
18 What are you talking about?

19 A. When she was going to call him as a
20 witness -- or during the investigation, when she
21 reopened the investigation. In March, when she
22 reopened the investigation.

23 Q. Okay. So do you know how it came about that
24 Randy was going to talk to Grellner?

25 A. No. I thought that was part of the new

1 investigation -- or the new information that she was
2 opening with the investigation.

3 Q. I see. And how did you learn that?

4 A. That she reopened the investigation?

5 Q. No. That was in the paper.

6 A. Right.

7 Q. But how did -- how did you know that she was
8 going to call Randy or talk to Randy?

9 A. He -- he told me. They were going to have a
10 meeting.

11 Q. He told you that?

12 A. Yes.

13 Q. Okay. And what else did he tell you about
14 talking to her?

15 A. He had e-mailed me the points similar to
16 these that -- the points that he wanted to make when he
17 was talking to her.

18 Q. Okay.

19 A. But that -- like I said, that -- I don't --
20 these weren't them.

21 Q. And what did -- what was he asking of you?

22 A. Once again, just to review them, but this was
23 prior to them being used. So he wanted to look at
24 them -- for me to just look at them prior to him
25 discussing with the prosecutor. These --

1 Q. Okay. And did he say why he wanted you to
2 review those?

3 A. The same reason.

4 Q. Which was?

5 A. The same reason he asked me to review
6 everything.

7 Q. Which was?

8 A. Just to make sure they were clear.

9 Q. Okay. And did you respond?

10 A. Yes, I did.

11 Q. What did you tell him?

12 A. I don't remember my response exactly, but
13 some of the things -- I just remember, like, some of
14 the stuff was -- like, bring it down to a -- more of a
15 fact-based, just a fact-based thing. Like, without the
16 explanation sentences that went with it, to just -- to
17 condense it a little a bit to just the -- the main
18 points, and to keep it just professional and -- and to
19 the point.

20 (MOSHER DEPOSITION EXHIBIT E WAS MARKED FOR
21 IDENTIFICATION BY THE COURT REPORTER.)

22 BY MR. PLEBAN:

23 Q. Take a look at that and tell me if you
24 recognize that, please.

25 A. Yes. This is what I replied.

1 Q. And that's an e-mail; is that correct?

2 A. This was an e-mail from me.

3 Q. Okay. To Randy?

4 A. To Randy.

5 Q. Okay. And these were your thoughts about the
6 bullet points?

7 A. Yes, sir.

8 Q. Okay. And in part of the response was -- you
9 said, she is undoubtedly aware of their ineffective
10 choices of inquest witnesses. Do you see that at that
11 the bottom?

12 A. Right.

13 Q. Okay. What did you mean by that?

14 A. The same thing that we just talked about.

15 Q. So the she that you were referring to is
16 Grellner?

17 A. Yes, sir.

18 Q. If you turn to -- to the last page, Randy
19 writes to you, was told by Laura I would be getting
20 interviewed by Grellner herself; is that right?

21 A. Yes, sir.

22 Q. Who is the Laura?

23 A. That's the reporter for the Kansas City Star.

24 Q. Laura Bauer?

25 A. Yes, sir.

1 Q. How do you know that?

2 A. Because he told me.

3 Q. So this was on February the 14th is when he
4 sent you this e-mail. How -- how much before
5 February 14th did you know that Laura Bauer was the
6 reporter from the Kansas City Star that he was talking
7 to?

8 A. In January.

9 Q. He says here, Boles don't recommend me going
10 into the cover-up stuff as he doesn't think she cares
11 about that. Do you see that?

12 A. Yes, sir.

13 Q. Who is Boles?

14 A. That's the attorney for the Ellingson family.

15 Q. When did you know that name?

16 A. In January.

17 Q. When he told you he was talking --

18 A. Yes.

19 Q. -- to the family lawyer?

20 A. Yes.

21 Q. This was that out-of-the-blue conversation?

22 A. Sir, I told you it wasn't out of the blue.

23 Q. Well, he came into you one day and said, hey,
24 by the way, I'm talking to the media?

25 A. Yes.

1 Q. Okay. And when -- when he came in that day
2 and told you that he was talking to the media, did he
3 also tell you that he was talking to the family lawyer?

4 A. Yes, sir.

5 Q. And he mentioned him by name, Boles?

6 A. Yes, sir.

7 Q. Okay.

8 A. And Boles' name has been in all the newspaper
9 articles. I mean, it's not an unfamiliar name.

10 Q. Uh-huh. And so you didn't think it was
11 important to tell Schoeneberg about this e-mail that
12 you sent?

13 A. No, sir.

14 Q. And you considered this e-mail and those
15 bullet points surface-level conversations that you were
16 having with Randy Henry?

17 A. Yes, sir.

18 Q. Now, you had -- you say that you had a
19 conversation with Randy about the Grellner
20 investigation sometime in, when, January?

21 A. March.

22 Q. March. Okay. And who initiated that
23 conversation?

24 A. I did. When we were talking about Grellner
25 having reopened the case. It was right about -- right

1 after she had reopened the case. And that she -- she
2 was reopening it and going through and talking to
3 people that she hadn't talked to before and reassessing
4 information that she hadn't -- didn't have available to
5 her the first time.

6 Q. Well -- so, again, you started talking to him
7 about your investigating Grellner's kid?

8 A. Talking to him about Grellner herself.

9 Q. Well, you didn't talk to him about Grellner's
10 kid?

11 A. Yes. But that's not where the conversation
12 started.

13 Q. But you -- you injected Grellner's kid into
14 that conversation, right?

15 A. The conversation was that --

16 Q. Just a yes or no. You injected Grellner's
17 kid into the conversation, correct?

18 A. I injected the -- yes. I injected the
19 investigation that I conducted with Grellner and her
20 son into the conversation, yes, I did.

21 Q. What would that have to do with -- with
22 anything in the Ellingson drowning?

23 A. With just the point being that she had --
24 that she believed in what we did, she believed in us,
25 she believed in the Highway Patrol, because when I

1 worked with her on the last time, when I worked with
2 her on this investigation, she trusted in the system,
3 she trusted in the investigation, that just to treat
4 this as an opportunity to interact with her on a
5 professional level.

6 Q. But you didn't trust Grellner at the time,
7 did you?

8 A. Yes, I did.

9 Q. So you thought that Grellner did a fine job
10 with -- with the coroner's inquest?

11 A. Given the information that was presented at
12 the inquest.

13 Q. How do you know -- how did you know that
14 Grellner wasn't the one that presented the witnesses --
15 the appropriate witnesses?

16 A. The -- the coroner in the paper said that the
17 Highway Patrol presented the witnesses.

18 Q. No. How do you know that Grellner didn't
19 have a hand in that?

20 A. That that wasn't --

21 MR. COX: Asked and answered. Objection.

22 THE WITNESS: It was a coroner's inquest. It
23 was his inquest and the Highway Patrol presented their
24 witnesses.

25 BY MR. PLEBAN:

1 Q. Well, you read the transcript, correct?

2 A. Yes, sir.

3 Q. And you read the part of the transcript where
4 Grellner is the one that put the witnesses on the
5 witness stand, correct?

6 A. Asking questions, yes.

7 Q. Yes. And you're the one -- you read that she
8 called the witnesses, correct?

9 A. From a list that was provided by the Highway
10 Patrol of who would be available to testify.

11 Q. And how do you know that?

12 A. Because the Highway Patrol chose the
13 witnesses.

14 Q. How do you know that?

15 A. I don't know how I know that, but that's what
16 I know, that they were provided. They were -- the list
17 was provided on who the Highway Patrol was going to
18 provide.

19 Q. And you can't explain to me how you knew
20 that?

21 A. No, sir.

22 Q. But you were absolutely certain that Grellner
23 had nothing to do with that?

24 A. Yes, sir.

25 Q. And are you able to explain to me how you

1 know that with that kind of certainty?

2 A. Because the Highway Patrol chose the people
3 that had to be put on the panel. I just -- I don't
4 remember who told me that or how I know that, but I
5 know that they didn't choose the witnesses. The
6 Highway Patrol provided the witnesses. Dr. Jones and
7 Prosecutor Grellner had to make a decision in the
8 inquest based on the information that was provided by
9 the Highway Patrol. We didn't provide the right
10 information.

11 Q. And so you deny telling Randy Henry that this
12 was the same Amanda Grellner that you were involved
13 with in the investigation of her son who was accused of
14 rape, and that Stacks assigned you the case and said
15 something to the effect, deal with this or take care of
16 it, and do the DNA swab to make this go away?

17 A. No.

18 Q. You deny that; is that right?

19 A. Absolutely. I absolutely deny that.

20 Q. Well, what did you tell him in that regard?

21 A. That I had investigated this case and that
22 her kid was the wrong kid in the wrong place at the
23 wrong time, and I did everything that I could to take
24 that -- take that family -- the Frank family and their
25 concerns and their allegations and investigate those

1 out to the very, very end, and that the Grellner family
2 participated -- voluntarily participated with that
3 process.

4 Q. That's what you told Randy Henry?

5 A. Yes.

6 Q. Why was it necessary to have that
7 conversation with him?

8 A. It was saying -- the point being that
9 Grellner trusts -- I hoped that nobody had gone to
10 Grellner and tried to use any of that investigation in
11 the wrong way because she -- she did believe, that they
12 did voluntarily participate. She never said anything
13 or fought anything or resisted anything in that
14 investigation, that they cooperated with everything.
15 And now that she's reopened the case to -- to trust in
16 the process, to trust that the right information, and
17 now Randy has an opportunity to go be a witness to
18 Grellner.

19 Q. Well, what new evidence did you believe she
20 had to reopen the case?

21 A. I have no idea.

22 Q. Did you know whether or not the Department of
23 Justice was getting involved in the case?

24 A. I know they had accepted it, but I -- I still
25 have never heard whether they're going to investigate

1 it.

2 Q. Prior to the time that you had this
3 conversation with Randy Henry about the Grellner
4 investigation, you had applied for transfer to DDCC,
5 hadn't you?

6 A. Twice.

7 Q And you were rejected?

8 A. Twice.

9 Q. And then there was another opening, and you
10 decided that you weren't going to apply the third time
11 because you were rejected twice before, correct?

12 A. Circumstances changed.

13 Q. So you weren't too happy with DDCC at the
14 time, were you?

15 A. I was very happy with my current assignment.

16 Q. You weren't happy with DDCC at the time, were
17 you?

18 A. I have no problems with DDCC. I didn't want
19 to leave my current assignment.

20 Q. You weren't happy with DDCC when they
21 rejected your request for a transfer there, were you?

22 A. It wasn't them making that decision. I did
23 lousy on the interview panel. I wasn't happy with my
24 results of being in the interview either time.

25 Q. You were upset with -- with Piercy's handling

1 of the case, correct?

2 A. Yes, sir.

3 Q. And you were upset with road officers playing
4 Water Patrol, weren't you?

5 A. Yes, sir.

6 Q. And on May 31st, the day of this tragic
7 event, 2014, at about 17:51 hours, you made a
8 statement, "This is what happens when the fucking road
9 guys play Water Patrol. I'm done. I'm fucking done."
10 Isn't that what you said?

11 A. Yes, sir, that's what I said.

12 Q. And what did you mean by those statements?

13 A. I was extremely upset. I had just responded
14 to the drowning. I had just gotten on the scene. I
15 was just getting the drags out to drag for a body that
16 a man -- a young man who died in our custody with
17 handcuffs. I had about a million emotions going
18 through my mind at that time. And that's exactly what
19 I said.

20 Q. Were you disciplined for that?

21 A. Yes, sir.

22 Q. What? What did you get?

23 THE WITNESS: Am I allowed to --

24 BY MR. PLEBAN:

25 Q. Of course you are. It's a matter of public

1 record.

2 A. Discipline is?

3 Q. Yes, it is.

4 A. Verbal.

5 Q. A verbal reprimand?

6 A. Yes, sir.

7 Q. Did you think that -- at any point that

8 Grellner engaged in a cover-up to protect the Patrol?

9 A. No, sir.

10 Q. Did you ever make that statement to anybody?

11 A. No, sir.

12 Q. You say that the Patrol gave her the people

13 to call as witnesses, right?

14 A. Gave Coroner Jones the -- the list of people.

15 Q. Okay. Well, what -- what investigation or

16 what work did Grellner do before that coroner's

17 inquest; do you know?

18 A. No, sir.

19 Q. Do you know what information she had?

20 A. No, sir.

21 Q. Do you know whether or not she had as much

22 information as you had from Randy Henry?

23 A. No, sir.

24 Q. Do you know whether or not she had statements

25 from -- from all the witnesses that he gave you?

1 A. No, sir.

2 Q. Would there be some reason in -- in the death
3 case that the Patrol would not present that kind of
4 information to a prosecutor?

5 A. I don't know what reason that would be.

6 Q. To not present the information?

7 A. Correct.

8 Q. Okay. So -- and you read statements in there
9 that Randy gave you, correct?

10 A. Yes, sir.

11 Q. That was in the Patrol investigation, right?

12 A. Yes, sir.

13 Q. And you have no reason to believe that
14 Grellner never had those statements, correct?

15 A. I don't know what she had access to, sir.

16 Q. Well, based upon custom and practice, the
17 Patrol would have no reason not to give her that,
18 correct?

19 A. I don't know what she had, sir.

20 MR. COX: When you can stop, I need a break,
21 Chet.

22 MR. PLEBAN I'm sorry?

23 MR. COX: If you've reached -- when you reach
24 a stopping point, I need a break.

25 MR. PLEBAN: Go ahead. Go ahead. Yeah. Go

1 ahead.

2 (A BREAK WAS TAKEN.)

3 BY MR. PLEBAN:

4 Q. In the -- and just in the ordinary course of
5 events custom and practice, based upon your
6 understanding, in a -- an investigation such as this
7 drowning, the Patrol would prepare an investigative
8 report, correct?

9 A. Yes, sir.

10 Q. And that investigative report would be turned
11 over to a prosecutor, correct?

12 A. Yes, sir.

13 Q. For purposes of potential criminal
14 prosecution, correct?

15 A. Yes, sir.

16 Q. Okay. And in this particular case, the
17 issue, I suppose, is whether or not Piercy should be
18 prosecuted?

19 MR. COX: Objection. That's a
20 mischaracterization of this case, but --

21 BY MR. PLEBAN:

22 Q. Go ahead.

23 A. The whole investigation or the inquest?

24 Q. The entire investigation -- no. I'm not
25 talking about the inquest. I'm talking about the

1 Patrol did an investigation into the drowning, correct?

2 A. Yes, sir.

3 Q. And in the ordinary course of events,
4 Grellner should have gotten a copy of that, correct?

5 A. If it was similar to every other
6 investigation, once -- I can't speak for the Patrol
7 because I have done investigations where I didn't
8 submit a copy to the prosecutor if I didn't feel that I
9 had met the level of probable cause, if I didn't submit
10 a PC. So I have done criminal investigations of
11 felonies where I failed to establish probable cause and
12 I did not submit that report to the prosecutor.

13 So I don't know who made the call to submit
14 or not submit, and I don't know if it was or was not in
15 this particular case.

16 Q. Based upon your review of the information
17 that Randy Henry provided, and based upon your
18 experience as a criminal investigator, do you believe
19 that there's probable cause to believe that a crime
20 occurred here?

21 A. I believe that there -- in my own opinion,
22 that there was a violation of a State statute that
23 contributed to his death.

24 Q. And that would be the statute of what?

25 A. Just operating a boat at the -- the highest

1 degree of care.

2 Q. And you heard Randy's interview with Stacks,
3 didn't you?

4 A. Yes, sir, I did.

5 Q. That's one of things he gave you, right?

6 A. Yes, sir.

7 Q. And you heard in that interview --

8 A. Well, I heard that one on --

9 Q. Sorry?

10 A. I heard that one on the -- the media.

11 Q. Okay. All right. And you heard Stacks when
12 Randy got into quoting that statute --

13 A. Yes, sir.

14 Q. -- talking about the highest degree of care
15 when operating a boat, that Stacks turned off the tape
16 recorder and said, no, no, no, or words to that effect,
17 didn't you?

18 A. I heard him stop the interview, yes, sir.

19 Q. Yes. Okay. And if a death occurs, in your
20 experience, as a seasoned investigator -- criminal
21 investigator, if someone operates a boat and does not
22 use the highest degree of care in operating that boat,
23 can criminal charges result?

24 A. Criminal charges can result.

25 Q. And that would be at least involuntary

1 manslaughter?

2 A. Well, at the least, it could be just the
3 failure to operate. I mean, I'm trying to --

4 Q. Okay. All right. All right. That's fair.

5 A. Okay.

6 Q. That's fair. Okay. But --

7 A. They can rise to the level of a
8 manslaughter-type charge.

9 Q. Certainly. Okay. And so -- but felony -- a
10 felony could be included, correct?

11 A. Could be included, yes, sir.

12 Q. Okay. And who makes the determination as to
13 whether or not felony charges are brought?

14 A. Well, ultimately, the judge.

15 Q. Well, who in the first instance?

16 A. Well, the investigators to the prosecutor,
17 the prosecutor signs the charging document to the
18 judge.

19 Q. Okay.

20 A. The judge ultimately decides whether or not
21 to charge.

22 Q. Okay. And in your opinion, based upon what
23 you've read and based upon the information that you've
24 been provided so far, you believe that there was at
25 least some probable cause to believe that a crime had

1 occurred here?

2 A. I believe that there -- yes.

3 Q. Tell me what you can think of as to why the
4 Missouri State Highway Patrol wouldn't present that
5 information to the prosecutor for purposes of a
6 criminal prosecution?

7 MR. COX: Objection. Calls for speculation.

8 THE WITNESS: I'm sorry. I don't know why
9 they didn't present that.

10 BY MR. PLEBAN:

11 Q. But you don't know that they didn't, either,
12 do you?

13 A. I don't know that they did. I don't know
14 that they didn't.

15 Q. Can you -- can you think of any reason why
16 they wouldn't?

17 A. No, sir.

18 Q. I can't, either. And if they had presented
19 that information, then Grellner would have had it,
20 right?

21 MR. COX: Pardon? What?

22 MR. PLEBAN: Grellner would have had it.

23 BY MR. PLEBAN:

24 Q. In other words, if they had presented their
25 report for purposes of her review for a criminal

1 prosecution, she would have had the same information
2 that you had, right?

3 A. Yes, sir.

4 Q. And that included all the statements of all
5 those witnesses, right?

6 A. Yes, sir.

7 Q. That she claimed that she didn't -- didn't
8 know about, right?

9 A. Sir, I don't -- I don't know what she
10 claimed.

11 MR. COX: Objection. Foundation.

12 MR. PLEBAN: Well, let me -- let me rephrase
13 that.

14 BY MR. PLEBAN:

15 Q. She was reopening the case because of certain
16 witnesses, correct?

17 A. All I read was additional information.
18 That's all I know about. I don't know what that
19 information was.

20 Q. Well, I thought you said -- didn't you tell
21 Internal Affairs -- didn't you tell Schoeneberg that
22 there were new witnesses that hadn't come forward?
23 That's --

24 A. That's what the additional information --

25 Q. That's what you read in the paper, right?

1 A. Read in the paper, yes, sir.

2 Q. But you also knew that -- that some of those
3 witnesses were people that she knew about before
4 because if she had the report, right?

5 MR. COX: Objection. Calls for speculation.

6 THE WITNESS: I didn't know what she had
7 before, sir.

8 BY MR. PLEBAN:

9 Q. If she had the report, those people were
10 mentioned in the report, correct?

11 A. So your question would be, if she had the
12 report, would she know their names?

13 Q. Yeah.

14 A. Well, yes, sir.

15 Q. And she -- she would have known what they
16 said, right?

17 A. If she had the report, she would have known
18 what they said.

19 Q. Yeah. Just the same way you did, right?

20 A. Correct, sir.

21 Q. All right. Do you know of any reason --
22 anything about that coroner's inquest that would have
23 prevented her from calling those witnesses if she knew
24 about them?

25 A. I'm not familiar with that procedure.

1 Q. You said when you gave your e-mail to Randy
2 on his bullet points, okay -- clearly, you knew that
3 Randy didn't trust Amanda Grellner, right?

4 A. I knew that he -- I knew he was trying to do
5 everything that he could do to get all the information
6 out.

7 Q. And you were helping him?

8 A. I was helping him review what he already had,
9 yes. And in this instant, I was helping him try to
10 make it as concise and factual and professional as
11 possible.

12 Q. You said, I would leave out the "no XWP" --
13 that's ex-Water Patrol?

14 A. Yes, sir.

15 Q. Okay. -- "called to the inquest. She is
16 undoubtedly aware of their ineffective choices of
17 inquest witnesses. She deserves respect and
18 affirmation that she is addressing that shortcoming now
19 with you." What did you mean by that?

20 A. The witnesses that they had at the inquest,
21 they --

22 Q. What -- what shortcoming are you talking
23 about -- hers?

24 A. Of not having experienced people that were on
25 the water and that have spent their entire career on

1 the water being able to offer their opinion on the
2 information on the accident. That was -- the people
3 that testified at the inquest, they didn't have years
4 and years of experience on the water like some of our
5 officers do now and some of the retired Water Patrol
6 that would have been able to offer that. That was a
7 shortcoming.

8 Q. Did you know that Randy Henry testified in
9 front of the Missouri Legislature?

10 A. Yes, sir.

11 Q. And do you know when that was?

12 A. I could look it up. I don't remember.

13 Q. Do you know whether or not it was before or
14 after the coroner's inquest?

15 A. I don't know.

16 Q. Okay. All right. You told Schoeneberg that
17 the decision to close the case was made so quickly.
18 What did you mean by that?

19 A. It was, like, within two or three days after
20 the inquest. The decision -- the media reported that
21 the investigation was closed with no charges. That was
22 within two or three or four days of the inquest, or of
23 the decision on the inquest.

24 Q. Well, who would Grellner's contact have been,
25 if you know, from the Patrol? Would that have been

1 Stacks?

2 A. I'm not sure. It was me -- during the
3 investigation?

4 Q. No. No. No. No. I'm sorry. During --
5 during the Ellingson drowning?

6 A. Oh, I'm sorry.

7 Q. Stacks did the investigation on the Ellingson
8 drowning, right?

9 A. Sir, I don't know. Yes, sir.

10 Q. All right. And so who would her -- you don't
11 know who her --

12 A. I don't know.

13 Q. -- Grellner's contact would have been with
14 the Patrol?

15 A. No, sir.

16 MR. PLEBAN: If you give me a second, let me
17 see. I think I'm done so we can get you out of here by
18 four o'clock. Let me have one minute.

19 (A BREAK WAS TAKEN.)

20 BY MR. PLEBAN:

21 Q. Just briefly, Garrett Grellner was a -- an
22 adult, correct --

23 A. Yes, sir.

24 Q. -- when you were investigating this
25 allegation of rape? And you said that you contacted

1 his mother?

2 A. Yes, sir.

3 Q. That you contacted his mother before you
4 contacted him?

5 A. I had to get his contact information from
6 her.

7 Q. Okay. How many -- how many other cases that
8 you've handled where the suspect was an adult that you
9 contacted their mom first?

10 A. Actually, several.

11 Q. Under what kind of circumstances?

12 A. Mostly, the sexual-assault cases and, like,
13 the crimes against persons cases. Without the support
14 of the family, it's very difficult to get cooperation
15 or understanding from your suspects and sometimes from
16 your victims. So the involvement of the family unit as
17 a whole is critical to making any progress in the
18 investigations.

19 Q. So this would be commonplace to contact the
20 parents of the suspect first, an adult suspect?

21 A. Oh. Teenagers, yes. Even though he is an
22 adult legally, but definitely with teenagers.

23 Q. Okay. Okay.

24 MR. PLEBAN: I don't think I have any other
25 questions at this time. Ben may have some.

1 THE WITNESS: Yes, sir

2 MR. COX: Just a few follow-up.

3 CROSS-EXAMINATION BY MR. COX:

4 Q. Corporal, when you received the
5 responsibility to investigate the rape case, is it fair
6 to say that it was your understanding that the reason
7 why that was happening is because the victim's families
8 had concerns about the previous investigation?

9 A. Yes.

10 Q. And what were their concerns?

11 A. That the juvenile suspect had never been held
12 accountable. He was still around town and still
13 showing up at, like, baseball games or football, you
14 know, sporting events and was still in the community.
15 And their daughter had been receiving harassment maybe
16 and some type of bullying about having made
17 allegations, and the teenager was still functioning, I
18 guess, in the community.

19 And then, of course, obviously, the second
20 suspect being identified, and they didn't feel there
21 was any closure on that.

22 Q. And is it fair to say that the purpose of
23 your investigation was to address those concerns?

24 A. Yes, sir.

25 Q. And did you address those concerns?

1 A. Yes, sir.

2 Q. And as part of addressing those concerns,
3 would it have been typical to talk to the victim's
4 family?

5 A. Absolutely.

6 Q. Is there anything unusual about that at all?

7 A. No, sir.

8 Q. Okay. And as a part of addressing those
9 concerns, your investigation concluded that Garrett
10 Grellner was 100-percent, unequivocally innocent,
11 right?

12 A. Yes, sir.

13 Q. Once you had concluded that, would there have
14 been any reason to follow up with things like alibi
15 witnesses or things of that nature?

16 A. No, sir.

17 Q. Again, the investigation concluded that he
18 was 100-percent, unequivocally innocent, right?

19 A. Yes, sir.

20 Q. And did you state anything to the contrary to
21 Randy Henry?

22 A. No, sir.

23 Q. So if Randy Henry said or implied anything
24 other than that Garrett Grellner was 100-percent,
25 unequivocally innocent, that wouldn't have come from

1 you?

2 A. No, sir.

3 Q. Did you state or imply that Eric Stacks was
4 involved in the investigation of Garrett Grellner to
5 Randy Henry?

6 A. Not that I remember, no.

7 Q. Do you have a specific recollection of Eric
8 Stacks being involved?

9 A. Other than just being in the unit at that
10 time, I don't remember him being with me while I talked
11 to the family. Or sometimes we take another
12 investigator with us, but I don't remember him being
13 present with me while I was doing that. He may have
14 been present in the office when I met with the family
15 up there.

16 Q. But you don't have a specific recollection of
17 that, right?

18 A. No, sir. No, sir.

19 Q. Was there any allegation made by the victim's
20 family that you're aware of that -- that someone had --
21 had committed an aiding -- committed the felony of
22 aiding and abetting a rape as opposed to the rape
23 itself?

24 A. No, sir.

25 Q. And I think you mentioned that Randy Henry

1 has been your mentor and friend for several years; is
2 that right?

3 A. Yes, sir.

4 Q. Okay.

5 MR. COX: No further questions.

6 REDIRECT EXAMINATION BY MR. PLEBAN:

7 Q. Just for clarification, you met with Amy
8 and Allen Frank on the 25th of April -- 24th of
9 April, 2013, correct?

10 A. I know that I'm talking about -- just -- yes.
11 On April 24, 2013.

12 Q. You met with them where?

13 A. At Troop F at -- in the DDCC office. There's
14 a conference table kind of in the middle of that
15 section of offices and then smaller offices off of the
16 main --

17 Q. They came to you?

18 A. They came to me, yes, sir. And I also
19 brought in -- that's when I brought the -- the rape
20 advocate and the, like, from counseling services,
21 because she was --

22 Q. Uh-huh. And they brought their daughter with
23 them?

24 A. Yes, sir.

25 Q. And so you certainly had an opportunity to

1 question her there about anything that you were unclear
2 of, correct?

3 A. Yes, sir.

4 Q. And you didn't?

5 A. No, sir.

6 Q. Okay. And it's fair to say that the -- that
7 Amy and Allen Frank, the parents of the victim, were
8 certainly cooperating with you throughout?

9 A. Yes, sir.

10 Q. And certainly would have made their daughter
11 available to you?

12 A. Yes, sir.

13 Q. And you knew that?

14 A. Yes, sir.

15 MR. PLEBAN: That's all I have.

16 MR. COX: Nothing further.

17 MR. PLEBAN: Do you want to -- do you want to
18 explain to her what her rights are?

19 MR. COX: You can be presented with the
20 deposition, but I think that you should probably waive
21 that. I'm not giving you legal advice. You can
22 also -- you should -- that you can waive that or you
23 can be presented with it. Or you can also read and
24 sign it, or you can waive that, too.

25 MR. PLEBAN: You can't change anything. You

1 just -- you're reading it for the accuracy of
2 transcription, that's all.

3 MR. COX: Or if you misheard something.

4 THE WITNESS: I -- I think I'm fine. I
5 didn't mishear anything that I know about.

6 MR. PLEBAN: So you'll waive?

7 THE WITNESS: I'll waive.

8 MR. PLEBAN: Okay. All right. Thank you.

9 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

10 BY MR. PLEBAN:

11 Q. Well, why don't you just read them. One
12 thing that you mentioned was that you had pulled up
13 some dates.

14 A. Yes.

15 Q. What were the dates that you pulled up?

16 A. The DDCC internship, January to March 2012;
17 the actual Osage County incident in May of 2012; my
18 transfer -- promotion and transfer to 17 was January
19 of 2013. I was assigned the Osage County investigation
20 February 2013, and turned in my reports on
21 March 7th, 2013.

22 And the lab analysis report on the DNA was
23 submitted on February 28, 2013. And then I have the
24 date of -- of the Ellingson-Piercy death, which
25 was 5-29, 2014, and the date of the inquest where they

1 closed the case was October of 2014, and when they
2 reopened the case, January of 2015.

3 And then I had the surgery on my foot date I
4 looked up, so I would know when I reviewed the file was
5 January 29th, and I sat off work until February 15th
6 of 2015. So that was the time frame when I was
7 available to review.

8 And then the e-mail, the -- the one that said
9 Larry, the date on it was either 3-5 or 3-6. It was
10 real hard to read the date. That wasn't necessarily
11 the date that I saw it. It was the date on the e-mail.

12 And then my PSD interview date was 4-3
13 of 2015.

14 Q. Professional Standards Division.

15 A. Sorry. Profession Standards. And my
16 deposition today, July 16th. So those are the dates
17 that I had referenced prior to today.

18 Q. Okay.

19 MR. PLEBAN: Thank you.

20 MR. COX: All right. Thank you, Corporal.

21 (SIGNATURE WAIVED.)
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C E R T I F I C A T E

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STATE OF MISSOURI)
) ss
COUNTY OF HOWARD)

I, Tammy F. Ballew, Certified Court Reporter of the firm of Capital City Court Reporting, P.O. Box 446, Jefferson City, Missouri 65102 do hereby certify that pursuant to notice there came before me,

STACEY MOSHER,

at The Cisar Law Firm, 750 Bagnell Dam Boulevard, Suite A, in the City of Lake Ozark, County of Miller, who was first sworn by me to testify the whole truth of her knowledge concerning the matter in controversy aforesaid; that she was examined, and her examination then and there was recorded by stenomask verbatim recording and afterwards transcribed and is fully and correctly set forth in the foregoing pages; and that the reading and signing of this deposition was waived, and is herewith returned.

I further certify that I am neither attorney or counsel for, nor related to, nor employed by any of the parties to this action in which this deposition is taken; and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of July, 2015.

Tammy F. Ballew, CCR
CAPITAL CITY COURT REPORTING