

EXHIBIT H

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RHONDA LEDFORD, an individual;)	
RAYMON GREGSTON, an individual;)	
JO MCKINNEY, an individual; SHANE)	
PENROD, an individual, KIM MCCORMICK,)	Case No. 1:12-cv-00326-BLW
an individual; BOB ROBINSON, an)	
individual; and GRACIE REYNA, an)	
individual,)	
Plaintiffs,)	
vs.)	
IDAHO DEPARTMENT OF JUVENILE)	
CORRECTIONS, an executive department)	
of the State of Idaho, IDJC)	
_____)	
Caption Continued...)	

DEPOSITION OF TOM DE KNIJF
AUGUST 28, 2013

REPORTED BY:
MONICA M. ARCHULETA, CSR NO. 471
NOTARY PUBLIC

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1 DIRECTOR SHARON HARRIGFELD, in her)
 2 individual and official capacities;)
 3 IDJC JUVENILE CORRECTIONS CENTER -)
 4 NAMPA SUPERINTENDENT BETTY GRIMM, in)
 5 her individual and official)
 6 capacities; and DOES 1-20,)
 7)
 8 Defendants.)
 9 _____)
 10
 11
 12
 13
 14 THE DEPOSITION OF TOM DE KNIJF was taken on
 15 behalf of the Defendant at the offices of Anderson
 16 Julian & Hull, 250 South Fifth Street, Suite 700, Boise,
 17 Idaho, commencing at 9:00 a.m. on August 28, 2013,
 18 before Monica M. Archuleta, Certified Shorthand Reporter
 19 and Notary Public within and for the State of Idaho, in
 20 the above-entitled matter.
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 23
 24
 25

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1 APPEARANCES:
 2 For the Plaintiffs:
 3 LAW OFFICE OF ANDREW T. SCHOPPE
 4 BY: MR. ANDREW T. SCHOPPE
 5 910 W. Main Street, Suite 328
 6 Boise, Idaho 83702
 7
 8 For the Defendants:
 9 ANDERSON JULIAN & HULL, LLP
 10 BY: MR. PHILLIP J. COLLAER
 11 C.W. Plaza
 12 250 South Fifth Street, Suite 700
 13 P.O. Box 7426
 14 Boise, Idaho 83707-7426
 15
 16 ALSO PRESENT: Mark Crecelius
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1 TOM DE KNIJF,
 2 first duly sworn to tell the truth relating to said
 3 cause, testified as follows:
 4
 5 MR. COLLAER: Let the record reflect this is
 6 the time and place scheduled for the taking of the
 7 deposition of Tom de Knijf. The witness is present
 8 represented by counsel. And, Counsel, just this moment
 9 you handed me a stack of documents that appears to be
 10 from a counselor involving Mr. de Knijf. I acknowledge
 11 receipt of this. But because it is nearly a
 12 half-an-inch thick, and involves medical records, we are
 13 not going to be able to talk to the witness about this.
 14 And if we need to, we'll just leave the deposition open
 15 to come back and talk to him about the documents you
 16 just produced to me.
 17 MR. SCHOPPE: For the record, I think there
 18 are only four or five pages of actual medical records
 19 there. The rest are e-mails or other notes.
 20 MR. COLLAER: Regardless, the fact that they
 21 are being disclosed at this point, as the deposition is
 22 starting, again, we will leave the deposition open and
 23 reserve the right to come back and talk to him about
 24 those documents later.
 25 MR. SCHOPPE: That's fine.

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1 EXAMINATION
 2 QUESTIONS BY MR. COLLAER:
 3 Q. Mr. de Knijf, could you state your name and
 4 spell the last for the record, please?
 5 A. Tom Martin de Knijf. The last name is spelled
 6 small d-e space K-n-i-j-f.
 7 Q. And have you ever had your deposition taken
 8 before?
 9 A. No.
 10 Q. You have sat through at least one of the
 11 depositions in this case?
 12 A. I have.
 13 Q. So you have some understanding of the process
 14 we are going to be going through here today?
 15 A. I do.
 16 Q. As I indicated to people before. What I'm
 17 going to be doing is just asking you a series of factual
 18 questions about what you know or don't know about the
 19 case. If I ask you a question that you don't
 20 understand, and you need it to be explained to you,
 21 don't hesitate to let me know that and I'll be happy to
 22 do it.
 23 A. Absolutely.
 24 Q. If during the deposition you feel that you
 25 need to take a break to stretch your legs, just to rest,

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1 or to speak with your attorney, let me know that and we
 2 can take a break. The only restriction is going to be
 3 if there is a question that is pending I'm going to ask
 4 that you answer the pending question before the break
 5 occurs. Okay?
 6 A. Understood.
 7 Q. Are you presently taking any kind of
 8 medication or anything that would --
 9 A. No.
 10 Q. -- affect your ability to sit here today and
 11 answer questions?
 12 A. No, sir.
 13 Q. And, Mr. de Knijf --
 14 A. You can call me Tom.
 15 Q. Tom, as the court reporter just instructed
 16 you. It helps a lot if you and I try not to speak at
 17 the same time. And if I ask you a question that you
 18 don't understand, again, let me know, and I'll be happy
 19 to rephrase it. But if I ask you a question, and you
 20 answer it, I'm going to assume you understood it. Is
 21 that fair?
 22 A. Yes.
 23 Q. Tom, where do you currently reside?
 24 A. I reside at 909 Dearborn Street in Caldwell.
 25 Zip code is 83605.

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1 Q. And what is your education from high school
 2 forward?
 3 A. I have had some college. No degrees or
 4 anything like that.
 5 Q. Where did you graduate from high school?
 6 A. Mount Miguel High School in Spring Valley.
 7 San Diego.
 8 Q. And you said you have taken some college
 9 courses?
 10 A. Yeah.
 11 Q. Where have you attended school?
 12 A. I attended school in San Diego. And also here
 13 in Idaho.
 14 Q. What school in San Diego did you attend?
 15 A. It was called Patricia Stevens Fashion
 16 Merchandising.
 17 Q. And how long after -- well, when did you
 18 graduate from high school?
 19 A. 1972.
 20 Q. And how soon after you graduated from high
 21 school did you attend the Pat Stevens Fashion
 22 Merchandising program?
 23 A. I don't recall, sir.
 24 Q. Was it right after? Or a few years later?
 25 A. I would say probably a few years later.

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1 Q. And how long did you take classes at Pat
 2 Stevens?
 3 A. I don't recall exactly how long the class was.
 4 I'm guessing maybe six months. It's a long time ago.
 5 Q. Was it a single class? Or was it a course?
 6 A. It was a course.
 7 Q. And did you complete the course?
 8 A. I did.
 9 Q. Did you receive some kind of certification or
 10 licensing?
 11 A. Yes, sir. A certificate.
 12 Q. And what other college work have you done?
 13 A. In San Diego I also took some advanced guitar
 14 classes at a place called Grossmont College. It is also
 15 in San Diego.
 16 Q. And when did you take those courses?
 17 A. I don't recall. Sometime in that general time
 18 frame of '75, '76.
 19 Q. And was it just one or two courses? Or were
 20 you working towards some kind of --
 21 A. No. Just a course. It was for fun.
 22 Q. Any other college work that you have done?
 23 A. I have done a little bit here in Idaho. It
 24 was at College of Western Idaho. And I took some
 25 psychology courses.

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1 Q. And when did you attend College of Western
 2 Idaho?
 3 A. That was last year.
 4 Q. How many psychology courses did you take?
 5 A. I just took one course.
 6 Q. Are you working towards some kind of a degree
 7 at CWI? Or is that just a course you took for your own
 8 personal --
 9 A. I was considering it at the time.
 10 Q. And what were you considering?
 11 A. Perhaps get some kind of a degree.
 12 Q. In what?
 13 A. In psychology.
 14 Q. Are you still interested in pursuing that
 15 degree?
 16 A. Not as much as I was.
 17 Q. And why not?
 18 A. The time it takes to do your homework. And
 19 the time it takes to devote to the classes.
 20 Q. And did you pass the psychology course?
 21 A. I did.
 22 Q. And what kind of grade did you receive?
 23 A. I don't know. It was a passing grade. But I
 24 don't know what the exact grade was. I apologize for
 25 that.

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1 Q. Any plans for any further college work?
 2 A. I'm still considering it. I haven't made any
 3 decisions yet.
 4 Q. Are you currently married?
 5 A. No. I'm single.
 6 Q. Have you ever been married?
 7 A. No.
 8 Q. Do you have any children?
 9 A. No.
 10 Q. Could you give me just a background of your
 11 work history from the time you -- well, first, how long
 12 have you lived here in Idaho?
 13 A. Fifteen years.
 14 Q. Why don't you give me an idea of your work
 15 history here in Idaho?
 16 A. When I got to Idaho I got a job at Canyon
 17 West. It was called Cascade Care Center. It is now
 18 called Canyon West. It is a nursing home. I worked
 19 there for nine years.
 20 Q. What type of work were you doing at Canyon
 21 West?
 22 A. I was in charge of two departments. The
 23 central laundry facility. We did laundry for five
 24 nursing homes. And the housekeeping department there.
 25 I was also on various committees. Like the skin care

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1 committee. Safety committee.
 2 Q. What were the circumstances of you leaving
 3 Canyon West?
 4 A. I was laid off.
 5 Q. Was that for lack of work? Or were they going
 6 out of business?
 7 A. No. I was the highest paid person in the
 8 department. Or one of the highest paid persons there.
 9 And they decided that they would let me go and try
 10 something else.
 11 Q. Was there any kind of disciplinary issues that
 12 you had at the time?
 13 A. No, sir.
 14 Q. So they reorganized you out of a job?
 15 A. Yeah.
 16 Q. When you were laid off at Canyon West what was
 17 your monthly pay when you left?
 18 A. I was making \$30,000 a year. I'm not real
 19 good with math.
 20 Q. Do you recall what your rate of pay was when
 21 you started there?
 22 A. Yes. I believe it was \$9.69.
 23 Q. When you left were you a salaried employee or
 24 hourly?
 25 A. I was hourly.

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1 Q. What was the hourly rate?
 2 A. When I left it was \$16.00 an hour.
 3 Q. And after you left Canyon West what was the
 4 next place you worked?
 5 A. Then I worked at -- at Fikes Northwest. It is
 6 a janitorial company.
 7 Q. Is Fikes in Nampa, Caldwell or Boise?
 8 A. It is based out of Spokane.
 9 Q. And how long did you work at Fikes Northwest?
 10 A. Six months.
 11 Q. What was the rate of pay when you were hired?
 12 A. About \$10.00 an hour.
 13 Q. And what were the circumstances of your
 14 leaving Fikes Northwest?
 15 A. I applied for the job that I have now at IDJC.
 16 And that is the reason I left Fikes Northwest.
 17 Q. You felt the job at the juvenile corrections
 18 was a better job?
 19 A. Yes. It is the direction I wanted to go in.
 20 Q. Who was your supervisor at Fikes?
 21 A. His name is Rick Peterson.
 22 Q. Were you a probationary employee while you
 23 were at Fikes in that first six months?
 24 A. No.
 25 Q. What was your status with them?

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1 A. I was basically the general manager of the
 2 outfit.
 3 Q. How many employees did you have in this area?
 4 A. I didn't have any at that time.
 5 Q. How many employees work for Fikes in this area
 6 at the time?
 7 A. Just myself.
 8 Q. So you were the general manager of -- you were
 9 building a business?
 10 A. Yes, sir.
 11 Q. What was more attractive to you about the job
 12 at juvenile corrections as opposed to the general
 13 manager job you had at Fikes?
 14 A. I just wanted to help do something good. Work
 15 with the kids. That was the attraction.
 16 Q. And other than your job with juvenile
 17 corrections have you had any other jobs in Idaho?
 18 A. When I first got here I worked at The Idaho
 19 Statesman for just a little while.
 20 Q. When did that happen in relation to your job
 21 at Canyon West?
 22 A. That was before then.
 23 Q. So your job at Canyon West was your second
 24 job?
 25 A. Yes.

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1 Q. And how long did you work at The Statesman?
 2 A. I believe I worked there about six months.
 3 Q. And what was your rate of pay when you were
 4 hired?
 5 A. I think it was about \$8.00 an hour.
 6 Q. And what were the circumstances of you
 7 leaving?
 8 A. That is when I applied for the job at Canyon
 9 West. And that is when I left The Idaho Statesman.
 10 Q. What was your job at The Statesman?
 11 A. My job there was to go and get as many
 12 subscriptions as possible. And I had a crew of
 13 people and we would drive around the neighborhoods and
 14 try to get subscriptions for the newspaper.
 15 Q. So you were in sales?
 16 A. Yes.
 17 Q. Were you paid on an hourly basis? Or more of
 18 a commission type basis?
 19 A. Hourly and commission.
 20 Q. And what was your rate of pay?
 21 A. For the commission?
 22 Q. First your hourly and then the commission?
 23 A. Eight dollars an hour. And the commission --
 24 I don't remember what that was. A percentage of the
 25 subscription.

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1 Q. Was your pay primarily commission versus
 2 hourly? Or how did that work out for you?
 3 A. Sometimes you would make more with commission.
 4 And sometimes you wouldn't. It is a sales job. So
 5 sometimes you wouldn't do that well. Other times you
 6 would.
 7 Q. After you got out of high school what kind of
 8 jobs did you hold down in California?
 9 A. The job at McKesson Drug.
 10 Q. How do you spell that?
 11 A. M-c-K-e-s-s-o-n.
 12 Q. What kind of a job is that?
 13 A. That was a giant warehouse. And they
 14 delivered or stored OTC and pharmaceutical drugs for
 15 hospitals, pharmacies, stores.
 16 Q. Did you just work in the warehouse?
 17 A. I did.
 18 Q. So like stocking shelves and those types of
 19 things?
 20 A. An order puller.
 21 Q. And how long did you work at McKesson Drug?
 22 A. I believe that was four years.
 23 Q. Do you recall what years you worked there?
 24 A. I don't recall. I would have to look at my
 25 notes.

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1 Q. And what was your rate of pay when you started
 2 and when you ended?
 3 A. I don't remember my rate of pay when I
 4 started. But when I ended it was approximately \$13.00
 5 an hour.
 6 Q. Had you received raises during the time you
 7 were working?
 8 A. Yes.
 9 Q. And what were the circumstances of you leaving
 10 McKesson Drug?
 11 A. I had injured my foot at work and they fired
 12 me.
 13 Q. Because they felt you couldn't do your job?
 14 Or because you filed a Workers' Comp claim" or what?
 15 A. I was on Workers' Comp; yes.
 16 Q. Did you challenge that termination in any way?
 17 A. I did.
 18 Q. And what did you do specifically?
 19 A. I hired an attorney.
 20 Q. Did you file a lawsuit against the company?
 21 A. Yes.
 22 Q. And what did you allege they had done?
 23 A. While I was on therapy and disability they
 24 fired me when I was in those two programs. And that was
 25 the issue there.

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1 Q. And how was that lawsuit resolved?
 2 A. We won a small settlement.
 3 Q. You did not go to trial?
 4 A. No.
 5 Q. You negotiated a settlement at some point?
 6 A. Yes.
 7 Q. You said a small settlement. Generally what
 8 did that involve?
 9 A. The amount?
 10 Q. Yeah. If you can.
 11 A. \$10,000.
 12 Q. And that was obviously less than a year's pay;
 13 wasn't it?
 14 A. It was.
 15 Q. Less than a half a year's pay?
 16 A. I would say so; yes.
 17 Q. After you worked at McKesson Drug where did
 18 you work?
 19 A. Then I started my own landscaping business.
 20 Q. And what was that company called?
 21 A. Tom Thumb's Gardening and Maintenance.
 22 Q. And how long were you in that business?
 23 A. Approximately 12 years.
 24 Q. When you were running that business did you
 25 have any other employment or sources of income?

Page 20

1 A. No.
 2 Q. And did you have employees that worked for
 3 you?
 4 A. I did.
 5 Q. How many?
 6 A. I had on occasion one to two.
 7 Q. Were these employees seasonal workers?
 8 A. No.
 9 Q. When you say occasionally can you explain that
 10 for me?
 11 A. It would depend on the job we had. So if he
 12 were, for example, pulling out some shrubbery that would
 13 require, you know, quite a bit of muscle. And I would
 14 hire extra people to do that.
 15 Q. I think I understand. So correct me if I'm
 16 wrong. Generally the business was a sole
 17 proprietorship. You did it all yourself. But if you
 18 had jobs where you needed extra help you would hire help
 19 for that particular job?
 20 A. Yes. But I did have enough that I had
 21 somebody pretty much all of the time with me.
 22 Q. And why did you close that business?
 23 A. It was 12 years. And I was getting tired of
 24 the business. I lived in San Diego at the time. The
 25 city was getting really big. Lots of crime. And I

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1 decided to sell the business and move up to Idaho.
 2 Q. Is the business still in existence?
 3 A. I don't know if it is.
 4 Q. Did you sell it to somebody you were working
 5 with? Or just somebody that was interested in that type
 6 of business?
 7 A. Yes. I put an ad in the paper and somebody
 8 came and looked at it. And after he did his research
 9 then he purchased it.
 10 Q. Did you have a lot of equipment and things
 11 like that that was part of the sale?
 12 A. I did.
 13 Q. Such as? Just generally. I'm just trying to
 14 get a feel for what that business involved?
 15 A. Lawn mowers, edge trimmers, blowers, leaf
 16 blowers, that kind of thing.
 17 Q. So the business you did was -- you did
 18 people's lawns, their landscaping, trimmed them, cleaned
 19 them up. Did you do anything like installing and that
 20 type of stuff?
 21 A. I did some sprinkler installs. If somebody
 22 wanted some sod, or plants, or shrubbery, I would do
 23 that for them, as well.
 24 Q. So you said you were interested in moving to
 25 Idaho. What was your connection to Idaho having lived

1 in California?
 2 A. Well, a childhood friend of mine that I grew
 3 up with in San Diego, he has been up here many, many
 4 years. Over 30 years, I believe. And I have been here
 5 to visit him a few times. And he was a real estate
 6 agent at the time. And he has been wanting to get me up
 7 here. And so when I retired of the business, and all of
 8 the crime, and what have you, I called him and said I
 9 was moving up here.
 10 Q. Who was this friend?
 11 A. His name?
 12 Q. Yes.
 13 A. Terry Saba.
 14 Q. How do you spell his last name?
 15 A. S-a-b-a.
 16 Q. And is Mr. Saba still a real estate agent?
 17 A. No.
 18 Q. Does he still live here in the area?
 19 A. He does.
 20 Q. Where you live in Caldwell, do you live alone?
 21 A. I do.
 22 Q. And how long have you lived alone?
 23 A. Since I have owned the house. Fourteen years.
 24 Q. How did you first become aware for the
 25 position at juvenile corrections?

1 A. I filled out an online application.
 2 Q. What did that application involve, if you can
 3 recall?
 4 A. Just my work history, I believe. And some
 5 references.
 6 Q. There was a background question I didn't ask
 7 you about. Up to this time have you ever been arrested
 8 for anything?
 9 A. I had a DUI in San Diego.
 10 Q. A number of years ago?
 11 A. Long, long time ago.
 12 Q. Other than the DUI anything else?
 13 A. No.
 14 Q. Other than the employment dispute that you had
 15 with your former employer, any other lawsuits that you
 16 have been involved in?
 17 A. No.
 18 Q. Either as a plaintiff, or defendant, or
 19 anything like that?
 20 A. No.
 21 Q. And that would include any kind of domestic
 22 relations. Like a girlfriend or something that you had
 23 some dispute with or anything like that?
 24 A. No.
 25 Q. Any type of litigation like that?

1 A. I believe I saw it on an online ad. Like a
 2 Career Builder website.
 3 Q. At the time were you looking for other jobs in
 4 Idaho?
 5 A. I was.
 6 Q. What did you see online that drew your
 7 attention to it?
 8 A. I believe it was working with kids. A lead
 9 custodian position and working with kids. I recall
 10 that. Not exactly. But something to that effect.
 11 Q. Was there anything in that advertisement that
 12 described the types of job duties that the job position
 13 would take?
 14 A. Yes. It would be taking juveniles within the
 15 facility and teaching them how to do janitorial work.
 16 Taking them around the building and doing that kind of
 17 work with them.
 18 Q. Any specific type of janitorial work that was
 19 part of your job?
 20 A. Excuse me?
 21 Q. Did it describe any type of janitorial work or
 22 maintenance work that would be part of the job?
 23 A. I don't recall that.
 24 Q. After you saw the position online what was the
 25 next thing you did to follow up?

1 A. No.
 2 Q. After you filled out your online application
 3 what was the next thing that happened?
 4 A. I got a call from the human resources girl
 5 that worked there.
 6 Q. And what did this lady tell you?
 7 A. She told me that she was looking at the
 8 application. And if I could come in for an interview.
 9 Q. Other than asking if you could come in for an
 10 interview anything else this individual told you about
 11 the job?
 12 A. I don't recall. There may have been other
 13 things. But I don't recall.
 14 Q. I take it you did come in for an interview?
 15 A. I did.
 16 Q. How soon after this call did the interview
 17 occur?
 18 A. I would say within a week.
 19 Q. Who did you interview with?
 20 A. I interviewed with Ray Gregston.
 21 Q. Anyone else other than Mr. Gregston involved
 22 in that interview process?
 23 A. No.
 24 Q. Could you just describe for me, as best you
 25 can recollect, the interview that you and Mr. Gregston

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1 had?

2 A. Well, I showed up there. And he took me on a

3 tour of the facility. Showed me in general where

4 everything was. And then we sat down. He told me the

5 job description. The things I would be doing at that

6 time. He then said he was going to interview some other

7 people. He may have said, "I will let you know what my

8 decision is." I can't say for certain, but I'm guessing

9 that is what happened.

10 Q. And how soon -- well, how long did this

11 interview last?

12 A. The interview, I would say, didn't last more

13 than 15 minutes.

14 Q. And after you left the facility what was the

15 next thing that happened?

16 A. I believe Mr. Gregston said that he was going

17 to -- or they were going to do a background check on me.

18 And check out my references. And then pending that then

19 there would be some kind of a decision as far as

20 offering me the employment.

21 Q. Didn't you indicate he was also going to talk

22 to other people, too, at the same time?

23 A. Yes.

24 Q. So he had other candidates?

25 A. Yes.

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1 Q. He did not tell you you were going to be

2 hired, did he, at the interview?

3 A. No, he did not.

4 Q. So when was the next time you heard from

5 Mr. Gregston after you left the interview?

6 A. I heard from him -- he was asking something

7 about my references. That I needed one more reference

8 for him. And if I could get that for him that would be

9 the next step in moving forward with the application

10 process.

11 Q. After you got him the additional reference

12 that he was asking for what was the next thing that

13 happened in the process?

14 A. Then they did a background check on me and

15 called the references.

16 Q. After that happened what occurred?

17 A. Then he told me that he had one more -- he had

18 one applicant that he was looking at. And he wasn't

19 sure if that person was going to be able to do the job.

20 And he would let me know.

21 Q. I assume after that he then -- you were then

22 offered the position?

23 A. Yes.

24 Q. Did Mr. Gregston call you and offer you the

25 position?

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1 A. He did.

2 Q. How soon after he had told you he had one more

3 person he was looking at did he call you and offer you

4 the job?

5 A. I would say within a week.

6 Q. And when he called and offered you the job

7 what specifically do you recall the two of you talking

8 about in that conversation?

9 A. I don't recall anything as far as what we were

10 talking about. Just that he did offer me that job that

11 day.

12 Q. Do you recall how long that conversation

13 lasted?

14 A. Probably just a few minutes.

15 Q. After Mr. Gregston called and offered you a

16 job what was the next thing that occurred?

17 A. Then I had to come in and do some orientation

18 in human resources. Basically paperwork. W-4s. That

19 sort of thing.

20 Q. Other than filling out paperwork what else was

21 involved in your orientation?

22 A. Initially that was all.

23 Q. Did your orientation involve any written

24 policies or give you access to written policies of the

25 department?

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1 A. Yes.

2 Q. Why don't you tell me about that?

3 A. I don't recall specifically what the

4 orientations were that they handed out. But I'm

5 guessing they were things like how to fill your time

6 cards out. Policies as far as shifts. Those kinds of

7 things.

8 Q. And how were you made aware of these policies?

9 What happened?

10 A. They give you some policies. Hand you some

11 policies.

12 Q. Were there other policies that were there that

13 you knew existed that you didn't get copies of?

14 A. I'm not sure I understand your question.

15 Q. Sure. I will be happy to rephrase. Were

16 there other policies that you were advised that you

17 needed to review?

18 A. I was not aware of any; no.

19 Q. Were you given a booklet of these policies?

20 A. Yes.

21 Q. Did you keep them?

22 A. Yes.

23 Q. And how big was the booklet?

24 A. I would say probably an inch thick, if I

25 recall correctly. And maybe seven inches in length.

1 Q. Tell me, did you read all of the policies that
 2 were in the booklet?
 3 A. I believe I scanned through them. Did I pay
 4 close to attention to every word? No, I didn't.
 5 Q. As you scanned through them was there anything
 6 about them that you had questions about or you felt
 7 needed clarification from somebody?
 8 A. Not at that time.
 9 Q. When you were first hired what was your job
 10 title?
 11 A. Lead custodian.
 12 Q. Did you have people that you were supervising?
 13 A. Yes.
 14 Q. And who were you supervising?
 15 A. The juveniles.
 16 Q. Other than juveniles anybody else?
 17 A. No.
 18 Q. And these juveniles were kids that were
 19 working with you doing janitorial work?
 20 A. Correct.
 21 Q. So they were helping you do work; correct?
 22 A. Yes. They were doing the work.
 23 Q. And you were telling them what to do?
 24 A. Yes.
 25 Q. Who was your supervisor when you were hired?

1 facility-wide raise. Everybody got a raise.
 2 Q. Other than that pay raise do you recall any
 3 other pay raises you have received since you have worked
 4 for Juvenile Corrections?
 5 A. No.
 6 Q. Have you received any bonuses?
 7 A. Yes.
 8 Q. Why don't you tell me about that?
 9 A. A few years ago ago we received -- I think it
 10 was a \$600 bonus. Let me correct that. I'm not sure
 11 about that. It may have been a \$300 bonus. And just
 12 recently we had a -- or I had a \$600 bonus.
 13 Q. How many custodians work at the facility? At
 14 the Nampa facility?
 15 A. Just myself.
 16 Q. And Mr. Gregston? Your supervisor?
 17 A. Yes.
 18 Q. Is he actually still involved in doing
 19 custodial-type work?
 20 A. No.
 21 Q. What is his job? From your perspective what
 22 does he do?
 23 A. He is the building superintendent.
 24 Q. Does he do physical work involving taking care
 25 of the facility?

1 A. Ray Gregston.
 2 Q. Did that ever change?
 3 A. No.
 4 Q. He is still your supervisor to this day; is he
 5 not?
 6 A. He is.
 7 Q. Is your job title still the lead custodian?
 8 A. It is.
 9 Q. Since you were hired, initially hired, have
 10 your job duties been changed in any way?
 11 A. They have changed in the sense that I have
 12 more duties to perform. We have a new unit that opened
 13 up called the solutions unit. So that was an extra wing
 14 that we had to take care of.
 15 Q. Other than growth of the facility, which means
 16 your duties expand because you've got more work to do,
 17 any other changes other than that?
 18 A. Not that I can recall; no.
 19 Q. Since you have worked for the department have
 20 you received pay raises?
 21 A. I have.
 22 Q. Why don't you give me an idea of the history
 23 of that?
 24 A. I received a pay raise -- I can't recall the
 25 date. But I think it was about a year ago. It was a

1 A. Yes, he does.
 2 Q. All right. That is what I was interested in.
 3 A. Okay.
 4 Q. He isn't just sitting at a desk saying, "Tom,
 5 go do this or go do that"?
 6 A. No.
 7 Q. He is a working guy?
 8 A. Absolutely.
 9 Q. Other than yourself and Mr. Gregston is there
 10 anybody else that -- and the juveniles that are helping
 11 you -- anybody else that does the physical labor to keep
 12 the facility clean and maintained?
 13 A. No.
 14 Q. Tell me, since you have been working there,
 15 have you applied for any positions that have been
 16 refused?
 17 A. I did apply for a rehab tech position.
 18 Q. When did you do that?
 19 A. I don't recall exactly. But I'm thinking like
 20 three years ago.
 21 Q. And why don't you tell me about that
 22 application process, as best you can recollect?
 23 A. The facility would post online a job opening.
 24 And then if a person was interested they would go and
 25 apply for that job online.

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1 Q. And you applied for the job?
 2 A. I did.
 3 Q. And what happened after you applied?
 4 A. I did not get the job.
 5 Q. Did you receive any feedback at all?
 6 A. Yes. When you answer questions on the exam
 7 for that particular job you have to rate at a certain
 8 rating, I guess you would call that. And I did not make
 9 that rating.
 10 Q. And how did you become aware of what your
 11 rating was?
 12 A. After you take the test, at some point
 13 afterwards you can go back online and see what your
 14 score was.
 15 Q. Were you able to see what caused your rating
 16 to be as low as it was?
 17 A. I did.
 18 Q. And what were the issues?
 19 A. I believe it was some kind of experience in
 20 that particular job that I did not have.
 21 Q. Anything else that caused the rating to be
 22 low?
 23 A. No.
 24 Q. Did you have any disputes with the way that
 25 the rating examination was graded or administered that

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1 you thought was unfair to you?
 2 A. Not to me; no.
 3 Q. Do you know who got the job that you applied
 4 for?
 5 A. I don't.
 6 Q. Do you have any reason or dispute that you
 7 felt that you were more qualified than whoever was hired
 8 for the job?
 9 A. No. When I didn't get the job I didn't pay
 10 attention to who got the job. I saw that I didn't make
 11 it and that was the end of that for me.
 12 Q. Have you done anything to try to gain the type
 13 of experience or do the things you need to do to raise
 14 your rating if you were interested in a rehab tech
 15 position in the future?
 16 A. No, I haven't.
 17 Q. Could that be done if you wanted to?
 18 A. Probably.
 19 Q. Is the exam that you filled out the same exam
 20 that all applicants filled out?
 21 A. I would imagine so.
 22 Q. I guess my question is, were you treated any
 23 differently than anybody else that was applying for that
 24 position?
 25 A. Not to my knowledge.

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1 Q. And do you have any reason to believe that you
 2 didn't get the job for any reason other than your rating
 3 on that exam?
 4 A. I didn't at the time.
 5 Q. How about now?
 6 A. I think that sometimes there is people who
 7 apply for a position that will get that not perhaps
 8 based on merit, but maybe who they knew.
 9 Q. But my question is, you don't know who got
 10 this job?
 11 A. No, I don't.
 12 Q. So you don't know if they were treated more
 13 favorably than you were; do you?
 14 A. I do not.
 15 Q. Would you agree to make any kind of allegation
 16 that way on your part would be speculative? Because you
 17 don't know?
 18 MR. SCHOPPE: Object to the form of the
 19 question. You can answer if you understand the
 20 question.
 21 THE WITNESS: Could you rephrase the question?
 22 Q. (BY MR. COLLAER) Would you agree that to
 23 suggest that the person who got the job was less
 24 qualified than yourself would be speculative on your
 25 part?

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1 A. Yes.
 2 Q. Other than this rehab tech position any other
 3 positions you have applied for in the facility?
 4 A. No.
 5 Q. Have you ever expressed interest in any other
 6 jobs within the facility?
 7 A. No.
 8 (Exhibit 91 marked.)
 9 Q. (BY MR. COLLAER) I'm handing you what I have
 10 marked as Exhibit No. 91. Do you recognize Exhibit No.
 11 91?
 12 A. Yes.
 13 Q. And what is it?
 14 A. It is a congratulations for choosing the
 15 department to work in.
 16 Q. This is when you were offered the job;
 17 correct?
 18 A. Yes.
 19 Q. And so this happened -- you were hired
 20 sometime in late July of 2008; correct?
 21 A. Correct.
 22 Q. And it references you being paid \$10.50 an
 23 hour. Is that consistent with what you recollect your
 24 starting wage was?
 25 A. Yes.

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1 Q. What was your understanding of any benefits
 2 that you would receive in addition to the hourly rate?
 3 A. What do you mean by benefits?
 4 Q. Meaning insurance. Anything of that nature.
 5 A. Not to my knowledge.
 6 Q. Do you have health insurance and those types
 7 of things as an employee?
 8 A. I do.
 9 Q. And are those provided by the employer?
 10 A. They are.
 11 Q. It also references here in the third paragraph
 12 that you would be serving an entry probationary period
 13 for approximately six months? Do you see that?
 14 A. Yes.
 15 Q. What was your understanding of that
 16 probationary period? What was it?
 17 A. Well, if you were able to do the job
 18 adequately, and it lasted for six months, then you would
 19 be offered full-time status. There is probably another
 20 word for it. I don't know what that is.
 21 Q. Let me ask you this. During your six-month
 22 probationary period was it your understanding that your
 23 employer could terminate your employment for any reason
 24 they wanted? Provided it wasn't a discriminatory reason
 25 for like or gender, or something of that nature?

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1 A. Yes, I did understand that.
 2 Q. They didn't have to explain it to you;
 3 correct?
 4 A. Correct.
 5 Q. And you could leave if you wanted to?
 6 A. That's true.
 7 Q. And then after you have completed your
 8 probation your status changed to -- I believe it is
 9 classified. Does that ring a bell?
 10 A. Yes.
 11 Q. After you became a classified employee what
 12 was your understanding of how your situation changed as
 13 compared to a probationary employee?
 14 A. You may be entitled to benefits at that time.
 15 Like health insurance and what have you.
 16 Q. What was your understanding of the employer's
 17 ability to terminate your employment for any reason they
 18 wanted when you became a classified employee as opposed
 19 to when you were a probationary?
 20 A. Could you rephrase that question, please?
 21 Q. Be happy to. What was your understanding of
 22 your employer's ability to terminate your employment for
 23 any reason they wanted after you became a classified
 24 employee?
 25 A. Their ability to terminate me, as I understand

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1 it, would be for not being able to perform. But not due
 2 to any discrimination or anything like that.
 3 Q. So was it still your understanding they could
 4 let you go for any reason they wanted? They didn't have
 5 to explain it?
 6 A. I don't know if that is so.
 7 Q. And what I'm getting at, Tom -- for an
 8 example, your supervisor, your building superintendent
 9 came up to you tomorrow and just said, "Tom, we respect
 10 the work you have done over the years, but we are going
 11 to let you go. Today is your last day. Good-bye."
 12 Without any other explanation other than that. As a
 13 classified employee is it your understanding that they
 14 have the right to do something like that?
 15 MR. SCHOPPE: Object to the form of the
 16 question. Assumes facts not in evidence. Calls for
 17 speculation. You can answer, if you are able.
 18 THE WITNESS: I don't know that to be true.
 19 Q. (BY MR. COLLAER) It is your understanding
 20 that they don't have the ability to do that?
 21 A. I don't know.
 22 Q. Is it your understanding that when you were a
 23 probationary employee they did have the ability to do
 24 that?
 25 A. That is correct.

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1 Q. Tell me, as the lead custodian for
 2 Corrections, you haven't been required to attend POST
 3 Academy; have you?
 4 A. No.
 5 Q. Have you ever asked to attend POST Academy?
 6 A. No.
 7 Q. What is your understanding of the employees at
 8 the facility who do attend POST Academy?
 9 A. I don't really know in detail what that is
 10 about. They have to have certain classes or certain
 11 kind of knowledge about the various things, so they
 12 would attend those classes. But since I wasn't involved
 13 with that I didn't pay a whole lot of attention to that.
 14 (Exhibit 92 marked.)
 15 Q. (BY MR. COLLAER) Handing you what I have
 16 marked as Exhibit 92. Could you identify Exhibit 92 for
 17 me, please?
 18 A. This is an Idaho Department of Juvenile
 19 Corrections Employee Orientation Certificate of
 20 Understanding.
 21 Q. Do you recognize your signature at the bottom?
 22 A. Yes, sir.
 23 Q. Is your handwriting and the printing the
 24 actual signature and the dating?
 25 A. Yes, sir.

1 Q. In the body of the document there is a number
 2 of blanks that have X's on them. Do you see that?
 3 A. I do.
 4 Q. Do you know who placed the X's on those
 5 various blanks?
 6 A. I think I did.
 7 Q. And are these the policies that were in the
 8 booklet that you described earlier?
 9 A. I believe so. I couldn't say for certain.
 10 But I believe it is.
 11 Q. So if I understand what you are telling me is
 12 through your orientation you received a booklet with all
 13 of these policies identified on Exhibit No. 92?
 14 A. Correct.
 15 Q. And you had them to review? You could read
 16 them at your own pace?
 17 A. Yes, sir.
 18 Q. And you did read or scan all of them; correct?
 19 A. I don't know if I scanned all of them. But I
 20 thumbed through it.
 21 Q. And there are none of these policies that you
 22 had any questions about when you went through them?
 23 A. No.
 24 Q. I'm going to hand you what has previously been
 25 marked as Exhibit No. 21. Have you ever seen -- do you

1 A. I have.
 2 Q. To your satisfaction?
 3 A. Yes.
 4 Q. What was your understanding of the types of
 5 things you could request problem solving for?
 6 A. If you had a problem with another employee or
 7 supervisor. I believe that's it right there. And you
 8 could take steps to move forward in that --
 9 Q. What types of problems are you referring to?
 10 A. Let's say you don't get along with another
 11 employee and you have a conflict. You would use problem
 12 solving to try to address that.
 13 Q. How about a manner in which a supervisor is
 14 treating you on the job?
 15 A. I guess you could use it for that purpose, as
 16 well.
 17 Q. What if a supervisor did something you felt
 18 was disciplinary in nature that you didn't agree with?
 19 A. You could use it for that purpose; yes.
 20 Q. How about for your performance evaluation?
 21 Was it available if you disagreed with something in
 22 those?
 23 A. Yes.
 24 Q. While you were on probation Mr. Gregston was
 25 your supervisor throughout that time period?

1 know what Exhibit No. 21 is?
 2 A. Yes.
 3 Q. What is it?
 4 A. It is a Problem Solving Corrective Action and
 5 Due Process Procedures for Department Employees.
 6 Q. Do employees refer to this as a grievance
 7 procedure?
 8 A. You could.
 9 Q. That is basically what it is?
 10 A. Yeah.
 11 Q. And is this one of the policies that you
 12 received during your orientation?
 13 A. Probably so.
 14 Q. I think if you'll look on the list it says
 15 down at the bottom 369.1?
 16 A. That's correct.
 17 Q. So you were familiar with this problem-solving
 18 process throughout your employment?
 19 A. Not actually. But I see that I signed it. I
 20 see that here. But I don't remember that much about it.
 21 Q. It was available to you at any time you wanted
 22 to read it?
 23 A. Correct.
 24 Q. And you have utilized it in the past; haven't
 25 you?

1 A. Correct.
 2 Q. Did you receive any negative evaluations or
 3 comments from him about how you were doing your job
 4 during that time frame?
 5 A. I did not.
 6 Q. Any disputes with Mr. Gregston at all during
 7 your probation?
 8 A. Not that I can recall.
 9 Q. Like personality conflicts or anything of that
 10 nature?
 11 A. No.
 12 Q. Any type of conflicts or disputes with any
 13 other employees at the facility?
 14 A. During that time; no.
 15 Q. Have you ever received a Notice of
 16 Contemplated Disciplinary Action during your employment?
 17 A. I have.
 18 Q. And what is that? When did that occur?
 19 A. That occurred recently.
 20 Q. Outside of that one -- and we'll talk about
 21 that in a few minutes. Outside of that one notice any
 22 others?
 23 A. Notice of Contemplated Action?
 24 Q. Yes.
 25 A. No.

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1 Q. And when you say a Notice of Contemplated
 2 Action. As an employee working at Juvenile Corrections
 3 what does that mean to you?
 4 A. That means that HR or management has decided
 5 to look into some allegation and they are going to
 6 decide what kind of action they are going to take
 7 against me for something that they allege I have done.
 8 Q. Maybe phrased in another way is that they have
 9 gotten some information, the notice tells you this is
 10 some information we have received, if this is true we
 11 think you violated this policy, and we are going to do
 12 this -- impose this discipline if this is true. So tell
 13 me if we are not getting the whole story. Is that --
 14 A. That is correct. You said it better than I
 15 did; yeah.
 16 Q. And that is your understanding of what it
 17 means and that is what you are going through right now?
 18 A. Yes, sir.
 19 Q. And with the current NOCA that you have, what
 20 is the proposed discipline that is pending?
 21 A. They wanted to reduce my wages in the amount
 22 of a week's worth of wages.
 23 Q. Is that still pending?
 24 A. It is not.
 25 Q. It has been resolved one way or another?

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1 A. It has.
 2 Q. And what has been the outcome?
 3 A. The outcome is they decided not to dock my
 4 wages. And they have decided to make me attend one or
 5 two classes of -- I'm not sure exactly what they are --
 6 as a result of that. But they decided not to dock my
 7 wages.
 8 Q. So you were able to provide them some
 9 information -- well, who was the person that was
 10 proposing your suspension without pay?
 11 A. Well, that came from our superintendent, Lynn
 12 Viner. How much she had to do with that I am not
 13 certain.
 14 Q. When you responded who did you address your
 15 response to?
 16 A. I addressed it to her.
 17 Q. And you gave her -- you were provided the
 18 opportunity to give her some information that you felt
 19 she should consider in making a final decision; correct?
 20 A. Correct.
 21 Q. And she considered that and then decided
 22 against docking your wages; correct?
 23 A. Correct.
 24 Q. Did you receive some kind of a reprimand or
 25 lesser form of discipline other than docking your pay?

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1 A. Yes. Again, I have to take some kind of
 2 classes.
 3 Q. Were you given a written reprimand also?
 4 A. I believe I did.
 5 Q. And that was issued by Mrs. Viner?
 6 A. Yes.
 7 Q. And when did Ms. Viner make a final decision
 8 about this discipline?
 9 A. A final decision was made last Thursday, I
 10 believe.
 11 Q. And have you filed a grievance or an appeal of
 12 Ms. Viner's decision?
 13 A. No.
 14 Q. Do you anticipate doing that?
 15 A. No. It read on the back page that I had three
 16 days to respond to that. I believe that time is passed.
 17 Q. If you had disagreed with Ms. Viner's decision
 18 what was your understanding of what your ability to
 19 challenge that was?
 20 A. As I understand it, I would have to use a
 21 problem-solving process.
 22 Q. And who would hear your request for problem
 23 solving after Ms. Viner? I'm asking for your
 24 understanding.
 25 A. My understanding, it maybe would be Director

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1 Harrigfeld.
 2 Q. And what is your understanding of
 3 Ms. Harrigfeld deciding -- decision that you didn't
 4 agree with where your pay was docked, what is your
 5 ability to challenge her decision after that?
 6 A. I think you can go to -- I don't know the
 7 name of it. Idaho Human Rights Commission.
 8 Q. The Employment Personnel Commission?
 9 A. Something like that.
 10 Q. So there is an appellate process for you to
 11 challenge these decisions?
 12 A. Correct.
 13 Q. And you were always aware of that?
 14 A. No.
 15 Q. You have become aware of it?
 16 A. I have become aware of it.
 17 Q. And at least in your discipline it has been
 18 resolved in a manner that is at least agreeable to you?
 19 A. Yes.
 20 (Exhibit 93 marked.)
 21 Q. (BY MR. COLLAER) Handing you what I have
 22 marked as Exhibit No. 93. Would you identify Exhibit 93
 23 for me?
 24 A. Yes. It is a memo from my boss, Ray Gregston,
 25 regarding a performance bonus. Indicating that I would

1 receive a performance bonus of \$700.
 2 Q. I see that it indicates this bonus was
 3 available to employees with ratings of achieves
 4 performance standards or higher. Do you see that?
 5 A. I do.
 6 Q. That is the current rating you had been given
 7 at that point; wasn't it?
 8 A. Yes.
 9 Q. And the \$700 you received, is that
 10 commensurate with other employees in your similar
 11 position?
 12 A. I believe so.
 13 Q. So you weren't being treated better or worse
 14 than anybody else?
 15 A. Not to my knowledge.
 16 (Exhibit 94 marked.)
 17 Q. (BY MR. COLLAER) Handing you what I have
 18 marked as Exhibit No. 94. Would you identify Exhibit 94
 19 for me, please?
 20 A. Yes. It is a memorandum from my boss, Ray
 21 Gregston, to me telling me I have basically a pay raise.
 22 Q. I see this happened for your performance
 23 during 2012; correct?
 24 A. Correct.
 25 Q. Tell me, the 3.5 percent raise you received,

1 they were out of money. So all employees were told they
 2 had to cut X amount of days.
 3 Q. Other than fiscal issues with the legislature
 4 any other reason that you are aware of for not receiving
 5 pay raises prior to this time?
 6 A. No.
 7 MR. COLLAER: Counsel, it has been about an
 8 hour. Let's take a quick break.
 9 (Recess.)
 10 Q. (BY MR. COLLAER) Tom, during the time you've
 11 worked for Juvenile Corrections could you just describe
 12 for me any personal interaction you ever had with Betty
 13 Grimm?
 14 MR. SCHOPPE: Object to the form. Vague.
 15 Ambiguous. Overbroad. Answer as best as you can.
 16 THE WITNESS: Personal interaction as far as
 17 one-on-one?
 18 Q. (BY MR. COLLAER) Yes.
 19 A. Just discussing things in general. Chitchat
 20 sometimes.
 21 Q. Why don't you tell me about it?
 22 A. How is the weather type of things.
 23 Q. Other than that context, small talk like
 24 that, anything else you can ever recall speaking with
 25 Ms. Grimm about?

1 do you see that?
 2 A. I do.
 3 Q. How did that percentage compare to other
 4 employees in a similar position as you at the facility?
 5 A. There is nobody similar to me as far as that
 6 goes. There is nobody in my position in the building.
 7 Q. Are you aware of other employees receiving a
 8 higher percentage rate of increase than yourself?
 9 A. No.
 10 Q. Do you contend that you are treated any
 11 differently as far as this particular pay raise as
 12 anybody else?
 13 A. I don't have any knowledge of that.
 14 Q. You also received a \$300 bonus?
 15 A. Yes.
 16 Q. Again, were you treated the same as everybody
 17 else?
 18 A. To my knowledge; yes.
 19 Q. The rate of pay at \$10.87, is this the first
 20 pay raise you had received since you had been working
 21 there?
 22 A. I believe so.
 23 Q. Is there a reason for lack of any raises as
 24 part of that, that you are aware of?
 25 A. Well, everybody had to use furloughs because

1 A. Yeah. I did ask her a question. The question
 2 is that I'm not allowed to take comp juveniles past the
 3 secured doors. I can take integrations, but not comps.
 4 So I asked her if I was able -- if she would let me take
 5 comps past secured doors. And she said, "No. You will
 6 stick with my directive."
 7 Q. And the directive was?
 8 A. That I would not be allowed to take comps past
 9 the secured doors.
 10 Q. And that is just the facility wide decision
 11 that deals with handling of juveniles?
 12 A. No. That is what I have to do. I cannot take
 13 comps past the secured doors.
 14 Q. When you say comps, what does that mean?
 15 A. It is their competency. There is levels. In
 16 the Choices unit there is developmental competency.
 17 And there is integration. Which is the highest level.
 18 So when I perform CS I'm not allowed to take comps past
 19 the secured doors. And the reason I asked her that was
 20 because all other staff were allowed to take comps past
 21 the secured doors on outings such as fishing, painting
 22 houses, cleaning the fish hatchery, camping trips, and
 23 that type of thing. And I'm not allowed to take them
 24 past secured doors. But others are. So that was my
 25 question to her one day. Why I'm not allowed to do

1 that.
 2 Q. And did she tell you why that directive was in
 3 place?
 4 A. No.
 5 Q. Did you ask her why?
 6 A. No.
 7 Q. And how long has that directive been in place?
 8 A. Since 2009. I think it was July.
 9 Q. Had something happened that caused that
 10 directive to be issued, that you are aware of?
 11 A. Before I was lead custodian apparently a
 12 couple juveniles ran from the lobby. Which is where you
 13 can take them past the secured doors. And that is where
 14 that directive came from.
 15 Q. Had nothing to do with you personally?
 16 A. No.
 17 Q. Anything else you recall talking with
 18 Ms. Grimm about?
 19 A. Well, we had some disciplinary issues that we
 20 did talk about.
 21 Q. We'll get into those. Were those your written
 22 reprimands?
 23 A. They were.
 24 Q. And I understand you had a grievance that you
 25 filed involving your supervisor?

1 A. No.
 2 Q. Did you feel that she heard you out on what
 3 you felt the issues were with your supervisor?
 4 A. At that meeting; yes.
 5 Q. So you were satisfied with the meeting you had
 6 with her as far as your ability to talk with her and
 7 tell her what you felt she needed to know?
 8 A. Yes.
 9 Q. And then she made a decision; correct?
 10 A. She did.
 11 Q. Were you happy with that decision?
 12 A. No, I was not.
 13 Q. And why so?
 14 A. Because she didn't really make a decision.
 15 She just put it back on "You have to talk to your boss
 16 about this. And have to talk to your boss about that."
 17 And at the time I was having trouble with him. So that
 18 is why I wasn't satisfied with that.
 19 Q. Did you appeal her decision any further?
 20 A. I don't believe I did.
 21 Q. Did you work with your boss to work through
 22 your problems?
 23 A. We did.
 24 Q. And did you resolve them?
 25 A. Eventually, yes.

1 A. Correct.
 2 Q. Other than that context any other
 3 conversations or interactions with Ms. Grimm?
 4 A. No.
 5 Q. How about Sharon Harrigfeld? Any contacts or
 6 interactions with Sharon Harrigfeld at all?
 7 A. When I had the problem-solving process that I
 8 went through I did talk to her.
 9 Q. Other than that anything else?
 10 A. Not to my knowledge.
 11 Q. The problem solving that you went through with
 12 Ms. Harrigfeld, did you meet with her face-to-face?
 13 A. I did.
 14 Q. What happened during that meeting?
 15 A. We discussed the problem-solving issue I had
 16 with my supervisor.
 17 Q. And could you describe Ms. Harrigfeld's
 18 demeanor or interaction with you during that meeting?
 19 A. I think she was a little bit nervous.
 20 Q. Anything else you recall?
 21 A. As far as her demeanor?
 22 Q. Sure.
 23 A. No.
 24 Q. Was she disrespectful towards yourself or
 25 hostile towards you?

1 Q. So her direction to tell you that you needed
 2 to continue to work with your boss to work through it is
 3 something that worked; correct?
 4 A. I can't say. Can you rephrase the question a
 5 little differently?
 6 Q. If I understand what you are telling me is her
 7 resolution of your grievance was she wanted yourself and
 8 your boss to speak with one another and work through the
 9 issues or problems you felt you had; correct?
 10 A. Yes.
 11 Q. And the two of you did that; didn't you?
 12 A. Yes.
 13 Q. So her suggestion, you both complied with it
 14 and the problem was resolved; wasn't it?
 15 A. Yes.
 16 Q. Other than this problem-solving process that
 17 you went through -- because she was the director. You
 18 appealed it up to her; correct?
 19 A. Um-hmm.
 20 Q. Other than that any other interactions or
 21 contacts or anything you have had with Ms. Harrigfeld?
 22 A. No.
 23 (Exhibit 95 marked.)
 24 Q. (BY MR. COLLAER) Handing you what I have
 25 marked as Exhibit No. 95. Would you identify Exhibit 95

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1 for me, please?
 2 A. It is a Department of Juvenile Corrections
 3 Written Warning Record.
 4 Q. And who issued you this warning?
 5 A. My boss. Ray Gregston.
 6 Q. Do you recognize your signature on the second
 7 page?
 8 A. I do.
 9 Q. Under the employee signature line?
 10 A. Correct.
 11 Q. Tell me, when this warning was placed -- was
 12 it placed in your personnel file?
 13 A. I believe it was.
 14 Q. Did you file a request for problem solving
 15 challenging this written warning?
 16 A. No, I don't believe that is the case.
 17 Q. The top paragraph where it says what occurred.
 18 It says, "What is the behavior/action which occurred?"
 19 Do you see that?
 20 A. I do.
 21 Q. Is there anything there that is described,
 22 that you contend, is inaccurate?
 23 A. No.
 24 Q. Were you aware of the policy or the procedure
 25 IF that juveniles are supposed to be under direct eyes

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1 on at all times?
 2 A. I did sign the form there?
 3 Q. You were aware of it when this incident
 4 occurred?
 5 A. Yes.
 6 Q. Would you agree that what is described on this
 7 warning is a violation of that policy?
 8 A. Yes.
 9 Q. Did you have any dispute with you receiving a
 10 written warning for what had happened?
 11 A. No.
 12 Q. You felt it was an appropriate reaction from
 13 your supervisor?
 14 A. Yes.
 15 Q. There is a description down here that
 16 juveniles had gotten injured and a piece of equipment
 17 was damaged. Was that accurate? Let me rephrase. It
 18 says, "Tom, you had been previously warned about the
 19 lack of supervision of maintaining visual contact which
 20 resulted in juveniles being injured and a piece of
 21 equipment damaged." That is not referring to this
 22 incident; is it?
 23 A. I don't believe so.
 24 Q. That is another incident; correct?
 25 A. Correct.

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1 Q. Had that prior incident occurred?
 2 A. Can you rephrase that?
 3 Q. Do you recall what that prior incident was
 4 where a juvenile was injured and a piece of equipment
 5 was damaged?
 6 A. I think I know. I'm not 100-percent certain.
 7 Q. Why don't you tell me what you understand this
 8 is referencing?
 9 A. I think one of the juveniles got some carpet
 10 cleaner chemical in his eye. If we are talking about
 11 the same issue. And I think a phone perhaps, maybe was
 12 destroyed. Or a birth certificate. If we are on the
 13 same page. I'm not sure we are.
 14 Q. And it dealt with an incident where your
 15 supervision was questioned?
 16 A. Yes.
 17 (Exhibit 96 marked.)
 18 Q. (BY MR. COLLAER) Handing you what I have
 19 marked as Exhibit No. 96. Do you recognize Exhibit
 20 No. 96?
 21 A. Yes, I recognize that.
 22 Q. Is this the incident with the juveniles that
 23 you were just describing?
 24 A. Yes, I believe it is.
 25 Q. And up at the top of Exhibit No. 96 where it

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1 describes what occurred is there anything in that
 2 description that you contend is not accurate?
 3 A. So you are asking me up in the first paragraph
 4 is that what happened?
 5 Q. Yes. Where it describes what happened is
 6 there anything in there that is your position is
 7 inaccurate?
 8 MR. SCHOPPE: Take all the time you need to
 9 look it over.
 10 THE WITNESS: Yes, this is correct.
 11 Q. (BY MR. COLLAER) Tell me, did you feel that
 12 the written warning you received was an appropriate
 13 response by your supervisor to what you had done?
 14 A. I do.
 15 Q. You didn't file a problem solving when you
 16 received this warning?
 17 A. No, I did not.
 18 Q. And, again, this was placed in your personnel
 19 file?
 20 A. I believe it was.
 21 Q. Was it also documented in your performance
 22 evaluation?
 23 A. I believe so.
 24 Q. And you didn't grieve that, either; did you?
 25 A. No.

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1 Q. When you got these two written warnings was it
 2 your understanding that -- what was your understanding
 3 of what would result if further incidences of similar
 4 misconduct on your part occurred?
 5 A. The next step in the disciplinary process.
 6 Q. More severe discipline could occur? Is that
 7 your understanding?
 8 A. Yeah.
 9 Q. Could involve, depending on the circumstances,
 10 could involve termination?
 11 A. It could.
 12 (Exhibit 97 marked.)
 13 Q. (BY MR. COLLAER) Handing you what I have
 14 marked as Exhibit No. 97. Would you please identify
 15 Exhibit No. 97 for me, please?
 16 A. It is an e-mail sent from me to Betty Grimm.
 17 I acknowledged receipt of this e-mail to her.
 18 Q. Down in the middle there is an e-mail from
 19 Ms. Grimm to yourself that describes a meeting that
 20 happened with yourself, Ms. Grimm, and Laura Roters was
 21 present. Do you remember that meeting?
 22 A. I do.
 23 Q. This e-mail also describes the issue of a
 24 complaint by Sabrina Payne concerning yourself. Do you
 25 see that?

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1 A. Yes, I see that.
 2 Q. Is there anything in Exhibit No. 97, in the
 3 factual description of the issue, in Ms. Grimm's e-mail
 4 to you, that you contend is not accurate?
 5 A. Yes.
 6 Q. What?
 7 A. It reads here that Ms. Payne said that I was
 8 ignoring her. Not cooperating with the community
 9 service schedule she developed. And I was using
 10 juveniles for CS hours. And I was ignoring juveniles
 11 that Ms. Payne identified that would need CS hours and
 12 would be appropriate to work with you.
 13 And what is not factual is she didn't make the
 14 schedule. I made the CS schedule. I didn't know there
 15 was any issue with Ms. Payne until this meeting right
 16 here. So when Ms. Grimm told me that there was an issue
 17 I told her that I don't know of any issue. And she said
 18 I was not following the CS schedule. Which is not so.
 19 I made the schedule. I approved the schedule. I liked
 20 it. So for her to say that I was not following the
 21 schedule is not factual.
 22 Q. So what was Ms. Payne's position?
 23 A. At the time I think she was a teacher.
 24 Q. So these juveniles were in her classroom?
 25 A. Yes.

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1 Q. And were you removing kids from her classroom
 2 to work with yourself?
 3 A. No, not at this time.
 4 Q. Had that ever happened?
 5 A. Yes, it has happened.
 6 Q. And why would you take kids out of their class
 7 to do janitorial work?
 8 A. That was the schedule that we had previous to
 9 this one that she is referring to here. So I would go
 10 to the various classes and pick up kids on
 11 appropriate -- who need the CS hours and work with them.
 12 Q. So I guess my question is, why would you take
 13 them out to work CS hours with you rather than them
 14 being in their classrooms working towards their high
 15 school diplomas or whatever they are working on?
 16 A. That is how it was. When I got there that is
 17 how it was.
 18 Q. That has changed now, hasn't it?
 19 A. It has.
 20 Q. Classroom time is a priority over doing
 21 janitorial work with you?
 22 A. Yes.
 23 Q. After this meeting was it your understanding
 24 that classroom time was to take priority over the kids
 25 doing CS work with you?

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1 A. No. I don't recall that.
 2 Q. After you got this e-mail did you continue to
 3 take kids out of classroom to do CS work?
 4 A. No, I didn't.
 5 Q. Were the teachers involved in creating the CS
 6 schedule after this time?
 7 A. There was nobody involved except myself
 8 creating the schedule.
 9 Q. How would you set the CS schedule if you don't
 10 know what times these kids are going to be in class?
 11 A. The only class that I can take them from at
 12 this time is vocations classroom.
 13 Q. And was it your understanding that you had the
 14 authority to schedule these kids so they would take them
 15 out of that vocation classroom?
 16 A. I'm not sure I understand the question.
 17 Q. Was it your understanding when you were
 18 setting the schedule that it was appropriate for you to
 19 set this schedule where these kids would be working with
 20 you at the same time so you would have to take them out
 21 of their classroom?
 22 A. Yes. But it is a vocations classroom. It is
 23 kind of a free time. It is not a math or English class.
 24 Q. They are learning job skills?
 25 A. Wood projects. Reading. Free time.

1 Q. And these are classes that were being taught
 2 by Ms. Payne at the time?
 3 A. They were not.
 4 Q. And what was Ms. Payne's involvement in these
 5 classes?
 6 A. She had no involvement.
 7 Q. What kind of classes was she teaching?
 8 A. I don't know.
 9 Q. Did you ever have any of these kids removed
 10 from her classes?
 11 A. No.
 12 Q. She is complaining to Ms. Grimm that that
 13 happened; isn't she?
 14 A. She is.
 15 Q. But you didn't know or have any knowledge that
 16 it had occurred?
 17 A. It wasn't occurring.
 18 Q. How did you respond to this e-mail and
 19 directive from Ms. Grimm?
 20 A. I told her what I said earlier. I said I
 21 didn't know there was a problem with Ms. Payne and
 22 myself. Talking to you now is the first knowledge that
 23 I have of that. Ms. Payne never approached me with any
 24 issues. And like I said before I was the one that made
 25 CS schedule. I liked it. I approved it. And there was

1 the concerns of Ms. Payne?
 2 A. No, I did not. Ms. Payne wouldn't have had an
 3 issue, because I wasn't taking juveniles from her class.
 4 Q. Then why is she complaining to Ms. Grimm that
 5 you are?
 6 A. I don't know. It could be that she was
 7 misinterpreting the schedule. For example, if the
 8 schedule would call for a certain group of juveniles to
 9 go on CS with me, and she saw somebody else from a
 10 different group working with me from the voc room, not
 11 from any other classroom, she might construe that as I
 12 was taking the wrong juveniles. But what has happened
 13 is there are two schedules. There is a summer schedule
 14 and a winter schedule. So if you are not up on the
 15 schedules of what students are in which class during
 16 what part of the day, and you saw me working with
 17 somebody you thought was inappropriate, whoever it was,
 18 was not aware of the correct schedule.
 19 Q. The janitorial work that you do, do you
 20 actually do -- personally do any of the manual labor
 21 yourself?
 22 A. I do.
 23 Q. How much of the work do you do yourself as
 24 opposed to having the juveniles do it?
 25 A. Percentage?

1 no issues.
 2 Q. Did you interact with Ms. Payne to resolve the
 3 problems she was complaining to Ms. Grimm about?
 4 A. I did not.
 5 Q. Did you keep doing what you were doing?
 6 A. Yes.
 7 Q. Were you ever told to stop doing what you were
 8 doing?
 9 A. No.
 10 Q. By Ms. Grimm or anybody else?
 11 A. No.
 12 Q. This e-mail tells you it is her expectation
 13 that you are going to follow the CS schedule. Is it
 14 your position that you did just that?
 15 A. Absolutely.
 16 Q. Because you set the schedule anytime you
 17 wanted; is that correct?
 18 A. Can you rephrase that question?
 19 Q. Did you comply with this e-mail because you
 20 set the schedule at a time that you felt was
 21 appropriate?
 22 A. I still don't think I understand what you are
 23 getting at.
 24 Q. Did you ever stop -- did you ever modify your
 25 creation of the CS schedule in any manner to accommodate

1 Q. Yeah.
 2 A. Ten percent.
 3 (Exhibit 98 marked.)
 4 Q. (BY MR. COLLAER) I'm going to hand you what I
 5 have marked as Exhibit No. 98. Do you recognize Exhibit
 6 98?
 7 A. I do.
 8 Q. There is handwriting on this exhibit. Do you
 9 recognize the handwriting?
 10 A. I believe it to be my supervisor, Ray
 11 Gregston's.
 12 Q. When you sent this e-mail is this in
 13 connection with the problem solving we discussed
 14 earlier?
 15 A. It is.
 16 Q. That you took up through Ms. Harrigfeld?
 17 A. It is.
 18 Q. You indicate that you are going to reply to
 19 your evaluation in Exhibit 98. Did you actually put a
 20 written reply on the evaluation? Was it made part of
 21 it? Or just filed your request for problem solving?
 22 A. I'm not sure I understand what you are asking
 23 me.
 24 Q. Your reply to the evaluation, what did that
 25 involve? What did you do?

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1 A. It was gathering files to respond to this
 2 evaluation. I wasn't quite finished with what I needed
 3 yet.
 4 Q. What I'm interested in is, did you make a
 5 written reply to the evaluation that was then included
 6 in your personnel file?
 7 A. I believe so.
 8 Q. At that point what was your overall evaluation
 9 that Mr. Gregston had given you for that year?
 10 A. It may have been -- let me look at the date
 11 here. I believe it is achieves performance standards.
 12 Q. Have you ever received an annual evaluation
 13 that was a do not achieves performance standards?
 14 A. I have.
 15 Q. And when did that happen in relation to when
 16 you filed this grievance?
 17 A. I think it was sometime after this.
 18 Q. Did you grieve that evaluation?
 19 A. I believe I did.
 20 Q. It is my understanding the only evaluation
 21 that was grieved was the one we discussed that you
 22 grieved up to Mr. Harrigfeld.
 23 A. Yes.
 24 Q. Are we talking about the same thing?
 25 A. I hope so; yes.

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1 Q. And at the end of that did the does not
 2 achieves rating changed?
 3 A. It was.
 4 Q. To a what?
 5 A. Achieves performance standards.
 6 Q. So Ms. Harrigfeld ruled in your favor in that
 7 respect; did she not?
 8 A. Yes.
 9 (Exhibit 99 marked.)
 10 Q. (BY MR. COLLAER) Handing you what I have
 11 marked as Exhibit 99. Would you identify Exhibit 99 for
 12 me, please?
 13 A. A copy of the Problem Solving Request Form.
 14 Q. Do you recognize your signature at the bottom
 15 on the first page?
 16 A. I do.
 17 Q. You say you are concerned with your
 18 supervisor's honesty, integrity, and hostility towards
 19 yourself. Do you see that?
 20 A. I do.
 21 Q. Are you referring to Mr. Gregston?
 22 A. I am.
 23 Q. Are you referring to anybody other than
 24 Mr. Gregston?
 25 A. No.

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1 Q. What was it that caused you to question his
 2 honesty?
 3 A. Well, I requested the date when I informed him
 4 that I had smashed my fingers in a door in the admin
 5 room, lobby room, and he said that there was no -- he
 6 had no recollection of that.
 7 Q. Tell me, when you smashed your finger in this
 8 door did you have to take time off? Were you away from
 9 work in any way?
 10 A. No.
 11 Q. Did it cause you not to be able to do your job
 12 in any manner?
 13 A. I was just a little gimp with one hand.
 14 Because I smashed two fingers.
 15 Q. But was it part of your adverse employment
 16 evaluation that you were grieving?
 17 A. My fingers?
 18 Q. Yes.
 19 A. No.
 20 Q. So any dispute you had with him about getting
 21 those forms or whatever had happened with respect to
 22 that finger -- your fingers, that had nothing to do with
 23 the did not achieves performance ratings he had given
 24 you on your evaluation; correct?
 25 A. I'm not certain that we are talking about the

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1 same time frame.
 2 Q. Well, if I read this, if what you are telling
 3 me this concern you had with Mr. Gregston, which you are
 4 grieving, was that he had given you a does not achieve
 5 standards performance evaluation.
 6 A. Yes.
 7 Q. And then part of this you are including this
 8 dispute you had with him regarding whether you had
 9 filled out a form when you injured your fingers;
 10 correct?
 11 A. Yes.
 12 Q. My question is, are the two interrelated? Or
 13 two separate things?
 14 A. I think they are related.
 15 Q. Well, my question is, how did the fact that
 16 you smashed your fingers in a door lead to your
 17 substandard performance evaluation?
 18 MR. SCHOPPE: Object to the form. Calls for
 19 speculation.
 20 THE WITNESS: Can you rephrase that a little
 21 bit?
 22 Q. (BY MR. COLLAER) You said these two events
 23 are interrelated. How?
 24 A. Well, with my Problem Solving Request Form,
 25 that was one of the things I brought up in my desire to

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1 change that hostile work environment. And him
 2 responding to me with how he responded to me was part of
 3 that request.
 4 Q. Is his response to you, when you requested
 5 those forms, did that occur before or after he had rated
 6 your annual performance as being substandard?
 7 A. I believe that was after.
 8 Q. So, again, is it your contention that any of
 9 this dispute or hostility between yourself and
 10 Mr. Gregston about those forms, did that cause -- is it
 11 your position that caused Mr. Gregston to rate your
 12 performance lower?
 13 A. If I understand you correctly, no.
 14 Q. So they are part of the same, what you contend
 15 was this hostile work environment, but they are two
 16 separate events? One being the substandard performance
 17 evaluation, because it happened first. And then the
 18 issue about these forms when you smashed your finger,
 19 because it happened later. Two events. But it is all
 20 what you contend as part of a hostile work environment?
 21 A. Correct.
 22 Q. All right. I understand what you are talking
 23 about. And you included both of those in your problem
 24 solving request that went up to Ms. Harrigfeld?
 25 A. I did.

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1 Q. When you smashed your fingers did you fill out
 2 a Workers' Compensation injury form?
 3 A. Not a Workers' Comp form. An injury report.
 4 Q. Did you seek medical care of any kind?
 5 A. I went to the nurse's station.
 6 Q. Private physician? Did you need to go to a
 7 doctor?
 8 A. No.
 9 Q. Was there any kind of permanent injury? Was
 10 the finger broken or anything of that nature?
 11 A. No. I just lost a nail. Just sore for a long
 12 time.
 13 Q. All right. If you had been seriously injured
 14 would you have filed a Workers' Compensation form and
 15 gone to the doctor?
 16 A. Yes.
 17 Q. But you weren't hurt in that way; were you?
 18 A. No. Well, it hurt.
 19 Q. I understand that. But it is not something
 20 that you needed to pursue a Workers' Compensation claim?
 21 A. Correct.
 22 Q. Because you didn't need medical care?
 23 A. Correct.
 24 Q. You weren't discouraged from pursuing a
 25 Workers' Compensation claim; were you?

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1 A. I was not.
 2 Q. The second page or the attachment that is on
 3 Exhibit No. 99, do you see that?
 4 A. Yes.
 5 Q. Is that your response to the performance
 6 evaluation that they are referring to in Exhibit 98?
 7 A. Yes, it is.
 8 Q. When you first filed the Problem Solving
 9 Request Form what happened? When you first completed
 10 and submitted Exhibit 99 what was the next thing that
 11 happened after that?
 12 A. Then I believe it went to HR. Human
 13 Resources.
 14 Q. Pat Thomson?
 15 A. Pat Thomson. Yes, sir.
 16 Q. And what happened when it landed on
 17 Mr. Thomson's desk?
 18 A. I believe he wanted to schedule a meeting with
 19 myself, and him, and Mr. Gregston.
 20 Q. Did that meeting occur?
 21 A. It did not occur.
 22 Q. Why not?
 23 A. At the time I did not want to talk to
 24 Mr. Gregston, because I felt that he was part of the
 25 problem at that time.

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1 Q. Did you meet with Mr. Thomson personally?
 2 A. I don't believe I did.
 3 Q. Did you communicate with him and provide him
 4 information you felt he needed to be aware of?
 5 A. I could have. I don't recall exactly.
 6 (Exhibit 100 marked.)
 7 Q. (BY MR. COLLAER) Handing you what I have
 8 marked as Exhibit No. 100. Would you identify Exhibit
 9 100 for me, please?
 10 A. Yes. It is a response from Pat Thomson to me
 11 regarding the problem solving.
 12 Q. And other than Exhibit No. 100 are you aware
 13 of any other communications between yourself and
 14 Mr. Thomson about this problem solving?
 15 A. I am not aware of any.
 16 Q. In your e-mail to Mr. Thomson up at the top
 17 there is a reference to a Joyce Clark.
 18 A. Yes.
 19 Q. Who is Joyce Clark?
 20 A. She is also an HR employee.
 21 Q. After you communicate with Mr. Thomson what
 22 was the next step in the problem-solving process? What
 23 happened?
 24 A. I believe I wanted her to take care of this
 25 problem solving.

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1 Q. You wanted Joyce Clark to do it?
 2 A. Yes.
 3 Q. Or Pat Thomson?
 4 A. Joyce Clark.
 5 Q. Did that occur?
 6 A. It did not occur.
 7 Q. What did occur?
 8 A. Pat Thomson continued to work on it.
 9 Q. To your knowledge, what did Pat Thomson do?
 10 A. I'm not sure I understand the question.
 11 Q. After you -- well, let's go back to my first
 12 question. After you sent this e-mail, which is Exhibit
 13 No. 100 to Pat Thomson, what is the next thing that
 14 happened in the problem-solving process?
 15 A. Forgive me, I still don't understand what you
 16 are getting at.
 17 Q. Well, you sent this e-mail to Pat Thomson.
 18 You filed a request for problem solving. What happened
 19 after this? Did somebody talk to you? What occurred?
 20 A. I don't recall what happened. Somebody
 21 probably did talk to me. I don't recall the exact
 22 details.
 23 Q. Do you recall anything else happening after
 24 Exhibit No. 100 was sent to Pat Thomson between that and
 25 when you met with Sharon Harrigfeld?

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1 A. I believe one thing I do recall is Pat Thomson
 2 showed up with Ray Gregston in our gym there and
 3 apparently they wanted to talk to me. At that moment I
 4 declined that. If that is what you are referring to.
 5 Q. Whatever occurred in the process that you
 6 remember. How soon after that did you meet with
 7 Ms. Harrigfeld?
 8 A. I don't recall. Within a few days, I think.
 9 Q. In the interim did you meet with Betty Grimm?
 10 A. I don't believe I did.
 11 Q. And we talked about your meeting with
 12 Ms. Harrigfeld. I'm not going to rehash that. Did
 13 you receive a written decision from Ms. Harrigfeld?
 14 A. I did.
 15 (Exhibit 101 marked.)
 16 Q. (BY MR. COLLAER) I'm handing you what has
 17 been marked as Exhibit 101. Can you identify Exhibit
 18 101 for me?
 19 A. Yes. It is from Director Harrigfeld to
 20 myself. It is the final Idaho Department of Juvenile
 21 Corrections Problem Solving Request Rorm.
 22 Q. This is her written decision with respect to
 23 your problem-solving request?
 24 A. I believe it is.
 25 Q. And is this document the meeting that we

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1 discussed earlier that occurred between yourself and
 2 Ms. Harrigfeld?
 3 A. Yes.
 4 Q. It also indicates that she had met with and
 5 spoke with Mr. Gregston. Did you expect that she would
 6 speak with him personally, also?
 7 A. Yes.
 8 Q. Is there anybody that you are aware of that
 9 you feel she should have spoken to that she did not?
 10 A. I'm not aware of anybody.
 11 Q. Is there any information that you felt she
 12 should have considered that she did not?
 13 A. Do you mind if I read this?
 14 Q. Sure.
 15 A. Okay.
 16 Q. The question is, is there any information that
 17 you felt Ms. Harrigfeld was presented with that she
 18 didn't consider when she issued Exhibit 101?
 19 A. Not that I can see. Not that I can recall.
 20 (Exhibit 102 marked.)
 21 Q. (BY MR. COLLAER) I am handing you Exhibit
 22 102. Would you identify Exhibit 102 for me, please?
 23 A. Yes. It is from myself to Sharon Harrigfeld
 24 stating that I acknowledge receipt of the problem-
 25 solving decision.

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1 Q. And that decision is Exhibit 101?
 2 A. Correct.
 3 Q. So you did receive Exhibit 101?
 4 A. Yes.
 5 Q. And did you challenge that decision or pursue
 6 any further problem solving with respect to the
 7 decision?
 8 A. I did not.
 9 Q. Tell me, focusing on the calendar year 2011.
 10 Can you describe any instances during that year that you
 11 criticized -- made criticism to anybody about the way
 12 the Nampa facility was being managed?
 13 MR. SCHOPPE: Object to the form. Vague and
 14 ambiguous and overbroad. Answer as best you can.
 15 THE WITNESS: I did have issues regarding the
 16 safety and security hiring policies. My own personal --
 17 my work issues with community service. Being able to
 18 take the kids in the same fashion as everybody else
 19 does.
 20 Q. (BY MR. COLLAER) Well, first, let's talk
 21 about -- you mentioned safety and security. Who did you
 22 make those criticisms to?
 23 A. I wouldn't call them criticisms. Just
 24 observations.
 25 Q. Specifically what were they?

1 A. For example, there is sometimes we are
 2 short-staffed. There is not a good ratio between the
 3 staff and juveniles. And if there is a riot or fight
 4 there could be issues there. Either staff would get
 5 hurt or juveniles could get hurt.
 6 Q. Who did you make these observations to?
 7 A. I believe I made them to Ray Gregston. A few
 8 people. Exactly who I'm not sure.
 9 Q. Anybody else you remember talking to this
 10 about?
 11 A. Bob Robinson is also in the maintenance
 12 department.
 13 Q. Are these just co-employees?
 14 A. Yes. Co-employees.
 15 Q. Other than co-employees did you talk about
 16 safety and security issues to anybody else?
 17 A. Not to my recollection.
 18 Q. And when you talked about these safety and
 19 security issues did anybody tell you that they were
 20 addressing or forwarding your concerns or your
 21 observations to management or anybody else?
 22 A. Did anybody tell me that?
 23 Q. Yeah.
 24 A. I don't believe they did. They may have.
 25 Q. Do you have any way to know if Betty Grimm was

1 to do; does she?
 2 A. No.
 3 Q. Why would you care if she is hired or
 4 promoted?
 5 A. It is just that if you see somebody being
 6 promoted unfairly then that affects the whole building.
 7 Q. I guess, Mr. de Knijf, considering your
 8 position as a lead custodian, and Laura Roters, my
 9 understanding, is a supervisor in rehab --
 10 MR. SCHOPPE: Were you done answering the
 11 prior question?
 12 THE WITNESS: Could you ask the first question
 13 again? The prior question?
 14 Q. (BY MR. COLLAER) Well, were you through
 15 answering the other question?
 16 A. I don't recall if I was or not.
 17 Q. Here is the question I have. Considering your
 18 position as the lead custodian, and Laura Roters
 19 position as supervisor in rehab, how would you have any
 20 knowledge of her qualifications or whether she was
 21 promoted appropriately or not?
 22 A. Because when she applied for the supervisor
 23 position in O&A you have to have some supervisory
 24 experience. And she did not have that experience.
 25 Q. Other than that how did you even learn about

1 ever made aware of your observations about safety and
 2 security that you had relayed to Ray Gregston or anybody
 3 else that you have described?
 4 A. Well, he is the person I would go to to
 5 discuss those issues.
 6 Q. My question is, do you know if he did it? He
 7 told her that he received these comments from you?
 8 A. No. Just in general.
 9 Q. You talked about hiring policies. What were
 10 your criticisms about hiring policies in 2011? And who
 11 did you make those comments to?
 12 A. Same individuals.
 13 Q. And what specifically were you concerned
 14 about?
 15 A. My concerns were in the various departments
 16 people getting promotions that weren't warranted.
 17 Q. Who?
 18 A. If the timeline is correct I think it was
 19 Laura Roters.
 20 Q. What interaction do you have with Laura
 21 Roters?
 22 A. She is just a fellow employee.
 23 Q. She doesn't supervise you; does she?
 24 A. She does not.
 25 Q. She doesn't have any ability to tell you what

1 that?
 2 A. Word-of-mouth.
 3 Q. And did you learn about it before or after she
 4 had been offered the position?
 5 A. I believe it was after.
 6 Q. And did you ever make a comment to anybody
 7 that you felt her being hired for that position was
 8 inappropriate or wrongful in any manner?
 9 A. I did not make any comments to anybody.
 10 Q. You were just aware of comments among
 11 co-employees around the facility that people were upset
 12 about it?
 13 A. Correct.
 14 Q. And that is the extent of your knowledge;
 15 correct?
 16 A. Correct.
 17 Q. Now, the SC issue to be able to take kids
 18 outside of locked doors.
 19 A. Yes.
 20 Q. Other than what we have already talked
 21 about -- I mean, I understand that you talked to
 22 Betty Grimm about that, and she told you what her
 23 expectations were. Outside of those conversations
 24 anything else that occurred in 2011? Comments you made
 25 about that issue?

1 A. I had discussed it with other people.
 2 Q. Who?
 3 A. Ray Gregston. Bob Robinson. Quite a few
 4 other staff.
 5 Q. Did you tell Mr. Gregston or other staff
 6 anything different than what you had already spoken with
 7 Ms. Grimm about?
 8 A. No. Just in more detail.
 9 Q. Do you have any knowledge that Mr. Gregston
 10 forwarded your comments to Ms. Grimm?
 11 A. Yes.
 12 Q. How do you know that?
 13 A. Well, he said so.
 14 Q. What did he tell you he did?
 15 A. Well, in our conversations over time I
 16 expressed to him my frustration with the way the CS
 17 schedule is. And he said that he would go talk to
 18 Betty Grimm about that.
 19 Q. Did he forward those conversations -- those
 20 comments you made before or after you spoke directly
 21 with Ms. Grimm about the issue?
 22 A. I don't know. I think it was before. It
 23 could have been a number of occasions.
 24 Q. But you and Ms. Grimm talked about it
 25 personally and she told you what her decision was?

1 accurately?
 2 A. Yes, I believe I did.
 3 Q. Why don't you tell me about that?
 4 A. Well, I noticed that in the facility a
 5 gentleman by the name of Dave Rorhbach, he was a Choices
 6 supervisor, and he would routinely come in late and
 7 leave early. And it became like kind of a running joke
 8 around the building. Another incident was with Debby
 9 Seigel. At the time she was in education. And she was
 10 in the front office at that time. And she came to me
 11 once -- I had some of the juveniles out in the lobby and
 12 she came to me and we just happened to chitchat. And
 13 then she said to me I want to go home and pad my hours.
 14 I didn't know what that meant at the time. But I
 15 realized pretty quickly that she wanted to go home and
 16 still get paid for a full day. That is my
 17 interpretation of what padding hours is.
 18 Q. Let me ask you a question. When you mentioned
 19 this -- my question to you is, did you complain to
 20 management about Mr. Rohrbach or Ms. Seigel about what
 21 you had observed them do or what you heard they had
 22 done?
 23 A. Yes. I talked to my supervisor, Ray Gregston,
 24 about that.
 25 Q. And other than Mr. Gregston anybody else that

1 A. Correct.
 2 Q. And that stayed consistent during the time you
 3 were there; correct?
 4 A. Yes.
 5 Q. Hasn't changed even since Ms. Grimm has
 6 retired; has it?
 7 A. That particular policy; no.
 8 Q. All right.
 9 A. I just want to include that I was able to take
 10 comps past the secured doors prior to 2009.
 11 Q. Well, I have some specific questions for you.
 12 In 2011 did you make any specific complaints to
 13 management about sexual misconduct by staff towards
 14 juveniles?
 15 A. No, I did not.
 16 Q. Did you make any complaints to management
 17 about safety issues involving juveniles other than those
 18 we have already talked about?
 19 A. Not that I recall.
 20 Q. Did you make any comments to management about
 21 employees not reporting their time accurately on their
 22 time sheets?
 23 A. Rephrase that question one more time, please.
 24 Q. Did you make any complaints to management in
 25 2011 about employees not reporting their time

1 you talked to about that?
 2 A. Just general fellow employees.
 3 Q. Do you know that Ms. Grimm was ever told by
 4 Mr. Gregston or anybody else that you had made those
 5 complaints about Mr. Rohrbach and Ms. Seigel?
 6 A. Not to my knowledge.
 7 Q. Do you know if Ms. Grimm or Ms. Harrigfeld
 8 were ever aware that you had made those types of
 9 complaints about co-employees padding their hours?
 10 A. I don't know that.
 11 Q. Did you make any criticisms to anybody in 2011
 12 about misuse of government funds at the facility?
 13 A. I believe I did. But I don't know what it is
 14 I was talking about. Forgive me.
 15 Q. Do you recall who you made those comments to?
 16 A. My supervisor.
 17 Q. Greg Gregston?
 18 A. Yes, sir.
 19 Q. But you don't recall what it involved?
 20 A. Just in general. The things we saw there.
 21 Q. Such as?
 22 A. Some of the juveniles have these little things
 23 called Game Boys. They are a little gaming device. And
 24 I noticed that one of the kids was -- they took him down
 25 to Wal-Mart -- they went to Wal-Mart and got a game to

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1 stick in this Game Boy. And this kid was a pretty
 2 violent kid. And that is the kind of waste we see
 3 there.
 4 Q. Were these games being purchased with state
 5 money?
 6 A. I believe so.
 7 Q. Do you know that?
 8 A. Did I see them pull out -- no, I did not see
 9 that.
 10 Q. And you don't know if anybody forwarded your
 11 concerns about that to Betty Grimm or Sharon Harrigfeld;
 12 do you?
 13 A. I don't.
 14 Q. Tell me, in 2011 could you describe for me
 15 anything Sharon Harrigfeld did to change your job duties
 16 in any respect?
 17 A. Not to my knowledge.
 18 Q. Anything Betty Grimm did in that regard?
 19 A. Not to my knowledge.
 20 Q. Did either Ms. Grimm or Ms. Harrigfeld do
 21 anything to suspend or attempt to terminate your
 22 employment in 2011?
 23 A. No.
 24 Q. Did either of these ladies do anything that
 25 you considered an adverse employment action? Something

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1 that affected the way you did your job?
 2 A. No.
 3 Q. Focusing now in 2012. Same types of
 4 questions. Do you recall any instances where you made
 5 complaints about the way that the Nampa facility was
 6 managed?
 7 A. Yes.
 8 Q. To who?
 9 A. Ray Gregston.
 10 Q. Are these the same criticisms you described
 11 that happened in 2011?
 12 A. Correct.
 13 Q. Anything different?
 14 A. No.
 15 Q. Were you aware of Ms. Harrigfeld or Ms. Grimm
 16 becoming aware that you had made complaints of that
 17 nature in 2012?
 18 A. No.
 19 Q. If they said they didn't know that you had any
 20 problems with these issues you would have no reason or
 21 ability to dispute that; would you?
 22 MR. SCHOPPE: Objection. Speculation. Form.
 23 THE WITNESS: I don't know.
 24 Q. (BY MR. COLLAER) Tell me, in 2012 did
 25 Ms. Harrigfeld or Ms. Grimm do anything to change your

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1 job duties in any respect?
 2 A. Not to my knowledge.
 3 Q. Did they make any attempt to suspend you or
 4 cut your pay?
 5 A. No.
 6 Q. Did they make any attempt to change your --
 7 transfer or swap you to a different job that was less
 8 desirable than the one you hold?
 9 A. No.
 10 Q. Did they do anything to your job that you felt
 11 was an adverse employment action that affected your
 12 daily workplace?
 13 A. No.
 14 Q. Tell me, can you describe for me anything that
 15 Sharon Harrigfeld has done to you personally that has
 16 prevented you from speaking out on any issue you chose
 17 to?
 18 A. Not that I can recall.
 19 Q. Same question with respect to Betty Grimm?
 20 A. Not that I can recall.
 21 (Exhibit 103 marked.)
 22 Q. (BY MR. COLLAER) Handing you what has been
 23 marked as Exhibit 103. Could you identify Exhibit 103
 24 for me, please?
 25 A. It is the Employee Performance Review.

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1 Q. For what year?
 2 A. 2013.
 3 Q. Are these the types of annual performance
 4 evaluations you have received each year of your
 5 employment?
 6 A. Correct.
 7 Q. And do you see that the supervising manager is
 8 Ray Gregston?
 9 A. Correct.
 10 Q. And did you meet with Mr. Gregston to discuss
 11 the performance evaluation after he completed it so you
 12 could talk about it?
 13 A. I believe I did.
 14 Q. That happened in all of your prior evaluations
 15 that Mr. Gregston had given you?
 16 A. Yes.
 17 Q. He would complete the evaluation, the two of
 18 you would meet, and you would discuss it?
 19 A. Correct.
 20 Q. Would he give you a copy of the evaluation
 21 before your meeting?
 22 A. Before the meeting?
 23 Q. Yes.
 24 A. No. He would give it to me at that time.
 25 Q. Focusing on Exhibit No. 103. Your rating was

1 "Achieves Performance Standards." Do you see that?
 2 A. Correct.
 3 Q. Is that a favorable rating?
 4 A. It is.
 5 Q. There is a reference down on the second page
 6 under "Customer Service." In the "Comment" section the
 7 last two sentences speaks to the community service
 8 schedule. Do you see that?
 9 A. In the "Comment" area?
 10 Q. Yes.
 11 A. Yes, I see that.
 12 Q. Is this the issue that Sabrina Payne had
 13 complained about that we discussed earlier?
 14 A. I'm not certain exactly. It's possible.
 15 Q. Other than Ms. Payne had there been other
 16 teachers that had been complaining about conflicts with
 17 the SC schedule and classes?
 18 A. Yes. The principal at the time was
 19 Mr. Richard Duke. He complained.
 20 Q. What was Mr. Duke's complaints?
 21 A. Similar to Mrs. Payne. That I was taking the
 22 juveniles out from classrooms that I shouldn't be taking
 23 them from. But the same issue applies. He was not
 24 aware of the schedule. And he was using a different
 25 schedule as Ms. Payne was. So then he would see me

1 A. Well, it was just juveniles going on community
 2 service for the first time. Some of the more
 3 experienced kids would set up a machine to -- let's say
 4 it's the auto scrubber. It is a machine that cleans the
 5 floor. They would loosen up the squeegee so that it
 6 would come off. And, of course, everybody would get a
 7 kick out of that. Things of that nature.
 8 Q. And you knew that was happening?
 9 A. Not all of the time; no.
 10 Q. But there were occasions you knew?
 11 A. Yes. There was occasions. If I seen it fall
 12 off I would see it.
 13 Q. Did you tell the kids don't be doing pranks
 14 like that?
 15 A. I did.
 16 Q. Did they do what you told them?
 17 A. For the most part.
 18 Q. But it continued?
 19 A. From time to time. If I don't catch it.
 20 Q. Was this an issue that Mr. Gregston and other
 21 management told you that shouldn't be condoned?
 22 A. Yes, they did.
 23 Q. Did they express concern that you were
 24 condoning it? Or allowing it?
 25 A. Yes.

1 with, in his mind, inappropriate juveniles. And that
 2 wasn't the case.
 3 Q. Did you put any response or anything in your
 4 performance evaluation addressing this issue that is
 5 noted in your evaluation?
 6 A. Can you repeat that question, please?
 7 Q. Look at page six. At the top there is a
 8 section for employee comments. Did you include any
 9 comments responding to this criticism about the CS
 10 schedule that is noted in your evaluation?
 11 A. I did not make any comments.
 12 Q. And you didn't grieve it, either; did you?
 13 A. No.
 14 Q. On the third page under "Interpersonal Skills"
 15 there is a notation about the issue of allowing pranks.
 16 Do you see that?
 17 A. Yes.
 18 Q. What was that all about?
 19 A. Let me read this. Under "Interpersonal
 20 Skills"?
 21 Q. Yes. In the "Comment" section there is a
 22 reference to "There is also the issue of allowing
 23 pranks."
 24 A. Yes, I see that.
 25 Q. What was that all about?

1 Q. And how did you respond to those concerns?
 2 A. Say that again, please?
 3 Q. How did you respond to those questions or
 4 concerns?
 5 A. Well, I told them that it would cease. That
 6 the activity would cease to the best of my abilities.
 7 Q. Did you tell them that you had ever done
 8 anything to let the juveniles think that it was okay to
 9 engage in those types of pranks?
 10 A. No. But sometimes it is very funny. It is
 11 all in good humor. So we would laugh about it.
 12 Q. You would laugh at the juveniles about the
 13 pranks they are pulling on the other kids?
 14 A. Yeah. We would all laugh about what happened.
 15 Q. All right. On page six, under the
 16 developmental objectives for the next review period, do
 17 you see that?
 18 A. What did you want me to look at?
 19 Q. There is the section "Performance and/or
 20 Developmental Objectives." Do you see that?
 21 A. Yes.
 22 Q. There is four objectives there. My question
 23 to you is, what involvement did you have in creating
 24 these objectives for yourself?
 25 A. This was something that my boss, Ray Gregston,

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1 and I discussed. Objectives.
 2 Q. So it was a give and take? Something the two
 3 of you created together?
 4 A. I would say that Mr. Gregston would lead that
 5 as opposed to it being more a half and half.
 6 Q. Understood. But you would give input and you
 7 would discuss these objectives with him?
 8 A. Correct.
 9 Q. When they were finalized did you agree with
 10 them?
 11 A. I believe I did.
 12 Q. What did you do to accomplish each of these
 13 objectives?
 14 A. Just continued to work with the juveniles on
 15 these issues.
 16 Q. Did you continue to work with the teachers on
 17 CS schedule?
 18 A. No, I didn't.
 19 Q. You were told in this objective to do that;
 20 weren't you?
 21 A. Yes. But, like I said, the CS schedule in the
 22 voc room has been static for quite sometime. So there
 23 wasn't any movement in there as far as making anything
 24 better.
 25 Q. Okay. I understand your answer.

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1 MR. COLLAER: Counsel, let's take another
 2 break. It's been another hour.
 3 (Noon recess.)
 4 (Exhibit 104 marked.)
 5 Q. (BY MR. COLLAER) Handing you what I have
 6 marked as Exhibit 104. Would you take a look at Exhibit
 7 104 and identify it for me, please?
 8 A. It is an Employee Performance Review.
 9 Q. Does it involve yourself?
 10 A. It does.
 11 Q. And this is for the 2011 time period?
 12 A. 2011-2012; yes.
 13 Q. And I note that this is a "does not achieve
 14 performance standards" rating.
 15 A. Correct.
 16 Q. Is this the evaluation we were talking about
 17 earlier that was the subject of your request for problem
 18 solving?
 19 A. Yes.
 20 Q. Other than the rating, as a result of your
 21 grievance, or your problem solving, was there any of the
 22 comments or anything in the evaluation that was changed?
 23 A. I'm not sure I understand the question.
 24 Q. Sure. Well, for example, in the "Comment"
 25 section under "Customer Service." I choose that because

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1 that is the first one. Was there anything in the
 2 comments of any of the sections of this evaluation that
 3 were changed as a result of your problem solving?
 4 A. Not that I can see.
 5 Q. Are you aware of any changes that were made to
 6 your written evaluation as a result of your problem
 7 solving? Other than the overall rating?
 8 A. Rephrase that, please?
 9 Q. Are you aware of any changes that were made to
 10 the written evaluation as a result of your problem
 11 solving other than the overall rating?
 12 A. Not to my knowledge.
 13 Q. Tell me, if the overall rating would not have
 14 been "does not achieve performance standards" would you
 15 have filed your request for problem solving?
 16 MR. SCHOPPE: Objection. Calls for
 17 speculation.
 18 Q. (BY MR. COLLAER) Go ahead and answer.
 19 A. I'm uncertain.
 20 Q. In any of the disagreements you had with
 21 respect to the conclusions or comments in your
 22 evaluation, which is Exhibit 104, would those be
 23 expressed in the Request for Problem Solving and the
 24 documents you provided to Ms. Harrigfeld in connection
 25 with that process?

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1 A. Are you asking me --
 2 Q. In any complaints or any disagreements tat you
 3 had with respect to the comments in your evaluation
 4 would you have expressed those in your request for
 5 problem solving? The documents you filed in connection
 6 with that process?
 7 A. I'm still not sure I understand exactly what
 8 you want.
 9 Q. You remember the Request for Problem Solving?
 10 A. I do.
 11 Q. And we have identified all of the documents
 12 that you filed outlining what your complaint was that
 13 you wanted management to look at; correct?
 14 A. Correct.
 15 Q. What my question is, is there anything -- to
 16 the extent you had concerns or disagreements with your
 17 performance evaluation those specific issues would have
 18 been included by you in your problem-solving request,
 19 the documents you filed in connection with that;
 20 correct?
 21 A. Yes.
 22 Q. That is what I was after. Am I also safe in
 23 assuming if there are comments in your evaluation of
 24 Exhibit 104 that were not brought up in your request for
 25 problem solving you were not in disagreement with them?

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1 MR. SCHOPPE: Object to the form of the
 2 question.
 3 THE WITNESS: I'm not certain.
 4 Q. (BY MR. COLLAER) Why aren't you certain?
 5 A. I'm not sure I understand your question.
 6 Q. Well, we've established what you did and
 7 didn't grieve. If there was issues or comments in your
 8 evaluation you didn't grieve does that mean that you
 9 didn't have a problem with them?
 10 A. No.
 11 Q. Well, are there any comments in this
 12 evaluation that you disagree with that you didn't
 13 grieve?
 14 MR. SCHOPPE: Read through the document if you
 15 need to.
 16 THE WITNESS: So state your question again,
 17 please?
 18 Q. (BY MR. COLLAER) Are there any comments in
 19 the evaluation, Exhibit 104, that you disagreed with
 20 that you did not include in your grievance?
 21 A. I don't believe so. If I understand your
 22 question correctly.
 23 (Exhibit 105 marked.)
 24 Q. (BY MR. COLLAER) Handing you what I have
 25 marked as Exhibit 105. Could you identify Exhibit 105,

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1 please?
 2 A. It is the Employee Performance Review dated
 3 August 4, 2011.
 4 Q. And, again, your supervisor was Mr. Gregston?
 5 A. Correct.
 6 Q. And this was an achieves performance
 7 standards?
 8 A. Correct.
 9 Q. So it was a favorable evaluation?
 10 A. Yes.
 11 Q. On page three under the "Review of
 12 Objectives," Objective No. 2, do you see that?
 13 A. I see that.
 14 Q. Were there any further conflicts with
 15 scheduling kids to work with you between yourself and
 16 the teachers?
 17 A. No. I would like to add, though, there are
 18 conflicts in the sense that I'm not allowed to take
 19 certain juveniles to perform CS during certain times of
 20 the day or they have to be at an appropriate level.
 21 That is still the same as we speak today.
 22 (Exhibit 106 marked.)
 23 Q. (BY MR. COLLAER) Handing you what I have
 24 marked as Exhibit 106. Could you please identify
 25 Exhibit 106 for me, please?

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1 A. It is an Employee Performance Review dated
 2 August 5, 2010.
 3 Q. And you recognize your signature on it?
 4 A. I do.
 5 Q. And it is a performance evaluation for
 6 yourself; correct?
 7 A. Correct.
 8 Q. And as with the other evaluations, when this
 9 evaluation was given to you by Mr. Gregston, the two of
 10 you met and discussed it?
 11 A. That's correct.
 12 Q. Normally when you and Mr. Gregston would meet
 13 to discuss an evaluation how long would that meeting
 14 last?
 15 A. As long as it would take to read this and
 16 discuss it with him.
 17 Q. You would go through each of the comment
 18 sections?
 19 A. Or I would just read it myself. And if I had
 20 no issues I would sign it.
 21 Q. Well, like the "does not achieves evaluation,"
 22 Exhibit 104, how long did that meeting last?
 23 A. I don't recall.
 24 Q. Do you recall that there was discussion and
 25 disagreement between yourself and Mr. Gregston

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1 concerning the rating he had given you for that year?
 2 A. There was a disagreement. But I don't believe
 3 I voiced it at that time.
 4 Q. Why don't you describe to me as best you can
 5 recollect what happened between yourself and
 6 Mr. Gregston during that meeting?
 7 A. I believe I read over the evaluation. And
 8 then I had an opportunity to respond to that. Which I
 9 was going to do at a later time.
 10 Q. You didn't talk to Mr. Gregston about his
 11 rating or any of the issues he raised in the evaluation
 12 during your face-to-face meeting with him?
 13 A. Not to my recollection.
 14 Q. Returning to Exhibit 106. On page three,
 15 Objective No. 2, says, "It is still in progress." What
 16 was still in progress?
 17 A. I believe this is just a schedule that you
 18 would put on a calendar with tasks or jobs that you
 19 would do during that day and during the week.
 20 Q. Look at page four under "Interpersonal
 21 Skills." You received a rating of "did not achieves" in
 22 that section.
 23 A. Yes.
 24 Q. Do you recall discussing this particular
 25 rating with Mr. Gregston?

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1 A. I don't recall. But I'm sure that we did at
 2 some point.
 3 Q. But at your meeting when you went through the
 4 evaluation with him do you recall discussing this rating
 5 at all?
 6 A. No.
 7 Q. You said you are sure you talked to him about
 8 it at some point.
 9 A. Well, in my response to this evaluation.
 10 Q. Did you actually make a written response to
 11 this particular evaluation? Exhibit 106?
 12 A. I don't believe I did.
 13 Q. And this rating of "do not achieves" on
 14 "Interpersonal Skills," you did not file a problem-
 15 solving request for that particular rating; did you?
 16 A. I don't think I did.
 17 Q. On "Work Environment/Safety" on page five
 18 through six you received a "did not achieves" rating on
 19 that section, also. Do you see that?
 20 A. Yes.
 21 Q. Did you respond in any way to that rating?
 22 A. I don't believe I did.
 23 Q. The "Comments" also references some of the --
 24 one of the written warnings you received that we
 25 discussed earlier; is that true?

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1 A. Repeat that, please?
 2 Q. Does the "Comments" section for this on page
 3 six reference at least one of the incidences where you
 4 had received a written warning?
 5 A. Yes.
 6 Q. So the comments here are accurate; correct?
 7 A. They are the same similar comments to the
 8 other evaluation; yes.
 9 Q. So in light of those incidences did you
 10 disagree with your rating of "do not achieves" that you
 11 received in this section of your evaluation?
 12 A. I did disagree with these.
 13 Q. Then why didn't you respond to it?
 14 A. I guess it is just something I didn't do. I
 15 didn't feel prompted at the time to do so. I think it
 16 built up over time. And this was not that time.
 17 Q. But you didn't grieve or respond to the
 18 written warnings you received, either; did you?
 19 A. Which ones are you referring to?
 20 Q. The ones that are referenced in this
 21 evaluation where juveniles had not been supervised
 22 adequately?
 23 A. I don't believe I did.
 24 (Exhibit 107 marked.)
 25 Q. (BY MR. COLLAER) Handing you what I have

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1 marked as Exhibit 107. Could you identify Exhibit 107
 2 for me, please?
 3 A. Yes. It is the Employee Performance Review
 4 dated August 10, 2009.
 5 Q. And, again, this is involving yourself;
 6 correct?
 7 A. Correct.
 8 Q. And as with the other evaluations you and
 9 Mr. Knoff met and discussed your rating when he gave
 10 this evaluation to you; correct?
 11 A. Mr. Gregston?
 12 Q. Yes. Mr. Gregston.
 13 A. Yes.
 14 Q. Considering the performance that he gave you I
 15 presume you didn't have any disagreements with the
 16 ratings you received?
 17 A. No, I did not.
 18 Q. On the objectives on page eight. These two
 19 objectives have a date certain to have these objectives
 20 met. Did you meet those timelines for both of these?
 21 A. I believe I did.
 22 (Exhibit 108 marked.)
 23 Q. (BY MR. COLLAER) Handing you what I have
 24 marked as Exhibit 108. Could you identify Exhibit 108
 25 for me, please?

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1 A. Employee Performance Review dated February 4,
 2 2009.
 3 Q. And, again, that is the evaluation involving
 4 yourself?
 5 A. Correct.
 6 Q. And what was the rating that you received?
 7 A. It reads, "Solid Sustained Performance."
 8 Q. And, again, I presume you did not have any
 9 disagreement with the ratings that you received in this
 10 evaluation?
 11 A. I don't believe I did.
 12 Q. Did you respond to any portion of the ratings?
 13 A. I don't believe I did.
 14 Q. Mr. de Knijf, the exhibits we have just gone
 15 through, the performance evaluations, which are Exhibits
 16 103 through 108, other than those are there any other
 17 performance evaluations that you are aware of that were
 18 done on yourself during your employment at the Nampa
 19 facility?
 20 A. Not that I'm aware of.
 21 Q. And other than the single evaluation, I think
 22 it was Exhibit 104, that you received a "did not
 23 achieves," all of the rest are favorable evaluations;
 24 correct?
 25 A. Correct.

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1 Q. And the one that was a "did not achieves" you
 2 grieved and it was changed to a meets standards;
 3 correct?
 4 A. Correct.
 5 Q. So as it stands you have never received a
 6 negative overall performance evaluation while you have
 7 been at the Nampa facility; correct?
 8 A. Correct. If I didn't grieve the 104 that
 9 would have stayed negative.
 10 Q. Granted. I understand that. But there is a
 11 process where you could challenge that and you did
 12 successfully?
 13 A. Yes.
 14 (Exhibit 110 marked.)
 15 Q. (BY MR. COLLAER) Handing you what I have
 16 marked as Exhibit 110. Would you identify Exhibit 110
 17 for me, please?
 18 A. It is an investigation report concerning
 19 something I said to another staff member.
 20 Q. Is this the incident that we talked about
 21 earlier that was the subject of the notice of
 22 contemplated action you received?
 23 A. Yes, sir; it is.
 24 Q. And this whole incident, as far as proposed
 25 discipline, it is over at this point; correct?

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1 A. Yes. Aside from my having to take some
 2 classes.
 3 Q. Right. You're having to follow what Ms. Viner
 4 said you need to do?
 5 A. Correct.
 6 Q. Tell me, do you know who wrote this
 7 investigation report?
 8 A. I don't know. I don't believe it was
 9 Ms. Viner.
 10 Q. You don't know one way or the other?
 11 A. I don't.
 12 Q. I don't want you to guess. Were you provided
 13 a copy of this report?
 14 A. Yes.
 15 Q. And at what point during the process did you
 16 receive a copy of it?
 17 A. I requested the names of all of the people who
 18 were investigating this report. The staff and juveniles
 19 involved with the investigation. The person writing the
 20 report.
 21 Q. Were you given that information that you
 22 requested?
 23 A. Yes. Well, correction. I don't know who
 24 wrote the report.
 25 Q. The information that you were given about who

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1 was doing the investigation, what were you told in that
 2 regard?
 3 A. Pat Thomson was the gentleman who was doing
 4 the investigation. I was referring to who wrote this
 5 report.
 6 Q. And you just simply don't know one way or the
 7 other?
 8 A. No.
 9 Q. It could be Mr. Thomson, but you don't know?
 10 A. I don't think it is.
 11 Q. Why not?
 12 A. It is just my belief. I don't believe it is.
 13 Q. When this comment you made to Mr. Sheets
 14 occurred were you aware that prior to that time the
 15 juveniles in question had been disciplined for making
 16 inappropriate comments during the class?
 17 A. I was not aware of it at the time.
 18 Q. When did you become aware of it?
 19 A. Later in this process right here.
 20 (Exhibit 109 marked.)
 21 Q. (BY MR. COLLAER) Handing you what I have
 22 marked as Exhibit 109. Would you identify Exhibit 109
 23 for me, please?
 24 A. It is a letter -- or an e-mail from Rhonda
 25 Sheets to Pat Thomson.

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1 Q. Through the process were you given a copy of
 2 this e-mail?
 3 A. I was.
 4 Q. In the first paragraph she indicates that
 5 although she did not ask Mr. de Knijf's understanding of
 6 the term "cold pack," which she said was sexual in
 7 nature, you were "laughing very hard, as were the boys."
 8 Is that accurate? Were you laughing after you made this
 9 comment to her?
 10 A. Yes. But in the context of what my
 11 understanding of what that phrase meant.
 12 Q. Would you agree with the characterization that
 13 you were laughing very hard?
 14 A. No, I would not.
 15 Q. How hard were you laughing?
 16 A. Not very hard.
 17 Q. Were the boys laughing?
 18 A. I believe they were.
 19 Q. Were they laughing harder than yourself?
 20 A. I don't know.
 21 Q. What precisely did you say to Ms. Sheets that
 22 started this whole thing?
 23 A. I said to her, "Would you prefer cold cuts or
 24 a cold pack?" Referencing food. To lunch.
 25 Q. And you understood later that the boys had

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1 used the term "cold pack" in reference to having sex
 2 with dead bodies?
 3 A. I didn't know at the time. Later on I found
 4 that out.
 5 Q. Tell me, when you said this comment, "Do you
 6 prefer cold cuts or cold pack?" What was Ms. Sheets
 7 immediate reaction when you said that to her?
 8 A. I don't recall her reaction. I don't recall
 9 what she said.
 10 Q. Did she appear shocked?
 11 A. No. Not to me.
 12 Q. Upset?
 13 A. No.
 14 Q. Do you recall any reaction she made at all?
 15 A. She was just sitting at the computer console
 16 and typing away.
 17 Q. What had occurred that led up to the
 18 circumstances that would have prompted you to make a
 19 comment to her of that nature in the first place?
 20 A. The boys told me -- I thought the boys told me
 21 that the word "cold pack" meant eating dead bodies.
 22 That is what my understanding of it was.
 23 Q. My question still is, why did you make that
 24 comment to Mrs. Sheets at all?
 25 A. I thought it was funny at the time.

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1 Q. Were you trying to joke with her?
 2 A. I was.
 3 Q. Have you ever had a joking relationship with
 4 this lady, ever?
 5 A. I believe I have.
 6 Q. Did the boys encourage you to make a comment
 7 like that? Or ask her about cold packing?
 8 A. I don't believe they asked me to.
 9 Q. Before you made this comment to Ms. Sheets had
 10 the boys asked you or suggested, "Hey, ask Mrs. Sheets
 11 about cold packing"?
 12 A. No.
 13 Q. I guess what I come back to is, you were
 14 laughing when you made the comment. Although, you can't
 15 remember how she reacted. What was so funny?
 16 A. Well, it is just a reference to cold cuts.
 17 Like sandwich meats. And dead bodies. Slicing up dead
 18 bodies. Which one would you prefer?
 19 Q. And you would make this comment to a lady
 20 sitting at her computer console working?
 21 A. Yes.
 22 Q. She wasn't eating lunch or anything like that?
 23 A. No.
 24 Q. She was doing her work and just out of the
 25 blue you came up and asked her, "Hey, do you like cold

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1 cuts or cold pack?"
 2 A. Yes.
 3 Q. And you started laughing over that?
 4 A. Yes.
 5 Q. And you don't recall that she indicated to you
 6 that you were offending her in any manner?
 7 A. No.
 8 Q. At some point did you learn that she viewed
 9 this as being very offensive?
 10 A. I did.
 11 Q. How soon there after?
 12 A. Some days afterwards.
 13 Q. Did you apologize to her?
 14 A. I did not.
 15 Q. Why not?
 16 A. At that point, when I learned what her
 17 interpretation of what she thought it meant, I felt it
 18 best not to talk to her at all in case that would be
 19 misconstrued, as well.
 20 Q. Misconstrued how?
 21 A. As if I was harassing her more.
 22 Q. Well, why would it be harassing to her if you
 23 would have approached her and said, "I'm sorry if I
 24 offended you. That is not what I meant"? Why would
 25 that be harassing her?

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1 MR. SCHOPPE: Objection. Calls for
 2 speculation. Object to the form of the question.
 3 THE WITNESS: In my mind apparently that
 4 offended her. As far as I was concerned no contact with
 5 her was the best answer at that particular time.
 6 Q. (BY MR. COLLAER) Were you concerned that you
 7 had said something that had offended a female
 8 co-employee?
 9 A. That is a possibility. Like I said, it was
 10 best not to talk to her at all.
 11 Q. But my question was, did it concern you that
 12 you said something that had offended a female employee?
 13 A. No. Because my understanding of the term was
 14 not offensive.
 15 Q. When you made this comment to her did she say,
 16 "What do you mean by cold pack?" Did she mention that
 17 at all?
 18 A. No. She didn't ask me that.
 19 Q. Did the two of you see each other and talk to
 20 each other again that day?
 21 A. I don't believe I did.
 22 Q. How did you learn that the juveniles had lost
 23 their snack privileges because of making a comment about
 24 cold packing which was sexual in nature?
 25 A. I learned about it --

1 Q. -- to Ms. Sheets during class?
 2 A. I learned about it through one of these
 3 e-mails here. It may not be one here. But one of the
 4 communications.
 5 Q. Is it your testimony that Ms. Sheets, when you
 6 made the comment to her, that she had told you that the
 7 group had just gotten in trouble for statements like
 8 that?
 9 A. No, I did not hear that from her.
 10 Q. Other than yourself, and the juveniles, and
 11 Ms. Sheets, was anybody else present when this comment
 12 was made?
 13 A. I don't think so.
 14 Q. Do you know if the juveniles were interviewed
 15 in connection with this investigation?
 16 A. I believe they were.
 17 Q. And what did they say?
 18 MR. SCHOPPE: Objection. Calls for
 19 speculation.
 20 Q. (BY MR. COLLAER) If you know.
 21 A. I don't know.
 22 Q. You don't recognize the juvenile H.K.?
 23 A. Yes, I know who that is.
 24 Q. Who is that?
 25 A. A man named [REDACTED].

1 to the investigator? Is that what your testimony is?
 2 A. I'm saying I'm not sure if the juvenile said
 3 that to the investigator. It may not be the case.
 4 Q. But you don't know one way or the other?
 5 A. I don't.
 6 Q. Assuming that the juvenile did in fact say
 7 that to the investigator are you aware of any motivation
 8 for this juvenile to not tell the investigator the
 9 truth?
 10 MR. SCHOPPE: Objection. Calls for
 11 speculation.
 12 THE WITNESS: Can you rephrase that?
 13 Q. (BY MR. COLLAER) Assuming the juvenile in
 14 fact told the investigator that he had told you what the
 15 term "cold pack" meant before you made your comment to
 16 Ms. Sheets, are you aware of any motivation on the part
 17 of the juvenile to not tell the investigator the truth?
 18 A. Not that I can see.
 19 Q. Tell me, you have read Exhibit 110 in pretty
 20 fine detail through this process; have you not? That is
 21 the investigative report.
 22 A. I would say so.
 23 Q. I'm going to ask you to place yourself in the
 24 shoes of management trying to decide what to do. They
 25 get this investigative report. And you are the person

1 Q. Is he somebody that works for you?
 2 A. He is.
 3 Q. Have you ever had any problems with that kid?
 4 A. Not to my knowledge.
 5 Q. Did you see in the report that [REDACTED] told the
 6 investigator that he had told you what the term "cold
 7 pack" meant?
 8 A. I did see that.
 9 Q. And it is your testimony that the juvenile is
 10 not telling the truth?
 11 A. I don't know for a fact if that is what the
 12 juvenile said.
 13 Q. But if the juvenile did in fact say that to
 14 the investigator is it your position that the juvenile
 15 is not telling the truth?
 16 A. No, that is not what I'm saying.
 17 Q. So he did tell you what cold pack meant?
 18 MR. SCHOPPE: Objection. Mischaracterizes the
 19 testimony. That is not what he said.
 20 THE WITNESS: No.
 21 Q. (BY MR. COLLAER) Well, the report says that
 22 he did. He said that he told you what the term "cold
 23 pack" meant before you made the comment to Ms. Sheets.
 24 A. I don't believe that to be true.
 25 Q. Are you saying the juvenile did not say that

1 making the decision. Do you recommend discipline
 2 against yourself?
 3 MR. SCHOPPE: Objection. Calls for
 4 speculation. We don't even know who we are talking
 5 about.
 6 THE WITNESS: I would not recommend
 7 discipline; no.
 8 Q. (BY MR. COLLAER) Why?
 9 A. I would ask in the context of what I thought
 10 the term meant. What I would have done is pulled
 11 whoever that person was aside and say, "Tom, this is
 12 what this word means. So-and-so was offended by it.
 13 Maybe you could apologize. And don't do that again."
 14 It was just a misunderstanding of terms. Of a phrase of
 15 a word.
 16 Q. Tell me, if you had come to the conclusion
 17 that the employee, meaning in this instance yourself, in
 18 fact, knew what the term meant, and knew it had a sexual
 19 connotation to it, would you agree that discipline would
 20 be appropriate?
 21 MR. SCHOPPE: Objection. Calls for
 22 speculation. I still don't know who we are talking
 23 about.
 24 THE WITNESS: If you could be more specific.
 25 Q. (BY MR. COLLAER) If you were the supervisor,

1 if you were in Ms. Viner's position, and you came to the
2 conclusion that the employee who made this comment to
3 the female employee was aware that the term "cold pack"
4 had a sexual connotation to it, you came to that
5 conclusion, would you recommend discipline be imposed in
6 that instance?

7 A. In that instance; yes.

8 Q. Based upon your understanding of the -- is it
9 your understanding that the Department has a policy
10 against workplace harassment and sexual harassment?

11 A. It is my understanding; yes.

12 Q. And you understand that general harassment
13 under the policy is not necessarily sexual harassment;
14 correct?

15 A. Correct.

16 Q. So my last question. If this comment you made
17 was intended, and had sexual overtures to it, would you
18 feel that that would meet the definition of sexual
19 harassment under the IDOC policy?

20 MR. SCHOPPE: Objection. Calls for
21 speculation.

22 THE WITNESS: As I understand you explaining
23 it to me, I would say so.

24 Q. (BY MR. COLLAER) Would you feel that the
25 comment without a sexual overtone would meet the

1 best way to go about it. Because that could possibly be
2 misconstrued, as well.

3 Q. But since this issue has been closed you still
4 haven't apologized to her; have you?

5 A. That is correct.

6 Q. Are you familiar with an individual named
7 [REDACTED] ?

8 A. Not off the top of my head; no.

9 Q. I'm going to show you something. I'm not sure
10 I'm going to mark it. There is a reference there on
11 this document to an [REDACTED]. Does that help you
12 at all?

13 A. If I saw a picture of this lady I think
14 I would recognize her. But I don't know who it is at
15 the moment.

16 Q. My question is, is this individual a juvenile?
17 Or a co-employee? If you know.

18 A. I don't know.

19 Q. Are you aware of any incident where an
20 [REDACTED] was working with you or was told that
21 they wouldn't be working with you?

22 A. I don't recall.

23 Q. Other than juveniles does anybody else work
24 with you?

25 A. Not really, no.

1 definition of general harassment under the IDOC policy?

2 A. No, I don't.

3 Q. Why not?

4 A. It was a joke.

5 Q. Can an innocent joke become general
6 harassment?

7 A. It can if the person accepted the joke as
8 being --

9 Q. Directed at?

10 A. Towards. That is possible. That was not my
11 intent.

12 Q. Granted it is not your intent, but that is how
13 Ms. Sheets took it; isn't it?

14 MR. SCHOPPE: Objection. Calls for
15 speculation.

16 Q. (BY MR. COLLAER) She was offended by it;
17 correct?

18 MR. SCHOPPE: Calls for speculation.

19 THE WITNESS: I didn't see it at the time.

20 Q. (BY MR. COLLAER) You found out later that it
21 did?

22 A. I later found out; yes.

23 Q. As of today have you ever apologized to her?

24 A. No. As I said, the way I handled that
25 situation is if I don't say anything to her, that is the

1 Q. Do you have female juveniles work with you?

2 A. From time to time.

3 Q. Very often?

4 A. Not very often. Rarely is what I would say to
5 that.

6 Q. And you just have no recollection of the
7 incident that is referenced in this e-mail?

8 A. I don't.

9 Q. That's fine. Tell me, can you describe for me
10 any financial losses you continue to experience as a
11 result of anything Sharon Harrigfeld has done to you?

12 A. I can't think of any financial losses; no.

13 Q. How about Betty Grimm?

14 A. No.

15 Q. Can you describe any bodily injuries that you
16 have suffered as a result of anything Sharon Harrigfeld
17 has done to you?

18 A. No.

19 Q. How about Betty Grimm?

20 A. No.

21 Q. Could you describe any doctors that have
22 examined you or that you have seen in the last five
23 years?

24 A. Yes.

25 Q. Who?

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1 A. I can't remember the doctor's name. But I did
 2 see a doctor for high blood pressure and not being able
 3 to sleep. I have his name somewhere. I just don't have
 4 it handy here.
 5 Q. When did you see this individual?
 6 A. Approximately four or five months ago. I
 7 can't be certain on that.
 8 Q. Did you receive any treatment?
 9 A. He just recommended some medication.
 10 Q. Well, let me ask. Whatever this doctor
 11 treated you for is it your contention it is part of your
 12 lawsuit?
 13 A. Yes.
 14 Q. Because if it is not part of your lawsuit it
 15 is none of my business and I don't care.
 16 A. Gotcha.
 17 Q. But if you say it is part of your lawsuit then
 18 I'm going to ask you a lot of questions about it. So
 19 you say that it is. What did he treat you with?
 20 A. He gave me a prescription for high blood
 21 pressure and some sleeping aid.
 22 Q. And are you still taking medications for blood
 23 pressure?
 24 A. No.
 25 Q. How long did it take for your blood pressure

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1 issue to resolve?
 2 A. I didn't take any medication.
 3 Q. You never did?
 4 A. No.
 5 Q. Why not?
 6 A. I don't like taking medication.
 7 Q. Did your blood pressure regulate? Did it come
 8 down?
 9 A. I don't know.
 10 Q. When was the last time you saw this doctor?
 11 A. The first time I saw him.
 12 Q. First and last time?
 13 A. First and last time.
 14 Q. Why didn't you ever go back?
 15 A. I didn't want to be on the medication.
 16 Q. Have you done anything to try to control your
 17 blood pressure?
 18 A. No.
 19 Q. What other doctors have you seen in the last
 20 five years?
 21 A. I have seen a therapist.
 22 Q. And who is that?
 23 A. Her name is Tylene Channer.
 24 Q. And when did you start seeing Ms. Channer?
 25 A. I believe in October of last year.

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1 Q. And what was the issue? Why did you go to
 2 Ms. Channer?
 3 A. Work-related stress.
 4 Q. Was this the time that your grievance was
 5 ongoing?
 6 A. It may be.
 7 Q. Are you still seeing Ms. Channer?
 8 A. Yes.
 9 Q. And when was the last time you saw her?
 10 A. I saw her approximately three weeks ago.
 11 Q. And I haven't seen your documents. I think
 12 you gave us some documents beginning today. Are all of
 13 her records included in those documents?
 14 A. That is correct. Yes, sir.
 15 Q. And has she given you any diagnosis of what
 16 issues you have or don't have?
 17 A. She has given me a diagnosis; yes.
 18 Q. What is it?
 19 A. Anxiety/stress.
 20 Q. Did she tell you what is causing it?
 21 A. Work-related issues.
 22 Q. Is she a counselor or a psychologist?
 23 A. I believe she is a counselor.
 24 Q. She can't prescribe you medications, can she?
 25 A. I don't think so. I'm not certain.

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1 Q. Has she prescribed any medications?
 2 A. She has not.
 3 Q. Would you take them if they were prescribed?
 4 A. Perhaps. If she felt it was warranted.
 5 Q. And what is she doing to help you with your
 6 work-related stress?
 7 A. Well, we get to discuss the issues that I'm
 8 going through at work. And it helps to have somebody to
 9 talk to. And she gives me breathing exercises.
 10 Focusing. Things like that.
 11 Q. What things are at work that is causing you
 12 stress?
 13 A. The issues that I had with all of my
 14 write-ups. That creates work stress right there for me.
 15 Q. The substandard job performance evaluation?
 16 A. Yeah. And the possibility of being
 17 terminated.
 18 Q. Is that in connection with the substandard
 19 evaluation?
 20 A. Yes.
 21 Q. Anything else that is causing your work
 22 stress?
 23 A. The general lack of safety in the building I
 24 think is an issue. It kind of makes you tense
 25 sometimes.

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1 Q. Have you ever been assaulted by a juvenile?
 2 A. I have not.
 3 Q. Have you ever seen anybody else be assaulted?
 4 A. I have.
 5 Q. Who?
 6 A. Staff? Or juvenile?
 7 Q. Staff.
 8 A. I have. Mr. Ameche.
 9 Q. Is Mr. Ameche still an employee there?
 10 A. He is.
 11 Q. When did that incident happen?
 12 A. I really don't know. It could be upwards of a
 13 year ago.
 14 Q. Any others?
 15 A. Yes. Ms. Carnell is staff in O&A. She was
 16 assaulted by a juvenile.
 17 Q. Did you observe it?
 18 A. I did.
 19 Q. When did you see that?
 20 A. When did I see that?
 21 Q. Yes.
 22 A. Again, I can't say. I don't know what the
 23 date is.
 24 Q. More than a year ago?
 25 A. It's possible.

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1 Q. More than two years ago?
 2 A. I don't think so.
 3 Q. Prior to the time you started seeing
 4 Ms. Channer?
 5 A. Yes.
 6 Q. Of these assault instances you have described
 7 was it prior to the time you were seeing Ms. Channer?
 8 A. Yes.
 9 Q. Any others?
 10 A. Yeah. I saw a juvenile in the gym be
 11 restrained by quite a few staff. The only one I
 12 remember at this time is Mr. Knoff. He was an O&A group
 13 leader at the time. There was others involved, but I
 14 don't know who they were.
 15 Q. And with the kids that have been working with
 16 you on your crews have you ever had an instance where a
 17 fight broke out among the juveniles when they were
 18 working for you?
 19 A. I have not.
 20 Q. Other than Tylene Channer, and this doctor you
 21 saw for blood pressure, anybody else you have seen in
 22 the last five years?
 23 A. No.
 24 Q. Do you have an appointment to see Ms. Channer
 25 in the future?

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1 A. It's open.
 2 Q. What prompts you to have an appointment with
 3 her?
 4 A. Usually we'll just schedule one for a month at
 5 a time. That is how we would do it.
 6 Q. But currently do you have a follow-up
 7 appointment scheduled with her right now?
 8 A. I don't have one set up right now.
 9 Q. And what would prompt you scheduling an
 10 appointment?
 11 A. More stress. More anxiety.
 12 Q. So if you feel you are under stress then you
 13 would call her and set an appointment?
 14 A. Correct.
 15 Q. Let's take a break. I think I'm done.
 16 (Recess.)
 17 MR. COLLAER: No further questions.
 18
 19 EXAMINATION
 20 QUESTIONS BY MR. SCHOPPE:
 21 Q. I have some follow-up questions for you, Tom.
 22 Going back to when you applied for the rehab tech
 23 position. I think you said that was around 2010. Does
 24 that sound right?
 25 A. Yes.

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1 Q. You indicated earlier that you did not make
 2 the rating or meet the requirements for that position;
 3 is that right?
 4 A. Correct.
 5 Q. And you knew that immediately after you had
 6 taken the test?
 7 A. No. You have to wait for the results to come
 8 back.
 9 Q. And do you recall who sent you those results?
 10 A. I do not.
 11 Q. Do you think it might have come from someone
 12 in HR?
 13 A. Yes, I do.
 14 Q. And how was that expressed to you?
 15 A. They have a number that you have to achieve.
 16 A threshold. And if you make the threshold you probably
 17 would be considered for a follow-up interview. But if
 18 you don't meet that threshold then you don't go on.
 19 Q. And did the response that you got expressly
 20 tell you that you were missing experience or lacked
 21 experience?
 22 A. Yes.
 23 Q. And as far as you know is that a standard
 24 procedure for every application of that type?
 25 MR. COLLAER: Object to the form of the

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1 question. Calls for speculation.
 2 Q. (BY MR. SCHOPPE) As far as you know?
 3 A. As far as I know.
 4 Q. You had testified earlier about allegations
 5 that Laura Roters did not have required experience for a
 6 position she had applied for; is that right?
 7 A. Correct.
 8 Q. How did you hear about that lack of
 9 experience?
 10 MR. COLLAER: Objection. Calls for hearsay.
 11 THE WITNESS: Well, there was an e-mail that
 12 went around that described her not having enough
 13 supervisory experience. And I believe the job
 14 description also read that. That she did not have the
 15 supervisory experience to be able to take that position.
 16 But somehow she got the position, anyway.
 17 Q. (BY MR. SCHOPPE) So she had been given the
 18 position. And then this e-mail went around saying she
 19 didn't have the required experience?
 20 A. That's right.
 21 MR. COLLAER: Objection. Misstates his
 22 testimony.
 23 Q. (BY MR. SCHOPPE) Is that correct?
 24 A. That's correct.
 25 Q. Do you know where that e-mail came from?

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1 A. I believe it was Mark Freckleton.
 2 Q. Do you know remember any other correspondence
 3 about that e-mail?
 4 A. Not at this moment; no.
 5 Q. And do you know why Mark Freckleton said that?
 6 MR. COLLAER: Objection. Calls for
 7 speculation.
 8 THE WITNESS: He applied for the position. So
 9 then he saw that he had supervisory qualifications. And
 10 Laura Roters did not. So he was upset she got the
 11 position over him without these qualifications.
 12 Q. (BY MR. SCHOPPE) Did it seem strange to you
 13 that your results after making the application almost
 14 immediately indicated that you lacked experience and you
 15 did not get the job?
 16 A. At the time it did not. But it seems kind of
 17 suspicious.
 18 Q. Does it seem strange that Ms. Roters could
 19 have gotten that position without that experience?
 20 MR. COLLAER: Objection. Calls for
 21 speculation.
 22 Q. (BY MR. SCHOPPE) Does it seem strange to you?
 23 MR. COLLAER: Same objection.
 24 THE WITNESS: Very strange.
 25 Q. (BY MR. SCHOPPE) How so and why?

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1 MR. COLLAER: Same objection. Calls for
 2 speculation. Lacks foundation.
 3 THE WITNESS: Well, she didn't have
 4 qualifications for the job. And somehow she got the
 5 job. Somewhere along the line somebody had to approve
 6 that. And that was part of the concern for a lot of
 7 staff around the building.
 8 Q. (BY MR. SCHOPPE) When you say part of the
 9 concern. What do you mean?
 10 A. Well, that their process, the job application
 11 process. Isn't fair. And it is more to do with
 12 cronyism. Whoever management wants to get in they will
 13 get in.
 14 Q. Who told you that?
 15 A. That just has been the general talk around the
 16 building. That's what I can see myself. Because --
 17 MR. COLLAER: Move to strike as unresponsive
 18 and hearsay.
 19 Q. (BY MR. SCHOPPE) Were you done with your
 20 response?
 21 A. It just seemed unusual. Because, like I said,
 22 she wasn't qualified for the position. Yet somehow she
 23 got the position. So somewhere somebody made a decision
 24 to go ahead and bypass the fair job application process
 25 and put somebody in that was not as qualified as, say,

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1 Mark Freckleton was.
 2 MR. COLLAER: Move to strike as unresponsive.
 3 Calls for speculation. And is speculation.
 4 Q. (BY MR. SCHOPPE) Had anyone ever expressed
 5 that same sort of concern over lack of experience in
 6 connection with Julie McCormick?
 7 A. Yes.
 8 Q. Do you remember who might have said that?
 9 A. Just general conversation within the building.
 10 I don't remember if there is anybody in particular.
 11 MR. COLLAER: Again, move to strike as hearsay
 12 and speculation. Unresponsive.
 13 Q. (BY MR. SCHOPPE) Is it fair to say that you
 14 discussed the improper hiring of Ms. Roters and
 15 Ms. McCormick in that same context with all of your
 16 fellow plaintiffs at one time or another?
 17 A. Yes.
 18 Q. Apart from the plaintiffs have you ever
 19 discussed those issues with anyone else in the
 20 department?
 21 A. Probably.
 22 Q. Is there anybody who comes to mind in terms of
 23 people you might have discussed that with?
 24 A. A host of people. I would have to go down a
 25 list.

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1 Q. How about Mark Freckleton?
 2 A. I don't recall talking to him about that.
 3 Q. If someone pops into your head a little later
 4 on feel free to let me know. I would be curious to know
 5 who else has expressed those concerns to you.
 6 A. Well, I can tell you that now.
 7 Q. Oh, you can?
 8 A. Yeah.
 9 Q. Please do.
 10 A. Ms. Martinez. She is a teacher in the library
 11 and the O&A unit. Ms. Kolander. She is also a teacher
 12 in the O&A unit. Some other Choices staff. Some rehab
 13 techs.
 14 Q. Choices staff?
 15 A. Yeah. I believe I had a discussion with
 16 Ron Mitchell.
 17 Q. How about out of O&A?
 18 A. I believe I talked to -- you want O&A staff?
 19 Q. Yes.
 20 A. Gracie Reyna.
 21 Q. How about Tom Kanoff?
 22 A. I don't believe I talked to him about that.
 23 Q. And would this have been -- do you recall a
 24 time when a petition was circulated that expressed
 25 concerns about improper hiring and promotion practices?

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1 A. I do recall that petition. I don't know
 2 exactly what date it was.
 3 Q. Would November 2011 or October 2011 make sense
 4 to you?
 5 A. Yes.
 6 Q. Did you see the petition?
 7 A. I did not see the petition.
 8 Q. Have you seen it since that time?
 9 A. I may have.
 10 Q. But you didn't sign the petition?
 11 A. No, I did not.
 12 Q. And was it your understanding at the time
 13 that the petition was concerning particularly hiring
 14 Ms. Roters and Ms. McCormick?
 15 A. Yes.
 16 Q. Do you recall what the concerns expressed by
 17 the employees circulated were?
 18 A. Well, they felt it was impossible to get a
 19 fair shake in the building as far as applying for jobs.
 20 And being able to get those jobs. Because they felt it
 21 was a good ol' boys club. And if you were chosen by
 22 management to fill those positions that you would get
 23 it. It wasn't by a fair process of qualifications.
 24 Q. Is that what Ms. Martinez had to say to you,
 25 generally speaking?

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1 A. Yes.
 2 MR. COLLAER: Objection. Calls for
 3 speculation. Calls for hearsay.
 4 Q. (BY MR. SCHOPPE) And how about Ms. Kolander?
 5 MR. COLLAER: Same objection.
 6 THE WITNESS: Yes.
 7 Q. (BY MR. SCHOPPE) And Choices staff, including
 8 Mr. Mitchell?
 9 A. Yes.
 10 MR. COLLAER: Objection. Lacks foundation.
 11 Calls for hearsay.
 12 Q. (BY MR. SCHOPPE) And the rehab techs and
 13 people in O&A, is that what they had to say to you, as
 14 well?
 15 MR. COLLAER: Same objection.
 16 THE WITNESS: Correct.
 17 Q. (BY MR. SCHOPPE) Is it fair to say you shared
 18 concerns with them about improper hiring practices?
 19 A. I did.
 20 Q. As far as you recall was there a concern over
 21 lack of experience on the part of Roters and McCormick?
 22 MR. COLLAER: Objection. Lacks foundation.
 23 Calls for speculation.
 24 THE WITNESS: Yes.
 25 Q. (BY MR. SCHOPPE) And did you know, apart from

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1 the fact that Ms. Roters lacked experience, as was said
 2 in that e-mail you referenced, what the specific concern
 3 was about Ms. McCormick's lack of experience?
 4 MR. COLLAER: Objection. Lacks foundation.
 5 Calls for hearsay.
 6 THE WITNESS: Yeah, she didn't have any
 7 supervisor experience, either. I don't know that she
 8 ever worked in a correctional facility before. And my
 9 first knowledge of her work experience is she came from
 10 Job Corps up the street from IDJC. And actually worked
 11 with Mr. Gregston for a little while. That is where she
 12 came from. And we get juveniles from there to help work
 13 in the maintenance department. And that is where she
 14 came from. So she had very little supervisory
 15 experience.
 16 Q. (BY MR. SCHOPPE) And what was the position
 17 that she was promoted to?
 18 A. Safety and security supervisor.
 19 Q. Was she supervising other safety and security
 20 officers?
 21 A. Correct.
 22 Q. Without having any experience supervising?
 23 A. Correct.
 24 Q. And were people concerned that that might be a
 25 safety problem in the facility?

1 MR. COLLAER: Objection. Calls for
 2 speculation. Lacks foundation.
 3 THE WITNESS: I do.
 4 Q. (BY MR. SCHOPPE) Well, did anyone ever
 5 express that concern?
 6 MR. COLLAER: Same objection.
 7 THE WITNESS: Yes.
 8 Q. (BY MR. SCHOPPE) Is that a concern that you
 9 had?
 10 A. It is.
 11 Q. In your opinion, and based on your experience
 12 working at IDJC in Nampa, is that a secured facility?
 13 A. No, it is not.
 14 Q. What makes you say that?
 15 MR. COLLAER: Objection. Lacks foundation.
 16 Calls for speculation.
 17 THE WITNESS: Well, recently we had one of the
 18 juveniles who had a court date, his name is [REDACTED],
 19 he obtained a pair of scissors from one of the
 20 classrooms. And put a pair of scissors in his clothing.
 21 And SSO Mark Freckleton took him to the courtroom. And
 22 in the courtroom -- they were in the restroom, I think.
 23 [REDACTED] said he had to use the restroom. Well,
 24 then, Mark Freckleton was in there with him. And then
 25 [REDACTED] proceeded to try to stab Mark Freckleton.

1 could actually get access to something that could be
 2 used as a weapon?
 3 MR. COLLAER: Same objection.
 4 THE WITNESS: If the student is in a classroom
 5 they may have scissors there. And then he could get
 6 ahold of some scissors, or a pencil, something sharp, a
 7 ruler, and make a shank out of it. Like I said, the
 8 staff has to take into account all of those items that
 9 might be used as a weapon after each class. And
 10 obviously that didn't happen.
 11 Q. (BY MR. SCHOPPE) Are there other items that
 12 juveniles can or have turned into weapons that they have
 13 access to inside of the facility?
 14 MR. COLLAER: Objection. Lacks foundation.
 15 Calls for speculation.
 16 THE WITNESS: Yes.
 17 Q. (BY MR. SCHOPPE) What kinds of things?
 18 MR. COLLAER: Same objection.
 19 THE WITNESS: One of the juveniles, his name
 20 is Dennis Drain, he made two shanks out of some kind of
 21 plastic. I don't know what the plastic was. It could
 22 have been a ruler or something. But they found one of
 23 the shanks in the B pod bathroom trash can. And how he
 24 got ahold of this material, or this plastic, and was
 25 able to do that, and hide it, is also very concerning.

1 He wanted to kill him. My concern is that the
 2 scissors -- how did he get ahold of the scissors?
 3 Number two, how long did it take staff to realize those
 4 scissors were gone? I believe they found them when the
 5 incident occurred. The attack occurred. How many days
 6 elapsed before those scissors should have been accounted
 7 for? Because at the end of each classroom the teacher
 8 has to account for all of the pencils and scissors
 9 because they may be used as weapons. And, like I said,
 10 the only time they knew that was gone is when this
 11 incident occurred in the bathroom. So when something
 12 like that happens I'm very concerned.
 13 Q. (BY MR. SCHOPPE) And this is an incident that
 14 occurred in July of this year?
 15 A. I believe so.
 16 Q. Prior to that and stepping back to -- we'll go
 17 back to 2010. Does it seem strange to you that
 18 juveniles should be able to get access inside IDJC in
 19 Nampa to an object like scissors or something like that
 20 that could be a danger?
 21 MR. COLLAER: Objection. Lacks foundation.
 22 Calls for speculation.
 23 THE WITNESS: I do.
 24 Q. (BY MR. SCHOPPE) It seems unusual? Or does
 25 it seem like it is the run of the mill that a juvenile

1 Q. (BY MR. SCHOPPE) And are you aware of other
 2 incidents where shanks or improvised weapons had been
 3 found? And you can start with "yes" or "no."
 4 A. Yes.
 5 Q. With respect to items that juveniles are
 6 allowed access to in their cells, what kinds of things
 7 is it that they might possess? Personal possessions?
 8 A. They would have personal items like deodorant.
 9 Things like that. Shampoo. Of course, hair brushes.
 10 Toothbrushes. Things like that.
 11 Q. Do you know what is or is not contraband
 12 inside the facility?
 13 A. I have some knowledge of it.
 14 Q. What kinds of things are contraband?
 15 A. Obviously drugs. Knives, cigarettes,
 16 clothing. Clothing that has gang affiliations to it.
 17 Or gang looks to it.
 18 Q. Why is gang clothing contraband, if you know?
 19 A. Well, they are not allowed to wear that,
 20 because some of the juveniles do have gang affiliations.
 21 So if they start wearing their clothes around the
 22 building then they are going to have a riot on their
 23 hands. Because there is competing juveniles from
 24 different gangs.
 25 Q. And that is the policy?

1 A. Um-hmm. Yes.
 2 Q. Is the policy followed? How do juveniles
 3 dress?
 4 A. When they first come in they are in program
 5 clothing. Then when they go from the O&A assessment
 6 area to the Choices area they still have to wear the
 7 program clothing. I believe when they get to
 8 integration they can start to wear their own clothing.
 9 Which they bring from outside, of course.
 10 Q. Have you ever seen juveniles wearing gang
 11 colors inside the facility?
 12 A. I have.
 13 Q. Is that against policy?
 14 A. It is.
 15 Q. But it is happening, anyway?
 16 A. Yes.
 17 Q. Do you know if anybody has ever reported that
 18 as a safety concern?
 19 MR. COLLAER: Objection. Calls for
 20 speculation. Lacks foundation. Calls for hearsay.
 21 THE WITNESS: Yes.
 22 Q. (BY MR. SCHOPPE) Do you know who reported
 23 that?
 24 A. Off the top of my head it was somebody in the
 25 Choices area. Choices staff.

1 facility?
 2 A. Once again, it is the ratio of staff to
 3 juveniles. The ratio is unbalanced. There is too many
 4 juveniles compared to staff. If a fight would break out
 5 or a riot would break out then you are going to have
 6 issues, because the staff wouldn't be able to protect
 7 the juveniles or themselves in that kind of situation.
 8 Q. Are you aware of why it is or how those ratios
 9 are calculated or imposed?
 10 MR. COLLAER: Objection. Lacks foundation.
 11 Calls for speculation.
 12 THE WITNESS: It is just -- I don't know what
 13 the ratio is. But it is so many staff per number of
 14 juveniles.
 15 MR. COLLAER: Move to strike as unresponsive.
 16 Q. (BY MR. SCHOPPE) Do you know whether that
 17 might be a requirement of the Prison Rape Elimination
 18 Act?
 19 A. Yes, it is.
 20 MR. COLLAER: Objection. Calls for
 21 speculation. Also calls for a legal conclusion.
 22 Q. (BY MR. SCHOPPE) Is that something that you
 23 have been told or instructed about at some point in your
 24 training for your department?
 25 A. The PREA?

1 Q. Do you happen to recall who?
 2 A. I do not.
 3 Q. As far as you know does the department have a
 4 legal obligation to maintain a secured facility?
 5 MR. COLLAER: Objection. Calls for a legal
 6 conclusion.
 7 THE WITNESS: I do believe they have that
 8 obligation; yes.
 9 Q. (BY MR. SCHOPPE) Are you aware of whether
 10 other employees share your concern or your belief that
 11 IDJC is not a secured facility?
 12 A. Yes.
 13 MR. COLLAER: Objection. Calls for
 14 speculation. Lacks foundation. Calls for hearsay.
 15 Q. (BY MR. SCHOPPE) Apart from your fellow
 16 plaintiffs who else has expressed that?
 17 MR. COLLAER: Same objection.
 18 THE WITNESS: Mr. Smalls, the school
 19 psychologist. Ms. Kolander, a teacher. Ms. Martinez, a
 20 teacher. Mr. Winkler, who is also a teacher. Some of
 21 the cooks in the kitchen. I can't remember their names.
 22 Carol in the kitchen.
 23 Q. (BY MR. SCHOPPE) If anybody else pops in your
 24 head let me know. Do you recall what those people had
 25 to say more specifically about IDJC not being a secured

1 Q. Right.
 2 A. Yes.
 3 Q. With respect to Mr. Smalls. You discussed
 4 your concerns -- or his concerns about the security
 5 problem with him?
 6 A. Yes.
 7 MR. COLLAER: Objection. Calls for
 8 speculation. Also hearsay.
 9 Q. (BY MR. SCHOPPE) What kind of things did you
 10 speak about with him?
 11 A. For example, if we would eat lunch in the gym,
 12 which we do with the juveniles, there was an instance
 13 where there was some kind of issue between two of the
 14 juveniles. And one of the juveniles had a little lunch
 15 tray. And he hit the other juvenile upside the head and
 16 it shattered all into pieces. And our backs were
 17 turned. And I don't believe there was enough staff in
 18 the gym on that day. So on a general basis you don't
 19 know what is going to happen in a situation like that.
 20 For example, we have a policy now that if a juvenile
 21 leaves a classroom we now call staff assist. Where
 22 before it was called a code yellow. The staff would
 23 have to follow the juvenile out of the classroom if the
 24 juvenile is upset and pay attention to their
 25 whereabouts. And restrain the juvenile, if necessary.

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1 Now the juvenile can just walk anywhere they want to
 2 with minimal staff. As a person who works there, if the
 3 juvenile starts taking off and running, or if I'm
 4 working by myself with the juveniles, something could
 5 happen to me when my back is turned and I could get
 6 something upside my head. So I have concerns in that
 7 area, as well.
 8 Q. Generally speaking, when you work with
 9 juveniles in your job are you generally aware of their
 10 risk levels, or history of violence, or particular
 11 crimes or offenses?
 12 MR. COLLAER: Objection. Lacks foundation.
 13 Calls for speculation.
 14 THE WITNESS: I am generally. Like I said,
 15 the juveniles I get to take on community service are
 16 either Comp or reintegration. So they have achieved a
 17 certain level of their progress in the building.
 18 Q. (BY MR. SCHOPPE) So if there are other
 19 juveniles roaming free you are not necessarily aware of
 20 what kind of security risk they may impose?
 21 A. No, I'm not.
 22 Q. And is it your opinion that those juveniles
 23 pose a risk to other juveniles?
 24 MR. COLLAER: Objection. Lacks foundation.
 25 Calls for speculation.

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1 THE WITNESS: I do.
 2 Q. (BY MR. SCHOPPE) And do you know why the
 3 policy changed from code yellow, as you put it, to the
 4 staff assist?
 5 MR. COLLAER: Same objection.
 6 THE WITNESS: In a given period of time, let's
 7 say a month, for example, if you don't have as many code
 8 reds and code yellows it looks better on paper. Which
 9 may be tied to some kind of funding. If you have staff
 10 assist that eliminates the need for the calling of
 11 codes. And if incident reports are filed, and you don't
 12 have the code yellow or code red in that incident
 13 report, and if it is tied to some type of funding, the
 14 reports look favorable. I believe that is what it is.
 15 Q. (BY MR. SCHOPPE) When you say "reports" would
 16 you include performance based standards or PBS reports
 17 in that?
 18 A. Absolutely, yes.
 19 Q. Has anybody else ever expressed they also
 20 think that is the reason --
 21 A. Yes.
 22 MR. COLLAER: Objection. Lacks foundation.
 23 Calls for speculation.
 24 Q. (BY MR. SCHOPPE) Who has told you that?
 25 A. Mr. Smalls, Ms. Martinez, Ms. Kolander. I

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1 think Addison Fordham.
 2 Q. So, in other words, the same problem is
 3 happening as it was when it would have been called a
 4 code yellow, but it is just being called something else
 5 now, and, therefore, doesn't have to be reported?
 6 A. Correct.
 7 MR. COLLAER: Same objection. Calls for
 8 speculation. Lacks foundation.
 9 Q. (BY MR. SCHOPPE) Do you know who is
 10 responsible for preparing reports for like a code yellow
 11 and things like that?
 12 A. I believe it comes from management. HR.
 13 Above HR.
 14 Q. Are you referring to the change in policy, you
 15 mean?
 16 A. Yes.
 17 Q. When there is a code yellow or staff assist
 18 who is responsible for documenting that one way or the
 19 other?
 20 A. The staff that is I guess nearest the
 21 juvenile. The juvenile that is walking out of the
 22 classroom. That staff would be doing the report.
 23 Q. So do you know who changed the policy?
 24 A. No, I don't.
 25 Q. Do you know who is responsible for making

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1 policy?
 2 MR. COLLAER: Objection. Calls for a legal
 3 conclusion.
 4 THE WITNESS: Management.
 5 Q. (BY MR. SCHOPPE) In addition to violent
 6 assaults that you witnessed, that you talked about a few
 7 minutes ago, are you aware of other violent assaults on
 8 staff or juveniles that have taken place, let's say,
 9 since 2010?
 10 A. Well, the one that comes to mind first and
 11 foremost is Julie McCormick. She pled guilty to having
 12 sex with a juvenile. And she was the SSO supervisor.
 13 That is a concern to me.
 14 Q. How about assaults by juveniles who were more
 15 violent in a sense? Again, let's start with yes, I am
 16 aware. Or no, I'm not.
 17 A. Yes, I'm aware of that.
 18 Q. Any examples?
 19 A. I'm trying to find the juvenile's name.
 20 Ms. Payne was assaulted by a juvenile. But I don't know
 21 the juvenile's name. She received a concussion with
 22 being kicked in the head by a juvenile.
 23 Q. How do you know about that?
 24 A. I saw her in the lobby sitting on a chair with
 25 a dazed look on her face. And Mr. Duke, the principal

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1 at the time, was going to drive her home. Because she
 2 was in no condition to drive.
 3 Q. And do you know what became of her injuries?
 4 A. I think she recovered and she had some time
 5 off. Quite a bit of time off.
 6 Q. And more generally speaking are you aware of
 7 whether other violent assaults had taken place within
 8 the facility?
 9 A. Yes.
 10 Q. Is being assaulted by a juvenile something
 11 that concerns you?
 12 A. Very much so.
 13 Q. And have other staff members expressed that
 14 same concern on their part?
 15 A. Yes.
 16 MR. COLLAER: Objection. Lacks for
 17 foundation. Calls for speculation.
 18 Q. (BY MR. SCHOPPE) Is it fair to say
 19 Mr. Smalls, Ms. Kolander, Ms. Martinez, Mr. Wrinkler,
 20 the cooks, and fellow plaintiffs would be people who
 21 expressed those concerns?
 22 MR. COLLAER: Same objection.
 23 THE WITNESS: Those are the people; yes.
 24 Q. (BY MR. SCHOPPE) Anybody else you can think
 25 of?

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1 MR. COLLAER: Same objection.
 2 THE WITNESS: A lot of the Choices staff.
 3 There would be Mr. Merrick. Mr. Pile doesn't work there
 4 anymore. Mr. Sandquist, Ms. Bradley, Ms. Diaz,
 5 Mr. Merrick. Pretty much all of the staff up there.
 6 Q. (BY MR. SCHOPPE) Now, is it fair to say that
 7 you understand that you're working in a place that may
 8 be a little bit more dangerous than most workplaces?
 9 A. Yes.
 10 Q. Is it fair to say that is because it is
 11 incarcerating juveniles that have been convicted or
 12 charged with crimes of one kind or another?
 13 A. That's correct.
 14 Q. Is it fair to say that your concern is that
 15 the facility is, notwithstanding that, less secure than
 16 it ought to be?
 17 MR. COLLAER: Objection. Lacks foundation.
 18 Calls for speculation.
 19 THE WITNESS: Correct.
 20 Q. (BY MR. SCHOPPE) And that it could be more
 21 secure?
 22 A. It could be.
 23 MR. COLLAER: Same objection.
 24 Q. (BY MR. SCHOPPE) Is that something you have
 25 discussed with these other people that you have named?

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1 Mr. Merrick, Piles, Sandquist?
 2 A. I have.
 3 Q. And is that a sentiment that they have shared?
 4 MR. COLLAER: Objection. Calls for
 5 speculation. And hearsay.
 6 THE WITNESS: It is.
 7 Q. (BY MR. SCHOPPE) Have they told you that they
 8 share that?
 9 A. Yes.
 10 Q. Do you know who is responsible for insuring
 11 that the department facilities are secured facilities?
 12 MR. COLLAER: Objection. Lacks foundation.
 13 Calls for a legal conclusion.
 14 THE WITNESS: I would say it is the safety and
 15 security team. And also management for implementing
 16 policies that would keep us safe. They are the ones
 17 responsible for that.
 18 Q. (BY MR. SCHOPPE) And when you say management.
 19 Is that fair to say that is Director Harrigfeld?
 20 A. Director Harrigfeld, yes.
 21 Q. Is it fair to say that in your opinion
 22 Director Harrigfeld has not fulfilled her duty to insure
 23 that it is a secure facility?
 24 MR. COLLAER: Objection. Lacks foundation.
 25 Calls for a legal conclusion. Not relevant.

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1 THE WITNESS: I do believe that.
 2 Q. (BY MR. SCHOPPE) And same question for former
 3 Director Grimm?
 4 MR. COLLAER: Same objection.
 5 THE WITNESS: I do believe that; yes.
 6 Q. (BY MR. SCHOPPE) How about Superintendent
 7 Viner?
 8 MR. COLLAER: Same objection.
 9 THE WITNESS: The policies are pretty much
 10 the same. But with one difference as I described
 11 before. The staff assist as opposed to calling it a
 12 code.
 13 Q. (BY MR. SCHOPPE) Do you know if that is her
 14 policy? Did she make that change or did someone else?
 15 A. I don't believe Ms. Viner made that policy. I
 16 think it is probably Director Harrigfeld.
 17 Q. Do you happen to know if there is a title, a
 18 policy, or anything like that that sets that practice
 19 out?
 20 A. I think there is. But I don't know what it
 21 is.
 22 Q. In looking at 2010-2011, all of the way up
 23 into 2012, is it fair to say your concerns over lack of
 24 security of the facility have been sort of ongoing on a
 25 weekly basis?

1 A. Yes.
 2 MR. COLLAER: Objection. Lacks foundation.
 3 Q. (BY MR. SCHOPPE) And is that something you
 4 have discussed on a weekly basis with other employees at
 5 the facility?
 6 A. Yes.
 7 Q. And is it fair to say that you'll bring
 8 something up and they may also bring something up in
 9 terms of a concern about lack of security?
 10 A. Yes.
 11 Q. Sort of a give and take as you go?
 12 A. Correct.
 13 Q. Is it fair to say that the same kinds of
 14 interactions or conversations have taken place with
 15 Mr. Gregston? Your supervisor?
 16 A. Absolutely.
 17 Q. And during those time periods from 2010 all of
 18 the way to the present is it fair to say that you at
 19 times told Mr. Gregston that you feared for your safety?
 20 A. Yes.
 21 Q. And that you feared for the safety of
 22 juveniles?
 23 A. Yes.
 24 Q. And you feared for the safety of other staff?
 25 A. Yes.

1 A. Because he would tell me so.
 2 Q. So he was telling you this sort of on a
 3 give-and-take basis throughout the workweek?
 4 A. Yes.
 5 Q. And when you were reporting to him your
 6 concerns, criticisms about security at the facility, was
 7 it your intention that your concern would be relayed up
 8 the chain of command?
 9 A. Yes.
 10 Q. And is that because you were hoping that
 11 things would change?
 12 A. Yes. As my supervisor I would go to him with
 13 my concerns. And then as a supervisor he would take it
 14 up the ladder to Grimm or Harrigfeld.
 15 Q. And as far as you know it would be up to
 16 Mr. Gregston to specifically identify you as the source
 17 of the concern or criticism? Or whether he might have
 18 phrased it more generally in speaking with Ms. Grimm or
 19 Ms. Harrigfeld?
 20 MR. COLLAER: Objection. Calls for
 21 speculation.
 22 THE WITNESS: He may have used my name. Also
 23 in general. I would say both of those.
 24 Q. (BY MR. SCHOPPE) So you are aware that
 25 your concerns were relayed by him to Ms. Grimm or

1 Q. Did you suggest to him during that time that
 2 the facility should be more secure?
 3 A. Yes.
 4 Q. Or that different policies should be followed
 5 to make it a more secure facility?
 6 A. Yes.
 7 Q. And is it something that he would confirm as
 8 far as you are concerned?
 9 A. Yes. He had the same concerns as I did.
 10 Q. And so would you typically have formal
 11 sit-down meetings to discuss those sorts of things? Or
 12 would it be sort of on the fly as you did your job?
 13 A. On the fly. Basically, I would go to the shop
 14 and we would discuss issues of the day. We talked about
 15 the safety of the building many, many times. And of
 16 course during those conversations they would come up.
 17 And we would just shake our head. Nothing seems to
 18 change around there.
 19 Q. And as far as you know did Mr. Gregston try to
 20 discuss those issues with either Superintendent Grimm or
 21 Director Harrigfeld?
 22 A. Yes.
 23 MR. COLLAER: Objection. Calls for
 24 speculation. And it's been asked and answered.
 25 Q. (BY MR. SCHOPPE) How do you know that?

1 Ms. Harrigfeld, but you are not necessarily sure on any
 2 given instance how specific that might have been?
 3 MR. COLLAER: Objection. Misstates his
 4 testimony. Calls for speculation.
 5 THE WITNESS: Correct.
 6 Q. (BY MR. SCHOPPE) So it wouldn't be
 7 surprising to you at all if Superintendent Grimm, or
 8 Ms. Harrigfeld, or now Ms. Viner, were aware that a
 9 particular report of a problem about security or
 10 something would have come from you?
 11 MR. COLLAER: Objection. Calls for
 12 speculation.
 13 THE WITNESS: Yes.
 14 Q. (BY MR. SCHOPPE) And you are not keeping
 15 these things secret or anything like that; right?
 16 A. No.
 17 Q. Has Mr. Gregston ever indicated to you that he
 18 shares your belief that you have been unfairly treated
 19 in response to your reports?
 20 MR. COLLAER: Objection. Lacks foundation.
 21 Calls for speculation.
 22 THE WITNESS: Yes.
 23 Q. (BY MR. SCHOPPE) So we could ask him about
 24 that then?
 25 A. You could.

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1 Q. Has anybody else ever expressed the opinion
 2 that you are being unfairly treated because of those
 3 sorts of reports or criticisms?
 4 A. Yes.
 5 Q. Who else?
 6 A. I would say Mr. Fehrer. He is a vocations
 7 teacher in the vocations room.
 8 Q. How do you spell that?
 9 A. F-e-h-r-e-r, I believe.
 10 Q. And what does he have to say?
 11 A. He is the one who is in the voc room. And
 12 when I take the kids he is aware of the changes that
 13 have been made to my community service schedule. So
 14 when changes happen he is aware of that. And he is the
 15 one that informed me of one of the changes, by the way.
 16 Q. In discussing the CS, or community service
 17 schedule, you testified earlier that a couple of
 18 teachers made complaints to Betty Grimm about how you
 19 would take juveniles from the classroom. Is it fair to
 20 say that your position is that they were not
 21 understanding how the schedule worked?
 22 A. Yes.
 23 Q. And, again, if you can really briefly
 24 summarize how it was that schedule was set?
 25 A. I set the schedule. I made up a schedule. I

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1 included all of the classrooms in a rotation. And every
 2 few months they would change that rotation. The
 3 rotation would also change with the summer and winter
 4 schedules. The summer schedule had four classes. The
 5 winter schedule had three. That also changes the mix.
 6 But I took that into account. And I believe the
 7 teachers are not aware that that was the case. So they
 8 see me with juveniles that they don't think are the
 9 right ones. And that is not the case.
 10 Q. What does community service consist of in the
 11 context of the facility?
 12 A. We do all kinds of janitorial. We do light
 13 maintenance work. Whatever needs to be done on the
 14 building we would take care of that.
 15 Q. Is it fair to say you are not the person who
 16 decided that that is what community service meant? That
 17 that was a decision made by someone else?
 18 A. Yes.
 19 Q. Department policy, as far as you know?
 20 A. As far as I know; yeah.
 21 Q. And as far as when you arrived and were hired
 22 by the Department that is one of your assigned job
 23 responsibilities is to incorporate juveniles into doing
 24 those tasks as part of their community service?
 25 A. Yes. That's true.

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1 Q. Do different juveniles have different
 2 requirements for community service?
 3 A. Yes. For example, in the solutions unit,
 4 which is a psych unit or emotional unit they have less
 5 requirements for community service. I think it is 50
 6 hours. Whereas, the Choices unit has a requirement of
 7 75 hours.
 8 Q. Do you know who makes that determination as to
 9 what kind of community service time or requirements they
 10 have?
 11 A. I don't.
 12 Q. Do you know whether that might be set by the
 13 policy -- or by the Department as opposed to the court?
 14 MR. COLLAER: Objection. Asked and answered.
 15 THE WITNESS: I'm not certain. But it might
 16 be the court. It's possible.
 17 Q. (BY MR. SCHOPPE) Has anybody ever told you
 18 that the courts order community service as part of a
 19 juvenile sentence?
 20 A. That is correct. It is a court order.
 21 Q. So would it be at all incorrect to say that
 22 the community service that you're trying to coordinate
 23 with these juveniles is as part of their sentence
 24 imposed by the court?
 25 A. Correct.

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1 MR. COLLAER: Objection. Assumes facts not in
 2 evidence. And calls for speculation.
 3 Q. (BY MR. SCHOPPE) Who is somebody who could
 4 confirm that understanding of things?
 5 A. Somebody in HR or upper management.
 6 Q. And in terms of your job? In terms of the
 7 actual court ordered community service that is imposed
 8 on a juvenile --
 9 A. Yes.
 10 Q. -- who would be responsible -- who might be
 11 knowledgeable about that?
 12 A. I think the superintendent. Or a director.
 13 Q. Has anyone ever suggested to you, or
 14 specifically Mr. Gregston, that it was inappropriate for
 15 you to coordinate community service activities with
 16 juveniles involving janitorial work and things like
 17 that?
 18 A. Did he ever suggest that to me? That it was
 19 inappropriate?
 20 Q. Right.
 21 A. No.
 22 Q. It is just part of the job?
 23 A. Just part of the job.
 24 Q. And when you talked with former Superintendent
 25 Grimm about the complaints that have been made about the

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1 manner in which you are scheduling them did it seem to
 2 you that she understood the way the community service
 3 system worked?
 4 MR. COLLAER: Objection. Calls for
 5 speculation.
 6 THE WITNESS: I don't believe she understood
 7 it at all.
 8 Q. (BY MR. SCHOPPE) Why did you think that?
 9 A. Ms. Payne was the one who told her that I was
 10 not using appropriate schedules. I don't believe
 11 Ms. Grimm had ever looked at the schedule. She just
 12 relayed the information from Ms. Payne to me. And then
 13 I told her that is not the case at all.
 14 Q. And did she, as far as you could tell, accord
 15 any weight to your position?
 16 A. She did not.
 17 Q. As far as you could tell she just took
 18 Ms. Payne's word for it?
 19 A. Absolutely.
 20 Q. And she indicated in that document we saw
 21 earlier, she made an indication that the CS schedule had
 22 been prepared by someone else?
 23 A. That's correct.
 24 Q. When, in fact, that was prepared by you?
 25 A. It was.

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1 Q. Is that something she ought to have been aware
 2 of?
 3 A. I would think so.
 4 MR. COLLAER: Objection. Calls for
 5 speculation. Lacks foundation.
 6 Q. In making that remark to you was it apparent
 7 to you that she didn't have any idea how it worked?
 8 MR. COLLAER: Objection. Calls for
 9 speculation.
 10 THE WITNESS: I don't believe she had any clue
 11 what she was talking about.
 12 Q. (BY MR. SCHOPPE) With respect to the
 13 restrictions that you have testified to in some of your
 14 notes. Have those restrictions -- has anyone ever
 15 explained to you why they have been imposed on you?
 16 A. Initially the restrictions -- depending on
 17 what restriction you are talking about. Maybe if you
 18 you can be more clear on what restrictions you are
 19 asking about.
 20 Q. Sure. Obviously in scheduling things like
 21 your work with the juveniles, community service, things
 22 like that, there is going to be some give and take with
 23 juveniles' schedules and the program requirements. With
 24 respect to those that don't seem to make sense to you,
 25 can you tell me what those are?

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1 A. Well, for example, if a juvenile has performed
 2 all of his hours, the rule now is I can't take him
 3 anymore on community service. Even though that juvenile
 4 may be the only one available. So in a sense the work
 5 doesn't get done because I can't take that juvenile on
 6 CS. Whereas, before I could take the juvenile on CS no
 7 matter whether he had his hours or not. I need that
 8 person. Now they shut it down so that I can't use that
 9 person if they have completed their hours. Also, if
 10 there is a Comp -- the Comp students, I cannot take them
 11 outside of the secured area. I can only use them within
 12 the building. However, I see staff on a daily basis
 13 take Comps from any class to perform any kind of task in
 14 the building without any repercussions. Yet, I get in
 15 trouble. I get written up for that very same thing. It
 16 has been very frustrating and retaliatory, in my
 17 opinion.
 18 Q. Does it make it hard for you to do your job?
 19 A. It is very difficult to do my job.
 20 Q. Has anyone ever explained to you why it is
 21 that you can't take Comp juveniles out of the facility
 22 but other staff can?
 23 A. No.
 24 Q. Going back to the criticisms and observations
 25 you have made about how the facility runs and how it can

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1 be run better. In addition to the security-related
 2 concerns, and your belief that it is not a secure
 3 facility, with respect to those concerns is it fair to
 4 say you have spoken with your supervisor, Mr. Gregston,
 5 on an ongoing basis about those concerns of yours?
 6 A. Yes.
 7 Q. And that you expect in communicating those
 8 concerns with him that he is in turn relaying things up
 9 the chain of command to make a positive change?
 10 A. Yes.
 11 MR. COLLAER: Objection. Calls for
 12 speculation.
 13 THE WITNESS: That's correct.
 14 Q. (BY MR. SCHOPPE) So, again, Mr. Gregston
 15 would be the person who could say whether he in fact
 16 relayed those sorts of concerns?
 17 A. That is correct.
 18 Q. And what sort of concerns did you speak about
 19 with him? You already talked about the Game Boy issue.
 20 How about with respect to damage to the facility?
 21 A. Yeah. Some juveniles, with the new policy of
 22 staff assist, if the juvenile is very, very angry, what
 23 they will do is go around and break off all of the
 24 pictures off of the walls. Or go to the gym and take
 25 the door and just whack it as hard as they can and it

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1 messes up the frame. And then you have to resod it and
 2 reweld it. They will go around in the building and
 3 break soap dispensers and paper towel dispensers. And
 4 all of those things cost money.
 5 Q. And what do security staff or other staff do
 6 in response to those kinds of situation?
 7 A. With this new policy in place, if I understand
 8 your question, they just let the kids roam around the
 9 building and let them break whatever they want to.
 10 Q. Are you concerned that that is inappropriate
 11 level of discipline?
 12 MR. COLLAER: Objection. Calls for
 13 speculation and expert opinion for which he is not
 14 qualified to give.
 15 THE WITNESS: I consider it no discipline.
 16 Q. (BY MR. SCHOPPE) Has anybody else, any other
 17 employee, ever shared that similar concern with you?
 18 A. Yes.
 19 MR. COLLAER: Same objection.
 20 Q. (BY MR. SCHOPPE) Any specific people who have
 21 shared that concern?
 22 MR. COLLAER: Same objection.
 23 THE WITNESS: Nearly everybody I talk to.
 24 Q. (BY MR. SCHOPPE) Would that include people
 25 who are trained and have certificates in appropriate use

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1 of force?
 2 A. Correct.
 3 Q. Are you aware of any level of expertise beyond
 4 appropriate use of force certification that would enable
 5 someone to judge when an appropriate level of force or
 6 discipline would be?
 7 MR. COLLAER: Objection. Calls for legal
 8 conclusion. Calls for speculation.
 9 MR. SCHOPPE: That was a terrible question.
 10 THE COURT REPORTER: Andrew, I need you to
 11 speak up again.
 12 Q. (BY MR. SCHOPPE) Specifically, who has shared
 13 that opinion with you?
 14 MR. COLLAER: Same objection.
 15 THE WITNESS: The people I have mentioned
 16 before. Rhonda Ledford. SSO staff. All of the people
 17 I mentioned before. Just about everybody in the
 18 building.
 19 Q. (BY MR. SCHOPPE) Is it your concern that that
 20 kind of behavior and response -- behavior by the
 21 juveniles and response by the staff endangers other
 22 juveniles?
 23 A. It does.
 24 Q. Does it endanger other staff?
 25 A. Absolutely.

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1 MR. COLLAER: Objection. Calls for
 2 speculation.
 3 Q. (BY MR. SCHOPPE) Have you ever felt
 4 endangered by that?
 5 A. Yes.
 6 Q. Have you been in or near a situation where a
 7 juvenile has been allowed to wander around breaking
 8 things?
 9 A. Yes.
 10 Q. And were you concerned that he might be hurt?
 11 A. Yes. What I do is I just go behind a locked
 12 door and wait for them to walk down the hall. And if
 13 they don't walk down the hall I stay put. Because I
 14 don't know what they are going to do.
 15 Q. Have you ever heard any juvenile express fears
 16 for their own safety in that kind of context?
 17 A. I believe I have; yeah.
 18 Q. Have juveniles engaged in that sort of
 19 behavior thrown objects at staff or other juveniles and
 20 things like that?
 21 A. Yes.
 22 Q. Have you ever overheard other juveniles
 23 talking about how that system works? Where staff will
 24 not restrain juveniles who are engaging in that sort of
 25 behavior?

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1 MR. COLLAER: Objection. Lacks foundation.
 2 THE WITNESS: Yes.
 3 Q. (BY MR. SCHOPPE) Is it fair to say that
 4 juveniles are aware that if they act out like that they
 5 will not be restrained?
 6 MR. COLLAER: Objection. Calls for
 7 speculation.
 8 THE WITNESS: Keenly aware of that.
 9 Q. (BY MR. SCHOPPE) Have juveniles said that to
 10 you?
 11 MR. COLLAER: Same objection.
 12 THE WITNESS: I believe they have.
 13 Q. (BY MR. SCHOPPE) Or have they said that
 14 within your hearing, also?
 15 A. Yes.
 16 Q. And have other staff told you that they have
 17 heard the same thing from juveniles?
 18 A. Yes.
 19 Q. Have you ever heard that juveniles share the
 20 belief that if you want to change your program you can
 21 assault a staff member?
 22 A. Have I heard a juvenile say that?
 23 Q. Well, have you ever heard staff or other
 24 employees say that they had heard that?
 25 A. Yes.

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1 MR. COLLAER: Objection. Lacks foundation.
 2 Calls for speculation.
 3 Q. (BY MR. SCHOPPE) Who can we ask about that if
 4 you have not heard that yourself? Who would be
 5 knowledgeable of that?
 6 A. Any of the O&A staff or the Choices staff.
 7 Q. And those people, when they relay that to you,
 8 has that been in the context of them expressing concern
 9 for their safety?
 10 A. Yes, it has.
 11 Q. There is a policy referred to in one of your
 12 written warning records. Policy number 630.04.
 13 Juvenile supervision. The quote here is "To insure the
 14 safety and security of all facility staff and juveniles.
 15 Strict levels of supervision are provided to juveniles
 16 at all times." Is that true? Are strict levels of
 17 supervision provided to juveniles at all times?
 18 A. That is not true.
 19 MR. COLLAER: Objection. Lacks foundation.
 20 Calls for speculation.
 21 Q. (BY MR. SCHOPPE) What makes you say that?
 22 MR. COLLAER: Same objection.
 23 THE WITNESS: Staff will take some of the
 24 juveniles on camping trips and fishing trips. The one
 25 that comes to mind recently is staff took some juveniles

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1 out to Shady Butte, I think is what it is called.
 2 Q. (BY MR. SCHOPPE) Shafer Butte?
 3 A. Shafer Butte. Excuse me. Apparently some of
 4 the juveniles wandered off and they weren't able to find
 5 the juveniles. And I heard that one of the staff told
 6 the juveniles -- the staff was by a car. And the
 7 juveniles were taking off and he told the juveniles,
 8 "If you hear the honk of a horn you guys have to come
 9 back." And so they are unsupervised right there.
 10 Q. How about inside of the facility? Is there
 11 strict supervision of juveniles at all times inside the
 12 facility?
 13 MR. COLLAER: Objection. Lacks foundation.
 14 Calls for speculation.
 15 THE WITNESS: Not all of the time.
 16 Q. (BY MR. SCHOPPE) So is it fair to say that
 17 that policy is not followed all of the time?
 18 MR. COLLAER: Objection. Calls for
 19 speculation. Lacks foundation.
 20 THE WITNESS: It is not followed.
 21 Q. (BY MR. SCHOPPE) Are you aware of a recent
 22 suicide attempt by a juvenile?
 23 A. Yes, I am. This juvenile, I think his name is
 24 was on a very high level suicide watch.
 25 And somehow he got ahold of a jumping rope. And was in

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1 his room with this jumping rope and he tried to commit
 2 suicide. And he was almost successful. I don't know
 3 how in the world he got that jumping rope. Obviously,
 4 there was no staff supervision at that particular time.
 5 MR. COLLAER: Move to strike as unresponsive.
 6 Q. (BY MR. SCHOPPE) Do you know what the levels
 7 of suicide watches are that you referred to a minute
 8 ago?
 9 A. I think it could be level one or level three.
 10 But one of those levels is the most severe level. And I
 11 believe he was one of the higher levels. Which number
 12 that is I'm not certain.
 13 Q. Do you know how those work in terms of time
 14 increments that those juveniles need to be monitored?
 15 A. I believe they need to be monitored every 15
 16 minutes. And maybe even every five minutes. I'm
 17 thinking this man was probably every five minutes.
 18 Q. Okay.
 19 A. Could be.
 20 Q. And have you heard that there is top level?
 21 Eyes on all of the time?
 22 A. Yes.
 23 Q. Are you aware of any incidents where juveniles
 24 require a higher level of suicide monitoring, but the
 25 level is recorded as a lower level?

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1 A. I am not.
 2 Q. Have you heard of that?
 3 MR. COLLAER: Objection. It has been asked
 4 and answered.
 5 THE WITNESS: I have not.
 6 Q. (BY MR. SCHOPPE) With respect to the jump
 7 rope. Are there jump ropes maintained in the facility
 8 somewhere?
 9 A. They are probably kept in the pods themselves.
 10 And I would imagine they have to be secure.
 11 Q. Do you know who was in charge of monitoring
 12 that juvenile who tried to commit suicide?
 13 A. No, I don't. Again, I don't remember the
 14 staff's name. But they caught him with a rope around
 15 his neck and saved his life. I wish I could remember
 16 his name. It is available somewhere.
 17 Q. Do you know who might know more about that
 18 incident? I understand you weren't there.
 19 A. Yeah.
 20 Q. Do you know who we might speak to about that?
 21 A. You can speak to the group leader. Choices
 22 group leader.
 23 Q. Who would that be?
 24 A. That would be Mr. Cotton.
 25 Q. You talked earlier about various items that

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1 juveniles can get their hands on like scissors. Like in
 2 the case of [REDACTED]. Were you surprised at all when
 3 you heard that [REDACTED] had gotten a pair of
 4 scissors? That he was able to do that inside of the
 5 facility?
 6 A. Not really. They are not being supervised
 7 properly. They are not taking a count of all of the
 8 items in the classroom. So the fact he did that is not
 9 that surprising.
 10 Q. And would you count a jump rope as one of
 11 those items that the juvenile ought not to be able to
 12 get ahold of inside of a secured facility?
 13 A. Yes.
 14 Q. Have you ever found an improvised weapon
 15 yourself?
 16 A. I don't recall.
 17 Q. Have you ever seen one that has been found?
 18 A. Yes.
 19 Q. Do you recall what that was?
 20 A. I think it was a comb that was filed down to
 21 turn into a shank.
 22 Q. When those items are found what is the policy
 23 for dealing with those? In handling them?
 24 A. Of course, you confiscate the item. But then
 25 they do a big investigation. Do room searches and find

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1 out where this item came from. They strip all of the
 2 room down. Beds. Clothing. Every little item. Check
 3 the tops of doors. Every little hiding place that you
 4 can imagine to find more contraband.
 5 Q. Has antennas been a problem? Like electronic
 6 antennas?
 7 A. Yeah. Antennas are a problem. Antennas that
 8 belong to like radios, they can break off easily. And
 9 then the staff don't know where they are. Or maybe not
 10 even notice that they are gone. Because they are the
 11 kind that you can telescope up and down. So if you
 12 telescope it up and broke it off you wouldn't know if
 13 the whole piece is missing.
 14 Q. As far as you know, including yourself, has
 15 anybody expressed concern that there are materials like
 16 that available that can be turned into weapons?
 17 A. Yes.
 18 Q. Who has expressed that concern?
 19 A. All the aforementioned people. Martinez,
 20 Kolander. All of the O&A staff and Choices staff.
 21 Q. And is it fair to say that that is a pretty
 22 consistent concern being expressed over the last few
 23 years?
 24 A. Very consistent.
 25 Q. Is it fair to say that is a concern you have

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1 expressed?
 2 A. Yes.
 3 Q. And you have expressed that to Mr. Gregston?
 4 A. Yes.
 5 Q. And your point in doing that was to make sure
 6 that Mr. Gregston would take it up the chain of command?
 7 A. Yes.
 8 MR. COLLAER: Objection. Calls for
 9 speculation. And lacks foundation.
 10 Q. (BY MR. SCHOPPE) You mentioned that incidents
 11 involving improvised weapons are dealt with as -- they
 12 are investigated. Might do a room toss. Things like
 13 that. Are those items maintained as evidence, as far as
 14 you know?
 15 A. As far as I know.
 16 Q. Do you know where they are kept?
 17 A. Probably in the safety and security
 18 supervisor's office.
 19 Q. And that would be Mr. Freckleton now?
 20 A. Yes.
 21 Q. And before that it would have been
 22 Ms. McCormick?
 23 A. Julie McCormick.
 24 Q. Are you aware of instances in which juveniles
 25 had access to Ms. McCormick's office when she was not

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1 present?
 2 A. I don't recall that right now; no.
 3 Q. Have you ever heard of that?
 4 MR. COLLAER: Objection. It's been asked and
 5 answered.
 6 THE WITNESS: Yes.
 7 Q. (BY MR. SCHOPPE) Where did you hear about
 8 that? And from whom?
 9 A. I think it was Mr. Amiah. He is a safety and
 10 security officer in the booth.
 11 Q. What did he have to say?
 12 A. Just that -- can you rephrase that question?
 13 Q. Sure. What did he have to say about juveniles
 14 having unsupervised access to Ms. McCormick's office?
 15 A. I can't recall anything right now.
 16 Q. Do you recall speaking with him about it?
 17 A. Yes.
 18 Q. Just don't recall exactly what was said?
 19 A. Yes.
 20 Q. But that is how you became aware of it?
 21 A. Yes.
 22 Q. Another part of that policy read to you was
 23 policy number 630.04. Juvenile Supervision. It reads,
 24 "The juveniles in juvenile groups will be under direct
 25 eyes on staff supervision at all times and will not be

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1 left unsupervised."
 2 Is that a policy that is followed at the
 3 department?
 4 A. It is not.
 5 MR. COLLAER: Objection. Lacks foundation.
 6 Calls for speculation.
 7 Q. (BY MR. SCHOPPE) Are juveniles, in fact, left
 8 unsupervised?
 9 A. They are.
 10 Q. Does that pose a danger, in your opinion, to
 11 you as a staff member?
 12 A. Yes.
 13 MR. COLLAER: Objection. Lacks foundation.
 14 Calls for speculation.
 15 Q. (BY MR. SCHOPPE) Have you felt in danger?
 16 MR. COLLAER: Same objection.
 17 THE WITNESS: Yes.
 18 Q. (BY MR. SCHOPPE) Has anyone ever told you
 19 they felt in danger?
 20 A. Yes.
 21 MR. COLLAER: Same objection.
 22 Q. (BY MR. SCHOPPE) Is it fair to say Juvenile
 23 Corrections does not always follow its written policies?
 24 MR. COLLAER: Objection. Lacks foundation.
 25 THE WITNESS: That is correct.

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1 Q. (BY MR. SCHOPPE) Do you know who is
 2 responsible for making sure those policies are followed?
 3 MR. COLLAER: Objection. Calls for a legal
 4 conclusion.
 5 THE WITNESS: That would be the superintendent
 6 or the director, I believe.
 7 Q. (BY MR. SCHOPPE) There is another policy.
 8 Policy 324. Standards of conduct. And it states in
 9 part, and this is cited in your written warning record,
 10 one of them we discussed earlier, "That such conduct may
 11 include any behavior on or off duty that jeopardizes the
 12 integrity or security of IDJC."
 13 When other employees -- let's step back. Are
 14 you aware of incidents in which other employees have
 15 jeopardized the integrity or security of IDJC?
 16 A. Yes.
 17 Q. What comes to mind?
 18 A. What immediately comes to mind is Julie
 19 McCormick and her relationship with a man.
 20 Q. What do you know about that apart from what
 21 you heard? Do you have any personal knowledge of her
 22 movements around the building with
 23 A. I did not see any movements myself.
 24 Q. Do you know who did?
 25 A. I believe it was Mr. Amiah and Ms. Serda. And

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1 there may be others. They don't come to mind right now.
 2 Q. You mentioned earlier you reported incidences
 3 of timecard padding to Mr. Gregston?
 4 A. Correct.
 5 Q. Is it your understanding that is a crime?
 6 A. It is a crime.
 7 Q. Is it your understanding that is forgery?
 8 MR. COLLAER: Objection. Lacks for
 9 foundation. Calls for a legal conclusion.
 10 THE WITNESS: Yes.
 11 Q. (BY MR. SCHOPPE) And you mentioned
 12 Debby Seigel and Mr. Rohrbach?
 13 A. Correct.
 14 Q. How about Mr. Baranco? Have you heard
 15 anything about him in connection with timecard padding?
 16 A. Yes, I have heard that.
 17 Q. Who did you hear that from?
 18 A. I can't recall right now.
 19 Q. What was it that you heard?
 20 A. That he would take off during his work
 21 schedule and go play golf.
 22 Q. And where would he play golf as far as you
 23 heard?
 24 A. It is a local golf course. Richcrest comes to
 25 mind. It is right across the street, perhaps.

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1 Q. Who do you think would know more about that
 2 possibility?
 3 A. Whoever he has gone with.
 4 Q. Have you heard if there has been any
 5 investigation into timecard padding on the part of
 6 Ms. Rohrbach, Ms. Seigel, Mr. Baranco?
 7 A. I'm not aware that anybody has investigated
 8 into that; no.
 9 Q. Have you heard that any of those people were
 10 disciplined for forging timecards?
 11 A. No, I have not heard that.
 12 Q. Or, more generally, for being paid for time
 13 that they are not actually working?
 14 A. No.
 15 Q. Ever heard of anybody else engaging in that
 16 practice?
 17 A. Just rumor. What I have heard.
 18 Q. If you can tell me what you heard, and who you
 19 heard that from, maybe we can it back to the
 20 source. So what was it that you heard?
 21 A. I heard Lamark Judkins, who works in the
 22 office, I think he is the PBS coordinator now. And
 23 Roberto Coronado is a safety and security officer/
 24 transport officer.
 25 Q. And when you have heard that has that been in

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1 the context of employees reporting their concerns that
 2 this is a waste of public funds?
 3 A. Yes.
 4 Q. Has anybody ever expressed concern that this
 5 is a crime?
 6 A. Yes.
 7 Q. And who comes to mind in terms of people who
 8 made those kinds of reports? As far as you know?
 9 A. Rhonda Ledford.
 10 Q. Anybody else?
 11 A. Shane Penrod. He is also a safety and
 12 security officer.
 13 THE COURT REPORTER: Is this a good time to
 14 take a break?
 15 MR. SCHOPPE: Sure.
 16 (Recess.)
 17 Q. (BY MR. SCHOPPE) Have you ever heard Laura
 18 Roters call juveniles "dumbasses"?
 19 A. Yes.
 20 Q. How do you know about that?
 21 A. It was in an e-mail.
 22 Q. Do you recall who that e-mail was from?
 23 A. I don't.
 24 Q. Are you aware of whether Ms. Roters was ever
 25 disciplined for that?

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1 A. To my knowledge she was not disciplined.
 2 Q. Did anyone investigate that?
 3 A. Not to my knowledge.
 4 Q. You were investigated and disciplined for
 5 calling juveniles "rooks" at one point; right?
 6 A. That's true.
 7 Q. What does rooks mean?
 8 A. Newbies. Beginners. They're green.
 9 Q. Like a rookie?
 10 A. Rookie. Like a ball player.
 11 Q. Who wrote you up for that?
 12 A. I believe Mr. Gregston did.
 13 Q. And who is it that reported that as a problem?
 14 A. I believe it was one of the teachers.
 15 Ms. Payne, perhaps.
 16 Q. And had you actually heard Ms. Payne refer to
 17 juveniles as rooks?
 18 A. I did. In my presence.
 19 Q. Anybody ever write Ms. Payne up for that?
 20 A. No.
 21 Q. No disciplinary action taken against her, as
 22 far as you are aware of?
 23 A. Not I'm aware of.
 24 Q. Is rooks an insulting term, as far as you
 25 know?

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1 A. I think it is an endearing term.
 2 Q. So you weren't out to antagonize or ridicule
 3 anybody?
 4 A. No.
 5 Q. How about dumbass? Does that seem to you to
 6 be a ridiculing term?
 7 A. Yes, it does.
 8 Q. Have you ever heard Francine Diaz living with
 9 a former juvenile right after his release?
 10 A. I have heard that.
 11 Q. Who did you hear that from?
 12 A. Just the staff talking.
 13 Q. Is that juvenile Bryce
 14 A. It is.
 15 Q. And Ms. Diaz still works there; right?
 16 A. She does.
 17 Q. Are you aware of any investigation of her
 18 concerning that?
 19 A. No.
 20 Q. Is that grounds for termination?
 21 MR. COLLAER: Objection. Calls for legal
 22 conclusion. Also assumes facts not in evidence.
 23 THE WITNESS: I believe it is.
 24 Q. (BY MR. SCHOPPE) Assuming that to be true, as
 25 far as you know that would be grounds for discipline or

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1 termination?
 2 MR. COLLAER: Same objection.
 3 THE WITNESS: Correct.
 4 Q. (BY MR. SCHOPPE) And have you heard that
 5 there is an allegation that Ms. Diaz had a sexual
 6 relationship with that juvenile prior to his release?
 7 A. Yes, I did hear that.
 8 Q. Are you aware of any investigation into that?
 9 A. Negative.
 10 Q. Any disciplinary action taken against
 11 Ms. Diaz?
 12 A. No.
 13 MR. COLLAER: Objection. Lacks foundation.
 14 Calls for speculation.
 15 Q. (BY MR. SCHOPPE) Bryce is it your
 16 understanding he was later hired as an employee?
 17 A. That's true.
 18 Q. Do you know where he works?
 19 A. In the kitchen.
 20 Q. Did you see him working there?
 21 A. Yes.
 22 Q. When you applied for your position was there
 23 any sort of qualification or requirement regarding your
 24 criminal history?
 25 A. A background check.

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1 Q. And was there anything specific in terms of a
 2 time frame or other limitation for that sort of thing?
 3 A. Can you be more specific?
 4 Q. In other words, did it preclude employment if
 5 you had been convicted of a felony or a misdemeanor or
 6 something like that?
 7 A. That's true.
 8 Q. Was there a time frame or a horizon beyond
 9 which it didn't matter anymore?
 10 A. Not that I'm aware of.
 11 Q. Does it seem strange to you that someone who
 12 had been incarcerated in the Department then be hired by
 13 the Department?
 14 A. I did question that; yes.
 15 Q. And have you heard that Bryce had a
 16 sexual relationship with a juvenile in the facility?
 17 A. I did hear that.
 18 Q. Is that H?
 19 A. Yes. That is what I heard.
 20 Q. And who did you hear that from?
 21 A. Just general staff talk.
 22 Q. Are you aware of any investigation into that?
 23 A. Negative.
 24 Q. Is that a serious issue as far as you are
 25 concerned?

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1 MR. COLLAER: Objection. Lacks foundation.
 2 Calls for speculation.
 3 THE WITNESS: Very serious.
 4 Q. (BY MR. SCHOPPE) Did anybody else tell you
 5 that they consider that to be a serious problem?
 6 MR. COLLAER: Same objection.
 7 THE WITNESS: Yes.
 8 Q. (BY MR. SCHOPPE) And had you heard that Bryce
 9 moved in with after her release?
 10 MR. COLLAER: Same objection.
 11 THE WITNESS: I did hear that.
 12 Q. (BY MR. SCHOPPE) Are you aware whether there
 13 has been an investigation into that?
 14 A. I have not heard of any investigation.
 15 Q. Are you aware of whether Transport Officer
 16 Diane Miles has recently been charged with a DUI?
 17 A. I am aware of that.
 18 Q. Is it your understanding that is her second
 19 DUI?
 20 A. That is correct.
 21 Q. And did you see Ms. Miles work anytime after
 22 March 25, 2013?
 23 A. Yes.
 24 Q. Do you know how she got to work?
 25 A. She drove.

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1 Q. Did you see her car?
 2 A. Yes.
 3 Q. And you saw her operating her car or that she
 4 had driven it there?
 5 A. No. But I know what she drives. And unless
 6 somebody else drives that truck that was her driving it.
 7 Q. And had you heard other employees report that
 8 she was driving herself to work after her license had
 9 been suspended?
 10 A. Yes. On a related note. One of the
 11 juveniles, [REDACTED] was on a home pass. And he was
 12 with his family and pulled up to an intersection in
 13 Caldwell and he saw -- he recognized Diane Miles in a
 14 truck. She pulled in front of them. It was a four-way
 15 stop. And he recognized her. And told me that I think
 16 a week after that happened. He said yeah, she was
 17 driving a truck.
 18 Q. Just out of the blue mentioned that to you?
 19 A. Yeah.
 20 Q. She is a transport officer, as far as you
 21 know; right?
 22 A. That's correct.
 23 Q. Is transport officer duties something that she
 24 can perform on a suspended license?
 25 A. I don't believe it is.

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1 Q. As an employee of the State of Idaho do you
 2 need to have a current driver's license?
 3 A. That's correct.
 4 Q. And when you applied for your position were
 5 you required to show you had a current driver's license?
 6 A. Yes.
 7 Q. Are you aware of whether not Ms. Miles worked
 8 in transport transporting juveniles after he she had
 9 been charged with a DUI in March of this year?
 10 A. I am not aware of that.
 11 Q. Do you know who might be aware of that?
 12 A. The supervisor, Mark Freckleton, he may be
 13 aware of that. Robert Coronado and Shane Penrod, they
 14 are both transport officers, as well. They've worked
 15 together. So they would know that.
 16 Q. Do you know where Ms. Miles is now?
 17 A. I don't know where she is.
 18 Q. Do you know whether she is on family medical
 19 leave?
 20 A. I heard that is the case.
 21 Q. And would that be something probably
 22 Mr. Freckleton could testify about?
 23 A. Yes.
 24 Q. Are you aware of whether there was any
 25 investigation into Ms. Miles working at the Department

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1 after receiving her second DUI charge?
 2 A. Not to my knowledge.
 3 Q. Are you aware of any discipline against her
 4 after she received her second DUI charge?
 5 A. No. No discipline.
 6 Q. Is that, as far as you are concerned, a pretty
 7 serious violation of --
 8 MR. COLLAER: Objection. Lacks foundation.
 9 And calls for speculation.
 10 MR. SCHOPPE: I need to finish my question.
 11 Q. (BY MR. SCHOPPE) As far as you are concerned
 12 is that something that is a pretty serious issue?
 13 MR. COLLAER: Same objection. Lacks
 14 foundation. Calls for speculation.
 15 THE WITNESS: It is.
 16 Q. (BY MR. SCHOPPE) Has anyone else at the
 17 Department ever expressed to you that is a pretty
 18 serious issue?
 19 MR. COLLAER: Same objection.
 20 THE WITNESS: Yes.
 21 Q. (BY MR. SCHOPPE) Are you aware of any action
 22 taken by Lynn Viner to investigate the issue or
 23 discipline Ms. Miles?
 24 MR. COLLAER: Objection. Lacks foundation.
 25 Calls for speculation.

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1 THE WITNESS: I know of no action taken by
 2 Lynn Viner.
 3 Q. (BY MR. SCHOPPE) So you were investigated and
 4 disciplined for calling a juvenile a rook; right?
 5 A. Correct.
 6 Q. And you were also disciplined recently for
 7 making a joke to someone; is that right?
 8 A. Correct. But I would add, if I could. Diane
 9 Miles is in the booth and she was training a new person
 10 in the booth. And as I was walking to the front of the
 11 booth there was a lot of traffic going on. And she said
 12 over the intercom so that all could hear, "Take it easy
 13 on us, I got a rook in here." And to myself I am
 14 thinking well, what is going to happen with that?
 15 Because I got disciplined for that. But nothing ever
 16 came of that to my knowledge. And everybody heard it.
 17 MR. COLLAER: Move to strike as unresponsive.
 18 No question pending.
 19 Q. (BY MR. SCHOPPE) Are you aware of any
 20 investigation or discipline against her in connection
 21 with that?
 22 A. No.
 23 Q. In going through these different instances
 24 would you agree that it is fair to say that disciplinary
 25 action is not taken against all employees equally?

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1 MR. COLLAER: Objection. Lacks foundation.
 2 Calls for speculation.
 3 THE WITNESS: I believe that to be true; yes.
 4 Q. (BY MR. SCHOPPE) Has other employees shared
 5 that sentiment with you?
 6 A. Yes.
 7 MR. COLLAER: Same objection. Calls for
 8 speculation. Hearsay.
 9 Q. (BY MR. SCHOPPE) Would that include the
 10 employees whom you have identified before now?
 11 A. Yes.
 12 MR. COLLAER: Same objection.
 13 Q. (BY MR. SCHOPPE) And, actually, let's get
 14 more specific. Who might have said that to you?
 15 MR. COLLAER: Same objection.
 16 THE WITNESS: Mr. Smalls.
 17 Q. (BY MR. SCHOPPE) Anybody else?
 18 A. Say the question again, please?
 19 Q. Has anybody else ever shared that sentiment
 20 with you regarding unequal discipline amongst employees?
 21 A. Yes.
 22 Q. Who else?
 23 A. My supervisor, Mr. Gregston. My colleague in
 24 the maintenance department. Bob Robinson. And a host
 25 of others.

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1 Q. With respect to disciplinary actions that you
 2 didn't contest, that you testified about earlier, is it
 3 your belief that contesting those is futile?
 4 MR. COLLAER: Objection. Calls for a legal
 5 conclusion. Lacks foundation. Calls for speculation.
 6 THE WITNESS: I do.
 7 Q. (BY MR. SCHOPPE) At least some of the time?
 8 A. Some of the time.
 9 Q. Has anybody else ever expressed that concern
 10 to you?
 11 MR. COLLAER: Same objection.
 12 THE WITNESS: Yes.
 13 Q. (BY MR. SCHOPPE) Who?
 14 A. All of the aforementioned people.
 15 Q. Is it your belief that human resources is not
 16 willing or interested in insuring that grievance
 17 procedures and problem-solving procedures are fair to
 18 the employees?
 19 MR. COLLAER: Objection. Lacks foundation.
 20 Calls for speculation..
 21 THE WITNESS: Correct.
 22 Q. (BY MR. SCHOPPE) That is your belief, right?
 23 I'm not asking you to speculate. It is what you know;
 24 right?
 25 A. Right.

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1 Q. Has anybody else ever told you that?
 2 MR. COLLAER: Same objection.
 3 THE WITNESS: Yes.
 4 Q. (BY MR. SCHOPPE) I'm not asking you to
 5 speculate about people that have actually told you;
 6 right?
 7 A. Yes.
 8 Q. And who would have told you that?
 9 A. Mr. Smalls.
 10 Q. Anybody else?
 11 A. Mr. Gregston. Mr. Robinson.
 12 Q. Is it fair to say that the gravamen or main
 13 point of this lawsuit is that you feel you have suffered
 14 retaliation?
 15 A. That's correct.
 16 Q. Has anybody else ever expressed to you that
 17 they believe that they have been victims of retaliation
 18 by the Department?
 19 A. Yes.
 20 Q. Who? Apart from your fellow plaintiffs who
 21 have made those specific allegations, anybody else ever
 22 say that they have suffered?
 23 A. Mr. Knoff.
 24 Q. What did he say?
 25 MR. COLLAER: Objection. Calls for hearsay.

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1 Lacks foundation.
 2 THE WITNESS: He believes he was fired
 3 unfairly.
 4 Q. (BY MR. SCHOPPE) Did he say why?
 5 A. I don't recall exactly. Just issues with him
 6 and management.
 7 Q. As far as you know was he one of the people
 8 who put the petition together that we talked about
 9 earlier in November of 2011?
 10 A. I believe so; yes.
 11 Q. And that petition concerned unfair hiring
 12 practices; is that right?
 13 A. Correct.
 14 Q. And Mr. Knoff was the supervisor of O&A; is
 15 that right?
 16 A. That's true.
 17 Q. How long after that was it that Mr. Knoff,
 18 according to him, was unfairly fired?
 19 A. I don't know the time frame there.
 20 Q. Would May or June of 2012 make sense to you?
 21 A. Yes.
 22 Q. And with respect to other employees of O&A.
 23 As far as you know were other employees like Addison
 24 Fordham, Gracie Reyna, supportive of that petition?
 25 MR. COLLAER: Objection. Lacks foundation.

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1 Calls for speculation.
 2 THE WITNESS: I believe they were.
 3 Q. (BY MR. SCHOPPE) And I have been told that
 4 within a few months of that petition nine out of twelve
 5 O&A staff --
 6 MR. COLLAER: Well, Counsel. Just a minute.
 7 If you are going to say something like that you are
 8 going to make yourself a witness and you are going to
 9 get out of this case.
 10 MR. SCHOPPE: No. Actually not. I'm posing a
 11 question.
 12 MR. COLLAER: You are telling the witness
 13 something that you heard --
 14 MR. SCHOPPE: I'm going to ask him if he has
 15 any reason to disagree with that statement.
 16 MR. COLLAER: No. You are telling him what
 17 you have been told. You are relaying to him information
 18 from yourself. You are making yourself a witness. If
 19 you do that you cannot continue as a lawyer in this
 20 case.
 21 MR. SCHOPPE: I don't think so. Not with
 22 respect to what my plaintiffs are telling me.
 23 MR. COLLAER: Then you are going to be waiving
 24 privilege.
 25 MR. SCHOPPE: No, I don't think so.

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1 MR. COLLAER: If you are relating
 2 conversations that your client told you --
 3 MR. SCHOPPE: Fine. And, by the way, if you
 4 could stop interrupting me before I finished my question
 5 that would be great. Okay? Let's start over. I'll
 6 withdraw and strike the question.
 7 MR. COLLAER: Okay. That's fine.
 8 Q. (BY MR. SCHOPPE) Have you ever heard it said
 9 that nine out of twelve O&A employees were gone whether
 10 by quitting or terminated within a few months after that
 11 November 2011 petition?
 12 A. Yes.
 13 MR. COLLAER: Objection. Lacks foundation.
 14 Calls for speculation.
 15 Q. (BY MR. SCHOPPE) Where did you hear that?
 16 MR. COLLAER: Same objections.
 17 THE WITNESS: I could see it for myself.
 18 Q. (BY MR. SCHOPPE) And who did you have in
 19 mind?
 20 MR. COLLAER: Objection. Calls for
 21 speculation.
 22 THE WITNESS: Robin Smythe, Ms. Carnell,
 23 Tom Knoff. I would have to look at a list. There is
 24 quite a few people.
 25 Q. (BY MR. SCHOPPE) Did Ms. Carnell tell you --

1 well, how did she leave?
 2 A. She left -- she was not happy about
 3 Ms. Roters. That is why she left.
 4 Q. Did she ever express to you that she felt that
 5 she had been subject to retaliation?
 6 A. Not so much. But just being harassed by
 7 Ms. Roters. It's a hostile work environment down there.
 8 Q. And how about Robin Smythe? Did she tell you
 9 why she left?
 10 A. No.
 11 Q. Has anyone expressed an opinion as to their
 12 belief as to why those people left?
 13 MR. COLLAER: Objection. Lacks foundation.
 14 Calls for speculation.
 15 THE WITNESS: Yes.
 16 Q. (BY MR. SCHOPPE) Is it fair to say that they
 17 believe that they are victims of retaliation?
 18 MR. COLLAER: Same objections.
 19 THE WITNESS: Yes.
 20 Q. (BY MR. SCHOPPE) With respect to the recent
 21 disciplinary incident in which you were investigated
 22 for and disciplined for making a joke to Ms. Sheets. Is
 23 it unusual for people to make jokes at the Department?
 24 A. It is very common.
 25 Q. Do people make jokes to you?

1 at work?
 2 A. Never.
 3 Q. Why is that?
 4 A. It is inappropriate.
 5 Q. Do people make those jokes to you or around
 6 you?
 7 A. No.
 8 Q. Same reasons as far as you know?
 9 A. Same reason.
 10 Q. And is there any reason at all that you made
 11 any kind of sexual jokes or comment like that to
 12 Ms. Sheets?
 13 A. No.
 14 Q. Did you have any intent to harass her?
 15 A. I did not.
 16 Q. And with respect to the juvenile who
 17 Mr. Collaer suggested said that he told you what the
 18 term meant, and that it had a sexual overtone, would it
 19 be unusual in your experience for a juvenile to try to
 20 avoid responsibility for creating a problem?
 21 MR. COLLAER: Objection. Calls for
 22 speculation.
 23 THE WITNESS: That would not be unusual; no.
 24 Q. (BY MR. SCHOPPE) And I mean that specifically
 25 in the context of him claiming to have actually told you

1 A. Yes.
 2 Q. Have you ever seen Ms. Sheets make a joke?
 3 A. Not that I recall.
 4 Q. Ever see her respond to a joke?
 5 A. I have seen her laugh.
 6 Q. Ordinary kind of good humor and laughter?
 7 A. Yeah.
 8 Q. Is there any restriction on making jokes at
 9 the Department?
 10 A. Not that I'm aware of.
 11 Q. In the course of the investigation did anybody
 12 ever tell you that they had evidence that you had a
 13 harassing intent in the joke you made to her?
 14 A. Say that again one more time?
 15 Q. In the course of the investigation did anyone
 16 ever tell you that they had evidence that you had
 17 harassing intent in making the joke you made?
 18 A. No.
 19 Q. Or that you had any kind of sexual intent?
 20 A. No.
 21 Q. And as far as you are concerned with the term
 22 that was used, "cold packing," did it have any
 23 connection at all or any sexual overtone at all?
 24 A. Negative.
 25 Q. Do you typically make jokes of a sexual nature

1 what it meant?
 2 A. Yes.
 3 MR. COLLAER: Same objection.
 4 THE WITNESS: Yes.
 5 Q. (BY MR. SCHOPPE) And do you happen to know
 6 what the charges are that brought H.K. to the facility?
 7 A. I do not.
 8 Q. Is it an uncommon occurrence for juveniles to
 9 lie or mislead staff in ways that are convenient to
 10 them?
 11 MR. COLLAER: Objection. Lacks foundation.
 12 Calls for speculation.
 13 THE WITNESS: I would say the vast majority of
 14 the juveniles there are guilty of that. That is their
 15 agenda; yes.
 16 Q. (BY MR. SCHOPPE) Have you ever been lied to
 17 by a juvenile?
 18 A. Not that I'm aware of. We have a rapport, I
 19 believe.
 20 Q. So usually in the course of your work with
 21 juveniles it is a fairly straightforward --
 22 A. It is.
 23 Q. -- relationship?
 24 A. Yes.
 25 Q. Are you aware of incidences where juveniles

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1 told lies or made misleading statements to staff? Or if
 2 you have heard of those incidents?
 3 A. Yes.
 4 MR. COLLAER: Objection. Lacks foundation.
 5 Q. (BY MR. SCHOPPE) Until this disciplinary
 6 incident here in the last couple months have you read
 7 the Urban Dictionary in regards to that term?
 8 A. Well, I have recently.
 9 Q. But prior to that?
 10 A. No.
 11 Q. So you wouldn't have any reason to think that
 12 the term "cold packing" had any kind of sexual overtone?
 13 A. No, I didn't.
 14 Q. With respect to free speech issues at the
 15 Department. Following the November 2011 petition
 16 circulating among the employees did anyone tell you that
 17 human resources said that there should be no more
 18 petitions?
 19 A. I did hear that; yes.
 20 Q. Who did you hear that from?
 21 A. I don't recall.
 22 Q. Would that be Ray Gregston, your supervisor?
 23 A. Yes. That's correct. Thank you.
 24 Q. Do you recall the source of that statement
 25 according to Ray?

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1 A. I don't understand the question.
 2 Q. Ray told you this had been said by someone.
 3 Do you recall who he said made that statement?
 4 A. I believe it was Pat Thomson.
 5 Q. Is there any prohibition on petitions inside
 6 the Department?
 7 A. I think it was said -- I heard that they
 8 didn't want any more petitions.
 9 Q. In terms of an actual policy is there anything
 10 that says employees can't prepare a petition?
 11 A. Not that I'm aware of.
 12 Q. With respect to problem solving and grievance
 13 procedures. As far as you know are those used for sort
 14 of systemwide policy complaints? Or are those more for
 15 interpersonal problems with other employees or
 16 supervisors?
 17 A. I think that is the intent of it between
 18 employees.
 19 Q. So you wouldn't necessarily look to that as
 20 means to criticize or challenge a policy?
 21 A. No.
 22 Q. With respect to -- you said you witnessed or
 23 believe you witnessed with respect to the O&A staff
 24 people leaving after this November 2011 petition
 25 circulated. After hearing that there should be no more

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1 petitions did that make you concerned that you could be
 2 punished for speaking out?
 3 A. I did.
 4 Q. Did other people express to you that concern?
 5 A. Yes.
 6 Q. Who said that?
 7 A. Rhonda Ledford, Gracie Reyna, Lisa
 8 Littlefield, Shane Penrod. All of the people in the
 9 lawsuit.
 10 Q. Anybody else come to mind?
 11 A. Not off the top of my head; no.
 12 Q. And as far as you're concerned did the
 13 problems that you described, safety and security
 14 problems, things like that, have they stayed the same
 15 more or less since 2010 to present?
 16 MR. COLLAER: Objection. Lacks for
 17 foundation. Calls for speculation.
 18 THE WITNESS: I believe they have.
 19 Q. (BY MR. SCHOPPE) And following that November
 20 2011 petition, as far as you can tell, did the
 21 Department's approach dealing with employee criticisms
 22 change after that?
 23 MR. COLLAER: Objection. Lacks foundation.
 24 Calls for speculation.
 25 THE WITNESS: I believe it did. They didn't

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1 want to hear any other complaints.
 2 Q. (BY MR. SCHOPPE) Would it be fair to say, at
 3 least according to your perception, that pressure to
 4 comply with Department preferences and policies
 5 increased during that time?
 6 MR. COLLAER: Objection. Lacks foundation.
 7 Calls for speculation.
 8 THE WITNESS: I believe so.
 9 Q. (BY MR. SCHOPPE) And same question for
 10 pressure not to criticize those policies?
 11 MR. COLLAER: Same objection.
 12 THE WITNESS: Correct.
 13 Q. (BY MR. SCHOPPE) And have other people
 14 expressed that same to you?
 15 A. Yes.
 16 MR. COLLAER: Same objection.
 17 Q. (BY MR. SCHOPPE) And apart from your fellow
 18 plaintiffs anybody else come to mind?
 19 MR. COLLAER: Same objection.
 20 THE WITNESS: Not off the top of my head. But
 21 there are some.
 22 Q. (BY MR. SCHOPPE) And you talked about
 23 retaliation with other employees, including the
 24 plaintiffs. The kinds of retaliation you have
 25 discussed, has it always involved formal action?

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1 Like notices of contemplated action or written warning
 2 records?
 3 MR. COLLAER: Objection. Lacks foundation.
 4 THE WITNESS: Yes.
 5 Q. (BY MR. SCHOPPE) Or does it take other forms?
 6 Shift reassignments? Job restrictions?
 7 A. Yes.
 8 MR. COLLAER: Same objection.
 9 Q. (BY MR. SCHOPPE) Is it fair to say that
 10 written records are not necessarily a clear indicator of
 11 whether retaliation is actually occurring?
 12 MR. COLLAER: Objection. Lacks foundation.
 13 Calls for speculation.
 14 THE WITNESS: That's correct.
 15 MR. SCHOPPE: Okay. That is all I have.
 16 MR. COLLAER: Nothing further.
 17 (Deposition concluded at 3:20 p.m.)
 18 (Signature requested.)
 19
 20
 21
 22
 23
 24
 25

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1 CERTIFICATE OF WITNESS
 2 I, TOM DE KNIJF, being first duly sworn, depose
 3 and say:
 4 That I am the witness named in the foregoing
 5 deposition consisting of pages 1 through 210; that I
 6 have read said deposition and know the contents thereof;
 7 that the questions contained therein were propounded to
 8 me; and that the answers contained therein are true and
 9 correct, except for any changes that I may have listed
 10 on the Change Sheet attached hereto:
 11 DATED this ____ day of _____, 2013.
 12 _____
 13 TOM DE KNIJF
 14
 15 SUBSCRIBED AND SWORN to before me this ____ day
 16 of _____, 2013.
 17 _____
 18 NAME OF NOTARY PUBLIC
 19
 20 NOTARY PUBLIC FOR _____
 21 RESIDING AT _____
 22 MY COMMISSION EXPIRES _____
 23
 24
 25

Page 212

1 ERRATA SHEET FOR TOM DE KNIJF
 2 Page ___ Line ___ Reason for Change _____
 Reads _____
 3 Should Read _____
 4
 5 Page ___ Line ___ Reason for Change _____
 Reads _____
 6 Should Read _____
 7
 8 Page ___ Line ___ Reason for Change _____
 Reads _____
 9 Should Read _____
 10
 11 Page ___ Line ___ Reason for Change _____
 Reads _____
 12 Should Read _____
 13
 14 Page ___ Line ___ Reason for Change _____
 Reads _____
 15 Should Read _____
 16
 17 Page ___ Line ___ Reason for Change _____
 Reads _____
 18 Should Read _____
 19
 20 Page ___ Line ___ Reason for Change _____
 Reads _____
 21 Should Read _____
 22
 23 Page ___ Line ___ Reason for Change _____
 Reads _____
 24 Should Read _____
 25 You may use another sheet if you need more room.
 WITNESS SIGNATURE _____

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1 REPORTER'S CERTIFICATE
 2 I, MONICA M. ARCHULETA, CSR No. 471, Certified
 3 Shorthand Reporter, certify:
 4 That the foregoing proceedings were taken
 5 before me at the time and place therein set forth, at
 6 which time the witness was put under oath by me;
 7 That the testimony and all objections made were
 8 recorded stenographically by me and transcribed by me or
 9 under my direction;
 10 That the foregoing is a true and correct record
 11 of all testimony given, to the best of my ability;
 12 I further certify that I am not a relative or
 13 employee of any attorney or party, nor am I financially
 14 interested in the action.
 15 IN WITNESS WHEREOF, I set my hand and seal this
 16 5th day of September, 2013.
 17 _____
 18 MONICA M. ARCHULETA, CSR
 19 Notary Public
 20 P.O. Box 2636
 21 Boise, Idaho 83701-2636
 22 My commission expires August 3, 2018
 23
 24
 25

EXHIBIT I

EXHIBIT I

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RHONDA LEDFORD, an individual,)
et al.,)
Plaintiffs,) Case No. 1:12-cv-00326-BLW
vs.)
IDAHO DEPARTMENT OF JUVENILE)
CORRECTIONS, an executive)
department of the State of)
Idaho, et al.,)
Defendants.)
_____)

DEPOSITION OF FRANK H. FARNWORTH
TAKEN JULY 24, 2013

REPORTED BY:

SHERI FOOTE, CSR No. 90, RPR, CRR

Notary Public

Page 2

1 THE DEPOSITION OF FRANK H. FARNWORTH was taken
 2 on behalf of the Defendants Sharon Harrigfeld, Betty
 3 Grimm, and the Idaho Department of Juvenile Corrections
 4 at the offices of Anderson Julian & Hull, 250 South
 5 Fifth Street, Suite 700, Boise, Idaho, commencing at
 6 9:13 a.m. on July 24, 2013, before Sheri Foote,
 7 Certified Shorthand Reporter and Notary Public within
 8 and for the State of Idaho, in the above-entitled
 9 matter.

10 APPEARANCES:
 11 For the Plaintiffs:
 12 Law Office of Andrew T. Schoppe
 13 BY MR. ANDREW T. SCHOPPE
 14 910 W. Main Street, Suite 328
 15 Boise, Idaho 83702

16 For the Defendants Sharon Harrigfeld, Betty Grimm, and
 17 the Idaho Department of Juvenile Corrections:
 18 Anderson Julian & Hull, LLP
 19 BY MR. PHILLIP J. COLLAER
 20 250 South Fifth Street, Suite 700
 21 P.O. Box 7426
 22 Boise, Idaho 83707-7426

23
 24 ALSO PRESENT: Ms. Nancy Bishop and Service Dog "Duke"
 25

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1 I N D E X
 2 TESTIMONY OF FRANK H. FARNWORTH PAGE
 3 Examination by Mr. Collaer 5
 4 Examination by Mr. Schoppe 138
 5 Further Examination by Mr. Collaer 241

6
 7 E X H I B I T S
 8 NO. DESCRIPTION PAGE
 9 74 - IDJC Human Resources Welcome Letter to 20
 10 Frank Farnworth, 10/17/03
 11 75 - Frank Farnworth's IDJC State Employee 30
 12 Orientation Certificate of
 13 Understanding, 10/20/03
 14 76 - Performance Improvement Plan Re: Frank 48
 15 Farnworth, 3/22/05
 16 77 - Performance Improvement Plan Re: Frank 51
 17 Farnworth, 8/23/12
 18 78 - Written Warning Record Re: Frank 55
 19 Farnworth, Date of Occurrence 5/5/12
 20 79 - Juvenile Grievance Procedure Form by 66
 21 Re: Frank Farnworth,
 22 5/5/12
 23 80 - Frank Farnworth's Narrative Re: 5/5/12 72
 24 Incident With
 25 (Exhibits continued on next page):

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1 E X H I B I T S (Continued):
 2 81 - Employee Performance Review Re: Frank 74
 3 Farnworth, 4/28/12
 4 82 - Employee Performance Review Re: Frank 82
 5 Farnworth, 4/14/11
 6 83 - Employee Performance Review Re: Frank 85
 7 Farnworth, 5/13/10
 8 84 - Employee Performance Review Re: Frank 93
 9 Farnworth, 5/4/09
 10 85 - Employee Performance Review Re: Frank 93
 11 Farnworth, 5/7/08
 12 86 - Employee Performance Review Re: Frank 93
 13 Farnworth, 4/5/07
 14 87 - Performance Evaluation Report Re: 94
 15 Frank Farnworth, 4/13/06
 16 88 - Performance Evaluation Report Re: 94
 17 Frank Farnworth, 4/21/05
 18 89 - Performance Evaluation Report Re: 100
 19 Frank Farnworth, 4/2/04
 20 90 - Letter From Sharon Harrigfeld to Frank 102
 21 Farnworth, 1/22/13, Re: Medical Layoff
 22
 23
 24
 25

Page 5

1 MR. COLLAER: Let the record reflect this is
 2 the time and place scheduled for the taking of the
 3 deposition of Frank Farnworth. The witness is present,
 4 represented by counsel.
 5 FRANK H. FARNWORTH,
 6 first duly sworn to tell the truth relating to said
 7 cause, testified as follows:
 8 EXAMINATION
 9 QUESTIONS BY MR. COLLAER:
 10 Q. Mr. Farnworth, have you ever had your
 11 deposition taken before?
 12 A. Yes, I have.
 13 Q. And how many times?
 14 A. At least three times that I'm aware of.
 15 Q. What were the circumstances of those other
 16 depositions?
 17 A. The initial one was when I worked at a
 18 juvenile drug rehab unit.
 19 Q. Okay.
 20 A. Then there was a taped deposition to Karin
 21 Magnelli in regards to Rhonda Ledford and a possible
 22 threat against her life.
 23 Q. When I say a "deposition," it's like what
 24 we're doing here today with a Court Reporter and there's
 25 a lawsuit or something going on. So, it sounds like --

1 A. Only one time and I was actually in court.
 2 Q. Were you in a proceeding like we are here this
 3 morning where there's a Court Reporter and people are
 4 asking you questions?
 5 A. No.
 6 Q. Because it sounds like when you talked to
 7 Ms. Magnelli, that sounds more like an interview with a
 8 tape recorder?
 9 A. Well, it -- yeah.
 10 Q. Now, the situation with the juvenile drug
 11 rehab unit, was that the same kind of an interview,
 12 taped interview thing, or was it --
 13 A. Yes, it was with the detective.
 14 MR. SCHOPPE: Be sure to wait until he's done
 15 asking the question.
 16 THE WITNESS: I'm sorry.
 17 Q. (BY MR. COLLAER) And was there a criminal
 18 case pending with that?
 19 A. No, it was just an investigation.
 20 Q. And what agency was the investigator
 21 affiliated with?
 22 A. Nampa Police Department.
 23 Q. Were they investigating a juvenile that was in
 24 the custody of the Department or what was the
 25 investigation about?

1 disclosed it, and then there was an investigation into
 2 those accusations?
 3 A. Yes.
 4 Q. And at the time were you working -- were you
 5 an employee of Juvenile Corrections at the time of this
 6 investigation?
 7 A. No.
 8 Q. And were you an employee of Mercy Medical at
 9 the time?
 10 A. Yes.
 11 Q. And so, I take it you were just asked to
 12 describe your interactions with this juvenile or what
 13 you saw in connection with the accused employee, those
 14 types of things?
 15 A. Yes.
 16 Q. Did you relate to the police that you had seen
 17 anything that was inappropriate as far as supporting the
 18 accusation of sexual abuse?
 19 A. No.
 20 Q. So, I take it these depositions you've
 21 referred to have all actually been investigations where
 22 people have asked you questions about something with a
 23 tape recorder going?
 24 A. Yes.
 25 Q. So, you've actually never been through a

1 A. It was an accusation of the juvenile against
 2 male staff at the facility that he had been sexually
 3 propositioned.
 4 Q. All right. And when did this interview take
 5 place?
 6 A. I want to say 1990.
 7 Q. And what became of the investigation?
 8 A. The charges were found to be false and they
 9 were dropped.
 10 Q. So, you say "the charges." You mean the
 11 accusations of the juvenile?
 12 A. Excuse me, yes, accusations were dropped,
 13 because there were no charges filed.
 14 Q. That was going to be my next question. Were
 15 criminal charges ever brought against any IDJC staff
 16 surrounding those allegations that you're aware of?
 17 A. This had nothing to do with IDJC.
 18 Q. Was this an alleged sexual abuse dealing with
 19 people in the community, private people, or in a
 20 different institutional setting?
 21 A. Essentially it was a private setting. It was
 22 a drug detox unit associated with Mercy Medical Center.
 23 Q. So, if I'm understanding, the allegation of
 24 the juvenile was that somebody connected with the
 25 hospital staff allegedly sexually abused him, he

1 deposition like we're doing right now?
 2 A. That would be correct.
 3 Q. Well, just as an explanation of what we're
 4 going to be doing, I'm going to be asking you a series
 5 of questions about trying to determine factually what
 6 you know or what you don't know about this lawsuit that
 7 you're a Plaintiff in. I'm not asking you to speculate
 8 about anything. I'm just asking for your best
 9 recollection of certain factual events.
 10 If I ask you a question that you don't know,
 11 don't hesitate, just tell me you don't know. If I ask
 12 you something you don't remember, tell me that too.
 13 What I don't want you to do is to speculate about facts
 14 that you don't actually know about.
 15 A. I understand.
 16 Q. I just want you to tell me what you do or
 17 don't know. It's important through the deposition that
 18 you and I try not to speak at the same time because the
 19 Court Reporter is taking down your testimony and it's
 20 difficult for her to do that when we both talk at the
 21 same time. So, I'll make every effort to not ask you
 22 another question until you're through answering the one
 23 I've already asked you.
 24 And when I'm asking the question, there will
 25 be times where you know what the question is and you'll

1 start answering before I get it all out. Again, just
2 wait for the question to come out before you start
3 answering and it will make it much easier for the Court
4 Reporter.

5 Throughout the day if you need to take a break
6 for any reason to stretch your legs or whatever, just
7 let me know and we can take breaks. The only caveat I
8 would put on that is if there is a question pending, I'm
9 going to ask that you answer the pending question before
10 you take a break. Okay?

11 If I ask you a question you don't understand,
12 let me know and I'll be happy to rephrase it or explain
13 my question so that we can understand each other. But
14 if I ask you a question and you answer it, I'm going to
15 assume that you understood the question. Is that fair?

16 A. Yes.

17 Q. Mr. Farnworth, could you please state your
18 full name and spell the last for the record, please.

19 A. Frank H. Farnworth, that's F-a-r-n-w-o-r-t-h.

20 Q. And Mr. Farnworth, where do you currently
21 reside?

22 A. 10781 Columbia Road, Boise, Idaho.

23 Q. And how long have you lived at Columbia Road?

24 A. I want to say 28 years.

25 Q. Are you currently married?

1 in the Middle East.

2 Q. And what branch of the service does your boy
3 serve in?

4 A. The oldest one is a Marine, the middle one is
5 Navy Reserve, and the is Air Force.

6 Q. So, all three boys are in the military?

7 A. Yes.

8 Q. Tell me, can you give me a rundown of your
9 educational background from high school forward.

10 A. I graduated Nampa High School in 1975 and in
11 1980 I took an LPN vocational class through the Nampa
12 School District, which was transferred to BSU. I
13 graduated with a certificate of nursing for practical
14 nursing.

15 Q. What year did you get your certificate?

16 A. 1981.

17 Q. Any other education after you got your LPN?

18 A. Nothing other than job related.

19 Q. Other than your LPN, do you hold any
20 professional licenses?

21 A. No.

22 Q. Have you held any professional licenses during
23 your career?

24 A. The only other one I had was the Bachelor's
25 license for -- it wasn't a Bachelor's license, the CDL.

1 A. Yes.

2 Q. And how long have you been married?

3 A. 28 years.

4 Q. Do you have any children?

5 A. Three.

6 Q. Have you had any other marriages other than
7 your current spouse?

8 A. Yes.

9 Q. How many times have you been married?

10 A. Three in total.

11 Q. All right. Are your children with your
12 current wife or with your other marriages?

13 A. With my current wife.

14 Q. So, your two prior marriages you didn't have
15 any children?

16 A. That is correct.

17 Q. And what are the ages of your children?

18 A. The one is 22, the next one up is 24,
19 the oldest is 27.

20 Q. Are they boys or girls?

21 A. All males.

22 Q. Are the boys all living here in the area or
23 are they gone?

24 A. One lives in Kuna, one is residing with my
25 wife and myself, and the other one is currently deployed

1 Q. For driving?

2 A. For commercial truck driving.

3 Q. Were you licensed through the Board of
4 Medicine as an LPN?

5 A. Yes.

6 Q. So, that would be a professional license
7 you've held during your professional career?

8 A. Yeah, I've had a license since '81. I have
9 never let it lapse.

10 Q. And that was going to be my next question: Is
11 your nursing license still current?

12 A. Yes.

13 Q. You said that you also held a CDL license.
14 Have you ever worked as a commercial truck driver?

15 A. From age 18 to 21.

16 Q. And that's when you then went to college and
17 got your LPN?

18 A. Correct.

19 Q. Tell me, could you give me just a rundown of
20 your work history as an LPN.

21 A. 14 years at Mercy Medical Center and then
22 eight years at the Nampa Juvenile Correction Center.

23 Q. Tell me, why did you leave Mercy Medical
24 Center?

25 A. The adolescent unit I was working on was

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1 closing and I had an opportunity to get a job at Micron
 2 at better pay.
 3 Q. Your job at Micron, did that have anything to
 4 do with your LPN training?
 5 A. No.
 6 Q. How long did you work at Micron?
 7 A. I want to say ten years.
 8 Q. And during those ten years you were working at
 9 Micron did you practice as a nurse at all?
 10 A. No.
 11 Q. But you maintained your license during those
 12 ten years?
 13 A. Yes.
 14 Q. To do that is it just paying the fee or do you
 15 have a continuing education requirement?
 16 A. The State of Idaho simply requires you to pay
 17 the fee.
 18 Q. Tell me, what years did you work at Micron?
 19 A. '92 to the fall of 2002.
 20 Q. And what were the circumstances of your
 21 leaving Micron?
 22 A. I had an opportunity to go back into nursing.
 23 I was offered a job at the Department of Juvenile
 24 Corrections.
 25 Q. Were you recruited or did you apply for a

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1 position with Juvenile Corrections?
 2 A. It was a general mailing. In essence there
 3 was, how would I say it, a 3 by 5 card mailed out to
 4 anybody that currently had a nurse's license within the
 5 State of Idaho to apply online for a position with the
 6 State.
 7 Q. Were you taking a pay cut to do this as
 8 opposed to your job at Micron?
 9 A. No, it was actually straight across.
 10 Q. And what was it that attracted you to that
 11 job? What interested you in going back into nursing?
 12 A. I've always enjoyed being a nurse and being in
 13 the medical field.
 14 Q. Your move to Micron, was that a purely
 15 financial decision?
 16 A. 50 percent financial, 50 percent burnout from
 17 being in the medical field. I needed a break.
 18 Q. Was there any kind of disciplinary action or
 19 anything pending with you at Mercy when you left to go
 20 to work at Micron?
 21 A. No.
 22 Q. Had you ever been the subject of any
 23 discipline or anything while you were working at Mercy
 24 Medical?
 25 A. No.

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1 Q. Tell me, when you applied at IDJC what
 2 specific job were you applying for?
 3 A. Licensed practical nurse.
 4 Q. And when the job was advertised, what was the
 5 pay scale?
 6 A. \$12.05 an hour.
 7 Q. And that was commensurate to what you were
 8 earning at Micron at the time?
 9 A. Yes.
 10 Q. Were the benefits similar?
 11 A. I thought they were initially.
 12 Q. Okay.
 13 A. I was given a prospectus of what their medical
 14 coverage was to compare to Micron. I found out after
 15 employment that what I had misunderstood as being the
 16 deductible was actually what the insurance paid, which
 17 was what I was paying as a deductible at Micron. So, it
 18 actually became substantially more expensive.
 19 Q. Sure. Were the vacation and retirement
 20 benefits similar?
 21 A. Yes.
 22 Q. Tell me, why don't you just describe for me
 23 the application process when you were first employed.
 24 A. I was called by Human Resources to set up an
 25 appointment for an interview. I went on said interview.

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1 It was with Betty Grimm and there was -- there was
 2 someone on conference call and I don't recall who it
 3 was.
 4 Q. Tell me, how long did your interview with
 5 Ms. Grimm and this person on the phone last?
 6 A. Approximately 45 minutes.
 7 Q. What do you recall the interviewers asking you
 8 about just generally?
 9 A. Generally about my nursing history, my
 10 knowledge, as well as presenting possible scenarios and
 11 asking for what I would do in case of.
 12 Q. So, it was kind of like a verbal test of your
 13 skills and your judgment, for lack of a better way to
 14 describe it?
 15 A. Right.
 16 Q. Was there anything about the interviewing
 17 process that you found distasteful or that you didn't
 18 like?
 19 A. No.
 20 Q. At the end of the interview what were you
 21 told?
 22 A. I was given a tour by Nurse Grimm of the
 23 entire facility. That included the Choices unit, the
 24 kitchen, the gym, the medical units, as well as the O&A
 25 or Observation & Assessment unit. So, essentially I was

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1 shown throughout the entire secure area of the facility.
 2 Q. Anything else you recall?
 3 A. There was a juvenile in shackles outside of
 4 one of the classrooms. At that time policy was if they
 5 were suicidal they were restrained within eyesight of a
 6 staff at all times. So, it was kind of a --
 7 Q. A different thing?
 8 A. It's a different world.
 9 Q. Different than what you had seen in the
 10 private setting in a hospital?
 11 A. Right, because in the private setting in a
 12 hospital you're not allowed to restrain.
 13 Q. Sure. Anything else you remember?
 14 A. After the interview I went out front and the
 15 LPN that was on duty came out and talked to me.
 16 Q. Do you recall who that individual was?
 17 A. That was Darla Crespín. She came out and had
 18 a cigarette and talked to me a little bit about my
 19 experience, what I thought of the facility. She was
 20 just generally -- we were talking. One of the -- I used
 21 to work for the Idaho State School & Hospital from 1975
 22 to 1980. During that time period Darla started out
 23 there as a nurse. So, I had known her for a couple of
 24 years from that.
 25 Q. You two had worked together at the State

Page 19

1 School?
 2 A. At that time I was a rehab tech. She was an
 3 LPN. So, we worked within the same area. So, I knew
 4 her.
 5 Q. Okay.
 6 A. So, essentially it was renewing an
 7 acquaintanceship.
 8 Q. Sure. And if you were hired the two of you
 9 would be working together?
 10 A. Together again.
 11 Q. At the end of this interview that you had --
 12 I'm assuming that happened out at the facility?
 13 A. Yes, it did.
 14 Q. Did they tell you what the next step in the
 15 hiring process was going to be?
 16 A. If I was offered the job I would have 24 hours
 17 to get to a lab that was in Meridian to have a urine
 18 drug screen run.
 19 Q. Sure.
 20 A. And then after that they would tell me -- that
 21 would be if the job was offered to me. And then after
 22 that they would tell me when I would need to report to
 23 Human Resources in Boise for training.
 24 Q. Was it your understanding there were other
 25 individuals applying for the job that you were?

Page 20

1 A. That was my understanding.
 2 Q. And did you understand the interview process
 3 was still ongoing with the other candidates?
 4 A. Yes.
 5 Q. How long after you interviewed were you
 6 contacted regarding whether they were going to hire you
 7 or not?
 8 A. I want to say four days.
 9 Q. And who contacted you?
 10 A. Nurse Grimm contacted my wife. I was on an
 11 elk hunting trip and I came down to Idaho City and
 12 called home, got the message that Nurse Grimm wanted to
 13 talk to me, and I immediately called her.
 14 Q. What did she tell you?
 15 A. She gave me the job offer and I accepted.
 16 Q. And after you accepted the job what was the
 17 next thing to happen in the process?
 18 A. I had to get back down to the valley to go to
 19 the lab to get the drug test.
 20 Q. The drug test, okay.
 21 (Exhibit 74 marked.)
 22 Q. (BY MR. COLLAER) I'm handing you what I've
 23 marked as Exhibit No. 74. Have you ever seen Exhibit
 24 No. 74 before?
 25 A. Yes.

Page 21

1 Q. And what is it?
 2 A. It is the offer of -- it's a letter of
 3 confirmation that they are confirming my acceptance of
 4 the licensed practical nurse position.
 5 Q. I see the date on this is October 17, 2003.
 6 Do you see that?
 7 A. Yes.
 8 Q. Do you recall when you received this letter in
 9 relation to when you got the phone call from Ms. Grimm
 10 offering you the position?
 11 A. It was actually after.
 12 Q. I'm assuming that. Do you have any
 13 recollection of how long after?
 14 A. I would say probably a week.
 15 Q. So, at the time that you received Exhibit
 16 No. 74 you would have gone down for your urine sample
 17 and done all of that?
 18 A. Yes.
 19 Q. Would you have received Exhibit No. 74 prior
 20 to or after the time you reported to HR for your
 21 orientation?
 22 A. I believe it came the day I was down in Boise.
 23 Q. Okay.
 24 A. I think it was in the mail when I got home.
 25 Q. Tell me, this letter talks about a "six-month

Page 22

1 probation." Do you see that?
 2 A. Yes.
 3 Q. What was your understanding of what your
 4 status would be during the time you were on probation?
 5 A. During the six months that you're on probation
 6 essentially they are evaluating your skills, your
 7 behavior, as well as your work ethics.
 8 Q. What I'm interested in is: What was your
 9 understanding regarding your continued employment after
 10 the probation? Was there a guarantee you would continue
 11 past six months? I'm asking for your understanding at
 12 the time.
 13 A. The six months is to determine whether or not
 14 they want to keep me as a full-time employee.
 15 Q. Was it your understanding that during that six
 16 months that the Department could let you go, terminate
 17 your employment for any reason that wasn't a
 18 discriminatory reason?
 19 A. Correct.
 20 Q. So, during that time you were an at-will
 21 employee?
 22 A. Essentially. I previously had worked for the
 23 State, so I was aware of the six months.
 24 Q. And what was your understanding of what an
 25 at-will employee was?

Page 23

1 A. I show up and during the first six months if
 2 at any time they determine they do not want me as an
 3 employee, all they have to do is simply say: "Don't
 4 come back tomorrow."
 5 Q. Sure. Assuming you successfully complete your
 6 probation, what was your understanding of how your
 7 status would change at that point?
 8 A. You would be given a six-month evaluation and
 9 that evaluation would determine whether or not you
 10 became a permanent employee.
 11 Q. Assuming you became a permanent employee or a
 12 classified employee -- you've heard of that before?
 13 A. Yes.
 14 Q. What was your understanding of what that meant
 15 to you? If you became a permanent classified employee,
 16 what did that mean?
 17 A. That changed the fact that they could not just
 18 at will send me home. They would have to show cause.
 19 Q. Sure. So, the Department's discretion to
 20 terminate your employment at that point is restricted to
 21 some extent?
 22 A. Yes.
 23 Q. And tell me, Exhibit No. 74 talks about a
 24 "general orientation during your first 30 days." Do you
 25 see that in the first paragraph on the front page?

Page 24

1 A. Yes.
 2 Q. What happened during that general orientation?
 3 A. On the first day I was at Human Resources in
 4 Boise. We went through documentation of applying for
 5 insurance, applying for direct deposit for our
 6 paychecks. We went through basic policies of what is
 7 probationary versus full time. Oh, basic computer
 8 skills. I'm trying to remember what else. There was
 9 also a video.
 10 Q. Tell me, on the second page of Exhibit No. 74
 11 there's a signature line. Do you see that?
 12 A. Yes, sir.
 13 Q. Do you recognize the signature?
 14 A. Yes, that is mine.
 15 Q. And is that your handwriting on the date also?
 16 A. Yes, that is.
 17 Q. Tell me, during your probation did you receive
 18 performance evaluations?
 19 A. No.
 20 Q. Did you receive any kind of negative
 21 evaluations or warnings or anything of that nature
 22 during your probation?
 23 A. No.
 24 Q. And I presume you did successfully complete
 25 your probation at the end of six months?

Page 25

1 A. Yes.
 2 Q. At that time were you given a performance
 3 evaluation evaluating your performance during your
 4 probation?
 5 A. Yes.
 6 Q. And was that evaluation favorable or not?
 7 A. It was favorable.
 8 Q. Was it "meets expectations"?
 9 A. I believe it, yeah, stated it "meets."
 10 Q. Who were your supervisors during your
 11 probationary period?
 12 A. Betty Grimm.
 13 Q. And what was her position with the Department
 14 at that time if you can recall?
 15 (Discussion held off the record.)
 16 MR. COLLAER: Could you read the last question
 17 back.
 18 (Record read back.)
 19 THE WITNESS: She was the director of nursing
 20 service of the Nampa facility as well as the director of
 21 the facilities in Lewiston and in St. Anthony.
 22 Q. (BY MR. COLLAER) Okay.
 23 A. So, she was state wide.
 24 Q. So, if I understand, she supervised the nurses
 25 in the Nampa facility and also nurses in other

Page 26

1 facilities also?
 2 A. Yes.
 3 Q. But she wasn't the director, the
 4 superintendent of the entire facility?
 5 A. Correct.
 6 Q. Was she still a working nurse at the time?
 7 A. Yes.
 8 Q. And tell me, during your probation how did the
 9 two of you get along with her as your supervisor and you
 10 as her employee?
 11 A. We got along very well.
 12 Q. Did that relationship change during the eight
 13 years you were at IDJC?
 14 A. No.
 15 Q. So, at all times you and Betty Grimm got along
 16 very well?
 17 A. Yes.
 18 Q. Tell me, after you ended your probation, how
 19 long did you have other supervisors other than
 20 Ms. Grimm?
 21 A. I want to say it was -- Betty was my
 22 supervisor for three years. That name just went out of
 23 my head. I had another supervisor in there for one
 24 year. I then had another supervisor, Ruth Davis, for
 25 two years.

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1 Q. Ruth Davis?
 2 A. Ruth Davis. And then my most current one,
 3 Jeanette Angell.
 4 Q. This individual that supervised you for one
 5 year after Betty, do you just not recall that
 6 individual's name at all?
 7 A. I do not.
 8 Q. That's fine.
 9 A. I do not.
 10 Q. And did you have any conflicts with that
 11 individual as your supervisor?
 12 A. I did not.
 13 MR. SCHOPPE: You'll have a chance to review
 14 your transcript once it's out. And if it occurs to you,
 15 or if it occurs to you before we're done, just say so.
 16 Q. (BY MR. COLLAER) I've got your performance
 17 evaluations. We'll go through them and that may have
 18 that individual's name on it.
 19 A. It does.
 20 Q. Ms. Davis, any conflicts with Ms. Davis while
 21 she was your supervisor?
 22 A. Yes.
 23 Q. Why don't you tell me about that.
 24 A. At one point she started counseling me on a
 25 monthly basis due to an odor that was reported to her

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1 from individuals, which resulted in a lot of changes.
 2 First it was hygiene, then it was my clothes aren't
 3 clean enough. I actually had to buy a new washing
 4 machine. I went through multiple soaps, deodorants,
 5 colognes.
 6 Q. Okay.
 7 A. It ultimately ended in having a surgical
 8 procedure done because she continued to say that there
 9 was this odor.
 10 Q. Tell me, what time frame was this happening?
 11 A. That was -- let's see. It was over a two-year
 12 period, approximately three years ago.
 13 Q. This conflict over this odor issue, was it
 14 ever part of a problem solving or grievance or anything
 15 of that nature?
 16 A. Problem solving, yes.
 17 Q. Did you file a problem solving?
 18 A. I did not file a problem solving. She --
 19 excuse me. She was doing a monthly counsel on it.
 20 Q. Okay.
 21 A. So --
 22 Q. But you did not file a problem solving asking
 23 somebody to say: "Hey, this is not right" or "Something
 24 is wrong here"?
 25 A. The problem solving procedure doesn't allow

Page 29

1 you to jump your supervisor.
 2 Q. Understood.
 3 A. And it was my supervisor that was bringing
 4 this up.
 5 Q. But you didn't file a problem solving with
 6 your supervisor, a formal problem solving?
 7 A. It was being evaluated every month.
 8 Q. Did you understand the problem solving process
 9 allowed you to go to your supervisor first and then up
 10 the chain of command?
 11 A. Not at that point. It only allowed you to go
 12 to your supervisor. You could not jump your supervisor.
 13 Q. I understand you couldn't start --
 14 A. No, you can't --
 15 Q. You had to start -- was it your understanding
 16 that after you took it to your supervisor you couldn't
 17 take it any further?
 18 A. Correct. That is the problem solving
 19 procedure at that point, was your supervisor was the
 20 top.
 21 Q. All right. So, this isn't something that you
 22 could have brought to the attention of Betty Grimm as
 23 the superintendent of the facility?
 24 A. No.
 25 Q. Any other conflicts with Ms. Davis?

Page 30

1 A. No.
 2 Q. This odor issue, it didn't sound like it
 3 involved anything dealing with how you provided nursing
 4 services to juveniles?
 5 A. Correct.
 6 Q. Jeanette Angell, how long was she your
 7 supervisor?
 8 A. A year and a half.
 9 Q. And did you have any conflicts with
 10 Ms. Angell?
 11 A. No.
 12 Q. How did it come to pass that Ms. Angell became
 13 your supervisor instead of Ms. Davis?
 14 A. Ms. Davis resigned.
 15 Q. Do you know the circumstances of Ms. Davis's
 16 resignation?
 17 A. No.
 18 Q. Tell me, during the time that -- we touched on
 19 this just a minute ago. During the time that you were
 20 employed with IDJC, was it your understanding that you
 21 possessed certain grievance rights through the problem
 22 solving process?
 23 A. It depended upon which version you used.
 24 Q. Well, let me show you some materials.
 25 (Exhibit 75 marked.)

Page 31

1 Q. (BY MR. COLLAER) Handing you what I've marked
 2 as Exhibit No. 75, have you ever seen Exhibit No. 75
 3 before?
 4 A. I have.
 5 Q. And what is Exhibit No. 75?
 6 A. It is the "Orientation Certification of
 7 Understanding."
 8 Q. Down at the bottom under the "Employee's
 9 Signature" line, do you see a signature there?
 10 A. I do.
 11 Q. Whose is it?
 12 A. It is mine.
 13 Q. And is the handwriting on the date your own?
 14 A. It is, of '03.
 15 Q. Opposite all of these policies that are listed
 16 here there's a line with initials. Do you recognize the
 17 initials on each of those lines?
 18 A. I do.
 19 Q. Whose initials are those?
 20 A. They are mine.
 21 Q. And is it your handwriting?
 22 A. Yes, it is.
 23 Q. Tell me, did you review and familiarize
 24 yourself with each of these policies before you
 25 initialed Exhibit No. 75?

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1 A. I did.
 2 Q. Did you have any questions about any of the
 3 policies that you were reviewing?
 4 A. I did not.
 5 Q. Any disagreements with any of the policies you
 6 were reviewing?
 7 A. No.
 8 Q. Focusing on policy 369.1, "Due Process," do
 9 you see that?
 10 A. Yes.
 11 Q. Is that the problem solving? Did that include
 12 the problem solving policy?
 13 A. (Reviewing document.) I don't recall.
 14 Q. You just don't know one way or another as
 15 you're sitting here?
 16 A. Yes.
 17 Q. The policy with "Family and Medical Leave Act"
 18 of 332.2, do you see that?
 19 A. Yes.
 20 Q. Did you understand that policy at the time you
 21 initialed this?
 22 A. Yes, I did.
 23 Q. In fact, you've utilized the FMLA leave, have
 24 you not, during your employment?
 25 A. I have.

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1 Q. Have you ever requested FMLA leave and been
 2 denied leave by the Department?
 3 A. No.
 4 Q. There's also a policy for "Harassment,"
 5 366.30. Do you see that?
 6 A. Yes.
 7 Q. What is your recollection of what that policy
 8 involved?
 9 A. My recollection is it was mostly sexual
 10 harassment.
 11 Q. Is there also a section in there for general
 12 harassment that isn't sexual in nature?
 13 A. I don't recall.
 14 Q. In the book before you you've got -- the white
 15 book, could you look at Exhibit No. 22 in the book.
 16 A. (Witness complied.)
 17 MR. SCHOPPE: I believe it's back one.
 18 THE WITNESS: There is nothing in there.
 19 That's why I was backing up to 21. There is no Exhibit
 20 No. 22 in this book.
 21 THE COURT REPORTER: (Handing.)
 22 Q. (BY MR. COLLAER) Okay, you've got No. 22 in
 23 front of you?
 24 A. Yes.
 25 Q. And the number on that is 369.1; is it not?

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1 A. Yes.
 2 Q. And that's the problem solving policy;
 3 correct?
 4 A. Correct.
 5 Q. The effective date, it shows an effective date
 6 from the year 2000 and then a revised in 2012. Do you
 7 see that?
 8 A. Yes.
 9 Q. Is this the policy, the problem solving policy
 10 that would have been in place during the time you were
 11 having this conflict with your supervisor over this odor
 12 issue?
 13 A. No.
 14 Q. And why not?
 15 A. The policy was effective 2000. However, it
 16 was revised 2012. You do not have the original wording
 17 of 2000 on this policy. It was changed in 2012.
 18 Q. How was it changed?
 19 A. I couldn't tell you. I don't have the
 20 original.
 21 Q. Why don't you take a look at Exhibit No. 21.
 22 A. (Witness complied.)
 23 Q. Isn't that the same policy that was earlier
 24 than 2012?
 25 A. It was revised in 2010.

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1 Q. And so, this issue with this odor issue
 2 predated 2010?
 3 A. Approximately about then. Was it '09 or '10?
 4 Either way, you don't have the original wording of the
 5 2000, the one that I read that I actually -- in other
 6 words, when they --
 7 Q. I understand that. My question is: Was
 8 Exhibit No. 21 the problem solving policy that was in
 9 place at the time that you were having this conflict
 10 with your supervisor about odor?
 11 A. (Reviewing document.) No, there's a change in
 12 here.
 13 Q. Well, if this is the policy from 2010 until
 14 2012 --
 15 A. It was revised in August of 2010.
 16 Q. Okay.
 17 A. When she started documenting me was prior to
 18 that.
 19 Q. But did this issue with her continue past
 20 August of 2010?
 21 A. Yes.
 22 Q. So, at least sometime during the time that
 23 this issue was ongoing Exhibit No. 21 was the problem
 24 solving policy; correct?
 25 A. Became the policy.

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1 Q. All right. Did you file a request for problem
 2 solving under Exhibit No. 21 dealing with the odor issue
 3 that was ongoing during that time?
 4 A. No, because the problem started prior to when
 5 this became policy.
 6 Q. Okay.
 7 A. When the wording was changed.
 8 Q. So, are you telling me -- does Exhibit No. 21
 9 allow you to file a problem solving dealing with that
 10 issue that could eventually be appealed to the
 11 superintendent of the facility?
 12 A. The initial problems were under a different
 13 policy. So, I couldn't use this policy simply because
 14 the policy had changed, because I was being reprimanded
 15 or counseled under the old policy.
 16 Q. All right.
 17 A. And the step was not there.
 18 Q. Under the old policy --
 19 A. Under the old policy.
 20 Q. -- the ability to take your problem solving
 21 past your supervisor you're saying didn't exist?
 22 A. Correct.
 23 Q. And it's your position that you couldn't
 24 utilize Exhibit No. 21 because the issue had started
 25 prior?

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1 A. Correct.
 2 Q. But it was ongoing during the time 21 was in
 3 effect?
 4 A. Yes.
 5 Q. Did you ask anybody whether you had the
 6 ability to problem solve past your supervisor after
 7 Exhibit No. 21 was adopted?
 8 A. No.
 9 Q. That was just your interpretation of it?
 10 A. The interpretation was how it was written and
 11 that was -- yeah.
 12 Q. Tell me, at any time during your employment at
 13 Corrections did you ever utilize the problem solving
 14 policy for any purpose?
 15 A. Yes.
 16 Q. Other than this odor issue, any others?
 17 A. Yes.
 18 Q. Why don't you tell me about those.
 19 A. That is what brought us here today. I was
 20 given a written warning by my supervisor that was
 21 created by her while I was on vacation and was presented
 22 to me by Human Resources, Pat Thomson, while my
 23 supervisor was on vacation. And it presented a
 24 hypothetical situation, which I had no problem with
 25 because if the situation existed, then actions needed to

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1 be done. This was done in the presence of
 2 Superintendent Grimm in her office. They had me sign
 3 the paper stating that I had received it.
 4 Q. Okay.
 5 A. And that is why Superintendent Grimm was
 6 there, was just simply to be a third party to witness
 7 that I had received it. And the incident report that
 8 was attached to it was irrelevant to what the written
 9 warning was.
 10 Q. And was this written warning placed in your
 11 personnel file?
 12 A. It was placed in my personnel file.
 13 Q. And do you remember when that happened?
 14 A. That would have been July of 2011.
 15 Q. So, July of 2011 is when you received the
 16 written warning?
 17 A. Yes.
 18 Q. And you believe that you then requested
 19 problem solving with respect to that written warning?
 20 A. Yeah, I went to my supervisor when she
 21 returned from vacation.
 22 Q. And after it went to your supervisor -- how
 23 was it resolved before your supervisor?
 24 A. There was no resolution before my supervisor
 25 because the first person I had to talk to was my

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1 supervisor.
 2 Q. Right, but after you talked to your
 3 supervisor, you presented your request for problem
 4 solving with your supervisor, what was the outcome at
 5 that level?
 6 A. I was informed that the documents that I was
 7 questioning were in fact not in my personnel file.
 8 Q. Okay.
 9 A. And I asked if she could check again. And
 10 after the second time that she had checked, I became --
 11 let's see. How was -- I was put on a six-week nursing
 12 evaluation.
 13 Q. Tell me, when you filed your request for
 14 problem solving with your supervisor, what specific
 15 relief were you asking for?
 16 A. The paperwork be corrected.
 17 Q. To reflect what?
 18 A. The incident that had happened that was
 19 documented, that was attached to the paperwork, were two
 20 other nurses at another time with the same juvenile.
 21 Q. Did this involve an incident where they felt
 22 that you had shaken the juvenile or --
 23 A. That was the hypothetical, yes.
 24 Q. And we've got the written warning. We can
 25 talk about it in a moment. But the request for problem

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1 solving you say that you filed asked to correct factual
 2 statements in that written warning?
 3 A. Not in the written warning, in the incident
 4 report, the narrative that was attached to it.
 5 Q. All right. Did your problem solving request
 6 ask that the written warning be removed from your
 7 personnel file?
 8 A. Yes.
 9 Q. And what happened at your supervisor level?
 10 What happened?
 11 A. Nothing.
 12 Q. Did you ask it to be reviewed any further?
 13 Meaning did you --
 14 A. I don't recall.
 15 Q. Meaning did you take the problem solving then
 16 to Superintendent Grimm?
 17 A. I took the problem solving to Human Resources.
 18 Q. My question is: Did you then --
 19 A. No.
 20 Q. -- appeal it to Superintendent Grimm?
 21 A. No.
 22 Q. Why not?
 23 A. She had actually had a chance to see some of
 24 the documentation at the time that I signed it, but it
 25 was removed from her grasp by Pat Thomson, Human

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1 Resources, saying that she neither had to review it nor
 2 sign it.
 3 Q. Your problem solving, after it was resolved at
 4 your supervisor level did you try to appeal it to Sharon
 5 Harrigfeld?
 6 A. I mentioned it in one of the first
 7 conversations I had with her.
 8 Q. Well, my question is: Did you actually file
 9 an appeal of your problem solving asking Ms. Harrigfeld
 10 to review it?
 11 A. No.
 12 Q. Did you ever file an appeal of your problem
 13 solving to the Personnel Commission?
 14 A. No.
 15 Q. Why not?
 16 A. At every level that I had been to at that
 17 point I was told that the paperwork that I had initially
 18 been given was not in my personnel file.
 19 Q. Tell me, during your employment with IDJC did
 20 you receive periodic pay raises?
 21 A. When merited by the State.
 22 Q. When you say "merited by the State," can you
 23 explain that to me.
 24 A. If the budget has no money for raises, there
 25 are no raises that year.

1 Q. But if the legislature appropriated the money,
 2 you received pay raises?
 3 A. If my evaluation was meets or exceeds.
 4 Q. Did you ever receive an evaluation that was
 5 not meets or exceeds?
 6 A. No.
 7 Q. Have you ever received a negative performance
 8 evaluation?
 9 A. No.
 10 Q. I understand a number of your evaluations
 11 were -- when you say "meets" or "exceeds," were there
 12 higher levels of performance that could be noted on
 13 those evaluations?
 14 A. Yes.
 15 Q. Why don't you explain that to me.
 16 A. Essentially there's four levels. One is "does
 17 not meet," which means that you are not performing the
 18 basic level of your job function.
 19 Q. And you never had anything at that level?
 20 A. Not that I'm aware of. "Meets" is just
 21 exactly that, you are able to meet all of the basic
 22 standards and guidelines of your job. "Exceeds" means
 23 that you've gone above and beyond what the basic
 24 standards are. And then there's "exemplary," which is
 25 the top level, which means you are doing not only your

1 Q. Who?
 2 A. Darla Crespin, Cristy Cobb, that's about --
 3 those two I know of.
 4 Q. Were their evaluations at the very highest
 5 level, if you know?
 6 A. Not that I was aware of.
 7 Q. Were their evaluations at the solid sustained
 8 level?
 9 A. A majority of them were.
 10 Q. And that's where many of yours were too;
 11 weren't they?
 12 A. Yes.
 13 Q. Tell me, do you have any disagreement of
 14 higher performance evaluations being afforded to
 15 Ms. Crespin or Ms. Cobb as compared to your own?
 16 A. No, I have no problem with that.
 17 Q. You would agree that they were good, exemplary
 18 employees?
 19 A. Yes.
 20 Q. And that they deserved the evaluation that
 21 they received?
 22 A. Yes.
 23 Q. Tell me, did you at any time during your
 24 employment, did you ever receive any notices of
 25 contemplated disciplinary action?

1 job, you are doing extra duties, you are doing extra
 2 tasks, you are taking on projects unsupervised and
 3 completing them.
 4 Q. Looking at your evaluations, of them how many
 5 were above the meets expectations level?
 6 A. I'd say probably at least half.
 7 Q. And when you received those, I think they're
 8 called "solid sustained"?
 9 A. Correct, right.
 10 Q. If there's money available, that impacts the
 11 amount of your pay raise?
 12 A. Yes, the higher level you are the higher the
 13 percentage of raise that you will get.
 14 Q. Were you aware of employees at the Department
 15 who did not receive pay raises but whose performance
 16 evaluations were meets or exceeds?
 17 A. Could you repeat that?
 18 Q. I would be happy to. Are you aware of any
 19 employees at the Department while you were working there
 20 who received pay raises but whose performance was below
 21 meets expectations?
 22 A. No.
 23 Q. Are you aware of nurses whose performance
 24 evaluations were ranked higher than your own?
 25 A. Yes.

1 A. Not that I'm aware of.
 2 Q. When I say a "notice of contemplated
 3 disciplinary action," what does that mean to you?
 4 A. A notice of disciplinary action is the fact
 5 that there is a behavior or attitude that is not
 6 acceptable.
 7 Q. Okay.
 8 A. And that there will be steps that need to be
 9 done to correct and/or change.
 10 Q. Would you agree that you would expect a notice
 11 of disciplinary action would be something where the
 12 Department advises the employee that: "We understand
 13 you have done these things and if these things are true
 14 we're going to take this action, whether it be to
 15 terminate your employment, demote you, or suspend you
 16 without pay, take formal discipline of that nature"?
 17 That's what I'm interested in.
 18 MR. SCHOPPE: Objection, calls for
 19 speculation, an incomplete hypothetical.
 20 Q. (BY MR. COLLAER) Is that your understanding
 21 of what a notice of contemplated action would involve,
 22 that type of a hypothetical situation?
 23 A. I would assume that.
 24 Q. And you never received anything of that nature
 25 during your employment; did you?

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1 A. No.
 2 Q. And were you ever disciplined from the
 3 standpoint of your pay was cut, you were demoted or
 4 suspended without pay, anything of that nature?
 5 A. No.
 6 Q. Were you ever transferred to a position that
 7 you didn't like --
 8 A. No.
 9 Q. -- at any time?
 10 A. No.
 11 Q. Did you ever apply for a promotion within the
 12 Department?
 13 A. No.
 14 Q. Did you ever apply for any other jobs other
 15 than the one you held?
 16 A. No. I have a clarification.
 17 Q. Sure.
 18 A. It was not a different job, but at one point I
 19 applied for the LPN position in Lewiston.
 20 Q. Okay. And when did that happen?
 21 A. It was when Ruth Davis was my supervisor.
 22 Q. Could you give me a year?
 23 A. I want to say 2010, 2009.
 24 Q. You said an OPM?
 25 A. LPN. It was the same position, just a

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1 different facility.
 2 Q. And why were you interested in moving to
 3 Lewiston?
 4 A. Because of the situation within the clinic
 5 that I was experiencing with Ruth being my supervisor.
 6 Q. You wanted to get away from --
 7 A. I wanted to get out of here, yes.
 8 Q. And was somebody else, somebody other than
 9 yourself, hired for that position?
 10 A. Yes.
 11 Q. Do you know who that person was?
 12 A. I don't recall their name now.
 13 Q. Was it male or female?
 14 A. It was a female.
 15 Q. Were you given any explanation as to why you
 16 were not hired for the position?
 17 A. The other person was local to the area, so it
 18 was easier for them than for me to relocate, and they
 19 felt that the other person was better qualified.
 20 Q. Who was involved in the hiring decision?
 21 A. That would have been Wendy Damman, and I'm
 22 trying to remember who the supervisor up there is.
 23 Their superintendent and -- Nick Brillion was the third
 24 person, Bernatz.
 25 Q. Do you know if anybody from the Nampa facility

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1 had any interaction or involvement in your application
 2 for that LPN position?
 3 A. Not that I was aware of.
 4 Q. Are you aware of or do you believe that
 5 anybody from Nampa in any way had a hand in you not
 6 getting that position?
 7 A. Not that I was aware of.
 8 (Exhibit 76 marked.)
 9 Q. (BY MR. COLLAER) I'm handing you what I've
 10 marked as Exhibit No. 76. Would you identify No. 76 for
 11 me, please.
 12 A. This would be a written performance
 13 improvement plan.
 14 Q. Are you finished?
 15 A. (Witness nodding head.)
 16 Q. Tell me, the date of this is 2005 and it's
 17 signed by Betty Grimm as your supervisor.
 18 A. Mm-hmm.
 19 Q. Mr. Farnworth, you need to answer audibly --
 20 A. I'm sorry.
 21 Q. -- with "yes" or "no" for the record.
 22 A. Yes.
 23 Q. At this time was Ms. Grimm your day-to-day
 24 supervisor?
 25 A. Yes.

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1 Q. And do you recall sitting down with Ms. Grimm
 2 when this performance improvement plan was created and
 3 did you discuss with her what was expected of you?
 4 A. Yes.
 5 Q. Why don't you describe as best you can
 6 recollect that meeting and the discussion you had with
 7 Ms. Grimm at that time.
 8 A. We discussed each line item individually.
 9 Unbeknownst to me, my wife had been calling and asking
 10 about my time sheet, vacation time, when I would be
 11 getting paychecks, as well as she would call and ask if
 12 I could have time off scheduled without necessarily my
 13 knowledge.
 14 Q. Okay.
 15 A. The second item was because I failed to read a
 16 communication log and because of that the treatment that
 17 was supposed to be done on a day was missed.
 18 Q. And that actually happened?
 19 A. That actually happened.
 20 Q. Okay.
 21 A. The treatment was picked up the next day when
 22 I did it, but we had already missed one.
 23 Q. Sure. So, a mistake had been made?
 24 A. Yes. The third item was Betty wanted me to
 25 become more proactive and -- there are certain visual

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1 tasks that you can see within the clinic whether or not
 2 they are done or not done. However, she felt that I was
 3 not necessarily contributing to my share.
 4 Q. Okay.
 5 A. The fourth item, that one is hard. At the
 6 time juveniles would haul trash from the kitchen to the
 7 dumpster because it was inside the secure area. And I
 8 was made aware one evening that the juveniles had gotten
 9 into the trash bin and had killed a squirrel. The
 10 person that was with them was the cook. The person that
 11 should have reported the incident was the cook. I was
 12 made aware of the incident because I was doing a
 13 medication pass when the cook left and he made a comment
 14 that they had stomped a squirrel to death in the
 15 dumpster, and I failed to notify my supervisor.
 16 Q. So, how long did you and Ms. Grimm talk about
 17 Exhibit No. 76 when the two of you met and discussed it?
 18 A. Probably about 30 minutes.
 19 Q. And did you disagree with any of the items
 20 that she was listing here that she wanted you to work
 21 upon and improve upon?
 22 A. I had no problem with any of it.
 23 Q. Did you comply with the directions that she
 24 gave you?
 25 A. Yes.

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1 Q. Did you feel that it helped you to improve
 2 your performance?
 3 A. Yes.
 4 Q. So, did you feel this was a negative thing or
 5 somewhat of a positive management action she did?
 6 A. Positive because it gave me some direction
 7 that I needed.
 8 MR. SCHOPPE: Is this a good time for a break?
 9 (Recess held.)
 10 MR. COLLAER: We're back on the record.
 11 (Exhibit 77 marked.)
 12 Q. (BY MR. COLLAER) Mr. Farnworth, I'm going to
 13 hand you what I've marked as Exhibit No. 77. Have you
 14 ever seen Exhibit No. 77 before?
 15 A. Yes.
 16 Q. And what is it?
 17 A. It's a performance improvement plan.
 18 Q. And it's from Jeanette Angell?
 19 A. Yes.
 20 Q. And she was your supervisor in August of 2012?
 21 A. Yes.
 22 Q. Tell me, was there a meeting between you and
 23 Ms. Angell discussing the improvement plan that's
 24 documented on Exhibit No. 77?
 25 A. Pardon?

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1 Q. Did a meeting occur between yourself and
 2 Ms. Angell where the two of you discussed the
 3 improvement plan that is comprised in Exhibit No. 77?
 4 A. Yes, we did have a meeting.
 5 Q. Why don't you, as with the other improvement
 6 plan, could you describe for me just as best you can
 7 recollect what happened during that meeting.
 8 MR. SCHOPPE: Object to the form, calls for a
 9 narrative. Answer as well as you can.
 10 THE WITNESS: To the best of my recollection,
 11 we covered all items, had a discussion of each, and if
 12 possible we were able to resolve it at that time. And
 13 if we were unable to resolve it at that time it was put
 14 on a "to do" item in the future.
 15 Q. (BY MR. COLLAER) On the second page do you
 16 see your signature under the line "Frank Farnworth"?
 17 A. I do.
 18 Q. All right. You said there were items that
 19 were resolved at the time of this meeting between
 20 yourself and Ms. Angell. What items were you referring
 21 to?
 22 A. One of them was the project for the first aid
 23 kits.
 24 Q. Anything else?
 25 A. The other one was item No. 5, in that I was

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1 following up with my own family physician.
 2 Q. Anything else?
 3 A. The rest of them were ongoing.
 4 Q. You say "ongoing." These were just things you
 5 were supposed to accomplish during this 90-day
 6 improvement plan?
 7 A. With the exception that we had weekly meetings
 8 to see whether or not things were completed or where I
 9 was with progress.
 10 Q. Tell me, did you disagree with any of the
 11 items or the things that Ms. Angell wanted you to
 12 improve during this 90 days?
 13 A. I had no problems with any of it.
 14 Q. Again, did you consider this improvement plan
 15 to be an adverse or a negative thing or something aimed
 16 to help you improve as an employee?
 17 A. To improve.
 18 Q. Did you feel like you were being disciplined
 19 when this was done?
 20 A. No, I was having behaviors brought to my
 21 attention that I had obviously missed.
 22 Q. So, you didn't disagree with this being done?
 23 A. No.
 24 Q. There's a reference here in the first
 25 paragraph of "HR investigating an allegation against

1 you." Do you see that?
 2 A. Yes.
 3 Q. And what was that allegation, if you know?
 4 A. The allegation was that I was accused of
 5 choking a juvenile.
 6 Q. Was that the incident that was part of a
 7 written warning you received?
 8 A. Yes.
 9 Q. All right. After this improvement plan was
 10 put in place did you successfully complete it?
 11 A. No.
 12 Q. And explain that to me.
 13 A. During the 90-day period there was a health
 14 related problem and my doctor took me off of work.
 15 Q. Was that when you were off work for and
 16 received FMLA leave?
 17 A. Yes.
 18 Q. How long into the 90-day period did you start
 19 your FMLA leave?
 20 A. This was the 23rd. I want to say
 21 September 9th.
 22 Q. So --
 23 A. Approximately less than a month.
 24 Q. All right. I was going to say if the date of
 25 this memorandum is August 23rd -- so, about two weeks or

1 Q. And is the date of your signature the first
 2 time that you had seen this warning?
 3 A. Yes.
 4 Q. And when you were given this document who was
 5 present?
 6 A. Superintendent Grimm, Pat Thomson, Human
 7 Resources.
 8 Q. And did Ms. Thompson give you --
 9 A. Mr.
 10 Q. Did Mr. Thomson hand you the written copy of
 11 the warning?
 12 A. Yes, he did.
 13 Q. This happened in Mr. Thomson's office?
 14 A. No, in Superintendent Grimm's office.
 15 Q. And how long were you there on that occasion
 16 in Ms. Grimm's office when this was given to you?
 17 A. About 20, 25 minutes.
 18 Q. Can you just recollect for me as best you can
 19 what was discussed or said by the people that were there
 20 during those 20, 25 minutes?
 21 A. Pat Thomson said -- handed this document to me
 22 and said: "Read it, sign it." He additionally had
 23 handed a copy to Superintendent Grimm. I read the
 24 document and I was instructed that I needed to talk to
 25 my supervisor, which is part of the process, when she

1 so.
 2 A. Approximately.
 3 Q. After you went on FMLA leave did you ever
 4 return back to work?
 5 A. I did not.
 6 Q. We'll talk about that in a moment.
 7 (Exhibit 78 marked.)
 8 Q. (BY MR. COLLAER) Handing you what I've marked
 9 as Exhibit No. 78, do you recognize No. 78?
 10 A. Yes.
 11 Q. And what is it?
 12 A. This was the written warning record that was
 13 presented to me in Superintendent Grimm's office.
 14 Q. And the supervisor was Ms. Angell?
 15 A. She was, yes.
 16 Q. All right. And you see your signature on the
 17 back page?
 18 A. Yes.
 19 Q. And is that your handwriting for the date
 20 also?
 21 A. That is.
 22 Q. All right. And I think you indicated before
 23 you were on vacation when this warning was initially
 24 written?
 25 A. Yes.

1 returned from vacation.
 2 Q. Anything else that was said during those 20,
 3 25 minutes?
 4 A. Yeah, because the entire document is not here.
 5 Q. What's missing?
 6 A. The incident report that went with it.
 7 Q. Anything else you talked about?
 8 A. Other than -- no.
 9 Q. Tell me, how long, how much time elapsed from
 10 the time you received Exhibit No. 78 until you were able
 11 to speak with your supervisor, Ms. Angell, about the
 12 warning?
 13 A. Almost two weeks.
 14 Q. And that is because she was on vacation during
 15 those two weeks?
 16 A. That is correct.
 17 Q. Did you talk with anybody else about the
 18 written warning in the interim?
 19 A. No.
 20 Q. When Ms. Angell returned to work and the two
 21 of you visited about this, when did that happen?
 22 A. It was August. It was August. I'd have to
 23 actually look at the schedule to see the actual day.
 24 Yeah, I'm not going to guess.
 25 Q. All right. Do you recall, did you meet in

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1 your supervisor's office or --
 2 A. Yes.
 3 Q. Do you recall how long the two of you met to
 4 discuss the written warning?
 5 A. I'd say 15 minutes at the most.
 6 Q. And could you just describe for me as best you
 7 can recollect what was said during that meeting with
 8 Ms. Angell.
 9 A. I told her that as this was presented it's a
 10 hypothetical situation and I agree with it being a
 11 hypothetical situation, but I do not believe since I was
 12 not reprimanded --
 13 Q. I understand.
 14 A. -- nor was I -- I mean, this occurred back on
 15 May 5th and here we are clear out in July, August. That
 16 at the time I had been told I was cleared, there was no
 17 wrongdoing. And I showed her the entire document that I
 18 had been presented with.
 19 Q. Okay.
 20 A. And asked her one, it be updated to what I
 21 had, the narrative.
 22 Q. That you had prepared?
 23 A. That I had prepared.
 24 Q. And was the narrative included in your
 25 personnel file?

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1 A. My narrative was eventually, yes.
 2 Q. All right. And that's something you asked her
 3 to do?
 4 A. Yes, and I asked her to remove the other one.
 5 She said the other one was never there.
 6 Q. What do you mean by "the other one"? The IR?
 7 A. Yeah, it was not the IR, it was a narrative.
 8 Q. That who had created?
 9 A. I could not tell you. All I know is it was a
 10 handwritten narrative that was attached. You've only
 11 given me half of the document that I was presented with.
 12 Q. Was it a grievance from the juvenile?
 13 A. No, I was not made aware of that until after
 14 September.
 15 Q. Had the juvenile actually filed a grievance?
 16 A. He actually had, as I found out in September,
 17 which is against policy.
 18 Q. Tell me, do you recall if the grievance
 19 described events different from those that are described
 20 in Exhibit No. 78?
 21 A. (Reviewing document.) Different than?
 22 Q. Yes.
 23 A. Yes.
 24 Q. How so? What was the difference?
 25 A. It described a different scenario, situation,

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1 nursing staff.
 2 Q. But in his grievance did the juvenile allege
 3 that you had handled him improperly or shook him?
 4 A. I believe he said that I shook and choked him.
 5 Q. And tell me, was that grievance investigated?
 6 MR. SCHOPPE: Objection as to foundation.
 7 THE WITNESS: I don't know.
 8 Q. (BY MR. COLLAER) All right. As a former
 9 staff member, would you agree that if a juvenile makes
 10 an accusation towards staff accusing them of choking
 11 them, handling them improperly, that that's something
 12 that should be checked out or investigated?
 13 MR. SCHOPPE: Object to the form of the
 14 question, calls for speculation, incomplete
 15 hypothetical.
 16 Q. (BY MR. COLLAER) Go ahead.
 17 A. Yes.
 18 Q. Would you agree that that's something that's,
 19 one, to see if the staff actually did it; and then
 20 secondly, if the staff didn't do it, to clear them?
 21 A. Correct.
 22 Q. Tell me, when this written warning was
 23 actually placed in your file after you met with
 24 Ms. Angell -- we may have already talked about this --
 25 did you file a formal problem solving request?

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1 A. No, because the first one is verbal.
 2 Q. But after you received this and you met with
 3 your supervisor, did you file a formal problem solving
 4 request?
 5 A. I didn't feel it was necessary. I had talked
 6 to my supervisor. She said she would remedy it.
 7 Q. What did she tell you she would do?
 8 A. One, she would look in my file and see if the
 9 narrative that I sent and I showed her --
 10 Q. Your narrative?
 11 A. No, not my narrative, the incorrect narrative.
 12 It's in the notebook that somebody has got. I have
 13 that. Not just my narrative, but the fact that it says:
 14 "You are not being disciplined on this as the witness
 15 statements were inconclusive, as was the video
 16 surveillance tape."
 17 Q. Right.
 18 A. So, again, why is this in my file?
 19 Q. But it is there and you didn't file a problem
 20 solving asking for it to be removed; did you?
 21 A. I'm sorry?
 22 Q. Let me back up. You were aware that Exhibit
 23 No. 78 was going to be placed in your personnel file;
 24 correct?
 25 A. Until my supervisor returned from vacation.

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1 Q. After you met with your supervisor were you
 2 aware that Exhibit No. 78 was going to be in your
 3 personnel file?
 4 A. No.
 5 Q. Why not?
 6 A. I assumed it would be removed.
 7 Q. What made you assume that?
 8 A. "You are not being disciplined on this as
 9 witness statements were inclusive, as was the video
 10 surveillance" statement. Why would I --
 11 Q. Other than that, there's nothing in this that
 12 says this Exhibit No. 78 is not going to be in your
 13 personnel file; is there?
 14 A. It's --
 15 MR. SCHOPPE: Object to the form of the
 16 question.
 17 Q. (BY MR. COLLAER) Describe for me anything,
 18 any language in Exhibit No. 78 that says that this
 19 warning is not going to be placed in your personnel
 20 file.
 21 A. Because I was not in violation of policy.
 22 Q. All right. Tell me, underneath the signature
 23 of the supervisor on the back page there's a reference
 24 here that: "Additional comments may be written on the
 25 reverse on this form or submitted within three working

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1 days to your supervisor." Do you see that? Did you do
 2 that?
 3 A. I could not.
 4 Q. Why not?
 5 A. She was not available.
 6 Q. I mean, after you met with her did you do
 7 that?
 8 A. I did not have to because I told her, "This
 9 does not need to be in my record."
 10 Q. So, the answer is you didn't provide any
 11 written information to include with this warning; did
 12 you?
 13 A. I believe I've already answered your question.
 14 Q. On Exhibit No. 78 there is reference to, and
 15 I'll read this sentence, it says: "These same staff and
 16 juveniles also had concerns that you physically
 17 mishandled the juvenile by the way you attempted to sit
 18 him upright in his chair." Do you see that?
 19 A. Yes.
 20 Q. Do you know what staff is referenced there?
 21 A. Mr. Keagy, Ms. Hinkle, Ms. McCullough,
 22 Mr. Conrad. That's all the staff I'm aware of. The
 23 juveniles would be the inmates that were housed on the
 24 Solutions boys' side.
 25 Q. Did you talk with any of those staff members

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1 about what they believed they saw?
 2 A. I had a short conversation with Mr. Keagy,
 3 yes.
 4 Q. Why don't you tell me about that.
 5 A. Once I was aware that respirations
 6 had returned to normal, that his pulse was returning to
 7 normal, and that he was no longer in danger of choking
 8 or of expiring from the position he was in in the chair,
 9 I stepped back simply to observe.
 10 Q. My question was: What did you and Mr. Keagy
 11 talk about?
 12 A. Exactly that his respirations were normal now,
 13 his pulse is now normal, did they have staff to watch
 14 him as a one-to-one or what would they like to do? He
 15 was out of danger.
 16 Q. And Mr. Keagy's position, what's his job at
 17 the Department?
 18 A. He was a rehab tech.
 19 Q. In this discussion between yourself and
 20 Mr. Keagy was there any kind of conflict between the two
 21 of you at that time?
 22 A. He does not like me touching the juveniles on
 23 his unit.
 24 Q. And what did he say to you in this meeting
 25 about you touching the juveniles on his unit?

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1 A. His response to me: "I'm glad you stepped
 2 back when you did because I was about ready to go in
 3 there and break the two of you up."
 4 Q. Did he say why he felt the two of you needed
 5 to be broken up?
 6 A. I was touching his juvenile.
 7 Q. All right. Did he suggest to you that he felt
 8 you were being too physically aggressive with the
 9 juvenile?
 10 A. He did not state it.
 11 Q. All right. Tell me, in the first paragraph of
 12 Exhibit No. 78 there's a reference to: "I'm not playing
 13 your game," "Stop faking it," and "You are faking it."
 14 Do you see that?
 15 A. Yes.
 16 Q. Did you make statements of that nature to this
 17 juvenile?
 18 A. No.
 19 Q. Have you ever made those statements like that
 20 to other juveniles?
 21 A. Part of those statements: "I'm not playing
 22 your game."
 23 Q. Have you ever accused them of faking symptoms?
 24 A. No.
 25 Q. Are you aware of other staff ever telling your

1 supervisors that you had in fact made statements to that
 2 effect?
 3 A. No.
 4 (Exhibit 79 marked.)
 5 Q. (BY MR. COLLAER) Handing you what I've marked
 6 as Exhibit No. 79, could you identify Exhibit No. 79 for
 7 me.
 8 A. It appears to be a juvenile grievance form.
 9 Q. Have you ever seen Exhibit No. 79 before?
 10 A. In September of last year.
 11 Q. And is this the grievance that is the subject
 12 of the written warning record, Exhibit No. 78?
 13 A. Yes.
 14 Q. There's a reference -- the problem that's
 15 described by the juvenile, could you read that for me.
 16 A. The "Description of Specific Problem?"
 17 Q. Yes.
 18 A. He has written: "I was sitting in a chair and
 19 I was trying to sleep and Nurse Frank came in and said
 20 my name and I did not respond, so he grabbed my neck a
 21 lifted me from" --
 22 Q. Then it goes over to the back, the next page.
 23 A. Yeah. -- "my chair, shook me, and then I
 24 responded and fell back asleep."
 25 Q. From your perspective, your recollection of

1 that?
 2 A. Yes.
 3 Q. Were you ever made aware that there was an
 4 investigation being done by Julie Cloud about this
 5 grievance?
 6 A. Yes.
 7 Q. And when were you aware that that was
 8 happening?
 9 A. The day I was returned to work.
 10 Q. When was that?
 11 A. End of July.
 12 Q. And how long had you been off work?
 13 A. Approximately five days.
 14 Q. And the reason you were off work was?
 15 A. I was not told.
 16 Q. When this grievance was filed were you told to
 17 stay home for a period of time?
 18 A. Superintendent Grimm called me in the nurses'
 19 office, told me to lock the doors, turn out the lights,
 20 and go home, to stay there and remain there until I was
 21 called again.
 22 Q. And when did she tell you that in relation to
 23 when this incident with this juvenile occurred?
 24 A. About 35 minutes.
 25 Q. So, this had to do with, she sent you home

1 this event, what, if anything, that the juvenile is
 2 describing is accurate?
 3 A. I shook him and I sat him up in the chair.
 4 Q. Did this event occur in the presence of
 5 Mr. Keagy?
 6 A. Yes, it did.
 7 Q. And this is the incident where you said he was
 8 about to come in and break the two of you up?
 9 A. Yes.
 10 Q. All right. The response down below, just
 11 below the grievance, do you see that?
 12 A. Yes.
 13 Q. Do you recognize the handwriting there?
 14 A. Oh, the "Findings"?
 15 Q. No.
 16 A. I'm not familiar with who that is.
 17 Q. Oh, okay. The supervisor, the unit
 18 manager/supervisor's signature, that's Mark Freckleton;
 19 isn't it?
 20 A. Yes.
 21 Q. Did you ever talk with Mark Freckleton about
 22 this incident?
 23 A. No.
 24 Q. It references that an investigation about this
 25 grievance was being done by Julie Cloud. Do you see

1 after this incident occurred?
 2 A. I don't know. She did not say.
 3 Q. Do you know of any other reason she did that?
 4 A. I have no knowledge.
 5 Q. During the five days you were home you
 6 received full pay and benefits during that time; didn't
 7 you?
 8 A. I did.
 9 Q. And during the five days after you came back,
 10 my understanding is you were told that Ms. Cloud or
 11 somebody was investigating this incident; correct?
 12 A. No. When I was brought back to the facility I
 13 was taken to the administration office where Ms. Cloud
 14 played a video of what the cameras had seen.
 15 Q. Okay.
 16 A. And asked me when I walked into the unit why
 17 did I stop?
 18 Q. What did you tell her?
 19 A. I didn't have to. My supervisor did.
 20 Q. And your supervisor was Ms. Angell?
 21 A. Yeah, Ms. Angell.
 22 Q. And she was at this meeting also?
 23 A. She was at the meeting also.
 24 Q. And what did Ms. Angell say?
 25 A. "He's assessing the situation."

1 Q. All right. So, she was supportive of you?
 2 A. Yes.
 3 Q. And anything else that you told Ms. Cloud
 4 during that meeting?
 5 A. I said during the assessment I noted that he
 6 was not breathing and I stepped forward to check his
 7 radial pulse on his wrist.
 8 Q. Okay.
 9 A. It was fading. I knew he was in a position
 10 of -- he was in positional strangulation is what was
 11 happening and I needed to reposition him immediately,
 12 which is exactly what I did.
 13 Q. All right. And did Ms. Angell say anything
 14 more during that meeting?
 15 A. Other than she hadn't seen the particular
 16 technique that I was using.
 17 Q. Okay.
 18 A. But that it was effective.
 19 Q. Was she critical in any way of the technique
 20 that you used to reposition the juvenile or to wake him
 21 up?
 22 A. No.
 23 Q. How long did this meeting with Ms. Cloud last?
 24 A. It was approximately 45 minutes to an hour.
 25 Q. And other than looking at the video, what else

1 happened during this meeting?
 2 A. It was played through several times.
 3 Q. Okay.
 4 A. So that we could see where each and every
 5 person was and where they went to.
 6 Q. All right. Other than what we've already
 7 discussed, was there anything else that Ms. Cloud asked
 8 you or questions she asked you during this meeting?
 9 A. Not that I'm aware of.
 10 Q. Did she say anything to you about how this
 11 investigation was going to proceed or anything of that
 12 nature?
 13 A. No, I was returned to work.
 14 Q. On that day?
 15 A. On that day.
 16 Q. Again, I think you've already answered this.
 17 Looking at the description of the problem that was
 18 described by the juvenile on Exhibit No. 79, just if you
 19 were Ms. Angell or Ms. Grimm and you see this, would
 20 you -- are you critical of the fact that they asked for
 21 an investigation and that you stay home for a period of
 22 time during the investigation based only upon what the
 23 juvenile is describing happened?
 24 A. No, because they had to review the videos.
 25 Q. Sure.

1 (Exhibit 80 marked.)
 2 Q. (BY MR. COLLAER) Handing you what I've marked
 3 as Exhibit No. 80, do you recognize Exhibit No. 80?
 4 A. Yes.
 5 Q. And what is it?
 6 A. It is my narrative that I started writing the
 7 second I got back to the nurse's station after being up
 8 on the Solutions unit.
 9 Q. Was this created shortly after your
 10 interaction with the juvenile which is the subject of
 11 Exhibit No. 79?
 12 A. Yes.
 13 Q. And how long did it take you to write this?
 14 A. About ten minutes.
 15 Q. And why did you create it?
 16 A. I needed a documentation so that I could enter
 17 it into the juvenile's medical record.
 18 Q. And was this made part of the juvenile's
 19 medical record?
 20 A. It was, yes.
 21 Q. Is this also the narrative that you asked your
 22 supervisor to include in your personnel file?
 23 A. Yes, it was.
 24 Q. Do you know in fact whether this narrative was
 25 included in your personnel file along with the warning?

1 A. The second time I was told that this was
 2 added.
 3 Q. And that's something you wanted your
 4 supervisor to do; correct?
 5 A. Yes.
 6 Q. Did you provide a copy of this narrative to
 7 Ms. Cloud?
 8 A. It was e-mailed to her.
 9 Q. When was it e-mailed to her?
 10 A. After I was returned to work.
 11 Q. So, was it before or after your meeting with
 12 her and Ms. Angell when you reviewed the videos?
 13 A. It was after.
 14 Q. How long after?
 15 A. That -- as soon as I went up to the
 16 workstation and was able to.
 17 Q. During your meeting with her did you tell her
 18 that you had created this narrative?
 19 A. Yes.
 20 Q. And did she ask you to send it to her?
 21 A. Yes.
 22 Q. Did she contact you after you sent it to her
 23 to ask you any questions about the narrative?
 24 A. No.
 25 Q. Did you have any more conversations with

1 Ms. Cloud about this juvenile grievance?
 2 A. I can't answer the question the way it is
 3 asked.
 4 Q. Well, do you recollect -- after you met with
 5 Ms. Cloud to go over the videos, do you recall any more
 6 conversations with her concerning the juvenile
 7 grievance?
 8 A. I was not made aware of the juvenile grievance
 9 until after September.
 10 Q. Well, did you have any more conversations with
 11 her about that incident with the juvenile after you met
 12 with her to review the videos?
 13 A. Not that I recall.
 14 Q. Tell me, when you met with her to review the
 15 videos, you were aware that she was investigating that
 16 incident?
 17 A. Yes.
 18 Q. You just don't recall if she was -- you're
 19 telling me that you weren't aware that the juvenile had
 20 actually filed a grievance against you?
 21 A. Correct.
 22 Q. All right.
 23 (Exhibit 81 marked.)
 24 Q. (BY MR. COLLAER) I'm handing you what I've
 25 marked as Exhibit No. 81. Do you recognize Exhibit

1 A. Not particularly.
 2 Q. Do you recall if there were any portions of
 3 the evaluation that you discussed with her that you
 4 disagreed with and you wanted to talk to her about?
 5 A. Not that I'm aware of.
 6 Q. I see here it's a "Solid Sustained
 7 Performance" rating on the first page. Do you see that?
 8 A. Yes.
 9 Q. Would you consider that a positive evaluation?
 10 A. Yes.
 11 Q. And this evaluation review occurred prior to
 12 or was it after the incident with the juvenile that
 13 we've been discussing?
 14 A. It was prior.
 15 Q. If you'd turn to page 3.
 16 A. (Witness complied.)
 17 Q. Under the section for "Interpersonal Skills,"
 18 from the "Comments," I'll read this to you: "Frank is
 19 receptive to redirection and will readily apologize if
 20 someone has taken offense to his actions or lack of
 21 action. Frank is receptive to feedback and reminders
 22 when necessary. He has not had a grievance filed
 23 against his actions for several months."
 24 Do you see that?
 25 A. Yes.

1 No. 81?
 2 A. Yes.
 3 Q. And what is it?
 4 A. It was my last evaluation by Jeanette.
 5 Q. And when you say "Jeanette," you're speaking
 6 of --
 7 A. Ms. Angell.
 8 Q. Ms. Angell, your supervisor?
 9 A. Yes.
 10 Q. Is this the last evaluation you had for your
 11 employment at Corrections?
 12 A. To the best of my knowledge, yes.
 13 Q. All right. And tell me, when you received
 14 this evaluation did you meet with Ms. Angell to discuss
 15 her evaluation of your performance for that year?
 16 A. Yes.
 17 Q. And where did that meeting take place?
 18 A. Her office.
 19 Q. And how long did the meeting last?
 20 A. Approximately an hour.
 21 Q. And do you recall what the two of you spoke
 22 about during that meeting?
 23 A. We went down through each line item.
 24 Q. Is there anything about your discussion with
 25 her about each line item that stands out?

1 Q. What other grievances have you ever received
 2 that are referenced here?
 3 A. I'm trying to remember the one before that.
 4 It was -- I believe it was failure to give a lockdown
 5 juvenile an ice pack.
 6 Q. All right.
 7 A. And they filed a grievance saying that I had
 8 denied them medical assistance.
 9 Q. That was a grievance filed by the juvenile?
 10 A. Yes.
 11 Q. Okay, could you turn to page 6.
 12 A. (Witness complied.)
 13 Q. The section dealing with "Performance and/or
 14 Developmental Objectives," do you see that?
 15 A. Yes.
 16 Q. There's a number of objectives that are listed
 17 here, like there's five items. What I'm interested in
 18 is: How were you involved in your interactions or
 19 discussions with Ms. Angell that created these
 20 objectives?
 21 A. She had given me two weeks prior to this my
 22 previous evaluation for the objectives that would be
 23 attained during this time period.
 24 Q. Okay.
 25 A. So that I could help to determine or create

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1 new objectives for the next 12-month period.
 2 Q. All right. So, for lack of a better way to
 3 describe it, this wasn't a thumb-down type of directive
 4 from Ms. Angell saying: "You will do X, Y, and Z or
 5 else," it was an interactive process with yourself?
 6 A. Yes.
 7 Q. Were there any suggested objectives by
 8 Ms. Angell that you did not agree with?
 9 A. No.
 10 Q. The five items that are noted here, would you
 11 agree that these were objectives or things that you
 12 needed to make improvement on or work on?
 13 A. Yes.
 14 Q. And that would include like item No. 1:
 15 "Charting, note-taking, implementing/communicating care
 16 plans"?
 17 A. Yes.
 18 Q. That was something you agreed that was an area
 19 of improvement that you could work on?
 20 A. We were implementing an electronic system and
 21 I was not privy to the training. My schedule was such
 22 that I worked evening shift Thursday, Friday, Saturday,
 23 Sunday, and Monday. Four of those nights were by
 24 myself, unsupervised.
 25 Q. All right.

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1 A. So, I was behind in --
 2 Q. In your charting?
 3 A. No, I was behind in the learning curve of
 4 doing this electronically.
 5 Q. But was your charting and note-taking
 6 otherwise up to date and okay?
 7 A. To the best of my knowledge.
 8 Q. And how long after you received this
 9 evaluation did you end up taking your FMLA leave?
 10 A. This was May and it was in September.
 11 Q. So, approximately two months later you were
 12 off work?
 13 A. Approximately four months.
 14 Q. Four months later. Tell me, at the time of
 15 your evaluation, which was Exhibit No. 81, were you
 16 experiencing the medical problems that forced you to --
 17 that resulted in your taking FMLA leave?
 18 A. I'm a diabetic and I use insulin.
 19 Q. Sure.
 20 A. My episodes were becoming more frequent. And
 21 as I was working by myself the majority of the time, I
 22 expressed that concern to my supervisor.
 23 Q. So, if I understand what you're telling me,
 24 obviously diabetes is a long-term condition, but your
 25 problems with it had been getting worse?

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1 A. Yes.
 2 Q. And did they continue to get worse from May
 3 until September?
 4 A. Yes.
 5 Q. And as far as severity, without getting into a
 6 lot of details, how did they progress during that time?
 7 A. I was having insulin episodes, reactions.
 8 Most of them were 4:30 in the afternoon. 4:30 in the
 9 afternoon on all five days I was by myself. That is
 10 also the dinner time for the O&A to come into the gym.
 11 And without getting really long, as a nurse you have to
 12 be aware of where all of the juveniles from all of the
 13 units are at any given time. In case of an emergency I
 14 am the first responder.
 15 Q. Sure.
 16 A. So, I was having problems with at the
 17 beginning of the dinner round that my blood sugar was
 18 dropping off and I needed to take care of it. My
 19 supplies (indicating) are kept in the nursing unit and
 20 the nursing unit only. So, if I am in a different part
 21 of the building I had to hope that either there was no
 22 injury, accident, or something that would keep me from
 23 being able to get back to my medical supplies to take
 24 care of myself.
 25 Q. Sure. When you said you were having an

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1 insulin --
 2 A. Low blood sugar.
 3 Q. And when that would happen, what would it do
 4 to you?
 5 A. I become diaphoretic, I become extremely shaky
 6 and tremble, problems concentrating. I am unable to
 7 perform higher levels of the actual thing that I --
 8 nursing levels.
 9 Q. Sure.
 10 A. Yeah.
 11 Q. It made it so during these episodes, for lack
 12 of -- just tell me if I'm wrong, that it just made it
 13 very difficult for you to do the normal functions of
 14 your job?
 15 A. Correct.
 16 Q. And you would work through these episodes by
 17 medication and what else?
 18 A. Food. Generally it was I would get to my
 19 glucose tablets to stop the drops, and then I would eat
 20 to help me to raise my blood sugar back up.
 21 Q. And during these episodes how long would you
 22 be in a state where you would say you were unable to
 23 really function very well on the job?
 24 A. About 35 minutes on an average.
 25 Q. And this was always happening during the --

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1 A. It happened in that part of the afternoon,
 2 anywhere from 3:00 to as late as 5:00, which is why I
 3 now have a service dog.
 4 Q. What does the service dog do?
 5 A. He alerts to the fact that I'm going to have
 6 an insulin reaction before I have it and he will come up
 7 and alert me to it that I need to stop, sit down, check
 8 my blood sugar, and take care of it accordingly.
 9 Q. All right. Tell me, how does the dog alert to
 10 the fact that you're having a low blood sugar issue?
 11 A. I honestly can't tell you other than he
 12 started doing it and I've actually got documentation so
 13 that he's certified that he does do it. And it's not
 14 just me, he has alerted to other diabetics as well that
 15 are in the area.
 16 (Exhibit 82 marked.)
 17 Q. (BY MR. COLLAER) I'm going to hand you what
 18 I've marked as Exhibit No. 82. Could you identify
 19 No. 82 for me, please.
 20 A. That would be my employee performance review
 21 of 2011.
 22 Q. Do you recognize your signature on the first
 23 page?
 24 A. I do.
 25 Q. And the supervisor there, who was that?

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1 A. Mardi Millar. We did not have a registered
 2 nurse running the clinic at the time, so she was the
 3 director of nursing services for the entire state out of
 4 St. Anthony.
 5 Q. And did you ever work one-on-one or in the
 6 same facility with Ms. Millar?
 7 A. No.
 8 Q. Do you know how she gathered the information
 9 to do your evaluation?
 10 A. Yes, I do. She told me from my previous
 11 evaluation as well as from my co-workers.
 12 Q. All right.
 13 MR. SCHOPPE: Are you okay?
 14 THE WITNESS: Duke?
 15 MR. COLLAER: We're off the record.
 16 (Discussion held off the record.)
 17 (Luncheon recess taken.)
 18 MR. COLLAER: We're back on the record.
 19 Q. (BY MR. COLLAER) Mr. Farnworth, before the
 20 break I handed you Exhibit No. 82. Do you still have
 21 that in front of you?
 22 A. I do.
 23 Q. And what is Exhibit No. 82?
 24 A. My employee performance review from 2011.
 25 Q. And do you see your signature at the top of

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1 it?
 2 A. I do.
 3 Q. And on the second to the back page, page 6,
 4 there's a list of "Objectives For Next Review Period."
 5 And were you involved in creating these objectives?
 6 A. No, I was not.
 7 Q. And did you discuss those objectives with the
 8 reviewer?
 9 A. Yes, I did.
 10 Q. And did you agree with it?
 11 A. Yes.
 12 Q. What did you do to accomplish this?
 13 A. I do believe at some point there's actually a
 14 class in there for assertiveness, as well as I discussed
 15 with my co-workers things that I would like to see
 16 happen.
 17 Q. Okay.
 18 A. Things that I would like to see become
 19 practice within the clinic.
 20 Q. There's also a reference about "acceptance of
 21 a new supervisor in the clinic area." Do you see that,
 22 the second item?
 23 A. Yes.
 24 Q. That new supervisor was eventually Ms. Angell?
 25 A. Yes, it was.

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1 Q. I think you indicated you never had any issues
 2 or problems with Ms. Angell; did you?
 3 A. I haven't.
 4 Q. Did you feel she was a good supervisor?
 5 A. I did.
 6 (Exhibit 83 marked.)
 7 Q. (BY MR. COLLAER) Handing you what I've marked
 8 as Exhibit No. 83, can you identify No. 83 for me,
 9 please.
 10 A. It's my employee performance review from 2010.
 11 Q. And who was the reviewer that did this
 12 evaluation?
 13 A. That would be Ruth Davis.
 14 Q. And at page 3 there's a reference there in the
 15 last paragraph for "Customer Service" and the first
 16 sentence says: "There's been a number of grievances
 17 filed regarding Frank's personal hygiene." Do you see
 18 that?
 19 A. Yes, I do.
 20 Q. Is that the issue about the odor that we were
 21 talking about earlier?
 22 A. Yes, that was.
 23 Q. All right. And considering this review date
 24 happened in March of 2010, using that as a reference in
 25 time, can you tell me how soon prior to March of 2010

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1 was this issue of this personal hygiene issue raised
 2 with you by Ms. Davis?
 3 A. I remember fall of 2009.
 4 Q. Okay.
 5 A. November, December, somewhere in that time
 6 frame.
 7 Q. And was it after your evaluation for the prior
 8 year?
 9 A. Yes.
 10 Q. So, fall of 2009 is when this issue with the
 11 personal hygiene first was brought to your attention?
 12 A. Yes.
 13 Q. And that's when these discussions or this
 14 review process you described earlier was happening
 15 between yourself and Ms. Davis on that issue?
 16 A. Yes.
 17 Q. Tell me, after March of 2010 did these issues
 18 of this personal hygiene issue that was referenced in
 19 the evaluation continue?
 20 A. On a monthly basis she would give me an
 21 evaluation and would bring it up as to what I had done
 22 to change.
 23 Q. Okay.
 24 A. And this went on until spring. I went to a
 25 gastroenterologist to see what the problem might be, had

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1 a colonoscopy, tried to find out what is this body odor
 2 she's referring to? I ended up ultimately being
 3 diagnosed with a hemorrhoid.
 4 Q. Okay.
 5 A. My question to her was, "Could this possibly
 6 be a blood smell that is a problem is what you keep
 7 bringing up? Because I don't know what else to do.
 8 I've already gone through all of these changes, changing
 9 clothes, changing laundry, cologne, yet you still say
 10 there's this odor."
 11 The hemorrhoid, okay, next step is go to a
 12 surgeon. I had a hemorrhoidectomy. That was the
 13 surgical procedure that was brought on. And after I
 14 returned to work from recovering from that is when she
 15 made the statement, "Well, I thought I was just talking
 16 to you about you weren't showering." And I says, "Who
 17 made the complaint?" Her answer to that was the
 18 Solutions boys were complaining at the bedtime med pass
 19 that I had an either sour or fruity odor.
 20 Q. And did those complaints end?
 21 A. I turned to her and I said, "I'm diabetic.
 22 You're asking me a question about an hour and a half
 23 after I eat. I am throwing ketones. To some people it
 24 smells fruity, to some people it smells sour. It is a
 25 diabetic problem. It's not a personal body odor." And

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1 she had put me through all of the stuff that had gone on
 2 in the previous months.
 3 Q. All right. And at that point did the
 4 interaction between you and her on that point --
 5 A. It stopped.
 6 Q. Were there any more complaints from the kids
 7 about this odor issue that you were aware of?
 8 A. No. No, because I had a chance to go to the
 9 group that was making the complaint, explain to them
 10 what the problem was.
 11 Q. Was this the first time that you talked to
 12 Ms. Davis about your diabetes could be a source of the
 13 odor that was being complained of?
 14 A. No, it was not the first time.
 15 Q. When did you first tell her that the diabetes
 16 may be the issue?
 17 A. The fact of when she first started working
 18 there I made her aware of the fact that I was an insulin
 19 dependent diabetic.
 20 Q. I understand that, but my question is: When
 21 did you tell her that the issue of the odor was caused
 22 by the diabetes?
 23 A. She's an R.N. She should know.
 24 Q. Well, did you ever tell her that?
 25 A. At that time when I returned from surgery and

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1 she was going, "Why did you have the surgery?" I says,
 2 "You keep telling me I have a body odor, yet you don't
 3 help me to problem solve what is it."
 4 Q. So, correct me if I understand this. You went
 5 through this discussion process with her for a number of
 6 months and then sometime after you got back from your
 7 surgery for the hemorrhoid when you were discussing with
 8 her again, you told her that the odor she's describing
 9 was likely connected to your diabetes. And is that the
 10 first time you expressed to her the connection between
 11 your diabetic condition and the body odor she was
 12 complaining of?
 13 A. That was the first time that she connected the
 14 time of day that I had the odor to the odor.
 15 Q. And then you told her that, "This has got to
 16 be the diabetes"?
 17 A. Yes.
 18 Q. All right. And so, that was the first time
 19 the two of you made that connection and talked about it?
 20 A. Yes.
 21 Q. And then the discussion ended after that?
 22 A. Correct.
 23 Q. All right. Turn to page 4 of Exhibit No. 83.
 24 A. (Witness complied.)
 25 Q. Under the box "Dependability," do you see

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1 that?
 2 A. Yes.
 3 Q. There is a sentence here that talks about:
 4 "The Choices unit staff requested that medications be
 5 given as late as possible" and that you had had "some
 6 difficulty managing to meet the needs of the unit
 7 regarding" that. Do you see that?
 8 A. (Reviewing document.) Yes.
 9 Q. Was that accurate?
 10 A. Yes.
 11 Q. The next paragraph states that: "Frank does
 12 not volunteer to assist co-workers or take on duties
 13 outside his routine." Do you see that?
 14 A. I see that.
 15 Q. Is that accurate?
 16 A. Not totally, no.
 17 Q. What is inaccurate about it?
 18 A. The not volunteering to assist.
 19 Q. Tell me, did you in your discussion with
 20 Ms. Davis when you received this evaluation, I assume
 21 like you described before, the two of you sat down and
 22 discussed the items in the evaluation item by item?
 23 A. Correct.
 24 Q. And when you got to this, did the two of you
 25 discuss this point?

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1 A. Yes.
 2 Q. Did you tell her, "This is not accurate" or
 3 that it needed to be changed in some way?
 4 A. Yes.
 5 Q. Were any changes made?
 6 A. In the "Employee Comments" on page 7.
 7 Q. And those are the comments that you asked her
 8 to add?
 9 A. Yes.
 10 Q. Are those comments commensurate or consistent
 11 with what you asked her to add?
 12 A. Not in their entirety.
 13 Q. What's missing?
 14 A. Her wording is not my wording.
 15 Q. But is the substance accurate?
 16 A. Yes.
 17 Q. The page 7 also includes: "Objectives For
 18 Next Review Period."
 19 A. Mm-hmm.
 20 Q. Were you involved in formulating these
 21 objectives?
 22 A. Yes.
 23 Q. Did you agree with them?
 24 A. Yes.
 25 Q. Did you feel that they would help to improve

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1 your performance?
 2 A. As well as, yeah, my co-workers.
 3 Q. Sure. Did you agree with your overall
 4 evaluation of "Achieves Performance Standards"?
 5 A. Yes.
 6 Q. You didn't feel that you deserved a higher
 7 rating?
 8 A. You couldn't get a higher rating.
 9 Q. Why not?
 10 A. Human Resources were only accepting so many
 11 solid sustained or exemplary because there was money in
 12 the budget for raises that year.
 13 Q. And are you telling me that management had
 14 told the evaluators to not provide as many solid
 15 sustained evaluations?
 16 A. Correct.
 17 Q. And how do you know they told management that?
 18 A. That is what management told us.
 19 Q. Who at management told you that?
 20 A. One of them was Ruth Davis.
 21 Q. What other employees or nurses that you worked
 22 with were you aware of that received a higher rating
 23 than you that year?
 24 A. None that I can recall.
 25 Q. So, all nurses you were working with in Nampa

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1 were treated similarly with respect to their performance
 2 evaluations?
 3 A. Yes.
 4 (Exhibits 84 through 86 marked.)
 5 Q. (BY MR. COLLAER) Mr. Farnworth, I'm going to
 6 hand you a series of exhibits that are marked as Exhibit
 7 Nos. 84 through 86. Take a look at 84 through 86 and
 8 identify them for me, please.
 9 A. (Reviewing documents.) I recognize these as
 10 employee performance reviews, the annuals for the years
 11 '07, '08, '09.
 12 Q. So, these are three evaluations dating back
 13 from the period of April of '06 through April of '09;
 14 correct?
 15 A. Yes.
 16 Q. And all of these, you met with your evaluator
 17 and went over them prior to signing it?
 18 A. Yes.
 19 Q. Do all of them bear your signature?
 20 A. They do.
 21 Q. And what is the rating that you received on
 22 each of these?
 23 A. Solid sustained.
 24 Q. Did you receive raises during any of these
 25 years?

1 A. Let's see. Not in all of them.
 2 Q. Did you receive raises in any of them?
 3 A. I'm -- there was at least one.
 4 Q. All right. And did you disagree with the
 5 evaluation received in any of these three years?
 6 A. No.
 7 Q. Were there any comments that you disagreed
 8 with that you can recall?
 9 A. Not that I'm aware of.
 10 Q. And obviously you didn't seek problem solving
 11 for any of these evaluations; did you?
 12 A. No.
 13 Q. In fact, you've never filed a problem solving
 14 request for any evaluation you've received during your
 15 employment; have you?
 16 A. Not a written one.
 17 Q. Mr. Farnworth, when I speak to "problem
 18 solving," that's what I'm referring to is a written
 19 problem solving request.
 20 A. I understand.
 21 (Exhibits 87 and 88 marked.)
 22 Q. (BY MR. COLLAER) Mr. Farnworth, I'm going to
 23 hand you two more exhibits that I'm marking as Exhibit
 24 Nos. 87 and 88. Could you identify these documents for
 25 me, please.

1 the nursing staff though there are times his laziness
 2 frustrates his team members." Do you see that?
 3 A. Yes, sir.
 4 Q. Do you remember talking with Ms. Grimm about
 5 those perceptions?
 6 A. Yes.
 7 Q. And what did she tell you about that?
 8 A. She was telling me what the staff was
 9 perceiving, as they were the day shift staff and I was
 10 the evening shift coming on staff.
 11 Q. Did you view this comment as constructive
 12 criticism or something disciplinary?
 13 A. It was questioning what I was doing.
 14 Q. But my question is: Did you consider this to
 15 be constructive criticism or a disciplinary action?
 16 A. It would be constructive. It was not
 17 disciplinary.
 18 Q. What did you do to try to address those
 19 perceptions or this information she was getting from
 20 other staff?
 21 A. Talked to my co-workers to determine what it
 22 was that they were perceiving, and rectify the
 23 situation.
 24 Q. Did you feel that being alerted to other
 25 co-workers feeling this way about you was something that

1 A. They are annual performance evaluation
 2 reports.
 3 Q. And for what years?
 4 A. Let's see. This one is for -- from '04 to '05
 5 and this one is from '05 to '06.
 6 Q. All right. And the rating for each of these
 7 was?
 8 A. "Meets expectations."
 9 Q. And your reviewer on each of these was Betty
 10 Grimm?
 11 A. That is right.
 12 Q. And you met with Ms. Grimm and discussed each
 13 of these evaluations item by item?
 14 A. Yes.
 15 Q. Do you recall any of the ratings or comments
 16 in either of these evaluations that you disagreed with?
 17 A. Not to my knowledge. I don't recall.
 18 Q. Could you look at Exhibit No. 87 for just a
 19 moment.
 20 A. (Witness complied.)
 21 Q. On the fourth page in under the section
 22 "Interpersonal Skills" --
 23 A. (Witness complied.) Okay.
 24 Q. The last two sentences of those comments, and
 25 I'll read this to you, it says: "Frank gets along with

1 your supervisor should bring to your attention?
 2 A. Yes.
 3 Q. I mean, throughout this evaluation there's
 4 other instances where there's criticism of things that
 5 you need to improve upon. Would you agree -- is there
 6 anything in Exhibit No. 87 that you felt was
 7 disciplinary in nature as opposed to constructive
 8 criticism?
 9 A. (Reviewing document.) There was a section,
 10 the "Customer Service."
 11 Q. What page is that on?
 12 A. That would be the third page.
 13 Q. What are you referring to?
 14 A. The sentence in there that has the quotes:
 15 "Frank will just tell them to 'drink more water' and
 16 rest, and this attitude has led staff to report 'taking
 17 the easy way out.'"
 18 Q. What do you recall talking to Ms. Grimm about
 19 with respect to those comments?
 20 A. With respect to those comments was that the
 21 juveniles during physical exercise or while they were in
 22 PE would request staff bring them to the clinic to
 23 receive medication, Ibuprofen or Tylenol for their aches
 24 and pains, as opposed to working out. They were using
 25 it to dodge their one hour of large muscle exercise that

1 we're required to give them.
 2 Q. All right. There's a reference here that:
 3 "Staff also report that Frank does appear to listen to
 4 juveniles and does not cut them off." Is that a
 5 positive comment in this section?
 6 A. Yes.
 7 Q. But you disagreed with the information
 8 Ms. Grimm was getting that you would tell the juveniles
 9 simply to drink more water and that you were taking the
 10 easy way out?
 11 A. Correct.
 12 Q. And did you explain to me what you told
 13 Ms. Grimm or how you responded to that?
 14 A. Yes, I did.
 15 Q. Were you critical that -- did you ask that
 16 anything be added to your evaluation on that point?
 17 A. I didn't ask anything be added, but that was
 18 when they became aware that it was simply a joke around
 19 the institution in regards to me.
 20 Q. All right. On the section dealing with
 21 "Quality" on the comments there, there's a reference
 22 that says: "Frank does not always pay attention to
 23 detail and that is reflected in his documentation." Do
 24 you see that?
 25 A. Yes.

1 A. Yes. I know. Yes.
 2 Q. Was Exhibit No. 88 also a positive evaluation?
 3 A. Yes.
 4 Q. Were there any other comments in Exhibit
 5 No. 88 that you disagreed with or took issue with at the
 6 time that you received the evaluation?
 7 A. No.
 8 (Exhibit 89 marked.)
 9 Q. (BY MR. COLLAER) Handing you what I've marked
 10 as Exhibit No. 89, would you identify No. 89 for me,
 11 please.
 12 A. This would be the performance evaluation to
 13 end my probationary period.
 14 Q. And your supervisor at that time was Larry
 15 Callicutt?
 16 A. Actually, it was Betty Grimm. The
 17 superintendent of the Department was Larry Callicutt.
 18 Q. And do you know, did Mr. Callicutt write this
 19 evaluation?
 20 A. No, Nurse Grimm did.
 21 Q. Were there any comments in this evaluation
 22 that you disagreed with when you received it?
 23 A. There was no -- there was no disagreement with
 24 any statement.
 25 Q. All right. Tell me, other than Exhibit

1 Q. Do you agree with that criticism?
 2 A. You're taking it out of context.
 3 Q. Well, tell me. Well, my question is: It's
 4 there. At the time that this evaluation occurred did
 5 you agree with that comment in your evaluation?
 6 A. Yes.
 7 Q. And the last sentence indicates what Ms. Grimm
 8 would like you to do to improve upon that. Would you
 9 agree with that where it says: "I would like to see
 10 Frank place emphasis on producing thorough, accurate
 11 work in the coming months"?
 12 A. Yes.
 13 Q. Did you agree with that comment being in your
 14 evaluation?
 15 A. Yes.
 16 Q. Did Ms. Grimm work with you to improve in this
 17 area?
 18 A. Yes.
 19 Q. Do you feel that you did improve in this area?
 20 A. Yes. We established a protocol that I
 21 followed that made sure that I didn't miss things.
 22 Q. Overall, Exhibit No. 87 was a positive
 23 evaluation?
 24 A. Mm-hmm.
 25 Q. You have to answer audibly.

1 Nos. 89 through 81 -- 81 through 89, are you aware of
 2 any other written performance evaluations you received
 3 during your employment with the Department?
 4 A. No, not that I recall.
 5 Q. All right. And as I see going through these,
 6 you received the years where a solid sustained or higher
 7 rating was available, I think all but one year you
 8 received a solid sustained evaluation; did you not?
 9 A. Yes.
 10 Q. And you would agree that throughout the years
 11 there were portions of your evaluations that had areas
 12 of improvement or constructive criticism?
 13 A. Yes.
 14 Q. And you agreed those were an appropriate thing
 15 to do and helped you improve as an employee?
 16 A. Yes.
 17 Q. Tell me, when was the last time you were at
 18 the job?
 19 A. September 5th.
 20 Q. What's your understanding of your status with
 21 the Department at this point?
 22 A. At this point I am medically terminated with
 23 the proviso that after the original 30 days if I had
 24 been given a release to return to work I would have
 25 immediately resumed my position. After the 30-day

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1 period I then have an additional 11-month period where I
 2 can apply for a position, LPN, within the Department if
 3 I am released to return to work by the psychologist that
 4 needs to return me.
 5 Q. Okay.
 6 A. I will simply be put on the hiring roster.
 7 (Exhibit 90 marked.)
 8 Q. (BY MR. COLLAER) I'm going to hand you what
 9 I've marked as Exhibit No. 90. Could you identify
 10 No. 90 for me, please.
 11 A. This would be -- it looks like -- yeah, this
 12 would be the medical termination.
 13 Q. You called it "medical termination." Have you
 14 heard it referred to as a "medical layoff"?
 15 A. Yes.
 16 Q. Since you've been medically laid off have you
 17 been released to return to work by your psychologist?
 18 A. No.
 19 Q. And as I understood what you described, you
 20 understand your status, if that happened, if your
 21 psychologist released you to work, you would provide a
 22 written release from your psychologist to the Department
 23 and then you would be put on, as referenced in Exhibit
 24 No. 90, "a reemployment preference register."
 25 A. Correct.

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1 Q. Do you see that?
 2 A. Yes.
 3 Q. If you are on that register, what is your
 4 understanding of your ability to return to work? What
 5 happens at that point?
 6 A. Can you repeat that, please.
 7 Q. Sure. In the scenario where your psychologist
 8 releases you to work and provides a written release back
 9 to your employer, to the Department, advising them of
 10 that, what is your understanding of once you're on that
 11 reemployment preference register, what has to happen for
 12 you to return to work at that point?
 13 A. There has to be a position.
 14 Q. Okay. Open at --
 15 A. At anywhere within the state if I'll accept
 16 it, just a position.
 17 Q. Sure. Is it your obligation to designate
 18 where in the state you're willing to go to work?
 19 A. I can preference Nampa, yes.
 20 Q. Sure. And that would be your choice?
 21 A. Yes.
 22 Q. But if you said, "I'll go to work anywhere
 23 within the state," if an LPN job comes open you will be
 24 offered that job?
 25 A. I should be offered the job.

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1 Q. Are you working with your psychologist
 2 presently to get released to return to work?
 3 A. At the current time my separation was
 4 effective January 22nd and on January 24th my employee
 5 benefits were terminated.
 6 Q. I understand.
 7 A. I have not got the financial income to
 8 continue to see the psychologist because he was
 9 currently charging \$275 for a one-hour session. I no
 10 longer receive assistance for any of my medical needs.
 11 I no longer receive any assistance to see a doctor or
 12 any other medical person that I was seeing prior to
 13 January 24th because on that date the office of the
 14 group insurance states they have a release, I should
 15 have returned to work.
 16 Q. Tell me, were you notified of your ability to
 17 purchase insurance through COBRA?
 18 A. That is approximately \$400 more than I
 19 actually get.
 20 Q. My question is: You were aware of that
 21 option?
 22 A. Yes, I was aware there was a COBRA, but it's
 23 not a option.
 24 Q. You're telling me you can't afford it?
 25 A. It's not a financial option.

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1 Q. All right. So, presently you don't have
 2 health insurance?
 3 A. No.
 4 Q. All right. And do you anticipate being
 5 released to return to work at any time within the next
 6 six months?
 7 A. No.
 8 Q. Are you receiving your PERSI benefits?
 9 A. Yes, disability.
 10 Q. How about your retirement benefits?
 11 A. That's it.
 12 Q. That's it?
 13 A. I'm on Social Security Disability.
 14 Q. When did you start receiving your SSD
 15 benefits?
 16 A. April 1st.
 17 Q. And are you eligible to receive retirement
 18 benefits from your State retirement system, PERSI?
 19 A. That is the \$299 I receive monthly now.
 20 Q. And when did you start receiving PERSI
 21 benefits?
 22 A. March.
 23 Q. And what percentage, that \$299, does that
 24 represent of your previous salary when you were working?
 25 A. I averaged \$1,200 take home every two weeks.

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1 So, what's that? One eighth?
 2 Q. When you left the Department -- have you heard
 3 of with respect to your PERSI benefits the rule of 80,
 4 the rule of 90, that type of stuff? Does that mean
 5 anything to you?
 6 A. Yes, it does.
 7 Q. Did you qualify for rule of 80 or rule of 90
 8 when you were medically laid off?
 9 A. No.
 10 Q. And why not?
 11 A. I only had approximately eight years service
 12 with the State.
 13 Q. So, you just hadn't been there long enough to
 14 accumulate those benefits?
 15 A. Correct.
 16 Q. How long did you need to continue working to
 17 accumulate those benefits?
 18 A. I believe it was 15 years.
 19 Q. All right. Mr. Farnworth, as you're sitting
 20 here today is returning to work at the Department
 21 something that you want to do if you become medically
 22 capable?
 23 A. I would like to, yes.
 24 Q. But you realize you need to get a medical
 25 release to do that?

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1 A. Yes.
 2 Q. Do you have any reason to believe that if that
 3 happened for you and a position became available that
 4 you would not be reemployed?
 5 A. Repeat, please.
 6 Q. I would be happy to. Do you have any reason
 7 to believe that if you got medically released by your
 8 physician and a position was available during the time
 9 you were on the rehire list that you would not be
 10 offered a job?
 11 A. I'm going to say no. I still have a service
 12 dog that would have to be --
 13 Q. Sure. But assuming they would accommodate
 14 your service dog?
 15 A. I would return.
 16 Q. And you have no reason to believe that they
 17 wouldn't allow you to do that; do you?
 18 A. Not totally.
 19 Q. Tell me, since you took your FMLA leave have
 20 you ever attempted to return to work?
 21 A. I have been to the facility three times, yes.
 22 Q. Was that for the purpose of returning to work
 23 or to visit folks?
 24 A. Once was because Human Resources called me out
 25 there, once was because I needed something from my file

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1 that was in the nursing department, and the third time
 2 was to clean my locker out.
 3 Q. The time you were out there because Human
 4 Resources asked you to come out, what was the purpose of
 5 that visit?
 6 A. That was to sign this, the medical
 7 termination.
 8 Q. Exhibit No. 90?
 9 A. Yeah, Exhibit No. 90.
 10 Q. All right. And the other times it doesn't
 11 sound like you were coming to arrange to get back on the
 12 schedule and return to work.
 13 A. Actually, once was. I was told to report to
 14 work.
 15 Q. By whom?
 16 A. By Pat Thomson, Human Resources. And when I
 17 arrived at the facility they started asking me questions
 18 about the service dog and I was turned away.
 19 Q. Okay.
 20 A. I was told not to come back out with the
 21 service dog.
 22 Q. Did you tell them it was a service dog?
 23 A. Yes.
 24 Q. Tell me, at that time were you doing any other
 25 work for the Department like from home or anything of

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1 that nature?
 2 A. No.
 3 Q. Tell me, focusing from in the year 2010, could
 4 you describe any instances where you criticized the
 5 management of the Nampa facility?
 6 A. Minimum staff, especially weekend evenings.
 7 During debriefing of incidences where juveniles would go
 8 on a one-to-one and they did not have staff to stay
 9 there. An incomplete suicide attempt where I was the
 10 first responder and actually removed the ligature from
 11 around the neck of the juvenile because there was not
 12 staff in the unit. Staffing shortages where certain
 13 units would get locked down so that the staff actually
 14 could help in another unit. Yeah.
 15 Q. Tell me, when you would bring up these issues
 16 of inadequate staffing, when did that happen and what
 17 was the context? How did this come up?
 18 A. Generally the inadequate staffing, most of the
 19 time it would be when it was time to move juveniles from
 20 their living area to the dining gym. They needed two
 21 staff to move the juveniles, and I would be the second
 22 person, so that they did not have to feed the juveniles
 23 in the rooms because they could not take them out of the
 24 unit.
 25 Q. All right.

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1 A. So, they needed four people there and they
 2 only had three staff.
 3 Q. So, this would occur, you would help move the
 4 juveniles?
 5 A. Yes.
 6 Q. But who would you complain to about: "Hey
 7 there's not enough staff here"? Were you just telling
 8 me about an instance where there wasn't enough staff?
 9 A. No, the staff and I would be talking about
 10 this prior to moving them to dinner so that they didn't
 11 have to stay in their rooms locked up.
 12 Q. Other than talking to other staff members,
 13 anybody else that was involved in these conversations?
 14 A. The safety and security officer in the control
 15 booth so they could document it on the log.
 16 Q. Okay.
 17 A. My supervisor.
 18 Q. Who?
 19 A. Betty, Rose, Ruth, Mardi, Jeanette. All
 20 supervisors have been aware of.
 21 Q. When you would have these conversations in the
 22 presence of Ms. Grimm, how did she react to it?
 23 A. Well, at that time she was Nurse Grimm and she
 24 was: "You do what you can help so that the kids don't
 25 have to stay locked down."

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1 Q. All right. When you brought this up that:
 2 "Hey, there's not enough people here" to Betty, did she
 3 ever reprimand you or do anything to you?
 4 A. No.
 5 Q. Because you had these conversations with other
 6 staff about the staffing levels, did any supervisor or
 7 any management do anything to you because you made those
 8 comments?
 9 A. I had a supervisor come to me and ask me why I
 10 did what I did. I'm trying to remember -- I don't
 11 recall which supervisor it was now. I was told I was
 12 supposed to be the nurse and not one of the transport
 13 techs.
 14 Q. All right. Outside of that, anything else?
 15 A. Not that I can recall.
 16 Q. You mentioned you criticized something about
 17 weekend and evenings. What were you referring to?
 18 A. Again, my shift was from -- for a while it was
 19 2:00 to 10:00 and then it was 1:00 to 9:00, but I worked
 20 Thursday, Friday, Saturday, Sunday, Monday. So, I got
 21 from Friday 5:00 p.m. when everybody in the office and
 22 school and everybody would leave and we were left with
 23 skeleton staff. I would come in on the weekends.
 24 Again, I'm the evening nurse and that means
 25 that as soon as I show up the day nurse leaves and I'm

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1 there by myself, plus the fact that the staff do a
 2 switchover approximately the same time.
 3 Q. And who did you make these complaints to?
 4 A. Well, all of the staff that were on because
 5 generally we would have to get together. And since I
 6 was the one mobile person -- they had to stay in their
 7 units. As a medical person, I was allowed to move about
 8 the facility. I had to be able to.
 9 We would coordinate what kind of activities we
 10 might or might not be able to do for the evening. They
 11 would all know that we were short-staffed. It went to
 12 their supervisors. All of their supervisors were aware
 13 of it. And I could only -- no. I was going to make an
 14 assumption.
 15 Q. Well, did anybody do anything to you because
 16 you complained or made a comment that, "We're
 17 inadequately staffed on weekends and evenings"?
 18 A. Nothing changed.
 19 Q. So, no demotions, no discipline, anything like
 20 that directed at yourself because you made these
 21 comments?
 22 A. Not that I was ever aware of.
 23 Q. All right. You also indicated, you talked
 24 about debriefing instances where juveniles went
 25 one-to-one and there was no staff, inadequate staffing.

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1 A. After an incident there is always -- there is
 2 now a policy for debriefing where all staff talk about
 3 what happened, what didn't happen, how could they
 4 improve.
 5 Q. And evidently you made a comment to people
 6 that: "There's inadequate staffing to accomplish this
 7 task"?
 8 A. Not only that, but there's not adequate staff
 9 because I was usually the one that was left in the unit
 10 to observe the one-on-one, which kept me from being part
 11 of the debriefing.
 12 Q. When you made these comments, what ever
 13 happened to you because of it?
 14 A. My association with that staff generally
 15 deteriorated. I got the cold shoulder.
 16 Q. The cold shoulder by other workers?
 17 A. Yes.
 18 Q. Anything else?
 19 A. No.
 20 Q. Did any management person do anything to you
 21 because of these comments you made?
 22 A. No.
 23 Q. You indicated there was an incomplete suicide
 24 attempt, there was inadequate staff, you were the first
 25 responder. Do you remember that?

1 A. Yes.
 2 Q. I presume that you reported that incident?
 3 A. I'll never forget that one.
 4 Q. What's that?
 5 A. I'll never forget that one.
 6 Q. Understood. You obviously reported that
 7 incident and I presume you indicated you felt there was
 8 inadequate staff at the time to deal with the situation?
 9 A. Yes.
 10 Q. My question is: What happened to you as a
 11 result of you making those comments?
 12 A. Emotional stress, distress. It was a
 13 traumatic event I was never -- I was never de-escalated
 14 from, whereas the line staff go through the debriefing
 15 for the de-escalation. As medical staff we've never
 16 been de-escalated from anything that happens in there.
 17 Q. Well, my question, Mr. Farnworth, is: Did any
 18 management individual do anything to you because you
 19 made these criticisms about the suicide attempt and the
 20 lack of staff?
 21 A. Not that I'm aware of.
 22 Q. And specifically did Betty Grimm or Sharon
 23 Harrigfeld do anything in that regard to you that you're
 24 aware of?
 25 A. That would have been Betty Grimm and Larry

1 Q. And specifically Betty Grimm or Sharon
 2 Harrigfeld, did they do anything to you because of those
 3 comments?
 4 A. No, I'm not aware of anything.
 5 Q. Tell me, are you aware of anything that either
 6 Betty Grimm or Sharon Harrigfeld have ever done to you
 7 because of any criticism you had about staffing levels
 8 or anything that happened at the Nampa facility?
 9 MR. SCHOPPE: Objection. Object to the form,
 10 vague, ambiguous, overbroad as to time and everything.
 11 Q. (BY MR. COLLAER) Go ahead.
 12 A. The 90-day probation happened, the warning,
 13 your exhibit number --
 14 Q. It was the written warning?
 15 A. Yes.
 16 Q. And then the performance --
 17 A. The one that has the -- where is that exhibit?
 18 Q. 81? No, excuse me, that's the performance
 19 evaluation. 78.
 20 A. Okay. (Reviewing document.) How come I don't
 21 see it? You're saying 78 and I'm looking at 78. No,
 22 77.
 23 Q. Okay.
 24 A. Ms. Harrigfeld was in the front office and
 25 they had sent out an e-mail stating that they were doing

1 Callicutt at that time.
 2 Q. So, did Betty Grimm do anything to you because
 3 you were critical of the level of staffing in connection
 4 with this suicide attempt?
 5 A. No, other than congratulating me of the fact
 6 that I was instrumental in --
 7 Q. Saving the boy?
 8 A. Actually, it was a female.
 9 Q. So, she was supportive?
 10 A. Yes.
 11 Q. You also indicated that you commented that
 12 units were locked down due to staff shortages.
 13 A. Yes.
 14 Q. Who did you make those comments to?
 15 A. Supervisors.
 16 Q. Okay.
 17 A. Control, duty officers, and clinicians.
 18 Q. When you made those comments that: "Units are
 19 locked down because we don't have enough staff," was
 20 there any consequence to you? Did anybody do anything
 21 to you because of it?
 22 A. Nothing directly. Not that I'm aware of.
 23 Q. And specifically did any management person do
 24 anything to you because you made those comments?
 25 A. Not that I'm aware of.

1 an information gathering, and Ms. Bishop was there too.
 2 And I went up to talk to Ms. Harrigfeld about the fact
 3 that I had had enough stress and distress in my life in
 4 the last two and a half years with Ruth Davis as my
 5 supervisor and that I had intentions at that point of
 6 withdrawing from the lawsuit because all I was trying to
 7 do was have the incident, which isn't in my mind an
 8 incident because they're saying that I'm guilty of
 9 breaking a procedure, which I didn't do, which it states
 10 in the form that there was insufficient. So, I was
 11 asking to have that removed.
 12 And after leaving the meeting with
 13 Ms. Harrigfeld I went back to my workstation. And my
 14 supervisor was on the phone and closed her door, which
 15 was uncharacteristic of Ms. Angell, because we have an
 16 open communication. And then just before she left for
 17 the day she told me that she had been informed that she
 18 needed to write a 90-day -- yeah, she had to write a
 19 90-day performance plan.
 20 Q. So, what you're telling me is this performance
 21 plan, which is Exhibit No. 77 --
 22 A. Mm-hmm.
 23 MR. SCHOPPE: Yes?
 24 Q. (BY MR. COLLAER) -- is the only reaction or
 25 action taken against you that you would consider adverse

1 that's ever happened during your employment; correct?
 2 A. Yes.
 3 Q. And how does this Exhibit No. 77 have anything
 4 to do with any criticisms you made of the Department?
 5 A. It takes me out of permanent employee status
 6 and puts me into a probationary temporary status.
 7 Q. Well, my question was this: What is the
 8 connection between criticisms you made about the
 9 Department, about the staffing and those types of
 10 things, and the fact that this improvement plan
 11 occurred? What's the cause and effect of that between
 12 the two? What's the causal relationship between the
 13 two?
 14 MR. SCHOPPE: I was going to put this in front
 15 of Frank and remind him to say "yes" or "no."
 16 THE WITNESS: Thank you.
 17 I believe the cause was I made Ms. Harrigfeld
 18 aware of the fact I was in the lawsuit, because I had
 19 not been put on the published sheet yet.
 20 Q. (BY MR. COLLAER) Okay.
 21 A. And that I had had enough stress. I was
 22 calling it off. I was physically becoming ill. And
 23 before I could return to my workstation, my supervisor
 24 is on the phone being instructed to put me on a 90-day
 25 performance plan, which takes me out of permanent status

1 question, misstates testimony.
 2 THE WITNESS: I don't know if I -- do I have a
 3 question to answer?
 4 Q. (BY MR. COLLAER) Yeah, you do.
 5 MR. SCHOPPE: Do you remember the question?
 6 THE WITNESS: No, I do not.
 7 MR. COLLAER: Please read the question back.
 8 (Record read back.)
 9 THE WITNESS: It is accurate, but I do not
 10 recall the details.
 11 Q. (BY MR. COLLAER) What details don't you
 12 remember?
 13 MR. SCHOPPE: Object to the form of the
 14 question.
 15 THE WITNESS: Part of the problem solving is
 16 verbal, yet all you are accepting is written.
 17 Q. (BY MR. COLLAER) All right. Can you tell me
 18 any other discipline you contend that you experienced
 19 other than the performance improvement plan that's
 20 marked as Exhibit No. 77?
 21 A. In -- where is the other -- Exhibit No. 78.
 22 Q. All right. The written warning?
 23 A. Okay.
 24 Q. Anything other than those two?
 25 A. Well, you're asking if one predated?

1 and puts me into temporary because there is disciplinary
 2 dismissal with cause.
 3 Q. Tell me, so this is the only action that was
 4 ever done to you and it happened after the lawsuit was
 5 filed; correct?
 6 A. Yes.
 7 Q. But in the lawsuit you're alleging that you
 8 were disciplined because you reported things in the
 9 Department. So, that's not true; is it?
 10 MR. SCHOPPE: Object to the form of the
 11 question.
 12 THE WITNESS: Not quite. Excuse me. No
 13 response. The question?
 14 Q. (BY MR. COLLAER) In your Complaint you allege
 15 that you reported government waste inefficiencies, those
 16 types of things, and as a result you were disciplined;
 17 correct?
 18 A. Correct.
 19 Q. Yet at the time you filed the Complaint this
 20 so-called discipline you were talking about, Exhibit
 21 No. 77, hadn't been taken yet; correct?
 22 A. That one hadn't.
 23 Q. So, the allegation that you were disciplined
 24 for reporting something, that's not accurate; is it?
 25 MR. SCHOPPE: Object to the form of the

1 Q. I'm asking were there any others?
 2 A. Again, the problem solving begins at a verbal
 3 level.
 4 Q. Well, my question to you is: Other than the
 5 performance improvement plan which is Exhibit No. 77 and
 6 the written warning which is Exhibit No. 78, can you
 7 describe for me any other disciplinary action you
 8 contend was taken against you while you were at the
 9 Department?
 10 A. I am attempting to recall. I'm unable to
 11 recall specific details at this time.
 12 Q. That's fine. Tell me, the criticisms we've
 13 talked about that you had about staffing that you talked
 14 to other staff about and other supervisors about
 15 occurred in 2010. Do you remember that discussion we
 16 had earlier?
 17 A. Yes.
 18 Q. Is it your position that those criticisms
 19 caused you to receive the written warning in Exhibit
 20 No. 78 or be placed on the improvement plan which is
 21 Exhibit No. 77?
 22 A. I don't understand the question.
 23 Q. Well, specifically, any of the criticisms or
 24 discussions you described about staffing that occurred
 25 in 2010, is it your contention in this lawsuit that

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1 those comments you made caused you to receive the
 2 written warning which is Exhibit No. 78?
 3 A. I believe so.
 4 Q. Why?
 5 A. Prior to this they had nothing substantial
 6 that they could say I did wrong.
 7 Q. Other than the fact the written warning arises
 8 from that juvenile grievance which occurred; isn't it?
 9 A. A grievance I was not made aware of.
 10 Q. But the grievance was made; was it not?
 11 MR. SCHOPPE: Objection, calls for
 12 speculation.
 13 THE WITNESS: Their policy requires that any
 14 grievance, that all parties be notified within a 10-day
 15 period.
 16 Q. (BY MR. COLLAER) That's not my question. My
 17 question is: Did this juvenile make this grievance
 18 aimed at you about the way that you interacted with him?
 19 MR. SCHOPPE: Objection, calls for
 20 speculation, lacks foundation.
 21 Q. (BY MR. COLLAER) Well, it's Exhibit No. 79,
 22 Mr. Farnworth. Are you contending that Exhibit No. 79
 23 is a false document?
 24 MR. SCHOPPE: Object to the form of the
 25 question.

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1 THE WITNESS: I don't know when it was
 2 created.
 3 Q. (BY MR. COLLAER) Is it your position or are
 4 you taking the position that the grievance that is
 5 Exhibit No. 79 was not filled out by this juvenile and
 6 provided to management?
 7 MR. SCHOPPE: Object to the form of the
 8 question.
 9 THE WITNESS: No answer.
 10 Q. (BY MR. COLLAER) You don't know one way or
 11 the other?
 12 A. I do not.
 13 Q. All right. Tell me, these criticisms you made
 14 in 2010, when did you do it?
 15 A. On shift. I can't --
 16 Q. When during the year?
 17 A. I know some of them were throughout the year.
 18 Most of them were after our fiscal budget was presented.
 19 Q. When was the fiscal budget presented?
 20 A. July 1st.
 21 Q. And between July and the end of the year, when
 22 was the last time you made any comments about staffing?
 23 A. There were several comments because with the
 24 new budget they reduced staffing.
 25 Q. And these comments were among your co-workers

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1 and supervisors?
 2 A. Yes.
 3 Q. You didn't go out to the newspapers or anybody
 4 outside the Department?
 5 A. No.
 6 Q. Tell me, in 2011 could you describe to me any
 7 criticisms you made about the management?
 8 A. The number of attacks to staff, as well as
 9 juveniles, had increased. I'm sorry, I know this is a
 10 deposition. My mind is running through all of the
 11 things I'm aware of, but not necessarily germane.
 12 Q. Well, my question, Mr. Farnworth, is: In 2011
 13 could you describe to me the criticisms you made to
 14 anybody about management of the Nampa facility.
 15 MR. SCHOPPE: Object to the form of the
 16 question, it's vague, ambiguous, and overbroad.
 17 THE WITNESS: And I have problems answering
 18 because it is so vague. I know myself, I was attacked
 19 twice by during that time period. I know he
 20 threatened my life three days before I was taken off
 21 work. I know a metal weapon was discovered in the
 22 facility shortly after that period in an area he had
 23 access to.
 24 Q. (BY MR. COLLAER) I understand. Those are
 25 incidences. What I'm interested in is your complaints

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1 about the way the facility was being managed. Did you
 2 complain to anybody about that in 2011?
 3 A. Jeanette Angell, any of the on-shift
 4 supervisors, the duty officers, even office staff up
 5 front.
 6 Q. What did you complain to Ms. Angell about?
 7 A. What happened because of the shortage of
 8 staff.
 9 Q. Or anything you --
 10 A. No, no, I'm saying --
 11 Q. No, what I'm interested in is anything you
 12 complained to Ms. Angell about in 2011 concerning the
 13 way that the Nampa facility was run.
 14 A. Specific complaints? Somebody is going to get
 15 hurt very severely or killed if they didn't change some
 16 of the staffing patterns.
 17 Q. So, it dealt with staffing. Anything else?
 18 A. Security.
 19 Q. Anything else?
 20 A. Juvenile screening when they returned from
 21 home passes.
 22 Q. Anything else?
 23 A. Procedural differences between units.
 24 Q. Anything else?
 25 A. That would be most of it.

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1 Q. When did you make these criticisms to
 2 Ms. Angell?
 3 A. Without access to e-mail I can't give you a
 4 specific, but the first one was when I was required to
 5 do a flashlight search in the scrotal area of all of the
 6 Choices boys returning from home passes that I felt it
 7 was outside of my duties.
 8 Q. So, you criticized --
 9 A. That's safety and security.
 10 Q. That's something that you didn't feel that you
 11 should be doing?
 12 A. That's something that's against our own
 13 policy.
 14 Q. Well, the question is: Is that something that
 15 you felt you should not be doing?
 16 A. I shouldn't have to do it.
 17 Q. All right. And that was your criticism that
 18 you raised to Ms. Angell on that occasion?
 19 A. Yes.
 20 Q. And what other things did you complain to
 21 Ms. Angell about?
 22 A. A procedural difference between Choices and
 23 Solutions when they returned from passes.
 24 Q. And when did that happen? When did you
 25 complain to her about that?

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1 A. As soon as the Solutions group started going
 2 on home passes. The Choices group required a full
 3 pat-down as well as visual inspection, whereas the
 4 Solutions boys were simply allowed to go to the unit and
 5 change clothing.
 6 Q. Can you give me a date?
 7 A. Not without looking on the calendar to see who
 8 went where.
 9 Q. Can you give me a month?
 10 A. I know March and April of that year. June,
 11 July, because I remember a Fourth of July one that --
 12 Q. Other than Ms. Angell, did you complain to
 13 anybody else about these issues you've described?
 14 A. Not in person, no.
 15 Q. Did you know if Ms. Angell ever forwarded your
 16 comments or made Ms. Grimm or Ms. Harrigfeld aware of
 17 your comments?
 18 A. Yes.
 19 Q. How do you know that?
 20 A. I got an e-mail back from Superintendent
 21 Grimm.
 22 Q. And when did you get that e-mail?
 23 A. That was when I was doing the searches that I
 24 was authorized and instructed to do that.
 25 Q. Anything else?

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1 A. And I know Ms. Harrigfeld was aware of it
 2 because it came from Ms. Grimm. Yeah, Ms. Harrigfeld
 3 sent the original e-mail to Superintendent Grimm and
 4 that was forwarded to me, that I would be doing those
 5 searches.
 6 Q. All right. What about your complaints about
 7 the procedural differences between the units?
 8 A. That was addressed by the supervisors.
 9 Q. My question is: Do you have anything to
 10 indicate that Ms. Angell brought that subject up with
 11 Ms. Grimm or Ms. Harrigfeld, told them that you had
 12 commented on that?
 13 A. Yes. Yes.
 14 Q. How do you know that?
 15 A. Nurse -- Ms. Angell -- yeah, it's Nurse
 16 Angell, informed me that she had brought it up at the
 17 management meeting.
 18 Q. Did she tell you what the response was?
 19 A. The Solutions were going to come up with a
 20 different protocol.
 21 Q. Did she say anybody was angry about it?
 22 A. The response was staff was concerned about
 23 doing the searches on the Solutions as the juveniles on
 24 that area generally are more traumatized. It's a psych
 25 unit.

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1 Q. Tell me, did she tell you that when she
 2 brought this issue up at the management meeting that she
 3 told anybody that the comments came from you personally?
 4 A. There was -- no.
 5 Q. So, you don't know if Ms. Grimm or
 6 Ms. Harrigfeld knew these comments about the procedural
 7 differences came from you personally?
 8 A. They returned from home pass at 7:00 p.m.
 9 Q. That's not my question.
 10 A. I know.
 11 Q. Do you know whether Ms. Harrigfeld or
 12 Ms. Grimm were aware --
 13 A. No.
 14 Q. -- that you had made these comments
 15 personally?
 16 A. No.
 17 Q. Tell me, is it your position that these
 18 comments you made about security, procedural difference,
 19 and juvenile screenings motivated or caused you to
 20 receive the written warning that's Exhibit No. 78?
 21 A. I do.
 22 Q. Why?
 23 A. Because prior to then I had not done anything
 24 that they could reprimand me for.
 25 Q. Other than that, anything else?

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1 A. Not that I'm aware of.
 2 Q. When you made the comment about doing
 3 searches, scrotal searches, when did that occur in
 4 relation to -- well, what time of year did that occur?
 5 A. It started in summer.
 6 Q. Summer of 2011?
 7 A. Yes.
 8 Q. Do you recall what month in the summer?
 9 A. It would be a guess. I want to say -- it was
 10 either April or June.
 11 Q. And how long did this issue continue?
 12 A. I was told until -- I was instructed until
 13 told to stop, I would continue to do this until told to
 14 stop.
 15 Q. And did you do the searches as you were
 16 instructed to do?
 17 A. For 90 days.
 18 Q. Did the policy change so that you were not
 19 required to do those searches?
 20 A. No.
 21 Q. Well, why did you stop doing them?
 22 A. The individual who had snuck the drugs into
 23 the facility was no longer at the facility.
 24 Q. So, were the searches directed at one
 25 individual?

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1 A. They couldn't do that.
 2 Q. So, they were searching everybody?
 3 A. Yes.
 4 Q. And so, when the individual who was the
 5 offender who did it was gone, it stopped?
 6 A. Yes.
 7 Q. Were all nurses such as yourself required to
 8 be involved in these searches?
 9 A. I was the only one.
 10 Q. And why was that?
 11 A. I'm the only male nurse.
 12 Q. And you were searching the male inmates?
 13 A. Yes.
 14 Q. Were similar searches done of the female
 15 inmates?
 16 A. No.
 17 Q. Were these body cavity searches?
 18 A. I'm not allowed to do that.
 19 Q. "Yes" or "no"?
 20 A. It's a "no."
 21 Q. These were strip searches?
 22 A. They were -- yes.
 23 Q. And your objection to doing the strip searches
 24 was that you felt as a nurse you shouldn't be doing
 25 this?

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1 A. No.
 2 Q. Why? What was your objection?
 3 A. It's a policy. I'm not supposed to be there
 4 during any search for contraband. I'm not allowed --
 5 legally I'm not allowed to collect forensics.
 6 Q. The policy you're referring to, you're
 7 referring to an internal IDJC policy?
 8 A. Yes, as far as I know, unless there is a
 9 statute that states we're not allowed to do that as a
 10 law.
 11 Q. That would be an internal standard operating
 12 procedure, SOP?
 13 A. Yes.
 14 Q. Tell me, in these criticisms you had in 2011,
 15 other than talking to Ms. Angell, did you talk to
 16 anybody outside the Department about these issues?
 17 A. No.
 18 Q. You didn't go to the newspaper? You didn't
 19 talk to anybody else?
 20 A. No.
 21 Q. Anybody outside the Nampa facility?
 22 A. No.
 23 Q. All right. Tell me, can you describe for me
 24 anything that Sharon Harrigfeld has done during your
 25 employment to prevent you from speaking out on any issue

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1 dealing with the management of the Department that you
 2 wanted to speak out on?
 3 A. I want to say yes.
 4 Q. What?
 5 A. E-mails.
 6 Q. What has she done specifically to prevent you
 7 from speaking out on anything you wanted?
 8 A. E-mails stating we can't talk to other
 9 employees, we can't talk to co-workers.
 10 Q. Are these e-mails you say that you received
 11 from Ms. Harrigfeld?
 12 A. Yes.
 13 Q. And was it subject matter that was specific,
 14 you're not supposed to be discussing, or generally?
 15 A. I know it was specific on certain things. One
 16 was a juvenile suicide.
 17 Q. Is a juvenile suicide an issue that's
 18 considered confidential?
 19 A. As a juvenile, yes, that information stays
 20 within the facility, but it was a blanket saying: "You
 21 can't even discuss this with co-workers."
 22 Q. Was that a suicide that was under
 23 investigation at the time?
 24 A. Not that I know of.
 25 Q. You don't know one way or another?

1 A. No.
 2 Q. Would you be critical of the statement that
 3 employees don't discuss this suicide attempt when there
 4 was an ongoing investigation about the circumstances?
 5 MR. SCHOPPE: Objection, calls for
 6 speculation, lack of foundation as to fact or documents,
 7 hypothetical.
 8 Q. (BY MR. COLLAER) Go ahead.
 9 THE WITNESS: Answer?
 10 MR. SCHOPPE: Answer if you can.
 11 THE WITNESS: If there's an ongoing
 12 investigation, correct.
 13 Q. (BY MR. COLLAER) Any other instance that you
 14 contend Ms. Harrigfeld prevented you from speaking out
 15 on anything?
 16 A. Nothing I can recall at this time.
 17 Q. The same question with respect to Betty Grimm.
 18 A. Nothing I can recall at this time.
 19 Q. All right. Tell me, can you tell me anything
 20 that Ms. Harrigfeld has done to you during your
 21 employment with respect that caused you to change your
 22 job duties, suspend you, attempt to terminate your
 23 employment, anything of that nature?
 24 A. Exhibit No. 78.
 25 Q. Other than the written warning, that's it?

1 question to you is: As what's described in Exhibit
 2 No. 77, disciplinary action will not occur if you comply
 3 and meet the expectations of the improvement plan;
 4 correct?
 5 A. No.
 6 Q. Well, explain that. What do you mean?
 7 A. I was no longer a full-time employee with
 8 protected status.
 9 Q. Where does it say you no longer have a
 10 protected status?
 11 A. You have 90 days. My job was threatened.
 12 Q. Or else what?
 13 A. Or you will be dismissed.
 14 Q. Doesn't it say that this plan is going to last
 15 for 90 days, you're expected to make improvement in
 16 these areas, and if you don't, then disciplinary action
 17 could be taken?
 18 A. I would be the fifth person in a line during
 19 that time period that will have been given this and was
 20 terminated.
 21 MR. COLLAER: Move to strike as unresponsive.
 22 Q. (BY MR. COLLAER) Where does it say that you
 23 are going to be terminated if you comply with the terms
 24 of the improvement plan?
 25 MR. SCHOPPE: Object to the form of the

1 A. It says right on there disciplinary --
 2 disciplinary termination.
 3 Q. Where does it say on Exhibit No. 78: "We're
 4 going to fire you"?
 5 A. Excuse me, that was my bad. Exhibit No. 77.
 6 Q. Tell me, where on Exhibit No. 77 does it say
 7 they're going to fire you?
 8 MR. SCHOPPE: Object to the form of the
 9 question.
 10 THE WITNESS: The third paragraph.
 11 Q. (BY MR. COLLAER) That talks about if you
 12 don't improve then it could result in further
 13 discipline; correct?
 14 A. "Or" not "could."
 15 Q. But that would depend upon facts that don't
 16 exist at the time you received this improvement plan;
 17 correct?
 18 MR. SCHOPPE: Object to the form of the
 19 question.
 20 Q. (BY MR. COLLAER) Meaning you would have to
 21 not do the improvement plan?
 22 MR. SCHOPPE: Calls for speculation.
 23 THE WITNESS: Why was I put on the performance
 24 improvement plan?
 25 Q. (BY MR. COLLAER) You can't ask questions. My

1 question.
 2 Q. (BY MR. COLLAER) Where does it say that?
 3 A. I have no answer for you.
 4 Q. In fact, you weren't terminated; were you?
 5 A. I was medically laid off.
 6 Q. Granted, you were medically laid off, but you
 7 were not terminated for cause; were you?
 8 A. I did not reach the end of this time period.
 9 Q. Were you meeting the terms of the improvement
 10 plan?
 11 A. I don't know. It was never reviewed.
 12 Q. Did Ms. Angell ever tell you that you were not
 13 doing what was expected of you with respect to the
 14 improvement plan?
 15 A. We never had a chance to discuss it.
 16 Q. She never came up to you and said: "You're
 17 not doing your charting the way I want you to do it";
 18 did she?
 19 A. No.
 20 Q. And she never came up to you and said:
 21 "You're not doing the IRs the way I want you to do it"?
 22 A. No.
 23 Q. In fact, you've never received a notice of
 24 contemplated action seeking disciplinary action for
 25 anything; have you?

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1 A. No.
 2 Q. Tell me, other than the improvement plan, can
 3 you describe anything Betty Grimm has ever done to you
 4 that has adversely affected your employment?
 5 A. I cannot recall any details at this time.
 6 Q. All right.
 7 MR. COLLAER: Why don't we take a break. I
 8 think I'm about done.
 9 (Recess held.)
 10 MR. COLLAER: Back on the record. I have no
 11 further questions.
 12 MR. SCHOPPE: Okay.
 13 EXAMINATION
 14 QUESTIONS BY MR. SCHOPPE:
 15 Q. Frank, I have some questions for you. Did you
 16 sign a petition in 2011?
 17 A. Yes.
 18 Q. What was the subject of that petition?
 19 A. I believe it was a recall of Laura Roters.
 20 Q. What do you mean by "recall"?
 21 A. She had been given a unit manager's position
 22 and it was common knowledge that she did not have the
 23 education -- or not the education, the experience
 24 required for the position.
 25 Q. When you say "common knowledge," who else

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1 believed that as far as you know?
 2 A. Every staff person I talked to in the entire
 3 facility regardless of shift.
 4 Q. Can you give me some examples?
 5 A. We're talking the nursing staff, we're talking
 6 Amy Williams, we're talking Darla Crespin, Jeanette
 7 Angell. We're talking LaMark Judkins, we're talking
 8 James Fosdick, we're talking O'Neil Rich, Mark
 9 Freckleton, Julie McCormick, Carnell, Keim, Hottell.
 10 Q. If you think of others --
 11 A. Yeah.
 12 Q. -- you can let me know later. Is it fair to
 13 say that most of your fellow Plaintiffs share those
 14 concerns as far as you know?
 15 A. Yes.
 16 Q. And was that petition circulated in October or
 17 November of 2011?
 18 A. Yes.
 19 Q. Do you know who prepared it?
 20 A. No.
 21 Q. Do you recall who gave it to you?
 22 A. Ray Gregston.
 23 Q. Did you talk about that with Ray?
 24 A. Yes.
 25 Q. And is it fair to say you read the petition?

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1 A. Yes.
 2 Q. And you signed it?
 3 A. Yes.
 4 Q. And was anybody else there when you signed it?
 5 A. Yes.
 6 Q. Who was there?
 7 A. Darla Crespin and I believe Jeanette Angell.
 8 Q. Do you know if they signed it?
 9 A. I know Darla asked to.
 10 Q. How about Ms. Angell?
 11 A. I believe she expressed a desire to, but I'm
 12 not sure if she did. I left the room.
 13 Q. And what was the nature of the concerns over
 14 Ms. Roters' hiring?
 15 MR. COLLAER: Are you talking about in the
 16 petition?
 17 MR. SCHOPPE: Yes.
 18 THE WITNESS: The concern was her lack of
 19 management skills, training, and/or actual experience.
 20 Q. (BY MR. SCHOPPE) And according to what you
 21 had spoken about or heard from the other people that you
 22 mentioned, what was their shared concern about her
 23 hiring?
 24 MR. COLLAER: Object to the form of the
 25 question, calls for speculation.

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1 THE WITNESS: It was the same, that they felt
 2 that she did not have the management skills.
 3 Q. (BY MR. SCHOPPE) Would it be fair to say that
 4 at least you felt that her hiring or promotion was the
 5 result of cronyism and favoritism?
 6 A. Yes.
 7 Q. Did anyone else express that view to you?
 8 A. Yes.
 9 Q. Who?
 10 A. Can I say "everyone"?
 11 Q. Try to be specific.
 12 A. Well, let's see. Ray Gregston, Darla Crespin,
 13 I know Rhonda Ledford, Lisa Littlefield.
 14 Q. If you think of more people --
 15 A. I'm trying to remember more faces.
 16 Q. -- you can let me know later on. Do you know
 17 who all signed this petition?
 18 A. I knew a number of signatures that were
 19 already on the form before I put mine down.
 20 Q. Okay.
 21 A. I know Shane Penrod. I know LaMark Judkins
 22 was there. I know that Carnell was there, Tom Knoff,
 23 Hottell, Inman, Sheri -- I'm trying to remember the last
 24 name.
 25 Q. Estrada?

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1 A. It could be.
 2 Q. What members of O&A?
 3 A. That would have been Mr. Hottell and that
 4 would have been Ms. Carnell. That would have been
 5 Mr. Sanders. That would have been Mr. Inman. I'm
 6 trying to remember who is day shift.
 7 Q. And those are, as you recall, people who
 8 signed it before you had?
 9 A. Yes.
 10 Q. Do you know anybody who signed it after you?
 11 A. No, I never saw it again.
 12 Q. Do you know whether management became aware of
 13 that petition after you signed it?
 14 A. Yes.
 15 Q. How do you know that?
 16 A. Because it was mentioned in the all staff
 17 November of 2011.
 18 Q. In an all staff meeting?
 19 A. All staff are supposed to attend.
 20 Q. And who called that meeting?
 21 A. It's a quarterly meeting and it would have
 22 been Ms. Harrigfeld who called it.
 23 Q. Did you go to that meeting?
 24 A. I did.
 25 Q. What happened there?

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1 A. There were a couple of people that when we got
 2 to the open forum were asking questions. Tom Knoff was
 3 asking if he could get his 10-hour shifts back. I
 4 believe they were 10s.
 5 There was a question by Mr. Inman regarding
 6 staffing, the fact that they seemed to have openings but
 7 no interviews going through. There was questions of
 8 change in the policies and procedures that we were doing
 9 in that juveniles could injure juvenile or staff and do
 10 a -- I'm trying to remember what they call it -- a
 11 reintegration sheet and within 60 minutes to two hours
 12 be brought back into the group so that they could hurt
 13 someone else or -- as seemed to happen, as opposed to
 14 what had been previous, which was to do due process and
 15 at least lock them down for 24 hours. The fact that
 16 more staff, more juveniles were becoming injured,
 17 concerns of that.
 18 I'm trying to remember what else about the
 19 meeting. It literally became an open forum. To be
 20 honest with you, I tend to avoid the quarterly meetings.
 21 But the all staffs, I happened to attend that one and it
 22 was quite a few questions raised by staff as to what was
 23 going on, where were we going? What was -- why the
 24 changes?
 25 Q. Would it be fair to describe the tone of the

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1 meeting as critical of management at IDJC?
 2 A. I would have to say yes.
 3 Q. Specifically of Ms. Grimm in particular?
 4 A. Questions of Ms. Grimm, but also some of it of
 5 Ms. Harrigfeld and where were we going with this?
 6 Q. Prior to signing that petition in 2010, in the
 7 course of your work there did you discuss concerns that
 8 you had about the way the facility was run with your
 9 supervisors?
 10 A. Yes.
 11 Q. And did you discuss your concerns about the
 12 way the facility was run with other employees?
 13 A. Yes.
 14 Q. Did you discuss issues with Betty Grimm?
 15 A. Yes.
 16 Q. How about with Director Harrigfeld?
 17 A. Yes.
 18 Q. How about with anyone in Human Resources, like
 19 Pat Thomson or Julie Cloud, for example?
 20 A. I want to say no.
 21 Q. And would the same be true for 2011 with
 22 respect to discussing those issues with Ms. Grimm,
 23 Director Harrigfeld, Human Resources, fellow employees,
 24 and supervisors?
 25 A. It would definitely be, yes.

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1 Q. In 2011 do you know if you might have
 2 discussed those concerns with people in Human Resources,
 3 Pat Thomson or Julie Cloud?
 4 A. Yes.
 5 Q. The same question for 2012. Did you discuss
 6 those concerns with Director Harrigfeld, Ms. Grimm,
 7 fellow employees, supervisors, and people in HR?
 8 A. Yes.
 9 Q. All of those people?
 10 A. Yes.
 11 Q. Anyone in particular in Human Resources?
 12 A. The contact person was either Pat Thomson or
 13 Joyce Clark.
 14 Q. Did you discuss in 2010, '11, or '12, did you
 15 discuss anything about those topics with Laura Roters?
 16 A. No.
 17 Q. Was she anywhere in your chain of command?
 18 A. She was not.
 19 Q. Is it fair to say you had concerns about her
 20 particular employment there at the Department?
 21 A. Yes.
 22 Q. In discussing those issues, were those done in
 23 formal reports, sit-down meetings, or sort of on your
 24 feet throughout the course of the work week, or all of
 25 those or what?

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1 A. All of those actually.
 2 Q. Okay. E-mails?
 3 A. Not so much. There were some e-mails, yes.
 4 Q. If we were to ask your supervisors, for
 5 example Ms. Angell, do you think she would probably
 6 testify that you had communicated concerns about the way
 7 the facility was run to her?
 8 A. Yes.
 9 MR. COLLAER: Objection, calls for
 10 speculation.
 11 Q. (BY MR. SCHOPPE) Was that because you did
 12 discuss those things with her?
 13 A. Yes.
 14 Q. Is that sort of approach to expressing
 15 concerns about the way the management or the facility is
 16 managed pretty typical? It's not always formal,
 17 sometimes it's throughout the course of the work week?
 18 MR. COLLAER: Objection, incomplete and calls
 19 for speculation.
 20 THE WITNESS: That would be yes. The nursing
 21 department is not always informal. We have a break
 22 room/meeting room within the confines of our clinic and
 23 generally we take our meals there as a group. And so
 24 that when I would come in in the afternoon, I would be
 25 catching them just finishing up lunch as I was coming

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1 in. So, yeah I would have to say yeah, very informal.
 2 Q. (BY MR. SCHOPPE) Are you aware of whether
 3 other people reported those kinds of concerns?
 4 A. Yes.
 5 Q. Who?
 6 A. I know Rhonda Ledford for one, and that's
 7 because she told me. I know that Mr. Fogg, Mr. Fosdick
 8 have reported it. They would come by the clinic and
 9 tell me that they had called the duty officer.
 10 There was also -- what was his name --
 11 Mr. Conrad. Again, telephone calls to the duty officer.
 12 Phillip Gregston had made that comment that he had
 13 called the duty officer regarding it.
 14 Q. Let me go through kind of a laundry list. And
 15 we're going to look at the years 2010, 2011, and 2012.
 16 Is it fair to say that you reported concerns that you
 17 had concerning the Department's violations of State law?
 18 MR. COLLAER: Object to the form of the
 19 question as vague.
 20 MR. SCHOPPE: Let me break it down. I agree,
 21 it is vague.
 22 Q. (BY MR. SCHOPPE) How about with respect to
 23 maintaining the safety and security of the juveniles in
 24 the facility?
 25 MR. COLLAER: The same objection.

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1 THE WITNESS: I can sum it by saying any time
 2 I saw a safety or a security policy or procedure being
 3 violated, I did report it either to the duty officer or
 4 to my supervisor. I always reported it to the control
 5 booth.
 6 Q. (BY MR. SCHOPPE) And did you have concerns
 7 that the facility was not a safe environment for
 8 juveniles?
 9 MR. COLLAER: Object to the form of the
 10 question as vague.
 11 THE WITNESS: It is less safe now than it was.
 12 Q. (BY MR. SCHOPPE) How about in 2010? Were you
 13 concerned that the facility was not safe for juveniles?
 14 MR. COLLAER: The same objection.
 15 THE WITNESS: There was contraband smuggled
 16 into the facility during that time period.
 17 Q. (BY MR. SCHOPPE) And what do you mean by
 18 that?
 19 A. One was drugs, the other was alcohol, and
 20 there was an attempt to do an exchange with a weapon.
 21 Q. And so, that's against the rules, but was
 22 there something about the way the facility was run that
 23 encouraged or facilitated that sort of conduct?
 24 A. The visitors were not properly -- I want to
 25 say -- I wasn't trained on bringing them in through the

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1 metal detectors, but they weren't always put through the
 2 detection process to bring them into the visitation
 3 area.
 4 Q. Okay.
 5 A. And that's kind of our buffer zone between the
 6 secure area and the unsecure area. So, things would
 7 exchange.
 8 Q. As far as you know, is contraband, things that
 9 are against policy to be in the facility in the
 10 possession of juveniles, are items like that allowed in
 11 the facility --
 12 A. Contraband is --
 13 Q. -- as a matter of practice?
 14 A. As a matter of practice, no, they're not
 15 supposed to have it.
 16 Q. As a matter of practice, are they actually
 17 allowed to possess contraband?
 18 MR. COLLAER: Object to the form of the
 19 question as vague, calls for speculation.
 20 THE WITNESS: I know that there's a sewing kit
 21 on the male Solutions side, on the girls Solutions side
 22 in a locked box. That there is a sewing kit with
 23 needles and scissors in A pod, B pod, and C pod of the
 24 Choices area, and that the O&A possesses a sewing kit
 25 with needles and scissors and that is generally kept in

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1 a tackle box in the control staff area.
 2 Q. (BY MR. SCHOPPE) Is the concern that those
 3 kinds of items can be turned into weapons?
 4 A. Yes, readily.
 5 Q. And that those weapon could be used to harm
 6 other juveniles or staff in the facility?
 7 A. Correct.
 8 Q. And have you expressed your concerns or made
 9 reports regarding lack of safety with respect to those
 10 items?
 11 MR. COLLAER: Object to the form of the
 12 question as vague.
 13 THE WITNESS: I've actually reported that,
 14 yes.
 15 Q. (BY MR. SCHOPPE) To whom?
 16 A. It would be the supervisor of the area, the
 17 staff person that was in charge of the area at the time,
 18 and then my supervisor.
 19 Q. Okay.
 20 A. I do want to add that and if it was serious,
 21 it was also reported up to Superintendent Grimm.
 22 Q. And what do you mean by "serious"?
 23 A. In the case of a weapon.
 24 Q. Okay.
 25 A. Even if the staff person called the duty

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1 officer, I had been taught as a nurse by Nurse Grimm
 2 that if there's something going on in the facility, even
 3 when she made superintendent, to make sure she knew
 4 about it too.
 5 Q. And did you do that?
 6 A. Yes.
 7 Q. And is it fair to say that you were critical
 8 of how the Department, say, since 2010 has handled the
 9 issue of contraband and risks to juveniles and staff?
 10 A. Yes, it's gotten very lax.
 11 Q. And as far as you know is Betty Grimm aware of
 12 that?
 13 MR. COLLAER: Object to the form of the
 14 question, calls for speculation, and vague.
 15 THE WITNESS: Yeah, I can't answer.
 16 Q. (BY MR. SCHOPPE) With respect to safety of
 17 juveniles with respect to assaults from other juveniles,
 18 you mentioned reintegration policies a little bit ago.
 19 Did I get that right, that you're concerned that
 20 reintegrating juveniles back into the general population
 21 after a violent incident is risky somehow?
 22 A. Yes.
 23 Q. And why do you say that?
 24 A. Generally -- I have to generalize. The
 25 individual that assaulted either has not calmed down

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1 enough or has general -- he's formed a retaliation
 2 against the juvenile that either insulted or made a
 3 comment or whatever that caused him to get -- to go out
 4 of check and have to go into his room.
 5 Q. So, it might be retaliatory intent or
 6 something like that?
 7 MR. COLLAER: Object to the form of the
 8 question, calls for speculation.
 9 THE WITNESS: Yes.
 10 Q. (BY MR. SCHOPPE) And is it fair to say that
 11 you've been critical of that policy?
 12 A. Their returning into the population, yes, on
 13 the same day that they're causing the problem. It
 14 didn't get resolved.
 15 Q. You mentioned earlier that there was an
 16 increase in assault incidents. Can you tell me what you
 17 mean by that?
 18 A. As first responder and medical person, anybody
 19 and everybody that's been involved in an incident,
 20 whether it actually resulted in restraints or injuries,
 21 I have to go in and physically check and inspect all
 22 juveniles as well as all staff that may have been
 23 involved with this so I can document any and all
 24 injuries.
 25 In the juveniles' cases, that goes into their

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1 medical records. So, I have to know who, whether it was
 2 one juvenile or as many as 15, 16. How many people were
 3 involved? Who got hurt? How they got hurt. I have to
 4 document all of that. As well as any staff that are
 5 injured, I am not authorized to return any injured staff
 6 to work. They have to go to Job Care, which is our
 7 contract provider for the -- the name just went out of
 8 my head -- they're our contract provider for Workmen's
 9 Comp.
 10 Q. Okay.
 11 A. So, they have to be released by their medical
 12 to come back to work.
 13 Q. Do you think there has been an increase in the
 14 last several years in violent incidents?
 15 MR. COLLAER: Object to the form of the
 16 question as vague and calls for speculation.
 17 THE WITNESS: The type of injuries have
 18 substantially escalated ever since the Solutions unit
 19 opened.
 20 Q. (BY MR. SCHOPPE) And do you make a connection
 21 there?
 22 MR. COLLAER: Objection, lacks foundation,
 23 calls for speculation.
 24 THE WITNESS: I don't know whether then it was
 25 a larger floor space and it increased our population by

1 and additional 24 juveniles.
 2 Q. (BY MR. SCHOPPE) Do you have any concerns
 3 about the ratios of juveniles to security staff, to
 4 other staff?
 5 MR. COLLAER: Objection, vague.
 6 THE WITNESS: It has to do with this shortage
 7 of staff. If there's insufficient staff to watch the
 8 juveniles -- I don't want to say they're bad kids, but
 9 they will come up with something.
 10 Q. (BY MR. SCHOPPE) And is the concern that if
 11 there's not enough staff there that the juveniles are
 12 more likely to assault other juveniles or staff?
 13 MR. COLLAER: Objection, leading, and calls
 14 for speculation.
 15 THE WITNESS: What I have seen in the evening
 16 is if the juveniles are not engaged in programming, the
 17 number of injuries between juveniles increases and the
 18 number of staff injured by juveniles will increase.
 19 Q. (BY MR. SCHOPPE) And have you ever heard that
 20 juveniles have said that they can get out of a program
 21 or into another program by committing an assault on
 22 staff or a juvenile?
 23 A. Yes, I've heard that comment.
 24 Q. Where have you heard that?
 25 A. I've heard that from several of the Choices as

1 A. [REDACTED] was the other one I couldn't remember his
 2 name. He was brought in from program and kept at O&A
 3 until they were able to get him an apartment.
 4 Q. Okay.
 5 A. I don't remember his last name, but I know his
 6 first name was [REDACTED].
 7 Q. And have you shared, reported those concerns
 8 of yours to, among others, Jeanette Angell?
 9 A. Oh, yes.
 10 Q. How about with Betty Grimm?
 11 A. I know Betty has been aware of it.
 12 MR. COLLAER: Objection, that calls for
 13 speculation.
 14 Q. (BY MR. SCHOPPE) How do you know that?
 15 A. How do I know that? Darla would go out and
 16 have a cigarette with Betty. And once in a while I
 17 would go out there instead of staying in the clinic when
 18 I came in at 1:00, and just general conversation.
 19 Q. And were any changes made to reintegration or
 20 those policies in response to those concerns?
 21 A. No.
 22 Q. Do you recall when [REDACTED] made that
 23 statement that you referred to earlier?
 24 A. That he was going to kill me?
 25 Q. Sure.

1 well as some of the O&A juveniles that were down there
 2 for special management because they were already taken
 3 down there from out of their program at that time for
 4 actually assaulting a juvenile or staff.
 5 Q. Did you ever talk about -- were you concerned
 6 about that, hearing that sort of thing?
 7 A. Yeah, because as a staff person, that makes me
 8 even more of a target.
 9 Q. Is it your concern that that is an incentive
 10 to some juveniles to commit additional assaults?
 11 MR. COLLAER: Objection, calls for speculation
 12 and it's vague.
 13 Q. (BY MR. SCHOPPE) Is it your concern?
 14 A. I've actually heard a juvenile make the
 15 statement that they intended to hurt either staff or
 16 juveniles or -- or inmates there so they can go to
 17 another program.
 18 Q. Who was that?
 19 A. One was [REDACTED]. Another one is
 20 And -- who was that kid?
 21 Q. Could it have been [REDACTED]?
 22 A. [REDACTED] definitely was one that -- yeah,
 23 he can get out of any program that we put him in. He's
 24 actually stated that.
 25 Q. Do you recall the other kid?

1 A. He made it once down in O&A. He's said that
 2 twice to me on the Solutions unit. And that would have
 3 been April.
 4 Q. Of what year?
 5 A. Of 2012.
 6 Q. And did you report that?
 7 A. Yes, I reported it to staff, I reported it to
 8 the duty officer, and I actually wrote the incident
 9 report since he actually told it to me over the med
 10 cart.
 11 Q. Was any action taken for your safety in any
 12 respect as far as you know?
 13 A. None that I was aware of.
 14 Q. How about [REDACTED]?
 15 A. No, he was -- he remained within the general
 16 population. It was reported to the nurse practitioner
 17 that he had started refusing his anti-psychotics.
 18 Q. And when was that?
 19 A. That was I want to say -- I'd say March of
 20 2012.
 21 Q. As far as you know, no action was taken to
 22 make sure that he didn't assault juveniles or staff or
 23 anything like that?
 24 A. No, he just was engaged in program.
 25 Q. Did you have any personal conflicts with Betty

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1 Grimm in the sense of you didn't like her or didn't care
 2 for her as a person?
 3 A. No.
 4 Q. Is it fair to say that you have problems with
 5 the way she managed the facility?
 6 A. Only a few in that she would send out an
 7 e-mail one day saying this would be the procedure and
 8 then either hours or days later follow up with another
 9 e-mail reprimanding -- changing it.
 10 Q. Did you ever express any concerns or make any
 11 reports concerning waste or fraud of the funds at the
 12 facility with the Department?
 13 A. Waste would have been when Superintendent
 14 Grimm had me collect all of the latex gloves out of the
 15 entire facility and I was instructed to throw them in
 16 the trash cans whether they were open or not. We had a
 17 staff person that was -- had a severe latex allergy.
 18 I complied by getting all of the gloves.
 19 However, I put them in trash bags and put them out for
 20 maintenance. And later all of the unopened ones were
 21 returned for refunds as opposed to simply throwing it in
 22 the trash.
 23 Q. How about with respect to dental services?
 24 A. Dental services? Ruth Davis changed our
 25 dental contract on us. She moved the juveniles to a

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1 provider that actually charged us more than the Medicaid
 2 funds that was our benchmark. After she left and about
 3 the time Jeanette got there we were able to make amends
 4 with the dental provider we had previously and were able
 5 to move the juveniles back to the original provider at
 6 Medicare, Medicaid --
 7 Q. Okay.
 8 A. -- rates.
 9 Q. Did that cost the Department money?
 10 A. Yes.
 11 Q. Are you aware of any incidents regarding time
 12 card padding at the facility or in the Department?
 13 A. I know that Mr. and Mrs. Rohrbach were not
 14 generally there all day. There would be times I would
 15 come in and since he used a handicapped parking spot,
 16 you could tell coming into the parking lot that his
 17 vehicle was not there. And this would be from Monday
 18 through Friday.
 19 Debbie Siegel was one of the education
 20 providers. I do know that her husband was sick, but I'm
 21 not sure -- she generally was not there full time
 22 either.
 23 Then we had a nurse, Valerie Lieteau, who I
 24 know took time off when she had no time off to take.
 25 Q. How do you know that?

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1 A. She hadn't been there six months. And the
 2 accrual rate is 7. -- 7.1?
 3 MS. NANCY BISHOP: I don't know.
 4 THE WITNESS: It's 6.8 per pay period, 6.8 per
 5 a pay period. And 6.8 per pay period, she had only been
 6 there six months, yet she took two weeks off.
 7 Q. (BY MR. SCHOPPE) Okay.
 8 A. And I know she got a full paycheck from the
 9 supervisor.
 10 Q. How about concerns about sexual misconduct
 11 between staff and juveniles in the facility, what do you
 12 know about that?
 13 A. I raised several questions of Julie McCormick
 14 having juveniles down in her office after she became the
 15 safety and security supervisor.
 16 Q. Which juveniles?
 17 A. There was [REDACTED] there was [REDACTED],
 18 on occasion.
 19 Q. And what was the concern?
 20 A. The time of night. We're talking 7:00 p.m.
 21 that she's doing one-on-one counseling with juveniles
 22 when she's not a counselor. The time of night is
 23 significant to me because that is my first med pass for
 24 the three units in the building and I'm on my way to
 25 O&A, so I go past the office.

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1 Her door would be open and they would either
 2 close it while I was going by -- or once I had done med
 3 pass, which usually took about 30 minutes, between 30
 4 and 45 minutes, and then I was coming back and the door
 5 would be closed.
 6 Q. Is there a policy about that?
 7 A. Not only a policy, but she -- they were off
 8 camera. And there's definitely a policy about off
 9 camera, opposite sex. It is not to happen. If the door
 10 is closed there's supposed to be two staff in there and
 11 there was not.
 12 Q. Would [REDACTED] have been another juvenile?
 13 A. The blond, yes,
 14 Q. And did other employees express concern about
 15 that sort of conduct?
 16 A. I know Rhonda had on occasion. I know that
 17 Mr. Castillo, I'm trying to think of --
 18 Q. How about Jessy Hinkle?
 19 A. Yeah, she would occasionally when I was coming
 20 up from the O&A area doing meds, she would be out
 21 looking for her kids, or I should say her juveniles,
 22 because she was missing one.
 23 Q. And are you aware if those concerns were
 24 communicated to Ms. Grimm?
 25 A. I know via hearsay. It would be Rhonda.

1 Q. If you don't, you can say so.
 2 A. Yeah, I don't know.
 3 Q. With respect to medical treatment of staff and
 4 juveniles, have you had any concerns about whether it's
 5 proper or not or whether the Department's policy is
 6 appropriate?
 7 MR. COLLAER: Object to the form of the
 8 question as vague.
 9 THE WITNESS: Medical treatment? I can't
 10 speak for the other nurses, but I gave every juvenile
 11 the best medical care that I knew how to give them. If
 12 there was ever any question or if it was something I
 13 felt was beyond by capabilities, they were immediately
 14 transported to the nearest area hospital.
 15 Q. (BY MR. SCHOPPE) With respect to reporting of
 16 violent incidents and assaults, things like that, have
 17 you ever had any concerns or expressed any concerns
 18 about the Department not doing that properly?
 19 MR. COLLAER: Object to the form of the
 20 question as vague, calls for speculation.
 21 THE WITNESS: I know on two incidences staff
 22 that were told to return to work by their supervisor
 23 after I had already instructed them they needed to go to
 24 Job Care for the Workmen's Comp. The supervisor was
 25 Dave Rohrbach. And my concern was: One of them was

1 Mr. Castillo and he has health concerns. He's actually
 2 had a -- excuse me, that's on his HIPAA. He's got
 3 health concerns that I am more concerned with him than
 4 the average staff person.
 5 There was also Robyn Smyth. She was exposed
 6 to a food allergy on two different occasions.
 7 Q. (BY MR. SCHOPPE) How about with respect to an
 8 incident involving a teacher being assaulted?
 9 MR. COLLAER: Object to the form of the
 10 question, vague, calls for speculation, lacks
 11 foundation.
 12 Q. (BY MR. SCHOPPE) Were you aware of an
 13 incident involving a teacher being assaulted?
 14 A. Yes. And it happened on day shift, so I got
 15 it through a communication passed down. A teacher was
 16 kicked by a juvenile during a restraint, and my
 17 understanding is kicked several times. I do know that
 18 the nurse that attended her immediately instructed staff
 19 to get her to a hospital because her face was slack and
 20 drooping. The nurse recognized it because her mother
 21 had just recently had a stroke. So, these were similar
 22 symptoms. She knew they needed to be attended to
 23 immediately. It was well beyond the capabilities of the
 24 facility.
 25 Q. Did you review the incident report for that

1 incident?
 2 A. I do remember looking at the incident report
 3 later because I was also looking at some of the medical
 4 notes. The incident report definitely would not have
 5 led me to believe the amount of injury that was
 6 inflicted on the person by what was actually written
 7 there.
 8 Q. So, as far as you could tell it didn't
 9 accurately reflect the incident?
 10 A. No.
 11 MR. COLLAER: Objection, that misstates his
 12 testimony.
 13 THE WITNESS: No, reading the incident report,
 14 the worst thing I would have thought was that a kid
 15 threw a shoe at her.
 16 Q. (BY MR. SCHOPPE) Are you aware of any other
 17 incidents where reports or accounts of the incident
 18 don't accurately reflect what happened?
 19 MR. COLLAER: Object to the form of the
 20 question as vague, and it calls for speculation and
 21 lacks foundation.
 22 THE WITNESS: There are incident reports that
 23 are missing out of the system.
 24 Q. (BY MR. SCHOPPE) What do you mean?
 25 A. Two of them that I actually wrote myself.

1 Q. Can you tell me about those?
 2 A. One of them was when [redacted] made the verbal
 3 threat against me. The other one is [redacted] when he
 4 made a verbal threat against me. I documented both of
 5 them in their records. And later, prior to being let go
 6 from the State's employ, I had gone in to see if I
 7 needed to change anything and neither report was there.
 8 The night that I -- the alleged night of the
 9 incident of me injuring [redacted] I had started an
 10 incident report in there and it's not there anymore.
 11 The incident report that Ms. Hinkle actually wrote has
 12 been revised, either revised or totally rewritten. I'm
 13 not sure which.
 14 Q. The incident report for what?
 15 A. The night that I was -- I supposedly -- that I
 16 allegedly lifted him up and choked him. It has been
 17 rewritten.
 18 Q. Do you know who did that?
 19 A. To the best of my knowledge, the only people
 20 allowed to do a rewrite is the person that initiated it
 21 or IT.
 22 MR. COLLAER: Objection, I'm going to move to
 23 strike the response as unresponsive and calls for
 24 speculation and is also speculative.
 25 Q. (BY MR. SCHOPPE) With respect to deleting or

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1 removing reports, who has the ability to do that?
 2 MR. COLLAER: Objection, lacks foundation.
 3 THE WITNESS: I do.
 4 MR. COLLAER: Calls for speculation.
 5 Q. (BY MR. SCHOPPE) How do you know that?
 6 MR. COLLAER: The same objection.
 7 THE WITNESS: From the training that I
 8 received on how to enter the programs and to use the
 9 programs, that they instructed us the only people that
 10 could alter them is the originator and IT.
 11 Q. (BY MR. SCHOPPE) Who told you that?
 12 A. Abbie Campbell.
 13 Q. Are you aware of any other incidents where
 14 documents that you would have expected to be there are
 15 not?
 16 MR. COLLAER: Objection, vague, calls for
 17 speculation.
 18 THE WITNESS: Not that I can recall offhand.
 19 Q. (BY MR. SCHOPPE) Do you ever prepare data for
 20 either PBS, performance-based surveys, or for DCTAT,
 21 federal funding data reporting?
 22 A. Not the fed, no, not the DCTAT. PBS,
 23 essentially all employees are to fill out a PBS survey
 24 every six months.
 25 Q. And have you done that?

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1 A. Yes.
 2 Q. Have you ever expressed concerns about
 3 violence or risks or violations of law, any of the
 4 things that we're talking about in this lawsuit in a PBS
 5 survey?
 6 A. Yes.
 7 Q. Did anyone make you aware as to whether the
 8 "Other" box had to be checked when reporting things like
 9 that?
 10 A. I had never heard of that before.
 11 Q. As far as you know are PBS reports, surveys
 12 like that confidential -- or anonymous rather?
 13 A. They're supposed to be anonymous.
 14 Q. And when you say they are supposed to be, what
 15 do you mean?
 16 A. There is a drop box in the media room. And
 17 when you put -- how do I say it? Each envelope has an
 18 area on it, whether it's O&A, Choices, or Solutions.
 19 So, nursing staff and teachers, which would be the
 20 education, are divided up so that they are either
 21 Choices, Solutions, or O&A staff.
 22 We get an envelope. You fill out your form,
 23 put it in an envelope and seal it. But when you drop it
 24 in the box and it's the only one in there and then you
 25 go down and check your name off of a clipboard that says

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1 you have to check it off --
 2 Q. Do you know why you have to check it off?
 3 A. So that they can show that you've actually
 4 submitted a PBS form.
 5 Q. So, is it fair to say that when you submitted
 6 forms it's known that you are the one submitting them?
 7 A. Yeah, late at night I'm the only one that's
 8 dropping one in there. So, when they pick it up the
 9 next morning --
 10 Q. Okay.
 11 A. Because you date. You date when you drop it.
 12 Q. And do you know where those surveys go from
 13 there?
 14 A. Yes, I do, because Nurse Grimm used to do it
 15 when I first started there. We have a PBS coordinator
 16 within the building that collects all of those. And
 17 then with the assistance of an OS2 they compile all of
 18 the data and then submit it to PBS.
 19 Q. And during the time that you were employed
 20 there who were the PBS coordinators that you recall?
 21 A. Nurse Grimm, Laura Roters, and it's LaMark
 22 Judkins now.
 23 Q. Do you know anything about movement logs that
 24 tracks the movement of juveniles in the facility?
 25 A. Oh, in the facility? Yes.

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1 Q. Do you have any involvement in creating those
 2 logs or maintaining them or making those records?
 3 A. Only in the event of an emergency. Nursing
 4 was selected as the department to learn the control
 5 booth so that in an emergency we could be their backup.
 6 So that I know that the logs that you're referring to,
 7 they're in -- the control booth person is the one that
 8 keeps those as a running data log of who was where, how
 9 many.
 10 Q. And that's expected to be maintained?
 11 A. Yes.
 12 Q. And how can those be modified?
 13 A. They could be modified by the person that's
 14 got logged in or if they left their log-in up, and
 15 again, IT.
 16 Q. Are you aware of any incidents in which those
 17 sorts of logs have turned up missing or deleted?
 18 MR. COLLAER: Objection, calls for
 19 speculation, and is vague.
 20 THE WITNESS: Do I know of any?
 21 Q. (BY MR. SCHOPPE) Yes. How do you know that?
 22 A. The person looking for it made the comment
 23 that they were unable to find a log, while I was in the
 24 control room. We went back through the queue, because
 25 they're time date stamped to when somebody was in and

1 out, and it wasn't there.
 2 Q. And who was that with you?
 3 A. That was Rhonda.
 4 Q. And what were you looking for?
 5 A. She was looking for a specific movement on a
 6 juvenile. And literally that's how you do it, you go in
 7 to approximately the time that you expect, and just it's
 8 a search engine. You just type in name or number or
 9 approximate time and --
 10 Q. Was that
 11 A. Several times, yes.
 12 Q. And was that in connection with Julie
 13 McCormick's sexual interaction with him?
 14 MR. COLLAER: Objection, lacks foundation.
 15 Q. (BY MR. SCHOPPE) As far as you know?
 16 A. As far as I know, yes.
 17 Q. Did you see the log yourself?
 18 A. I had seen the log previously.
 19 Q. Okay.
 20 A. And that was -- let's see, Diane Miles was
 21 doing that and Amada -- I don't remember his first name.
 22 Q. And when was it you had seen that log before?
 23 A. Several times when I've -- I go in and out of
 24 the control booth. If a parent brings in medication or
 25 glasses or contacts or something of that nature for a

1 Q. Are there any grounds for deleting, is there
 2 any allowed basis that you're aware of for deleting
 3 movement logs?
 4 MR. COLLAER: Objection, calls for
 5 speculation, lacks foundation.
 6 THE WITNESS: No.
 7 Q. (BY MR. SCHOPPE) With respect to the petition
 8 you indicated that you signed about improper hiring
 9 practices, apart from Laura Roters, were there any
 10 others that you had in mind when you were concerned
 11 about that?
 12 MR. COLLAER: Objection, calls for a narrative
 13 and it also lacks foundation, is vague.
 14 THE WITNESS: I know that when I was in the
 15 control booth picking up supplies Julie McCormick came
 16 in and made the comment about the current roster for
 17 SSOs was nothing but military and correctional officers.
 18 Q. (BY MR. SCHOPPE) What did she have to say
 19 about that?
 20 A. She didn't want to hire them.
 21 Q. What did she say as far as you can
 22 specifically remember?
 23 A. She didn't like them. No, she didn't care for
 24 the fact that they came in with a preconceived notion.
 25 That's what it was she said.

1 juvenile, it has to go through medical. So, I'm
 2 frequently into that area to pick up said supplies so I
 3 can check, one, that they are intact, they are
 4 supposedly what they're supposed to be, and also that I
 5 can document that they've been brought in and given to
 6 the juvenile.
 7 Q. And in looking for those records you indicated
 8 that records weren't there or what do you mean?
 9 A. Yeah, it was a gap. It was a gap in the
 10 database.
 11 Q. Do you have any idea why?
 12 MR. COLLAER: Objection, calls for
 13 speculation.
 14 THE WITNESS: No.
 15 Q. (BY MR. SCHOPPE) And when you say a "gap,"
 16 was it because there was something that you think ought
 17 to have been there but wasn't?
 18 MR. COLLAER: Objection, calls for
 19 speculation.
 20 Q. (BY MR. SCHOPPE) Based on your training and
 21 experience?
 22 A. Yes.
 23 MR. COLLAER: The same objection.
 24 Q. (BY MR. SCHOPPE) That was a "yes"?
 25 A. That was a "yes."

1 Q. Are you aware of whether Betty Grimm shared
 2 that belief?
 3 MR. COLLAER: Objection, calls for
 4 speculation.
 5 THE WITNESS: I'd have to say no. I --
 6 Q. (BY MR. SCHOPPE) That's fine. And if a
 7 question asks you -- if you're not sure whether it's --
 8 try to distinguish in your answer between what you know
 9 personally and what you may have heard. So, try to
 10 stick with what you personally know.
 11 After the all staff meeting, how would you
 12 describe the tone of that meeting?
 13 MR. COLLAER: Object to the form of the
 14 question, calls for speculation and is vague.
 15 THE WITNESS: The staff were very concerned.
 16 The staff were expressing their concerns. They were
 17 asking for answers but weren't really getting an answer.
 18 The closest thing they got was: "We'll be having
 19 individual meetings with each group afterwards," which
 20 made them apprehensive.
 21 Q. (BY MR. SCHOPPE) And when you say "concern,"
 22 would it be fair to say that it was critical?
 23 MR. COLLAER: Objection, calls for
 24 speculation, misstates his testimony.
 25 THE WITNESS: I would have to say yes,

1 critical. They were very concerned and --
 2 Q. (BY MR. SCHOPPE) All right. And were some of
 3 the staff that expressed those criticisms and concerns
 4 the same that had signed the petition that you signed?
 5 A. Yes.
 6 Q. And did you regard that petition as criticism
 7 of the practices, the hiring practices or the promotions
 8 practices of the Department?
 9 MR. COLLAER: Objection, that misstates the
 10 petition, misstates his testimony, and also calls for
 11 speculation.
 12 THE WITNESS: I know that we were put on a
 13 six-month probation from Human Resources on our hiring
 14 practices after Laura Roters was put to unit manager and
 15 then stepped back to train her.
 16 Q. (BY MR. SCHOPPE) How do you know that?
 17 A. Because we were trying to fill a position at
 18 the time and essentially that's what we were told, that
 19 all hires had to go through Human Resources, that it
 20 would not be the normal interview process that we had.
 21 Q. Is it fair to say that the way that Ms. Roters
 22 was hired for that position upset you?
 23 A. I don't -- I did not and still do not feel
 24 that she is quite right for that position.
 25 MR. COLLAER: Move to strike as unresponsive.

1 drink water. It will take care of everything."
 2 Q. Okay.
 3 A. As I said, that later became -- that became
 4 almost a mantra for the juveniles throughout the
 5 facility for the rest of the time that I was there.
 6 Q. Did you view that as disparaging?
 7 A. Yes.
 8 Q. As far as you know, is that within the code of
 9 conduct expected of Department employees?
 10 MR. COLLAER: Object to the form of the
 11 question as vague.
 12 THE WITNESS: We're supposed to support each
 13 other in front of the juveniles. Whether you agree with
 14 the person or not, you support them.
 15 Q. (BY MR. SCHOPPE) Do you know if any
 16 consequences ever came about for Ms. Roters in
 17 connection with making that sort of statement?
 18 A. No.
 19 Q. Are you aware of any instances where
 20 Ms. Roters called juveniles a "dumb ass"?
 21 A. Yes.
 22 Q. How do you know about that?
 23 A. When she was in A pod still doing RPP, Choices
 24 had moved up there. She yelled at one of the juveniles
 25 on an upper tier.

1 Q. (BY MR. SCHOPPE) Why did that bother you?
 2 MR. COLLAER: The same objection, calls for
 3 speculation.
 4 Q. (BY MR. SCHOPPE) Do you know why it bothered
 5 you? Is it speculating to ask you why it bothered you?
 6 A. No, because I have worked with her since I
 7 started there and she was a rehab tech and essentially
 8 that is the majority of the function she has served the
 9 entire time that I have been there. Personally her and
 10 I have had altercations.
 11 Q. What do you mean by that?
 12 A. In reference to my evaluation, the laziness or
 13 letting staff do things, the comment came from her.
 14 Q. How do you know that?
 15 A. She told me.
 16 Q. She told you?
 17 A. After the interview, after my performance
 18 evaluation was completed.
 19 Q. Okay.
 20 A. She made the comment that she was -- I don't
 21 want to say she was surprised I was still there. She
 22 was surprised I hadn't been moved to day shift.
 23 Q. And she told you that she had said that you
 24 were lazy?
 25 A. Not the lazy part, but the: "Tell the kids to

1 Q. Did you hear that or how do you know?
 2 A. I heard that.
 3 Q. What did you hear?
 4 A. I heard her calling: "What are you doing, you
 5 dumb ass? Get off of that and come down here."
 6 Q. Was that a reported thing to management as far
 7 as you know?
 8 A. Not that I know of.
 9 Q. Do you know if anybody ever addressed that
 10 with Ms. Roters?
 11 A. No.
 12 Q. Would that be against Department policy?
 13 A. Yes, because it's a derogatory remark.
 14 Q. Has anyone ever told you that they believe
 15 Ms. Roters is a favorite of Director Harrigfeld?
 16 A. Rumor only, like -- yeah, no particular person
 17 I can recall ever actually saying it, but I have heard
 18 it.
 19 Q. Or words to that effect? Or what have you
 20 heard about that sort of relationship?
 21 A. It went back to when she got the position to
 22 begin with, is that she was picked for the spot. She
 23 was picked for the position, excuse me, picked for the
 24 position.
 25 Q. And how about with respect to Ms. Grimm?

1 A. Not that I know of. I don't know who was
 2 on -- yeah, I don't know who was on her -- the panel
 3 that should have done the interview.
 4 Q. With respect to what happened after that
 5 petition was signed and after the all staff meeting in
 6 November of 2011, you indicated you were told that
 7 individual meetings or group meetings would follow.
 8 What happened?
 9 A. To the best of my knowledge O&A had a group
 10 meeting. However, only O&A staff were present at the
 11 meeting. I don't know of any other meetings with any of
 12 the other groups. I know that the nursing department
 13 did not have an individual meeting at any time.
 14 Q. With respect to people, the people who signed
 15 the petition and the people who expressed criticisms at
 16 the all staff meeting in November of 2011, is it fair to
 17 say that you consider yourself to be part of the group
 18 that was critical of how the Department was run?
 19 A. Yes.
 20 Q. Was that any secret as far as you were
 21 concerned?
 22 MR. COLLAER: Objection, lacks foundation,
 23 calls for speculation.
 24 THE WITNESS: No. I was very verbal.
 25 Q. (BY MR. SCHOPPE) And as far as you know, did

1 the corner watching all of this go on. I know there
 2 were a number of questions afterwards that the staff
 3 wanted to ask her, but Ms. Harrigfeld had already left
 4 the facility.
 5 Q. Are you aware of any incidents where juveniles
 6 have been discouraged from reporting violence or PREA or
 7 CRIPA incidents?
 8 A. Yes.
 9 Q. Tell me about that.
 10 A. There was a flashing incident where the
 11 juvenile who was being flashed was instructed not to
 12 report it because nothing would happen.
 13 Q. Who was the juvenile, if you can recall?
 14 A. [REDACTED] --
 15 Q. Do you know who --
 16 A. -- was the one being flashed. It was -- oh,
 17 who flashed? Yeah, I -- all I remember is his last
 18 name, [REDACTED]. He was the one smuggled the --
 19 attempted to smuggle the drugs in taped to his crotch.
 20 Q. And who was it that discouraged [REDACTED] from
 21 making that report?
 22 A. I want to say Mr. Castillo.
 23 Q. Okay.
 24 A. He told him to just blow it off, it didn't
 25 mean anything.

1 Jeanette Angell know that you were critical of those
 2 policies?
 3 A. Yes, because I had actually said it to her.
 4 Q. And you didn't ask her to keep it secret from
 5 Ms. Grimm or Director Harrigfeld?
 6 A. No.
 7 Q. Do you think she discussed that with -- as far
 8 as you know, did she discuss that with Ms. Grimm or
 9 Director Harrigfeld?
 10 A. I don't know.
 11 Q. Has anyone ever suggested that the Department
 12 discourages staff from reporting problems at the
 13 facility, specifically with respect to violence or
 14 assaults or things like that?
 15 A. Yes.
 16 Q. Who suggested that?
 17 A. My mind keeps going back to an incident in O&A
 18 when Ms. Harrigfeld was out there touring the facility
 19 and West pod went into a riot. And if it hadn't been
 20 for the quick action of the staff that were there, there
 21 would have been several juveniles as well as staff
 22 injured. As it was, there were only two juveniles that
 23 actually got injured in the altercation and one staff
 24 suffered a minor bruise.
 25 And Ms. Harrigfeld was literally standing in

1 Q. Out of the group of people who have expressed
 2 criticisms of the way the Department was run, violations
 3 of law, safety and security problems, thing like that,
 4 is it your opinion that some of those people have
 5 suffered retaliation?
 6 MR. COLLAER: Objection, lacks foundation,
 7 calls for speculation, calls for a legal conclusion.
 8 THE WITNESS: Yes.
 9 Q. (BY MR. SCHOPPE) Who?
 10 A. Mr. Inman was written up after he made a
 11 report of a safety violation. Mr. Fordham was written
 12 up after verbalizing a safety issue. Let's see.
 13 Mr. Hottell, I know -- I want to say he was reprimanded.
 14 Q. Okay.
 15 A. Again, he was injured on the job. He was
 16 injured and it was the follow-up. And they weren't
 17 happy with when or whatever the Workmen's Comp was
 18 coming up with.
 19 Q. The people who signed the petition that you're
 20 aware of, Tom Knoff, where is he now?
 21 A. He works for I believe the board of review,
 22 Correctional Review Board, CRB.
 23 Q. Do you know whether his departure from the
 24 Department, have you heard that was the subject or the
 25 product of retaliation against him?

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1 MR. COLLAER: Object to the form of the
 2 question, calls for speculation, lacks foundation.
 3 THE WITNESS: Tom Knoff told me himself before
 4 Ms. Harrigfeld was made our superintendent that within
 5 six months after she got the position he was either
 6 going to be demoted or fired.
 7 Q. (BY MR. SCHOPPE) And as far as you know --
 8 A. And he was demoted and eventually was let go.
 9 Q. And that was after he signed the petition in
 10 2011?
 11 A. Oh, it was definitely after, yeah.
 12 Q. And the action you described against
 13 Mr. Hottell, was that after he signed the petition?
 14 A. Yes.
 15 Q. And the same question for Todd Inman who
 16 signed the petition?
 17 A. Yes.
 18 Q. And with respect to Ms. Carnell?
 19 A. Yes.
 20 Q. And do you know why she left the facility?
 21 A. Because Ms. Roters took over Tom's position
 22 down in O&A. The same with Robyn Smyth, she refused to
 23 work with Laura Roters. She was on maternity leave and
 24 just simply terminated.
 25 Q. And these are concerns that were expressed to

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1 you?
 2 A. Expressed to me, yes.
 3 Q. And others?
 4 A. Yes.
 5 Q. How about Sheri Estrada?
 6 A. I'm sorry, she was short term and I don't
 7 always get names to faces.
 8 Q. That's okay. If you don't remember, you can
 9 say so.
 10 A. Because she was -- she would have gone onto
 11 night shift.
 12 Q. How about Shane Penrod?
 13 A. I do believe that he was --
 14 MR. COLLAER: Objection, that calls for
 15 speculation.
 16 THE WITNESS: -- retaliated.
 17 Q. (BY MR. SCHOPPE) And he had signed the
 18 petition?
 19 A. He had signed the petition. He was the first
 20 one on there.
 21 Q. What happened on him?
 22 A. I know he got pushed to nights when he was the
 23 transport officer. So, his duties changed dramatically.
 24 He also had his schedule changed. I know he's a divorcé
 25 and he has a boy. And it made it very difficult on him

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1 because by changing his days off and putting him on
 2 nights, it meant he was at work when his son was home
 3 sleeping.
 4 Q. And that was after the petition was signed?
 5 A. And that was after the petition was signed.
 6 Q. How about Sanders?
 7 A. Steve Sanders? I don't know if he got written
 8 up. I don't know because I hadn't seen him that much in
 9 the last couple of months before I left.
 10 Q. After you signed the petition did you notice a
 11 change in your experience in working at the Department?
 12 A. Yes, I did.
 13 Q. How so?
 14 A. It seemed to become more hostile.
 15 Q. And what do you mean by that?
 16 A. Hostile in that there was definitely a split
 17 in the staff in the facility. One side was you're
 18 either with Betty and Ms. Harrigfeld or you're against
 19 them; and if you're against them, then we're going to
 20 ostracize you and push you away.
 21 Q. And who else shared that belief as far as you
 22 know?
 23 MR. COLLAER: Objection, calls for
 24 speculation.
 25 THE WITNESS: A number of staff had made the

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1 statement that they had felt that they were being
 2 ostracized by the very groups that they worked with too.
 3 Rhonda, and I know Mr. Inman, which ultimately led to
 4 him terminating because he felt that there was nothing
 5 more he could do and he felt that if he didn't move,
 6 they were going to move him out.
 7 MR. COLLAER: Objection, move to strike the
 8 prior response as speculation as to the individual's
 9 state of mind.
 10 Q. (BY MR. SCHOPPE) Did people tell you that
 11 that was how they felt?
 12 A. Yes.
 13 Q. Who told you that?
 14 A. Mr. Inman was the one that actually talked to
 15 me two days before he turned in his resignation.
 16 Q. Okay.
 17 A. And I'm trying to remember who all.
 18 Q. Is it fair to say your fellow Plaintiffs?
 19 A. Yes. To make it the easy way out, it's trying
 20 to remember who and -- but I mean, it was one-on-one
 21 conversation or it was conversation within a group. So,
 22 it wasn't necessarily just my knowledge, it was also
 23 knowledge of others as well.
 24 Q. Did you discuss with people the possibility of
 25 taking concerns up with Human Resources?

1 A. I had, but I also know from working with Human
2 Resources prior, there generally was no -- they were not
3 receptive. Human Resources, I want to say they were lip
4 service. They would tell you whatever you wanted to
5 hear, but generally nothing ever happened.

6 Q. So, did you feel that problem solving
7 procedures or any grievance procedures would be futile?

8 MR. COLLAER: Objection, calls for
9 speculation.

10 THE WITNESS: Correct, because even in my own
11 instance I found that they did not go anywhere.

12 Q. (BY MR. SCHOPPE) Did anyone else also ever
13 express that impression to you?

14 A. I know that Mr. Fordham had. I know that
15 Rhonda Ledford had. I know that Mr. Hottell had.

16 Q. Has anyone else ever told you that they felt
17 that they had suffered retaliation?

18 A. Rhonda Ledford.

19 Q. Let's assume all of your Plaintiffs.

20 A. Pretty much all, yeah. Everyone associated
21 with this, yeah. Even Gracie Reyna, and I don't see her
22 on a regular basis, had made that comment --

23 Q. Who else?

24 A. -- retaliation. There was Carnell, there was
25 Keim, there was Tom Knoff. Tom de Knif. Let's see,

1 most of the staff, especially with Solutions. No longer
2 were they -- they would not communicate with me. And by
3 that I mean talk, they wouldn't tell me what their
4 activities were.

5 As the only nurse and with a 90-minute window
6 of passing medications, if a particular group is not in
7 a location where I expect, then I have to search the
8 facility to find them to do their medications. And
9 there was a number of times that I would run into and go
10 into overtime trying to track them down or bring them in
11 from the outdoor recreation area. Because they knew it
12 was inconvenient to what I needed to be doing, which I
13 had been doing -- I want to say my routine, they were
14 doing very well at messing up the routine that I needed
15 to do in order to be able to finish and complete all of
16 my duties and get out of the facility.

17 Q. And how do you know that?

18 A. Because sometimes they were taking the
19 juveniles out to the recreation area in the dark, which
20 is definitely an e-mail from the supervisor: "Do not
21 take" -- because there's no night vision on the cameras
22 that go out to the big yard. They can't see the far
23 corner. So, if a juvenile runs over there, they
24 actually can't see them.

25 Q. And by affecting your ability to distribute

1 that's maintenance. I want to say Mr. Bob.

2 Q. But as far as you know, when they said
3 "retaliation," referred to that, were they talking about
4 in response to these same type of concerns that are
5 being expressed in the lawsuit, violations of law,
6 safety and security, things like that?

7 A. Yes.

8 MR. COLLAER: Objection, lacks foundation.

9 THE WITNESS: Their conversation was after
10 they had reported either a problem or a security problem
11 or safety issue, they were being written up or they were
12 being documented or they were being given a -- their
13 shifts were changing.

14 Q. (BY MR. SCHOPPE) And did there seem to be an
15 increase in that sort of thing after the November all
16 staff meeting?

17 MR. COLLAER: Objection, calls for speculation
18 and is vague.

19 THE WITNESS: Much so.

20 Q. (BY MR. SCHOPPE) And did others express that
21 impression to you?

22 A. Yes.

23 Q. In terms of your personal experience, what
24 changed for you?

25 A. What changed for me? I was ostracized from

1 medications on time, did that risk the health of the
2 juvenile?

3 A. It could be because a lot of the medications,
4 especially the bedtime ones, were the anti-psychotics,
5 the anti-seizure medications. Timing was very important
6 on the majority of them. There were also some that were
7 anti-hypertensive so that within 20 minutes of ingestion
8 the juvenile, if he was up and active, might actually
9 fall over, become staggering, become disoriented.

10 Q. Why did you think that that was linked to your
11 criticisms as expressed in the petition and at other
12 times?

13 MR. COLLAER: Objection, calls for
14 speculation.

15 THE WITNESS: Because this was a change in
16 their routine too. They have a scheduled routine of
17 where they're supposed to be and this is a change. And
18 the Solutions unit specifically was one of the units
19 that they needed to structurally keep it going for the
20 whole 24 hours. A number of the juveniles there are
21 autistic and a disruption of their schedule actually
22 causes behavioral problems.

23 Q. (BY MR. SCHOPPE) As a medical issue, are
24 autistic or other disabled juveniles at the facility,
25 are there adequate programs in place for them?

1 MR. COLLAER: Objection, lacks foundation, is
2 vague, and calls for speculation.
3 THE WITNESS: We try to customize it to each
4 juvenile, but it's still a learning curve for each and
5 every individual. And I can't always say we have the
6 most up to date or the most informed staff.
7 Q. (BY MR. SCHOPPE) Does that risk their health?
8 MR. COLLAER: Objection, lacks foundation, is
9 vague, calls for speculation.
10 THE WITNESS: It could.
11 Q. (BY MR. SCHOPPE) You're a nurse; right?
12 A. Yes. It could. If you get an autistic
13 juvenile and you hold them down, they're being
14 overstimulated, you could actually induce a heart attack
15 or a seizure. You would definitely not get the behavior
16 you wish, which is for them to calm down. To do that,
17 you need to actually hands off. So, it's actually
18 retraining the staff.
19 Q. Has that concern been raised with Department
20 management as far as you know?
21 A. It has been raised several times.
22 Q. Have you expressed those concerns?
23 A. I have to staff and supervisors of the area,
24 especially when a juvenile goes from the Observation &
25 Assessment to an in-house program.

1 Q. (BY MR. SCHOPPE) With respect to the changes
2 in juveniles' movements that made it difficult for you
3 to administer medication, did you discuss that with your
4 supervisor?
5 A. Yes.
6 Q. And that's Ms. Angell?
7 A. That would be.
8 Q. What did you talk about with her?
9 A. I would tell her what group, where they were,
10 what was going on, why the difference? Was this going
11 to be a short-term thing or was this going to be long
12 term? Again, trying to make sure that as a State
13 employee I'm doing my correct job in the correct amount
14 of time and cleaning the clinic out and setting it up
15 for the next day.
16 Q. Okay.
17 A. When they disrupt the routine -- and it's not
18 just -- when they disrupt time and run me into overtime,
19 I have been told by Human Resources to document
20 overtime. I have been told by, well, it was Ruth Davis,
21 not to document overtime because that reflects
22 negatively on the Department.
23 Q. How so?
24 A. Overtime -- they have to pay overtime and it
25 extends the budget, that it stretches the budget.

1 Q. And who has influence over making decisions,
2 program decisions like that?
3 MR. COLLAER: Objection, lacks foundation,
4 calls for speculation.
5 THE WITNESS: Valerie Zuniga is the biggest
6 one for O&A. She's the -- I want to say program
7 director down there. She's the -- I'm trying to
8 remember her title. She's in charge.
9 Q. (BY MR. SCHOPPE) Unit manager?
10 A. It wouldn't be unit manager. That's what Tom
11 used to do. This is the level above it and she is the
12 one that supervises the clinicians down there which do
13 the testing as far as program placement. She and the
14 juvenile probation officer and the juvenile service
15 coordinator are generally the three people that
16 determine which program is probably most appropriate for
17 the juvenile.
18 Q. When you offer a criticism of how the
19 Department is run to any of your supervisors, is it your
20 expectation or your belief that they're going to relay
21 that on to someone like Betty Grimm or Sharon
22 Harrigfeld?
23 MR. COLLAER: Objection, that lacks foundation
24 and calls for speculation.
25 THE WITNESS: That would be my expectation.

1 Q. When Ruth Davis told you that, do you know if
2 she was told that by anyone above her?
3 A. I do not know.
4 Q. In discussing the juveniles' movement issues
5 with Ms. Angell, what was her response?
6 A. We would try to -- she would try to find out
7 if it was a short-term or long-term change, whether
8 there was something that needed to be altered, or if
9 there was some other way that we could serve the unit
10 better.
11 Q. Did you express to her that you were concerned
12 that it might have been because you had been critical of
13 management after November of 2011?
14 A. I had said that on a couple of occasions, that
15 I was wondering if this was a fallback from that.
16 Q. Because it seemed to you that there was a
17 clear difference between what happened before that and
18 afterwards?
19 A. Correct.
20 Q. And what did she say about that?
21 A. She had no response to that other than she was
22 just going to find out if their change of schedule was,
23 yeah.
24 Q. And then in May of 2012 there was this choking
25 incident we talked about earlier. And what happened?

1 A. I was working the unit in the nursing station.
2 I got a phone call from Solutions that I had to respond.
3 I grabbed a radio and went up to the area and found that
4 was in his room. He was very lethargic, hard to
5 wake up. Staff said they had been trying to wake him up
6 for anywhere from 30 to 45 minutes.

7 Q. Staff who?

8 A. Staff. Ms. Hinkle and Mr. Keagy.

9 I entered the room. I had a small pen light.
10 I did a pupil check on him. I had him squeeze my
11 fingers for a neuro check. I had him push his feet
12 against my forearms for lower limb as well as cognitive
13 abilities. His speech was slurred. His pupils were
14 slow. I asked him what had happened.

15 And at that time Ms. McCormick came over and
16 said that she had heard a noise and said he had
17 fallen out of bed. Okay, with sluggish pupils and the
18 slurred speech, I asked that he be brought out to the
19 staff desk and that they be able to monitor him for the
20 next 15 to 20 minutes without letting him go to sleep
21 because this may have been a concussion and I needed to
22 make sure that he stayed awake for at least 20 to 30
23 minutes.

24 Ms. Hinkle brought over one of the staff
25 chairs, it's a roller. We put in it and pushed

1 chair, and nine times out of ten, and in this case it
2 did, it pops your head back and your airway opens up.

3 As soon as his airway opened up he took a deep
4 breath, coughed, and then laid over on the desk and he
5 was responsive. I stepped back. That's when I went
6 over by Mr. Keagy.

7 Q. Okay. Did you choke him?

8 A. No.

9 Q. Did you tell him that you weren't playing his
10 game?

11 A. I had told him that earlier.

12 Q. Earlier when?

13 A. When he was in his room. Because he was
14 telling me -- what was it? He was trying to tell me
15 that he had to sleep, that I had to leave him alone, I
16 didn't have any right, he didn't call me in there, I
17 wasn't going to treat him, I wasn't the nurse that was
18 going to take care of him.

19 And I says: "I'm not playing this game." I
20 says: "I am the nurse, I'm the only one here, and I'm
21 going to take care of you." I says: "Let's get you
22 into the chair." And he was lapsing in and out. Like I
23 said, we moved him into the chair.

24 The big thing that surprised me was when
25 Ms. Cloud showed me the videotape of the incident when I

1 him over to the corner of the nurse -- to the corner of
2 the staff. And I says: "I've got to go down and get my
3 meds ready for O&A. If there's any change, call me."

4 I got down there and that's when I started the
5 incident report. That's also when I started the
6 narrative because I knew that it was going to be rather
7 long and the more detail the better.

8 I had just gotten meds set up when the
9 Solutions unit called again. I go up there and as I'm
10 coming down the long hallway to the Solutions unit, I
11 see that is no longer in the rolling chair but
12 in a blue plastic chair and he's slumped forward with
13 his chin down on his chest.

14 And I start paying attention as I'm walking up
15 there and I take two strides into the unit and stop.
16 One to assess the situation, because there's staff
17 standing around him, there are juveniles standing around
18 him. I observed no respiration and I see that his color
19 is turning from pale to a blue, so I know he's in a
20 positional strangulation.

21 Q. And what did you do?

22 A. I walked over to him and I did something for
23 him that I had learned on the rehab unit, which is if
24 you lift gently at the shoulders under the armpit and
25 push on the knees, it will square their hips into the

1 was brought back to work, after I had left the unit and
2 he was in the chair, he kept throwing himself around on
3 the desk and he actually ended up pushing himself out of
4 the chair and going onto the floor. He got into the
5 plastic chair because five staff physically picked him
6 up and placed him in that chair before calling me back
7 to the unit.

8 Q. And that's the chair you found him in with
9 positional asphyxiation?

10 A. Yes. And if I had not walked in at that time
11 and taken care of him -- there was no strangulation. He
12 would have died if he had stayed there with the staff.

13 Q. Did you tell him to stop faking it at any
14 point?

15 A. No.

16 Q. Did you tell him that he was faking it at any
17 point?

18 A. No.

19 Q. In telling him that you weren't going to play
20 his game, were you trying to be disrespectful at all?

21 A. No, I was telling him who was going to be in
22 charge and it wasn't going to be him.

23 Q. Was that against Department policy as far as
24 you know?

25 A. Not that I know of. He was trying to dictate

1 who he wanted as a nurse. He wanted me to call in
 2 another off-duty nurse to take care of him and I was
 3 saying: "No, I am the nurse."
 4 Q. You didn't call him a "dumb ass" or anything;
 5 did you?
 6 A. No.
 7 Q. Within the time following the incident -- the
 8 incident was on May 5, 2012; is that right?
 9 A. Yes.
 10 Q. And then on June 28th, actually it's signed on
 11 June 17th, Ms. Angell issues a written warning record.
 12 In between receiving that written warning record and
 13 that incident on May 5th, did anyone suggest to you that
 14 you had been disrespectful to
 15 A. No.
 16 Q. Did anyone say that as a matter of emergency
 17 medicine you had done anything wrong?
 18 A. No.
 19 Q. Did anyone indicate that you had done the
 20 right thing?
 21 A. No.
 22 Q. Was there any discussion of the incident at
 23 all in between those dates?
 24 A. No.
 25 Q. Were you aware of any grievance filed by

1 A. I had an arm splint on my left hand due to
 2 carpal tunnel. And because of the splint, my hand
 3 instead of staying here went here (indicating.)
 4 Q. Did that endanger him in any way?
 5 A. No. I visually observed that the shirt collar
 6 at no time restricted his breathing or movement, but he
 7 wasn't breathing at that -- until his head tipped back.
 8 Q. From what you saw on the videotape, was the
 9 replacement of in the plastic chair, which I
 10 understand was a different chair, handled properly?
 11 A. No.
 12 Q. How so?
 13 A. First aid dictates that if the individual goes
 14 down on the floor, you leave them on the floor.
 15 Q. Okay.
 16 A. Which is why it dumbfounded me to watch them
 17 pick him up and put him in the chair, which actually put
 18 him into danger.
 19 Q. Do you know who gave the order to do that?
 20 A. I do not. There's not sound on the video.
 21 Q. Who was in charge out of the group as far as
 22 you know?
 23 A. I would assume Ms. McCormick because she was
 24 right there on the unit and she was the duty officer of
 25 the day.

1 A. No.
 2 Q. And did anybody at all indicate that they had
 3 any concerns at all about how you dealt with the
 4 situation?
 5 A. Mr. Keagy, because of the fact that I came in
 6 and put hands on one of the juveniles that he was in
 7 charge of.
 8 Q. Did he indicate that he expected you to do
 9 something different?
 10 A. No.
 11 Q. Did he indicate to you that you had choked
 12 him?
 13 A. No.
 14 Q. What did he say specifically?
 15 A. Just that: "Boy, it's a good thing you broke
 16 up when you did. Otherwise I was going to have to step
 17 in there and split you apart."
 18 Q. Okay.
 19 A. "Split the two of you apart."
 20 Q. The written warning record states that you
 21 stated, meaning you, Frank, you stated that you lifted
 22 him with your arms under his armpits, your hand slipped
 23 up, and you grabbed his shirt and lifted; is that right?
 24 A. Correct.
 25 Q. Was there any problem with that?

1 Q. And as far as you know, had Ms. McCormick and
 2 the other staff involved been trained in first aid
 3 procedures?
 4 A. Yes.
 5 Q. And so, in your view, is it fair to say that
 6 their action actually placed in danger?
 7 A. Yes.
 8 Q. Did you ever tell anybody that that was your
 9 opinion?
 10 A. Yes, I told that to Jeanette Angell and Julie
 11 McCloud [sic] when I saw the video.
 12 Q. And you watched the video with Jeanette Angell
 13 and with Julie Cloud?
 14 A. Yes.
 15 Q. And when you told them that, what did you say?
 16 A. I said: "I can't believe what I am seeing,
 17 that these people that are trained in this, what they're
 18 doing. And then turn around and call me, the nurse, to
 19 come up there and take care of -- I'm glad I did."
 20 Q. And when was it that you met with Julie Cloud
 21 and Ms. Angell?
 22 A. That was the day they returned me to work.
 23 So, the 5th? That would have been I'm going to say the
 24 17th of May.
 25 Q. So, after the incident on May 5th you met with

1 Jeanette Angell and Julie Cloud and reviewed this video;
2 is that right?

3 A. Yes.

4 Q. And was that standard practice or how did that
5 come about?

6 A. That came about because after Ms. McCloud said
7 she had interviewed all of the parties involved, that I
8 was the last one that needed to be interviewed, and that
9 since Jeanette was back from vacation, that they brought
10 her as my supervisor down. And we did this all in the
11 front office.

12 Q. And tell me about the rest of that discussion
13 with Ms. Cloud and Ms. Angell.

14 A. Essentially what they did was Julie McCloud
15 said: "I have a video from McCormick that shows the
16 incident from two different angles and it's still not
17 quite conclusive."

18 So, she found the file, started the video.
19 And it shows -- the close camera to the desk is obscured
20 because Julie McCormick is standing in the way. So, the
21 camera angle that would have been the most helpful was
22 actually the least because she obscured detail.

23 The other camera, which is on the opposite
24 side of the unit which was facing me, is far enough away
25 that they couldn't tell if my hand was under his armpit

1 attention, call their name, and if necessary position
2 them into a recovery position, a sit-up position. He
3 was in positional strangulation.

4 Q. Okay.

5 A. He was dying where he was. And like I said, I
6 went in and hollered his name: " wake up."
7 I reached down, got him, and then pushed his knees as I
8 went like that (indicating) and says: " are you
9 awake?" And he takes a breath. Okay, I'll check your
10 pulse. I'll step over by Mr. Keagy. It's no longer an
11 emergency.

12 Q. Do you know why he was so unresponsive?

13 A. At the time, no, but I found out after I had
14 been returned to work about three weeks later that he
15 had shared medications with one of the other juveniles
16 on the unit. And the juvenile he shared it with got a
17 rather large dose of Depakote and that definitely would
18 have made him sleepy.

19 Q. Depakote, is that an anti-psychotic?

20 A. It's an anti-seizure. It's also used as an
21 anti-psychotic sometimes, but mostly the primary use is
22 seizure.

23 Q. And what was the outcome of your meeting with
24 Ms. Cloud and Ms. Angell?

25 A. Totally positive at that point. I was told to

1 or up here (indicating.) So, they couldn't see me
2 choking.

3 Q. And in terms of the conversation that went on
4 with you and Ms. Cloud and Ms. Angell, what took place?

5 A. When I went up there, Ms. McCloud said -- she
6 had one question before she ran it. And she said:
7 "When you walked into the unit, what did you do?" I
8 said: "What? Here, watch."

9 And she hit the "play" button. And you can
10 see from the far camera me coming down the long hallway
11 just simply facing straight at the juvenile. I took two
12 steps into the unit and I freeze. And I did not make
13 the response. That's when Angell did, the fact that:
14 "He's assessing the situation and the patient."

15 Q. Jeanette Angell said that?

16 A. Jeanette Angell said that. She knew exactly
17 what I was doing. I was not stopping. I was assessing
18 whether or not, one, is it safe to enter the situation?
19 And two, am I observing the patient? And I observed
20 that the patient was not having any respirations. And I
21 reached over and grabbed his wrist and found that he had
22 no -- it was a thready pulse at best. And I knew at
23 that time I had no time to talk. I had no time to
24 explain. All I had time to do was what I was taught in
25 first aid, and that is: Yell at the person to get their

1 go ahead and go back to work. And Ms. McCloud says,
2 "Well, that finishes my investigation."

3 Q. "Cloud," you mean?

4 A. Yeah, "Cloud." Sorry, there's too many
5 Julies. Yeah, Julie Cloud says: "Yeah, I have nothing
6 further to ask you other than the one question of why
7 did you stop?" And I know that Jeanette and Julie Cloud
8 stayed down there and watched the video several more
9 times.

10 Q. Did they indicate approval or disapproval of
11 anything that you had done?

12 A. They indicated total approval of the fact that
13 I did what I did. And I took what could have been a
14 serious situation and nullified it into -- a juvenile
15 can be mad at me as long as they want as long as they're
16 alive.

17 Q. And in your opinion as a nurse, had you not
18 changed position would he have -- was his health
19 endangered or would he have died?

20 A. Yes, he would have died. He would have
21 suffocated.

22 Q. No question?

23 A. There's no question. He probably had at most
24 maybe three more minutes before we would have started
25 seeing observable brain damage from the fact that from

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1 the time we put him in the chair until I got there,
 2 there was already two minutes elapsed.
 3 Q. And during your discussion with Ms. Cloud and
 4 Ms. Angell did they raise any kind of an issue, anything
 5 that you might have said, like this statement: "I'm not
 6 playing your game" or anything like that?
 7 A. They did.
 8 Q. And how so?
 9 A. The same way you've brought it up in that:
 10 "It was overheard by staff you saying these things."
 11 And I -- "No." First, I do not call the juveniles
 12 names. They have a name and that's what I call them by.
 13 Q. Did you make it clear to Ms. Angell and
 14 Ms. Cloud that the actions of the staff members who
 15 lifted off the floor had actually endangered his
 16 life?
 17 A. Yes.
 18 Q. Did you tell them that was contrary to policy?
 19 A. I told them that was contrary to first aid
 20 treatment procedures.
 21 Q. Did they indicate agreement or disagreement or
 22 anything like that?
 23 A. I know Jeanette Angell agreed with me, the
 24 fact that they may have possibly injured him further
 25 simply by moving him. Ms. Cloud just couldn't

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1 understand why they picked him up.
 2 Q. And Ms. Angell again is a nurse; right?
 3 A. Yes, she is a registered nurse.
 4 Q. All right. So, it was after that, probably
 5 about a month later it looks like, that you became aware
 6 that this written warning record had been issued against
 7 you by Ms. Angell; is that right?
 8 A. That was the day that I had the meeting with
 9 Ms. Harrigfeld.
 10 Q. And so, June 17th of 2012 you meet with
 11 Director Harrigfeld; right?
 12 A. Yes.
 13 Q. And it's the same day that you get the written
 14 warning record? And I'm talking about Exhibit No. 78.
 15 A. Oh, excuse me. 78. I got this -- oh, when
 16 did I get this? Oh, okay, this is the one that was all
 17 messed up because Jeanette wrote it while I was on
 18 vacation. I got it while she was on vacation. I was
 19 told by Mr. Pat Thomson of Human Resources that all I
 20 was doing was signing it in response that I had received
 21 it.
 22 Q. Okay.
 23 A. Not that I agreed with it, not that I
 24 responded to it, that I would respond to it when
 25 Jeanette came back from vacation.

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1 Q. Did it surprise you that it had been issued at
 2 all?
 3 A. Yes.
 4 Q. Okay. Why?
 5 A. Because when I ended my conversation with
 6 Julie Cloud there was no indication that there would be
 7 anything following. When I talked to Jeanette Angell
 8 after she came back up from the front, there was nothing
 9 that I was made aware of that there were any other
 10 indications or -- what do I want to say? -- that I was
 11 in violation of anything, that there was something that
 12 needed to be followed up with, any documentation other
 13 than what had already been done.
 14 Q. And were you aware of whether anything
 15 occurred with respect to any of the staff members
 16 involved in the choking incident?
 17 A. Absolutely nothing happened that I was aware
 18 of to any of the staff. And I made a comment to
 19 Ms. Ledford, who also happens to be a first aid
 20 instructor, after seeing the video that they might look
 21 back at their training schedule and see if they could
 22 get a refresher.
 23 Q. So, those five staff endangered life
 24 and Ms. Angell and Ms. Cloud agreed with that
 25 proposition; is that fair?

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1 MR. COLLAER: Object to the question,
 2 misstates his testimony.
 3 THE WITNESS: They put his life in jeopardy.
 4 Q. (BY MR. SCHOPPE) And there's video evidence
 5 of that?
 6 A. Yes.
 7 Q. And none of them were written up or
 8 disciplined in any way as far as you're aware?
 9 A. Not that I'm aware of.
 10 Q. And when you say the phrase: "I'm not playing
 11 your game" and you get a written warning record -- is
 12 that right?
 13 A. Yes.
 14 Q. Does that seem odd to you?
 15 A. Yes.
 16 MR. COLLAER: Object to the form of the
 17 question, calls for speculation, misstates the record.
 18 Q. (BY MR. SCHOPPE) After becoming aware of this
 19 written warning record, how soon afterwards did you
 20 first discuss it with Ms. Angell?
 21 A. Within a week after she came back from
 22 vacation.
 23 Q. And what did you talk about with her?
 24 A. Oh, where did that red notebook go? I was
 25 going to get the --

1 Q. The summary?
 2 A. The summary. Not just the summary but the
 3 very first part of it that has the --
 4 Q. We're talking about Exhibit No. 80?
 5 A. Yeah, the part that -- my --
 6 Q. Well, let's just start with what you remember
 7 talking about with her.
 8 A. I went in there. And as I said, I had the --
 9 I had the written warning record, but I also had with it
 10 the handwritten, a copy of the handwritten report that
 11 Human Resources was saying was part of why this was
 12 generated.
 13 Q. So, what did you talk about with her?
 14 A. So, I said: "Is this part of the record too?"
 15 And I asked if the letter of what I was trying to put
 16 into the Exhibit No. 80 here, if that could be put into
 17 my personnel file, as well as whether or not I needed to
 18 enter this into medical record. And then
 19 after, she went down and said that the part that I had
 20 shown her was not in there.
 21 Q. How did you get that part that you're talking
 22 about?
 23 A. It was handed me by Pat Thomson.
 24 Q. Was it a copy of something?
 25 A. It was copies of what he had because he took

1 that she is a fairly new supervisor.
 2 Q. It didn't seem strange to you?
 3 A. It seemed strange to me.
 4 Q. Did she indicate why it was generated so long
 5 afterwards?
 6 A. She was instructed to do it by Human
 7 Resources.
 8 Q. That's what she said?
 9 A. Yes.
 10 Q. Did she say who in Human Resources?
 11 A. I don't recall.
 12 Q. Okay.
 13 A. I don't remember if it was Julie or Pat
 14 Thomson. She did say she was instructed to do it by
 15 Human Resources.
 16 Q. So, from what she told you, this was not
 17 something that she initiated, it was something that she
 18 was told to do from Human Resources?
 19 A. Correct.
 20 Q. Did she say why she was told to do it?
 21 A. No, she simply said she was told to do it and
 22 she did it.
 23 Q. Okay.
 24 A. As I said, I was on vacation. I couldn't
 25 respond.

1 the originals.
 2 Q. Do you know who wrote the original?
 3 A. I don't know. I'd have to actually look on it
 4 to see if somebody signed it.
 5 Q. Going back to what you spoke about with
 6 Ms. Angell, did you express surprise or dismay or
 7 anything like that about having the written warning
 8 record issued at all?
 9 A. I told her I was surprised at getting this and
 10 I said as a hypothetical I fully understand where she
 11 was going with this and what she was trying to say, but
 12 I said it was a hypothetical.
 13 Q. What do you mean?
 14 A. At no point did anybody come up with a
 15 statement that I choked or attempted to choke or
 16 attempted to injure
 17 Q. During when you talked about this again with
 18 Ms. Angell, did you discuss this statement: "I'm not
 19 playing your game," these things that she said she was
 20 concerned about?
 21 A. Yes.
 22 Q. And did you ask her, well, one: "Is a written
 23 warning record like this typically generated so long
 24 after an incident?"
 25 A. She did. She wasn't sure because of the fact

1 Q. Did you discuss any of the rest of the
 2 incident, such as the conduct of the other staff members
 3 involved?
 4 A. We did when she first came back after
 5 reviewing the video with Julie Cloud.
 6 Q. I mean this time after this report was issued,
 7 this written warning record, did you discuss that, the
 8 staff conduct, with Ms. Angell in discussing this
 9 written warning record?
 10 A. The only comment I remember making was
 11 Solutions have -- Solutions staff have been real quiet
 12 towards me.
 13 Q. And did she offer any comment as to whether or
 14 why written warning records hadn't issued against any
 15 other staff involved in the incident?
 16 A. No.
 17 Q. Did you talk about anything else during that
 18 meeting?
 19 A. During the time that we were doing this, after
 20 she went down and found that the papers weren't as I had
 21 been informed would happen, I asked: "Since this is a
 22 hypothetical, can I" --
 23 Q. What do you mean?
 24 A. The fact that I'm accused of violating a
 25 policy as far as Department standards and my employee

1 expectations, yet nowhere in the discovery for the
2 grievance or in the incident report is there any
3 documentation that I actually did anything against the
4 standards. So, I'd like to have it removed from my
5 personnel file.

6 Q. In discussing this written warning record to
7 you, did Ms. Angell seem to indicate to you in any way
8 that you deserved this or that she didn't want to issue
9 it or anything like that?

10 A. She indicated that she did not want to issue
11 it, but as I said, she was instructed by -- she was
12 instructed to make this document.

13 Q. She said she didn't want to do it herself?

14 A. Right. She didn't think it was necessary.

15 Q. Did she say whether she knew why she had
16 received that instruction?

17 A. She did not say. She did not disclose the
18 why.

19 Q. And what happened after you had had that
20 discussion with her?

21 A. After we got through this, then she received
22 another directive and I haven't seen any of the forms
23 for it. And that had to do with the weekly updates as
24 well as achievements that I was being assigned.

25 Q. And what do you mean about "directive"?

1 assignment of a certain group within the facility. I
2 needed to make sure I had all of their medical records
3 as well as their old records scanned into the system,
4 divide it out. Medications entered into the medication
5 logs so that we could go live with them when the IT
6 hooked up so that we had access to their server.

7 Q. And all of that seemed fairly normal to you?

8 A. Very much so, yeah.

9 Q. And you don't think she was a bad supervisor?

10 A. No.

11 Q. And you don't think she was retaliating
12 against you, any personal animus or anything like that?

13 A. No, but I do know that by the third week she
14 was getting instructions from outside of the office.
15 Because there was a weekly performance that I did that
16 we went in, we had the interview. She saw that I was
17 able to complete all of scheduled objectives during that
18 time period and that I had literally in the three weeks
19 completed all of the objectives that they had -- that
20 was originally given for the six weeks.

21 Q. Okay.

22 A. I left the office and about an hour later I
23 was called back in. And she said: "I was informed I
24 have to include" -- and it was a number of other tasks.

25 Q. Did she say who informed her?

1 A. The written warning record, it -- what do I
2 want to say? The written warning record, part of the
3 conversation that Jeanette and I had was the fact that
4 since she had come on as supervisor my shift had been
5 such that four -- well, at least three days of my work
6 schedule she doesn't see me, which is the bulk of my
7 work week. And the bulk of her work week was with the
8 other four nurses that were in the clinic. So, as a
9 supervisor/employee relationship, there was a lacking of
10 interconnection between the two of us, since like I
11 said, she left at 5:00 Friday and she didn't come back
12 until Monday and I saw her at 1:00 Monday afternoon and
13 she was gone at 3:00.

14 Q. And in terms of the weekly expectations or,
15 what --

16 A. Oh, what it was was she started out with a
17 list of nursing things that she would like to see.
18 Because like I said, we were introducing a new filing
19 method. We were going electronic. I had missed some of
20 the training and she wanted to -- gave me particular
21 tasks on going into and using the system, doing actions,
22 nurses' notes. She wanted to see more utilization of
23 the electronic as opposed to paper. We were trying to
24 transition totally as quickly as possible.

25 As well as the fact that I was given an

1 A. I believe the reference again was to HR, but I
2 don't -- it was just that she was informed that she had
3 to add other lists and duties to what I was doing
4 because I was ahead of where -- and she was very pleased
5 with what I was doing. I mean, everything that she was
6 asking for was getting done and it was getting done in a
7 very timely manner.

8 Q. And was that different from other similarly
9 situated employees?

10 A. Yeah, because suddenly -- there was no one
11 else that I know of that was on a weekly completion list
12 of any kind.

13 Q. Did you talk about that fact with her, that it
14 seemed odd or unusual to you?

15 A. Well, it did. And she says: "Well, what
16 we're doing is the six weeks on this and then we'll get
17 you off of it and then it will be just behind us."

18 Q. When she said "behind us" did that connote
19 anything bad or unpleasant or negative?

20 A. Yes, in the fact that she very much implied
21 that this was a bad situation.

22 Q. Did she say why?

23 A. No.

24 Q. Did she connect it to the written warning
25 record at all?

1 A. Yes.

2 Q. How so?

3 A. She said the written warning record initiated
4 the fact that she needed to update and make more aware
5 of nursing skills that I had, because not all of the
6 nurses that currently work at DJC have the same level of
7 skills and she was trying to assess the actual skill
8 levels.

9 But since I was running unsupervised most of
10 the time, the fact that I had had a number of years
11 experience in the emergency room, in ICU, surgery,
12 surgical floor, medical floor, rehab, drug rehab,
13 there's only one other nurse that comes close to the
14 amount of drug and alcohol treatment time that I have,
15 and that would be Darla Crespin.

16 Q. Okay.

17 A. But there's no other nurse out there that
18 comes close to the amount of time that I've had in the
19 critical care nursing and the treatment in a hospital as
20 I have.

21 Q. You're not aware of similar kind of weekly
22 expectations being set for any other nurse?

23 A. No.

24 Q. And she was clear with you that this was not a
25 positive thing because you were perhaps unusually gifted

1 care from the medical request. And I asked Jeanette how
2 she got the medical request. I could have sworn I threw
3 it in the shredder Monday after I had scanned it into
4 the system. It was not scanned into the system.

5 That was the one Monday in five months that I
6 had actually worked with another nurse on Monday night.
7 I had been telling supervisors for almost two years: "I
8 can't put my finger on it. Something is not right. I'm
9 the only one working here at nights. I need someone
10 just in case," in case I have an insulin reaction or
11 something is what I'm saying, an insulin reaction, but I
12 said: "There's something not right."

13 I had been being written up for missing notes
14 out of the nurses' notes and things like that. That is
15 when it was discovered I was having dissociative events,
16 because what the nurse that was there said what I did
17 for that night was stock the med room, stock the med
18 carts, and clean up the stockroom. I did not bring the
19 juvenile down there, I did not do any tests, I did not
20 do anything of that nature, I made no comments on the
21 medical records, yet I have a clear memory of all of
22 that. And she says: "That's not what he did."

23 So, for approximately 18 months everybody has
24 been telling me: "Well, you can't be having these
25 episodes because you can't prove it." And I finally

1 or anything like that?

2 A. No, this was -- excuse me.

3 Q. Okay.

4 A. It was directly related to the written
5 warning.

6 Q. And then what happened after that?

7 A. We got to about week five and that's when she
8 came in with a medical request and a grievance from a
9 juvenile. And I recognized the medical request because
10 I had taken it out of the box the Monday before. This
11 was a Friday. So, this is the beginning of my week but
12 the end of hers.

13 I remember taking that medical request out of
14 the request box on Monday because it was one of the
15 female Solutions complaining of a sore throat. I
16 remember after dinner time going up to Solutions,
17 bringing the juvenile down, doing a strep swab, looking
18 in her throat, looking in her ears, giving her a couple
19 of cough drops and some spray. And then I took her back
20 to the unit, came down and documented, said things in
21 her medical file, and then put her on Thursday's medical
22 list to be seen by the nurse practitioner. This is what
23 I remember of Monday.

24 On Friday the reason I had the grievance was
25 the juvenile was complaining that they had received no

1 went: "My 'aha' moment just happened."

2 And Jeanette said: "What?" And I said:
3 "This is it." I said: "This is the proof. Nicole was
4 here. She saw what I did. She saw what I didn't do.
5 And this is what I've been trying to tell you. I'm not
6 sure I'm safe here."

7 Q. And what happened after that?

8 A. What happened after that? That was when
9 Jeanette stayed the rest of the evening until I closed
10 up the clinic for the night. She said: "You're off.
11 You're on leave of absence."

12 Q. And then skipping ahead to I guess what you
13 described as maybe the next adverse event or something
14 like that, you had a discussion with Ms. Harrigfeld; is
15 that right?

16 A. Okay, that was actually prior to that.

17 Q. That was prior to that?

18 A. That was prior to that.

19 Q. Tell me about that.

20 A. Because this puts me out in September.

21 Q. In September?

22 A. Okay, the conversation with Ms. Harrigfeld,
23 and Nancy was there, that was the "Come down and talk"
24 and "What's going on?" And that was when I was getting
25 near the end of this written warning thing but not

1 quite. And it's like instead of it -- instead of
2 showing that I'm actually doing what I'm supposed to be
3 doing, they're making it harder and they're giving me
4 things that I can't complete within a week.

5 Q. How was it that you came to have the
6 discussion with Director Harrigfeld and Ms. Bishop?

7 A. They had sent out an e-mail saying that they
8 were there for information.

9 Q. Was this before or after you joined the
10 lawsuit?

11 A. This was after. And I entered the room and
12 Ms. Bishop asked me if I was represented by counsel and
13 I said yes, but that it was okay, I was just there to
14 talk to Ms. Harrigfeld, that I was going to quick pull
15 out, stop the lawsuit, get my name off of everything.

16 I had had enough. I was physically becoming
17 ill due to the stress from all of this as well as the
18 stress from the staff. Mentally I was drained. Two
19 years prior with the Ruth Davis bullying incident, I was
20 emotionally wiped out and I couldn't take it anymore. I
21 was done.

22 Q. By your stress, are you referring to your
23 experience since November of 2011 in particular?

24 A. In particular? Yes, very much. The fact that
25 there were duties being put on us, that the staffing

1 no longer had an open communication with the Solutions
2 staff, the staff themselves were either limiting or
3 totally ignoring communications from me. The Choices
4 staff for the most part was a one, two -- god, what is
5 it? 14? One staff to 14 juveniles in each of the three
6 pods.

7 Q. Is it fair to say that these things that
8 you're talking about were the reasons that you had
9 joined the lawsuit to start with, your concerns over
10 these things?

11 A. The biggest -- it was concerns of that nature
12 because of the fact that this was -- it wasn't like a
13 cycle where we go down in staff, then we hire on new
14 staff, train them, and then things settled out. It was
15 they were going from bad to worse. It was -- there was
16 evenings you could walk down into the Choices area and
17 usually they're the most sedate or in-control groups
18 and it would be like watching sock wars.

19 Q. And is your experience with this written
20 warning record, your perception of this as retaliation
21 for having spoken out, is that another reason why you
22 joined the lawsuit?

23 A. It is.

24 Q. At the time you spoke with Director Harrigfeld
25 and Ms. Bishop, did anyone tell you that they couldn't

1 wasn't changing, the scheduling for O&A had changed and
2 because of that they were getting short-staffed even
3 worse. There was more violent juveniles that were
4 coming into the facility.

5 Q. And are these all things that you related as
6 concerns to your supervisors?

7 A. Yes.

8 Q. And to Director Grimm?

9 A. Not directly.

10 Q. Okay.

11 A. No, it would be to Jeanette that this was
12 going on. And --

13 Q. Are you aware of whether those reports made it
14 to Director Grimm?

15 A. I'd have to say yes. I don't know why
16 Jeanette wouldn't say things like that as well as
17 Valerie Zuniga, because things like that were brought up
18 with her. But then -- yeah, because I usually attended
19 the staffings for the O&A juveniles and Valerie is the
20 one that shared staffings.

21 Q. And with respect to the things that you were
22 telling Director Harrigfeld and Ms. Bishop you were
23 stressed about, that included like this written warning
24 record experience?

25 A. This written warning record, the fact that I

1 speak to you without counsel present?

2 A. Yes.

3 Q. And you indicated that was okay?

4 A. Yes.

5 Q. Did Ms. Bishop or Director Harrigfeld as far
6 as you know make any attempt to contact me?

7 A. Not that I'm aware of.

8 Q. And you discussed issues that related to the
9 lawsuit with them?

10 A. Yeah, because I told them I was going to pull
11 out of the lawsuit. So, I specifically mentioned the
12 fact that my association, I was going to end my
13 association with it.

14 Q. All right. And you hadn't told me at that
15 time that you planned on talking with anyone?

16 A. No.

17 Q. Or either of them? And you hadn't spoken with
18 me about whether that would be all right?

19 A. I had not.

20 Q. And you discussed all of those things with
21 Ms. Bishop and Director Harrigfeld?

22 A. Mostly directed at Ms. Harrigfeld, but as I
23 say, Ms. Bishop was present in the room.

24 Q. And you understood that Ms. Bishop didn't
25 represent you in any capacity; is that fair?

1 A. Correct.
 2 Q. And that she in fact represented the
 3 Department of Juvenile Corrections as far as you were
 4 concerned?
 5 A. Yes.
 6 Q. What was the outcome of that meeting?
 7 A. The outcome of that meeting was me returning
 8 to my work area and being told that I was being put on
 9 the 90-day improvement plan.
 10 Q. And during the meeting did Ms. Bishop or
 11 Director Harrigfeld tell you that they needed to secure
 12 written or some sort of other consent from your attorney
 13 for you to speak with them?
 14 A. No.
 15 Q. And so, then what happened? You finished the
 16 conversation and --
 17 A. We finished the conversation, went back to
 18 work. That's when Jeanette closed the door to her
 19 office. And the last thing she told me before she left
 20 was: "I have to put you on a performance improvement
 21 plan, a 90-day performance improvement" and that she
 22 would take care of it when she came back Monday.
 23 Q. And when she said she had to, what did you
 24 understand from that?
 25 A. That it was connected with the phone call that

1 Q. Did she say why the plan --
 2 A. No.
 3 Q. -- why she was instructed to do that?
 4 A. She just said she was told.
 5 Q. Okay.
 6 A. And again, she's a junior enough management
 7 person that she would have, yeah, just simply done what
 8 she was instructed to do.
 9 Q. And in your experience in your time at the
 10 Department, what's the typical outcome of a 90-day plan
 11 like that?
 12 MR. COLLAER: Objection, lacks foundation,
 13 calls for speculation, assumes facts not in evidence.
 14 THE WITNESS: Most of the people put on a
 15 90-day evaluation are terminated.
 16 Q. (BY MR. SCHOPPE) Are you aware of other
 17 people? You indicated earlier that you were the fifth
 18 in a line?
 19 A. Fifth in line of -- four other people who had
 20 been put on 90-day plans that were terminated before the
 21 90th day.
 22 Q. Who were those people?
 23 A. I'm sorry, my mind went blank. Yes, I do
 24 know. I do know who they were and I know when it
 25 happened.

1 she was on when I came into the nursing unit.
 2 Q. Did you know who she was speaking with?
 3 A. At the time, no.
 4 Q. Did she tell you at some point who she had
 5 been speaking with?
 6 A. Yes.
 7 Q. Who did she tell you she was speaking with?
 8 A. It was much later she told me that it was
 9 Ms. Harrigfeld that was on the other end of the line.
 10 Q. Right after you had met with her?
 11 A. Right after I had met with her.
 12 Q. And with respect to Ms. Angell being told that
 13 she had to issue this 90-day plan, did she indicate that
 14 that was at Director Harrigfeld's instruction?
 15 A. That was what I -- from the conversation with
 16 me, that's the only inference I could get was that she
 17 had just been instructed to do this.
 18 Q. Did she say she had been instructed by anybody
 19 else --
 20 A. No.
 21 Q. -- other than Ms. Harrigfeld?
 22 A. No.
 23 Q. Did she indicate that she had initiated the
 24 plan herself?
 25 A. No.

1 Q. Was this since November of 2011?
 2 A. Yes.
 3 Q. Were these O&A staff?
 4 A. Yes.
 5 Q. Was one of them Tom Knoff?
 6 A. Yes, one of them was Tom Knoff.
 7 Q. Anyone else that you can think of?
 8 A. I want to say Diane Carnell.
 9 Q. Keep thinking about it.
 10 A. I will.
 11 Q. Has anyone ever expressed to you that they
 12 believed that being issued a plan like that is a sign
 13 that you're going to be terminated soon?
 14 A. Everyone that is a permanent employee and
 15 that's been there for more than a year is aware of that
 16 the 90 days performance is how they circumvent the
 17 lengthy procedure of -- that's the new way of how they
 18 check you out.
 19 Q. What do you mean by "the new way"?
 20 A. It used to be that they would go through with
 21 the process of -- they would do a process where they
 22 would go through the written warnings, they would go
 23 through the record, they would go through the
 24 corrections, they would go through the protocols. It
 25 could take six to eight months. But at the end of it if

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1 you haven't performed and haven't done what you needed
 2 to be doing, you were given the offer to either resign
 3 or they would terminate you.
 4 The 90-day improvement plan is an accelerated
 5 version where in 90 days if you haven't quit, they
 6 generally -- if you haven't quit, they dismiss you.
 7 Q. And that's the common practice?
 8 MR. COLLAER: Objection, that misstates the
 9 record and assumes facts not in evidence.
 10 THE WITNESS: That has become the practice.
 11 Q. (BY MR. SCHOPPE) And so, after November of
 12 2011 when you signed that petition and criticized the
 13 management of the Department, you received just the one
 14 written warning record?
 15 A. Yes.
 16 Q. Any other disciplinary records or
 17 recommendations or anything like that, citations?
 18 A. No.
 19 Q. And then you were put on the 90-day plan?
 20 A. Yes.
 21 Q. Did that seem odd to you or unusual?
 22 A. It would have if this hadn't been what's been
 23 going on since November of 2011, but this has become the
 24 norm since November of 2011. Generally they try to
 25 retain senior staff as opposed to trying to see if they

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1 can get somebody out that's verbal.
 2 Q. And who else do you think would agree with you
 3 that that's how things have worked since November of
 4 2011?
 5 MR. COLLAER: Objection, lacks foundation, is
 6 vague, and calls for speculation.
 7 Q. (BY MR. SCHOPPE) Who else do you know who
 8 agrees with you?
 9 MR. COLLAER: Objection, calls for
 10 speculation.
 11 THE WITNESS: Any of the Plaintiffs on this
 12 case.
 13 Q. (BY MR. SCHOPPE) Anybody else?
 14 MR. COLLAER: The same objection.
 15 THE WITNESS: All of the O&A staff that have
 16 been there for more than nine months.
 17 Q. (BY MR. SCHOPPE) Okay.
 18 A. They would know that because this is the
 19 situation that they've --
 20 Q. Other than your criticisms of the Department
 21 and its management, are you aware of any reason why
 22 Director Harrigfeld might have instructed Jeanette
 23 Angell to prepare this performance improvement plan?
 24 MR. COLLAER: Objection, calls for
 25 speculation, assumes facts not in evidence.

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1 THE WITNESS: As I'm not an employee, I can no
 2 longer produce the e-mail from Director Harrigfeld.
 3 However, she intends to terminate most if not all of the
 4 people that are involved in this case.
 5 Q. (BY MR. SCHOPPE) What e-mail are you talking
 6 about?
 7 A. An e-mail from Sharon Harrigfeld that she sent
 8 out. However, I know that Rhonda Ledford was
 9 specifically left off the distribution list.
 10 Q. Who did that e-mail go to?
 11 A. It went to all supervisors as well as all
 12 floor staff, line staff, with the exception of anybody
 13 that was on the first printing of the lawsuit.
 14 Q. What was it that was said in that e-mail?
 15 A. Just that: "There seems to be some problems
 16 that are going on at JCC Nampa. We will be sorting it
 17 out shortly and the people involved will be taken care
 18 of."
 19 Q. That's what you recall from reading it?
 20 A. Yes. Because it didn't say "terminated," it
 21 didn't say -- it said they "will be taken care of."
 22 Q. But you didn't see -- have you seen that
 23 e-mail in the Defendants' responses?
 24 A. I have not at this point.
 25 Q. After the petition was circulated, did you

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1 hear from anyone that Human Resources had said that
 2 there should be no more petitions?
 3 MR. COLLAER: Objection, lacks foundation,
 4 calls for speculation.
 5 THE WITNESS: I want to say an e-mail from Pat
 6 Thomson.
 7 Q. (BY MR. SCHOPPE) Did Ray Gregston ever tell
 8 you that he had been told there should be no more
 9 petitions?
 10 A. There was also a rumor. It was a word of
 11 mouth that we were not to initiate any petitions about
 12 anything.
 13 Q. Is there any policy against petitions inside
 14 the Juvenile Corrections Department?
 15 A. Not that I'm aware of.
 16 Q. Is there any policy about speaking your mind?
 17 A. You can't talk to the media.
 18 Q. Did you feel that that rumor that you heard
 19 was a threat against future petitions?
 20 MR. COLLAER: Objection, assumes fact not in
 21 evidence, lacks foundation, calls for speculation.
 22 Q. (BY MR. SCHOPPE) You know what you felt at
 23 the time; right?
 24 A. Yeah.
 25 Q. So, you're not speculating?

1 A. No, no more petitions of any kind.
 2 Q. And did you take that to be a signal that
 3 staff should not file any more petitions or circulate
 4 them?
 5 A. That was my understanding.
 6 Q. And did you fear that there would be adverse
 7 consequences to you if you were to do that again?
 8 A. Yes, especially since it was generated out of
 9 Human Resources.
 10 Q. Are you aware of any other -- you talked about
 11 your expectations and the weekly processes earlier. Are
 12 you aware of any other employees who have similar
 13 expectations that are sort of unique to them?
 14 MR. COLLAER: Objection, calls for
 15 speculation.
 16 THE WITNESS: Tom de Knif, maintenance, yes.
 17 He got put on the 90-day club the week after I did. In
 18 fact, that's how common it became. It was referred to
 19 as "the 90-day club."
 20 MR. SCHOPPE: I need just a second to review
 21 my notes and then I think I'll be done. If you have
 22 more --
 23 MR. COLLAER: Oh, yeah, we're going to be
 24 awhile.
 25 MR. SCHOPPE: Or if you want to switch over, I

1 Q. But Duke is somebody who can help you with
 2 that?
 3 A. But Duke is somebody that has been helping me
 4 with that. He brings me around. He will tangle me up.
 5 In the case of my wife, who is currently here now, if I
 6 had an episode and I was -- he would actually pull me
 7 out there. He'll take me to who I have trained him to
 8 associate with if I've got a problem if he can't bring
 9 me out himself, because sometimes he'll actually just,
 10 as mellow as he is, he will lay down there and just
 11 simply bark at me.
 12 Q. And is he registered as you need to register a
 13 medical alert dog or an assistance dog?
 14 A. Yes.
 15 Q. And in seeking to work at Juvenile Corrections
 16 after you discovered the dissociative issue and that
 17 Duke can help you with that or alert you to it, what did
 18 you do?
 19 A. My medical practice doctor said that I could
 20 return to work with the service dog.
 21 Q. Who was that?
 22 A. Dr. Harold Kunz in Nampa. Then Human
 23 Resources came back with did I have a health certificate
 24 for him? So, I took him to the vet and got all of his
 25 vaccinations current and got him a health certificate.

1 do have next Thursday morning available.
 2 MR. COLLAER: No, let's finish today.
 3 (Recess held.)
 4 Q. (BY MR. SCHOPPE) With respect to, you brought
 5 up your friend Duke, the assistance dog here, and
 6 accommodating him. What can you tell me about that with
 7 respect to why you need him and what you asked the
 8 facility to do?
 9 A. I need him because of the fact that he carries
 10 my diabetic supplies with him. As you've seen earlier,
 11 he actually demonstrated the fact that he knows when my
 12 blood sugar is dropping and notifies me. And I don't
 13 need my meter, but I use my meter to verify what he's
 14 doing.
 15 He's also, since they have -- I have
 16 discovered he has tuned in to the dissociative states
 17 and he will bring me out of them. As the
 18 neuropsychologist said, that when I'm in them I have
 19 basic survival skills. My nurse's education goes back
 20 so far into old memory that bandaids and things like
 21 that are no problem, but I have worries of did I give
 22 the right person the right medication? But he also will
 23 not give me a release stating I will not have any of
 24 these episodes or none of these states will occur while
 25 I am at work at Juvenile Corrections.

1 We then went through the registration process
 2 of making sure that he could do the tasks that he is
 3 supposed to be able to do, as well as the training and
 4 socialization that was necessary to be able to take him
 5 anywhere. Almost anywhere.
 6 Q. Okay.
 7 A. He hates gunfire.
 8 Q. And then what?
 9 A. I took -- yeah, I copied the certificate and
 10 the registration papers and Human Resources never asked
 11 for them.
 12 Q. Who did you expect to ask for them?
 13 A. Pat Thomson. He was the one that was calling
 14 me.
 15 Q. So, what happened next?
 16 A. Then I had to make a trip out to Juvenile
 17 Corrections because my password had stopped working and
 18 I could no longer access my e-mails.
 19 Q. Do you know when that was?
 20 A. No, I have no idea, other than IT told me I
 21 physically had to come into the building so I could log
 22 on to the main computer from one of the terminals. I
 23 could not do it from a remote access.
 24 Q. Okay.
 25 A. Because I was trying to retrieve the PDF image

1 of the grievance form, which I had never seen, that Pat
2 had e-mailed me. And it was right after he e-mailed me
3 that my password failed to work anymore.

4 I went to the facility, logged in, printed it
5 out, printed out the grievance from

6 Q. And you hadn't seen that grievance up until
7 that point?

8 A. Until that point I had never seen it. I
9 didn't even know it existed.

10 Q. Was that unusual?

11 A. Yes.

12 Q. When did you usually see grievances from
13 juveniles?

14 A. Within five days of them writing them.

15 Q. All right. And what happened after that
16 after you got the printed-off e-mail?

17 A. I left the facility. And the next day I
18 received a phone call from Pat Thomson stating I was not
19 to come out to the facility without making prior
20 arrangements.

21 Q. Did that seem unusual to you?

22 A. Yes, because he also said that I was not to
23 have contact or communication with Jeanette Angell, my
24 supervisor.

25 Q. Did he say why?

1 One of the latter parts was: "Well, is the
2 dog vicious?" I says: "He's a registered service dog.
3 He can't be vicious. They would put him down." I says:
4 "If you're scared, I do have a muzzle that I put on him
5 for people that are concerned."

6 And then he would say: "Well, what if you go
7 down in the juveniles area and one of them attacks you?
8 Will the dog defend you?" And I says: "I don't know.
9 He's never been trained to do that." So, I have no idea
10 what he would do, other than he's been trained that in
11 any social situation if somebody comes at him or me he
12 is to hide behind me.

13 Q. Did you get the sense that Human Resources was
14 looking for reasons not to allow you to have an
15 assistance dog?

16 A. Yes, that was my very feeling.

17 Q. Did you ever receive any decision on the
18 issue?

19 A. No, the only decision I got was when I finally
20 ran out of time and I ran to the end and they put me on
21 the medical layoff. Other than they said I needed to
22 have a written release from Gage. And Gage, I had
23 talked to him I want to say January 24th, 22nd.

24 Q. Okay.

25 A. And he refused to give me a release.

1 A. He said it was a HIPAA problem.

2 Q. Any elaboration on that?

3 A. No, he would just say: "It's a HIPAA
4 problem." And I don't know what he's talking about.
5 Because Jeanette is my supervisor. She is the one that
6 I am supposed to keep in touch with when there is a
7 medical problem going on. As well as the fact that as
8 the R.N. she would be the HIPAA person at the facility.

9 Q. And then what?

10 A. Then it was just a matter of sitting back. I
11 waited, kept going to the doctors' visits, got the MRI,
12 got the brain scan, got the neurological report, got the
13 neuropsychologist's report. I finally started getting
14 things back.

15 And as I said, in September they would release
16 me back with the dog, but Pat called me up and he said:
17 "Where is the dog going to poop?" And my response to
18 him was: "That's not your responsibility. The county
19 has laws that say if he goes to the bathroom, I have to
20 clean it up."

21 "Well, yeah, but what if he's going to go in
22 the building? What about if you're doing medications
23 and the dog has to go out?" He was bringing up a lot of
24 questions pertaining to what I would do for the care of
25 the dog.

1 Q. Okay.

2 A. He says: "I will not give you a signed
3 release. I do not know if you will have an episode
4 while at work and none of your testing indicates whether
5 you will or not."

6 Q. And you haven't seen him since?

7 A. I have not seen him since because my -- he was
8 transferring me to another psychologist for treatment
9 and my insurance lapsed before I could establish further
10 treatment.

11 MR. SCHOPPE: All right, I think I'm done.

12 FURTHER EXAMINATION

13 QUESTIONS BY MR. COLLAER:

14 Q. Mr. Farnworth, I'm just going back to the most
15 recent stuff you've talked about. As I understand,
16 Dr. Gage is the psychologist who was treating you for
17 your dissociative issues?

18 A. Yes.

19 Q. He's the only doctor that's been treating you
20 for that?

21 A. Yes.

22 Q. And is that the condition that's kept you from
23 working is the fact that you have these issues and so
24 you couldn't continue to work?

25 A. Yes.

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1 Q. And he has never given you a release to return
 2 to work; correct?
 3 A. He has verbally refused to.
 4 Q. He has told you he will not sign a written
 5 release so you can return to work?
 6 A. That is correct.
 7 Q. And IDJC has never told you if you got the
 8 release they would not allow you to come back with a
 9 service dog; correct?
 10 A. Correct.
 11 Q. The e-mail you say that you've seen from Pat
 12 Thomson about saying "no more petitions," do you have a
 13 copy of that?
 14 A. Not anymore. It would have been in my files
 15 at DJC.
 16 Q. All right. Did you ever print a copy of it
 17 and keep it?
 18 A. No.
 19 Q. You've never provided one to your attorney or
 20 anybody else?
 21 A. No.
 22 MR. COLLAER: And Counsel, we've never seen an
 23 e-mail like that. So, if you've got it, you need to
 24 produce it.
 25 MR. SCHOPPE: Well, actually, I think you

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1 should produce it because I've asked for correspondence
 2 concerning all of the Plaintiffs.
 3 MR. COLLAER: Well, I can tell you there's no
 4 such e-mail that I'm aware of that exists. So, if you
 5 have such an e-mail we'd ask that you produce it. I
 6 think it's within the scope of our requests.
 7 Q. (BY MR. COLLAER) Next you say there was an
 8 e-mail from Ms. Harrigfeld to all supervisors and line
 9 staff saying to the extent, saying something that they
 10 are going to "take care of the Plaintiffs," to
 11 paraphrase.
 12 A. Yes.
 13 Q. Do you have a copy of that e-mail?
 14 A. That again would be in my electronic files
 15 that don't exist at DJC anymore.
 16 Q. You did not save a copy of it?
 17 A. I would have saved a copy to my files in my
 18 mail account, but it's not in my mail account.
 19 Q. My question is: Did you save a hard copy?
 20 A. No.
 21 MR. COLLAER: And again, Counsel, we've never
 22 seen anything like that. I don't think it exists. So,
 23 if you've got it, you need to produce it.
 24 Q. (BY MR. COLLAER) Your meeting with Sharon
 25 Harrigfeld that Ms. Bishop was at, was that a meeting

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1 that was arranged by -- scheduled between yourself and
 2 Ms. Harrigfeld?
 3 A. No.
 4 Q. Was that just something that you asked for?
 5 A. No.
 6 Q. How did it come to pass?
 7 A. Ms. Harrigfeld scheduled a time period at the
 8 Department of Juvenile Corrections that her and
 9 Ms. Bishop would be in the conference room up in the
 10 front of the DJC.
 11 Q. And anybody that wanted to come and talk to
 12 them were encouraged to come and talk to them?
 13 A. That is what the e-mail said.
 14 Q. All right. And then you took it upon yourself
 15 to go and talk with them?
 16 A. Yes.
 17 Q. So, this isn't something that you were
 18 summoned to come and talk to the Director and
 19 Ms. Bishop; correct?
 20 A. Correct.
 21 Q. And you didn't tell your attorney that you
 22 were going to do that; did you?
 23 A. I did not.
 24 Q. Did Jeanette Angell ever actually tell you
 25 that she was instructed by Sharon Harrigfeld to place

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1 you on a 90-day improvement plan?
 2 A. Yes.
 3 Q. She actually told you that, that she was told
 4 by Ms. Harrigfeld to do that?
 5 A. Yes.
 6 Q. And if Ms. Angell were to testify that she did
 7 not receive such instruction, she made that decision
 8 herself, would it be your contention that she is lying?
 9 MR. SCHOPPE: Objection, calls for
 10 speculation, improperly asks for factual contentions or
 11 situation concerning which he has no knowledge.
 12 Q. (BY MR. COLLAER) Go ahead and answer.
 13 MR. SCHOPPE: Actually, I'm going to instruct
 14 you not to answer.
 15 MR. COLLAER: On what basis is there an
 16 instruction not to answer?
 17 MR. SCHOPPE: He has no facts to indicate.
 18 You're talking about a hypothetical situation involving
 19 a potential lie that he hasn't heard.
 20 MR. COLLAER: Okay, you're not asserting
 21 privilege --
 22 MR. SCHOPPE: Get your order. You can get
 23 your order.
 24 MR. COLLAER: Well, Counsel, if we bring him
 25 back and ask him this, I'm going to seek sanctions.

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1 MR. SCHOPPE: Perfect.
 2 MR. COLLAER: And they'll be against yourself
 3 and the witness.
 4 MR. SCHOPPE: Terrific.
 5 MR. COLLAER: Understand that.
 6 MR. SCHOPPE: I understand that.
 7 Q. (BY MR. COLLAER) Tell me, Mr. Farnworth, when
 8 this choking incident in May of 2012 occurred involving
 9 as I understand what you testified, at the time
 10 that you approached this child you felt he was close to
 11 dying?
 12 A. Yes.
 13 Q. Did you consider calling the hospital or an
 14 ambulance?
 15 A. I had to administer first aid first.
 16 Q. But did you consider calling an ambulance or
 17 calling 911?
 18 A. Yes.
 19 Q. Why didn't you do it?
 20 A. Because it wasn't necessary.
 21 Q. After he started breathing again, did you
 22 contact the R.N. on call?
 23 A. Not immediately.
 24 Q. Did you ever talk to the R.N. after that
 25 incident about

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1 A. I was not given time.
 2 Q. Later for the rest of that shift --
 3 A. I was not given time. I was told to leave.
 4 Q. I'm talking about while you were on shift
 5 after the incident with ended, he was breathing
 6 again and you left the area, did you call the R.N.?
 7 A. I was not given time.
 8 Q. And how much time did you -- between the time
 9 that you left the child to the time you left the
 10 building, how much time elapsed?
 11 A. Approximately 15 minutes.
 12 Q. And this happened what time of day?
 13 A. 4:30, 4:15.
 14 Q. And you were told to leave by whom?
 15 A. By Superintendent Grimm.
 16 Q. Did you consider calling the P.A. or the nurse
 17 practitioner?
 18 A. I was told to leave.
 19 Q. That's not my question. Did you consider
 20 calling the nurse practitioner about
 21 condition?
 22 A. It was not my consideration. I was told to
 23 leave.
 24 Q. Did you suggest to anybody to follow up and
 25 call the R.N. or the nurse practitioner involving

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1 A. I was told to leave.
 2 Q. That's not my question. Did you tell anybody
 3 to follow up and call the R.N. or a nurse practitioner
 4 to advise them about condition?
 5 A. I was instructed by an R.N. to leave the
 6 facility.
 7 Q. And the R.N. that told you to do that was
 8 whom?
 9 A. Superintendent Grimm.
 10 Q. Did you tell her what condition was
 11 when you left the building?
 12 A. Yes.
 13 Q. What did you tell her specifically?
 14 A. I said that he was up, he came down and had
 15 dinner with his group, and that he's up fully
 16 functioning.
 17 Q. Did you tell her that you had feared that he
 18 was about to die?
 19 A. I was not asked that.
 20 Q. You didn't tell her that either; did you?
 21 A. I was not asked that.
 22 Q. The question is: Did you tell her that?
 23 A. I was not asked that.
 24 Q. Did you offer it to her at any time before she

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1 told you you needed to leave the building?
 2 A. I was not given that as an option.
 3 Q. Tell me, you testified earlier about policies
 4 about security that you felt were not being followed and
 5 that you had complained to your direct supervisor
 6 Jeanette Angell about. Do you remember that?
 7 A. Yes.
 8 Q. The policies you're referring to, are those
 9 SOPs, department SOPs?
 10 A. Yes.
 11 Q. Any other policies other than those SOPs that
 12 you complained about not being followed?
 13 MR. SCHOPPE: Objection, object to the form,
 14 vague, ambiguous, overbroad, and lacks foundation.
 15 THE WITNESS: Without additional information I
 16 don't know how to answer your question.
 17 Q. (BY MR. COLLAER) Well, my question is: The
 18 policies you contend that you talked to Ms. Angell about
 19 that you felt were not being followed by whomever, were
 20 those limited to department SOPs?
 21 A. Yes.
 22 Q. And did Ms. Angell ever tell you that she had
 23 relayed your concerns to Ms. Harrigfeld?
 24 A. Not that I recall.
 25 Q. Did she ever tell you that she had relayed

1 your concerns to Ms. Grimm?
 2 A. Her statement --
 3 Q. Did she ever tell you that she had relayed
 4 your concerns about people not following SOPs to
 5 Ms. Grimm?
 6 A. No.
 7 Q. So, you don't know if she did or not; do you?
 8 A. Yes, I do. You didn't ask me that.
 9 Q. How do you know that she told Ms. Grimm and
 10 Ms. Harrigfeld about your complaints about the SOPs?
 11 A. Because she said she sent an e-mail.
 12 Q. So, she told you she sent an e-mail to whom
 13 about what complaint?
 14 A. That it was going to Betty about the
 15 complaints, what was going on.
 16 Q. Do you recall when she told you that e-mail
 17 was sent?
 18 A. Generally it was sent within 20, 30 minutes of
 19 the conversation we would have. This is more than one
 20 occurrence at one time.
 21 Q. And you've never seen those e-mails that you
 22 contend she told you she was going to send to Ms. Grimm?
 23 A. No.
 24 Q. Tell me, the petition, the 2011 petition that
 25 you signed, is it your understanding that that petition

1 A. It's up to their supervisors.
 2 Q. That's not my question. Did you personally
 3 make any reports about those incidences to a supervisor
 4 or management?
 5 A. No.
 6 Q. Your testimony about the dental services and
 7 the contract being changed, did you make any reports to
 8 management about that, you personally?
 9 A. No.
 10 Q. Did you personally make any reports about
 11 alleged sexual misconduct by any staff member with
 12 juveniles to management?
 13 A. No.
 14 Q. The practice of when juveniles who had
 15 committed assaults were reintegrated back into the
 16 group, do you remember your testimony about that? Did
 17 you make any complaints to management about that, you
 18 personally?
 19 A. No.
 20 Q. You did not?
 21 A. No.
 22 Q. The teacher assault that you referred to, did
 23 you personally make any complaints to management about
 24 that incident?
 25 A. No.

1 was delivered by Ray Gregston to HR, to DRH?
 2 A. No.
 3 Q. What was your understanding as to what
 4 Mr. Gregston did with it?
 5 A. Took it to another department to see if
 6 someone would sign it.
 7 Q. Were you ever under the understanding that he
 8 turned that petition in to management?
 9 A. I have no idea.
 10 Q. You don't know what he did with it?
 11 A. I have no idea.
 12 Q. Do you know if Sharon Harrigfeld or Betty
 13 Grimm has ever seen that petition?
 14 A. Not to my knowledge.
 15 Q. Do you know if Sharon Harrigfeld or Betty
 16 Grimm ever had knowledge or saw your signature on that
 17 petition?
 18 A. I have no knowledge.
 19 Q. The time card padding that you've discussed
 20 about those three employees that you said you were aware
 21 of, did you report those incidences to Betty Grimm or
 22 Sharon Harrigfeld?
 23 A. That's not my department.
 24 Q. But did you make any reports about those at
 25 all?

1 Q. Missing informational reports, did you ever
 2 make any complaints to management about that?
 3 A. Yes.
 4 Q. Which ones?
 5 A. All of it.
 6 Q. When did you make those complaints and to
 7 whom?
 8 A. When I discovered that it was missing and to
 9 my supervisor.
 10 Q. And that would be Jeanette Angell?
 11 A. Jeanette Angell, as well as an e-mail to IT.
 12 Q. And when did that occur?
 13 A. When I found that they were missing.
 14 Q. Can you tell me the month and the year?
 15 A. Let's see. that would have been July
 16 of 2012. Yeah, that would have been and
 17 And the other one, I was -- someone else was the one
 18 that was looking for it and asked me and they said it
 19 wasn't there.
 20 Q. All right. Are you aware of anything
 21 suggesting or establishing that Ms. Grimm or
 22 Ms. Harrigfeld were aware of your complaints about those
 23 IRs missing?
 24 A. No.
 25 Q. Do you have any information that Sharon

1 Harrigfeld shared the perceptions of Julie McCormick
 2 regarding SSOs and being military people?
 3 A. No.
 4 Q. When you attended the all staff meeting did
 5 you engage in the discussion personally or were you just
 6 there and listening?
 7 A. I was there and listened.
 8 Q. Did you speak out or say anything during that
 9 meeting?
 10 A. No.
 11 MR. COLLAER: Nothing further.
 12 MR. SCHOPPE: Do you want to ask a question
 13 about whether he thinks that she's going to be lying or
 14 not?
 15 (Reporter clarification.)
 16 THE WITNESS: Whether Jeanette Angell would be
 17 lying or not.
 18 Q. (BY MR. COLLAER) Do you remember the
 19 question?
 20 A. Yes.
 21 Q. Would it be your position she would be lying?
 22 A. Yes.
 23 (Deposition concluded at 5:58 p.m.)
 24 (Signature requested.)
 25 -oOo-

1 ERRATA SHEET FOR FRANK H. FARNWORTH
 2 Page ___ Line ___ Reason for Change _____
 Reads _____
 3 Should Read _____
 4
 5 Page ___ Line ___ Reason for Change _____
 Reads _____
 6 Should Read _____
 7
 8 Page ___ Line ___ Reason for Change _____
 Reads _____
 9 Should Read _____
 10
 11 Page ___ Line ___ Reason for Change _____
 Reads _____
 12 Should Read _____
 13
 14 Page ___ Line ___ Reason for Change _____
 Reads _____
 15 Should Read _____
 16
 17 Page ___ Line ___ Reason for Change _____
 Reads _____
 18 Should Read _____
 19
 20 Page ___ Line ___ Reason for Change _____
 Reads _____
 21 Should Read _____
 22
 23 Page ___ Line ___ Reason for Change _____
 Reads _____
 24 Should Read _____
 25 You may use another sheet if you need more room.
 WITNESS SIGNATURE _____

1 CERTIFICATE OF WITNESS
 2 I, FRANK H. FARNWORTH, being first duly sworn,
 3 depose and say:
 4 That I am the witness named in the foregoing
 5 deposition consisting of pages 1 through 257; that I
 6 have read said deposition and know the contents thereof;
 7 that the questions contained therein were propounded to
 8 me; and that the answers contained therein are true and
 9 correct, except for any changes that I may have listed
 10 on the Change Sheet attached hereto:
 11 DATED this ___ day of _____, 20__.
 12
 13 _____
 14 FRANK H. FARNWORTH
 15
 16 SUBSCRIBED AND SWORN to before me this ___ day
 17 of _____, 20__.
 18
 19 _____
 20 NAME OF NOTARY PUBLIC
 21
 22 NOTARY PUBLIC FOR _____
 23 RESIDING AT _____
 24 MY COMMISSION EXPIRES _____
 25

1 REPORTER'S CERTIFICATE
 2 I, SHERI FOOTE, CSR No. 90, Certified Shorthand
 3 Reporter, certify: That the foregoing proceedings were
 4 taken before me at the time and place therein set forth,
 5 at which time the witness was put under oath by me;
 6 That the testimony and all objections made were
 7 recorded stenographically by me and transcribed by me or
 8 under my direction;
 9 That the foregoing is a true and correct record
 10 of all testimony given, to the best of my ability;
 11 I further certify that I am not a relative or
 12 employee of any attorney or party, nor am I financially
 13 interested in the action.
 14 IN WITNESS WHEREOF, I set my hand and seal this
 15 29th day of July, 2013.
 16
 17 _____
 18 SHERI FOOTE, CSR No. 90, RPR, CRR
 19 Notary Public
 20 P.O. Box 2636
 21 Boise, Idaho 83701-2636
 22 My commission expires January 17, 2016
 23
 24
 25

EXHIBIT J

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RHONDA LEDFORD, an individual;)
RAYMON GREGSTON, an individual; JO)
MCKINNEY, an individual; SHANE)
PENROD, an individual; KIM MCCORMICK,) Case No. 1:12-cv-00326-BLW
an individual; BOB ROBINSON, an)
individual; and GRACIE REYNA, an)
individual,)
Plaintiffs,)
vs.)
IDAHO DEPARTMENT OF JUVENILE)
CORRECTIONS, an executive department)
of the State of Idaho; IDJC DIRECTOR)
SHARON HARRIGFELD, in her individual)

Caption Continued....

DEPOSITION OF JO MCKINNEY
OCTOBER 18, 2013

REPORTED BY:
MONICA M. ARCHULETA, CSR NO. 471
NOTARY PUBLIC

Page 2

1 And official capacities; IDJC)
 2 JUVENILE CORRECTIONS CENTER - NAMPA)
 3 SUPERINTENDENT BETTY GRIMM, in her)
 4 individual and official capacities;)
 5 and DOES 1-20,)
 6 Defendants.)
 7 _____)
 8
 9
 10
 11
 12 THE DEPOSITION OF JO MCKINNEY was taken on
 13 behalf of the Defendants at the offices of Anderson
 14 Julian & Hull, 250 South Fifth Street, Suite 700, Boise,
 15 Idaho, commencing at 9:00 a.m. on October 18, 2013,
 16 before Monica M. Archuleta, Certified Shorthand Reporter
 17 and Notary Public within and for the State of Idaho, in
 18 the above-entitled matter.
 19
 20
 21
 22
 23
 24
 25

Page 3

1 APPEARANCES:
 2 For the Plaintiffs:
 3 LAW OFFICE OF ANDREW T. SCHOPPE
 4 BY: MR. ANDREW T. SCHOPPE
 5 910 W. Main Street, Suite 328
 6 Boise, Idaho 83702
 7
 8 For the Defendant:
 9 ANDERSON JULIAN & HULL
 10 BY: MR. PHILLIP J. COLLAER
 11 C.W. Plaza
 12 250 South Fifth Street, Suite 700
 13 P.O. Box 7426
 14 Boise, Idaho 83707-7426
 15
 16 ALSO PRESENT: Mark Crecilius
 17 Rhonda Ledford
 18 Shane Penrod
 19
 20
 21
 22
 23
 24
 25

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 25

1 JO MCKINNEY,
2 first duly sworn to tell the truth relating to said
3 cause, testified as follows:

4 EXAMINATION

5 QUESTIONS BY MR. COLLAER:

6 Q. Let the record reflect this is the time and
7 place scheduled for the taking of the deposition of
8 Jo McKinney. The witness is present represented by
9 counsel.

10 Ms. McKinney, I have seen in your personnel
11 file your name -- you sometimes go by Jo and then there
12 is a longer name. Which is --

13 A. Layona. L-a-y-o-n-a. That is my first name.

14 Q. Do you normally go by Jo?

15 A. Yes.

16 Q. Ms. McKinney, can you please state your full
17 name and spell the last for the record, please?

18 A. Layona, L-a-y-o-n-a, McKinney,
19 M-c-K-i-n-n-e-y. I go by Jo.

20 Q. And, Ms. McKinney, have you ever had your
21 deposition taken before?

22 A. No, I haven't.

23 Q. I'm sure you have spoken with your attorney
24 briefly about the process we'll be going through today.
25

1 A. That sounds fair.

2 Q. Throughout the day if you need to take breaks,
3 just let me know that, and we can take breaks as often
4 as you need. The only restriction on that is if there
5 is a question pending I'm going to ask you that you
6 answer the question that is pending before you take a
7 break. Otherwise, if you need to take a break to
8 stretch your legs, or use the facilities, or speak with
9 your attorney, that's fine.

10 A. Okay. Sounds good.

11 Q. Ms. McKinney, can you give me a rundown of
12 your educational background from high school forward?

13 A. Eastmont High, East Wenatchee, Washington.
14 Took a couple a classes in college and that is about it.
15 I didn't get my degree. I left college.

16 Q. When did you graduate from high school?

17 A. '65.

18 Q. And you said you attended some college.
19 When did that occur?

20 A. I went to Wenatchee Valley College. It was a
21 Junior College. I took several classes. And that was
22 in '67, '68. A couple years. Took business management
23 and started a psychology class. But I didn't complete
24 them.

25 Q. Did you finish the full semester when you took

1 But just as an explanation. Throughout the day I'm
2 going to be asking you a series of factual questions
3 about what you -- we are seeking to find out what you
4 may or may not know about some of the issues in this
5 case. If I ask you a question that you don't know the
6 answer to, you don't remember, don't hesitate to let me
7 know that.

8 A. Okay.

9 Q. An honest answer is "I don't remember" or "I
10 just don't know."

11 A. Okay.

12 Q. But I don't want you to speculate or guess
13 about facts. Just tell me what you do or don't know.
14 Okay?

15 A. Okay.

16 Q. If I ask you a question that you don't
17 understand don't hesitate to tell me that and I'll be
18 happy to rephrase the question or explain my question so
19 that we can understand each other.

20 A. Okay.

21 Q. But if I ask you a question and you answer it
22 I'm going to assume that we are understanding each
23 other. Okay?

24 A. All right.

25 Q. Is that fair?

1 those classes?

2 A. One I did. One I didn't.

3 Q. When you did I presume you dropped that class?

4 A. Um-hmm.

5 Q. Just withdrew the class?

6 A. Um-hmm. I had to go back to work.

7 Q. Have you ever been married before?

8 A. Yes.

9 Q. Are you currently married?

10 A. Yes.

11 Q. Have you been married more than once?

12 A. Yes.

13 Q. Why don't you tell me your marriages up to the
14 current time.

15 A. I was married six-and-a-half, seven years the
16 first time. And then I have been married 29 years this
17 time.

18 Q. That is to your current husband?

19 A. Yes.

20 Q. And when did you and your first husband split?

21 A. '71 or '72. I'm not sure. It might have been
22 '73.

23 Q. That's fine. Did you have any children with
24 the first marriage?

25 A. Yes. I had a daughter.

1 Q. Have you had children your second marriage?
 2 A. Yes. I have a son.
 3 Q. And when you were married the first time were
 4 you residing in the Wenatchee area?
 5 A. Yes.
 6 Q. And with your current husband have you always
 7 lived in the Boise Valley?
 8 A. No. We were married three years, four years
 9 before we moved here.
 10 Q. And when you and your current husband were
 11 first married were you living in the Wenatchee area?
 12 A. Yes.
 13 Q. Would you tell me your occupational history
 14 since high school?
 15 A. Oh, boy. Let's see, my first job I went and
 16 packed fruit. Then when I got my divorce I got -- I
 17 didn't work for quite a few years there when we were
 18 married. And then I got a waitress job. And then from
 19 there I went into managing a bar and restaurant in the
 20 Cashmere area. And I was there for seven years. And
 21 then I went to Alaska. And I was up there for almost
 22 four years managing a bar and restaurant. Then my first
 23 husband was killed and I had to move back to the
 24 Wenatchee area. And I managed a bar and restaurant
 25 then. And from there I bought a bar up there. A bar

1 longer than that. was born in '87. We moved here
 2 in '88. was a year old. My husband does
 3 construction and he started a construction business here
 4 in Boise.
 5 Q. And what did you do after you moved to Boise?
 6 A. I stayed home.
 7 Q. And when was the next time you became employed
 8 after you moved to Boise?
 9 A. I stayed home until was like six. So
 10 '93. I went to work for United Micro Data processing
 11 microfilm and having me do J.R. Simplot's private
 12 records. Files.
 13 Q. And how long did you work for United Micro
 14 Data?
 15 A. For about a year.
 16 Q. And what were the circumstances of you leaving
 17 that job?
 18 A. I got another job offer and that was -- gosh,
 19 I can't even remember when that was. I quit that job
 20 for a while because of It just wasn't working out
 21 with the baby-sitter and all of that. So I stopped for
 22 a while. Then I went to work for Paul's Market in Kuna.
 23 Q. And approximately when did you go to work for
 24 Paul's Market?
 25 A. That would have been around '95, I think.

1 and a restaurant at that point.
 2 Q. What was the name of the bar and restaurant
 3 that you owned?
 4 A. It was the Columbian.
 5 Q. And when did you open that business?
 6 A. It was existing. I purchased it. And that
 7 was in '83.
 8 Q. And how long did you operate the restaurant?
 9 A. We had that about two years.
 10 Q. And did you resell it or close it?
 11 A. We had to close it. The building -- the lease
 12 on the building -- the gentleman that owned the building
 13 hadn't been making the payments on the building. So I
 14 had a restaurant and a bar, but I had nowhere to put it.
 15 He lost the building. I was making payments to him on
 16 my lease. He lost the building. So I was sitting there
 17 with a business and no place to put it.
 18 Q. Sure. And the bank was foreclosing on the
 19 building, I presume?
 20 A. Yeah. They tore it down.
 21 Q. And so you would have closed that business
 22 sometime around '85, '86? Somewhere in that range?
 23 A. Yeah, about '85.
 24 Q. After you closed the bar what did you do?
 25 A. We moved to Boise -- no, it would have been

1 Q. So approximately '95?
 2 A. Yeah. Around there. I'm not real sure on
 3 dates. I don't remember dates. I'm surprised I
 4 remembered any of this.
 5 Q. And how long did you work for Pauls Market?
 6 A. For about four years.
 7 Q. And what were the circumstances of your
 8 leaving that job?
 9 A. I got a job offer to go to work for an
 10 assisted living as an admin assistant.
 11 Q. Had you been applying for other jobs?
 12 A. No. I just had a lady come in. I was a
 13 manager at Paul's and she asked me if I would be
 14 interested in the job and I took it. It was more money.
 15 Q. So then you went to work for an assisted
 16 living outfit. What was the name of that company?
 17 A. This was Sunbridge.
 18 Q. Was that facility in Nampa?
 19 A. Meridian.
 20 Q. And how long did you work at Sunbridge?
 21 A. Three years, maybe. Four years. I'm not real
 22 sure on the dates.
 23 Q. Three to four years is fine. And what were
 24 the circumstances of your leaving that job?
 25 A. I hurt my back there. I tried lifting a

1 patient and I got my back hurt. Just couldn't work for
 2 a while.
 3 Q. When you recovered did you attempt to return
 4 to work?
 5 A. Not there.
 6 Q. Correct me if I'm wrong. I'm assuming when
 7 you hurt your back that was the last time you worked at
 8 Sunbridge?
 9 A. Yes. I didn't go back. I couldn't do the
 10 lifting and things. And I was prone to do that.
 11 Q. And did you file a Workers' Compensation
 12 claim?
 13 A. No, I did not.
 14 Q. Any reason why not?
 15 A. You know, I had talked to them about that.
 16 And I attempted to. And they said that I hadn't made
 17 out an accident report right when it happened. So they
 18 wouldn't honor it. So I didn't fight it.
 19 Q. So how long after you injured your back did
 20 you approach them about a Workers' Compensation claim?
 21 A. Probably a week-and-a-half.
 22 Q. After you hurt your back I am presuming then
 23 you were off work for a period of time recovering from
 24 your injuries?
 25 A. Yes.

1 and just kept loading me with more work and more work.
 2 And I just said, "Listen, I can't do this." And she
 3 said that is what I needed to do. And I said, "I'm
 4 sorry, I can't do that."
 5 Q. So then you quit?
 6 A. Yes.
 7 Q. After you left Elks who did you work for after
 8 that?
 9 A. We started a private business.
 10 Q. And what was that private business?
 11 A. We had two going. We had CJL Business Cards
 12 Etc. that we had for two years. And that didn't work
 13 out too well because of the economy slump that came in.
 14 And we shut it down because there just wasn't anything
 15 there. And then we started another business.
 16 Q. And what was that business?
 17 A. Tattoo shop.
 18 Q. And is the tattoo shop still in business?
 19 A. No, it is not.
 20 Q. How long did it stay in business?
 21 A. I had it open for three years.
 22 Q. And where was it located?
 23 A. In Kuna.
 24 Q. Did you have any partners with the tattoo
 25 shop?

1 Q. About how long did that last?
 2 A. I would say about six months.
 3 Q. And this would have been sometime in the late
 4 1990s?
 5 A. Yes.
 6 Q. Where was the next place you worked after you
 7 left Sunbridge?
 8 A. I went to work for the Elks Rehab Center for a
 9 while. That was about a year.
 10 Q. Was that in Boise?
 11 A. In Nampa.
 12 Q. And do you recall the year you worked for
 13 Elks?
 14 A. No, I don't. And from the Elks I went to
 15 private business.
 16 Q. What was the reason for you leaving Elks?
 17 A. I just had a conflict with the supervisor and
 18 I left.
 19 Q. Who was the supervisor?
 20 A. Rebecca -- I can't remember her last name.
 21 Q. Do you know if she is still there?
 22 A. No. I heard that she is in -- I don't know.
 23 Q. What was the nature of the conflict you had
 24 with your supervisor?
 25 A. Just that they were hiring and firing people

1 A. Yes. My son.
 2 Q. And did you always work at the tattoo shop
 3 full time during the three years it was open?
 4 A. Yes.
 5 Q. Other than you and your son were there any
 6 other employees?
 7 A. No, there was not.
 8 Q. And after you -- well, why was the tattoo shop
 9 closed down?
 10 A. Well, I was working at the Juvenile
 11 Corrections and the shop.
 12 Q. Okay.
 13 A. My son plays music. And he was out on the
 14 road quite a bit. So I was working both jobs. And it
 15 just got to be too much for me to try to work all day
 16 and all night.
 17 Q. Sure. How long had you -- well, which venture
 18 happened first? Your working at IDJC? Or the tattoo
 19 shop?
 20 A. Let me think. I was working at IDJC first, I
 21 believe. It happened right -- no, we had the shop open.
 22 We were running the shop. And that is when Betty asked
 23 me to come to work over there part time.
 24 Q. So then your next employment was with IDJC -
 25 Nampa?

1 A. Yes. Because I had the shop open before that.
 2 Q. And what were the circumstances of you seeking
 3 a job there?
 4 A. Betty Grimm asked me to go to work there.
 5 Q. Did you know Betty before then?
 6 A. Yes.
 7 Q. Why don't you tell me how you knew Betty
 8 before you went to work at IDJC?
 9 A. I was her landlord.
 10 Q. You owned the house that she was living in in
 11 Kuna?
 12 A. Yes.
 13 Q. Outside of the landlord-tenant relationship
 14 what was your relationship to Ms. Grimm?
 15 A. She was a tenant. We knew each other. We
 16 would speak.
 17 Q. Did you consider her a friend?
 18 A. I guess, yes.
 19 Q. Did the two of you or your spouses socialize
 20 together?
 21 A. My husband and her husband -- the rental is
 22 right across the street. We were right across the
 23 street from each other. So they would talk.
 24 Q. They would do things like go fish together or
 25 things of that nature?

1 A. The only dispute we ever had is when they
 2 moved out here this last month and they took the washer
 3 and dryer. Or didn't put the washer and dryer back in.
 4 And I haven't made an issue of that at all.
 5 Q. But outside of that, the relationship, the
 6 whole tenancy, there was no conflicts between yourself
 7 and the Grimms --
 8 A. No.
 9 Q. -- arising from that rental relationship?
 10 A. From the rental part of it?
 11 Q. Yes.
 12 A. No.
 13 Q. You indicated that -- what is your current
 14 position at IDJC?
 15 A. I'm the OS-2. And I support the Choices
 16 program.
 17 Q. What is an OS-2?
 18 A. Office Specialist 2.
 19 Q. How long have you been an Office Specialist 2?
 20 A. For five-and-a-half years.
 21 Q. When you first started working at the
 22 Department what was your job?
 23 A. I went in there as a part-time receptionist.
 24 Q. At what point did you become an Office
 25 Specialist?

1 A. No.
 2 Q. As a couple would the two of you go out to
 3 dinner together or things of that nature?
 4 A. I think one year we went to dinner with them
 5 at Christmastime. But other than that --
 6 Q. They were just people renting your house
 7 across the street?
 8 A. Yeah. But they were friendly. We were
 9 friendly.
 10 Q. Understand. And how long did that
 11 landlord-tenant relationship last?
 12 A. Let's see, they rented the house in 2002. And
 13 they just moved out the 15th of September of this year.
 14 Q. Was there ever any conflicts or anything in
 15 dealing with the landlord-tenant relationship between
 16 you and the Grimms?
 17 A. No.
 18 Q. Any problems with late rent or repairs that
 19 needed to be done?
 20 A. Constant repairs.
 21 Q. Other than understanding there would be
 22 repairs. You are the homeowner and there is certain
 23 things you have to do and certain things you expect the
 24 tenant to do. Were there any disputes or disagreements
 25 with those types of things?

1 A. I went to work in October.
 2 Q. Of the same year?
 3 A. No. It wasn't October. The lady that was a
 4 head of the Choices program retired and I took her
 5 position. So it was I believe the following year.
 6 Maybe -- I'm trying to think if it was cold out or not.
 7 It was the following year. I can't give you a definite
 8 date on that.
 9 Q. So correct me if I am misunderstanding this.
 10 You started at IDJC as a part-time receptionist.
 11 A. Yes.
 12 Q. And then after about a year you moved into an
 13 Office Specialist 2 position?
 14 A. Yeah. But it wasn't a full year. It was just
 15 a few months after that.
 16 Q. Okay. And have you worked as an Office
 17 Specialist 2 ever since then?
 18 A. Yes.
 19 Q. In the past five years, or since you have been
 20 the Office Specialist 2, have your job duties changed in
 21 any way?
 22 A. Yes.
 23 Q. Why don't you describe that for me?
 24 A. Well, I've gotten more of a workload. As
 25 policy and procedures change, then your job description

1 usually -- you know, it kind of falls in there to where
2 your work changes. Your workload changes. Is that what
3 you --

4 Q. That is what I'm interested in. Maybe you
5 were hired to -- when you first came in in that position
6 you were doing tasks A through D. And then as you have
7 been there have tasks been taken away? Or have tasks
8 been added? Things like that. I'm trying to get a feel
9 for that.

10 A. Yes. My workload increased. But I have had
11 tasks taken away, also.

12 Q. What tasks were taken away?

13 A. I did the investigations for the juvenile
14 court for presentence investigations. And I did that
15 for three years. And it was taken away in 2010.

16 Q. Anything else?

17 A. Earlier this year I was assigned to do both
18 the Solutions and the Choices programs for a matter of
19 months. Because a girl quit. So I was assigned to do
20 it. Both programs.

21 Q. Anything else?

22 A. I don't think so. I can't think of anything.

23 Q. When the presentence investigative tasks were
24 taken away, who started doing those after that?

25 A. Bobbi Rogers. She is the -- I'm not sure.

1 but now you didn't have to do, so your workload was a
2 little bit more manageable?

3 A. My workload has been increasing all along.

4 Q. Understand.

5 A. It did decrease to a point; yes.

6 Q. It made room for some of the other tasks that
7 were coming your way?

8 A. Yes.

9 Q. Since you have been an Office Specialist 2
10 have you experienced any pay raises?

11 A. Yes. Everybody got a raise across-the-board I
12 think it was last year.

13 Q. Are you aware of any Office Specialist 2
14 individuals in the last five years that received a raise
15 that were treated differently as far as pay raises than
16 yourself?

17 A. Yes.

18 Q. Who?

19 A. Maria Ferrara, Bobbi Rogers, and Estela
20 Cabrera. I'm not sure if Brenda Garrett received a
21 raise, but I know that her job -- I don't know if her
22 job -- I know they came in and evaluated her position.
23 So I don't know if she got a raise or not. I have no
24 way of knowing that.

25 Q. In the past five years, as far as raises go,

1 She was reclassified. So I'm not really sure what her
2 job description is now. But she was another OS-2 that
3 worked in the closed files.

4 Q. Do you know who made the decision to move
5 those tasks from yourself to Ms. Rogers?

6 A. I do not know who made that decision. I know
7 that my supervisor is the one who told me that it was
8 being moved.

9 Q. And that supervisor was Estela Cabrera?

10 A. Yes.

11 Q. Did Ms. Cabrera explain to you why it was
12 being done?

13 A. She said that that job description had been
14 with the filing -- the closed file clerk years ago and
15 that they were moving it back there.

16 Q. Any other explanation she gave you?

17 A. She said that my work -- that I had a
18 tremendous workload.

19 Q. Were you opposed to the idea of those tasks
20 being moved to Ms. Rogers and away from yourself?

21 A. No.

22 Q. Common sense tells me the amount of stuff on
23 your plate was decreasing at that point?

24 A. Was what?

25 Q. Was decreasing. That is a task you had to do,

1 how has Maria been treated differently than yourself?

2 A. She gets favoritism. Special treatment.

3 Q. I'm asking you, are you aware of her getting
4 more of a raise than you did?

5 A. Yes.

6 Q. Explain that to me. How much and when did it
7 happen?

8 A. It was this last year. I think later in 2012
9 HR came in and reevaluated her job, Bobbi's job, Estela
10 Cabrera's job, and Brenda Garrett's job. And it was
11 later announced they were reclassified and they received
12 raises.

13 Q. What were their jobs reclassified to?

14 A. I think -- I really don't know.

15 Q. Do you know what their raises were?

16 A. No, I do not. That is not shared.

17 Q. Did you receive a raise this last year?

18 A. The only raise I have had is that three
19 percent raise that was completely across the board.

20 Q. Do you know if this reclassification of their
21 jobs brought them a larger raise than you got?

22 A. Yes.

23 Q. How much?

24 A. I don't know.

25 Q. How do you know it was larger?

1 A. Because they were walking around and
 2 whispering about it and talking about it in the office
 3 about their raises.
 4 Q. Do you know what they said about their raises?
 5 A. Just that it was nice to get it.
 6 Q. But you don't know how much?
 7 A. No.
 8 Q. It's possible it is three percent and you
 9 don't know; is it?
 10 A. No. That wasn't at the same time; no.
 11 Q. Did they also get the same three-percent raise
 12 that you did?
 13 A. Yes.
 14 Q. Tell me, what does Maria Ferrera's -- what are
 15 her job duties as compared to your own?
 16 A. She is -- the last I know she is a file
 17 manager. She does the O&A unit. As far as I know a lot
 18 of her job duties have been -- she does the referrals.
 19 She keeps logs. But it is very different than mine. I
 20 do progress reports. I do constant contact with the
 21 judge, prosecuting attorneys, things like that,
 22 pertaining to individual juveniles. And Maria's job,
 23 she doesn't do any reporting or anything like that
 24 that I know of. As far as I know right now all she does
 25 is referrals. And she does minutes for the O&A team.

1 were reassessed?
 2 A. That is what the e-mail was about. That is
 3 when she wrote back kind of a generic statement that
 4 this occasionally is done. But I have never seen it
 5 done. And neither did -- Chita Gallup was the OS-2 for
 6 Solutions. And we had a conversation about it. And she
 7 said she had never heard of it, either.
 8 Q. But you don't know the motivation or why it
 9 was done with those three spots?
 10 A. No, I do not.
 11 Q. What does Ms. Rogers do as far as her duties
 12 that are different than yours?
 13 A. She does all of the closed files. Like when a
 14 juvenile is released she receives those records and
 15 documents them. Stores them. But she doesn't do
 16 program work. What we call program work.
 17 Q. And Estela Cabrera is your boss?
 18 A. Yes. She's my supervisor.
 19 Q. Is she the supervisor for Ms. Ferrera and
 20 Ms. Rogers, also?
 21 A. Yes, she is.
 22 Q. Do you know how many people she supervises?
 23 A. It could be six.
 24 Q. Do you have any information suggesting that
 25 the reason your job was not reclassified is because of

1 Q. Do you know how old Maria Ferrera is?
 2 A. I think she is right at 40. I don't know her
 3 age. She is probably 40.
 4 Q. Is it your position she was reclassified
 5 because of her age?
 6 A. I have no idea why she was reclassified.
 7 Q. That's fair. How about Bobbi? Do you know
 8 what her reclassification involved?
 9 A. All I know is that the HR come in and did an
 10 assessment. Shelli Rael came in and did assessments.
 11 And she sent us e-mails that she was going to be doing
 12 that and hopefully that she would not disrupt our office
 13 while she was doing that. And I asked why mine wasn't
 14 assessed.
 15 Q. Did she respond?
 16 A. I don't recall. I know I had an e-mail I sent
 17 to her. And she said that those were -- I think she
 18 responded. Yeah, I think she told me that those were
 19 the ones that were -- oh, she told me -- yes, she did.
 20 She said that occasionally HR will come in and reassess
 21 jobs. And I responded and said I had never seen it done
 22 before. Which I hadn't.
 23 Q. Okay.
 24 A. And I think she didn't respond to that one.
 25 Q. Did you ever ask her why those three spots

1 your age?
 2 A. If I answered that I would be speculating.
 3 Q. Tell me whatever you know one way or another.
 4 A. I don't know.
 5 Q. Tell me, you indicated that when you first
 6 came to work for IDJC Betty Grimm approached you as a
 7 temporary employee?
 8 A. She came to my home and asked me to go to work
 9 there.
 10 Q. Tell me, did you fill out any kind of a job
 11 application or anything like that? How did that process
 12 work?
 13 A. I went in part time. I went to HR -- let's
 14 see, when did I go to HR? I filled out some paperwork.
 15 I went in and just worked part time. And I was working
 16 like 8:00 or 9:00 in the morning until noon. Just a few
 17 hours. Betty asked me to come to work there for -- to
 18 help out with her admin area.
 19 Q. At that point were you looking for any kind of
 20 part-time work?
 21 A. No.
 22 Q. Had you ever mentioned to Betty that you might
 23 be interested in anything like that?
 24 A. No. Betty approached me to go in there and to
 25 find out what was going on in her admin area.

1 Q. When you say tell her what was going on in her
 2 admin area, what are you referring to?
 3 A. She was having issues -- she felt she was
 4 having issues with staff. And she asked me to come in
 5 as a part-time help and report to her on what was going
 6 on in her admin area. Or with the staff.
 7 Q. Was there anything specifically she wanted you
 8 to report to her? Or to look for?
 9 A. She just felt that there was things that just
 10 weren't going on that were correct.
 11 Q. Did she elaborate on what?
 12 A. I don't recall that. She just wanted me to go
 13 in there and -- she said that she knew that I had
 14 managed businesses and that she wanted me to come in and
 15 just look at that and see what was going on. Because
 16 she knew some stuff was going on. She couldn't pinpoint
 17 it. And she wanted me to report to her.
 18 Q. And you can't recall what her concerns were
 19 that she related to you?
 20 A. I cannot recall that.
 21 Q. And why don't you tell me, what, if anything,
 22 you reported back to Ms. Grimm?
 23 A. I reported to her about stealing.
 24 Q. Anything else?
 25 A. Misuse of hours. I found a lot of things

1 A. I don't think I do. It's been a long time
 2 ago.
 3 Q. And when did you send this e-mail?
 4 A. You mean when exactly did I send it? I went
 5 and wrote it and sent it to her and she got it the next
 6 morning.
 7 Q. Approximately when did that happen? What
 8 month and year?
 9 A. I think it was in the fall. But I can't
 10 remember the date. It was right when Donna Robinson was
 11 let go and fired.
 12 Q. Do you recall the year that Ms. Robinson was
 13 fired?
 14 A. I believe that was 2008, 2009. I'm not
 15 positive. I'm not good on dates.
 16 Q. That's fine. So after you sent this e-mail
 17 were you still a temporary employee at that point?
 18 A. I can't remember if I was -- I think I was
 19 already a full-time employee.
 20 Q. Before you sent this e-mail had you been
 21 providing Ms. Grimm any kind of reports about
 22 information you were seeing? Or things you were seeing
 23 at the job?
 24 A. I reported to Betty a lot about what I was
 25 seeing.

1 going on in there that was very dishonest.
 2 Q. I want you to tell me specifically as much as
 3 you can what you told Ms. Grimm?
 4 A. Well, I can start with there was three people
 5 that were ordering supplies, school supplies, and they
 6 would take it out for their children. There was lunches
 7 being -- they were supposed to -- any non-direct care in
 8 admin area, or any area that doesn't work with direct
 9 care to a juvenile, they are supposed to buy lunch.
 10 Well, these people were eating in the lunchroom, and had
 11 been for years, and not paid anything. I never could
 12 totally prove on the abuse of the hours. But they would
 13 come and go on the hours. It was like odd hours. In
 14 fact, even to this day I have noticed that. It is like
 15 they will come in at 9:00 and leave early. So to me how
 16 do they put in a 40-hour week? That was speculation.
 17 But that was something that Betty -- I reported the
 18 hours that they were doing, but it was up to her to find
 19 out if that was correct or not.
 20 Q. Anything else?
 21 A. Well, she came to my house and she asked me to
 22 put that in an e-mail and send it to her at work.
 23 Q. Did you do it?
 24 A. Yes, I did.
 25 Q. Do you still have a copy of that e-mail?

1 Q. Were you telling her this information before
 2 you became a full-time employee?
 3 A. She knew I was researching like the lunches.
 4 Because we talked this over. I reported to her -- like
 5 Larry Callicutt had paid for every lunch he ever had in
 6 there. And I was reporting to her that there was really
 7 some inconsistencies there that needed to be looked at.
 8 So I went back on the records three years and looked at
 9 all of this. And when one staff approached me and
 10 wanted a handful of tickets I went to Betty and told her
 11 that he said what he said to me. You know, you don't
 12 know who I am. And that is when I was a receptionist.
 13 I remember that. And I reported it to Betty. And she
 14 said she would take care of it.
 15 Q. And other than the lunch program type of
 16 things that you were checking on and reporting to Betty,
 17 any other things that you were reporting back to her
 18 during the time you were a receptionist?
 19 A. Just basically what was going on in there that
 20 was against the department on policy procedure. Hours.
 21 Q. When you said that Ms. Robinson was fired was
 22 she working in administrative office?
 23 A. She was admin assistant.
 24 Q. Was she the target of any of this stuff that
 25 you uncovered and related to Ms. Grimm?

1 A. Yes. She was the one that was doing it.
 2 Q. And so you told Ms. Grimm. And as a result
 3 Ms. Robinson was fired?
 4 A. I believe so.
 5 Q. And after Ms. Robinson was fired what happened
 6 to you? If anything.
 7 A. Nothing. I'm not quite sure what you mean
 8 what happened to me.
 9 Q. They didn't try to fire you; did they?
 10 A. No. But the way I understand it is the staff
 11 got ahold of the e-mail and that is when the retaliation
 12 started.
 13 Q. When you say the staff got ahold of the
 14 e-mail. What staff?
 15 A. Betty forwarded that letter to the staff.
 16 Q. What staff?
 17 A. Maria Ferrera. Donna Robinson I guess even
 18 got it. Jim Stucker. They all got it. And she had
 19 forwarded that meaning to forward it to Larry Callicutt,
 20 I believe. But instead she had forwarded it to all of
 21 them.
 22 Q. So it was a mistake on her part?
 23 A. Yes.
 24 Q. An innocent mistake on Ms. Grimm's part?
 25 A. I feel that she did not do that on purpose.

1 A. Well, like Joe Blume says I'm the little old
 2 lady with the candy. That is what I'm known for there.
 3 Bobbi Rogers several times has asked me, "Aren't you
 4 ready to retire yet? "
 5 Q. How many times has Ms. Rogers asked you that?
 6 Let's say since 2010.
 7 A. Oh, I don't know. Three, four times, maybe.
 8 Q. Since 2010?
 9 A. For my birthday they gave me a birthday card
 10 that was commenting on my age.
 11 Q. And who gave you the birthday card?
 12 A. All of the staff.
 13 Q. And what was on the birthday card?
 14 A. It was just talking about me being a little
 15 old lady.
 16 Q. Can you recall as much as you can what the
 17 card said?
 18 A. Just about me being a little old lady. And
 19 something about a rocking chair. I don't know. I was
 20 so upset when I opened it up. I couldn't believe it.
 21 Q. Who all signed the card?
 22 A. All of the staff. Estela, Bobbi, Maria,
 23 Brenda, Betty. Valarie walked in and read it and kind
 24 of looked at and put it down and walked out. She didn't
 25 sign it.

1 Q. And the retaliation that you are talking
 2 about, is that the reaction of the staff when they saw
 3 that?
 4 A. Yes.
 5 Q. Not something that Ms. Grimm did to you?
 6 A. No.
 7 Q. The retaliation of the staff, what did they
 8 do?
 9 A. It has been consistent all along.
 10 Q. What have they done?
 11 A. Boy, I don't know where to start on that one.
 12 Q. Is it fair to say they don't -- they appear
 13 not to like you?
 14 A. Absolutely.
 15 Q. So there is a tension between you and the
 16 other staff members?
 17 A. Yeah. And, you know, there is remarks that
 18 are made. You would have to write a book.
 19 Q. When you say there is remarks made. What are
 20 you referring to?
 21 A. Lately, since about 2010, it's been about my
 22 age. "Aren't you ready to retire?"
 23 Q. And other than saying, "Aren't you ready to
 24 retire," anything else they say with respect to your
 25 age? Comments in that regard.

1 Q. Did you ask Betty anything about why she would
 2 sign a card like that?
 3 A. No.
 4 Q. Did you think that Betty was trying to be
 5 demeaning to you in any manner when she signed that
 6 card?
 7 A. I thought all of them were.
 8 Q. At that point was your relationship with Betty
 9 still friendly?
 10 A. No.
 11 Q. And how had it changed?
 12 A. I had had a problem solving. And from that
 13 time on she hadn't talked to me. Well, no, she didn't
 14 talk to me -- it was like seven, eight months. At
 15 seven, eight months after the problem solving then she
 16 started saying hello. But she was never real friendly
 17 after that.
 18 Q. But other than signing that card had Betty
 19 ever said anything to you about your age?
 20 A. She wasn't the one making the remarks that I
 21 felt were bad.
 22 Q. So correct me if I'm wrong. What you are
 23 telling me, other than signing that card, a birthday
 24 card that referenced being a little old lady, and
 25 referencing a rocking chair of some kind, what else?

1 Because I haven't seen it. I don't know what it says.
 2 A. I was so embarrassed I threw it away.
 3 Q. Other than that, correct me if I'm wrong,
 4 Betty has never made comments, derogatory comments about
 5 your age to you at the workplace?
 6 A. Not that I recall.
 7 Q. That's fair. Now, you have mentioned -- you
 8 have described the comments that Maria Ferrera made.
 9 And Joe Blume made a comment about -- referring to you
 10 as the little old lady with the candy. How many times
 11 did Mr. Blume say that?
 12 A. He came up and said it to me once. That was
 13 just earlier this year.
 14 Q. Other than that has he ever said anything or
 15 mentioned anything else?
 16 A. Oh, yeah, Joe was a group leader in Choices.
 17 And Joe has always made remarks to me about -- not
 18 exactly my age. But we had a kid come in there with
 19 gang tattoos all over him and I went into a clinical
 20 meeting and he said, "Oh, Jo must have done those."
 21 Q. He must have known you had a tattoo parlor?
 22 A. Yes.
 23 Q. When he did make the one comment about age to
 24 you was it just to you personally? Or did anybody else
 25 overhear it?

1 "Aren't you ready to retire yet," those were --
 2 A. That was made by Bobbi Rogers. And that was
 3 going into a team meeting.
 4 Q. Okay. Now, when she made that comment did you
 5 observe the reaction of the other staff members?
 6 A. They all just kind of laughed. Maria and
 7 Brenda just chuckled. It's a joke.
 8 Q. We have covered what Bobbi Rogers has said to
 9 you about your age. How about Maria Ferrera? What does
 10 she say about your age?
 11 A. I don't recall Maria talking to my face about
 12 my age. Because she will not speak to me.
 13 Q. How do you know that Ms. Ferrera has ever --
 14 A. Like when Bobbi makes the remarks --
 15 Q. Let me get the question out.
 16 A. Okay.
 17 Q. How do you know that Ms. Ferrera has ever made
 18 a negative comment about you dealing with your age?
 19 A. All I know is when she reacts to what Bobbi
 20 says.
 21 Q. So your criticism about her with your age is
 22 just her reaction to whatever Bobbi has said?
 23 A. Going along with it and laughing.
 24 Q. Other than Mr. Blume, Ms. Rogers, Ms. Ferrera,
 25 has anybody else made derogatory comments to you about

1 A. Oh, I don't know if anybody heard that or not.
 2 But he said it loud enough to where other staff could
 3 have heard it. He walked up -- I keep a candy dish at
 4 my station. He says, "Can I have a piece of candy?" I
 5 said, "Sure." He says, "Do you know what people know
 6 you as?" And I said, "What?" And he said, "They know
 7 you as the little old lady with the candy." And I said,
 8 "Well, thank you, Joe."
 9 Q. When he made that comment did any of the other
 10 workers in the area start laughing or react to it that
 11 you can recall?
 12 A. You know, I was just so shocked that I didn't
 13 even -- I wouldn't have noticed.
 14 Q. So you don't recall any reaction as you are
 15 sitting here?
 16 A. No. Other than mine.
 17 Q. Tell me, when Ms. Ferrera made the comment
 18 about, "Aren't you ready to retire yet?" And I'm
 19 paraphrasing what you described to me. The record will
 20 be pretty clear how you've described it. Did she make
 21 those comments in the presence of other staff? If you
 22 recall.
 23 A. Well, the comment that was made to me in front
 24 of the staff was made by Bobbi Rogers.
 25 Q. So the person who is making the comment,

1 your age in the workplace?
 2 A. I don't know. I can't remember right offhand
 3 right now.
 4 Q. When Ms. Rogers would make the statement,
 5 "Aren't you ready to retire yet," did you respond to it?
 6 How did you react?
 7 A. Well, I had made the comment -- Edie Martelle
 8 was retiring. And I said, "I can't believe Edie is
 9 retiring." And she said, "Well, isn't it about time you
 10 are going to retire? When are you retiring?" And I
 11 says, "I hadn't thought about it." So I didn't say I
 12 was going to or I wasn't going to.
 13 Q. What I'm interested in is, did you ever tell
 14 her that you do not appreciate her comments about that?
 15 And that it irritated you in any way?
 16 A. No. I would get in trouble for that.
 17 Q. Did you ever go to Estela or anybody else to
 18 say when she would make these comments to you that you
 19 found it offensive and you didn't like it?
 20 A. No. I am not treated the same.
 21 Q. That is not my question. Did you ever go to
 22 your supervisor or the superintendent --
 23 A. Yes, I went to Betty Grimm about them talking
 24 about me and making remarks to me. And Betty said she
 25 would take care of it.

1 Q. And what specifically did you tell Ms. Grimm?
 2 A. Which time?
 3 Q. About any comments about your age.
 4 A. Just my age?
 5 Q. Yes. And let me back up so the question is
 6 very specific. Did you approach Ms. Grimm and complain
 7 to her that Bobbi Rogers or Joe Blume were making
 8 comments, derogatory comments, about your age in the
 9 workplace?
 10 A. I didn't over Joe Blume. In 2010 I know I
 11 approached Betty about Bobbi Rogers making a remark to a
 12 clinician that was retiring. And I went down to
 13 congratulate him. And he said, "Well, I hear you are
 14 the next one out the door." I says, "What are you
 15 talking about?" He says, "Well, Bobbi just left my
 16 office here and she said you are retiring next. That
 17 you'll be out of here shortly." And I said, "Well, not
 18 to my knowledge." So I told Betty about that.
 19 Q. And do you recall when that incident occurred?
 20 A. That is when -- let's see, I think it was 2010
 21 he retired. And, again, Betty says, "I'll take care of
 22 that."
 23 Q. Other than that instance any other
 24 conversations you had with Ms. Grimm about your
 25 co-employees making derogatory comments about your age

1 A. Donna Robinson was my first supervisor.
 2 Q. Then Donna Robinson got fired?
 3 A. Yes.
 4 Q. And then after that Ms. Cabrera was the
 5 supervisor from that time forward?
 6 A. Yes.
 7 Q. Have you always received annual performance
 8 evaluations?
 9 A. Yes.
 10 Q. And has Ms. Cabrera been the reviewer on all
 11 of those?
 12 A. Yes.
 13 Q. And we'll look at the individual evaluations.
 14 But my question to you is, have you ever received a
 15 negative evaluation from Ms. Cabrera? An overall
 16 rating?
 17 A. My first one I didn't agree with. And I wrote
 18 a complete novel on the front of it.
 19 Q. I saw that.
 20 A. But from then on I don't believe they have
 21 been bad.
 22 Q. In fact, haven't they been rated as solid
 23 sustained?
 24 A. Yes.
 25 Q. Isn't that the rating you have received every

1 in the workplace?
 2 A. They weren't doing it like that in -- you
 3 know, like before then. When I was talking to Betty.
 4 They were doing other things.
 5 Q. My focus right now is the age. Anything else?
 6 A. No.
 7 Q. And I presume you talked to Ms. Grimm about
 8 these folks saying bad things about you because they're
 9 angry at you because of this e-mail you had sent to
 10 Betty that we discussed earlier. Am I correct in that?
 11 A. Correct.
 12 Q. Am I correct in assuming that this group of
 13 people that got that e-mail basically just shunned you
 14 in the workplace after that?
 15 A. And they warned other people about me.
 16 Q. You might have already answered this. When
 17 you wrote this e-mail to Betty, and then it was
 18 mistakenly forwarded, were you still the receptionist?
 19 Or were you working full time yet?
 20 A. I think I just went to work full time. I
 21 think it was right in that area right when -- I had done
 22 a ton of research and I think it was right -- I think I
 23 just got the OS-2 position.
 24 Q. And the whole time you have been in the OS-2
 25 position Estela Cabrera has been your supervisor?

1 single evaluation?
 2 A. Yes, sir.
 3 Q. And what are the that are available?
 4 If you know.
 5 A. Well, I have never received an excellent.
 6 Q. Exemplary?
 7 A. Yeah.
 8 Q. And the one just below that is solid
 9 sustained; correct?
 10 A. Yes. And then there is achieves --
 11 Q. Achieves performance standards?
 12 A. Right.
 13 Q. And then there is does not --
 14 A. Does not.
 15 Q. And so do you agree that a negative evaluation
 16 is a does not achieve performance standards?
 17 A. Repeat that?
 18 Q. Would you agree that the of a does not
 19 achieve performance standards, that is a negative
 20 rating; correct?
 21 A. Yes.
 22 Q. Achieves performance standards is not a
 23 negative rating?
 24 A. No.
 25 Q. You are doing what you are supposed to be

1 doing?
 2 A. Yeah.
 3 Q. Solid sustained is a more positive than
 4 achieves performance standards; correct?
 5 A. Yes.
 6 Q. And the rank above that, exemplary, is a
 7 little bit better than that?
 8 A. Um-hmm.
 9 Q. So you have always been rated as above
 10 achieves performance standards?
 11 A. Yes.
 12 Q. And the person who has done this of
 13 you has always been Estela Cabrera?
 14 A. Yes.
 15 Q. When you started full time in your OS-2
 16 position did you go through an application, an interview
 17 process for that job?
 18 A. No, I did not.
 19 Q. Could you tell me how it came to pass that you
 20 became full time?
 21 A. Roxanne -- I can't remember her last name.
 22 Roxanne retired and that position was coming open. And
 23 Becky McCollough was the file manager at that time. And
 24 she came to me and she says, "Why don't you just stay on
 25 and take this position." And I said, "Well, we'll see.

1 A. Um-hmm.
 2 Q. When Donna Robinson hired you in your
 3 full-time position were you on probation for a period of
 4 time?
 5 A. If I was they didn't tell me.
 6 Q. Do you know the difference between a -- you
 7 understand the difference between a probationary
 8 employee and a classified employee?
 9 A. Yes.
 10 Q. Why don't you tell me what your understanding
 11 of that difference is?
 12 A. The first six months you need to meet
 13 expectations for that job description and carry it out.
 14 And then after the six months you are evaluated on
 15 whether you are qualified to do that job. And if you
 16 can do that job.
 17 Q. Was it your understanding when you started
 18 full time that you were a probation employee for that
 19 six months?
 20 A. I don't recall anybody telling me -- talking
 21 to me about it. The one thing I do recall is when I was
 22 hired I asked Donna Robinson, "Do you even want a resume
 23 from me?" And she says, "No, that is not necessary.
 24 You are already hired."
 25 Q. When you started did you gain an understanding

1 If they will give me the right hours I'll try it." So
 2 actually my hours were supposed to have been -- I think
 3 it was 8:00 to 2:00. Because I had the shop going, too.
 4 But the day I got hired they actually -- I accepted the
 5 position from Donna Robinson. She said, "Oh, no, we
 6 can't do that. You have to work full time." She says,
 7 "The state does not hire part-time help."
 8 Q. Okay.
 9 A. I says, "Oh, wow. Well, let's try it for a
 10 while." That is when they set my hours from 7:30 to
 11 4:00. And that would give me a half-hour to get to
 12 work.
 13 Q. And who actually hired you for that full-time
 14 position?
 15 A. Donna Robinson.
 16 Q. Did Betty approach you about whether you
 17 wanted to go full time or not?
 18 A. Yes, she talked to me about doing it.
 19 Q. During this whole time Betty was the
 20 superintendent?
 21 A. Yeah.
 22 Q. And that also held true when you started as
 23 the receptionist part time?
 24 A. She is the one who brought me in.
 25 Q. She was the superintendent at the time?

1 that you were a probationary employee?
 2 A. I might have. I don't know. I don't recall.
 3 I don't recall anybody ever talking to me about that.
 4 Q. All right. Did you develop an understanding
 5 that at some point you became a classified employee?
 6 A. I suppose.
 7 Q. How did you come to that conclusion? Or that
 8 understanding?
 9 A. The only thing that I can really recall is
 10 going over and filling out paperwork.
 11 Q. Tell me -- and you may have already answered
 12 this. As a probationary employee what was your
 13 understanding of the Department's ability to let you go
 14 during that probationary period?
 15 A. I don't ever recall discussing that with
 16 anyone.
 17 Q. I'm asking for your understanding. Was it
 18 your understanding that they could let you go for any
 19 reason that wasn't a discriminatory reason if they chose
 20 to?
 21 A. I had no knowledge of that.
 22 Q. After you became a classified employee what
 23 has been your understanding of the Department's ability
 24 to let you go or terminate your employment for any
 25 reason?

1 A. Well, I always thought they could.
 2 Q. It has been your understanding that you could
 3 be let go with no explanation or reason that wasn't a
 4 discriminatory reason?
 5 A. Yes.
 6 Q. This is probably a good time for a break. We
 7 have been going for over an hour.
 8 (Recess.)
 9 Q. (BY MR. COLLAER) Ms. McKinney, I'm handing
 10 you a document that I'm going to mark as Exhibit 184.
 11 (Exhibit 184 marked.)
 12 Q. (BY MR. COLLAER) Would you take a look at
 13 that and identify it for me, if you can?
 14 A. Okay.
 15 Q. Do you recognize Exhibit 184?
 16 A. Yes. That is my signature.
 17 Q. What is Exhibit 184?
 18 A. It's a temporary employment.
 19 Q. Is this a letter you received in July of 2007?
 20 A. Yes.
 21 Q. And you said you do recognize your signature
 22 on the back page?
 23 A. Yes, sir.
 24 Q. Is that your handwriting also on the date
 25 that is opposite your signature?

1 A. Yes.
 2 Q. Do you know if Ms. Robinson contested her
 3 discharge?
 4 A. I have no idea.
 5 Q. You weren't asked to appear in any kind of a
 6 hearing or a meeting to describe any information that
 7 you may have forwarded to Ms. Grimm about Ms. Robinson's
 8 actions?
 9 A. No.
 10 Q. The e-mail that you have described, am I
 11 correct in assuming that it contained information that
 12 was -- that implicated Ms. Robinson?
 13 A. Ms. Robinson, and Maria Ferrera, and Alicia
 14 Caiola.
 15 Q. Do you know if any of the information in your
 16 e-mail was part of the cause given to Ms. Robinson for
 17 her discharge?
 18 A. Just from what Betty came and told me.
 19 Q. And what did Ms. Grimm tell you in that
 20 regard?
 21 A. She said that they had let Donna Robinson go.
 22 But Maria Ferrera and Alicia Caiola, they didn't feel
 23 they should let them go at that time because it would
 24 create too much of a shortage in the staff. And they
 25 were trained. And that she would take care of them.

1 A. Yes.
 2 Q. Tell me, is this consistent with when you
 3 recall when you were hired as a temporary employee?
 4 A. Yes.
 5 Q. And do you recall how long you continued as a
 6 temporary employee before you became full time?
 7 A. I think it was October of that year.
 8 Q. So you would have worked for approximately
 9 three, four months as a temporary?
 10 A. Yes.
 11 Q. And so it would have been sometime like in
 12 October of 2007, or shortly after that, is when this
 13 e-mail is sent to Ms. Grimm and that was mistakenly
 14 forwarded to the other people on the staff? That is
 15 when that would have occurred?
 16 A. Yes.
 17 Q. Do you recall when you authored that e-mail in
 18 relation to when Ms. Robinson was discharged? What was
 19 the timing of that, if you recall?
 20 A. Oh, it was just a matter of a day or two. It
 21 was right in there.
 22 Q. So correct me if I'm wrong. You author this
 23 e-mail. You send it to Ms. Grimm. And within days
 24 after you send that e-mail to Ms. Grimm Ms. Robinson is
 25 fired?

1 Q. But did she tell you the reason why Donna
 2 Robinson was being fired?
 3 A. I don't believe she come right out and said
 4 why she was being fired. But she told me to send the
 5 e-mail. And then she came to me later and said Donna
 6 Robinson had been let go.
 7 Q. And from that you presume some of the
 8 information contained in that e-mail or what you had
 9 been telling Ms. Grimm about Ms. Robinson --
 10 A. Yes. And she wanted in writing --
 11 Q. Let me get the question out. Was that part of
 12 the decision that led to Ms. Robinson's discharge? Let
 13 me rephrase that. Because it got broke up. You were
 14 under the impression or understanding that part of the
 15 reasons for Ms. Robinson's discharge was in part, at
 16 least in part, the information you had relayed to
 17 Ms. Grimm that you had seen dealing with Ms. Robinson's
 18 activities at the workplace?
 19 A. Yes.
 20 (Exhibit 185 marked.)
 21 Q. (BY MR. COLLAER) Handing you what has been
 22 marked as Exhibit 185. Could you take a look at Exhibit
 23 185 and identify it for me, if you can?
 24 A. It is my orientation paperwork.
 25 Q. Did that deal with your employment as a

1 part-time employee? Or when you became a classified
 2 employee? Or a full-time employee?
 3 A. I believe this was for the part-time.
 4 Q. All right.
 5 A. I went over to headquarters. Judy Gregory, I
 6 think it was. And this other one Gina Hodge signed.
 7 But you'll see JG on this. That is Judy Gregory. She
 8 was a human resource officer then.
 9 Q. Focusing on Exhibit 185. Do you see your
 10 signature at the bottom of that document?
 11 A. Yes.
 12 Q. Is that also your handwriting on the date?
 13 A. Yes.
 14 Q. Is that your handwriting on the initials that
 15 are opposite all of those policies that are referenced?
 16 A. Yes, sir.
 17 Q. Did you actually read these policies before
 18 you initialed this document?
 19 A. I believe that was in the office. And I
 20 believe it was on the computer.
 21 Q. So you did read them before you initialed as
 22 having read and reviewed them?
 23 A. Yeah. Because I spent the morning over at
 24 headquarters going through all of this.
 25 Q. Did you have any questions about any of those

1 for clarification?
 2 A. Yes.
 3 Q. And who would you approach to ask questions
 4 about a policy?
 5 A. I would probably ask Estela or HR.
 6 Q. Have you ever done that?
 7 A. Yes, we have had conversations over policy and
 8 procedures. Is that what you are saying?
 9 Q. Yes. As a policy has come out, as you read
 10 them, and you have a question about it, have you gone to
 11 your supervisor or to HR to ask what is this?
 12 A. Yes, I have.
 13 (Exhibit 186 marked.)
 14 Q. (BY MR. COLLAER) Handing you what I have
 15 marked as Exhibit 186. Could you identify Exhibit 186
 16 for me, please?
 17 A. Yes. That is a request for approval of
 18 outside employment.
 19 Q. And I see this is filled out a year after you
 20 became -- you were in as a temporary employee.
 21 A. Yes.
 22 Q. Do you see that?
 23 A. Yes.
 24 Q. Had you been working running the tattoo parlor
 25 before filling out this form?

1 policies as you read them?
 2 A. Not that I recall.
 3 Q. Do you recall asking Ms. Gregory or Ms. Hodge
 4 any questions about those policies as you went through
 5 them?
 6 A. No.
 7 Q. Are the policies that are identified on
 8 Exhibit 185, are those policies -- or versions of
 9 them -- still in existence today? If you know.
 10 A. I think most of them are in place. I think
 11 some of them have been revised and updated over the
 12 years.
 13 Q. Sure. When a policy is revised, as an
 14 employee what do you do to acquaint yourself with those?
 15 A. They usually send them out. And then you go
 16 through and read them and find the update. How they
 17 have changed it.
 18 Q. So am I correct in assuming as an employee
 19 when a revision comes out to a policy that affects you,
 20 you acquaint yourself with it?
 21 A. Attempt to, yes.
 22 Q. Become familiar with it?
 23 A. Yes.
 24 Q. If there is something that comes out that you
 25 don't understand is there somebody you can go to to ask

1 A. Yes.
 2 Q. And how did it come that you needed to --
 3 A. This went through the whole facility of
 4 people -- there was something brought up about people
 5 that had outside jobs. And they were wanting to get
 6 these signed by everybody. There was an e-mail that
 7 came out that everybody that had other jobs -- that was
 8 through Sharon Harrigfeld that that came out. That she
 9 wanted these all up-to-date. And I had never seen one
 10 of these before. And they brought it to me and I filled
 11 it out and turned it back in.
 12 Q. Did you ever receive any feedback or criticism
 13 about your operating this business while you were an
 14 IDJC employee?
 15 A. Oh, boy.
 16 Q. Let me rephrase it this way. Did management
 17 ever suggest to you that you shouldn't be running a
 18 tattoo parlor at the same time you are working for IDJC?
 19 A. Management?
 20 Q. Yes.
 21 A. No.
 22 Q. I can understand maybe some employees made
 23 comments about you running a tattoo parlor. Did that
 24 happen?
 25 A. Yeah. I tried to keep it really on the down

1 low, quiet, didn't talk about it at work because of
 2 that. Just like when Joe Blume found out he made
 3 remarks about it.
 4 Q. Understood. Can you describe for me any
 5 notices of contemplated disciplinary action that you
 6 ever received during your employment at IDJC?
 7 A. Not that I recall.
 8 Q. Have there ever been any -- has your
 9 supervisor ever taken or sought formal discipline
 10 against you?
 11 A. No. Not that I recall.
 12 Q. Has your supervisor ever issued you a written
 13 reprimand?
 14 A. No.
 15 Q. Has your supervisor provided you any verbal
 16 reprimands?
 17 A. In private, yes.
 18 Q. That would be Estela Cabrera that gave you
 19 some verbal reprimands in private?
 20 A. Yes.
 21 Q. Why don't you tell me about the first verbal
 22 reprimand Ms. Cabrera ever gave you?
 23 A. I don't recall the very first one. She
 24 started calling me to her office and said that there was
 25 complaints about me being disruptive in the office. I

1 A. I wouldn't change the dates on progress
 2 reports that went to like judges.
 3 Q. Anything else?
 4 A. I can't really think of anything right now.
 5 There is lots of things.
 6 Q. When Ms. Cabrera called you into her office
 7 and told you there had been complaints about you being
 8 disruptive, do you recall when that first occurred?
 9 A. That started like clear back in 2009, 2010.
 10 It just progressively got worse. More intense as it
 11 went along. It was just like -- first it was just
 12 like -- I mean, she was very direct. It got to the
 13 point she was yelling at me.
 14 Q. Tell me, when is the last time you were in her
 15 office and she was telling you there is complaints about
 16 you being disruptive in the office?
 17 A. Earlier this year.
 18 Q. What specifically do you recall about that
 19 incident?
 20 A. She said that people were coming to my desk
 21 and it was disruptive to the other staff. And she said
 22 that nobody can come to your desk and stay over five
 23 minutes. And if they do it has to be job related
 24 conversation. And they have to come in and then leave.
 25 Q. Anything else she told you in that session?

1 don't recall all of them. It was just constant. It was
 2 being reported to her. You mean from the very first up
 3 till now?
 4 Q. What I'm interested in is you said you
 5 received some private verbal reprimands from
 6 Ms. Cabrera.
 7 A. Yes. Many of them.
 8 Q. So what I'm interested in is what were they
 9 and when did they occur?
 10 A. Mainly it was noise in the office. I
 11 shouldn't be talking to the juveniles. There was just a
 12 variance of different subjects that really was shocking
 13 to me. Didn't really understand it. I'm trying to
 14 remember all of it. I think a lot of it was that I just
 15 didn't do what they wanted me to do.
 16 Q. What are referring to?
 17 A. Many things.
 18 Q. When you are talking "they" who are you
 19 referring to?
 20 A. Like Estela. There is just things that I
 21 wouldn't comply with.
 22 Q. Such as?
 23 A. Policies. Procedures. Things like that.
 24 Q. What policies and procedures would you refuse
 25 to comply with?

1 A. Not that I recall. That is the one thing that
 2 stands out.
 3 Q. When you say that was this year. When this
 4 year did that occur?
 5 A. That was about -- I would say about March,
 6 maybe. March or April. It was earlier in the spring.
 7 Q. When was the last time prior to that that she
 8 approached you about being disruptive in the workplace?
 9 A. Probably late in the fall. I think that was
 10 the same thing. When the juveniles come up they are not
 11 supposed to stop and talk to me. And they were from the
 12 Choices program. I mean, they know me. And I told her
 13 that I didn't feel I should be rude and not speak to
 14 them.
 15 Q. When you say late in the fall. Fall of what
 16 year?
 17 A. 2012.
 18 Q. When was the next time prior to that?
 19 A. Oh, gosh. She called me in there numerous
 20 times over that.
 21 Q. Kids stopping at your desk and you talking
 22 with kids?
 23 A. Mr. Tom brings them through as a cleaning
 24 crew. So they would stop and say hi and talk to me.
 25 Q. Outside of that type of incident what other

1 times has she verbally reprimanded or counseled you?
 2 A. It's been many times. And basically it is
 3 over the same thing.
 4 Q. Same kind of thing?
 5 A. Yeah. Or taking too long of a break. Or
 6 talking with the other staff in the office. I'm not
 7 supposed to talk to them.
 8 Q. About personal business? Or work business?
 9 A. For anything. I'm not supposed to carry on a
 10 conversation more than five minutes with anybody. That
 11 was the last one. What she relays is you stay to your
 12 desk and you do your work. Which I do.
 13 Q. None of this has been in the form of a written
 14 reprimand, has it?
 15 A. No. She has never done a written one.
 16 Q. Was any of them ever documented in your
 17 personnel file?
 18 A. I have no idea.
 19 Q. You haven't looked at your personnel file to
 20 see if there is any notation about these warnings or
 21 reprimands that she has given to you?
 22 A. No, I haven't.
 23 Q. Now, focusing on your performance evaluations.
 24 Could you tell me what, if any, involvement Betty Grimm
 25 had with any of your performance evaluations?

1 Q. Other than that?
 2 A. Other than that, no. Sharon is kind of
 3 unapproachable. She just kind of whizzes through and
 4 that is it. She doesn't stop and have conversations
 5 with most people.
 6 Q. Are you there on the weekends when
 7 Ms. Harrigfeld would come through?
 8 A. No.
 9 Q. Are you there in the evenings when she comes
 10 through?
 11 A. Not that I have seen. But I am out of there
 12 at 4:00.
 13 Q. Are you there on holidays when she comes
 14 through?
 15 A. No.
 16 (Exhibit 187 marked.)
 17 Q. (BY MR. COLLAER) I'm handing you what I have
 18 marked as Exhibit 187. Could you please identify
 19 Exhibit 187 for me, please?
 20 A. This is my performance evaluation for 2012.
 21 Q. Is this your most recent performance
 22 evaluation?
 23 A. Yes.
 24 Q. I see you have a solid sustained performance?
 25 A. Yes.

1 A. She has to approve them.
 2 Q. Do you know if she had any involvement in
 3 creating them? Or giving you the rating?
 4 A. There was only one time that Estela told me
 5 that she met with Betty over my evaluation. And that
 6 was the one I was very upset with.
 7 Q. The one that you had a comment on?
 8 A. I think that was the first one, yeah. She
 9 said she had met with Betty on that. And I says, "Okay,
 10 fine. But I don't have to agree with it, though."
 11 Q. Understood. Can you describe for me any
 12 involvement Sharon Harrigfeld had with any of your
 13 written performance evaluations?
 14 A. I don't know. I don't think she has any
 15 involvement. She might. I don't know.
 16 Q. You don't know one way or another?
 17 A. She has never approached me about it.
 18 Q. Have you ever talked to Sharon Harrigfeld
 19 about anything?
 20 A. Yeah.
 21 Q. What?
 22 A. Painting.
 23 Q. Other than --
 24 A. I do painting with the boys in there. Paint
 25 classes.

1 Q. And that is a favorable evaluation; is it not?
 2 A. Yes.
 3 Q. Could you turn to page three. Under the
 4 section "Interpersonal Skills." Do you see that? The
 5 comment section?
 6 A. Um-hmm.
 7 Q. There is a line in here and I am going to read
 8 it to you. It is about in the middle of that paragraph.
 9 And then I have a question for you about it. It reads,
 10 "In July there was a conflict with a coworker stemming
 11 from a parent miscommunication which escalated to
 12 holding a meeting that included management and human
 13 resources to discuss and resolve the issue." Do you see
 14 that?
 15 A. Yes.
 16 Q. Can you explain that incident to me?
 17 A. The staff was on a team meeting down in
 18 St. Anthony. And Brenda Garrett and myself were left in
 19 the office. And there was these Interstate Compacts
 20 that the JSCs do. What I found out is that Brenda had
 21 overheard Rhonda and Patty Hansen talking about these
 22 Interstate Compacts on a juvenile. Which in all honesty
 23 right now I don't even have any clue what -- I do not do
 24 Interstate Compacts. But she had overheard that. And
 25 she came to me and she said to me that she did all of

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1 the Interstate Compacts for her JSCs. Well, I support
 2 Patty as a JSC. So when I saw Patty I said, "Patty, am
 3 I supposed to be doing those?" Because I didn't know.
 4 She says, "Well, heavens, no." She says, "I do my own
 5 Interstate Compacts. And I said, "Well, I'm glad
 6 because I have not a clue what it is." And I said, "If
 7 I'm supposed to be doing it please let me know." And
 8 she says, "No, the JSCs are to be doing those." Well,
 9 from there it went into a big deal with Brenda repeating
 10 what she had overheard from Rhonda and Patty in the
 11 hallway. And this big meeting was called. And they
 12 asked me to attend. Well, I went in there not knowing
 13 what was going to happen. And somehow I got accused of
 14 being the one that started all of this.
 15 Q. And that is the miscommunication that is
 16 referenced here?
 17 A. Yeah. Estela stated that -- how was that?
 18 She said that I had miscommunicated with Brenda. But I
 19 hadn't. I wasn't even in on it.
 20 Q. But this was resolved --
 21 A. And it was put in my performance evaluation.
 22 Q. But there is nothing in here that indicates
 23 any wrongdoing on your part; is there?
 24 A. I didn't do anything wrong.
 25 Q. I'm not suggesting you did. Is there anything

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1 in the performance evaluation that you had done anything
 2 wrong in that instance?
 3 A. Well, she states in here that in July there
 4 was a conflict. I just feel I was targeted on that.
 5 Because Patty and Rhonda and everybody were dismissed
 6 and I was left with HR, Brenda, and her in the room
 7 alone. And Brenda was screaming and yelling at me.
 8 Q. But there was no reprimands or anything that
 9 came of that; was there?
 10 A. No, not from Estela. A lot of tension.
 11 Q. A lot of what?
 12 A. Tension.
 13 Q. So this was a conflict that developed between
 14 yourself and Brenda Garrett?
 15 A. Yeah, I guess.
 16 Q. After that meeting was it resolved to your
 17 satisfaction?
 18 A. No. Estela insisted that I was responsible
 19 for that.
 20 Q. Estela suggested you were responsible?
 21 A. She insisted I was responsible for that when I
 22 told her I was not responsible for that.
 23 Q. For doing what?
 24 A. For asking Patty if I was not doing a job that
 25 I was supposed to be doing.

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1 (Exhibit 188 marked.)
 2 Q. (BY MR. COLLAER) Handing you what I have
 3 marked as Exhibit 188. Could you please identify
 4 Exhibit 188 for me, please?
 5 A. Yeah. That is my performance evaluation for
 6 2011.
 7 Q. And, again, your overall rating was solid
 8 sustained?
 9 A. Yes.
 10 Q. And the reviewer was Estela Cabrera?
 11 A. Yes.
 12 Q. Tell me, when you would get these evaluations
 13 from Ms. Cabrera, your annual evaluations, did the two
 14 of you meet and discuss her rating of you before you
 15 sign it?
 16 A. Most of the time she just has you just sit
 17 there in the office and read it.
 18 Q. Is she in the office with you while you are
 19 reading it?
 20 A. Yes.
 21 Q. Do you ask her questions about anything that
 22 is noted in the evaluation?
 23 A. If I see anything I'll say something.
 24 Q. Can you describe -- well, to the best of your
 25 recollection can you describe for me conversations you

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1 have had with Ms. Cabrera about anything she has noted
 2 in any of your evaluations?
 3 A. I don't understand.
 4 Q. Well, with respect to Exhibit 187, your most
 5 recent evaluation, you would have met in Ms. Cabrera's
 6 office and you would have read your evaluation; correct?
 7 A. Um-hmm.
 8 Q. Do you recall asking her any questions or
 9 discussing anything she wrote in that evaluation before
 10 you signed it?
 11 A. Yeah. Well, like this. I would discuss this
 12 (indicating) with her about --
 13 Q. When you are referring to "this" what are you
 14 referring to?
 15 A. The interpersonal skills. And that I felt
 16 that I was blamed for this whole meeting conflict. And
 17 she said that I was a part of it.
 18 Q. Did you make any kind of an employee comment
 19 to be added to your evaluation?
 20 A. No.
 21 Q. Why not?
 22 A. It doesn't do any good.
 23 Q. You knew you could, though; didn't you?
 24 A. I could. But I didn't. I quit doing that
 25 years ago.

1 Q. You didn't seek problem solving; did you?
 2 A. On that?
 3 Q. Yes.
 4 A. No.
 5 Q. And why not?
 6 A. It wouldn't do any good.
 7 Q. You have done it before; haven't you?
 8 A. Yes, I have.
 9 Q. Turning to Exhibit 188. I again assume you
 10 met with Ms. Cabrera and discussed her rating of you
 11 before you signed?
 12 A. Um-hmm.
 13 Q. Is there anything you recall speaking to her
 14 about in this performance evaluation?
 15 A. I don't recall. I don't recall talking to her
 16 about this one. Most of the time mine are pretty late.
 17 So it is usually done in a very hurried fashion.
 18 Q. Anything in Exhibit 188 that you felt was
 19 inaccurate or negative?
 20 A. I do know that I have talked to her repeatedly
 21 about my computer training. I did not receive that.
 22 And I haven't received any up until this year.
 23 Q. Anything else you recall speaking with
 24 Ms. Cabrera about?
 25 A. I just remember putting on there that I need

1 Q. Is that something you talked to Ms. Cabrera
 2 about?
 3 A. Yes, I did.
 4 Q. Anything else?
 5 A. No, I don't believe so. I know I discussed
 6 with her about the conflicts with the staff.
 7 Q. Are those the same conflicts we have discussed
 8 earlier?
 9 A. Yes. I think just about every evaluation we
 10 have discussed the conflicts with staff.
 11 Q. Anything else you recall speaking with
 12 Ms. Cabrera about with respect to Exhibit 189?
 13 A. No.
 14 (Exhibit 190 marked.)
 15 Q. (BY MR. COLLAER) Handing you what I have
 16 marked as Exhibit 190. Could you please identify
 17 Exhibit 190 for me, please?
 18 A. This is my performance evaluation for 2009.
 19 Q. And, again, this is ranked as solid sustained?
 20 A. Yes.
 21 Q. And did you meet with Ms. Cabrera and discuss
 22 the contents of Exhibit 190 and her evaluation of you
 23 before you signed it?
 24 A. Yes, I met with her.
 25 Q. Can you relate to me as much as you can

1 more training.
 2 (Exhibit 189 marked.)
 3 Q. (BY MR. COLLAER) I'm going to hand you what I
 4 have marked as Exhibit 189. Could you identify Exhibit
 5 189 for me, please?
 6 A. That is my performance evaluation for 2010.
 7 Q. Again, this is a solid sustained rating
 8 overall?
 9 A. Yes.
 10 Q. Same as the ratings you have had recently;
 11 correct?
 12 A. Yes.
 13 Q. And did you meet with Ms. Cabrera to review
 14 your evaluation before you signed it?
 15 A. Yes.
 16 Q. Do you recall anything you discussed with
 17 Ms. Cabrera about Exhibit 189 before you signed it?
 18 A. I remember talking to her about -- and I
 19 didn't write anything down about it -- is Ms. Taylor.
 20 She is teacher there. And instead of sending me to a
 21 class she had her come down and supposedly give me a
 22 class in Word. And it wasn't really -- she just gave me
 23 a book and said, "As far as I'm concerned you need to
 24 know everything you need to know." And she left. So I
 25 didn't really receive a class or training.

1 recollect your discussions with Ms. Cabrera about
 2 Exhibit 190?
 3 A. I don't recall talking to her about any issues
 4 in this one. I really don't.
 5 Q. Is it your belief that the two of you -- you
 6 did meet in her office to review it before you signed
 7 it?
 8 A. Yes.
 9 Q. If a conversation occurred between the two of
 10 you about your evaluation you just don't have a
 11 recollection of it as you sit here today?
 12 A. No. Not of this one.
 13 (Exhibit 191 marked.)
 14 Q. (BY MR. COLLAER) Handing you what I have
 15 marked as Exhibit 191. Would you please identify
 16 Exhibit 191 for me, please?
 17 A. This is my first performance evaluation for
 18 2008. I think it is my first one.
 19 Q. Meaning your first annual review?
 20 A. Yes.
 21 Q. And I see a section here with employee
 22 comments. Do you see that on the front page?
 23 A. Um-hmm.
 24 Q. Could you identify the handwriting?
 25 A. It's mine.

1 Q. And other than the employee comments that are
 2 on Exhibit 191, did you provide any other employee
 3 comments other than these?
 4 A. I don't recall if I did or not.
 5 Q. What I'm interested in is, did you complete a
 6 separate piece of paper to have it part of your
 7 evaluation, if you recall?
 8 A. You know, something has been taken off of
 9 this. Interesting.
 10 Q. Ms. McKinney, my question was, other than the
 11 employee comments that are on the front page do you
 12 recall providing any other comments to be included as
 13 part of this evaluation?
 14 A. I remember writing on this. But I wrote clear
 15 down around this. I remember doing that. Because I had
 16 run out of room. And it is not there.
 17 Q. Did you keep a copy of your evaluation?
 18 A. I'm sure I've got it at home. I'm just
 19 surprised. We were having issues over my shop.
 20 Q. I see some reference to your business. That
 21 is referencing the tattoo parlor?
 22 A. Yes. Staff, when they are working there, they
 23 would come and ask me about tattoos. You know, just
 24 general information. And I would answer them. And she
 25 said that I wasn't to talk about the tattoo shop at all

1 A. No.
 2 (Exhibit 192 marked.)
 3 Q. (BY MR. COLLAER) Handing you what I have
 4 marked as Exhibit 192. Would you identify Exhibit 192
 5 for me, please?
 6 A. This is my performance evaluation from May of
 7 '08.
 8 Q. Did that deal with the completion of your
 9 probation? Perhaps to help you. If you could look
 10 at the front page under the heading "Type of Review."
 11 Do you see that there?
 12 A. Yes.
 13 Q. What is identified?
 14 A. It says, "Entrance Probation."
 15 Q. Okay. Is this consistent with when your
 16 probation would have ended?
 17 A. Yes.
 18 Q. Under the employee comment section there is
 19 some handwriting there. Do you recognize the
 20 handwriting?
 21 A. That's mine.
 22 Q. Do you recall meeting with Ms. Cabrera when
 23 you received your evaluation, which is Exhibit 192?
 24 A. I'm sure that we met, but I don't recall the
 25 meeting.

1 at work.
 2 Q. Okay.
 3 A. And then there is another thing here that she
 4 told me I was to be subservient. And I said I really
 5 don't feel that is a good term to use. I didn't feel I
 6 had to be subservient to anyone. And that is why I put
 7 that in there.
 8 Q. Is there anything in the ratings, that is in
 9 the body of Exhibit 191, that you recall speaking with
 10 Ms. Cabrera about?
 11 A. I think that was all.
 12 Q. Tell me, did you file a problem solving
 13 challenging any of the comments in Exhibit 191?
 14 A. No, I did not.
 15 Q. Any reason why not?
 16 A. I didn't know I could.
 17 Q. You had read the policy dealing with due
 18 process; hadn't you?
 19 A. I think at that time it was called a
 20 grievance. But I didn't feel I could file a grievance
 21 on my supervisor. I thought it was other staff. Like
 22 coworkers.
 23 Q. Did you ask anybody for advice as to whether
 24 you could bring a grievance regarding your performance
 25 evaluation?

1 Q. You don't recall any discussions the two of
 2 you may have had during that meeting?
 3 A. No.
 4 Q. Is there anything in Exhibit 192 as you are
 5 reading it now that causes you to believe you would have
 6 talked to Ms. Cabrera about?
 7 A. I don't recall any of this being discussed.
 8 I'm sure it is correct.
 9 (Exhibit 193 marked.)
 10 Q. (BY MR. COLLAER) Handing you what I have
 11 marked as Exhibit 193. Would you identify Exhibit 193
 12 for me, please?
 13 A. It's a memorandum from Larry Callicutt on
 14 change in employee compensation.
 15 Q. You were getting a raise; weren't you?
 16 A. Oh, yeah.
 17 Q. Do you recall how much of a raise you received
 18 at this time?
 19 A. That was an across-the-board thing; wasn't it?
 20 Q. Why don't you look at the last sentence of the
 21 first paragraph. Starting with "Llegislature asks that
 22 one percent --" do you see that?
 23 A. Yeah.
 24 Q. How much of this raise was across the board?
 25 And how much of it was merit based? From your

1 understanding.
 2 A. Well, the one percent would be across the
 3 board. And the two percent would be on merit.
 4 Q. And you received more than one percent; didn't
 5 you?
 6 A. Yes.
 7 Q. And that was because of your solid sustained
 8 performance evaluation?
 9 A. Yes.
 10 Q. Your new rate was \$10.93. Do you recall what
 11 it was before receiving this raise?
 12 A. It was \$9-something. 9.63. I'm not sure.
 13 Q. So you received a little over a dollar-an-hour
 14 raise?
 15 A. It would have been real close. Eighty-some
 16 cents.
 17 (Exhibit 194 marked.)
 18 Q. (BY MR. COLLAER) Handing you what I have
 19 marked as Exhibit 194. Would you identify Exhibit 194
 20 for me, please?
 21 A. It's a memorandum. "Change in your employee
 22 compensation in 2013."
 23 Q. What was the change to you personally?
 24 A. I got an increase of 3.75 percent.
 25 Q. Did you also receive a bonus?

1 194?
 2 A. Yes. That is Estela's.
 3 Q. Did she talk to you personally about your pay
 4 raise or your merit raise?
 5 A. No.
 6 Q. Did you talk to her about the raise you
 7 received?
 8 A. Not that I recall. We may have spoke. I
 9 don't recall it, though.
 10 (Exhibit 195 marked.)
 11 Q. (BY MR. COLLAER) Handing you what I have
 12 marked as Exhibit 195.
 13 A. That's the one I was thinking of.
 14 Q. Can you identify Exhibit 195 for me?
 15 A. It is a memorandum from Estela. And it is a
 16 performance bonus.
 17 Q. And this is the bonus you received this year;
 18 correct?
 19 A. This year; correct.
 20 Q. Was your rate of pay increased at all?
 21 A. I don't recall.
 22 Q. Is it possible that it was?
 23 A. I think we got a raise this year.
 24 Q. But it is your understanding this bonus was
 25 merit based?

1 A. Yes, I did.
 2 Q. And the bonus was \$400?
 3 A. No. I received \$800.
 4 Q. Why don't you take a look at the third
 5 paragraph.
 6 A. Let's see, this is --
 7 Q. 2012.
 8 A. Well --
 9 Q. Well, you do recall you did receive a bonus in
 10 2012?
 11 A. Yes.
 12 Q. Do you agree that Exhibit 194 indicates the
 13 bonus was \$400?
 14 A. Yes.
 15 Q. In addition, you got a 3.75 percent pay raise;
 16 correct?
 17 A. Correct.
 18 Q. How much of this pay raise was merit based?
 19 A. Well, I really don't know. If it was a two
 20 percent it would have been a 1.75 increase.
 21 Q. Based on merit?
 22 A. Yes.
 23 Q. And then the bonus was all merit; wasn't it?
 24 A. Yes.
 25 Q. Do you recognize the handwriting on Exhibit

1 A. Yes. There was an e-mail on that.
 2 Q. And who did you receive the e-mail from?
 3 A. I believe it was a complete all staff e-mail.
 4 It was merit based reflecting on your evaluation.
 5 Q. Again, there is some handwriting on Exhibit
 6 195. Do you recognize that?
 7 A. Yes.
 8 Q. Whose is it?
 9 A. Estela's.
 10 Q. Other than the pay raises that are documented
 11 on Exhibits 193 through 195 were there any other -- do
 12 you recall any other pay raises you received during your
 13 employment at IDJC?
 14 A. It looks like you have them all covered.
 15 Q. Are there any pay raises that you contend you
 16 were qualified -- you were supposed to receive that were
 17 withheld from you?
 18 A. The only thing I can relate is that in 2010
 19 when the presentence investigation task was taken away
 20 from me and it went to Bobbi Rogers, and then Bobbi
 21 Rogers job was reevaluated and she got a raise, I then
 22 asked Estela why was that? That they got evaluated and
 23 we didn't. Meaning, Chita in Solutions and Choices
 24 didn't get evaluated. And I said, "Why would any of
 25 them, you know, get a raise? Because their job

1 descriptions and their workload hasn't changed." And
 2 she said that Bobbi is doing the presentence
 3 investigations now. So I felt I lost -- I mean, I did
 4 it for three years and didn't get a raise.
 5 Q. Well, my question is -- let me ask you this.
 6 You mentioned a lady name Chita? Chita who?
 7 A. Chita Gallup.
 8 Q. And what is Ms. Gallup's job?
 9 A. She doesn't work there anymore. But she was
 10 the OS-2 supporting the Solutions program.
 11 Q. Same position as yours?
 12 A. Yes.
 13 Q. Were the two of you treated the same?
 14 A. No.
 15 Q. And I mean as far as pay raises and that type
 16 of stuff. Other than merit based. Were you and
 17 Ms. Gallup treated the same?
 18 A. Yes.
 19 Q. As far as its reclassification that happened
 20 with the other positions were you and Ms. Gallup treated
 21 the same?
 22 A. Yes.
 23 Q. Focusing on your supervisor, Estela Cabrera.
 24 Can you just describe to me your working relationship
 25 with her as your supervisor and how that has evolved

1 A. Yes.
 2 Q. Did anybody help you fill Exhibit 196 out?
 3 A. No.
 4 Q. There is a reference down here of a Ron
 5 Coulter. Do you see that?
 6 A. Yes.
 7 Q. I'm aware of an attorney Ron Coulter. Is he
 8 the same individual?
 9 A. Yes.
 10 Q. Had you retained Mr. Coulter to represent you
 11 in this problem solving request?
 12 A. I didn't completely retain him. I went to
 13 him.
 14 Q. And I don't want you to tell me what you and
 15 Mr. Coulter talked about.
 16 A. Okay.
 17 Q. Is this the problem solving request that you
 18 spoke of earlier?
 19 A. Yes.
 20 Q. And this is the only problem solving request
 21 you have filed during your employment; correct?
 22 A. Yes.
 23 Q. When you filled this out who did you provide
 24 this form to?
 25 A. I believe it was Crystal Moerles that I gave

1 over the time you have worked with her?
 2 A. It's been very rigid. She is unapproachable.
 3 Up until 2010 she was totally intolerable. She would
 4 take you in the office and yell at you. I mean, really
 5 got forceful. And then I filed a problem solving. And
 6 since that time she hasn't been as forceful. Not as
 7 forceful, but she has continued to address things with
 8 me that were unsubstantiated.
 9 Q. The problem solving you referred to, is that
 10 the only problem solving you pursued?
 11 A. Yes.
 12 (Exhibit 196 marked.)
 13 Q. (BY MR. COLLAER) Handing you what I have
 14 marked as Exhibit 196. Would you identify Exhibit 196
 15 for me, please?
 16 A. Yes. It is a problem solving request form.
 17 Q. Can you identify the handwriting on Exhibit
 18 196?
 19 A. That is mine.
 20 Q. Where did you obtain this form?
 21 A. I think I got it on the intranet.
 22 Q. Off the Department intranet?
 23 A. Yes.
 24 Q. This is a form that was provided in the IDJC
 25 system?

1 this to in HR. The human resource officer.
 2 Q. And after you gave the form to Ms. Moerles
 3 what happened?
 4 A. They set a date for a problem solving meeting.
 5 Q. In Item No. 3 here it refers to being
 6 chastised by Estela. I'm not sure that I can read that.
 7 Something "has coerced staff to create hostility." Did
 8 I read that correctly?
 9 A. It says, "Estela to stop from chastising me
 10 and to act in a professional manner." Or, "Estela to
 11 stop staff from chastising me and to act in a
 12 professional manner."
 13 Q. All right. When you say that Estela chastised
 14 you, is that what you had talked about earlier? She
 15 would take you into her office and yell at you about
 16 various things?
 17 A. A lot.
 18 Q. "Yes" or "no"?
 19 A. Yes.
 20 Q. Did this problem solving meeting occur?
 21 A. Yes.
 22 Q. And who all attended?
 23 A. Myself, Crystal Moerles, Estela. I think
 24 Betty Grimm was there.
 25 Q. Do you actually recall her being there?

1 A. I'm not sure. There was one other person.
 2 Q. Do you recall if there was any kind of
 3 agreement or resolution that came of that meeting?
 4 A. Yes, there was.
 5 Q. What was it?
 6 A. We talked this all out and we agreed that both
 7 of us on each side was going to resolve any issues. And
 8 from the minute we walked out of that room everything
 9 was going to start new. And I would attempt on my end
 10 and she was going to attempt on her side for everything
 11 to get worked out.
 12 Q. During this meeting was Ms. Cabrera hostile?
 13 Or was she open to discussion?
 14 A. She denied ever talking to me or yelling at
 15 me. She denied everything.
 16 Q. Tell me, was there a written agreement or
 17 anything that --
 18 A. Yes, there was.
 19 Q. -- that came of this? Were you provided a
 20 copy of it?
 21 A. I believe I was. Yes, by Crystal.
 22 (Exhibit 197 marked.)
 23 Q. (BY MR. COLLAER) Handing you what I have
 24 marked as Exhibit 197. Would you identify Exhibit 197
 25 for me, please?

1 Betty Grimm over this problem solving. And not going to
 2 Estella Cabrera with it. When I was in with Crystal,
 3 and we were talking about all of this, and trying to
 4 work this out, she was dealing with Betty Grimm.
 5 Q. Did you ever speak personally with Ms. Grimm
 6 about this problem solving?
 7 A. Yes.
 8 Q. When did that occur?
 9 A. Right about the time of it. You know, before
 10 then I told her that I just wasn't going to be able to
 11 take much more of it.
 12 Q. Well, my question is, your conversations with
 13 Ms. Grimm, were they before or after Exhibit 197 was
 14 created?
 15 A. Before.
 16 Q. Did you have any conversations with her after
 17 Exhibit 197 was created concerning your problem solving?
 18 A. No. She didn't speak to me after that.
 19 Q. The conversations you had with Ms. Grimm about
 20 your problem solving before that you indicated that you
 21 wouldn't be able to take it much longer. Other than
 22 telling her that your relationship with Ms. Cabrera had
 23 degraded to the point where you didn't feel you could
 24 continue, anything else you recall telling her?
 25 A. No.

1 A. Yes. It is a problem solving meeting. This
 2 was the results of what we had discussed.
 3 Q. So this is the agreement that was reached at
 4 the meeting?
 5 A. Yes.
 6 Q. And were you satisfied with this agreement
 7 after the outcome of that meeting? Let me rephrase
 8 that. The agreement that is in Exhibit 197, was that a
 9 satisfactory outcome, from your perspective, of the
 10 problem solving you had filed?
 11 A. It was satisfactory at the time. Because I
 12 felt we both --
 13 Q. I understand that. So from your perspective,
 14 after these agreements were reached, you felt the rub
 15 between yourself and Ms. Cabrera that caused you to
 16 bring the problem solving had been resolved? You were
 17 hopeful at that point?
 18 A. That day I did.
 19 Q. Exhibit 197 does not indicate -- do you see
 20 anywhere in it that it indicates Betty Grimm was
 21 present?
 22 A. No.
 23 Q. Does that help you recollect whether or not
 24 she was there?
 25 A. I recall that Crystal Moerles was going to

1 Q. Other than this meeting that is dated on
 2 September 21, 2010 that is documented on Exhibit 197,
 3 any other meetings that occurred with respect to this
 4 problem solving?
 5 A. Concerning this one?
 6 Q. Yes.
 7 A. No.
 8 (Exhibit 198 marked.)
 9 Q. (BY MR. COLLAER) Handing you what I have
 10 marked as Exhibit 198. Could you identify Exhibit 198
 11 for me, please?
 12 A. It is an e-mail from me where Estela and I
 13 both agree -- and one from Estela -- agreeing with the
 14 outcome. I'm not sure what the outcome is to be. Oh,
 15 yeah. The outcome of this problem solving.
 16 Q. On the subject line of this e-mail -- well, do
 17 you recall sending and receiving these e-mails that are
 18 on Exhibit 198?
 19 A. Yes.
 20 Q. On the subject line it references problem
 21 solving agreements. Do you see that --
 22 A. Correct.
 23 Q. -- on your e-mail?
 24 A. Correct.
 25 Q. Is that referencing Exhibit 197?

1 A. Yes.
 2 Q. Okay. Since you have been working at IDJC
 3 have you applied for any other positions?
 4 A. Yes.
 5 Q. Which ones?
 6 A. For an OS-2 position in the medical clinic.
 7 Q. And when did you apply for that position?
 8 A. I think it was like 2008 or 2009.
 9 Q. Other than the OS-2 position in the medical
 10 clinic, any other position you applied for?
 11 A. No.
 12 Q. Did you fill out an application and go through
 13 the interview process? Describe for me as best you can
 14 what your application process involved.
 15 A. As far as I remember all I did was fill out --
 16 or just go to an interview. It was an inner Department-
 17 type thing and we did interviews.
 18 Q. Did you complete an application before doing
 19 the interview?
 20 A. I don't recall that.
 21 Q. What I'm curious about is if you didn't fill
 22 out an application how would they know you were
 23 interested and needed to be interviewed?
 24 A. Well, it had to do with Betty again. When I
 25 hired on there Betty said they were going to create an

1 Q. Who?
 2 A. Katie McClain, Glenda Rohrbach, and Rose. I
 3 knew all of them.
 4 Q. Had you had any kind of conflicts or any
 5 problems with any of those individuals prior to this
 6 interview?
 7 A. No.
 8 Q. How were you advised that you had not gotten
 9 the job?
 10 A. They just announced that Maria Ferrera had
 11 gotten the job.
 12 Q. Is it your contention that your age had
 13 anything to do with why you did not get that job?
 14 A. I would not know that.
 15 Q. You don't know one way or another?
 16 A. They didn't announce I'm too old for it.
 17 Q. You don't know why they chose Maria over you?
 18 A. No.
 19 Q. Is it your position that you have been denied
 20 any kind of equipment or computer programs or anything
 21 like that at work because of your age?
 22 A. I think so.
 23 Q. I'm talking only because of your age.
 24 A. It is speculation. But, yes.
 25 Q. Speculation. I understand your speculation.

1 OS-2 position in the medical clinic. And I had, you
 2 know, a few years of medical background in working with
 3 medical records. She knew that. She said when we
 4 create this job I want you to take that position. So
 5 when they opened it up as an OS-2 for medical they
 6 didn't have the funding for the full job. So they split
 7 it between education and medical. So I don't recall
 8 filling out an application for that at all. I don't
 9 know.
 10 Q. Do you know if other people were interviewed
 11 for the job other than yourself?
 12 A. There was several others. Maria Ferrera
 13 interviewed for it. I interviewed for it. There was
 14 somebody else. I'm not sure who it was. It was in the
 15 Department, though. But Maria got the position.
 16 Q. Who did you interview with?
 17 A. I interviewed with Glenda Rohrbach, Katie
 18 McClain, and the nursing supervisor. Who I believe was
 19 a woman by the name of Rose. I can't remember her last
 20 name.
 21 Q. Was Ms. Grimm part of the interview panel?
 22 A. No.
 23 Q. Did you know any of the people you were
 24 interviewing with? Personally know them?
 25 A. Yes.

1 But do you know of any evidence to suggest there has
 2 been a piece of equipment that you were denied simply
 3 because of your age?
 4 A. No.
 5 Q. You indicated you speculate that there is a
 6 piece of equipment or a computer program you weren't
 7 provided initially; correct?
 8 A. Correct.
 9 Q. Was that dealing with an Adobe program?
 10 A. Absolutely.
 11 Q. Is that the only instance that we are talking
 12 about?
 13 A. Well, being denied training to the programs I
 14 believe is the same as not having the program.
 15 Q. Let's focus on the Adobe software program.
 16 Any other computer equipment or software that you
 17 contend you were not provided that other people were?
 18 A. Is that including training? Or just the
 19 software?
 20 Q. Just the software.
 21 A. No.
 22 Q. This Adobe program dealt with an electronic
 23 case management software. Is that what it dealt with?
 24 A. Mainly.
 25 Q. And this occurred in April and May of 2012?

1 A. Yes.
 2 Q. Now, were you told by Ms. Cabrera that a
 3 committee had identified priority staff that needed the
 4 software first while others, such as yourself, would get
 5 it later?
 6 A. No.
 7 Q. Were you ever told that by Ms. Cabrera?
 8 A. No.
 9 Q. Did you and Chita -- what is her last name?
 10 A. Chita Gallup.
 11 Q. Did Ms. Gallup receive the Adobe program
 12 before yourself?
 13 A. No.
 14 Q. Did she receive it after you?
 15 A. Yes.
 16 Q. And she is at the same job description as you
 17 are; correct?
 18 A. Yes.
 19 Q. And the people who got the Adobe program
 20 before you are of a different classification?
 21 A. I'm not sure if they were at the time.
 22 Q. Who got it before you?
 23 A. Bobbi Rogers, Brenda Garrett, Maria Ferrera,
 24 and Estela Cabrera.
 25 Q. Aren't those all the same people you indicated

1 software did you complain that you had not received the
 2 same software at the same time?
 3 A. Yes. I went to Estela.
 4 Q. What did you tell her?
 5 A. I says, "Estela, Chita and I are the ones that
 6 need that program. And I was told by legal that I would
 7 be getting this program. And now I find out that the
 8 other three have got it and I don't have it and I need
 9 it."
 10 Q. What else did you tell her?
 11 A. She says, "You will be getting it later."
 12 Q. Did she tell you why you would be getting it
 13 later?
 14 A. Not that I recall. She just said, "You will
 15 receive it later." No, she did say. She said they
 16 couldn't afford it at that time. That they were very
 17 expensive programs.
 18 Q. So she told you the decision was fiscal?
 19 A. She didn't say fiscal. She just said it
 20 wasn't in our budget for our area.
 21 Q. All right. Anything else you and Ms. Cabrera
 22 talked about at that time about why you had not received
 23 the software?
 24 A. Well, I mentioned to her that Heather told me
 25 that I would be getting it.

1 had been -- their jobs had been reclassified and they
 2 had gotten raises?
 3 A. Yes.
 4 Q. So their classification is different than
 5 yours?
 6 A. I don't know at the time that they had been
 7 reclassified when they got the program.
 8 Q. Do you have any reason to believe the timing
 9 of when you and Ms. Gallup would receive an upgrade on
 10 your computer was based upon a fiscal decision rather
 11 than anything else?
 12 A. No.
 13 Q. So do you dispute it was a fiscal decision to
 14 not upgrade your and Ms. Gallup's computers?
 15 MR. SCHOPPE: Objection. Calls for
 16 speculation. Assumes facts not in evidence. You can
 17 answer, if you know.
 18 THE WITNESS: How would I know that?
 19 Q. (BY MR. COLLAER) I'm just asking, are you
 20 aware of any evidence suggesting that the decision to
 21 not upgrade your and Ms. Gallup's computer was not based
 22 upon fiscal decisions?
 23 A. I have no idea.
 24 Q. After Ms. Rogers, Ms. Ferrera, and Ms. Cabrera
 25 had their computers upgraded to include this Adobe

1 Q. Anything else?
 2 A. Not that I recall.
 3 Q. Did you suggest to her that you felt that you
 4 were not getting the upgrade because of your age?
 5 A. I did not say anything to her about my age.
 6 Q. Did you make that complaint to any management?
 7 A. No.
 8 Q. Did Ms. Cabrera subsequently have the Adobe
 9 program on her computer uninstalled and transferred to
 10 yours?
 11 A. Yes.
 12 Q. How soon after you met with her did that
 13 occur?
 14 A. It wasn't long.
 15 Q. A matter of days?
 16 A. Within a week or so.
 17 (Exhibit 199 marked.)
 18 Q. (BY MR. COLLAER) Handing you what I have
 19 marked as Exhibit 199. Have you ever seen Exhibit 199
 20 before?
 21 A. No.
 22 Q. Just looking at the date of it, May 15, 2012,
 23 this appears to be -- is this after you and Ms. Cabrera
 24 talked about the fact that you needed this program?
 25 A. Yes.

1 Q. You agree that the e-mail instructs IT to take
 2 the program off of Estela's computer and move it to
 3 yours?
 4 A. Yes.
 5 Q. Do you have any recollection of how soon after
 6 May 15, 2012 that occurred?
 7 A. It was shortly.
 8 Q. How long did you function without that new
 9 software after it was provided to Maria Ferrera and
 10 everybody else?
 11 A. I believe they got it in the fall. I'm not
 12 real sure exactly when they got it. Because it was kept
 13 very secret.
 14 Q. You don't know when their computers were
 15 upgraded?
 16 A. Not exactly. I can't give you a positive
 17 date. Because I wasn't informed of it until I overheard
 18 them talking about it. And they went to a training and
 19 I had to stay and watch everything.
 20 Q. How soon after you heard that they had
 21 received those upgrades did you receive yours?
 22 A. It was months. I'm not real familiar on the
 23 date.
 24 Q. You would defer to IT if they could identify
 25 when those programs were installed on the other

1 Q. How about in 2010?
 2 A. I didn't; no.
 3 Q. In 2010 can you describe to me any instances
 4 where you made complaints to IDJC management
 5 concerning -- regarding safety issues involving
 6 juveniles?
 7 A. In 2010?
 8 Q. Yes.
 9 A. No.
 10 Q. How about in 2011?
 11 A. In 2011? Not that I recall.
 12 Q. How about in 2012?
 13 A. I did say before 2010.
 14 Q. But within 2010 through 2012 you haven't made
 15 any complaints to management about juvenile safety?
 16 A. No. I had reports to me that there was safety
 17 concerns.
 18 Q. But you didn't forward to management?
 19 A. No.
 20 Q. In 2010 can you describe for me any instances
 21 or complaints you made to management concerning
 22 employees not reporting their time accurately?
 23 A. I reported to Betty Grimm about the admin
 24 staff coming and going. And that the hours did not seem
 25 correct.

1 computers? You would defer to that?
 2 A. You know, I really don't know. I have no idea
 3 when they were installed. I know they went to
 4 trainings. That we covered their positions while they
 5 were gone.
 6 MR. COLLAER: Let's go off the record.
 7 (Noon recess.)
 8 Q. (BY MR. COLLAER) Ms. McKinney, focusing on
 9 the time frame of 2010. Could you describe any
 10 instances where you made complaints to IDJC management
 11 concerning sexual misconduct of staff towards juveniles?
 12 A. I went to Betty once about a statement that I
 13 had heard Maria say. That is the only thing I can think
 14 of.
 15 Q. What was that statement you heard Maria say?
 16 A. She was talking to Alicia, and they were just
 17 kidding around and stuff in the back, and I overheard
 18 her say that the juveniles thought she was hot and that
 19 she turned them on.
 20 Q. Other than that, anything else?
 21 A. Nothing that I recall.
 22 Q. Again, in 2011 did you approach management and
 23 make any reports of or complaints of sexual misconduct
 24 of staff towards juveniles?
 25 A. No.

1 Q. Is that what we talked about earlier today?
 2 A. I'm not sure.
 3 Q. Betty had asked you to look at some things
 4 when you came --
 5 A. No. This was like in 2008, 2009, right around
 6 in there, it was like, you know, the staff would come
 7 and go. Come in at 8:30 and leave at 2:30. And then
 8 they were saying they had comp time and all of this.
 9 And I'm going, how do you do that?
 10 Q. I'm focusing on 2010. Did you make any
 11 complaints to management about employees not reporting
 12 their time accurately?
 13 A. Yeah. I did to Betty.
 14 Q. What did you tell Betty?
 15 A. I told Betty about the comings and goings.
 16 And that people weren't coming in. You know, they would
 17 come in late and leave early. And that I really
 18 suspicioned that there was something going on there.
 19 How can they have all of these comp hours and yet they
 20 are not there.
 21 Q. And what employees did you identify?
 22 A. I told her it was Maria. And it was Bobbi
 23 Rogers. And there was one other one. I believe it was
 24 Colleen Foster.
 25 Q. And what was Betty's reaction? What did she

1 do?
 2 A. She said she would look into it.
 3 Q. Did you hear anything more back about that?
 4 A. Not one word.
 5 Q. Did anything happen to you as a result of what
 6 you told Betty?
 7 A. Like in reference to?
 8 Q. Did anybody change your shift? Cut your pay?
 9 Confront you or do anything to you after you made
 10 that -- because you made those complaints to Betty?
 11 A. Nothing more than usual. I mean, I have that
 12 every day.
 13 Q. But did Betty do anything to you?
 14 A. No.
 15 Q. Do you know if Betty told Sharon Harrigfeld
 16 about the complaints that you made?
 17 A. No, I do not.
 18 Q. Did Sharon Harrigfeld do anything to you in
 19 2010?
 20 A. No.
 21 Q. Has Sharon Harrigfeld ever done anything to
 22 you that has adversely impacted your job?
 23 A. I don't know.
 24 Q. Tell me, in 2011 did you make any complaints
 25 to management about employees not reporting their time

1 A. Right. I didn't actually go to management
 2 about any of those. I don't feel comfortable going to
 3 management on anything. After 2010 I didn't do
 4 anything.
 5 Q. In 2010 did you make any complaints to
 6 management about hiring practices within the Department?
 7 A. No.
 8 Q. How about in 2011?
 9 A. No.
 10 Q. How about 2012?
 11 A. No.
 12 Q. Can you describe for me in 2010 -- or could
 13 you describe anything that Betty Grimm has ever done to
 14 you to cut your pay?
 15 A. To cut my pay?
 16 Q. Yes.
 17 A. No.
 18 Q. Has she ever done anything to you with respect
 19 to changing your job duties?
 20 A. I don't know if Betty was involved in my
 21 caseloads and getting more of a workload put on me. I
 22 don't know if Betty was involved in that or not. I
 23 thought she was.
 24 Q. But you don't know?
 25 A. No.

1 accurately?
 2 A. No.
 3 Q. How about in 2012?
 4 A. No.
 5 Q. In 2010 did you make any complaints to
 6 management regarding misuse of government funds at the
 7 Department?
 8 A. In 2010?
 9 Q. Yes.
 10 A. No.
 11 Q. How about in 2011?
 12 A. I didn't go to management. But I did question
 13 things. No, I didn't report it to management.
 14 Q. Did you report it to anybody?
 15 A. I talked to other staff about -- it was
 16 actually 2012 that I did that, I believe.
 17 Q. Do you have any information or reason to
 18 believe that whatever you had spoken with staff about,
 19 that management became aware that you had made those
 20 statements?
 21 A. No.
 22 Q. I think you may have answered the question
 23 with regard to any complaints about misuse of government
 24 funds in 2012, also. Other than what you just mentioned
 25 is that the only thing?

1 Q. When you say your workload increasing. Was
 2 your workload increasing at the same rate as Chita
 3 Gallup?
 4 A. No.
 5 Q. Was your two jobs or your workloads about the
 6 same throughout the whole time?
 7 A. No.
 8 Q. Whose was higher?
 9 A. Mine.
 10 Q. How so?
 11 A. She has 24 or less kids. I have 36.
 12 Q. And how did the number of kids you had on your
 13 workload change from 2010 to 2012?
 14 A. Well, the 36 kids stayed the same. But the
 15 way they were changing the policies and procedures and
 16 the way things were done upped my workload.
 17 Q. But the same policies and procedures applied
 18 to everybody, didn't they? They just had an effect on
 19 your workload more?
 20 A. Yes.
 21 Q. Okay. I understand. Can you tell me anything
 22 that Betty Grimm has ever done to attempt to suspend you
 23 from employment without pay or anything like that?
 24 A. No.
 25 Q. Any attempts by Betty Grimm ever to terminate

1 your employment?
 2 A. I have never been told that; no.
 3 Q. Anything she has ever done to try to encourage
 4 you to quit or anything of that nature?
 5 A. Well, I feel that she wanted me to quit; yes.
 6 Q. What made you think she wanted you to quit?
 7 A. In her behaviors toward me.
 8 Q. Because she stopped talking to you?
 9 A. Stopped speaking to me. Was very curt and
 10 rude in front of staff.
 11 Q. Outside of that anything else?
 12 A. No.
 13 Q. Did she take any adverse employment action
 14 towards you? Other than she just wasn't speaking to
 15 you?
 16 MR. SCHOPPE: Objection. Calls for a legal
 17 conclusion. If you know what that means you can answer.
 18 Q. (BY MR. COLLAER) Go ahead.
 19 A. Not to my knowledge.
 20 Q. With respect to Sharon Harrigfeld has she done
 21 anything to cut your pay or change your job duties at
 22 any time that you have been there?
 23 A. Not to my knowledge.
 24 Q. Has she done anything to attempt to suspend
 25 you or terminate your employment?

1 Q. And what you are talking about with your
 2 co-employees is they basically freeze you out and have
 3 nothing to do with you?
 4 A. They do a lot of things to me.
 5 Q. Such as? What do they do?
 6 A. Files missing. Delete it once I scan it in.
 7 A lot of just little things that makes my work a lot
 8 harder.
 9 Q. Have you told management that they do these
 10 things to you?
 11 A. Absolutely.
 12 Q. Who?
 13 A. Estela Cabrera, Betty Grimm. I have never
 14 told Sharon Harrigfeld, though.
 15 Q. So other than the actions that you contend
 16 that Maria Ferrera -- and who else do you contend do
 17 these things to you?
 18 A. Bobbi Rogers, Maria Ferrera, and Brenda
 19 Garrett.
 20 Q. Those three individuals. Those three ladies.
 21 Anybody else you contend retaliate against you in any
 22 manner?
 23 A. Estela.
 24 Q. Other than those folks?
 25 A. Not out in the open; no.

1 A. I would not know that.
 2 Q. Has she done anything to encourage you to
 3 quit?
 4 A. No.
 5 Q. Can you describe any adverse employment action
 6 Sharon Harrigfeld was involved in happening to you?
 7 A. No.
 8 Q. Can you tell me anything Betty Grimm has done
 9 to prohibit you from criticizing or speaking out on
 10 anything about IDJC that you wanted to?
 11 A. No.
 12 Q. Same question with respect to Sharon
 13 Harrigfeld?
 14 A. No.
 15 Q. Is it your position that Sharon Harrigfeld
 16 retaliated against you in your job in any manner?
 17 A. You know, I don't know how to answer that.
 18 Q. And what I'm speaking to is specifically aimed
 19 at you.
 20 A. Well, I feel that if I'm dealing with
 21 retaliation she is responsible. Betty is responsible.
 22 They are all responsible for helping me.
 23 Q. Are you talking about actions of your
 24 co-employees?
 25 A. Yes.

1 Q. So it is your position that Betty as the
 2 superintendent is responsible for what those people have
 3 done to you?
 4 A. Well, people have gone to her and told her
 5 what was happening and nothing was done.
 6 Q. When did you first go to Betty and explain to
 7 her about anything that these ladies were doing to you?
 8 A. Probably in 2007, 2008.
 9 Q. When was the last time you complained to Betty
 10 about any of that?
 11 A. 2010. I wasn't allowed -- she shut me out.
 12 Q. And you never complained to Sharon Harrigfeld
 13 about any of this?
 14 A. No.
 15 Q. Can you describe for me any personal injuries
 16 or physical damage you have suffered as a result of
 17 anything that you contend that Sharon Harrigfeld has
 18 done to you?
 19 A. Sharon?
 20 Q. Yes.
 21 A. No.
 22 Q. How about Betty Grimm?
 23 A. Betty caused a lot of anxiety for me.
 24 Q. For the reasons you have just described?
 25 A. Yes. Depression. There was a lot of things.

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1 Q. And can you describe any kind of bodily
 2 function that was affected from this anxiety that you
 3 are describing?
 4 A. Just hard to do my job.
 5 Q. Loss of sleep?
 6 A. A lot.
 7 Q. And that all happened in the time frame that
 8 you have described earlier?
 9 A. Yes.
 10 Q. Can you describe any doctors that have treated
 11 you for any of those conditions in the last five years?
 12 A. My doctor asked me how I was doing with it and
 13 I said I was doing all right. He didn't prescribe
 14 anything for me. But he is very aware.
 15 Q. Your general physician?
 16 A. Yes.
 17 Q. Just the person you see on an annual basis or
 18 as needed?
 19 A. Yes. And I told him that if I needed any help
 20 I would let him know.
 21 Q. And who is that doctor?
 22 A. Dr. Timothy Hodges.
 23 Q. Is he a family practice doctor?
 24 A. Yes.
 25 Q. Has he provided any treatment?

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1 A. No. I haven't told him I needed any yet.
 2 MR. COLLAER: Nothing further.
 3
 4 EXAMINATION
 5 QUESTIONS BY MR. SCHOPPE:
 6 Q. I have some questions for you. You testified
 7 earlier that you had been asked to backdate documents.
 8 Is that fair?
 9 A. Yes.
 10 Q. What were the documents that you were asked to
 11 backdate?
 12 A. Mainly progress reports. If they changed a
 13 release date on a checkout form I'm asked to change
 14 that. Mainly the progress reports is where I had the
 15 problem.
 16 Q. Who was asking you to falsify those documents?
 17 Or change the dates on those?
 18 A. It would start with the group leaders. And
 19 then it went on up to Estela Cabrera.
 20 Q. Why were they asking you to do that?
 21 A. Because they were so far behind with the
 22 progress reports that they would backdate them. And
 23 when I sent them out to the judges, prosecuting
 24 attorney, JSCs, JCLs, everybody, that it would look like
 25 they were done on time. But it also looked like it sat

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1 on my desk and I hadn't sent them out. So I refused to
 2 backdate those to assist them, because it was making me
 3 look like I wasn't doing my job. And some of those
 4 reports were like a year behind.
 5 Q. Were you ever contacted by anyone from the
 6 court system or anything like that concerning dating of
 7 documents?
 8 A. At one time, yes. Judge Schiller. And he
 9 wouldn't release a juvenile because the dates were all
 10 messed up in the electronic file. And I said whoa, that
 11 is not my problem. This is your problem for backdating
 12 these and not doing them correctly. So Estela told me
 13 to fix them. And I said I won't do that. I won't put
 14 my name on that. So she went in and altered all of the
 15 dates.
 16 Q. And do you have any understanding of what
 17 those progress reports are used for by the courts?
 18 MR. COLLAER: Object to the form of the
 19 question. Calls for speculation.
 20 Q. (BY MR. SCHOPPE) If you know.
 21 A. I do know.
 22 Q. Okay.
 23 A. Well, every two months it is policy to send
 24 those reports to the judge and all participating
 25 parties. And they assess the progress of that juvenile

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1 for release. Or how they have been rehabilitated. So
 2 that is very important. If you are eight months behind
 3 on a progress report it is hard to evaluate up-to-date
 4 right now.
 5 Q. And so you're aware of at least one instance
 6 where a juvenile was kept longer than the anticipated
 7 release date?
 8 A. Oh, yeah.
 9 Q. Because of the problem with the dates on the
 10 reports?
 11 A. Yes. In the courtroom the judge can pull
 12 those up right on his computer and look at those.
 13 Q. Is it your understanding that the reports are
 14 mandated by the Juvenile Corrections Act?
 15 A. Yes.
 16 Q. And is it your understanding those are
 17 official legal documents?
 18 A. Yes.
 19 Q. And is it fair to say you had a problem with
 20 changing the dates on official legal documents?
 21 A. Yes.
 22 Q. And that you were concerned that that would be
 23 breaking the law?
 24 A. Yes.
 25 Q. But Estela Cabrera wanted you to do it,

1 anyway; is that right?
 2 A. She told me to do it. And I refused.
 3 Q. As far as you know is that something that is
 4 still done?
 5 A. No.
 6 Q. As far as you know when did that practice stop
 7 being done?
 8 A. When the lawsuit was filed.
 9 Q. So we are talking summer of 2012?
 10 A. She said, "Oh, no, you can't backdate those.
 11 The group leaders have to put the date on the report
 12 that they do that report." And I said, "Exactly. That
 13 is what I have been trying to tell you for years."
 14 Q. But up until that time she and others had been
 15 fine with changing the dates on those reports?
 16 A. Yes.
 17 Q. You mentioned that you heard reports from
 18 other employees about fears for their safety?
 19 A. Yes.
 20 Q. Who did you hear that sort of thing from?
 21 A. A large number of staff. Raul Mitchell, Diane
 22 Carnell, Lisa Bradley, Lisa Littlefield. The list can
 23 go on and on. Mario Pile. A lot of the staff come and
 24 talk to me about it. And they are very fearful.
 25 Q. As far as you know did this have anything to

1 It was probably 2009, 2010. Right in there. There
 2 started to be some real concerns about the kids
 3 having -- or the juveniles having too many rights and
 4 too many things -- like things were being brought in.
 5 There was a lot of really underground things going on.
 6 Q. Were you hearing concerns about the lockdown
 7 time that juveniles were subjected to in O&A in response
 8 to like violent assaults and things like that?
 9 A. The staff were afraid that they were letting
 10 them out too early. Because you get two kids that are
 11 fighting, you don't want to put them back out there
 12 together. And then on top of that you have an order not
 13 to restrain them.
 14 Q. Were those staff also concerned for the safety
 15 of the juveniles who might be victims?
 16 A. Absolutely. Yes. And, you know, it was a
 17 lot of the staff. I remember Mr. Fosdick, Mr. Denney.
 18 I could write a book on how many people commented.
 19 Todd Inman. He doesn't work there anymore. But Todd
 20 came and talked to me about it. They were afraid.
 21 Q. Did you ever hear of reports from juveniles
 22 that they were afraid for their safety? That is, either
 23 to you or made to other people.
 24 A. You know, they would come and talk about the
 25 things that were going on to me. But it wasn't a matter

1 do with changes in the way that observation and
 2 assessment -- juveniles in observation and assessment
 3 were disciplined?
 4 MR. COLLAER: Objection. Calls for
 5 speculation.
 6 Q. (BY MR. SCHOPPE) Do you remember anyone
 7 talking to you about that sort of thing?
 8 A. Yeah. That is one of the complaints. Not
 9 really complaints. A concern. The way these juveniles
 10 are being treated right now. They are able to just
 11 wander up and down hallways. And staff is supposed to
 12 just follow them, observe them, and talk to them. And
 13 the staff was really afraid of this. Very afraid.
 14 Q. Is that unusual compared to your prior
 15 experience?
 16 A. Oh, yeah. Yes. It has never been allowed
 17 before. The way I understand when I left in June is
 18 there is a new policy, another new policy out, that they
 19 are supposed to have minimum restraints. And that is
 20 all good and well, but sometimes you have to. It is
 21 dangerous.
 22 Q. And did this change -- in what you were
 23 hearing about staff's fear for their safety, did that
 24 start in about 2011?
 25 A. It was even before that. It was before that.

1 of so much -- well, kind of severe. There was a couple
 2 boys in there that were really fragile. Yeah, they were
 3 afraid. But they don't like to admit it. They just
 4 don't walk up and say "I'm afraid." They would tell me
 5 concerns about so-and-so was really on me today. Or
 6 so-and-so is following me around. Things like that.
 7 And that I'm really worried about it.
 8 Q. Did you hear those kind of reports from the
 9 plaintiffs? Like Shane Penrod, Linda Ledford, Tom de
 10 Knijf, Ray Gregston, Kim McCormick, Addison Fordham,
 11 Lisa Littlefield. Those people?
 12 A. Yes, I have. I haven't heard it from Kim
 13 McCormick.
 14 Q. She works at headquarters; right?
 15 A. She is not in the general population of those
 16 kids.
 17 Q. Did you ever become aware of allegations of
 18 timecard fraud with Dave or Linda Rohrbach?
 19 A. Yes, I heard that.
 20 Q. What do you know about that?
 21 A. Boy, I observed -- like I'm sitting up in
 22 front in admin office. I have the window to the
 23 outside. So I watch Dave coming in and out. Linda was
 24 never there. I honestly don't know what hours she
 25 worked.

1 Q. What was her job?
 2 A. She was the superintendent, I believe, of the
 3 Education Department. Head of the Education Department
 4 as far as I knew. The superintendent.
 5 Q. And did that seem strange to you that they
 6 were coming and going at the times that they did?
 7 A. Yeah. See, we have an 8:30 morning meeting.
 8 And Dave would come in just before 9:00 and have a
 9 meeting with Betty. And then he would either go to
 10 lunch, him and Laura Roters, and -- there was just a
 11 whole crowd that went together. Jeff Underhill,
 12 Laura Roters. I mean, it was pretty consistent. And
 13 they would go to lunch from noon to 1:00, 1:30. And
 14 then he would go in and check in and be out of there by
 15 2:00, 2:30. So I'm kind of looking at this going wow,
 16 that doesn't add up. When I heard about the timecard
 17 deal I understood then. I was putting two and two
 18 together. Because I always questioned how does he get
 19 in a 40-hour week. And I don't believe he was.
 20 Q. And at some point did he leave the Department?
 21 A. Yes.
 22 Q. Do you know why he left?
 23 A. Nobody said a word. I was out painting the
 24 front windows just before Christmas and he walked out
 25 and looked up at me on a ladder and says, "Well, I guess

1 that's a shame." And it clicked that that is who they
 2 were talking about.
 3 Q. And do you typically know who gets assigned
 4 where on shifts like that?
 5 A. Pretty much.
 6 Q. And do you know of anybody else other than
 7 Shane Penrod that was assigned a graveyard shift after
 8 that?
 9 A. Not to my knowledge. They have people that
 10 work graveyard that like that and want to be there.
 11 Like James. He has been there forever and he works
 12 graveyard and loves it. If they asked him to work days
 13 I don't know what he would do. But, yeah, that is a
 14 pretty set shift for most of them. That I know of.
 15 Q. And did Mr. Penrod express distress over this
 16 assignment?
 17 A. Yes, he did.
 18 Q. How so?
 19 A. He just was very -- I could see he was very
 20 upset. And he said he wasn't going to get to spend time
 21 with his son. He says, "This messes everything up."
 22 And I'm like oh, boy. There was nothing I could do to
 23 help him.
 24 Q. Did you ever hear why he was assigned to that?
 25 A. No, I don't believe I did. I don't recall.

1 this is good-bye." And he walked off. I didn't know it
 2 was a permanent good-bye. I had no idea.
 3 Q. With respect to Shane Penrod. Did you ever
 4 hear Betty Grimm speaking with Julie McCormick about
 5 Shane's schedule or being assigned the graveyard shift?
 6 A. Yes, I did.
 7 Q. What did you hear about that?
 8 A. One day I was sitting there, and I was in my
 9 pod, and the ends are open, so it is a hallway. And
 10 Julie and Betty came walking up through there. And
 11 Julie had this paper. And she says, "Betty, what am I
 12 going to do about him?" And she says, "He will either
 13 go on graveyard or he'll be finding another job. He
 14 won't be working here."
 15 Q. Who said that?
 16 A. Betty Grimm. And Julie says, "Okay, fine."
 17 And took off. Well, they didn't say Shane's name. A
 18 little while later Shane come through and I think he
 19 had been -- I didn't know if he had been in HR or with
 20 Betty. I didn't know which one he was with. And he
 21 came by and he went by each one of the girls in the
 22 office, Maria, me, Chita, Brenda, Jackie, and said,
 23 "Well, I won't be seeing you anymore." And I says,
 24 "Why?" And says, "I just got put on graveyard shift. I
 25 won't be seeing any of you anymore." And I said, "Well,

1 Q. Do you know if Mark Freckleton ever spoke with
 2 Betty Grimm about reassigning Shane to the dayshift?
 3 A. Yes.
 4 Q. What do you know about that?
 5 A. I was in the back. And I was in Rhonda's
 6 office. And I was taking a break. And Mark came in and
 7 he said, "Shane is going to be reassigned to the
 8 dayshift for one week only. Just to try it out." And
 9 I'm going, "Yeah." But it was just for one week and
 10 then she would reevaluate it.
 11 Q. And by she you mean?
 12 A. Betty.
 13 Q. And Mark was referring to Betty?
 14 A. Yes. He had been in her office.
 15 Q. And he, as far as you understood it, had to
 16 seek her approval for that reassignment?
 17 A. Oh, yes.
 18 Q. Was she typically involved in staff assignment
 19 decisions like that?
 20 A. You know, this is the first I have ever heard
 21 of it. I had never heard of it before. Maybe with
 22 Laura. But no, not directly out in the open like that.
 23 Q. Laura Roters?
 24 A. Yes.
 25 Q. And how was she involved with Laura Roters in

1 shift assignment?
 2 A. Well, she sent out e-mails on it that Laura
 3 was assigned to O&A. And that Laura was assigned as a
 4 unit manager to Solutions and Choices. And I know that
 5 there was a lot of people upset that Laura was sent to
 6 O&A. But people were upset way before that. Because
 7 she had been assigned that unit manager job for
 8 Solutions and Choices. And they created the job for
 9 Dave. Dave was the unit manager. So they put him in
 10 another position above her and put her in that Solutions
 11 and Choices. And the staff were just going crazy over
 12 it. I mean, they were so upset.
 13 Q. Why was that?
 14 MR. COLLAER: Objection. Form of the
 15 question. Calls for speculation.
 16 Q. (BY MR. SCHOPPE) Did people tell you why they
 17 were upset?
 18 A. Yes.
 19 Q. What did they say?
 20 A. Because she doesn't have experience. And that
 21 she was a bully and they didn't like her.
 22 Q. Who said that sort of thing?
 23 A. The staff.
 24 Q. Anybody in particular that you can recall?
 25 A. Oh, Raul, Lisa, Mario. The O&A staff, none of

1 was pretty outspoken. Straightforward. Kind of rude.
 2 Q. Did you ever hear of an incident in which
 3 Rhonda Ledford was alleged to have had an emotional
 4 blowup or acting out in administrative office?
 5 A. Yes.
 6 Q. What did you hear about that?
 7 A. Well, I heard that Rhonda had come in there
 8 demanding and raising her voice and really disrupting
 9 the office and demanding to see Betty. And I was right
 10 there. And that was not the case at all.
 11 Q. So let me get this straight. You saw the
 12 incident itself?
 13 A. I saw her come in and I saw her leave.
 14 Q. And you became aware at a later time that
 15 somebody had characterized the incident as if she had
 16 been loud, demanding, and that sort of thing?
 17 A. Yes. And I believe I'm the one that
 18 approached Rhonda about it. I said, "If you need a
 19 letter I will write a statement. Because I was sitting
 20 right here when you went in and right here when you left
 21 and there was no --" you couldn't even hear her talking.
 22 And she left and she was crying. She had her head down
 23 crying.
 24 Q. Was quiet and --
 25 A. Very. She went to the parking lot. She met

1 them told me that. But it was from the Choices. I'm
 2 close with my Choices staff and they talk to me. And
 3 they were the ones -- actually, they were relieved when
 4 she went to O&A.
 5 Q. Same people?
 6 A. All of them.
 7 Q. Did they say why?
 8 A. Because she is just not a real popular person.
 9 She is very domineering. She is very -- she is rude to
 10 people. She is rude to the juveniles. I think as far
 11 as safety and security, when it comes to Laura Roters
 12 and those juveniles, I would really be looking into
 13 that.
 14 Q. So if Betty Grimm had said that shift
 15 assignment decisions are entirely up to supervisors
 16 would that be not a true statement?
 17 MR. COLLAER: Objection. Lacks foundation.
 18 Calls for speculation. Assumes facts not in evidence.
 19 THE WITNESS: I feel that she had, from what I
 20 heard about Shane, I think she had a very big part of
 21 scheduling, hiring, putting people in different
 22 positions. I think she had a very big part of that.
 23 Q. (BY MR. SCHOPPE) But you never heard that
 24 about anybody other than Shane?
 25 A. I hadn't heard her talk like that. Because it

1 up with Jeff Underhill, talked to him, and got in her
 2 rig and left. I was sitting there watching her. So I
 3 did write the letter. I did write a letter To Whom It
 4 May Concern that she did not disrupt that office in any
 5 way, shape or form.
 6 Q. Have you had any role in preparing PbS reports
 7 or data?
 8 A. Yes.
 9 Q. What did you do in that regard?
 10 A. This last year, when the PbS reports came in,
 11 Chita Gallup and I both were told that LaMark Judkins
 12 was too busy to get it all done. So we would do -- for
 13 each of our programs we would do the PbS entries online.
 14 So he set us up with the accounts to go in and do that.
 15 But when somebody fills it out it is anonymous. For the
 16 staff and the juveniles. So he brought me piles of
 17 these that I was supposed to enter into the computer.
 18 Well, there was things that people had written down in
 19 there stating problems, issues, and he told me not to
 20 enter that if they didn't check the box just above that
 21 that said "Other." He said, "If that is not checked you
 22 ignore all of this. You cannot enter that." So I'm
 23 going wait a minute, there is some things in here that
 24 they should be seeing and reading what the issues are.
 25 Q. What kinds of things?

1 A. Safety and security issues. I saw two reports
2 in those on sexual allegations. But it is anonymous, so
3 I couldn't tell you who. So when I went to the team
4 meeting that next week I told them, "All right, guys,
5 this is what is going on. If you are writing any
6 comments on that PbS report, if you don't check 'Other,'
7 then I have been instructed to disregard that." So
8 everybody got kind of quiet. And they said, "Do you
9 mean the things we wrote in there are not entered?" And
10 I said, "No, I'm sorry. Because you didn't --"

11 Q. Who?

12 A. Let's see, one was Steen Petterson. And Patty
13 Hansen had written on it. And there was a few that came
14 forward and said, "I wrote on that and you didn't enter
15 it?" And I go, "Sorry. I don't even know who you are
16 on these, because it is anonymous."

17 Q. Did they tell you what kinds of things they
18 had written?

19 A. No. They just said they had written concerns
20 on there. So I told them to check "Other" and then we
21 can record it. Then the next day I come in all of the
22 reports were gone off of my desk. And I went to Estela
23 and I asked her about it. I said, "All of the reports
24 are gone." And she said, "Talk to LaMark." So I went
25 and talked to LaMark. I said, "LaMark, all of those

1 record.

2 Q. (BY MR. SCHOPPE) What kind of record?

3 A. Through PbS. and the reporting. It would not
4 reflect -- like if you have two juveniles reporting
5 sexual abuse, whether their name is on there or not, it
6 is reported. So, yeah, I think it would look bad to the
7 Department through PbS.

8 Q. What kind of reports did you see on those
9 forms? Sexual abuse reports that you saw?

10 A. Well, two of them that really stuck out in my
11 mind I thought -- I really felt that that should be
12 reported. But those are anonymous. You don't know what
13 kid that is. So I didn't say anything to anybody. But
14 I still wouldn't know how to report it.

15 Q. Did you provide those documents to LaMark?

16 A. Yes. Oh, yeah.

17 Q. So he was aware that reports had been made,
18 but you were unable to enter those into the system due
19 to his instructions?

20 A. I didn't tell him I didn't enter them. I
21 followed his instruction. I didn't go to him and say,
22 "Look, they wrote all of this down and I can't enter
23 it." Because he already told me you do not enter that
24 unless that box is checked.

25 Q. Did he ever tell you why not to enter that

1 reports are missing off my desk." And he said, "Well, I
2 have time to do them now." So they pulled them. I
3 never did -- not another one did I enter.

4 Q. And was it your impression that that had
5 something to do with you telling people that they --

6 A. Yes.

7 MR. COLLAER: Objection. Calls for
8 speculation.

9 Q. (BY MR. SCHOPPE) How to mark the boxes?

10 A. Yes. I had given them instructions. They
11 were never given instructions on how to fill that form
12 out.

13 Q. Do you have any idea why it was that things
14 that had been written there were not recorded when the
15 "other" box was not checked?

16 MR. COLLAER: Objection. Calls for
17 speculation.

18 THE WITNESS: I don't know. I don't know
19 about that.

20 Q. (BY MR. SCHOPPE) Do you know of any reason
21 why the Department wouldn't want to know about those
22 sorts of things?

23 MR. COLLAER: Objection. Calls for
24 speculation.

25 THE WITNESS: Well, it would look bad on our

1 sort of thing?

2 A. No, he did not. I know that -- well, in a way
3 he did. Because I asked him about that. I says, "Who
4 trained you?" You know, I'm always giving him a hard
5 time. I said, "Who trained you?" And he goes, "Laura
6 Roters." I said, "Is this how Laura does it?" And he
7 said, "Yes." So he was trained by Laura to do that.
8 But that was just kidding around. I didn't think
9 anything of it.

10 Q. At some point were you accused of tampering
11 with mail?

12 A. Yes.

13 Q. What happened there?

14 A. Pat Thomson and Estela Cabrera called me into
15 her office and said that they had had an anonymous note
16 saying that I was in the mailroom going through people's
17 mailboxes.

18 Q. Was this in 2012?

19 A. 2013.

20 Q. 2013? Earlier this year?

21 A. Yeah, it was earlier this year. I can't
22 remember. It was either late last year or early this
23 year.

24 Q. Okay.

25 A. Maybe it was late 2012. But I was very

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1 shocked at that. Because that is my job. I go through
 2 the mail. I deliver the mail. I make sure everybody's
 3 mail is in order. And I asked them about that. I said,
 4 "Well, if you don't want me to touch the mail I won't
 5 touch it." "Oh, no, no, no, that is not what we are
 6 getting at." And I said, "Well, I don't know who
 7 accused me of this. So if someone is going to accuse me
 8 of tampering mail they should step up and say this."
 9 Q. What was the accusation?
 10 A. That I was going through people's mail. And I
 11 contended why would I go through anybody's mail? What
 12 for? That is just not really exciting mail that comes
 13 in there.
 14 Q. So in delivering the mail you would be sorting
 15 it?
 16 A. Yeah. When the mail comes in I would put
 17 things in the mailboxes. Like progress reports. I make
 18 copies of that and put it in the group leaders'
 19 mailboxes. For the Choices program, if they have any
 20 type of mail or anything, I stick that in there. I deal
 21 with the mail constantly. I send it out. I work with
 22 it. So why I would be going through anybody's mail I
 23 have not a clue.
 24 Q. Did anybody ever tell you who had accused you?
 25 A. No. He said he had the note.

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1 Q. Who said that?
 2 A. Pat Thomson. And then I e-mailed Estela and
 3 asked her if she could possibly keep that note for
 4 possible evidence. And she wrote me back and said she
 5 had never actually seen the note herself. But Pat
 6 Thomson had it, I guess.
 7 Q. So there is a note out there that someone has
 8 told you about --
 9 A. That I have never seen.
 10 Q. And what happened? Was this investigated?
 11 Were you interviewed? What happened?
 12 A. Just entered their office that day. And I
 13 told her this is just ridiculous. I haven't a clue why
 14 anybody would even think that.
 15 Q. You were doing nothing out of the ordinary?
 16 A. That is my job.
 17 Q. With respect to Estela. You said a number of
 18 times that she would yell at you; is that right?
 19 A. Yes.
 20 Q. Did you report that to Betty Grimm?
 21 A. Yes.
 22 Q. And is this something that she would do in
 23 front of other people?
 24 A. She would take me in the office and shut the
 25 door. The only person that could have heard it was

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1 Maria.
 2 Q. But you told Betty Grimm about this?
 3 A. Yes, I did.
 4 Q. And it was distressing to you and
 5 inappropriate?
 6 A. Yes, I did. I told Betty about it -- oh, that
 7 went on for a long time. And when I told Betty she
 8 says, "You're a strong person. You can handle it."
 9 Q. So your impression of that is she was telling
 10 you that you would have to put up with that?
 11 A. Yes.
 12 Q. And did she do anything --
 13 A. She said she would take care of it.
 14 Q. Did she?
 15 A. No. I finally ended up filing the problem
 16 solving. I think that is what upset her with me. I
 17 think she thinks I went around her --
 18 MR. COLLAER: Objection. Calls for
 19 speculation. It is unresponsive. And is a speculative
 20 statement.
 21 Q. (BY MR. SCHOPPE) Go ahead.
 22 A. She thought I went around her and filed a
 23 problem solving. Which I did. She didn't fix it.
 24 Q. What happened from that with Betty?
 25 A. She quit talking to me.

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1 Q. That is when she stopped talking for how long?
 2 A. Almost eight months. She finally said hello
 3 one morning.
 4 Q. Did Betty do anything to try to prevent anyone
 5 from making any age-related comments to you?
 6 A. No. She signed the card.
 7 Q. And did you feel that the birthday card could
 8 be interpreted as a friendly gesture card?
 9 A. They are not my friends. The birthdays we had
 10 there we were more or less forced to do.
 11 Q. Do you need a minute?
 12 A. No, that's all right. Whose ever birthday it
 13 is the next birthday you have to give them a birthday
 14 cake and do a party. It isn't a matter of whether you
 15 want to. It is a matter of how Estela sets it up. You
 16 do it.
 17 Q. Had you ever told anybody at all that you had
 18 any plans to retire?
 19 A. No. When Sal told me Bobbi Rogers said I
 20 would be the next one out the door I told him, "Yeah,
 21 I'm going to retire some day, but I'm not ready yet."
 22 No, I didn't give him a date or tell him I was retiring
 23 at all.
 24 Q. So you had no plans of any kind at that point?
 25 A. No.

1 Q. Other than the concept you would eventually at
2 some point --
3 A. I would like to retire. I have bills, though.
4 Q. Is it fair to say you didn't have any kind of
5 a joking relationship with these people?
6 A. No. And even with Betty. She didn't have
7 anything to do with me. So why would she would think
8 that was funny? It wasn't funny. And the reaction from
9 Valarie Zuniga -- and it was not funny -- she looked at
10 it, put the card down, and walked out.
11 Q. Did she say anything to you before or after
12 that?
13 A. Valarie wouldn't.
14 Q. And did you talk with anybody about the stress
15 you felt about these statements? I think you mentioned
16 Patty Hansen --
17 A. Yeah, I talked to Patty. Patty called HR.
18 Estela had me in there and accused me of abusing my sick
19 leave. Because I had called in on holiday weeks. I had
20 been sick. And what else? Oh, misuse of the internet.
21 Q. And what was that about?
22 A. Well, I was looking for paint for a paint
23 class with the boys. And pictures for them to paint.
24 And she said that it was reported that I was misusing
25 the internet. And yet the two sitting across from me

1 was on the clock and got to do it in the afternoon. But
2 I had to make sure all of my other work was done before
3 she would let me go.
4 Q. And you also do tattoo removal?
5 A. I do coverups for them if they want it.
6 Q. Gang tattoo?
7 A. I have done a lot of them on the boys.
8 Q. Do you do that for free sometimes?
9 A. Always for free.
10 Q. Always?
11 A. I have never charged them a dime. If they
12 want to remove those tattoos, to get it lasered off it
13 is very painful and very expensive. And most of those
14 kids haven't got any money. So I have covered them up
15 for free.
16 Q. You mentioned a website that someone had
17 built. Who was that that you are talking about?
18 A. Brenda Garrett.
19 Q. What is the website about?
20 A. She sells homemade candles and homemade
21 jewelry.
22 Q. How do you know she built it in the office?
23 A. She sent me approvals of it and asked me to
24 look at it and see how it looked.
25 Q. Did she conduct business for that candle

1 built a complete web page and runs a business off of her
2 computer. And mine was related to the juveniles.
3 Q. What do you do with painting with the boys?
4 A. Well, the Department has never paid me for any
5 of the paint or any of the supplies. So I go online and
6 I buy paint as cheap as I can so I can -- I'm not the
7 highest paid employee there as you probably noticed. So
8 what I do is I go look for discount paints and stuff so
9 I can furnish it for the boys to paint. And that is
10 when Bobbi and Maria -- I knew they reported me.
11 Because I heard them behind me looking through the
12 window at me. And I turned around and looked and Bobbi
13 took off for her office and Maria ducked behind a
14 window. So I thought boy, I'm in trouble now. So,
15 yeah, I got called in Estela's office for abusing the
16 internet.
17 Q. Who are the boys you are talking about
18 painting with?
19 A. The Choices. All 36 boys. And for five years
20 we have done painting.
21 Q. It is just something you do sort of extra for
22 them or with them?
23 A. Yes.
24 Q. On your own time?
25 A. Last year was the first time that I got -- I

1 business at the office?
2 A. She sets up jewelry and candles there in her
3 cubby and sells it to the staff.
4 Q. Is it your understanding there is a policy
5 about second jobs or businesses in the workplace?
6 A. They do it right in there. So does Maria.
7 Q. What does Maria do?
8 A. She crochets all kinds of stuff like dish
9 clothes and sells it there to staff.
10 Q. Has Estela's daughter worked in the office?
11 A. I don't know about that. She comes in there
12 and works on the closed files in Bobbi's office to help
13 Bobbi catch up. And I don't think she is an employee.
14 But she is back there handling those records. And I
15 have several people question me about that. "What is
16 she doing in there?" And I am going, "Well, she's
17 handling these records." And I can't tell you if she is
18 an employee or not.
19 Q. How old is she?
20 A. She started coming in there when she was like
21 16, 17. And I know she is in college now. But I don't
22 know if she has ever been hired or -- I haven't a clue.
23 I know she comes in there. She goes back there with
24 Bobbi and works with those files. And my opinion is
25 that those things should not be handled by somebody that

1 is not an employee. An approved employee.

2 Q. Is it your understanding there is a
3 confidentiality --

4 A. Absolutely.

5 Q. -- policy concerning juveniles files?

6 A. Yes, sir.

7 Q. And she is not an employee, as far as you
8 know?

9 A. As far as I know.

10 Q. What is her name?

11 A. I can't remember right now. I'm too shook.

12 Q. Does Estela also sell candy inside the
13 administrative office?

14 A. Yes. She has a candy machine she purchased
15 and put out front. And that is supposed to be for an
16 administrative fund. But I have never seen any of it.
17 I have never seen a balance or anything. She just fills
18 it. And visitors come in and they get candy out of the
19 machine. That is hers. She purchased it.

20 Q. How about a taco truck?

21 A. That is her dad, and her son, and her husband.
22 They come there every Tuesday and Friday. And Betty
23 approved for them to come and sell there on the
24 property. And they pull up right out on the sidewalk in
25 the parking lot and sell to the staff. And then her dad

1 person in there that I know of.

2 Q. Was that because she was speaking to you --
3 was she being mean to you and she was disciplined?

4 A. No. She was asking me what I thought her
5 website looked like. And Estela sits in her office with
6 the door open and she can hear every word that is said
7 out on the floor. And she called Brenda in and said she
8 didn't want us conversing across the hallway.

9 Q. And Brenda told you this?

10 A. Yeah. She come out and she was crying. She
11 said, "I'm not supposed to speak to you anymore."

12 Q. Are you aware of anybody else who has ever
13 made any allegations or reports about documents being
14 falsified or anything like that?

15 A. Well, I know the files had come up missing in
16 our electronic files a lot. And when Becky McCollough
17 was there Becky was just furious over it. And we had
18 suspicions. Her and I both talked it over and we had
19 suspicions who was doing that. We pretty much narrowed
20 it down. We knew who was doing it. Because when she
21 left the Department it stopped. And when she came back
22 it started again.

23 Q. Who was that?

24 A. Maria.

25 Q. What was the issue that was being done?

1 also comes in and does -- he does a lot of things. She
2 contracted him to come in -- they took all of the
3 couches and chairs out of Choices. And he come in and
4 recovered all of those couches and chairs and things
5 like that for the facility. And Betty did make the
6 remark that he was cheaper than anyplace else. But I
7 don't think there was ever -- I thought something like
8 that had to be contracted. I don't know. As far as I
9 know there was never a bid put out for a contract on
10 that.

11 Q. As far as you know have these activities done
12 in the workplace by Estela, Bobbi -- is it Bobbi or
13 Brenda with the website?

14 A. Brenda.

15 Q. Or Maria. As far as you know have any of them
16 ever been disciplined, or spoken to, or counseled for
17 that stuff?

18 A. Not as far as I know.

19 Q. Have you ever heard --

20 A. It continues. So obviously not.

21 Q. Are you aware of whether any of those people
22 have ever been yelled at by Estela the way you have been
23 yelled at by her?

24 A. The only time I know of is Brenda was
25 reprimanded for speaking to me. And that is the only

1 A. You would scan files into the electronic file
2 and by minutes or the next day they would be gone.
3 Deleted. And anybody can go in there and do that. That
4 is where the problem lies. So when she transferred out
5 of the Department Becky McCullough went to Leif Erickson
6 and asked that she be taken off the electronic file for
7 juveniles. The only access she needed was medical and
8 education. So when that happened and she was off of our
9 electronic files the files were there. They didn't
10 disappear anymore. But when she came back to the
11 Department they started disappearing again. And now it
12 is more serious. Because now we are going into an
13 electronic system where we don't have that paper file.
14 Because before she deleted it you could go get it
15 rescanned in there and place it back in there. Now if
16 it gets deleted you have no backup on that. It is gone.

17 Q. And did you or anybody convey these concerns
18 to Estela or anybody else?

19 A. Yes. And Becky did, too. What was going on.
20 And what we suspicioned. But you have got to be able to
21 actually see somebody doing that. But we told her our
22 suspicions. But nothing was ever done.

23 Q. Has anyone ever commented on the hostile
24 environment that you have talked about here today?

25 A. Yes.

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1 Q. Who?

2 A. Rita Fell. Patty Hansen. When Maria put the

3 curtain up Jeff Underhill walked in and he says, "Aren't

4 you --" I'm not going to say the word.

5 Q. Go ahead.

6 A. He said pissed. I go what? And he goes that

7 is -- something "aggressive." But anyhow he said that

8 is horrible that she is doing that to you.

9 Q. Passive?

10 A. Passive-aggressive. And I go what? Because I

11 was working. I didn't pay any attention to him. And he

12 was standing there just yelling. He says, "This is

13 terrible."

14 Q. Did he say why he thought that was terrible?

15 A. He said it was passive-aggressive. He said

16 she should not be able to treat you like that.

17 Q. What was the deal with the curtain? What did

18 that mean?

19 A. There was a curtain up when I came into work

20 one day.

21 Q. Where was it?

22 A. Behind me. There is a window in every single

23 cubby going all of the way to the front. And part of

24 our job description is when somebody comes to that front

25 window you have a window. So we are supposed to be

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1 watching that at all times. So in the event Jackie or

2 whoever is up there is not there then you can see all of

3 the way through and assist any customers coming in or

4 help people. So she put up that curtain. And now she

5 doesn't watch the front. I haven't figured out what she

6 is doing with that. And I went to Estela about that. I

7 said, "What is going on?" And she said, "Maria says you

8 are disruptive and you disrupt her and she can't do her

9 job."

10 Q. How is it that you are supposedly disruptive,

11 as far as you know?

12 A. She said that the staff or anybody that comes

13 in to talk to me, that they are staring at her through

14 the window.

15 Q. Who is that?

16 A. Mr. Tinker, Jeff Underhill, Matt Storey. She

17 even accused Eric Cotton of sitting there staring at

18 her.

19 Q. This is Choices staff?

20 A. Choices staff that I do business with. That I

21 need to do business with.

22 Q. Did they indicate they believe you were being

23 harassed or mistreated?

24 A. Yes.

25 Q. What did they say about that?

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1 A. They just thought it was terrible. "You need

2 to do something about this." I said, "Who do I go to?"

3 There is nobody.

4 Q. And you had spoken with Betty about your

5 concerns about the age-related comments to you at some

6 points; right?

7 A. Yes.

8 Q. And when you had spoken with her and she said

9 that you were a strong person and you could work with

10 anyone or deal with it --

11 A. Right.

12 Q. I forget what she said?

13 A. She said I was a strong person and that you

14 can work with anyone. You can handle it.

15 Q. And that applied to the age discrimination

16 comment, as well?

17 MR. COLLAER: Objection. Misstates her

18 testimony.

19 Q. (BY MR. SCHOPPE) Is that fair to say?

20 A. Yes.

21 Q. And with respect to the software that we

22 talked about earlier. Did anybody indicate to you that

23 you didn't need the software because you would be gone

24 soon?

25 A. Yes. And I'm trying to relate who was telling

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1 me that. I'm not sure right now. But it was relayed as

2 why would I need the software. I wasn't going to be

3 around that long, anyway.

4 Q. Did you know what they meant by that? By not

5 being around?

6 MR. COLLAER: Objection. Calls for

7 speculation.

8 THE WITNESS: That I would be not be there.

9 That I would be terminated or retired.

10 Q. (BY MR. SCHOPPE) But you had no plans on

11 retiring at that point; right?

12 A. No.

13 Q. And would that have been either Brenda, Bobbi

14 or Maria?

15 A. Yes.

16 MR. COLLAER: Objection. Calls for

17 speculation.

18 Q. (BY MR. SCHOPPE) You don't specifically

19 remember who said it, but it was one of those people you

20 worked with?

21 A. Yes. It was staff.

22 Q. It wasn't somebody from out on the floor or --

23 A. No.

24 Q. And did you hear another comments like that

25 from Estela that you would be gone soon?

1 A. Bobbi Rogers came to me and said I put a wrong
2 date -- commit date from a judge. Which the judge had
3 wrote the wrong date in. So she come out to my cubby
4 and she goes, "I want you to fix this right now."
5 Because we released the boy. We were cleaning up all of
6 the paperwork on it. And I said, "Well, the judge wrote
7 that date in there. And I have always been told that
8 whatever the date the judge writes in there is the date.
9 You don't change that." She says, "Well, he was wrong."
10 And I got to looking at it and yeah, the judge was wrong
11 on the commit date. He wrote the wrong month in there.
12 Well, I says, "I'll fix it immediately. Don't worry
13 about it." And she took off. And at that time I was
14 printing a progress report out. So when she took off
15 back to the media room I got up and went back to get the
16 progress report. And I was just seconds away behind
17 her. And Estela was in the media room and she walked in
18 and she says, "That woman just frustrates me." And
19 Estela says, "Don't worry about it. It won't be long
20 now. Just have some patience. She'll be gone." And I
21 walked in -- I mean, they looked up and saw me and they
22 both ducked their head and took off out the other door.
23 So it was pretty obvious they were talking about me.
24 Q. And, again, you had no plans of retiring, or
25 quitting, or resigning, or anything like that?

1 said, "I don't think this worked. But I'll watch and
2 see. But I don't think it is going to work." And so
3 she says, "You know, you don't have to meet with Estela
4 alone." And I says, "I don't?" And she says, "No.
5 When she asks you to come into that office you call me
6 or get anybody else that you can have a third party
7 there when she has these meetings with you." And I
8 says, "I didn't know that." So Crystal really tried to
9 help.
10 Q. And did that seem to make any difference at
11 all?
12 A. No.
13 Q. At some point did Julie Cloud call you?
14 A. Yes.
15 Q. Had she ever called you before?
16 A. No.
17 Q. Was this after you filed a lawsuit?
18 A. Yes.
19 Q. And what did she talk to you about?
20 A. She started out the conversation, "Hi, Jo, how
21 are you?" And I go, "Fine." And she goes, "You know,
22 we have acquaintances and we have been friends for a
23 long time." And I go, "Yeah." And she goes, "I would
24 really like for you to reconsider this lawsuit." And I
25 says, "Well, Julie, I don't know how to answer you."

1 A. No. I do have health issues I needed to take
2 care of. But that didn't entail retiring or quitting.
3 I just knew I had to take care of them.
4 Q. Have you ever heard them say anything like
5 that about anybody else in the Department? In that area
6 or anything like that?
7 A. No.
8 Q. These are the kinds of things that are said
9 only about you to you?
10 A. Um-hmm.
11 Q. Yes?
12 A. Yes.
13 Q. Did you speak with anyone in HR about these
14 issues?
15 A. I haven't. Because it doesn't do any good.
16 Q. Did you talk with Crystal Moerles at some
17 point?
18 A. At the problem solving. Crystal put me
19 through the problem solving. She worked very close with
20 Betty on that.
21 Q. And did she give you any advice about dealing
22 with problem solving?
23 A. Yes. We went through the problem solving. We
24 made all of these agreements. And the next day it was
25 back where it was. I went back to Crystal again and

1 I'll have to call my lawyer and talk to him about this.
2 Because I can't really give you an answer right now."
3 And then that is when she just kind of shut down.
4 "Okay, fine. We'll see you later." And she hung up.
5 And I was very shocked that she called me like that.
6 Q. She is the head of HR?
7 A. Yes. And I'm thinking what does it take to
8 drop a lawsuit? Do I just tell her okay, I'm done. I
9 don't know what she wanted.
10 Q. She was trying to talk to you about the
11 lawsuit --
12 A. Wanted me to reconsider. That is the word.
13 She said reconsider this lawsuit.
14 Q. Did she offer any reasons why you should do
15 that?
16 A. No. Because from the moment I mentioned you
17 she just said, "Thank you. Talk to you later." And
18 hung up.
19 Q. Do you know if she tried to contact any of the
20 other plaintiffs about that?
21 A. I do not know. I'm still a little concerned
22 on why she called me.
23 Q. Do you have any idea why she called you?
24 A. No.
25 MR. COLLAER: Objection. Calls for

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1 speculation.

2 THE WITNESS: No, I really don't.

3 Q. (BY MR. SCHOPPE) And you had never really

4 spoken before?

5 A. No.

6 Q. Just perhaps in passing or something like

7 that?

8 A. You know, she came in and saw my paintings.

9 She does paintings. She does toll painting. And I do

10 murals. And she would stop by and look at my

11 paintings. I would usually have a painting or two in

12 there. So she would converse about that and go on her

13 business. But it was never like a real friendship-type

14 thing. I never saw her anywhere other than right there.

15 Q. Did you feel pressured?

16 A. Yeah, I did. I felt really weird about that.

17 It felt like, should I stop this? That is what I felt.

18 I felt kind of intimidated by that.

19 Q. Sure. When you said that nothing changed

20 after the problem solving agreement that you testified

21 about earlier what do you mean by that?

22 A. Well, Maria still wouldn't speak to me. Bobbi

23 Rogers -- they are just very, very rude. You would have

24 to actually experience it to understand. Like I would

25 go into a meeting and Estela tells Bobbi and Maria, "You

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1 two need to smile." And then they would get furious at

2 her. You could just see it. Just body language. So it

3 didn't get any better.

4 Q. Did Estela still yell at you?

5 A. Not like she used to. She was very direct.

6 But then once the lawsuit was filed Estela got very

7 nice. Very nice.

8 Q. Would it be fair to say she was still

9 hostile --

10 A. Well, in a way, yes. Just like with the mail

11 tampering thing. That wasn't -- that was after the

12 lawsuit was filed. And it was like she was wanting to

13 help me not mail tamper. But I wasn't mail tampering.

14 Q. What do you mean helping you not mail tamper?

15 A. "We just want to know what is going on. You

16 need to come to me." The deal on the internet abuse.

17 "You need to come to me when you go on the internet.

18 You can go on, but you need to tell me how long you are

19 going to be on there and when you are going on there."

20 Q. Do you know if that restriction is imposed on

21 anybody else in the office?

22 A. Absolutely not.

23 Q. They are on the internet when they want to be?

24 A. Yeah. Maria designed her tattoo on the

25 internet.

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1 Q. During work hours?

2 A. Yes. So did Donna Robinson. Because I

3 tattooed them.

4 Q. As far as you know did Betty Grimm do anything

5 to help you with respect to age discrimination at the

6 office?

7 A. No.

8 Q. Would it be fair to say that -- tell me what

9 it is. Whether it got worse, better or stayed the same

10 with the hostility you experienced after you started

11 refusing to backdate court documents?

12 A. It got worse.

13 MR. COLLAER: I would like to impose an

14 objection. It lacks foundation, overbroad, and calls

15 for speculation.

16 Q. (BY MR. SCHOPPE) And we've already talked

17 about when you stopped backdating court documents;

18 right?

19 A. Yes.

20 Q. So it was after that point in time that you

21 felt that the hostility and the treatment you were going

22 through got worse?

23 A. With Estela, yes. Well, the whole staff up

24 there. With the group leaders there was little remarks.

25 You know, like, "Can't you fill in that date? What is

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1 wrong with you?" Things like that. But nothing real

2 hostile. It was with Estela. But I'm the one that told

3 Estela I refuse to backdate those reports. So I was

4 direct with her about that. So I think that is where

5 the hostility was coming from.

6 Q. And would it be fair to say you were concerned

7 that it was defrauding the courts?

8 A. Yes.

9 Q. The employee that you mentioned who had been

10 retired -- who would be retiring, and who had been told

11 you would also be retiring shortly, was that Sal Vigil?

12 A. Yes.

13 Q. While you worked there were you aware of

14 whether Betty Grimm and Sharon Harrigfeld had regular

15 meetings? Or did you know when they were meeting?

16 A. Yes.

17 Q. Did they have weekly meetings? Biweekly

18 meetings?

19 A. Every week. Every Wednesday morning at 7:00

20 they had a videoconference.

21 Q. Were you ever told what the purpose of those

22 were?

23 A. No.

24 Q. As far as you knew were they status meetings?

25 Or updates?

1 A. My assumption was it was an update on the
 2 facility. What was going on. Just keeping everybody
 3 aware -- or keeping Sharon aware of what was going on.
 4 Because we have so many meetings with so many different
 5 groups. Like manager meetings and all of this. But
 6 Sharon does not attend all of those. So I'm sure that
 7 Betty was keeping her updated on everything that was
 8 going on in the facility for the week.
 9 Q. We went through your performance evaluations
 10 earlier. And you generally seem to have gotten
 11 favorable ratings from Estela; is that fair?
 12 A. Yes.
 13 Q. Has she ever explained to you why she was
 14 yelling at you if you were doing well in your job?
 15 A. She just said there was complaints.
 16 Q. And --
 17 A. That people had complained about me. But she
 18 never named anybody. She wouldn't. And it was just
 19 like a Jekyll and Hyde. My performance evaluations are
 20 great. But she would still have me in her office
 21 yelling at me.
 22 Q. Is it fair to say it made your worklife pretty
 23 miserable?
 24 A. Yes.
 25 Q. Caused you a lot of anxiety?

1 problem hadn't been resolved?
 2 A. Correct.
 3 Q. And --
 4 A. And the only advice she gave me is you don't
 5 have to go in that office alone with her.
 6 Q. And from that point forward there is no other
 7 help or intervention from anyone at HR?
 8 A. No.
 9 Q. Or Betty?
 10 A. No. At that point in time Betty wouldn't talk
 11 to me.
 12 Q. Did Betty ever explain to you why she didn't
 13 talk to you during that time?
 14 A. No. Betty to this day doesn't have anything
 15 to do with me. She would bring the rent over and tape
 16 it to my door.
 17 Q. Did you have any kind of a personal conflict
 18 with Betty outside of the workplace?
 19 A. No.
 20 Q. She paid her rent on time?
 21 A. Yes.
 22 Q. You did what you had to do as a landlord?
 23 A. Yes.
 24 Q. No issues there at all?
 25 A. No.

1 A. Yes.
 2 Q. Were you afraid of Estela?
 3 A. Yes.
 4 Q. Are you still?
 5 A. Yes.
 6 Q. And did you at some point form a belief that
 7 nobody could help you in HR?
 8 MR. COLLAER: Objection. Lacks foundation.
 9 Calls for speculation.
 10 Q. (BY MR. SCHOPPE) You know what you believed;
 11 right?
 12 A. Yes.
 13 Q. Did you form that belief?
 14 A. Yes.
 15 Q. Why?
 16 A. Because once Crystal was gone there was nobody
 17 to help.
 18 Q. So you thought that Crystal was at least
 19 trying?
 20 A. Yes. But Crystal even backed off after that.
 21 So I went back to her and told her that it hadn't
 22 changed. She just got real distant.
 23 Q. Did you know why?
 24 A. She did not tell me.
 25 Q. So you went to Crystal to tell her that the

1 Q. Any conflicts between the husbands or
 2 anything?
 3 A. No. They got along really good.
 4 Q. With respect to the software that you are
 5 talking about. Was it software that you felt was
 6 helpful to you in your job?
 7 A. Yes.
 8 Q. It wasn't a toy or anything that you wanted to
 9 play with?
 10 A. Oh, absolutely not. It was for progress
 11 reports. You can take a PDF -- it lets you work with a
 12 PDF. And you can modify it. In fact, in the wrong
 13 hands, I don't think it would be good for everybody to
 14 have. But you can manipulate documents with it in the
 15 PDF form. And they gave me that software, but they
 16 didn't give me any training.
 17 Q. And everybody else got training?
 18 A. Yes.
 19 Q. And does that include Chita Gallup?
 20 A. She didn't -- I don't know if she got training
 21 or not. She never told me. I know they just put it on
 22 my computer and walked off. And I had to figure out how
 23 to use it.
 24 Q. But you had seen Maria and Estela and Bobbi
 25 and Brenda --

1 A. They went to headquarters and got training.
2 When I talked to Heather over at legal I asked her about
3 that. I said, "Heather, I understand they got that
4 Adobe Pro that you were telling me I was going to get.
5 Why didn't I get?" And she said, "I don't know. You
6 don't have it?" And I said, "No, I don't." So they
7 went over there and took training with -- I can't
8 remember her name. But I didn't get offered that.

9 Q. Did anybody ever say anything to you or imply
10 to you that was because you are old, or retiring, or
11 leaving soon, or anything like that?

12 A. I think that is when I heard that remark. And
13 I will try to remember who said that to me. "What does
14 she need it for. She is not going to be around that
15 much longer, anyway." I can't remember who it was. I
16 will remember probably in the middle of the night.

17 Q. You will have a chance to review your
18 transcript later.

19 A. I don't know if there was any formal training
20 like our Excel programs. That is the only official
21 training I have had in five-and-a-half years was one
22 Excel program this last year. That is it. I got a Word
23 training from a schoolteacher that told me I knew
24 everything that I needed to know and she walked off and
25 left me a book that was three years old.

1 noise. And it can be done. I can't do it, but this boy
2 did.

3 Q. How do you know that is what happened?

4 A. He said he did it. The juvenile admitted that
5 he could listen to the code and tell the tone to get
6 that code.

7 Q. Do you know who made the accusation that Tom
8 de Knijf had given the juvenile that code?

9 A. All I know is it was somebody in the admin
10 area that accused him of that. Now, I heard this. And
11 I have no idea who the person is that did that.

12 Q. Did the hostility that you said you
13 experienced from Estela make you fear speaking up about
14 problems or issues in the facility?

15 A. I don't speak up anymore.

16 Q. Same thing with respect to Betty Grimm. Betty
17 Grimm didn't help you with problems that you brought to
18 her and stopped speaking to you?

19 A. Yeah. It got worse when I said something. So
20 I just -- I mean, it is not hard to figure out just to
21 keep your head down, do your job, and not say anything.
22 And that is exactly what I do.

23 Q. Has anybody else ever expressed that same
24 sentiment to you? That they fear speaking out about
25 problems and things like that?

1 MR. COLLAER: Counsel, can we take a break?

2 MR. SCHOPPE: Sure.

3 (Recess.)

4 Q. (BY MR. SCHOPPE) Do you have any knowledge as
5 to whether -- do you know whether there is still an
6 issue with documents being altered or falsified at the
7 Department?

8 A. I'm sure, yes, they are still changing dates
9 and things.

10 Q. What makes you think that?

11 A. Because if I get a progress report, and there
12 is a wrong date on it, I usually will take it back to
13 the group leader and say correct this. Because I refuse
14 to change the date on that. So, yeah, up until I left
15 for my leave it was still being done.

16 Q. Are you aware of whether there is an
17 allegation against Tom de Knijf that he had provided
18 juveniles with an access code to the administrative
19 area? Did you hear anything about that?

20 A. Yes, I did hear about that.

21 Q. What do you know about that?

22 A. That is not true. There was a juvenile that
23 was in Solutions, I believe he was a Solutions juvenile,
24 and when you punch in those codes it makes a noise. And
25 he figured out the code by listening to the keypad

1 A. Right. It is useful. Choices staff have said
2 they give up. And they don't. They don't report a lot
3 of it.

4 Q. Has anybody ever expressed to you they fear
5 retaliation for speaking out with problems with
6 management?

7 A. They always do; yes.

8 Q. Who comes to mind when you say that?

9 A. The first one that comes to mind is Lindsay
10 Hanson. She got shift changes and all kinds of things
11 happened to Lindsay up there when she was speaking out
12 about it. And when we went to -- we had some mandatory
13 meetings that the staff went and spoke up. And were
14 talking about safety and security concerns. I was at
15 that one. Those were mandatory. All they said was pick
16 a time. Which one. And I went to those. And there was
17 a lot of staff that stood up and said this place is not
18 safe. It is not secure. What can you do to help us?

19 Q. And who were those staff, that you recall?

20 A. There was one deal there when Bob Robinson was
21 there. He got pretty excited about it. And so did
22 Lindsay -- I think it is Anderson from IT. And she had
23 been over to Caldwell Detention Center. And they had
24 told her that we were called Club Med. That the
25 juveniles over there talk about we need to get out of

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1 here and go to Juvenile Corrections because that is the
 2 easy place. And her understanding was that the Caldwell
 3 Juvenile Detention Center was harder on kids than
 4 Juvenile Corrections. And that the kids were told get
 5 in there if you can, because then you'll have it easy.
 6 And that is what was said in that meeting. And oh,
 7 gosh, there was a lot of people there. Patty, Rita,
 8 Colleen, Sarah Cerda, Bob Robinson, Sharon Harrigfeld,
 9 Betty Grimm, Lisa Littlefield. There was a lot of them
 10 there. And that room was just packed with people. And
 11 the consensus was that Sharon and Betty were going to
 12 take all of this information and have a committee to go
 13 assess all of this and see what they could do to fix all
 14 of this. I mean, I left there feeling they had aired
 15 their worries and that things were going to get done.
 16 It was serious. And nothing ever came of that.
 17 There was a committee I know appointed. Two
 18 of them that I knew. Valarie Zuniga and Rita Fell were
 19 on that committee. But I never heard anything about it
 20 after that at all. And that is when Betty started using
 21 the term "bucket list." But I never did understand what
 22 that even meant. Because it didn't go anywhere. And we
 23 never heard back on what was going to get fixed. If
 24 there was going to be more secure areas. If, you know,
 25 they were going to change the policy and procedure on

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1 this. Listen to the staff. They are trying to tell you
 2 this. And they said yes, they were going to take that
 3 into consideration and reevaluate it and get back with
 4 us and make some corrections. But I never heard of
 5 anything. And the staff just kept getting more and
 6 more, you know, concerned that they were going to get
 7 hurt. Or the juveniles -- I have heard many staff say
 8 somebody is going to get hurt in here really bad.
 9 Q. Is that something that seemed worse to you
 10 than it had prior to when Director Harrigfeld took over
 11 the Department?
 12 MR. COLLAER: Objection. Lacks foundation,
 13 vague, and calls for speculation.
 14 THE WITNESS: When I went to work there Larry
 15 was just going out and Betty was coming in. Betty had
 16 just come in. And my observation was it was far more
 17 structured. Yes, there was restraints. But it was
 18 restraints when it was necessary. I didn't see any --
 19 there was only one staff that I ever saw that was really
 20 out of line with a juvenile. Other than that I felt it
 21 was a very structured, really good place. I felt safe
 22 when I walked through those security doors and went to
 23 the back. And now I really don't. I don't feel that
 24 safe walking down those hallways. You'll have a line of
 25 kids coming through there and I really honestly can say

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1 I get very nervous and very uneasy. And I had never
 2 felt that before.
 3 Q. (BY MR. SCHOPPE) Is it fair to say when you
 4 started working at the Department you understood that it
 5 may be a more risky place than most places?
 6 A. Yes.
 7 Q. Because you are dealing with juveniles?
 8 A. Yes. And my husband even had concerns with me
 9 going to work there. And when I went over there and I
 10 was around it and saw how it was running I said you have
 11 no worries. I'm totally safe in here. And then it just
 12 progressively has gotten looser and looser. Right now I
 13 don't trust it. I'm afraid a juvenile or staff is going
 14 to get hurt.
 15 Q. Have you ever noticed any issue with missing
 16 juvenile records?
 17 A. Yes.
 18 Q. What do you know about that?
 19 A. I know several times I have had questions
 20 about juvenile records. A mother had called me. Her
 21 son had committed suicide. And he had been out of the
 22 Department for a couple years. And so she called me.
 23 She was very upset. And she said he had been in our
 24 Choices program. So that is why she called me. And she
 25 said, "You know, he has been out of there, but I have

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1 had to put my house up for mortgage to pay for his
 2 funeral." She says, "I can get the insurance company to
 3 pay for that if I can prove that he was on medication
 4 and that he was, you know, diagnosed in there. And that
 5 he was schizophrenic," I believe. So she says, "I need
 6 those records to give to the insurance company." So at
 7 the time I was doing presentence investigation still.
 8 And I thought well, I don't know about this. So I
 9 called Nancy Bishop in legal. And that was my first
 10 go-to was to legal to find out what I could do with
 11 that. And I told Nancy the story she had told me --
 12 MR. COLLAER: I'm going to impose an
 13 objection. Any discussions you had with legal regarding
 14 legal matters and legal advice I'm going to instruct you
 15 not to answer.
 16 THE WITNESS: Well, she didn't really -- all
 17 she did was -- I sent the file over to her. Is that
 18 okay?
 19 MR. COLLAER: That's fine.
 20 THE WITNESS: She didn't comment on it at all.
 21 That is what I'm trying to say here. From that point on
 22 I never saw the file again. It never came back. And I
 23 have not a clue what went on there.
 24 Q. (BY MR. SCHOPPE) Was that unusual for the
 25 file to not come back or not be there?

1 A. Yes. Because it was a closed file. There was
2 no reason why it shouldn't come back. And there wasn't
3 a deal where she was doing an impending lawsuit against
4 the Department. It was just that she needed some
5 records and he was gone and she was in money trouble.

6 Q. Do you know if she ever got those records?

7 A. I haven't a clue. They haven't spoke to me
8 about it. "Just send the file." So I did.

9 Q. Was that [REDACTED]? The juvenile?

10 A. No.

11 Q. Who was that?

12 A. [REDACTED].

13 Q. With respect to the presentence
14 investigations. What was it that you did when you had
15 that task as part of your job duties?

16 A. Usually the presentence investigators would
17 send me a -- usually it was by fax. Fax me that they
18 needed the records. And also designated what they
19 needed out of the files. A juvenile was either
20 recommitted or was rearrested as an adult. Usually it
21 was the adult courts. So I would pull that file and
22 pull whatever they needed and send that to them.
23 Sometimes it was almost the whole file.

24 Q. And at some point that task was transferred to
25 someone else; is that right?

1 Q. Did anyone tell you that you could request
2 reclassification of your position?

3 A. No. I did ask Shelly about that, though.

4 Q. Shelli who?

5 A. Rael from HR. I asked her why my position and
6 Chita's position wasn't reclassified or assessed to be
7 reclassified. And she said, "Well, we just do them
8 occasionally at random," I believe she said. And I
9 says, "Well, I have been here five years and I haven't
10 ever had a reclassification in this Department."

11 Q. Earlier you testified that you were under the
12 impression you could be fired at any time. Are you in
13 fact aware that there is a progressive discipline system
14 at the Department?

15 A. Yes.

16 Q. And do you know what that consists of,
17 generally speaking?

18 A. Well, a write-up or verbal. I don't know what
19 else.

20 Q. You understand there is a system in place,
21 though?

22 A. Yes.

23 Q. With respect to the software program and the
24 software training that you testified about earlier. Is
25 it fair to say that you wanted that kind of training?

1 A. Yes.

2 Q. Who was that?

3 A. Bobbi Rogers.

4 Q. And is it correct that you testified earlier
5 that you were told that her position was reclassified?

6 A. Yes. And it was really strange that that job
7 was taken away from me right after that deal with the
8 [REDACTED] file. It was like I was asking too many
9 questions. It is just the timing on it that wasn't
10 correct. I never had any issue before.

11 Q. And were you told that her position was
12 reclassified with a pay raise because of her new duties?

13 A. I asked why that was reclassified. And Estela
14 Cabrera told me that since she is taking care of the
15 presentence investigations for the State of Idaho now,
16 that is one of the reasons that she was reclassified and
17 got the raise. And I said, "Well, I did it for three
18 years and wasn't reclassified." She said, "Well, we
19 just did it."

20 Q. Have you ever seen positions reclassified in
21 administration the whole time you had worked there
22 previously?

23 A. In admin area?

24 Q. Sure.

25 A. No, never.

1 A. Yes.

2 Q. To do a better job?

3 A. Oh, yes. I asked for it.

4 Q. And at that point in time your plan was to
5 continue to work at the Department indefinitely? You
6 had no specific plan to leave or retire?

7 A. No.

8 Q. Who did you ask for the training?

9 A. Estela. I have asked Estela over and over for
10 training. That I needed training.

11 Q. And what was the typical response?

12 A. Well, on those evaluations she put that I
13 didn't accomplish this and that. I failed to schedule a
14 class. I was never offered a class. So I don't know
15 what she meant about me scheduling a class. Because I
16 never saw anything that I could schedule it through.
17 And then this last year when I got the Excel class she
18 gave me a brochure for me to call and schedule a class.
19 And I had never done that before. Never seen that
20 before.

21 Q. And other people in the office had gotten
22 trainings regularly?

23 A. Yes.

24 Q. When you say regularly. Is that every year?
25 Or what?

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1 A. I didn't ever keep track of that. Somebody is
 2 always going for training somewhere. There is regular
 3 trainings in there.
 4 Q. But not for you?
 5 A. No.
 6 Q. Is there still any kind of a problem -- and
 7 understanding you left a few months ago from the
 8 Department. Is there still any problem with people
 9 coming in late or leaving early or not seeming to work
 10 the number of hours they are supposed to work?
 11 A. I have been out for FMLA. But up until I
 12 left, yeah, they just come and go when they please. You
 13 never know if Bobbi, Estela, Maria -- you never know if
 14 they are going to be there or not. They may be there at
 15 9:00. They may be there at 10:00. And you are never
 16 told.
 17 Q. Are you aware of any kind of a flex time
 18 arrangement for any of them?
 19 A. I'm not told.
 20 Q. And what are the business hours of
 21 administrative office?
 22 A. 8:00 to 5:00.
 23 Q. That is pretty standard Monday through Friday?
 24 A. I work 7:30 to 4:00. And Maria is supposed to
 25 work 8:30 to 5:00. They have hours that are adjusted.

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1 Bobbi Rogers has changed her hours to 6:00 in the
 2 morning until 2:00, 3:00 in the afternoon. Something
 3 like that.
 4 Q. Is there any kind of work from home program
 5 for anybody in the office?
 6 A. I don't know. I really don't know. They
 7 don't tell me. They don't talk to me.
 8 Q. Nobody told you that you could work from home?
 9 A. No.
 10 Q. Are these the sorts of jobs that can be done
 11 from home? Or shouldn't be done from home?
 12 MR. COLLAER: Objection. Lacks foundation.
 13 Calls for speculation.
 14 THE WITNESS: No, you wouldn't want to do them
 15 from home. The only person I know that worked from home
 16 was Debbie Siegel. And she was in education. And she
 17 would go home a lot. But I was told she was working
 18 from home.
 19 MR. SCHOPPE: I don't have anything else.
 20
 21 FURTHER EXAMINATION
 22 QUESTIONS BY MR. COLLAER:
 23 Q. Ms. McKinney, you were asked to speak with Pat
 24 Thomson and Estela Cabrera about the mail tampering
 25 complaint. Do you remember that?

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1 A. They asked me to go in the office.
 2 Q. Yeah. And they told you they had a complaint
 3 that somebody said that they felt you were doing
 4 something like that?
 5 A. Yes.
 6 Q. Did any discipline come to you as a result of
 7 any of that?
 8 A. No.
 9 MR. COLLAER: Nothing further.
 10 MR. SCHOPPE: We are done. Thank you.
 11 (Deposition concluded at 2:51 p.m.)
 12 (Signature requested.)
 13
 14
 15
 16
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 22
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 24
 25

Page 173

1 CERTIFICATE OF WITNESS
 2 I, JO MCKINNEY, being first duly sworn, depose
 3 and say:
 4 That I am the witness named in the foregoing
 5 deposition consisting of pages 1 through 172; that I
 6 have read said deposition and know the contents thereof;
 7 that the questions contained therein were propounded to
 8 me; and that the answers contained therein are true and
 9 correct, except for any changes that I may have listed
 10 on the Change Sheet attached hereto:
 11 DATED this ____ day of _____, 2013.
 12
 13 _____
 14 JO MCKINNEY
 15
 16 SUBSCRIBED AND SWORN to before me this ____ day
 17 of _____, 2013.
 18
 19 _____
 20 NAME OF NOTARY PUBLIC
 21
 22 NOTARY PUBLIC FOR _____
 23 RESIDING AT _____
 24 MY COMMISSION EXPIRES _____
 25

1 ERRATA SHEET FOR JO MCKINNEY
 2 Page ___ Line ___ Reason for Change _____
 Reads _____
 3 Should Read _____
 4
 Page ___ Line ___ Reason for Change _____
 5 Reads _____
 Should Read _____
 6
 Page ___ Line ___ Reason for Change _____
 7 Reads _____
 8 Should Read _____
 9
 Page ___ Line ___ Reason for Change _____
 10 Reads _____
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 Page ___ Line ___ Reason for Change _____
 12 Reads _____
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 17 Reads _____
 18 Should Read _____
 19
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 20 Reads _____
 Should Read _____
 21
 Page ___ Line ___ Reason for Change _____
 22 Reads _____
 23 Should Read _____
 24 You may use another sheet if you need more room.
 25 WITNESS SIGNATURE _____

1 REPORTER'S CERTIFICATE
 2 I, MONICA M. ARCHULETA, CSR No. 471, Certified
 3 Shorthand Reporter, certify:
 4 That the foregoing proceedings were taken
 5 before me at the time and place therein set forth, at
 6 which time the witness was put under oath by me;
 7 That the testimony and all objections made were
 8 recorded stenographically by me and transcribed by me or
 9 under my direction;
 10 That the foregoing is a true and correct record
 11 of all testimony given, to the best of my ability;
 12 I further certify that I am not a relative or
 13 employee of any attorney or party, nor am I financially
 14 interested in the action.
 15 IN WITNESS WHEREOF, I set my hand and seal this
 16 24th day of October, 2013.
 17
 18
 19
 20 _____
 21 MONICA M. ARCHULETA, CSR
 22 Notary Public
 23 P.O. Box 2636
 24 Boise, Idaho 83701-2636
 25 My commission expires August 3, 2018

EXHIBIT K

EXHIBIT K

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RHONDA LEDFORD, an individual; RAYMON)
GREGSTON, an individual; JO MCKINNEY,)
an individual; SHANE PENROD, an)
individual; KIM MCCORMICK, an)
individual; BOB ROBINSON, an)
individual; and GRACIE REYNA, an)
individual,)

Plaintiffs,)

vs.)

IDAHO DEPARTMENT OF JUVENILE)
CORRECTIONS, an executive department)
of the State of Idaho; IDJC DIRECTOR)
SHARON HARRIGFELD, in her individual)
and official capacities; IDJC)
JUVENILE CORRECTIONS CENTER - NAMPA)
SUPERINTENDENT BETTY GRIMM, in her)
individual and official capacities;)
and DOES 1-20,)

Defendants.)

Case No.

1:12-cv-00326-BLW

DEPOSITION OF TOM KNOFF

OCTOBER 10, 2013

REPORTED BY:

BEVERLY A. BENJAMIN, CSR No. 710, RPR

Notary Public

Page 2

1 THE DEPOSITION OF TOM KNOFF was taken on
 2 behalf of the Plaintiffs, at Anderson, Julian & Hull,
 3 250 South Fifth Street, Suite 700, Boise, Idaho,
 4 commencing at 9:17 a.m. on October 10, 2013, before
 5 Beverly A. Benjamin, Certified Shorthand Reporter and
 6 Notary Public within and for the State of Idaho, in the
 7 above-entitled matter.
 8
 9 APPEARANCES:
 10 For the Plaintiffs:
 11 Law Office of Andrew T. Schoppe, PLLC
 12 BY MR. ANDREW T. SCHOPPE
 13 910 W. Main Street, Suite 358
 14 Boise, Idaho 83702-5796
 15
 16 For the Defendants Idaho Department of Juvenile
 17 Corrections, Sharon Harrigfeld, and Betty Grimm:
 18 Anderson, Julian & Hull, LLP
 19 BY MR. PHILLIP J. COLLAER
 20 C. W. Plaza
 21 250 South 5th Street, Suite 700
 22 P.O. Box 7426
 23 Boise, Idaho 83707-7426
 24
 25 Also Present: Nancy Bishop, Lisa Littlefield

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23
 24
 25

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1 TOM KNOFF,
 2 first duly sworn to tell the truth relating to said
 3 cause, testified as follows:
 4
 5 EXAMINATION
 6 QUESTIONS BY MR. SCHOPPE:
 7 Q. Good morning.
 8 A. Good morning.
 9 Q. Thank you for coming here today.
 10 A preliminary question, have you ever had your
 11 deposition taken before?
 12 A. No.
 13 Q. Have you ever testified in court?
 14 A. No.
 15 Q. Generally speaking, you have an obligation to
 16 tell the truth. In doing that, you can tell me
 17 everything you know about a subject, everything you've
 18 seen or heard or otherwise perceived. If it's something
 19 you heard about from someone, go ahead and tell me who
 20 that was, circumstances, things like that. I'm just
 21 looking for information.
 22 In responding to questions, be sure to give an
 23 audible "yes" or "no" or other answer, because things
 24 like the "um-hmm" or nods aren't picked up by the
 25 transcript. And if you need a break at any time, by all

Page 5

1 means, just say so and we'll take a break. If you have
 2 any questions or if any question is not clear to you, by
 3 all means, ask me to clarify or restate it, rephrase it,
 4 whatever helps you.
 5 Let's start with a little bit about your
 6 background. Are you from Idaho?
 7 A. Yes, I am. I was born and raised in
 8 Pocatello, Pocatello High School. Great family,
 9 wonderful parents, small business owners, two older
 10 brothers, two sisters. Graduated from Pokey
 11 High School, went to Boise State. I was on the last
 12 Division 1 baseball team that they had. Graduated from
 13 Boise State in 1983.
 14 I was a salesman for many years, and then got
 15 into -- well, I graduated in criminal justice
 16 administration, an emphasis on counseling. I started
 17 work with the Department of Juvenile Corrections in 1996
 18 over in St. Anthony in the O&A, observation and
 19 assessment unit under Skip Greene, who is now the
 20 superintendent there, who was my supervisor. And worked
 21 there until observation and assessment, O&A, was moved
 22 to Nampa in 1998.
 23 Then I came over with Larry Callicutt, who was
 24 the unit manager at that time. Brent Reinke was the
 25 director. And I was part of the team that opened O&A in

1 Nampa.
 2 Q. Was that when that facility was built?
 3 A. Correct.
 4 Q. Do you hold any certificates or credentials?
 5 A. I'm a POST certified instructor in juvenile
 6 supervision and safety and security in juvenile
 7 corrections. And I was the defensive driving instructor
 8 for 12 years for the Department.
 9 Q. What are all the positions that you've held
 10 with the Department?
 11 A. A rehabilitation technician.
 12 Q. When was that?
 13 A. Well, when I first started they were called
 14 therapy technicians, and then same position, they just
 15 renamed it to rehabilitation technician, and that was
 16 from '96 to 2002. I then became the rehabilitation
 17 technician supervisor. And I cannot remember the exact
 18 year, but I was promoted to unit manager. And then I
 19 believe it was in 2009 I was demoted back to rehab tech
 20 supervisor. I was the unit manager probably for, I
 21 think it was about a year.
 22 Q. What year did you say that was, that you were
 23 promoted?
 24 A. It was 2009.
 25 Q. Who promoted you to that position?

1 room time and lockdown issues of kids and that I was
 2 violating juvenile rights.
 3 Q. Who told you that?
 4 A. Betty Grimm and Julie Cloud.
 5 Q. What is it that you mean by room time and
 6 violations of rights?
 7 A. When juveniles act out, get in trouble and
 8 they have to be put in their room, have to be separated
 9 for safety and security reasons, there is a certain time
 10 limit, depending on the offense, that the kids have to
 11 stay in their room. It was in our handbook, it was in
 12 policy and procedures. And according to Betty and human
 13 resources I was violating their rights by keeping the
 14 kids in their rooms longer than was necessary, according
 15 to them.
 16 Q. Was this May or June of 2012?
 17 A. Correct.
 18 Q. When you say you, are you talking about you
 19 personally or you as the supervisor of O&A?
 20 A. As the supervisor of O&A.
 21 Q. Were you doing anything differently than you
 22 had been for all the years previously?
 23 A. Yes. For at least ten years we had, I can't
 24 say the exact same policy and procedures. However,
 25 Brent Reinke, the previous director, Larry Callicutt,

1 A. Betty Grimm.
 2 Q. Who was the director at that time?
 3 A. It was Larry Callicutt.
 4 Q. Then 2010 was the demotion?
 5 A. I believe it was December of 2009.
 6 Q. And then you said that was -- was that lead
 7 rehab tech?
 8 A. Supervisor.
 9 Q. Supervisor. And then from that point forward
 10 you worked as supervisor until the time you left?
 11 A. Correct.
 12 Q. Why did you leave?
 13 A. I was fired.
 14 Q. Was that in 2012?
 15 A. Yes. June, I think, of 2012.
 16 Q. And at the time you were fired you were still
 17 the rehab tech supervisor?
 18 A. Correct.
 19 Q. That was in the O&A unit?
 20 A. Correct.
 21 Q. And do you know who filled that position after
 22 you left?
 23 A. I believe her name is Laura Roters.
 24 Q. Do you know why you were fired?
 25 A. Well, what I was told was that we were having

1 the next director, had built O&A from the ground up. We
 2 had developed the policies and procedures over a long
 3 period of time. I'm talking about ten years or so. And
 4 had obviously tweaked them as we got different kids, as
 5 things changed.
 6 But we did extensive research, not only in
 7 Idaho, but around the country on how to do the
 8 observation and assessment unit, how to take care of the
 9 kids, make sure their civil rights were not violated,
 10 making sure they got to school, making sure their
 11 medical needs were met, their mental health needs and
 12 counseling needs were met. And so we were well
 13 established for ten years. Like I said, we were
 14 tweaking it to make it better in those years, but
 15 essentially it was the same.
 16 When Director Callicutt retired and Director
 17 Harrigfeld took over, those policies, procedures,
 18 et cetera, changed dramatically.
 19 Q. How so?
 20 A. And not in writing, they changed in
 21 philosophy. Director Harrigfeld wanted the kids to be
 22 in their rooms less, in fact, to the point of no matter
 23 what kind of violent actions the kids took, they were to
 24 be out of their rooms as soon as the kids were calmed
 25 down. They had to write an apology letter or we had a

1 form that they had to fill out discussing their actions.
2 And then as soon as that was done and they were calmed
3 down, then we were to let them out.

4 Previous to that, for ten years, like I said,
5 we followed policy, procedure, national juvenile justice
6 criteria. Kids, when they assaulted another juvenile,
7 they were in what we called the special management area
8 for 72 hours. And this special management area was
9 commonly called a fishbowl. It was a small -- well,
10 probably maybe a 25 foot by 8 foot glass-enclosed area
11 where the kids had a desk and a chair, and they could do
12 their schoolwork, and they were observed by any staff
13 walking down the hallway. They were observed more then,
14 or just as much then as they would be in school. The
15 only separation was they were separated from the other
16 kids for safety and security reasons. They still had
17 school, medical, mental health counseling, access to
18 everything civil rights said they had to be.

19 Q. When you say "civil rights," what are you
20 referring to?

21 A. Like maybe a clergy and their medical needs,
22 education.

23 Q. In terms of guidelines and laws and standards
24 that you are looking at and talking about, those include
25 like PREA, CRIPA?

1 Brent Reinke and Larry Callicutt?

2 A. Yes, and staff and management of JCC Nampa.

3 Q. And in the research that you did, you said you
4 did nationwide research, what were you looking at?

5 A. To make sure -- well, in CRIPA, when Larry
6 Callicutt was the director and CRIPA was becoming an
7 issue, at least for our department, he had me research
8 five cases in five different states where the Justice
9 Department went into the facilities. One was in
10 Tennessee, I remember, and one was in Texas, and I
11 believe one was in Iowa.

12 But anyway, he wanted me to research those
13 cases to make sure that we were in compliance with the
14 juvenile justice laws and regulations so we didn't make
15 the same mistake they did.

16 Q. When you say that CRIPA was becoming an issue,
17 what do you mean by that?

18 A. I believe as director, Mr. Callicutt was privy
19 to the Justice Department and what was going on in other
20 juvenile facilities around the country. And he had
21 heard that the CRIPA Justice Department folks had gone
22 into facilities who had had multiple suicides or suicide
23 attempts or serious safety and security issues and had
24 gone in and literally taken the facilities over. So he
25 wanted to make sure we were in compliance and that we

1 A. Absolutely.

2 Q. What were the national juvenile justice
3 criteria that you mentioned?

4 A. That they were not to separate or segregate a
5 child for more than 72 hours, unless it was -- I mean,
6 unless the safety of the child or the other kids he was
7 around or the staff was in imminent danger. But if
8 everything was okay, then they were to be out before 72
9 hours, or no later than.

10 Q. So in sending juveniles into the fishbowl for
11 that period of time, is it fair to say that disciplinary
12 reasons are coupled with security concerns and safety
13 concerns for other juveniles?

14 A. Absolutely, yes. And the criteria for
15 behavior and ending up segregated was written down in
16 our owner's manual. It was written down in the juvenile
17 manual that each juvenile had to read and sign when they
18 came into O&A. So they understood perfectly well what
19 the criteria was. If they assaulted another juvenile,
20 then that was the consequence.

21 Q. When you say "owner's manual," what do you
22 mean by that?

23 A. In the O&A manual, which was kind of the
24 procedures and protocols of the unit.

25 Q. And that was something you developed with

1 weren't raising the issues that those other facilities
2 had raised in neglecting kids and violating civil rights
3 of the juveniles.

4 Q. As an employee did you ever receive training
5 in CRIPA or PREA?

6 A. No. Well, we went to a meeting where it was
7 discussed and what could happen, but it was a general
8 overview. I had more because I read the cases, and they
9 were extensive, I did not read all of it. I was picking
10 out pieces to what Mr. Callicutt had pointed out to me
11 to make sure I understood the seriousness of the Justice
12 Department and how serious they were about making sure
13 that juveniles were taken care of.

14 Q. Were there any other sources of law or policy
15 that you referred to in developing or running O&A, like
16 IDAPA or anything like that?

17 A. We, of course, had to follow the IDAPA rules.
18 However, there were only -- and I can't remember what
19 numbers they are. There are a few that are specific to
20 O&A and juvenile rights. But if anything came about
21 that I needed to know about, then usually our attorney
22 general's folks would notify our superintendent, and it
23 would come down to us, to make sure we are paying
24 attention to a certain rule or law, and they would make
25 us aware of that. But as far as following it day by

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1 day, I think we followed it unknowingly.
 2 Q. Do you know if the IDAPA standards that are
 3 applicable to detention centers also apply to juvenile
 4 corrections?
 5 A. Yes, I do. Yes.
 6 Q. And is that saying that they do apply?
 7 A. They do apply.
 8 Q. How is it that they apply? Is it that the
 9 director says they apply or that's inherent in the
 10 Juvenile Corrections Act?
 11 MR. COLLAER: Objection; calls for a legal
 12 conclusion. But you can go ahead.
 13 THE WITNESS: It was my belief and my
 14 understanding through meetings with superintendents and
 15 other management that -- it was implied and that is what
 16 we were to follow. Lockdown facilities were kind of
 17 grouped all together. We weren't a community-based
 18 facility; we were a lockdown facility. And granted, we
 19 had programs and we did things differently than a
 20 detention center, but it was a secured facility, so that
 21 is how we were the same.
 22 Q. (BY MR. SCHOPPE) And that made sense to you?
 23 A. Yes.
 24 Q. What is the function of the observation and
 25 assessment unit?

Page 15

1 A. O&A was different in that we were close to a
 2 detention center, but yet we were preparing the
 3 juveniles for program. So we were called many times a
 4 quasi detention center, like I said, preparing kids for
 5 program. We introduced the juveniles to like
 6 therapeutic community, or to whatever program they were
 7 running in St. Anthony, Lewiston, or up the hallway in
 8 Choices or Solutions.
 9 And when we found out from the clinicians who
 10 were doing the assessments, the behavior assessments on
 11 the kids, what program they were probably going to go
 12 to, then we would furnish the juveniles with handbooks
 13 from those other facilities and programs and prepare
 14 them for like an orientation to that program.
 15 The kids went to school, just like any of the
 16 other programs, all day, and it was 12 months a year.
 17 They followed pretty close to the regular school year of
 18 any public school. We had two and a half teachers, we
 19 had a teacher assistant. But the kids were in school.
 20 We had kids ranging from 12 to 20, with every
 21 mental health problem, every criminal background, and we
 22 had to keep them confined in a small area. And we had
 23 three different rooms, what we called dayroom areas,
 24 which housed eight single cells in each dayroom. And we
 25 would try to keep the very kids away from the

Page 16

1 older kids, like the older gang kids. We had sex
 2 offenders, and it was -- but that wasn't how we were
 3 unique. No other program, nobody else in the state, in
 4 fact, the region, the Northwest, does it exactly like
 5 JCC Nampa had done.
 6 And the reason I know that is because I was on
 7 the team that went to Colorado and Oregon to research
 8 the Solutions co-occurring unit. And when we were in
 9 those two states, we inquired about how they do
 10 observation and assessment.
 11 Q. Who was on that team with you?
 12 A. Well, it would have been, I think Betty Grimm
 13 would have been on that. I'm not sure. I think it was
 14 Betty Grimm. We had clinicians, people who were going
 15 to set up the brand new unit, and it was the Solutions
 16 co-occurring unit, so we were trying to find out who did
 17 co-occurring units and see how they did it, how they
 18 started it.
 19 Q. When you say "co-occurring unit" --
 20 A. Kids who have mental health, diagnosed mental
 21 health issues and use drugs and alcohol to mask those
 22 issues, so they have the co-problem.
 23 Q. One other instruction I should have given you
 24 upfront is, be sure you wait until I'm done asking the
 25 question. That is for her benefit.

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1 So mental health issues and drug use.
 2 A. Yes.
 3 Q. And a Solutions unit was established at JCC
 4 Nampa?
 5 A. Eventually, yes.
 6 Q. When was that?
 7 A. I don't remember exactly. I want to say 2008.
 8 I'm not exactly sure.
 9 Q. That's all right. If it pops into your head
 10 later, feel free to say so.
 11 What is the intake process like with juveniles
 12 from the point they are convicted; what happens next?
 13 A. When the judge in the county commits a
 14 juvenile to the State, then the Department has five days
 15 in which to transport that juvenile to the O&A unit. So
 16 we would arrange transportation with the county juvenile
 17 detention center. And when the kids are brought to our
 18 intake area, it's like any intake in any detention
 19 center, jail, they are given new clothes, they are given
 20 hygiene, given a handbook on observation and assessment,
 21 and then given a room based on age and criminal
 22 background. Because, like I said, we had three
 23 different small dayroom areas and we would separate the
 24 kids.
 25 Say, for instance, we had a 12-year-old that

1 was committed to the State, we would put them in a
2 specific area with the other juveniles or
3 females. And if it was an older, maybe a gang kid or a
4 16, 17, 18 year old, we would keep them, try and keep
5 them all together also.

6 But then the O&A process would take usually
7 about three weeks to a month to get the assessments, to
8 get the placements determined and to transport the kids,
9 like I said, whether it's up the hallway or across the
10 state, wherever they were going to go.

11 Q. What are the other units that are at JCC
12 Nampa?

13 A. The Choices, it's called the therapeutic
14 community, it's drug and alcohol, 36 bed drug and
15 alcohol program for boys. Then the Solutions
16 co-occurring unit, which was co-ed.

17 Q. Was there anything there before Solutions,
18 another unit besides Choices?

19 A. No.

20 Q. At the time you left the Department, can you
21 tell me who was on the staff of O&A? It's probably a
22 list of people, but to the best of your ability.

23 A. Lisa Littlefield -- well, there was 14 -- Ebe
24 Amaechi, Dave Clason, Todd Inman, Phillip Gregston,
25 Gracie Reyna, Diana Carnell, Addison Fordham. Who am I

1 Superintendent Grimm called me on the phone
2 extremely upset that this man was still in special
3 management after calming down and ready to come out. I
4 asked her, I said, But we've been doing it this way for
5 more than ten years. It's our policy and practice and
6 protocol we have been following for years. Why is it
7 different now? And she goes, Get him out. And she hung
8 up. That was the start of it. And if I can remember
9 the man's name today, I'll let you know.

10 Q. Okay. Did you ever find out how it was she
11 learned of this situation or why it was she thought he
12 should come out when he calmed down?

13 MR. COLLAER: Objection; calls for
14 speculation.

15 THE WITNESS: As I found out later, it was
16 Director Harrigfeld's new philosophy and practice, that
17 that is what we were going to start doing. I wasn't
18 informed of it prior to that.

19 Q. (BY MR. SCHOPPE) What was that philosophy?

20 A. As soon as the juvenile was put in
21 segregation, as soon as they were calmed down and
22 apologized or were ready to come out, they were to come
23 out and to rejoin their group.

24 Q. And from a safety and security standpoint what
25 was wrong with that?

1 forgetting? I'm sure I'll come up with the rest of
2 them.

3 Q. Sure. It's not a test. If it pops in your
4 head later.

5 When was it that you were first told that
6 there was a potential civil rights violation issue with
7 the way that juveniles were locked down?

8 A. We had a juvenile who had assaulted another
9 juvenile, it was at breakfast, and he was put in the
10 special management area. I believe, and I'm not
11 positive about this, I believe it was 2011. He was put
12 in special management for the 72 hours. He was a model
13 juvenile when he was in the special management unit. He
14 apologized right away, and generally he was a good kid.
15 He did everything he was asked to do, did it with a
16 smile on his face and very polite to staff and
17 everybody.

18 However, he understood, as well as everyone
19 else, you assault -- you punch another kid, and it was
20 serious, he understood the consequences. He had been in
21 his room, in the special management area
22 approximately -- well, it was more than 48 hours. It
23 was the afternoon on the second day, he was going to
24 come out, he was scheduled to come out for breakfast on
25 the following day.

1 MR. COLLAER: Objection; calls for
2 speculation, incomplete hypothetical.

3 THE WITNESS: The result in detail was the
4 incident reports for violence escalated dramatically
5 from that point on. The violent juveniles figured out
6 quickly that they could get in a fight and within a
7 matter of a couple hours would be back out with the
8 group they had just disrupted.

9 Q. (BY MR. SCHOPPE) Did any staff or juvenile
10 express concerns about their safety under that approach?

11 A. Literally all of them, all 14.

12 Q. What sorts of things did they say?

13 A. Soon after the new practice was implemented or
14 beginning to be implemented, we had, in O&A alone we had
15 three, possibly four staff injured, and seriously
16 injured, requiring surgery.

17 Q. Who were they?

18 A. Dave Clason, Todd Inman, Phillip Gregston,
19 those are the three that come to the top. I'm sure
20 there was another one. Anyway, which created a staff
21 issue, staff shortage issue because they couldn't work
22 with juveniles directly, they had to work in the control
23 booth. And we had arranged for injured or sick staff,
24 that that's where they could work so they wouldn't be
25 completely out of work. But now all of a sudden we had

1 way too many people working in the control booth and we
2 ended up having to send people home.

3 Q. Did that cause a security problem, as far as
4 you were concerned?

5 A. Yes, because with three significantly
6 experienced staff that went down almost simultaneously,
7 I had to change shifts for people, because working
8 mornings or the swing shift on certain days, the way the
9 shifts were working, they had to be covered, we had to
10 have an 8 to 1 ratio for kids. So when you go from 14
11 to 11 staff and still dealing with vacations and sick
12 leave and that kind of thing, it created a significant
13 issue.

14 Q. Where does that ratio come from?

15 A. It's national criteria, national juvenile
16 justice. That's the minimum. Many detention centers
17 and other facilities that aren't quite like O&A have a
18 12 to 1 ratio, 12 juveniles to 1. But we wanted to keep
19 it as 8 to 1. In fact, we weren't really comfortable
20 with that; we wished we would have 6 to 1.

21 Q. Do you know if there is also a PREA-prescribed
22 ratio for staff and juveniles?

23 A. According to Director Callicutt at the time,
24 when PREA was first introduced to us, 8 to 1 covered all
25 criteria, whether it was -- that was the safe limit.

1 MR. COLLAER: Objection; calls for a legal
2 conclusion.

3 THE WITNESS: Absolutely.

4 Q. (BY MR. SCHOPPE) Was CRIPA a source of your
5 concern about that?

6 MR. COLLAER: Same objection.

7 THE WITNESS: Not in my first thought, I
8 wasn't thinking CRIPA. I was thinking strictly the
9 safety and security of the kids and the staff.

10 Q. (BY MR. SCHOPPE) Do you know if -- well, did
11 you report concerns about increased lack of safety and
12 security due to that change in policy to anyone at all?

13 A. To my supervisor Betty Grimm.

14 Q. How and when did you do that?

15 A. At the beginning I did it daily. I had a
16 weekly arranged meeting with her, I believe it was on
17 Tuesdays. I would bring it up at a minimum every week,
18 but when it was at its most serious stage, it was daily.

19 Q. Were your O&A staff reporting the same kind of
20 concerns to you?

21 A. Yes.

22 Q. Same basis, daily?

23 A. Yes. And more specifically, because they were
24 working directly with the specific juveniles who were
25 either the victim or the aggressor. In the dayrooms,

1 Q. Stepping back to the philosophical change in
2 how juveniles are cycled through discipline after an
3 assault, did any other juveniles, like the victims of
4 those assaults, express concern that their aggressor or
5 attacker was released too soon?

6 A. Absolutely, 100 percent of the time. Because
7 the kids who were doing the assaulting at the time -- we
8 had a difficult group, as O&A, just the life of an
9 observation and assessment unit is changing constantly.
10 Juveniles would get committed on the front door, then
11 the back door the juveniles were going to programming,
12 so it was constantly changing.

13 So we would have to either -- at times we
14 would have to stage kids at detention centers. We would
15 have to attach kids that we knew were, say, for
16 instance, going to the Choices program, we would attach
17 them during the day to a Choices group. And they would
18 go to school and program with the Choices kids and sleep
19 in O&A, but they would go up and kind of live their life
20 up in another unit away from the aggressor. We had to
21 get rather creative on how we were going to protect the
22 kids.

23 Q. Sure. As far as you are concerned, was there
24 a civil rights concern with respect to protecting the
25 civil rights of the victims?

1 our dayrooms were only eight kids and they were small
2 areas. So if you had one or two aggressors, it affected
3 all eight, because they knew if they were going to
4 school and they were walking down a hallway, anything
5 could happen. So the tension and anxiety in the
6 dayrooms had never been that high.

7 Q. What is the time frame that you are talking
8 about here?

9 A. Well, from the beginning of the -- right after
10 when I was told to get that one juvenile out of his
11 room, it was from then on, and it went on until I left.

12 Q. Did you ever relay your concerns about safety
13 to Director Harrigfeld?

14 A. During an all-staff meeting we did. It was a
15 group. In that first meeting there was probably, a
16 rough guess of 50 to 60 staff there. And she had called
17 this meeting with Superintendent Grimm and human
18 resources was there. And it was a -- there was no doubt
19 about the seriousness of how the staff felt about the
20 lack of safety and security that had happened.

21 Q. And as far as you know, did other staff
22 outside of O&A express those same concerns?

23 A. Absolutely, yes.

24 Q. Do you know who?

25 A. Well, Jeff Underhill was one. Towards the end

1 Lamark Judkins, he was the PbS coordinator at that time
2 when I left. Sarah Cerda -- there was numerous staff
3 who had to come, had to assist O&A when there was a
4 restraint. Because O&A was the safest unit in the
5 building for many years, and it turned around to be the
6 most dangerous in a very short order. So the staff who
7 had to come down and assist voiced their concerns.

8 Q. Were those safety and security officers?

9 A. No, rehab techs.

10 Q. From other units?

11 A. Yes.

12 Q. Apart from the staff you just listed, do you
13 happen to recall anybody else?

14 A. I will if we can come back to that.

15 Q. Sure. You can digest that for a little while.

16 Do you know of any safety and security
17 officers who might have expressed those same sort of
18 sentiments?

19 A. Mark Freckleton, Roberto Coronado.

20 Q. Do you know if Rhonda Ledford expressed those
21 kinds of concerns?

22 A. Yes, she did.

23 Q. How about Shane Penrod?

24 A. I don't remember Mr. Penrod voicing concerns
25 in O&A at that particular time.

1 I think it's referred to as the "reentry contract,"
2 waiting until a juvenile calms down, if that is followed
3 in other facilities in the country as a matter of
4 practice?

5 A. In the research I did for Director Harrigfeld
6 it was not. In all of the detention centers, St.
7 Anthony and Lewiston, it was not. St. Anthony is a
8 little different, they have a group process there where
9 it's positive peer culture. So the peers actually do
10 it, and if the peers as a group decide that has
11 calmed down, then they'll allow him back in the group.
12 But it's nothing like O&A. They don't have one.

13 But the detention centers who are a little
14 closer to O&A, no, none of them. In all the detention
15 centers that I researched in the state, 48 hours was the
16 minimum that kids were in their rooms, then they started
17 the contract to get out starting at 48 hours. But the
18 rest were anywhere between 48 and 72, depending on what
19 time of day it happened, if it happened at breakfast or
20 dinner, or whatever. But everybody was pretty close.

21 Q. And with that research, you did that for
22 Director Harrigfeld.

23 A. Yes. Just prior to my exit she had called me
24 down to headquarters and had me get with Monty Prow and
25 Karen Magnelli, who were to assist me in researching the

1 Q. Would Gracie Reyna, Lisa Littlefield, Addison
2 Fordham be included in that group that was expressing
3 concerns?

4 A. Correct, yes.

5 Q. And with respect to the all-staff meeting you
6 were talking about, was that one that occurred in
7 November of 2011, as far as you recall?

8 A. As far as I recall, yes. We had two, but the
9 first one was the most vocal.

10 Q. Was that a different one than what you were
11 just talking about?

12 A. No. I believe that was the one, yes.

13 Q. How were those concerns met by the director or
14 by Superintendent Grimm?

15 A. The director voiced that we could meet with
16 her individually, and I know some staff did meet with
17 her individually. As far as any changes in her
18 philosophy or new practice, there was none.

19 And Superintendent Grimm, she said we were to
20 follow that new philosophy, and that was that.

21 Q. Do you know if that philosophy was rooted in
22 something like performance-based standards or some other
23 kind of standard?

24 A. No, it was not.

25 Q. Do you know if the same kind of process with,

1 detention centers, like I mentioned, and regional
2 facilities to find out how they do room time,
3 segregation issues, and how they deal with acting out
4 juveniles, assaults and serious crimes of juveniles in
5 the facility.

6 And I went down on a Wednesday, I got with
7 Monty, we got started, and on Friday afternoon of that
8 week my research was done. I submitted it to Director
9 Harrigfeld. She was leaving to go to southeast Idaho.
10 She said, E-mail it to me. I did. I copied Betty Grimm
11 and Monty Prow. And she said, Thank you, I'll read it
12 this weekend and get back to you on Monday. I never
13 heard from her.

14 Q. So that was a written report?

15 A. Yes. Well, electronic, yes.

16 Q. Did it have a title, as far as you can recall?

17 A. I do not recall.

18 Q. You don't have a copy of that?

19 A. No. It was in my -- the hard copy was in my
20 file. The electronic copy was on the computer that I
21 used as supervisor, and I have requested it. The hard
22 copy was in my file, and it was just my working file, my
23 personal working file that I had all the certificates of
24 training, from CPR to first aid, that kind of thing, to
25 appropriate use of force, those kinds of things. And I

1 also had other important documents that I felt like were
 2 important, and I had those in a working file.
 3 And when I was terminated, I had requested --
 4 I believe it was Julie Cloud had me get with someone and
 5 have them clean out my personal items from my office.
 6 Jeff Underhill was another supervisor, and he went down
 7 to do that. And he knew, he was my lead tech for many
 8 years, he knew I had that file, and most everybody does.
 9 And when he got it out of the filing cabinet, Pat
 10 Thomson was there, and Pat said, I'll take that, and
 11 took it out of his hands.
 12 And when I was going through my appeal
 13 process, Assistant Attorney General Emily McMaster, I
 14 asked if she could ask for that file, because I had a
 15 lot of, like my POST certificates, my training and
 16 teacher certifications in it. I had a lot of things in
 17 there. I asked because they were personal to me. I
 18 could use them for maybe a job reference in the future.
 19 And I know she asked, and she was told they couldn't
 20 find it. HR at JCC headquarters said they couldn't find
 21 it.
 22 Q. Is that what she told you?
 23 A. Yes.
 24 Q. Jeff Underhill told you that Pat Thomson took
 25 the file from him?

1 workweeks. So I just happened to look. And over a
 2 period of time, it was almost two years, I had printed
 3 off six signed timesheets by Betty Grimm, and I had
 4 corresponded those timesheets with our daily log from
 5 the control booth who log people in and log them out. I
 6 had six of those log sheets to correspond when Mr.
 7 Rohrbach left.
 8 He would come in at, say, 9:30 and leave at
 9 3:30, but then were eight hours on his timesheet. So I
 10 had that, I didn't know why I was keeping it, but I had
 11 it. It kind of burned me. And so that was in my file.
 12 And so if it's not, if they don't have access to it,
 13 then somebody destroyed those.
 14 Q. Is it fair to say you were concerned that Mr.
 15 Rohrbach was committing timecard fraud?
 16 A. Absolutely. Well, but Superintendent Grimm
 17 was signing them.
 18 Q. Did you discuss that issue with anybody else
 19 at the facility?
 20 A. No. I really couldn't take it to my
 21 supervisor or her supervisor or HR.
 22 Q. Why not?
 23 A. Well, my supervisor was doing it. Her
 24 supervisor was good friends with Dave Rohrbach, which
 25 was Director Harrigfeld. And then human resources was

1 A. Yes. Quote-unquote, Pat said, "I'll take
 2 that."
 3 Q. What else was in the file?
 4 A. In 2009 when I was demoted -- well, previous
 5 to that, when I was unit manger, I was Betty Grimm's --
 6 and I know there are e-mails in the chain someplace
 7 where she called me her "right-hand man." I was her --
 8 we had built a good relationship. She had shared an
 9 office with me down in O&A when the administration area
 10 was under construction, and so she knew how O&A worked.
 11 Like I said, we shared that office. We shared a lot of
 12 time together. I progressed into her right-hand man.
 13 So when she would go on vacation, I was given
 14 access by the controller's office to access people's
 15 timesheets so I could approve them in her absence. And
 16 that was everybody in the building. The only one
 17 timesheet I didn't have access to was Glenda Rohrbach
 18 and Debbie Siegel who were in education, and I think
 19 that was -- I don't know where that was... But
 20 everybody in our facility, I had access to their
 21 timesheets so I could approve them.
 22 When I was demoted, they didn't take me off
 23 that access. I knew from discussions with Dave
 24 Rohrbach, who was the unit manager over Choices and
 25 Solutions, it was known that he was not working 40-hour

1 in with Mr. Rohrbach also.
 2 In my mind at the time, I knew it was wrong, I
 3 didn't like it, but I just wanted a record of it. At
 4 that time I had no idea what I was going to do with it.
 5 Q. Is it fair to say you were concerned you might
 6 suffer retaliation if you reported that to someone?
 7 A. Absolutely, yes.
 8 Q. Why was it that you had that fear?
 9 A. I was concerned for my job for the last year,
 10 prior to that, because I knew I was disagreeing with a
 11 director. Common sense tells me that is not healthy for
 12 keeping your job.
 13 But my focus was the safety and security of
 14 the kids and staff, and hopefully we could get things
 15 worked out. I tried for two years to try to make some
 16 kind of compromise in keeping safety and security and
 17 trying to keep my director happy, and it didn't work
 18 out.
 19 Q. When you said it was known that Dave Rohrbach
 20 was not working all the hours he was reporting, who else
 21 knew that or thought that?
 22 MR. COLLAER: Objection; calls for
 23 speculation.
 24 THE WITNESS: In morning meetings, I can't
 25 remember if they were called management or leadership

1 meetings, maybe just JCC Nampa. We would have a morning
2 meeting around 9:30. Mr. Rohrbach would come in around
3 10:00, and say, Sorry for being late, I'll leave early
4 to make up for it. And then chuckle, he was a very
5 boisterous guy. But then he was doing it, and that's
6 what got people upset, he was laughing about it, but he
7 was really doing it.

8 And virtually -- well, his unit and the
9 control booth, because if you understand the layout of
10 the facility, he would just walk through the foyer and
11 then by the control booth and then up to his unit.
12 Usually O&A staff were down in the other end of the
13 building, so they may not -- they may have heard it, but
14 as far as witnessing it, unless they were actually in
15 the booth watching it, then they wouldn't really have
16 that much knowledge of it. It was well known, but the
17 witnesses were in the control booth and in his unit.

18 Q. Did you ever hear anybody talk about that or
19 say anything about it?

20 A. Over the last few years, yes, 50 times at
21 least.

22 Q. Any particular people, names?

23 A. People who ran the control booth many times
24 during the day. And back in those days it would have
25 been someone like, Julie McCormick would have been one

1 retired or left the Department?

2 A. Correct.

3 Q. Do you know why?

4 MR. COLLAER: Objection; calls for
5 speculation.

6 THE WITNESS: What was told to me is for
7 health issues and he just retired.

8 Q. (BY MR. SCHOPPE) Who told you that?

9 A. I believe it was in a morning meeting. It was
10 Betty Grimm.

11 Q. Did anyone ever suggest to you there was
12 another reason for it?

13 A. No.

14 MR. SCHOPPE: I think I'd like to take a
15 break, if we could, for maybe ten minutes.

16 (Recess taken from 10:15 to 10:41 a.m.)

17 Q. (BY MR. SCHOPPE) We were talking about
18 retaliation before the break. Is it your opinion that
19 you were subjected to retaliation in connection with
20 your termination?

21 MR. COLLAER: Object to the form of the
22 question; it's vague, calls for speculation.

23 THE WITNESS: Yes. When Solutions was first
24 opened, or it hadn't been open very long, maybe a month,
25 and that is a guess, it wasn't open very long, but they

1 because she was in the booth in the mornings. The
2 transport guys when they weren't transporting, so it
3 would have been Roberto Coronado and Shane Penrod. Then
4 there was another man who took over for Shane, I
5 can't remember his name -- Mr. Amaya. And then people
6 in his unit who worked the days, would have been maybe
7 Ms. Cerda, Ms. Jeffries, were just a few, but this went
8 on for years.

9 Q. Do you know if that was ever investigated,
10 timecard fraud by Mr. Rohrbach?

11 A. Not as far as I know.

12 Q. At some point -- actually, are you aware of
13 any medical accommodation having been granted to him for
14 those sort of hours that he was working?

15 A. The last maybe six months I know he had some
16 pretty serious health issues. I don't know specifically
17 what, but he would speak to me a little bit about blood
18 clot issues and that is why he had to have a cart, a
19 little scooter that he would go around on. So yes, he
20 definitely had some medical issues.

21 But I would look at the timesheet too and see
22 if he was taking sick leave off. So some of those times
23 yes, they were. Sometimes they were taken and sometimes
24 they were not.

25 Q. At some point is it correct that Mr. Rohrbach

1 were -- it was a 24-bed unit, they weren't full, but
2 they were more than half full.

3 Anyway, Betty Grimm was superintendent and she
4 went on vacation and left me in charge. The unit
5 manager at the time in Solutions was out of the area, I
6 don't remember where. Larry Callicutt was the director,
7 and Dave Rohrbach was the unit manager or supervisor
8 over the Choices unit. Like I said, I was left in
9 charge when Betty left. The behavior in the Solutions
10 unit was way out of control. There was violence; there
11 was probably at least one fight per day, usually more.
12 Staff were extremely worried that they were going to
13 have a riot if they let the kids out of their rooms all
14 together. There were threats. It was just a very
15 dangerous situation going on.

16 Dave Rohrbach and I got together and said --
17 and talked out that maybe we should do what is called a
18 "tight house." We had never done one before. Dave
19 and I had worked at St. Anthony, and this was like back
20 in the late '90s, and we had been involved in one over
21 there. This wasn't anything like that, St. Anthony was
22 not the same kind of facility as what we were dealing
23 with. But in general terms it was locking down the kids
24 for the safety of them and the staff, that the threats
25 to violence were so severe that we had to lock the place

1 down.

2 And so when we decided that, I called Director
3 Callicutt, got his opinion and approval, subsequent
4 approval. And so we did it, we locked the kids down
5 with the intent on individually getting the kids out and
6 counseling them, finding out what was going on with them
7 and getting assurances from them that the violence was
8 going to stop.

9 At that time Dave Rohrbach went on vacation,
10 so I was the only supervisor in the facility at the
11 time. I got a call from Sharon Harrigfeld the night we
12 decided that, and I had already spoken to Mr. Callicutt,
13 and Ms. Harrigfeld sounded upset and wondered why I was
14 doing it and had I contacted Mr. Callicutt. I explained
15 the issues to her and told her that I had contacted Mr.
16 Callicutt, and then we hung up.

17 Q. What was her role at the time?

18 A. At that time I had only seen her in passing.
19 I didn't know her. I knew her name, of course, but I
20 didn't know -- I had had no professional dealings with
21 her at all. So I knew she was like a number -- she was
22 somewhere in Mr. Callicutt's cabinet, so to speak, but I
23 didn't know exactly what her job was.

24 I later found out that she was instrumental in
25 getting the funding for the Solutions unit, and that was

1 working it out.

2 Q. You did develop a protocol for that
3 afterwards?

4 A. Yes, I believe I did. I was the O&A
5 supervisor, so I made my report to Superintendent Grimm
6 and Director Callicutt and then the managers of
7 Solutions, and they took it from there.

8 But when you were talking about retaliation,
9 in my opinion that is when I possibly upset Ms.
10 Harrigfeld.

11 Q. How so?

12 MR. COLLAER: Objection; this calls for
13 speculation as to Ms. Harrigfeld's state of mind. If
14 you know what she was thinking, go ahead.

15 Q. (BY MR. SCHOPPE) You can testify about your
16 impression of --

17 MR. COLLAER: It calls for speculation and an
18 improper lay opinion.

19 THE WITNESS: She was instrumental in
20 obtaining the funds for that program. I locked down
21 that program because of safety and security issues. In
22 the years that followed and she became director, it was
23 without question our views of how to manage a juvenile
24 population were vastly different.

25 So yes, it's strictly my opinion, face-to-face

1 her expertise. And so that's why she had a strong
2 opinion about what was going on in the Solutions unit.

3 Q. Is it possible she was the COPS director?

4 A. Yes.

5 Q. What was the nature of her concern?

6 A. She didn't tell me. She wanted to know what
7 was going on. I told her the situation, the violent
8 situation. And like I said, I wasn't experienced at
9 this. I knew I had to protect the staff and the kids,
10 so we were kind of flying by the seat of our pants, at
11 least I was, I was the only one there.

12 So we proceeded to -- the kids were locked
13 down for a few hours, then we proceeded to get them out
14 one at a time, counsel them, get assurances, that kind
15 of thing.

16 In hindsight, after we did the review of it,
17 when it was all over, yes, we probably kept the kids in
18 a little too long, but it was a much safer place once
19 they got out. And like I said, that was the first time
20 we had ever done it, and we were hoping it would never
21 happen again. Of course, you do all kinds of looking
22 back in hindsight, and then developing protocols for if
23 it ever happened again. It was many hours with Director
24 Callicutt and then with Superintendent Grimm when they
25 came back, and the unit managers and that kind of thing,

1 contact with Director Harrigfeld and I was always
2 cordial. I managed and was kind of a player/coach of
3 our department softball team. She was our number one
4 fan, and I made sure everybody knew it. She was very
5 supportive. We got along great. But on the flip side,
6 there was no doubt that we thought differently about
7 juvenile management.

8 Q. (BY MR. SCHOPPE) After she became director in
9 2009, is it correct that you were demoted at some point?

10 A. Yes. I believe it was in December of 2009 is
11 when it actually went into effect. I was told about it
12 I believe in September of that year. And we were having
13 budgetary issues, they told me it was a budgetary issue.
14 There were three other gentlemen who were let go at that
15 time. And it was just a really tough time. I was
16 demoted back to rehab tech supervisor.

17 Q. And your position had been unit manager?

18 A. Correct.

19 Q. In O&A.

20 A. Correct.

21 Q. Do you know, was the position reclassified or
22 analyzed or why the demotion?

23 A. At the time I was told -- I was not told. I
24 was just being demoted back to that for budgetary
25 reasons. I presented, after I had realized the actual

1 cost savings for the Department, it turned out to be
 2 \$300. So that's when I started suspecting something
 3 else was up.
 4 Q. Why did you think it was \$300 savings?
 5 A. The loss in pay per hour that I was at and
 6 then what they demoted me to, and that is what it would
 7 have been, is literally pennies per paycheck.
 8 Q. Who were the other three gentlemen you
 9 mentioned?
 10 A. Ronnie Finley was the religious services
 11 coordinator, Clay Scofield was the Solutions supervisor,
 12 and then Dr. Ryan Hulbert was a clinical supervisor.
 13 Q. Were those positions filled or were they just
 14 eliminated?
 15 A. They were eliminated.
 16 Q. So after your demotion from unit manager, your
 17 title again was lead rehab tech?
 18 A. Rehab tech supervisor.
 19 Q. Rehab tech supervisor. Were you doing
 20 essentially the same things?
 21 A. Yes. Yeah, the job description didn't change
 22 and my job responsibilities didn't change.
 23 Q. Did you ever speak with anybody about the
 24 reasons for your demotion being other than budgetary
 25 reasons?

1 Q. And did you talk about what they had to say,
 2 about had you heard why you were demoted?
 3 A. Gina said that I had made the wrong people
 4 upset.
 5 Q. Did she say who?
 6 A. No. It was widely known that I had --
 7 MR. COLLAER: Objection; that calls for
 8 speculation as to other unknown, undefined individuals.
 9 It's also nonresponsive.
 10 MR. SCHOPPE: You can still answer.
 11 THE WITNESS: Sharon Harrigfeld and Betty
 12 Grimm.
 13 Q. (BY MR. SCHOPPE) Who is it you think knew
 14 that, as you said?
 15 MR. COLLAER: Same objection; calls for
 16 speculation.
 17 THE WITNESS: Gina Hodge had worked for the
 18 Department as a head HR supervisor and worked for Ms.
 19 Harrigfeld and was sitting in the room when they demoted
 20 me. She had the documents with her for me to quit.
 21 Q. (BY MR. SCHOPPE) Did you know that at that
 22 time?
 23 A. No. Well, Gina said she had the COBRA
 24 insurance information, which they give you when you are
 25 resigning or -- and they stated that they were hoping to

1 A. Not at the time, because of the other three
 2 gentlemen being relieved of their duties, and there was
 3 obvious budgetary issues going on with the Department.
 4 I really didn't think anything major about it at that
 5 time.
 6 Q. Was there a point in time later?
 7 A. Yes. I was in a training sometime later, and
 8 the instructors in that training were Gina Hodge and
 9 Crystal Morals. And during a break, I can't remember if
 10 it was a lunch break or what, they approached me and
 11 asked me if I knew or if I had heard why I was really
 12 demoted. And I said, No, I was told at the time that it
 13 was for budgetary reasons. And they both smiled.
 14 At that time I was demoted Gina Hodge was the
 15 human resource supervisor. I'm not exactly sure of her
 16 title. But when she told me this, she had moved on to
 17 another position, outside of the Department.
 18 Q. How about Crystal Morals, what was her role?
 19 A. She was a human resource specialist. She had
 20 worked for Gina and for the current HR supervisor, Julie
 21 Cloud.
 22 Q. Was Crystal still employed at that time by the
 23 Department?
 24 A. I don't believe so, but I'm not sure about
 25 that.

1 embarrass me into quitting, and when I didn't that upset
 2 them.
 3 Q. Gina said that at this training?
 4 A. Yes. I believe she said, You don't embarrass
 5 easily, do you? And I stated, I have a family and I
 6 need a job.
 7 Q. So she was telling you about that at that
 8 meeting where you were told you were being demoted, she
 9 had that paperwork with her?
 10 A. Correct, yes, she had.
 11 Q. When she said "they," was your understanding
 12 that she was referring to the people in the meeting with
 13 you?
 14 A. Betty Grimm was in the meeting with me. It
 15 was just Betty and Gina.
 16 Q. Did she explain who it was she meant by
 17 "they"?
 18 A. She did not speak a name, no.
 19 Q. Did Crystal offer anything during this
 20 conversation?
 21 A. No. Support, but nothing verbal, no.
 22 Q. Did it surprise you hearing this from them?
 23 A. No, because some time had passed and things
 24 weren't getting better. It was well known that I
 25 wasn't --

1 MR. COLLAER: Objection; it's not responsive
 2 and it's speculative.
 3 MR. SCHOPPE: You can make the objection after
 4 he's done. Don't interrupt the witness.
 5 Go ahead. You were saying.
 6 THE WITNESS: Well, it was widely known I
 7 didn't agree with the new philosophy, and that I was in
 8 direct opposition of a director. So as the days and
 9 months were going on, when Gina told me that, it really
 10 didn't surprise me then.
 11 Q. (BY MR. SCHOPPE) When you say "it was widely
 12 known," who do you think that was known by?
 13 A. Everybody in O&A and senior leadership.
 14 MR. COLLAER: Again, I'd pose an objection;
 15 calls for speculation as to other parties' states of
 16 mind.
 17 Q. (BY MR. SCHOPPE) Did you talk about that with
 18 those people? How do you know what they knew or what
 19 they --
 20 A. All of the staff members who worked in O&A
 21 were all in disagreement because they were the ones that
 22 were facing the upset kids and the change in policy and
 23 protocols, and they were the ones that had to live it.
 24 They were the ones who had to live with the acting out
 25 kids. They were the ones that had to live with the

1 was based on seniority, as long as the performance
 2 evaluation measured up. So that the people with the
 3 most seniority, as long as through performance
 4 evaluation measured up, they got the best schedule and
 5 they got to pick. So we just went down the line. So we
 6 didn't rotate, it was a set schedule.
 7 Dave Rohrbach, who came from St. Anthony,
 8 decided to keep his the way St. Anthony did it. When I
 9 first started at St. Anthony, the schedule was split
 10 days off, and you could work a morning, a day, and a
 11 swing shift all in the same week, and they didn't care.
 12 Their attitude was -- when Larry got there, I
 13 was sitting in the control booth, and Larry asked for
 14 the schedule. I handed it to him, and he said, Who in
 15 the world devised this? And Jack Cordon was the
 16 superintendent at the time, and he said that's the way
 17 it's always been.
 18 And everybody who -- I mean, I was brand new.
 19 Everybody who worked there, that is just what you did.
 20 They didn't think anything of it. It was a good job, a
 21 good state job, and they didn't think anything of it.
 22 But Larry changed it, he said there is more to life than
 23 work, and we have to think of families. I took that to
 24 Nampa. Dave Rohrbach chose to stay -- he had to stay
 25 with the two days off in a row, but other than that he

1 change in schedules that had come about. It was
 2 affecting through daily lives and families. And so,
 3 yes, they were adamant and vocal about it. That's why
 4 we ended up having the all-staff meeting.
 5 And senior leadership knew because I was
 6 meeting with Betty Grimm usually daily expressing how I
 7 had done -- how I had been in O&A since the beginning
 8 and the way we were changing was dangerous.
 9 Q. In those meetings did you relay concerns that
 10 O&A staff had relayed to you?
 11 A. Absolutely; usually by name. If certain staff
 12 were vocal that particular day, and I had vocal staff,
 13 they were upset.
 14 And I remembered in earlier testimony two more
 15 staff that were injured. It turned out to be Steve
 16 Sanders, he injured his shoulder, he was out a
 17 significant amount of time. And Dave Hottell was out on
 18 two different occasions for knee surgery. So staff were
 19 vocal, they were having to work in short staffing
 20 situations with changing schedules, because that was
 21 another part of the, in my opinion, retaliation.
 22 Because in O&A I had developed a schedule over
 23 many years of experience and education by Larry
 24 Callicutt from our days back at St. Anthony on how to do
 25 schedules. So I designed a four 10-hour schedule that

1 went with the rotating schedules.
 2 Anyway, as the years went on staff wanted to
 3 work in O&A because of that schedule; it was family
 4 friendly and staff friendly. And so that created a
 5 jealousy with Dave, who he admitted -- he and I had a
 6 meeting with Pat Thomson towards the end of my time
 7 there, but we got together and he admitted to slandering
 8 me and being very unhappy with the way I did my
 9 schedules and ran my unit. We apologized, shook hands,
 10 that was that.
 11 But nonetheless, it was a jealousy, if you
 12 may, that his staff wanted to work in O&A because we did
 13 our best to take care of the staff.
 14 Q. Did that scheduling arrangement cause problems
 15 with coverage or security problems in the unit?
 16 A. No, no. I had done hours of research and so
 17 had Larry. Larry had a binder of different kinds of
 18 schedules, from law enforcement who do 12 hours on, 12
 19 hours off, from 8s, 10s, 12s, and then rotating, to not
 20 rotating, set schedules. He had, there was probably
 21 well over 40 different kind of schedules for different
 22 amounts of staff, whether it's a small law enforcement
 23 agency to a big one and then from correction centers.
 24 So he had vast knowledge of how to do a schedule.
 25 Q. You mentioned an all-staff meeting again. I

1 understand you testified earlier there were two
 2 different all-staff meetings.
 3 A. Yes.
 4 Q. With respect to the one that occurred in
 5 November 2011, do you recall if that involved a
 6 petition?
 7 A. A petition, how do you mean?
 8 Q. Do you recall a petition being circulated
 9 about concerns regarding hiring and promotions practices
 10 at the Department?
 11 A. I know it was going on at that same time, but
 12 I don't know if that was exactly with that particular
 13 all-staff meeting or not.
 14 Q. You do recall a petition like it though?
 15 A. Oh, yes.
 16 Q. Do you recall what the subject of that
 17 petition was?
 18 A. There was a time it had to do with Julie
 19 McCormick, and that's what I don't remember, the exact
 20 timing, if it was the Laura Roters one at that
 21 particular time or not. I know one came up. I don't
 22 know about the timing.
 23 Q. At some point did you see the petition?
 24 A. No.
 25 Q. Or do you know of employees who might have

1 A. There was -- if I remember right, I believe
 2 his name is Brian Dean, he was involved. I remember
 3 Mark Freckleton and I talking about who might have been
 4 qualified. Other than that I don't remember. I know
 5 there was two or three that were more qualified or had
 6 experience in maybe law enforcement or military or
 7 outside the Department experience and education that
 8 wanted to bring that in, and still had more years of
 9 service with the Department than Julie.
 10 Q. Are you aware of anyone ever expressing any
 11 bias against hiring veterans?
 12 A. Yes. Phillip Gregston voiced that to me at
 13 least three times.
 14 Q. What did he have to say about that?
 15 A. He thought it was unfair. And Ray Gregston
 16 mentioned that Betty Grimm said in a management meeting
 17 that military veterans were too correctional, so
 18 probably didn't have much of a chance of getting a job
 19 at JCC Nampa.
 20 Q. Do you know what that meant, "too
 21 correctional"?
 22 MR. COLLAER: Objection; calls for
 23 speculation.
 24 THE WITNESS: Well, Phillip Gregston was a
 25 former Marine and he is a -- he's firm, yet could be

1 signed it?
 2 A. I heard speculation, that's all.
 3 Q. Who did you hear that from?
 4 A. It would have been, I think Julie McCormick
 5 was one of them. She came to my office and was upset
 6 that people were challenging the possibility of her
 7 working her way to a supervisor position. And she was
 8 real upset about it, and she wanted some advice from
 9 someone who had been a supervisor for a long time.
 10 Q. Did you give her advice?
 11 A. I told her to keep her integrity and not lie
 12 about anything, tell the truth and she would be fine,
 13 keep doing a good job. Whether she had the experience
 14 or not, as long as she had integrity and was doing a
 15 good job, she could put herself in line for a promotion.
 16 Q. Did she express any opinion as to why it was
 17 that she had been promoted to supervisor?
 18 A. Not that I recall.
 19 Q. Do you why she was promoted to supervisor?
 20 A. No. There was no logical reason for it. She
 21 didn't have any more -- she wasn't more qualified than
 22 some of the other people who were wanting that position;
 23 in fact, she was less qualified.
 24 Q. When you say "other people," who do you have
 25 in mind?

1 very compassionate, but he doesn't put up with -- well,
 2 he's very firm, he sticks to the rules. Here's the
 3 rules and we are going to obey them. But he's not so
 4 hard that he doesn't have compassion for juveniles who
 5 are going through mental health issues. If they need
 6 help, he will be one of the first to sit in a dayroom
 7 with a kid and listen and talk for a long time.
 8 But he's very -- like I say, he's very firm
 9 and he can be very tough and he comes across tough as a
 10 Marine, so that was frowned upon. It wasn't frowned
 11 upon previously with Director Callicutt, who was former
 12 military, but it was presently.
 13 Q. In your experience as a unit manager and also
 14 as a supervisor, was it your understanding that for
 15 supervisory positions supervisory experience was
 16 required?
 17 A. Yes.
 18 Q. Had you seen that on job applications, things
 19 like that?
 20 A. I believe it was not an absolute requirement
 21 but it was a recommendation. In O&A the way we had it
 22 set up is we had a lead tech position, and that was kind
 23 of in between a rehabilitation technician and a
 24 supervisor. So we tried to make that as limited as we
 25 could. For financial reasons of the state government,

1 we tried at least to make a little bit of a
2 steppingstone to get to supervisor.

3 Q. At some point in I think 2010, are you aware
4 of Laura Roters being promoted to a unit manager
5 position?

6 A. Not necessarily unit manager; as supervisor,
7 yes.

8 Q. And what is your understanding of what
9 happened there?

10 A. Well, I was still there at the time it
11 happened the first time. She applied for the position.
12 We were surprised she was qualified; however, her
13 application was approved, and so it was sent to the
14 hiring folks, where would be Dave Rohrbach, Betty and
15 human resources.

16 What I found out later was that she didn't
17 qualify, as far as experience was concerned, as far as
18 the application was. And when I was asked what I
19 thought of what happened -- and what happened is we have
20 what is called a subject matter expert, SME. I had done
21 that for years and had graded applications from
22 St. Anthony or Lewiston.

23 You grade them, and if something is on the
24 border, and since we don't know who the staff is, you
25 would generally approve it. If all of the other answers

1 ten years, I just knew it. Nobody had to really -- you
2 couldn't say it because that would be very improper.

3 MR. COLLAER: Objection; it's speculation.

4 Q. (BY MR. SCHOPPE) Did anybody else ever
5 express that opinion that they were sure she would get
6 the position, as far as you know?

7 A. I believe everybody in observation and
8 assessment had talked about it. At that particular time
9 Jeff Underhill was up in Choices and he had talked about
10 it. Nicholas Tinker was up there and he had talked
11 about it, was quite upset about it. Those are the ones
12 that come to mind right now.

13 Q. Speaking of Mr. Rohrbach, going back to his
14 statements when he would come in late to a meeting and
15 say he would be leaving early, who was involved in those
16 meetings?

17 A. Betty Grimm was the superintendent, so she led
18 the meetings. And it would be whatever supervisors were
19 working that particular shift, working the morning
20 shift. Then Lisa Littlefield was the transport
21 coordinator, she would be there, the nursing
22 supervisor -- whatever supervisors were in the building
23 at the time.

24 Q. Was Ms. Grimm ever there when he would say
25 something like that?

1 are okay and you have one that is maybe questionable,
2 you generally give them the benefit of the doubt and
3 leave it up to the hiring agency or the hiring unit to
4 take care of the rest.

5 So I found out that Terry Lewis up in Lewiston
6 had graded them, and that is exactly what he had done.
7 I had an understanding of that because I had personal
8 knowledge of being in that same situation. But from
9 what I understand she barely made a passing grade, yet
10 was promoted to the position. She was no where near the
11 highest score or the highest score of anyone
12 interviewed.

13 It didn't surprise anyone that she was -- as
14 soon as she applied, it was the general understanding
15 she had the job because the position she was going to
16 take was under Dave Rohrbach. Dave Rohrbach and Laura
17 have many years of experience together. Laura had
18 worked for him, I don't know exactly how many years, but
19 it was many years, and she was commonly known as the
20 teacher's pet, so to speak. So when she applied it was
21 a general understanding, if her application got through
22 it was going to happen.

23 Q. Who thought that; who told you that?

24 A. Based on experience of working with Laura and
25 Dave Rohrbach and working in that facility for at least

1 A. Almost every time, she was his supervisor.

2 Q. With respect to the subject matter expert
3 review Terry Lewis conducted after Ms. Roters'
4 application, did he tell you those things about her
5 score and the process?

6 A. Yes. He was very apologetic. He felt
7 terrible. He was being accused of manipulating a score.
8 And for the people who had never done those, graded
9 those applications, they had no understanding about what
10 position you are in. You don't want to fail somebody
11 who is trying to get promoted just on a 50/50 question.
12 We always gave them the benefit of the doubt.

13 There's sometimes 10 to 12 questions and they
14 could fail any one of them. So a lot of times on those
15 you'd come back to them, you'd do that one last. If
16 they passed on all the other ones, you'd give them the
17 benefit of the doubt. Because a fail is you are done,
18 and it's electronic, and as soon as you fail one, the
19 test disappears. And you have to write a little comment
20 on why they failed, and you go back and say question so
21 and so doesn't meet some kind of qualifications.

22 Q. Do you know if the questions are weighted
23 differently on the exams, some more important than
24 others?

25 A. They all had a 70 to 100 score, so you could

1 weigh them depending on their answer. So, say, if they
2 didn't have very much experience, but it was really
3 close, and on Laura's Terry gave her a 70, which was a
4 barely passing grade. But on some, if they were very
5 experienced or had a lot of knowledge about a certain
6 subject on the test, you would give them a 100. But
7 that's how it was weighed.

8 Q. And when you served as subject matter
9 expert -- also, if Terry Lewis talked about this, let me
10 know. Are candidates that come to a subject matter
11 expert sort of pre-qualified in terms of minimum
12 qualifications?

13 A. Through human resources. What we would do is
14 the Department human resources would talk to the State
15 human resources, and then the State human resources
16 would send us electronically the password to get into
17 the application process.

18 Q. So as far as subject matter experts are
19 concerned, when an application or a test comes your way,
20 it's already passed a certain threshold?

21 A. Correct, yes.

22 Q. Would those minimum qualifications include
23 supervisory experience for supervisory positions?

24 A. It depends on what was on the applications in
25 the first place, yeah.

1 Q. Do you know if anybody else applied for the
2 job the second time around?

3 A. It was my understanding there were ten people
4 who qualified. Terry Lewis said there were ten who
5 qualified and he sent for interviews. Now, that is up
6 to Betty and Julie Cloud on who gets the interview.

7 Q. Was that the first application?

8 A. The second one.

9 Q. So Terry Lewis was the subject matter expert
10 both times?

11 A. No, just the first time. And then he told me
12 that another -- who was the next one? I can't remember
13 his last name. I believe his first name is Adam, scored
14 the second one. But all of the ten for the second
15 interview were the same ten from the first. Because it
16 was a short time, they didn't want to have to go through
17 the entire application and resume process again. So it
18 was roughly the same ten both times.

19 Q. Did it concern you that Ms. Roters was
20 promoted to that position without more than four hours
21 supervisory training?

22 A. Absolutely; it wasn't practical training.

23 Q. Why did that concern you?

24 A. Well, again, I had known Dave Rohrbach and
25 Laura for many years, and I knew as soon as she passed

1 Q. Are you aware of that position or that
2 promotion being revoked from Ms. Roters?

3 A. It was. It was when somebody, I can't
4 remember who, raised a question about her
5 qualifications, and then they started looking back on it
6 and realized Terry had given Laura Roters a passing
7 grade on experience or supervisory experience, and it
8 turned out she didn't have any. So yes, her promotion
9 had been revoked, however you want to say it.

10 Q. And then are you aware if at some point after
11 that she was offered the promotion again?

12 A. Yes. She was sent to a four-hour training
13 with Julie McCormick, on a four-hour supervisory
14 training of some kind. And that was all the
15 qualification she needed to get her name back on the
16 application.

17 Q. How do you know that that happened?

18 A. Betty Grimm told me that. Well, Betty told me
19 she was going to the supervisory training with Julie,
20 and then Laura reapplied. I mean, it was a mess. It
21 was very unfortunate for Laura to get the promotion and
22 then find out, have it revoked. That was not right. It
23 shouldn't have gone that way. But then they sent her to
24 a four-hour training, and then she reapplies and gets
25 the job.

1 the test and passed the application process it was hers
2 to have. It was a favoritism thing. Whether she was
3 the most qualified or not, I knew she was going to get
4 it.

5 Q. Did you have the same kind of concerns when
6 Julie McCormick was promoted to a supervisory position?

7 A. I had the same inexperience issues with Julie.
8 I didn't have the same favoritism issues with Julie. As
9 far as I saw, Julie was doing a fine job. She wasn't
10 overly zealous, but she seemed honest enough and she
11 seemed to understand the protocols for the safety and
12 security position. She seemed to be doing okay.

13 I was supervising my own unit. We crossed
14 paths numerous times with transports and that kind of
15 thing, but it wasn't my area to supervise.

16 Q. As far as you know, was she in charge of the
17 control booth?

18 A. Yes.

19 Q. Do you know whether she stood out from any
20 other applicants for that supervisory position more than
21 any other applicant?

22 A. I remember a time when she took specific
23 interest in the electronic details of the job. The
24 control booth was constantly renovating, as far as
25 cameras in the facility, as far as supervising the

1 cameras and watching them and paying attention to the
2 electronics, we were constantly updating it. She was
3 very interested in that. She showed a keen interest in
4 wanting to understand that. Other than that then, no,
5 not really.

6 Q. That all-staff meeting where hiring and
7 promotions practices were discussed, I don't recall if
8 you testified that you remember that coming up in an
9 all-staff meeting.

10 A. Yes.

11 Q. Did you express concerns about that?

12 A. Not personally. Other staff in the meeting
13 expressed concerns and asking Ms. Harrigfeld, and I
14 don't remember if it was Pat Thomson or Julie Cloud with
15 her about what qualifications are needed to get to be a
16 supervisor. And they tried to explain as best they
17 could, but it didn't satisfy a pretty angry crowd. They
18 were already angry about the safety and security things,
19 and hiring things. A lot of things were going on at the
20 same time.

21 Q. Did you ever express any concerns to your
22 supervisor or anyone else that the Department was
23 wasting public funds or that anyone was misusing public
24 funds?

25 A. Not that I recall.

1 Q. Did you ever become aware of any allegations
2 of sexual misconduct between staff and juveniles?

3 A. Yes, I had heard about and witnessed changes
4 in staffing with Francine Diaz and Jessie Hinkle. I had
5 heard about that. And they were, for a time they had
6 gone to the administration area and were helping the
7 file clerks with stuff, and they were taken off the unit
8 for allegations of that. Those were the only two that
9 were brought up.

10 Q. With respect to Francine Diaz, did that
11 involve Bryce

12 A. Yes, it did.

13 Q. What did you learn about that?

14 A. Well, I witnessed and many other staff
15 witnessed her behavior. Bryce was a Choices juvenile,
16 he was going through the program, and she was friendly
17 with him when he got to the point where he could work in
18 the kitchen. And so there were concerns about her
19 behavior with him there. And then when he graduated the
20 program, they started dating. And she was told that she
21 had to cease and desist, and that's kind of the last I
22 heard. I heard she didn't. I heard staff saying that
23 they were on Facebook together. But as far as me
24 witnessing it any further, I did not.

25 Q. Do you know who witnessed that behavior and

1 Q. Did you ever hear anyone, specifically any
2 Plaintiffs make those sorts of reports?

3 A. No. I knew from friends in St. Anthony who
4 expressed concern when they were renovating some of the
5 facilities in St. Anthony, that their maintenance
6 supervisor, his name is Dee I don't know what his
7 exact title was, was misappropriating materials from
8 that project and using them for his personal use. I
9 didn't witness it though.

10 Q. Who was it that said that?

11 A. It would have been, Shane Elliott would have
12 been one that told me. He's a case manager up there. I
13 don't know what his title is.

14 Q. Did you ever discuss concerns about waste of
15 public funds or misuse of funds with Don Elliott?

16 A. Not as far as abuse was concerned. I talked
17 to Don sometimes about in O&A we needed to renovate, so
18 what would be the best way to use what funds we had.
19 And we were told every year that O&A was going to get
20 renovated, sometimes we might get a room painted or
21 something. But as far as carpet or new doors or that
22 kind of thing, O&A was built in 1998-ish, 1997, '98, so
23 it hadn't been really renovated other than carpet since.
24 So I talked to him about that. But as far as a abuse,
25 no.

1 how did you learn about those sorts of things?

2 A. I believe it was one of my staff who said
3 that. I'm not 100 percent positive. I think it was
4 Gracie Reyna saw them on Facebook and brought it to my
5 attention. I took it to Betty, and that is where it got
6 left. I said, Did you know that they appear to still be
7 dating, and that's all.

8 Q. This is after Bryce was released?

9 A. Correct.

10 Q. Is there a policy against staff fraternizing
11 with juveniles after they are released?

12 A. Yes.

13 Q. And what are the disciplinary options as far
14 as you know for violating the policy?

15 A. Well, up to termination. It's progressive.
16 If the person ceases -- the supervisor has great leeway
17 in what they can do, from a written reprimand to
18 termination. But everybody signs that document when
19 they get hired that they are not to fraternize with
20 kids.

21 Q. With respect to Jessie Hinkle, was there an
22 allegation there of sexual or romantic involvement with
23 a juvenile or with staff?

24 A. What I'm more familiar about is a staff
25 member, her supervisor, Jo Blume. There was allegations

1 of an affair going on between her and her supervisor
 2 Jo Blume.
 3 Q. But nothing involving a juvenile?
 4 A. Not that I'm aware of. As far as my
 5 understanding goes, she knew about Francine's
 6 involvement, and that's why she was disciplined with
 7 Francine and sent to the admin area and off the floor
 8 while the investigation went on. She was familiar with
 9 it and didn't say anything.
 10 Q. What was the nature of that discipline?
 11 A. As far as I know, they were just taken off the
 12 floor for two weeks and sent to the administration area
 13 to do filing. They couldn't be back with the kids.
 14 They could not supervise juveniles for a period of time
 15 while the investigation went on. I wasn't involved in
 16 the investigation.
 17 Q. As far as you know, was that in connection
 18 with Diaz fraternizing with Bryce after he left or while
 19 he was at the facility?
 20 A. While he was still there.
 21 Q. As far as you know, there ought to be a
 22 written record of that somewhere?
 23 A. Correct. Yes, there has to be. They were
 24 taken off the floor. You take line staff off the floor,
 25 take them off your schedule, there would have to be an

1 those concerns?
 2 A. It would have been Sarah Cerda for one. Jeff
 3 Underhill, he was a supervisor up there, and the staff
 4 would come to him with concerns. And then whoever was
 5 working in the booth, and that rotated, but they would
 6 see Julie take the man who had been upset. She
 7 wasn't a counselor, that was not her duty to do that.
 8 Q. Did you speak with Betty Grimm about her
 9 speaking to Julie McCormick about this?
 10 A. We did discuss it at least once, yes.
 11 Q. What did she say?
 12 A. That she was looking into it and she had heard
 13 about it too.
 14 Q. So had you relayed these concerns to Ms.
 15 Grimm?
 16 A. Oh, yes.
 17 Q. And do you recall when it was that you might
 18 have relayed those concerns to her?
 19 A. I don't remember the date, no. It was during
 20 our -- when I was still having weekly meetings with her,
 21 and that was just part of our conversation.
 22 Q. Do you recall about how long it might have
 23 been with reference to the time that you left the
 24 facility?
 25 A. Within six months.

1 incident report of some kind, yes.
 2 Q. At any point in time before you left the
 3 Department, did you hear anyone express concerns about
 4 Julie McCormick's interactions with male juveniles?
 5 A. Yes. Julie was spoken to by Betty Grimm once
 6 that I know of, and it had been brought up, concerns had
 7 been brought to the surface that when there were codes
 8 called in Solutions or Choices, that she would go up --
 9 as safety and security supervisor, she would go up and
 10 instead of acting as the supervisor of safety and
 11 security and making sure her specific duties were taken
 12 care of, as far as observation, in case the juvenile had
 13 to get handcuffed, she would have to monitor things like
 14 room time and that kind of thing. But the concerns were
 15 that she would stay later and counsel the man in
 16 his room or take the man back to her office. That
 17 was highly inappropriate.
 18 Q. Whose concerns were those?
 19 A. The staff in the unit where she went to,
 20 whether it was Solutions or Choices. The cross-gender
 21 counseling behind closed doors was never allowed.
 22 Sometimes a clinician, a professional clinician or
 23 someone would have to do it, but as far as line staff,
 24 absolutely not.
 25 Q. Do you know which staff members expressed

1 Q. Were you aware of situations in which
 2 juveniles, specifically males, become infatuated with
 3 female staff or interested in them sexually; is that
 4 something that happens?
 5 A. It happens. But the staff -- at least I was
 6 blessed to have staff who were experienced and knew that
 7 it was going to happen. That you have teenage boys and
 8 female staff and that was going to happen. But it was,
 9 as far as I know and I understand, it was reported to me
 10 very time. And then I would speak to the juvenile. And
 11 either we would switch mentors -- we had a mentor
 12 system, where each juvenile had their own adult mentor,
 13 staff member. And so if a boy happened to have a female
 14 mentor, then we would switch, that kind of thing.
 15 Q. That is pretty standard practice?
 16 A. Yes.
 17 Q. Are you aware of anyone, specifically Ms.
 18 Grimm, or anyone expressing concern that Ms. McCormick
 19 had boundary issues in connection with her interactions
 20 with male juveniles?
 21 A. Yes. It was part of the same conversation
 22 that Betty said she was going to address. Because prior
 23 to that Julie hadn't shown any of that. It was after
 24 she had started going up and attending code red or code
 25 yellows, where staff had to gather to deal with an

1 acting out situation where she started counseling kids.
2 And it was usually after hours, meaning after 5:00 p.m.,
3 after dinner type thing, that she would be working the
4 swing shift and take kids out to counsel.

5 Q. Do you know if any action was taken in
6 connection with the boundary problem involving Ms.
7 McCormick, anything done to address that?

8 A. Not while I was there, no.

9 Q. As a supervisor is that something that would
10 have concerned you about future interactions between a
11 male juvenile and --

12 A. Absolutely, and I would have alerted my staff
13 that if she came down to help supervise a situation
14 where kids were acting out and things were violent and
15 she came down to assist, she was not to take kids out.
16 We had clinicians in the area and protocols in place for
17 counseling. She was not to take kids anywhere,
18 absolutely.

19 Q. Would that be for the protection of the
20 juvenile?

21 A. Absolutely.

22 Q. With respect to the juveniles we were talking
23 about, was there anybody in particular that she was
24 spending time with or counseling?

25 A. Not that I'm aware of. I don't remember their

1 later got cameras there. But in that particular hallway
2 at that particular time there was no cameras.

3 We did investigate it. Larry Callicutt was
4 the -- I can't remember if he was the director or
5 superintendent at the time. We investigated it as much
6 as we could. And she was written up for taking a male
7 juvenile somewhere where she couldn't be seen. And that
8 was well known, you never take an opposite gender
9 juvenile in a place that is not visible to somebody
10 else. So other than that, that is the only place it
11 went.

12 Q. Do you know what the allegation was, the
13 specific interaction?

14 A. Sexual misconduct.

15 Q. Do you know the specific nature of it?

16 A. The boy said that they hugged and kissed.

17 Q. Do you recall a juvenile by the name of
18 Michael Curtis?

19 A. Yes.

20 Q. Do you recall him mentioning any allegations
21 involving that sort of conduct involving Ms. Raymond?

22 A. I remember the allegations, and I believe, if
23 I understand correctly, he was gone from our unit at the
24 time when he made the allegations. He wasn't in the
25 unit any more, and I don't believe Ms. Raymond was

1 names.

2 Q. Would you recall

3 A. I saw that in writing. I didn't witness it.
4 I don't think I was there at the time, but yeah, I
5 remember hearing that story, yes.

6 Q. That was after you left?

7 A. Yes. And all of that kind of behavior went on
8 in Solutions and Choices, areas which are on the
9 opposite end of the O&A unit, so it was like in another
10 world.

11 Q. As far as you know, are the policies for
12 dealing with that kind of infatuation/boundary problem
13 issue the same?

14 A. Absolutely. It's juvenile supervision. There
15 is no leeway in it.

16 Q. Have you ever heard of reports or rumors of
17 sexual or romantic interactions between Jackie Raymond
18 and juveniles?

19 A. I was Jackie's supervisor, and it was many
20 years ago, there was an allegation and it was with a --
21 I don't remember the boy's name, he was an Hispanic boy.
22 That something had happened in the clinician hallway,
23 which was kind of off -- understanding how the unit was
24 set up, it was kind of in a back corner, so to speak.
25 We didn't have cameras back there at the time. They

1 working for the Department any more at the time.

2 Q. How about involving Michael Curtis and Katie
3 McClain?

4 A. I heard the allegation, but that is all I
5 heard. I didn't hear any more.

6 Q. Is that a recent allegation you heard or
7 something a while back?

8 A. A while back, I would say three to four years.

9 Q. Do you remember where you heard it from?

10 A. No, I don't remember.

11 Q. Did you ever become aware of any rumors or
12 reports of sexual misconduct involving Marcie Harris and
13 juveniles?

14 A. No.

15 Q. How about the same question with Valerie
16 Lietau?

17 A. I heard that Valerie was being inappropriate
18 with kids and closing the nursing door with male
19 juveniles in the nursing unit later, after the other
20 nurses had gone home and she was the only nurse on
21 shift. I heard the door was being closed with male
22 juveniles in the nursing area.

23 Q. How did you hear that?

24 A. I believe through Darla Crespino, and Darla
25 said she had taken it to her supervisor who had taken it

1 to Betty Grimm.
 2 Q. Do you know who her supervisor was?
 3 A. I believe it was Ruth. I can't remember her
 4 last name.
 5 Q. Davis?
 6 A. Yes.
 7 Q. Do you know if movements of staff or juveniles
 8 in the facility are tracked at the control booth?
 9 A. Yes, they are.
 10 Q. What do you know about that?
 11 A. Over the last few years I was there we tried
 12 numerous ways to find the best way to track juveniles
 13 from the control booth. And we tried many different
 14 radio protocols, some went as extreme as radio calls
 15 being called into the booth from the staff who had
 16 direct supervision of the kids, calling in just a
 17 movement from across the hallway. For instance: This
 18 is Ms. Jones. I am taking A pod to B pod. Which was a
 19 10-foot walk.
 20 Then we went, thinking if all the kids are in
 21 the same unit, why are we calling in to the booth and
 22 having them log they are just going 10 feet, or
 23 is going to get a library book and is over there
 24 and back in 20 seconds, why are we calling it in? It's
 25 getting redundant and the logging was getting extensive

1 did you become aware of issues with sexual misconduct
 2 involving staff and juveniles at the St. Anthony
 3 facility?
 4 A. Well, there was the very big issue of -- I
 5 can't remember their case manager's name, but he was
 6 subsequently arrested and went to prison for it. That
 7 was years ago, but anything since, no.
 8 Q. Do you remember his name?
 9 A. Not right now, but I'll remember.
 10 MR. SCHOPPE: I think now is probably a good
 11 time to break. I think I have another 90 minutes.
 12 We'll break for lunch, come back in an hour?
 13 MR. COLLAER: Okay.
 14 (Luncheon recess from 11:48 to 1:00 p.m.)
 15 Q. (BY MR. SCHOPPE) Have you ever had any
 16 involvement in PbS reporting?
 17 A. Yes. When I was a supervisor, Larry
 18 Callicutt, he might have even been a superintendent,
 19 first introduced us to that, and it was an ongoing
 20 process. We didn't understand it at first. But the PbS
 21 organization would send representatives out a couple
 22 times a year and teach us how to do data entry. And
 23 then we, whether it was Larry or Betty, I don't think it
 24 was Betty, but I'm not sure, I guess we created a
 25 position as the PbS coordinator, so that person would do

1 and it was taking up time for the control booth
 2 operator, and the control booth operator had a big
 3 enough job, than to try to keep up with three different
 4 units moving all at the same time in their own unit.
 5 So then we tried different protocols to say,
 6 Well, we are only going to call in movements if are kids
 7 are going to the lunchroom or going outside. If they
 8 are staying in their units, we are not going to call it
 9 in. So we tried numerous different ways to try to keep
 10 track of the kids, but at the same time not make it so
 11 cumbersome on the control booth that made their life
 12 impossible.
 13 Q. Would some of those movements be logged?
 14 A. Yes. Electronic logging, yes.
 15 Q. Stepping back to sexual relationships between
 16 staff and juveniles. Did you ever hear any rumors or
 17 reports of a relationship like that involving Devin
 18 Keene Mercer in Lewiston?
 19 A. I remember hearing about an investigation, but
 20 that is all I heard. I didn't hear anything more.
 21 Q. Do you remember who you heard it from?
 22 A. Probably Nick Brillion, he was their transport
 23 supervisor and SSO supervisor. We had contact two to
 24 three times a week.
 25 Q. At any point in your time at the Department

1 the data entry and kind of oversee it.
 2 But the way it would work is the staff and the
 3 juveniles would get surveys twice a year, I think it was
 4 April and October. But everybody would get surveys to
 5 fill out, and it had to do with, at least in O&A it had
 6 to do with safety and security, programming, how long
 7 were the kids out of their rooms, just about the
 8 day-to-day activities. I know PbS also dealt with
 9 education and medical and food service and were their
 10 rooms clean, and that kind of stuff. But it tried to
 11 cover the whole gamut of the facility operations.
 12 And it was, the way Larry described to me is
 13 it was a report card. We were to do everything as -- if
 14 things weren't good, we were to report it as not good,
 15 because we needed that report card to be as honest as
 16 possible. So for years it went -- I wouldn't say it was
 17 necessarily an anxiety time, but it was kind of a high
 18 interest time. Whenever the surveys would come out, it
 19 was kind of hopeful that we were better than the
 20 previous reporting period. But it was good. I never
 21 really had a problem with it until the last couple years
 22 we were doing it, and that's because when the surveys
 23 would be handed out for the staff, they were color-coded
 24 per unit. They were supposed to be confidential. And
 25 all of a sudden each one of the staff's surveys had a --

1 whatever color O&A happened to be that year, and then
2 Choices had their color, and Solutions had their color
3 and nursing, everybody had a different color, so it was
4 no longer confidential.

5 In the staff's mind they could narrow it down
6 if somebody was disgruntled or had a problem about
7 something, whoever was doing the data entry could pretty
8 close determine who it was that was disgruntled, at
9 least they knew the unit. So they could pretty much
10 narrow down who was having the issue.

11 Q. Was there also a sign-up sheet?

12 A. Yes, there was a sign-up sheet you had to sign
13 off. Usually I would have a large manilla envelope
14 either in my office or on my door or something, and as
15 soon as the staff would fill it out, then they could put
16 it in and had to sign their name off.

17 Q. Was that a change also from the way it had
18 been done from previous?

19 A. Yes.

20 Q. There is a PbS coordinator position; is that
21 right?

22 A. Yes.

23 Q. Do you know who the PbS coordinator was when
24 that change was made?

25 A. Laura Roters.

1 going on, I wanted to know about it so we could deal
2 with it. It was my understanding that that was being
3 frowned upon when Director Harrigfeld took over because
4 it looked bad to PbS when we were having -- at that time
5 we were having incidents daily, in fact, sometimes two
6 or three a shift there would be code reds, and that
7 would look really bad to PbS. We were having safety and
8 security issues that needed to be addressed. But in O&A
9 we kept doing it way the way we were supposed to.

10 Q. Were the changes made in other parts of the
11 facility?

12 A. Specifically in Solutions, they had the mental
13 health kids and their program was changing as far as
14 accountability for acting out behavior. They had
15 different supervisors, Ashley Jorgensen was one, and
16 then they had clinicians taking care of -- O'Neal Rich
17 was another clinician. But they were changing the way
18 they dealt with acting out behavior. From their
19 perspective it was because of the mental health issues
20 that the kids were dealing with.

21 Q. How did you form the impression that the
22 changes to the had anything to do with PbS?

23 MR. COLLAER: Objection; calls for
24 speculation.

25 THE WITNESS: Because when Laura would come to

1 Q. At some point after Director Harrigfeld became
2 director of the Department, are you aware of any changes
3 in the way that incident reports were prepared with
4 respect to red or yellow anything like that?

5 A. Well, the code, what we had was called a code
6 red, and that was for an imminent emergency, either a
7 juvenile acting out, was about to cause a fight, where
8 the staff deemed it necessary to get assistance quickly
9 and not just somebody wandering into the area. That was
10 more of a code yellow. A code yellow would be called
11 when a juvenile was upset or there was an issue going on
12 where the staff just needed maybe another staff member
13 or two to come by and just get close in case it did
14 escalate to a code red. But code reds were imminent
15 danger, whether it was a fight or acting out of some
16 kind.

17 Q. Were those recorded somewhere in an incident
18 report?

19 A. Absolutely, yeah, an incident report. It was
20 logged, as soon as it went over the radio, then the
21 control booth logged it as a code red.

22 Q. Was there a change in the way those incidents
23 were coded at some point?

24 A. Not in O&A when I was the supervisor, because
25 my feeling was if we had an emergency and we had issues

1 my office and we would discuss the code or the
2 documentation for the incidents and how many we had. We
3 were trying to narrow it down. Was it per shift? Was
4 it certain staff on shift? Was it issues like that? We
5 were trying to narrow it down and see what the problem
6 was. Was it just certain kids? Was it one kid causing
7 all of them or one or two?

8 So we were discussing that, and she implied
9 that it was -- as far as Solutions was concerned, it was
10 the group, and it was the mental health issues that were
11 the issues and that they were trying to work out the
12 program to get it so they could reduce the number of
13 incidents that were occurring.

14 And if PbS was going to be told they were
15 getting code reds two or three times a shift, which was
16 occurring, then it wouldn't -- it was my understanding
17 they were on like a different grading system, or it was
18 seen differently by Mr. Rohrbach, that the incidents for
19 the Solutions unit was just seen differently and was
20 more like accepted because they were mental health kids.
21 Where in O&A it was viewed as either staff were setting
22 them off or it was something wrong with the program or
23 it was just different. It was just viewed differently.

24 Q. With respect to staff setting off kids, are
25 you aware of any incidents up until you left, left the

1 Department, in which staff incited juveniles to
 2 misbehave?
 3 A. To misbehave, no. Part of programming is you
 4 try to raise an anxiety level to see how a kid is going
 5 to react. O&A not being a program, but we were
 6 preparing kids for program, I had staff who had worked
 7 in programs before, so they used that tactic to try and
 8 work with a kid and prepare him for program, for Choices
 9 or Solutions or St. Anthony, wherever. It's just a
 10 program tactic used and some staff would use that. But
 11 they were experienced, they had program experience, and
 12 they knew what they were doing.
 13 Q. Are you aware of any incidents in which staff
 14 in O&A were complaining to juveniles about leadership or
 15 problems with management or anything like that?
 16 A. Directly to problems, I think I mentioned
 17 earlier it was the change in the accountability issues,
 18 the change in room time, the change in how we were
 19 dealing with acting out behavior and Director
 20 Harrigfeld's new philosophy and program, how she wanted
 21 things done. That turned literally overnight. That was
 22 the main issue.
 23 Q. Do you know if staff were trying to undermine
 24 Director Harrigfeld?
 25 A. Not while I was there, that would have been

1 A. Yes.
 2 Q. Can you just real quick say again what that
 3 meant.
 4 A. The kids were diagnosed with a mental health
 5 condition of some of kind by a clinician, and then they
 6 had drug and alcohol convictions also. So their theory
 7 was they were using drugs and alcohol to mask or to try
 8 and deal with their mental health condition.
 9 Q. And is it correct to say that the drug and
 10 alcohol program was part of the Solutions unit?
 11 A. Absolutely; it was just as important as the
 12 mental health issues. You have to deal with the drug
 13 and alcohol issues before you can get to the mental
 14 health.
 15 Q. Do you know if Solutions received funding from
 16 the federal government for the drug and alcohol program?
 17 A. Yes, it was my understanding they did. I
 18 believe it was OJJDP.
 19 Q. The Office of Juvenile Justice and Delinquency
 20 Prevention?
 21 A. Yes.
 22 Q. Do you know whether funds that were received
 23 for the Solutions drug and alcohol counseling unit were
 24 actually used for drug and alcohol counseling at all
 25 times?

1 totally unacceptable.
 2 Q. Did anyone ever express to you or explain to
 3 you why it was that PbS numbers were important?
 4 A. Well, like I said, it was our report card, and
 5 those reports went obviously to the director and to -- I
 6 don't know where else, the superintendent saw it as
 7 well. They knew O&A was different. But as far as the
 8 programs were concerned, they saw it has, How are we
 9 doing against them? And granted, all of the programs
 10 were different, but they had kind of the same amount of
 11 kids and all dealing with juveniles, so it was kind
 12 of -- I don't know if "competition" is the right word,
 13 but just to see how we are doing in comparison to
 14 everyone else.
 15 And then PbS would have -- they tried to do a
 16 comparison with other facilities around your region or
 17 around the country, and that was brought to my attention
 18 as far as O&A was concerned. And I believe it was
 19 Larry, we finally determined that there wasn't another
 20 O&A exactly like ours. So that's why they kind of put
 21 O&A more closer to detention centers and compared us
 22 with them, and we tried to find detention centers that
 23 tried to run a little program to compare with.
 24 Q. You mentioned Solutions being, you say a
 25 co-occurring unit?

1 A. There was a time -- working in O&A I just
 2 assumed that, I heard about it in management meetings
 3 that they got funding for, I wasn't sure if it was both
 4 or just the drug and alcohol. But when Director
 5 Harrigfeld, when I found out she was very instrumental
 6 in getting the funding from the legislature to build and
 7 have that unit built and program built, I knew she was
 8 the expert, I guess in knowledge of that kind of
 9 information and how to get those funds and how all that
 10 worked.
 11 So when we were in the facility, I don't know
 12 if she was the first or the second clinical supervisor,
 13 her name is Valarie Zuniga. She was the clinical
 14 supervisor over the programs, meaning Choices and
 15 Solutions. And the first time I heard there was an
 16 issue with the funding for the drug and alcohol is when
 17 Valarie confronted Dave Rohrbach, who was the unit
 18 manager, and saying that she was reviewing reports that
 19 the case managers were documenting the drug and alcohol
 20 program was going on, when in fact it wasn't. They
 21 didn't do drug and alcohol programming for the first two
 22 or three years the program was open.
 23 The only time I heard of drug and alcohol
 24 treatment going on is when a staff member of mine who
 25 was going to school to get his master's in drug and

1 alcohol counseling was asked to do the internship up
2 there. So he would work a little bit in O&A, and then
3 go up there during his shift and teach drug and alcohol.
4 But that was the first actual instruction they were
5 getting.

6 And Valarie, during a program meeting,
7 confronted Mr. Rohrbach about that and said, We can't be
8 documenting that we are doing a drug and alcohol program
9 when we are not. There is funding issues, there is
10 misrepresentation issues. And the next day she was
11 reassigned to be the clinician of O&A, the clinical
12 supervisor of O&A after that meeting.

13 Q. How do you know that?

14 A. She became my boss.

15 Q. And she told you about that?

16 A. Yeah. And she was very upset. She thoroughly
17 enjoyed helping the kids with mental health issues.

18 Q. Do you have any idea how long it was going on
19 that federal funds weren't being used for drug and
20 alcohol counseling?

21 MR. COLLAER: Objection; lacks foundation,
22 calls for speculation. He has no firsthand knowledge of
23 this.

24 THE WITNESS: From the beginning. I do know
25 there was no drug and alcohol counselor in that unit

1 A. Yes.

2 Q. With respect to Mr. Rohrbach, were there
3 incidents that you are aware in which he was promoted or
4 had his position reclassified at any point after, say,
5 2009?

6 A. Well, he was a supervisor. I'm not sure what
7 his title was, but he was the unit manager over Choices,
8 and then he became program manager. I think he was
9 reclassified to be over all of it when Valarie Zuniga --
10 in that short time frame, when Valarie was transferred
11 to O&A, then he became program manager over all of it,
12 and there was no -- he was just appointed.

13 Q. What had Ms. Zuniga's position been prior
14 to --

15 A. Clinical supervisor over all the programs, and
16 then she became clinical supervisor just over O&A.

17 Q. Do you know if that was a promotion for Mr.
18 Rohrbach?

19 A. Absolutely; to program manager, yeah.

20 Q. Do you know if there was a hiring freeze in
21 place at the time that occurred?

22 A. I'm trying to remember. When I was demoted
23 and they said it was for budgetary reasons, that was in
24 the end of 2009. Well, before July 1st, which is the
25 fiscal year, prior to that he was promoted, which is

1 from the beginning.

2 Q. (BY MR. SCHOPPE) You know that because you
3 were unit manger?

4 A. I was there.

5 Q. But do you know how long it was until they
6 started doing the treatment program there?

7 A. I'm going to guess three years.

8 Q. With respect to the case manager's reports
9 that Ms. Zuniga said she had been reviewing, do you know
10 what kind of reports those were?

11 A. Weekly reports of the program.

12 Q. Do you know where those reports would go?

13 A. First of all, they would go to Dave Rohrbach,
14 Valarie Zuniga, and ultimately Betty Grimm.

15 Q. Do you know if those reports are used to --
16 are those passed on to the court, as far as you know,
17 that supervise the juveniles?

18 A. To the court?

19 Q. Sure.

20 A. I don't know for sure, no.

21 Q. Who are some of the case managers that you
22 have in mind that you might be talking about?

23 A. O'Neal Rich and Ashley Jorgensen.

24 Q. So Ms. Zuniga would be someone who could
25 testify about that?

1 still the same fiscal year. So I'm not exactly sure if
2 it was to program manager or to another supervisory
3 position, but he was promoted in that same year. But to
4 program manager, I'm not exactly sure of the timing.

5 Q. As far as you know, is that an opportunity
6 that should have been posted for other people to apply
7 for?

8 MR. COLLAER: Objection; calls for
9 speculation.

10 THE WITNESS: Absolutely.

11 Q. (BY MR. SCHOPPE) As far as you know, in terms
12 of Department policy?

13 MR. COLLAER: Same objection.

14 THE WITNESS: Yes.

15 Q. (BY MR. SCHOPPE) Why do you say that?

16 MR. COLLAER: Same objection; calls for a
17 legal conclusion.

18 THE WITNESS: It was an open position that was
19 created. We didn't have a program manager. St. Anthony
20 had one, but Lewiston and Nampa didn't. And so to
21 create a position, an opening -- I had dealt with human
22 resources for many years, and when you are going to
23 reclassify a position, it always went through the hiring
24 process, unless it was just a change in name of a
25 position, then it was always -- but if it was a

1 promotion, then it was opened up to the public, or at
 2 least internally so anybody in the Department would be
 3 accessible and be able to apply.
 4 Q. (BY MR. SCHOPPE) Do you know if that position
 5 was made available?
 6 A. It was not.
 7 Q. Did you ever speak with Darla Crespin about
 8 Laura Roters?
 9 A. I know Darla didn't have a great deal of
 10 respect for Ms. Roters; personality-wise they clashed.
 11 Darla didn't appreciate the way Laura treated the kids.
 12 Darla didn't appreciate the way Laura was promoted and
 13 was Mr. Rohrbach's favorite staff and how she got
 14 preferential treatment. I know Darla had a real issue
 15 with that.
 16 Q. Did Ms. Crespin ever indicate to you that
 17 Laura Roters had been sent to clean house or get rid of
 18 people in O&A?
 19 A. I heard that, but I didn't hear it directly.
 20 Q. Did you hear that from Ms. Crespin or somebody
 21 else?
 22 A. From somebody else.
 23 Q. Who?
 24 A. Ray Gregston.
 25 Q. Did he indicate how he knew or heard that?

1 them. Then we would follow their instruction, whether
 2 to call law enforcement, and we usually did, but if they
 3 said they would take care of it, then we let them. Yes,
 4 we reported all of them.
 5 Q. (BY MR. SCHOPPE) Is it correct to say that in
 6 connection with your termination -- well, how was it
 7 that your termination came about in terms of the
 8 progressive discipline system? Were you issued
 9 counseling at first?
 10 A. Yes. I was counseled about the room time
 11 issues and having kids in their rooms, either at
 12 dinnertime or after school, because there would be
 13 breaks and shift transitions. The morning shift would
 14 leave at 2:00 and the afternoon shift would come at
 15 2:00. And I had overlapping shifts, but if those people
 16 were sick or on vacation and there wasn't a whole a lot
 17 of time, then the kids would go back to their room for a
 18 short amount of time, and that was unacceptable towards
 19 the end.
 20 Ms. Grimm and -- they said that kids weren't
 21 supposed to be in their rooms at our convenience, they
 22 said. And that was part of the research I did, as far
 23 as team meetings, that kind of thing. In Ms. Grimm and
 24 Ms. Harrigfeld's eyes a team meeting was our convenience
 25 and so the kids weren't supposed to be locked down.

1 A. No.
 2 Q. Have you ever heard of an incident in which
 3 Ms. Roters called the juveniles "dumb asses"?
 4 A. I didn't hear that personally. I did hear
 5 that she had done that, yes.
 6 Q. Do you know if that was ever investigated or
 7 any action taken?
 8 A. No. As far as I know, it was not
 9 investigated.
 10 Q. Do you know of any other instances in which
 11 her treatment of juveniles was in violation of standards
 12 of conduct within the facility?
 13 A. Not while I was there.
 14 Q. That's okay. As far as you knew, were you a
 15 mandatory reporter of child abuse or sexual abuse of
 16 juveniles as an employee?
 17 A. Yes.
 18 Q. And in terms of being a mandatory reporter,
 19 who was it that those kind of reports would have to be
 20 made to?
 21 MR. COLLAER: Objection; calls for a legal
 22 conclusion.
 23 THE WITNESS: If the juvenile reported sexual
 24 abuse, then we had a number that we called at Health and
 25 Welfare in Canyon County and reported it directly to

1 Like I said, in the research I did in all of
 2 the facilities nobody -- they had heard that term, but
 3 nobody was following it, because if you have a team
 4 meeting, you have a team meeting, and as long as the
 5 kids were checked on and they are safe in the 10 to 15
 6 minute time frame then -- we didn't want to keep them in
 7 there more than an hour. But in my supervisor's eyes,
 8 if we were in a team meeting, the kids needed to be out.
 9 Q. Were you required to have team meetings?
 10 A. Yes.
 11 Q. What was the point of team meetings?
 12 A. Update staff on what was going on, and we had
 13 a lot going on, especially in the last year or two with
 14 the changes in the philosophy and changes in protocols
 15 and policies and trying to keep everybody updated on the
 16 room time issues and treatment of kids.
 17 Q. So when juveniles would be locked down during
 18 that time, was that for reasons of safety and security
 19 as opposed to staff convenience?
 20 A. It was safety and security, because we had up
 21 to 24 kids and we certainly couldn't -- and at one time
 22 half of the kids would be in school, so we are talking 8
 23 to 12 kids that would have actually been locked down,
 24 the other 12 would be in school. So we couldn't have
 25 them out by themselves without direct supervision. So I

1 had a staff assigned to do 10 to 15 minute room checks
2 on them, which was in the national protocol.

3 Q. At the time these lockdown room time changes
4 came up, I think you said in 2011 sometime?

5 A. Uh-huh.

6 Q. Do you know if there had been a change in any
7 law or regulation concerning room time?

8 A. No, there hadn't been, because I did the
9 research in 2012.

10 Q. In other words, as far as you knew, it wasn't
11 a PREA or a CRIPA mandate or anything?

12 A. No.

13 Q. You testified earlier about an increase in
14 violence, when that change started to occur. Is there a
15 set of numbers that we could look at that documented
16 relative rates and assaults on juveniles or assaults on
17 staff, worker's comp stuff, things like that?

18 A. Absolutely. Incident reports, especially with
19 staff injury, would have been reported to Lisa Fausett
20 over in St. Anthony, she was the HR representative over
21 there, and she handled incident reports and staff
22 injuries and workers' comp, that kind of thing. So all
23 of the reports would have gone to her that, like I said
24 dealt with staff injury.

25 But then all of the incident reports, when

1 it more?

2 A. The workmen's comp claims that were going to
3 be significant in expense, the surgery, and then time
4 missed because these staff were going to miss a
5 significant amount of time. And I was going to end up
6 with four or five booth staff, as we called them, which
7 we couldn't do.

8 Q. Was there a name for the kind of reports that
9 she would generate that would summarize staff injuries
10 or juvenile injuries, things like that?

11 A. Well, it's in the HR forms, a Staff Injury
12 Report, it's as simple as that.

13 Q. In terms of the disciplinary process that
14 ultimately led to your termination, were you issued
15 written warning records or NOCA, a notice of
16 contemplated action?

17 A. Yes.

18 Q. What were those about? What did they say?

19 A. That I was violating their -- it had to do
20 with room time, that the kids were in their rooms too
21 much and I wasn't taking care of the problem.

22 Q. Prior to the phone call you said you had
23 received from Betty Grimm in 2011, you were not aware of
24 any problem with room time?

25 A. We had followed the policy and procedures we

1 there is an acting out, like I said, a code red, was all
2 in incident reports, so those were all documented.

3 Q. Was she in charge of summarizing that or how
4 do you look at numbers to see what's happening in the
5 facility?

6 A. I worked with her when I was in St. Anthony,
7 so we were friends. And just with her job she would
8 know if there was an increase in staff injuries, and the
9 staff injuries we were suffering were significant. They
10 required surgery, whether knees, shoulders, ankle. And
11 each time I would electronically send her the incident
12 report, and then there was a form I had to fill out for
13 an injury, and then I would have to call her to make
14 sure she got it. It was important because it had to do
15 with insurance. She dealt with the insurance and
16 helping the staff member with the doctors' visits, that
17 kind of thing, making sure it was all reported to
18 whoever she had to, and I'm not sure -- the State
19 Insurance folks, to make sure they knew about it. And
20 one day she asked me what in the world was going on in
21 O&A.

22 Q. When was that?

23 A. It was around Christmas, so I'm going to guess
24 Christmas of 2009.

25 Q. What did she mean by that? Did you talk about

1 had followed for over ten years. We had done the same
2 thing. In fact, we were getting -- as far as the
3 juvenile actually being in the room for an assault was
4 72 hours, but we had always tweaked how we were dealing
5 with the juvenile while he was in that area.

6 Through research and trial and error, we got
7 to the point where the juvenile, the only thing he was
8 kept away from was the other juveniles. Like I said, he
9 had all the civil rights that he was supposed to have;
10 going to his education and nurse and food and
11 everything. He got everything except to be around other
12 kids for that period of time.

13 Q. And then what happened after the notice of
14 contemplated action was issued; what was the
15 contemplated action that was issued?

16 A. My firing.

17 Q. That was it; no other option?

18 A. No. I don't think so. They didn't offer
19 any -- they didn't want me there.

20 Q. When you say "they," who do you mean?

21 A. Betty Grimm, Sharon Harrigfeld, Dave Rohrbach,
22 and Julie Cloud.

23 Q. Were you offered an opportunity to resign
24 versus being terminated?

25 A. Yes. Pat Thomson approached me in my office

1 and asked me if I wanted to resign and for me to say
 2 that I had an elderly relative that needed care and
 3 that's what I was going to go do and I was going to
 4 resign. And I said, I don't have an elderly person to
 5 take care of. And I wasn't going to lie. If they
 6 wanted to fire me, then that's what they had to do.
 7 Q. Did he say why that was thrown into the mix,
 8 the elderly relative?
 9 A. He said it had something to do with my
 10 insurance, and I never did get clear on how -- and if I
 11 did it his way, that my insurance would stay with me for
 12 a certain amount of time, like till the end of the
 13 month; or if I did it my way, it would end at the time
 14 of my termination. That's what he said. He was trying
 15 to make it look like it would be for my benefit, but in
 16 my opinion, I would have been lying, and it was more for
 17 their benefit.
 18 Q. What was your insurance program at the time?
 19 A. The State one, Blue Cross or Blue Shield,
 20 whoever it was at the time.
 21 Q. Did you form any opinions about the fairness
 22 of the disciplinary process that you went through?
 23 MR. COLLAER: Object to the form of the
 24 question; vague, calls for speculation.
 25 Q. (BY MR. SCHOPPE) Do you think it was fair,

1 Q. Did someone tell you that?
 2 A. Yes.
 3 Q. Who told you that?
 4 A. It would be Jeff Underhill, Ray Gregston,
 5 Diana Carnell, Dave Clason. I think that's all I can
 6 remember right now.
 7 Q. Do you know out of those -- you had 14 people
 8 under your supervision?
 9 A. Correct.
 10 Q. Out of those 14 do you know who stayed, who
 11 left, or the reasons why they left?
 12 A. I know Todd Inman, pardon me, he's another one
 13 that had called me repeatedly and told me about the
 14 changes after I left. He quit because he said it was
 15 more dangerous in O&A than it was in prison, and he had
 16 worked at the prison for years. And he just couldn't
 17 work there anymore under the stress of having juveniles
 18 just running wherever they wanted to go.
 19 Q. Did he say why it was dangerous; because of
 20 the lockdown policy?
 21 A. Yes. No more accountability, no more
 22 lockdown, and all of what we've talked about. Kids
 23 figured out quickly they could get in a fight and
 24 apologize and be out again.
 25 Q. How about Diana Carnell?

1 unfair, neutral about it?
 2 A. It was unfair, because nobody else in the
 3 building was going through what I went through. But
 4 then in my opinion -- I had been there a long time. I
 5 saw what had been going on for over two years. I had
 6 the idea that it was coming. I was trying to do
 7 everything I could to prevent it. I liked that job, I
 8 thoroughly enjoyed that job for 14 years. I didn't like
 9 the job the last year and a half. But I really enjoyed
 10 the people I worked with, at least in the O&A area, and
 11 many of the people throughout building. I had many
 12 friends in the Department.
 13 But I saw the writing on the wall. And so I
 14 knew they didn't want me there. I knew I was a thorn in
 15 their side, but I wasn't going to sacrifice the safety
 16 and security of the kids and the staff. That was the
 17 ultimate decision I made. That was it.
 18 Q. Do you know what happened with the O&A staff
 19 that you had supervised after you left? Did they stay?
 20 A. I heard it got very contentious, high stress.
 21 It was a high stress environment on a good day, but then
 22 it got to be very high stress because they came under
 23 tight scrutiny on making sure that they followed their
 24 new supervisor's directions to the tee and didn't create
 25 any disturbance, that kind of thing, which is normal.

1 A. She applied for another job and got it. But
 2 she left for the same reasons, the hostile work
 3 environment.
 4 Q. She told you that?
 5 A. Yes.
 6 Q. How about Dave Hottell?
 7 A. Dave Hottell had been injured numerous times
 8 and I know had surgery at least twice. And he was, I
 9 believe the words he told me, he's too old to put up
 10 with fighting with kids and being in a hostile
 11 environment. So he sought other employment and got
 12 other employment. And then there's other things going
 13 on with him. He ran into some health issues. He had a
 14 heart attack not too long ago.
 15 Q. Do you know if anybody else in O&A left the
 16 Department or transferred out -- or left O&A or
 17 transferred anywhere else or anything like that?
 18 A. I don't. I don't know.
 19 Q. Has anybody ever told you that they felt the
 20 disciplinary system is unfair?
 21 A. Not directly, no.
 22 Q. Did you ever form an opinion as to whether the
 23 hiring and promotion system at the Department was based
 24 on merit or not?
 25 MR. COLLAER: Objection; incomplete

1 hypothetical, calls for speculation, also calls for
2 legal conclusions.
3 THE WITNESS: While I was there, it was based
4 on merit and performance. It was an internal hiring.
5 Otherwise, like we mentioned before, it was the
6 electronic application process and going through the
7 interview process, and it was done in front of
8 everybody. I didn't have a problem with the hiring
9 process. It's not perfect, but it seemed to work for
10 the most part.

11 Right before I left -- we've already discussed
12 the Terry Lewis and Laura Roters things. If there is
13 favoritism and that kind of thing that's going to
14 happen, you can get around the electronic application
15 process.

16 Q. (BY MR. SCHOPPE) Is that what you think
17 happened with Dave Rohrbach's promotions?

18 MR. COLLAER: Objection; calls for
19 speculation.

20 THE WITNESS: He was promoted without a -- he
21 was just -- what's the term -- reclassified to a higher
22 position without anyone else being able to apply for it.

23 Q. (BY MR. SCHOPPE) At the time you left O&A
24 what was your job title?

25 A. Rehab tech supervisor.

1 A. Correct.

2 Q. At some point were you the PREA coordinator?

3 A. Yes, I was the first one. Yes, Betty
4 appointed me.

5 Q. What were your responsibilities there?

6 A. Well, being the first one, I had to read all
7 the policies regarding PREA, and they were extensive,
8 and then report back to Larry Callicutt on what they
9 were and how they would be applied to our unit. Then I
10 did training in all of the -- like generally, I would go
11 to team meetings and do training at team meetings around
12 the building and explain to staff what exactly PREA was,
13 and then we would have meetings with the kids too. And
14 then we eventually set up a form for the juveniles to
15 sign when they arrived in intake, that they understood
16 what PREA was.

17 And it was rather seamless with the detention
18 centers as well, they were getting the same information.
19 So the kids when they got to our intake, they were
20 familiar with what PREA was, and so it wasn't --
21 although, we did have classes with them, it was part of
22 the O&A staff's responsibility to have a PREA class
23 maybe twice a month in their dayrooms to just update the
24 kids on what it was and to remind them.

25 Q. Do you know if there was any increase in PREA

1 Q. And is it correct to say that there was no
2 unit manager position for O&A at that time?

3 A. Correct.

4 Q. As far as you know, based on your experience
5 and what you know of policies and procedures at the
6 Department, if a unit manager position had been created
7 at O&A, is that something that should have been opened
8 up for applicants?

9 MR. COLLAER: Objection; calls for speculation
10 and legal conclusion.

11 THE WITNESS: Absolutely; it would have been a
12 new position. I was the unit manager, and then I was
13 told that I was no longer -- I was told later, I found
14 out later -- I wasn't told at the time, I was told at
15 the time it was a budgetary decision. I found out later
16 Julie Cloud had run a comparison of some kind, or a job
17 description comparison of unit manager and rehab tech
18 supervisors, and since I didn't supervise what she calls
19 "professional staff," then I couldn't be a unit manger,
20 and so I had to be a rehab tech supervisor.

21 However, now Laura Roters is the unit manager
22 and does not supervise, quote-unquote, "professional
23 staff," yet she is.

24 Q. (BY MR. SCHOPPE) And that was not something
25 that you were advised about through Cloud's analysis?

1 incidents as a result of the room time change in
2 philosophy?

3 MR. COLLAER: Object to the form of the
4 question; incomplete hypothetical, calls for
5 speculation.

6 THE WITNESS: Not in O&A there wasn't. There
7 was some in Solutions, but as the investigations went
8 on, it was more the kids, as we found out, kids were
9 experimenting just to see if -- we found some of the
10 juveniles to be testing us and if we knew what PREA was.
11 Because they had heard about it in the detention
12 centers, and so they were testing us, and there was
13 nothing -- because we found out. I don't remember a
14 serious one coming about because of that, no.

15 Q. (BY MR. SCHOPPE) I'm not sure if I asked you.
16 Are you POST certified?

17 A. Yes, I'm a POST certified instructor for
18 juvenile supervision and safety and security. I helped
19 develop the classes and the policies and procedures for
20 JC Nampa.

21 Q. And what is the origin of POST? Is that
22 unique to Idaho? Is that a nationwide standard?

23 A. It's the Peace Officer Standards and Training.
24 It's the law enforcement training through the state
25 police. However, it was very unique to juvenile

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1 corrections, it was brand new and we had through -- I
 2 don't remember who the director was at the time when we
 3 started, whether it was Larry's ending or Harrigfeld's
 4 beginning. Anyway, it was right in that time I believe.
 5 But anyway, there was a number of us that went
 6 to the POST academy and got trained. We were with our
 7 training lady, Donna, I can't remember her last name.
 8 But she was with us and Marcy Chadwell was with us. She
 9 was our POST academy staff member. And we went through
 10 and developed policies, procedures, protocols, and
 11 instruction on many -- I think it was 12 different
 12 criteria.
 13 I was the instructor for safety and security
 14 and juvenile supervision, but there was ethics, and it
 15 had to do with food service, it had to do with
 16 education. And there was a number -- it was very
 17 extensive and took months to develop and bring about.
 18 And then the training, which is what I was
 19 excited about, was getting the staff trained by POST
 20 certified instructors in order to be more professional,
 21 and with the hope of one day getting our staff members
 22 to get on the Rule of 80 instead of the Rule of 90. The
 23 Rule of 80, Department of Corrections staff are on the
 24 Rule of 80, law enforcement. But juvenile corrections
 25 staff members are on the Rule of 90 they call it, the

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1 retirement plan.
 2 So that was ultimately our goal. We knew it
 3 was going to be way down the road, but that was a carrot
 4 out there for us to try to get POST certified, to not
 5 only get the staff trained, but to have that carrot out
 6 there, and hopefully they could be under the same
 7 criteria as the Department of Corrections staff.
 8 Q. What is the difference between Rule of 80 and
 9 90?
 10 A. The Rule of 80 or 90, it's the years of
 11 service plus your age is when you can retire. If you
 12 are under the Rule of 80, if you are 50 and have 30
 13 years experience, then there is your Rule of 80 and you
 14 can retire. Whereas, 90 is, it adds up, however that
 15 age and years of service add up to 90, then it's an
 16 extra five years work.
 17 Q. Within the POST system is there any higher
 18 level of certification than POST instructor, POST
 19 certified instructor?
 20 A. Not in our department, not in the Department
 21 of Juvenile Corrections, no.
 22 Q. Are you familiar with the name Dr. Richard
 23 Pines?
 24 A. Yes.
 25 Q. How so?

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1 A. He was a visitor of one of our juveniles in
 2 O&A, and it was brought to my attention -- I believe the
 3 juvenile's name was And was a mental
 4 health kid that this doctor had either adopted or was
 5 going to adopt, or anyway he was a relative or wanted to
 6 be -- like I said, I believe he had adopted him, Dr.
 7 Pines had adopted
 8 Anyway, Dr. Pines was a, I want to say a
 9 psychiatrist in Coeur d'Alene and had counseled this
 10 man and others up in Northwest Children's Home. I
 11 don't know if he contracted out or how that worked. But
 12 he came to visit in O&A when came down here.
 13 And two of my staff found out that his license had been
 14 suspended for allegations of inappropriate sexual
 15 contact.
 16 And when my two staff members alerted me, I
 17 alerted Superintendent Grimm. Superintendent Grimm told
 18 me that he was a friend of hers and to allow the visit,
 19 and we were not to have any staff in the visitation
 20 room.
 21 Q. She told you that directly?
 22 A. Yes.
 23 Q. Do you recall when that was?
 24 A. I would have to look up to see when
 25 was there, and it was a week after had been in

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1 intake. No, I don't recall when that was.
 2 Q. In reference to when you left the facility,
 3 any notion of how long before that it might have been?
 4 A. I just do not recall, no.
 5 Q. Who were the two staff members who discovered
 6 the issue with the suspension of his license?
 7 A. Todd Inman and Diana Carnell.
 8 Q. Do you know how they found out?
 9 A. They said they had got on the computer and
 10 found out. That is all I know.
 11 Q. Are you aware of any reports of any
 12 inappropriate conduct between Dr. Pines and
 13 A. Yes. During a visit, I believe it was Ms.
 14 Carnell was in the control booth at the time and
 15 had his leg over Dr. Pines' knee, whether it was just
 16 sitting together.
 17 Q. About how old was
 18 A. 16.
 19 Q. You said it was Diana?
 20 A. Yes.
 21 Q. Did she tell you about that?
 22 A. Yes.
 23 Q. Did you talk about that with anyone?
 24 A. With Betty Grimm.
 25 Q. Was this after Betty Grimm had already said

1 that Dr. Pines would be allowed in the facility and no
2 extra supervision?

3 A. Correct.

4 Q. Did anyone ever report that there was an
5 incident in which Dr. Pines was seen to be rubbing
6 hands in a strange way?

7 A. There were reports of suspicious touching.
8 However, when the control booth staff, they had access
9 to the speaker system in the visitation room because it
10 was right next to the -- the control booth person could
11 see into the visitation room, then they would tell the
12 visitation -- and it wasn't just for them, it was all
13 visitors could not touch. And so they would notify and
14 say, You guys can't be touching, and then they would
15 separate. I got word from staff saying that it was
16 going on, but it didn't progress to anything more than
17 that.

18 Q. Do you know if Todd Inman ever made reports
19 like that?

20 A. Yes.

21 Q. Anyone else you recall other than Todd Inman
22 or Diana?

23 A. No.

24 Q. Fair to say Betty Grimm was advised of all
25 these things by you?

1 ordinarily govern a response to reports of sexual
2 misconduct by a visitor?

3 A. Absolutely, yes. A visitation policy, for
4 one, they are not to be touching. And if the staff feel
5 the visitation is either verbally out of line or
6 physically out of line, they are to warn the visitors
7 once and then escort them out and end the visit.

8 Q. Fair to say it was clear to you that was not
9 an option with Dr. Pines?

10 A. Correct.

11 Q. With respect to Julie McCormick, are you aware
12 of -- apart from are you aware of any other male
13 juveniles with whom she might have spent time
14 inappropriately or counseled inappropriately?

15 A. Not specifically by name, because I was in the
16 O&A unit, and I would hear that -- and during a code and
17 in the aftermath of a code, when you have so many staff
18 involved and they are all going to back to their units
19 and things are calming down, then somebody is always
20 assigned, normally it would be the staff of the unit
21 would be assigned to talk with the juvenile and make
22 sure they get calmed all the way down and everything is
23 fine so the day-to-day program can continue.

24 I was told that Julie was taking kids to --
25 either counseling them for extended periods of time in

1 A. Yes.

2 Q. Do you have any notion of how many times
3 Dr. Pines was allowed in the facility to visit

4 A. I know of three.

5 Q. Were you concerned about Dr. Pines'
6 interactions with

7 A. Absolutely.

8 Q. Were you concerned that might be at
9 risk from Dr. Pines?

10 A. Absolutely.

11 Q. Is that something you relayed to Betty Grimm?

12 A. Yes. I should said I relayed it once, after
13 the initial one, when we found out about his license
14 being suspended, and then the one time after that with
15 the leg over the knee. And then after that I was told
16 to cease and desist, unless it got completely out of
17 hand that I wasn't to worry about it.

18 Q. Do you have any idea what that meant,
19 "completely out of hand"?

20 A. That if they were going to hold -- a little
21 rubbing of the hands or whatever, unless it was serious,
22 then we weren't to worry about it, that Dr. Pines was a
23 professional psychiatrist, and if that was part of his
24 treatment, then that's what we were supposed to allow.

25 Q. Is there any kind of a policy that would

1 their room or in the unit or taking them back to her
2 office.

3 Q. Did the name ever come up?

4 A. I knew but I never heard of that
5 connection, no.

6 Q. Who was it again that told you those things,
7 about her spending the inappropriate time?

8 A. It would be -- well, Diana would be one, but
9 Sarah Cerda had real issues with it, and then I believe
10 Mark Freckleton and I spoke about it.

11 Q. Did anyone ever express any concern there
12 might be a romantic or sexual relationship?

13 A. No. It was more the inappropriateness of a
14 female staff and a male juvenile going behind closed
15 doors. That was the main issue, completely
16 inappropriate.

17 Q. The cross-gender policy you had talked about
18 earlier, not letting them behind closed doors, is that
19 rooted in the possibility of sexual interactions?

20 A. Absolutely, yes. And it's just well known in
21 a lockdown facility, or any area, any facility that
22 deals with adults and juveniles, that you don't take
23 another juvenile out of camera range, as we used to call
24 it, or out of sight of another staff. You always had --
25 if you were going to take a juvenile somewhere, it was

1 always under camera view and you always radioed to the
2 control booth so somebody had eyes on.

3 Because I always -- we went over this numerous
4 times, that all a juvenile has to do is say he or she
5 touched me and you are guilty until never proven
6 innocent. So we stressed always be very careful of
7 that.

8 Q. Is that something you covered in POST?

9 A. Yes, POST and it was in our training, a new
10 staff training. And then like I said, we'd always
11 update, maybe a couple, two or three times year,
12 especially if we had new staff. It was just a good
13 reminder. People would get lax, taking kids to the
14 laundry room or something like that or taking kids back
15 to where their personal bins are out of camera range.
16 And so it was just a heads up.

17 Q. Do you know if juveniles are allowed to wear
18 gang colors anywhere in the facility?

19 A. No, they were not.

20 Q. Is that a matter of policy that they
21 shouldn't?

22 A. Yes.

23 Q. Do you know if they are allowed to wear them?

24 A. They weren't when I left.

25 Q. Did you or other staff, was it known what the

1 gang kid coming in and didn't have ID, he would not be
2 able to visit. Sometimes we would let it go one time,
3 and then tell him it's not happening again, and then
4 document it in the control booth. And then an e-mail
5 would be sent out to the staff of that unit, whether it
6 was O&A, Choices or wherever and say, This visitor came
7 in, we hope it's who he says he is, but however here's
8 his picture, and he's not allowed in until he brings in
9 his driver's license next time.

10 But for the sake of the kid and visitation, if
11 he was a well behaved kid, and a lot of it had to do
12 with their behavior too. It was supposed to be in black
13 and white, but for the sake of the family reintegration
14 sometimes we allowed it.

15 Q. Were you aware of any situations in which
16 program assignments were made inappropriately for a
17 juvenile? Say, if someone might need mental health
18 treatment being assigned to a behavioral unit or
19 anything like that?

20 A. Coming through O&A?

21 Q. Anywhere.

22 A. Coming through O&A after the assessments were
23 done, we did our best to place the juvenile in the best
24 program for him. Sometimes it would take a lot longer
25 because where, like for instance, if he needed to go to

1 gangs were and the colors?

2 A. Absolutely, yes. We had three or four gang
3 specialists. Todd Inman being one, Jeff Underhill being
4 one, Gracie Reyna was beginning to go into that area of
5 expertise, and I believe Ebe Amaechi was also part of
6 that. But Todd was the gang information officer at the
7 prison, so he was our resident expert on gangs. And
8 they did extensive research and kept up with Tim Higgins
9 at IDOC, who is the gang information person out there,
10 and just to keep each other updated. And we were in
11 constant communication with the Canyon County street
12 crimes officers, and keeping us updated on the new
13 gangs. We started taking pictures of the tattoos and
14 monikers and that kind of thing.

15 Q. Do you know if visitors were ever allowed in
16 the facility without being able to document their
17 identities?

18 A. Yes, they were. It was policy that they would
19 not. However, if the safety and security people who
20 were in charge or the rehab techs who were in charge of
21 the visitation deemed it, sometimes you would allow a
22 parent in, like a grandmother who had no identification
23 in to visit the juvenile. But if it was -- and it was
24 left up to staff discretion a lot of times.

25 For instance, if we knew it was a brother of a

1 Solutions, Solutions may be full. But sometimes if
2 there was like a drug and alcohol juvenile, and Choices
3 was full and was going to be full for a significant
4 amount of time, we would check with either Lewiston or
5 St. Anthony and see if they had a bed open sooner and
6 send them there.

7 As far as mental health kids, when I was
8 there, they would keep mental health kids in O&A until
9 an opening in Solutions came about. Clinicians would
10 have meetings and try to update, and if the juvenile
11 could benefit from another program, then they may try to
12 send that juvenile there. But while I was there, we did
13 our best to send the kids to the right place.

14 Q. How about with respect to second offenders,
15 was there a particular place, a program where they
16 needed to go?

17 A. The sex offenders usually were sent to
18 Mountain Home, Three Springs. The older ones with more
19 significant, like violent crimes, sexual crimes, would
20 go to St. Anthony.

21 Q. Were you aware of whether sex offenders were
22 ever placed in programs where they didn't have sex
23 offender therapy or treatment, things like that?

24 A. When we ran into that problem is when we would
25 know if a juvenile had a sex offense, but it wasn't

1 their committing offense. Their committing offense may
 2 be drug and alcohol or burglary, but they had committed
 3 a sexual offense, they just weren't committed on it.
 4 So when we would get the assessments from
 5 probation and reports, we would see sex offender, and
 6 that got contentious. Because the committing offense
 7 may be burglary, and so we would send the kid to Choices
 8 or St. Anthony or Lewiston or something. Well, they had
 9 sexual issues, major ones, and when they got to that
 10 facility, after the clinician got to talking to them and
 11 assessing their real issues, then we would end up
 12 sometimes having to send the juvenile back to O&A and he
 13 would have to go through the process all over again.
 14 Q. Why was that contentious?
 15 A. Because a judge said, I'm committing him on
 16 burglary or drug and alcohol, but his underlying issue
 17 and what's creating the crime, as we found out through
 18 assessment and time with the juvenile, he had sexual
 19 issues. And maybe the burglary was stealing something
 20 sexual, maybe it was women's underwear or something.
 21 Well, he just got caught on a burglary, but his real
 22 emotional issues were sex offending.
 23 So as staff, when we would see this and see
 24 the assessment and know that he should be going to,
 25 depending on his age, to St. Anthony or Three Springs

1 A. Solutions, yes. Well, it happened in Choices
 2 too. When you are dealing with 60 of the worst behaved
 3 kids in the state, it's going to happen. It just seemed
 4 to happen more in O&A because we were living there.
 5 MR. SCHOPPE: I need a five-minute break to
 6 check my notes.
 7 (Recess taken from 2:07 to 2:16 p.m.)
 8 Q. (BY MR. SCHOPPE) Just a couple questions.
 9 Are you aware of any disciplinary actions involving
 10 Diane Miles?
 11 A. Well, I know Diane had received, one possibly
 12 two DUIs. I remember my issue with that is she was
 13 still transporting kids. And I brought that to
 14 attention of Betty, and Betty said that it was being
 15 worked out. They knew about it.
 16 And then two instances where Diane was in the
 17 control booth on a midnight shift and she fell asleep
 18 and had the -- the way the building is, there is the
 19 foyer when you enter the building, then there is the
 20 secure sally port door that leads to the outside, and
 21 then the control booth, and then the two secured doors
 22 that lead into the facility. Well, she left the door
 23 that leads to the outside open and she was asleep, and
 24 she also had the booth door open, which meant anybody
 25 from the outside could have walked right into our

1 for sex offender treatment, we really couldn't because
 2 that wasn't his committing offense. So it was really
 3 difficult in those situations, and it doesn't happen a
 4 lot, but it happens enough.
 5 Q. Did you ever have any concerns at the facility
 6 with respect to availability of dangerous objects or
 7 things that could be used as weapons or even things like
 8 office supplies not being kept track of?
 9 A. Yes. We had a particular teacher in O&A and
 10 in the other parts of the building, but since I
 11 supervised O&A, that was our issue. He would keep
 12 pencils in ready view and access to the juveniles when
 13 they weren't using them, and then the juveniles were
 14 supposed to put them back in this little box that he had
 15 them all lined up for. And if he was missing a pencil,
 16 it would be, Okay, you guys, where is the pencil? And
 17 all of a sudden the bell would ring and the kids would
 18 leave and we have a pencil, which is a pretty serious
 19 weapon, wandering around, and so that created a lot of
 20 anxiety.
 21 Q. What is the policy for reacting to something
 22 like that, where there is a known hazard?
 23 A. Lock down the kids and do a room search.
 24 Q. Were you aware of similar problems in any
 25 other parts of the facility?

1 control booth. She did that twice.
 2 Q. Do you know if she received any disciplinary
 3 action in connection with that?
 4 A. I heard she did, but I didn't write them up,
 5 so I didn't know exactly what it was.
 6 Q. Is that a pretty serious safety problem as far
 7 as you are concerned?
 8 A. Absolutely; there wasn't any more serious
 9 breach of security.
 10 Q. Based on your experience and training,
 11 everything you know, was the Department, and the JCC
 12 Nampa facility specifically, a secure facility?
 13 MR. COLLAER: Object to the form of the
 14 questions; vague, calls for speculation.
 15 Q. (BY MR. SCHOPPE) During your time there?
 16 A. During my time there it was -- up until the
 17 end of 2009 it was very secure; it was an enjoyable
 18 place to work. When new programs went into effect, it
 19 became increasingly dangerous and an increasingly
 20 hostile place to work and not enjoyable. It was a
 21 battle.
 22 Q. Are you aware of other employees who share
 23 that view?
 24 A. Of all of the people I supervised everybody
 25 was. And I think I mentioned earlier there is specific

1 staff around who had to come down and help O&A that were
2 concerned also.

3 Q. I think I'm done.

4 With respect to any of your prior testimony
5 today, occasionally there were things that you didn't
6 remember; names, things like that. Is there anything
7 that has anything popped into your head since then?

8 A. No.

9 MR. SCHOPPE: I don't have anything else.

10 Do you have follow up?

11 MR. COLLAER: I have a number of questions.

12

13 EXAMINATION

14 QUESTIONS BY MR. COLLAER:

15 Q. Tell me, Mr. Knoff, before you came here for
16 your deposition, did you do anything to prepare for it?

17 A. I read Sharon Harrigfeld's, half of her
18 deposition, up to page 92, and I read Betty Grimm's
19 deposition. And that was all.

20 Q. Who provided you those transcripts? Mr.
21 Schoppe?

22 A. Yes.

23 Q. Did you meet with Mr. Schoppe at all?

24 A. I met with him once.

25 Q. Does he represent you?

1 meeting, and an e-mail asking me if I had read the
2 depositions and if I had any questions about them.

3 Q. Okay. When you met with him, who else was
4 present?

5 A. Ray Gregston.

6 Q. Anybody else?

7 A. No.

8 Q. What did Mr. Gregston say during that meeting?

9 A. Regarding this, nothing.

10 Q. Did he say anything about the lawsuit at all?

11 A. No.

12 Q. What did Mr. Schoppe, if anything, did Mr.
13 Schoppe tell you about lawsuit?

14 A. About the lawsuit, nothing. We talked about
15 preparing for this and what a deposition actually is.

16 Q. Did he talk to you about the allegations that
17 the Plaintiffs are making in this complaint, what they
18 contend was done to them?

19 A. No.

20 Q. Tell me, where are you currently employed?

21 A. Commission of Pardons and Parole, State of
22 Idaho.

23 Q. How long have you worked for Pardons and
24 Parole?

25 A. One year.

1 A. No.

2 Q. Is he your attorney?

3 A. No.

4 Q. What did the two of you talk about?

5 A. Just about how -- what we were going to do
6 here, and he just said -- he wanted to know my
7 background, generally how long I had worked for the
8 Department. And that was about all. Because I had
9 never done a deposition before.

10 Q. When did you and Mr. Schoppe meet?

11 A. A month ago, maybe.

12 Q. Prior to the deposition today, have you --
13 since talking to Mr. Schoppe, have you had any contacts
14 with Rhonda Ledford?

15 A. No.

16 Q. Have you spoken to Ms. Ledford about this
17 lawsuit at all?

18 A. No.

19 Q. Any other contacts with Mr. Schoppe about the
20 allegations in this lawsuit, other than the one meeting
21 you had with him?

22 A. No.

23 Q. Any letters or e-mails or correspondence of
24 that nature?

25 A. He e-mailed me correspondence about this

1 Q. Is that part of the Idaho Department of
2 Corrections?

3 A. Yes and no.

4 Q. What is your job with Pardons and Parole?

5 A. Parole hearing officer.

6 Q. Who is your boss?

7 A. Olivia Craven.

8 Q. Is Ms. Craven the person that hired you?

9 A. Yes.

10 Q. Did you go through an interview and
11 application process?

12 A. Yes.

13 Q. Was the interview process with you and Ms.
14 Craven individually or were there other people there?

15 A. A gentleman who was the supervisor at that
16 time, who has since retired, Wes Greer was his name.

17 Q. So it was two people; Ms. Craven and
18 Mr. Greer?

19 A. Yes.

20 Q. Do you know if other people interviewed for
21 the position?

22 A. Yes.

23 Q. Do you know how many people were hired?

24 A. Two.

25 Q. Two people. Do you know who the other person

1 was?
 2 A. Diana Carnell.
 3 Q. Do you know how many people actually
 4 interviewed for the spot or were given interviews?
 5 A. I was told there was 108 applications. That's
 6 all I know.
 7 Q. Do you know how large the interview list was?
 8 A. Ten.
 9 Q. Do you know of those ten how many people were
 10 afforded interviews?
 11 A. All ten.
 12 Q. All ten were given interviews. Tell me, is
 13 that process you went through to get your job for
 14 probation and parole similar to the application and
 15 interview process that was used at IDJC?
 16 A. Yes, pretty close.
 17 Q. So at IDJC when a position came open and
 18 people were applying for it, you applied for it, the
 19 interview list was made, people were selected for
 20 interviews and then a decision was made as to hiring.
 21 A. Yes.
 22 Q. Did you ever serve on an interview panel?
 23 A. Yes.
 24 Q. At IDJC?
 25 A. Yes.

1 talk about strengths and weaknesses and fit, because the
 2 fit was a big deal, and if we saw something that maybe
 3 that person was missing, we would talk about it. But
 4 they always had the heaviest weight and the decision
 5 making.
 6 Q. But my question is: Do you recall an instance
 7 where you as a member of the panel favored a candidate
 8 that was not offered the job?
 9 A. I do not remember one, no.
 10 Q. So through the collaborative process the panel
 11 would come to you. In your experience was there ever an
 12 instance where the collaborative decision that was made
 13 was inconsistent with what the hiring individual wanted?
 14 A. I remember times where there was a contention
 15 and we would take more than one meeting, and we would
 16 have to bring in maybe Superintendent Grimm or go to her
 17 office, or Superintendent Callicutt, or whoever it was
 18 at the time, or bring in another supervisor and say,
 19 Here's what my list says about strengths and weaknesses,
 20 and here's everybody -- so sometimes we would have to
 21 bring in someone else to discuss it. But generally
 22 speaking, it was a collaborative effort and we went with
 23 that person.
 24 Q. So correct me if I'm wrong, in your
 25 experience, just talking about your experience, through

1 Q. When you would do that, how many other folks
 2 were on the interview panel?
 3 A. From two to four more, so there was either
 4 three to five people.
 5 Q. The people who were on the panel, would it
 6 include the individual who the candidate was going to be
 7 working for?
 8 A. Yes.
 9 Q. So tell me, when you would interview these
 10 people, did you engage in a collaborative discussion
 11 with the other people on the panel about the strengths
 12 of the various candidates based on the interview that
 13 you had done?
 14 A. Yes.
 15 Q. Would you make recommendations as a panel
 16 about whom you felt the best candidate was?
 17 A. Yes.
 18 Q. In your experience in doing that, did the
 19 panel ever recommend somebody that the hiring person
 20 didn't like or wasn't in agreement with?
 21 A. When I was a part of it and if it wasn't in my
 22 unit, I would always give my opinion. But whether it
 23 was, say, Dave Rohrbach or the safety and security
 24 supervisor or whoever, they always had like the number
 25 one opinion. If they liked that person, then we would

1 that collaborative process of the interview process, at
 2 the end of it, after the debate was had about the
 3 various strengths and weaknesses of the candidates that
 4 you interviewed, at the end of the day when somebody,
 5 when the individual who was going to be offered the job
 6 was offered the job, you were comfortable with that
 7 selection?
 8 A. Yes. Generally, yes.
 9 Q. Tell me, do you have any reason to believe
 10 that when Laura Roters was hired the first time as the
 11 unit manager for Choices, her interview process was not
 12 exactly what you just described?
 13 A. Yes, on the first one, like you say, and unit
 14 manager.
 15 Q. What I'm asking -- let me back up. Are you
 16 telling me that she did not submit to an interview with
 17 a panel of interviewers?
 18 A. She was accepted into that, yes.
 19 Q. I understand she was accepted into that. But
 20 when she was there, was she and other individuals
 21 interviewed for that spot? Do you know one way or
 22 another?
 23 A. I don't know one way or the other.
 24 Q. Assuming that there were more than one person,
 25 she was not the only person interviewed, do you have any

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1 reason or information to suggest that the interview
 2 process and the collaborative process that you've
 3 experienced didn't apply to her?
 4 A. It would be my understanding that that same
 5 process should have been done the same way.
 6 Q. You don't know if the other people that were
 7 on the interview panel did not feel that Ms. Roters was
 8 the best candidate for the job based upon the interview.
 9 A. I didn't know any of them that did the
 10 interview.
 11 Q. So you don't know one way or another.
 12 A. Correct.
 13 Q. That's fair.
 14 When she applied the second time, after the
 15 position was -- let me back up. On her first time it
 16 was taken away, are you aware of anything on her
 17 application when she filled it out where she
 18 misrepresented or said anything inaccurate about her
 19 experience or background?
 20 A. Am I aware personally of it?
 21 Q. Yes.
 22 A. No.
 23 Q. Did the subject matter expert you talked to
 24 tell you that there was anything in her application that
 25 was later found to be inaccurate?

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1 A. He said it was questionable, and that is why
 2 he gave her the benefit of the doubt. It just wasn't
 3 definite.
 4 Q. I understand how he scored it. But after he
 5 scored it, she made the list.
 6 A. Yes.
 7 Q. So at that point is what gets you the job in
 8 your experience the interview?
 9 A. Yes.
 10 Q. So if anything was fouled up in the way that
 11 she applied for and was selected for the first position
 12 as unit manager, it was in the scoring of her
 13 application by the SME.
 14 A. I would have said it was in how it even made
 15 it to the SME.
 16 Q. Okay. You are assuming that DHR does an
 17 initial screening?
 18 A. Correct.
 19 Q. And that would be Vicki Tokita at the agency?
 20 A. I don't know whether it's Julie Cloud, the
 21 human resources department, or if it goes to DHR first,
 22 I'm not sure.
 23 Q. Whatever that process is, it goes through
 24 them, then it goes to the subject matter expert, he
 25 scores it. That is where, if there was a breakdown,

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1 that is where it happened.
 2 A. Correct.
 3 Q. There was nothing untoward that you are aware
 4 of about the interview process.
 5 A. Not that I'm aware of.
 6 Q. As far as you know, that was a fair process
 7 with respect to her competing with other people that
 8 were on the list.
 9 A. As far as I know.
 10 Q. The change in policy that you've spoken to
 11 when Ms. Harrigfeld became superintendent, do you
 12 recall, was that in the early part of 2011 that that
 13 really came into be?
 14 A. The change in protocols started in late 2009,
 15 early 2010. The actual policy changes, I'm guessing,
 16 would be in the 2011 time, yes, but protocols had
 17 changed.
 18 Q. When you say "protocols," what are you
 19 referring to?
 20 A. Action taken by staff in certain situations.
 21 Q. At what point were you -- as I understand what
 22 you've described before, staff had discretion to impose
 23 a 72 hour lockdown if a kid got into a fight.
 24 A. There was no discretion. It was --
 25 Q. It was automatic.

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1 A. It was automatic and it was in our handbook
 2 and in the rules that the kids read and signed.
 3 Q. So if there was a fight, even if it was a
 4 mutual combat, they would be locked down for 72 hours?
 5 A. Correct.
 6 Q. Did they have discretion for less serious
 7 incidents where they would be locked down for same
 8 amount time or less amount of time?
 9 A. Other than an assault or another serious --
 10 and we had levels of disciplinary action. For instance,
 11 if a juvenile would talk back and swear at a staff, that
 12 would be from 15 minutes maybe to an hour. And yes, the
 13 staff had discretion, because we understood that kids
 14 would get upset and have a reaction and then the staff
 15 would go talk to them, and if they were calmed down then
 16 they would be out in 15 minutes.
 17 Q. But in the interim they would be locked down.
 18 A. For that 15 minutes, yeah.
 19 Q. What would be the type of instances where they
 20 would be locked down for 24 hours or more?
 21 A. Having contraband, dangerous contraband, maybe
 22 a shank, that kind of thing.
 23 Q. Like cigarettes -- obviously, if they had
 24 drugs or alcohol, that would be a serious thing.
 25 A. Yes.

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1 Q. How about cigarettes?

2 A. Contraband of that nature, which wasn't a

3 threat -- it was a threat to the facility because of

4 fire, but it wasn't a threat to the danger of a -- like

5 a shank, it wasn't meant to injure someone else. Those

6 would be discretionary.

7 Q. Discretionary on the part of whom?

8 A. The staff, and then the staff would call me,

9 the supervisor, and then we would talk about it, find

10 out -- our main issue was where did they get. So that

11 would be -- we would go to the front end of that, where

12 was he transported, did it come in in his pants, was he

13 not checked at intake. There is a whole process.

14 Q. Tell me, at what point -- you indicated that

15 when Ms. Harrigfeld changed the policy and took away the

16 72 hour lockdown, that the incidents of assaults

17 increased.

18 A. Yes.

19 Q. Did that happen in the early 2011 time frame

20 or a different time frame?

21 A. That was the 2009 time frame. Well, it's

22 when -- I mentioned earlier we had the one juvenile who

23 was locked down for the fight and he was really a well

24 behaved kid, and that's when it changed.

25 Q. Was that individual named K.W.?

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1 A. I don't know. I can see his face, but I don't

2 remember his name.

3 Q. Was that incident part of a written reprimand

4 that you received?

5 A. I'm sure, yes.

6 Q. Was it also part of a disciplinary action

7 taken against you?

8 A. Yes.

9 Q. If we look to that, then it would have a date

10 on it.

11 A. Yes.

12 Q. Now, you've testified that you were

13 discharged; correct?

14 A. Yes.

15 Q. But you did receive another disciplinary

16 action where you were suspended for five days without

17 pay; correct?

18 A. Yes.

19 Q. Did that also deal with the room time for

20 juveniles?

21 A. Correct.

22 Q. So it's the same type of stuff.

23 A. Yes.

24 Q. And then there is -- correct me if I'm wrong,

25 after you get the five-day suspension, there were other

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1 incidents that you were called to answer for dealing

2 with room time.

3 A. Yes.

4 Q. And that was the subject of the notice seeking

5 your discharge.

6 A. Right.

7 Q. Tell me, as a worker, an employee at the

8 Department, when you were the supervisor, I understand

9 that you disagreed with Ms. Harrigfeld's policy about

10 how to interact with and manage juvenile offenders. You

11 made that pretty clear. You felt the 72 hours was an

12 invaluable tool and Ms. Harrigfeld thought it was

13 inappropriate.

14 A. Correct.

15 Q. And you saw the lockdown, the 72 hour lockdown

16 as, for lack of better word, a threat to the kids. If

17 they misbehaved, this is the consequence to it.

18 A. Not a threat, a deterrent.

19 Q. But it is a form of punishment; correct?

20 A. Corrective action is the way we used it. It

21 wasn't punishment, and that's the way we wrote it in our

22 manual and in the rules. So if you do this, here's the

23 action-reaction thing. And it wasn't a matter of

24 punishment, because the kids got education, they got to

25 eat, they got to -- the only thing they were separated

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1 was from other kids.

2 Q. Well, other than locking them down, what other

3 punishment can you mete out in the facility?

4 A. Countless times kids would act out in the

5 classrooms or at mealtimes, anywhere, PE, wherever they

6 were around other kids, and the staff would pull them

7 aside and have some verbal deescalation and counseling

8 and take them for a walk, separating them from the group

9 so they couldn't do PE or school, whatever. But that

10 was a form of taking them out of the group and taking

11 them away from the audience, so to speak, was a form of

12 correction action. We were trying to -- that was our

13 main goal was to get the kids calmed down and back to

14 their group, that's where they were the safest.

15 Q. So you characterize anything of that nature to

16 be corrective action rather than a form of punishment

17 for bad behavior.

18 A. Wanted to correct it and get them back to

19 where they were.

20 Q. Other than the 72 hour lockdown, is there any

21 more serious corrective action that you could do?

22 A. More serious? No. And we didn't want to.

23 Q. Understood. Tell me, would you agree that as

24 an employee when the director sets policy or a directive

25 of how she expects her employees to conduct themselves

1 in the workplace, they are required to follow that.
 2 A. Yes.
 3 Q. An exception would be if she is asking you to
 4 do something that's illegal.
 5 A. Correct.
 6 Q. If she's telling you to go to a convenience
 7 store and rob the clerk and bring the money back to me,
 8 you can say no.
 9 A. Yes.
 10 Q. But outside that, regardless, as in this
 11 instance, with Ms. Harrigfeld's policy on interacting
 12 and handling the juveniles, I understand that you
 13 disagree with it, but you had to follow it as an
 14 employee.
 15 A. Let me make it clear. There wasn't a policy
 16 drawn up until 2012, and that was after Monty Prow came
 17 to O&A and we revamped our entire handbook and had all
 18 of our staff and some safety and security folks and
 19 clinicians, a lot of people were involved in the O&A
 20 process and unit. Monty came out and we revamped our
 21 handbook and the rules, and that is when policy actually
 22 took effect. From late 2009 to 2012 it was only a
 23 suggestive protocol.
 24 Q. But you knew what she expected.
 25 A. Sure, yes.

1 24 kids.
 2 Q. Without going through the entire day --
 3 A. PE, school, meals and then done at 3:00. And
 4 then they would go back to their dayrooms and then they
 5 would have -- the staff would have classes. And the
 6 staff had their own list of classes they could teach,
 7 whether it was anger management, drug and alcohol, that
 8 kind of thing, getting them ready for a program.
 9 Q. Tell me, what time is dinner during the week?
 10 A. I believe it was 4:45. I think that's when it
 11 was.
 12 Q. After dinner kids aren't back in programs, are
 13 they?
 14 A. Correct.
 15 Q. At what point after dinner do they return to
 16 their rooms for the night?
 17 A. It was based on a level system.
 18 Q. Level 1, level 2?
 19 A. Actually, 2, 3, 4. The kids all came in in
 20 O&A at level 2.
 21 Q. What was level 1?
 22 A. Level 1 is if they got in trouble and put down
 23 a level and got sanctioned for some reason and got
 24 dropped to level 1, and that was yellow pants and they
 25 had to go to bed a half hour earlier. And level 2 went

1 Q. That's what I'm getting at. She tells you and
 2 you know what her expectations are, you have to follow
 3 those expectations; correct?
 4 A. Yes.
 5 Q. If you don't, you could be subject to
 6 discipline.
 7 A. Yes.
 8 Q. And you don't have any quarrel with that.
 9 A. No.
 10 Q. As a general proposition.
 11 A. Yes.
 12 Q. Tell me, when you were running O&A, what was
 13 the schedule of kids from when they were first up in the
 14 morning until they were back in the rooms at night?
 15 A. Monday through Friday they would get up and go
 16 to breakfast. They would get up and have a little group
 17 time or -- they could either get up and watch the news
 18 prior to breakfast or get up and have a little group
 19 time, kind of a wake up. Sometimes we would have a
 20 clinician, if the clinician was there early, a clinician
 21 would run maybe a little half-hour group with them to
 22 kind of start their day with a good attitude, a little
 23 group meeting. Then they go to breakfast, then they go
 24 to school. And it was rotating, because we didn't have
 25 room in our small gym to have all, if we were full, all

1 to bed at certain time, and level 3, and level 4 got
 2 movie night and got to go to bed at 9:00 to 9:30.
 3 Q. So it's a reward system for achieving higher
 4 levels.
 5 A. Correct.
 6 Q. And they could do things that would cause
 7 their levels to be decreased?
 8 A. Yes.
 9 Q. One that would probably get you on a level 1
 10 fairly quickly is you get involved in a fight.
 11 A. Correct.
 12 Q. Another would be cursing, curse at a staff?
 13 It's called a negative?
 14 A. Yeah, they would get a negative, not
 15 necessarily dropped a level.
 16 Q. Depending on how many negatives that's when it
 17 starts to drop.
 18 A. Yes.
 19 Q. But being disrespectful to staff is a
 20 negative, can be?
 21 A. Yes.
 22 Q. Cursing can be a negative?
 23 A. Yes.
 24 Q. Not getting their homework done, that can be a
 25 negative?

1 A. Yes.
 2 Q. These are largely subjective things for staff
 3 folks, aren't they, of what is a negative and what is
 4 imposed?
 5 A. It's listed in their handbook, so they know.
 6 Q. Who makes the decision of when a negative
 7 event has happened and a kid is tallied with that?
 8 A. The staff who are working in the dayroom at
 9 the time, they have eight kids in their dayroom, and
 10 each night they would go and there is a scoring sheet,
 11 kind of a grade sheet.
 12 Q. What time each night during the week did level
 13 1 kids go to their room for the night?
 14 A. If I remember, I think it was, I want to say
 15 7:00.
 16 Q. You'd defer to the actual schedule?
 17 A. Sure.
 18 Q. And then level 2 would be about a half hour --
 19 A. 8:30 and 9:00.
 20 Q. When they go to their rooms, that means they
 21 are in, its locked. Essentially they are locked in
 22 their rooms?
 23 A. Correct.
 24 Q. And they stay there until 6:30 in the morning
 25 or 6:00 in the morning?

1 Q. Did that happen every day?
 2 A. Every week.
 3 Q. Once a week. How often during the week would
 4 there be a period of time where the kids were locked in
 5 their rooms for staff convenience?
 6 MR. SCHOPPE: Objection; vague, ambiguous,
 7 mischaracterizes prior testimony.
 8 THE WITNESS: Right after dinner the staff
 9 would bring the kids back from dinner and then they
 10 would need time to use the rest room, because they
 11 usually wouldn't eat dinner, so they would take a half
 12 hour to use the rest room, eat dinner, and then go get
 13 the kids out. That was their only break during the
 14 eight-hour shift.
 15 Q. (BY MR. COLLAER) Was that also referred to as
 16 "hygiene time"?
 17 A. Yes.
 18 Q. And did that last for only a half hour or was
 19 it for an hour?
 20 A. The intent was a half an hour.
 21 Q. In practice.
 22 A. In practice, yes.
 23 Q. In practice it was an hour.
 24 A. In best practice it was a half an hour.
 25 Q. In reality it was an hour.

1 A. Correct.
 2 Q. So if a level 1 group of kids go into their
 3 rooms at 6:30 in the evening, they are not coming out
 4 again, they are locked in their rooms for 12 hours.
 5 A. When you say a group, that was rare.
 6 Q. The level 1 kids, whoever they are --
 7 A. It was usually just one or two.
 8 Q. They are in for 12 hours.
 9 A. Yes.
 10 Q. And if the level 2 kids go in a half hour
 11 later, 7:00, they are in for nearly 12 hours too?
 12 A. They go in at 7:30.
 13 Q. Whatever the schedule shows.
 14 A. Yes.
 15 Q. That's how it worked.
 16 A. Yes.
 17 Q. Was there also room time that was an issue of
 18 your discipline that happened during the day, apart from
 19 the time they were in their rooms for bed?
 20 A. Yes.
 21 Q. That was what was referred to as "staff
 22 convenience"?
 23 A. That's how some people put it, yes.
 24 Q. That dealt with staff meetings?
 25 A. Yes.

1 A. Depended on the staff and depending on the day
 2 and...
 3 Q. So in addition to the anywhere from 10 to 12
 4 hours the kids were in their room for the night, they
 5 would be in their room for anywhere from 30 minutes to
 6 an hour for hygiene time.
 7 A. Yes.
 8 Q. And then if there were other staff things or
 9 something, they were locked in their rooms again;
 10 correct?
 11 A. Correct.
 12 Q. So if that was like a level 1 kid, with the
 13 hygiene time, it takes an hour, they are in their rooms
 14 for 13 to 14 hours every day; correct?
 15 A. In rare occurrences, yes.
 16 Q. What would be the non-rare occurrence? What
 17 would be the routine for a level 1 kid to be in their
 18 room?
 19 A. Level 1 was rare.
 20 Q. I'm talking about level 1 kids. They are in
 21 their rooms for upwards around 14 hours a day during the
 22 week.
 23 A. Could be.
 24 Q. Isn't that normally how much time they were in
 25 their rooms?

1 A. Well, in the last PbS survey I saw, which
2 documents kids from 6:00 a.m. to 10:00 p.m. O&A had 4.1
3 hours. Meaning average, from Sunday to Saturday, the
4 kids were in their rooms an average of 4.1 hours. O&A
5 kids, not program kids, O&A kids, because there is a
6 difference. And that is the difference that I don't
7 believe administration, the new administration
8 understood.

9 That means 6:00 a.m. to 10:00 p.m. and
10 sometimes the kids wouldn't get up until 7:30, so there
11 is an hour and a half of that 4. And then if they went
12 to bed at 8:00, there is 3-1/2 of that 4 hours. So
13 those kids were only in their rooms for a half an hour
14 from 8:00 to 8:00. And understanding the population O&A
15 had, with mental health kids, drug and alcohol kids,
16 sex offenders, they needed time away from each
17 other. You can't have a group like that mixing all the
18 time or they start getting on each other's nerves and we
19 end up with discipline issues. That was part of the
20 issue I had with the administration and trying to
21 explain why the kids needed to have that break from each
22 other.

23 Q. Okay. Tell me, would you expect that the
24 amount of time that they are in their cells -- I equate
25 the room as basically like the kid's cell?

1 A. An hour.
2 Q. An hour less. So rather than 14, they are
3 locked down for 13 hours every day.
4 A. No, it would be --
5 Q. Anywhere from 12 to 13 hours.
6 A. If they go to bed at 8:00 and they are up at
7 6:30, then they are in their rooms all day long maybe an
8 hour or so.

9 (Exhibit 154 marked.)
10 Q. (BY MR. COLLAER) Handing you what I've marked
11 as Exhibit 154. Do you recognize that?

12 A. Yes.
13 Q. What is it?
14 A. It's an O&A Weekday Schedule.
15 Q. Is this the schedule that was in effect while
16 you were running the unit?

17 A. Early; it wasn't the last one.
18 Q. I'm looking at the weekday schedule. Down at
19 the first entry, 6:30 a.m., that is when the kids are
20 woken up and they get out of the rooms.

21 A. Yes.
22 Q. And then down at the bottom, level 1 lockdown,
23 6:30 p.m. Is that consistent with what you recall?
24 A. Yes. We increased it later to 7:00, but yes,
25 that's correct.

1 A. Uh-huh.
2 Q. Cell time for kids, for a level 1 kid at O&A,
3 how you described, how would you expect that would
4 compare to an inmate in the general population of ISCI
5 as far as time in the cell on a regular day?

6 MR. SCHOPPE: Objection; calls for
7 speculation.
8 WITNESS: I don't know about prisoners in
9 general population. I know they are in their rooms a
10 lot, but I don't know.

11 Q. (BY MR. COLLAER) Would you expect it to be
12 more or less than how you treat a kid?

13 MR. SCHOPPE: Objection; calls for
14 speculation, incomplete hypothetical, and facts not in
15 evidence.

16 THE WITNESS: Since we were so concerned about
17 the welfare of the juveniles, we would expect it to be
18 less, and we did everything we could to make it less.

19 Q. (BY MR. COLLAER) Would it surprise you that
20 how you've described the kids, the level 1 kids that
21 you've described, are in their rooms significantly more
22 than male inmates at ISCI in the general population?

23 A. No, it wouldn't surprise me.
24 Q. The level 2 kids, their time in the room would
25 be, what, about another half an hour less.

1 Q. And then 7:30 is level 2 lockdown for the
2 night.

3 A. Yes. And we increased all of those a half an
4 hour at the end of my time there.

5 Q. Then by 8:00 level 3, they are locked down
6 too; correct?

7 A. According to this, yes.
8 Q. That was the schedule?

9 A. Not when I ended it wasn't.
10 Q. But it was for a period of time.

11 A. For a period of time, yes.
12 Q. How long during the period of time you were
13 there was this schedule?

14 A. Well, we increased it when Monty Prow was --
15 we were redoing it and increasing it and trying to find
16 ways to get kids more time out of their rooms. So it
17 went to 7:00, 8:00, 8:30, and 9:30.

18 Q. And more time out of the rooms was consistent
19 with what Director Harrigfeld wanted; correct?

20 A. Yes, sure.
21 Q. So on the next page, the Saturday schedule, I
22 think the level 1 lockdown is 5:30 in the afternoon.

23 A. Right after dinner, yes.
24 Q. Why are you locking them down earlier on
25 Saturdays?

1 A. The whole system was an incentive-based system
 2 and the kids knew and they signed the document, like I
 3 said, when they came into O&A. This and another form
 4 were in the dayrooms listed on the wall and by their
 5 door, that if they got dropped to level 1, this was the
 6 consequence.
 7 Q. So there was a punitive aspect of this
 8 schedule, depending on the level that you were in.
 9 A. Or consequences, yes.
 10 Q. If you dropped to level 1, you are going to be
 11 spending more time in your room.
 12 A. Yes.
 13 Q. Is that something that Director Harrigfeld
 14 wanted changed?
 15 A. She didn't say that specifically, no. I mean,
 16 Monty Prow came up and came out when we were revamping
 17 this, it was part of it, yes.
 18 Q. But needless to say, after Director Harrigfeld
 19 became the director the schedule that was in Exhibit 154
 20 was changed and the amount of room time for the kids was
 21 lessened; correct?
 22 A. Yes. There is one in between this one and
 23 when Ms. Harrigfeld took over.
 24 (Exhibit 155 marked.)
 25 Q. (BY MR. COLLAER) I'm going to hand you what

1 that, if it happened --
 2 A. If it happened.
 3 Q. -- in a given day.
 4 Tell me, rather than locking the kids in their
 5 rooms in the evenings, why not just let them out in
 6 their pod?
 7 A. For the level 2s, 3s and 4s they were, level
 8 3s and 4s were. That was the incentive.
 9 Q. But even the level 2s, they were out for
 10 another hour longer than level 1, so they are still
 11 locked down for 11 to 12 hours guaranteed in their
 12 rooms.
 13 A. Yes. See, what is the difference between O&A
 14 and programs, programs were out until 9:00 or 10:00 or
 15 whatever time, till the end of the staff shift. When
 16 you have the different population O&A had, and it was
 17 co-ed also. When you had that kind of a population of
 18 12 to 20 year olds, we couldn't do it like a program.
 19 We had to do this incentive based. It worked for ten
 20 years, and it worked just fine. It was fine with Pbs,
 21 it was fine with all policies, procedures, national
 22 criteria.
 23 Q. But still you are locking down the kids longer
 24 than IDOC is locking down the adults.
 25 A. To us it wasn't a comparison. It was

1 I've marked as Exhibit 155. Do you recognize that?
 2 A. Yes.
 3 Q. You are the author of this e-mail, are you
 4 not?
 5 A. Yeah.
 6 Q. And I see here that the level 1 juveniles will
 7 go to bed at 6:00, which corresponds with the O&A daily
 8 schedule. Do you see that?
 9 A. Yes.
 10 Q. Was the 6:00 schedule before Exhibit 154?
 11 A. I don't know.
 12 Q. We do have a date on Exhibit 155 of when you
 13 sent this e-mail, it was in 2010.
 14 A. I see that.
 15 Q. In August of 2010. Tell me, these level 1
 16 kids that would be locked down at 6:00 in the evening,
 17 they would be in until what 6:30 the next morning?
 18 A. Correct.
 19 Q. So it's guaranteed 12-1/2 hours in their room.
 20 A. Yes.
 21 Q. In addition to any staff convenience time that
 22 happened during the day too. Actually, there would be
 23 another 30 minutes to an hour for the hygiene time.
 24 A. Correct.
 25 Q. And then staff convenience time on top of

1 incentive based for the level 3 and 4 kids to stay up
 2 later.
 3 Q. Tell me, when the kids would be locked down,
 4 as I can see, at 8:00, there all in their rooms.
 5 A. Correct. That's why I know this is an older
 6 one, because level 4s were going to bed at 9:00 to 9:30
 7 at the end of my time there.
 8 Q. Okay.
 9 A. In fact, this has to be old because they were
 10 going to bed -- level 4s were going to bed at 9:00.
 11 Q. On a given day on this shift from, say, from
 12 6:00 in the evening through midnight, how many rehab
 13 tech employees were working that shift in O&A during
 14 that shift routinely?
 15 A. The best practice would be three.
 16 Q. Their shift would run from what?
 17 A. 2:00 to 10:00.
 18 Q. Okay. And then from 10:00 until 6:00 how many
 19 rehab tech people were working?
 20 A. Zero.
 21 Q. You didn't need any because they were all in
 22 their rooms.
 23 A. Correct.
 24 Q. Would you need as many -- but in the evenings,
 25 considering your kids were getting locked down, what are

1 the rehab techs doing when the kids are in their rooms?

2 A. Reports on each of their eight kids, doing
3 incident reports. They had to log down what classes
4 they taught. They had to do what they were doing with
5 the kids all day. They had daily reports to do.

6 Q. But the rehab techs that worked the dayshift,
7 they have to do that reporting too, don't they?

8 A. Yes, and it was a challenge, because the shift
9 change, when we had to go back to eight-hour shifts, the
10 kids were still in school up until past 2:00, and they
11 still had to go from 1:30 to 2:00 to do their reports,
12 and the swing shift staff didn't get there until 2:00,
13 so it was a huge challenge.

14 Q. At some point were you given a directive by
15 the superintendent that there was going to be zero room
16 time during the day?

17 A. I don't recall a zero room time. I recall
18 talks with her about really minimizing it to the almost
19 zero, but zero is almost impossible.

20 (Exhibit 156 marked.)

21 Q. (BY MR. COLLAER) Handing you what I marked as
22 Exhibit 156. Would you identify 156 for me, please.

23 A. Team meeting minutes in March 16, '11.

24 Q. You were the supervisor at this time?

25 A. Yes.

1 Q. That's for time in their rooms when they are
2 showering and cleaning up after PE, that type of thing.

3 A. Yes.

4 Q. But it's not so the staff can have a meeting
5 or do whatever.

6 A. Correct.

7 Q. Tell me, when you were working at the
8 facility, was there -- in O&A was there ever a time
9 where you had, say, for a six-month period that you had
10 no incidents of assaults, anything of that nature?

11 A. A six-month period of no assaults?

12 Q. Yes.

13 A. In my entire time there?

14 Q. Yeah.

15 A. I'm sure, yes.

16 Q. As a normal practice -- I'm expecting that it
17 was because with the kids you have got coming in, I
18 mean, a laudable goal would be zero, but in reality that
19 is probably not going to occur. You are going to have
20 some.

21 A. Actually, no, we had quite a few periods
22 without direct assaults, fights, without serious
23 incident reports where staff had to intervene, maybe
24 physically intervene, that kind of thing, yeah, that
25 was --

1 Q. Why don't you take a look at the third page,
2 in the middle, the third paragraph starts with: "Due to
3 coverage issues." Do you see the underlined entry
4 there?

5 A. Yes.

6 Q. What does that say?

7 A. "0 room-time schedule starts tomorrow."

8 Q. What is that referencing?

9 A. "During showers and deep clean on Sundays we
10 will still to have the kids in their rooms, however,
11 from the time the juvenile leaves their room to shower
12 and return to their room should be 7 minutes."

13 Q. So the hygiene time is going to be shorter.

14 A. Yes.

15 Q. It's not going to last an hour, according to
16 this.

17 A. This was a different time than you are talking
18 about, hygiene time. This was after like PE and that
19 kind of thing.

20 Q. As I read this, this is saying zero room time
21 means during the day there are not supposed to be locked
22 in their rooms.

23 A. As you read farther down where it says: "21
24 minutes per group. This is not in stone but it is a
25 daily goal." It was our daily goal.

1 Q. Let me clarify. What I'm interested in is any
2 incidences where an incident report had to be written,
3 whether it was a fight or whether it was a pushing or
4 something of that nature. Those types of things would
5 all show as an incident in your IJOS report.

6 A. Sure.

7 Q. That's what I'm interested in. During a
8 six-month period would you always expect there would be
9 a number of reported incidents?

10 A. Are you -- let me clarify. Are you talking
11 physical instances where kids are touching each other?

12 Q. Or threatening.

13 A. Now, that would be, a six-month period without
14 threats and verbal altercations, that would be rare.
15 But actual physical altercations of any physical
16 touching whatsoever, those were not that commonplace
17 prior to the end of 2009.

18 Q. Well, what was the normal amount that you
19 would expect to see in a six-month period?

20 A. Three.

21 Q. In a period in early 2011 would you be
22 surprised if the number of incidents for a six-month
23 period were 12 or 13?

24 A. No, that wouldn't surprise me.

25 Q. What that be unacceptably high?

1 A. Yes.
 2 Q. Why? As compared to what?
 3 A. That usually would mean -- well, I know what
 4 happened. The ways, the tools that the staff had before
 5 to consequence outbursts like that was steadily being
 6 taken away, and the kids knew it. And they knew that if
 7 they got into a physical or verbal altercation, they
 8 knew that what would normally be a written incident
 9 report and severe consequences, was now down to getting
 10 a talking to, taken out of the classroom or PE, getting
 11 a talking to and sent back.
 12 Q. Was there a time in 2011 where the number of
 13 the incidents increased, they spiked?
 14 A. I would have to look at them. From the end of
 15 2009, 2010, and 2011, it just got to be a pretty hostile
 16 environment.
 17 Q. Tell me, are all incident reports as they are
 18 authored or created, are they entered into the IJOS
 19 system?
 20 A. They were electronically entered, so yes, they
 21 were electronic. But into IJOS, I'm not exactly sure if
 22 that's where they ended up or not.
 23 Q. You indicated that you had done a research
 24 type project for the director in connection with this
 25 policy change?

1 about November of 2011, are you not?
 2 A. I don't know for sure. This was drawn up by
 3 staff of mine and given to me to pass along to
 4 Superintendent Grimm and on up. But this was researched
 5 over a long period of time.
 6 Q. Tell me, there is a reference down in the
 7 bottom of a citation to a Louisiana example. It's a
 8 2011 citation.
 9 A. Yes.
 10 Q. Does that help you date this?
 11 A. Not necessarily.
 12 Q. Tell me, would you agree that the period the
 13 number of incidents of acting out behaviors of being 39
 14 from November to March, in that time frame, that would
 15 be an acceptable high?
 16 A. Absolutely, it was unacceptable.
 17 Q. Do you have any idea what the number of
 18 incidents are at the facility presently?
 19 A. I do not.
 20 Q. If I were to tell you that since the first of
 21 the year, so nearly ten months, the number of incidents
 22 are 12?
 23 MR. SCHOPPE: Objection; that's testimony by
 24 counsel.
 25 Q. (BY MR. COLLAER) Would you consider that to

1 A. Yes.
 2 (Exhibit 157 marked.)
 3 Q. (BY MR. COLLAER) Handing you what has been
 4 marked as 157. Is this it?
 5 A. No.
 6 Q. What is Exhibit 157?
 7 A. This came from some of that, but this was
 8 more -- the staff got together when we were going
 9 through a very hostile time in the facility and we were
 10 very concerned. And this was, I think, after the first
 11 all-staff meeting and prior to the second one. And so
 12 we wanted to get some questions for the attorney
 13 general's office, and I believe mainly Nancy Bishop and
 14 Karen Magnelli, and get their opinion on the serious
 15 concerns the staff had at the safety and security and
 16 just what was going on.
 17 Q. In the middle of paragraph 2 you speak to "O&A
 18 was told they could no longer impose set time limits
 19 ranging from 24 hours to 72 hours for the most serious
 20 Cardinal Rule violations such as assaults and fights."
 21 A. Correct.
 22 Q. Do you see that?
 23 Then you go on to say: "This change came
 24 roughly at the end of November." And then, we've seen
 25 an increase through March of incidents. You are talking

1 be an unacceptably high number?
 2 MR. SCHOPPE: Same objection; testimony by
 3 counsel. That is not in evidence.
 4 Q. (BY MR. COLLAER) I'll ask you to assume those
 5 facts.
 6 A. Well, there is a lot to assume.
 7 Q. Okay.
 8 (Exhibit 158 marked.)
 9 Q. (BY MR. COLLAER) Have you seen reports like
 10 this before?
 11 A. Something similar, but --
 12 Q. On the back page there is a total for incident
 13 reports filed and assaults. Do you see that?
 14 A. Yes.
 15 Q. How many assaults are noted there?
 16 A. 13.
 17 Q. Tell me, is that number of assaults over this
 18 period of time, for an entire year, from what you've
 19 experienced in the past, abnormally high?
 20 A. 13 in a two-month period?
 21 Q. No. This is from January 13 through October,
 22 because there were none before.
 23 A. I'm looking at April --
 24 Q. Right at the top it says 01/01/13 to 10/08/13.
 25 A. Okay.

1 Q. So from the first of the year until October 8,
 2 just yesterday.
 3 A. Yes.
 4 Q. Or two days ago. Is the fact there was that
 5 many, is that from your experience a high rate?
 6 A. No.
 7 Q. Would that be something that -- you would
 8 agree, you not going to wipe them out all out.
 9 A. No.
 10 Q. Because unfortunately it's going to happen
 11 with this population.
 12 A. Yes.
 13 Q. In O&A you expect that.
 14 A. Yes.
 15 Q. But you don't want it to be upward in the 40s
 16 or 50s?
 17 A. Absolutely not.
 18 Q. Tell me, is it your understanding, do you have
 19 any reason to believe that the policy that Director
 20 Harrigfeld put into place that you did not agree with,
 21 dealing with the lack of the 72 hour lockdown and all
 22 that, has changed in this past year?
 23 A. I haven't been there in the past year so I
 24 don't know.
 25 Q. So you don't know one way or the other.

1 Q. Because you think there should be a punishment
 2 phase.
 3 MR. SCHOPPE: Objection; misstates prior
 4 testimony.
 5 THE WITNESS: No. I believe there is an
 6 incentive phase.
 7 Q. (BY MR. COLLAER) Through the corrective
 8 action of the mandatory lockdown.
 9 A. As a deterrent.
 10 Q. You place a great deal of weight on the
 11 deterrent phase.
 12 A. Because it worked for the 14 years I worked
 13 there.
 14 Q. I understand that. From your perspective you
 15 think that the deterrent is something that should be
 16 pursued, although statistics appear to see that the
 17 assault rate is not high currently.
 18 A. I see a change in the way incidents are
 19 reported compared to previously.
 20 Q. Can you tell from that report that it's
 21 reported any differently from when you were there?
 22 A. The reports are the same. It's just a matter
 23 of who is reporting it and how are they allowed to.
 24 Q. I understand that.
 25 (Exhibit 159 marked.)

1 A. No.
 2 Q. I want you to assume it hasn't, it has not
 3 changed one bit. What do you attribute the level of
 4 assaults you see on Exhibit 158 to?
 5 MR. SCHOPPE: Objection; calls for pure
 6 speculation.
 7 THE WITNESS: From what I have heard from the
 8 staff, that not all incidents are being reported. That
 9 because of PbS criteria now, that they don't -- back
 10 when we were doing this, when you see the 39, of course
 11 it was a very difficult population at that time, some
 12 really difficult kids. But now not all of the same
 13 incidents are being recorded, that they've changed the
 14 criteria for incident report writing.
 15 Q. (BY MR. COLLAER) That's the only explanation
 16 you have.
 17 A. If you are not reporting them, they are not
 18 showing up.
 19 Q. But you don't know if they are not; correct?
 20 A. One way or the other.
 21 Q. If they are reporting them, does the fact that
 22 the numbers are what they are suggest that Ms.
 23 Harrigfeld's policy is now being implemented and is
 24 being successful?
 25 A. No, I don't see it that way.

1 Q. (BY MR. COLLAER) Handing you what I've marked
 2 as Exhibit 159. Do you recognize 159?
 3 A. Yes.
 4 Q. What is it?
 5 A. Notice of contemplated action.
 6 Q. That was the notice of contemplated action
 7 seeking your discharge, isn't it?
 8 A. Yes.
 9 Q. There is a number of policies that are
 10 attached to 159.
 11 A. Yes.
 12 Q. At the time that you received this notice were
 13 you familiar with those policies?
 14 A. Yes.
 15 Q. That were attached?
 16 A. Sure.
 17 Q. Did you understand that the policies that are
 18 attached to 159 set forth standards and things as a
 19 supervisor or an employee that you are expected to
 20 comply with?
 21 A. I complied with them for 14 years, yes.
 22 Q. Including the ones dealing with room time and
 23 lockdowns for juveniles.
 24 A. Yes.
 25 Q. Looking at the second page of Exhibit 159, it

1 indicates that over the past few years you had received
 2 three written warnings. Do you see that?
 3 A. Yes.
 4 Q. Those written warnings all deal with room
 5 times with juveniles.
 6 A. To my understanding.
 7 Q. Tell me, I assume that when you got Exhibit
 8 159 it was provided to you at work?
 9 A. Yes.
 10 Q. Were you then placed on administrative leave?
 11 A. Yes.
 12 Q. And how long were you on administrative leave
 13 before a final decision was made about your termination?
 14 A. I think it was five days. I'm not exactly
 15 sure though.
 16 Q. The three written warnings that are referenced
 17 in your notice of contemplated action, did you file
 18 grievances challenging any of those written warnings?
 19 A. I wrote responses to them, yes, but not
 20 grievances, no.
 21 Q. A problem-solving request where it could be
 22 changed or removed?
 23 A. No. I wrote a response to them challenging
 24 them and explaining my side of it and quoting policy and
 25 procedure and that kind of thing. But as far as problem

1 A. No, because during my appeal all of it was
 2 thrown out.
 3 Q. That was by stipulation, wasn't it?
 4 A. It was agreement.
 5 Q. The Personnel Commission didn't hold a hearing
 6 and say there is no cause to discharge this guy, did
 7 they?
 8 A. I didn't talk to them. I talked to the
 9 assistant attorney general.
 10 Q. But that was just a release that you got, just
 11 a stipulation to resolve the dispute, isn't it?
 12 A. Correct.
 13 Q. So there was no adjudication by the Personnel
 14 Commission stating that your discharge was not
 15 warranted.
 16 A. I could have pursued it to that, but I chose
 17 not to.
 18 Q. I understand you could have, but that did not
 19 occur.
 20 A. That did not occur.
 21 Q. And you chose not to do that.
 22 A. Correct.
 23 Q. You understood the Personnel Commission
 24 hearing officer would have been an independent
 25 individual.

1 solving, that kind of thing, by this time, I had seen
 2 the writing on the wall.
 3 Q. Let me ask you this: The disciplinary
 4 suspension, the five-day suspension you had received
 5 prior to your notice of discharge, did you file a
 6 request for problem solving on that?
 7 A. No.
 8 Q. You didn't grieve that or appeal it to the
 9 Personnel Commission?
 10 A. No, not that one, no. I appealed the
 11 discharge to the Personnel Commission.
 12 Q. I understand you did.
 13 When you filed your notice of appeal on the
 14 discharge, did you identify in your notice all the
 15 factual disputes you had with the reasons why they were
 16 seeking your discharge?
 17 A. I believe I did.
 18 Q. Tell me, other than I understand that you
 19 disagreed with the policy about the lockdown and the
 20 time in the rooms. If all these things are true, what
 21 are contained in Exhibit 159, you had been warned about
 22 this a number of times, you had been disciplined
 23 previously about this and then it happened again, would
 24 you agree there was cause to seek your discharge at that
 25 point?

1 A. Correct.
 2 Q. And you would have had the opportunity to
 3 provide whatever evidence, be represented by counsel
 4 that you felt.
 5 A. Correct.
 6 Q. And you chose not to do that.
 7 A. I chose not to work at the Department anymore,
 8 yes.
 9 Q. Tell me, when you applied for your position
 10 with Pardons and Parole, were you asked any questions or
 11 asked to provide any information concerning the
 12 circumstances of your leaving Juvenile Corrections?
 13 A. Yes.
 14 Q. Was that in your application or in your
 15 interview?
 16 A. Interview.
 17 Q. What did you tell them?
 18 A. I told them the truth. I told them I
 19 disagreed with the new policies and procedures, and I
 20 did my best for two years to try to work it out, just
 21 didn't happen.
 22 Q. Did you tell them you were fired?
 23 A. Yes. They knew that through human resources
 24 too. Human resources talk to whoever, HR to HR, however
 25 that works.

1 Q. Dave Rohrbach, you said he was not at the
 2 facility on his timecards, but he was still being paid.
 3 Do you remember that?
 4 A. Yes.
 5 Q. Do you know if he had been authorized to work
 6 offsite?
 7 A. I do not. We were told in a management
 8 meeting that we weren't allowed to do that without
 9 special authorization.
 10 Q. The superintendent could give that
 11 authorization, couldn't she?
 12 A. Yes.
 13 Q. Other than O&A, was there any other units at
 14 Juvenile Corrections that had a ten-hour shift, that
 15 worked a ten-hour shift?
 16 A. No. They tried, the safety and security folks
 17 had done it for a while, and I believe the Solutions
 18 unit tried it for a short time.
 19 Q. Was that a management decision that Ms.
 20 Harrigfeld could make, that all of her units have the
 21 same shift within the facility?
 22 A. I don't recall ever seeing it like a
 23 memorandum or anything like that.
 24 Q. I'll restate the question. My question is:
 25 Do you disagree that Ms. Harrigfeld as the director has

1 you ever speak with her about the statistics for idle
 2 time or time in the rooms?
 3 A. We talked about it because it was part of PbS.
 4 Yeah, we talked about it, sure.
 5 Q. Reducing the room time for the juveniles was a
 6 suggested improvement or change that the PbS folks
 7 suggested, wasn't it?
 8 A. Yes. That went clear back to the Larry
 9 Callicutt days. We were always trying to find new ways
 10 to get a better schedule and do things.
 11 Q. When you were given your notice of
 12 contemplated action, you indicated that you were given
 13 the opportunity to resign if you wanted to?
 14 A. Yes.
 15 Q. Are you aware of any state statute or DHR
 16 regulation that requires the agency give you that
 17 option?
 18 A. No.
 19 Q. Would it surprise you there is such a thing?
 20 A. No. Just the way Pat Thomson went about doing
 21 it seemed underhanded.
 22 Q. Not the fact that you were given the
 23 opportunity to resign rather than be fired.
 24 A. Because it wasn't the truth.
 25 Q. That isn't my question. You don't have a

1 the discretion to state: Everybody working at Nampa is
 2 going to work eight-hour shifts?
 3 A. Yes, she is the boss.
 4 Q. Everybody, no exceptions, everybody is going
 5 to be the same.
 6 A. Yes.
 7 Q. When Laura Roters was the PbS coordinator, did
 8 you have any conflicts or disputes with her when she
 9 held that role?
 10 A. Conflicts or disputes? No. We had
 11 conversations about numbers and that kind of thing, but
 12 I got along with Laura fine.
 13 Q. Do you recall any conversations with you where
 14 she had done, said she was unable to find IRs on
 15 incidents that needed to be entered into the system?
 16 A. I remember a time when we were switching over
 17 from hard copy to the electronic copy, and it was a
 18 challenge, it was an IT challenge, and we did have some
 19 issues that way. But it was a matter of staff having to
 20 go back and do a hard copy because the IT folks were
 21 having a -- they could find it, but they couldn't get it
 22 to where we could use it for PbS data collection. It
 23 was just a -- it wasn't an issue of not having it, it
 24 was there, it was just hard to access.
 25 Q. Tell me, when Laura was PbS coordinator, did

1 quarrel with the fact that you were given the
 2 opportunity to resign rather than be fired.
 3 A. I had a problem with the way he worded it,
 4 which was not the truth.
 5 Q. I understand. I think I understand.
 6 A. He wanted me to make up a story that wasn't
 7 true.
 8 Q. My question to you is: If he would have said,
 9 if you want to resign for personal reasons, you can,
 10 otherwise you are going to be fired. You would not have
 11 had a quarrel with that.
 12 A. No.
 13 MR. COLLAER: Let's take a quick break. I
 14 think I'm about done.
 15 (Recess taken from 3:28 to 3:41 p.m.)
 16 MR. COLLAER: I have nothing further.
 17 MR. SCHOPPE: I have a few things. I really
 18 will try to run through them.
 19
 20 FURTHER EXAMINATION
 21 QUESTIONS BY MR. SCHOPPE:
 22 Q. With respect to incident reporting and red and
 23 yellow of those, did you see a change in how
 24 incidents are classified while you were working at the
 25 Department?

1 A. At the end, yes. Prior to 2010 a code red had
2 specific criteria for it, code yellow had specific
3 criteria for it. Now, like an assault, I want to say
4 escape, but a code red would be when a juvenile would
5 like run out of the classroom, would -- like I said,
6 assaults, would leave the gymnasium either at mealtime
7 or PE without supervision, things like that.

8 But now my understanding is when a juvenile
9 walks out of a classroom or out of the gym without
10 supervision, that there is no more code red. The staff
11 are just to follow the juvenile until, I guess, the
12 juvenile gets tired and stops or goes to wherever he's
13 going. But there is no more incident reports written
14 like that. So that would reduce them.

15 Q. Where did those criteria for red and yellow
16 come from before?

17 A. We developed those just in staff management
18 meetings and then staff meetings and just knowing we had
19 to have a clear system. A lot of it had to do with
20 communication with the control booth so they knew what
21 was going on. If it was a code yellow and staff,
22 particular staff in a classroom or something needed
23 assistance, we didn't want the whole facility locking
24 down kids in the other end of the building to have their
25 staff come and assist when it wasn't that big of a deal.

1 have the feeling or the belief that your responses or
2 contesting those was futile?

3 A. Yes.

4 Q. Why was that?

5 A. When I was demoted -- when I was the unit
6 manager or it might have been prior to that. Anyway, I
7 went on vacation around Labor Day of 2009. I was
8 Superintendent Grimm's right-hand man, quote-unquote, at
9 that time. When I got back from vacation, I was called
10 to her office and I was treated as though I was an
11 insubordinate staff that had been insubordinate for a
12 long time. It was a complete transformation from being
13 the right-hand man to being anything but that, and it
14 was literally overnight.

15 And then at the end of 2009 is when I got
16 demoted and things started -- and I had no explanation.
17 Betty Grimm's behavior towards me was completely
18 different, 180 degrees different, with no explanation
19 whatsoever.

20 Q. Would it be correct to say that Labor Day 2009
21 was about a month or so after Director Harrigfeld took
22 office?

23 A. Correct.

24 Q. Did you hear any other employees express a
25 belief that the grievance or problem-solving process was

1 Then if it was a code red, we needed
2 assistance quickly. But then that is why we wanted to
3 get to the point where we could downgrade it to a code
4 yellow, so the other staff could get back to their units
5 and get their kids back out and get with the program
6 again.

7 Q. From the time that Director Harrigfeld took
8 office to the time you left, how much time did she spend
9 in O&A?

10 A. I would say less than five minutes.

11 Q. Did she spend any time observing what was
12 going on there or how a juveniles and staff were
13 interacting?

14 A. No.

15 Q. Apart from you and the 14 staff that worked
16 with you, up until the time you left, up until that
17 point in time, was there anybody else who was more
18 familiar than the 15 of you with how the juveniles
19 interacted with staff, what juveniles' needs were with
20 respect to room or lockdown time?

21 A. Than me?

22 Q. And the 14 staff that worked with you.

23 A. No.

24 Q. With respect to your responses to disciplinary
25 actions and documents involved in that process, did you

1 futile or pointless?

2 MR. COLLAER: Objection; incomplete
3 hypothetical, calls for speculation.

4 THE WITNESS: They didn't say anything
5 directly to me.

6 Q. (BY MR. SCHOPPE) Did you hear that through
7 someone else?

8 A. There was the feeling that it was getting that
9 way, yes.

10 Q. How did you become aware of that, what made
11 you --

12 A. Talk in the unit.

13 Q. So other O&A staff?

14 A. Yes.

15 Q. Same question with respect to responding to
16 disciplinary actions. Did you ever hear or become aware
17 of anyone expressing the belief it was futile or
18 pointless?

19 A. Not directly. It again was a feeling, but it
20 wasn't directly spoken to me.

21 Q. The sort of thing that might be scuttlebutt?

22 A. Yes.

23 Q. You mentioned Larry Callicutt a number of
24 times in connection with policies and room lockdown
25 time. Would there be a better witness than him as to

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1 the efficacy of the procedures and policies that were in
 2 place up until 2009?
 3 MR. COLLAER: Object to the form of the
 4 question; calls for speculation.
 5 THE WITNESS: No.
 6 Q. (BY MR. SCHOPPE) Can you think of anyone who
 7 you think would be more knowledgeable?
 8 A. No.
 9 MR. COLLAER: Same objection.
 10 Q. (BY MR. SCHOPPE) And you mentioned earlier
 11 that there was not a written policy change concerning
 12 room lockdown time until 2012; is that right?
 13 A. Yes, that was my understanding. That is when
 14 Monty Prow came up and we -- that's what we did, we
 15 rearranged our -- or not rearranged, but we changed our
 16 O&A handbook and then developed the policies to match
 17 that.
 18 Q. Do you know how policies are developed, like
 19 across the board in the Department; is there a process
 20 that is followed?
 21 A. The way we did that particular one is we got
 22 staff input on what would work. We had to go with staff
 23 input, and then Monty of course had Director
 24 Harrigfeld's criteria. So we tried to make them
 25 correspond with one another. And then that document is

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1 taken to Superintendent Grimm, and then it's taken, I
 2 believe in front of the IPPS board. And that is a
 3 group, I think that would be supervisors and other
 4 senior leadership folks who get together and finalize
 5 that and make sure that it's -- I'm sure attorney
 6 general folks are in on that because it's legal.
 7 Anyway, they are the ones that finalize it.
 8 Q. And you had started hearing concerns about
 9 room time and -- or I think actually you said it was a
 10 philosophy change sometime in 2009.
 11 A. Yes.
 12 Q. Do you have any idea why there was no policy,
 13 actual written policy change until 2011?
 14 MR. COLLAER: Object to the form of the
 15 question; calls for speculation.
 16 THE WITNESS: I was told that they were
 17 working on it. And "they" meaning to me was the IPPS
 18 committee.
 19 Q. (BY MR. SCHOPPE) Who told you that?
 20 A. Betty Grimm.
 21 Q. The written policies that were in place were
 22 the ones you were still following?
 23 A. Correct.
 24 Q. When Mr. Thomson came to you with an offer of
 25 resignation in lieu of termination, were you concerned

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1 that his proposal would constitute insurance fraud with
 2 respect to telling the insurance company that you had
 3 resigned to take care of an elderly relative?
 4 A. I did not think that at that time, no.
 5 Q. As you sit here now, is it something that
 6 strikes you could be insurance fraud?
 7 A. Yes.
 8 MR. SCHOPPE: I don't have anything else. I'm
 9 done.
 10 FURTHER EXAMINATION
 11 QUESTIONS BY MR. COLLAER:
 12 Q. Mr. Knoff, you mentioned insurance fraud.
 13 What insurance policy were you referring to?
 14 A. I wouldn't even be sure.
 15 Q. Was it your life policy, your health benefits?
 16 A. Health benefits, yes. The current --
 17 Q. So you talked about your Blue Cross.
 18 A. Yes.
 19 Q. When you were fired, were you given the
 20 opportunity to enroll in COBRA?
 21 A. Yes.
 22 Q. Did you do that?
 23 A. No.
 24 Q. Because you found another job pretty quickly,
 25 didn't you?

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1 A. 110 days.
 2 Q. And it's with the same insurance carrier, it's
 3 with the State, isn't it?
 4 A. Yes.
 5 Q. Was it your understanding that you could
 6 remain as an insured of Blue Cross without being
 7 employed by the State if you resigned because of some
 8 personal family reasons?
 9 A. What my understanding was, what Mr. Thomson
 10 was trying to get at is, if I would have stated that
 11 I -- gone his direction, that they could have extended
 12 my insurance coverage an extra month, or to the end of
 13 the month, was it June, anyway, another 30 days from the
 14 time of termination. And if I didn't go with that, then
 15 the day I was let go was -- I think my last day for
 16 insurance was like that Friday or something like that,
 17 so it was almost immediate.
 18 Q. Okay. Tell me, you indicated that you felt
 19 contesting the discipline was futile; correct?
 20 A. Yes.
 21 Q. But you understood, you testified earlier that
 22 if you contested to the Personnel Commission you would
 23 have a hearing before an independent hearing officer;
 24 correct?
 25 A. Yes, but I didn't do that.

1 Q. I understand that. But that's part of the
2 contesting the discipline, isn't it; correct? Appealing
3 up through the Personnel Commission, getting your
4 hearing before the hearing officer.

5 A. If I would have wanted to do that, yes.

6 Q. So you are not saying that it was a futile act
7 going to the hearing officer, because you don't know
8 what that person would or wouldn't do, do you?

9 A. I knew or had a strong feeling that even if I
10 would have gone through the Personnel Commission and
11 they would have ruled in my favor, it would have been
12 such a hostile environment going back to Nampa, I didn't
13 want to do that. That was futile.

14 Q. Well, I understand that. But you acknowledge
15 that you do not know what the hearing officer is going
16 to do until you go through your hearing, do you?

17 A. Sure.

18 Q. The hearing officer can order your
19 reinstatement, can't they?

20 A. Yes.

21 Q. With back benefits and all of that; correct?

22 A. Yes.

23 MR. COLLAER: Nothing further.

24 MR. SCHOPPE: All done.

25 (Deposition concluded at 3:53 p.m.)

1 ERRATA SHEET FOR TOM KNOFF

2 Page ___ Line ___ Reason for Change _____

3 Reads _____

4 Should Read _____

5 Page ___ Line ___ Reason for Change _____

6 Reads _____

7 Should Read _____

8 Page ___ Line ___ Reason for Change _____

9 Reads _____

10 Should Read _____

11 Page ___ Line ___ Reason for Change _____

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13 Should Read _____

14 Page ___ Line ___ Reason for Change _____

15 Reads _____

16 Should Read _____

17 Page ___ Line ___ Reason for Change _____

18 Reads _____

19 Should Read _____

20 Page ___ Line ___ Reason for Change _____

21 Reads _____

22 Should Read _____

23 Page ___ Line ___ Reason for Change _____

24 Reads _____

25 Should Read _____

26 You may use another sheet if you need more room.

27 WITNESS SIGNATURE _____

1 CERTIFICATE OF WITNESS

2 I, TOM KNOFF, being first duly sworn, depose and
3 say:

4 That I am the witness named in the foregoing
5 deposition, consisting of pages 1 through 185; that I
6 have read said deposition and know the contents thereof;
7 that the questions contained therein were propounded to
8 me; and that the answers contained therein are true and
9 correct, except for any changes that I may have listed
10 on the Change Sheet attached hereto:

11 DATED this ___ day of _____, 20__.

12 _____
13
14 TOM KNOFF

15
16
17 SUBSCRIBED AND SWORN to before me this ___ day
18 of _____, 20__.

19
20
21 _____
22 NAME OF NOTARY PUBLIC
23 NOTARY PUBLIC FOR _____
24 RESIDING AT _____
25 MY COMMISSION EXPIRES _____

1 REPORTER'S CERTIFICATE

2 I, BEVERLY BENJAMIN CSR No. 710, Certified
3 Shorthand Reporter, certify: That the foregoing
4 proceedings were taken before me at the time and place
5 therein set forth, at which time the witness was put
6 under oath by me;

7 That the testimony and all objections made were
8 recorded stenographically by me and transcribed by me or
9 under my direction;

10 That the foregoing is a true and correct record
11 of all testimony given, to the best of my ability;

12 I further certify that I am not a relative or
13 employee of any attorney or party, nor am I financially
14 interested in the action.

15 IN WITNESS WHEREOF, I set my hand and seal this
16 17th day of October 2013.

17
18
19
20
21 _____
22 BEVERLY A. BENJAMIN, CSR No. 710
23 Notary Public
24 P.O. Box 2636
25 Boise, Idaho 83701-2636
My commission expires May 28, 2019

EXHIBIT L

EXHIBIT L

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RHONDA LEDFORD, an individual; RAYMON)
GREGSTON, an individual; JO MCKINNEY,)
an individual; SHANE PENROD, an)
individual; KIM MCCORMICK, an)
individual; BOB ROBINSON, an)
individual; and GRACIE REYNA, an)
individual,)

Plaintiffs,)

vs.)

IDAHO DEPARTMENT OF JUVENILE)
CORRECTIONS, an executive department)
of the State of Idaho; IDJC DIRECTOR)
SHARON HARRIGFELD, in her individual)
and official capacities; IDJC)
JUVENILE CORRECTIONS CENTER - NAMPA)
SUPERINTENDENT BETTY GRIMM, in her)
individual and official capacities;)
and DOES 1-20,)

Defendants.)

Case No.

1:12-cv-00326-BLW

DEPOSITION OF PATTY HANSON

SEPTEMBER 17, 2013

REPORTED BY:

BEVERLY A. BENJAMIN, CSR No. 710, RPR

Notary Public

Page 2

1 THE DEPOSITION OF PATTY HANSON was taken on
 2 behalf of the Plaintiffs, at Anderson, Julian & Hull,
 3 250 South Fifth Street, Suite 700 Boise, Idaho,
 4 commencing at 9:01 a.m. on September 17, 2013, before
 5 Beverly A. Benjamin, Certified Shorthand Reporter and
 6 Notary Public within and for the State of Idaho, in the
 7 above-entitled matter.
 8
 9 A P P E A R A N C E S:
 10 For the Plaintiffs:
 11 Law Office of Andrew T. Schoppe, PLLC
 12 BY MR. ANDREW T. SCHOPPE
 13 910 W. Main Street, Suite 328
 14 Boise, Idaho 83702-5796
 15 For the Defendants Idaho Department of Juvenile
 16 Corrections, Sharon Harrigfeld, and Betty Grimm:
 17 Anderson, Julian & Hull, LLP
 18 BY MS. ANDREA J. FONTAINE
 19 C. W. Plaza
 20 250 South 5th Street, Suite 700
 21 P.O. Box 7426
 22 Boise, Idaho 83707-7426
 23 Also Present: Lisa Littlefield
 24 Nancy Bishop
 25

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1 I N D E X
 2 TESTIMONY OF PATTY HANSON PAGE
 3 Examination by Mr. Schoppe 4
 4 Examination by Ms. Fontaine 123
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 9 E X H I B I T S
 10 NO. DESCRIPTION PAGE
 11 138 - IDJC Juvenile Supervision 119
 12 Policy/Procedure
 13 139 - IDJC Ethics and Standards of Conduct 119
 14 Policy/Procedure
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 25

Page 4

1 PATTY HANSON,
 2 first duly sworn to tell the truth relating to said
 3 cause, testified as follows:
 4
 5 EXAMINATION
 6 QUESTIONS BY MR. SCHOPPE:
 7 Q. Good morning.
 8 A. Good morning.
 9 Q. Thank you very much for coming today. My name
 10 is Andrew Schoppe. I represent all the Plaintiffs on
 11 this matter. Do you know who the Plaintiffs are?
 12 A. I believe so.
 13 Q. You know Rhonda Ledford, Ms. Littlefield here,
 14 Addison Fordham, Frank Farnworth, Ray Gregston. We also
 15 have Gracie Reyna, Tom de Knijf, and Kim McCormick and
 16 Jo McKinney.
 17 MR. SCHOPPE: Did I get them all?
 18 MS. LITTLEFIELD: You said them all, I
 19 believe.
 20 Q. (BY MR. SCHOPPE) Have you ever had your
 21 deposition taken before?
 22 A. No. I've sat in on a couple depositions.
 23 Q. Well, congratulations to you. Here's your
 24 chance.
 25 Generally speaking, I'm entitled to your best

Page 5

1 answer. If you know something, please tell me what you
 2 know, even if you heard it from someone else. We can
 3 try and find out who you heard it from or who might be
 4 able to give us a better answer.
 5 I am interested in knowing what you know, what
 6 you saw, heard, or otherwise witnessed.
 7 A. Okay.
 8 Q. Please do your best to give audible answers so
 9 that the court reporter here can take them all down.
 10 Wait for me to finish asking a question before you begin
 11 your response so we don't overlap each other on the
 12 record.
 13 A. Okay.
 14 Q. Are you under the influence of any medication
 15 or anything that might impact your ability to testify?
 16 A. No.
 17 Q. If you need a break at any time, please go
 18 ahead and let me know.
 19 A. Okay.
 20 Q. So I understand you are employed at the
 21 Department of Juvenile Corrections. What is it you do
 22 there?
 23 A. I'm a juvenile service coordinator. I'm the
 24 social worker for the Choices Drug and Alcohol program
 25 at Nampa.

1 Q. Are you an LCSW?
 2 A. No; I'm a BSW.
 3 Q. How long have you worked there?
 4 A. For 13, 14 years.
 5 Q. Let's talk just a little bit about your
 6 background. The BSW sounds like a bachelor's of science
 7 or bachelor's of social work.
 8 A. Yes.
 9 Q. Is that a BA or a BS degree?
 10 A. It's a BA degree.
 11 Q. Where did you get that?
 12 A. Boise State.
 13 Q. What year did you get that?
 14 A. '94.
 15 Q. And before that did you do anything
 16 professionally?
 17 A. Before college?
 18 Q. Yes.
 19 A. I actually managed a restaurant for many, many
 20 years.
 21 Q. What was the restaurant?
 22 A. It was Shakey's.
 23 Q. Is that here in Idaho?
 24 A. It was in Ontario, Oregon.
 25 Q. Are you from Idaho?

1 Choices program until they are discharged, make sure
 2 they are getting the treatment that they need, they are
 3 progressing through the program the way they should be,
 4 have contact with the parents, the probation officer or
 5 various other community programs, plan their discharge,
 6 set up their discharge.
 7 Q. Are you involved in the staffing process?
 8 A. Yes.
 9 Q. Can you describe that process to me, please.
 10 A. It's a monthly process where we get together
 11 with the group leader, the probation officer, the
 12 parents of the juvenile, myself, and we talk about the
 13 juveniles' progress that month, and we set staffing
 14 goals for the next month.
 15 Q. Who is it that you come into contact with in
 16 those staffing meetings?
 17 A. The group leader, the parents, the probation
 18 officer, sometimes other family members, depending on
 19 the juvenile, and of course the juvenile.
 20 Q. What happens after staffing, what occurs in
 21 the juvenile's life at the Department?
 22 A. I guess I'm not sure what you mean "after the
 23 staffing." You mean between staffings?
 24 Q. Based on the decisions that are made at
 25 staffing, what then happens with the juveniles?

1 A. Yes.
 2 Q. Apart from your BSW, do you have any other
 3 certifications or licenses?
 4 A. No.
 5 Q. How about in the context of your work at
 6 Juvenile Corrections, do you have any certifications
 7 like POST or AUF or anything like that?
 8 A. AUF, a modified AUF.
 9 Q. How is that modified?
 10 A. Well, I got injured in I believe the first AUF
 11 class that the clinical department had to take. It
 12 would be eight years ago November.
 13 Q. You were injured in the class?
 14 A. In class.
 15 Q. I'm sorry.
 16 A. Permanent injury.
 17 Q. I'm very sorry about that.
 18 What year was that; eight years ago?
 19 A. It would be eight years ago in November.
 20 Q. 2005; is that right?
 21 A. Yes, that sounds right.
 22 Q. In your role as a juvenile services
 23 coordinator, what is it that you do there?
 24 A. I basically monitor the juveniles' progress
 25 through treatment from the day they come into the

1 A. Well, the juvenile works with their staff to
 2 try to complete the goals that they set for that month.
 3 They're supposed to be meeting with their staff mentors
 4 weekly to make weekly goals, to work towards the monthly
 5 goals.
 6 Q. Let's step back just a little bit. How is it
 7 that you first came to work at Juvenile Corrections?
 8 A. I applied for the job and got it.
 9 Q. Was that right after college?
 10 A. No. I actually went to work for Health and
 11 Welfare right after college.
 12 Q. What did you do at Health and Welfare?
 13 A. Child protection investigator.
 14 Q. What sorts of things did you do in that role?
 15 A. There was some case management, but it was
 16 mostly child protection investigations of injuries to a
 17 child, abuse, neglect, injuries.
 18 Q. How long did you do that?
 19 A. Just about four years, I believe.
 20 Q. Why did you leave?
 21 A. High burnout.
 22 Q. Probably see some difficult things.
 23 A. Uh-huh.
 24 Q. How did you learn about the job opening at the
 25 Department of Juvenile Corrections, if you remember?

1 A. Honestly, I don't remember. I actually worked
 2 for Ada County Juvenile Probation right after Health and
 3 Welfare, and then went to Juvenile Corrections.
 4 Q. Let me just stop there and get a quick
 5 chronology. So you managed a Shakey's restaurant in
 6 Ontario, Oregon, then you went to BSU for college and
 7 you got your BSW. Did you work during your time at BSU?
 8 A. Yes.
 9 Q. Where did you work?
 10 A. Shopko, where I still work part time.
 11 Q. What do you do there?
 12 A. Cashier now.
 13 Q. Which Shopko is that?
 14 A. It's the one at the corner of Fairview and
 15 Milwaukee.
 16 Q. Did you do any clerkships or internships or
 17 anything like that while you were at BSU?
 18 A. Health and Welfare.
 19 Q. What was your role there at Health and Welfare
 20 as an intern?
 21 A. Anything they needed.
 22 Q. Gofer?
 23 A. Yeah. Supervised visits with kids, write
 24 reports, go out on investigations with different people.
 25 Just home visits with different workers.

1 for Recovery in Nampa.
 2 Q. So take me back. Health and Welfare?
 3 A. Then Mercy.
 4 Q. Then Mercy. That was for about six months you
 5 said?
 6 A. That was about six months.
 7 Q. That was the only place you worked then for
 8 those six months?
 9 A. I still worked at my part-time job that I've
 10 always worked since 1991.
 11 Q. Then Ada County?
 12 A. Then Ada County.
 13 Q. What was that department again?
 14 A. Juvenile Probation.
 15 Q. What was your title there?
 16 A. I was hired as a diversion officer, but I
 17 think within the first two weeks the intake officer went
 18 on medical leave, so I became the intake officer; I did
 19 the initial court reports, took the juveniles to court
 20 for disposition, and then the case was passed off to
 21 another probation officer.
 22 Q. How long did you do that for?
 23 A. It was almost exactly one year, then I went to
 24 Juvenile Corrections.
 25 Q. Do you remember how you heard about the job

1 Q. You said you had graduated in 1994; is that
 2 right?
 3 A. Correct.
 4 Q. Did you go straight through, four-year degree,
 5 or was it a little longer?
 6 A. I actually did it in three.
 7 Q. Congratulations. While working.
 8 A. Uh-huh.
 9 Q. Then you went straight into a position at
 10 Health and Welfare?
 11 A. Correct.
 12 Q. While you worked with Health and Welfare did
 13 you interface with Department of Juvenile Corrections at
 14 all?
 15 A. I don't think so.
 16 Q. Do you know anyone who did?
 17 A. I don't think so. Actually, I think when I
 18 first worked for Health and Welfare there wasn't a
 19 Juvenile Corrections, it was Juvenile Justice under that
 20 Health and Welfare umbrella. I think just towards the
 21 end of the time I was at Health and Welfare it switched.
 22 Q. Then you had worked for Ada -- say it again.
 23 A. Ada County. Actually, between Health and
 24 Welfare and Ada County I worked for six months as the
 25 outpatient drug and alcohol counselor at Mercy Center

1 opening?
 2 A. I don't.
 3 Q. What year was that, do you remember?
 4 A. Maybe '99 or 2000.
 5 Q. Any particular reason you left Ada County?
 6 A. No, I liked the job, but better pay with the
 7 State.
 8 Q. Was the job you applied for the job you have
 9 now?
 10 A. Yes.
 11 Q. How did the process work? I presume you
 12 filled out an application to start with.
 13 A. I'm sure I did.
 14 Q. You got a response from the Department at some
 15 point?
 16 A. I'm sure I did. Like I said, I just don't
 17 remember exactly. I actually had two separate
 18 interviews.
 19 Q. Do you remember who interviewed you?
 20 A. I believe Matt interviewed me the
 21 first time. He was the district liaison. Then Donna
 22 Hislop interviewed me about a week later.
 23 Q. What did they do?
 24 A. What?
 25 Q. At the Department, what did they do?

1 A. Matt was the district liaison and
 2 Donna Hislop was a clinical supervisor.
 3 Q. What is a district liaison?
 4 A. I'm not sure exactly what they do, but they
 5 interface between the Department and the community
 6 partners.
 7 Q. How about Donna Hislop, what did that job
 8 consist of?
 9 A. She was the clinical supervisor that managed
 10 the juvenile service coordinators.
 11 Q. Is that how it still works, the juvenile
 12 service coordinators are managed by a clinical
 13 supervisor?
 14 A. Correct.
 15 Q. Are there JSCs in other parts of the
 16 Department or is it just the Solutions or --
 17 A. I am the only JSC that is specifically
 18 assigned to a program. The rest of the JSCs have
 19 juveniles in various programs or treatment facilities.
 20 Q. Why is that?
 21 A. They decided they wanted a full-time JSC in
 22 the Choices program. The job was offered to me, so I
 23 took it.
 24 Q. What is it that Choices does?
 25 A. It's a drug and alcohol treatment program.

1 JSC?
 2 A. Well, originally, like I said, the JSCs have
 3 juveniles all over the state, we might have some in
 4 Choices, some in Solutions, some at St. Anthony, some at
 5 Lewiston, some in different programs out of state.
 6 Q. Do you currently have any other juveniles that
 7 you are responsible for at other facilities?
 8 A. I have one that's in the Washington County
 9 Jail.
 10 Q. How is it you spend your average day working
 11 at the facility, what sorts of things do you do?
 12 A. Lots of paperwork, lots and lots of paperwork.
 13 I have probably in a given day eight or ten kids that
 14 have burning issues they have to discuss with me. I
 15 attend a medical clinic every week with the juveniles to
 16 talk with the psychiatric nurse practitioner about
 17 medications. I do many staffings, phone calls to
 18 parents, I go to every return to community hearing.
 19 Lots of paperwork, lots of notes.
 20 Q. Sure. Tell me about it. You are talking to a
 21 bunch of lawyers and a court reporter, so we know the
 22 story of paperwork.
 23 Those hearings that you mentioned, the return
 24 to community hearings, are those formal court hearings?
 25 A. Yes.

1 Q. Exclusively or do they do other things?
 2 A. They do behavior management, anger management,
 3 lots of other things.
 4 Q. They don't deal with mental health though,
 5 right?
 6 A. Well, we have some that do have some mental
 7 health issues, but they're not the severe mental health
 8 cases.
 9 Q. Where are those juveniles dealt with, mental
 10 health?
 11 A. We have another program called Solutions in
 12 Nampa that is more mental health co-occurring.
 13 Q. It is fair to say that juveniles are assigned
 14 to either of those units after passing through O&A?
 15 A. Correct.
 16 Q. If I ask you a question that starts out with
 17 "is it fair to say that," you are free to tell me it's
 18 not or correct me or anything like that, okay?
 19 A. Okay.
 20 Q. I presume after your interview at some point
 21 you got an offer?
 22 A. Correct.
 23 Q. Fair to say you've worked there ever since?
 24 A. Yes.
 25 Q. What different units have you been in as a

1 Q. In front of a juvenile court judge?
 2 A. Correct.
 3 Q. Do you testify at those?
 4 A. Sometimes I'm asked to testify. Most of the
 5 time I'm just asked to give a statement.
 6 Q. What kind of circumstances, in what kind of
 7 circumstances are you asked to testify?
 8 A. The judge might -- say I have a juvenile
 9 that's going to court because he has a new charge. The
 10 judge might ask me in the middle of the hearing for this
 11 new charge how the juvenile is doing in program, so I'll
 12 let him know briefly how the juvenile is doing, whether
 13 he's making progress or needs to start making more
 14 progress.
 15 Q. What do you base those opinions on when you
 16 testify?
 17 A. Monthly progress, just what I see in program
 18 on a daily basis.
 19 Q. Do you interact with O&A?
 20 A. Not a lot, no.
 21 Q. When you say what you see on the floor in
 22 terms of the juveniles' conduct, how is it that you are
 23 observing them or monitoring them?
 24 A. Like I said, I'm in the same building right
 25 where the program is, I see them every day, I see them

1 in school, see them walking in the hallways. They come
 2 talk to me all the time, I read all the incident
 3 reports.
 4 Q. When was it that you were assigned to Choices?
 5 A. Two and a half years ago maybe.
 6 Q. Maybe 2010, something like that?
 7 A. Something like that. I don't remember
 8 specifically.
 9 Q. That's all right, just do your best.
 10 Was that the clinical supervisor who assigned
 11 you there?
 12 A. I'm not sure who made the decision.
 13 Q. Have you ever read the Plaintiffs' complaint
 14 or are you familiar with the allegations that they've
 15 raised in this case?
 16 A. I've heard a lot of the allegations; I've not
 17 read the complaint.
 18 Q. Generally speaking, the allegations range from
 19 the Department having improper hiring, promotions
 20 practices, that employees who have reported waste or
 21 fraud or violations of law or safety have suffered
 22 retaliation, that the Department has allowed time card
 23 padding and forgery of official records, that the
 24 Department tolerates and allows alteration or
 25 falsification or even destruction of official records,

1 A. Absolutely.
 2 Q. Why is that?
 3 A. I've had it happen in the past. I've seen it
 4 happen with other people. And I'm not only concerned
 5 about myself, I'm more concerned about my daughter who
 6 has worked there for about four and a half years as a
 7 rehab tech up until yesterday when she took another
 8 position in the administrative section in the front
 9 office. Some of the things I'm going to testify to
 10 involve the person that is her direct supervisor now and
 11 I'm absolutely concerned about retaliation against her.
 12 Q. What is your daughter's name?
 13 A. Lindsay Hanson.
 14 Q. She was a rehab tech?
 15 A. She was a rehab tech up until yesterday.
 16 Q. What is the title of her new position?
 17 A. Office assistant, I'm not -- OS2 office
 18 specialist, I believe.
 19 Q. Who is her supervisor?
 20 A. Estela Cabrera.
 21 Q. You mentioned that you had suffered
 22 retaliation yourself. What did you mean by that?
 23 A. Well, I had a supervisor a couple years ago
 24 that did not like me from the minute she started and I
 25 was in trouble for everything. I was held to a

1 things like incident reports, other documents pertaining
 2 to the operation of the facility, and possibly the most
 3 central allegation is that the Department is not a
 4 secure facility as required by law in the Juvenile
 5 Corrections Act.
 6 All the Plaintiffs allege they've suffered
 7 retaliation as a result of reporting their concerns
 8 about those things to their supervisors or further up
 9 the chain of command, including Betty Grimm and Sharon
 10 Harrigfeld. Do those things ring a bell for you?
 11 A. I've heard all of those.
 12 Q. Do you come into contact with the Plaintiffs
 13 or any of the Plaintiffs in the course of your work?
 14 A. I come in contact with all the Plaintiffs and
 15 everybody else in the facility.
 16 Q. Does that include Director Harrigfeld?
 17 A. On occasion, absolutely.
 18 Q. How about Betty Grimm when she was the
 19 superintendent?
 20 A. On occasion.
 21 Q. So I've asked you here today to testify about
 22 your knowledge about those sorts of allegations. Before
 23 we start asking you substantive questions about that,
 24 are you concerned that you could suffer retaliation for
 25 your testimony here today?

1 different standard than other people. She would come up
 2 with accusations that I wasn't allowed to know who made
 3 the accusation or have the opportunity to confront the
 4 accuser. There was literally nothing I could do.
 5 Q. Who was your supervisor?
 6 A. Melissa Moser.
 7 Q. How do you spell that?
 8 A. M-o-s-e-r.
 9 Q. When you said there is nothing you could do,
 10 did you try to initiate the problem-solving process?
 11 A. I did. I had to hire an attorney.
 12 Q. Did you deal with human resources?
 13 A. I did.
 14 Q. Who did you deal with there?
 15 A. Julie Cloud.
 16 Q. What did human resources do to try to help
 17 resolve the situation?
 18 A. Well, we had several problem-solving meetings.
 19 Melissa wasn't allowed to talk to me without Julie Cloud
 20 being present, but she wouldn't say anything in front of
 21 Julie Cloud. I didn't feel supported by human
 22 resources.
 23 Q. How so?
 24 A. I just didn't feel they were honest.
 25 Q. What do you mean by that?

1 A. I didn't feel like I could go to them with my
2 concerns. Like I said, I wasn't allowed to know who the
3 accusers were or face the accusers, I was just guilty.

4 Q. Is it fair to say you felt that human
5 resources took your supervisor's word for everything?

6 A. Yes.

7 Q. Eventually you hired an attorney?

8 A. Yes.

9 Q. What happened after that?

10 A. Well, this went on for a while and I kept
11 saying, You need to give me another supervisor. And I
12 was finally offered the position in Nampa as the Choices
13 JSC with Valarie Zuniga, my current supervisor, taking
14 over as my supervisor, and I jumped at the chance.

15 Q. Since you started who have your supervisors
16 been?

17 A. Donna Hislop, Melissa Moser, and Valarie
18 Zuniga.

19 Q. Do you remember what year it was that you went
20 through this process with Melissa Moser?

21 A. Four, four and a half years ago, I don't
22 remember exactly. It was two years of living hell.

23 Q. Did you feel that human resources gave you an
24 opportunity to have due process for your concerns with
25 your supervisor?

1 toiletries from the hotel/motels. I had a huge box at
2 home and I thought, I've got to do something with this,
3 not throw it away. We started this Christmas stocking
4 program, and I have people all over the state that send
5 me a handful of toiletries when they travel. And that
6 was my program. I started it, I did it every year. I
7 funded a lot of it. I kept it going. Every time I
8 traveled, went to a training, I'd stand up and announce
9 and ask people to donate.

10 And I had plastic bins I had purchased. I
11 spent about \$150 on plastic bins to keep the things
12 sorted. I had them in a closet in Nampa and when I went
13 to Boise I took them with me and I had them in the back
14 corner of my office. You couldn't possibly have seen
15 them unless you walked completely into the office and
16 looked behind this giant post. I had them stacked back
17 there.

18 And the very first day I was there Melissa
19 came in and said, Those bins have to go. What would we
20 do if a representative from the Juvenile Justice
21 Commission walked in and saw those bins? I said, Well,
22 actually, that's happened in the past. They've asked me
23 what they are, I explained to them and I instantly have
24 another source for the items. She told me they had to
25 leave my office immediately. I had to drop what I was

1 A. It felt that way to begin with, but it didn't
2 feel that way in the end. It felt like they supported
3 her no matter what.

4 Q. Are you familiar with the policy of standards
5 of conduct within the facility?

6 A. Yes.

7 Q. We'll look at that policy in a little while.

8 In terms of the respect and treatment of
9 colleagues that are called for in the policy, according
10 to your understanding, did you feel that the Department
11 complied with that policy.

12 A. No, absolutely not.

13 Q. Did you ever share your concerns with the
14 superintendent about that?

15 A. With Betty Grimm?

16 Q. Yes.

17 A. There was probably only one concern that I
18 shared with her.

19 Q. What did she do; how did she respond?

20 A. Well, she -- do you want me to explain the
21 concern? That might help.

22 Q. Sure. If you think that's helpful.

23 A. When I started as a JSC, I started a program
24 at Christmastime where I did a Christmas stocking for
25 all the kids in the facility that was mostly filled with

1 doing and take them to the car, and I would have to take
2 them home because they didn't want anything to do with
3 the program any more.

4 So I took them home. Said, Okay, fine. And
5 then she told me a couple days later that I was no
6 longer welcome to do the program any more or participate
7 in the program. Nampa was going to take it over. I
8 said, Okay, somebody needs to come to my house in the
9 next few days to pick up the merchandise. They need to
10 bring boxes to put them in because I'm keeping my bins.
11 Nobody came, nobody did anything.

12 Christmastime comes and they call me and say,
13 Where's all the merchandise? I said, At my house.
14 Somebody needs to come get it and bring boxes to put it
15 in. Tom Knoff actually showed up to pick them up with
16 no boxes. I said, These bins belong to me. They need
17 to be returned to me. They weren't returned. I finally
18 had to go search for them.

19 Then when I went back to Nampa to Choices,
20 Betty sent me an e-mail one morning saying, Now that
21 you're back, are you taking back over your Christmas
22 program? I looked at the e-mail all day and I didn't
23 know how to respond to that because I was told that
24 Betty Grimm did not want me to participate in the
25 project. Everybody had complained about me doing this

1 project is what I was told.
 2 But I looked at the e-mail all day long and I
 3 tried to answer it and couldn't. I finally went in to
 4 her office and I said, I need to talk about this. I was
 5 told I wasn't welcome to do my own project and now
 6 you're asking me to take it over? She goes, Your former
 7 supervisor told me you weren't interested in doing it.
 8 That was the only time I talked to Betty Grimm about
 9 anything.
 10 Q. If you're upset, do you want to take a minute?
 11 A. I'm okay.
 12 Q. With respect to the mediation process that you
 13 indicated you had hired an attorney for, how did that
 14 go, how did that work?
 15 A. I guess I'm not sure what you're asking.
 16 Q. Was a complaint filed, another complaint on
 17 top of whatever you had already filed with human
 18 resources, or a lawsuit?
 19 A. I didn't file a lawsuit.
 20 Q. Who mediated the issue with you and your
 21 attorney?
 22 A. Well, it was usually Julie Cloud, Nancy sat in
 23 a couple times, Melissa Moser was in a couple times. I
 24 didn't want her at the original meeting.
 25 Q. Do you know if anything was done to actually

1 being the supervisor, she wasn't supervisor material.
 2 Q. Were you surprised when she was selected to be
 3 a supervisor?
 4 A. Very.
 5 Q. Did you know of anybody else who had applied
 6 for the position?
 7 A. Not specifically, no.
 8 Q. Did Rhonda ever share with you any concerns
 9 about safety or security of the facility?
 10 A. She would talk about some of the practices,
 11 especially in O&A, about how staff wasn't able to hold
 12 kids accountable.
 13 Q. How so, how were they unable to do that?
 14 A. Again, I can't give you specifics, you'd have
 15 to ask her about those. A lot of times when staff is
 16 upset or talking, I just listen, let them vent. But it
 17 wasn't just Rhonda that was talking about safety and
 18 security concerns. It was everybody in O&A.
 19 Q. Can you give me some names of people who were
 20 discussing those issues?
 21 A. Well, I believe Ms. Littlefield discussed
 22 issues of safety and security there, Gracie Reyna,
 23 probably Diane Carnell. You know what, I can't remember
 24 all the names of them. But we have all-staff meetings
 25 every quarter and a lot of the O&A staff would get up

1 investigate your claims by human resources?
 2 A. Not that I'm aware of.
 3 Q. You mentioned earlier that you had seen
 4 retaliation in other instances of the Department. What
 5 did you mean by that?
 6 A. With other people.
 7 Q. Right.
 8 A. I saw it with Rhonda, when Julie McCormick was
 9 her supervisor, Rhonda was held to a different standard
 10 than other people. Julie was not supervisor material.
 11 And it seemed like if Rhonda would stand up for herself,
 12 question anything, she was in trouble.
 13 Q. What do you mean by "question anything" or
 14 "stand up"?
 15 A. Well, I wasn't in conversations with them, but
 16 if Julie would give her a directive and Rhonda would
 17 question something about that directive, Rhonda would be
 18 in trouble.
 19 Q. What do you mean by Julie McCormick not being
 20 supervisory material?
 21 A. I never felt like Julie McCormick had the
 22 qualifications to be a supervisor. I think when she was
 23 an SSO and somebody would leave her a list of a couple
 24 things to do on a shift or two when the supervisor was
 25 out, she probably did okay doing those. But as far as

1 and talk about how they weren't allowed to hold kids
 2 accountable, they didn't feel like they were safe
 3 because of the policies and procedures.
 4 Q. They didn't feel like they were safe as staff?
 5 A. They didn't feel like they were safe as staff,
 6 they didn't feel that they could hold the kids
 7 accountable, so therefore, some of the kids weren't safe
 8 either.
 9 Q. Somewhere here I have a list of some O&A
 10 people, see who you might have spoken with, see if that
 11 jogs your memory. I'll have to come back to that. I
 12 think I have that somewhere else.
 13 As far as you could tell, was there a change
 14 in the safety or security of the facility after Director
 15 Harrigfeld took over in 2009?
 16 A. That I couldn't tell you.
 17 Q. Do you recall having as many of those kinds of
 18 conversations that you just described prior to that
 19 point in time?
 20 A. Probably not, but I think since I've been
 21 there full time, I hear a lot more than I did in the
 22 past.
 23 Q. I think everyone understands that being at a
 24 juvenile facility that incarcerates criminals,
 25 there is a certain level danger.

1 A. Um-hmm.
 2 Q. How about Addison Fordham, have you ever
 3 spoken with him?
 4 A. Not specifically, no. I think he's one that
 5 has spoken up in big meetings, like staff meetings, but
 6 I have not spoken to him about anything specific.
 7 Q. Is he someone who you would be able to
 8 identify as a critic of the safety and security
 9 situation of the facility?
 10 A. I would think.
 11 Q. Same thing for Littlefield, Reyna, and
 12 Carnell?
 13 A. Yes.
 14 Q. Did you ever speak with Tom de Knijf?
 15 A. I do speak with him, yes.
 16 Q. Has he shared those kinds of concerns with
 17 you?
 18 A. He has.
 19 Q. How about Ray Gregston?
 20 A. Ray has shared concerns as well.
 21 Q. Philip Gregston?
 22 A. I don't believe I've ever spoken to him about
 23 concerns.
 24 Q. How about Tom Knoff?
 25 A. I don't believe so.

1 retaliation and has some issues because of it.
 2 Q. What makes you say that?
 3 A. He changed, he really changed, his personality
 4 changed, he's emotional, he was suicidal for a while.
 5 Q. Did he tell you why?
 6 A. Because of the way he was treated, being put
 7 on graveyard shift when that was difficult for him to
 8 take care of his child.
 9 Q. Did he share with you that his son is
 10 autistic?
 11 A. Yes.
 12 Q. Did he tell you who he believed was
 13 mistreating him?
 14 A. Well, I know Julie McCormick was one, but
 15 Betty Grimm as well.
 16 Q. What did he have to say about that?
 17 A. Well, I believe that Betty and Julie were the
 18 ones that decided he was going to go to graveyard or he
 19 could just leave.
 20 Q. Did you ever discuss Rhonda's situation or
 21 Shane's situation with Julie McCormick?
 22 A. Did I discuss it?
 23 Q. Yes.
 24 A. No.
 25 Q. Did you come into much contact with

1 Q. Did any of those people explain to you why it
 2 was they felt they couldn't hold juveniles accountable
 3 in O&A?
 4 A. It was because of management policies.
 5 Q. What kind of policies?
 6 A. I didn't read the policies, it's just what
 7 they were told that was how they had to handle things.
 8 Q. Did they talk about the reduction in time in
 9 which juveniles are reintegrated after misbehavior?
 10 MS. FONTAINE: I'm going to object; the
 11 witness has already said she did not know the reasons.
 12 Q. (BY MR. SCHOPPE) You can answer.
 13 A. I don't know the reasons.
 14 Q. How about other people who you've seen suffer
 15 retaliation? We talked about O&A staff and Rhonda.
 16 A. O&A staff. That's all I can think of right
 17 now off the top of my head.
 18 Q. Have you ever spoken with Shane Penrod?
 19 A. Yes.
 20 Q. About those kind of issues?
 21 A. Yes.
 22 Q. Fair to say he's a person who's outspoken
 23 about those things?
 24 A. I don't know if I would say he's outspoken,
 25 but I know that he certainly suffered a lot of

1 Ms. McCormick?
 2 A. Yeah, more than I would like.
 3 Q. What do you mean by that?
 4 A. Well, Ms. McCormick and my daughter were
 5 friends. And I say "were" because that's never going to
 6 happen again. My daughter was pretty devastated about
 7 what Julie did and Julie lied about it the whole time.
 8 Julie had been at my house several times.
 9 Q. Are you referring to the lewd conduct with
 10
 11 A. Yes.
 12 Q. When you say Julie had "lied about it," what
 13 do you mean by that?
 14 A. Well, she continually denied the allegations
 15 to my daughter and my daughter had told me, That's my
 16 friend, I'm going to support her. Aren't people
 17 innocent until proven guilty? I said, Yes, I understand
 18 you want to support your friend, but you also need to
 19 understand that I've been involved in a lot of these
 20 cases when I was child protection, and they have good
 21 evidence or they wouldn't have arrested her.
 22 So Julie kept denying it. Julie finally did
 23 admit part of it to her, not everything. And I was at
 24 my daughter's house the day this happened. I knew it
 25 had happened because Julie couldn't look me in the eye

1 after they went out back and talked for a few minutes,
2 and then Julie couldn't wait to get out of the house.
3 And I think that's probably the last contact they had.

4 Q. This is all after McCormick was arrested?

5 A. No, this was before the arrest.

6 Q. Before the arrest, okay.

7 After she was dismissed from the Department.

8 A. Yes, she had been dismissed by then. Well, I
9 don't know if she had been dismissed, but she wasn't
10 working at the time.

11 Q. Had you heard of any allegations or rumors of
12 inappropriate conduct on her part?

13 A. Absolutely.

14 Q. What did you hear?

15 A. That she had an inappropriate sexual
16 relationship with this man.

17 Q. How about prior to the time that she had left
18 the Department?

19 A. I think that was the only one that I had heard
20 about.

21 Q. Had you heard about any staff relaying
22 concerns about Julie spending too much time in Solutions
23 with male juveniles?

24 A. I heard a lot of that.

25 Q. Who did you hear that from?

1 discharged he moved right in with her.

2 Q. Do you know if the Department took any steps
3 to investigate that?

4 A. No, I don't know.

5 Q. How about Bryce and

6 A. I had heard that, but I don't know that for
7 sure.

8 Q. Was one of your juveniles in your
9 program?

10 A. No. I think she was from Solutions.

11 Q. Do you recall a juvenile by the name of
12 Michael Curtis? This would be late '90s, probably just
13 after you --

14 A. I had a [REDACTED] but that was just in like
15 the last year.

16 Q. That wouldn't be him.

17 Ever heard any reports of any other
18 staff-on-juvenile sexual or romantic relationships?

19 A. Nothing other than just rumors, and I couldn't
20 give you any sort of details.

21 Q. Okay, that's fine.

22 Do you recall who you might have heard
23 anything like that from?

24 A. Like I said, everybody in the building talks
25 to me.

1 A. I don't know if it was anybody specific, just
2 people talking that she spent a lot of time down there.
3 And I saw her in that area, walking down to that area a
4 lot. She had to walk past my office to get there, so I
5 saw it a lot.

6 Q. Was that odd for her role at the time?

7 A. I thought it was very odd for her role.

8 Q. Did you ever hear anything about her
9 interacting with other male juveniles other than

10 A. I have heard rumors that she may have
11 interacted with some other juveniles, but I didn't see
12 it. I never saw her specifically with a juvenile.

13 Q. Are you aware of any other reports or rumors
14 of inappropriate staff-on-juvenile sexual or romantic
15 relationships?

16 A. I had heard that there are some other things,
17 but I have no personal knowledge of them.

18 Q. What were the ones you heard about?

19 A. I don't know if I've ever heard specific
20 names, I've just heard that -- well, the one I did hear
21 about was Francine Diaz and Bryce. I can't remember
22 what his last name was.

23 Q. Bryce

24 A. Yeah, that might be it. He had been in
25 Solutions and I had heard rumors that when he was

1 Q. Did you ever speak with Alanna Kimmel about
2 Julie McCormick?

3 A. No.

4 Q. How about Julie Cloud or Betty Grimm?

5 A. No.

6 Q. So we talked about Shane Penrod, Rhonda
7 Ledford. How about Tom de Knijf, what sorts of things
8 did you see discuss with Tom?

9 A. Well, he's talked a couple times about getting
10 into trouble for various things.

11 Q. Did you discuss the problem solving and human
12 resources processes?

13 A. He did just recently discuss a problem
14 solving.

15 Q. Have other employees other than Plaintiffs
16 come to you to discuss their problems with problem
17 solving?

18 A. No, not with problem solving.

19 Q. How about with other disciplinary problems or
20 supervisor problems?

21 A. No. Like I said, people just come talk and
22 vent, and most of the time I just listen and I'm done.

23 Q. Any particular reason people come to you?

24 A. I don't know. I guess I'm just the one they
25 want to come talk to.

1 Q. Do you have your own concerns about security
2 and safety of the facility?

3 A. I do have some concerns about the security.

4 Q. Do you feel it's not a secure facility?

5 A. Well, I don't know that I want to go that far,
6 but I think there is some practices that keep getting
7 changed that make it unsafe at times.

8 Q. Like what?

9 A. Like the fact that kids sometimes are allowed
10 to just take off and walk the halls and they're not
11 always allowed to restrain. That concerns me that some
12 of these kids are loose in the hallways, because you can
13 hear them banging on the walls from my office, you can
14 hear them banging on the glass. Sometimes they're
15 banging on it with their heads. So I just do have
16 concerns.

17 Q. Does that make you feel unsafe?

18 A. I don't know that I feel specifically unsafe
19 myself, because frankly, if a juvenile is that angry,
20 I'm taking a couple steps back and I'll just talk to
21 them. But it concerns me for other staff.

22 Q. Are they allowed to do this around other
23 juveniles?

24 A. Sometimes, yes.

25 Q. Just depending on the situation?

1 Q. What do these people do; what are their job
2 titles?

3 A. All of them are rehab techs except Lindsay as
4 of yesterday.

5 Q. Do you know if juveniles are permitted to wear
6 gang colors inside the facility?

7 A. I've sure seen it.

8 Q. Does that make you concerned about the
9 security of the facility?

10 A. Yes, it does.

11 Q. What is the problem with gang colors inside
12 the facility?

13 A. We have a lot of gangs, a lot of gang members,
14 a lot of opposing gang members.

15 Q. What are some of those gangs, if you know?

16 A. I couldn't tell you the names of the specific
17 gangs.

18 Q. You just know there are?

19 A. I just know there are a lot of gang
20 involvement with our juveniles. I read all their files
21 when they come in. It concerns me when they're allowed
22 to continue to wear their gang colors.

23 Q. Is there a policy about gang colors or
24 clothing or attire?

25 A. There's a policy, but I couldn't tell you

1 A. Yes.

2 Q. Does that make you concerned for the safety of
3 those juveniles?

4 A. The safety of the juveniles and the staff.

5 Q. Do you know why it is that they're not
6 restrained and allowed to walk around like that?

7 A. I think just different management changes now
8 or directives.

9 Q. When you say "directives," do you mean
10 policies or do you mean specific orders from the
11 Director?

12 A. I don't know if it's from the Director. Unit
13 manager, superintendent, I don't know exactly who the
14 information is coming from. But I know a lot of things
15 keep changing.

16 Q. Have other staff expressed concerns about that
17 same thing to you?

18 A. I would say probably every staff or 90 percent
19 of the staff in Choices have expressed their concerns.

20 Q. Who are some of those people, if we needed to
21 ask them to testify?

22 A. I would say Steen Petterson, Tyson Stoddard,
23 Richard Castillo. These are people that have all spoken
24 up even in team meetings about concerns. Mark Norris,
25 Rick Porterfield, Lindsay Hanson.

1 specifically what it says.

2 Q. How about contraband being allowed inside the
3 facility?

4 A. Contraband is not allowed, but it seems like
5 it happens on a consistent basis.

6 Q. What kinds of things get allowed inside the
7 facility that ought to be contraband?

8 A. Well, it can be as simple as pens or pencils,
9 too many pens or pencils in their personal. We recently
10 had somebody bring in tobacco. They often get magazines
11 that they're not allowed to have.

12 Q. What kind of magazines?

13 A. I don't think they're allowed to have any
14 magazines, but they still get magazines.

15 Q. Do you have any concerns yourself about items
16 being turned into weapons?

17 A. Yes.

18 Q. Are you aware of instances in which that has
19 happened?

20 A. Yes. I haven't seen any of the specific
21 weapons, but I've seen the pictures.

22 Q. What sorts of things have you seen?

23 A. Just different pieces of metal or screws being
24 taped together and made into shanks.

25 Q. Are you aware of an incident in July in which

1 juvenile ██████ used a pair of scissors to assault
 2 Mark Freckleton?
 3 A. Yes, I'm aware.
 4 Q. How did you become aware of that?
 5 A. I think I might have actually heard it on the
 6 news before I heard it from anybody else. And I talked
 7 with Mark, I've known Mark for years, so I was really
 8 concerned.
 9 Q. What did he have to say?
 10 A. He was pretty upset about it and scared.
 11 Q. Did he share any knowledge with you about how
 12 the juvenile had gotten the weapon that he used, the
 13 scissors?
 14 A. No, I don't think Mark did. I think I heard
 15 just people talking in one of the meetings that he just
 16 got the scissors off a staff desk.
 17 Q. As far as you can tell, is that something that
 18 would be relatively easy for a juvenile to do, to get
 19 something like that?
 20 A. Sometimes, yes.
 21 Q. How is it that juveniles are allowed near
 22 staff desks or offices to get that sort of thing?
 23 A. Well, I don't think they're supposed to be
 24 that near the staff desk, but sometimes they're just
 25 allowed to do that.

1 from her.
 2 Q. What do you know about that?
 3 A. I don't know a lot of specifics about that.
 4 But one day she was the transport coordinator, and in my
 5 opinion did an excellent job, the next day she wasn't.
 6 Q. Did you discuss that with her?
 7 A. I think we talked about her frustrations a
 8 lot. But I don't know if there were actual details
 9 given.
 10 Q. What other kinds of retaliation are of concern
 11 to you?
 12 A. Being targeted, just being treated badly.
 13 Q. Who is it you have in mind when you say "being
 14 targeted"; who would be targeting you?
 15 A. I would say -- I wouldn't believe my
 16 supervisor would be that way, I don't think she's that
 17 type of a person, but anyone above her could or human
 18 resources.
 19 Q. Who is above her?
 20 A. It would be the superintendent.
 21 Q. Is that Lynn Viner?
 22 A. Yes.
 23 Q. Would it be fair to say that you had that same
 24 concern when Betty Grimm was superintendent?
 25 A. Much higher concern when Betty Grimm was the

1 Q. When you talked about retaliation earlier and
 2 your fear of that, what sorts of things come to mind;
 3 how could you possibly suffer retaliation, do you think?
 4 A. I could start getting in trouble for things
 5 again, I could lose my job over it. Just make life
 6 difficult, the stress. The stress before was very,
 7 very, very hard. And that could start again easily.
 8 With my daughter the concern is, like I said,
 9 she started a new position yesterday. She's on her
 10 six-month probationary period again. My concern is that
 11 word gets out that I've talked about some of these
 12 things, she won't make her probationary period.
 13 Q. Are you aware of or have you heard of
 14 instances in which retaliation occurs that might not be
 15 reflected in a formal disciplinary action? For example,
 16 sometimes it could take the form of a written warning
 17 record or a write-up or something like that, as compared
 18 to something not written, shift change, demotion or
 19 transfer.
 20 A. Absolutely.
 21 Q. What do you know about those sorts of things?
 22 A. Well, I know with Shane Penrod he was
 23 retaliated against by having to have his shift changed.
 24 I believe they retaliated against Lisa when she was
 25 transport coordinator and the job was just taken away

1 superintendent.
 2 Q. Why was that?
 3 A. Because I believe Betty was unfair, she
 4 treated people differently.
 5 Q. As far as you could tell, what was the basis
 6 on which she treated people differently?
 7 A. She played favorites.
 8 Q. Is it fair to say she didn't favor those who
 9 criticized her?
 10 A. That would be fair to say.
 11 Q. So we talked about Shane Penrod and Rhonda,
 12 people in O&A. Can you think of anybody in particular
 13 that would have been Betty's favorites?
 14 A. Colleen Foster was definitely one of them,
 15 Julie McCormick was definitely one of them, Laura Roters
 16 would probably be at the top of that list.
 17 Q. Why do you say that about Laura Roters?
 18 A. Ever since I've been there and Laura Roters
 19 worked, Laura Roters could do no wrong. No matter what
 20 she did it was never wrong.
 21 Q. What did you hear about that, from who?
 22 A. I witnessed things myself.
 23 Q. What kind of things?
 24 A. Several things. She used to be a rehab tech
 25 in Choices, and I think at the time that I'm thinking

1 about, the group leaders didn't do the monthly
2 staffings, the rehab techs covered those. I remember
3 one particular juvenile from Owyhee County, we were at a
4 staffing, it was myself and the chief probation officer
5 from Owyhee County and the juvenile and parent and
6 Ms. Roters, and I don't remember specifically what the
7 juvenile was asking for, but Ms. Roters said, No, you
8 can't do that. If you do this, this, and this over the
9 next month we'll let you do that. And I had it in my
10 notes and the probation officer had it in her notes.

11 The next month we go into the staffing and the
12 kid did it, whatever it was, and she said, No, you can't
13 do that. The kid said, Well, you said last month if I
14 accomplished these things I could. She said, No, didn't
15 say that. The kid was very angry, the parent was very
16 angry, probation and I were not very happy either
17 because we all had the same thing written down.

18 And I went to my supervisor, who was Donna
19 Hislop at the time, and let her know what happened, and
20 between Ms. Roters' supervisor Dave Rohrbach and Betty
21 Grimm, nothing was done. Basically we were told if
22 Laura said she didn't say that, she didn't. Doesn't
23 matter what the four, the rest of you said, we're going
24 to support Laura.

25 Q. Have you ever heard Betty Grimm say or that

1 the petition?

2 A. No, I don't remember hearing that.

3 Q. How about a bucket list, did you ever hear
4 anything about a bucket list?

5 A. There was something about a bucket list at one
6 of the all-staff meetings.

7 Q. Would that have been in early 2012?

8 A. Again, I'm not going to be able to tell you a
9 date.

10 Q. That's okay.

11 Do you know what the bucket list was about?

12 A. It was something Betty talked about, and I
13 can't recall what it was about now. But I specifically
14 remember the term being used.

15 Q. Do you remember a point in time, perhaps in
16 late 2011, in which staff were expressing a lot of
17 concern over the manner in which Laura Roters had been
18 hired?

19 A. I remember that going around a lot.

20 Q. What sorts of things did you hear?

21 A. She wasn't qualified, they didn't like her as
22 a supervisor, they didn't think she should have gotten
23 the position.

24 Q. Do you remember who you heard that sort of
25 thing from?

1 Betty Grimm said that O&A staff needed to support Laura
2 Roters through changes or find employment elsewhere?

3 A. Yeah. I heard that, yes.

4 Q. Did you hear Betty say that?

5 A. I didn't hear her say that specifically; I
6 heard other staff saying that. I heard Betty saying
7 they need to support Laura Roters.

8 Q. Where did you hear that?

9 A. I believe she said that in an all-staff
10 meeting.

11 Q. Would that have been in November of 2011?

12 A. I couldn't tell you a date.

13 Q. Do you remember an issue concerning a petition
14 being circulated about the hiring of Laura Roters and
15 Julie McCormick?

16 A. I heard about that, but vaguely.

17 Q. You didn't see the petition?

18 A. I didn't see the petition, no.

19 Q. Did you attend an all-staff meeting in which
20 the petition was discussed?

21 A. I don't remember it being discussed at that
22 staff meeting, so I may have missed that one.

23 Q. Do you recall being in a staff meeting in
24 which the hiring of Julie McCormick or Laura Roters was
25 discussed, whether or not that had anything to do with

1 A. I think it was pretty much from everybody in
2 O&A. I don't think anybody specifically came to me and
3 said that, but the talk was really going around.

4 Q. Are you aware of Laura Roters' sort of career
5 track through the Department?

6 A. Yeah, pretty much.

7 Q. Are you aware at one point Roters was
8 assigned to be unit manager of O&A?

9 A. I believe so, yeah. I believe an e-mail went
10 out about that.

11 Q. Did you discuss that assignment with anyone
12 who worked in O&A at the time?

13 A. I don't know that I sat down and discussed it,
14 but lots of people were again talking about they didn't
15 like that.

16 Q. Did people say why?

17 A. They just didn't like her; she's very bossy,
18 she's very arrogant, didn't have the training or the
19 skills.

20 Q. Did anyone ever express concern about the lack
21 of supervisory experience on her part?

22 A. Yes, they did.

23 Q. What did they have to say about that?

24 A. That she didn't have any supervisory
25 experience.

1 Q. How about Jo McKinney, do you know Jo?
 2 A. I do.
 3 Q. Among Jo's claims are that she suffered
 4 retaliation for speaking up about problems, whether it's
 5 from safety and security falsification, alteration of
 6 documents or data and also age discrimination. Do you
 7 know anything about those topics?
 8 A. Um-hmm.
 9 Q. Tell me what you know.
 10 A. I've heard her talk about all of these. I've
 11 seen her being treated badly by her supervisor.
 12 Q. Who is that?
 13 A. Estela Cabrera.
 14 Q. What have you seen in that respect?
 15 A. One specific time, I believe Jo had called in
 16 sick after a holiday weekend and had been called in to
 17 Estela's office. I didn't hear the conversation, but
 18 the next thing I know she's in my office sobbing. She
 19 felt like she had been accused of misusing sick time.
 20 She felt very disrespected. She was very upset. And
 21 actually, at the time Joyce Clark from human resources
 22 was in the building and she was actually in Julie
 23 McCormick's office, and Jo was so upset, I said, Can I
 24 call Joyce? And I can't remember if I called or
 25 e-mailed and said, Send Joyce to my office right now.

1 A. That they would make comments about when are
 2 you going to retire, aren't you ready to retire.
 3 Q. How about training opportunities?
 4 A. She has indicated that she's asked for
 5 training in different things numerous times and has been
 6 told no numerous times, yet other people go to the same
 7 trainings that she had asked for.
 8 Q. Does that seem odd to you?
 9 A. That seems odd, yes.
 10 Q. Have you noticed similar problems of the sort
 11 you testified about with respect to Estela Cabrera with
 12 other staff in that area?
 13 A. I haven't seen any problems with other staff.
 14 Q. Has Jo spoken to you about any problems with
 15 Maria Ferrara?
 16 A. Yes.
 17 Q. What problems?
 18 A. She really feels like the fact that Maria put
 19 up a curtain between there two pods is disrespectful.
 20 She said Maria often talks very loudly and disturbs
 21 everybody, especially Jo because she's right next to
 22 her. I brought in some lilacs one day and Jo had them
 23 in her office and she had to take them out of her office
 24 because supposedly Maria was allergic, but Maria can
 25 have flowers in her office.

1 But she did come down and talk to Jo. And I tried to
 2 tune out the conversation because I felt like that was
 3 between her and HR. But she helped her calm down.
 4 Another time Jo had a conversation with
 5 somebody from human resources and Estela because
 6 supposedly there was an anonymous note saying she was
 7 tampering with the mail. She was very upset about the
 8 accusations and the disrespect.
 9 Q. Where is your office situated?
 10 A. In Choices.
 11 Q. In Choices.
 12 A. Clear in the back behind the locked doors.
 13 Q. Do you occasionally visit with Jo?
 14 A. Yes.
 15 Q. Did the kind of treatment she spoke about with
 16 you appear different to you than what other employees at
 17 the office where Jo works?
 18 A. Absolutely.
 19 Q. How so?
 20 A. Well, I don't see the others being treated
 21 that way.
 22 Q. Did Jo ever mention to you that remarks had
 23 been made about her age?
 24 A. Yes.
 25 Q. What did she say about that?

1 Q. Who asked Jo to remove the flowers?
 2 A. Estela.
 3 Q. Estela did.
 4 What is the impact that you've seen on Jo?
 5 A. I've seen her age tremendously probably in the
 6 last year and a half, seen her health go down.
 7 Q. Does she seem stressed, anxious, depressed?
 8 A. Very stressed, very anxious, very depressed.
 9 Q. Has Jo ever shared concerns with you about the
 10 manner in which juveniles' progress reports or their
 11 case records are handled?
 12 A. Yes.
 13 Q. What kind of concerns?
 14 A. Concerns about them being backdated, they're
 15 due every two months, and they might be several months
 16 late but they'll be dated the day they were due.
 17 Q. You are talking about progress reports?
 18 A. Progress reports.
 19 Q. Where do those reports go?
 20 A. The reports go to the probation officer, the
 21 judge, I believe the prosecutor and the public defender
 22 get a copy, parents get a copy, the juvenile gets a
 23 copy.
 24 Q. Do you see those?
 25 A. I get a copy.

1 Q. Why does it matter if a report is backdated?
 2 A. I believe that it's not accurate reporting of
 3 the information. In my opinion, if it was due last
 4 month and I don't get to it until this month, I date it
 5 the day I do it.
 6 Q. Why would a report be backdated?
 7 A. To make it look like it's on time.
 8 Q. Enough to make it look to the court like it's
 9 on time?
 10 A. Or to anybody that gets it.
 11 Q. As far as you know, is a progress report like
 12 that an official record?
 13 A. Yes.
 14 Q. Would you regard that as falsification of the
 15 official record?
 16 A. I would.
 17 Q. Is there any kind of a policy about how those
 18 reports are prepared or formed?
 19 A. I'm sure there is, but I'm not familiar with
 20 it.
 21 Q. Do you know what Jo's role is in helping to
 22 prepare those reports?
 23 A. I think she doesn't prepare them, but she
 24 proofreads them and then sends them to all of the
 25 parties.

1 Q. How do you mean?
 2 A. Information that didn't accurately reflect the
 3 juvenile's progress.
 4 Q. Like what?
 5 A. Well, one particular juvenile that I can think
 6 of had literally hundreds of incident reports regarding
 7 poor behavior, risky behavior, assaultive behavior, just
 8 failing to cooperate with everything, but it was never
 9 reflected in the progress letters.
 10 Q. What juvenile was that?
 11 A. Am I allowed to give those names?
 12 Q. Yes.
 13 MS. FONTAINE: Yes.
 14 THE WITNESS: That would be
 15 Q. (BY MR. SCHOPPE) Do you know why is in
 16 the facility to start with?
 17 A. I don't remember the exact charges right now,
 18 drug related. But he's not in our facility any more,
 19 he's the one that's at the Washington County Jail.
 20 Q. Do you know if he had an underlying violent
 21 offense of any kind?
 22 A. Like I said, I just can't remember
 23 specifically, but he has a new charge now.
 24 Q. What kind of incidents were reflected in those
 25 incident reports?

1 Q. Has she said who is asking her to backdate
 2 them?
 3 A. Well, it would be the group leaders that write
 4 the reports, but I believe Estela, she's talked with
 5 Estela several times, saying this is dated a completely
 6 different date than when I got it and she's being told
 7 this is just how you do it.
 8 Q. Who are the group leaders that you have in
 9 mind that would be responsible for --
 10 A. There's three group leaders. It would be Jeff
 11 Underhill, Matt Storey, and Nick Tinker.
 12 Q. What kind of information is reflected in those
 13 progress reports?
 14 A. Everything about the juvenile for that
 15 two-month reporting period; how they've done in all the
 16 risk categories, what the concerns are, what the
 17 progress is, what they need to continue to work on, they
 18 talk about medical issues, whatever, whatever there is
 19 to discuss about the juvenile.
 20 Q. Are you aware of any instances in which
 21 inaccurate or false information has been presented in
 22 those reports or other reports concerning juveniles?
 23 A. False information?
 24 Q. Or misleading.
 25 A. Misleading. Yes.

1 A. Like I said, anything from just refusing to
 2 get up and go to breakfast in the morning to hitting
 3 people, hitting other kids, refusing to go to school,
 4 stomping out of class. I don't know how many times he
 5 just refused to go to school, do anything, and wanted to
 6 go back to his pod and sleep.
 7 Q. Who is in charge of preparing the progress
 8 reports for
 9 A. Nicholas Tinker.
 10 Q. Is there any particular reason that you're
 11 aware of why that information wouldn't be reflected in
 12 his reports?
 13 A. None that I can think of.
 14 Q. Is there any kind of a program goal that
 15 Mr. Tinker or anybody else had for
 16 A. Well, there were program goals written into
 17 his service implementation plan, but he didn't follow
 18 them.
 19 Q. Did Mr. Tinker have any particular
 20 recommendations or recommendations set forth in progress
 21 reports?
 22 A. I would have to go back and read them
 23 specifically. Like I said, I read those every month.
 24 Just to keep working his program, except he wasn't
 25 really working the program.

1 Q. How about with respect to with reintegration
 2 into the community, is that something that progress
 3 reports factor into?
 4 A. Yes.
 5 Q. Would the absence of those kinds of incident
 6 reports or references of progress reports mislead the
 7 court as to whether any given juvenile would be fit for
 8 reintegration into the community?
 9 A. Yes.
 10 Q. Would that pose a risk to the public safety,
 11 as far as you are concerned?
 12 A. Yes, it would.
 13 Q. Are you aware of an incident involving
 14 and Sabrina Payne, Sabrina McNally?
 15 A. I think that incident happened just before I
 16 came to Choices. I heard about it.
 17 Q. Do you know what happened or what did you hear
 18 happened?
 19 A. I heard that he was in a restraint and she was
 20 one of the staff holding him and he had kicked her in
 21 the head.
 22 Q. Did you ever see an incident report for that?
 23 A. I don't believe I ever saw an incident report
 24 for that.
 25 Q. Do you know what happened to Ms. Payne as a

1 Q. These are incident reports that you may have
 2 reviewed?
 3 A. I read -- I get an e-mail about every incident
 4 on every juvenile in Choices and I read every single one
 5 of them. And I document in IJOS that I got it and read
 6 it.
 7 Q. How is it that you know that an incident
 8 report may not reflect what actually happened?
 9 A. Well, I might have heard from staff what
 10 happened or I may have seen it myself.
 11 Q. Can you think of any particular examples of
 12 things that you saw yourself that were not accurately
 13 reflected in incident reports?
 14 A. Not that I can think of specifically, no.
 15 Q. If something pops into your head later, let me
 16 know.
 17 A. Okay.
 18 Q. Is it fair to say those incident reports, the
 19 data from those, go into progress reports that
 20 ultimately go to the court?
 21 A. Well, they should.
 22 Q. What do you mean?
 23 A. The information should be reflected somehow in
 24 the progress letters; it's not always.
 25 Q. Do you know why it is that it wouldn't always

1 result of that injury?
 2 A. I don't know specifically. I know that her
 3 voice was different, everybody had told me when I came
 4 to Choices that her voice was really different. I think
 5 she's okay now, but I don't have any specifics on that.
 6 Q. By "voice" do you mean like the sound of her
 7 voice or --
 8 A. Yeah, the sound of her voice.
 9 Q. -- ability to speak?
 10 A. Yeah.
 11 Q. Are you aware of any incidents, like violent
 12 incidents, for which incident reports have not been
 13 prepared or issued?
 14 A. I would say sometimes the incident reports
 15 really gloss over what happened.
 16 Q. How so?
 17 A. It just leaves out details.
 18 Q. What kind of details?
 19 A. Well, details about what really happened.
 20 Like I said, just kind of gloss over, report the
 21 incident but not really how serious it was.
 22 Q. Do you have particular incidents in mind like
 23 violent assaults or something like that?
 24 A. Not that I can think of off the top of my
 25 head.

1 be reflected in the progress reports?
 2 A. I can't answer that question.
 3 Q. Do you know if it has anything to do with PbS
 4 numbers?
 5 MS. FONTAINE: Object to the question; she
 6 already stated she didn't know the answer.
 7 Q. (BY MR. SCHOPPE) You can answer.
 8 A. I don't know specifically why it wouldn't go
 9 in.
 10 Q. Do you know what PbS is?
 11 A. I do.
 12 Q. It's Performance-based Standards; right?
 13 A. Yes.
 14 Q. Do you know what PbS is, why it's important
 15 for the facility?
 16 A. I do understand why it's important.
 17 Q. Tell me about that, please.
 18 A. We're compared against other programs
 19 throughout the country as far as our progress and our
 20 safety for both staff and juveniles.
 21 Q. Do you know who does that comparison?
 22 A. I don't know who does the comparison.
 23 Q. Could that be Council for Juvenile Justice
 24 Administrators?
 25 A. That sounds right.

1 Q. Do you know if Director Harrigfeld is an
 2 officer of that group?
 3 A. I believe that she is.
 4 Q. Do you know if PbS have any effect on
 5 funding?
 6 A. I would guess that it does, but I don't know
 7 that specifically.
 8 Q. Do you know what kind of funds the Department
 9 gets, federal or state funds?
 10 A. No.
 11 Q. Do you know who would know about that?
 12 A. Well, I'm sure the Director would know about
 13 that, but I don't have that personal knowledge.
 14 Q. Anybody else?
 15 A. I'm sure the superintendent would know.
 16 Everybody in fiscal. I don't know for sure.
 17 Q. Who is in fiscal?
 18 A. Who is in fiscal? Don Elliott, I think, is
 19 the one that's in charge of fiscal. There's a number of
 20 people that work there.
 21 Q. Do you know how long performance-based
 22 standards have been in use at the Department?
 23 A. I don't.
 24 Q. Can you tell me what you know about how
 25 recidivism is measured.

1 Betty Grimm indicating that staffing needed to support
 2 Laura Roters or find employment elsewhere; is that fair?
 3 A. Um-hmm.
 4 Q. You indicated you had heard that sort of thing
 5 from other people and you heard Betty say something like
 6 that.
 7 A. Yes.
 8 Q. When did you hear Betty say something like
 9 that?
 10 A. I couldn't tell you when. It was about when
 11 the change was made.
 12 Q. What change was that?
 13 A. When Laura was put into that position.
 14 Q. Which position is that?
 15 A. The unit manager position.
 16 Q. At O&A?
 17 A. At O&A.
 18 Q. Does that sound like about middle of 2012,
 19 about a year ago?
 20 A. I couldn't tell you dates.
 21 Q. Did any O&A staff talk to you about that
 22 specific threat?
 23 MS. FONTAINE: Object to the question.
 24 Q. (BY MR. SCHOPPE) You can answer.
 25 A. I don't know if any specific person talked to

1 A. I know they do studies on recidivism, but I
 2 don't know how they measure it.
 3 Q. Who does the studies?
 4 A. Well, I know Monty Prow, I believe, was one of
 5 them that worked on that. I couldn't tell you
 6 specifically who does it now or how they do it.
 7 Q. Do you receive information in your role as a
 8 JSC, do you receive information about juveniles'
 9 recidivism?
 10 A. Once in a while we'll receive an e-mail or
 11 something, but not something that is specifically sent
 12 to me.
 13 Q. Do you know how recidivism is defined at the
 14 Department in terms of offenses committed by a juvenile?
 15 A. I don't know specifically how they define it.
 16 Q. Do you know whether repeat offenders of the
 17 same type, let's say an assault followed by another
 18 assault, do you know how they are counted?
 19 A. I don't.
 20 Q. Do you know who might be responsible for that?
 21 A. I do not know that.
 22 MR. SCHOPPE: It's 10:30. Why don't we take a
 23 short break.
 24 (Recess taken from 10:31 to 10:45 a.m.)
 25 Q. (BY MR. SCHOPPE) Earlier we had talked about

1 me about it. But people -- I heard about it from lots
 2 of people. I don't know if it was in the hallways, I
 3 can't remember if it was at an all-staff, but people
 4 talked about it.
 5 Q. Did you consider that statement to be a kind
 6 of threat?
 7 A. I did.
 8 Q. Do you know if that made employees
 9 specifically in O&A fearful of criticizing Roters?
 10 A. Absolutely.
 11 Q. Did people tell you that?
 12 A. People did say that they were fearful of
 13 saying anything.
 14 Q. Would that include Reyna, Littlefield,
 15 Fordham, Carnell, people like that?
 16 A. I'm not sure which specific person, but I'm
 17 sure I heard it from Lisa.
 18 Q. Littlefield?
 19 A. Yes.
 20 Q. Do you know if Ms. Grimm ever made similar
 21 threats of people being terminated or fired if they
 22 didn't do something the way she wanted?
 23 MS. FONTAINE: Objection to form of the
 24 question; it's not evidence that she said she would
 25 terminate or fire.

1 Q. (BY MR. SCHOPPE) You can answer if you
2 understand.

3 A. Well, I had heard that she had said in regards
4 to Shane Penrod he could take the graveyard shift or
5 leave.

6 Q. With respect to that kind of statement, did
7 you regard that as a threat of termination or other
8 involuntary unemployment?

9 A. That's how I would take it.

10 Q. Who did you hear that from about Penrod?

11 A. I believe I heard that from Rhonda Ledford.

12 Q. Do you know if you heard about that from Jo
13 McKinney?

14 A. I believe she also said that, yes.

15 Q. Have you ever had any negative interactions
16 with Betty Grimm regarding home passes?

17 A. I know that Betty Grimm used to send out an
18 e-mail. We have a document that's called "Current and
19 Planned Home Passes" in IJOS and we used to get an
20 e-mail from Betty Grimm if there was anything wrong on
21 that particular document, and it's up to the JSC to keep
22 the passes correct. We might enter them correctly but
23 the control booth doesn't enter them correctly when the
24 juvenile leaves or comes back. We'd get these e-mails
25 in big bold red capital letters saying, If you can't get

1 Q. Has anybody else ever expressed that opinion
2 to you that human resources, problem solving, grievance
3 processes are futile?

4 A. I've heard that from a number of people.

5 Q. Anybody specific pop into mind?

6 A. Well, Rhonda would be right off the top, Jo
7 McKinney.

8 Q. Do you know if Jo has used the problem-
9 solving process?

10 A. I think she tried to use it once and it went
11 partway and just she never heard anything else. So she
12 just felt like it was a waste of time.

13 Q. Do you know who was involved in handling her
14 claim?

15 A. I don't recall who was involved in that.

16 Q. Do you remember having a conversation with
17 Rhonda Ledford last year regarding interstate travel
18 requests?

19 A. Yes.

20 Q. What can you tell me about that?

21 A. We had a juvenile in Choices that had a charge
22 in Washington state that was going to have to go there
23 for a court hearing. And the JSC is responsible to
24 complete the interstate compact travel permit. Yet I
25 had been left out of the loop, I didn't know that the

1 this right, you don't have to work here. And those were
2 sent to the JSCs and used to get them all the time. I
3 took it as a threat. I check the log every single
4 morning, still. And don't stop until -- if there's a
5 mistake with one of mine, I get it corrected as soon as
6 possible.

7 Q. As far as you know, is that kind of a threat
8 consistent with the disciplinary practices or policy of
9 the Department?

10 A. No, I don't believe it is.

11 Q. Is it consistent with what the Department
12 actually practices in terms of discipline?

13 A. I'd say it's consistent with what it
14 practices.

15 Q. Did you do a problem solving with Betty Grimm
16 about that?

17 A. No.

18 Q. Did you involve human resources?

19 A. About that, no.

20 Q. Was there any reason you didn't?

21 A. I just didn't think it would go any place.

22 Q. What do you mean by that exactly?

23 A. Nothing would come of it.

24 Q. It would be futile?

25 A. Yes.

1 hearing was scheduled. And I think Rhonda had sent me
2 the tail end of a very long e-mail about this. And I
3 believe I called her and said, I didn't know about this.
4 Has the travel permit been taken care of? And she
5 didn't know.

6 And then the two of us were up front in the
7 main office sometime during the day talking about it,
8 just about the process and that, and Brenda Garrett, one
9 of the other office assistants, overheard that
10 conversation and she went to Jo McKinney after Rhonda
11 and I had this conversation. We were just talking about
12 the interstate compact. She said to Jo McKinney that I
13 was trying to get Rhonda to do my job, to do the travel
14 permit, and that she takes care of the travel permit for
15 her JSC. She is the office support for the other three
16 JSCs in Nampa.

17 So Jo McKinney came back and said to me and
18 said, Is this something I'm supposed to be doing? I
19 didn't know I was supposed to be doing it. I said, No,
20 that's not your job, that's my job. I know that's my
21 job. So she told me what Brenda had said. So I went up
22 and talked to Brenda and I said, I understand you were
23 saying I was trying to get Rhonda Ledford to do my job.
24 I'm very well aware that I'm responsible for the travel
25 permit and I'll do the travel permit. And she started

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1 yelling and screaming, saying she didn't say that.
 2 And I just said, Brenda, next time you listen
 3 in on a conversation I'm having with someone and you
 4 have a question, please come to me with it. Don't put
 5 your own slant on it and go to somebody else.
 6 And then later, I don't know if it was that
 7 day or the next day, I called Estela because I wanted to
 8 tell Estela about it, and I asked her to come back to my
 9 office because offices up front everybody can hear
 10 everything that's said. She came back to my office and
 11 two words out of my mouth she made it very clear she
 12 heard it, she made up her mind, she had already taken
 13 sides and that was it, there was nothing else I could
 14 say. And that was the end of it.
 15 And then later Brenda said something to Rhonda
 16 and the next thing we know we're in the conference room
 17 with everybody and their supervisors and HR. And Estela
 18 prefaces the meeting as Rhonda and I didn't know what we
 19 were doing, so Brenda was just stepping in to help. I
 20 had told Estela that wasn't the case. So we have this
 21 big meeting.
 22 And Rhonda and Jo and I have exactly the same
 23 story because we knew what happened. Brenda is sitting
 24 across from us screaming, pointing her fingers, horrible
 25 look of anger on her face, eyes bulging, just very, very

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1 threatening and no one in the room said: You know, that
 2 behavior is not appropriate. And after a while we were
 3 all dismissed except Jo McKinney and she had to stay in
 4 with Brenda, and I'm not sure, you'd have to ask her
 5 about the rest of that conversation.
 6 But I felt like Estela did her normal practice
 7 of choosing sides, making up her mind without hearing
 8 everything.
 9 Q. Who was there from human resources?
 10 A. Julie Cloud.
 11 Q. Was Betty Grimm there?
 12 A. Yes.
 13 Q. I take it Sharon Harrigfeld was not there?
 14 A. No, she was not there.
 15 Q. Neither Cloud nor Grimm said anything about
 16 the screaming or yelling?
 17 A. No.
 18 Q. Did you find that threatening?
 19 A. I found it extremely threatening.
 20 Q. Did you feel any physical threat or anything
 21 like that?
 22 A. Extremely physically threatened.
 23 Q. How so?
 24 A. I think Brenda is a loose cannon. I think
 25 that she is one of those people that could snap at any

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1 minute and come in the facility with a gun and start
 2 shooting. She's just that way. She flies off the
 3 handle if you challenge her about anything.
 4 Q. She's done that sort of thing before?
 5 A. She has done that sort of thing before. Maybe
 6 not to that intensity, but if you ask her: Did I send
 7 this out or what's the date on this or anything, she
 8 just blows up.
 9 Q. Are you aware of any disciplinary action
 10 that's been taken against her for that conduct?
 11 A. I'm not aware that any has been taken.
 12 Q. Is that conduct consistent with the standards
 13 of conduct policy of the Department?
 14 A. I don't believe so, no.
 15 Q. Have you ever witnessed any negative
 16 interactions between Jo McKinney and Brenda Garrett
 17 other than the one you just spoke of?
 18 A. I know their pods are right across from each
 19 other and Brenda actually turned her desk so she stares
 20 at Jo all the time, which made Jo very uncomfortable.
 21 Brenda's rationale, I think, was so she could look out
 22 the window, because Brenda doesn't have a window in her
 23 cubicle. I believe Jo actually went to Estela and said,
 24 This makes me uncomfortable. How about if we just
 25 switch pods, then she can have one by the window. That

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1 was denied.
 2 Q. Why do you think that had anything to do with
 3 Jo as opposed to the explanation offered?
 4 A. Just because of Brenda's interactions with Jo.
 5 She specifically would stare at her, according to Jo,
 6 just to make her uncomfortable.
 7 Q. General feeling of hostility?
 8 A. Yes.
 9 Q. I know it's hard to define. Is it something
 10 you pick up on in that office?
 11 A. Yes; every time you walk through.
 12 Q. What sort of things give you that impression?
 13 A. Just the general unfriendliness. The air is
 14 almost thick when you walk through. You say "Good
 15 morning" when you walk through and you are met with
 16 silence.
 17 Q. How about between Jo and Bobbi Rogers?
 18 A. Jo has talked about Bobbi being very
 19 aggressive and demanding and threatening and always
 20 telling her what to do, how to do her job.
 21 Q. Threatening how?
 22 A. Just the way she comes across, you know: You
 23 will do it this way.
 24 Q. Is Bobbi Jo's supervisor?
 25 A. No.

1 Q. How about Maria Ferrara?
 2 A. Been ongoing tension between them ever since
 3 Jo was there.
 4 Q. As far as you know, these are all issues Jo
 5 has raised with Estela Cabrera?
 6 A. Yes.
 7 Q. Have you ever said anything to Estela?
 8 A. Like I said, I talked to Estela about Brenda
 9 and that whole conversation. I talked to Estela one
 10 other time regarding a fax. I had gone up front and
 11 said, I'm expecting a fax from somebody, I don't recall
 12 who, but I needed the fax as soon as possible. And I
 13 said, Please, whoever gets it, call me as soon as the
 14 fax comes in. I let all the OS2s know. I was up there
 15 three or four times during the day, no fax, no fax, no
 16 fax. I called the place back and they said, We sent it.
 17 So I kept asking.
 18 The bottom of the fax when I finally got it,
 19 it has the disclaimer saying if this wasn't meant for
 20 you, you can't copy it, pass it on or anything.
 21 Literally two, three days later I get it from Maria, I
 22 get it in the form of an e-mail and an attachment.
 23 Well, I got this fax. I've copied it and sent it to
 24 this person and this person and put it in the file. And
 25 I went to Estela and said, I specifically told them I

1 they just don't show up.
 2 Q. Do you have any concerns in your role as the
 3 juveniles services coordinator that juveniles are
 4 released when they shouldn't be, before they are ready?
 5 A. I think there have been a few times that
 6 juveniles on my caseload have been released when I
 7 didn't think they were ready.
 8 Q. How about [REDACTED] do you know
 9 that name?
 10 A. I certainly do.
 11 Q. Would he count as one of those?
 12 A. He would count as one. I think he fronted his
 13 way through program.
 14 Q. What do you mean by that?
 15 A. He just talked the talk. He never made any
 16 behavioral changes or any value changes.
 17 Q. How could you tell? How did you know?
 18 A. He just -- it's just a feeling that you get.
 19 Nothing that I can say specifically, but I think the
 20 best example of it is that the crime that he committed
 21 six days after he was discharged.
 22 Q. What was that?
 23 A. Manslaughter. He was, from what I understand,
 24 under the influence of drugs or alcohol, I didn't hear
 25 either one, he backed into someone, a [REDACTED] man, knocked

1 was waiting for this fax. Nobody said they had it, yet
 2 Maria had it.
 3 Q. Why do you think she did that?
 4 A. I think that Maria just does things like that.
 5 I think things sometimes disappear.
 6 Q. Did that have confidential information in it?
 7 A. Yes.
 8 Q. Should that information have been shared with
 9 the people on that e-mail distribution list?
 10 A. I don't remember who she specifically sent it
 11 to, but it was specifically faxed to me.
 12 Q. Does the Department have a policy of trying to
 13 narrow the field of who might receive confidential
 14 information about juveniles?
 15 A. I'm sure there is a policy. I couldn't tell
 16 you the name or the specific policy. But I believe
 17 there's a policy that we're supposed to be careful about
 18 that.
 19 Q. Is the Department careful about that, as far
 20 as you can tell?
 21 A. No.
 22 Q. Any examples come to mind?
 23 A. Well, the one with Maria would be the first
 24 one. That's not the only time that has happened.
 25 Things just disappear and people say they sent them and

1 him over a cliff and the [REDACTED] man died en route to the
 2 hospital.
 3 Q. Do you know why it was that he was released?
 4 A. Because the group leader felt that he was
 5 ready to go.
 6 Q. Who was that?
 7 A. Nick Tinker.
 8 Q. Any other examples of that sort of thing that
 9 you can think of?
 10 A. Yeah, I can think of several. Do you want
 11 names?
 12 Q. Yes, please.
 13 A. [REDACTED] from District 5 I didn't think was
 14 ready. [REDACTED] is a recent one from District 4
 15 I didn't think was ready.
 16 Q. Is there something you think should be done
 17 differently in determining whether juveniles like these
 18 three are ready?
 19 A. I think it should be more of a team decision,
 20 not just the group leader decision. With the other two
 21 pods it is a team decision; with that one it isn't.
 22 Q. Which is "that one"?
 23 A. The B pod. That would be Mr. Tinker's pod.
 24 Q. In those instances are you aware of whether or
 25 not information concerning those juveniles, like we

1 discussed incident reports, things like that, with
2 relevant information about those juveniles' readiness to
3 be reintegrated into the community ever made it to the
4 court?

5 A. I would say not. I wouldn't have specific
6 information, but that particular group leader tends to
7 gloss over what is said.

8 Q. Have you discussed that as a problem with
9 anyone?

10 A. I've discussed it with my supervisor more
11 times than I can count.

12 Q. Anything come of that, as far as you know?

13 A. Nothing.

14 Q. Do you know if those concerns or you expected
15 those concerns to be related further up the chain?

16 A. I know they were relayed further up the chain,
17 but I can't see that anything was ever done.

18 Q. How do you know that?

19 A. Well, nothing has changed.

20 Q. How do you know that they made it further up
21 the chain; did your supervisor tell you?

22 A. Well, several times when I told my supervisor,
23 she went and got the superintendent and we talked. So I
24 know it went as far as the superintendent. I don't know
25 if it ever went any farther.

1 reintegrate him into the community or get him out of the
2 facility?

3 A. Not getting him out of the facility as far as
4 discharge, but in my opinion, he is ready to start
5 having unsupervised home passes. He's almost to the
6 reintegration stage. He's been in custody almost four
7 years. And I would certainly support him starting to
8 have limited passes home, very structured.

9 Q. What is it that you see in juveniles when you
10 think they are ready?

11 A. Progress through the different levels in
12 program, the ability to talk about the changes, program
13 compliance, doing well in school, good visits with their
14 family, participating in family counseling, and just
15 general progress.

16 Q. Do you know if [REDACTED] participated in
17 interviewing job applicants for O&A positions?

18 A. I have no idea about that.

19 Q. Have you ever heard of juveniles being
20 involved in the interview process?

21 A. I have not.

22 Q. With respect to the manner in which B pod,
23 Mr. Tinker's group, with respect to the manner in which
24 decisions are made about their release or reintegration,
25 would you say that poses a risk to public safety?

1 Q. Is it a question of policy as far as you are
2 concerned about how these juveniles are released or is
3 it a question of how the Department acts in practice?

4 A. I think it's more the practice with some of
5 them.

6 Q. How so?

7 A. It's one person's opinion. Like I say,
8 sometimes it doesn't matter what I say or what probation
9 says, the juvenile is still released. And I understand
10 that we're not always going to agree, but I think we
11 need to be able to talk about it and come to a joint
12 decision and be respectful of each other. But sometimes
13 I think we have discharged kids that aren't ready.

14 Q. Earlier we had talked about [REDACTED] and
15 kicking Sabrina McNally. Could that have been [REDACTED]
16 instead, do you know? I think I might have gotten the
17 name wrong.

18 A. You know what, I think you're right, I think
19 that was [REDACTED], yeah. You're right.

20 Q. Are you aware of a juvenile by the name of
21 [REDACTED] [ph]?

22 A. Yes.

23 Q. Is he someone you supervise?

24 A. Yes.

25 Q. Has there been any particular effort to

1 A. Yes. Not to mention a risk to the juvenile.

2 Q. How do you mean?

3 A. Relapsing, maybe something possibly happening
4 to them too.

5 Q. Do you know why Mr. Tinker or B pod or the
6 superintendent would want to reintegrate a juvenile
7 before they are ready?

8 A. No.

9 Q. Are you aware of any instances in which
10 juveniles have been inappropriately assigned to units
11 where they really shouldn't be, for example, if someone
12 should be treated for mental health issues and is not
13 assigned to the mental health unit?

14 A. I think maybe sometimes in O&A they make the
15 best call that they can make and they decide a juvenile
16 should be in one program and maybe after a while it's
17 decided that that wasn't the best program. But I think
18 they do a good job of identifying that and moving the
19 juvenile if that's the case.

20 Q. Prior to the time that Laura Roters was
21 assigned to be unit manager in O&A, are you aware of any
22 particular problems with how that department was run
23 specifically with respect to lockdown time?

24 A. No. I've heard a little bit of talk about
25 lockdown time, but I don't have any specifics on that.

1 Q. Would you review reports or information from
2 O&A in your role as juvenile services coordinator?

3 A. About the only thing I would review would be
4 the O&A report or if there was any notes put into IJOS.

5 Q. With respect to Julie McCormick, apart from
6 her interactions with other juveniles, did you ever see
7 her act inappropriately towards other employees or job
8 applicants or anything like that?

9 A. I saw her act inappropriately towards two job
10 applicants, but I didn't realize they were job
11 applicants at the time.

12 Q. What did you see?

13 A. I saw her walking down the hallway in front of
14 my office acting very seductive and sexual with a male
15 on two separate occasions. I thought the first time
16 that maybe it was a boyfriend she was giving the tour
17 to. I asked her later who that was and she told me it
18 was a job applicant, and I told her her behavior was
19 absolutely inappropriate and unacceptable and she should
20 not be doing things like that. She told me I was crazy
21 and couldn't tell her anything. That's as far as it
22 went.

23 I saw it on a second occasion too and I said,
24 The same thing I told you the first time, that is
25 absolutely inappropriate, Julie.

1 never talked to Julie about it. I would have avoided
2 that.

3 Q. In what context did you hear those sorts of
4 things?

5 A. We were both on the Employee Appreciation
6 Committee and she would make little remarks sometimes.

7 Q. Did you find that to be appropriate?

8 A. I found it to be very inappropriate.

9 Q. Who else was on the Employee Appreciation
10 Committee?

11 A. Jeta [ph] Gallup was on it then. I'm trying
12 to think of who was on it then. O'Neal Rich might have
13 been on it then. We've had a lot of people come and go.
14 I don't remember who all of them were.

15 Q. What does that committee do?

16 A. We raise money and try to do things to support
17 the employees. We sponsor a summer picnic and a holiday
18 potluck and just various things throughout the year to
19 try to help the employees feel supported and
20 appreciated.

21 Q. Do you find that to be a difficult task?

22 A. In the beginning we had a lot of resistance,
23 but I think the longer we've done it and the more things
24 we do, people appreciated it more. We get a lot of
25 responses, a lot of positive responses from staff that

1 Q. What did you see?

2 A. It was the body language, just the way she was
3 acting it was very, very seductive.

4 Q. Did you hear any complaints from either of
5 those applicants or from anybody else about that?

6 A. I later heard from somebody, I don't recall
7 who it was, one of the applicants actually called back
8 and said, I'm not going to take the job because I felt
9 that she was flirting with me. I don't know if it was
10 one of the ones that I saw or not, but I had heard that.

11 Q. Did you ever discuss any of the Plaintiffs,
12 specifically Shane Penrod or Rhonda Ledford, with Julie
13 McCormick?

14 A. I think Rhonda and I have talked about Julie a
15 few times.

16 Q. The other way around, did you ever talk with
17 Julie about either of them?

18 A. No.

19 Q. Or hear anything she said about either of
20 them?

21 A. Just little remarks, side remarks. I've never
22 talked to her about them, no.

23 Q. What do you mean by "side remarks"?

24 A. She just made comments about they were hard to
25 handle or something like that or being difficult. But I

1 they appreciate what we do.

2 Q. Do you have an opinion on the state of morale
3 at the facility?

4 A. I can't speak for Choices and Solutions -- or
5 sorry, O&A and Solutions specifically because that's
6 just kind of things I hear whispered. But Choices the
7 morale is absolutely at an all-time low.

8 Q. Do you know why that is?

9 A. Management changes, schedule changes, just
10 different expectations, the staff doesn't feel
11 supported, they don't feel listened to, they don't feel
12 heard. They have been told, and I've heard this said
13 from Eric Cotton, If you don't like it, you don't have
14 to stay. You don't like the changes, you don't have to
15 stay. They've lost a number of really good staff in the
16 last couple months.

17 Q. What kind of changes are you talking about?

18 A. Well, mainly they're trying to have
19 consistency within the pods, which I absolutely agree
20 with. There was too much inconsistency. But they're
21 switching the staff from pod to pod, I'm not sure if
22 it's every week or every day or how they're doing it,
23 but the staff is struggling with the changes. The staff
24 schedules are different every week, so they can't have a
25 life away from work. They don't know what they're going

1 to work from one day to the next. Sometimes they have
2 them scheduled for nine or ten days in a row without a
3 day off, and that's very difficult in a high-stress job.

4 They don't feel like management is listening
5 to them. And I hear from the staff all the time about
6 how frustrated they are. And what I've told them is
7 things keep changing. That has been the one consistent
8 thing about the Department, things keep changing. Hang
9 in there, things will change again. But like I say,
10 they've lost some good staff.

11 Q. Why are the changes happening, if you know?

12 A. For consistency they've just decided this is
13 the way it's going to be.

14 Q. Do you know where the source of the changes
15 are; is it Director Harrigfeld or somewhere else?

16 A. Well, I'm sure she must know about it. But as
17 far as what I've heard, the superintendent and the unit
18 manager are the ones that keep talking about the
19 changes.

20 Q. Are you aware of whether some of these changes
21 are made for the sake of PbS

22 A. That I couldn't tell you.

23 Q. Has anyone ever told you they felt discouraged
24 from reporting violent incidents or crimes inside the
25 facility?

1 I don't have an issue with that. Don't talk about it in
2 a staffing, don't talk about a staff in general that
3 way, but don't put a name on it.

4 Another one in the same week, we had a
5 juvenile that had attempted suicide a couple of times
6 and he was actually sent to the hospital and another
7 juvenile in a staffing started telling his mother about
8 it. Mr. Tinker said, Do you want to talk about that? I
9 thought he would say something like, We had a juvenile
10 attempt suicide, it's been really hard for us to deal
11 with. He didn't, he started giving the name and all the
12 specifics. I said, Wait a minute. I'm not comfortable.
13 That's confidential information about another juvenile
14 and you can't talk about it. And the group leader never
15 stopped it; I did. I went to my supervisor about both
16 of those.

17 Q. Has Mr. Tinker approved visitors that have
18 been denied access to the facility?

19 A. He's approved visitors that weren't approved
20 contacts. Again, the JSC is responsible for all the
21 contacts in the system. The juvenile fills out a
22 contact request and the program defines the contacts as
23 you can have mail with anyone that is approved, as long
24 as it's not a safety and security issue, but you can
25 have visits and phone calls with immediate family,

1 A. I don't know that anybody has told me
2 specifically about that, but I have to say that I'm
3 discouraged about reporting things that happen within
4 the facility.

5 Q. Why is that?

6 A. Because I don't see that things get done. I
7 don't see that things are changing.

8 Q. What kinds of things would you report if you
9 felt like there would be a response?

10 A. Well, I have reported a lot of ethical issues
11 with Mr. Tinker. So many that I feel like I'm in my
12 supervisor's office tattling all the time, but they're
13 ethical things that really bother me and I just don't
14 see anything changing. I see the same things happen
15 over and over again.

16 Q. What kind of ethical issues?

17 A. Well, I had a couple just within the last
18 couple weeks, one man staffing, Mr. Tinker started
19 talking about how a specific staff, and he named the
20 staff by name, is extremely harsh and critical of this
21 man, and this is not the only person he does it
22 to. That was said in front of me, the juvenile, the
23 probation officer, and the parent. I felt that
24 undermining staff is not acceptable. If there's a
25 problem with a staff, pull them aside and talk to them.

1 defined as parents, grandparents, brother and sisters,
2 aunts and uncles. That's it. Unless you're in B pod.
3 You can have visits and phone calls with anybody you
4 want. And I gradually changed that, but they get
5 changed in the communication log and that frustrates me
6 that I'm held responsible, but somebody else changes
7 them.

8 Q. Is that something you've talked about with
9 your supervisor?

10 A. It is.

11 Q. Do you know if she talked about it with the
12 superintendent?

13 A. I'm not sure she talked about it with the
14 superintendent. Laura Roters was actually his
15 supervisor at the time. This was a while ago. I talked
16 with her and I said, I'm to the point that if he's going
17 to continue changing these things, I'm not going to be
18 responsible for the communication log for B pod. I'm
19 not comfortable with that.

20 So she talked to him and then sent an e-mail
21 saying, Oh, he talked about it. He said that the only
22 time he's made changes, you've made them together in his
23 office during a staffing. I said, That's absolutely not
24 accurate. That never happened. And nothing else was
25 ever done.

1 Q. Is that a security problem as far as you are
 2 concerned?
 3 A. I think it's a security problem, I also think
 4 it's a team problem.
 5 Q. Is that something that put the juveniles and
 6 staff at risk of people who are not supposed to be there
 7 are --
 8 A. Right. Or it might not be a risk issue, but
 9 the policy, the program manual says they can have visits
 10 with certain people. When you tell one pod, Your
 11 cousins can't come in and visit, but all the cousins
 12 from B pod get to visit, I mean, it's difficult. The
 13 kids want to know why there's different rules for
 14 different kids. So it puts me in a bad position. I
 15 said I feel like I'm the communications police.
 16 Q. Do you know of a juvenile by the name of
 17 M.?
 18 A. I've heard of that juvenile, but he was never
 19 on my caseload.
 20 Q. Not one of yours?
 21 A. No.
 22 Q. Are you aware of any reports that may have
 23 been made by M. concerning his possibly sexual
 24 interactions with Dr. Richard Pines?
 25 A. I think I might have seen that in the paper,

1 A. I couldn't give you specifics about that.
 2 Again, I think I saw it in the paper and I would think
 3 there would be an investigation of that if allegations
 4 were made, but I couldn't tell you specifically.
 5 Q. So with respect to home passes, who is
 6 responsible for approving those for any given juvenile;
 7 is it the unit supervisor or manager?
 8 A. Well, we all have to approve them. The group
 9 leader initiates them, I have to approve it and enter it
 10 in IJOS, probation has to approve it, and then it goes
 11 to the unit manager and the superintendent.
 12 Q. So it's a fairly formalized big process?
 13 A. Yes.
 14 Q. How about extensions of home passes, how are
 15 those handled?
 16 A. I don't know that I've had an extension on a
 17 home pass for years.
 18 Q. Is that something that would come across your
 19 desk at some point?
 20 A. I would think so, yes.
 21 Q. Are you aware of home passes being issued to
 22 that juvenile we just talked about, M. to go to
 23 Dr. Pines' home?
 24 A. No.
 25 Q. Going back to the Employee Appreciation

1 but I have no personal knowledge of that.
 2 Q. Not at work?
 3 A. Yes.
 4 Q. Do you know who Dr. Pines is?
 5 A. I do know who Dr. Pines is.
 6 Q. Do you know him in connection with any work
 7 that he's done connected to Juvenile Corrections?
 8 A. Not the specific juveniles, but I know he has
 9 had contact with some of the juveniles. He was a doctor
 10 at Intermountain as well.
 11 Q. What is Intermountain?
 12 A. Intermountain Hospital, a psychiatric
 13 hospital. I know I might have had some juveniles there
 14 in the past that Dr. Pines was their consulting doctor,
 15 but I couldn't give you any specific information on
 16 that.
 17 Q. How about the Syringa House?
 18 A. I believe he was the consulting psychiatrist
 19 for Syringa.
 20 Q. That is linked to the Lewiston facility?
 21 A. Northwest Children's Home; yes.
 22 Q. Do you know if there has been any
 23 investigation into whether Dr. Pines may have had
 24 inappropriate sexual contact with any of his patients
 25 from Juvenile Corrections?

1 Committee, does the committee also do things like give
 2 awards, things like that?
 3 A. Yes.
 4 Q. Okay.
 5 A. Well, not really. There is an employee of the
 6 quarter award that is given out by the superintendent.
 7 Betty started that.
 8 Q. How does that process work?
 9 A. People vote for who they think should be the
 10 employee of the quarter and Betty was presenting them
 11 with an award and giving them a \$50 bonus, whatever,
 12 which was coming out of her pocket at the time.
 13 Q. As far as you know were the votes always
 14 honored or was any influence exerted over the process by
 15 Ms. Grimm?
 16 A. Well, I know one specific time that Jo
 17 McKinney came to me and said Betty came to her and said,
 18 I want Colleen Foster to get it. You're to vote for her
 19 and tell everybody else to vote for her. And Jo came
 20 and talked to me and said she kind of felt like she was
 21 directed that she needs to make sure Colleen Foster gets
 22 the award. And I said, Well, nobody is going to tell me
 23 who to vote for, I'm going to vote for who I please.
 24 Q. Do you know why that would have been, she
 25 would have wanted Colleen Foster to win?

1 A. I don't know. But she did get the award.
 2 Q. She did get the award?
 3 A. She did get the award.
 4 Q. Is that consistent with Betty having favorites
 5 as you testified earlier?
 6 A. That would be my take on it.
 7 Q. Going back to Julie McCormick, did she have a
 8 tattoo?
 9 A. Yes, she did.
 10 Q. What was that tattoo?
 11 A. It was like a shooting star with initials of
 12 KC at the top of each star. I saw it very briefly, but
 13 the initials instead of CYR, it was YRC.
 14 Q. How did you know it was his initials?
 15 A. Well, I knew who he was. I had told -- had
 16 been told about the tattoo and that his initials were on
 17 it. And I had the opportunity to look and see it very
 18 closely and I looked.
 19 Q. Did she ever say anything to you about
 20 A. No, never.
 21 Q. Do you know if anyone in management was
 22 monitoring Julie McCormick early last year concerning
 23 her interactions with male juveniles?
 24 A. I had been -- I heard, and I think I heard
 25 from Rhonda, that she had been told by Betty she wasn't

1 game, which no one would have denied, but it wasn't on
 2 the pass. And I asked the juvenile and he goes, Oh,
 3 Mr. Tinker told me it was fine. I asked Mr. Tinker and
 4 he just scoffed at me.
 5 Q. With respect to all these things you've talked
 6 about, are these things you shared or reported with your
 7 supervisor?
 8 A. Yes.
 9 Q. Did you ever talk about them with Betty Grimm?
 10 A. A couple of the things, yeah.
 11 Q. Any response from Ms. Grimm?
 12 A. Any time I talked to her she acted like she
 13 was going to do something, but never saw any signs that
 14 anything was done.
 15 Q. Have you discussed these same kind of problems
 16 with Ms. Viner?
 17 A. A number of the same problems.
 18 Q. Anything being done to correct them?
 19 A. Not that I can tell.
 20 Q. Same things keep happening?
 21 A. Yes.
 22 Q. With respect to [REDACTED] we talked about
 23 earlier, what is the policy concerning juveniles'
 24 contact with, I guess he's a convicted criminal at this
 25 point; is that right?

1 supposed to be down in Solutions. But I don't know if
 2 anybody was monitoring.
 3 Q. With respect to the concerns you raised about
 4 Mr. Tinker, was there also an issue with a juvenile
 5 being allowed to travel outside of approved home pass
 6 areas with him?
 7 A. Um-hmm.
 8 Q. "Yes" or "no"?
 9 A. Yes.
 10 Q. What happened there?
 11 A. And I couldn't tell you which juvenile. This
 12 has happened a couple times. According to the policy,
 13 if a juvenile is going to go someplace on their home
 14 pass that is out of the county that they were committed
 15 from, the JSC is responsible to notify the other county.
 16 So if you have a kid from Jerome that's going to go on a
 17 pass and spend the day in Canyon County, I have to
 18 notify the Canyon County chief probation officer that
 19 the juvenile is going to be there.
 20 And several times the juveniles have put on
 21 the home pass where they were going to be and when they
 22 come back from pass they have been someplace else that
 23 wasn't listed on their pass. And I said, That probably
 24 would have been okay. But this one particular case it
 25 was a Washington County juvenile that went to a BSU

1 A. Well, he wasn't; I think he is now. I think
 2 he admitted the charge and is in prison now.
 3 As far as contacts go, they need to be
 4 approved by the juvenile service coordinator and the
 5 probation officer. And as a rule, if somebody is in
 6 trouble, we deny it.
 7 Q. Have juveniles tried to write to [REDACTED]
 8 A. Following his charge six days after he was
 9 discharged, I probably had half of the pod submit a
 10 request to write to him and I denied it.
 11 Q. Has Mr. Tinker or anybody else permitted that?
 12 A. Well, I had at least one juvenile tell me, and
 13 this was just before his discharge hearing, it was in
 14 front of his parent, his attorney, his probation officer
 15 and I, that Mr. Tinker said, He knew you wouldn't allow
 16 us to write letters, so we just wrote the letters and he
 17 takes the letters and mails them from home.
 18 Q. I presume that is against policy?
 19 A. Absolutely.
 20 Q. Have you discussed that with your supervisor?
 21 A. I absolutely did.
 22 Q. No response?
 23 A. No.
 24 Q. Who is Joe Blume?
 25 A. Joe Blume currently works for quality

1 assurance. Used to be a group leader.
 2 Q. Was there an instance in which Mr. Blume
 3 violated a court imposed no contact order?
 4 A. Yes.
 5 Q. What was that about?
 6 A. We had a man from Elmore County that was
 7 committed and he had a girlfriend and it had been
 8 written onto his commitment order no contact with this
 9 particular girl, and the parent supported that,
 10 probation supported it, I supported that. And at this
 11 point, this is the time that group leaders didn't do
 12 staffings, one of the line staff covered them. And at
 13 one of the staffings, probation and the parent and I sat
 14 after the staffing and we talked about our concerns that
 15 he was having contact with her somehow because he knew
 16 everything that was going on in the community.
 17 And I stopped by Mr. Blume's office on the way
 18 back from that staffing and said, I'm not sure what's
 19 going on, but we think he's having some community
 20 contact because he knows everything that's going on with
 21 the girlfriend. He goes, Well, he's not having contact,
 22 I'm calling the girlfriend and giving her an update on
 23 what's going on with him and then giving him an update
 24 on what's going on with her. I said, Well, there's a
 25 court order that said there can't be any contact and

1 don't know why.
 2 Q. What kinds of policy changes come to mind?
 3 A. Well, like not being able to restrain the kids
 4 or hold the kids accountable for their behaviors.
 5 Q. How are kids or juveniles held accountable for
 6 their behaviors?
 7 A. It's different in different pods. Sometimes
 8 they're not held accountable at all. Sometimes they are
 9 held accountable, they have to take a three-step or
 10 express with their peers and they have to run the circle
 11 up and take responsibility for their behaviors and move
 12 on. Sometimes they're given a learning experience.
 13 Sometimes they're sanctioned and they may loose
 14 privileges for several weeks. Sometimes nothing is
 15 done.
 16 Q. Have you ever heard a juvenile say that if
 17 they want to change their program or make some sort of
 18 change in their conditions that all they have to do is
 19 assault a staff or another juvenile?
 20 A. Yeah. Yes.
 21 Q. When did you hear that?
 22 A. I've heard several kids say that.
 23 Q. Any come to mind?
 24 A. would come to mind, right from the
 25 beginning.

1 that would be considered third-party contact. He just
 2 kind of brushed me off.
 3 And I let the my supervisor know and let the
 4 probation officer know. The next thing I know, I'm
 5 getting a phone call from the prosecutor saying, This
 6 needs to stop or we're going to have Brent Reinke, the
 7 Director, in court on an order to show cause. And I
 8 said, Please give me a chance to stop this. And they
 9 agreed that if this stopped, they wouldn't file charges
 10 on the Director.
 11 Q. With respect to the directors that you've
 12 worked under, so you worked under Director Reinke
 13 initially?
 14 A. Um-hmm.
 15 Q. Then Mr. Callicutt?
 16 A. Yes.
 17 Q. And then Sharon Harrigfeld; is that right?
 18 A. Yes.
 19 Q. As between Mr. Callicutt's administration and
 20 Ms. Harrigfeld's, do you feel that safety has increased,
 21 decreased, stayed the same; do you have an impression?
 22 A. I think the safety has probably decreased.
 23 Q. Do you have an opinion as to why that is?
 24 A. I don't know why it has. All I can guess is
 25 that it's because of policies, policy changes, but I

1 Q. Is that true, as far as you can tell?
 2 A. I certainly would have taken that to heart. I
 3 wouldn't have ignored that.
 4 Q. Do you think the Department does enough to
 5 disincentivize violence and assaults of that type?
 6 A. I don't.
 7 Q. Why is that?
 8 A. I don't know why. I've seen some movement in
 9 the last few weeks to maybe make some changes on that.
 10 Like, for instance, we have a man that was program
 11 noncompliant that we sent him to the Jefferson County
 12 Jail for 30 days and I'm very happy with that. I think
 13 that's sending a good message to him as well as
 14 everybody else that the behaviors just can't be
 15 tolerated.
 16 Q. Is it your opinion those behaviors have been
 17 tolerated?
 18 A. Yes.
 19 Q. Does that seem to be different, as far as you
 20 are concerned, from how the Department handled those
 21 sort of things under Mr. Callicutt?
 22 A. It does feel different.
 23 Q. Do you know why that is?
 24 A. I don't.
 25 Q. Has anyone ever suggested that it has

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1 something to do with how juveniles are disciplined after
 2 violence or other serious misbehavior?
 3 A. I think in some cases the juveniles aren't
 4 disciplined.
 5 Q. Do you know with respect to juveniles' program
 6 assignments, are you aware of any instances where
 7 juveniles have been assigned to programs or beds, as
 8 they might refer to them, inappropriately, maybe more on
 9 a funding basis than for what the juvenile actually
 10 needs?
 11 A. I couldn't give you any specifics about that.
 12 I honestly think our clinical team does a good job
 13 trying to put the juvenile where they need to be. I
 14 think sometimes with wait lists they have to go to plan
 15 B. But for the most part I would say they do their best
 16 to put the juvenile in the facility that's going to do
 17 them the most good.
 18 Q. Do you know if Laura Roters and Joe Blume ever
 19 told a juvenile that he had to go to a certain contract
 20 provider or he would never get out?
 21 A. Yes, I do.
 22 Q. What do you know about that?
 23 A. I had a juvenile that was a Payette County
 24 commit, but he was actually from Nyssa, Oregon, and he
 25 wanted to go home. They wanted him to go to

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1 Empowerment, so he kept going back and forth. I'll go
 2 home, I'll go to Empowerment. And my belief is if a
 3 juvenile does not want to go to Empowerment, we are
 4 wasting everybody's time and effort. If they really
 5 want to go home and they're 18, I don't think we should
 6 stop them.
 7 But I told the juvenile after going back and
 8 forth a number of times he needed to make a decision one
 9 way or the other. So he said, Home, and then the next
 10 week it was Empowerment. So I actually went back to
 11 talk to him and I said, So what's going on? You keep
 12 changing. He said, Well, Ms. Roters and Mr. Blume
 13 pulled me aside and said I will go to Empowerment or I
 14 will never get out of program. And I went to my
 15 supervisor with it and nothing ever came of it, that I
 16 knew of.
 17 Q. Would you consider that a threat?
 18 A. I would consider that a threat.
 19 Q. Is that the sort of thing that is appropriate
 20 in dealing with juveniles?
 21 A. I don't believe so.
 22 Q. Do you have any opinions about what the
 23 Department might have done to have prevented the sexual
 24 interactions between Julie McCormick and
 25 A. Well, if they were aware that she was spending

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1 too much time in Solutions or with any of these
 2 juveniles, I believe they should have just said it
 3 shouldn't happen any more, it can't happen any more.
 4 You stay away from them. I think the best way to
 5 prevent that is they never should have allowed her to
 6 become supervisor.
 7 Q. Going back to have you ever
 8 testified at a hearing of his, court hearing or possibly
 9 Custody Review Board?
 10 A. Custody Review Board twice.
 11 Q. What does the Custody Review Board do?
 12 A. They decide whether or not a juvenile would
 13 stay in our custody following their 19th birthday.
 14 Q. Who is on the board?
 15 A. They're all new now except Mike Stallcup and
 16 Larry Callicutt. I couldn't tell you who the other ones
 17 are right now.
 18 Q. At the time you testified who was on the
 19 board, as far as you recall?
 20 A. I don't remember if that was before the
 21 change. Larry Callicutt and Mike Stallcup definitely
 22 would have been on there, but I think it was just like
 23 in the last 9 to 12 months, so I'm not sure if Sheriff
 24 Nielsen was on there or Senator Lodge. I just don't
 25 remember the time frame.

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1 Q. What were you testifying about?
 2 A. Whether or not -- how he was doing in program
 3 and what my recommendation was as far as whether he
 4 should stay in program.
 5 Q. What was that recommendation?
 6 A. The first time I really, his first time I was
 7 really torn because I didn't think he was doing anything
 8 in program, but he hadn't been in our program that long.
 9 So my recommendation was that he starts working and
 10 finishes the program.
 11 The second hearing, which I think might have
 12 just been three months later, he had actually made some
 13 changes; the school had seen a little bit of
 14 improvement, he was doing a little bit in his drug and
 15 alcohol class. So we were optimistic that maybe he
 16 would start making some changes. And again, I
 17 recommended that he finish his program.
 18 Q. Was that one of Mr. Tinker's juveniles?
 19 A. Yes.
 20 Q. Did he express a contrary opinion?
 21 A. He said that he was doing fine, but also
 22 recommended that he complete program.
 23 Q. Are you aware of any instances in which
 24 misleading testimony has been presented to the Custody
 25 Review Board by anyone?

1 A. Yes. A Payette County man, he had been
2 accepted to WyoTech in Laramie, Wyoming, and I think his
3 hearing was maybe July and -- no, the hearing might have
4 been in October. And he had just earned reintegration.
5 I mean, just earned reintegration. He was 19 like five
6 days after his custody review hearing. I felt like he
7 needed to stay in program, complete the reintegration
8 period and start WyoTech in January. I thought that
9 that would be realistic if he really worked hard.

10 Mr. Tinker the day of the hearing went in and
11 said, He's been accepted to WyoTech. He has to be gone
12 in two weeks or he'll lose his full-ride scholarship.
13 And he was recommending that he be discharged on his
14 19th birthday. And I was absolutely shocked, shocked,
15 because I hadn't heard any of this. I got up and
16 testified that I had talked to the WyoTech folks and he
17 could start in January, he did not have a full-ride
18 scholarship, he had student loans to pay for everything,
19 but they would be just fine in January. I felt he
20 needed to finish the program.

21 Q. Going back to progress reports that are maybe
22 backdated. Are you aware of whether courts consider it
23 important that those reports be prepared in a timely
24 fashion of when they're due?

25 A. I would think that they would consider that

1 as far as you know?

2 A. I believe we have 24 hours to report it to the
3 Department of Health and Welfare and/or law enforcement.
4 I always report to both.

5 Q. How does it work when you become aware of a
6 situation like that?

7 A. You would have to -- I mean, I would certainly
8 document it in notes that I was given this information
9 and I would probably go to the group leader, depending
10 on who made the report, or my supervisor, let them know,
11 and I would call Health and Welfare and law enforcement
12 and that would be documented who I talked to, when I
13 talked to them, what I told them.

14 Q. Is it always the duty of the person who
15 receives the information to make the report?

16 A. I think that is looked at different ways by
17 some people, that they would report to their supervisor
18 and they would report it. But I've always reported it
19 myself and always been supported in that.

20 Q. Are you aware of any instances in which
21 incidents of sexual abuse have not been reported to
22 Health and Welfare?

23 A. Not that I'm aware of.

24 Q. Do you know if Julie McCormick's incident was
25 reported to Health and Welfare?

1 very important.

2 Q. As far as you know, policy requires they be
3 prepared in a timely fashion?

4 A. Yes.

5 Q. Is that an internal policy or is that the
6 Juvenile Corrections Act, if you know?

7 A. Well, I know that we have an internal policy,
8 but I'm not aware if it's the Juvenile Corrections Act.

9 Q. Have you had any training in PREA or CRIPA?

10 A. PREA.

11 Q. Have you ever had occasion to make a PREA
12 report yourself?

13 A. I don't believe so.

14 Q. Are you aware of any incidents in which PREA
15 reports ought to have been made that weren't?

16 A. Not that I can think of.

17 Q. Do you know, based on any training you might
18 have with the Department or possibly your background
19 with Health and Welfare, whether everyone at Juvenile
20 Corrections is a mandatory reporter of child abuse and
21 neglect?

22 A. I believe everybody is a mandatory reporter.

23 Q. Would that include sexual abuse?

24 A. Yes.

25 Q. What is the process for making those reports,

1 A. I do not know if that was reported.

2 MR. SCHOPPE: Why don't we take another break,
3 another ten minutes, then I'm not sure how much more I
4 have to go, but I think I can be done within the next 40
5 minutes or so, maybe half an hour.

6 (Discussion held off the record.)

7 (Recess taken.)

8 Q. (BY MR. SCHOPPE) Welcome back.

9 Have you ever heard that Laura Roters called
10 juveniles "dumb-asses"?

11 A. I have never heard that specifically, but I've
12 heard from other people that she said that.

13 Q. Who did you hear that from?

14 A. I believe Rhonda told me that.

15 Q. What about Gracie Reyna?

16 A. I haven't heard it specifically from Gracie.

17 Q. Anybody else that you remember?

18 A. No.

19 Q. Have you ever heard that she had spoken
20 disrespectfully to juveniles?

21 A. I felt like when she was in Choices she spoke
22 disrespectfully to the juveniles, just talking down to
23 them, acting superior.

24 Q. What do you mean by that?

25 A. It was just the attitude that came across.

1 Q. Any specific conduct that you could point to?
 2 A. Nothing specific, but I heard numerous times
 3 her talking down to juveniles.
 4 Q. Did any other staff express concern about
 5 that?
 6 A. I know different coworkers and I had talked
 7 about it. I couldn't tell you specifically which
 8 coworker at the time, but there were concerns.
 9 Q. Have any employees ever told you that they
 10 didn't believe that they would be fairly considered for
 11 a promotion or an application for a job inside the
 12 facility?
 13 A. I've heard that before, but I'm trying to
 14 think of who said that. I have heard that before from
 15 different people.
 16 Q. Is that something that, as far as you can
 17 tell, is a broad concern, widespread?
 18 A. Yes.
 19 Q. Why is that?
 20 A. Just that they might not be among the favored
 21 group.
 22 Q. Is that the same kind of favored group you
 23 mentioned earlier, there was favorites of Betty?
 24 A. Yes.
 25 Q. Favorites of Sharon Harrigfeld?

1 Q. Valerie Lietau?
 2 A. What was the name?
 3 Q. Lietau. I'm not sure how to say it properly.
 4 A. Oh, the nurse? Was she a nurse?
 5 Q. I believe so.
 6 A. I'm not aware of anything.
 7 Q. We noticed your deposition probably a month
 8 ago, something like that. Has anyone tried to tell you
 9 that you couldn't testify about anything or tried to
 10 influence your testimony in any way?
 11 A. To influence my testimony, I don't think so.
 12 Q. Or anybody told you to testify about something
 13 in particular or to not testify about anything in
 14 particular?
 15 A. Yesterday it was indicated that I probably
 16 shouldn't say anything about Estela Cabrera because she
 17 wasn't part of the case.
 18 Q. Were you told why?
 19 MS. FONTAINE: Object to the form; attorney-
 20 client privilege.
 21 Q. (BY MR. SCHOPPE) Did anyone other than
 22 attorneys for the Department of Juvenile Corrections
 23 tell you not to testify about Estela Cabrera?
 24 A. No.
 25 Q. Did you understand why that may be a topic not

1 A. You know, I couldn't say for sure about
 2 Sharon. But definitely of Betty.
 3 Q. I'm not sure if I asked you before, are you
 4 aware of any allegations of time card padding?
 5 A. I've heard that.
 6 Q. Do you know of anybody who has represented to
 7 the facility they worked time when they actually didn't
 8 work?
 9 A. I couldn't tell you specifically because I
 10 couldn't -- I wasn't there to watch, but I have heard
 11 that both of the Rohrbachs were doing that, saying they
 12 were working from home and not.
 13 Q. Who would we ask about that, as far as you
 14 know?
 15 A. Well, since Betty isn't there, human resources
 16 or Sharon.
 17 Q. Were you ever aware of any allegations of
 18 sexual misconduct involving Jackie Raymond specifically
 19 with juveniles?
 20 A. I was not aware of any.
 21 Q. Marcy Harris?
 22 A. Sexual misconduct? No, I wasn't aware of any.
 23 Q. Is there some other misconduct?
 24 A. I had heard that she gave some personal
 25 information out to a former juvenile.

1 to be testified about?
 2 A. I don't know.
 3 Q. In the context of what we discussed here
 4 today, is there anything about Ms. Cabrera you think
 5 would be important to offer in terms of particularly Jo
 6 McKinney's claims or any of the Plaintiffs' claims?
 7 A. I don't believe that Estela Cabrera is able to
 8 listen to several sides of a situation and accurately or
 9 appropriately assess what happened and come to a fair
 10 and equitable decision about how to handle that.
 11 Q. Is that something you shared with a supervisor
 12 or anybody else at the facility?
 13 A. I don't think I've ever shared that with a
 14 supervisor.
 15 Q. That would be consistent with Jo McKinney's
 16 discussions with you?
 17 A. Yes.
 18 Q. Are you aware of any promotions or hirings of
 19 staff during hiring freezes?
 20 A. Not that I can think of off the top of my
 21 head.
 22 Q. Are you familiar with Diane Miles?
 23 A. I know who Diane Miles is, yes.
 24 Q. Are you aware of whether or not she's been
 25 charged with a second charge of DUI?

1 A. I've heard that.
 2 Q. Have you ever interacted with her in the
 3 course of your work?
 4 A. Not a lot.
 5 Q. In terms of retaliation that you spoke about
 6 earlier, is that retaliation always reflected in
 7 writing?
 8 A. Not always.
 9 Q. Would you consider a schedule change to
 10 potentially be an adverse action?
 11 A. Potentially, yes.
 12 Q. Or a transfer?
 13 A. Could be, yes.
 14 Q. Have you ever heard that any particular
 15 employees have been issued a set of unique expectations
 16 particular to that employee?
 17 A. Well, I was given unique expectations back
 18 when Melissa Moser was my supervisor. And I know Rhonda
 19 Ledford was being held to different standards than other
 20 people.
 21 Q. Other SSOs?
 22 A. Other SSOs, yes.
 23 Q. How do you know that?
 24 A. She told me.
 25 Q. Have you ever discussed that with Mark

1 A. Yes.
 2 Q. Do you know if those items on the bucket list
 3 or any of those concerns that employees had addressed
 4 were dealt with, responded to?
 5 A. I don't know.
 6 Q. When you were told not to testify about Estela
 7 Cabrera --
 8 MS. FONTAINE: I'm going to object. That was
 9 in an attorney-client privilege context.
 10 MR. SCHOPPE: Okay. So one, I need to finish
 11 the question and then you can object if you like, but
 12 I'm actually not asking about any of the communications.
 13 Q. (BY MR. SCHOPPE) But I am asking about when
 14 you were told that, as you testified to --
 15 MR. SCHOPPE: Which you did not object to
 16 until afterwards.
 17 Q. (BY MR. SCHOPPE) -- did you feel that anyone
 18 was trying to prevent you from testifying about Estela?
 19 A. Well, it made me feel uncomfortable.
 20 MS. FONTAINE: Same objection. This is in the
 21 context of an attorney-client privilege.
 22 MR. SCHOPPE: I think it's more in the context
 23 of intimidating the witness.
 24 MS. FONTAINE: I'm going to object to that,
 25 that's not a question.

1 Freckleton?
 2 A. No.
 3 Q. Is that still happening now with any of the
 4 supervisors, as far as you know?
 5 A. I don't believe so.
 6 Q. Have you ever discussed any of the allegations
 7 that we started off with here with Ray Gregston?
 8 A. He talks to me once in awhile, but nothing
 9 specific.
 10 Q. Has he ever expressed concerns about the
 11 manner in which juveniles are not restrained?
 12 A. I don't know that he has ever mentioned that
 13 to me.
 14 Q. How about Frank Farnworth, have you ever
 15 spoken with him about any of these allegations?
 16 A. No.
 17 Q. Were you present at a March 2012 all-staff
 18 meeting, as far as you can recall?
 19 A. I don't know.
 20 Q. This would have been something where the
 21 bucket list or employees' desires for a better facility
 22 would have been discussed?
 23 A. I remember that specific term being used at
 24 the all-staff, yes.
 25 Q. The bucket list?

1 MR. SCHOPPE: Okay.
 2 Q. (BY MR. SCHOPPE) Did you feel deterred from
 3 testifying about Ms. Cabrera?
 4 MS. FONTAINE: Same objection. This is an
 5 attorney-client privilege.
 6 Q. (BY MR. SCHOPPE) I'm asking about your
 7 feeling.
 8 A. I felt uncomfortable.
 9 Q. No one other than an attorney for the
 10 Department told you not to testify about her?
 11 A. That's correct.
 12 Q. If a judge were to listen to this issue would
 13 you be willing to testify in court about it?
 14 A. I'll answer the questions honestly if I'm
 15 asked to go to court.
 16 Q. I have a couple policies for you to look at.
 17 Can you tell me what that document is, please.
 18 A. It's a DJC Correctional Institution policy for
 19 juvenile supervision.
 20 Q. Is that a policy you are familiar with?
 21 A. I've read it.
 22 Q. Looking down at the bottom of page 1 section
 23 I.B., this states: "To ensure the safety and security
 24 of all facility staff, visitors, and juveniles, strict
 25 levels of supervision are provided to juveniles at all

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1 times."
 2 Is that a policy that's followed, as far as
 3 you know?
 4 A. Well, sometimes I think due to staff shortages
 5 and things they're not always supervised as well as they
 6 should be.
 7 Q. Are you aware of a suicide attempt that
 8 occurred recently?
 9 A. Yes.
 10 Q. Was that involving a juvenile under your
 11 supervision in any way?
 12 A. Yes.
 13 Q. What was the juvenile's name?
 14 A.
 15 Q. Was he placed under a suicide precaution?
 16 A. Yes.
 17 Q. Do you know who assigns that?
 18 A. Well, several people have assessed him, but as
 19 a rule it was Rita Fell, our clinician.
 20 Q. Do you know what that level was?
 21 A. It was level 3.
 22 Q. Is that eyes on?
 23 A. Yes. Well, I believe it is eyes on. I'd have
 24 to read it exactly, but they have to do very regular
 25 checks.

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1 Q. Do you know if the staff on duty were able to
 2 actually keep eyes on him at all times?
 3 A. I believe he had another attempt using a tie
 4 to a robe or something that he picked up in the pod,
 5 went in the bathroom, shut the door, and tried it again.
 6 Q. Do you know how many were staff on duty when
 7 that occurred?
 8 A. I couldn't tell you how many.
 9 Q. If one staff was positioned on the floor with
 10 the juveniles and assigned to eyes-on supervision of
 11 is that something that is kind of impossible?
 12 A. If there was only one staff?
 13 Q. Yes.
 14 A. No, that's not possible.
 15 Q. You can't supervise the juveniles and maintain
 16 eyes on?
 17 A. Twelve kids going in different directions, no.
 18 MR. SCHOPPE: We'll mark that as whatever the
 19 next exhibit is.
 20 (Exhibits 138 and 139 marked.)
 21 Q. (BY MR. SCHOPPE) Do you recognize that
 22 document?
 23 A. Yes.
 24 Q. What is that?
 25 A. It's an Ethics and Standards of Conduct.

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1 Q. Have you read this?
 2 A. I have.
 3 Q. Has something like this policy been around for
 4 a while?
 5 A. Yes. I think it's been revised a few times,
 6 but it's been around as long as I can remember.
 7 Q. Can you read the bottom paragraph for me under
 8 Code of Ethics.
 9 A. "Every employee of IDJC shall constantly
 10 strive to attain the highest standards of conduct and
 11 professional service. This requires that an employee be
 12 faithful in demonstrating the highest standards of
 13 integrity, honesty, objectivity, impartiality and
 14 professionalism to promote public confidence; adhere to
 15 ethical standards; and follow policies and procedures of
 16 IDJC."
 17 Q. In your experience does human resources and
 18 the Department follow that policy?
 19 A. No, they don't.
 20 Q. When you say that, are you referring to your
 21 earlier testimony about futility of processes and --
 22 A. Yes.
 23 Q. Grievances not going anywhere?
 24 A. Yes.
 25 Q. How about Betty Grimm, did she adhere to that

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1 policy?
 2 A. Not in my opinion.
 3 Q. That is based on what you've already testified
 4 about?
 5 A. Yes.
 6 Q. Anything else to offer in that regard?
 7 A. No.
 8 Q. Anything else to offer in terms of human
 9 resources?
 10 A. No.
 11 Q. Have you ever heard anything about a
 12 preference against hiring veterans at the Department?
 13 A. I did hear that from somebody.
 14 Q. Has anyone ever stated to you that the
 15 Department prefers not to hire veterans?
 16 A. I heard it from one of the SSOs that that was
 17 something that had been said. It's never been stated
 18 specifically to me.
 19 Q. Do you remember who that was?
 20 A. I don't remember who that was.
 21 Q. Have you ever served as a subject matter
 22 expert in an interview process?
 23 A. I don't think so.
 24 Q. Have you ever served on an interview panel for
 25 any hire or anything like that?

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1 A. No.
 2 Q. Have you ever played any role in designing or
 3 establishing job descriptions?
 4 A. The JSCs had to write their own job
 5 descriptions several times, and I participated in
 6 numerous meetings and providing feedback and things.
 7 Q. How about for any supervisory positions?
 8 A. I don't believe so.
 9 Q. On the second page of that policy I handed
 10 you, the Ethics and Standards of Conduct, can you read
 11 the second paragraph from the top, please -- I'm sorry,
 12 the third.
 13 A. "Each employee will maintain mutual respect
 14 and professional cooperation in relationships with other
 15 staff members and outside agencies."
 16 Q. Is that a policy that the Department follows?
 17 A. No.
 18 Q. Is that a policy that Betty Grimm followed
 19 while she was there?
 20 A. I would say no.
 21 Q. Is that based on what you've already testified
 22 about?
 23 A. Yes.
 24 Q. How about Laura Roters?
 25 A. No.

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1 Q. How about human resources?
 2 A. No.
 3 Q. Would that include Julie Cloud?
 4 A. Yes.
 5 Q. How about Pat Thomson?
 6 A. I haven't really had a lot of interaction with
 7 Pat Thomson.
 8 Q. How about Estela Cabrera?
 9 A. No.
 10 MR. SCHOPPE: Let me check my notes for about
 11 a minute.
 12 (Off the record.)
 13 MR. SCHOPPE: I think I'm done for the moment.
 14 Thank you.
 15 MS. FONTAINE: Thank you.
 16
 17 EXAMINATION
 18 QUESTIONS BY MS. FONTAINE:
 19 Q. I'm just going to ask you a few questions to
 20 clarify some things.
 21 You initially said that you had had one
 22 discussion with Betty Grimm about the Christmas program
 23 you had started and then later you said there were other
 24 times you reported things to Betty Grimm. Am I getting
 25 that wrong?

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1 A. About the Christmas program?
 2 Q. No, just about other concerns that you had
 3 about --
 4 A. Correct. Usually the way it worked is I went
 5 to my supervisor and brought any concern and she would
 6 go get Betty or we'd go to Betty's office and repeat the
 7 same thing.
 8 Q. Do you recall specifically what you told
 9 Betty?
 10 A. I don't recall specifically at the time.
 11 Almost every time it was regarding Mr. Tinker or things
 12 going on that I had seen or witnessed or just was
 13 concerned about.
 14 Q. What was the reaction?
 15 A. Always listened to what I had to say and then
 16 the meeting was done.
 17 Q. In terms of a glossing the IRs, who do you
 18 know has been doing that?
 19 A. I couldn't tell you specifically a person, but
 20 I know with B pod sometimes they wouldn't even be
 21 written. A juvenile would do something that should have
 22 had an incident report written and it just wasn't even
 23 written or they would just leave out information that
 24 would show that it was more serious than what they were
 25 indicating.

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1 But as far as the specific person, I couldn't
 2 tell you. I haven't been writing that down or trying to
 3 keep track of that.
 4 Q. Is there a policy where incident reports are
 5 supposed to be filled out correctly and appropriately?
 6 A. I'm sure there is. I've filled out one
 7 incident report since I've been there and I had to have
 8 staff come help me because I had only done one, and that
 9 was because I had a disclosure. But I'm sure there is a
 10 policy it has to be done in a certain amount of time and
 11 it has to be approved by the supervisor.
 12 Q. Who generally is the one who fills out the
 13 incident reports?
 14 A. The line staff as a rule. I believe it's the
 15 person, one of the people involved in the incident.
 16 Sometimes there'll be numerous people involved and
 17 they'll decide that one will write it. I'm not sure how
 18 they arrive at that decision, but...
 19 Q. So the person who doesn't fill out the IR
 20 appropriately or glosses over it, they're the ones who
 21 are not following policy?
 22 A. It could be that or it could be that they
 23 filled it out and been asked to remove things or they
 24 have just been taught that you just say this much.
 25 Q. Do you know of any specific instances where

1 somebody has been asked to remove something?
 2 A. I could not give you any specifics. Like I
 3 said, I haven't been writing things down or keeping
 4 track of these things.
 5 Q. With regard to Julie McCormick, were you
 6 surprised when you found out exactly what had been going
 7 on with respect to the juvenile in her office?
 8 A. I guess surprised, but not surprised, because
 9 Julie had some issues. But, yeah, I mean, we're talking
 10 about kids, and yeah, I was shocked.
 11 Q. Initially you said that it was M. who
 12 kicked Sabrina Payne and then you agreed that it was
 13 [REDACTED].
 14 A. It was [REDACTED]. That is accurate. I had just
 15 forgotten that.
 16 Q. Do you recall if during that incident that
 17 [REDACTED] was in a restraint?
 18 A. I wasn't at Choices at the time, so I don't
 19 know. I got there just about the time Sabrina came back
 20 to work. It was probably a month or so later, at least.
 21 Q. You indicated that several colleagues stopped
 22 by your office and complained about the changes that are
 23 going on. Are a lot of those changes regarding shift
 24 changes?
 25 A. A lot of them are shift changes.

1 Q. Is it possible that maybe my meaning was just
 2 that I didn't know that it was going to come up because
 3 she's not a Plaintiff, so maybe that's why you didn't
 4 need to worry about it, not that I didn't want you to?
 5 MR. SCHOPPE: Objection; calls for
 6 speculation.
 7 Q. (BY MS. FONTAINE) You can answer.
 8 A. I don't know. Like I said, it made me
 9 uncomfortable. I'm not sure what you were thinking, but
 10 it made me uncomfortable.
 11 Q. Just one thing to clarify. When Laura Roters
 12 was assigned to O&A, what was her position before that?
 13 A. Well, she was in the Choices program. I'm not
 14 sure if was she program manager or unit manager. They
 15 changed, they restructured and rechanged the title so
 16 many times, I'm not sure.
 17 Q. Was it some sort of manager?
 18 A. It was a management position, yes.
 19 Q. Is that supervisory?
 20 A. Yeah. I'm not sure who she supervised, but
 21 she was in some sort of a management position there.
 22 MS. FONTAINE: I don't have any other
 23 questions.
 24 MR. SCHOPPE: I have a couple. I'll try to be
 25 really quick. Famous last words from a lawyer.

1 Q. Would you say the majority of them are related
 2 to shift changes?
 3 A. No, I wouldn't say a majority. I'd say that's
 4 just one of the things that they're frustrated with.
 5 And I don't know that they stop by to complain or
 6 register a complaint; it's more like they just need
 7 somebody to vent with and I seem to be the person in the
 8 facility that's there, so...
 9 Q. Did you have any discussions with Sharon
 10 Harrigfeld about any concerns you had?
 11 A. I don't think so.
 12 Q. You found out about this deposition yesterday;
 13 is that correct?
 14 A. Yes.
 15 Q. In between that time and today did anybody
 16 from the Idaho Department of Juvenile Corrections or
 17 anybody at your work ever tell you not to testify about
 18 anything?
 19 A. Again, at the meeting yesterday when you and
 20 Nancy came to my office, you asked me what I wanted to
 21 testify about or what I was going to testify, and I just
 22 went over what I could think of, because I hadn't had
 23 time to prepare. And you had said Estela wasn't part of
 24 this, so I probably didn't need to say anything about
 25 that.

1 FURTHER EXAMINATION
 2 QUESTIONS BY MR. SCHOPPE:
 3 Q. Are you aware of a claim by Belinda Peterson
 4 against the Department?
 5 A. Yes.
 6 Q. What do you know about that?
 7 A. I know that Belinda was treated absolutely
 8 horribly by her department, horribly. She had emotional
 9 issues. I'm going to get emotional on this.
 10 Q. You can take a minute to breathe.
 11 A. When I worked at Health and Welfare I had a
 12 colleague that committed suicide. And Belinda was very
 13 close. She was a cutter. She was very suicidal and
 14 nobody paid any attention. In my opinion, the
 15 administrative assistant, Donna Robinson, knew she was
 16 fragile and pushed as hard as she could. She would take
 17 her into her office and scream at her. And the way that
 18 building is built up there, you can hear everything
 19 that's said. And my office was just like three, four
 20 doors down. I couldn't hear the words, but I could hear
 21 the screaming. And I have been a supervisor; you do not
 22 ever, ever discipline your people that way. You don't
 23 bring them in and the minute they're in there you start
 24 telling them everything they do wrong.
 25 That's what she did to her. And then she'd

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1 dismiss her and she is supposed to go out and sit at the
 2 front reception desk and have a smile on her face. And
 3 Donna Robinson would be up there 30 seconds later
 4 saying, You need to snap out of it. She didn't offer to
 5 let her go to the back for a while, take a break or
 6 anything. She was treated horribly.
 7 And I talked to Betty Grimm about it, about
 8 the way she was treated. And I told her my fear. And
 9 then when Belinda fell, she slipped in the parking lot,
 10 and hurt her back or her hip or something, and somebody
 11 called the State Insurance Fund and said she didn't
 12 fall. I don't know who did that, but that just about
 13 sent Belinda over the edge because she didn't feel like
 14 she was getting support from anybody. And I think the
 15 way she was treated was absolutely unacceptable and I
 16 will never listen to anything different.
 17 Q. Do you know if she tried to initiate the
 18 problem-solving process?
 19 A. I don't know if she -- she tried everything.
 20 I don't know specifically what she did. She was so
 21 fragile at the time she couldn't hardly talk to anybody.
 22 I mean, she was so close. She could have committed
 23 suicide any day at any time because of the way she was
 24 treated.
 25 Q. You made Betty Grimm aware of what you saw?

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1 A. I told Betty Grimm what I saw, yes.
 2 Q. As far as you can tell there was no response?
 3 A. There was no response. She was still treated
 4 the same way.
 5 Q. What job was it that Ms. Peterson held?
 6 A. She was the front desk receptionist.
 7 Q. Is that Jo McKinney's job now?
 8 A. No; Jo McKinney is the Choices support staff.
 9 Q. Do you know if Jo has ever been made to do
 10 filing on her lap as opposed to on her desk?
 11 A. Yeah. She's not supposed to go into Maria's
 12 section where most of the stuff is supposed to be filed.
 13 Q. Who said that?
 14 A. Maria doesn't allow that and Estela supports
 15 it.
 16 Q. Jo has told you that?
 17 A. Yes.
 18 Q. To the extent that you have had concerns that
 19 you haven't taken to Director Harrigfeld, would that be
 20 because you feel like it wouldn't matter if you did,
 21 there would be no response?
 22 A. I don't know if that is the reason. I think I
 23 have done what I can; I've talked to my supervisor and
 24 the superintendent. And I would think that they would
 25 be passing it up the chain. Whether that happened or

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1 not, I don't know.
 2 Q. As you sit here now do you think there would
 3 be any point in taking your concerns to Director
 4 Harrigfeld?
 5 A. At this point I'm not sure if that would do
 6 any good or not.
 7 Q. Same question with respect to human resources.
 8 A. I don't think that would do any good at all.
 9 Q. Do you think it's reasonable for other
 10 employees to express similar sentiments?
 11 A. I would think that's a reasonable expectation.
 12 Q. With respect to information that gets to the
 13 courts, the juvenile courts, or should get there and
 14 isn't making it in, is there any other sort of
 15 information that you feel the courts ought to know about
 16 on a regular basis about juveniles?
 17 A. I think everything that they're doing in the
 18 reporting period should be reflected in the progress
 19 report, good or bad.
 20 Q. But isn't it fair to say that some of the bad
 21 stuff is being left out?
 22 A. Yes.
 23 Q. Is that a problem that you think the juvenile
 24 court should hear about?
 25 A. Like I said, I think everything should be

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1 reported to them exactly how it is.
 2 Q. Have you helped other employees with the human
 3 resources processes, problem solving, things like that?
 4 A. I've told other employees who have come to me
 5 very upset about something, I've encouraged them to
 6 follow the problem-solving process.
 7 Q. Have you referred people to legal counsel as
 8 well?
 9 A. I think I did give the attorney's name to a
 10 couple of people.
 11 Q. Those people you have spoken to, is their
 12 experience similar to yours, that the process is not
 13 something you counted on?
 14 A. Yes.
 15 Q. Anybody in particular come to mind?
 16 A. Rick Porterfield.
 17 Q. Is he still with the Department?
 18 A. Yes.
 19 Q. Anybody else?
 20 A. Not that I can think of off the top of my
 21 head. A number of people have just been upset. I can't
 22 fix anything for anybody, all I can do is refer them to
 23 the process that the Department has in place.
 24 Q. Do you feel like there is anyone else you can
 25 turn to or that they can turn to with the same concerns?

1 A. I don't think there is.
 2 Q. Anything else that has come up today that you
 3 think you could have answered more fully or you'd like
 4 to answer more fully?
 5 A. Not that I think I think of.
 6 Q. Is it safe to say that you remain concerned
 7 about the prospect of retaliation?
 8 A. Absolutely.
 9 Q. For testifying here.
 10 A. Absolutely.
 11 Q. Are you familiar with the Idaho Protection of
 12 Public Employees Act?
 13 A. I've heard about it.
 14 Q. That is commonly known as the whistleblower
 15 statute that does protect employees for litigating or
 16 reporting concerns like the Plaintiffs have done or from
 17 testifying in court proceedings.
 18 Any questions for me?
 19 A. No.
 20 MR. SCHOPPE: Okay. Thank you very much for
 21 your time.
 22 MS. FONTAINE: May I have just one more
 23 question?
 24 MR. SCHOPPE: Sure.
 25

1 into that?
 2 A. I am not aware if anything was done.
 3 MR. SCHOPPE: Okay. Thank you.
 4 (Deposition concluded at 12:41 p.m.)
 5 (Signature requested.)
 6
 7
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1 FURTHER EXAMINATION
 2 QUESTIONS BY MS. FONTAINE:
 3 Q. When you were talking with Tom de Knijf about
 4 his problem solving that he used.
 5 A. Yes, he did talk to me about it.
 6 Q. So he did talk to you about it. Do you know
 7 whether or not he was successful in using problem
 8 solving?
 9 A. I think he had something just recently that he
 10 felt like it was successful for him.
 11 MS. FONTAINE: I don't have any other
 12 questions.
 13 MR. SCHOPPE: One last question.
 14
 15 FURTHER EXAMINATION
 16 QUESTIONS BY MR. SCHOPPE:
 17 Q. Did you ever hear that anyone suggested that
 18 the Department should hire a hit man to take care of
 19 Rhonda Ledford for filing this lawsuit?
 20 A. I did hear that.
 21 Q. Who did you hear that from?
 22 A. I heard it from Rhonda.
 23 Q. From anybody else?
 24 A. I did not hear it from anyone else.
 25 Q. Do you know if an investigation was conducted

1 CERTIFICATE OF WITNESS
 2 I, PATTY HANSON, being first duly sworn, depose
 3 and say:
 4 That I am the witness named in the foregoing
 5 deposition, consisting of pages 1 through 139; that I
 6 have read said deposition and know the contents thereof;
 7 that the questions contained therein were propounded to
 8 me; and that the answers contained therein are true and
 9 correct, except for any changes that I may have listed
 10 on the Change Sheet attached hereto:
 11 DATED this ____ day of _____, 20__.
 12
 13
 14 _____
 15 PATTY HANSON
 16
 17 SUBSCRIBED AND SWORN to before me this ____ day
 18 of _____, 20__.
 19
 20 _____
 21 NAME OF NOTARY PUBLIC
 22 NOTARY PUBLIC FOR _____
 23 RESIDING AT _____
 24 MY COMMISSION EXPIRES _____
 25

1 ERRATA SHEET FOR PATTY HANSON
 2 Page ___ Line ___ Reason for Change _____
 Reads _____
 3 Should Read _____
 4
 Page ___ Line ___ Reason for Change _____
 5 Reads _____
 Should Read _____
 6
 Page ___ Line ___ Reason for Change _____
 7 Reads _____
 8 Should Read _____
 9
 Page ___ Line ___ Reason for Change _____
 10 Reads _____
 Should Read _____
 11
 Page ___ Line ___ Reason for Change _____
 12 Reads _____
 13 Should Read _____
 14
 Page ___ Line ___ Reason for Change _____
 15 Reads _____
 Should Read _____
 16
 Page ___ Line ___ Reason for Change _____
 17 Reads _____
 18 Should Read _____
 19
 Page ___ Line ___ Reason for Change _____
 20 Reads _____
 Should Read _____
 21
 Page ___ Line ___ Reason for Change _____
 22 Reads _____
 23 Should Read _____
 24 You may use another sheet if you need more room.
 25 WITNESS SIGNATURE _____

1 REPORTER'S CERTIFICATE
 2 I, BEVERLY BENJAMIN CSR No. 710, Certified
 3 Shorthand Reporter, certify: That the foregoing
 4 proceedings were taken before me at the time and place
 5 therein set forth, at which time the witness was put
 6 under oath by me;
 7 That the testimony and all objections made were
 8 recorded stenographically by me and transcribed by me or
 9 under my direction;
 10 That the foregoing is a true and correct record
 11 of all testimony given, to the best of my ability;
 12 I further certify that I am not a relative or
 13 employee of any attorney or party, nor am I financially
 14 interested in the action.
 15 IN WITNESS WHEREOF, I set my hand and seal this
 16 23rd day of September 2013.
 17
 18
 19
 20
 21 _____
 BEVERLY A. BENJAMIN, CSR No. 710
 22 Notary Public
 23 P.O. Box 2636
 24 Boise, Idaho 83701-2636
 25 My commission expires May 28, 2019

EXHIBIT M

EXHIBIT M

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RHONDA LEDFORD, et al,)	
)	
Plaintiff,)	
vs.)	Case No. 1:12-cv-00326-BLW
IDAHO DEPARTMENT OF JUVENILE)	
CORRECTIONS, et al.,)	
)	
Defendants.)	
_____)	

DEPOSITION OF RITA FELL
SEPTEMBER 24, 2013

REPORTED BY:

MONICA M. ARCHULETA, CSR NO. 471

NOTARY PUBLIC

Page 2

1 THE DEPOSITION OF RITA FELL was taken on
 2 behalf of the Plaintiffs at the offices of Anderson
 3 Julian & Hull, 250 South Fifth Street, Suite 700,
 4 Boise, Idaho, commencing at 9:00 a.m. on September 24,
 5 2013, before Monica M. Archuleta, Certified Shorthand
 6 Reporter and Notary Public within and for the State of
 7 Idaho, in the above-entitled matter.
 8
 9 APPEARANCES:
 10 For the Plaintiffs:
 11 THE LAW OFFICE OF ANDREW T. SCHOPPE
 12 BY: MR. ANDREW T. SCHOPPE
 13 910 W. Main Street, Suite 328
 14 Boise, Idaho 83702
 15
 16 For the Defendants:
 17 ANDERSON JULIAN & HULL, LLP
 18 BY: MS. ANDREA J. FONTAINE
 19 C.W. Plaza
 20 250 South Fifth Street, Suite 700
 21 P.O. Box 7426
 22 Boise, Idaho 83707-7426
 23
 24 ALSO PRESENT: Nancy Bishop
 25

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Page 4

1 RITA FELL,
 2 first duly sworn to tell the truth relating to said
 3 cause, testified as follows:
 4
 5 EXAMINATION
 6 QUESTIONS BY MR. SCHOPPE:
 7 Q. Good morning.
 8 A. Good morning.
 9 Q. We have just met. My name is Andrew Schoppe.
 10 I represent the plaintiffs. Do you know who the
 11 plaintiffs are?
 12 A. Not all of them. I probably know who they
 13 are, but I don't know who is on the list.
 14 Q. Let me make sure you know. They are ten of
 15 them. And I always get everybody but one or two when I
 16 try to list them. We've got Rhonda Ledford, Shane
 17 Penrod, Tom di Knijf, Ray Gregston, Kim McCormick,
 18 Jo McKinney, Addison Fordham, Gracie Reyna. Who else is
 19 there? There is one more. And I just can't remember
 20 right at the moment. But I'll get around to that in a
 21 moment.
 22 A. Okay.
 23 Q. Do you know all of those people, though?
 24 A. Yes. All of the people you have named, I know
 25 who they are. Julie McCormick, I know her due to time

Page 5

1 cards and time sheets. But I don't know her
 2 face-to-face.
 3 Q. You mean Kim McCormick?
 4 A. Kim McCormick. Excuse me.
 5 Q. No problem. What is it you do at the
 6 department?
 7 A. I'm a clinician. So I'm a therapist for the
 8 Choices program, primarily. And the suicide evaluator.
 9 In the building we take turns.
 10 Q. And what is it that the Choices unit does?
 11 A. The Choices unit has 36 boys who have been
 12 adjudicated and who have been placed in our program to
 13 have drug and alcohol treatment and to deal with their
 14 criminology problems. And they're boys usually between
 15 the ages of 14 to currently 20.
 16 Q. And what is the focus of the Choices unit?
 17 A. To deal with their criminology and their drug
 18 and alcohol issues so that they can be returned to the
 19 community. We are a rehabilitation facility. That is
 20 how the State of Idaho takes a look at our youth that
 21 come in.
 22 Q. And criminology can mean just whatever it is
 23 that brought them to the department?
 24 A. Yeah. Criminology can vary from stealing,
 25 aggravated assaults, numerous runaways. They have been

1 habitual runaways. And a variety of other crimes.
 2 Selling drugs. Buying drugs. Using drugs.
 3 Q. Do you deal with gang affiliation?
 4 A. Yes.
 5 Q. I got a little bit ahead of myself. First of
 6 all, have you ever had your deposition taken before?
 7 A. Not here. For the State of Idaho.
 8 Q. In any court case at all?
 9 A. In a personal case.
 10 Q. So you probably understand then that it is
 11 your duty to tell the truth just as if you were sitting
 12 in a court of law?
 13 A. Correct. I understand that.
 14 Q. Anything that might impact your ability to
 15 testify this morning like memory problems, medication,
 16 fatigue, anything like that?
 17 A. Not that I know of.
 18 Q. And, generally speaking, I'm entitled to your
 19 best answer. So if I ask you a question I would like to
 20 know everything you know. Whatever you have seen, you
 21 have heard yourself, or if you have heard it from
 22 someone else go ahead and tell me that.
 23 A. I would be happy to.
 24 Q. And help me understand where I might be able
 25 to go for more information. If you need clarification

1 that works primarily with long-term foster children. I
 2 left there in 2006. And I became -- I went back and
 3 applied in 2007 for the department. I went back to do
 4 observation and assessment reports. At that time when I
 5 returned the Choices program was now in the building.
 6 There were three O&A counselors. Each one of us had a
 7 group of 12 people. So you did O&A's. And you
 8 did a group of 12. So it was A-pod, B-pod or C-pod.
 9 Does that help you understand?
 10 Q. Absolutely.
 11 A. So I did that for one year. And then my
 12 current boss, Valarie Zuniga, was hired, and at that
 13 point the department made some changes and said you will
 14 no longer do O&As. You will now just do the counseling
 15 in the Choices program. So I have been doing that
 16 since -- dedicated to those 36 boys since 2008. And I
 17 do family and individual counseling.
 18 Q. When did you graduate from Northridge?
 19 A. Oh, my goodness. That was in 1974.
 20 Q. Did they still have the orange groves and
 21 things like that?
 22 A. Oh, yes, they did. They no longer have that.
 23 A. I used to live in Venice. And when did you
 24 graduate from BSU?
 25 A. You are going to ask me that. I think it was

1 on any question at all, or subject, by all means ask.
 2 I'm happy to rephrase questions for you or repeat them.
 3 Whatever you want.
 4 A. Okay.
 5 Q. If you need a break at any point just say so
 6 as long as you answer the question that is pending. One
 7 thing that is important is you let me finish my question
 8 before you begin your answer. Because that is important
 9 for our court reporter here. It helps maintain a clean
 10 transcript.
 11 A. Okay.
 12 Q. Can you tell me a little bit about your
 13 qualifications?
 14 A. I have a bachelor's of arts in early childhood
 15 education from North Ridge. California State University
 16 at Northridge. I have a master's degree from BSU in
 17 counseling. I have worked for the Department for a
 18 number of years. I started with them as a teacher's
 19 aide while I was working on my master's. I worked for
 20 them -- I can't tell you the year. I think it was in
 21 1998 I was hired as the first clinician in the facility
 22 to do observation and assessment reports. I worked
 23 there until 2001. I had nervous breakdown in 2001 due
 24 to a lot of stress. And I left the Department. I went
 25 to work for Family Program, which is an agency

1 1998, I believe. May.
 2 Q. Do you have a professional certification or
 3 license?
 4 A. Yes. I have a licensed professional counselor
 5 certificate in the State of Idaho. And I am in good
 6 standing.
 7 Q. Anywhere else?
 8 A. No other licenses. But I do have a dual
 9 employment opportunity to work -- which has been
 10 approved by the department -- I have a contract with
 11 Canyon County in which I do groups. And the groups are
 12 predominately thinking error groups. Multi-family
 13 groups. Which the person and their family come
 14 together. And then they give me individual clients.
 15 Not too many. Because I don't take a lot. And I go to
 16 their home and do counseling in their homes. And I am a
 17 member of the American Counseling Association. And I am
 18 also insured.
 19 Q. Do you have any certifications like, for
 20 example, more in the context of corrections or juvenile
 21 corrections?
 22 A. Oh, I have had lots of trainings. I can't
 23 tell you how many trainings I have had. I am currently
 24 doing a lot of work in trauma. And currently also
 25 hoping to do some EMDR work. Which is the rapid eye

1 movement therapy.
 2 Q. For like PTSD treatment?
 3 A. Yes.
 4 Q. Out of curiosity does that seem like an
 5 effective treatment?
 6 A. Yes. Actually, it does. And actually I love
 7 trauma. I think every person that comes in our
 8 facility has some kind of traumatic experience. And
 9 EMDR has a very good research base and things of that
 10 nature. So that is what I'm hoping to study more in.
 11 Q. How about anything like post certification or
 12 AUF?
 13 A. Oh, as far as the department goes, there is an
 14 AUF class that they have. The AUF class that I go to is
 15 different than the AUF class that the folks on the floor
 16 go to. It is more of how you get away from the kids.
 17 My AUF, hopefully as a therapist, I can talk my way out
 18 of it. And I was just certified in that less than six
 19 months ago. And I know that I have to do it again
 20 because you have to do it two or three times a year.
 21 I'm not exactly sure.
 22 Q. Okay.
 23 A. So, of course, first aid and CPR. I teach the
 24 suicide prevention classes to the department.
 25 Individuals that come in. I teach adolescent

1 working there. Because sometimes there is one kid in
 2 one area that goes to another area. Or there is an
 3 issue that needs interconnection. So I also work with
 4 Ms. Jefferies a little bit. She used to be in Choices,
 5 but she went over to Solutions. I work with Mr. Rich.
 6 I have worked with Ms. Jorgensen. I worked with people
 7 who have left. I work with the teachers. I work with
 8 teachers that are Mr. Fehrer, Mr. Donahue, Joe -- I
 9 can't think of his last name right now. Ms. Clark,
 10 Ms. Sheets. Gosh, most of the teachers. I also work
 11 with folks in O&A. I work with Pam Gillanders.
 12 Sometimes with Mrs. Martinez. I have worked with the
 13 clinicians down there. Mr. Dallas Payton. I work with
 14 Don Baranco. I have worked with Sarah Cerda. She is a
 15 Choices person, but she kind of goes back and forth in
 16 the building a little bit. I have worked with Laura
 17 Roters. I have worked with Ray Gregston and Phil
 18 Gregston. I have worked with a lot of people down in
 19 O&A, and I can't think of their names, because I'm not
 20 down there very much anymore. I have also worked with
 21 our secretaries. Because the secretaries kind of change
 22 with who is coming and who is going. And who you work
 23 with. And who is doing the O&A reports. I have worked
 24 with Brenda. I have worked with Jo McKinney. I have
 25 worked with Jackie. A little bit with Maria. I don't

1 development to our staff. They have a training routine.
 2 So I do those, also.
 3 Q. And who is it that you work with? You
 4 mentioned your supervisor is Valarie --
 5 A. Currently my direct supervisor is Valarie
 6 Zuniga, which is a clinical supervisor. I work with
 7 three group leaders. Do you need their names?
 8 Q. Yes, please.
 9 A. Mr. Underhill, Mr. Storey, Mr. Tinker. I work
 10 with Mr. Cotton, the program manager. I work with the
 11 various individuals on the floor. Our rehab techs. I
 12 can't name them all, but I can name some of them.
 13 Mr. Castillo, Mr. Sandquist, Mr. Petterson, Lindsay
 14 Hanson. She is now up front as a secretary. I work
 15 with Mr. Norris, Mr. Fosdick, Ms. Diaz, Mr. Porterfield,
 16 Mr. Merrick, Mr. Messick. I'm trying to think of who
 17 else. Mr. Denney. I know we have a couple new hires
 18 recently. I can't remember their names. Individuals I
 19 have worked with who recently left were Mr. Mitchell.
 20 Mr. Pile. And I can see the other one, but I can't
 21 think of his name. Miguel. He went to Health and
 22 Welfare. And I also work with the nurses. Nurse Darla,
 23 Nurse Sandy, Nurse Amy, Nurse Jennifer. I work with our
 24 nurse practitioner, Ellie Dutcher. Then I work with
 25 other individuals who are in the facility who are

1 know her last name. I have worked with Estella. I work
 2 with Ms. Viner, our superintendent. I have worked with
 3 LaMark Judkins. He is our trainer guy. And he was also
 4 in O&A beforehand. I have worked with our JSC's, which
 5 is Patty Hanson, Edie Martel. I have worked a little
 6 bit with Erwin. I have worked a little bit with Shannon
 7 Waters. I have worked with Joe Langen. Joe and I
 8 started together back in '98. No, before that when I
 9 was a teacher's aide. And then he taught in the Choices
 10 program. And then he is currently a district liaison.
 11 I have worked with him, also. I work with our religious
 12 person, Kay. I have talked and work with our human
 13 resource folks. I work with Debbie Siegel, our Special
 14 Ed teacher. I work with Tim Rigby currently. Not our
 15 principal, but our education programmer. Lots of people
 16 who have come and gone. Do you want past people that I
 17 have worked with?
 18 Q. Sure. I think I should have asked you who you
 19 haven't worked with. That would have been a much
 20 shorter list. But I'll try to break it down a little
 21 bit more. Would it be fair to say you have worked
 22 across a lot of divisions within the department?
 23 A. Yes. Because I didn't even mention
 24 administrators. I have worked a little bit with Nancy.
 25 I have worked with people in the office.

1 Q. Go ahead and tell me about that.
 2 A. I work with Joe Blume. Joe Blume was actually
 3 the A-pod group leader at one time. So those are the 12
 4 people that I was originally assigned to when I
 5 started doing the Choices. So I worked with Joe quite a
 6 bit. I have worked with Ms. Harrigfeld, our director.
 7 And I have worked with a couple secretaries that work
 8 down there, but I can't think of their names right now.
 9 She has got dark hair. She used to work in our office a
 10 little bit years ago. Alicia, she does the interstate
 11 compact. She used to be the secretary in the building
 12 where I used to work as a teacher's aide. So for three
 13 years I worked with her quite a bit. I have worked with
 14 Nancy and a couple of the attorneys that they have in
 15 there at various times. Also, I don't think they are
 16 attorneys, but I think they are assistants.
 17 Q. How about the plaintiffs?
 18 A. Oh. I have worked with Mr. Penrod. Actually,
 19 one-on-one transport with Mr. Penrod. Rhonda, I just
 20 work with transportation and have seen her in and out of
 21 the -- I forgot about those folks. The security
 22 people. So in the box. There is a control box where
 23 they come in and open the doors and close the doors.
 24 Let you in and out of the building. So I've worked with
 25 Ms. Ledford quite a bit over the years with that. I

1 24 kids at that time, so we could do a lot of teaching.
 2 So we would teach together. I worked with her as a
 3 nurse. And originally when I was doing O&A before I
 4 had the nervous breakdown we worked together with our
 5 people. With their medications and that sort of
 6 stuff. And then when I left and came back, of course, I
 7 think she was our superintendent there at that time.
 8 And I do know at that time that Mr. Callicutt was very
 9 much working with Betty trying to get Betty to be -- it
 10 appeared to me that he was grooming her to be the next
 11 superintendent. Who else is on that list?
 12 Q. How about Frank Farnworth?
 13 A. I worked a little bit with Frank. Frank
 14 primarily was with the nursing staff. My hours are not
 15 Monday through Friday 8:00 to 5:00. My hours are
 16 supposed to be from 9:00 to 5:00. But I work a variety
 17 of hours. Sometimes I do sessions in the evening.
 18 Sometimes I'll meet parents on a Sunday or Saturday if
 19 they come a long distance to come in. Et cetera. And
 20 sometimes I'll work in the evening, because maybe a
 21 parent is coming in late from somewhere else or
 22 whatever. So I sometimes work with Frank in the
 23 nighttime, because he primarily works evenings. He
 24 dispenses medications and things of that nature.
 25 Q. Your job sounds like my job. Evenings and

1 work with Mr. Dean. I've worked with Amaya. Who else
 2 have I worked with in the box? So I have worked with
 3 her in that capacity. And a little bit outside of that.
 4 I work with Tom Knijf. Mr. Tom is what we call him. I
 5 work with him because he works with the kids. Does
 6 community service with the people. I work with
 7 Phil. Because Phil actually works all over the
 8 building, too. But he is primarily in O&A. And I work
 9 with Mr. Ray Gregston, because he does a lot with the
 10 building. So if the kids break something, et cetera, he
 11 says that we are going to charge them this amount of
 12 money or things of that nature. Who else?
 13 Q. You already mentioned Jo McKinney and Kim
 14 McCormick, I think.
 15 A. Betty Grimm. Of course, she is our
 16 superintendent. I work with Betty in a lot of
 17 capacities. Actually, Betty and I many, many years ago
 18 used to commute together because she used to live close
 19 to where I lived when I was a teacher's aide. So we
 20 used to commute together for years. And then when I
 21 became -- and we worked together at the original site.
 22 She was our original nurse. So we used to teach classes
 23 together. Such as parenting classes on Sundays. We
 24 would bring all of the parents together and the kids
 25 together. We had a different building, and we only had

1 weekends.
 2 A. Yeah. It varies. I try to stay -- you know,
 3 my current boss is really helping me stay to 40 hours a
 4 week.
 5 Q. So you keep busy.
 6 A. It seems like there is never a moment.
 7 Q. How about Addison Fordham or Gracie Reyna?
 8 A. Addison, I have only seen him in the hallways
 9 and said hello and things of that nature. I really
 10 can't say I know him. But I can say I know Reyna,
 11 because she was in O&A when I was working down there.
 12 And then she used to work in Choices. Before I came to
 13 Choices I think she transferred down to O&A. So, yes, I
 14 have worked with her.
 15 Q. And how about Lisa Littlefield?
 16 A. Yes. Lisa used to be in charge of transport.
 17 When I first came back in '71 my office was like a
 18 little closet. And her office was right next door.
 19 She also worked in O&A working with the kids. So I have
 20 worked with Lisa quite a bit.
 21 Q. In '71 or --
 22 A. My return.
 23 Q. What year was that again?
 24 A. And that was in 2007.
 25 Q. Who was your supervisor before Mrs. Zuniga?

1 A. Before Ms. Zuniga my supervisor was Donna
 2 Hislop.
 3 Q. Anybody before her?
 4 A. Before Donna Hislop, and before I had my
 5 nervous breakdown, I worked for Dr. Smith. He was the
 6 original person I worked for. And when he left we had
 7 another doctor, Dr. Newton, or -- I don't know. He was
 8 not a very nice man. And that is part of the reason I
 9 left. He was extremely -- he was sexist. I would do my
 10 O&A reports. And the other gentleman I worked with was
 11 Mr. Watts. Dan Watts. Dan Watts and I shared an
 12 office. So we would present our information about the
 13 kids. And he would always be there, because that is who
 14 we presented to at that time. And he would discount a
 15 lot of things that I said. We would both be in the room
 16 and we would be there -- it is different now than it was
 17 then. So the three of us would staff a case with more
 18 individuals in there. But he always would give more
 19 time to Mr. Watts than to myself. My thoughts about the
 20 kids didn't matter. And I thought it was just because I
 21 was a female. There was a lot of things going on at
 22 that time. It was a very uncomfortable time.
 23 Q. Do you participate in staffing now?
 24 A. I do occasionally. And how I do now is when
 25 Ms. Zuniga is not in the office I will fill in for her.

1 And it gets determined by your crime what rate you get.
 2 So if it is a low crime you get a one, or a two, or
 3 three. If you get a four or above you are going to go
 4 to a locked facility or state facility. Or five or
 5 six. So all of that information is gathered. The
 6 clinician a lot of times talks with the parents. I know
 7 when I used to do them I would talk to the parents and
 8 ask them questions, et cetera. And then there is a big
 9 meeting. And in that meeting is the clinician, the
 10 juvenile services coordinator, the youth, their mentor,
 11 which is a person who works in O&A. Valarie Zuniga.
 12 Parents are invited. And the JPO is invited. So it can
 13 be a very large meeting. It can be a very small meeting
 14 or a very large meeting. It depends. Some of them are
 15 done on the phone because parents can't come. So we
 16 call them and they interact with them.
 17 So information is presented. And we listen
 18 and we tell the people that it is their meeting
 19 and it is their lives so they have an opportunity to
 20 speak. Things of that nature. So it all comes
 21 together. The person leaves, along with their
 22 parents. And then the clinical team discusses
 23 placement. And then the final report gets sent to the
 24 placement location. The placement location then decides
 25 if they can assist this child or not. And so it is

1 Q. Do you work with Tom Knoff?
 2 A. Yes. I did work with Tom Knoff for years.
 3 And how I work with Tom Knoff is primarily in O&A. And
 4 since 2007 when I started in the O&A I work with Tom
 5 quite a bit.
 6 Q. How do juveniles get to programs like
 7 Solutions or Choices?
 8 A. Well, what happens is when a person
 9 comes in there is quite a bit of work that has to
 10 happen. First of all, there is a JSC report, which is a
 11 Juvenile Services Coordinator report, and they do a
 12 summary. And then the probation officer's report gets
 13 done. And what happens is they are assigned a
 14 clinician. Whoever the clinician is. Valarie will
 15 assign a clinician. So the clinician reads -- ideally,
 16 the clinician does all of the testing. Or we have an
 17 intern who tests them for us. They have been guided by
 18 us. And they are master interns. So they get the
 19 testing. They get education testing. They get to see
 20 the nurses. They have physicals. We do everything.
 21 And then the interview process begins with the
 22 clinician. So we go through all of that. There is
 23 various tests that give us scores. There is the YSLI, I
 24 believe is what it is called, that gives us a score. We
 25 have another test that we give them. We do a Matrix.

1 either an accept or deny. And then we move them on as
 2 soon as there is a vacancy.
 3 Q. And when you talking about placement location
 4 what do you mean by that?
 5 A. Placement location could be a facility. It
 6 could be Choices. It could be Solutions. It could be
 7 St. Anthony. It could be Lewiston. It could be 5C, 3B.
 8 I don't know all the numbers anymore. It could be a
 9 sequel. It could be out of state because of certain
 10 mental health issues. There is a new term now. The
 11 DSM-V give developmentally delayed individuals a new
 12 label and I don't know it. Something impairment.
 13 Q. Cognitive impairment?
 14 A. No. I don't think it is cognitive impairment.
 15 I can't think of the name of it. Anyhow, it is a new
 16 term we will be using as of January. Did that answer
 17 your question?
 18 Q. Yeah. You are pretty thorough. The Matrix
 19 that you mentioned in the classifications that the
 20 juveniles are given.
 21 A. Yes, sir.
 22 Q. What do those ratings mean? One, two, three,
 23 four?
 24 A. Well, usually one, two, and three are
 25 individuals who can go to a facility that is not a state

1 facility that is not secured. So, for instance, Madsen
2 alternative facility. I am sorry I don't know the names
3 anymore. Because I am not sending kids anymore. I'm
4 pretty much dedicated to Choices. It is a facility that
5 are usually -- it is not as strict. It is not
6 restricted as the state facilities.

7 Q. Would those be juveniles who are not without a
8 history of violence or something like that?

9 A. Most of the time; yes. But is it also
10 age-wise. Sometimes they are too Like Health
11 and Welfare refers to Madsen. So sometimes Health and
12 Welfare, kids that are in foster care, go to those
13 facilities, also.

14 Q. And Madsen, what is that?

15 A. It is another facility that is in Emmett. It
16 is a contract service that we use. Such as Sequel. And
17 Sequel is in Mountain Home. And that is predominately a
18 sex offender facility. Madsen is not.

19 Q. And how about within juvenile corrections
20 centers like IDJC in Nampa? Do those tend to be --

21 A. Those are higher rated. They have a rating of
22 four and above.

23 Q. How far up does the scale go?

24 A. I believe it goes to six.

25 Q. How did you work with or interface with Betty

1 being let go?

2 A. They were told not to talk about it. The hard
3 part about working for the Department is one day you are
4 there and one day somebody is gone. Nobody tells us
5 anything.

6 Q. Why do you think that is?

7 A. Personnel issues. But, of course, there is a
8 lot of rumors and a lot of people talk. And a lot of
9 people tend to talk to counselors.

10 Q. Sure. Have you ever heard anyone, whether
11 employees or any of the plaintiffs, indicate that they
12 thought they were victims of retaliation?

13 A. Yes. Ms. Abramson was one. Mr. Knijf was
14 one.

15 Q. De Knijf?

16 A. Yes. Also I believe Mr. Knoff was one. I
17 believe probably Ms. Jo McKinney was one.

18 Q. How about Ms. Ledford or Mr. Penrod?

19 A. I really didn't see any issues with them.
20 That I saw. Mr. Penrod was a very quiet man. Very
21 closed. Didn't talk to anybody. Still doesn't speak to
22 a lot of people. And, like I said, I have only had one
23 time that we worked together in which we took a
24 person to the airport.

25 Q. When you say Jo McKinney, what is it that you

1 Grimm while she was the superintendent?

2 A. She would attend meetings. She would attend
3 our quarterly staff meetings and things of that nature.
4 If there was a case that I wanted to talk about I could
5 go in there and talk to her about it. Or if I saw
6 things that I thought were maybe inappropriate or
7 whatever I would make sure that the right people get to
8 know about it. Or I would say maybe you need to take a
9 little walk into the education department. Or you need
10 to take a little walk here or there.

11 Q. What did you mean when you would make that
12 suggestion to her?

13 A. Well, I would say maybe you need to go see
14 what is going on behind closed doors. Observation,
15 observation, observation. I don't want to prejudge
16 situations. But I think they need to be looked at.

17 Q. And you mentioned education department. Was
18 there something specific that was of concern to you?

19 A. Well, to be perfectly honest I have always
20 been concerned about the education. Particularly when I
21 came back in 2007. There were lots of people who were
22 being let go. And lots of people who were doing what we
23 are doing right now. Lawsuits, lawsuits, lawsuits. And
24 it just upset me very much.

25 Q. Do you know why that was? Why people were

1 are talking about in terms of retaliation there?

2 A. Her age.

3 Q. Is it that you --

4 A. Well, what I saw is this. This woman has hip
5 problems. And in these hip problems the staff -- I
6 mean, a person who has hip problems or leg problems,
7 they shouldn't be opening the door to walk the water man
8 back to take the water to the clinic. To take the water
9 to the cafeteria. The woman can barely walk. And it
10 was like everybody has a turn. Well, you know what,
11 when somebody is disabled, or it appears they are pretty
12 disabled, it seems like somebody else should be able to
13 stand up and say, you know, we are going to give her a
14 break, would you please do this instead of her.

15 Q. Did you ever talk with Jo about --

16 A. I told Jo that I think she should talk to
17 Estelle about that. It was very intense up there.

18 Q. How do you mean?

19 A. You know, when people say you can -- again,
20 I'm a counselor. When you walk into a room you can cut
21 a knife through it, because it's a very uncomfortable
22 feeling. That is how it was up there. The woman that
23 worked behind Jo -- and this is a very interesting
24 point. There are offices like these little cubicles.
25 And the little cubicles has a window. So whoever is in

1 the back can see all of the way to the front. Whoever
2 comes to the front window. The woman who works behind
3 Jo ends up having a little curtain. And I'm thinking
4 wow, that is really strange. Why do you get a curtain
5 and nobody else gets a curtain? So I think Jo was, in
6 my opinion, picked on quite a bit.

7 Q. What did you see about that?

8 A. What did I see about that? Well, I said, "Why
9 do you have a curtain and she doesn't have a curtain?"
10 And she said "Well, because she has an issue." I said,
11 "What is the issue of?" "Oh, she has ADHD." And I am
12 thinking well, there is a lot of people in our facility
13 who have ADHD and they are all workers.

14 Q. Is that Maria that you are talking about?

15 A. Yes. Maria doesn't talk to me.

16 Q. Have you ever talked with Jo about comments
17 made about her age?

18 A. No. That is just my observation.

19 Q. Do you get an unfriendly vibe?

20 A. Definitely unfriendly vibe. They always would
21 have these meetings in the back with Estelle. They were
22 supposed to be healthy meetings. But it sounded like
23 they were not good meetings. And the women's faces when
24 they all came out were like "Oh, my God, here we go
25 again. We are supposed to all get along."

1 Q. What did he have to say about that?

2 A. He said she was a victim of circumstances. I
3 think she was dating Mr. Smutny at the time.

4 Q. Did he explain what he meant by victim of
5 circumstances?

6 A. Oh, just that it was -- you didn't get into a
7 lot of details. But that it was really inappropriate
8 she was let go. She was a good woman.

9 Q. Did he say who let her go?

10 A. I don't know who the secretary was at that
11 time. I think Mr. Callicutt was there at the time. And
12 then there was Mr. Smutny. Do you want me to talk about
13 Mr. Smutny?

14 Q. Go ahead.

15 A. Mr. Smutny was also a victim. He was a victim
16 of Mr. Rohrbach. Mr. Rohrbach knew somebody had to take
17 the downfall. So he made sure that Mr. Smutny left.

18 Q. A downfall for what?

19 A. I think there were a lot of things going on.
20 It was right when I came back in 2007, 2008. Mr. Smutny
21 did have some issues. He had a DUI so he couldn't
22 drive. So he rode his bike to work and was doing an
23 excellent job. But things were not doing too well. So
24 he was the one who was let go and Mr. Rohrbach got to
25 stay there.

1 Q. Do you know who Belinda Peterson was?

2 A. Yes. I do know who Belinda Peterson was. And
3 she definitely was a woman who had been fired a long
4 time ago.

5 Q. Were you around then?

6 A. Yes. I think that was before I got sick. I
7 have been around a long time.

8 Q. Do you know why it was that she was fired?

9 A. I think because there was a lot of stress up
10 front and she couldn't handle it.

11 Q. Did you ever speak with her about that?

12 A. Yes. Years and years and years ago. I went
13 to her house a couple times because I was afraid that
14 she might hurt herself.

15 Q. How about Diane Floyd Miller? Do you know
16 her?

17 A. No. That was before me. Or in between. I
18 knew of her because of Mr. Watts.

19 Q. Who is he?

20 A. Mr. Watts was a clinician I worked with
21 when -- he was there with that new psychologist.
22 Dr. Smith had hired Mr. Watts. It was great. And
23 then when Dr. Smith left we had this other doctor. He
24 wasn't very nice. So Mr. Watts knew about that woman
25 and he said she had also been let go inappropriately.

1 Q. What was it that Mr. Smutny did?

2 A. Mr. Smutny at that time -- again, changes with
3 the evolution of the department. Mr. Smutny was a
4 supervisor for the Choices floor staff. So he did their
5 schedules, et cetera.

6 Q. We were talking about victims and things like
7 that in these different instances. In your opinion is
8 there a problem with cronyism or favoritism at the
9 Department?

10 A. I don't know about now. But I do know there
11 was.

12 Q. Do you ever hear any employees express
13 concerns about that now?

14 A. Currently, no.

15 Q. Within the last two years?

16 A. Yes.

17 Q. What have you heard about that?

18 A. Well, there was a gentleman who worked in the
19 education department. His name was Mr. Morris. Bill
20 Morris. Nice man. Good man. He started with Special
21 Ed in our department. And then he ended up working up
22 in the Solutions department. And then there was a
23 position for the program manager. Or education manager.
24 They hired another man who was excellent. His
25 name was Richard Duke. He was good. Richard Duke left.

1 When Richard Duke left Mr. Morris took the test, I
2 believe. And they hired this current man,
3 Mr. Rigby, who is working on his doctorate. Mr. Morris
4 was also working on his doctorate in education. Well, I
5 don't think that Debbie Siegel liked Mr. Morris. She
6 didn't like some of the people in the education that
7 were let go. Like this Abramson lady. So they were
8 kind of picked on.

9 So, anyhow, Mr. Morris ended up leaving and we
10 ended up with Mr. Rigby. So I think now the department
11 has to -- this is horrible. Now the department has to
12 answer to Mr. Morris. Because he is now working in the
13 department. The higher education department. I think
14 that we would have benefited if Mr. Morris had become a
15 program manager. Or education manager.

16 Q. What is Debbie Siegel's role in that?

17 A. Mrs. Siegel is a Special Ed person. Which she
18 has done a lot for the Special Ed over the years. Which
19 is a really good thing. But also she worked with
20 Ms. Rohrbach. Who was married to Mr. Rohrbach. So the
21 cronyism sometimes also ended up with who got hired and
22 things of that nature.

23 Q. Have you ever had any concerns of your own
24 about hiring or promotions --

25 A. Oh, absolutely. Currently there is one that I

1 cronyism went back to Betty Grimm saying I don't want to
2 see Donna back in this facility.

3 Q. Where did you hear that?

4 A. Through a couple of individuals.

5 Q. Tell me who?

6 A. I believe she told that to Betty. Not Betty.
7 To Jo McKinney. Jo told me she told her that. And Jo
8 McKinney used to be Betty Grimm's landlord. They lived
9 across the street from each other in Kuna.

10 Q. Did Jo indicate that that is how she heard
11 that happen?

12 A. Yes. So when Ms. Grimm left I'm sure she told
13 people not to hire her. And she is 59 right now.

14 Q. Did you ever hear from Jo or anybody else --
15 you said a couple people you have heard that from. Is
16 there anybody other than Jo that you can recall?

17 A. There is another person that told me that.
18 That Ms. Grimm told her that she would not come back.

19 Q. Who was that?

20 A. My boss.

21 Q. Ms. Zuniga?

22 A. Yes.

23 Q. Did Jo or Ms. Zuniga indicate to you if they
24 knew why Ms. Grimm --

25 A. No. Other than she said that she would not

1 am very upset over.

2 Q. What is that?

3 A. Her name is Donna Hislop. She was my boss
4 years ago. Donna left and she tried to come back. And
5 Donna had applied for jobs and never got the jobs. She
6 currently applied for a current position, which is the
7 clinician in the Solutions program. The Solutions
8 program for girls has 12 girls. They are dual
9 diagnoses. So that means they have mental health issues
10 and they have drug and alcohol issues. And these girls
11 probably -- just about 100 percent of them had been
12 sexually abused. So she went for the test. And the
13 people who got interviewed for the test were
14 people. Melissa -- I can't think of her last name.
15 Very nice woman. Had worked for our department
16 beforehand. Just graduated. The woman they hired,
17 Ms. Freeman, just got hired. She just graduated. This
18 woman comes with years of experience. Has her master's
19 in addiction. She's a social worker. Master social
20 worker. Clinical social worker. She got 100 on the
21 test. And when she called the department -- not the
22 Health and Welfare. But she called the people who make
23 the list up. They said that she had 100 on the test.
24 She was looked at. But decided not to be interviewed.
25 That is why I think there is cronyism. And I think that

1 come back.

2 Q. So you mentioned that Ms. Hislop is 59. Did
3 you mention that because you think there might be an age
4 component?

5 A. Yes.

6 Q. And that the department prefers to avoid
7 hiring older people?

8 A. Well, I think they might. But I also think
9 that she may have done something a long, long time ago
10 that they didn't like. And, therefore, that is where
11 you get blackballed.

12 Q. Do you know what that might have been?

13 A. Many, many, many, years Ms. Hislop was in
14 charge of placement of where the kids went. And at that
15 time we had a place called -- I believe it was called
16 the Nampa Boys Home. Well, she sent a boy there that
17 really ran amok. He broke a bunch of windows and he
18 caused a lot of issues. So the department was not happy
19 with her. And I know that she told me -- people are not
20 supposed to know when you are on administrative leave.
21 They just disappear for a couple weeks. And she told me
22 that she had been disciplined.

23 Q. With respect to going on administrative leave.
24 Is that a policy that you not supposed to say anything
25 about?

1 A. I don't know.
 2 Q. Did it seem that Ms. Grimm had a personal
 3 problem with Ms. Hislop?
 4 A. Not visually when you saw her. Visually when
 5 you saw her she was always very huggy-lovey. I know she
 6 said to Donna, "If you ever want to come back you just
 7 let me know, Donna. We would love to have you back."
 8 Q. But that wasn't true as far as you know?
 9 A. Correct. Because she did apply for three
 10 positions.
 11 Q. Stepping back to Mr. Morris. Do you know if
 12 Mr. Morris ever tried to address the hiring situation or
 13 any of the problems he had with --
 14 A. I do believe --
 15 Q. -- human resources or anything like that?
 16 A. I don't know with human resources. I do know
 17 that he spoke to Debbie Siegel. And they used to butt
 18 heads a lot.
 19 Q. Have you heard other employees express
 20 concerns over cronyism or favoritism with respect to
 21 Laura Roters? This is going back to 2010.
 22 A. Yeah. With all of the changes that were going
 23 on. Laura was hired by Mr. Rohrbach. As was Joe Blume.
 24 So they became kind of the golden children. And Joe has
 25 done really positive, I believe. Laura I know is a very

1 respond to that?
 2 A. I wanted to respond to it. I thought this was
 3 not the place to respond to that.
 4 Q. What was it that you wanted to say?
 5 A. I believed -- there was a lot of "I." Again,
 6 I'm a counselor. I heard a lot of "I," "I," "I," "I,"
 7 "I." Very little "We." And so now she has new people.
 8 "This is the schedule that is going to be. And I
 9 determine that this is the schedule. And I know people
 10 don't like the schedule. But this is the schedule it is
 11 going to be." And it is difficult for the person who is
 12 working on the line. That they work six days in a row.
 13 And if you time it -- if you do the time sheets right it
 14 looks like you only work 40 hours a week. But it's
 15 manipulated.
 16 Q. How do you mean?
 17 A. So if you work -- on a time card you work six
 18 days. You can work Friday, Saturday, Sunday -- no.
 19 Thursday, Friday, Saturday, Sunday, Monday, Tuesday.
 20 Working six days in a row. Working with individuals --
 21 or the population we work with is very, very difficult.
 22 People need breaks. And then you have to rotate your
 23 schedule. You are here in the morning one day. You are
 24 here in the afternoon. You are here in the night. And
 25 then you turn around just like that. You cannot have a

1 strong woman. And I do know that she ended up getting
 2 an attorney to fight. Because they offered her a
 3 position and they had taken it back. So she had to have
 4 an attorney to help her. And then she retested and she
 5 got the job again. So I don't know if that was cronyism
 6 or not.
 7 Q. What about with respect to her assignment to
 8 O&A as unit manager?
 9 A. Well, her assignment to O&A as a unit manager,
 10 I don't know why they made that decision. Other than
 11 they walked Tom out and they needed somebody to take
 12 over down there.
 13 Q. Do you recall if any employees expressed
 14 concerns about Ms. Roters not having the experience she
 15 needed for that position?
 16 A. Oh, gosh, it was such a volatile time. I do
 17 know we were at a meeting about two or three weeks ago.
 18 It was a staff meeting. And Ms. Roters came in and she
 19 was giving the Choices staff a pep talk. Because we
 20 have weekly meetings. And in her statement she said,
 21 "Well, when I took over there were 16 people. There
 22 were only six left. And now I have new people. And if
 23 people don't like to be here they can move on. And
 24 sometimes people have to move on." And I bit my tongue.
 25 Q. Why did you bite your tongue? Did you want to

1 life. And maybe that is who they want is people who
 2 don't want a life. I would think that you would want
 3 really good role models that know the kids and can work
 4 well with the kids. I don't know who they have hired
 5 down there right now. I really don't. They have some
 6 pretty good people. Some of them are really, really
 7 good. Some people took the job because they wanted to
 8 work with kids. And I'm hearing there is a little bit
 9 of rebuttal.
 10 So what I wanted to say was it is easy for you
 11 to say that, because you work a Monday through Friday
 12 job predominately. Yes, you do come in occasionally on
 13 the weekends. Yes, you do come in occasionally at
 14 night. But you get to go home right away to your
 15 family. So, to me, because again I'm a counselor, I
 16 feel that there is a lot of social injustice. I'm
 17 sorry. That is who I am.
 18 Q. No need to apologize for anything. When
 19 Ms. Roters mentioned that she had had 16 staff, and then
 20 had six, do you know what she was referring to?
 21 A. Ten left. Either ten left for finding other
 22 jobs or ten were very unhappy. Or they walked out. I
 23 don't know.
 24 Q. Did you know any of those people?
 25 A. Yes. Diane Carnell was one of them that I

1 knew. I knew, of course, Mr. Knoff. I'm trying to
2 think. They have come and they have gone so quick. And
3 it is just so sad.

4 Q. Dave Hottell?

5 A. He was one. But he left I think before she
6 came down there. But I'm not sure.

7 Q. You mentioned earlier that -- I think you said
8 something like they wanted Mr. Knoff out. What did you
9 mean by that?

10 A. "They" is the administration.

11 Q. Anybody in particular?

12 A. I would think Ms. Grimm.

13 Q. How did you become aware of that?

14 A. Because one day Tom and I were talking. Tom
15 Knoff and I were talking. And Tom said before he left
16 that he wanted to make sure that the truth came out
17 about the time sheets in relationship to Mr. Rohrbach.
18 And he was going to address Ms. Grimm to make sure she
19 took care of things.

20 Q. This is before she left?

21 A. That is before she left.

22 Q. Do you know if he had a plan to leave at that
23 point?

24 A. No. I don't think he had a plan to leave at
25 that point. She had been talking about retirement for a

1 have that authority. But he did tell me he had a lot to
2 do with the time sheets and there were a lot of things
3 that were going on that shouldn't be going on.

4 Q. Did he tell what?

5 A. Other than the time sheets; no.

6 Q. It was something wrong is the impression you
7 got?

8 A. Oh, yeah, he said there was some things that
9 would cause federal problems with the time sheets.

10 Q. Did you ever talk with any of the O&A staff
11 about Ms. Roters taking over there after Mr. Knoff left?

12 A. No. They were just all complaining. And they
13 were all looking for jobs.

14 Q. Do you know why?

15 A. They were very unhappy.

16 Q. Do you know why they were unhappy?

17 A. Schedules, I think. Perhaps her demeanor.

18 Q. When you talk about "her," do you mean
19 Ms. Roters?

20 A. Ms. Roters demeanor; yes.

21 Q. Did anyone ever indicate to you that they
22 thought she was disrespectful towards them?

23 A. No. But I do know that Ms. Zuniga -- my
24 supervisor is a very intelligent, brilliant woman.
25 And I do know that she would say, you know, "It would

1 couple years. But was unable to retire because her
2 cabin had not been completed yet.

3 Q. Did you know what he was talking about with
4 respect to the time sheets and Mr. Rohrbach?

5 A. I didn't know it had to do with Mr. Rohrbach
6 at the time. But I do know he said -- because he had a
7 position that was -- they treated him so poorly. He had
8 a position. And then they lowered his position.

9 Q. He was a unit manager?

10 A. He had been a unit manager. And then they
11 lowered his position. And when they lowered his
12 position they lowered a lot of other people's position.
13 And then Mr. Rohrbach became the program manager. So he
14 kind of created his own job. And he was in charge of a
15 couple areas. But I think that is kind of where some of
16 the money came from.

17 Q. What do you mean?

18 A. Well, because it is a check and balance
19 budget. If you are going to pay somebody else more
20 money, then you have to pay somebody else less. I'm not
21 exactly sure. But that was my feeling on it. But
22 Mr. Knoff was lower in position. He didn't make as much
23 money. But they had forgot to take him off of the
24 approval of the time sheets. So he could see
25 everything. I don't know how it works, because I don't

1 be good if we could soften Laura up a little bit." And
2 she is a strong willed woman. And it is good to be a
3 strong willed woman. There is nothing wrong with that.

4 Q. Did you ever hear any allegations that staff
5 in O&A were violating rights of juveniles with respect
6 to lockdown time or anything like that?

7 A. No. But, again, there were a lot of changes
8 at that time. I think a lot of changes had to do with
9 the standards. How long the child can be in his room.
10 Things of that nature. So I think the department was
11 really working at keeping standards that were
12 appropriate.

13 Q. Do you know if the standards had been
14 inappropriate before? Or just different?

15 A. Just different.

16 Q. Had you ever heard any suggestion by anyone
17 that O&A staff weren't doing their jobs in taking care
18 of the juveniles there?

19 A. No.

20 Q. How about after Ms. Roters took over?

21 A. No.

22 Q. At this meeting you mentioned a few weeks ago
23 where Ms. Roters said if they don't like it they can
24 move on, what did you understand that to mean?

25 A. That people who were at this meeting, if you

1 didn't like your job, you can move on, too.
 2 Unfortunately, she was speaking to the choir. The
 3 people who were left or the people who wanted to be
 4 there.
 5 Q. In other words, people that don't like the
 6 program changes are not welcome?
 7 A. Not the program changes. Our schedule is very
 8 odd. I mean, you always have -- the kids always have to
 9 be watched 24 hours a day, seven days a week. So when
 10 there is a meeting sometimes people can't come to those
 11 meetings. So the people that sometimes volunteer to
 12 watch the kids are people who say I don't even want to
 13 go to that meeting. So they volunteer for the people
 14 who are in the meeting. They are the ones that say
 15 okay, you watch them and I'll go to the meeting. So
 16 they are volunteering to stay away from the ugliness.
 17 Q. What kind of ugliness?
 18 A. Well, that kind of comment. Mr. Cotton is our
 19 current unit manager. He is very good. He is on a
 20 learning curve. And he is really trying to do the best
 21 he can. And I was really surprised to see Ms. Roters
 22 there speaking. It was like, "Why are you here?" I
 23 guess she just wanted to give us a pep talk. But I
 24 don't think it was a very good pep talk. I left -- I
 25 have to leave in the middle of the meeting so that I can

1 she is a strong-willed woman and she knows how to get
 2 her objectives met.
 3 Q. Have you ever heard it suggested by anyone at
 4 all that she was sent to clean house in O&A?
 5 A. Yes. And I don't know by whom. But that was
 6 the story. But when you start out with 16 and end up
 7 with six.
 8 Q. Do you remember anything about the context in
 9 which you might have heard that?
 10 A. "Since Mr. Knoff has left we are going to get
 11 rid of the people that worked well with him."
 12 Q. Do you remember who you were talking with?
 13 A. No.
 14 Q. Is it fair to say that's scuttlebutt?
 15 A. Yeah. That is fair to say.
 16 Q. Did you hear anything about how that was to be
 17 accomplished? Getting rid of people?
 18 A. No.
 19 Q. Referring to Ms. Roters statement that ten
 20 people had left O&A. Did that seem to -- does that seem
 21 to you that that is what she was talking about?
 22 A. Yes.
 23 Q. Does it seem appropriate to you to get rid of
 24 people because they worked well with an unfavored
 25 employee? Does it seem like a good thing? Bad thing?

1 take the people. So I don't know how the rest of
 2 the meeting went.
 3 Q. Why is it you didn't think Ms. Roters should
 4 be the one that should have been there?
 5 A. She is not very popular. I did overhear her
 6 say to Mr. Cotton -- because Mr. Cotton had a schedule
 7 he was going to be putting out. And the staff had told
 8 him beforehand that were very concerned about the
 9 schedule. And they had offered him some suggestions on
 10 how a schedule would look. And he was going in that
 11 direction. And then I heard Ms. Roters -- because I was
 12 walking by his office. She was outside of his office
 13 and he was talking about it a little bit. Because you
 14 can hear so much. And she said, "Well, if I were you I
 15 would start with the schedule that I have for the staff.
 16 They will just have to deal with it." And that is what
 17 he did. Because the kids were -- not the kids. Well, I
 18 guess they are kids to me. The staff on the floor said,
 19 "I don't know what happened with the schedule. Because
 20 this is what we talked about and then it ended up being
 21 changed." So she has a lot of influence.
 22 Q. Do you know why that is? Why she has
 23 influence?
 24 A. Maybe because she has been around a lot. I
 25 can't say why she has a lot of influence. Other than

1 A. I don't think it is a good thing to get rid of
 2 your employees. Because you have vested a lot of time
 3 in training and getting them to be on the floor. Et
 4 cetera. I believe this has caused us an awful lot of
 5 issues that we don't have a lot of people. We are very
 6 short all of the time. Being short all of the time
 7 means another group of people have to help another group
 8 of people. And I'm saying program wise. They have to
 9 keep shuttling back and forth. Therefore, the
 10 people who are in the program don't get to go on
 11 outings. Don't get to do the things that we would like
 12 to do. Because you are sending people down from one end
 13 to the other end. And we are always -- we have been so
 14 short of staff. I mean, we meet the minimum criteria.
 15 Q. And by minimum criteria are you referring to
 16 like PREA?
 17 A. CRIPA. Not PREA. PREA is prison rape. But
 18 the other one.
 19 Q. Do you know what those minimum ratios are?
 20 A. No, I don't.
 21 Q. Do you remember a petition circulating around
 22 the facility sometime in October, November of 2011?
 23 A. No.
 24 Q. Do you remember hearing anything about that?
 25 A. No.

1 Q. Do you remember an all-staff meeting that took
2 place in November of 2011?

3 A. I can't say I did or didn't. There is a lot
4 of meetings. But I have been to all-staff meetings.
5 I'm very verbal at all-staff meetings. And there was an
6 all-staff meeting that I was -- I think I was on
7 vacation. And somebody else stood up and said
8 something. Which I thought was good. But I can't tell
9 you which one it was.

10 Q. Do you recall an all-staff meeting that dealt
11 with hiring practices specifically in the context of
12 Ms. Roters hiring?

13 A. Oh, that might have been that meeting.

14 Q. So you weren't there at that one?

15 A. No.

16 Q. Is it fair to say you understood people were
17 upset about Ms. Roters hiring?

18 A. I think that might have been it.

19 Q. And do you know what they were talking about?

20 A. No.

21 Q. Did you ever hear anything from any employee
22 about concern over Julie McCormick's placement as a
23 supervising safety and security officer?

24 A. It was kind of a surprise.

25 Q. A surprise to you?

1 Q. When you heard that did that -- what was your
2 impression? What was your response?

3 A. Well, actually what had happened is last
4 year -- or before this all came out she was doing some
5 unusual things. I mean, she was dressing very nicely.
6 But Ms. Roters dresses very nicely. It is only that she
7 went from a large woman to smaller woman and she was
8 obviously feeling good about herself. But maybe not in
9 the appropriate location. Most of us are very cautious
10 of what we wear.

11 And I was on a trip -- well, we were taking
12 some boys to another county to do some talking. To do
13 some training, et cetera. And we have a car that goes
14 behind the people on the bus. And I was in a car
15 behind with another person. And this woman was
16 telling me what she had heard from Julie. And she says,
17 "I don't know what to do with this information." And I
18 said, "Well, this information needs to go up." When I
19 got back I immediately told my boss. But I thought it
20 was different. I believe the information I was given is
21 that this lady, Ms. Julie McCormick, was fooling
22 around with one of our staff who was a full-time
23 employee who was married. And she seemed to spend a lot
24 of time down there with him. So I immediately told my
25 boss. And then that is when Betty Grimm called me. I

1 A. It was a surprise to me. I mean, she knew the
2 booth really well. And I'm going to tell you Julie
3 McCormick did a good job in the booth. And as a suicide
4 evaluator, when something is happening in the facility,
5 particularly on the weekends or in the evenings, she
6 could always give you the information you needed. Which
7 was very, very helpful. Julie McCormick was a
8 lady who lost a lot of weight in a short amount of time.
9 And in a lot of programs where people lose that kind of
10 weight in a short amount of time -- not probably
11 presently, but previously when people would go under
12 certain things, usually you had to have a therapist or
13 psychologist that worked with you through those things.
14 Because of a lot of the issues for yourself. All of a
15 sudden people are attracted to you that wouldn't have
16 been attracted to you beforehand. And how do you
17 balance that out in your life?

18 Q. Why do you bring that up?

19 A. I bring that up because of the case that we
20 have.

21 Q. Are you talking about her --

22 A. Her situation with the man in Solutions.

23 Q. What do you understand that to be?

24 A. That she had been sexually inappropriate with
25 him in her office.

1 believe she called me at home and said who was this
2 person that she is having a relationship with that I
3 thought it might have been. I gave the name of the
4 staff. A man. And then I guess they did some more
5 checking, et cetera, and it turned out to be somebody
6 else. But I think that may have been where she started.
7 Julie was very, very interested in the men in our
8 facility. And she would tell me. "Oh, Mr. So-and-so is
9 really good looking. Mr. So-and-so is really good
10 looking. Mr. So-and-so is really good looking. How can
11 I get a date with him? I have asked him out. They have
12 not responded." There was a lot of fear with the men on
13 their part. They did not go out with Julie. And she
14 got really angry. So psychologically she probably ended
15 up going to where somebody was very needy. As she was.

16 Q. Who was it that gave you the information about
17 Ms. McCormick being involved?

18 A. Sarah Cerda.

19 Q. And then you reported that to Mrs. Zuniga?

20 A. Yes. And I know that all of the people
21 started talking.

22 Q. And who is the person she was rumored to be
23 involved with?

24 A. Mr. Bell.

25 Q. And what is his first name?

1 A. I don't know his first name. We go by last
 2 names.
 3 Q. And to your understanding that was
 4 investigated and found to be someone else and not
 5 Mr. Bell?
 6 A. To the best of my knowledge.
 7 Q. Do you know who that was?
 8 A. It was that man who was in Solutions.
 9 Q. So it's not that she was involved with a
 10 different staff. It was that she was involved with
 11
 12 A. Yes. And things came out like she had
 13 tattoos on the back of her ear with his initials. He
 14 spent a lot of time in her office.
 15 Q. Did you ever hear any concerns along those
 16 lines concerning Ms. McCormick and Agostino
 17 (phonetic)?
 18 A. No.
 19 Q. Or regarding her interactions with any other
 20 youth in Solutions or Choices or anywhere?
 21 A. No. I did hear that she was spending a lot of
 22 time in Solutions. And I asked her, as a matter of
 23 fact, "Why are you spending so much time in Solutions if
 24 you are the boss?" And she goes, "Well, Ms. Grimm says
 25 I really need to know that program. That is why I am

1 Q. After you had conveyed that information to
 2 Mrs. Zuniga, about how long was it before you found out
 3 that the matter had been investigated and --
 4 A. I got a call pretty quick from Ms. Grimm.
 5 Within a day or two of that.
 6 Q. How about when you actually found out that the
 7 investigation had led to the person being not Mr. Bell,
 8 but
 9 A. I have never been spoken to about that.
 10 Q. At some point you --
 11 A. Well, you saw it on the news.
 12 Q. Do you have any idea how far in advance -- I
 13 believe that Ms. McCormick was terminated or suspended?
 14 A. Yes.
 15 Q. -- on August 8 or 9 of 2012. Does that seem
 16 right?
 17 A. Yes.
 18 Q. Do you recall about how long ahead of that
 19 date was it that you spoke with Ms. Cerda?
 20 A. I can't. I can go back to my calendar. But I
 21 don't have my calendar with me.
 22 Q. You say that might have been in 2012?
 23 A. Yes. The early part.
 24 Q. Were you aware of any other staff raising any
 25 concerns?

1 spending so much time down there." I said, "Really?" I
 2 was kind of like surprised. And then she came up with
 3 some unbelievable stories.
 4 Q. Like what?
 5 A. Such as, "Well, they are not going to have
 6 rehab techs in the future. They are all going to be
 7 security people on the floor." No. "They are not going
 8 to have security people on the floor anymore. They are
 9 all going to be rehab techs. And I need to figure out
 10 how to get into a better position so that I will always
 11 have a job." It was an odd statement. But I think --
 12 and you probably already know this. Julie lost a child.
 13 Q. I didn't know that.
 14 A. Julie lost a child before I knew her. So I'm
 15 sure that there was some of the things that fit into her
 16 psychologically.
 17 Q. When you learned that information from
 18 Ms. Cerda do you recall when that was?
 19 A. Gosh, we had a staff, Ms. Foster, who had a
 20 stroke. It was over a year ago. And Ms. Foster usually
 21 is the one who went with me. And she didn't. So I
 22 can't tell you the date.
 23 Q. Where were you going?
 24 A. We were on our way to Twin Falls and to
 25 Burley.

1 A. Yes. Ms. Lindsay Hanson was very concerned.
 2 And I know she has been investigated. I mean, she has
 3 given a lot of information, too. But she was very upset
 4 with what happened. Because I think the three of these
 5 women hung out together. And they were really
 6 disappointed in things they were hearing. And they
 7 didn't know what to do with it. And they were
 8 women. And it was like, "Oh, what do we do?" One was a
 9 little bit older. Ms. Cerda was a little bit older than
 10 Ms. Hanson.
 11 Q. When you say the three of these women --
 12 A. Ms. Lindsay Hanson, Ms. Sarah Cerda, and
 13 Ms. McCormick.
 14 Q. Just one more reminder to let me finish my
 15 question.
 16 A. Thank you.
 17 Q. And what sorts of things did Ms. Hanson
 18 express about Ms. McCormick to you?
 19 A. I think it was after she had been arrested.
 20 Ms. Hanson said she felt betrayed. That somebody was in
 21 this position that would do something of that nature.
 22 And it emotionally really upset her. She felt that she
 23 had been manipulated. And she was very upset. And I
 24 suggested that she go to EAP and see a counselor.
 25 Q. Prior to Julie's termination and/or arrest did

1 you hear anything about being infatuated with her?
 2 A. being what?
 3 Q. Infatuated with her?
 4 A. No.
 5 Q. Why don't we take a short break.
 6 A. That would be terrific.
 7 (Recess.)
 8 Q. (BY MR. SCHOPPE) Prior to the time
 9 Ms. McCormick was terminated are you aware of any
 10 monitoring of her or anything like that? Monitoring of
 11 her activities in Solutions or anything like that?
 12 A. No.
 13 Q. Or any monitoring by staff or management of
 14 her interactions with in particular?
 15 A. Not that I know of; no.
 16 Q. I'm going to show you an exhibit. I don't
 17 think it is anything you would have seen before. If you
 18 can just take a look at that. It is Exhibit 136 from
 19 prior depositions. Go ahead and take your time and look
 20 through it. And then we'll talk about it. Let me know
 21 when you are done.
 22 A. So this letter is what I'm supposed to read?
 23 Q. Yes. It is an e-mail chain, I think.
 24 A. Should I start at the back of it?
 25 Q. Whatever makes sense to you so you can

1 "Go in and stop her and bring her back to the office and
 2 have a talk with her rather than just watch the monitor
 3 and then talk to Pat about what to do."
 4 Q. If you can go on to the next paragraph, too.
 5 A. "This very reason is why DOL determined that
 6 Tom was eligible for unemployment. Because we tolerated
 7 the situation for so long that DOL determined we
 8 actually condoned the action. This is the same pattern
 9 we are setting with Julie McCormick. You will see a
 10 clear pattern of this when you see the final for Julie
 11 McCormick's five-day suspension NOCA with you. I would
 12 like to suggest that you talk with Betty about the
 13 course that was set with Tom which enabled him to be
 14 eligible for unemployment. Her lack of oversight and
 15 follow through once she set a performance improvement
 16 plan and starting and stopping disciplinary action."
 17 Q. Were you aware of any disciplinary action that
 18 was taken against Julie McCormick prior to the time of
 19 her suspension and arrest?
 20 A. No.
 21 Q. Do you know if anybody was concerned that
 22 might have had an infatuation with her?
 23 A. No.
 24 Q. If you had learned about that as a counselor
 25 what would your next step have been?

1 understand.
 2 A. Okay.
 3 Q. Is it fair to say that is not anything you
 4 have seen before?
 5 A. I have not seen this before. Mr. Tinker
 6 currently is a person that we are still dealing with.
 7 As a matter of fact, there was an e-mail about me -- or
 8 an e-mail that was sent to me from Ms. Hanson -- today
 9 is what? Tuesday. I got it either Friday or Monday.
 10 It was that he was in a meeting with a juvenile and the
 11 parents -- two sets of parents, the juvenile service
 12 coordinator, Ms. Hanson, Mr. Tinker, and the juvenile
 13 probation officer that said those clinicians in Choices.
 14 There is one clinician in Choices. And that is Rita.
 15 And that e-mail was sent to me, along with Ms. Viner,
 16 my supervisor. But we have been dealing with Mr. Tinker
 17 for a very long time. Before Betty. It has been years.
 18 I also did not know about Rhonda coming in late. I also
 19 didn't talk about Darla. Darla and Ms. Grimm were very
 20 good friends for years.
 21 Q. With respect to the paragraph at the bottom of
 22 the first page.
 23 A. I also advised Betty that if she is sitting in
 24 her office observing the monitor and sees Julie
 25 interacting with some male juvenile, and shouldn't be,

1 A. I would have opened the door and taken the
 2 child back to his area and taken Julie to Ms. Grimm.
 3 Q. Would you have taken steps to protect
 4 A. Yes. I would have taken him to Solutions
 5 right away. I don't know what is going on, but as the
 6 clinician here Mr. Rich will need to investigate.
 7 Q. Who is Mr. Rich?
 8 A. Mr. Rich was clinician in the
 9 Solutions program. May I add something here?
 10 Q. Sure.
 11 A. This case has really done a lot of detriment
 12 to the department. As a counselor I do have a window in
 13 my door. I have always closed the door. That changed
 14 after this. I have to have it open so I have
 15 something -- it opens up this much (indicating). And I
 16 also have a noise -- a white noise item outside my door
 17 so that people can't hear. But it caused many youth to
 18 be very uncomfortable with the door now open. Because I
 19 had been having sessions with the door closed. And
 20 people could walk by and see -- because where my door
 21 is, and where the seat is for the child, you can see
 22 them very clearly. But also in working with parents
 23 that were reading the newspaper they were seeing the
 24 news articles, et cetera. So in my sessions I would
 25 always ask parents, "Do you feel that your child is safe

1 here?"
 2 Q. When you say "this case," you mean the case
 3 against Julie McCormick?
 4 A. Yes. And, of course, all of the other stuff
 5 that is going on. Because people see you and they say
 6 things. But particularly this case with Julie.
 7 Q. So if information had been developed that
 8 indicated that was infatuated with Julie McCormick
 9 is that something that his clinician should have been
 10 told?
 11 A. Oh, absolutely.
 12 Q. Why is that?
 13 A. So that the clinician could work with that
 14 man and talk about the infatuation. You are,
 15 what, 16, 17 years old. Yeah, they have crushes and
 16 things of that nature. But, also, she should have been
 17 spoken to, too, and said if has an infatuation
 18 with you it is really important that you are never alone
 19 with him. You always have a room with a camera in it.
 20 That sort of stuff. Definitely. I mean, we have
 21 interns in our facility that are really very attractive
 22 women or men. And the women, I always tell them that
 23 you are a woman. And you need to know that these
 24 men are going to be very infatuated with you.
 25 And you need to be able to keep your boundaries. And I

1 A. The unit manager. The group leaders. And I
 2 would have made a comment at the staff meeting. And
 3 even perhaps an all-staff memo.
 4 Q. Why would you take those steps?
 5 A. So that everybody in the building would be
 6 aware of what was going on.
 7 Q. With respect to the bottom of the first page.
 8 The paragraph you read there. With respect to Betty
 9 watching the monitor and seeing Julie interacting with a
 10 male juvenile when she shouldn't be, do you have any
 11 notion to what is being referred to there?
 12 A. I believe that the superintendent has
 13 monitoring rights on their computers. So I would
 14 believe that she was watching a person go in and out of
 15 Julie's office from that. Because the monitors, that I
 16 am aware of, are the ones that are in the control room.
 17 But I believe that certain roles have access to the
 18 cameras.
 19 Q. Do you have any notion of why it was that
 20 Betty was watching Julie?
 21 A. Perhaps because of what I said to my boss.
 22 Q. And that would have been -- and you are
 23 talking about what you said to Ms. Zuniga?
 24 A. Yes.
 25 Q. And that would have been prior to the date of

1 tell them that all of the time. As does, I'm sure,
 2 Ms. Zuniga. She does the supervision, but I do the
 3 floor work with them. And I usually tell the boys the
 4 same thing. I usually say this is going to be your
 5 intern. Maybe you should go do your counseling. But if
 6 I'm not enough eye candy for you, and you really have to
 7 have it, we'll give you some candy. Kind of make a
 8 little joke about it. But I let them know right up
 9 front there will be no inappropriate actions. And if
 10 there is they will be taken -- their case will be
 11 changed.
 12 Q. Do you know if Mr. Rich ever was --
 13 A. I do not know.
 14 Q. Let me finish the question. If he ever was
 15 informed of any problem between and McCormick
 16 prior to the time that she was terminated?
 17 A. No. I have no information.
 18 Q. In your role as a clinician what steps would
 19 you have taken to deal with in view of that
 20 information or that situation?
 21 A. If I knew that he was infatuated with
 22 Ms. McCormick I would probably ask -- not ask. Let the
 23 staff know that he cannot go with Ms. McCormick anyplace
 24 unless there is a third party.
 25 Q. What staff would you have notified?

1 this e-mail? July 12?
 2 A. Probably. I'm trying to remember that date.
 3 I'm sorry.
 4 Q. That's okay. Just do your best. If you had
 5 information concerning boundary problems on Julie's part
 6 with respect to spending time with male juveniles in
 7 Solutions and other units would that have compounded
 8 your concern?
 9 A. Yes.
 10 Q. And why is that?
 11 A. Because each department usually -- or each
 12 section program usually stays with their program unless
 13 they are asked to move around for some other reason.
 14 So, for instance, our current SSO supervisor goes -- he
 15 is doing a lot of security checks right now. And many
 16 times he goes with Ms. Viner.
 17 Q. Is that Mark Freckleton?
 18 A. Yeah. Mark Freckleton.
 19 Q. If you had been in possession of information
 20 concerning infatuation with Julie, and the lack
 21 of boundaries on Julie's part, what steps would you have
 22 taken? The same steps you outlined?
 23 A. Yes. Same steps.
 24 Q. Is that a matter of policy that you do that?
 25 Or is that just a best practice?

1 A. I would believe that would be best practice as
2 a counselor. We do not -- these children in this
3 facility have already been damaged. And we do not need
4 to add any additional damages to them.

5 Q. Is it fair to say that having sex with a staff
6 member at the facility would be more damaging?

7 A. I think either one are damaging. Having an
8 affair with staff or a child is damaging.

9 Q. Have you ever dealt with issues involving
10 juveniles that had sexual interactions with staff and
11 juveniles within the facility?

12 A. I have dealt with situations in which notes
13 have been written. And I will bring it to the attention
14 of the person would needs to know about it. We had a
15 case recently of a man who was talking about --
16 that a certain staff had given him better than sex cake.
17 And I thought that was very inappropriate. So I
18 immediately took it to the powers that be. And there
19 was an investigation that happened from that.

20 Q. And who was involved with that?

21 A. The man's name was [REDACTED]. And
22 the staff was Ms. Diaz.

23 Q. And do you know what the outcome of that
24 investigation was?

25 A. Oh, it was quite a lengthy investigation with

1 Q. As far as you know is that something that
2 would be against policy?

3 A. Yes.

4 Q. As a clinician is there a reason to have a
5 policy like that?

6 A. Yes.

7 Q. What is that?

8 A. Because there is power and control in the
9 person who is supervising you. Our agency also has a
10 policy that you are not to have contact with
11 people when they leave.

12 Q. Is there a time frame for that sort of thing?

13 A. I cannot say what the time frame would be for
14 a staff. I do know as a clinician there is five years
15 in any services that you provide for anyone. And I tell
16 my clients that. Particularly, clients that you have
17 been seeing for a very long time in a facility. And I
18 always tell them if I see you on the street I am not
19 going to talk to you. It is not that I'm being rude.
20 It is just that there is your privacy. If you say hello
21 to me I'll say hello to you.

22 Q. When you heard that did it raise any concern
23 on your part that there might have been a romantic or
24 sexual relationship between the two of them while Bryce
25 was still in custody?

1 Ms. Viner. The outcome was that the man had made
2 a lot of lies. A lot of accusations. Ms. Diaz did not
3 want to have anything to do with him. "Please, I don't
4 want to be in the area that he is at. I don't want to
5 be assigned to his work area." And the man had to
6 do a lot of emotional work in order to be released.

7 Q. Do you know if there was any disciplinary
8 action against Ms. Diaz in connection with that?

9 A. To the best of my knowledge, no. I mean, it
10 doesn't sound -- from what I understand this was his
11 statement, et cetera, that were proved untrue.

12 Q. Apart from Julie McCormick have you ever heard
13 of any other reports or rumors of romantic or sexual
14 involvement between staff and juveniles?

15 A. Well, I heard of one. I don't know whether it
16 is true or not. But I had heard of one.

17 Q. Tell me about that, please?

18 A. It was Ms. Diaz and -- he became our cook.
19 Mr.

20 Q. And what did you hear about that?

21 A. That when he was released Ms. and
22 Mr. Diaz were seen together.

23 Q. Did you ever hear that they moved in together?

24 A. I heard that. I don't know if it is true or
25 not.

1 A. I didn't hear about it while he was in
2 custody. Had I heard about it while he was in custody I
3 would have been talking. When I see something that is
4 inappropriate -- for instance, Ms. Diaz waxed the
5 eyebrows of some of our people in the pod that she
6 was working. Which was in Mr. Tinker's pod. I
7 immediately told her you need to tell Mr. Tinker what
8 you did. She is your supervisor. And I went to
9 Mr. Tinker and I said, "Do you know that she did this?"
10 And I went to my supervisor.

11 Q. And why is that a problem?

12 A. Because people cannot cut people's hair unless
13 you are a licensed cosmetologist. And you cannot wax
14 people's eyebrows unless you are certified. And it is
15 very inappropriate that we would be doing that. We do
16 not know allergic reactions. It could be very
17 difficult.

18 Q. Is that a boundary issue?

19 A. Definitely a boundary issue.

20 Q. Have you ever heard of any other rumors or
21 reports involving sexual relations or romantic relations
22 between staff and juveniles?

23 A. This is again a rumor. I don't know if it is
24 true or not. But I had heard that Mr. was let go
25 because he was having a relationship with a lady

1 in Solutions.
 2 Q. Is that
 3 A. I don't even know who it was.
 4 Q. And as far as you know was that while she was
 5 in custody?
 6 A. I do not know.
 7 Q. When was it you started working at the
 8 department again?
 9 A. 2007.
 10 Q. How about before that?
 11 A. I was there from -- I left in 2001. And I was
 12 there -- I think it was 1995 I started.
 13 Q. Do you remember a juvenile by the name of
 14 Michael Curtis?
 15 A. Yes.
 16 Q. Have you heard of any allegations by him of
 17 sexual contact between him and either Jackie Raymond or
 18 Katie McClain?
 19 A. No. And I was counseling Mike Curtis.
 20 Q. Did he ever mention anything like that to you
 21 at the time?
 22 A. No, he did not.
 23 Q. Are you aware of any boundary issues with
 24 respect to either one of those staff?
 25 A. Katie McClain? She was a teacher; correct?

1 Solutions unit?" And she said, "Because Betty wanted me
 2 to know more about the Solutions unit." And I thought,
 3 "Oh, okay." I figured she knew what she was doing.
 4 Q. Do you know if she was spending any particular
 5 time in Solutions with at that point in time?
 6 A. Not that I know of.
 7 Q. Or had you heard that?
 8 A. I heard that when she got arrested and they
 9 told me it was
 10 Q. If you had been aware she was spending time in
 11 Solutions, along with the fact that was infatuated
 12 with her at this point in time, this is June 13, 2012,
 13 how would you have responded?
 14 A. Kind of the same way I said earlier. You
 15 know, made sure that the supervisors were aware of it.
 16 Made sure the clinicians were aware of it. Let the
 17 staff know that we need to be cautious of this.
 18 Q. But you weren't made aware of any of this?
 19 A. No.
 20 Q. And you are not aware if any other staff were?
 21 A. No, not that I know of.
 22 Q. And would you have taken those steps to make
 23 sure that was safe and protected?
 24 A. Absolutely.
 25 Q. And would not taking those steps jeopardize

1 Q. I think so.
 2 A. Who was the other person?
 3 Q. Jackie Raymond.
 4 A. I don't know Jackie Raymond. Katie McClain, I
 5 only saw her as a -- never in the classroom. She was
 6 working with Ms. Siegel a lot of times doing that kind
 7 of work. I don't remember her being in a classroom.
 8 Unless she was substituting or something of that nature.
 9 Q. I'm going to show you another document. I
 10 don't know if this has gone in as an exhibit yet. We'll
 11 go ahead and mark that as the next exhibit in line.
 12 (Exhibit 150 marked.)
 13 Q. (BY MR. SCHOPPE) That's not a document you
 14 have seen before?
 15 A. No, never.
 16 Q. With respect to the second page, bottom
 17 paragraph, there is a reference to "JM" --
 18 A. Julie McCormick.
 19 Q. Spending time in the Solutions unit. Do you
 20 have a response to that? A reaction to that? Or an
 21 understanding of what that means?
 22 A. Well, she was always -- from what I was
 23 hearing people were saying she was spending a lot of
 24 time in the Solutions unit. And I would question --
 25 that is when I had asked her, "What are you doing in the

1 safety?
 2 A. Oh, absolutely. This child was sexually
 3 abused by somebody in power and control. That is
 4 collusion.
 5 Q. Speaking of that, are you trained in PREA or
 6 CRIPA?
 7 A. Yes. Will I be trained again? Yes.
 8 Q. Kind of an annual update sort of thing?
 9 A. Yes.
 10 Q. And how about reporting of sexual abuse or
 11 child abuse or neglect to Health and Welfare or law
 12 enforcement?
 13 A. Yes.
 14 Q. As a counselor are you aware of what the
 15 standard of sort of proof or reasonable suspicion is
 16 that might trigger a duty to report? And specifically
 17 with respect to Idaho Health and Welfare or law
 18 enforcement?
 19 A. Well, all adults in the State of Idaho, I
 20 don't care whether you are a clinician, or if you are
 21 Joe the janitor, we are all legally bound to report any
 22 kind of sexual abuse or physical abuse. Mental abuse is
 23 very difficult to show. But you can usually show the
 24 other two for just cause.
 25 MS. FONATAINE: Andrew, before we get too far

1 away from this document can we identify it somehow so we
2 know what we are referring to.

3 MR. SCHOPPE: Sure. Exhibit 150 is a June 13,
4 2012 e-mail from Sharon Harrigfeld to Betty Grimm and
5 Pat Thomson copying Julie Cloud. And the subject line
6 of that is "Proposed Personnel Action."

7 Q. (BY MR. SCHOPPE) Is there any kind of a
8 threshold of suspicion or proof with respect to
9 triggering that reporting requirement that you know of?

10 A. If the youth had told us. If the youth said
11 this is what happened. That's it. We have to report
12 it. If a staff said they seen it, there we go.

13 Q. How about a suspicion?

14 A. No. That is where we do the observations.
15 And the mailers would need to go out that say keep an
16 eye on this.

17 Q. So if there was a suspicion who would be
18 responsible for investigating or looking into that? Is
19 that Mr. Rich you mentioned before?

20 A. Mr. Rich would probably do some inquiring
21 during a counseling session I would think if there was
22 suspicion. And any floor staff, anybody, if there is
23 suspicion. That is why we would say please send this
24 information to us.

25 Q. Is there a policy that governs what is

1 might have discussed with the plaintiffs?

2 A. No.

3 Q. Earlier you mentioned Mr. de Knijf as someone
4 who expressed concerns to you.

5 A. Mr. Tom.

6 Q. That he had raised concerns with you about
7 retaliation. Can you tell me about that?

8 A. Yeah. They started with Mrs. Rohrbach. She
9 didn't like him. And he told me that. And he said that
10 Mrs. Rohrbach was after him. And he seemed to be -- he
11 was concerned about being monitored quite a bit.

12 Q. Did he say why that was?

13 A. No. He just said that the education
14 department was having certain issues and things of that
15 nature. But they didn't like how much time he was
16 spending with the kids. Or whatever. And his job is --
17 it is kind of a -- it's an interesting position that he
18 has. Because he is our custodian of the building, but
19 he is responsible for teaching the children how to wax
20 and remove wax and carpet cleaning. All sorts of skills
21 of that nature. So that when they leave, he, with the
22 education department, one way or the other, is able to
23 give them a certificate that they have accomplished.
24 They know how to wax. They know how to do certain
25 things.

1 supposed to happen when there is a report or a suspicion
2 of sexual abuse?

3 A. I can't tell you a policy number. But we have
4 a policy of reporting sexual abuse or any other type of
5 abuse. A procedure.

6 Q. Do you know the general title of the policy?

7 A. No. I would know where to go and look for it.

8 Q. Where would you go?

9 A. I would go to our intranet. All of the
10 policies are there.

11 Q. As far as you know does that include archived
12 past policies?

13 A. It probably does. I need to take a restroom
14 break.

15 Q. Sure.

16 (Recess.)

17 Q. (BY MR. SCHOPPE) Do you know if anybody in
18 the department was ever monitoring the activities of any
19 of the plaintiffs? Let's step back to 2010. So we have
20 Rhonda Ledford. Shane Penrod.

21 A. No.

22 Q. How about since this lawsuit has been filed?
23 I think it was in June of 2012?

24 A. I don't think so.

25 Q. Has anybody ever asked you about anything you

1 Q. Like Mr. Miyagi?

2 A. Yes, yes.

3 Q. Is that part of their community service?

4 A. It is part of their community service. So
5 people have community service hours that they must
6 complete before they leave the facility. So he works
7 with, from my understanding, the boys in Solutions. And
8 the girls in Solutions. As well as our men in
9 Choices. And those are higher level kids that he is
10 working with. They usually have to be a reintegration
11 person. Mr. Tom is -- he's a really good person to our
12 facility. I think he adds a lot that these men
13 could use.

14 Q. Have you ever heard rumors about him sexually
15 harassing anyone?

16 A. No, I have not. He has been very good with
17 the kids. As a matter of fact sometimes he will say,
18 "This guy needs to know a little bit more about
19 manhood." Not in a negative way. But like what real
20 men are. Real mean do their jobs. Are on time. Who
21 are kind, respectful. So he is very positive about that
22 stuff. But I never heard him being sexual abusive
23 verbally to anybody. He has values. He is very careful
24 with that, to the best of my knowledge, when I have been
25 with him and seen him. And I used to have lunch with

1 him a long, long time ago. Some of us would have lunch
2 together in one of the rooms that had a camera in it.
3 And I guess people were told that they couldn't have
4 lunch together.

5 Q. How so?

6 A. I don't know. Perhaps -- I brought my own
7 lunch. I didn't eat the department's lunch. Because if
8 you have the department lunch you have to be working
9 with the kids. And Tom works with the kids. And the
10 other people who had lunch there worked with the kids. I
11 work with the kids, too, but I prefer not to eat the
12 program food. So we would gather just for a little
13 fifteen minutes and we were told that we couldn't be
14 there.

15 Q. And who told you this?

16 A. I don't remember. But I think it might have
17 been the education department that Tom couldn't be a
18 part of that. So we just said okay, we won't have lunch
19 together. It was Mr. Tom, Mr. Norris, Mr. Vigil,
20 myself, and Mr. Small. Sometimes Ms. Martinez, because
21 that was her classroom.

22 Q. Any idea why Tom couldn't be a part of that?

23 A. No. Other than maybe the education
24 department. Or maybe his boss didn't want him to have
25 lunch in with that group. Because we would talk.

1 settlement.

2 Q. So there was an actual lawsuit about that?

3 A. There was a lawsuit. It probably settled out
4 of court.

5 Q. And were those the allegations that she was --

6 A. I believe that it had to do with that. Partly
7 the religion and partly that she wasn't doing her
8 Special Ed the way that they wanted it done. But she
9 was a very good Special Ed teacher. As was Mr. Morris.

10 Q. Was she disciplined at all as far as you know?

11 A. I don't know.

12 Q. With respect to -- you mentioned suicide
13 precautions earlier. How do those work?

14 A. Well, anybody in the facility can put a
15 person on suicide level one, or suicide level two, or
16 suicide level three if they believe they need to be at a
17 certain level. Only clinicians are able to take them
18 off. And the clinicians are the therapists in the
19 building. The clinicians in O&A. The clinicians in
20 Solutions, myself, Ashley Jorgensen or Ms. Zuniga.

21 Q. Can you describe what those levels are?

22 A. Level one is -- it is a low level. It is
23 pretty much a level where you are talking about it or
24 maybe thinking about it. Level two we want more
25 watching and things of that nature. Because it is a

1 Q. What would you talk about?

2 A. Oh, department stuff. Kids. Jokes.
3 Religion. What adults talk about. Home life.

4 Q. You have mentioned Ms. Abramson.

5 A. Yes. That was years ago. Around 2007, 2008.

6 Q. What was her first name?

7 A. Again, we go by last names. I cannot tell
8 you.

9 Q. You mentioned her in the context of
10 retaliation.

11 A. Yes. She was a Jewish woman. And she would
12 often offer to work on Christmas Day, because she was
13 Jewish. Christmas didn't mean anything to her. And she
14 would ask to be off on holidays that were related to her
15 Jewish religion. And she got a lot of negative comments
16 on that.

17 Q. Who were those comments coming from?

18 A. I want to say the education department. She
19 didn't get along with Ms. Siegel. Ms. Siegel didn't get
20 along with her.

21 Q. Do you know if she took that up with human
22 resources or anything like that?

23 A. I think she did. And I know she went to
24 court. She couldn't talk about her settlement. Because
25 that is what they always say. You can't talk about your

1 little bit more -- you know, you definitely got a plan.
2 You are going in that direction. Level three, you are
3 going to do something or you have already attempted
4 something. And level three is eyes on 24 hours a day.

5 Q. And what are the other two criteria for the
6 other two levels?

7 A. Level one as I said is you are kind of like
8 thinking about it. You are depressed. Level two is
9 you've got a plan. And level three you are on your way
10 to doing some serious stuff that we are very concerned
11 about. You have access to it. For instance, we had a
12 man recently who we put on level three and was on
13 level three for a very long time. He was able to locate
14 a belt from a robe and tucked it under his shirt. I
15 mean, the people we are dealing with are not --
16 there is like five percent of the population that are
17 out there. And he is one of them. So he is very
18 manipulative. Able to hide it. Things of that nature.
19 And he attempted to strangle himself in the bathroom.

20 Q. Is this a recent incident?

21 A. Yes.

22 Q. Do you know how he got access to the -- is it
23 a rope?

24 A. It was actually a belt of a robe.

25 Q. Do you know how he got access to that?

1 A. They had these robes that were hanging outside
 2 of their rooms. So when he felt somebody wasn't
 3 watching he was able to tuck it into his pants.
 4 Q. You mentioned level three requires eyes-on,
 5 24-hour observation.
 6 A. Yes.
 7 Q. Is there a corresponding time frame for the
 8 other two levels?
 9 A. Yes. What happens is they have to be -- there
 10 is documentation every five to ten minutes with somebody
 11 sitting there watching you. So if you are asleep. If
 12 you are reading. Usually when they go to bed the
 13 clinician, for instance, will say this person will
 14 sleep in D1. They will have a suicide blanket, a
 15 suicide smock, no T-shirt, no socks, no glasses if they
 16 wear glasses. Nothing can be in the room other than
 17 that. And when they go to the restroom the door has to
 18 be open an inch so you can hear them utilizing the
 19 restroom. So it is very strict. And those are
 20 sometimes individuals we send to Intermountain Hospital.
 21 Q. Is it ever the case that a suicide level
 22 caution might be recorded as, say, a two, which would
 23 require -- what is it? Ten-minute checks?
 24 A. Um-hmm.
 25 Q. But there might be a prescription for actual

1 to twelve when you have somebody who is really depressed
 2 is pretty tough.
 3 Q. You mean one staff to 12 juveniles?
 4 A. Yes.
 5 Q. Because they have to watch the juvenile under
 6 that criteria, as well the other juveniles?
 7 A. Yes.
 8 Q. Did you ever speak with Summer Wade about
 9 Rhonda Ledford or Shane Penrod?
 10 A. No. I do know who Summer Wade is. She was
 11 our SSO for a while. Supervisor.
 12 Q. Did Summer ever ask you about a paper or an
 13 application that Rhonda had copied or prepared or
 14 something like that in your presence or near you?
 15 A. Not that I can remember. How long has it been
 16 since Summer has worked there? Two or three years ago,
 17 was it?
 18 Q. I think it might have been 2010.
 19 A. It's been quite a while. They come and they
 20 go.
 21 Q. Sure. Did you ever speak to Julie McCormick
 22 about either Rhonda or Shane Penrod?
 23 A. No.
 24 Q. Have you ever spoken with Laura Roters about
 25 Gracie Reyna, Lisa Littlefield or Addison Fordham?

1 24 hours, eyes on? In other words, a mismatch between
 2 the time frame that they are supposed to be monitored on
 3 versus the actual rating of the precautions?
 4 A. Could you ask that again?
 5 Q. Yeah. I'm sorry. In other words, a juvenile
 6 might actually require 24 hours eyes on monitoring. But
 7 rather than setting it at a level three, which would
 8 call for that, it is actually rated as a two on like an
 9 incident report or whatever the corresponding report
 10 might be?
 11 A. No. When you are a three, you are a three. I
 12 think there is debate on can you be a three until you
 13 fall asleep. And then you are a three when you wake up
 14 again. That is the only debate.
 15 Q. In this attempted hanging incident you
 16 mentioned earlier was there --
 17 A. A hanging incident? Oh, the strangulation.
 18 It wasn't a hanging.
 19 Q. Thanks for clarifying. Do you happen to know
 20 how many staff were on duty to watch him at that suicide
 21 level?
 22 A. Well, once he became a three I believe
 23 somebody came in and watched him. But when he went in
 24 there I believe there was only one person in there at
 25 the time. Because we didn't have enough staff. And one

1 A. No.
 2 Q. Or about Mr. Knoff?
 3 A. With Laura?
 4 Q. Yes.
 5 A. Probably in passing what happened. But never
 6 had an answer.
 7 Q. You asked her what happened?
 8 A. Yes.
 9 Q. And what was her response?
 10 A. "I can't tell you. Personnel issue."
 11 Q. Have you ever heard it said by anyone that
 12 Ms. Roters was guaranteed protection from consequences
 13 from her restructuring of O&A?
 14 A. There was again a rumor on that. But I never
 15 heard anybody say that directly to me.
 16 Q. What is it that you heard about that?
 17 A. Well, that because she -- this is what I
 18 heard. That she had spoken to our director. And that
 19 she was given permission to change the structure in O&A.
 20 That she had been protected because of some kind of
 21 communication with our director. Whether that is true
 22 or not I don't know.
 23 Q. Do you have any idea who you heard that from?
 24 A. No.
 25 Q. Again, scuttlebutt?

1 A. Yes.
 2 Q. At some point you'll have the opportunity to
 3 review your transcript. Your transcript of this
 4 deposition. So if anything occurs to you later, like
 5 you couldn't remember a name or you do remember where
 6 you heard it, you'll have the opportunity to say so
 7 there if you wish.
 8 A. And then I could also tell you the date of
 9 when I went on that trip?
 10 Q. Sure.
 11 A. Because that might help to clarify some
 12 things.
 13 Q. Do you have any role in performance-based
 14 standards, data collection, or reporting, or anything
 15 like that?
 16 A. The PBS?
 17 Q. Yes.
 18 A. Yes.
 19 Q. What do you do there?
 20 A. There is a questionnaire that comes out. And
 21 I answer the questionnaire. There is also some -- when
 22 you do various reports those reports are reviewed and
 23 things of that nature. So how many suicides. How long
 24 were they on suicide. Things of that nature.
 25 Q. And then what do you do with that information?

1 instance, staff that was working during the daytime
 2 while school was on in order to have teacher's aides.
 3 Which is great to have the teacher's aides. But the
 4 teacher's aides and the teachers are teaching. And the
 5 person who sits in there and observes them are observing
 6 their behaviors or observing if you are getting that
 7 pencil and you are poking someone. If you are trying to
 8 do something like play with the computers. To do
 9 undermining things. Things of that nature. Does that
 10 make sense to you?
 11 Q. It does.
 12 A. So O&A, when a person is in there, there
 13 is a teacher -- and in O&A you could have one kid or you
 14 could have 12 kids in your classroom. There is a
 15 person, besides a teacher, who is dedicated to watching
 16 the kids. They do not assist in the teaching. They sit
 17 there and watch the kids. In Choices and Solutions we
 18 gave up that position to have teacher's aides. We have
 19 a great education program. The kids that we have who
 20 come through Choices will earn credits like you cannot
 21 believe. Many of them will end up with a high school
 22 diploma or they will end up with a GED. Our teachers
 23 are fantastic. And so are our teacher's aides. But it
 24 is that other part that we are kind of missing.
 25 Q. Is that a safety concern as far as you're

1 A. It is generated into the computer. The
 2 questionnaire is put into a secured box and given to
 3 LaMark, who tallies all of that stuff. Our names are
 4 not on them.
 5 Q. Have you ever heard anyone indicate that there
 6 is any pressure to not report serious issues like
 7 violent incidents or things like that for the sake of
 8 PBS numbers?
 9 A. No. I think they would never say it to me,
 10 because they know I wouldn't listen to them. I would
 11 put down what I thought. And many of my reports again
 12 say we don't have enough staff and I'm very worried
 13 about that.
 14 Q. What is it that worries you about not having
 15 enough staff?
 16 A. The children can see our patterns. They know
 17 that in the week there is a holiday that people can only
 18 work 40 hours a week. So they know there is not going
 19 to be enough people on board. They know more than the
 20 staff knows. They know when people are sick. They just
 21 have this radar. And what bothers me about that is that
 22 I don't think that the children can actually be watched
 23 appropriately. I guess it is because I have been with
 24 the department for many years. And one of the things
 25 that we used to have is we used to -- we gave up, for

1 concerned?
 2 A. In my opinion it is. Because it depends on
 3 who you are watching. We have gang kids. We have, you
 4 know, people who manipulate a lot of things. But it is
 5 getting better as far as watching -- the new
 6 superintendent is really watching and changing the
 7 security aspect of it and doing things of that nature.
 8 So it is becoming better. But at the same time it is
 9 very difficult for a teacher to be teaching and be able
 10 to discipline.
 11 Q. Have you ever heard other staff express
 12 concerns about safety at the facility?
 13 A. Yes.
 14 Q. Anybody in particular?
 15 A. It ebbs and flows with who is in the facility
 16 at the time.
 17 Q. Let's go back to fall of 2011. This is around
 18 the time of that all-staff meeting and hiring promotions
 19 concerns. Do you remember anybody talking about that
 20 sort of thing?
 21 A. I wasn't at that meeting.
 22 Q. Or just that time frame?
 23 A. Yeah. But I think that there was probably
 24 quite a bit of discussion about how much time the kids
 25 could spend in their room and O&A. It has gotten

1 better. It has gotten a lot better. And we do know
2 that kids shouldn't be in their rooms as much. There is
3 a lot of research on that and things of that nature.
4 But at the same time it is also -- the people that
5 we have in O&A, and in the whole building, they can
6 react pretty quick. And like I said earlier some of
7 them have been extremely traumatized where they may see
8 a man with a beard and make a decision that he is the
9 one that did something to them.

10 Q. Are you aware of whether there was an increase
11 in staff fears for their safety in 2010?

12 A. No. I'm sorry, I'm unable to remember that.

13 Q. As far as you recall, and in your opinion, was
14 there any change in the safety of the department from
15 the time Director Callicutt left and into Director
16 Harrigfeld's tenure as director?

17 A. Can you repeat that again?

18 Q. Is there any change in the relative security
19 of the facility between Director Callicutt's time as
20 director up through the present after Director
21 Harrigfeld took over? Increase? Decrease? The same?

22 A. I can't really speak to that specifically.
23 But I do know that -- you know, I had made this comment
24 earlier that I believe Ms. Grimm had been chosen by
25 Mr. Callicutt to do the job. And he used to spend a lot

1 Mr. Rohrbach. And I got pulled on the carpet in 2007
2 for making the comment that we didn't have enough staff
3 at a meeting that was a CRIPA training.

4 Q. And you were trying to express concerns about
5 the safety?

6 A. Yes. And I got -- because I wasn't polite to
7 the attorneys who were there. According to Mr. Rohrbach
8 I put them in a spot. They were just giving us
9 information. They didn't want information back. And I
10 have a memo to that in my purse.

11 Q. Can I take a look at that?

12 A. Yes.

13 Q. As far as you know this is a disciplinary
14 action?

15 A. They wanted to. This is the one that came
16 from Mr. Callicutt. And it is a string that goes up.
17 And if you want to read it out loud you are more than
18 welcome to.

19 Q. We'll mark that as the next exhibit once
20 counsel has had a chance to look it over.

21 (Exhibits 151 and 152 marked.)

22 Q. (BY MR. SCHOPPE) These are some e-mails from
23 October of 2007 produced by the witness. Can you just
24 tell me about these?

25 A. Well, as I was saying, I think I returned in

1 of time in the nurse's office with the door open and my
2 office was just down the way. So Betty would often say,
3 "I don't know why he is teaching me this. I don't know
4 why he is teaching me this. Maybe because if he is on
5 vacation I'll have to cover for him." And as time went
6 on -- because he did this a couple years in advance. So
7 I think he was kind of priming her for that position.

8 She is a nurse. She is an excellent nurse. I don't
9 think she is a person who had some of the knowledge that
10 Mr. Callicutt had as far as the policing. And I think
11 that perhaps different individuals who came in had
12 different points of views and things of that nature.

13 Because I do know that since Ms. Viner has come she has
14 seen things in a totally different way. We are going
15 through a big adjustment right now. And I think maybe
16 that when you do something so long that you don't see
17 things that are very visible. Does that make sense? So
18 I do think that Ms. Harrigfeld is taking a positive step
19 in the department by hiring Ms. Viner by getting us back
20 on track. So there was a period there that -- but I
21 also believe that Mr. Callicutt, who did hire me
22 originally as a first clinician, I do believe that there
23 was a good old boy syndrome going on.

24 Q. Sort of favoritism, cronyism kind of thing?

25 A. Yes. And one of his favorites was

1 2007. And there was a meeting that was a CRIPA
2 training. And I knew I was in trouble. Because it did
3 happen on Wednesday. And I went to see my boss right
4 away. I said, "You are going to hear some flack. I
5 voiced my opinion. And Mr. Rohrbach wasn't happy about
6 what I was saying." I said, "Of course, Mr. Rohrbach
7 knows Mr. Callicutt pretty good and I'm going to be in
8 trouble. You better tell Hulbert." So, of course, this
9 came. And I like the way they said it. "Anything you
10 think Superintendent Grimm and I need to know about the
11 staff's behavior during CRIPA training the evening of
12 Wednesday, October 3?" "Staff" was Rita Fell.

13 Q. So they are asking -- I'm sorry, who were they
14 asking?

15 A. They said staff's behavior. Staff's behavior
16 was Rita. Rita, you were inappropriate. And I said, "I
17 have spoken to my supervisor. Thank you for asking."
18 We are talking CRIPA. Of course we are. And then
19 Dr. Hulbert came to me and he said -- and Larry --
20 Dr. Hulbert was under Mr. Callicutt's wing. And he,
21 from what I understand, said that Dr. Hulbert was not
22 assertive enough for Mr. Callicutt. Therefore, he lost
23 his position. But we were never told why he lost his
24 position. Other than we don't need him. We'll assign
25 somebody else to do the job. But it was very hurtful.

1 He was very good at what he did. And people were after
 2 him, too. And how I know that is because one day I was
 3 picking up Donna Hislop from the airport and she asked
 4 me to give Deborah Day a ride back from the airport. So
 5 I picked them both up and took them to the office. And
 6 as soon as this Deborah Day got into the car she started
 7 asking me about Dr. Hulbert. Does he do this? Does he
 8 do that? And just started making a lot of negative
 9 comments about Dr. Hulbert. I didn't say a thing,
 10 because I thought she is after Dr. Hulbert. She works
 11 very close with Larry Callicutt. Any information will
 12 go to Larry and he'll be out. Or whatever. Because I
 13 didn't think he should be out. And I remember I was so
 14 upset that day that I told Donna Hislop. I said, "If
 15 you had not been in my car I would have opened up the
 16 door and said walk yourself. I would not have given her
 17 a ride. But out of respect for you, Donna, I gave her a
 18 ride." So this is where that comes together.

19 Q. How about that second document?

20 A. So the second document comes from Betty. And
 21 she is asking me -- and she sent it to everybody in the
 22 world. I mean, to everybody who was at the meeting.
 23 Et cetera. And I love that Mr. Hammari, who was a
 24 clinician at the time, who was at the meeting, said
 25 there was no disrespect, Betty. Rita was just being up

1 I would invite them to go directly to our director with
 2 their concerns. It is my expectation that in the future
 3 we treat everyone with respect, courtesy, and
 4 appreciation for each contribution and I will tolerate
 5 nothing less."

6 Q. What was your reaction to that in particular?
 7 Did you feel that was a genuine expression that
 8 criticism or these kinds of concerns were truly welcome?

9 A. No.

10 Q. Why not?

11 A. Why? Because the director was the one who
 12 started asking questions. So I'm going to go to an
 13 antagonist who is already saying what happened?

14 Q. So that was all in 2007.

15 A. Yes..

16 Q. Were other staff -- you mentioned Mr. Hammari.
 17 Were you aware of other staff being concerned about
 18 similar retaliation for expressing their opinions or
 19 concerns?

20 A. No. People just said, "Wow, you told it how
 21 it was." And one person said, "You were wrong." And I
 22 said, "Well, thank you."

23 Q. So some might disagree?

24 A. Yes. But there was a lot of people that said
 25 thanks for speaking up.

1 front and being truthful. And there was some emotions
 2 raised by the nature of the subject. Mistreatment of
 3 kids. And what they had given us is violations of other
 4 agencies and how they had done bad things. And I said,
 5 "Well, what about us? How do we not do that? We need
 6 more people so this doesn't happen." So, anyhow, I like
 7 that he said, "In my opinion we should welcome all free
 8 expression rather than require people to suppress it.
 9 Probably the people who interpreted the free expression
 10 as antagonistic were not oriented towards free
 11 expression in an open forum. Please welcome feedback in
 12 any form and don't view it as a sign of rebellion." And
 13 Mr. Hammari would tell you how it is. And he would say
 14 to me, "That's wrong, Rita." Or, "That is right, Rita."
 15 And this is why it is wrong. Again, he's a clinician.
 16 He's retired. He left on his own. So, anyhow, I
 17 believe it was a form of you are going to get punished.

18 Q. On the second page there is some bold-
 19 faced type from Director Grimm. Can you read that
 20 sentence?

21 A. "If I have staff that feel they are being
 22 targeted for retaliation or do not have the leadership
 23 they feel they deserve then I respectfully request these
 24 individuals to meet with me ASAP. And if these
 25 individuals do not feel comfortable talking with me then

1 Q. Do you know why they were thanking you?

2 A. Because a lot of people are fearful of losing
 3 their job. I mean, I could be fearful of losing my job,
 4 too. But I guess I am pretty verbal. And, again, just
 5 as Laura is a strong willed woman I think I am, too.

6 Q. Why is it that people were afraid of losing
 7 their jobs?

8 A. Well, think about in 2007 how many jobs were
 9 available. People were losing jobs left and right.
 10 People want to put food on their table.

11 Q. Are you aware of whether those concerns
 12 vanished at any point within the last several years in
 13 in the context that we are in a retaliation lawsuit now?

14 A. I think there is some people that are
 15 concerned, but they are not going to say anything
 16 because they think their voices are not going to be
 17 heard, anyway. I hear that even today. Why should I
 18 say anything because nothing is going to happen. I.e.,
 19 Mr. Tinker.

20 Q. Would it be fair to say that fear of
 21 retaliation is a long-standing problem with the
 22 department?

23 A. I don't know about -- I think it had been
 24 tremendously under Mr. Callicutt. I think it had been
 25 also under Ms. Betty Grimm. Because she was -- I don't

1 like using this word. But kind of a puppet or
2 mouthpiece for Mr. Callicutt. Whatever he said happened
3 or didn't happen. And I think with Ms. Harrigfeld
4 things are changing in a better direction. And I think
5 kind of getting us back on track. And I think the next
6 thing with Ms. Viner is getting us back on track. I
7 think people are still fearing, but not as much. If I
8 may add one piece. A little later after this incident
9 another thing happened. I have dual employment
10 permission from the department to have that other job
11 that I have had. And it was denied a few months after
12 this thing occurred. So I fought it. I hired an
13 attorney.

14 Q. You filed a lawsuit?

15 A. It was during the problem solving situation.
16 So what happened with it is I was granted back my
17 permission to do my classes. My other additional work.

18 Q. Why did you feel you needed to hire an
19 attorney?

20 A. Because I felt that I was being retaliated
21 against.

22 Q. Did you feel you could rely on the human
23 resources system to help you with that?

24 A. No.

25 Q. Why not?

1 They went through my supervisor.

2 Q. Did anyone tell you why that second job -- the
3 dual work --

4 A. Because I work with Canyon County that I was
5 feeding myself. They give me the classes. They send
6 individuals to us. We don't send it to them. And I had
7 it for years beforehand. Before when I left in 2000. I
8 had worked for them for ages. And when I came back they
9 said you couldn't do that.

10 Q. And you viewed that as a retaliatory act?

11 A. Absolutely. And in addition to that I had
12 asked them -- when I had gotten my nervous breakdown in
13 2001 I also said to them where is my paperwork from
14 2001? They conveniently lost it. Because actually if
15 someone has a nervous breakdown you should not be
16 speaking to that person if they have a nervous breakdown
17 because you can't answer the questions. So they should
18 have been speaking to my spouse. Or to my physicians.
19 Or to my -- somebody who is there for me. They never
20 did. I could have gone out on short-term disability,
21 but I did not do that. I just said I'll quit. Just
22 leave me alone. Because I was very sick.

23 Q. Have you ever heard any other employee express
24 concerns about the human resources process being unfair?

25 A. Oh, yes. Crystal left.

1 A. Because it is my belief human resources is
2 there for the department. It is not there necessarily
3 for the staff. So I had to hire my own attorney.

4 Q. When you say human resources. Would you be
5 referring to Julie Cloud or Pat Thomson?

6 A. Julie Cloud. Pat is very quiet. I tell Pat
7 sometimes, "You better check out what is going on, Pat."
8 And he knows that I'm going to tell him the truth. I
9 don't feel comfortable with Julie. Part of the reason I
10 didn't is when I had to have my own attorney -- my
11 current supervisor, Valarie Zuniga, had just become my
12 supervisor. And I asked her to be in my problem solving
13 meeting. And my attorney wasn't there. I had a letter
14 from the attorney. The problem solving asked for human
15 resources to come. So they were gathering a lot of
16 information. And at that point I said, "Why would I
17 give you this information without my attorney being
18 present? You are going to give it to Mr. Callicutt.
19 You are going to give it to our attorney. So that I can
20 cause my own death?" I said, "If you want to continue
21 with this I would be happy to. But my attorney will be
22 here." I did not get a letter from anybody that said it
23 was okay again. Ms. Cloud sent it to my supervisor and
24 said, "Please tell Rita she can work again." They
25 didn't even have the ability to tell me that directly.

1 Q. Crystal?

2 A. I can't remember her last name.

3 Q. Morales?

4 A. Morales. She voiced some of her opinions to
5 me that it was not a very healthy place to work. She
6 didn't get into a lot of information. She was very
7 careful. But was not comfortable.

8 Q. Where did she work?

9 A. She did human resource in our office two days
10 a week or something.

11 Q. Do you know where she is now?

12 A. I believe after that she went to work for
13 Health and Welfare. But I don't know whether that is
14 true or not. She was a nice lady. But she was
15 pretty new in that field, I think. And probably got
16 swallowed up.

17 Q. What was it that she told you?

18 A. It was an unhealthy organization.

19 Q. Was she talking about the department as a
20 whole? Or just human resources?

21 A. As a whole. Which includes human resources.

22 Q. Did she provide you with any specifics?

23 A. No. She was very unhappy.

24 Q. Do you know when she left?

25 A. I want to say pretty early. 2007. Because I

1 think she was in on this. I don't remember.
 2 Q. On the problem solving?
 3 A. Yeah. I think she was. Maybe she wasn't. I
 4 can't remember. It's been so long.
 5 Q. So she hadn't actually gone through problem
 6 solving herself but she was speaking --
 7 A. Oh, she was there to coordinate my problem
 8 solving things.
 9 Q. Any other employees express that kind of
 10 opinion about human resources that you know of?
 11 A. A lot of people have not gone to human
 12 resources anymore. I encourage them to go to human
 13 resources. Particularly if there is a problem. Like
 14 the Julie McCormick thing, that should have definitely
 15 gone to everybody.
 16 Q. What do you mean?
 17 A. Well --
 18 Q. Which Julie McCormick thing?
 19 A. The Julie McCormick thing that went on. When
 20 Sarah Cerda said something to me I said, "You need to
 21 tell your boss and human resources. This is a big
 22 deal." So I think that people will do that for that.
 23 But I don't think they will do that for their private
 24 stuff. I do know that currently we do have a man who is
 25 using the problem solving skills right now. Trying to

1 Q. What do you mean?
 2 A. There was probably some sexual abuse that
 3 occurred someplace along the line. I don't know the
 4 details. But I do know that he is no longer in
 5 practice.
 6 Q. Was that
 7 A. It may have been. I don't know the child's
 8 name.
 9 Q. Did you become aware at some point that
 10 allegations of sexual abuse against minors have been
 11 raised against Dr. Pines?
 12 A. After some information came out. Yes, I did.
 13 Q. Do you know when you heard about that?
 14 A. No. Well, I can't remember. I know it was on
 15 television. And there was a little bit of rumors going
 16 around. And that they were stopping his visitations.
 17 Because nobody goes in the building unless you are
 18 approved.
 19 Q. Would April of 2012 ring any bells for you in
 20 terms of when information to that effect about Dr. Pines
 21 might have come out or been discussed amongst staff?
 22 A. I don't think we ever discussed it amongst
 23 staff in any formal settings or things of that nature.
 24 I think it was just kind of like scuttlebutt. Hey,
 25 Dr. Pines can't come into the building. Then it hit the

1 go through it. But he is somebody who has been with the
 2 department a very long time. And somebody who is very
 3 aware of how the department works. So he is following
 4 all of the steps. So when they get to the next step
 5 that might include human resources he will be prepared
 6 to do it right.
 7 Q. And who is that?
 8 A. Mr. Porterfield.
 9 Q. Has he expressed concern to you that the
 10 process isn't fair? Or might not be fair?
 11 A. He is a very thoughtful man. He is the person
 12 that will go and read the whole policy and will follow
 13 policy to the T. Because he knows what the outcome can
 14 be. If he strategizes correctly somebody could actually
 15 be disciplined appropriately.
 16 Q. Do you know who Dr. Richard Pines is?
 17 A. Yes.
 18 Q. What do you know about him?
 19 A. Mr. Pines unfortunately was a local child
 20 psychologist who was used by numerous agencies. He
 21 worked for Family Program. He had foster kids in
 22 his own family. I had met with him through the
 23 Family Program. And I understood later on that he ended
 24 up having a person in our facility that was in
 25 foster care that should not have been under his realm.

1 television. That is all I remember.
 2 Q. In your opinion as a clinician and a counselor
 3 when that information became available to the department
 4 should he have been let in to visit with
 5 A. No. If there is any allegations he should not
 6 have been let into the building to see him.
 7 Q. Do you know whether or not he was let into the
 8 facility?
 9 A. No, I do not.
 10 Q. Why is it that you would say he should not be
 11 permitted in?
 12 A. If there is allegations of sexual abuse, until
 13 it is totally cleared, the child needs to be protected.
 14 Q. Would that hold true as well even if the
 15 allegations were not --
 16 A. Correct. Until it was cleared.
 17 Q. Hold on. Would that hold true even if the
 18 allegations were not with respect to a particular
 19 juvenile, but rather allegations of sexual misconduct
 20 with other juveniles or minors?
 21 A. Yes.
 22 Q. Do you know if was ever interviewed
 23 about -- or the juvenile that you are talking about --
 24 was ever interviewed about any possible sexual
 25 interaction with Dr. Pines?

1 A. No.
 2 Q. Is that a step that should have been taken?
 3 A. I believe it probably was investigated at the
 4 time by the area that he was in. He was not a Choices
 5 kid. I mean, there is 84 children in the facility. And
 6 it is hard to -- you know, you don't see everybody. You
 7 see your clients.
 8 Q. How about with respect to juveniles that
 9 Dr. Pines had treated in outpatient facilities? For
 10 example, I believe he was a contractor with Syringa
 11 House and Northwest Children's Home.
 12 A. I believe he was. And I believe he was also a
 13 contractor, like I said, for Family Program. And
 14 they place long-term foster children in various homes.
 15 So it probably should have been investigated years
 16 before anybody knew this.
 17 Q. Is it true that inmates from IDJC and/or other
 18 facilities were sent out to those facilities for
 19 treatment by Dr. Pines, as far as you know?
 20 A. Actually, Dr. Pines would not have sent them
 21 in the O&A process. It is the department's decision to
 22 send them to, at that time, Northwest Children's Home.
 23 Which we are not -- I don't believe we are using at this
 24 time. And Syringa House. It would be our
 25 responsibility to send them there. Does that make

1 Q. (BY MR. SCHOPPE) Have you ever heard anyone
 2 express any concern that there is bias against hiring
 3 veterans at the department?
 4 A. No.
 5 Q. Have you ever heard of anything said about
 6 that by Julie McCormick or Betty Grimm?
 7 A. No.
 8 Q. Has anyone ever suggested, as far as you know,
 9 that the merit system is not followed in terms of hiring
 10 and promotions?
 11 A. Yes. What I told you about with Donna Hislop.
 12 Q. Have you ever heard or reported that
 13 Ms. Roters referred to a juvenile as a dumbass? Not
 14 referred to, but actually calling a juvenile a dumbass?
 15 A. No.
 16 Q. Do you have any involvement in court
 17 proceedings involving juveniles? Juvenile court
 18 proceedings?
 19 A. I have not. But I could be.
 20 Q. How do you mean?
 21 A. Well, if a judge wanted me to go I would go.
 22 But usually I have not had to go to any at this point in
 23 all of the years I have worked for the the department.
 24 Q. Lucky you. Have you ever worked with Diane
 25 Miles?

1 sense?
 2 Q. Yeah, it does. What has Jo McKinney said to
 3 you about her treatment in the office by her coworkers?
 4 A. They are not nice.
 5 Q. Did she express any concern to you that the
 6 problem solving process wasn't working for her?
 7 A. Yes. I think one of the -- it is very obvious
 8 that she and Brenda -- I don't know her last name. That
 9 there was some kind of an issue. And Jo's office would
 10 be right there facing -- there is just these portable
 11 walls. So her desk would have been -- she would be
 12 facing this way (indicating). And one of the women that
 13 she was having an issue with was Brenda. And Brenda is
 14 now looking at Jo all day long.
 15 Q. Why is that a bad thing?
 16 A. Because I think they have their issues. And I
 17 think that Jo felt like she was under scrutiny at all
 18 times.
 19 Q. Do you think Jo's concerns are reasonable?
 20 A. Yes. I don't think I would like for
 21 somebody's desk to be facing me all day long. It would
 22 be awkward.
 23 MR. SCHOPPE: If we can take a short break. I
 24 think I may be close to being done.
 25 (Recess.)

1 A. Yes.
 2 Q. How so?
 3 A. Diane worked in the booth. Control booth.
 4 Diane Miles also -- gosh, I haven't seen Diane Miles for
 5 ages. I don't know what happened to her, either.
 6 Predominately in the booth. And occasionally she would
 7 walk the floor as an SSO or do some checks in the rooms
 8 and things of that nature. I would see her go down and
 9 come back. Also, she had offered a suggestion for a
 10 program that we did for a while. That was about it.
 11 Q. Have you ever heard that Ms. Miles had been
 12 charged with a DUI earlier this year?
 13 A. She told me that. She was embarrassed.
 14 Q. Do you know when she told you that?
 15 A. I can't remember when she told me that.
 16 Because she was really embarrassed.
 17 Q. Do you know if she was relieved of her
 18 transport duties?
 19 A. She was relieved. Well, the only thing I have
 20 seen her do has been in the booth and doing things on
 21 the floor. So I don't know if she has been released
 22 from her transport duties.
 23 Q. Did she say anything to you about having
 24 transported juveniles on a suspended license?
 25 A. No.

1 Q. Or driving herself to work on a suspended
 2 license?
 3 A. No.
 4 Q. Have you ever heard juveniles say anything to
 5 the effect that if they want to make a change in their
 6 program that all they have to do is hit staff? Anything
 7 like that?
 8 A. I have heard people say that they know
 9 how to manipulate out of the program.
 10 Q. What have you heard?
 11 A. If I say I'm suicidal I know I'm going to go
 12 on suicide watch. I know if I hit somebody I can
 13 probably leave this program. I know how to get out of
 14 here by doing various things. Like lying, cheating,
 15 manipulating.
 16 Q. And you have actually heard that from
 17 juveniles?
 18 A. Yes. At various times. It is a very common
 19 statement from them. I know how to get into Solutions.
 20 I know how to get to St. Anthony.
 21 Q. Is there some some truth to what they say?
 22 A. I would say there could be. For instance, a
 23 juvenile who is 18 years old. He knows that if he hits
 24 somebody and gets charged as an adult that he'll
 25 probably go to a jail if charges are pressed.

1 CERTIFICATE OF WITNESS
 2 I, RITA FELL, being first duly sworn, depose
 3 and say:
 4 That I am the witness named in the foregoing
 5 deposition consisting of pages 1 through 107; that I
 6 have read said deposition and know the contents thereof;
 7 that the questions contained therein were propounded to
 8 me; and that the answers contained therein are true and
 9 correct, except for any changes that I may have listed
 10 on the Change Sheet attached hereto:
 11 DATED this ____ day of _____, 2013.
 12 _____
 13 RITA FELL
 14
 15 SUBSCRIBED AND SWORN to before me this ____ day
 16 of _____, 2013.
 17 _____
 18 NAME OF NOTARY PUBLIC
 19
 20 NOTARY PUBLIC FOR _____
 21 RESIDING AT _____
 22 MY COMMISSION EXPIRES _____
 23
 24
 25

1 Q. Okay.
 2 A. And that is one way to get out of here.
 3 MR. SCHOPPE: I'm done. Thank you very much
 4 for your time.
 5 THE WITNESS: Thank you.
 6 MS. FONTAINE: That does it for us, as well.
 7 (Deposition concluded at 12:20 p.m.)
 8 (Signature requested.)
 9
 10
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 13
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 15
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1 ERRATA SHEET FOR RITA FELL
 2 Page ___ Line ___ Reason for Change _____
 3 Reads _____
 4 Should Read _____
 5
 6 Page ___ Line ___ Reason for Change _____
 7 Reads _____
 8 Should Read _____
 9
 10 Page ___ Line ___ Reason for Change _____
 11 Reads _____
 12 Should Read _____
 13
 14 Page ___ Line ___ Reason for Change _____
 15 Reads _____
 16 Should Read _____
 17
 18 Page ___ Line ___ Reason for Change _____
 19 Reads _____
 20 Should Read _____
 21
 22 Page ___ Line ___ Reason for Change _____
 23 Reads _____
 24 Should Read _____
 25 You may use another sheet if you need more room.
 WITNESS SIGNATURE _____

1 REPORTER'S CERTIFICATE

2 I, MONICA M. ARCHULETA, CSR No. 471, Certified
3 Shorthand Reporter, certify:

4 That the foregoing proceedings were taken
5 before me at the time and place therein set forth, at
6 which time the witness was put under oath by me;

7 That the testimony and all objections made were
8 recorded stenographically by me and transcribed by me or
9 under my direction;

10 That the foregoing is a true and correct record
11 of all testimony given, to the best of my ability;

12 I further certify that I am not a relative or
13 employee of any attorney or party, nor am I financially
14 interested in the action.

15 IN WITNESS WHEREOF, I set my hand and seal this
16 2nd day of October, 2013.

17
18
19
20
21 _____
22 MONICA M. ARCHULETA, CSR

23 Notary Public

24 P.O. Box 2636

25 Boise, Idaho 83701-2636

My commission expires August 3, 2018

EXHIBIT N

EXHIBIT N

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RHONDA LEDFORD, an individual; RAYMON)
GREGSTON, an individual; JO MCKINNEY,)
an individual; SHANE PENROD, an)
individual; KIM MCCORMICK, an)
individual; BOB ROBINSON, an)
individual; and GRACIE REYNA, an)
individual,)

Plaintiffs,)

vs.)

IDAHO DEPARTMENT OF JUVENILE)
CORRECTIONS, an executive department)
of the State of Idaho; IDJC DIRECTOR)
SHARON HARRIGFELD, in her individual)
and official capacities; IDJC)
JUVENILE CORRECTIONS CENTER - NAMPA)
SUPERINTENDENT BETTY GRIMM, in her)
individual and official capacities;)
and DOES 1-20,)

Defendants.)

Case No.

1:12-cv-00326-BLW

DEPOSITION OF CEAN SMALLS

OCTOBER 23, 2013

REPORTED BY:

BEVERLY A. BENJAMIN, CSR No. 710, RPR

Notary Public

Page 2

1 THE DEPOSITION OF CEAN SMALLS was taken on
 2 behalf of the Plaintiffs, at Anderson, Julian & Hull,
 3 250 South Fifth Street, Suite 700, Boise, Idaho,
 4 commencing at 9:05 a.m. on October 23, 2013, before
 5 Beverly A. Benjamin, Certified Shorthand Reporter and
 6 Notary Public within and for the State of Idaho, in the
 7 above-entitled matter.
 8
 9 A P P E A R A N C E S:
 10 For the Plaintiffs:
 11 Law Office of Andrew T. Schoppe, PLLC
 12 BY MR. ANDREW T. SCHOPPE
 13 910 W. Main Street, Suite 358
 14 Boise, Idaho 83702-5796
 15
 16 For the Defendants Idaho Department of Juvenile
 17 Corrections, Sharon Harrigfeld, and Betty Grimm:
 18 Anderson, Julian & Hull, LLP
 19 BY MR. PHILLIP J. COLLAER
 20 C. W. Plaza
 21 250 South 5th Street, Suite 700
 22 P.O. Box 7426
 23 Boise, Idaho 83707-7426
 24
 25

Page 3

1 I N D E X
 2 TESTIMONY OF CEAN SMALLS PAGE
 3 Examination by Mr. Schoppe 4
 4 Examination by Mr. Collaer 49
 5
 6 E X H I B I T S
 7 NO. DESCRIPTION PAGE
 8 None
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Page 4

1 CEAN SMALLS,
 2 first duly sworn to tell the truth relating to said
 3 cause, testified as follows:
 4 EXAMINATION
 5 QUESTIONS BY MR. SCHOPPE:
 6 Q. Good morning, Mr. Smalls.
 7 A. Good morning.
 8 Q. Thank you for coming. My name is Andrew
 9 Schoppe. I represent the Plaintiffs in this matter.
 10 Today I'm going to be basically asking you a
 11 series of questions, and I just need you to respond
 12 fully, completely, and truthfully. If you have a
 13 question about any of my questions or something is not
 14 clear to you or anything like that, by all means ask me
 15 to restate it, rephrase it, or repeat it, anything that
 16 helps you understand. Okay?
 17 A. Okay.
 18 Q. Have you ever had your deposition taken
 19 before?
 20 A. No.
 21 Q. I usually tell people, congratulations on
 22 that, sorry to break your record.
 23 Well, essentially, like I said, I'll be asking
 24 you those questions. I'd just like to know everything
 25 that you know, everything that you saw or heard. Even

Page 5

1 if you heard about it from someone else, go ahead and
 2 let me know that, and we'll follow those rabbits down
 3 those particular holes as we go.
 4 A. Okay.
 5 Q. If you need a break at any time, go ahead and
 6 ask for one. The only limitation on that is if I've
 7 asked you a question you need to respond to the question
 8 before taking a break.
 9 Your answers need to be audible. So things
 10 like "uh-huh" or head nods make sense to me as we are
 11 talking, but for the record that our court reporter is
 12 preparing it makes it unclear.
 13 A. Okay.
 14 Q. Do you have any questions about the process or
 15 anything like that?
 16 A. No, sir.
 17 Q. Well, can you tell me what it is you do at the
 18 Department of Juvenile Corrections.
 19 A. Yes. I'm a school psychologist out there at
 20 the Juniper Hills High School.
 21 Q. Is that at the JCC-Nampa facility?
 22 A. It is.
 23 Q. Is that inside the facility or --
 24 A. It is, yes.
 25 Q. What is it you do as a school psychologist

1 there?
 2 A. My role out there is, I do a lot of
 3 assessments, testing of kids. As kids come in the
 4 building for the first time, I assess them to see where
 5 they are at educationally. Achievement test,
 6 intelligence test, career inventory surveys, I also do
 7 like college prep with some of the kids who have
 8 finished high school.
 9 Q. Where do you plug into the system, like who do
 10 you work with in terms of -- I understand there are
 11 teachers there.
 12 A. There are teachers there, special education
 13 teachers, the principal, and then my boss too. He's Jim
 14 Pannell, and he works at headquarters, but I report to
 15 him.
 16 Q. Do you interface with staff in the other parts
 17 of the facility, like O&A or Solutions or Choices or
 18 things like that?
 19 A. I do, because the kids come through O&A, so I
 20 deal with the staff down there a lot. The other
 21 programs I do work with, but not very often. If they
 22 have questions, I do respond to them and help them out,
 23 help them understand.
 24 Q. You work with clinicians as well, like Rita
 25 Fell or people like that?

1 Q. Has that always been the case since you worked
 2 there?
 3 A. No. Before him was Glenda Rohrbach.
 4 Q. Anybody else?
 5 A. No.
 6 Q. Stepping back a little bit to your background.
 7 Are you from Idaho?
 8 A. I was born here, Mountain Home Air Force Base.
 9 I moved when I was 6 months old. My dad was in the Air
 10 Force so we traveled a lot, so pretty much everywhere
 11 I've been to.
 12 Q. And educationally, where did you go to high
 13 school?
 14 A. I went to high school at Cheney High School in
 15 Washington State.
 16 Q. When did you graduate there?
 17 A. '92.
 18 Q. And did you go on to college?
 19 A. I did. I went to a two-year school, Rick's
 20 College, Rexburg. I went on to Eastern Washington, and
 21 then I went to U of I up at Moscow.
 22 Q. When did you graduate?
 23 A. Which school?
 24 Q. Well, go ahead and tell me. So you went to
 25 Rick's for two years. Did you graduate with a degree

1 A. Dallas Payton, Don Baranco a lot, they are in
 2 O&A.
 3 Q. Do you work with any of the Plaintiffs? Do
 4 you know who the Plaintiffs are in the litigation?
 5 A. I believe so.
 6 Q. Out of that group, do you work with anybody in
 7 particular?
 8 A. Off and on Rhonda Ledford. She does
 9 transports, so I will ask her who is coming in so I can
 10 prepare what I need to do for that kid, yes.
 11 Q. Anybody else?
 12 A. Not really, no. I'm friends with most of
 13 them, so we do talk.
 14 Q. How long have you worked at the Department?
 15 A. I've worked there for five years.
 16 Q. Since 2008?
 17 A. 2008, yes. July 29th, to be exact.
 18 Q. And is it correct to say that Betty Grimm was
 19 the superintendent when you came on board?
 20 A. She was.
 21 Q. At that point in time was Larry Callicutt the
 22 director?
 23 A. He was.
 24 Q. You mentioned that you report to Mr. Pannell?
 25 A. Yes.

1 from there or did you just move to --
 2 A. Yes, an associate's degree there.
 3 Q. Okay. What was that in?
 4 A. Mostly social work.
 5 Q. And then you went to Eastern Washington; is
 6 that right?
 7 A. Yes.
 8 Q. What did you do there?
 9 A. Criminal justice. And Rick's was '96, summer
 10 of '96, and Eastern was December of '99.
 11 Q. Those are the graduation dates?
 12 A. Yes.
 13 Q. And what kind of degree did you get at Eastern
 14 Washington in criminal justice?
 15 A. B.A.
 16 Q. And then at U of I?
 17 A. I got a master's of ed there in the school of
 18 counseling and the school of psychology.
 19 Q. Are you a licensed psychologist, or what kind
 20 of licenses or credentials do you have?
 21 A. I'm a K through 12 counselor; I'm certified in
 22 that. I took all the necessary classes for school
 23 psych. I just need to take my practice and be certified
 24 there. I take classes in my internship for my school
 25 psych.

1 Q. Did you have a goal of working in criminal
 2 justice or corrections or juvenile corrections?
 3 A. When I was done with Eastern, I worked in
 4 corrections with the State over in Seattle, did that for
 5 two years. Then I applied for their Federal Bureau of
 6 Prisons and was hired there. And then moved to Colorado
 7 where I worked with the Bureau of Prisons down there in
 8 Colorado.
 9 Q. What kind of work did you do there in those
 10 correctional environments?
 11 A. In Washington state I worked as an officer,
 12 made it to senior officer there. I went to Colorado,
 13 same thing, officer, senior officer there. I worked
 14 with the gang intel. I was on the ERT team, which is
 15 the emergency response team, too in Colorado.
 16 Q. What year was it you graduated from U of I
 17 again?
 18 A. 2008 April.
 19 Q. So work-wise, it sounds like that probably fit
 20 in between your graduation from Washington, Eastern
 21 Washington and when you went back to U of I; is that
 22 correct?
 23 A. What's that?
 24 Q. Your work history?
 25 A. Yes.

1 A. Not maximum; high, high, a step low.
 2 Q. What kind of training did you have for that
 3 work that you did there?
 4 A. First aid, defensive tactics kind of stuff --
 5 I'm trying to think. Weapons qualifications, I had to
 6 do that. Verbal de-escalation kind of stuff.
 7 Q. Is there a standardized set of courses for
 8 correctional officers out there?
 9 A. No. You just had to certify in weapons
 10 training every year or so.
 11 Q. How long did you work for the Washington DOC?
 12 A. Two years.
 13 Q. And then is it fair to say you went to
 14 Colorado next, was it?
 15 A. Right.
 16 Q. And also worked for the Department of
 17 Corrections there?
 18 A. Federal Bureau of Prisons, yes.
 19 Q. And what did you do there?
 20 A. I was an officer again. Like I said, I did
 21 ERT team, which is emergency response training. I did
 22 some gang intel. I worked again in towers, just a
 23 variety of positions.
 24 Q. Any specialized training or certifications
 25 that you got in the course of those duties?

1 Q. So go ahead and tell me about your work
 2 history going back to when you started working for pay.
 3 You can skip high school jobs.
 4 A. Skip high school?
 5 Q. Yes.
 6 A. So I graduated high school. I joined the Army
 7 Reserve. Then I went to Rick's, served a mission for my
 8 church, came back to Rick's, finished my last year up
 9 there. And then I worked for Walmart for a little bit
 10 of time, got tired of that, decided to go back to
 11 school. That is when I went to Eastern. I was a
 12 full-time student there. During the summer I worked at
 13 the airport as a screener there. Finished up there at
 14 Eastern, then I got hired on with the State of
 15 Washington with DOC there.
 16 Q. Department of Corrections?
 17 A. Correct.
 18 Q. What did you do there at the Department of
 19 Corrections?
 20 A. I was just an officer there working the units.
 21 I worked chapel, visitation, just everything, transport,
 22 towers.
 23 Q. This is an adult correctional facility?
 24 A. It was high, high security.
 25 Q. Like maximum security?

1 A. Just the normal training, weapons qual,
 2 defensive training, first aid. Just the normal stuff
 3 for corrections.
 4 Q. When you were in the Reserve, did you do
 5 anything in particular there? Did you have a role?
 6 A. I was a supply specialist.
 7 Q. Just out of curiosity, where did you do your
 8 mission?
 9 A. Toronto.
 10 Q. At the Department of Juvenile Corrections are
 11 you AUF certified?
 12 A. I was when I first started, but then they took
 13 me off that. Glenda took me off that, so I am no
 14 longer. I have taken a modified course, that was back
 15 in I think May or June, and I have to redo that every
 16 six months.
 17 Q. Do you know why it was that Ms. Rohrbach took
 18 that away, as you said?
 19 A. I don't know. I think it was just the role I
 20 play in the building. I work with the kids a lot, so it
 21 kind of defeats the purpose if I'm restraining kids and
 22 I'm trying to talk with them too. That's my guess.
 23 Q. With respect to AUF certification, did you go
 24 through any training like that when you worked in the
 25 corrections departments that you talked about?

1 A. Yes. It was different but the same...
 2 Q. Similar principles?
 3 A. Yes.
 4 Q. In the adult context?
 5 A. Yes.
 6 Q. How long did you work at the Colorado DOC?
 7 A. Four years.
 8 Q. Up until when?
 9 A. 2006.
 10 Q. Is that when you returned to school at U of I?
 11 A. Yes.
 12 Q. So you used to be AUF certified, and I
 13 understand you have a limited certification of sorts.
 14 A. Yes.
 15 Q. Are you POST certified or anything like that?
 16 A. No.
 17 Q. In the course of assessing juveniles in the
 18 facility, how does that work? How do they get to you
 19 and where do you send them or how do you deal with
 20 people?
 21 A. When they first come in, I usually, within the
 22 first two or three days, I will pull them out of class,
 23 and there is a series of tests we do. We do the
 24 achievement testing, which is simply a math and reading
 25 test, and it's on the computer. Their results are

1 jobs?
 2 A. I guess responding to situations, codes when
 3 kids start acting up.
 4 Q. Did you talk with people in O&A about these
 5 concerns?
 6 A. No. I did talk with Mr. Knoff, and he was
 7 concerned about what was going on, how he felt he was
 8 being wronged. He wasn't fully able to do his job down
 9 there.
 10 Q. Did he express concerns about the safety of
 11 his staff and juveniles?
 12 A. Yes.
 13 Q. What did he have to say about that?
 14 A. Just the kids were running O&A pretty much.
 15 They had the upper hand because staff was limited in
 16 what they were able to do.
 17 Q. Did he refer to room time or lockdown time or
 18 anything like that?
 19 A. Room time was an issue, yes.
 20 Q. What did he have to say about that?
 21 A. I can't recall what he said. I just know he
 22 had concerns about that.
 23 Q. Was it something that had changed recently as
 24 far as you understood in talking with him or --
 25 A. I think it had to do with the new director,

1 printed out and their grade level form. So depending
 2 how they do, it spits out on the form where they are at.
 3 Intelligence testing I do there. Then I do kind of like
 4 an ADHD test also. And then a career survey test they
 5 do on the computer too.
 6 Once that is all done I write a report. And
 7 for the O&A clinicians I get them a partial report for
 8 what they need for the kids staffing they have in O&A.
 9 And then I keep the final report for education that I
 10 give to the teachers, and I'm able to talk to them and
 11 find out what the kids need, accommodations, that kind
 12 of stuff, what is best for the kids, how they are going
 13 to succeed in the school pretty much.
 14 Q. In your time at the facility, and specifically
 15 going back to November, October of 2011, do you recall
 16 employees discussing a petition or concerns over hiring
 17 practices at the Department?
 18 A. A petition, yes.
 19 Q. Do you recall what that petition was about?
 20 A. Just complaints about how things are being
 21 run, how staff weren't able to do their jobs. They felt
 22 they weren't able to do their jobs, really O&A, the
 23 staff down there.
 24 Q. When you say that, what is it that you have in
 25 mind when they are talking about how they cant do their

1 how she wanted to run things, kind of had a disagreement
 2 with what Mr. Knoff had going on for previous years.
 3 Q. When you say "new director," do you mean
 4 Director Harrigfeld?
 5 A. Harrigfeld, yes.
 6 Q. Have you ever heard other employees express
 7 similar concerns about safety for staff or juveniles?
 8 A. Yes.
 9 Q. Who else?
 10 A. Pretty much all the staff in O&A at that time.
 11 Do you want specific names?
 12 Q. Please.
 13 A. Well, Ms. Littlefield, Ms. Carnell, Mr. Inman,
 14 Ms. Reyna, those are the ones in O&A that I can remember
 15 offhand.
 16 Q. Did you talk with all these people or did you
 17 hear them expressing these concerns?
 18 A. People talk in there. They would come to me
 19 when I go down to O&A and talk. They would talk and I
 20 would listen.
 21 Q. And I think everybody understands that working
 22 in a juvenile corrections facility there is sort of
 23 inherent risks and danger there. Was this an unusual
 24 level of concern for safety of staff and juveniles?
 25 A. When I first started it wasn't, no, there was

1 no concern. But over the years it started to.
 2 Q. Did it get worse, better?
 3 A. It started to get worse.
 4 Q. Did you notice issues in your role, doing what
 5 you do at the school, or develop concerns of your own
 6 about safety and security at the facility?
 7 A. There was times when I felt concerned. I
 8 wasn't scared, but I did feel concern, where I was
 9 alert, I was more alert of those around me.
 10 Q. In November 2011 do you recall an all-staff
 11 meeting where Director Harrigfeld or Superintendent
 12 Grimm spoke with staff about these sorts of concerns and
 13 hiring practices?
 14 A. I do.
 15 Q. Were you there?
 16 A. Yes.
 17 Q. And do you recall how that meeting went?
 18 A. Yeah, not good. It was very, very -- there as
 19 a lot of tension in there.
 20 Q. Why don't you tell me what happened as best
 21 you can.
 22 A. What I remember, I remember Director
 23 Harrigfeld kind of opened it up for discussion and
 24 nobody was volunteering. I remember Dave Winkler rose
 25 his hand and said, I guess I'll start it. And he talked

1 Winkler was talking about, do you recall anything else
 2 he had to say about that?
 3 A. No.
 4 Q. Did he express what was happening as a result
 5 of this lack of consequences?
 6 A. The assaults were happening more often because
 7 of that. They were getting more violent, yes, and he
 8 dealt with them in his room. He was concerned for
 9 himself.
 10 Q. What does he do?
 11 A. He's a teacher in O&A.
 12 Q. Did you hear other staff echo those sorts of
 13 concerns?
 14 A. Yes.
 15 Q. What did you hear?
 16 A. Those staff I mentioned in O&A, the concern
 17 for their safety.
 18 Q. In the course of working at the Department,
 19 have you received legal training with respect to CRIPA
 20 or PREA, things like that?
 21 A. PREA.
 22 Q. Any training with respect to CRIPA, Civil
 23 Rights of Institutionalized Persons Act?
 24 A. I can't recall that.
 25 Q. Did you ever hear any staff express concerns

1 about consequences, how he felt the kids were not having
 2 consequences enough. And then it just kind of took off
 3 from there and other people starting chiming in.
 4 Q. And from what you recall, did he explain what
 5 he meant by "consequences"? Did it have an impact on
 6 safety or --
 7 A. How they weren't -- how would you say it?
 8 They weren't equaling the kid's behavior, I guess.
 9 Equal to the kid's behavior.
 10 Q. So was there a concern about not having
 11 sufficient deterrents for like violent assaults or
 12 things like that?
 13 A. Yes.
 14 Q. Have you ever heard juveniles express the
 15 belief that if they strike a staff or another juvenile,
 16 they can make a program change for themselves?
 17 A. I've heard some kids say that throughout the
 18 years, yes.
 19 Q. Is that something that you heard more of at
 20 that point in time when other staff were sharing these
 21 concerns about heightened safety risks?
 22 A. I heard it throughout my time there. I can't
 23 say that there was a specific time, but over the years I
 24 heard kids say that, make that comment.
 25 Q. With respect to the consequences that Mr.

1 that the rights of the juveniles were being violated
 2 with respect to their right to be safe from assaults?
 3 A. No.
 4 Q. What else did you hear at the all-staff
 5 meeting?
 6 A. I can't recall anything else. I just remember
 7 Dave's initial response, and that sparked a whole bunch
 8 of comments from individuals.
 9 Q. Did hiring practices or promotions practices
 10 also come up at that meeting?
 11 A. I can't recall that.
 12 Q. Have you ever talked about concerns over
 13 improper hiring or promotions practices with anybody
 14 else at the facility including the Plaintiffs?
 15 A. I'd just hear stuff in the hallways.
 16 Q. What sorts of things?
 17 A. Mostly it's about Laura Roters.
 18 Q. What is it that you've heard? And if you can
 19 tell me who you might have heard it from.
 20 A. I can't remember who I heard it from, just
 21 various people. Just the way she was hired a lot of
 22 people were unhappy with it.
 23 Q. Do you know why that was?
 24 MR. COLLAER: Objection; calls for
 25 speculation. If you know what they were thinking, go

1 ahead.
 2 Q. (BY MR. SCHOPPE) You can answer.
 3 A. Like I said, just they were not happy with her
 4 hiring process. They felt like she was the golden
 5 child, like she was handpicked for that position.
 6 Q. When you say "that position," was that the
 7 unit manager?
 8 A. Yes.
 9 Q. Unit manager where?
 10 A. I think that was Choices, I believe.
 11 Q. Did you ever talk with anybody about her
 12 qualifications for that position or --
 13 A. No.
 14 Q. Have you ever had your own concerns about
 15 hiring or promotions practices at the Department?
 16 A. No, I can't say I have.
 17 Q. How about with respect to safety and security,
 18 is that something that has concerned you?
 19 A. With that, I'll have to say it depends on the
 20 situation, yeah.
 21 Q. What do you mean by that, in terms of what
 22 kind of situations are you thinking of?
 23 A. The kid, not the kid. The background, I'm
 24 aware of that.
 25 Q. Have you ever discussed with any of the

1 can, and sometimes you'll remember something and
 2 sometimes you won't.
 3 What did you talk about with Tom about
 4 retaliation?
 5 A. He just feels like his role there as the
 6 maintenance person is being limited and has been through
 7 the years. He used to be able to do many things with
 8 the kids. Over the years it's been decreased, the time
 9 he spends with the kids.
 10 Q. What is it that he does with kids in the
 11 context of his work?
 12 A. He takes the kids and they do maintenance in
 13 the building, carpet cleaning, stripping floors, waxing
 14 floors, that kind of stuff. Just making the building
 15 look nice, presentable.
 16 Q. Is Tom someone you have spoken with about the
 17 safety and security problems or fears for staff and
 18 juvenile safety incidents?
 19 A. Yes, he's one person.
 20 Q. Is he someone, as far as you can tell, that
 21 has been vocal or outspoken about those kinds of issues?
 22 MR. COLLAER: Objection; vague.
 23 Q. (BY MR. SCHOPPE) If you know.
 24 A. What do you mean by "outspoken," other than
 25 just talking or --

1 Plaintiffs or anybody else at the facility at all any
 2 concerns that they might have had about retaliation in
 3 response to their reports of safety or security problems
 4 or waste of money, violations of law, things like that?
 5 MR. COLLAER: Objection; calls for speculation
 6 and assumes facts not in evidence.
 7 Q. (BY MR. SCHOPPE) You can answer.
 8 A. Yes.
 9 Q. Who did you talk with about that?
 10 A. Retaliation? I have talked to Mr. Tom, the
 11 custodian out there, maintenance.
 12 Q. Tom de Knijf?
 13 A. Yes. I can't pronounce that. I have a hard
 14 time with that.
 15 Q. It is a rough one. Anybody else?
 16 A. No, I can't recall offhand. But there has
 17 been several people who have mentioned that.
 18 Particularly on the lawsuit, they feel like they are
 19 being targeted, I guess, because of the lawsuit.
 20 Q. If names or anything, same with anything, if
 21 you can't remember a name or a date or anything like
 22 that, feel free to let me know later on. And you'll
 23 have an opportunity to review and correct your
 24 deposition transcript for anything that you might have
 25 forgotten. So it's not a test, just do the best you

1 Q. Sure. Is it something where it's not a secret
 2 that he has these concerns, that sort of thing?
 3 A. I think a lot of people there have that
 4 opinion about things out there.
 5 Q. Do you have any reason to doubt what Tom has
 6 said about his time or opportunity to work with the kids
 7 being limited?
 8 MR. COLLAER: Objection; calls for
 9 speculation, assumes facts not in evidence. Go ahead if
 10 you know.
 11 THE WITNESS: No. I've seen it throughout the
 12 years.
 13 Q. (BY MR. SCHOPPE) Are you aware of any
 14 particular reason why it is his time with juveniles has
 15 been limited?
 16 MR. COLLAER: Objection; lacks foundation,
 17 calls for speculation.
 18 THE WITNESS: I think a lot of people just
 19 don't like him, don't like how he interacts with the
 20 youth. He has a different approach. He does have a
 21 good rapport with the kids, they want to go out and work
 22 with him.
 23 Q. (BY MR. SCHOPPE) Are you aware of an incident
 24 recently in which Tom was accused of having used
 25 sexually harassing language or sexually offensive

1 language with respect to another employee?
 2 A. Yes, I'm aware of that.
 3 Q. Can you tell me what you know about that
 4 incident?
 5 A. From what I know is that he was with the kids,
 6 he was by his staff office, and they were talking about
 7 "cold packs," I believe that's the word he used. And a
 8 female staff overheard that and took offense to it and
 9 went to her supervisor and it went on from there.
 10 Tom told me that that is not what he meant.
 11 He had no idea what "cold packs" meant. He thought it
 12 meant a cold pack of beer or something like that. But
 13 it was in no way a sexual meaning, tone or anything.
 14 Q. Is that a term that you had ever heard before
 15 or you knew what it was?
 16 A. I had no idea what it was.
 17 Q. Do you know who the employee was that took
 18 offense to this?
 19 A. Yes. It was Rhonda Sheets.
 20 Q. Have you ever spoken with her about the
 21 incident?
 22 A. No, I have not.
 23 Q. Have you ever spoken with anybody else about
 24 that incident apart from Mr. Tom?
 25 A. Rhonda Ledford.

1 through them and try to squash it -- or not squash, but
 2 I guess keep it from getting bigger the best you can.
 3 Q. Are you aware of a step in the process being a
 4 written warning record being issued?
 5 A. No, I don't know the steps. I just have a
 6 clue of what it's kind of about.
 7 Q. Did you talk with Mr. Tom about the proposal
 8 by human resources to dock his pay in response to that
 9 incident?
 10 A. Yes.
 11 Q. Does that seem to you to be an unusual or an
 12 unreasonable response?
 13 A. Yes.
 14 Q. Why did you think that?
 15 A. There was no -- they didn't get both sides of
 16 the story. It just seemed like they were just going
 17 with what Ms. Sheets said.
 18 Q. When you say "they," who do you mean?
 19 A. Human resources.
 20 Q. Have you ever heard other employees express
 21 the belief that human resources, those processes are not
 22 fair to employees?
 23 MR. COLLAER: Objection; lacks foundation,
 24 vague. Go ahead.
 25 THE WITNESS: No.

1 Q. Anybody else at all?
 2 A. No.
 3 Q. Did you speak with Ms. Sheets about it?
 4 A. No.
 5 Q. Did you talk with Tom about what the proposed
 6 disciplinary action was from the Department in response
 7 to that incident?
 8 A. He talked to me. We talked, yes.
 9 Q. Did he tell you that there was a notice of
 10 contemplated action proposed?
 11 A. Yes.
 12 Q. Are you familiar with the progressive
 13 discipline system?
 14 A. No. I have never been through it, no.
 15 Q. Are you aware there is a progressive
 16 discipline system?
 17 A. Yes.
 18 Q. Are you aware of other people having gone
 19 through that?
 20 A. Yes.
 21 Q. Can you give me a sketch of what it is you do
 22 know about how the system works, the different stages
 23 that might be involved?
 24 A. From what I understand, is you go through
 25 human resources and you just kind of work things out

1 Q. (BY MR. SCHOPPE) Have you ever engaged in the
 2 problem-solving process?
 3 A. No.
 4 Q. Apart from staff in O&A, did you ever talk
 5 with anybody else or hear anybody else in the facility
 6 express concerns or sort of unusual concerns about
 7 safety or security?
 8 A. Yes, the Choices staff.
 9 Q. What did they have to say there?
 10 A. They felt a concern for their safety, just the
 11 policies and everything that are being written.
 12 Q. Is it a similar sort of pattern involving a
 13 lack of sufficient deterrents to juvenile violent
 14 behavior for example?
 15 A. That and staff on duty, yeah, lack of staff.
 16 Q. What do you mean by that?
 17 A. Not fully staffed, I guess.
 18 Q. With respect to retaliation, is there any
 19 other employees that you recall discussing that with or
 20 hearing their concerns that they were suffering
 21 retaliation in response to expressing these sorts of
 22 concerns or criticisms?
 23 MR. COLLAER: Objection; asked and answered.
 24 THE WITNESS: Just what I heard in the
 25 hallways passing by.

1 Q. (BY MR. SCHOPPE) Is retaliation something you
 2 are concerned about for like testifying here today or
 3 speaking up?
 4 A. Yes. Yes.
 5 Q. Why is that?
 6 A. Just my name is associated with this. Same
 7 thing with the list that was made back in 2011, I did
 8 not sign that because I did not want my name with that
 9 at that time.
 10 Q. Are you talking about the petition?
 11 A. The petition, yes.
 12 Q. Did you see the petition at the time?
 13 A. I saw bits of it. I don't recall what was on
 14 it.
 15 Q. Do you know who showed it to you or how you
 16 came to see it?
 17 A. Mr. Knoff.
 18 Q. Were you able to see when you looked at it who
 19 else had signed it?
 20 A. No. There was a list at the bottom, but no.
 21 Q. What was it that led you to not sign it or
 22 support it?
 23 A. I did not want to be caught up in the trouble,
 24 I guess trouble. I wanted my name clear. I thought
 25 about my family. I thought about just various things

1 anything about why it was she retired?
 2 A. No. She left pretty -- it was pretty sudden.
 3 Q. Did you ever hear anyone express the belief
 4 that this had something to do with timecard fraud?
 5 A. No.
 6 Q. Did you ever hear anybody express that belief
 7 with respect to Dave Rohrbach?
 8 A. Yes.
 9 Q. What did you hear about that?
 10 A. That he was padding his hours.
 11 Q. Who did you hear that from?
 12 A. Multiple people.
 13 Q. Any names that you can recall?
 14 A. No.
 15 Q. Would scuttlebutt kind of describe that?
 16 MR. COLLAER: Objection; that's been asked and
 17 answered, calls for speculation.
 18 THE WITNESS: Yes.
 19 Q. (BY MR. SCHOPPE) Have you ever heard reports
 20 or allegations of sexual misconduct involving staff and
 21 juveniles at the facility?
 22 A. Yes.
 23 Q. What have you heard about that?
 24 A. Julie McCormick comes to mind.
 25 Q. What do you know about that?

1 that were more to me, and I did not want that to be
 2 harmed in anyway.
 3 Q. Why did you think that might happen?
 4 MR. COLLAER: Objection; calls for
 5 speculation.
 6 Q. (BY MR. SCHOPPE) You know what you thought at
 7 the time; right?
 8 A. Yes.
 9 Q. Why did you think that might happen?
 10 A. I felt they might come after me next in some
 11 way.
 12 Q. Had you seen that sort of thing before, heard
 13 about that sort of thing before?
 14 A. No. It was just with the business of
 15 corrections in general.
 16 Q. You mentioned that your supervisor had been
 17 Glenda Rohrbach; is that right?
 18 A. Yes.
 19 Q. Do you recall when it was that your supervisor
 20 changed?
 21 A. December 2011.
 22 Q. And did Ms. Rohrbach leave the facility or
 23 resign or --
 24 A. She retired is what she said in the e-mail.
 25 Q. Did she say anything or did anybody else say

1 A. She had inappropriate relations with a
 2 juvenile there.
 3 Q. Is that
 4 A. Yes.
 5 Q. Did you ever work with
 6 A. Testing, yes, when he first came in the
 7 system.
 8 Q. Apart from that did you ever work with him?
 9 A. Not really, no.
 10 Q. Before you became aware of -- well, first of
 11 all, is it fair to say at some point you became aware
 12 that she had been terminated, Julie McCormick?
 13 A. Yes.
 14 Q. Prior to that point in time had you ever heard
 15 anything about her interacting inappropriately with male
 16 juveniles or spending too much time in Solutions or
 17 things like that?
 18 A. Yes.
 19 Q. What did you hear about that?
 20 A. That she spent an awful lot of time up in
 21 Solutions.
 22 Q. Who did hear that from?
 23 A. I heard that through Rhonda Ledford.
 24 Q. Anybody else?
 25 A. No.

1 Q. Did Rhonda or anybody else ever explain to you
 2 why that was of concern?
 3 A. No.
 4 Q. Have you ever heard anything else about sexual
 5 misconduct involving staff or juveniles?
 6 A. Diaz and Bryce who is a juvenile, and
 7 she was a staff. And that was before my time there, so
 8 I just heard that.
 9 Q. Do you recall how you came to hear about that?
 10 A. Can you repeat that?
 11 Q. Sure. Do you recall how you came to hear
 12 about that?
 13 A. Just through talk.
 14 Q. Same kind of thing, rumors?
 15 A. Right.
 16 Q. Is that Francine Diaz?
 17 A. Correct.
 18 Q. Did you ever hear anything else about reports
 19 or allegations of sexual misconduct between staff and
 20 juveniles?
 21 A. No.
 22 Q. Do you know whether you as an employee for the
 23 Department are a mandatory reporter of allegations like
 24 that, of sexual abuse or neglect or other abuse of
 25 juveniles?

1 A. Yes.
 2 Q. Who left?
 3 A. Mr. Inman, he left. Mrs. Carnell left.
 4 There's people trying to leave still, looking for other
 5 jobs, employment. Ms. Smythe, she left too.
 6 Q. Robin Smythe?
 7 A. Yes.
 8 Q. Did those people tell you why they left?
 9 A. Just the changes in O&A. Also, Ms. Roters,
 10 when she came down there, that's when a lot of them
 11 left. They either left or went to a different program,
 12 either Solutions or Choices.
 13 Q. Did you ever hear anyone express the belief
 14 that they had heard Ms. Roters had been sent to clean
 15 house or get rid of people in O&A?
 16 A. I heard that, yes.
 17 Q. Do you recall who you heard that from?
 18 A. No, I don't.
 19 Q. Have you ever had any concern or heard anyone
 20 express concern that there is a preference against
 21 hiring veterans?
 22 A. I did hear that at one time, yes.
 23 Q. What did you hear about that?
 24 A. Through Bob Robinson.
 25 Q. What did he have to say about that?

1 A. Yes, I would think so. That is the right
 2 thing to do.
 3 Q. Have you ever formed any concerns of your own
 4 about improper hiring or promotions practices at the
 5 Department?
 6 A. No.
 7 Q. After the November 2011 all-staff meeting that
 8 we were talking about earlier, what was the response to
 9 that meeting by the facility as far as you can recall?
 10 A. I know after the meeting Ms. Harrigfeld, she
 11 met with employees in the room down in O&A to hear their
 12 concerns.
 13 Q. As far as you can tell, or as far as you
 14 discussed with any other employees, were there any
 15 positive changes that came out of that with respect to
 16 safety or security?
 17 A. No.
 18 Q. With respect to O&A staff, what did they have
 19 to say? Did you talk with any of them about the
 20 facility's response to what had been expressed at that
 21 all-staff meeting?
 22 A. They felt that it was just a bunch of fluff
 23 pretty much and nothing changed. A lot of people left
 24 in O&A because of that.
 25 Q. Do you know who left?

1 A. From what I know, he was at a meeting and
 2 Julie McCormick said she will not hire a veteran or an
 3 ex-CO.
 4 Q. When you say "CO," do you mean correctional
 5 officer?
 6 A. Yes.
 7 Q. Any understanding or did Mr. Robinson say why
 8 she wouldn't do that?
 9 A. No, I didn't get that far with it.
 10 MR. SCHOPPE: Let's take a few minutes break,
 11 maybe ten minutes, then I think I could be done within
 12 the next hour possibly.
 13 (Recess taken from 9:58 to 10:27 a.m.)
 14 Q. (BY MR. SCHOPPE) Have you recently spoken
 15 with Alicia Caiola about disciplinary action involving
 16 Tom de Knijf?
 17 A. A couple months ago I did.
 18 Q. What did you talk about?
 19 A. She was concerned. She came up to me in the
 20 hall and she was like, Is Tom okay? And I'm like, Yeah,
 21 he's all right. She was like, Yeah, because he's kind
 22 of been kind of standoffish to me. He usually says hi
 23 to me and stuff, but he's been kind of distant. I said,
 24 He's all right.
 25 Then I kind of mentioned what happened with

1 Rhonda and how that affected him. He's kind of gun shy
2 now around people. He doesn't really interact with a
3 lot of people.

4 Q. Rhonda Sheets?

5 A. Yeah, Rhonda Sheets. So because of that
6 experience he doesn't really, I guess, confront people.
7 Not confront people. But befriend them, I guess,
8 because of that lack of trust, I guess, of people. See,
9 he's had issues since he's been there. People, instead
10 of talking to him about the situation, they go right up
11 the chain and tell them what Tom is doing wrong, and he
12 gets talked to or written up or whatever. And that has
13 been an ongoing thing for five years with him.

14 Q. Did Caiola discuss with you an incident where
15 he was alleged to have used the term "gang banging"
16 inappropriately?

17 A. Yes.

18 Q. What did she say about that?

19 A. She said that wasn't her that told. She said
20 it was Richard -- no -- was it Richard Duke or Tim
21 Rigsby? I think it was Richard Duke told upper
22 management about that, but it wasn't her. She wanted to
23 make that clear.

24 Q. So had you ever spoken with Tom about the
25 incident, the gang banging incident?

1 assist policy, what kind of situations might a staff
2 assist be called in?

3 A. Say, if a juvenile walks out of a classroom,
4 just leaves without asking or anything, they'll usually
5 get on the radio and say a staff assist Solutions
6 hallway or Choices hallway or something like that.

7 Q. Is that something that juveniles are not
8 supposed to do?

9 A. What's that?

10 Q. Is that something that juveniles are not
11 supposed to do, to leave?

12 A. Just get up and walk, no, that isn't allowed.

13 Q. Do they need to be -- typically, are they
14 supposed to be escorted between units?

15 A. Right.

16 Q. What happened in that kind of situation prior
17 to the implementation of the staff assist policy?

18 A. Usually it was called a code yellow, which is
19 just a few staff would respond, and it wasn't very
20 violent. It was just simply walking out of a room.
21 They would say, We have a code yellow in Choices
22 hallway, student walking out of a room. If it turned
23 violent, if it was fighting, an assault or anything, it
24 was code red.

25 Q. Are codes now called in those same kind of

1 A. Yes.

2 Q. And had it been your understanding based on
3 that, that Ms. Caiola had been the one who complained
4 about it?

5 A. Yes. Up the to point that I talked to Alicia,
6 yes.

7 Q. Had Tom indicated that was his understanding
8 as well?

9 A. Yes. Until I told him I had talked to Alicia
10 and this is what she told me, so I relayed it to him.

11 Q. So based on your conversation with her, she
12 never made any complaint about anything that Tom had
13 said.

14 A. Right. It was Richard Duke who overheard it
15 and then told.

16 Q. Do you know what a "staff assist" is?

17 A. Yes.

18 Q. What is that?

19 A. When you are having trouble with a juvenile
20 and you need extra help, instead of saying code red or
21 code blue or whatever, you say staff assist. And that
22 is something Ms. Viner implemented.

23 Q. Since she's been there?

24 A. Yes.

25 Q. Prior to the implementation of the staff

1 situations?

2 A. I believe they are still.

3 Q. And under a staff assist how is it that the
4 juveniles are dealt with or engaged with by staff?

5 A. Just they are talked to as they are walking in
6 the hallways, about the building.

7 Q. Is their movement impeded or anything like
8 that? Are they blocked or stopped or restrained?

9 A. I believe in the memo they were told not to
10 block, not to get in the way of the juvenile, but let
11 them walk.

12 Q. Have you ever heard anybody express any
13 concerns that this poses a safety risk to juveniles or
14 staff?

15 A. Yes.

16 Q. Who have you heard that from?

17 A. Just in general.

18 Q. Nobody in particular comes to mind?

19 A. I've had the concern.

20 Q. Why do you have that concern?

21 A. Just having a student walk around the building
22 is a concern to me. Again, am I afraid for myself? No,
23 but just knowing that somebody is walking around. I
24 don't always carry a radio, so I'm not always able to
25 hear what is going on. If somebody is walking around

1 and I walk into them, then that could be a situation
 2 right there.
 3 Q. This could be anybody from a juvenile with a
 4 nonviolent past to a juvenile with a very violent past?
 5 A. Right.
 6 Q. Based on your opinion does it pose a risk to
 7 other juveniles in the facility?
 8 MR. COLLAER: Objection; lacks foundation;
 9 vague, calls for speculation.
 10 Q. (BY MR. SCHOPPE) You have an opinion about
 11 it; right?
 12 A. I think it does.
 13 Q. Are you familiar with the other units in the
 14 facility, like Choices and Solutions, and what it is
 15 they are supposed to do?
 16 A. Somewhat, yes.
 17 Q. With respect to Solutions, do you know what
 18 that unit is for?
 19 A. It's for mental health and drugs, kind of a
 20 co-occurring unit.
 21 Q. Do you know whether or not Solutions had a
 22 drug and alcohol treatment program in the first couple
 23 of years of its existence?
 24 A. I want to say no, they did not, but I'm not
 25 sure.

1 juveniles are committed to the facility based on a
 2 crime, then released, and then they've committed another
 3 crime and that's why they are back?
 4 A. Right.
 5 Q. Why is that happening as far as you can tell?
 6 MR. COLLAER: Object to the form of the
 7 question; lacks foundation, vague and calls for
 8 speculation.
 9 Q. (BY MR. SCHOPPE) Or do you have an opinion as
 10 to why it's happening?
 11 MR. COLLAER: Same objection.
 12 Q. (BY MR. SCHOPPE) You can always answer any
 13 question.
 14 MR. COLLAER: If you have an opinion, you have
 15 one.
 16 THE WITNESS: I think a lot of kids front or
 17 skate through the program, so they are not getting what
 18 they need. I think kids want to come back because it's
 19 safe for them; it's fun for them.
 20 Q. (BY MR. SCHOPPE) As opposed to being in a
 21 gang or something like that?
 22 A. Yeah, or being at home or they are homeless.
 23 You get three meals, you get a place to stay, you
 24 shower, you get to watch movies, yeah.
 25 Q. Are you familiar with a situation in which a

1 Q. What is it that makes you think they didn't?
 2 A. Because they had a lot of mental health kids
 3 in the unit when it first opened up.
 4 Q. But no drug and alcohol treatment program as
 5 far as you recall?
 6 A. I don't think so, no.
 7 Q. Did Solutions open up right about the time you
 8 came to the Department?
 9 A. Yes. I was hired in that time frame, yes.
 10 Q. Have you or any other staff expressed concerns
 11 about recidivism rates or recommitment rates of the
 12 juveniles at the facility?
 13 A. Yes.
 14 Q. What sorts of concerns have you heard or had
 15 yourself?
 16 A. We are getting a lot this year, kids coming
 17 back and being recommitted.
 18 Q. What does that mean exactly?
 19 MR. COLLAER: Objection. Go ahead and answer.
 20 I'll withdraw the objection.
 21 THE WITNESS: What does "recommitment" mean?
 22 Q. (BY MR. SCHOPPE) Yes.
 23 A. Just coming back into the building, the O&A
 24 process, starting all over again.
 25 Q. So would it be correct to say that's where

1 banquet was held for Choices staff -- not staff, Choices
 2 unit juveniles?
 3 A. I've known of several of them. They are
 4 called -- I can't recall the name of them. But yeah,
 5 when they have the juvenile and usually a mentor or
 6 somebody comes and they have like a dinner, a gratitude
 7 dinner I think is what it's called.
 8 Q. So you talking about more of a one-on-one kind
 9 of thing?
 10 A. With a group of kids, yes.
 11 Q. Have you ever heard of more of a boy-girl date
 12 kind of banquet being held there at the facility?
 13 A. I don't know if it's called a "date," but yes,
 14 Solutions girls, yeah, they've had one.
 15 Q. Do you know who it was that arranged for that?
 16 A. No, I don't know.
 17 Q. Did you ever talk with Bill Morris about his
 18 application for the unit manager position Laura Roters
 19 was hired for?
 20 A. Yes.
 21 Q. What did you talk with him about?
 22 A. The process he went through. He felt he was
 23 wronged in that. I guess after his interview Dave
 24 Rohrbach came into his office and told him basically he
 25 didn't qualify for the position. Bill felt he was. He

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1 worked close to education in all units. So he felt like
 2 he was qualified.
 3 Q. Did he mention anything about supervisory
 4 experience or anything like that?
 5 A. He did.
 6 Q. Did he indicate he did have supervisory
 7 experience?
 8 A. Yes. He said he had multiple -- on the
 9 outside too, I think he was a contractor, so he
 10 supervised a lot of people.
 11 Q. Did he indicate any belief about Ms. Roters
 12 being awarded the position based on favoritism or
 13 cronyism?
 14 A. Yes, he mentioned that.
 15 Q. Have you heard anybody else say the same
 16 thing?
 17 A. There was multiple people that said that when
 18 she got hired.
 19 Q. Is that an opinion that you held as well?
 20 A. I had my thoughts about it, yes.
 21 Q. What did you think about it?
 22 MR. COLLAER: Objection; calls for
 23 speculation.
 24 Q. (BY MR. SCHOPPE) You know what you thought
 25 about it, right?

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1 A. Yes.
 2 MR. COLLAER: Same objection.
 3 THE WITNESS: It looked like she got
 4 handpicked with everything. That's me looking at it.
 5 She was hired for the position, she had it taken away
 6 from her, and then it was given back to her. That
 7 seemed kind of weird to me.
 8 Q. (BY MR. SCHOPPE) Do you play any role in
 9 assessing juveniles for release from the facility?
 10 A. No.
 11 Q. Just when they come in?
 12 A. Just when they come in for education purposes.
 13 Q. Did you know Julie McCormick at all?
 14 A. Just hi in the hallway.
 15 Q. Did you ever hear anyone express similar
 16 concerns about favoritism or cronyism in the way she had
 17 been hired as the supervising safety and security
 18 officer?
 19 A. Yes.
 20 Q. Who did you hear that from?
 21 A. Just, again, through talk.
 22 Q. Common sentiment kind of thing?
 23 A. Yes.
 24 Q. Did you form any opinions about that yourself?
 25 MR. COLLAER: Objection; calls for

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1 speculation.
 2 THE WITNESS: I had my thoughts again too.
 3 Q. (BY MR. SCHOPPE) What were those thoughts?
 4 MR. COLLAER: Same objection.
 5 THE WITNESS: I was told that she was an SSO,
 6 and she worked in the booth for a long time. And she
 7 applied for tech positions and never got them, and then
 8 all of a sudden she got that supervisor position. So
 9 just kind of wondered how that happens when you don't
 10 have -- when you start from the bottom and just all of a
 11 sudden you get to the top.
 12 Q. (BY MR. SCHOPPE) Do you recall who you spoke
 13 with about that?
 14 A. Rhonda Ledford. Again, I've talked to
 15 multiple people about that. They knew her more than I
 16 did.
 17 Q. How about Shane Penrod?
 18 A. Yes, he was one of them too.
 19 Q. How about O&A staff like Gracie Reyna, Lisa
 20 Littlefield, or Addison Fordham?
 21 A. Lisa Littlefield, yes.
 22 Q. Has anybody done or said anything to make you
 23 feel as though you couldn't give your full, free and
 24 truthful testimony here today?
 25 A. No.

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1 MR. SCHOPPE: I think I'm pretty much done.
 2 Do you have any follow up?
 3 EXAMINATION
 4 QUESTIONS BY MR. COLLAER:
 5 Q. Mr. Smalls, you were asked some questions
 6 about Laura Roters and the job of unit manager, getting
 7 that job, it's taken away, then she gets it again. Do
 8 you remember that?
 9 A. Yes.
 10 Q. Do you have any personal knowledge about the
 11 circumstances that led to her being hired the first time
 12 or the job being taken away and then her being rehired?
 13 A. Personal?
 14 Q. Yes.
 15 A. No. Again, it was just hearsay what I heard.
 16 Q. Do you have any knowledge about the
 17 application process she went through and the interview
 18 processes she went through?
 19 A. No, sir.
 20 Q. You haven't talked to any of the people on the
 21 interview panels when she was hired either time?
 22 A. No.
 23 Q. Mr. Morris, did he apply for -- was that the
 24 job in Solutions, unit manager in Solutions?
 25 A. That was the one Laura was applying for too

1 and got it. He applied for the same position.
 2 Q. Was that the first time or the second time she
 3 got the job?
 4 A. I'm not sure on that.
 5 Q. Do you know anybody else that applied for and
 6 was granted an interview?
 7 A. Joe Langan applied for it too.
 8 Q. How about Eric Cotton?
 9 A. I'm not sure on that.
 10 Q. You don't know one way or the other?
 11 A. I don't know that, no.
 12 Q. Would you consider Eric Cotton a qualified
 13 person for that spot?
 14 A. I wouldn't know.
 15 Q. He has the job now, doesn't he?
 16 A. He does now, yes.
 17 Q. Tell me, the staff assist process, in that
 18 situation, does that increase or lower the amount of
 19 restraints that are applied to kids?
 20 A. I think it lowers it, just the hands off,
 21 saying the hands off kids. So yes, it's going to be
 22 lower.
 23 Q. Since this policy has been put in place has
 24 the number of restraints that are applied to kids
 25 increased or decreased?

1 investigation that occurred with respect to that sexual
 2 harassment complaint was in any way inappropriate or
 3 done wrongly?
 4 A. Are we talking about getting both sides of
 5 the --
 6 Q. Yes.
 7 A. Yes, that should happen. Yes, I believe that
 8 should happen.
 9 Q. My question is, as far as you understand of
 10 how it happened in Mr. de Knijf's situation, did that
 11 occur?
 12 A. I hope it did.
 13 Q. You don't know.
 14 A. I don't know, but I hope it did.
 15 Q. I think you've already answered this. The
 16 employee petition that you were asked about, you did not
 17 personally read that, did you?
 18 A. I scanned through it.
 19 Q. You can't remember the details of it?
 20 A. No.
 21 MR. COLLAER: Nothing further.
 22 MR. SCHOPPE: Yeah, I think I'm done too.
 23 Thank you for your time. I appreciate it.
 24 (Deposition concluded at 10:46 a.m.)
 25 (Signature requested.)

1 A. Decreased.
 2 Q. Tell me, in the past year and a half, from
 3 what you've seen personally, has the incidents of
 4 assaults in the facility increased or decreased?
 5 A. Again, it depends on the kid, the situation.
 6 Q. Talking about overall, the number of assaults
 7 you see.
 8 A. Decreased a bit.
 9 Q. It's my understanding that you know about Tom
 10 de Knijf's sexual harassment complaint that was brought
 11 against him. What you know about that is your
 12 conversations with Mr. De Knijf?
 13 A. Right.
 14 Q. You haven't talked to the lady who made the
 15 complaint against him about, from her perspective, what
 16 happened?
 17 A. No.
 18 Q. Is it your understanding that when that
 19 complaint was made there was an investigation about what
 20 happened?
 21 A. There was.
 22 Q. When a complaint like that is made, as an
 23 employee would you expect an investigation would occur?
 24 A. Yes.
 25 Q. Do you have any reason to believe that the

1 CERTIFICATE OF WITNESS
 2 I, CEAN SMALLS, being first duly sworn, depose
 3 and say:
 4 That I am the witness named in the foregoing
 5 deposition, consisting of pages 1 through 55; that I
 6 have read said deposition and know the contents thereof;
 7 that the questions contained therein were propounded to
 8 me; and that the answers contained therein are true and
 9 correct, except for any changes that I may have listed
 10 on the Change Sheet attached hereto:
 11 DATED this ____ day of _____, 20 ____.
 12
 13 _____
 14 CEAN SMALLS
 15
 16 SUBSCRIBED AND SWORN to before me this ____ day
 17 of _____, 20 ____.
 18
 19 _____
 20 NAME OF NOTARY PUBLIC
 21 NOTARY PUBLIC FOR _____
 22 RESIDING AT _____
 23 MY COMMISSION EXPIRES _____
 24
 25

1 ERRATA SHEET FOR CEAN SMALLS
 2 Page ___ Line ___ Reason for Change _____
 Reads _____
 3 Should Read _____
 4
 Page ___ Line ___ Reason for Change _____
 5 Reads _____
 Should Read _____
 6
 Page ___ Line ___ Reason for Change _____
 7 Reads _____
 8 Should Read _____
 9
 Page ___ Line ___ Reason for Change _____
 10 Reads _____
 Should Read _____
 11
 Page ___ Line ___ Reason for Change _____
 12 Reads _____
 13 Should Read _____
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 15 Reads _____
 Should Read _____
 16
 Page ___ Line ___ Reason for Change _____
 17 Reads _____
 18 Should Read _____
 19
 Page ___ Line ___ Reason for Change _____
 20 Reads _____
 Should Read _____
 21
 Page ___ Line ___ Reason for Change _____
 22 Reads _____
 23 Should Read _____
 24 You may use another sheet if you need more room.
 25 WITNESS SIGNATURE _____

1 REPORTER'S CERTIFICATE
 2 I, BEVERLY BENJAMIN CSR No. 710, Certified
 3 Shorthand Reporter, certify: That the foregoing
 4 proceedings were taken before me at the time and place
 5 therein set forth, at which time the witness was put
 6 under oath by me;
 7 That the testimony and all objections made were
 8 recorded stenographically by me and transcribed by me or
 9 under my direction;
 10 That the foregoing is a true and correct record
 11 of all testimony given, to the best of my ability;
 12 I further certify that I am not a relative or
 13 employee of any attorney or party, nor am I financially
 14 interested in the action.
 15 IN WITNESS WHEREOF, I set my hand and seal this
 16 29th day of October 2013.
 17
 18
 19
 20
 21 _____
 BEVERLY A. BENJAMIN, CSR No. 710
 22 Notary Public
 23 P.O. Box 2636
 24 Boise, Idaho 83701-2636
 25 My commission expires May 28, 2019

EXHIBIT O

EXHIBIT O

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RHONDA LEDFORD, an individual; RAYMON)
GREGSTON, an individual; JO MCKINNEY,)
an individual; SHANE PENROD, an)
individual; KIM MCCORMICK, an)
individual; BOB ROBINSON, an)
individual; and GRACIE REYNA, an)
individual,)

Plaintiffs,)

vs.)

IDAHO DEPARTMENT OF JUVENILE)
CORRECTIONS, an executive department)
of the State of Idaho; IDJC DIRECTOR)
SHARON HARRIGFELD, in her individual)
and official capacities; IDJC)
JUVENILE CORRECTIONS CENTER - NAMPA)
SUPERINTENDENT BETTY GRIMM, in her)
individual and official capacities;)
and DOES 1-20,)

Defendants.)

Case No.

1:12-cv-00326-BLW

DEPOSITION OF MARK FRECKLETON

OCTOBER 16, 2013

REPORTED BY:

BEVERLY A. BENJAMIN, CSR No. 710, RPR

Notary Public

Page 2

1 THE DEPOSITION OF MARK FRECKLETON was taken on
 2 behalf of the Plaintiffs, at Anderson, Julian & Hull,
 3 250 South Fifth Street, Suite 700 Boise, Idaho,
 4 commencing at 9:09 a.m. on October 16, 2013, before
 5 Beverly A. Benjamin, Certified Shorthand Reporter and
 6 Notary Public within and for the State of Idaho, in the
 7 above-entitled matter.
 8
 9 A P P E A R A N C E S:
 10 For the Plaintiffs:
 11 Law Office of Andrew T. Schoppe, PLLC
 12 BY MR. ANDREW T. SCHOPPE
 13 910 W. Main Street, Suite 358
 14 Boise, Idaho 83702-5796
 15 For the Defendants Idaho Department of Juvenile
 16 Corrections, Sharon Harrigfeld, and Betty Grimm:
 17 Anderson, Julian & Hull, LLP
 18 BY MR. PHILLIP J. COLLAER
 19 C. W. Plaza
 20 250 South 5th Street, Suite 700
 21 P.O. Box 7426
 22 Boise, Idaho 83707-7426
 23 Also Present: Mark Crecelius
 24 Rhonda Ledford
 25

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1 I N D E X
 2 TESTIMONY OF MARK FRECKLETON PAGE
 3 Examination by Mr. Schoppe 5
 4 Examination by Mr. Collaer 140
 5 Further Examination by Schoppe 150
 6
 7 E X H I B I T S
 8 NO. DESCRIPTION PAGE
 9 177 - E-mail from Sharon Harrigfeld to JCCL 103
 10 All Staff; JCCS All Staff; District
 11 Five Staff; District One Staff;
 12 District Six Staff; Headquarters All
 13 Staff; JCCN All Staff, 7/22/13,
 14 Subject: Today's Incident
 15 178 - E-mail chain ending from Julie Cloud 108
 16 to Sharon Harrigfeld, Betty Grimm,
 17 10/1/2012, Subject: Confidential
 18 Personnel
 19 179 - E-mail from Julie Cloud to Sharon 114
 20 Harrigfeld, 7/12/2012, Subject: Nampa
 21 180 - E-mail chain ending from Betty Grimm 123
 22 to Julie Cloud, 6/6/2011, Subject:
 23 Nampa SSO Issue
 24
 25

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1 181 - E-mail chain ending from Betty Grimm 128
 2 to David Rohrbach, Pat Thomson, Julie
 3 Cloud, 10/27/2011, Subject: Unit
 4 Manager
 5 182 - SSO Expectations 135
 6 183 - Memo to Rhonda Ledford from Julie 136
 7 McCormick, 12/17/2011
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 9
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 11
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Page 5

1 MARK FRECKLETON,
 2 first duly sworn to tell the truth relating to said
 3 cause, testified as follows:
 4
 5 EXAMINATION
 6 QUESTIONS BY MR. SCHOPPE:
 7 Q. Good morning.
 8 A. Good morning.
 9 Q. Thank you for coming. My name is Andrew
 10 Schoppe. I represent the Plaintiffs in this matter.
 11 First of all, have you ever had your
 12 deposition taken before?
 13 A. No, sir.
 14 Q. Have you ever testified in court?
 15 A. No, sir.
 16 Q. Well, the general rules for today is I'll be
 17 asking you questions. In responding, I'm entitled to
 18 your best response to everything you know in response to
 19 a question, that can be including whether you saw it,
 20 heard it, even whether you heard someone else say it.
 21 If it comes from somebody else, just let me know that
 22 and I'll act accordingly.
 23 As you are doing that, your duty is to testify
 24 just as if you were testifying in front of a judge in
 25 court. So you understand all that?

1 A. Yes.
 2 Q. Is there anything that might negatively affect
 3 or impair your ability to recall or remember anything
 4 today, whether it's prescription drugs, fatigue,
 5 anything like that at all, memory problems?
 6 A. Not that I'm aware of, no. I'm not taking any
 7 drugs.
 8 Q. A little bit about your background. Are you
 9 from Idaho?
 10 A. Yes, sir.
 11 Q. Where did you grow up?
 12 A. Pocatello, Idaho.
 13 Q. I should actually go over a couple more
 14 preliminaries first. In responding, go ahead and wait
 15 for me to ask the question, finish the question, and
 16 then you can give the answer. That keeps a clean
 17 record, it keeps our court reporter from being extremely
 18 frustrated with us. Just do your best to give your best
 19 answer.
 20 If you ever need a break or anything like
 21 that, by all means just say so and we'll take a break.
 22 The only exception to that being if there is a question
 23 pending that you haven't answered yet.
 24 And if any of my questions don't make sense,
 25 you just can't make heads or tails of it or it would be

1 Q. What did you do in the military?
 2 A. I was a 71 Lima Fox 5. And that is a postal
 3 operations specialist. So I set up military post
 4 offices and did postal inspections.
 5 Q. Which branch in the armed forces is that?
 6 A. Army.
 7 Q. Where were you posted?
 8 A. South Korea for a year and a half and then in
 9 Georgia at Fort Stewart.
 10 Q. When was that that you were in South Korea?
 11 A. I believe it would have been '97, '95, '96,
 12 '97, somewhere in there. I can't remember exact dates.
 13 Q. I was there in 1995 for a little bit.
 14 A. Okay.
 15 Q. Did you try the kimchi?
 16 A. Oh yeah.
 17 Q. How long were you in the Army for?
 18 A. Four years.
 19 Q. Then when you left the Army what did you do
 20 next?
 21 A. I moved to Boise, tried -- well, I did get a
 22 job with Idaho Department of Transportation, and worked
 23 there until I received the job here at the Department of
 24 Juvenile Corrections.
 25 Q. In about what year was it you took that job

1 helpful to you to understand it better for me to
 2 rephrase it, as is often the case, by all means just say
 3 so and ask me and I'll be happy to do that. Okay.
 4 A. Okay.
 5 Q. Also, in responding, all your responses have
 6 to be audible like "yes," "no" or things like that
 7 rather than nods or "um-hmm," that kind of thing.
 8 A. Okay, thank you.
 9 Q. How long did you spend in Pocatello; did you
 10 go through high school there?
 11 A. I did. I went through high school there,
 12 moved to Arizona to finish high school, in Phoenix,
 13 Arizona, Mesa, Arizona, and then moved back to Idaho.
 14 Q. Tell me a little bit about your education
 15 after high school. Did you get any college or
 16 certificates or anything?
 17 A. I did. I went into law enforcement at the
 18 Idaho State University for the POST academy there, they
 19 have a civilian style POST academy you can join and go
 20 through. And worked in American Falls as a reserve
 21 officer during that time. Went from there to the
 22 military. And I did not graduate from POST at that
 23 time.
 24 Q. What was the college that was at again?
 25 A. Idaho State University.

1 with the Transportation Department?
 2 A. 2000, which is when I got out. And I believe
 3 I was only there a year. So I think I started with the
 4 Department in 2002 or so. So I may have started late,
 5 middle 2000.
 6 Q. Had you just been kind of interested in
 7 corrections work or law enforcement?
 8 A. Yeah, from working in law enforcement as a
 9 reserve officer in American Falls and...
 10 Q. In that role as a reserve officer what did you
 11 do or your responsibilities?
 12 A. To be honest, I don't remember a lot. It was
 13 a lot of FTO stuff, so I was with a training officer
 14 most of the time. Because I had no real experience in
 15 the field prior to that and I was going through the
 16 Idaho State University law enforcement program, there
 17 were some restrictions. And so I know I couldn't be --
 18 it wasn't like I drove around by myself and didn't
 19 arrest people or any of that kind of stuff.
 20 Q. Sure.
 21 A. Because there were some different restrictions
 22 for me even if I was a reserve officer than if I was
 23 just a normal person that went out and became a reserve
 24 officer.
 25 Q. What does FTO stand for?

1 A. Field training. It was a field training
 2 officer that I was with.
 3 Q. How did you become aware of the job
 4 opportunity with Juvenile Corrections?
 5 A. I don't remember.
 6 Q. Do you remember if you applied online or on
 7 paper?
 8 A. I don't. I apologize.
 9 Q. No apologies necessary. Again, just whatever
 10 you remember is fine.
 11 Also, if you remember something later, a name
 12 or something you forgot, feel free to let me know.
 13 A. Okay.
 14 Q. You also have an opportunity to review your
 15 transcript after all this, make any corrections or
 16 changes that you think might be appropriate.
 17 A. Okay.
 18 Q. So fair to say that you prepared an
 19 application for the Department, then heard back from
 20 them in some form?
 21 A. Yes.
 22 Q. Do you remember who you heard back from or
 23 what happened next?
 24 A. I don't remember who I heard back from. I do
 25 remember that I did an interview at the Department with

1 Q. Is that specific, that POST training, is that
 2 specific to Juvenile Corrections?
 3 A. It is, yes.
 4 Q. Are you also AUF certified?
 5 A. Yes.
 6 Q. Any other certifications or licenses,
 7 credentials of any kind?
 8 A. No, no other licenses. Certifications would
 9 be like CPR, first aid, all of the standards that we
 10 have to have in order to be POST certified.
 11 Q. So you mentioned that it was after you came
 12 back that you got POST certified. It sounds like you
 13 might have been at the Department for a while and then
 14 gone somewhere else.
 15 A. I did.
 16 Q. Tell me about that. How long were you at the
 17 Department for after 2000 when you first got hired?
 18 A. I believe I left in 2006 and started my own
 19 business, and worked here in the Boise-Meridian area
 20 until after the major housing crash and then I turned
 21 around and came back to the State for insurance and
 22 security.
 23 Q. What was that business that you started?
 24 A. I had a concrete curbing company as well as a
 25 landscape company.

1 Tom Knoff and Jim Smutny, was hired as an SSO by Jim
 2 Smutny.
 3 Q. Was he the supervising SSO?
 4 A. Yes. At the time the SSOs were not split out
 5 on their own, so they fell underneath a program. So I
 6 worked for the Choices program as an SSO.
 7 Q. Had you applied for the SSO position or was it
 8 just one that they thought you were --
 9 A. No, I believe I applied for the SSO position.
 10 Q. Did you start pretty quickly after the
 11 interview?
 12 A. I don't recall how fast I...
 13 Q. Was Mr. Smutny your first supervisor there?
 14 A. That's correct; yes.
 15 Q. Do you have any credentials, like you
 16 mentioned POST, are you POST certified?
 17 A. Currently yes, I am.
 18 Q. Do you know when you got POST certified?
 19 A. It wasn't until after I came back. I think I
 20 came back to the state in '09. So it would have been
 21 after that. When I was there previously they weren't a
 22 POST-certified position, so...
 23 Q. That was a program, as far as you know,
 24 developed later?
 25 A. It did, yes.

1 Q. How long did you run that for?
 2 A. It was around three years. I think that it
 3 was just shy of three years actually, I believe, because
 4 I was able to keep my benefits when I came back; my sick
 5 time and stuff rolled over. And I think at three years
 6 it doesn't, so it was just shy of that.
 7 Q. So when was it that you started back up at the
 8 Department?
 9 A. Sometime late '08 or first part of '09. I
 10 can't remember honestly.
 11 Q. So sometime before then people started
 12 building things and people started doing their own
 13 landscaping probably.
 14 A. Yeah.
 15 Q. How was it that you started back up with the
 16 Department; did you talk to somebody, did you reapply
 17 for a position?
 18 A. Reapplied for the position, and I believe
 19 online that time for sure because I think that was the
 20 only way you could do it then.
 21 Q. Did you go through the testing and
 22 interviewing process?
 23 A. Yes, sir.
 24 Q. Who did you interview with, if you remember?
 25 A. I don't remember at that time.

1 Q. Do you remember if it was a panel or just a
 2 person?
 3 A. I don't. I can tell you that I did go back
 4 and work for Tom as kind of an SSO in that area in a
 5 sense.
 6 Q. That is Tom Knoff?
 7 A. Yes.
 8 Q. What did you do when you came back to the
 9 facility, what was your position?
 10 A. Safety and security officer.
 11 Q. If you worked for Mr. Knoff, does that mean
 12 you were in O&A?
 13 A. Yes.
 14 Q. Were your duties in O&A essentially the same
 15 as they were in Choices?
 16 A. No. Duties when I returned this time as an
 17 SSO more of an assistant to help, like I just did --
 18 they were short staffed, I believe. So if someone
 19 needed a break, then they used an SSO in there to help
 20 break the therapy staff that are leaving, I helped with
 21 laundry. I was just kind of the security presence
 22 there. But I did have a little more interaction with
 23 the juveniles than I did in the past. In the past I
 24 worked nightshift only as an SSO when I first started.
 25 Q. Have you been with the Department continuously

1 Q. Did he report to the superintendent?
 2 A. I don't know. I'm not sure.
 3 Q. You mentioned the director and the
 4 superintendent that you had written to at the time. Who
 5 were they?
 6 A. I'm terrible with names, but I believe it
 7 was -- it was kind of confusing because there was a lot
 8 of changing going on right then. It wasn't Reinke, but
 9 something very similar to that was the name. And then
 10 Larry Callicutt was not the superintendent at the time,
 11 but I think there was an interim superintendent, and
 12 then Larry Callicutt came on later on. So there was
 13 a -- I apologize, I don't know the names of them. But
 14 there was three different people involved in that whole
 15 thing right at that period of time.
 16 Q. That's all right. It's not a quiz show or
 17 anything, just whatever you can remember.
 18 So you worked with Mr. Smutny for about a year
 19 and then what did you do?
 20 A. Then I applied for and was hired as the SSO
 21 supervisor.
 22 Q. So that position was created and then you
 23 applied for it. Did you go through an interview process
 24 or do you recall if it was an open application?
 25 A. It was. And I did apply and I did go through

1 since 2000 -- when you went back?
 2 A. Yes.
 3 Q. Stepping back to when you first started at the
 4 Department in 2000, you had indicated Mr. Smutny was
 5 your supervisor. How long did you work under him?
 6 A. I would have to say it was approximately, I
 7 think less than a year.
 8 Q. Why did that change; did he leave or you move
 9 or something?
 10 A. During that time there was no supervisor for
 11 the SSOs, for the safety and security officers, so I
 12 wrote a lot of e-mails to the director and the
 13 superintendent at the time because I believed that there
 14 needed to be some better supervision for the guys on
 15 nightshift. And so I kind of pushed for them to create
 16 a position for somebody to oversee just the SSOs. My
 17 experience when I first started, it just felt like there
 18 needed to be somebody there to watch the people and give
 19 them some guidance and that kind of stuff.
 20 Q. What was Mr. Smutny's title when you started?
 21 A. He was over the Choices program, but I don't
 22 believe he was a unit manager. So I'm not sure of his
 23 exact title.
 24 Q. Supervisor of some sort?
 25 A. Yes.

1 an interview, but I don't remember who.
 2 Q. So if that was a new position, did it then
 3 fall to you to help develop the duties and
 4 responsibilities of that spot?
 5 A. Yes, eventually it did.
 6 Q. Did you report to the superintendent at the
 7 time as the supervising SSO?
 8 A. Yes, that's correct.
 9 Q. Do you recall who the superintendent was?
 10 A. At that time it was Larry Callicutt.
 11 Q. Do you recall who the director was at that
 12 time?
 13 A. I do not.
 14 Q. Without expecting you to recite the job
 15 description or anything like that, what are the
 16 responsibilities of the supervising SSO?
 17 A. In the very beginning it was basically to just
 18 kind of make sure that the SSOs on nightshift were doing
 19 their job, I guess a pretty general description. I only
 20 worked on nightshift at that time with the SSOs. There
 21 was no dayshift SSOs necessarily and there wasn't any
 22 swing shift SSOs, so it was just one shift on nights.
 23 Q. Also, was all this work that you did, was this
 24 all at the JCC-Nampa facility?
 25 A. Yes.

1 Q. Have you ever been at any other facility?
 2 A. Yes. I've visited the others, but I haven't
 3 worked for them.
 4 Q. How long did you work as the supervising SSO?
 5 A. Until 2006 when I left.
 6 Q. In that time frame did the scope of the job
 7 expand or --
 8 A. Yes.
 9 Q. How so?
 10 A. It went from initially just kind of being on
 11 nightshift and making sure the night guys were doing
 12 what they wanted until Larry pulled me in to be part of
 13 the management team. So I worked the dayshift. The SSO
 14 field started to expand, so they wanted people during
 15 the daytime. We started taking over control of the
 16 control booth during the day. It started expanding into
 17 some transport stuff as we moved through. I took over
 18 the population management reports and transportation of
 19 juveniles as it grew. We moved into the swing shift
 20 coverage and then continued to grow from there to what
 21 it is now.
 22 Q. During that time frame was Larry Callicutt the
 23 superintendent that entire time?
 24 A. All the way up until 2006 when I left, yes.
 25 Q. At the time you left about how many people did

1 Q. When you became the supervising SSO, did you
 2 have any training; was there any additional training
 3 offered to you in terms of management or legal training,
 4 anything like that at all?
 5 A. Only what I've gone through as far as working
 6 or going to Idaho State University for law enforcement
 7 and then continuing education. I had been going to
 8 school pretty much the whole time while I was in the
 9 military for business management, didn't finish my
 10 degree, but...
 11 Q. Do you know how close you got to finishing
 12 your degree?
 13 A. I'm about six classes short.
 14 Q. Any plans to finish that up?
 15 A. Yes.
 16 Q. It's hard to get back to it.
 17 When you were in the Lima Foxtrot position --
 18 sorry, I forgot the number.
 19 A. You are okay.
 20 Q. When you were setting up post offices, did you
 21 supervise other soldiers?
 22 A. I did.
 23 Q. About how many; did you have a unit or a unit
 24 number or something like that?
 25 A. At Fort Stewart I believe there was 70

1 you supervise?
 2 A. It was, I think there was around 19 full-time
 3 staff. During part of that time we were working with
 4 Larry and we were working on trying to create some new
 5 positions and see what we needed to do, so we had quite
 6 a few temps. So there were, I think there was like 20
 7 people on my temp list, so I had a lot of
 8 responsibility, a lot of people to supervise, but not
 9 all of them were full time. So just the 19 full time.
 10 Q. So by the time you left is it fair to say that
 11 SSOs were working throughout the facility in different
 12 programs?
 13 A. Yes. Not necessarily working in the programs
 14 but working on the floor, in the control booth, and then
 15 running transportation.
 16 Q. How had transportation been handled before the
 17 time that SSOs took it over?
 18 A. I don't know.
 19 Q. How about the control booth?
 20 A. Control booth was handled primarily by their
 21 rehab techs.
 22 Q. Why was it that that changed, if you know?
 23 A. I believe it was to try to get the rehab techs
 24 out on the floor working with the juveniles and put the
 25 SSOs in the booth doing security.

1 mailrooms. So each mailroom has a soldier assigned to
 2 the mailroom and then they have a lieutenant that's
 3 assigned to the mailroom to oversee that. Then I also,
 4 because I was the inspector for those mailrooms, I
 5 didn't necessarily supervise the lieutenant, but I was
 6 in charge of supervising and making sure that the
 7 mailrooms were done like they were supposed to be done.
 8 Q. What was your rank, by the way, when you left?
 9 A. E4.
 10 Q. That is a specialist?
 11 A. Yes.
 12 Q. What does the "4" designate as opposed to 1 or
 13 2 or 3?
 14 A. It's the fourth level basically.
 15 Q. What is the next level up from there, is it --
 16 A. E5 would be sergeant.
 17 Q. Is that something like a corporal maybe or --
 18 A. Corporal would be a lateral promotion to E4.
 19 Q. As an employee of the Department, at any time
 20 did you receive training in CRIPA or PREA or other
 21 Health and Welfare reporting of child or sexual abuse or
 22 anything like that?
 23 A. We do PREA training now, yes.
 24 Q. That was since you returned to the facility?
 25 A. Correct.

1 Q. So all the way up until 2006 you were a
 2 supervising safety and security officer; is that right?
 3 A. Yes.
 4 Q. Then when you left you were still reporting to
 5 Mr. Callicutt; is that right?
 6 A. That's correct.
 7 Q. When you returned to the facility, did you
 8 again report to Mr. Callicutt?
 9 A. When I returned to the facility Mr. Callicutt
 10 had -- he may have even retired at that point, I think
 11 Sharon was now the director and Betty was the
 12 superintendent.
 13 Q. When you returned to the Department what was
 14 the position you took up?
 15 A. SSO, just a safety and security officer for
 16 the Department.
 17 Q. Who was the supervising SSO?
 18 A. I think it was Fitzgerald was his name.
 19 Q. How long was he your supervising SSO for,
 20 about?
 21 A. Not very long, but I couldn't tell you
 22 exactly.
 23 Q. Then who was next?
 24 A. Actually I took over again.
 25 Q. You took over?

1 A. Yes, that's correct.
 2 Q. What did you do as the supervisor in
 3 Solutions?
 4 A. I was in charge of supervising the Vanguards
 5 staff. So it was the boys in the Solutions unit, 12
 6 boys, and their staff.
 7 Q. Why was it called Vanguards?
 8 A. That's just the -- they each come up with a
 9 name. Actually, they hadn't had a name until we came up
 10 there. But we helped them create names for the program.
 11 It kind of gives them some ownership and some --
 12 Q. Esprit de corps?
 13 A. Yeah. There you go.
 14 Q. Was Solutions a new unit at the time that you
 15 applied for that position?
 16 A. I don't believe so. I think it was close
 17 to -- well, it was probably a year maybe, a year and a
 18 half old when I moved up there, I think.
 19 Q. What was it that Mr. Blume did?
 20 A. He was the supervisor for the Elements, which
 21 is the female side.
 22 Q. What was it Solutions did, what was its
 23 purpose?
 24 A. Rehabilitate juveniles with mental health and
 25 drug and alcohol.

1 A. Yeah. I took over and I wasn't there for very
 2 long again. It was just a short period of time that I
 3 was put back into that position.
 4 Q. Why was that, that it was a short period of
 5 time?
 6 A. Because I applied for a position with the
 7 Solutions unit as a supervisor up there.
 8 Q. Did you get that position?
 9 A. I did.
 10 Q. Was there also a unit manager at the Solutions
 11 unit?
 12 A. Not at that time, no.
 13 Q. So fair to say you were in charge of running
 14 the Solutions unit?
 15 A. There were two of us, it was Joe Blume and
 16 myself, both moved up there at the same time. They had
 17 done some reorganization I guess would be the term.
 18 There was a program manager that had left and so they
 19 took the program manager position I believe and split it
 20 into two supervisor positions.
 21 Q. Do you know who that program manager was that
 22 left?
 23 A. Scofield was the last name. I don't recall
 24 his first name.
 25 Q. Clay?

1 Q. Is that that co-occurrence?
 2 A. Yes, that's correct.
 3 Q. When you started there was there a drug and
 4 alcohol treatment program in place?
 5 A. No.
 6 Q. What year did you start there again?
 7 A. I don't actually recall.
 8 Q. That's okay. If it becomes clear to you later
 9 just let me know.
 10 A. Okay.
 11 Q. If Solutions was, if its purpose was to treat
 12 juveniles with mental health issues in combination or
 13 co-occurring with drug and alcohol treatment, what was
 14 in place to treat the drug and alcohol component?
 15 A. It was a DBT program. So it's dialectical
 16 behavioral therapy. Basically I think the general
 17 philosophy was they treated the whole person, the person
 18 as a whole rather than any one specific kind of ailment.
 19 Q. Did you work with psychologists or
 20 psychiatrists?
 21 A. There were two -- I'm not sure what his actual
 22 title is, but there were two group leaders at the time,
 23 that's what their title was, as far as our department,
 24 that both worked with them, one female, one male staff.
 25 Q. How long were you on the Solutions unit?

1 A. I don't know how many years.
 2 Q. More than one year?
 3 A. I think so, yes.
 4 Q. Assuming you left Solutions at some point,
 5 where did you go next?
 6 A. Back to the safety and security supervisor
 7 position.
 8 Q. Couldn't stay away?
 9 A. Apparently not.
 10 Q. Why did you go back to that position?
 11 A. I was asked to come back because there was no
 12 one in the position because Julie McCormick had been at
 13 that time, I believe, just asked to leave. I don't know
 14 the full circumstances around that. But she was gone
 15 and they needed someone to fill that position. I had
 16 the knowledge and the experience, and so I think they
 17 asked me to do it because of that.
 18 Q. Who did the asking?
 19 A. Betty Grimm.
 20 Q. Is that the position you've held since then?
 21 A. Yes, sir.
 22 Q. So would it be fair to say September, October
 23 2012?
 24 A. That's correct. Yes, I believe so.
 25 Q. Was there an interim supervisor between the

1 what did you do?
 2 A. Supervised the therapy tech staff that were on
 3 the Vanguard side.
 4 Q. Therapy techs, is that what rehab techs used
 5 to be called?
 6 A. Yeah, I'm sorry. The rehab tech is the same.
 7 Q. Apart from being the current supervising SSO,
 8 do you have other responsibilities concurrent with that?
 9 A. Most recently appointed the PREA site manager.
 10 I'm not exactly sure what the title is, but PREA site
 11 manager.
 12 Q. What do you do in that role?
 13 A. Help with compliance, just to make sure that
 14 the paperwork and the onsite portion of the PREA
 15 investigation is complete and turned in to Joe Blume and
 16 Mark Crecelius.
 17 Q. Is Mr. Blume in a different position than he
 18 was?
 19 A. Yes, sir.
 20 Q. What does he do now?
 21 A. I believe his title is quality assurance, but
 22 he works at headquarters now.
 23 Q. When you worked in Solutions who were some of
 24 the rehab techs you supervised while you were there, or
 25 who were all of them, if you can recall?

1 time Ms. McCormick left and when you took over?
 2 A. I don't think so other than myself. There was
 3 probably, I think there was kind of like a couple of
 4 weeks there that they called me the interim supervisor
 5 and I was doing both positions. But if there was
 6 someone before that I don't recall.
 7 Q. I'm not sure I was clear on when it was that
 8 you moved over to Solutions. You came back as an SSO in
 9 2008; right?
 10 A. Yes.
 11 Q. Then about how long were you in that position?
 12 A. As an SSO, I think, I want to say it was
 13 probably less than a year and then Fitzgerald left and
 14 then I put in for the SSO supervisor position. And then
 15 I think I was only there for like a year or less and
 16 then I went to Solutions as the Solutions supervisor.
 17 And then I was there until Julie left and then I came
 18 back as the SSO supervisor.
 19 Q. Just adding a couple years, would that come
 20 out to 2010 about? I don't want you to guess, but does
 21 that ring a bell as to when you might have gone to
 22 Solutions?
 23 A. I don't recall. I apologize.
 24 Q. That's okay. No need to apologize.
 25 So in Solutions working in the Vanguard unit

1 A. Anthony Ramos, Dan Keagy, Jessie Hinkle,
 2 Francine Diaz, Linda Smith, Rory Bell, Robert Fogg.
 3 Q. If that's all you can get for now, that's
 4 okay.
 5 A. There is a lot.
 6 Q. I understand. About how many?
 7 A. I think I just named seven, and I believe
 8 there is probably at least double that at one given
 9 time.
 10 During that time obviously Joe took a new
 11 position with the Department down at headquarters, so at
 12 one time I did supervise both sides of the staff for
 13 some period, and then of course there was turnover and
 14 that kind of stuff. So there was quite a few actually
 15 total. There is 14 staff assigned to the unit -- or 15,
 16 actually, I believe, 15 staff assigned to the unit. And
 17 so with those 15 and then any turnover during that
 18 period.
 19 Q. Are you talking about rehab techs?
 20 A. Yes, sir.
 21 Q. Is that about the same as other units in the
 22 facility?
 23 A. As far as total staff?
 24 Q. Yes.
 25 A. I believe that's, give or take, about the

1 same.
 2 Q. Is it fair to say the other two units in the
 3 facility are O&A and Choices?
 4 A. That's correct, yes.
 5 Q. What is it that Choices does?
 6 A. I'm not exactly sure, but I do know they are a
 7 drug and alcohol unit with higher primary offense kind
 8 of stuff and some gang-related issues, that kind of
 9 thing.
 10 Q. When you worked at the Solutions unit who did
 11 you report to?
 12 A. Dave Rohrbach.
 13 Q. What was his title?
 14 A. I believe it was program manager.
 15 Q. Was that the whole time you were at Solutions?
 16 A. I don't think so. I think at some point there
 17 was a change in there, but I'm not 100 percent positive
 18 on that.
 19 Q. At the time you left Solutions to become again
 20 the supervising SSO, do you recall who was running the
 21 show, who you reported to when you left?
 22 A. It would have been either actually Ashley or
 23 Laura, Ashley Jorgensen or Laura or no one. I don't
 24 know, it was quite changing right in there.
 25 Q. Laura Roters?

1 you collect or pass on up the chain?
 2 A. I do not.
 3 Q. Who was -- is it PREA coordinator?
 4 A. I don't believe that my title is a PREA
 5 coordinator. I think I'm the site -- honestly, I don't
 6 know the exact title. Site compliance manager or
 7 something similar to that. I'm not sure. The PREA
 8 coordinator for the Department, at least to my
 9 knowledge, would be Joe Blume.
 10 Q. Do you know who filled the role of PREA site
 11 manager before you took it over?
 12 A. I do not.
 13 Q. Do you know if there was someone in that
 14 position?
 15 A. If there was I'm not sure.
 16 Q. When you left the Department to go start your
 17 own business back in 2006, do you know who took your
 18 position as supervising SSO when you left?
 19 A. His name isn't going to come to me right now,
 20 I apologize. I can picture him, but no, I can't say his
 21 name right off the top of my head.
 22 Q. Someone other than Mr. Fitzgerald?
 23 A. Yes.
 24 Q. You knew at one time, but you can't remember
 25 now?

1 A. Yes.
 2 Q. One of those two?
 3 A. Yeah, one of the three options there. So it
 4 would have been I guess the superintendent, Ashley or
 5 Laura, one of the three, I'm not sure. I believe Laura
 6 was in O&A at that time, so it probably would have been
 7 Ashley or the superintendent.
 8 Q. In your role as PREA coordinator how is it you
 9 go about doing what you do; do you collect data from
 10 people, are there reports submitted to you?
 11 A. That is correct. If a report happens, the
 12 staff have a policy that they have to follow for
 13 reporting and paperwork that they have to fill out. And
 14 so far in my role I've only done it I think once or
 15 twice, so it's a little bit new to me. But basically I
 16 need to make sure that all of the paperwork is filled
 17 out correctly and that all the policies are followed
 18 properly, and that any kind of recommendations that are
 19 given by Mark or by Joe actually are followed through on
 20 the unit. So if there are certain things that need to
 21 be done, then they need to be.
 22 So just kind of a quality, I guess, in a
 23 sense, quality assurance, make sure those things are all
 24 done properly and all that stuff is documented properly.
 25 Q. Do you know what happens to the PREA data that

1 A. Yeah. I worked with him. It's one of those
 2 things where it's right on the end of your tongue and
 3 you can't...
 4 Q. That's okay. Again, if it pops into your head
 5 later just let me know.
 6 A. Okay.
 7 Q. When you started up again as the supervising
 8 SSO in 2012 after Ms. McCormick, were you given a job
 9 description, written job description of any kind?
 10 A. In 2012. There is a job description on the
 11 website, I mean, on our application process and that
 12 kind of stuff. It does tell you your job description.
 13 Q. Do you know if that was any different from
 14 what it had been when you had previously been the SSO,
 15 the most recent time?
 16 A. I don't. I don't think it had changed
 17 since -- after I came back, when I took over after
 18 Fitzgerald left, until I took over when Ms. McCormick
 19 left, I don't believe it had changed since then.
 20 Q. You mentioned earlier it was Ms. Grimm who had
 21 asked you to become or to return to that role; is that
 22 right?
 23 A. That's correct. I believe it was Betty Grimm,
 24 and there was an HR officer in there as well.
 25 Q. Would that have been Pat Thomson or Julie

1 Cloud?
 2 A. One of the two, I believe; that's correct.
 3 Q. Was that something that just emerged out of --
 4 did you just have one meeting or several meetings or how
 5 did it come about that you were speaking with them?
 6 A. I don't recall. I mean, I believe it was more
 7 than one small kind of meeting, not necessarily anything
 8 formal, but I think there was some conversation. But it
 9 was fairly quick. So when I say that, it very well
 10 could have been almost within a week or less.
 11 Q. How long did it take you to transition between
 12 the two; was it day-to-day kind of thing or did you take
 13 a week or so?
 14 A. Yeah. There was a little bit of a transition
 15 because I still had some responsibilities and obviously
 16 there needed to be some -- I ran groups and I was still
 17 helping chart, keep track of the kids in Solutions. So
 18 yeah, there were some carryover responsibilities there
 19 for a little while, but not for a long time.
 20 Q. I'm not sure if I asked you this or not. Do
 21 you know who took over your spot in Solutions when you
 22 left?
 23 A. I think it was Marylou. I don't believe there
 24 was -- Marylou Jeffries. I don't believe there was
 25 anybody in between.

1 A. Very well could be.
 2 Q. Clinician, does that ring a bell?
 3 A. Um-hmm, clinician.
 4 Q. What was his role as group leader, what did he
 5 do?
 6 A. He would have been kind of a dual role. His
 7 role would have been to work with the juveniles in
 8 counseling and then also as their case manager for the
 9 Solutions unit, which would entail him doing progress
 10 reports and staffings and that kind of stuff.
 11 Q. Were there any other group leaders like him?
 12 A. Yes. There would have been the same
 13 equivalent on the Element side.
 14 Q. Do you know who that was?
 15 A. It changed a couple of times. I honestly
 16 don't remember names. But Ashley Jorgensen was a
 17 counselor or clinician on that side as well, on the
 18 Element side. But there were I think two or three of
 19 them in there.
 20 Q. When those progress reports were prepared, did
 21 you see those or do you know where they went from there?
 22 A. No. I mean, we have access to all that stuff
 23 on the Intranet once they are put in the system and then
 24 saved into the juvenile records, so we do have access to
 25 that. But I wasn't involved and actually, I didn't know

1 Q. When you worked in Solutions, in addition to
 2 Mr. Blume and Mr. Rohrbach, did you work with Valarie
 3 Zuniga?
 4 A. Not in Solutions necessarily. I did not
 5 personally, no.
 6 Q. Would you know what she does or what she did
 7 at the time?
 8 A. Not at that time, no, I wouldn't have known.
 9 Q. When you worked at Solutions did you prepare
 10 or did your staff, the rehab techs there, prepare
 11 reports about what the juveniles were going through in
 12 their programs or progress reports, things like that?
 13 A. I did not prepare progress reports, that was
 14 the job of the group leader, which on the Vanguard side
 15 would have been O'Neal Rich.
 16 Q. Was he a rehab tech?
 17 A. No, sir. He's a clinical staff. I don't know
 18 his exact title.
 19 Q. Would he be like a social worker or
 20 counseling?
 21 A. MSW, something like that. He's got a master's
 22 in social work or something, but I don't know if that's
 23 100 percent accurate. I don't know what his...
 24 Q. Is he like the equivalent of Rita Fell, for
 25 example?

1 the whole process at that time, I guess, once they were
 2 completed, what they did.
 3 Q. Let's start back to when you started up again
 4 as supervising SSO. Can you tell me who you supervised?
 5 A. When I came back in 2006 or '07 or whatever it
 6 would have been; is that what you're asking?
 7 Q. No, in 2012.
 8 A. In 2012. I believe it would have been a total
 9 of 16 staff. I have to think about it. Supervision of,
 10 so -- I don't remember. I can't tell you all the names,
 11 I don't remember. I would have to go back and look and
 12 see who all was in there at that time. There has been
 13 some turnover, but not a lot. I can tell you the
 14 primary people that were probably there, but I don't
 15 know for sure if they were all there. I can't remember.
 16 Q. Was Ms. Ledford here, Shane Penrod, Mr. Amaya,
 17 those three?
 18 A. Yes. Mr. Amaya, I believe, would have been
 19 hired on after the fact. I don't remember. Maybe he
 20 was there. I can't remember. I apologize, it's been a
 21 long -- I don't remember if he was there or if I hired
 22 him after the fact.
 23 Q. No problem at all.
 24 How about Diane Miles?
 25 A. Diane was there, yes.

1 Q. Is Mr. Coronado an SSO?
 2 A. He is.
 3 Q. Since we were talking about a couple names,
 4 any others come to mind?
 5 A. Blackburn I know was there at that time. On
 6 the nightshift Robert Gonion was definitely there, James
 7 Corthen was definitely there, Shawn Crawford was
 8 definitely there. And the rest of them I'm not
 9 100 percent positive on.
 10 MR. SCHOPPE: We've been going a little over
 11 an hour, let's take a short break, about ten minutes.
 12 MR. COLLAER: Sure.
 13 (Recess taken from 10:09 to 10:24 a.m.)
 14 Q. (BY MR. SCHOPPE) When you took over the
 15 supervising SSO spot again in 2012, did you talk with
 16 Betty Grimm at all about why Julie McCormick had been
 17 terminated?
 18 A. I don't recall talking to her specifically
 19 about that, no.
 20 Q. Did you talk to anybody about it?
 21 A. I mean, it was talked about throughout the
 22 facility. Obviously it was a big deal and people were
 23 wondering what was going on. So I would say yes, that I
 24 probably did talk to somebody, but I don't recall
 25 specifically talking to Betty, no.

1 Q. How did you become aware there was a concern
 2 that she had been with him in there possibly
 3 inappropriately?
 4 A. I don't recall how I became aware of that.
 5 Q. In getting from Solutions to that
 6 office, is that something that gets tracked or
 7 monitored?
 8 A. I don't recall at the time. Only because they
 9 had changed some of the way that we call in movements,
 10 so I'm not sure.
 11 Q. How is it you call in movements now?
 12 A. If anything -- basically if there is a
 13 movement of anything less than the entire group, that
 14 needs to be called in to control. So if they're doing
 15 full group movements from the unit down to the classroom
 16 or something, then they don't have to call that in
 17 because it's the entire group. Everything else they're
 18 supposed to.
 19 Q. Why is it that you're supposed to call things
 20 in like that?
 21 A. Part of it is for safety, and I think that
 22 that has been part of the thing that has been enacted
 23 since this issue came about, was that in order to track
 24 where juveniles are in the facility, they wanted all of
 25 those movements called in.

1 Q. Are you referring to the allegations regarding
 2 McCormick and
 3 A. Yes.
 4 Q. What was your understanding of what had
 5 occurred at the time you took over the position?
 6 A. Well, at the time I took over for the
 7 position -- I don't recall exactly what -- I mean, I
 8 knew some because of being the supervisor in Solutions,
 9 obviously, of the Vanguard's. But as far as -- I didn't
 10 know the exact details.
 11 Q. What was it you knew with respect to your role
 12 as a supervisor in Solutions?
 13 A. That had been in the room with her for
 14 an extended period of time the night, a night. I'm not
 15 sure what night it was exactly. And that there was some
 16 concerns about inappropriate behavior in the room that
 17 night.
 18 Q. What room is it you are talking about?
 19 A. In her office, in Julie McCormick's office.
 20 Q. Where is that office with respect to where
 21 Solutions is located in the building?
 22 A. All the way down by the control booth. So
 23 it's right in front of the main control, in the front of
 24 the building -- not in the front of the building, but in
 25 front of the secure area.

1 Q. When you say "called in," are those called
 2 into the control booth?
 3 A. Yes, sir.
 4 Q. Then are those recorded somewhere?
 5 A. Yes, they are. We have an activity log in the
 6 control booth that records, that the officer is in
 7 charge of recording every movement that comes in.
 8 Q. You mentioned there was a change to that at
 9 some point. Do you know what that change was or those
 10 changes were?
 11 A. Yeah. The current practice was a change from
 12 what it was, and I don't honestly recall -- I don't
 13 recall what the original movement practice was.
 14 Q. Is that something that you developed or had
 15 any part in developing as the supervising SSO? You were
 16 the first supervising SSO; right?
 17 A. Yes. You are talking about in '02 or '01 or
 18 whatever?
 19 Q. Right.
 20 A. No. We didn't do that. It was completely
 21 different then, so we didn't really take care of that
 22 kind of stuff until later on. I was part of developing
 23 the software that we do the -- that we actually log the
 24 movements into. So I was part of helping to develop
 25 that. And that's kind of about that time when we

1 actually started really recording juvenile movements in
2 the facilities and that kind of stuff. So prior to that
3 it was called in on a radio, and I believe it was logged
4 in a handwritten logbook prior to that.

5 Q. So was that before you left in 2006 that you
6 were part of that development?

7 A. Yes.

8 Q. Who did you work with?

9 A. It was IT, obviously they are the ones that
10 wrote the programming, myself and Larry Callicutt.

11 Q. Do you know who you worked with in IT?

12 A. I don't recall his name off the top of my
13 head.

14 Q. Would it be fair to say you were telling them:
15 Here's what we want out of this system, and giving input
16 like that?

17 A. Yeah. I had written up what I thought should
18 be recorded in the system, and then I recall him coming
19 to the table with a drawing of the system that he was
20 going to program, and it was very similar. So I
21 remember that we were kind of both on the same page and
22 we both had -- so it worked really well that he was
23 doing it because he kind of understood the same kind of
24 concept that Larry and I were looking for.

25 Q. Sure.

1 that we did not have an ability to actually put a
2 staff's name with it.

3 Q. Would the system record who was making the
4 call, who is calling the information in?

5 A. No.

6 Q. Would it record who was moving the juvenile?

7 A. Only if it's one juvenile and they were taking
8 them to their office, then yes.

9 Q. So basically a call comes in and then whoever
10 is on duty in the control booth takes down that
11 information, if it's less than two juveniles, name of
12 the juvenile, where they are going, and who they're
13 with?

14 A. Yes.

15 Q. Again, by all means correct me if I'm wrong in
16 any respect.

17 A. You're absolutely right. I guess the -- not a
18 discrepancy, but the thing that could happen is you
19 could actually bring a juvenile to me in my office. It
20 would not record you bringing the juvenile, but it would
21 say they came to my office. Does that make sense?

22 Q. It does.

23 As far as you know, you were on the Solutions
24 end of things around the time Ms. McCormick was involved
25 with was that a procedure that was followed?

1 Was there a reason you wanted to change the
2 system?

3 A. Only because I believed that putting it into
4 the computer and stuff not getting lost or pages not
5 falling out of the book or whatever. I mean, just for
6 the safety of the system and being able to maintain that
7 data.

8 Q. Once an entry is made, like a movement that is
9 called in, what kind of information goes into that call?

10 A. It would be the number of juveniles. If there
11 is less than two, if there is one, then you have to tell
12 them the juvenile's name, where they're going from and
13 to. And now since the change they've added the ability
14 to put in -- so it would go, one juvenile so and so from
15 Choices to Solutions with a clinician, and then you can
16 put the clinician's name in, or with a person.
17 Typically, mostly clinicians or the clinic, nursing
18 staff, and that kind of stuff are the ones that move
19 them individually now.

20 Q. With respect to the change and talking about
21 this, does it refresh your memory as to when things
22 might have changed?

23 A. It was definitely after the Julie McCormick
24 issue. And primarily that was just to record the --
25 because the general information was there, it was just

1 A. I don't recall because I don't believe that --
2 I don't know. I apologize.

3 Q. Once an entry is made in the system, can that
4 be changed or altered or deleted?

5 A. It can be altered only for a few lines. So
6 after so many entries, then it becomes a permanent
7 record.

8 Q. Is that a change, that alteration or a
9 change -- can it be deleted as opposed to just altered?

10 A. I don't believe so.

11 Q. It could be overwritten maybe with some new
12 information but not deleted as an entry?

13 A. Correct.

14 Q. Who would have the ability to make that
15 alteration?

16 A. Whoever is working in the control booth at the
17 time can actually make adjustments. And for instance,
18 if a movement was called in and they said, I've got nine
19 juveniles moving from O&A to the gym, and in the process
20 of that, you've already done the data entry, two more
21 kids are added to that, so it goes from 9 to 11 or
22 something, you can actually go back and change that data
23 entry from 9 O&A to 11 O&A. Does that make sense?

24 Q. Sure.

25 Is that while it's still within that time

1 frame?
 2 A. Yes.
 3 Q. Number of entries?
 4 A. Correct.
 5 Q. Once that record becomes permanent in the
 6 system, is there a way of changing that or altering it
 7 or deleting it?
 8 A. Not that I'm aware of.
 9 Q. Not by the control booth?
 10 A. Not at all by the control booth.
 11 Q. Not by you as the supervisor?
 12 A. No.
 13 Q. Do you know where the records go, where they
 14 are stored?
 15 A. I do not.
 16 Q. As far as you know, is that system
 17 administered exclusively by IT in the Department?
 18 A. I don't know.
 19 Q. Do you know if Julie McCormick's movements
 20 with were recorded, say, within the six months
 21 preceding her departure from the facility in August?
 22 A. I don't know.
 23 Q. Have you ever looked to see if they were
 24 recorded?
 25 A. No, I have not.

1 A. I don't recall. It was either one of the two.
 2 Q. Did either one of them indicate she had any
 3 goal of moving to Solutions or did she have a reason for
 4 wanting to know more?
 5 A. Yes. What Julie had talked to me specifically
 6 about was my career path and how I had been the SSO
 7 supervisor and then moved into program. So she related
 8 to that a lot. I believe that she kind of looked at
 9 that as a mentor kind of a thing. So she wanted to kind
 10 of follow the same path. This is what she relayed to
 11 me.
 12 Q. With respect to Betty, did she indicate what
 13 too much time was? "Too much" indicates there is
 14 something wrong about it, but why was that?
 15 A. Not to me specifically, no, that I recall.
 16 Q. Did anybody else indicate that they thought
 17 she was spending too much time there?
 18 A. All the staff, my staff would talk about it.
 19 So whenever Julie would come to me, I would kind of help
 20 reiterate the fact that if you are going to do it, you
 21 have to do it in the right time and the right way and
 22 that kind of stuff.
 23 Q. Did you or anybody else notice or indicate
 24 that they noticed she was spending time with in
 25 particular?

1 Q. As far as you know, should they have been
 2 recorded if she was moving one juvenile at a time like
 3
 4 A. I don't know, because of the changes. So I
 5 don't know if they should have been or not at that
 6 point.
 7 Q. Prior to the time that Ms. McCormick left the
 8 facility in August of 2012, had you heard anyone express
 9 any concern about the time she was spending with males
 10 or juveniles on Solutions or with in particular?
 11 A. Yes. Not in particular, but yes, with
 12 males and the juveniles in that area, yes.
 13 Q. What did you hear about that and who did you
 14 hear it from?
 15 A. I knew that Betty had talked to, potentially
 16 had talked to me, I don't recall her speaking to me
 17 specifically. But Julie had come and talked to me
 18 herself as well. So I believe from both sides, but I
 19 don't know for positive.
 20 But what it was about was her just spending
 21 too much time in the Solutions area trying to, at least
 22 what was told to me was she was trying to learn the
 23 program and wanting to understand the Solutions program.
 24 Q. Who told you that; was that Betty that told
 25 you that or --

1 A. Not that I recall.
 2 Q. How about [REDACTED] ?
 3 A. Not that I recall.
 4 Q. At any point prior to the time that
 5 Ms. McCormick left the facility in August of that year,
 6 were you made aware of any monitoring that was being
 7 done of her or were you asked to watch her or anything
 8 like that?
 9 A. No, I was not.
 10 Q. Did Ms. Grimm or Harrigfeld or Ms. Cloud or
 11 anybody indicate to you that they were watching
 12 Ms. McCormick?
 13 A. Not to my knowledge.
 14 Q. Did you talk about, apart from Solutions
 15 staff, did that issue, her spending too much time on
 16 Solutions, come up in any other context, talked about
 17 with any other staff or anything?
 18 A. Not that I'm aware of, no.
 19 Q. When you took over as supervising SSO did you
 20 move into the same office that Ms. McCormick had had?
 21 A. I did, yes.
 22 Q. At any point were you interviewed by anyone
 23 from law enforcement concerning their investigation into
 24 the allegations?
 25 A. Not that I recall.

1 Q. Or were you interviewed by anybody at all
2 about those allegations?
3 A. No, not that I recall.
4 Q. As a supervisor yourself, is there any
5 particular reason for you to spend time in Solutions
6 other than when you're moving juveniles or things like
7 that?
8 A. The only time that I as an SSO supervisor
9 would need to work with a juvenile, any juvenile in
10 particular, would be to resolve grievances or, I should
11 say, in order to do investigations for any kind of
12 batteries or that kind of stuff. I do do some of that
13 stuff in the facility as well. So if there is
14 contraband found or that kind of thing, as the SSO
15 supervisor that is sometimes tasked to me.
16 Q. When you were working in Solutions did you
17 find it odd that she was spending so much time there,
18 apart from anything that Betty Grimm or anybody may have
19 said?
20 A. No, I didn't find it odd because I had a lot
21 of conversations with her about what she wanted to do.
22 So there was concern about her not being able to do her
23 job as the SSO supervisor. My take on it the whole time
24 was not so much that she was actually doing anything
25 inappropriate with the juveniles or anything like that,

1 Q. Why would that be?
2 A. Because part of their position is to the
3 safety of the juvenile and the staff and everybody, so
4 yeah.
5 Q. If you had had that information about
6 being infatuated with Ms. McCormick and Ms. McCormick
7 having boundary problems, what would your response have
8 been?
9 A. My response would have been to talk with the
10 group leader, which would have been O'Neal Rich, to
11 inform him and potentially his treatment team to go in
12 and talk to them about what boundaries are and that kind
13 of stuff. So I would imagine that would be...
14 Q. Would that have caused you to monitor her more
15 closely or instruct staff to do so?
16 A. Absolutely, yes.
17 Q. And to also monitor more closely?
18 A. Yes.
19 Q. But you were never given any of that
20 information all the way up until the time you left
21 Solutions?
22 A. Correct.
23 Q. Those steps you indicated you would take about
24 talking with Mr. Rich or other staff about it, would
25 that have been for the safety of

1 but that she was maybe not taking care of her job as an
2 SSO supervisor. So when she would come talk to me, I
3 was really focused on helping her be able to spread
4 herself in both places in order for her to learn, but
5 also still maintain her job down there.
6 Q. Sure.
7 If you had had information to the effect that
8 was infatuated with Ms. McCormick, would that have
9 caused you concern at the time?
10 A. Would it have?
11 Q. Yes.
12 A. Yes.
13 Q. Why is that?
14 A. Well, because that's inappropriate relations
15 between a juvenile and staff, which should never be like
16 that.
17 Q. If you had information that administration had
18 concerns about boundary issues with Ms. McCormick at
19 that time, would that have caused you concern?
20 MR. COLLAER: Object to form of the question;
21 it's vague. Go ahead if you can understand it.
22 THE WITNESS: If I knew about it would it have
23 caused me concern if administration knew about it?
24 Q. (BY MR. SCHOPPE) Yes.
25 A. Yes.

1 A. Well, not necessarily. It would have been the
2 safety of and/or Julie, depending on how it went.
3 Q. At any point before you left Solutions then,
4 or after you became the supervising safety and security
5 officer again, what was it you heard or understood had
6 occurred between McCormick and
7 A. The only thing that I had heard was that there
8 was some inappropriate boundaries and potentially having
9 sex in that room, but that's it.
10 Q. At any other point during your employment at
11 the Department, had you heard rumors or reports or did
12 you know of other instances in which staff members had
13 interacted with juveniles sexually or romantically?
14 A. Not with juveniles in the facility until after
15 the fact that I was the SSO supervisor, and then I did
16 hear about something that had happened up north with a
17 staff member and a juvenile, but I don't know that much
18 about it. I just know that something happened there and
19 potentially she was let go or moved or something. But
20 that's...
21 Q. That was since you became SSO --
22 A. That was after I came back as SSO supervisor.
23 I took over when Julie left.
24 Q. Does Jennifer Watkins ring a bell in any
25 respect?

1 A. I honestly don't know any names.
 2 Q. Of [REDACTED]
 3 A. I don't know.
 4 Q. How did you hear about that incident?
 5 A. It was actually from Ms. Ledford.
 6 Q. Did you ever talk about that with anybody
 7 else?
 8 A. I don't recall talking with anybody else other
 9 than Rhonda and potentially the superintendent at the
 10 time.
 11 Q. At the JCC-Nampa facility?
 12 A. Yes.
 13 Q. Do you know if that was Ms. Viner or
 14 Ms. Grimm?
 15 A. I believe it would have been Ms. Grimm.
 16 Q. Did you ever speak with anybody at the
 17 St. Anthony facility about that?
 18 A. I did not.
 19 Q. Did you ever hear or learn of anything
 20 involving Francine Diaz and Bryce
 21 A. Yes. I did hear some rumors of that years ago
 22 when he was with -- or in the facility as a cook that
 23 there was some -- that they hung out together or
 24 something on the outs, but he was actually an employee
 25 at that time.

1 A. Say that again. I'm sorry.
 2 Q. Sure.
 3 Is it your understanding that's based on your
 4 training and things like that, you indicated earlier you
 5 got PREA training and some other things like that, do
 6 you understand that you are a mandatory reporter of
 7 child abuse, neglect or sexual abuse?
 8 A. Yes.
 9 Q. Do you know who you should report those things
 10 to if you become aware of them?
 11 A. Yes. We have a form and then also Health and
 12 Welfare has a phone number that you are supposed to call
 13 and file.
 14 Q. How does it work or how is it supposed to work
 15 at the facility when you as staff or any staff become
 16 aware of an incident of child abuse or neglect or sexual
 17 abuse?
 18 A. Without having the form right in front of me I
 19 don't know the exact steps, but there is a form that
 20 lays out exactly what you do and how you do it.
 21 Q. Okay.
 22 A. The phone numbers to call, the processes to go
 23 through, how to obviously separate and making sure
 24 everybody is safe.
 25 Q. At some point are you supposed to notify a

1 Q. How about Ms. Diaz and anybody else at all,
 2 any other juvenile?
 3 A. No.
 4 Q. How about Bryce and any other juvenile?
 5 A. There were some -- there was some watercooler
 6 talk, if you want to call it that, that he had met with
 7 one of the girls from Solutions after the fact, after
 8 she got out. That's just a rumor that I've heard.
 9 Q. Does the name [REDACTED] ring a bell?
 10 A. Honestly I couldn't tell you the juvenile's
 11 name because I don't know.
 12 Q. Do you recall a juvenile by the name of Arthur
 13 Wilson or Art Wilson?
 14 A. I do not.
 15 Q. How about [REDACTED] ?
 16 A. Yes.
 17 Q. What do you know about [REDACTED] ?
 18 A. [REDACTED] was in the facility when I came back in
 19 2009 as an SSO in O&A. I worked dayshift and I know he
 20 had quite a few issues and I was involved in some
 21 restraints with him.
 22 Q. Is it your understanding, this is based on any
 23 of your training at the facility or as an employee, that
 24 you were a mandatory reporter of child abuse, neglect or
 25 sexual abuse?

1 supervisor or superintendent or something like that?
 2 A. Yes, I would say so.
 3 Q. Do you know what is supposed to happen first,
 4 whether it's you call Health and Welfare or the police
 5 first or do you notify a supervisor first?
 6 A. Without having the form in front of me I'm not
 7 exactly positive.
 8 Q. As far as you know, what is the level of
 9 certainty required to make a report like that; is it
 10 suspicion or you heard about it as an allegation or it's
 11 been investigated and proven?
 12 MR. COLLAER: Objection; calls for a legal
 13 conclusion. Go ahead.
 14 THE WITNESS: To my knowledge, if anybody says
 15 anything, if you have knowledge of anything that could
 16 potentially be abuse, neglect or that kind of stuff, it
 17 needs to be reported.
 18 Q. (BY MR. SCHOPPE) So even kind of mention of
 19 it would be enough?
 20 A. Absolutely.
 21 Q. Did you ever hear of any allegations of sexual
 22 misconduct or romantic interactions involving Valerie
 23 Lietau?
 24 A. I don't know that name.
 25 Q. I believe she was a nurse, if that helps.

1 A. I remember a Valerie as a nurse, but I don't
 2 know anything about any kind of misconduct.
 3 Q. How about Marcie Harris, same question?
 4 A. I recognize that name, but I don't know
 5 anything about...
 6 Q. How about Devin Keene Mercer from Lewiston?
 7 A. Yeah, I don't know that name at all.
 8 Q. How about with respect to Katie McClain, does
 9 that ring a bell?
 10 A. She was an instructor -- well, I don't know
 11 what her title was or what her job was, but I remember
 12 the name. Yeah, I don't know anything about any kind of
 13 allegations against her.
 14 Q. How about Jackie Raymond?
 15 A. I recognize the name, but again, I don't know
 16 anything.
 17 Q. Are you familiar with the name Dr. Richard
 18 Pines?
 19 A. Some. Yeah, I recognize the name again, but I
 20 don't know who he is.
 21 Q. Do you recall, and this would go back to I
 22 think the first part, first half or so of 2012, hearing
 23 any expressions of concern among staff that Dr. Pines
 24 was visiting or was possibly engaging in strange or
 25 inappropriate conduct with a juvenile in the facility?

1 A. It was a flowchart.
 2 Q. Do you know if part of that process would
 3 involve extra supervision of interactions between the
 4 juvenile and the --
 5 A. I don't recall. I'm sorry.
 6 Q. Let's step back. Back in 2010 did you apply
 7 for a promotion or the position of unit manager in, I
 8 think it was Choices and Solutions at the time or
 9 something like that, let me know?
 10 A. Yes. I believe that I did apply for the
 11 position of unit manager for Solutions, yes.
 12 Q. How did you become aware of that position, if
 13 you recall?
 14 A. I think that it was posted maybe through an
 15 e-mail from human resources.
 16 Q. As far as you know was that an open posting?
 17 A. Yes.
 18 Q. So anybody could apply, as far as you know?
 19 A. I don't recall, but...
 20 Q. Do you know of anybody else who applied for
 21 that position at that time?
 22 A. Well, Laura Roters. I don't remember all the
 23 names.
 24 Q. Do you remember if Addison Fordham applied for
 25 that position?

1 A. No.
 2 Q. Do you know who is, a juvenile?
 3 A. Yeah, I believe I recognize that juvenile's
 4 name.
 5 Q. Do you know if he was on Solutions or another
 6 unit?
 7 A. I do not.
 8 Q. Based on your training and experience as
 9 either a supervisor in Solutions or as a safety and
 10 security officer, if staff report allegations of
 11 inappropriate conduct like that, what is the protocol
 12 for responding to that?
 13 MR. COLLAER: Object to form of the question;
 14 it's vague, calls for speculation. If you understand
 15 the question, go ahead.
 16 THE WITNESS: Without having the forms in
 17 front of me that's -- I always followed the policy on
 18 the forms, I had them in my drawer. So if there was any
 19 kind of a report, then we just went directly off of what
 20 the policy and protocol says.
 21 Q. (BY MR. SCHOPPE) Do you know the name or
 22 title of that policy or anything like that?
 23 A. I don't, not off the top of my head.
 24 Q. Is there a checklist or anything like that or
 25 is it just a written policy?

1 A. I'm sorry, who?
 2 Q. Addison Fordham.
 3 A. I don't know.
 4 Q. Would that have been a promotion for you?
 5 A. Yes.
 6 Q. Was this a new position or had it been
 7 occupied because somebody had left or something like
 8 that?
 9 A. I believe it was a new position.
 10 Q. So fair to say you prepared an application
 11 online or something like that?
 12 A. Yes.
 13 Q. What happened next, as far as you know, with
 14 the process; did you receive a response from anybody?
 15 A. I don't recall receiving a response.
 16 Q. Do you recall if you received any kind of
 17 indication from human resources or any indication that
 18 you had either met the threshold requirements for the
 19 position or failed them?
 20 A. I'm sorry, I don't recall if they sent
 21 anything out. I believe that you can go on and check
 22 online to see, but whether I did that or not I don't
 23 recall.
 24 Q. Did anyone interview you at all?
 25 A. I don't think I got an interview at that time.

1 Q. Do you recall if anybody else did?
 2 A. No. I mean, they obviously interviewed people
 3 and I remember them interviewing, but I don't know who
 4 all was interviewed at that time.
 5 Q. As far as you recall, did you then hear at
 6 some point that Ms. Roters had been offered that
 7 position?
 8 A. Yes.
 9 Q. Did you have any reaction to that?
 10 A. I did call HR, primarily asking why I hadn't
 11 been offered an interview for the position. I felt as
 12 though I had quite a few years of experience in the
 13 Department, within that department within the facility,
 14 and was just curious on why I was overlooked for that.
 15 Q. Would it be fair to say you had supervisory
 16 experience from your time in the military?
 17 A. Yes. Military and within the facility.
 18 Q. Because you had been a supervisor for the
 19 safety and security officers?
 20 A. Yes.
 21 Q. Who was it you spoke with, do you recall?
 22 A. I don't remember exactly who I spoke to. I
 23 know that I called HR. It may have been Pat or Julie.
 24 Q. What was the response that you got or what did
 25 you talk about?

1 A. Only -- no, I don't. I know she was there for
 2 a while and then left and then came back to the
 3 position. That was just from observation from being
 4 there. But as far as what happened and why and all that
 5 kind of stuff, I don't really have any personal
 6 knowledge of that.
 7 Q. Do you recall an e-mail going out to all staff
 8 explaining that Ms. Roters had been offered the position
 9 and that the offer had been revoked or rescinded?
 10 A. I don't recall that.
 11 Q. If you recall, you indicated that you recall
 12 she was maybe there for a little while and then left and
 13 then came back. Did you report to anyone differently in
 14 that sort of interstitial time period there?
 15 A. Dave Rohrbach would have been the program
 16 manager at that time. So I believe that the supervision
 17 still would have stayed within that. If I needed to
 18 report anything it would have been to Dave. He was the
 19 supervisor for me prior to that, before that position
 20 was created or whatever. So I think it would have
 21 stayed the same.
 22 Q. Do you recall if his position was reclassified
 23 to program manager?
 24 A. I don't recall.
 25 Q. At some point, as far as you recall, is it

1 A. I don't recall what the response was. I know
 2 that I kind of let it go after that, there wasn't much I
 3 could do. And coming from the military, I voiced my
 4 concern and I now had a new supervisor, so I was kind of
 5 back to my job and just doing what I'm supposed to be
 6 doing.
 7 Q. So that unit manager position, that was to be
 8 someone that you would then report to; is that right?
 9 A. That's correct.
 10 Q. Did you have any concern at the time that
 11 Ms. Roters did not have supervisory experience, as far
 12 as you were aware?
 13 A. I believe that I had said something to that
 14 effect, but I didn't know. I think what I had said on
 15 the phone was that to my knowledge she hadn't been a
 16 supervisor within the facility. So that kind of -- I
 17 think during my conversation with them I said my concern
 18 was that I had a bunch of supervisory experience within
 19 the facility and I did not know if she had any in the
 20 facility.
 21 Q. So did you ever hear back from anyone at all
 22 as to why it was you hadn't been given an interview?
 23 A. If I did I don't recall.
 24 Q. Do you know what happened next with respect to
 25 the promotion of Ms. Roters?

1 correct to say Ms. Roters then became the unit manager?
 2 A. Yes.
 3 Q. As far as you knew that was the same position?
 4 A. Yes.
 5 Q. Did you apply for that a second time around?
 6 A. No, I did not.
 7 Q. Any particular reason you didn't?
 8 A. I felt like it was probably -- in my opinion,
 9 I wasn't going to be -- if I didn't qualify the first
 10 time, then I probably don't qualify the second time kind
 11 of thing.
 12 Q. You were never told that, as far as you
 13 remember, that you didn't qualify?
 14 A. No, I don't recall them saying that I didn't
 15 qualify. It was just one of those things where you get
 16 shot down once and you just figure that's probably not
 17 for you or whatever, for some reason. So maybe you just
 18 move forward and try to do what you do.
 19 Q. Did you ever speak with anybody else at all in
 20 the facility about that issue, Ms. Roters being offered
 21 the position and having it rescinded or anything like
 22 that?
 23 A. Did I speak to anybody else about that issue,
 24 within the facility?
 25 Q. Or anywhere.

1 A. Maybe. At the time when I didn't get the
2 position I may have talked to people, but I don't recall
3 anyone specifically.

4 Q. Did you speak with anybody who might have
5 indicated to you that they believed that Laura Roters
6 would be promoted to the position no matter who applied,
7 or something to that effect?

8 A. I don't remember anything like that.

9 Q. Did you ever speak with anybody about the
10 belief that Laura Roters was a favorite of either
11 Mr. Rohrbach, Ms. Grimm, or Ms. Harrigfeld?

12 A. There has always been, in my opinion, because
13 I'd worked with Dave and Joe and Laura for a lot of
14 years, that there were some favorites there with those
15 two. But in my opinion that's just the same thing that
16 every -- you know, every supervisor picks a person that
17 they think is doing the best job. I never experienced
18 anything that said, Hey, this was a bad situation. But
19 I know that that feeling was throughout the facility.

20 Q. Do you recall who might have expressed that
21 sort of sentiment?

22 A. No. I mean, it was just over the years. So
23 Joe and Laura ran a couple of programs under Dave, or a
24 program under Dave well before I really worked directly
25 with them. So I don't know, I just know there was

1 first started at the Department you were interviewed by
2 Tom Knoff, is that right?

3 A. That's correct, yes.

4 Q. Correct to say that Mr. Knoff left the
5 facility for one reason or another in around May or June
6 of 2012, last year?

7 A. Yes.

8 Q. Do you know why he left?

9 A. I don't.

10 Q. Did you hear anything about that?

11 A. I mean, I know he was kind of struggling with
12 management and with some stuff that he was doing, so he
13 left and got another job. That's all I really know.

14 Q. Did you hear that from him or from other
15 people?

16 A. Just from other people in the facility and
17 around.

18 Q. At that point in time you were still in
19 Solutions, is that right, May, June 2012?

20 A. Yeah.

21 Q. You went straight from Solutions to
22 supervisor?

23 A. Yes.

24 Q. After Mr. Knoff left, is it fair to say
25 Ms. Roters moved over to O&A?

1 always kind of a feeling for that.

2 Q. Is that a sentiment you shared?

3 A. In some respects. I mean, there was some
4 things that I did notice later on. But at that point I
5 worked well with Dave. So I think at some point
6 somebody probably could have said that about me because
7 I did get promoted underneath Dave and went to
8 Solutions. You know what I mean? I don't know. But
9 yes, I guess that's true.

10 Q. When you mentioned some things you found out
11 later on, what did you have in mind?

12 A. Just the way that Laura and I interacted I
13 think was the biggest thing, and just a feeling, it's a
14 general feeling. I don't think there was anything
15 specific.

16 Q. How was it you would interact with her?

17 A. Laura's a very intelligent, very articulate
18 kind of person. So I think her management style and her
19 personality and my personality at the time just kind of
20 conflicted.

21 Q. Did you ever learn anything about Ms. Roters
22 receiving any educational training in management or
23 anything like that?

24 A. No, I did not.

25 Q. You mentioned at the very beginning when you

1 A. That's correct.

2 Q. So at that point in time she was the unit
3 manager in Solutions; is that right?

4 A. Prior to that, yes, prior to her moving to
5 O&A.

6 Q. At that point in time when Mr. Knoff left, do
7 you know how many unit managers were in the facility,
8 how many unit manager positions?

9 A. I don't. I believe one.

10 Q. Is it your understanding that Mr. Knoff was
11 not a unit manager at the time he left?

12 A. I don't know.

13 Q. Do you know anything about Mr. Knoff having
14 his position reclassified or being demoted at some point
15 I think around 2009?

16 A. I don't. That may have been prior to me
17 coming back. I'm not sure.

18 Q. That's okay. If you're not sure, you're not
19 sure.

20 What were the unit manager positions at the
21 point when Ms. Roters left Solutions, as far as you
22 know?

23 A. Who was or what?

24 Q. So she was a unit manager in Solutions; right?

25 A. Uh-huh. Yes.

1 Q. Was there another unit manager position
2 somewhere in the building like in Choices or O&A?
3 A. Dave would have been the program manager. And
4 you are saying after Tom left, then I think she would
5 have been the only one in the building.
6 Q. So you do not know if there was a unit manager
7 position in Choices or not?
8 A. I don't recall.
9 Q. Do you recall if there was a unit manager
10 position in O&A at that time?
11 A. Well, are you asking if there were open
12 positions or if there were actual people filling the
13 position?
14 Q. Open positions.
15 A. Open positions, I guess I only thought there
16 was a position in O&A from Tom's position and then the
17 one they created in Solutions, which was the one that
18 Laura had. So I think at that time it would have been
19 two; one open one and one that was filled.
20 Q. Do you know who was running Choices at the
21 time?
22 A. Dave Rohrbach would have been the program
23 manager for...
24 Q. Would it help you to understand if
25 Mr. Rohrbach might have left in December of 2011 or

1 Q. When you became the supervising SSO again in
2 2012, did anyone outline their expectations of you for
3 the position, like Ms. Grimm or --
4 A. Outline my expectations?
5 Q. Their expectations of you in the position.
6 A. No.
7 Q. Did anyone discuss anything with you about the
8 personnel that you would be supervising or specifically
9 Ms. Ledford or Mr. Penrod?
10 A. Yes.
11 Q. Who did you talk to about that?
12 A. Ms. Grimm.
13 Q. What did Ms. Grimm have to say about them in
14 particular?
15 A. Particularly Rhonda, she asked me to do an
16 outline of expectations for her position.
17 Q. In doing that, was that to be unique to Rhonda
18 or for anyone who occupied that position?
19 A. I don't know because I didn't do that. I did
20 expectations for all the SSOs as a whole.
21 Q. When Ms. Grimm told you that, did she refer to
22 Ms. Ledford specifically?
23 A. At the time, yes, it was specifically to
24 Ms. Ledford. The expectations though -- well, the list,
25 I don't recall all the things on there. So I don't know

1 January of 2012; does that make any sense to you?
2 A. Yeah. I don't recall when he left.
3 Q. Is it your understanding that Ms. Roters is
4 the current unit manager in O&A?
5 A. Currently, yes.
6 Q. Do you recall any publication for that
7 position coming open or anything like that, if that was
8 made open or available to other applicants?
9 A. I don't recall.
10 Q. In Solutions did any other staff express
11 concerns about Ms. Roters' treatment of them or
12 juveniles, her interactions with them?
13 A. I don't recall anything specific, no.
14 Q. Did anybody indicate that they were happy she
15 had left the unit?
16 A. Specifically not to me, no, not that I recall.
17 Q. Do you recall forming an impression about that
18 at the time?
19 A. There was definitely, because of her
20 management style, I mean, I think there were probably
21 people that, yeah, were happy that she left. But nobody
22 came to me specifically, that I can recall.
23 Q. Have you ever heard any allegation she might
24 have called juveniles dumb-asses?
25 A. No, no, I never heard anything.

1 if there was anything that said her name or whatever,
2 like this is what she needs to do. But it was
3 definitely assigned to her position at that time.
4 Q. When you say a "list," did Ms. Grimm give you
5 a list?
6 A. She did. She had a list of expectations that
7 they wanted me to -- and I say "they," it was her and
8 HR, I believe, in the room at that time.
9 Q. Do you know, could that have been Julie Cloud?
10 A. I don't recall who it was that was in there,
11 but I know there was an HR representative in there.
12 Q. Is this at the time when you were first
13 offered the position or was this after you accepted it?
14 A. I don't recall. It was right in there.
15 Q. Do you happen to recall thinking at the time
16 that you would be taking the position, you had already
17 made the decision?
18 A. Yeah. I'm thinking it was probably after the
19 fact, because I don't know that they would ask me to do
20 that before. But I don't recall.
21 Q. Do you still have that list?
22 A. No.
23 Q. Was that an e-mail or --
24 A. No. It was just a handwritten thing on a
25 piece of paper, and I don't think I ever actually even

1 took possession of the list.
 2 Q. Do you know who prepared it?
 3 A. I do not.
 4 Q. What were the expectations that were supposed
 5 to be unique to Ms. Ledford?
 6 MR. COLLAER: Objection; misstates his
 7 testimony.
 8 Q. (BY MR. SCHOPPE) You can answer if you
 9 understand.
 10 A. Like I said, there weren't any that were very
 11 specific to her. It was specific to that position, I
 12 believe, but it was her position.
 13 Q. Her name was mentioned?
 14 A. Well, when we were in conversation, yes. But
 15 there wasn't anything written on that paper that was
 16 specific to her.
 17 Q. What was specific to her in the conversation?
 18 A. Just that these expectations needed to be
 19 followed by Rhonda.
 20 Q. Were any expectations outlined for anybody
 21 else by name, any other SSOs?
 22 A. Not at that time, no.
 23 Q. What were those expectations, as far as you
 24 can recall?
 25 A. I don't recall. I apologize. I don't recall.

1 positions and that kind of stuff. So I had never
 2 actually really written those out. So that was the
 3 first time.
 4 Q. So would it be fair to say in supervising your
 5 department or your staff, you are looking or you are
 6 referencing their job descriptions and roles and
 7 whatever policies might apply?
 8 A. That's correct, and additional duties.
 9 Q. So additional duties, policies, any laws that
 10 you are aware might apply like PREA or CRIPA and things
 11 like that?
 12 A. Yes.
 13 Q. So when you were told about these
 14 expectations, did it occur to you that was strange or
 15 different from how it had been before?
 16 MR. COLLAER: Objection; calls for
 17 speculation, it also misstates his testimony. But go
 18 ahead.
 19 Q. (BY MR. SCHOPPE) You know what you thought at
 20 the time, right, so you're not speculating about what
 21 you thought at the time?
 22 A. I obviously felt like that was something that
 23 I hadn't done in the past and that I wasn't comfortable
 24 doing, particularly in that instance.
 25 Q. You mean with respect to Ms. Ledford

1 I just remember looking up the list and I didn't take it
 2 or utilize it, so I don't recall what the expectations
 3 were on that list.
 4 Q. Is it your understanding as the supervisor
 5 that expectations are up to you to set or are those set
 6 by others like in HR, Ms. Grimm, anything like that?
 7 A. As Ms. Grimm was my direct supervisor, I mean,
 8 I suspect she could probably set things for the SSOs.
 9 That's exactly what I did after the fact, was just wrote
 10 up expectations for all of the SSOs to follow. Even in
 11 my expectations that I wrote up, there were some
 12 specific to specific positions, nightshift and swing
 13 shift and dayshift and transport coordinator, but that
 14 was position-specific expectations.
 15 Q. In your prior stint as supervising SSO before
 16 you went to Solutions, had expectations been part of
 17 that process?
 18 A. No, they had not.
 19 Q. In any other supervisory capacity that you had
 20 like at Solutions, did you outline expectations like
 21 that?
 22 A. Let me restate that, because there were
 23 expectations, I've always had expectations of my
 24 employees. But I had never written out additional
 25 expectations above what was outlined like in their job

1 particularly?
 2 A. Yes. Well, just in pointing out if it had
 3 been any of the SSOs. But yeah, in that particular
 4 instance, yes.
 5 Q. Do you know if expectations had been applied
 6 to the SSOs before you took over?
 7 A. I do know there were some written
 8 expectations. I'm unaware of what they were.
 9 Q. Do you know if those were across-the-board
 10 expectations for all the SSOs or just for Ms. Ledford?
 11 A. I do not know.
 12 Q. With respect to the expectations that you're
 13 aware of, were those unique to Ms. Ledford?
 14 A. I believe Rhonda had said there were some
 15 expectations prior to that, yes.
 16 Q. In taking over as supervising SSO, did you
 17 conduct any kind of a file review of files that
 18 Ms. McCormick might have maintained or records or
 19 anything like that?
 20 A. No. Not necessarily, no.
 21 Q. You indicated some discomfort at issuing
 22 expectations in that specific context. What was your
 23 discomfort, why were you uncomfortable with that?
 24 A. Because I hadn't done anything like that in
 25 the past for my employees. And so I felt like it was

1 something that needed to done for everybody if it was
 2 going to be done for one.
 3 Q. So you then did it for everyone?
 4 A. That's correct.
 5 Q. Did you ever see any of the written
 6 expectations for Ms. Ledford from either Summer Wade or
 7 Julie McCormick?
 8 A. No, I did not.
 9 Q. What sorts of expectations did you create for
 10 all of your SSOs?
 11 A. They were just general job-specific kind of
 12 expectations, and I also indicated on there how they can
 13 contact me if they are calling in sick. I put in there
 14 that they were able to use text and voicemail and that
 15 kind of thing. I also said, kind of laid out how if
 16 they were calling in sick, for instance, and it didn't
 17 affect coverage issues, then they could leave a
 18 voicemail; if it did affect coverage issues, then I
 19 needed to know right away, and that kind of thing.
 20 Q. Did you have any resource or anything like
 21 that you would turn to in crafting these expectations or
 22 did you just kind of make it up from scratch?
 23 A. Like I stated before, I've had expectations
 24 for my employees the whole time, I just had never
 25 written them down necessarily. So that is what I used,

1 again with Ms. Grimm or anyone from HR or anybody else
 2 at all?
 3 A. Well, I mean, it did come up again because I
 4 took quite a while to actually write the expectations
 5 for the entire team. So yeah, it did come up again.
 6 They asked if I had finished all of the expectations.
 7 Q. Do you know who followed up with you on that?
 8 A. Ms. Grimm.
 9 Q. Did that come up specifically with respect to
 10 Ms. Ledford at all again or just across the board?
 11 A. Just across the board actually.
 12 Q. Did she ever ask you why you hadn't issued the
 13 expectations particular to Ms. Ledford?
 14 A. I don't believe she asked me why, no.
 15 Q. Do you recall when it was you completed those
 16 expectations?
 17 A. I do not.
 18 Q. Did you distribute those to staff?
 19 A. Yes, they were sent out in an e-mail format.
 20 Q. Were you asked by anyone to monitor
 21 Ms. Ledford in terms of her, apart from your normal
 22 duties as a supervisor monitoring all your employees'
 23 performance or job duties, but to monitor absences or
 24 sick leave or anything like that?
 25 A. I don't recall being asked that.

1 my general knowledge and my experience from being a
 2 supervisor, that's what I used.
 3 Q. When you were one of the supervisees in the
 4 SSO position, were any expectations issued for you or
 5 for SSOs?
 6 A. Not that I recall.
 7 Q. Did Ms. Grimm or anybody else, specifically
 8 anybody from HR, tell you why they wanted expectations
 9 that were unique to Ms. Ledford?
 10 A. I don't recall them stating a reason why they
 11 wanted them done in those conversations.
 12 Q. Did you wonder why?
 13 A. Well, I mean, I knew about the lawsuit, I
 14 mean, I knew about all the stuff. So I didn't ask,
 15 because, I mean, I knew that it wasn't something I was
 16 going to do, so I just didn't. The reason I didn't ask
 17 is because I knew it wasn't going to happen that way.
 18 So I knew that I was going to do it for the entire SSO
 19 team as a whole and that that was the reason why I was
 20 going to do it.
 21 Q. Did you feel it would be unfair to do it as
 22 instructed?
 23 A. Did I feel like it was unfair? Yes.
 24 Q. Did you ever have any other discussions after
 25 that set of discussions with them? Did it ever come up

1 Q. Were you told to do that?
 2 A. No, no.
 3 Q. Did anyone ever ask you to -- this would be
 4 probably Ms. Grimm or human resources or someone like
 5 that -- ask you to ask for doctor's notes from
 6 Ms. Ledford in connection with dental visits or doctor's
 7 visits or anything like that?
 8 A. There was an incident that they required some
 9 doctor documentation, and I don't recall the exact
 10 information regarding that, but there was something
 11 about that.
 12 Q. Did you have any concern at any point in time
 13 that Ms. Ledford was abusing sick leave policy or
 14 anything like that?
 15 A. I did not have any concern.
 16 Q. Did anyone express to you that they had a
 17 concern like that?
 18 A. Not that I recall.
 19 Q. With respect to the incident you recall, do
 20 you remember who it was you communicated with about
 21 that?
 22 A. I don't, no. I think it was Pat Thomson, but
 23 that's all I can recall. I can't remember specifically.
 24 Q. But it was someone in HR?
 25 A. Yeah.

1 Q. Do you remember if Mr. Thomson or anyone else
2 expressed any concern about possible abuse of sick leave
3 by Ms. Ledford?

4 A. No, I don't recall.

5 Q. Were you aware of any reason at all for the
6 request?

7 A. No, I was not.

8 Q. With respect to sick leave, what is the policy
9 when an employee needs to go for a doctor's visit or
10 something like that or needs time off because they're
11 sick; how does that work?

12 A. Without having the policy in front of me I
13 couldn't speak directly to it, but I do know we are
14 allowed sick leave and vacation and comp time, that kind
15 of stuff.

16 Q. I assume you've probably had employees who
17 have been sick at some point since you took over?

18 A. Yes.

19 Q. When employees are sick, do you typically
20 require a doctor's note for each instance or if it goes
21 beyond a certain number of days or something like that?

22 A. If it goes beyond a certain number of days,
23 and I do not know the number of days or the specifics on
24 that.

25 Q. Do you have an impression or a rule of thumb?

1 became the supervising SSO again of HR requesting any
2 documentation for doctor's visits for any other SSO?

3 A. Well, yes, yes. People are hurt and they have
4 to return back to work, I have to give them the return
5 back to work policy and that kind of thing, the return
6 back to work doctor's notes. If people miss an extended
7 period of time and they know they are going to be out
8 for surgery, that kind of stuff, then yes, we do.

9 Q. Apart from those kinds of instances where
10 somebody needs like a return to work authorization or
11 they're on an extended illness, but for something more
12 like a single doctor's visit or a sick day or something
13 like that, any requests from HR for that kind of thing?

14 A. No.

15 Q. Did it strike you as odd in any way that you
16 got that request from HR?

17 A. I don't recall the situation exactly, so no, I
18 don't.

19 Q. Does it strike you as odd now as you sit here?

20 MR. COLLAER: Objection; calls for
21 speculation, it's already been asked and answered.

22 Q. (BY MR. SCHOPPE) You can answer.

23 A. I don't know the circumstances around it, so
24 I'm not sure.

25 Q. Just based on what you know does it seem

1 A. Not without looking at the policy, no, I
2 don't.

3 Q. Would you typically ask for a doctor's note
4 for a single day's absence?

5 A. No, not typically.

6 Q. Or would you ask for a doctor's note for a
7 dentist visit or a doctor's visit?

8 A. Not typically, no.

9 Q. Or even maybe one or two or three?

10 A. I'm not positive, but it may be over three
11 days off without a note. That may be it, but I'm not
12 positive without looking at the...

13 Q. But it's not something you would do as a
14 supervisor?

15 A. Not something that I would do as a supervisor.

16 Q. Well, in other words, correct me if I'm wrong,
17 but you're probably not constantly referring to a policy
18 for things, you are making some judgment calls as you
19 go; is that right?

20 A. Well, that's correct. If somebody is missing
21 an extended period of time, then I definitely -- and we
22 knew in advance, I would look to see what we needed,
23 that kind of instance. Just for someone to miss one day
24 of work I don't refer to the policy every time, no.

25 Q. Do you recall any instances at all since you

1 unusual?

2 MR. COLLAER: Same objection; it's already
3 been asked and answered. You can go ahead. If your
4 answer changes at all, go ahead and answer it.

5 THE WITNESS: I don't know. Because I don't
6 know what the circumstances were around it. I don't
7 recall the circumstances, so...

8 Q. (BY MR. SCHOPPE) Were you aware of any
9 allegation by anybody at all that Ms. Ledford was
10 abusing sick leave or anything like that at the time?

11 A. No, I was not.

12 Q. Do you know if that allegation has ever been
13 made?

14 A. Not to my knowledge.

15 Q. Did anyone either in HR or Ms. Grimm, anyone
16 at all, ask you to monitor Ms. Ledford in a way that was
17 sort of beyond your ordinary supervisory role?

18 MR. COLLAER: Objection; that has been asked
19 and answered. But go ahead.

20 THE WITNESS: No.

21 Q. (BY MR. SCHOPPE) Do you know if Ms. Ledford's
22 e-mail communications or her communications with other
23 staff inside the facility were being monitored by anyone
24 at the Department?

25 A. I do not know that, but I have heard Rhonda

1 say that.
 2 Q. Have you heard that from anybody else?
 3 A. No.
 4 Q. Have you ever heard that or been told that
 5 about any of the other Plaintiffs in the lawsuit, like
 6 Mr. Penrod, for example?
 7 A. I don't recall him saying that specifically,
 8 no.
 9 Q. Did you ever hear anybody else say that
 10 though?
 11 A. The only person I've heard say it is Rhonda in
 12 our conversations.
 13 Q. After you became the supervising SSO again,
 14 did you talk about the Plaintiffs' lawsuit with anybody,
 15 like Ms. Grimm or Ms. Cloud, anybody in HR, anything
 16 like that?
 17 A. Can you repeat the question. I'm sorry.
 18 Q. After you became supervising SSO again last
 19 year, did you discuss the Plaintiffs' lawsuit or claims
 20 with anybody in HR or Ms. Grimm or anybody like that?
 21 A. No. The only time that anybody had ever
 22 talked to me specifically about it was just to inform us
 23 on what we're supposed to do as far as media coverage,
 24 that kind of thing.
 25 Q. When you took over again as supervising SSO,

1 after I took over. I worked the nightshifts quite
 2 regularly when I first took over because they seemed to
 3 be the one group of people that don't get a lot of
 4 attention primarily by supervisors and that kind of
 5 stuff. So from my experience I knew that I needed to
 6 work the nightshift quite a bit right away. So I know
 7 he talked to me, it may not have been the very first
 8 night, but it was there shortly after.
 9 Q. Did he explain to you why it was that he
 10 wanted return to that shift?
 11 A. Yes, he did.
 12 Q. What did he say about that?
 13 A. There was a couple of reasons. One, he really
 14 missed doing the transports and that kind of stuff; and
 15 then the second reason was because he was utilizing his
 16 vacation and stuff to take care of his son on Sundays.
 17 And I think that was the main reasons.
 18 Q. Do you know if that was the case, that he was
 19 using vacation time to --
 20 A. As far as I could tell looking at the schedule
 21 that was the case, yes.
 22 Q. Did you ever learn why it was that he had been
 23 assigned to that shift?
 24 A. Only from Shane, just the stuff that he had
 25 told me that night or over that period of time.

1 do you recall if Shane Penrod was working the graveyard
 2 shift?
 3 A. Yes, he was.
 4 Q. What is the graveyard shift?
 5 A. 10:00 p.m. until 6:00 a.m.
 6 Q. Did he talk with you at any point in time
 7 since you took over there about a desire to return to a
 8 different shift or a dayshift?
 9 A. Yes.
 10 Q. Is it your understanding that he had been put
 11 on the graveyard shift by Ms. McCormick?
 12 A. Yes, that's what he had told me.
 13 Q. Do you know anything about cross-training,
 14 shift assignments or anything like that?
 15 A. Well, only what Shane has told me since I took
 16 over. I didn't know about anything about it prior to
 17 my...
 18 Q. So you're not aware of any program by which
 19 SSOs are rotated through dayshifts, nightshifts,
 20 different shifts for the purposes of cross-training or
 21 anything like that?
 22 A. I'm not aware of that.
 23 Q. Do you recall when it was Mr. Penrod talked to
 24 you about his desire to change shifts?
 25 A. I don't recall. I know it was fairly soon

1 Q. Was there any file or record about why he had
 2 been put on that shift?
 3 A. If there is I haven't seen it.
 4 Q. Is a shift change like that, is that the sort
 5 of thing that is used or is appropriately done as a
 6 disciplinary measure?
 7 MR. COLLAER: Objection; calls for
 8 speculation, lacks foundation.
 9 THE WITNESS: I don't know anything about
 10 that.
 11 Q. (BY MR. SCHOPPE) In your role as a
 12 supervisor, is it one of your jobs to discipline the
 13 people you supervise?
 14 A. Well, yes. We use a form of appropriate
 15 discipline, yes.
 16 Q. Is that progressive discipline?
 17 A. Progressive discipline, yes.
 18 Q. As a supervisor, just within the scope of your
 19 discretion, you can do all by yourself, what are your
 20 options with respect to discipline?
 21 A. Really, in my opinion, it depends on the
 22 situation. So I don't know. It could be anything
 23 from -- I mean, I don't know. I'd have to go and look
 24 at the policies and the procedures and verify that. But
 25 within reason there are some things, and I would agree

1 that yes, I do have some discretionary.
 2 Q. Like with verbal counseling, for example?
 3 A. Um-hmm.
 4 Q. How about when it comes to issuing a written
 5 warning record, is that something you can do all by
 6 yourself?
 7 A. Yes, we do verbal counseling and written
 8 warnings.
 9 Q. When you do your written warning records, do
 10 you involve HR or the superintendent or anybody like
 11 that?
 12 A. In my experience, yes, I have, only because I
 13 want to make sure I am following all policies and I want
 14 to make sure what I'm doing is appropriate, so yes.
 15 Q. How about notices of contemplated action, is
 16 that something you can do?
 17 A. In the ten years that I've been doing the
 18 supervision I have not done a notice of -- well, I
 19 apologize, that could be wrong. I may have done one in
 20 the ten years, but not enough to recall the exact
 21 process.
 22 Q. Is that something that you would involve human
 23 resources in?
 24 A. Absolutely, yes. And potentially legal
 25 depending on -- I mean, I would go, I would try to get

1 and I did refer some of the movements to -- Ms. Viner
 2 and myself talked about it, because she was my
 3 supervisor at the time, about how we can make this work,
 4 and I explained to her my needs as a supervisor.
 5 Q. Did you ever talk about Shane's scheduling
 6 with Ms. Grimm while she was still the superintendent
 7 there?
 8 A. Well, no, because it was kind of a fairly
 9 quick transition there. So I don't recall talking to
 10 her about that at all.
 11 Q. Was there ever a point in time in which
 12 Mr. Penrod was temporarily reassigned to dayshift, kind
 13 of like a coverage gap?
 14 A. I don't recall. Maybe.
 15 Q. Did you know about any reason why Shane was
 16 assigned to the graveyard shift to start with?
 17 A. No, I didn't, other than what he told me when
 18 I was...
 19 Q. But you never heard about any kind of a
 20 cross-training program?
 21 A. No, I didn't. Only from Shane.
 22 Q. Did you ever ask Ms. Viner or Ms. Grimm about
 23 a cross-training program?
 24 A. I did not.
 25 Q. Did you ever speak with HR or Betty Grimm or

1 as much information as I possibly could.
 2 Q. With respect to shift scheduling, is that
 3 something that is entirely within the scope of your
 4 discretion or do you get input from anybody else?
 5 A. Ultimately I believe that my supervisor would
 6 have the say -- if I changed something and it was not
 7 beneficial for the Department, then I think that she
 8 would say change it back or whatever. But, I mean, yes,
 9 I do have the ability to change schedules and move
 10 people around and that kind of stuff, if possible.
 11 Q. When you make shift assignments or shift
 12 changes, do you take into account the requests of the
 13 staff themselves who are being assigned?
 14 A. I try to as a supervisor, yes.
 15 Q. When Mr. Penrod asked you about the potential
 16 for being reassigned to the dayshift, is that something
 17 you tried to make happen?
 18 A. Absolutely. And I did talk to him during that
 19 period of time and told him that if something came up or
 20 if an opportunity to move back into transports came
 21 available, that I would work with him to try to get him
 22 back into that position, yes.
 23 Q. Did any opportunity come up?
 24 A. It did. It was a while into my position, I
 25 don't know exactly how long. But yeah, it did come up,

1 anybody like that about any particular difficulties or
 2 problems with Rhonda Ledford about the time that you
 3 started up again as supervising SSO?
 4 A. Any particular problems or?
 5 Q. Disciplinary problems or performance problems,
 6 anything like that at all?
 7 A. I don't recall anything about that.
 8 Q. With respect to transports, as I understand it
 9 from your testimony, one of your roles is to coordinate
 10 transports of juveniles?
 11 A. Yes.
 12 Q. What is it that you do in that role?
 13 A. Well, I supervise Rhonda, who is the transport
 14 coordinator. I'm ultimately responsible for all of the
 15 transports and the coordinating of all the transports
 16 within JCC-Nampa's scope of transports, which we do a
 17 big majority of the transports for the state of Idaho.
 18 Q. Was that position of transport coordinator,
 19 was that within the scope of what SSOs do at the time
 20 you took back over in 2012?
 21 A. Yes, it was.
 22 Q. Was Rhonda doing that at that point in time?
 23 A. Yes, she was.
 24 Q. She's done that throughout that time since?
 25 A. Yes.

1 Q. At some point did you become aware of
 2 Ms. Miles having had a DUI conviction? This is back
 3 when you started on as an SSO again, a supervising SSO.
 4 A. Yes, I did.
 5 Q. What did you learn about that?
 6 A. To be honest, I don't know the exact date, but
 7 she told me.
 8 Q. Now, I'm referring to an initial conviction.
 9 It's my understanding she's got two charges at least;
 10 one conviction, I'm not sure the status on the second
 11 one. But when you started up again as a supervising
 12 SSO, were you aware that she had had a DUI conviction?
 13 A. No, no, I did not know until after the fact.
 14 Sorry.
 15 Q. Is that something that would concern you as a
 16 supervisor, specifically with respect to transport
 17 duties?
 18 A. Not necessarily, no.
 19 Q. At some point did you become aware of a second
 20 DUI charge?
 21 A. That's correct.
 22 Q. What did you learn about that and how?
 23 A. Well, she had told me that she had gotten
 24 picked up on a DUI, and I don't recall the exact dates
 25 or times or anything. But she's the one that informed

1 any notion that Ms. Miles had had a prior conviction for
 2 that?
 3 A. Not until that time.
 4 Q. Did she tell you she had or did you learn
 5 about that?
 6 A. I don't recall how I learned of it.
 7 Q. Did you ever learn that she had been on
 8 probation following that first charge or anything like
 9 that?
 10 A. No, I don't know anything about that.
 11 Q. Do you know how soon after the charge or her
 12 arrest for DUI that Ms. Miles told you about the
 13 incident?
 14 A. I don't know specifically, but I know there
 15 are some rules in regards to that, according to POST.
 16 And I think she was within her time frame on the rules
 17 regarding that by POST.
 18 Q. Do you recall if she said anything like "last
 19 night" or "last week"?
 20 A. I don't recall whether she told me it was last
 21 night or the night before or whatever. It was fairly
 22 quickly afterwards because I know that it was within our
 23 guidelines.
 24 Q. Do you know what the guideline is?
 25 A. I don't off the top of my head. The only

1 me as her supervisor.
 2 Q. Does March or April of this year make sense?
 3 A. Yeah, I'm not sure exactly, but yeah.
 4 Q. How did your discussion go with her; what did
 5 she say?
 6 A. I don't recall exactly, but as her supervisor
 7 it was her duty to inform me that she had received a
 8 DUI. POST had to be informed, so, of course, I informed
 9 my supervisor, and POST was informed as well.
 10 Q. Is that something you did fairly immediately?
 11 A. Yes.
 12 Q. Was that Ms. Viner that you notified?
 13 A. I honestly can't remember. But I believe it
 14 was Betty Grimm at the time. I could be wrong.
 15 Q. If that was in March or April of this year,
 16 would that have been Ms. Viner or Betty Grimm?
 17 A. I don't recall. I don't remember when she
 18 took over. I'm sorry.
 19 Q. Would November of 2012 ring a bell for you
 20 with respect to Betty Grimm's leaving the facility?
 21 A. So then it would have been Ms. Viner.
 22 Q. Who else did you notify, POST?
 23 A. Well, I did not notify; Ms. Viner would have
 24 notified POST and let them know about that.
 25 Q. At the time you learned of this DUI, had you

1 reason I know that it was within our guidelines is
 2 because if it hadn't been, there would have been other
 3 actions that I would have had to have taken.
 4 Q. Did she tell you whether or not her license
 5 had been suspended at that point?
 6 A. I don't recall if it was at that point or not
 7 or later on.
 8 Q. At some point did you become aware that --
 9 A. Yes, at some point she did tell me her license
 10 had been suspended.
 11 Q. Do you know if she had conducted any
 12 transports after her license had been suspended and
 13 before she told you about it?
 14 A. I don't believe so. I think as soon as we
 15 found out about the license being suspended she was
 16 pulled from all transports. Rhonda and I had some
 17 conversations about that after the fact.
 18 Q. Was it of any concern to you that she was
 19 transporting juveniles with two DUI charges, one
 20 conviction?
 21 A. No concern to me as far as like if she was
 22 intoxicated at work, because we would hopefully catch
 23 that and not allow her to drive. So I don't think there
 24 was any concerns like that as far as that goes. And
 25 then she was not -- we weren't having her transport.

1 Q. Is something like that, a DUI -- well, is it
 2 fair to say that impacted her ability to perform her job
 3 as an SSO or as a transport officer?
 4 A. Only as a transport officer, yes.
 5 Q. Are SSOs sometimes asked to do transports?
 6 A. Yes.
 7 Q. They can be asked to do that at any time?
 8 A. You are correct, yes.
 9 Q. So would it be fair to say that took her off
 10 the list of available SSOs for transport?
 11 A. Yes.
 12 Q. Is it the case that even where there are two
 13 transport officers on any given transport, that both of
 14 them need to be able to drive the vehicle or operate the
 15 vehicle?
 16 A. To be able to operate a vehicle, yes, I would
 17 say so.
 18 Q. Did you become aware at any point whether
 19 Ms. Miles was driving herself to work on a suspended
 20 license?
 21 A. At some point I did become aware of that, yes.
 22 Q. Did you have a response to that?
 23 A. I did. I actually addressed that with her. I
 24 talked with Ms. Viner at the time about that. And we
 25 addressed that with her or I addressed that with her.

1 THE WITNESS: I do not know.
 2 MR. COLLAER: Counsel, it's noon.
 3 MR. SCHOPPE: Let me just finish up a couple
 4 more here.
 5 Q. (BY MR. SCHOPPE) Is Ms. Miles still with the
 6 Department?
 7 A. No.
 8 Q. Has she left the Department or been terminated
 9 or resigned?
 10 A. She was on medical leave until her medical
 11 leave had run out.
 12 Q. Do you know why she was on medical leave?
 13 A. I do not know.
 14 Q. Do you know if her departure from the facility
 15 had anything to do at all with her DUI charges?
 16 A. I do not know that.
 17 Q. Did you ever discuss that with anybody?
 18 A. No.
 19 Q. Prior to the time that Ms. Miles told you
 20 about the most recent DUI charge, were you aware of
 21 whether she had a medical issue that she was dealing
 22 with of any kind?
 23 A. As a supervisor I only know just general
 24 medical stuff, if they needed to be off for a doctor's
 25 appointment, that kind of stuff. I don't maintain any

1 My biggest concern was that as a POST officer myself,
 2 that any time she was driving and if I knew about it,
 3 then it could potentially put my POST certification at
 4 risk, and so I didn't want that to be the case. So we
 5 did talk to her specifically about that and she was
 6 informed.
 7 Q. Was any disciplinary action ever taken against
 8 Ms. Miles in connection with either the DUI charges or
 9 driving to work without a license or anything like that?
 10 A. No. Just the verbal, I guess, if that is
 11 considered a disciplinary action. I did have a
 12 conversation with her, a verbal conversation, about not
 13 driving to work and what that does to us and her as a
 14 whole.
 15 Q. But no written warning record?
 16 A. No.
 17 Q. Are you aware of whether or not there is a
 18 requirement for State employees to have valid driver's
 19 licenses?
 20 A. Yes, there is.
 21 Q. Do you know what happens or what is supposed
 22 to happen if a State employee loses a license?
 23 MR. COLLAER: Objection; calls for
 24 speculation, calls for a legal conclusion. Go ahead if
 25 you know.

1 kind of medical records, I'm not allowed to, so no.
 2 Only stuff that she's -- if she said she had a migraine
 3 or whatever and she had to leave for migraines, then I
 4 knew about that kind of stuff, but just the general.
 5 Q. But you weren't aware of anything she was
 6 dealing with medically prior to that time?
 7 MR. COLLAER: Objection; that's been asked and
 8 answered. Go ahead.
 9 THE WITNESS: Just the general stuff, being
 10 off for headaches, that kind of thing.
 11 Q. (BY MR. SCHOPPE) Were you talking about her
 12 specifically?
 13 A. Yes.
 14 MR. SCHOPPE: I think we are good for breaking
 15 for lunch.
 16 (Luncheon recess from 12:01 to 1:09 p.m.)
 17 Q. (BY MR. SCHOPPE) Since you returned to work
 18 at the JCC-Nampa facility in 2008 or whenever that was
 19 after you left your business, have you ever spoken with
 20 anyone at the facility concerning their concerns or
 21 rumors about timecard fraud?
 22 A. No. I've heard things talked about in
 23 management about, not necessarily one specific person,
 24 but just in general about better ways that we can make
 25 improvements for the facility for timesheets and

1 timecards and stuff like that.
 2 Q. Do you know when those discussions took place?
 3 A. No, not specifically. I just know that in the
 4 past since I've been back that that has been.
 5 Q. Are you aware of any allegations of timecard
 6 fraud on the part of Dave Rohrbach?
 7 A. No, I have not.
 8 Q. Did you ever hear anything about that when you
 9 worked in Solutions?
 10 A. Not while I was in Solutions. And I don't
 11 recall if it was off of the initial -- because I did
 12 read the initial lawsuit part, and I don't know if it
 13 was off of that or if it was in conversations maybe with
 14 Rhonda sometime after the fact, but I did hear about
 15 that afterward.
 16 Q. Do you know why Dave Rohrbach left the
 17 facility?
 18 A. I do not.
 19 Q. Have you ever spoken with anyone at all at the
 20 facility about increased concerns for their safety or
 21 for safety of the juveniles? Again, the same time
 22 frame.
 23 A. There's always some sort of a kind of a feel
 24 for increased safety and wanting better safety and
 25 security. I think through all of the PbS reports and

1 want me to state that I recognize this?
 2 Q. (BY MR. SCHOPPE) If you do or not.
 3 A. Yeah, I do recognize this.
 4 Q. What is that document, just kind of a brief
 5 summary?
 6 A. It's a statement from the Director about an
 7 incident that happened at the Canyon County annex with
 8 me and a juvenile. It doesn't state that in this
 9 report, but I guess it does down here at the bottom,
 10 "Mark Freckleton."
 11 Q. That's perfectly fine. Thanks.
 12 So you know what incident this is referring
 13 to?
 14 A. Yes, I do.
 15 Q. Can you tell me about that incident, what
 16 happened?
 17 A. I transported a juvenile from the Department
 18 of Juvenile Corrections in Nampa to the Nampa annex,
 19 which is downtown Nampa. When we were arrived at the
 20 annex, I took the man inside. We checked in for
 21 court. He asked to use the rest room. We went into the
 22 rest room. He was in the rest room an extended period
 23 of time. I was actually standing in the rest room with
 24 him. I was not in the stall with him. It was kind of a
 25 bigger stall, like a longer, maybe what you would

1 that kind of stuff that we've done throughout the years,
 2 there has always been some sort of a concern for either
 3 staff safety or juvenile safety. So yeah, I've heard
 4 some stuff about that, like that, yeah.
 5 Q. Are you aware of any complaints by anyone
 6 specifically in O&A concerning increased risks or unsafe
 7 environment for staff or juveniles there after 2011?
 8 A. Not that I'm aware of, no, not specifically.
 9 Q. Had you ever talked with Tom Knoff about
 10 anything like that?
 11 A. Only probably in reference to PbS data and
 12 that kind of stuff in meetings, but not like one person
 13 complaining about it or any of that kind of stuff.
 14 Q. I'm going to show you a document. Generally
 15 speaking, when I show you a document, I want you to look
 16 it over, take all the time you need to look through it,
 17 and let me know if you recognize it and kind of briefly
 18 identify it, and then I'll ask you some questions about
 19 it.
 20 A. Okay.
 21 MR. COLLAER: Are you going to mark this?
 22 MR. SCHOPPE: Yes. This will be marked as
 23 Exhibit 177.
 24 (Exhibit 177 marked.)
 25 THE WITNESS: (Reviewing document.) So you

1 consider like for a handicap kind of thing.
 2 So he was in the stall. He was in there for
 3 an extended period of time. I knocked on the door three
 4 times. Two times I actually asked him what was taking
 5 so long. Everything okay kind of thing, checking on
 6 him. The third time when I opened the stall, he tried
 7 to attack me with a pair of scissors. He tried to stick
 8 me in the neck. And at that point we had disengaged and
 9 I tried to get away from him. He trapped himself in the
 10 stall, and we called for assistance from the court
 11 marshals and then eventually law enforcement.
 12 Q. Did you restrain him yourself?
 13 A. No, I did not. The only physical contact that
 14 we had was, he jumped either off of the toilet or came
 15 at me from in front of the toilet with an overhand
 16 strike, and I blocked with my arm, anticipating the
 17 scissors to go through my foreman actually, but somehow
 18 or another I missed. And when he tried to, at that
 19 point tried to kind of get closer to me, I shoved him
 20 into the stall where he fell, or stumbled back.
 21 I tried to shut the bathroom door, the stall
 22 door, but it was broken, so it actually opened all the
 23 way up so that he came back around the door at me. And
 24 then I hit the door -- I don't know if you want to refer
 25 to it -- kind of like with my shoulder, like you would

1 with a football tackle or a football pad or something,
 2 and that knocked him back into the stall again, giving
 3 me the opportunity to get out of the bathroom.
 4 Q. Then he stayed in the bathroom until --
 5 A. He did, until arrested and subdued by law
 6 enforcement.
 7 Q. Do you know where he got the scissors?
 8 A. He could get them from one of the pods, A pod
 9 or B pod, I can't remember which pod exactly, but one of
 10 the pods from the Choices area.
 11 Q. Did you ever find out anything more about
 12 whether this was planned for a while or came up with on
 13 the spur of the moment or anything like that?
 14 A. During the conversation with law enforcement
 15 afterwards, they did indicate that he had been planning
 16 that for some time. I don't know that he knew exactly
 17 what day or what time he was going to do it, but I think
 18 he did know that he was going to go to court, and so he
 19 was trying to plan it around that court date.
 20 Q. Did it just happen to be that you were the
 21 transport officer of the day?
 22 A. Yes. Actually, it was not -- I don't believe
 23 I was scheduled for the transport officer for that day,
 24 I could have been. But either way it was kind of a
 25 short notice kind of thing. I showed up and took him.

1 in. But at the time it was felony escape, felony
 2 assault on a personnel, and felony burglary were the
 3 three felony charges, and there was a misdemeanor
 4 charge.
 5 Q. And do you know if anyone at the Nampa
 6 facility learned of [REDACTED] intent to assault a
 7 transport officer before it actually happened?
 8 A. Not that I'm aware of.
 9 Q. Do you know if he was considered to be any
 10 particular high risk or that sort of thing?
 11 A. Not for that no, not for that sort of thing
 12 that I'm aware of. We try to do the best we can as
 13 transport officers and people to be aware of that kind
 14 of stuff, and I didn't hear anything prior to that.
 15 I had been [REDACTED] -- [REDACTED] had been in the
 16 program as I supervised the staff up in Solutions prior
 17 to that, so I kind of had a little bit of knowledge of
 18 him before we left. And I didn't feel uncomfortable or
 19 didn't get any kind of things from him when we left.
 20 (Exhibit 178 marked.)
 21 Q. (BY MR. SCHOPPE) We have another document
 22 here and this deals also with transports. Same drill,
 23 look through it. There's several e-mails in the chain
 24 there and you are copied on a few of them. So just let
 25 me know if you've see the document or parts of the

1 Q. In that e-mail that you just read in the
 2 second bold paragraph, third paragraph down, it says:
 3 "Rest assured IDJC will investigate the incident to
 4 identify opportunities to improve our practices." Do
 5 you know if anything has been done by the Department to
 6 investigate the incident?
 7 A. That I don't know.
 8 Q. Do you know if the Department has done
 9 anything to improve its practices since the incident?
 10 A. We have done a lot more searches. We've tried
 11 to do a lot more active stuff from the safety and
 12 security standpoint of trying to do tool control. I
 13 know they've most recently introduced some shadowboxes
 14 kind of things for their tools in the Solutions unit and
 15 working on it in Choices.
 16 Q. Do you know what, if any, charges have been
 17 pressed against -- this is [REDACTED], right, that
 18 assaulted you?
 19 A. That's correct.
 20 Q. Do you know what, if any, charges have been
 21 pressed again him?
 22 A. I can tell you what charges I know were at the
 23 time, and I haven't been following the case since he was
 24 dropped as ours, and I haven't been to -- I think it's
 25 still an open case, and I believe I still can get called

1 document before. Take as much time as you need.
 2 A. (Reviewing document.) On the e-mails here I
 3 can see that I'm cc'd on this, and I don't recall the
 4 specifics around this, other than just reading this
 5 e-mail. But yeah, I am named as a courtesy copy on
 6 this.
 7 Q. Were you Ms. Ledford's supervisor at this
 8 time?
 9 A. Yes.
 10 Q. Looking at the first page there, third
 11 paragraph down, can you read that paragraph starting
 12 with "Additionally."
 13 A. "Additionally, Ms. Ledford has experienced
 14 performance issues since assuming duties of coordination
 15 transportation and, to my knowledge, she is still
 16 experiencing work performance issues that have not been
 17 addressed in an adequate and consistent manner. If Ms.
 18 Ledford is to continue in these duties, her deficiency
 19 in performing these duties needs to be addressed and a
 20 plan for follow-up and further action if her performance
 21 does not improve (late reports, mornings meetings
 22 missing, incorrect information and so forth). A
 23 transportation procedure/process should be written and
 24 communicated to all involved, so the situation as
 25 discussed below does not occur in the future."

1 Q. You can stop there. To the best of your
2 recollection, do you recall any performance issues
3 involving Ms. Ledford's performance as transportation
4 coordinator?

5 A. Well, there were issues when I took over. And
6 I think there were issues with performance on the SSO
7 and safety and security and the transport coordinator
8 position, as well as performance throughout the whole
9 process. Does that make sense?

10 So if there were e-mails that were going out,
11 sometimes they weren't going out to everybody involved.
12 If somebody was requesting a transport, they may not
13 have requested it the proper way. So I think there was
14 a lot of stuff. But yeah, there were some -- there were
15 definitely some problems. We were missing stuff when we
16 were showing up for morning meeting.

17 Whether that was my fault as the supervisor
18 for the position or whether that was Rhonda's fault for
19 not putting them on there because she knew about it, I
20 don't know. But I can tell you there were issues, and
21 where that problem lied was within the whole group, not
22 necessarily just one specific person. But there were
23 some issues.

24 Q. So was there -- correct me if I'm wrong.
25 These issues that Ms. Cloud is referring to here are not

1 Now, some of that happened prior to me being
2 the supervisor, and I think that a lot of the feeling
3 behind this happened to me prior to being the
4 supervisor. So I don't know -- I don't know. I can
5 only tell you what I did when I took over and when we
6 started working there and what Rhonda and I have done
7 since then.

8 Q. Did you develop any kind of a -- there is a
9 reference to a plan for follow up and further action.
10 Did you work with her on anything in that respect?

11 A. Not by directive of any of these people that
12 I'm aware of. I don't think Julie came to me and we
13 worked on a plan like that.

14 But obviously, like I said, I knew as a
15 supervisor when I would go to the morning meetings that
16 there was a problem. So yeah, we worked -- I worked
17 with Rhonda to try to create a better system so that we
18 as a team were accommodating all the problems that were
19 coming up.

20 Q. And were you able to work with her pretty well
21 on that?

22 A. Yes, absolutely.

23 Q. Did you have any concern that she was being
24 negligent or irresponsible or refusing to do something
25 that she was supposed to do as opposed to --

1 necessarily unique to Ms. Ledford, but are more systemic
2 problems, the way in which transports were coordinated
3 at the time?

4 A. I don't know. What she's referring to here in
5 this sounds to me like she is referring specifically to
6 Ms. Ledford's issues.

7 Q. Since you were her supervisor at the time, did
8 you have any concerns that were very particular to
9 Rhonda herself as opposed to the system?

10 A. If I did, that would have been -- I mean,
11 Rhonda and I would have been working on those issues at
12 that time. Because, like I said, there were times that
13 we showed up in the morning briefings and that kind of
14 stuff and stuff was missed and that kind of thing. But
15 like I said, I don't know -- I mean, it's hard to say
16 where that fell at that time, because we were missing
17 stuff. So it was a matter of us trying to get back on a
18 teamwork and figuring out all the issues and making sure
19 communication was there.

20 Q. But as you sit here now, you don't remember
21 anything that was specific to her?

22 A. Well, I do remember that we were missing stuff
23 in the morning meetings, so that was very specific. And
24 I think that is what they are -- in some respects, I
25 think that is what they are talking to.

1 A. Not to my knowledge.

2 Q. Did you ever talk about -- at the bottom
3 paragraph there, if you can read that, where it starts
4 with "In regards to."

5 A. "In regards to Ledford's statement to Ms.
6 Zuniga regarding 'continued retaliation/harassment,'
7 Mr. Freckleton should clarify with Ms. Ledford what
8 'retaliation or harassment' she is experiencing. Ms.
9 Ledford would need to provide specific information.
10 Ms. Zuniga's e-mail to Ms. Ledford does not appear to be
11 retaliator or harassing to me. Rather, Ms. Ledford's
12 letter seems to be condescending and smacks of
13 insubordination. However, if there are valid complaints
14 then actions should be taken."

15 Q. Did you ever speak with Ms. Ledford about the
16 retaliation/harassment that is referred to here, as far
17 you recall?

18 A. I don't recall.

19 Q. Or how about in general, in connection with
20 this lawsuit?

21 A. I mean, there has been conversations about
22 retaliation, I've heard that in the past, just going
23 into her office and that kind of stuff.

24 Q. Have you ever heard any other Plaintiffs
25 specifically reference retaliation or concern about

1 that?
 2 A. No.
 3 Q. Did Shane Penrod discuss that with you in the
 4 context of his assignment to the graveyard shift?
 5 A. I don't remember him saying that it was
 6 because of retaliation. I think that he felt like it
 7 was a punishment. I don't know -- I don't recall him
 8 ever saying that it was a retaliation for that, anything
 9 that he did or whatever.
 10 (Exhibit 179 marked.)
 11 Q. (BY MR. SCHOPPE) Same drill, take your time.
 12 A. (Reviewing document.) I was unaware of any of
 13 that.
 14 Q. With respect to the fifth paragraph down,
 15 starting with "I also advised Betty," would you mind
 16 reading that, please.
 17 A. "I also advised Betty that if she is sitting
 18 in her office observing the monitor and sees Julie
 19 interacting with some male juvenile and shouldn't be, to
 20 go and stop her, and bring her back to the office to
 21 have a talk with her, rather than just watching the
 22 monitor and then talking to Pat about what to do."
 23 Q. Okay. Earlier you testified about Ms.
 24 McCormick spending seemingly inappropriate amounts of
 25 time on the Solutions unit; correct?

1 there, kind of the same thing. So some kind of a verbal
 2 counseling probably did take place, but I don't know.
 3 She didn't tell me it was in relations to what
 4 this was. It was more about time spent in the unit
 5 working with the juveniles than it was...
 6 Q. If you had known as a supervisor in Solutions
 7 at the time that there was concern about her
 8 interactions with male juveniles, what would your
 9 response have been?
 10 MR. COLLAER: Object to the form the question;
 11 vague, calls for speculation.
 12 Q. (BY MR. SCHOPPE) Would that have been of any
 13 concern to you?
 14 MR. COLLAER: Same objection.
 15 THE WITNESS: I don't know how to answer that.
 16 State it one more time.
 17 Q. (BY MR. SCHOPPE) As the supervisor and you're
 18 aware of the time that she was spending, what you
 19 considered to be too much time in Solutions, and you
 20 understand that Betty Grimm shared that concern. If you
 21 had know that that concern was targeted more about
 22 her -- at least part to her interactions with male
 23 juveniles, what would your response as a supervisor have
 24 been?
 25 MR. COLLAER: Same objection; it's vague,

1 A. Yeah, I would say it was more than what I --
 2 at the time we talked about whether or not she should be
 3 up there that much because of her other duties, yes.
 4 Q. When you say "we talked about" --
 5 A. Julie and myself.
 6 Q. Do you know if Ms. Grimm has monitors in her
 7 office or the superintendent's office?
 8 A. She has access. They don't have monitors, but
 9 we have access to the monitoring system through our
 10 computers, yes.
 11 Q. Are you aware of any instance in which you saw
 12 Betty intervene with Julie in Solutions or do anything
 13 like this conduct that is described here in that
 14 paragraph?
 15 A. I'm not aware of anything like that.
 16 Q. Did anyone ever mention to you, whether Julie
 17 McCormick or Betty, that there was any sort of
 18 disciplinary action that was contemplated or had been
 19 initiated against Ms. McCormick in connection with this
 20 sort of thing?
 21 A. Well, not in connection with this thing, no.
 22 Q. Was there something else?
 23 A. I just was going to say, I think that Julie
 24 had mentioned to me one time when we were up there that
 25 Betty had talked to her about spending too much time up

1 calls for speculation. It also misstates the document.
 2 THE WITNESS: I mean, obviously I would have
 3 just talked to my supervisor about it. If I would have
 4 known more about it, I would have gone to my supervisor.
 5 Q. (BY MR. SCHOPPE) And Betty Grimm was your
 6 supervisor.
 7 A. Yes.
 8 Q. Do you feel that would have been information
 9 that would have been appropriate for you to have as the
 10 supervisor of Solutions at the time?
 11 MR. COLLAER: Object to the form of the
 12 question; vague, calls for speculation, incomplete
 13 hypothetical.
 14 THE WITNESS: I'm not sure. Yeah.
 15 Q. (BY MR. SCHOPPE) So Betty had talked with you
 16 though about Julie spending too much time on Solutions;
 17 right?
 18 A. No, not Betty, just Julie.
 19 Q. Just Julie. So Betty didn't talk to you about
 20 that at all?
 21 A. I don't recall ever having a communication
 22 with Betty about Julie's time on the unit. Julie came
 23 to me more, like I said, I think more of like a
 24 leadership, like a mentor. And I think she was
 25 struggling with how she was going to -- at least how she

1 portrayed it to me was how she was going to transition
2 from SSO supervisor into program management, just trying
3 to go up that ladder.

4 So my communication with her was all about in
5 regards to that. And then I was trying to help her
6 balance that with still maintaining her job as the
7 safety and security supervisor, still being able to do
8 that job appropriately.

9 Q. So then apart from Julie McCormick, nobody
10 talked with you at all about her spending too much time
11 in Solutions at this time?

12 A. I don't recall anything like that.

13 Q. Do you recall either Alanna Kimmel or Todd
14 Inman making any reference to similar concerns?

15 A. I don't. I don't. I think I stated earlier
16 some of my staff in Solutions had said stuff like that,
17 but I don't remember any staff from outside -- actually,
18 Ms. Kimmel probably was my staff at that time, so I may
19 have to restate that. Ms. Kimmel, she may have at that
20 time, because she may have been in the Solutions at that
21 time.

22 Q. With respect to the fourth paragraph down, it
23 starts with: "Now apparently Rhonda." With respect
24 to -- there is a sentence there that says: "Rhonda is
25 telling staff that she is untouchable so Betty and Pat

1 THE WITNESS: No. I mean, everybody has their
2 own problems or issues or whatever, so every supervisee
3 is different than the next.

4 Q. (BY MR. SCHOPPE) And with respect to the
5 transport issues that you had talked about earlier when
6 you became supervising SSO, there were issues there. Is
7 it the job of the supervising SSO, as far as you are
8 concerned, to be aware of those problems and fix them?

9 A. Absolutely. I mean, ultimately it's my
10 responsibility, even though she has an additional duty
11 assigned to her as the transport coordinator, ultimately
12 that is my responsibility.

13 Q. And then when you came in you addressed the
14 problems, fixed them with Ms. Ledford or whomever else
15 you needed to deal with, and since then it's gone pretty
16 well; is that fair?

17 A. I would hope to say so, yes.

18 Q. With respect to the problems that were there
19 when you got there, would those have been Julie
20 McCormick's or a prior supervisor's responsibility to
21 address?

22 A. Yes. I would say that they have the same
23 similar responsibilities that I did, yes.

24 Q. With respect to Julie McCormick, did you ever
25 hear anyone express any concern over her qualifications,

1 were concentrating on who she told and what she said."
2 Do you see that sentence?

3 A. Yes.

4 Q. Do you know if Rhonda ever told anybody that
5 she was untouchable?

6 A. Not to my knowledge.

7 Q. I think this is July 12, and as I understand
8 it, this is before you took over as the supervising SSO;
9 is that fair?

10 A. That's fair, yes.

11 Q. After you took over did you ever hear anything
12 like that from Rhonda that she was untouchable?

13 A. Not to me, no.

14 Q. Any special or unusual problems that you've
15 encountered supervising either Shane Penrod or Rhonda
16 Ledford?

17 A. Any special or unusual problems?

18 Q. In the course of your duties, and correct me
19 if I'm wrong, you have employees that sometimes they
20 make mistakes or sometimes there is just ordinary
21 day-to-day problems. Apart from that sort of baseline,
22 is there anything special about them that makes them
23 worse employees or anything like that?

24 MR. COLLAER: Object to the form of the
25 question; it's vague and calls for speculation.

1 specifically with respect to supervisory experience, to
2 be the supervising SSO?

3 A. Well, yes and no. Yes, in the fact that as
4 part of the interviewing team the first time that she
5 applied for the position she wasn't hired for that, so
6 there was some talk about her ability to supervise and
7 whether or not she had enough experience, so yeah. But
8 I wasn't a part of it the second time, so I don't know
9 whether she has gotten more experience since then or --
10 I can't speak to that, when she was hired.

11 Q. Do you recall when it was she applied that
12 first time you referenced?

13 A. I believe -- I don't recall. I'm sorry. It
14 was one of the times that I was leaving. Because I've
15 gone in and out three times, or whatever, I don't recall
16 which one it was. But there was a time that she applied
17 for it and they gave it to someone else.

18 And during that conversation I do recall
19 them -- and the only reason I recall that specifically
20 is because part of what she was working for was to
21 become a supervisor in the Department, and I was her
22 supervisor at the time, so I knew she was working really
23 hard to try to move up.

24 Q. Do you know if she had any kind of criminal
25 background?

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1 A. I do know she had some problems when she was
 2 but I have no idea what the issues were.
 3 Q. Do you have any idea -- and this might go to
 4 when you were part of the interview process the first
 5 time around. Do you know anything at all about her
 6 supervisory background, if she had anything at all?
 7 A. I don't remember. I don't recall. I just
 8 know that it wasn't enough for the position at that
 9 time.
 10 Q. Do you recall how many other people
 11 interviewed for that position at the time?
 12 A. I do not. I know there was a few.
 13 Q. Was it your understanding that interviewees
 14 got to that point in the process after sort of the
 15 pass-fail process of applying for a job?
 16 A. There is a process where they have to score
 17 the applicants. I have never done that. I don't know
 18 the process behind it, but I do know there is a process
 19 behind it.
 20 Q. As far as you were concerned at the time, was
 21 the supervisory experience a minimum threshold, a
 22 minimum qualification.
 23 MR. COLLAER: Object to the form of the
 24 question. If you know; don't speculate.
 25 THE WITNESS: I don't know. I would have to

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1 look at the minimum qualifications for the position. I
 2 don't recall.
 3 Q. (BY MR. SCHOPPE) Do you remember reacting or
 4 responding in any way to seeing an applicant who, as you
 5 indicated, didn't meet those -- didn't have supervisory
 6 experience?
 7 A. My reaction to that when Laura was hired? Is
 8 that what you are referring to?
 9 Q. No. When you were referring to Julie
 10 McCormick.
 11 A. No, I don't recall that.
 12 Q. Did you have a reaction, as you were starting
 13 to testify, about Laura Roters?
 14 A. Well, just the one time when I made the phone
 15 call about whether or not I was qualified, how come I
 16 didn't get an interview being a supervisor in the
 17 facility.
 18 Q. Have you ever figured out or has anybody ever
 19 told you at any point since then why you never got an
 20 interview?
 21 A. No.
 22 (Exhibit 180 marked.)
 23 Q. (BY MR. SCHOPPE) Now we are looking at
 24 Exhibit 180.
 25 A. Okay.

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1 Q. Same drill, take a look at it.
 2 A. (Reviewing document.) Yeah, I was unaware of
 3 any of this.
 4 Q. So we are looking at an e-mail from Betty
 5 Grimm to Julie Cloud dated June 6, 2011, with the
 6 subject line Re: Nampa SSO issue; is that correct?
 7 A. That's correct.
 8 Q. At any point, either during this time when
 9 this e-mail was sent -- I understand you weren't copied
 10 on this -- or more specifically after you went back and
 11 became the supervising safety and security officer again
 12 last year, did either Julie Cloud or Ms. Grimm or Ms.
 13 Harrigfeld raise an issue concerning this Nampa SSO
 14 issue? Does that ring any bells for you at all?
 15 A. No, I don't believe, none of the three that
 16 you mentioned. Rhonda and I have talked about it since
 17 I became, or since I came back as the SSO supervisor.
 18 None of these three approached me with saying this.
 19 Q. From this time all the way up to the present
 20 did you ever form any understanding or impression of
 21 what the Nampa SSO issue might have been, whether that
 22 could have been documented in the file or anything?
 23 A. Not that I'm aware of.
 24 Q. Do you have any idea what Rhonda might have
 25 been speaking about with Gracie Reyna or Tom or Addison

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1 Fordham?
 2 MR. COLLAER: Objection; calls for
 3 speculation.
 4 THE WITNESS: No.
 5 Q. (BY MR. SCHOPPE) With respect to the second
 6 paragraph down, can you read it please starting with
 7 "Betty."
 8 A. "Betty, I talked with Sharon and I believe
 9 that the decision is to let this run its course.
 10 However, Rhonda should not be doing these types of
 11 activities on work time. I think that may be hard to
 12 monitor, but if you find it is happening on work time
 13 let me know."
 14 Q. That part is from Julie Cloud to Betty Grimm
 15 copied to Sharon Harrigfeld; is that correct?
 16 A. That's correct.
 17 Q. Has anyone ever told you what, quote, "these
 18 types of activities" might have been?
 19 A. Not that I'm aware of.
 20 Q. Stepping back up to the first paragraph. Can
 21 you read the last sentence of that, please.
 22 A. The last sentence of the first paragraph?
 23 Q. Yes.
 24 A. "Tom reported all of this to me today. So
 25 indeed she is stirring the pot while on duty."

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1 Q. Do you have any idea what that was referring
 2 to?
 3 MR. COLLAER: Objection; calls for
 4 speculation.
 5 THE WITNESS: No, I do not.
 6 Q. (BY MR. SCHOPPE) Looking down at the bottom
 7 of the e-mail, can you read that portion starting with
 8 "I have gathered."
 9 A. This is from Betty. It says: "I have
 10 gathered more information about Rhonda Ledford and her
 11 contacting various staff here at JCC Nampa. The staff
 12 that she talked with were: Gracie Reyna, Addison
 13 Fordham, Tom Knoff. These were all contacted on Friday.
 14 O'Neal Rich was contacted by phone on yesterday, Sunday,
 15 by Ms. Ledford."
 16 Q. Now, did Mr. Rich work in Solutions with you
 17 at this time?
 18 A. He did.
 19 Q. Did he ever mention anything about that to
 20 you, of being contacted by Ms. Ledford?
 21 A. Not that I recall. I have no idea what this
 22 is about necessarily, so I don't know.
 23 Q. At any point since you became supervising SSO
 24 again, do you have any idea why it was they were keeping
 25 track of who Rhonda Ledford was speaking with?

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1 MR. COLLAER: Objection; misstates the
 2 document, assumes facts not in evidence and calls for
 3 speculation. If you know, go ahead.
 4 THE WITNESS: I don't.
 5 Q. (BY MR. SCHOPPE) Does it appear to you from
 6 this document that someone is keeping track of who
 7 Rhonda Ledford is -- or Betty Grimm is keeping track of
 8 who Rhonda Ledford is speaking with?
 9 MR. COLLAER: Objection; calls for
 10 speculation.
 11 Q. (BY MR. SCHOPPE) Just based on your reading
 12 of the document.
 13 MR. COLLAER: Same objection. Don't
 14 speculate.
 15 THE WITNESS: I don't know. I'm not sure.
 16 Q. (BY MR. SCHOPPE) You don't have any
 17 impression one way or the other?
 18 MR. COLLAER: Same objection; it's been asked
 19 and answered, calls for speculation.
 20 Q. (BY MR. SCHOPPE) I'm not asking you to
 21 speculate. I'm asking you what your thinking process is
 22 here.
 23 MR. COLLAER: He's already answered that
 24 question.
 25 Q. (BY MR. SCHOPPE) Were you starting to say

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1 something?
 2 A. No. The people on here is what it sounds
 3 like. All I can say is what it says right here. I
 4 don't know anything else.
 5 Q. I'm not sure if I asked you exactly this way.
 6 Are you aware of Betty Grimm keeping track of people to
 7 whom Rhonda Ledford has spoken to any time since you
 8 became supervising SSO?
 9 A. No, I have not.
 10 Q. In your experience working as a supervisor at
 11 Nampa, or actually in any capacity at JCC-Nampa, is it
 12 common practice for communications among employees to be
 13 tracked like that?
 14 MR. COLLAER: Objection; assumes facts not in
 15 evidence. But go ahead and answer if you can.
 16 THE WITNESS: Not that I'm aware of.
 17 MR. SCHOPPE: Here's another document. This
 18 will be Exhibit 181.
 19 (Exhibit 181 marked.)
 20 THE WITNESS: (Reviewing document.) I was
 21 unaware of all this.
 22 Q. (BY MR. SCHOPPE) Now, can you go ahead and
 23 identify the document? Go ahead and identify what the
 24 document is.
 25 A. It's a document between Dave Rohrbach to Betty

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1 Grimm requesting Laura to become the unit manager after
 2 an interview, Re: Unit manager, from Sharon welcoming
 3 her, and then --
 4 Q. So it's a series of e-mails, the topmost being
 5 from Betty Grimm to Dave Rohrbach, Pat Thomson, and
 6 Julie Cloud, dated October 27, 2011, regarding forwarded
 7 messages about unit manager; is that correct?
 8 A. Yes.
 9 Q. Now, with respect to the date on this e-mail,
 10 is that consistent with when you recall Ms. Roters was
 11 promoted to unit manager the second time after her
 12 second application?
 13 A. Yes.
 14 Q. Is it fair to say that you had applied for the
 15 unit manager position the first time around earlier in
 16 2011?
 17 A. That's correct.
 18 Q. So it's your understanding that she also
 19 applied for that spot; right?
 20 A. Yes.
 21 Q. You had mentioned an impression regarding
 22 favoritism earlier involving Dave Rohrbach and Ms.
 23 Roters; is that fair? Is that correct?
 24 A. I mentioned an impression of favoritism?
 25 Q. Yes.

1 A. Yes.
 2 Q. Did you ever talk with anybody else about
 3 having a similar impression of favoritism by Mr.
 4 Rohrbach or Ms. Grimm toward Ms. Roters?
 5 A. I don't recall. Like I said before, it was
 6 just kind of a general feeling I believe, and some
 7 people had that. But I don't recall specifically
 8 talking to anybody about it.
 9 Q. So you might have heard that from people.
 10 A. I may have, yeah, and my feeling as well at
 11 some point.
 12 Q. Can you read the top line starting "Okay
 13 Dave," please.
 14 A. It says: "Okay Dave, NOW you have my approval
 15 of your request to offer Laura the UM position at JCC
 16 Nampa, only AFTER you have met with the other two
 17 applicants."
 18 Q. Do you have any idea who those other two
 19 applicants might have been?
 20 A. I do not.
 21 Q. Is it your understanding, based on what you
 22 have gone through as an applicant for positions before,
 23 hiring or a promotion, and you testified earlier that
 24 you have been on at least one interview panel; is that
 25 right?

1 don't know if that was prior to or after, that's, I
 2 guess, what I'm asking, the actual interviews.
 3 Q. (BY MR. SCHOPPE) Okay. When you participated
 4 on the interview panel -- how many times have you done
 5 that; more than once?
 6 A. More than once.
 7 Q. Lots of times?
 8 A. Lots and lots of times, yes.
 9 Q. Is there a process that is outlined to you?
 10 Is there a flowchart or a guide or anything like that?
 11 A. No, there is not. Typically, when I do it we
 12 follow -- there is a process of getting them to the
 13 point of application and interviews, obviously through
 14 the State website, and the application and the scoring
 15 and all that kind of stuff, and then how we pull the
 16 names. But when it actually gets down to the interview
 17 process, that in my experience is more up to the person
 18 doing the interviews and the supervisor doing the
 19 interviews and how that is conducted.
 20 Q. What do you know about the process by which
 21 the names are pulled?
 22 A. I know very little, other than there is an
 23 order that you have to pull from off of the State site
 24 once they've all been scored. And then as a supervisor
 25 they give you the login and the password for that list

1 A. That's correct, yes.
 2 Q. Is it your understanding that offers of
 3 positions like this are made after interviews are
 4 conducted or before?
 5 A. You are asking if you offer someone the
 6 position before or after an interview?
 7 Q. Yes.
 8 A. You would offer them the position after an
 9 interview.
 10 Q. Is that after everybody has been interviewed
 11 for the position?
 12 A. Yeah. Everybody that you are going to
 13 interview for that position, yes.
 14 Q. Does it strike you as odd that in that
 15 paragraph you read that there would be an offer to Ms.
 16 Roters of the unit manager position prior to a meeting
 17 with the other two applicants?
 18 MR. COLLAER: Objection; that misstates the
 19 document and assumes facts not in evidence, calls for
 20 speculation.
 21 THE WITNESS: I don't know.
 22 Q. (BY MR. SCHOPPE) It doesn't seem odd to you,
 23 or you don't know if it does or not?
 24 MR. COLLAER: Same objection.
 25 THE WITNESS: From reading this statement I

1 of applicants. And typically it's a list of 25
 2 applicants, and then you have those names to pull from.
 3 There are some requirements, that if there are
 4 veterans and double diamond vets, no matter where they
 5 fall on the list, you have to interview them. So there
 6 are some. But, like I say, after that it really becomes
 7 more about the actual supervisor and his questions and
 8 that kind of stuff, how you conduct the interview.
 9 Q. Is it the typical process that the interviews,
 10 the short list, I guess you might call it, are
 11 interviewed?
 12 A. I'm sorry. Can I hear that one more time.
 13 Q. Is it the typical process that the short list
 14 then of the names that are pulled are then interviewed?
 15 MR. COLLAER: Object to the form of the
 16 question; incomplete hypothetical and calls for
 17 speculation.
 18 THE WITNESS: You have an option to pull from
 19 that list, yes, you do.
 20 Q. (BY MR. SCHOPPE) And then what happens next?
 21 Are there further meetings with those applicants or then
 22 the choice is made?
 23 A. It depends on the supervisor and what they are
 24 trying to do. I think that sometimes, depending on the
 25 position that we are filling and how that goes, I may do

1 multiple interviews, I may only do one. If there's one
 2 person that really stands out above all the rest that
 3 we've already interviewed, I may not do two or three
 4 interviews, depending on how it goes.
 5 Q. Did anyone around this time, did you ever hear
 6 anyone express the view that they believed that Laura
 7 Roters would get that position, regardless of who
 8 applied?
 9 A. Are you talking about the second time around?
 10 Q. Either time.
 11 A. No. I think that there was some speculation
 12 that there was a lot of people that were going to maybe
 13 get the job. I was kind of hoping that I would before
 14 the first time. I mean, I think that it depends on who
 15 you talk to and whether or not they were speculating
 16 whether Laura or I or Eric or whoever was applying for
 17 the position at the time was going to get it.
 18 Q. Did you ever become aware of a petition
 19 circulating at the facility concerning the hiring and
 20 promotions practices? This would have been late 2011?
 21 A. Not that I recall.
 22 Q. Or an all-staff meeting in November 2011 that
 23 some of those issues arose at?
 24 A. Some of those issues arose?
 25 Q. Yes. Do you recall anything like that?

1 are going to look at another exhibit.
 2 (Exhibit 183 marked.)
 3 Q. (BY MR. SCHOPPE) This one could take you a
 4 while, so take all the time you need.
 5 A. (Reviewing document.) I didn't know --
 6 obviously talking to Rhonda I knew a little bit about
 7 some of this stuff on the back, but most of this I had
 8 not.
 9 Q. Is that a document you've seen before?
 10 A. Not that I recall.
 11 Q. Is it fair to say, or correct to say that this
 12 is a December 17, 2011 memo, it doesn't look like an
 13 e-mail, from Julie McCormick addressed to Rhonda
 14 Ledford?
 15 A. That's correct.
 16 Q. Looking back to the list on the back -- first,
 17 when you resumed the duties of the supervising SSO last
 18 year, were you aware of the existence of a set of
 19 expectations for Rhonda specifically?
 20 A. I don't think so until after or around the
 21 time that I put out the expectations for all of the
 22 SSOs, Rhonda and I had talked about these did exist.
 23 Q. Do you know if any existed for any other SSO?
 24 A. I don't know.
 25 Q. With respect to No. 4, would you mind reading

1 A. I don't recall that.
 2 Q. Or any concern expressed, actually by a lot of
 3 O&A personnel, including Tom Knoff, about hiring or
 4 promotions practices, specifically with respect to Ms.
 5 Roters and Ms. McCormick?
 6 A. Not that I recall. But I will tell you that I
 7 believe at some point everybody has a speculation of who
 8 is going to be hired into what position. That's just
 9 typical I think for the Department over there in my
 10 opinion.
 11 (Exhibit 182 marked.)
 12 THE WITNESS: (Reviewing document.) This is a
 13 document that I created for the SSO expectations, as
 14 stated earlier, for all of the SSOs.
 15 Q. (BY MR. SCHOPPE) Those are the sort of
 16 across-the-board expectations you created for all SSOs
 17 after you became supervising SSO?
 18 A. Right. Like I said, there were some things
 19 that were very specific for different areas, for the
 20 control booth or dayshift, swing shift, graveyard, that
 21 kind of thing.
 22 Q. But nothing for specific people?
 23 A. No. It's for a position or a time frame, I
 24 guess, if you want to call it that, a shift.
 25 Q. Go ahead and hang onto that for a minute. We

1 that, please.
 2 A. No. 4. "You will not discuss personnel issues,
 3 other staff, your opinion, or gossip with any IDJC
 4 staff. You may speak to me, Betty Grimm, the HR
 5 department or Sharon Harrigfeld with your concerns."
 6 Q. Do you have any idea what is meant there by
 7 "personnel issues"?
 8 MR. COLLAER: Object to the form of the
 9 question; vague, calls for speculation. If you know, go
 10 ahead.
 11 THE WITNESS: I do not.
 12 Q. (BY MR. SCHOPPE) Or gossip?
 13 MR. COLLAER: Same objection.
 14 THE WITNESS: I do not.
 15 Q. (BY MR. SCHOPPE) As a supervisor, is that
 16 kind of an instruction, as far as you are concerned,
 17 appropriate to direct towards a particular individual?
 18 MR. COLLAER: Objection; vague, incomplete
 19 hypothetical and calls for speculation.
 20 Q. (BY MR. SCHOPPE) Let me ask it a different
 21 way. Have you ever instructed any of your supervisees
 22 to follow this sort of guideline, to not discuss
 23 personnel issues, other staff, their opinion, or gossip?
 24 A. I would not put that in any kind of writing
 25 for anybody to not talk to anybody about that, no.

1 Q. Is there any policy, as far as you are aware,
2 that would permit you as a supervisor to tell people who
3 they can speak with or what they can talk about?

4 A. Not that I'm aware of.

5 Q. In your opinion as the supervisor, based on
6 your experience, training, and all that, is this
7 something that seems unusually restrictive in the
8 context of employees?

9 MR. COLLAER: Objection; incomplete
10 hypothetical, calls for speculation.

11 THE WITNESS: I don't know. If you are asking
12 me if I would do it, I have not done anything like that.

13 Q. (BY MR. SCHOPPE) Have you ever seen any kind
14 of a restriction like that imposed on anyone at all in
15 the facility?

16 A. I have not seen that, no.

17 Q. Since you've worked with Ms. Ledford have you
18 had any particular concerns about her discussing
19 personnel issues, other staff, her opinion, or gossip,
20 anything unusual there?

21 A. No. If she's not doing what she's supposed to
22 be doing, I usually address the issue as if she's not
23 doing what she's supposed to be doing. We try to make
24 sure that all my staff, not just Rhonda, are doing their
25 job.

1 Q. Did anybody tell you to testify to anything
2 other than the complete truth?

3 A. No, they not did.

4 MR. SCHOPPE: I think we are done. Do you
5 have any follow-up?
6

7 EXAMINATION

8 QUESTIONS BY MR. COLLAER:

9 Q. Do you have Exhibit 183 in front of you?

10 A. Yes.

11 Q. Prior to today had you ever seen Exhibit 183
12 before?

13 A. Not that I recall, no.

14 Q. But you have briefly glanced through it?

15 A. Today.

16 Q. Yes, granted, just that. I know you don't
17 have any personal knowledge about the events or the
18 quotes that are on Exhibit No. 183. But based upon your
19 brief review of it today, if these types of things that
20 are documented on Exhibit 183 with respect to what Ms.
21 Ledford did or didn't do and she was under your
22 supervision, how would you have reacted to those events?

23 MR. SCHOPPE: Objection; calls for
24 speculation, vague, and incomplete hypothetical.

25 MR. COLLAER: Go ahead.

1 Q. Is that pretty much the same with all your
2 staff that you supervise?

3 A. Absolutely.

4 Q. Notice any special problem with Rhonda?

5 A. No. Not at this time, no.

6 MR. SCHOPPE: Can I have literally like two
7 minutes. I think we are probably done.

8 (Recess taken from 2:15 to 2:31 p.m.)

9 Q. (BY MR. SCHOPPE) With respect to any
10 testimony you offered earlier today, as I mentioned if
11 anything pops into your head or anything like that, to
12 let me know. Has anything occurred to you since we
13 started today that you recall, whether it be names,
14 dates, or anything like that?

15 A. The only name that came to me was Aaron Thomas
16 is the guy that took over for me after my first time
17 that I left. As I left in 2006, Aaron Thomas was the
18 supervisor that took over after I left, and then there
19 were several after that.

20 Q. With respect to preparing for today's
21 deposition -- I don't want to know about whatever you
22 might have talked about with the attorneys here or other
23 attorneys -- did you review any documents or anything
24 like that in preparation for the deposition?
25

A. No, I did not.

1 THE WITNESS: So you are asking how I would
2 handle the situation if this was me as the supervisor?

3 Q. (BY MR. COLLAER) Yes, and the events that are
4 documented on 183 had occurred and you were aware of
5 them.

6 A. Then I would have addressed them with Rhonda.

7 Q. How would you go about doing that?

8 A. With my style of supervision, Rhonda and I
9 would have been talking about it, we would have been
10 working on each one of the issues, and we would have
11 been working on resolving the problems.

12 Q. Do you consider the matters that are
13 documented on Exhibit 183 to be conduct that is
14 unacceptable and needs change?

15 A. Yes. Yeah, if these are things that were
16 happening, then yes, they would need to be changed and
17 addressed.

18 Q. But you would not necessarily provide any
19 written documents saying specifically what I need you to
20 change?

21 A. That's just not my style. I like to work face
22 to face with the employees.

23 Q. As a supervisor do you have any criticism of
24 another supervisor who puts their expectations to their
25 employees in writing, such as Ms. McCormick did in

1 Exhibit 183?
 2 A. I really -- no, I don't have -- that would be
 3 their right to do however they wanted to as a
 4 supervisor.
 5 Q. Just a different approach than you.
 6 A. Right.
 7 Q. You use more of a one on one.
 8 A. Yes, that's correct.
 9 Q. Now, if these types of behaviors had not
 10 improved, did not improve after a face-to-face
 11 discussion and counseling with the employee, then what
 12 do you do?
 13 A. Then that is when the progressive discipline
 14 comes in. That is part of our policies and procedures.
 15 And without having it in front of me, I don't know the
 16 exact process, but I would follow the process.
 17 Q. Could you take a look at Exhibit 181, please.
 18 You were asked some questions about whether the top
 19 e-mail from Betty Grimm to Dave Rohrbach dated October
 20 27, 2011 indicated that Ms. Roters was offered the job
 21 before anybody else was interviewed. Do you remember
 22 that?
 23 A. Yes.
 24 Q. Could you take a look at the e-mail at the
 25 bottom dated October 27, 2011, 7:03 p.m. from Betty

1 A. Yes.
 2 Q. Is that a corroborative decision or do you
 3 defer to one person?
 4 A. Personally I prefer to be in corroboration
 5 with all the people, because then as a supervisor, I
 6 mean, I feel like it's not one-sided and not a single
 7 person doing it.
 8 Q. Tell me, with respect to the manner of the two
 9 interviews that Laura Roters went through for the unit
 10 manager position of Choices, do you have any information
 11 that suggests to you that the process you described when
 12 you were on the interview panel was not followed?
 13 A. I don't have anything that says that it didn't
 14 happen, no.
 15 Q. Take a look at Exhibit 179, please. Do you
 16 remember Exhibit 179?
 17 A. Yes, sir.
 18 Q. In the paragraph that talks about -- in the
 19 middle it says: "Now apparently Rhonda is coming in
 20 late, missing the 8:30 briefing." Do you see that?
 21 A. Yes, sir.
 22 Q. Tell me, if that was happening as your
 23 employee, if she, as the transport coordinator, was
 24 missing the 8:30 briefing, would that be conduct that
 25 would be acceptable from your standpoint?

1 Grimm to Sharon Harrigfeld. Do you see that?
 2 A. Yes, sir.
 3 Q. There is a reference to an interview panel.
 4 Do you see that?
 5 A. Uh-huh, yes.
 6 Q. After reading that e-mail is that suggestive
 7 to you that the applicants were interviewed?
 8 MR. SCHOPPE: Objection; calls for
 9 speculation. Same objections you made to the same
 10 document.
 11 THE WITNESS: I mean, I don't know.
 12 Q. (BY MR. COLLAER) Tell me, you have served on
 13 an interview panel before, haven't you?
 14 A. Yes, I have.
 15 Q. When you have done that, after you interview
 16 the people, the applicants, did the panel discuss the
 17 interviewees and come to a corroborative decision as to
 18 whom they felt should be recommended for the job?
 19 A. Yes. In most of the interviews panels that
 20 I've run or been a part of, we either all discuss the
 21 applicants after the fact or we discuss which applicants
 22 we are going to bring back for second interviews.
 23 Q. Sure. But assuming you interview them and
 24 decide there is no additional interviews needed, we are
 25 in a position to make a recommendation.

1 A. Not if we hadn't discussed the issue, not if
 2 we hadn't already arranged for her to be missing those.
 3 Q. Is she expected to attend those 8:30 briefings
 4 currently?
 5 A. We do, yes.
 6 Q. And why is it important that the transport
 7 coordinator be there?
 8 A. Well, part of our discussion in the morning
 9 briefing is transport coordination and reading the
 10 transports for the day.
 11 Q. If Rhonda, after she was working and you took
 12 over the unit, was coming in late un-excused, missing
 13 the 8:30 briefing, what would you do to cure that?
 14 MR. SCHOPPE: Objection; calls for
 15 speculation, vague and incomplete hypothetical and
 16 assumes facts not in evidence.
 17 MR. COLLAER: Go ahead.
 18 THE WITNESS: I would have addressed it the
 19 same way I do all my missed -- I would talk to her and
 20 we would discuss what the expectations are and what we
 21 do to fix it.
 22 Q. (BY MR. COLLAER) You would make it clear to
 23 her what you expect of her as an employee.
 24 A. That's correct.
 25 Q. You would make it clear to her -- if her

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1 conduct in your view was unacceptable, you would make it
 2 clear to her what she was doing that wasn't acceptable.
 3 A. That's correct.
 4 Q. As I understand it when you came in as Ms.
 5 Ledford's supervisor at safety and security, there were
 6 problems with the transport coordination that you saw.
 7 A. Yes.
 8 Q. There were mistakes being made.
 9 A. Yes, that's correct.
 10 Q. As I understand what you said, you would work
 11 with her to work through those mistakes and improve her.
 12 MR. SCHOPPE: Objection; misstates prior
 13 testimony.
 14 Q. (BY MR. COLLAER) Tell me if I misstate
 15 something.
 16 A. I think that there were mistakes up and down
 17 the chain of how those go. And yes, with anything that
 18 was Rhonda's mistakes or transport coordination mistakes
 19 in general, because I took it on as my responsibility,
 20 that's my job, she's appointed to it, but it's still my
 21 responsibility. So any of those problems needed to be
 22 fixed and Rhonda and I worked through it, yes.
 23 Q. When you came in as the supervisor, did
 24 people, other than Ms. Grimm, advise you that there were
 25 complaints about the transport coordinator position,

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1 what job was being done?
 2 A. There were complaints in the morning briefing
 3 about missed issues and that kind of stuff. I can't say
 4 whether that came from other people other than Ms.
 5 Grimm. I don't recall.
 6 Q. Those are the issues that came up in those
 7 meetings that you addressed with Ms. Ledford.
 8 A. Right.
 9 Q. To this day is the process mistake-free?
 10 A. No. I wish.
 11 Q. Because that's stuff you and her are still
 12 working on?
 13 A. Absolutely. As a whole we created additional
 14 documents and stuff.
 15 Q. Tell me, the event involving yourself with the
 16 boy that assaulted you at the Canyon County Courthouse
 17 with the scissors, remember that?
 18 A. Yes.
 19 Q. Do you feel the fact that boy assaulted you
 20 bears any causal connection with the fact that staff are
 21 not allowed to lock kids down for 72 hours for assaults?
 22 A. No, I don't.
 23 Q. You were asked a number of questions about
 24 Shane Penrod and your decision to move him back to days.
 25 Do you remember that?

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1 A. Yes.
 2 Q. As I recall you told him that if an
 3 opportunity came up for him to move back to days, you
 4 would consider it?
 5 A. That's correct.
 6 Q. What was the opportunity that came up, the
 7 circumstances that made that happen?
 8 A. There was an increase in interstate compacts
 9 that we had been seeing. There's medical runs, dental
 10 runs. I had also lost a swing shift person at the time,
 11 who was Diane Miles, and she also had done some of the
 12 transports and that kind of stuff.
 13 So what the need that I had was for someone to
 14 help with transports and fill in that swing shift
 15 position to help with the coverage there. So it created
 16 that position because she left and because of the
 17 increase in need for transports.
 18 Q. Was your decision to move Mr. Penrod to that
 19 position in any way a comment by you about whether he
 20 was treated badly when he was transferred to nights
 21 originally?
 22 A. No. His comment to ask me to come to days was
 23 the reasons why he gave me that. But my choice to move
 24 him had nothing to do with that. It only had to do with
 25 whether or not we needed him. He was aware of that

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1 before. I told him that.
 2 Q. When you came in as the supervisor for the
 3 safety and security and the list of expectations that
 4 Ms. Grimm gave you for Ms. Ledford, I know you don't
 5 have that list because it was handwritten; correct?
 6 A. I believe so. That is my...
 7 Q. But you did read it.
 8 A. Yes. It was shown to me like on one side of
 9 the desk and I was sitting on the other side of the desk
 10 kind of thing.
 11 Q. Do you recall anything on that list that
 12 wasn't a function or something you would expect an
 13 employee in Ms. Ledford's position to not be doing
 14 anyway?
 15 MR. SCHOPPE: Objection; calls for
 16 speculation. He's testified he doesn't recall
 17 everything that was on it. And it lacks foundation.
 18 MR. COLLAER: Go ahead.
 19 THE WITNESS: Like I stated before, I don't
 20 recall anything on there that said this is a specific
 21 duty that Ms. Ledford needs to do. It didn't have her
 22 name on it in any part of that.
 23 Q. (BY MR. COLLAER) Well, my question to you
 24 was: As you recall looking at it, were there any duties
 25 on there that were inconsistent with the types of things

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1 you would expect somebody in that position to be doing?
 2 A. Not that I recall.
 3 Q. When Ms. Roters was appointed as the unit
 4 manager for Solutions, over Choices and Solutions the
 5 second time, at that time were you still working at
 6 Choices and Solutions?
 7 A. Yes, I believe that is correct.
 8 Q. So she was your supervisor?
 9 A. Yes.
 10 Q. Did you feel she did anything retaliatory to
 11 you?
 12 A. No, she didn't.
 13 Q. Despite the fact you complained to HR about
 14 you didn't make the interview list when she was first
 15 appointed.
 16 A. Right. No, there was no retaliation.
 17 MR. COLLAER: Nothing further.
 18
 19 FURTHER EXAMINATION
 20 QUESTIONS BY MR. SCHOPPE:
 21 Q. Mr. Freckleton, do you know if Ms. Roters had
 22 any information that you were the one who had complained
 23 to human resources about the promotion?
 24 A. I don't recall at that time, no.
 25 Q. With respect to the list that you looked at

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1 that Ms. Grimm had handed you, do you recall anything
 2 that was on that list specifically?
 3 A. Not off the top of my head. I just remember
 4 that there was nothing that said specifically this is
 5 for Rhonda. It was a list, probably a half dozen or so
 6 numbers, and it was -- that is all I can really
 7 remember.
 8 Q. And none of the content?
 9 A. I don't really recall any of the content.
 10 Only because, like I said, it wasn't something that I
 11 was going to use.
 12 Q. In the conversation that you had with Ms.
 13 Grimm, whoever was there from human resources made it
 14 clear it was specific to Rhonda?
 15 MR. COLLAER: Objection; that misstates his
 16 testimony.
 17 Q. (BY MR. SCHOPPE) Is that what you said
 18 earlier?
 19 A. That it was for Ms. Ledford?
 20 Q. Yes.
 21 A. Yes.
 22 Q. And with respect to Ms. McCormick, you had
 23 testified earlier that she had given you reasons that
 24 she was spending more time on Solutions. Can you
 25 restate what those reasons were that she told you?

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1 A. Can you say that one more time?
 2 Q. When you spoke with Ms. McCormick about the
 3 time that she was spending on Solutions that you and
 4 others thought was inappropriate, can you tell me again
 5 what it was, why it was she said she was there?
 6 A. To learn about the program. She was trying to
 7 move from SSO to program management, and so she was
 8 trying to learn the program, is what she had stated to
 9 me.
 10 Q. And given what happened between her and
 11 and once you read in those e-mails about Ms. Grimm and
 12 Ms. Cloud and Ms. Harrigfeld monitoring Julie spending
 13 too much time with male juveniles in Solutions, did that
 14 give you cause to doubt that what Ms. McCormick was
 15 telling you about why she was there was the truth?
 16 MR. COLLAER: Objection; calls for
 17 speculation.
 18 Q. (BY MR. SCHOPPE) In other words, do you doubt
 19 her credibility about what she was telling you why she
 20 was there?
 21 MR. COLLAER: Same objection.
 22 THE WITNESS: I mean, you are asking what the
 23 motives were. At that point I don't know, but I would
 24 imagine if that's the case, then yes.
 25 Q. (BY MR. SCHOPPE) As far as you are concerned,

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1 has Rhonda Ledford done a good job for all the time
 2 you've been a supervising safety and security officer?
 3 A. Has Rhonda been doing a good job for me as the
 4 transport coordinator?
 5 Q. Yes, since you took back over.
 6 A. Yes.
 7 MR. SCHOPPE: That is all I have.
 8 MR. COLLAER: Nothing further.
 9 (Deposition concluded at 2:49 p.m.)
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CERTIFICATE OF WITNESS

I, MARK FRECKLETON, being first duly sworn, depose and say:

That I am the witness named in the foregoing deposition, consisting of pages 1 through 156; that I have read said deposition and know the contents thereof; that the questions contained therein were propounded to me; and that the answers contained therein are true and correct, except for any changes that I may have listed on the Change Sheet attached hereto:

DATED this ____ day of _____, 20__.

MARK FRECKLETON

SUBSCRIBED AND SWORN to before me this ____ day of _____, 20__.

NAME OF NOTARY PUBLIC
NOTARY PUBLIC FOR
RESIDING AT
MY COMMISSION EXPIRES

ERRATA SHEET FOR MARK FRECKLETON

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WITNESS SIGNATURE

REPORTER'S CERTIFICATE

I, BEVERLY BENJAMIN CSR No. 710, Certified Shorthand Reporter, certify: That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me;

That the testimony and all objections made were recorded stenographically by me and transcribed by me or under my direction;

That the foregoing is a true and correct record of all testimony given, to the best of my ability;

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 22nd day of October 2013.

BEVERLY A. BENJAMIN, CSR No. 710
Notary Public
P.O. Box 2636
Boise, Idaho 83701-2636
My commission expires May 28, 2019